

RPEACE OFFICER STANDARDS & TRAINING COMMISSION

March 16, 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 February 15, 2022
- Draft Executive Session Minutes of January 14, 2022
- Policy Regarding Appointment of Commission Officers and Hiring of Other Commission Employees (Proposed)
- Memorandum Re: Misconduct Complaint Form
- Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed)
- Preliminary Milestone Schedule for Recertification of Certain Law Enforcement Officers (A-H) (Proposed)
- Statement Regarding M.G.L. Chapter 123, s. 12(a) and 12(e) Draft 3/2/2022
- 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 Charlene D. Luma
- Commissioner Kimberly P. West
- Commissioner Michael Wynn

1. Call to Order

- The Chair recognized a quorum.

2. Approval of Minutes

a. February 15, 2022

- Commissioner Ellison moved to approve the minutes from the February 15, 2022 meeting.
- Commissioner Luma seconded the motion.
- Commissioners Bluestone, Calderone, Chery, Ellison, Luma, West, Wynn and the Chair voted to approve the minutes from the February 15, 2022 meeting.

b. January 14, 2022 Executive Session – Delegation of Authority to Approve

- General Counsel Ravitz explained the Commission conducted an executive session on January 14, 2022 after its public meeting. Under the

Open Meeting Law, those minutes are confidential for a certain period of time. If the Commission approves confidential portions of minutes during an open meeting, is essentially discloses confidential information. To protect that information, the Commission may delegate approval of the minutes to the Chair or another individual or convene another executive session to approve the minutes. General Counsel Ravitz proposed delegating approval of those minutes to the Chair.

- Commission Bluestone moved to delegate approval of the January 14, 2022 executive session minutes to the Chair. Commissioner Chery seconded the motion. Commissioners Calderone Ellison, Luma, West, Wynn and the Chair voted to approve the delegation of approval of the January 14, 2022 executive session minutes to the Chair.

3. Executive Director Report – Enrique Zuniga

a. Personnel Update

i. Director of Certification Appointment – Steven Smith

- Executive Director Zuniga introduced Mr. Smith as the final candidate for the position of Director of Certification. Mr. Smith currently serves as the Chief Information Officer of the Newton Police Department.
- Commissioner Bluestone welcomed Mr. Smith, and expressed her enthusiasm for the selection of Mr. Smith for this position.
- Commissioners Luma and Calderone moved to approve Mr. Smith for the position of Director of Certification. Commissioner West seconded the motion. Commissioners Bluestone, Chery, Ellison, Wynn and the Chair voted to approve Mr. Smith for the position of Director of Certification.
- Mr. Smith thanked the Commission for the opportunity.

b. Administrative & Staffing Update

- Executive Director Zuniga reviewed the status of disciplinary records submitted by local police departments. The Commission has received more than 1,500 spreadsheets from approximately 440 agencies, reflecting mostly information as of December 31, 2021. Executive Director Zuniga anticipated the need for data cleaning and quality assurance, with public disclosure anticipated for May 2022.
 - Commissioner Luma asked if there were any outstanding agencies. Executive Director Zuniga responded in the affirmative and indicated the Commission would reach out to those agencies shortly.
 - Commissioner Ellison asked if the Commission could receive a copy of the summary Executive Director Zuniga provided. Executive Director Zuniga responded in the affirmative.
- Executive Director Zuniga provided an update on certification. The Commission has updated the certification packet, in particular question no. 4, based on feedback received from police chiefs. The Commission continues to work towards an interim solution for the attestation process for officers seeking recertification. The Commission has issued a total

of 188 officer certifications, including 172 police officers and 16 special state police officers from a total of 50 agencies, including 39 municipal police department and 11 special state police officer facilities.

Certification has been a somewhat manual process and the Commission continues to work on an interim solution. The Commission receives regular questions regarding the certification of new officers, and Executive Director Zuniga anticipates those questions will increase during the new fiscal year. He thanked law enforcement agencies and officers for their patience and understanding as the Commission continues to refine and ramp up the certification process.

- Executive Director Zuniga previewed a new complaint submission form to receive complaints filed with local police departments that would eliminate the need to manually send forms and sort through various records and emails. The Commission hopes to launch the form in early April.
- The Commission continues to re-procure services of outside counsel. Executive Director Zuniga encouraged the original respondents to reapply.
- The Commission is in the process of procuring a case management system. The Commission has conducted initial evaluations, and anticipates next conducting vendor demonstrations and interviews.
- To address the sunset of support from other state agencies at the end of the fiscal year in July 2022, the Commission will soon ramp up its hiring efforts.
- The Commission continues to hire for key positions, and has welcomed new staff at both the executive and support levels.
 - Commissioner Luma asked how open positions are advertised. Executive Director Zuniga reviewed the multitude of publications in which open positions are advertised.

4. Delegation of Hiring Authority – General Counsel Ravitz

- General Counsel Ravitz reviewed a proposed policy for the delegation of hiring authority to the Executive Director to hire certain individuals for certain positions. The delegation would include authority to engage in other processes that go hand in hand with the hiring process, such as recruitment processes. The policy also includes guidelines for determining qualifications and propriety for employment with the Commission.
- The Chair asked General Counsel Ravitz to explain the statutory authority for delegation, and General Counsel Ravitz responded accordingly.
- Commissioner West moved to delegate hiring authority as proposed to the Executive Director. Commissioner Wynn seconded the motion. Commissioners Bluestone, Calderone, Chery, Ellison, Luma, and the Chair voted to approve the delegation of hiring authority as proposed to the Executive Director.

5. Complaint Submission Form – Senior Certification Specialist Joyce

- Ms. Joyce explained the need for an electronic Misconduct Complaint Form. The current procedure for receiving complaints requires extensive manual processing. The electronic form would support a larger technology infrastructure that would

make processing and reviewing such complaints more expedient. Ms. Joyce then reviewed a proposed Misconduct Complaint Form.

- Commissioner Bluestone asked if it was possible to include age as a category of bias. Executive Director Zuniga explained that the form allowed complainants to claim multiple types of bias.
 - Commissioner Wynn expressed gratitude for the support from EOTSS and his support for moving away from a manual complaint submission system.
 - Commissioner Ellison asked how the Commission would receive complaints from other organizations that police departments are required to report to, such as the Boston Office of Police Accountability and Transparency (“OPAT”). Executive Director Zuniga stated that the Commission has been unable to ascertain whether those organizations relay complaints they receive to the Commission, given the inconsistencies in complaint submission, but reiterated that departments are statutorily required to report complaints to the Commission. A member of the public from OPAT confirmed that they are required to relay complaints from the Boston Police Department to the Commission and that they have done so.
 - Commissioner Chery asked if the complaint report would be made available in other languages. Executive Director Zuniga said the Commission would consider the suggestion and take steps to make the form accessible in multiple languages. Ms. Joyce clarified that this form is available to law enforcement agencies, and not to the public.
 - Mr. Povich relayed questions asked by members of the public relative to using the word complainant instead of victim, and whether the form would be printable. Ms. Joyce clarified the complainant is the person reporting the complaint – there may be instances where a complaint is made by a person who is not the subject of the alleged conduct. Commissioner Luma suggested alternative phrases to use in lieu of victim. Mr. Povich relayed a question asked by the public about whether compliant forms would be made available via public records request. Executive Director Zuniga explained that, consistent with the Public Records Act, while an investigation is ongoing, whether by the local police department or the Commission, a complaint form would likely be withheld and would not be made available until all investigations have been completed.
 - Commissioners West, Bluestone and the Chair engaged in a discussion regarding alternative phrases to use in lieu of victim.
 - Commission Luma moved to approve the form with an amendment that the term “victim” be replaced with the phrase “alleged victim.” Commissioner Chery seconded the motion. Commissioners Bluestone, Calderone, Ellison, West, Wynn and the Chair voted to approve the form with an amendment that the term “victim” be replaced with the phrase “alleged victim.”
6. Final plan for officer re-certifications (officers with last name A-H) – Executive Director Zuniga
- a. Attestation Form (Part 1) – Draft
 - Executive Director Zuniga reviewed the revised proposed attestation form.
 - Commissioner Ellison asked whether it was repetitive to include attestation on completion of a high school degree or the equivalent.

Executive Director Zuniga explained that the question is meant to standardize qualifications across the state.

- Commissioner Chery asked whether there was an appeals process for officers whose Chief failed to attest to a background investigation. Executive Director provided that the Commission was currently exploring potential appeals processes.
- Commissioner Ellison asked how the Commission would deal with officers who are statutorily disqualified, even though they have previously been approved by their departments. Executive Director Zuniga replied that that question would be covered by a questionnaire that would be discussed at a later meeting.
- Commissioner West moved to approve the Attestation Form, with an amendment noting the form could be completed by those who had been delegated authority. Commissioner Wynn seconded the motion. Commissioners Bluestone, Calderone, Chery, Ellison, Luma, and the Chair voted to approve the Attestation Form, with an amendment noting the form could be completed by those who had been delegated authority.
- Executive Director Zuniga clarified that Part 1 of the Attestation Form refers to the background investigation, and Part 2, which will be brought before the Commission at a later time, refers to a questionnaire administered to applicants.

b. Recertification Requirements, Including In-Service Training, and Conditional Certification for Certain Officers Unable to Complete Training

- General Counsel Ravitz reviewed the Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed), which was first presented at the Commission's February 15, 2022 meeting. General Counsel Ravitz reviewed the revisions he has since made, per the Commission's discussion at that meeting and discussion with the Municipal Police Training Committee.
- Commissioner Bluestone raised a concern about conflicting protocols. General Counsel Ravitz proposed clarifying language.
- Commissioner Bluestone moved to approve the revised Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed). Commissioner West seconded the motion. Commissioners Calderone, Chery, Ellison, Luma, Wynn and the Chair voted to approve the revised Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed).

c. Timeframe

- Executive Director Zuniga reviewed the Preliminary Milestone Schedule for Recertification of Certain Law Enforcement Officers (A-H) (Proposed). This timeline will be facilitated by the technology infrastructure the Commission is currently building. The Commission hopes to begin receiving attestations from police departments as early as May 1, 2022 and to process attestations and issue recertifications before or during July 2022.

- Commissioner Wynn requested the Commission communicate the approved Part 1 Attestation Form to police departments as soon as possible, due to the tight timeframe for recertifying officers.
- 7. Discussion Regarding M.G.L. Chapter 123, s. 12(a) and 12(e) – Commissioner Hanya Bluestone
 - Commissioner Bluestone reviewed a statement regarding the intersection of mental health law with the need to execute a mental health evaluation warrant and use of force.
 - Commissioner West questioned whether the statement was necessary, due to the clarity of the use of force regulations. Commissioner Bluestone agreed that the use of force regulations were clear, but expressed that the statement may be necessary to address questions regarding the topic. Commissioner West agreed the statement would be helpful to address any lingering issues.
- 8. Discussion of In Scope Out of Scope Agencies – General Counsel Ravitz
 - Since posting the agenda for this meeting, the Commission has received feedback on this topic so it will not be discussed today, but will be addressed at a later meeting.
- 9. Public comment
 - A member of the public asked whether a recording of the meeting would be made publicly available. Mr. Myrie responded that a recording would be posted after the meeting.
 - A member of the public asked whether prior complaints submitted prior to the approval of the complaint form would be expunged. Executive Director Zuniga responded that further clarification would be forthcoming.
 - A member of the public asked questions relative to the standards for higher education law enforcement agencies. Mr. Povich suggested the question be addressed offline with Executive Director Zuniga.
- 10. Matters not anticipated by the Chair at the time of posting
 - Commissioner Ellison provided an update on a meeting he and Executive Director Zuniga had relative to the Commission's finances.
 - The Commission approved a motion to adjourn.