RPEACE OFFICER STANDARDS & TRAINING COMMISSION

April 4, 2022
8:30 AM

Peace Officer Standards and Training Commission
Remote Participation

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Draft Meeting Minutes of March 16, 2022
- Letter from Executive Director Zuniga to Heads of Massachusetts Law Enforcement Agencies re: Recertification Process for Officers Whose Last Names Begin With Letters A Through H (Inclusive)
- Recertification Packet: Part 2 Officer Questionnaire (Questionnaire for Law Enforcement Officer Recertification)
- Construction of Scope of Chapter 6E of the Massachusetts General Laws (Proposed)

In Attendance:

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

1. Call to Order
    - The Chair recognized a quorum.
2. Approval of Minutes
    a. March 16, 2022
        - Commissioner Bluestone moved to approve the minutes from the March 16, 2022 meeting. Commissioner Ellison seconded the motion. Commissioners Bluestone, Calderone, Chéry, Ellison, Luma, West and the Chair voted to approve the minutes from the March 16, 2022 meeting. Commissioner Kazarosian abstained as she was not present on March 16, 2022.
3. Executive Director Report – Enrique Zuniga
    a. Personnel Update
        - Director of Standards Appointment – William Bloomer
            - Executive Director Zuniga introduced Mr. Bloomer as the final candidate for the position of Director of Standards. Mr. Bloomer is currently an Assistant U.S. Attorney in the National Security Division of the United States Attorney's Office in Boston.

- Commissioner Kazarosian expressed her enthusiasm for the selection of Mr. Bloomer as the Director of Standards.
- Commissioner Kazarosian moved to approve Mr. Bloomer for the position of Director of Standards. Commissioners West and Bluestone seconded the motion. Commissioners Bluestone, Calderone, Chéry, Ellison, Kazarosian, Luma, West and the Chair voted to approve Mr. Bloomer for the position of Director of Certification.
- Mr. Bloomer thanked the Commission for the opportunity.

b. Administrative & Staffing Update

- The Commission continues to recruit for a variety of staff positions. Executive Director Zuniga expressed his gratitude for those who have performed those functions in the interim.
- The Commission has begun increasing its communication efforts and is undertaking a more proactive communication approach, including by presenting at conferences and stakeholder meetings.
- Executive Director Zuniga will present the Commission's third quarter financial report at the next Commission meeting.
- The Commission continues to receive questions relative to the Use of Force regulations, School Resource Officers, and in scope agencies and individuals. The Commission plans to review these issues with the Commission at future meetings, and will share the results with the public by issuing advisory opinions and responding to written requests for opinions.
- The Commission has communicated with approximately 660 individuals in 448 agencies about the process for recertifying the approximately 10,000 officers with last names A-H. The Commission encourages agencies and individuals to access the latest information on recertification on the Commission's website.
- Executive Director Zuniga reviewed key differences between the Commission's past certification process and the upcoming recertification process, and provided preliminary answers to questions about potential exceptions for some individuals.
- Commissioner Ellison encouraged Executive Director Zuniga to provide guidance or an advisory opinion relative to School Resource Officers. Executive Director Zuniga said the Commission would answer any such questions as they arise.
- Mr. Povich relayed a question from a member of the public participating on the Zoom platform concerning an exception to the June 15 deadline for submitting recertification forms. Executive Director Zuniga clarified that only officers with last names A-H are up for recertification this year. Commissioner West explained measures the Commission had developed to help Law Enforcement Agencies expedite the recertification process, such as allowing chiefs to delegate the interview process to other qualified individuals.

- Commissioner Calderone asked whether the questionnaire could be shared with Law Enforcement Agencies and other individuals. The Chair clarified that question would be taken up next, per the meeting agenda.

4. Commission re-certifications of officers with last name A-H – Executive Director Zuniga
    - Attestation Form (Questionnaire Part 2) – Draft
        - As inputs to the Commission's upcoming recertification decisions, the Commission will collect information on officers from their Law Enforcement Agencies.
        - Executive Director Zuniga reviewed the Officer Questionnaire for Law Enforcement Officer Recertification and each question within the Questionnaire.
        - Commissioner Calderone asked whether the first question could be modified to add in a provision relative to an officer's knowledge. Executive Director Zuniga explained that there is a "to the best of your knowledge" general provision to address that concern, but agreed that it could be added.
        - Commissioner Calderone next expressed his concern that the third question relative to civil suits would be repetitive, as an officer's Law Enforcement Agency would already be aware of such a suit. Commissioner Calderone expressed a similar concern relative to the fifth and seventh questions. Commissioner West raised a question as to whether an officer is obligated to raise such issues with their Law Enforcement Agency. Commissioner Calderone responded that Boston officers are required to submit information of any suit. Commissioner West responded that these questions were developed at the suggestion of a chief, so they potentially are not aware of these kinds of actions. Commissioners Calderone suggested adding a qualifier to the effect of "not already known."
        - Commissioner Luma asked whether the second question should be expanded to include whether an applicant has an active license or permit to carry a firearm. Executive Director Zuniga clarified the intent of the question is to ascertain whether an individual has ever had such a license or permit revoked.
        - Commissioner Calderone suggested the fourth question should be modified to read "responsible for," rather than "in violation of" due to concerns of false accusations and suggested the question be removed. The Chair responded that findings do not always involve determinations of responsibility, and suggested the question could be modified to clarify that an officer was found in violation of a restraining order, and that restraining order was not revoked. Commissioner Kazarosian expressed her disagreement with modifying the fourth question because a violation of a restraining order provides a basis for a criminal charge. Commissioner Ellison expressed his agreement with Commissioners West and Kazarosian because not every Law Enforcement Agency has the same reporting requirements.

- Commissioner Calderone also suggested the fifth question be removed from the questionnaire and moved to the Law Enforcement Agency's attestation form because the officer is not always in the best position of knowledge. Commissioner Luma asked whether a Law Enforcement Agency would be aware of any discipline or violations occurring out of state. Commissioner West clarified that the question is meant to capture suits that are not related to an officer's policing duties and agreed with Commissioner Luma that the Commission needs to be aware of any activities out of state. The Chair agreed that question four is meant to capture civil matters, in addition to criminal matters.
- Commissioner Calderone asked to clarify whose perspective is relevant relative to question six regarding perceptions of bias. Commissioner West expressed her support of the question, and responded that she believed the question was aimed at self-reporting. Commissioners Kazarosian and Bluestone expressed their agreement with Commissioner West.
- Commissioner Calderone expressed his concerns for the due process rights of officers who are not approved by their chiefs.
- Commissioner Calderone asked if knowledge and awareness language could be added to the seventh question. Commissioner Kazarosian raised a concern that where the language is generally applicable, but also inserted in specific questions, it could potentially create problems or questions where that language is not inserted. Commissioner Calderone agreed with Commissioner Kazarosian.
- Mr. Povich relayed questions from members of the public relative to who is responsible for the attestation, concerns about officer knowledge of suits, the subjectivity of disciplinary action, and the psychological and fitness requirements for certification. Executive Director Zuniga responded.
- Commissioner Ellison asked who would be responsible for the attestation when the individual being recertified is the Chief. Mr. Povich responded that the Chief's appointing authority would be responsible for the attestation.
- Commissioner Kazarosian moved to approve the Questionnaire as presented, with the understanding the Questionnaire may later be revised as deemed necessary. Commissioners Luma and West seconded the motion. Commissioners Bluestone, Chéry, Kazarosian, Luma, West and the Chair voted to approve the Questionnaire as present, with the understanding the Questionnaire may later be revised as deemed necessary. Commissioner Calderone voted against the motion. Commissioner Ellison abstained.

5. Discussion of In Scope Out of Scope Agencies – General Counsel Ravitz
    - General Counsel Ravitz reviewed the Proposed Construction of Scope of Chapter 6E of the Massachusetts General Laws, which was presented at a prior meeting. General Counsel Ravitz reviewed changes that had been made to the Proposed Construction since that meeting, particularly to sheriffs and elected sheriffs.

- Commissioner Ellison asked General Counsel Ravitz to clarify how sheriffs would be restricted by this proposed construction. General Counsel Ravitz responded.
- Commissioner West suggested the construction should include sheriffs and constables who have meaningful interactions with the public. Commissioner Kazarosian agreed with Commissioner West's comment, but asked whether that suggestion would encompass sheriffs and constables who effectuate service of process. General Counsel Ravitz clarified that if a sheriff's or constable's duties are limited to serving process, he would propose they not be considered a law enforcement officer for purposes of chapter 6E. General Counsel Ravitz suggested that if they performed other more traditional functions, aside from service of process or transporting individuals housed at correctional facilities, then they would be a law enforcement officer subject to 6E; if an officer later decides they want greater responsibilities, they can then apply for certification.
- Mr. Povich relayed a concern from a member of the public relative to public's inability to perceive the difference between law enforcement officers with differing functions upon sight. General Counsel Ravitz understood, but stated that it was an inherent difficult created by statutory language. Commissioner West invited further discussion on the topic.
- General Counsel Ravitz reviewed and responded to comments from the MSPCA and ARL regarding animal cruelty prevention officers. General Counsel Ravitz recommended against including those officers within the scope of 6E for a number of reasons and explained those reasons.
- Commissioner West moved to approve the Proposed Construction of Scope of Chapter 6E of the Massachusetts General Laws, as presented by General Counsel Ravitz with an amendment accounting for constables or sheriffs who carry firearms. Commissioner Kazarosian seconded the motion. Commissioners Calderone, Chéry, Ellison, Luma, and West voted to approve the Proposed Construction of Scope of Chapter 6E of the Massachusetts General Laws, as presented by General Counsel Ravitz with an amendment accounting for constables or sheriffs who carry firearms. Commissioner Bluestone and the Chair abstained.

6. Public comment
    - There was one question from the media and one question relative to campus law enforcement. Mr. Povich suggested those questions be addressed one-on-one with Executive Director Zuniga.
7. Matters not anticipated by the Chair at the time of posting
    - The Commission approved a motion to adjourn.