



MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

September 2, 2022

CHAIR

Margaret R. Hinkle

COMMISSIONERS

Hanya H. Bluestone

Lawrence Calderone

Clementina Chéry

Larry E. Ellison

Marsha V. Kazarosian

Charlene D. Luma

Kimberly P. West

Michael Wynn

EXECUTIVE DIRECTOR

Enrique A. Zuniga

In accordance with [Sections 18-25 of Chapter 30A of the Massachusetts General Laws](#) and [Chapter 20 of the Acts of 2021](#), as amended by [Chapter 22 of the Acts of 2022](#), and by [Chapter 107 of the Acts of 2022](#), notice is hereby given of a meeting of the Peace Officer Standards and Training Commission. The meeting will take place as noted below.

NOTICE OF MEETING AND AGENDA

Public Meeting #28

September 8, 2022

8:30 a.m.

Remote Participation via [Zoom](#)

Meeting ID: 950 9723 8626

1. Call to Order
2. Approval of Minutes
 - a. August 4, 2022
3. Executive Director Report – Enrique Zuniga
 - a. Finance & Administrative Update – CFAO Rebello-Pradas
4. General Counsel Update – General Counsel Ravitz
 - a. Draft Regulations on Databases and Dissemination of Information
 - b. Recertification Regulations, 555 CMR 7.00
 - c. Certification of Humane Society Officers
 - d. Draft Regulations for Certification of School Resource Officers
 - e. Joint Guidance as to Chapter 123, Section 12 and the Use of Force
5. Matters not anticipated by the Chair at the time of posting
6. Adjourn

2a.

PEACE OFFICER STANDARDS & TRAINING COMMISSION

August 4, 2022

8:30 AM

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

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Draft Public Meeting Minutes of June 30, 2022
- Draft Public Meeting Minutes of July 12, 2022
- Memorandum from Eric Rebello-Pradas to Commission re: FY23 Conference Committee Report & Governor's Vetoes
- Draft Regulations 555 CMR 8.00: Databases and Dissemination of Information
- Joint POST Commission and MPTC Guidance as to M.G.L. Chapter 123, §§12(a) and 12(e) and the Use of Force

In Attendance:

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

1. Call to Order

- The Chair recognized a quorum and called the meeting to order.

2. Approval of Minutes

- June 30, 2022
- July 12, 2022
- Commissioner Kazarosian moved to approve the minutes of the June 30 and July 12, 2022 meetings. Commissioner Ellison seconded the motion.
- The Chair took a roll call vote:
 - Commissioner Hanya Bluestone - Yes
 - Commissioner Lawrence Calderone - Yes
 - Commissioner Larry Ellison - Yes
 - Commissioner Marsha Kazarosian - Yes
 - Commissioner Charlene Luma - Yes
 - Commissioner Kimberly P. West - Yes
 - Commissioner Michael Wynn - Yes
 - Chair Margaret R. Hinkle- Yes

- The Commissioners unanimously approved the minutes of the June 30 and July 12, 2022 public meetings.

3. Executive Director Report – Enrique Zuniga

a. Officer Recertification (A-H)

- As of August 1, 2022, 7,757 officers have submitted applications for recertification. Of those officers, 6,856 have been recertified; 835 are conditionally recertified; 51 are under further review; and 15 were not certified. Executive Director Zuniga estimates there are 1,029 applications pending submission, which would bring the total number of officers seeking recertification to 8,806.
- The certification team continues to validate submitted data and address process questions from agencies.
- The website continues to be updated to explain conditional certifications in greater detail.

b. Conference Committee Report

- Executive Director Zuniga reviewed the report on the POST Commission's Appropriation for FY23.
- Executive Director Zuniga reported that the appropriation for the Commission for FY23, includes language that the Commission will, by March 10, 2023, provide additional reporting to the House and Senate Committees on Ways and Means, and include in its report the current caseload of the Commission for FY23, the number of complaints concerning police officer conduct received by the Commission, patterns of unprofessional police conduct identified by the Commission, and the number of police officers suspended by the Commission and the reason for the suspension.
- Executive Director Zuniga anticipates the Commission will began work on the Annual Report. The Commission has leeway as to whether it submits an annual report at the end of a fiscal year or at the end of a calendar year.
- Executive Director highlighted for the Commission new legislation adding the Animal Rescue League and MSPCA to the Commission's jurisdiction, and will provide further updates on how the agency will approach this change.

c. Administrative Update

- The Commission is contracting with a professional service vendor, Salesforce, which will be a permanent solution. The big priority will be providing a platform and building workflow for the Division of Standards to aggregate complaints, match them to disciplinary records and provide a case management platform.
- Continuing to build on JIRA solution for recertification processes. EOTTS has been very helpful.
- Executive Director Zuniga welcomed two new Commission staff members, Pauline Nguyen, Deputy General Counsel, and Jeanine Hopkins, Human Resources Manager.

- Commissioner Ellison asked how someone who did not meet the minimum standard of holding a high school diploma or GED might have policing powers. Executive Director Zuniga clarified that there are 4 instances and they have until the end of June 2024 to complete that requirement and are considered conditionally certified until that requirement is met. Commissioner Ellison asked the status of officers whose agency has not submitted their information yet due to receiving an extension. Executive Director Zuniga answered that they are conditionally certified, per the regulations and no one loses their status as a police officer. Commissioner Ellison asked if the individuals who are not being certified and their departments have been notified and made aware of the appeal process. Executive Director Zuniga responded that, yes, the 15 officers have been notified and there is an appeal process in place.

4. Draft Proposed Regulations on Dissemination of Information Concerning Law Enforcement Officers – General Counsel Ravitz

- General Counsel Ravitz introduced draft regulations on databases and the dissemination of information concerning law enforcement officers for discussion by the Commission. He stated that he was not seeking a vote by the Commission at this meeting. He anticipates he will continue working on them and present them at a future meeting for approval.
- Chapter 6E of the General Laws, the Commission's governing statute, requires that the Commission develop 4 different databases which reflect a balancing between disclosure of certain officer information and protection of more sensitive information.
- The statute requires the Commission to develop 4 databases::
 1. A database that is not public, with a list of specific forms of officer information;
 2. A public database regarding officers - the forms of information are not specified by statute, but the database needs to be developed pursuant to regulations which must account for officer health and safety;
 3. A database that need not be public with a list of specific forms of disciplinary information; and
 4. A public database with fewer forms of disciplinary information.
- The public records laws and related laws also reflect a balancing:
 - Reflect a general principle that agency records are public; and
 - Create numerous exceptions that:
 - a. Require withholding of certain information, sometimes with consequences for disclosure; and
 - b. Allow for withholding of other information
- Section 8.04 generally, with some exceptions, requires that agencies notify officers when providing information about them to the Commission.
- Section 8.05 concerning the database provides for a public database that is compliant with various requirements and reflects the balancing found in Chapter 6E, the public records laws, and other sources of law.

- Subsection 8.05(4) provides that certain information must be included, some of which is already required by statute or regulation.
- Subsection 8.05(5) prohibits information that is non-disclosable under another source, often with consequences; is intended to provide a reference for Commission personnel; and makes clear to the public why certain information is omitted.
- Subsection 8.05(6) prohibits information in a second tier that could adversely impact officer health or safety; the Commission may be required to withhold; or the Commission is allowed to withhold; accounts for the facts that provisions allowing for withholding are based on sound policy determinations; and disclosures based on incorrect determinations can have consequences.
- Subsection 8.05(7) provides guidelines on whether a matter is ongoing for purposes of G.L. c. 4, § 7, cl. 26th or other provisions.
- Subsection 8.05(8) allows latitude and gives Commissioners or Executive Director discretion to include or not include information.
- Section 8.06 governs databases generally; and provides that our databases will comply with existing legal requirements. Subsection (5) gives public employees the opportunity to exercise the right to correct or expunge inaccurate information.
- Section 8.07 concerns records requests and incorporates the existing rules that Records Access Officers can decline telephone requests; requests for all-MPTC data can be referred to the MPTC; and provides for coordination with agencies that may have received similar requests.
- Section 8.08 reflects the balancing found in the public records laws and provides a general rule of disclosure, and exceptions allowing for withholding of information.
- Section 8.09 regarding privileged information provides that only the Commissioners can waive a privilege held by the Commission and provides for other holders of a privilege to receive notice and opportunity to assert it.
- Section 8.10 regarding fees incorporates existing legal rules allowing an agency to ask the requester's purpose in deciding whether to waive fees; provides that, if the requester seeks information substantially similar to that on the public database, the maximum allowable fee will be sought; relieves the requester of paying the fee until agreeing; and relieves the Commission of providing or reviewing records until receiving the fee.
- Section 8.11 regarding compulsory legal process gives effect to an existing legal requirement to notify people if their personal data is sought by compulsory legal process; and adds related rules adopted by other agencies.
- Commissioner West noted that the statute mentions a database 4 times and asked General Counsel Ravitz to highlight each mention and state which are public vs. not public. General Counsel Ravitz answered that: one § 4(h) provides for a database that is not required to be public; § 4(j) prescribes a public-facing database; § 8(e) concerns a disciplinary database, which the statute does not say needs to be public; § 13(a), refers to a public-facing

disciplinary database. He said another place in the statute, which he believed was, § 8(g), states that any findings rendered need to be posted to the website, which is consistent with a provision of Chapter 66.

- Commissioner Bluestone emphasized the need for scientific integrity and the need to ensure that the data itself is valid, factually accurate and relevant so that it's not misleading and the Commission adheres to an ethical standard.
- Commissioner Calderone asked if the Commission itself and each officer is going to be notified and have the opportunity to review the public facing database before it appears online. Executive Director Zuniga responded that the Commission will not make anything public until 1) the regulations are voted on; 2) a public hearing is held and public comments are collected; and 3) the regulations are voted on again including any incorporated changes based on the public hearing and comments.
- Chair Hinkle asked General Counsel Ravitz if he had any suggestions for the Commissioners ahead of the next public meeting, as they review the information that was put forward. General Counsel Ravitz recommended that anyone who has thoughts or comments to forward them to him, or redline the document.
- Commissioner Luma requested that General Counsel Ravitz send the version with his talking points listed.
- Commissioner Ellison followed-up with a question for Executive Director Zuniga regarding the collected data. He asked if in large departments such as Boston, both district-level records and Internal Affairs-level records are being collected and accounted for. Executive Director Zuniga answered that it varies. Some larger agencies used a software tool to submit a summary of their records while others submitted a spreadsheet. He said the Commission is building a portal to hold this information but will need to review and validate the information it has to ensure it is uniform and accurate. This is a lengthy and ongoing process, he added.
- Commissioner Calderone asked if minor complaints reported at a district level are being submitted to the Commission and made public. Executive Director Zuniga stated that information is being captured but it is up to the Commission to decide the balance on what is released to the public.

5. Joint Guidance Section 12 and Use of Force – General Counsel Ravitz

- General Counsel Ravitz introduced a written statement titled “Joint POST Commission and MPTC Guidance as to M.G.L. Chapter 123, §§12(a) and 12(e) and the Use of Force” and asked if Commissioner Bluestone would like to speak on the topic, since she introduced the topic to the Commissioners at a previous meeting.
- Commissioner Bluestone stated that this particular issue has come up in her conversations with law enforcement officers across the Commonwealth.
- General Counsel Ravitz reviewed Section 12 of Chapter 123 of the Massachusetts General Laws which governs the admission of an individual to a general or psychiatric hospital for psychiatric evaluation and a determination

of the person's need for inpatient psychiatric treatment. Sections 12(a) and 12(e) identify the conditions under which an individual believed to have a mental illness may be brought against their will to a hospital or court for evaluation.

- Commissioner Wynn pointed out that the response mentioned the use of force generally, which is consistent with the language in the regulation, but the conclusion addresses only non-deadly use of force. He suggested the conclusion could be more comprehensive to cover all uses of force, rather than only that which is non-deadly. He stated that therefore the inclusion of the word "non-deadly" in the conclusion is unnecessary.
- Commissioner Calderone shared the same concerns regarding the use of "non deadly" use of force. He expressed concerns about how officers are instructed on what they can and cannot do.
- Commissioner Bluestone concurred with Commissioner Calderone and Wynn. She reiterated it is a complex issue because when situations develop, they can escalate and become dangerous for law enforcement officers. As such, officers need the flexibility to make a judgement call about their response that isn't restricted and to follow the use of force regulations as written by the Commission.
- Commissioner Kazarosian agreed with these concerns and recommended rewording the regulations so it refers to the use of force regulations.
- Commissioner West recommended removing the words "non-deadly," leaving the words "use of force," and adding "pursuant to the regulations."
- Commissioner Luma highlighted what Commissioner Calderone said about the complexities around training and asked if the Commission should also consider what other agencies are doing in regard to that aspect.
- Commissioner Calderone will address the organizations in the Law Enforcement Policy Group via email and ask that they forward any department policies they have and suggested the Commission could also obtain them from the Chiefs Associations.
- Chair Hinkle asked the Commissioners if they are in the position where they will gather additional information and not take any vote today, but will be prepared to deal with the additional information at their next meeting. No one expressed any concerns with Chair Hinkle's suggested approach.

6. Matters not anticipated by the Chair at the time of posting

- There was no new business.

7. Adjourn

- Commissioner Kazarosian moved to adjourn the meeting. Commissioner Calderone seconded the motion.

The Chair took a roll call vote:

- Commissioner Hanya Bluestone - Yes
- Commissioner Lawrence Calderone - Yes

- Commissioner Larry Ellison - Yes
- Commissioner Marsha Kazarosian - Yes
- Commissioner Charlene Luma - Yes
- Commissioner Kimberly P. West - Yes
- Commissioner Michael Wynn - Yes
- Chair Margaret R. Hinkle - Yes

The Commission unanimously voted to adjourn the meeting.

3a.



CHAIR

Margaret R. Hinkle

COMMISSIONERS

Hanya H. Bluestone

Lawrence Calderone

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Michael Wynn

EXECUTIVE DIRECTOR

Enrique A. Zuniga

MEMORANDUM

TO Commissioners

FROM Eric Rebello-Pradas

DATE September 8, 2022

SUBJECT F&A Update

FY22 Year-End

The 2022 fiscal year officially ended on June 30th. Final accounting for FY22 is shored up during July and August (aka *Accounts Payable Period*). Final expenditures totaled \$2.0 million, thereby leaving a leftover balance of \$2.9 million. During the June 30th Commission Meeting, we had estimated final spending at \$2.2 million. Since final spending is approximately \$200K lower than anticipated, the leftover balance will be \$200K higher at \$2.9 million. We informed ANF of the updated numbers, and requested the total amount to balance forward from FY22 to FY23 should be increased from \$2.7 million to \$2.9 million. The Administration filed the FY22 Final Deficiency Supp on August 31st, and included the \$2.9 million. The extra funding will be used to either finance the Salesforce, or for additional costs related to the interim IT solution (Jira).

FY23 Spending Plans

Spending Plans for the current fiscal year are required to be submitted to ANF per State Finance Law following passage of the state budget, or GAA (General Appropriations Act). Since so much time elapses from when the Governor's budget is filed in January to when the GAA is signed in July, it is necessary to make adjustments to certain spending categories, especially payroll and IT. Moreover, the Legislature typically adds earmarks and other spending priorities that may be over and above an agency's targeted budget number. Factoring in the additional \$200K from FY22 funds is a personal example of why Spending Plans are important. The Spending Plan process allows agencies to account for these variations from its targeted number, which is why the process is a major part of what's known as the state's *Budget Cycle*.

In addition to noting the \$200K in additional funding for IT (as referenced above), as well as the potential \$150K exposure reported at the June 30th meeting, we will also be highlighting a new potential exposure which may happen depending on the IT development costs for Salesforce. We are estimating this exposure to be around \$500K. However, please keep in mind this exposure represents a "worst-case" scenario, and could be completely mitigated depending on the pace of Salesforce development.

More detail on Spending Plans will be provided in October during our Q1 financial update.

Hiring Status

Over the next few weeks, POST will be onboarding four new employees for the Division of Police Standards: two Enforcement Counsels, one Compliance Agent, and one Paralegal. This will bring our staff total to 22. As discussed on June 30th, we are still expecting to have a grand total of 27 employees by the end of FY23.

MEMORANDUM

New Contracts

Following two lengthy procurements, POST is moving forward with two contracts:

1. Outside Legal Counsel

The current “emergency” contract with Anderson & Kreiger expires at the end of September. A new, one-year contract will be in place for October 1st. As with the current agreement, POST will utilize a rate contract for services on an “as needed” basis.

2. IT Solution (Salesforce)

Following an extensive negotiation over hourly rates, timeline, and deliverables, POST has executed a Statement of Work (SOW) with Smartronix/Slalom on Friday, August 26th. Consistent with what we reported on June 30th, the SOW is a “time & materials” (hourly rates) contract with incremental task orders. In order to maintain strict control over scope, management, and cost, POST will issue regular task orders throughout the duration of the project. While the entire project could cost around \$2-\$3 million over a 2-3 year period, the first ten months of production could absorb up to \$1.9 million of the total cost, depending on the pace of work. The first task order (embodied within the SOW) is expected to cover work through mid-October with a cost not to exceed \$362K of the \$1.9 million. Come mid-October, we will work with Smartronix/Slalom to determine the extent and cost of the next phase.

4a.

555 CMR 8.00: DATABASES AND DISSEMINATION OF INFORMATION

Section

- 8.01: Authority
- 8.02: Scope
- 8.03: Definitions
- 8.04: Submission of Information by Agencies
- 8.05: Public Database
- 8.06: Maintenance of Databases and Electronic Recordkeeping Systems ~~and Databases~~ Generally
- 8.07: Objections Concerning Data
- ~~8.0708:~~ Receipt and Referral of Records Requests
- ~~8.0809:~~ Responses to Records Requests
- ~~8.0910:~~ Privileged Information
- ~~8.1011:~~ Fees for Producing Records
- ~~8.1112:~~ Compulsory Legal Process

8.01: Authority

- (1) The Massachusetts Peace Officer Standards and Training Commission promulgates 555 CMR 8.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 4(j), and 801 CMR 3.01(2).¹

8.02: Scope

- (1) 555 CMR 8.00 applies to:-
 - (a) ~~D~~atabases that the Commission must maintain pursuant to M.G.L c. 6E, §§ 4(h), 4(j), 8(e), and 13;
 - (b) Other databases and electronic recordkeeping systems maintained by the Commission; and
 - (a)(c) ~~, as well as~~ Commission responses to requests for records served upon it pursuant to M.G.L. c. 66, § 10.
- (+)(2) 555 CMR 8.00 does not apply to any of the following:
 - (a) A response by the Commission to compulsory legal process, except as provided in 555 CMR 8.1112;
 - (b) A response by the Commission to a court order relative to the disclosure of information;
 - (c) An inquiry or request concerning personal data, made on behalf of the subject of the data, under M.G.L. c. 66A, § 2(i); or
 - (d) The Commission’s treatment of evidence that it knows to be relevant to a pending criminal case or exculpatory.
- (3) With respect to matters to which 555 CMR 8.00 applies, it is intended to supersede 801 CMR 3.00.
- (-)(4) Nothing in 555 CMR 8.00 is intended to:
 - (a) Foreclose the Commission’s invocation of any provision, privilege, or doctrine, regardless of whether it is cited in 555 CMR 8.00;
 - (b) Establish a standard of care or create any independent private right, remedy, or cause of action on the part of any person or entity on account of any action the Commission takes or fails to take; or
 - (c) Otherwise waive any power, right, privilege, protection, or immunity that may be available to the Commission.
- (-)(5) Neither 555 CMR 8.00, nor the Commission’s provision of any information through a public database or in response to a request for records, is intended to:
 - (a) Create an attorney-client relationship, a principal-agent relationship, or a confidential relationship with any person or entity;
 - (b) Make the Commission a part of the prosecution team, the defense team, or the litigation team of any other party in relation to any criminal or civil action or controversy;
 - (c) Impose upon the Commission any duty or obligation of any other party to criminal or civil litigation, or of any other public agency; or
 - (d) Otherwise surrender the Commission’s independence.

8.03: Definitions

- (1) 555 CMR 8.00 incorporates all definitions set forth in 555 CMR 2.02, except those definitions of terms that are defined in 555 CMR 8.03(2).
- (2) For the purposes of 555 CMR 8.00, the following terms have the following meanings, unless the context requires otherwise:

Certification. Certification or recertification of a law enforcement officer under M.G.L. c. 6E, §§ 3(a) and 4.

Commission. The Massachusetts Peace Officer Standards and Training Commission established under M.G.L. c. 6E, § 2 as an agency, including its Commissioners and its staff.

Compulsory Legal Process. A demand that is issued by or through a federal or state court or party to litigation, including any demand made by summons, subpoena, discovery request, or judicial order.

Conclusion. The point at which the Commission has rendered its ultimate decision or action on a matter, no proceeding regarding the matter is pending before any court or agency, and no opportunity for further review in the normal course by any court or agency remains.

Decertification and Revocation of Certification. A revocation of certification made by the Commission pursuant to M.G.L. c. 6E, § 10, an action distinct from a denial, a nonrenewal, or an expiration of certification.

Employing Agency. The law enforcement agency for which an officer is employed or the appointing authority that is responsible for submitting documentation concerning an officer's certification to the Commission.

Executive Director. The Executive Director of the Commission, appointed pursuant to M.G.L. c. 6E, § 2(g), or that person's designee for relevant purposes.

Municipal Police Training Committee and MPTC. The agency of the same name within the Executive Office of Public Safety and Security, as established in M.G.L. c. 6, § 116.

Personal Data. Personal data under M.G.L. c. 66A, including any information concerning an individual which, because of name, identifying number, mark or description can be readily associated with a particular individual, provided that such information is not contained in a public record, as defined in M.G.L. c. 4, § 7, cl. 26, and is not intelligence information, evaluative information, or criminal offender record information, as defined in M.G.L. c. 6, § 167.

Records Access Officer and RAO. The individual designated by the Commission to perform the duties of records access officer described in M.G.L. c. 66, § 10 and 950 CMR 32.00, or that person's designee.

Record, Information, and Data. Any form of document, written material, or data, regardless of whether it constitutes a "public record" under M.G.L. c. 4, § 7, cl. 26.

Records Request. A request for Commission records made pursuant to, and in conformance with, M.G.L. c. 66, § 10.

Requester. Any person or entity that tenders a Records Request to the Commission.

Website. The official internet website that the Commission is authorized to maintain pursuant to M.G.L. c. 6E, §§ 3(a)(27) and 13(a).

8.04: Submission of Information by Agencies

(1) When an agency provides information concerning an officer to the Commission, it must notify the officer of that fact in accordance with any other provision of 555 CMR that requires notification. In the absence of any such provision, the agency must provide such notification within seven calendar days, unless such notification would compromise an ongoing investigation or the security of any person or entity, or would be precluded by law.

8:05: Public Database

(1) The Commission shall maintain a public database of information concerning officers who are certified or conditionally certified, officers whose certifications are pending, restricted, limited, or suspended, and officers who have been decertified or not recertified.

(2) The public database must be searchable and accessible to the public through the Commission's website.

(3) In determining what information to include in the public database, the Commission shall consider the health and safety of officers, in accordance with M.G.L. c. 6E, § 4(j).

(4) Except as provided in 555 CMR 8.05(5) or (6), the public database shall provide the following forms of information, to the extent that such forms of information are possessed by the Commission, in accordance with guidelines established by a vote of the Commissioners, or, if no such guidelines are established, in accordance with guidelines established by the Commission's Executive Director:

(a) For each active officer:

1. The officer's first name and surname;
2. The officer's current certification status in Massachusetts;
3. The dates on which the officer was first certified and was most recently certified in Massachusetts;
4. All of the officer's employing law enforcement agencies in Massachusetts and elsewhere, and the dates of such employment;
5. Commendations received by the officer in connection with the officer's service in law enforcement;
6. The date of, and reason for, any decertification by the Commission or by a comparable body in any other jurisdiction;
7. The beginning date and end date of, and the reason for, any suspension of certification by the Commission;
8. The date of, and reason for, any retraining order issued by the Commission; the type of any retraining ordered; and the date of completion of any ordered retraining;
9. A copy of each final opinion, decision, order, set of findings, and vote issued by the Commission pursuant to M.G.L. c. 6E, § 10 in connection with any proceedings concerning the officer, accessible in a commonly available electronic format; and
10. A summary of the officer's disciplinary record, based on information provided by agencies that have employed the officer, excluding unsustained or unfounded complaints.

(b) Aggregations of, or ways for public users to aggregate, information regarding the following:

1. Decisions by the Commission and comparable bodies in other jurisdictions to decertify officers;
2. Decisions by the Commission to suspend the certification of officers;
3. Decisions by the Commission to order the retraining of officers; ~~and~~
4. Officers who have served in a particular department; ~~and-~~
5. The total number of complaints reportable to the Commission pursuant to 555 CMR 1.00.

(5) The public database shall not include any of the following forms of information:

- (a) Information relating to a preliminary inquiry, or initial staff review used to determine whether to initiate an inquiry, that is confidential under M.G.L. c. 6E, § 8(c)(2), or 555 CMR 1.03 or 1.07(2);
- (b) Other information related to disciplinary proceedings that is confidential under 555 CMR 1.01(2)(d), 1.09(6)(c), or 1.10(4)(a);

- (c) Personal contact information of public employees or members of their families that is generally non-disclosable under M.G.L. c. 66, §§ 10B and 15;
 - (d) Criminal offender record information, criminal history information, or criminal history record information that cannot be communicated under M.G.L. c. 6, §§ 168 or 178, 803 CMR 2.19(1), or 803 CMR 7.10 through 7.14;
 - (e) Sealed or expunged records that are confidential or unavailable for inspection under M.G.L. c. 276, §§ 100L, 100O, or 100Q;
 - (f) Juvenile delinquency records that must be withheld under M.G.L. c. 119, § 60A, or juvenile criminal records that cannot be communicated under M.G.L. c. 6, §§ 168 and 178.
 - (g) Police-log information pertaining to arrests of juveniles that is non-disclosable under M.G.L. c. 41, § 98F;
 - (h) Police-log information pertaining to handicapped individuals that is non-disclosable under M.G.L. c. 41, § 98F;
 - (i) Police-log information pertaining to alleged domestic violence or sex offenses that is non-disclosable under M.G.L. c. 41, § 98F;
 - (j) Reports of domestic violence or sex offenses, and associated communications, that are not public reports and are to be treated by police departments as confidential under M.G.L. c. 41, § 97D;
 - (k) Information in court and police records that identifies alleged victims of sex offenses or trafficking and is non-disclosable under M.G.L. c. 265, § 24C;
 - (l) Personal contact, employment, or educational information of victims of crimes or domestic violence, or members of their families, that is non-disclosable under M.G.L. c. 66, §§ 10B and 15;
 - (m) Personal contact, employment, or educational information of victims, members of their families, or witnesses that is non-disclosable under M.G.L. c. 258B, §§ 3(h) and 3(w);
 - (n) Personal contact, employment, or educational information of family-planning personnel or members of their families that is non-disclosable under M.G.L. c. 66, §§ 10B and 15;
 - (o) Personal data that is non-accessible under M.G.L. c. 66A ~~and~~ M.G.L. c. 214, § 3B, ~~and 801-CMR-3.03~~;
 - (p) Forms of “personal information” referenced in M.G.L. c. 93H, § 1, other than the names of individuals;
 - (q) Data that the Commission is precluded from disclosing pursuant to a court order;
 - (r) Information the disclosure of which may constitute an unreasonable, substantial or serious interference with a person’s privacy under M.G.L. c. 214, § 1B; and
 - (s) Any other information that is non-disclosable under federal or Massachusetts law.
- (6) The public database also shall not include:
- (a) The following forms of information, the revelation of which could potentially impact officer health or safety, including by facilitating attempts to coerce officers or exploit any individual vulnerabilities:
 - 1. Information relating to a member of an officer’s family, except where such family member is an officer and any relation between the two officers is not revealed;
 - 2. Information concerning an officer’s personal finances that is not otherwise publicly available;
 - 3. Information that could readily be used to facilitate identity theft or breaches of data security, including, but not limited to, an officer’s date of birth, passwords, and entry codes;
 - 4. Information concerning an officer’s medical or psychological condition;
 - 5. Specific assessments of whether an officer possesses good moral character or fitness for employment in law enforcement under M.G.L. c. 6E, § 4(f)(1)(ix);
 - 6. Information concerning an officer’s conduct as a juvenile;
 - 7. Information concerning any firearm, or firearms license or permit, that an officer currently possesses in a personal capacity;
 - 8. Law enforcement information, including information concerning the

following subjects, if disclosure could compromise law enforcement or security measures:

- a. Undercover operations;
 - b. Confidential informants;
 - c. Clandestine surveillance;
 - d. Secretive investigative techniques;
 - e. Passwords and codes;
 - f. The details of security being provided to a person or place; or
 - g. Subjects of comparable sensitivity.
9. Information concerning a disciplinary matter before the Commission that has not reached a conclusion; and
 10. Any other information that could readily be used in an attempt to coerce action or inaction, or exploit individual vulnerabilities, of an officer.
- (b) Agency data that is subject to an ongoing audit by the Commission pursuant to M.G.L. c. 6E, §§ 3(a)(9), 3(a)(21), and 8(d);
 - (c) Records associated with Commission meetings that may be withheld under M.G.L. c. 30A, § 22;
 - (d) Personal data that an individual has the ability to have corrected or amended under M.G.L. c. 66A, § 2(j), ~~801-CMR 3.04~~, or 555 CMR 8.06.
 - (e) Information in a personnel record that an employee has the right to have corrected or expunged pursuant to M.G.L. c. 149, § 52C;
 - (f) Information that is subject to a privilege held by the Commission;
 - (g) Information that is subject to a privilege held by a person or entity other than the Commission;
 - (h) Data that is non-disclosable under any formal agreement or memorandum of understanding between the Commission and any other unit of the government of the Commonwealth, including, but not limited to, any Commonwealth of Massachusetts Data Sharing Memorandum of Understanding, and any Data Use License Agreement between the Commission and the MPTC;
 - (i) Information that a court has expunged, placed under seal, impounded, or relieved the Commission of having to disclose;
 - (j) Information the confidentiality of which is the subject of dispute in litigation or an administrative proceeding; and
 - (k) Information that otherwise does not constitute a public record under M.G.L. c. 4, § 7, cl. 26.

(7) For purposes of determining whether a matter is ongoing, as that question relates to the applicability of exemptions under M.G.L. c 4, § 7, cl. 26 or other provisions or doctrines, the following guidelines shall apply.

- (a) A certification matter should be deemed subject to Commission oversight, and ongoing, beginning upon the earliest of the following:
 1. The Commission's receipt of an application for certification on behalf of an officer, including one made pursuant to M.G.L. c. 6E, § 4, M.G.L. c. 30A, § 13, or 555 CMR 7.03; or
 2. An agency's receipt from an officer of an application for certification or any materials required for the agency to complete an application for certification on the officer's behalf.
- (b) A certification matter should be deemed no longer ongoing upon the conclusion of the matter.
- (c) A disciplinary matter should be deemed subject to Commission oversight, and ongoing, beginning upon the earliest of the following:
 1. The Commission's receipt of a complaint or information warranting a determination of whether to initiate a preliminary inquiry under M.G.L. c. 6E, § 8; or
 2. An agency's receipt of a complaint that must or will be reported to the Commission under 555 CMR 1.01.
- (d) A disciplinary matter should be deemed no longer ongoing upon the earliest of the following:
 1. The conclusion of the matter;
 2. The point at which all entities that the Commission's decision knows to have been investigating the matter have decided not to pursue any associated disciplinary or legal action; or
 3. An officer's communication to the Commission of a decision not to

challenge any disciplinary action.

(8) The Commission may include in the public database, or exclude from the public database, other forms of information not specifically referenced in 555 CMR 8.05(4), (5), or (6), in accordance with guidelines established by the Commissioners, or, if no such guidelines are established, in accordance with guidelines established by the Commission's Executive Director.

8.06: Maintenance of Databases and Electronic Recordkeeping Systems and Databases Generally

(1) The Commission's RAO and its Chief Technology Officer shall consult with each other, and with the Commission's Executive Director, its Chief Financial and Administrative Officer, or the Massachusetts Executive Office of Technology Services and Security to ensure that, to the extent feasible, any electronic recordkeeping system or database that the Commission maintains is capable of providing data in a commonly available electronic, machine readable format.

(2) To the extent feasible, any database should allow for information storage and retrieval methods that permit the segregation and retrieval of public records and redacting of exempt information in order to provide maximum public access.

(3) The Commission shall not enter into any contract for the storage of electronic records that:

- (a) Prevents or unduly restricts the RAO from providing public records in accordance with M.G.L. c. 66;
- (b) Relieves the Commission of its obligations under M.G.L. c. 66A or ~~801-CMR-3.00~~any governing regulations promulgated thereunder; or
- (c) Omits provisions that are necessary to ensure compliance with M.G.L. c. 66A ~~or any governing regulations promulgated thereunder and 801-CMR 3.00.~~

8.07: Objections Concerning Data²

(1) An individual who is identified in data maintained by the Commission, or the individual's representative, may raise objections related to the accuracy, completeness, pertinence, timeliness, relevance, or dissemination of the data, or the denial of access to such data by filing a written petition for relief with the Executive Director at any time.

(2) Upon receiving a petition filed pursuant to 555 CMR 8.07(1), the Executive Director shall promptly evaluate the petition, including by obtaining relevant information.

(3) If the Executive Director determines that the relief requested in a petition filed pursuant to 555 CMR 8.07(1) to be warranted, the Executive Director shall promptly take appropriate steps to grant such relief, or comparable relief, and notify the petitioner in writing of the action taken.

(4) If the Executive Director determines that the relief requested in a petition filed pursuant to 555 CMR 8.07(1) is unwarranted, the Executive Director shall:

- (a) Within a reasonable time, notify the petitioner in writing that such determination was made and that the petitioner shall have the opportunity to submit a statement reflecting the petitioner's position regarding the data; and
- (b) Cause any such statement to be included with the data and with any subsequent disclosure or dissemination of the data.

(5) Within thirty days of receiving a notification pursuant to 555 CMR 8.07(4)(a), a petitioner may file a written request for further review with the Executive Director.

(6) The Executive Director shall provide any request for further review made pursuant to 555 CMR 8.07(5) to the Chair promptly upon receiving it.

(7) The Chair shall have discretion to determine the manner of addressing a request for further review made pursuant to 555 CMR 8.07(5).

~~When the subject of personal data that is maintained by the Commission, or the subject's authorized representative, in accordance with 801 CMR 3.04, contests the accuracy, completeness, pertinence, timeliness, relevance or dissemination of the subject's personal~~

~~data or the denial of access to such data maintained in any personal data system of the Commission, or requests that personal data be corrected or amended, the Commission shall address the matter as provided in 801 CMR 3.04.~~

~~(6)~~(8) If the Commission has a good-faith, reasonable belief that a public employee may possess a right to have data in a personnel record corrected or expunged pursuant to M.G.L. c. 149, § 52C, the Commission shall make reasonable efforts to give the employee the opportunity to exercise the right.

8:~~07~~08: Receipt and Referral of Records Requests

(1) The Commission may decline to accept Records Requests by telephone, pursuant to 950 CMR 32.06(1)(a).

(2) If the Commission receives a Records Request and determines that the MPTC is the data owner as to all responsive materials, the Commission shall refer the Records Request to the MPTC and request that the MPTC respond in accordance with any Data Use License Agreement between the Commission the MPTC, and the Commission may presume that the MPTC will assume responsibility for responding.

(3) If the Commission receives a Records Request, it may consult with a law enforcement agency to determine if similar requests have been received by the agency. The Commission may also establish a process by which agencies that receive Records Requests for documents that are also held by the Commission be required to provide the Commission with timely notice of the Records Request, a copy of any response to the Records Request, and copies of any documents produced.

8:~~08~~09: Responses to Records Requests

(1) Except as provided in 555 CMR 8.~~08~~09(2), (3), or (4), a record requested through a Records Request shall be provided in accordance with M.G.L. c. 66 and 950 CMR 32.00.

(2) If a record includes information identified in 555 CMR 8.05(5), such information shall not be disclosed;

(3) If a record includes information identified in 555 CMR 8.05(6), taking into account the provisions of 555 CMR 8.05(7), such information shall not be disclosed, unless:

- (a) Disclosure is required under M.G.L. c. 66A, § 2 or any other source of federal or Massachusetts law; or
- (b) Disclosure:
 1. Is not prohibited by federal or Massachusetts law;
 2. Will not jeopardize any law enforcement efforts or the security of any person or entity; and
 - a. Will be made to the person or entity who is the subject of the information;
 - b. Will be made to a law enforcement agency or a criminal justice agency in Massachusetts or elsewhere;
 - c. Is warranted by public interests that are substantially greater than any interests in non-disclosure; or
 - d. Has previously been made publicly by the officer at issue or the Commission in litigation.

(4) If a record constitutes a public record and is made available on a public website pursuant to M.G.L. c. 66, § 19(b), M.G.L. c. 7, § 14C, 555 CMR 8.05, or any other appropriately indexed and searchable public website, the RAO may furnish the record by providing reasonable assistance in locating it on the public website, pursuant to M.G.L. c. 66, § 6A(d).

8:~~09~~10: Privileged Information

(1) Where information that is responsive to a Records Request is subject to a privilege recognized by law:

- (a) If the Commission is the holder of the privilege, the privilege may be waived

only through a decision of the Commissioners made in accordance with M.G.L. c. 6E, § 2(e).

(b) If a person or entity other than the Commission is the holder of the privilege, the Commission shall:

1. Notify the holder regarding the Records Request; and
2. Make reasonable efforts to give the holder the opportunity to protect the information.

8:~~10~~11: Fees for Producing Records

(1) In response to any Records Request that does not address the requester's eligibility for a waiver of fees under M.G.L. c. 66, § 10(c)(v) and 950 CMR 32.07(2)(k), the Commission may seek information from the requester regarding the purpose of the Records Request, in accordance with M.G.L. c. 66, § 10(d)(viii) and 950 CMR 32.06(2)(h).

(2) Where a requester requests records that are substantially similar to information available through the public database prescribed by 555 CMR 8.05, the Commission shall direct the requester to the database and, if that does not satisfy the requester's request, then decline to provide records without payment of the maximum fee permitted by law, notwithstanding the provisions of M.G.L. c. 66, § 10(c)(v) and 950 CMR 32.07(2)(k).

(3) Where the Commission has determined that records are not to be provided without payment of a fee:

- (a) The requester shall not be obligated to pay any fee without having agreed to do so;
- (b) The Commission may decline to continue assembling or reviewing potentially responsive documents until the full fee has been paid; and
- (c) The Commission shall not provide documents until the full fee has been paid.

8:~~11~~12: Compulsory Legal Process

(1) When any person or entity seeks personal data maintained by the Commission through compulsory legal process, the Commission, except as provided in 555 CMR 8.~~11~~12(~~32~~):

- (a) Shall notify the data subject in reasonable time that the data subject may seek to have the process quashed; and
- (b) If appearing or filing any paper in court related to the process, shall notify the court of the requirement of M.G.L. c. 66A, § 2(k).

(2) The Commission need not provide the notification described in 555 CMR 8.~~11~~12(~~21~~) if a court orders otherwise upon a finding that notice to the data subject would probably so prejudice the administration of justice that good cause exists to delay or dispense with such notice.

REGULATORY AUTHORITY

555 CMR 8.00: M.G.L. c. 6E, §§ 3(a) and 4(j) and 801 CMR 3.01(2).

ENDNOTES

¹ Cf. M.G.L. c. 66A, § 3 (Fair Information Practices Act) ("Any agency not within any such executive office shall be subject to the regulations of the commissioner of administration."); 801 CMR 3.01(2) (A&F FIPA Regulations) ("Any agency, as defined in M.G.L. c. 66A, § 1, not within an Executive Office shall be subject to 801 CMR 3.00, unless the agency adopts its own regulations consistent with the provisions in 801 CMR 3.00.").

² Cf. 801 CMR 3.04 (A&F FIPA Regulations):

Objections and Administrative Appeals

(1) Objections. A data subject, his or her attorney, parent or legal guardian, or other representative authorized in writing by the data subject may object to the accuracy, completeness, pertinence, timeliness, relevance or dissemination of personal data pertaining to the data subject, or the denial of access to such data maintained in a personal data system. Such individual may file an objection with the information officer in charge of the personal data system or another designated person within the

agency. If the information officer or agency designee is unavailable, the data subject or his or her representative may make the objection to the agency head.

(2) Responsibilities of Holder Pursuant to Objections. Upon receiving a data subject's objection, the information officer or agency designee shall investigate the validity of the objection within 30 days of receipt of the objection.

(a) If the data subject or his or her representative requests that the personal data be corrected or amended, or requests any other change with respect to the personal data, and there is no disagreement concerning the change to be made, the information officer or agency designee shall cause such change to be made.

(b) If the information officer or agency designee determines that the objection lacks merit, he or she shall provide the data subject an opportunity to provide a statement reflecting the data subject's position regarding the data and shall include the statement with the personal data and with any subsequent disclosure or dissemination of the data in question.

(3) Appeal of Holder's Decision. Any data subject or representative who objects to the decision of the information officer or agency designee may appeal the matter to the agency head or a designee. The appeal shall be filed in writing within 30 days of receipt of notification of the decision by the information officer or agency designee under 801 CMR 3.04(2).

(a) If the agency head or designee agrees with the objection, he or she shall cause the requested correction, amendment, or other change to be made.

(b) If the agency head or designee determines that objection lacks merit, he or she shall provide the data subject an opportunity to provide a statement reflecting the data subject's position regarding the personal data and cause such statement to be included with the personal data and with any subsequent disclosure or dissemination of the data in question.

4b.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION
APPROVAL OF RECERTIFICATION REGULATIONS ON A PERMANENT BASIS
(Proposed)

I. BACKGROUND

- A. At its public meeting on June 8, 2022, the Peace Officer Standards and Training Commission voted to promulgate a set of regulations concerning the recertification of law enforcement officers on an emergency basis, pursuant to M.G.L. c. 6E, §§ 3(a) and 4, and M.G.L. c. 30A, § 3.
- B. On June 10, 2022: the Commission filed the regulations with the Office of the Secretary of the Commonwealth; the Commission provided notice of the regulations to the Local Government Advisory Committee; and the regulations became effective as Chapter 7.00 of Title 555 of the Code of Massachusetts Regulations.
- C. Though the Commission was not required to hold a public hearing concerning the regulations under M.G.L. c. 30A, § 3, it elected to schedule such a hearing.
- D. On June 24, 2022: the Commission published a newspaper advertisement concerning its intent to hold a public hearing on July 12, 2022 and to receive public comments until 5:00 PM on July 15, 2022 with respect to the regulations; the Commission filed a Small Business Impact Statement concerning the regulations with the Office of the Secretary of the Commonwealth; and that office published the regulations in Issue No. 1472 of the Massachusetts Register.
- E. On July 8, 2022, the Office of the Secretary of the Commonwealth published notice of the Commission's intent to hold a public hearing on July 12, 2022 and to receive public comments until 5:00 PM on July 15, 2022 with respect to the regulations, as well as the Commission's Small Business Impact Statement.

- F. The Commission held a public hearing on July 12, 2022, at which it provided information concerning the regulatory process and received comments, and it maintained an open public comment period until 5:00 PM on July 15, 2022, with respect to the regulations.

II. APPROVAL

Pursuant to M.G.L. c. 6E, §§ 3(a) and 4, and M.G.L. c. 30A, § 3, the Commission hereby:

- A. Approves the adoption of 555 CMR 7.00 as a permanent set of regulations governing the recertification of law enforcement officers; and
- B. Authorizes its staff to file appropriate papers with the Office of the Secretary of the Commonwealth to ensure that such regulations become effective on a permanent basis.

555 CMR 7.00: RECERTIFICATION

Section

- 7.01: Definitions
- 7.02: Submission of Employing Agency Information to the Commission
- 7.03: Continuation of Certification Period
- 7.04: Conditional Recertification
- 7.05: Determination of Good Character and Fitness for Employment
- 7.06: Evaluation of Recertification Standards
- 7.07: Issuance of Decision
- 7.08: Retroactivity of Recertification
- 7.09: Restriction or Revocation of Certification
- 7.10: Possible Action Following Decision Declining to Grant Full Recertification

7.01: Definitions

For the purposes of 555 CMR 7.00, the following terms have the following meanings unless the context requires otherwise:

Authority. An officer's employing agency or any supervisor therein; the civil service commission; any arbitrator or other third-party neutral with decision-making power; and any court.

Bridge Academy Training. The "additional training as required by the municipal police training committee" pursuant to St. 2020, c. 253, § 102(b).

Certification Period. The period of time between the effective date and the expiration date of an individual's certification as a law enforcement officer, including any period of continuation, provided for under M.G.L. c. 30A, § 13 or 555 CMR 7.03, beyond the reference date.

Commission. The peace officer standards and training commission as an agency, including its commissioners and its staff.

Conditional Certification and Conditional Recertification. A certification of the type described in 555 CMR 7.04.

Decertification and Revocation of Certification. Are synonymous, as provided in M.G.L. c. 6E, § 1, and such terms refer to a revocation of certification made by the commission pursuant to M.G.L. c. 6E, § 10, an action distinct from a "denial of recertification."

Denial of Recertification. A commission decision not to renew an individual's certification as a law enforcement officer, made pursuant to M.G.L. c. 6E, §§ 3(a) and 4, an action distinct from "decertification" or "revocation of certification."

Employing Agency. The law enforcement agency for which an officer is employed or the appointing authority that is responsible for submitting documentation concerning an officer's recertification to the commission.

Final Decision. The ultimate commission decision on recertification, following any review or hearing or the expiration of the time afforded for an officer to seek such review or hearing, and following the satisfaction of any conditions attached to a conditional recertification or the expiration of the time to satisfy any such conditions; and does not include a decision granting a conditional recertification.

Full Certification and Full Recertification. A decision granting certification for three years pursuant to M.G.L. c. 6E, § 4(f)(3), without any limitation, condition, restriction, or suspension imposed pursuant to M.G.L. c. 6E, § 3(a) or another provision.

Good Character and Fitness for Employment. "Good moral character and fitness for employment in law enforcement," M.G.L. c. 6E, § 4(f)(1)(ix).

7.01: continued

Municipal Police Training Committee and MPTC. The agency of the same name within the executive office of public safety, as established in M.G.L. c. 6, § 116.

Reference Date. The end date for an officer's certification provided for in St. 2020, c. 253, § 102 or the end date of a prior certification issued to an officer by the commission, whichever is later, without regard to any period of continuation provided for by M.G.L. c. 30A, § 13 or 555 CMR 7.03.

7.02: Submission of Employing Agency Information to the Commission

- (1) The executive director shall distribute to employing agencies all information and forms required for recertification of law enforcement officers as approved by the commission.
- (2) The executive director shall set the dates by which such information and forms shall be submitted to the commission by employing agencies, and may extend any such due date for good cause shown. Subsequent extensions may be requested and granted, but in no case can any one extension allowed by the executive director exceed 30 calendar days.
- (3) Notwithstanding 555 CMR 7.02(2), any employing agency seeking an extension must submit to the commission, with its first request for an extension, a roster of officers for whom it intends to seek recertification.

7.03: Continuation of Certification Period

- (1) Pursuant to M.G.L. c. 30A, § 13, the certification period for an officer shall continue after the reference date for the officer, if:
 - (a) The application, in a form approved by the commission, is submitted in advance of the reference date for the officer;
 - (b) The application is submitted in advance of any applicable deadline, and in conformity with any procedures, established by the commission; and
 - (c) The commission finds the application to be substantially complete.
- (2) The inclusion of an officer's name in a roster submitted in accordance with 555 CMR 7.02(3) shall be considered an application on behalf of the officer for purposes of 555 CMR 7.03(1)(a).
- (3) A certification period continued pursuant to 555 CMR 7.03 will end upon the issuance of a final decision regarding recertification.

7.04: Conditional Recertification

- (1) The division of certification shall conditionally recertify an officer if the officer is unable to meet the standards for recertification solely due to circumstances beyond the officer's control and which are attributable to the officer's employing agency, the municipal police training committee, or the commission.
- (2) The division of certification may conditionally recertify an officer in other appropriate circumstances including, but not limited to, where:
 - (a) The officer's application for recertification is substantially complete and does not reveal any basis for denying recertification, but certain additional details need to be supplied or certain information needs to be verified;
 - (b) The officer was unable to satisfy a requirement for recertification because the officer was on approved leave during the relevant time or because of another valid reason;
 - (c) The officer has experienced a demonstrable hardship which has interfered directly with the officer's ability to meet a requirement for recertification; or
 - (d) The officer has taken all required steps in connection with the recertification process, but circumstances beyond the officer's control have delayed a final decision on the officer's application.

7.04: continued

(3) An officer shall not be required to satisfy any conditions attached to a conditional recertification, nor shall any time periods associated with any such conditions begin to elapse, before the conclusion of any review or hearing, or the expiration of the time afforded for the officer to seek such review or hearing, pursuant to 555 CMR 7.10.

(4) Change in Certification Status.

(a) When an officer fails to satisfy a condition of a conditional recertification within the time allowed, taking into account the provisions of 555 CMR 7.04(3), the division of certification shall terminate the officer's certification, unless good cause for an extension of time for the officer to satisfy the condition has been shown.

(b) When an officer satisfies all conditions of a conditional recertification within the time allowed, taking into account the provisions of 555 CMR 7.04(3), and the commission has not otherwise limited, restricted, or suspended the officer's certification, the division of certification shall convert the conditional recertification into a full certification with an expiration date of three calendar years from the reference date for the officer.

(5) In all other respects, an officer who holds a conditional certification is "certified," as that term is used in M.G.L. c. 6E.

7.05: Determination of Good Character and Fitness for Employment

(1) General Standards Utilized by Employing Agency and Commission. Any assessment of whether an officer possesses good character and fitness for employment shall take into account on-duty and off-duty conduct.

(2) Submission by Employing Agency.

(a) Each officer's employing agency shall provide a submission to the commission concerning whether an officer possesses good character and fitness for employment, in accordance with commission policy.

In assessing good character and fitness for employment, an employing agency may take into account whether an officer adheres to state and federal law, acts consistently with recognized standards of ethics and conduct adopted by the employing agency or as set forth in the Law Enforcement Code of Ethics and Standards of Conduct most recently adopted by the International Association of Chiefs of Police, and is worthy of the public trust and of the authority given to law enforcement officers. In making such an assessment, the agency also may rely on questionnaires, any guidance or forms approved by the Commission, performance reviews, relevant education, specialized training, professional awards, achievements, commendations by law enforcement agencies or officials or others, instances of imposed discipline, patterns of misconduct, and any other evidence of past performance.

(b) If an employing agency determines that an officer possesses good character and fitness for employment, the agency shall provide, upon request by the commission, documentation supporting such a determination.

(c) If an employing agency determines that it cannot find that an officer possesses good character and fitness for employment, the employing agency shall make a written report to the commission, a copy of which shall be simultaneously provided to the officer and the head of the officer's collective bargaining unit.

1. The written report shall contain an explanation for the agency's determination including, but not limited to, a description of specific conduct supporting the agency's determination. The written report must be sufficient to permit the commission to evaluate the basis for the employing agency's determination, and to permit the commission to determine whether the officer possesses good character and fitness for employment.

2. As to each instance of specific conduct cited in the agency's report as evidence that the officer may lack good character and fitness for employment, the employing agency shall address:

a. Any discipline imposed or decision issued by an authority as a result of the conduct, or the reason(s) why there was no discipline or decision;

b. The extent to which the officer complied with any such discipline or decision;

7.05: continued

- c. Any similar conduct allegedly undertaken by the officer subsequent to any such discipline or decision; and
 - d. The dates of each instance of conduct, and imposition of discipline or issuance of a decision.
- (d) Response by Officer. Within 14 calendar days of the submission of the report to the commission, or a longer period of time allowed by the commission upon a showing of good cause, the officer may submit a written response to the commission, a copy of which shall be simultaneously provided to the officer's employing agency.
- (3) Assessment and Determination by Commission.
 - (a) The division of certification shall render an initial determination as to whether an officer possesses good character and fitness for employment, in accordance with any protocols adopted by the commission, upon giving due consideration to all information available to it including, but not limited to, the following:
 - 1. An attestation that an officer possesses good character and fitness for employment and accompanying information;
 - 2. Any report by an employing agency of the type described in 555 CMR 7.05(2)(c); and
 - 3. Any response by an officer of the type described in 555 CMR 7.05(2)(d).
 - (b) The division of certification may, to the extent reasonably possible, obtain additional information that may prove helpful in determining whether an officer possesses good character and fitness for employment.
- (4) Consideration of Particular Matters. In rendering a determination regarding an officer's good character and fitness for employment, unless there have been allegations that an officer has engaged in multiple instances of similar or related misconduct or protocols adopted by the commission provide otherwise, neither the employing agency nor the division of certification shall consider an allegation of a particular instance of misconduct, where:
 - (a) An authority has made a decision in the officer's favor on the merits of a complaint alleging such misconduct;
 - (b) The alleged misconduct is currently the subject of a pending investigation or adjudication by any authority;
 - (c) The officer has complied, or is in the process of complying, with any disciplinary action or other adverse decision by an authority, in relation to the alleged misconduct, and the officer has not engaged in any similar conduct since the discipline or decision;
 - (d) The alleged misconduct did not result in either a disciplinary proceeding or court action, and the employing agency has not offered a reasonable explanation as to why no such proceeding or action was commenced; or
 - (e) The allegation is not specifically and credibly supported.

7.06: Evaluation of Recertification Standards

Except as otherwise provided in 555 CMR 7.04, the Commission shall treat the statutory recertification standards as follows:

- (1) Attaining the Age of 21. This standard shall be deemed satisfied if the officer attained the age of 21 at any point in time before the reference date for the officer. If the officer has not attained the age of 21 at any point in time before the reference date for the officer, and if the reference date is prior to July 1, 2024, the officer shall be conditionally recertified on the condition that the officer shall attain the age of 21 by July 1, 2024.
- (2) Successful Completion of a High School Education or Equivalent. This standard shall be deemed satisfied if the officer successfully completed a high school education or equivalent at any point in time before the reference date for the officer. If the officer has not successfully completed a high school education or equivalent at any point in time before the reference date for the officer, and if the reference date is prior to July 1, 2024, the officer shall be conditionally recertified on the condition that the officer shall successfully complete a high school education or obtain a General Educational Development (GED) certification from an accredited program by July 1, 2024.

7.06: continued

(3) Successful Completion of Basic Training Program.

(a) Regular Basic Training Other than Bridge Academy Training. This standard shall be deemed satisfied if the officer successfully completed a regular basic training program (not bridge academy training) at any point in time before the reference date for the officer. If the officer has not successfully completed a regular basic training program (not bridge academy training) at any point in time before the reference date for the officer, the officer shall be conditionally recertified on the condition that the officer shall successfully complete a regular basic training program (not bridge academy training) within 90 calendar days or such other time as is allowed by the MPTC.

(b) Bridge Academy Training. This standard shall be deemed satisfied if the officer successfully completed bridge academy training at any point in time before the reference date for the officer. If the officer has not successfully completed bridge academy training due to a documented hardship recognized under commission or MPTC policy, the officer shall be conditionally recertified in accordance with commission policy. Where commission policy is not applicable, the officer will be conditionally recertified on the condition that the officer shall successfully complete bridge academy training by the date stipulated by the MPTC for that officer.

(4) Successful Completion of a Physical and Psychological Fitness Evaluation. This standard shall be deemed satisfied if the officer successfully completed a physical and psychological fitness evaluation that was required for graduation from an academy or training program certified by the MPTC or the training programs prescribed by M.G.L. c. 22C prior to the reference date for the officer. The commission will implement a policy concerning officers who were certified pursuant to St. 2020, c. 253, § 102 but did not successfully complete a physical and psychological fitness evaluation that was required for graduation from an academy or training program certified by the MPTC or the training programs prescribed by M.G.L. c. 22C prior to the applicable reference date.

(5) Successful Completion of a State and National Background Check. This standard shall be deemed satisfied if the following criteria are met:

- (a) A 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 reference date for the officer;
- (b) The commission has received all disciplinary records as described by commission policy relative to an officer prior to the reference date for the officer;
- (c) The commission has received an attestation to certain key facts regarding the officer's background; and
- (d) The commission does not discern any basis, based on information it has received, for finding the standard unmet.

If this standard is not satisfied because no background check has been conducted, the officer shall be conditionally recertified on the condition that this standard must be met within 90 calendar days. In all other circumstances where the officer has not satisfied this standard, the officer shall not be recertified, notwithstanding any provisions of 555 CMR 7.06 that provide for conditional recertification.

(6) Successful Completion of an Examination.

(a) Examination Part of Regular Basic Training (Not Bridge Academy Training). This standard shall be deemed satisfied if the officer successfully completed an examination required for completion of regular basic training (not bridge academy training) at any point in time before the reference date for the officer. If the officer has not successfully completed an examination required for completion of regular basic training (not bridge academy training) at any point in time before the reference date for the officer, the officer shall be conditionally recertified on the condition that the officer shall successfully complete an examination as part of regular basic training (not bridge academy training) within 90 calendar days or such other time as is allowed by the MPTC.

7.06: continued

(b) Examination Part of Bridge Academy Training. This standard shall be deemed satisfied if the officer successfully completed an examination required for completion of bridge academy training at any point in time before the reference date for the officer. If the officer has not successfully completed an examination required for completion of bridge academy training due to a documented hardship recognized under commission or MPTC policy, the officer shall be conditionally recertified in accordance with commission policy. Where commission policy is not applicable, the officer will be conditionally recertified on the condition that the officer shall successfully complete an examination as part of bridge academy training within the timeframe determined by the MPTC.

(7) Possession of Current First Aid and Cardiopulmonary Resuscitation Certification. This standard shall be deemed satisfied if the officer currently possesses such certificates or the equivalent. If the officer does not currently possess such certificates or the equivalent, the officer will be conditionally recertified on the condition that the officer shall obtain such certificates or the equivalent within 90 calendar days.

(8) Successful Completion of an Oral Interview Administered by the Commission. This standard shall be deemed satisfied if, in accordance with commission policy, an officer is interviewed by, discusses a set of questions with, or discusses the officer's responses to a questionnaire with, the head of the officer's agency or the head's designee, or in the case of the head of the agency, the head's appointing authority. If this standard is not satisfied because of certain action or inaction by the employing agency, or because the officer was on approved leave, the officer will be conditionally certified on the condition that the standard is satisfied within the later of 90 calendar days or 90 calendar days following the officer's return to active service, as applicable. If this standard is not satisfied for any other reason, the officer shall not be recertified, notwithstanding any provisions of 555 CMR 7.06 that provide for conditional recertification.

(9) Good Character and Fitness for Employment. This standard shall be deemed satisfied if the division of certification determines the officer meets the criteria set out in 555 CMR 7.05. If this standard is not satisfied, the officer shall not be recertified, notwithstanding any provisions of 555 CMR 7.06 that provide for conditional recertification.

7.07: Issuance of Decision

(1) The division of certification shall review each officer's application for recertification and provide written notification of a decision on the application for recertification to the officer and the officer's employing agency and the head of the officer's collective bargaining unit in accordance with commission policy, or where there is no commission policy, a policy adopted by the executive director.

(2) A decision that does not provide for full recertification shall be distinct from decertification and shall not implicate M.G.L. c. 6E, § 10.

(3) If the decision provides for anything other than full recertification, the notification described in 555 CMR 7.07(1) shall also inform the officer of the ability to seek review by the executive director as provided for in 555 CMR 7.10(1) and a hearing as provided for in 555 CMR 1.10 and 555 CMR 7.10(2).

7.08: Retroactivity of Recertification

A decision to recertify an officer made after the reference date for the officer, notwithstanding 555 CMR 7.03, will apply retroactively to that date, regardless of whether the recertification is subject to any limitations, conditions, or restrictions.

7.09: Restriction or Revocation of Certification

The granting of a recertification shall not preclude the limiting, conditioning, restricting, suspending, or revoking of the certification in accordance with law, when warranted, including but not limited to circumstances where an officer has made a material misrepresentation to the commission or the officer's employing agency in connection with the recertification process.

7.10: Possible Action Following Decision Declining to Grant Full Recertification

(1) Executive Director Review.

(a) Within 21 days of a decision by the division of certification declining to grant full recertification, an officer may submit a written petition to the executive director requesting review of the decision, a copy of which the officer shall provide to the officer's employing agency.

(b) The executive director, or that person's designee, may ask any entity or individual to provide additional information, orally or in writing, or to appear at a meeting concerning the matter.

(c) The executive director, or that person's designee, shall provide the officer and the officer's employing agency with a written decision on the petition within a reasonable time.

(2) Opportunity for Hearing. Following the process described in 555 CMR 7.10(1), an officer may request a hearing before the commission concerning an application for recertification in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

(3) Vacating of Prior Decision to Recertify. If a decision to recertify an officer is vacated, the officer shall be deemed to have been certified during the period of time between the decision to recertify and the decision to vacate.

(4) Reapplication by Officer. Where an officer has received a decision denying a full recertification, the commission may attach limitations, conditions, or restrictions on the officer's ability to reapply.

7.11: Final Determinations

An officer's application shall not be deemed "finally determined," as that term is used in M.G.L. c. 30A, § 13, absent a final decision by the commission.

REGULATORY AUTHORITY

555 CMR 7.00: St. 2020, c. 253; MG.L. c. 6E.

NON-TEXT PAGE

4c.

**MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION
APPROVAL OF CERTIFICATION FOR CERTAIN HUMANE SOCIETY OFFICERS
(Proposed)**

I. KEY STATUTORY PROVISIONS

M.G.L. c. 6E, § 1 (as amended on July 28, 2022 retroactively to July 1, 2022)

As used in this [M.G.L. c. 6E], the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

“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; (iii) a public or private college, university or other educational institution or hospital police department; or **(iv) a humane society police department in [M.G.L. c. 22C, § 57].**

“Law enforcement officer” or “officer”, any officer of an agency, including the head of the agency; **a special state police officer appointed pursuant to section 57[, which concerns humane society officers]**, section 58[, which concerns Port of Boston Authority officers,] or section 63[, which concerns educational institution or hospital officers] of [M.G.L. c. 22C]; 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:

...

(2) establish, jointly with the municipal police training committee 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; [or]

...

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

....

M.G.L. c. 6E, § 4

...

(f)(1) The division of police certification and the municipal police training committee 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 municipal police training committee; (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 paragraph (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.

...

(g) No agency shall appoint or employ a person as a law enforcement officer unless the person is certified 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.

M.G.L. c. 22C, § 57 (as amended on July 28, 2022 retroactively to July 1, 2022)

The colonel may appoint, at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, the Berkshire Animal Protective Society, Inc., the Animal Rescue League of Boston, the Boston Work Horse Relief Association, the Lowell Humane Society, the Worcester Animal Rescue League or the Animal Rescue League of New Bedford, duly accredited agents of said corporations as special state police officers to serve for one year subject to removal by the colonel. Such special state police officers shall report to him relative to their official acts as such police officers at such times and in such manner as the colonel may require; **provided, however, that such officers shall remain subject to the certification requirements of the Massachusetts Peace Officer Standards and Training Commission established in [M.G.L. c. 6E].** They shall serve without pay, except their regular compensation as agents of said corporation. They shall receive no fees for services or return of any criminal process and shall have throughout the commonwealth the powers of constables and police officers to arrest and detain any person violating any law for the prevention of cruelty to animals.

St. 2022, c. 126 (approved on July 28, 2022 and effective in relevant part on July 1, 2022)

...

SECTION 7. [M.G.L. c. 6E, § 1], as appearing in the 2020 Official Edition, is hereby amended by striking out, in lines 63 and 64, the words “or (iii) a public or private college, university or other educational institution or hospital police department” and inserting in place thereof the following words:- (iii) a public or private college, university or other educational institution or hospital police department; or (iv) a humane society police department in [M.G.L. c. 22C, § 57].

SECTION 8. Said section 1 of said [M.G.L. c. 6E], as so appearing, is hereby further amended by inserting after the word “section”, in line 67, the first time it appears, the following words:- “57, section”.

...

SECTION 14. [M.G.L. c. 22C, § 57], as appearing in the 2020 Official Edition, is hereby amended by inserting after the word “require”, in line 10, the following words:- ; provided, however, that such officers shall remain subject to the certification requirements of the Massachusetts Peace Officer Standards and Training Commission established in [M.G.L. c. 6E].

...

SECTION 197. Except as otherwise specified, this act shall take effect on July 1, 2022.

II. DEFINITIONS

A. As used herein:

1. “Certification” and “Certified” refer to certification as a law enforcement officer under M.G.L. c. 6E, §§ 3(a) and 4.
2. “Division” refers to the Division of Certification established under M.G.L. c. 6E, § 4;
3. “Employing Agency” refers to an organization identified in M.G.L. c. 22C, § 57 that employed an individual as a Humane Society Officer at any point between July 1, 2022 and July 28, 2022;
4. “Full Certification” refers to a decision granting certification for three years pursuant to M.G.L. c. 6E, § 4(f)(3), without any limitation, condition, restriction, or suspension imposed pursuant to M.G.L. c. 6E, § 3(a) or another provision; and
5. “Humane Society Officer” refers to an individual who was serving as an officer of a police department for an organization identified in M.G.L. c. 22C, § 57, or as a Special State Police Officer appointed pursuant to § 57, at any point between July 1, 2022 and July 28, 2022.

III. APPROVAL

A. The Division may conditionally certify a Humane Society Officer who has not submitted a full application for certification where the Division:

1. Receives, on or before September 15, 2022, an attestation from the head of the officer’s Employing Agency, or the agency head’s designee, averring that, at all relevant times, the officer has satisfied all requirements for certification that are expressly referenced in M.G.L. c. 6E, §§ 4(f)(1) and 4(f)(2);
2. Finds the attestation to be facially sufficient; and
3. Stipulates that:

- a. The officer or the agency may submit a full application for certification within a period prescribed by the Division, which period shall not exceed ninety days;
- b. The certification shall be subject to any other conditions that the Division finds warranted;
- c. If the Division does not receive and grant a full application or the officer does not satisfy any other imposed condition within the time allowed, then the certification shall expire; and
- d. If the Division receives and grants a full application and the officer satisfies all other imposed conditions within the time allowed, and the Commission has not decided to otherwise condition, limit, restrict, or suspend the officer's certification, then the certification shall be converted into a full certification with an expiration date of three calendar years from the date on which the officer was first conditionally certified.

B. The Division may conditionally certify a Humane Society Officer who has been unable to complete any training required for certification, and may grant such an officer a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b), where:

1. The officer otherwise meets all qualifications for certification;
2. The officer's Employing Agency certifies, based on sufficient documentation provided by the officer, that the officer has been unable to complete the required training due to:
 - a. Military leave;
 - b. Injured-on-duty leave under M.G.L. c. 41, § 111F;
 - c. Workers' compensation leave;
 - d. Medical leave related to chemotherapy or radiation treatment;
 - e. Parental leave, including pregnancy, maternity, paternity, and adoption leave;
 - f. Family and Medical Leave Act leave;
 - g. Paid Family and Medical Leave; or
 - h. An emergency exigency that the Commissioners find sufficient to warrant a conditional certification;
4. The Municipal Police Training Committee has granted the officer a sufficient extension of time to complete such training;
5. The Division stipulates that:
 - a. The officer may complete the required training within ninety days after the identified leave or exigency ends, or within such other period set by the Commissioners, provided that the officer shall in no event be afforded more than five years from the effective date of the conditional certification in which to complete the training;
 - b. The certification shall be subject to any other conditions that the Division finds warranted;

- c. If the officer does not complete the required training or does not satisfy any other imposed condition within the time allowed, then the certification shall expire; and
 - b. If the officer completes the required training and satisfies all other imposed conditions within the time allowed, and the Commission has not decided to otherwise condition, limit, restrict, or suspend the officer's certification, then the certification shall be converted into a full certification with an expiration date of three calendar years from the date on which the officer was first conditionally certified.
- C. The Division may provide for any type of certification for a Humane Society Officer to be retroactive to July 1, 2022, or the date on which the officer began in such a position, whichever is later.
- D. Nothing herein shall preclude:
 - 1. A Humane Society Officer or an Employing Agency from submitting a full application for certification, at any time;
 - 2. The Division from granting a Humane Society Officer a certification without any condition, limitation, restriction, or suspension, at any time, if all requirements for certification have been satisfied; or
 - 3. The Division from conditioning, limiting, restricting, suspending, or revoking of Humane Society Officer's certification, at any time, if warranted by governing sources of law and Commission policies.
- E. The Commission reserves the ability to revise or withdraw this Approval at any time.

4d.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

555 CMR 10.00: SPECIALIZED CERTIFICATION FOR SCHOOL RESOURCE OFFICERS

Section

- 10.01: Authority
- 10.02: Scope
- 10.03: Definitions
- 10.04: Application for SRO Certification
- 10.05: Division Evaluation of SRO Certification Application
- 10.06: Conditional SRO Certification
- 10.07: Possible Action Following Decision Declining to Grant Full SRO Certification
- 10.08: SRO Certification Status

10.01: Authority

- (1) The Commission promulgates 555 CMR 10.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b).

10.02: Scope

- (1) 555 CMR 10.00 governs SRO certification pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b).
- (2) 555 CMR 10.00 amends any initial certification process concerning SRO certification, and otherwise supersedes any policy or protocol concerning SRO certification, that was previously adopted by the Commission, other than as provided in 555 CMR 10.08(3), except:
 - (a) 555 CMR 10.00 does not negate any grant of SRO certification for an individual, or any effective dates of such a certification, that was previously approved by the Commission.
- (3) 555 CMR 10.00 does not govern the suspension or revocation of SRO certification, except as provided in 555 CMR 10.08.
- (4) Nothing in 555 CMR 10.00 is intended to:
 - (a) Establish a standard of care or create any independent private right, entitlement, remedy, or cause of action on the part of any person or entity on account of any action the Commission takes or fails to take;
 - (b) Otherwise waive any power, right, privilege, protection, or immunity that may be available to the Commission; or
 - (c) Preclude the limiting, conditioning, restricting, suspending, or revoking of any certification in accordance with law.

10.03: Definitions

- (1) 555 CMR 10.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02, except those definitions of terms that are defined in 555 CMR 10.03(2).
- (2) For the purposes of 555 CMR 10.00, the following terms have the following meanings, unless the context requires otherwise:

Applicant. A person or entity that submits an application for SRO certification regarding an individual to the Commission.

Application. An application for SRO certification.

Appointing Authority. A law enforcement agency that appoints, or seeks to appoint, an individual to serve as an SRO.

Chief of Police. The chief of police or the board or officer having control of the police department in a city or town.

Conditional Officer Certification. An officer certification of the type described in 555 CMR 7.04 or otherwise made subject to conditions pursuant to M.G.L. c. 6E, §§ 3(a) and 4.

Conditional SRO Certification. An SRO certification of the type described in 555 CMR 10.06.

Revocation of Officer Certification. A revocation of officer certification made by the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and 10, an action that is distinct from a denial, a nonrenewal, an expiration, or a suspension of officer certification, and that is distinct from a denial, a nonrenewal, an expiration, a revocation, or a suspension of SRO certification.

Denial of SRO Certification. A Commission decision declining to grant SRO certification to an individual, made pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b), an action that is distinct from a revocation or a suspension of SRO certification, and that is distinct from a revocation or a suspension of officer certification.

Division. The Division of Police Certification established pursuant to M.G.L. c. 6E, § 4.

Executive Director. The Executive Director of the Commission, appointed pursuant to M.G.L. c. 6E, § 2(g), or that person's designee for relevant purposes.

Final Decision. The ultimate Commission decision on an application for SRO certification, following any review or hearing or the expiration of the time afforded for an applicant to seek such review or hearing, and following the satisfaction of any conditions attached to a conditional SRO certification or the expiration of the time to satisfy any such conditions.

Full SRO Certification. An SRO certification granted pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b), without any limitation, condition, restriction, or suspension imposed pursuant to M.G.L. c. 6E, §§ 3(a) or 3(b) or another provision.

Model MOU. The model MOU for SROs developed by the SRO-MOU Commission.

MOU. A memorandum of understanding concerning an SRO's: relationship with a school or school system; duties; functions; and/or powers.

MPTC. The Municipal Police Training Committee within the Executive Office of Public Safety and Security, as established in M.G.L. c. 6, § 116.

Officer Certification. A certification or recertification of an individual as a law enforcement officer under M.G.L. c. 6E, §§ 3(a) and 4, regardless of whether it is subject to any condition, limitation, restriction, or suspension.

POST Commission. The Massachusetts Peace Officer Standards and Training Commission established under M.G.L. c. 6E, § 2 as an agency, including its Commissioners and its staff.

Revocation of SRO Certification. A revocation of SRO certification made by the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b), an action that is distinct from a denial, a nonrenewal, or an expiration of SRO certification, and that is distinct from a denial, a nonrenewal, an expiration, a revocation, or a suspension of officer certification.

School Resource Officer or SRO. An individual who is either:

- (a) A duly sworn municipal police officer with all necessary training and up-to-date certificates, including special SRO certification as required by M.G.L. c. 6E, § 3(b); or
- (b) A special officer appointed by the chief of police charged with performing all the following duties:

- (i) Providing law enforcement;
- (ii) Promoting school safety and security services to elementary and secondary public schools; and
- (iii) Maintaining a positive school climate for all students, families, and staff.

SRO Certification. A specialized certification of an individual as an SRO under M.G.L. c. 6E, § 3(b).

SRO-MOU Commission. The Model School Resource Officer Memorandum of Understanding Review Commission established under M.G.L. c. 71, § 37P(b).

10.04: Application for SRO Certification

- (1) The Division shall develop, and shall make available on the Commission website, an application form by which an officer or an officer's appointing authority may apply for SRO certification for the officer, which form shall, in part:
 - (a) Direct the applicant to ensure that the information and materials identified in 555 CMR 10.04(3) are submitted to the Division; and
 - (b) Require the applicant to make any assertions in the application under the pains and penalties of perjury.
- (2) The Executive Director shall set a deadline for the submission of applications for SRO certification for individuals who are serving as SROs on the effective date of 555 CMR 10.00.
 - (a) An officer or appointing authority may request that the Executive Director grant an extension of the initial deadline or any revised deadline, provided that the requester identifies, in writing, each individual to which the request applies.
 - (b) The Executive Director may extend the initial deadline or any revised deadline, provided that no extension exceeds 30 calendar days.
- (3) The Division shall not consider an application for SRO certification for an individual unless the Division receives:
 - (a) An application that:
 - 1. Is in the form prescribed by the Division and complete;
 - 2. Is submitted on or before the deadline established under 555 CMR 10.04(2), if the application is requesting SRO certification for an individual who was serving as an SRO on the effective date of 555 CMR 10.00;
 - 3. Is executed by the applicant under the pains and penalties of perjury;
 - 4. Includes an endorsement by the individual's appointing authority;
 - 5. Includes a copy of SRO operating procedures prescribed by the appointing authority pursuant to M.G.L. c. 71, § 37P(d), fourth paragraph;
 - 6. Includes a copy of an MOU developed pursuant to M.G.L. c. 71, § 37P(d), third paragraph;
 - 7. Addresses whether the individual has completed any special SRO training offered by the MPTC pursuant to M.G.L. c. 6, § 116H; and
 - 8. Addresses whether the individual has completed any other in-service training or retraining that was required by the MPTC pursuant to M.G.L. c. 6E, §§ 116 through 118, M.G.L. c. 40, § 36C, M.G.L. c. 41, § 96B, M.G.L. c. 41, § 97B, M.G.L. c. 90, § 24M, or otherwise, or that was required by the Commission pursuant to M.G.L. c. 6E, §§ 3(a), 3(b), 9(b), or 10(d), or otherwise.
 - (b) The results of a background check regarding the individual that was consistent with the provisions concerning background checks for current or prospective school personnel in M.G.L. c. 71, § 38R and 603 CMR 51.00.

10.05: Division Evaluation of SRO Certification Application

- (1) In evaluating an application for SRO certification for an individual, the Division may obtain and consider additional information regarding the individual by:
 - (a) Requesting that the individual complete a questionnaire;

- (b) Requesting that the applicant provide names of or letters from references, and contacting those references to discuss the individual;
 - (c) Obtaining information concerning the individual's: completion of in-service or specialized training, relevant education, performance reviews, professional awards, achievements, commendations, receipt of discipline, misconduct, and past performance;
 - (d) Affording the individual or the appointing authority an opportunity to respond to any information or allegations received by the Division; and
 - (e) Taking other reasonable steps.
- (2) The Division shall review each application for SRO certification and any other information obtained by the Division.
- (3) The Division may grant an SRO certification to an individual if the Division:
 - (a) Determines that the individual possesses an officer certification that is not suspended;
 - (b) Has not received information demonstrating that the individual would presently be ineligible for an officer certification;
 - (c) Determines that:
 - 1. The appointing authority has developed an MOU that is consistent with the Model MOU and M.G.L. c. 71, § 37P;
 - 2. The appointing authority has developed SRO operating procedures that are consistent with M.G.L. c. 71, § 37P(d), fourth paragraph;
 - 3. The appointing authority has concluded that the individual passed a background check that was consistent with the provisions concerning background checks for current or prospective school personnel in M.G.L. c. 71, § 38R and 603 CMR 51.00.
 - 4. The individual has successfully completed any SRO training that was required by the MPTC pursuant to M.G.L. c. 6, § 116H or otherwise; and
 - 5. The individual has successfully completed any other in-service training or retraining that was required by the MPTC pursuant to M.G.L. c. 6E, §§ 116 through 118, M.G.L. c. 40, § 36C, M.G.L. c. 41, § 96B, M.G.L. c. 41, § 97B, M.G.L. c. 90, § 24M, or otherwise, or that was required by the Commission pursuant to M.G.L. c. 6E, §§ 3(a), 3(b), 9(b), or 10(d), or otherwise.
- (4) As a decision declining to provide full SRO certification is distinct from revocation of officer certification, the procedures prescribed by M.G.L. c. 6E, § 10 need not be followed before such a decision is rendered.
- (5) The Division shall render a decision on an application for SRO certification within a reasonable time.
- (6) The Division shall provide written notification of a decision on an application for SRO certification to:
 - (a) The individual for whom SRO certification is sought;
 - (b) The individual's appointing authority; and
 - (c) The head of the individual's collective bargaining unit, if the unit head was identified by name in the application.
- (7) If the Division's decision on an application for SRO certification provides for anything other than full certification, the notification described in 555 CMR 10.05(6) shall also inform the individual and the individual's appointing authority of the ability to seek review by the Executive Director as provided for in 555 CMR 10.07(1) and a hearing as provided for in 555 CMR 1.10 and 555 CMR 10.07(2).

10.06: Conditional SRO Certification

- (1) The Division shall attach to an officer's SRO certification, pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b):
 - (a) Any conditions, limitations, or restrictions that the Commission has attached to that individual's officer certification pursuant to 555 CMR 7.04 or otherwise; and
 - (b) Any other conditions, limitations, or restrictions that the Division deems warranted.

- (2) The Division may grant a conditional SRO certification to an officer who has satisfied all requirements listed in 555 CMR 10.05(3) except the training requirements referenced in 555 CMR 10.05(3)(c)4 or 10.05(3)(c)5 in circumstances found appropriate by the Division, including, but not limited to, where:
 - (a) Certain details need to be supplied or certain information needs to be verified;
 - (b) The officer was unable to satisfy a training requirement because the officer was on approved leave, experienced a demonstrable hardship, or had another valid reason; or
 - (c) The officer has taken all required steps in connection with the SRO certification process, but circumstances beyond the officer's control have delayed a final decision on the application.
- (3) The Division may determine that an officer is not required to satisfy any conditions attached to a conditional SRO certification, and that any time periods associated with any such conditions do not begin to elapse, before the conclusion of any review or hearing, or the expiration of the time afforded for the officer to seek such review or hearing, pursuant to 555 CMR 10.07.
- (4) The Division may extend the time initially allowed for an officer to satisfy a condition attached to a conditional certification, provided that:
 - (a) The officer has requested an extension of time from the Division prior to the deadline initially set by the Division;
 - (b) The officer has offered good cause for an extension of time; and
 - (c) The extension of time does not exceed thirty calendar days, unless the Commissioners approve a longer period of time through an action taken pursuant to M.G.L. c. 6E § 2(e).
- (5) When an officer fails to satisfy a condition of a conditional SRO certification within the time allowed, taking into account the provisions of 555 CMR 10.06(3), the Division shall terminate the officer's SRO certification.
- (6) When an officer satisfies all conditions of a conditional SRO certification within the time allowed, taking into account the provisions of 555 CMR 10.06(3), and the Commission has not otherwise limited, restricted, or suspended the officer's SRO certification or officer certification, the Division shall convert the conditional SRO certification into a full SRO certification with an expiration date of three calendar years from the date on which the initial conditional SRO certification was issued.
- (7) In all other respects, an officer who holds a conditional SRO certification possesses a "specialized certification" and is "specially certified" as those terms are used in M.G.L. c. 6E, § 3(b).

10.07: Possible Action Following Decision Declining to Grant Full SRO Certification

- (1) An applicant that receives a decision from the Division declining to grant a full SRO certification for an individual may seek review by the Executive Director as follows.
 - (a) Within 21 days of the Division's decision, an applicant may submit a written petition to the Executive Director requesting review of the decision.
 - (b) If the petition will be submitted by the individual alone, the individual shall serve a copy of the petition upon the appointing authority by electronic mail or first-class mail prior to submitting the petition to the Executive Director, and the petition shall include a certificate of service stating the date of service, the method of service, and the address used for service.
 - (c) If the petition will be submitted by the appointing authority alone, the appointing authority shall serve a copy of the petition upon the individual by electronic mail or first-class mail prior to submitting the petition to the Executive Director, and the petition shall include a certificate of service stating the date of service, the method of service, and the address used for service.
 - (d) The Executive Director may ask any entity or individual to provide additional information, orally or in writing, or to appear at a meeting concerning the matter.
 - (e) The Executive Director shall provide the individual and the appointing authority with a written decision on the petition within a reasonable time.

- (2) Following the process described in 555 CMR 10.07(1), an applicant may request and obtain a hearing before the Commission concerning an application for SRO certification in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.
- (3) Where an individual has received a decision denying a full SRO certification, the Commission may attach limitations, conditions, or restrictions on the individual's ability to reapply.

10.08: SRO Certification Status

- (1) An SRO application process shall be deemed ongoing and not "finally determined," as that term is used in M.G.L. c. 30A, § 13, absent a final decision.
- (2) The granting of an SRO certification shall not preclude the limiting, conditioning, restricting, suspending, or revoking of the SRO certification in accordance with law, when warranted.
- (3) An SRO certification may be made retroactive where such action is consistent with policies or protocols approved by the Commission either prior to or subsequent to the promulgation of 555 CMR 10.00.
- (4) Unless the Commission provides otherwise, an SRO certification granted pursuant to 555 CMR 10.04 through 10.08 shall expire three calendar years after the effective date recognized by the Commission.
- (5) If a decision to grant an SRO certification to an individual is vacated, the individual shall be deemed to have possessed an SRO certification during the period of time between the decision to certify and the decision to vacate.
- (6) A decision regarding an individual's application for SRO certification shall not, by itself, affect an individual's officer certification.
- (7) If an individual's officer certification is suspended, the individual's SRO certification shall be automatically deemed suspended.
- (8) If an individual's officer certification is revoked, the individual's SRO certification shall be automatically deemed revoked.
- (9) If an individual's SRO certification is suspended or revoked, or the individual otherwise does possess an SRO certification, the individual shall not serve as an SRO.

REGULATORY AUTHORITY

555 CMR 10.00: M.G.L. c. 6E, §§ 3(a) and 3(b)

4e.

Joint POST Commission and MPTC Guidance as to M.G.L. Chapter 123, §§12(a) and 12(e) and the Use of Force

Section 12 of Chapter 123 of the Massachusetts General Laws governs the admission of an individual to a general or psychiatric hospital for psychiatric evaluation and a determination of the person's need for inpatient psychiatric treatment. Sections 12(a) and 12(e) identify the conditions under which an individual believed to have a mental illness may be brought against their will to a hospital or court for evaluation.

Section 12(a) provides that following an examination, certain appropriately qualified and licensed mental health professionals "may restrain or authorize the restraint of [a] person," or in an emergency when such a mental health professional is not available, a police officer may "restrain [a] person," when there is "reason to believe that a failure to hospitalize such person would create a likelihood of serious harm by reason of mental illness."

Section 12(e) provides that if any person makes an "application to a district court justice or a justice of the juvenile court department for a 3-day commitment to a facility of a person with a mental illness if the failure to confine such person would cause a likelihood of serious harm," following a hearing, said justice "may issue a warrant for the apprehension and appearance before the court of the alleged person with a mental illness if in the court's judgment the condition or conduct of such person makes such action necessary or proper."

On October 1, 2021, the Peace Officer Standards and Training Commission ("the POST Commission") and the Municipal Police Training Committee ("the MPTC") jointly promulgated 550 CMR 6.00 and 555 CMR 6.00, as required by M.G.L. c. 6E, §15(d), which provides regulations for the use of force by law enforcement officers.

The Commission and the MPTC have received questions regarding situations in which the involuntary restraint, apprehension and transport of a person, in effecting a hospitalization pursuant to either §12(a) or §12(e), requires law enforcement officers to use non-deadly force or deadly force to "effect the lawful . . . detention" of a person or "prevent imminent harm to a person." 550 CMR 6.04, 6.05; 555 CMR 6.04, 6.05.

In response, the Commission and the MPTC provide additional guidance.

In the view of the Commission and the MPTC, nothing in Section 12, in Chapter 6E of the General Laws, in Chapter 253 of the Acts of 2020, or in 550 CMR 6.00 or 555 CMR 6.00 prohibits law enforcement officers from using "necessary" and "proportionate" force when "de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances" in order to bring an individual against their will to a hospital for evaluation pursuant to §12(a) or §12(e).

Similarly, nothing in the General Laws or relevant regulations relieve law enforcement officers of the duty under §12(a) or §12(e) to effect, as required under the statute, a hospitalization of a person believed to have a mental illness when the likelihood of serious harm is to themselves, and not to others. The regulations in 550 CMR 6.00 and 555 CMR 6.00 do not allow officers to substitute their own judgement for those of licensed mental health professionals after a determination has been made under M.G.L. c.123, §12(a).