



MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

November 17, 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 #30

November 22, 2022

8:30 a.m.

Remote Participation via [Zoom](#)

Meeting ID: 952 3063 2023

- 1) Call to Order
- 2) Approval of Minutes
 - a. October 13, 2022
- 3) Executive Director Report – Enrique Zuniga
 - a. Certification Update
 - b. Public Complaint Form
- 4) General Counsel Update – General Counsel Ravitz
 - a. Proposed draft regulations Re: Initial Certification, Independent Applicants and Constables (555 CMR 9.00)
 - b. Dissemination of Information on Certified Status
 - c. Delegation of Authority for Immediate and Administrative Suspensions
- 5) Matters not anticipated by the Chair at the time of posting
- 6) Executive Session in accordance with M.G.L. c. 30A, § 21(5), in anticipation of discussion regarding the investigation of charges of criminal misconduct; and in accordance with M.G.L. c. 30A, § 21(7), combined with M.G.L. c. 6E, § 8(c)(2), and to the extent they may be applicable, M.G.L. c. 6, §§ 168 and 178, in anticipation of discussion regarding the initiation of

MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

preliminary inquiries and initial staff review related to the same, and regarding certain criminal offender record information.

- a. Division of Standards requests to approve conducting Preliminary Inquiries on the following cases:
 - i. PI-2022-11-22-001
 - ii. PI-2022-11-22-002
 - iii. PI-2022-11-22-003
 - iv. PI-2022-11-22-004
 - v. PI-2022-11-22-005
 - vi. PI-2022-11-22-006

- b. Division of Standards recommendation to suspend the certification of individuals in the following cases:
 - i. SU-2022-11-22-001
 - ii. SU-2022-11-22-002
 - iii. SU-2022-11-22-003
 - iv. SU-2022-11-22-004
 - v. SU-2022-11-22-005
 - vi. SU-2022-11-22-006
 - vii. SU-2022-11-22-007
 - viii. SU-2022-11-22-008
 - ix. SU-2022-11-22-009

2a.

PEACE OFFICER STANDARDS & TRAINING COMMISSION

PUBLIC MEETING MINUTES

October 13, 2022

8:30 AM

Remote Participation

Documents Distributed in Advance of Meeting:

- Public Meeting Minutes of September 8, 2022 (Proposed)
- Memorandum from Eric Rebello-Pradas to Commission re: Finance and Administrative Update
- Regulations 555 CMR 8.00: Databases and Dissemination of Information (Proposed)
- Approval of Amendments to Regulations Regarding Use of Force on a Permanent Basis (Proposed)
- Regulations 555 CMR 10.00: Specialized Certification for School Resource Officers (Proposed)
- Presentation on Constables Under Chapter 6E and Commission Regulations

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

- Commissioner Kazarosian moved to approve the minutes of the September 8, 2022 meeting. Commissioner Ellison seconded the motion.
- The Chair took a roll call vote, and the Commissioners voted as follows:
 - 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 September 8, 2022 public meeting.

3. Executive Director Report – Executive Director Enrique A. Zuniga

a. Officer Recertification Update (A-H) – Executive Director Zuniga

- The Executive Director reported as follows.
- As of October 12, 2022, 8,875 officers have submitted applications for recertification. Of those officers, 8,134 have been recertified; 603 have been conditionally recertified; 37 are under further review; and 57 were not certified. An estimated 44 applications remain pending submission and validation.
- The POST Commission accepted almost 900 applications from Boston Police Department that were pending, and the majority have now been processed.
- Applicants who were conditionally certified have also been processed; the original number of approximately 840 is now down to 603 because of removal to certified status.
- The majority of individuals in the not certified category were so categorized because they did not satisfy training requirements, such as completing the Bridge Academy, and some were terminated.
- The certification team continues to validate submitted data for approximately 44 applicants.
- The POST Commission routinely addresses process questions from agencies inquiring about the status of individuals and from individuals who are transferring or seeking to be hired by another agency.
- Executive Director Zuniga expressed a high degree of confidence in the individuals who are certified and asked that the Commission consider disseminating those names and making those records public, as it is a great matter of public interest with the public and agencies.
- The website continues to be updated to explain conditional certifications in greater detail.

b. Finance & Administrative Update – Chief Financial and Administrative Officer Eric Rebello-Pradas

- CFAO Eric Rebello-Pradas reported on FY22 Final Expenditures which totaled \$1.99M. The top 3 expenses were payroll (42%), Legal/Media Services (26%), and IT (24%).
- CFAO Rebello-Pradas then reported on FY23 Q1 activity, noting that major categories of spending are under budget mainly attributed to the delayed onboarding of new hires.
- He stated that Salesforce development is the major IT solution for POST and is heading into the second phase which should take the Commission to the end of December or early January.

- CFAO Rebello-Pradas also provided an update on the FY22 Annual Report, noting that revised drafts and edits are expected through the end of October and a presentation to the Commission is expected for the November meeting.
- He reported that FY24 budget development is underway, based on comparisons with similar agencies throughout the state and other POST agencies throughout the country.

c. Administrative Update - Executive Director Enrique A. Zuniga

- Executive Director Zuniga welcomed four new Commission staff members. From the Division of Standards: Shaun Martinez, Enforcement Counsel; John Paolillo, Compliance Agent; and Timothy Hartnett, Enforcement Counsel; and from IT: Owen Mael, IT Project Manager for three large projects as POST transitions from Jira (interim solution) to Salesforce.
- Executive Director Zuniga put in context the upcoming year and explained that technology projects are gaining momentum and more people are onboarding.
- Chair Hinkle asked if the budget meetings he conducted with division heads involved the heads of the Divisions of Standards and Certification or other groups as well. CFAO Rebello-Pradas responded, saying they involved all senior staff who report to the Executive Director, including members of the legal, technology, and finance and administration divisions.
- Commissioner Luma asked CFAO Rebello-Pradas to review the status of the rollover. CFAO Rebello-Pradas answered that the Governor included the \$2.9M rollover within his final deficiency supplemental budget. POST is proceeding on the assumption that the rollover will occur.
- Commissioner Bluestone asked about the issue of how officers are being categorized into the “not certified” category and, specifically, who is making that determination.
- Executive Director Zuniga answered that, per the regulations, the determination is initially made by the Division of Certification in consultation with the Division of Standards. As per our regulations, individuals who want that determination to be reconsidered can have two levels of review: one from the Executive Director and a second level of review by the Commission with developed hearing procedures.
- Commissioner Ellison thanked the Finance Team for their work and briefing him, as Treasurer, on the budget process.

4. General Counsel Update – General Counsel Randall E. Ravitz

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

- General Counsel Ravitz presented updated draft regulations on databases and the dissemination of information concerning law enforcement officers for discussion by the Commission. He explained as follows.
- Significant changes/additions were highlighted. Most others were made for clarity, for consistency, or to correct errors.

- In Section 8.05, Item 11 provides for the database to include information regarding a reversal, vacation, or exoneration related to any form of information that is listed above or otherwise included in the database. Section 8.05(8) makes this list of items non-exclusive.
- The new language in Section 8.07 accounts for technical uncertainties when information is sought during a search of the database, such as by entering the name of a particular city to get all of the officers within that city. Language was added to account for the fact that the technology is still in development.
- Additional language states that whenever the Executive Director grants a petition and thus makes a change to the database, or denies a petition and thus makes no change, information on the action taken would be made available to the Commissioners; and the Chair would be able to take any steps deemed appropriate. This procedure is intended to balance the interest in Commissioner oversight and the interest in flexibility, given the uncertainty regarding the volume of future petitions, and the possibility that many may involve small or uncontroversial matters.
- A phrase was added in Section 8.07 to make clear that this provision concerns an employer's personnel record.
- Commissioner Calderone thanked General Counsel Ravitz and staff for putting the documents together and for creating a method of objection when the data within departments are not kept concurrently with that of the POST Commission.
- Chair Hinkle asked for a motion to promulgate the draft regulations on databases and dissemination of information.
- Commissioner Wynn called for a motion to promulgate the draft regulations.
- Commissioner Luma seconded the motion.
- The Commissioners voted as follows:
 - Commissioner Bluestone - Yes
 - Commissioner Calderone - Yes
 - Commissioner Ellison - Yes
 - Commissioner Kazarosian - Yes
 - Commissioner Luma - Yes
 - Commissioner West - Yes
 - Commissioner Wynn - Yes
 - Chair Hinkle - Yes
- The motion was unanimously carried by those in attendance.

b. Proposed Amendments to Use of Force Regulations, 555 CMR 6.00– General Counsel Ravitz

- General Counsel Ravitz stated that the POST Commission and the MPTC jointly promulgated regulations concerning the use of force by law enforcement officers.
- They adopted emergency amendments to Section 6.04(6) to leave no doubt that an officer is prohibited from taking certain actions that involve placing pressure on an individual's neck or head.

- An exception that, in certain ways, gives officers more latitude when they seek to “temporarily gain, regain or maintain control of an individual and apply restraints” does not relax that prohibition.
- The agencies have taken the necessary steps to enable them to make the regulations permanent. Most recently, the agencies held a public hearing and received written comments. The comments from the public did not concern the amendments, but instead concerned one aspect of the definition of De-escalation Tactics, and the previously discussed Section 12 issue.
- The agencies heard no reason not to promulgate the amendments on a permanent basis.
- This Approval would authorize that, provided the MPTC authorizes the same.
- Commissioner Calderone asked if the Section 12 issue is included.
- General Counsel Ravitz said it does not make reference to Section 12; it only concerns the amendments relating to regulations regarding pressure on the neck and the head.
- Commissioner Ellison asked if this will be part of the MPTC training since veteran officers might not have had the training to reflect what the regulations will require.
- General Counsel Ravitz answered that it is his understanding that their training addresses the use of force and these regulations.
- Commissioner Wynn stated that this is an amendment to one sentence in the regulation that the Commission has already voted to approve. The regulation clarifies that you cannot deliberately sit, kneel or stand on the person’s head or neck.
- Executive Director Zuniga stated that POST conducted a hearing, as required, in which Commissioners Calderone and Ellison joined him in presiding. They received a couple of comments that were not related to the change in the regulations. The comments centered around Section 12 and passive resistance.
- Chair Hinkle asked for a motion to approve the proposed amendments.
- Commissioner Bluestone made a motion to approve the proposed amendments; Commissioner Kazarosian seconded the motion.
- The Commissioners voted as follows:
 - Commissioner Bluestone - Yes
 - Commissioner Calderone - Yes
 - Commissioner Ellison - Yes
 - Commissioner Kazarosian - Yes
 - Commissioner Luma - Yes
 - Commissioner West - Yes
 - Commissioner Wynn - Yes
 - Chair Hinkle - Yes

The motion was unanimously carried by those in attendance.

**c. Draft Regulations for Certification of School Resource Officers –
General Counsel Ravitz**

- This version of regulations shows changes in redlining that were made since the regulations came before the Commission at the last meeting. General Counsel Ravitz focused on the highlighted parts.
- The definition of School Resource Officer and Section 10.04 clarify when an officer is, and is not, required to obtain certification to perform school-related duties.
- General Counsel Ravitz discussed the definition of School Resource Officer found in the relevant statute, M.G.L. c. 71, § 37P, and the difference in the definition in the draft regulations for Certification of School Resource Officers.
- The statute uses the phrase “special officer,” and that phrase is used in very different ways throughout the General Laws and throughout practice. The change in the regulation is meant to address the confusion.
- The regulation incorporates the second definition in terms of when a certification is needed. An officer who is only called to a school to respond to an emergency situation would not need certification, unlike those who hold themselves out as School Resource Officers.
- Another significant change cuts two requirements the officer would need to show in order to get a certification: the school system adopted operating procedures and there was an MOU between the school system and the school resource officer. These were cut to keep the focus on the individual and whether they should be certified.
- Other notable provisions include references to SRO training and provisions to encourage agencies to have alternate SROs in place to serve.
- If an officer has not completed all SRO training requirements, they would receive a conditional SRO certification and need to complete training within a reasonable and specified period of time. This would allow for flexibility.
- There is a provision allowing for certification in sub-specialties not yet fully defined.
- Commissioner Ellison asked if an officer that just transferred but found the training wasn’t available due to scheduling would be allowed to operate in that capacity as an SRO until the training is available.
- General Counsel Ravitz answered that the officer can still be certified, but on a conditional basis providing the training is completed within a reasonable time. This would not impact an officer’s general certification status.
- Commissioner Ellison asked if an officer would still be considered certified as an SRO if the MOU is still outstanding.
- General Counsel Ravitz answered that this set of regulations does not address MOU issues, which is enforced by other agencies like the Department of Elementary and Secondary Education and EOPSS. An officer can receive this certification if they satisfy the requirements.
- General Counsel Ravitz modified section 10.10 to the following with recommendations made by Commissioners Ellison and Kazarosian: If an officer fails to complete the SRO training referenced in 555 CMR 10.10(1) within 90 days of any deadline or as soon as reasonably possible thereafter, the Division may administratively suspend the officer’s SRO certification. Commissioner Wynn agreed with the modification.
- Chair Hinkle asked for a motion to approve the draft regulations for Certification of School Resource Officers as modified.

- Commissioner West made a motion to approve the proposed regulations; Commissioner Ellison seconded the motion.
- The Commissioners voted as follows:
 - Commissioner Bluestone - Yes
 - Commissioner Calderone - Yes
 - Commissioner Ellison - Yes
 - Commissioner Kazarosian - Yes
 - Commissioner Luma - Yes
 - Commissioner West - Yes
 - Commissioner Wynn - Yes
 - Chair Hinkle - Yes
- The motion was unanimously carried by those in attendance.

d. Presentation on Constable Certification – General Counsel Ravitz

- General Counsel Ravitz highlighted four issues regarding the certification of constables, their continued service under Chapter 6E, and when Chapter 6E applies to them. There is no request for action by the Commission at this meeting.
- ISSUE 1: When and how constables are made subject to Chapter 6E. Section 1 includes a constable executing an arrest for any reason, but how can one know that a constable expects to execute an arrest? Does the Commission have to provide advice for each constable on an individual basis? One alternative is to provide for Constables to affirmatively apply for certification, which would give them the ability to make arrests.
- ISSUE 2: How the certification process for constables should proceed, in light of their independence. In large part, the current process relies on cooperation from employing agencies. Constables, however, are typically not employed by law enforcement agencies. They are elected or appointed and don't fit squarely within the certification process developed thus far. There would be questions about conducting a background check, administering oral interviews, and determining character and fitness. One option is to develop a process tailored to constables.
- ISSUE 3: Ways in which constables can satisfy training requirements. An issue is to what extent constables are able to satisfy the basic and in-service training requirements associated with certification and recertification. POST will continue working with the MPTC and group of constables to gather information and explore ways to address these issues.
- ISSUE 4: The extent to which constables are subject to forms of oversight and consequences comparable to those provided for other officers. Suspension and revocation of certification will be more difficult to effectuate where constables serve independently. A potential approach may be to have someone identified who would take personal responsibility for overseeing the constable, including by receiving reports about uses of force and investigating misconduct, and reporting that information to the Commission.
- Commissioner Luma asked if there is data regarding how many constables there are.
- General Counsel Ravitz answered it is difficult to determine through the voluntary organizations and that data point would have to be worked on.

- Chair Hinkle asked who were the representatives of the constables meeting with the POST Commission staff members.
- General Counsel Ravitz answered that a couple of staffers, as well as Executive Director Zuniga, and outside counsel Lon Povich had initial meetings with representatives of the Massachusetts Constables Association and the Massachusetts Bay Constables Association. They may have met with members of the MPTC as well.
- Commissioner Ellison asked if all constables are licensed by one appointing authority or is it based on an individual city or town.
- General Counsel Ravitz answered it is done on a municipal basis. The approaches differ by city or town (elected, appointed, etc.).

5. Executive Director Zuniga refers to his earlier Executive Director's Report

- Executive Director Zuniga asked the Commissioners whether they object to publishing the names of officers who have been recertified, or if they should wait for the process of promulgating regulations on dissemination of information to play itself out before they release any public information.
- Chair Hinkle asked General Counsel Ravitz what the timetable on the regulatory process is.
- General Counsel Ravitz answered it could be a few months for the approval of the regulation on dissemination of information.
- Attorney Povich predicted it could be 60-90 days.
- Commissioner Bluestone indicated that she was strongly in favor of posting information as quickly as possible, and it was a good starting point to provide information of individuals who have been certified. It should be anticipated that with a database of this size, there will be false positives and false negatives, she added. She said she hoped that the Commissioners have a way of being informed of those cases.
- Commissioner Calderone agreed with Commissioner Bluestone regarding false positives and negatives. If the list is incorrect in any way, it could create backlash and undue stress for officers who either appear incorrectly or don't appear at all on the list, he said. It is extremely important to make sure the list is correct, and the Commission should take its time, he stated.
- Commissioner Luma said she believed there should be a validation process so that the Commission feels confident about moving forward and that it can address any issues that come up in a timely manner with as much transparency as possible.
- Commissioner Kazarosian agreed with all points made but expressed concern that there might not be a point in time where the list will be without errors.
- Commissioner Wynn also expressed agreement with all points made but noted his concern that releasing the names of certified officers would make it easy to determine the ones who were not, creating a burden on the municipalities.
- Commissioner Bluestone said she agreed with Commissioner Calderone's concerns but was in favor of publishing information as quickly as possible.
- Commissioner Calderone conveyed his belief that there are ways to publish the information as quickly and accurately as possible by creating a type of checks and balances system.

- Commissioner Ellison pointed out that the list covers only A-H, and the public might not recognize that and might interpret that someone at the back of the list alphabetically was not recertified.
- Commissioner West agreed that the list should be accurate but did not know of a plan or steps to take to ensure that the list would be more accurate in a month than it was right then. There is an obligation to the public and they want to see the list, she said.
- Attorney Povich pointed out that this information is available to the public via the Public Records Act and the list would help manage these requests that the Commission has been receiving.
- Commissioner Bluestone said she believed that holding off increases the level of anxiety, the public is entitled to the information, and it should be released as quickly as possible.
- Commissioner Calderone reiterated his recommendation of bringing the list to the Commission so the body can review it.
- Commissioner Bluestone pointed out that the information related to those being recertified and believed the Commission should release that information.
- Chair Hinkle stated she is not in favor of disseminating the information at this time, though she might reconsider that at the next meeting where more information is provided.
- Commissioner Wynn suggested that officers from I-Z, who are statutorily certified, should be included in the A-H list. He also pointed out that uncertified officers will be easily identifiable by the media and that will create a burden for the municipalities.
- Chair Hinkle called for a motion on the Executive Director's request to release the list of officers A-H who were recertified.
- Commissioner Luma recommended they identify a date to release the list.
- Commissioner West agreed that it would be helpful to have a date or an action in releasing the list.
- Commissioner Bluestone made a motion to vote on whether to publish the current list of officers that have been recertified.
- The motion was not seconded.
- Commissioner Wynn said he believes the matter should be placed as a separate agenda item at a future meeting.
- Commissioner West said she would like to see the item on the next agenda with a plan to vote on it.
- Commissioner Kazarosian pointed out that the information is already available to the public and if the Commission were to publicize the information it could limit the amount of requests.
- Commissioner Ellison asked Director Zuniga if he knows how many officers are on the back end, I-Z.
- Executive Director Zuniga answered that the Commission has not requested rosters for officers I-Z.
- Commissioner Calderone recommended that the procedure be documented, written and presented at a future meeting.

Adjournment

- Commissioner Kazarosian made a motion to adjourn. Commissioner Calderone seconded the motion.
- The Chair took a roll call vote, and the Commissioners voted as follows:
 - Commissioner Bluestone - Yes
 - Commissioner Calderone - Yes
 - Commissioner Ellison - Yes
 - Commissioner Kazarosian - Yes
 - Commissioner Luma - Yes
 - Commissioner West - Yes
 - Commissioner Wynn - Yes
 - Chair Hinkle - Yes
- The Commission unanimously voted to adjourn the meeting.

3.

Massachusetts POST Commission



Executive Director Report
November 22, 2022



Recertification Review Process (A-H)

Documenting two levels of review for Recertification decisions:

1. Division of Certification (reviews for compliance with statutory requirements and regulations)
2. If negative determination, officer can seek review by Executive Director
3. If not recertified, officer may seek hearing before Commission

DOC negative determination fall in either of categories #2 and #3 and will be reported as “Potential Inquiry/Hearing”



Recertification Review Process

Individuals out on Leave (administrative, medical, military)

- Have not complied with requirements of statute
- Tracking return to duty individually is onerous for both POST and MPTC
- Division of Certification will be classifying these individuals as “Not Certified – On Leave” (and their certification stayed)
- Upon their return to duty, DOC will “Conditionally Certify” them, and they will have 90 days to complete the recertification requirements



Certification Update (A-H)

Initial Classification	October 12, 2022	November 16, 2022
Certified	8,134	8,322
Conditionally Certified	603	269
Further Review	37	
Potential Inquiry/Hearing/Suspension		12*
Not recertified	57	243
Pending Validation	44**	
Total	8,875	8,846

133 Out on Leave
 63 Failed Bridge
 21 Retired/Resigned
 26 Disc. Matter ***

*This figure reflects inquiry/hearing/suspensions only A-H

** Last month there were 44 officers with a validation error

*** Include instances of no attestation with DOC affirming and other requirements not met



Public Complaint Form (Web-based)

- Public Complaint Form is now live
 - [POST Commission | Mass.gov](#) under POST Commission resources
 - Also available through: policecomplaints.mass.gov
- Web form will enable POSTC to capture structured data
 - Phasing out POSTCReports@mass.gov for public complaints
 - Reviewing complaints is resource intensive
 - Though structured data will help, we should anticipate increasing complaints submitted directly to POSTC
- Developed with EOTSS digital/user experience team
 - Certain requirements because part of mass.gov



Updated resource sections for Law Enforcement info submissions; Launched Civilian Police Complaint Form

POST Commission Resources

[Commission Meetings →](#)

[Regulations & Advisories →](#)

[Submit Information \(Law Enforcement Agencies only\) →](#)

[File a Police Misconduct Complaint \(Members of the Public only\) →](#)

[Certification Documents →](#)

[Recertification Documents →](#)



Police Misconduct Complaint

[Police misconduct complaint form
\(mass.gov\)](#)

The above link directs to the web-based form to submit complaints to POSTC



Public Complaint Form

- Public complaints submitted directly to POSTC to date
 - Approximately 1,650
 - Approximately 23% (~350) of complaints come from small group
- Anticipate that new form may result in more complaints submitted directly to POST
- Protocols for response & follow up
 - Coordinating with and referring to LEA's
 - Treat everyone respectfully
 - Documenting protocols for repeat complaints
 - Where appropriate, referring to additional resources



Other POSTC website updates: Staff Contact information, Public Records Requests, Mailing list signups

I want to... ▾

About ▾

Contact us ▾

Events

 Search this organization

POST Commission

Address

100 Cambridge Street
14th Floor
Boston, MA 02114

[Directions →](#)

Phone

Main Number 617-701-8401
Certification Division 617-908-0909

Online

General E-Mail: POSTC-comments@mass.gov
Media requests/Mailing list additions: Cindy Campbell
cynthia.campbell@mass.gov

[POST Commission Staff Contact Information →](#)

Find a contact

[POST Commission staff contact information →](#)

Get updates

[Sign up for POST updates →](#)

Public records request

[Make a Public Records Request →](#)



Finance & Administrative Update

- Gov. Baker signed FY22 Close-Out Supp Budget on Nov. 10th
 - \$2.9M leftover balance has now officially rolled-over to FY23
- Employee Performance Evaluation
 - Merit Rating of “Meets” or “Exceeds” expectations will equal an “up to” 1% or 2% salary increase, depending on hire date
 - Eligible Employees will receive 2.5% COLA
- Hiring Status
 - DPS Paralegal and IT Business Analyst onboarded
 - Second Compliance Agent on Dec 11th
 - Hiring Paralegal (Legal division) and Comms Division’s Digital Manager
 - Currently at 22 Employees; Forecasting 28 by Jun 30th

MEMORANDUM

TO: ENRIQUE ZUNIGA

FROM: GINA JOYCE

SUBJECT: STATUS OF OFFICER RECERTIFICATION WHILE ON LEAVE

DATE: OCTOBER 31, 2022

This memo describes the need to provide the law enforcement community further clarification on the status of officers on extended leave and the process to be followed upon their return.

The Division of Certification previously submitted to the Commission that officers on extended leave that were attested to by their department heads would receive an extended conditional certification at the end of this first 90-day conditional certification period. This open-ended extension has become problematic for POST and MPTC as officers are returning to full duty without notification to either agency and both POST and MPTC are unable to track the start of the 90-day period in which requirements must be met.

The Division of Certification suggests that officers with expired conditional certifications on extended leave be placed in a status of “Not Recertified”, but in a subgroup labeled “On Leave”. Please note that this is not a pejorative status and that the officer remains in good standing but is “pending” or “on hold” until their return. This is applicable to those on administrative, military, medical and family leave. Placing officers in this status ensures compliance in reporting to POST and MPTC of the officer’s return to full duty. An officer working in an administrative only capacity may continue working under this “Not Recertified” “On Leave” status. Upon the officer’s return to full duty, the officer or their department must notify POST via email to POSTCAttestation@mass.gov with the officer’s name and date of return, and a conditional certification will issue by POST to allow 90 days to complete requirements. After satisfying requirements, the officer or department will provide documentation that the officer satisfied those conditions (via email to POSTCAttestation@mass.gov) and the officer will receive a full certification.

For part-time officers that have completed all requirements except for work experience hours at the end of that 90-day conditional certification, POST will issue an extension to their conditional certification with an expiration of January 1, 2027. Given that the certification is valid for a three-year period, this conditional certification will be renewed upon expiration to allow those officers to complete this training requirement by the 2027 date.

4a.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

555 CMR 9.00: INITIAL CERTIFICATION OF OFFICERS; AND INITIAL OR RENEWED CERTIFICATION OF INDEPENDENTLY APPLYING OFFICERS, INCLUDING CONSTABLES

Section

- 9.01: Authority
- 9.02: Scope
- 9.03: Definitions
- 9.04: Continuation of a Certification Period
- 9.05: Application for Certification
- 9.06: Background Check
- 9.07: Oral Interview
- 9.08: Good Character and Fitness for Employment
- 9.09: Division Evaluation of an Application
- 9.10: Conditional Certification
- 9.11: Issuance of a Certification Decision
- 9.12: Possible Action Following a Decision Declining to Grant Full Certification
- 9.13: Certification Status
- 9.14: Monitor for a Constable**
- 9.15: Powers and Duties of a Constable**

9.01: Authority

- (1) The Commission promulgates 555 CMR 9.00 pursuant to M.G.L. c. 6E, §§ 3(a) and 4.

9.02: Scope

- (1) 555 CMR 9.00 governs:
 - (a) The initial certification of an endorsed applicant;
 - (b) The initial certification of an independent applicant;
 - (c) The recertification of an independent applicant, in which case 555 CMR 9.00 supersedes 555 CMR 7.00, except where 555 CMR 9.00 expressly incorporates 555 CMR 7.00; and
 - (d) In particular, the certification of a constable.
- (2) The recertification of an endorsed applicant is not governed by 555 CMR 9.00 and remains subject to 555 CMR 7.00.
- (3) Nothing in 555 CMR 9.00 is intended to:
 - (a) Establish a standard of care or create any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection on the part of any other person or entity, except as expressly provided;
 - (b) Otherwise waive any power, right, benefit, entitlement, remedy, cause of action, claim, defense, immunity, privilege, or protection that may be available to the Commission; or
 - (c) Preclude the limiting, conditioning, restricting, suspending, or revoking of any certification in accordance with law.

9.03: Definitions

- (1) 555 CMR 9.00 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 9.03(2).
- (2) For the purposes of 555 CMR 9.00, the following terms have the following meanings, unless the context requires otherwise:

Agency. An “agency” as defined in M.G.L. c. 30A, § 1.

Applicant. An individual who submits, or intends to submit, an application to the Commission.

Application. A request by an individual to be certified as an officer.

Arrest. An actual or constructive seizure or detention of a person, performed with the intention to effect such a seizure or detention and so understood by the person seized or detained. An arrest includes, but is not limited to, the exercise of a legal remedy, or the execution or service of legal process, when facilitated by the use or display of a weapon.

Authority. An individual's appointing authority or employer; the Civil Service Commission; any arbitrator or other third-party neutral with decision-making power; and any court.

Certification. An initial certification or a recertification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, regardless of whether it is subject to any condition, limitation, restriction, or suspension.

Certification Period. The period of time between the effective date and the expiration date of an individual's certification, including any period of continuation provided for under M.G.L. c. 30A, § 13 or 555 CMR 9.04 beyond the reference date.

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.

Conditional Certification. A certification of the type described in 555 CMR 9.10.

Constable. An individual who is elected or appointed as a constable pursuant to M.G.L. c. 41, §§ 1, 91, or 91A.

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

Denial of Certification. A Commission action declining to grant or renew a certification, made pursuant to M.G.L. c. 6E, §§ 3(a) and 4, an action distinct from a revocation or a suspension of certification.

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

Endorsed Applicant. An applicant whose application is endorsed or supported by an endorsing law enforcement agency.

Endorsing Law Enforcement Agency. A law enforcement agency that is a current or prospective employer of an applicant and endorses or supports the applicant's application.

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 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 certification or the expiration of the time to satisfy any such conditions, and thus not including a decision granting a conditional certification.

Full Certification. A certification granted for three years pursuant to M.G.L. c. 6E, § 4(f)(3), without any condition, limitation, 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,” as that phrase is used in M.G.L. c. 6E, § 4(f)(1)(ix).

Independent Applicant. An individual who submits, or intends to submit, an application to the Commission without the endorsement of an endorsing law enforcement agency.

Law Enforcement Agency. A “law enforcement agency” as defined in M.G.L. c. 6E, § 1.

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

Professional Reference. An individual who is personally familiar with an applicant’s work as an officer or an applicant’s qualifications to serve as an officer, has no familial relation to the applicant, and voluntarily agrees to provide the Commission with information regarding the applicant.

Reference Date. The end date for an applicant’s certification provided for in St. 2020, c. 253, § 102 or the end date of a prior certification issued to an applicant 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 9.04.

9.04: Continuation of a Certification Period

- (1) Pursuant to M.G.L. c. 30A, § 13, the certification period for an applicant who is certified at the time of submitting an application shall continue after the reference date for the applicant, if a document that substantially satisfies the requirements of 555 CMR 9.05 or is otherwise deemed by the Commission to be a sufficient application for purposes of 555 CMR 9.04 is submitted:
 - (a) In advance of the reference date for the applicant;
 - (b) In advance of any applicable deadline established by the Commission; and
 - (c) In accordance with any procedures established by the Commission.
- (2) A certification period continued pursuant to 555 CMR 9.04 will end upon the issuance of a final decision regarding certification.

9.05: Application for Certification

- (1) The Division shall develop, and shall make available on the Commission website, the following:
 - (a) An application form for an endorsed applicant, which shall, at a minimum:
 1. Direct the endorsing law enforcement agency to:
 - a. Conduct a background check in accordance with 555 CMR 9.06;
 - b. Conduct an oral interview on behalf of the Commission in accordance with 555 CMR 9.07;
 - c. Assess whether the applicant possesses good character and fitness for employment in accordance with 555 CMR 9.08;
 2. Inform the agency that it may not serve as an endorsing law enforcement agency for the applicant if it has not determined that the applicant possesses such character and fitness;
 3. Instruct the agency that, if it determines that the applicant possesses such character and fitness, it must:
 - a. Complete a character and fitness attestation form in accordance with 555 CMR 9.08;
 - b. Indicate whether the applicant satisfies each other applicable standard set forth in 555 CMR 9.09(2);
 - c. Ensure that a representative affirms the veracity of the information provided under the pains and penalties of perjury and/or the risk of disciplinary action pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 5(c), 8, 9, and/or 10;

- d. Maintain documentation concerning the applicant; and
 - 4. Inform the agency that such documentation may be requested by the Commission;
 - (b) An application form for an independent applicant, which shall, at a minimum:
 - 1. Direct the applicant to:
 - a. Submit, or cause to be submitted, the information and materials identified in 555 CMR 9.05(5);
 - b. Affirm the veracity of the information provided under the pains and penalties of perjury and/or the risk of disciplinary action pursuant to M.G.L c. 6E, §§ 3(a), 4(f)(4), 8, 9, and/or 10; and
 - c. Maintain documentation relevant to the application; and
 - 2. Inform the applicant that such documentation may be requested by the Commission;
 - (c) A character and fitness attestation form for an endorsed applicant, which shall direct an endorsing law enforcement agency to discuss its assessment of the applicant's good moral character and fitness for employment in a specified manner;
 - (d) A professional reference form for an independent applicant, which shall, at a minimum:
 - 1. Recite the standards set forth in 555 CMR 9.09(2);
 - 2. Request that the professional reference discuss the extent to which the applicant possesses good character and fitness for employment;
 - 3. Request that the professional reference maintain documentation concerning the applicant; and
 - 4. Inform the professional reference that such documentation may be requested by the Commission;
 - (e) A background check form for an independent applicant, by which the applicant may authorize a background check by the Commission in accordance with 555 CMR 9.06; and
 - (f) A constable monitor form for an independent applicant who is a constable, which shall, at a minimum:**
 - 1. Recite the requirements and obligations stated in 555 CMR 9.14; and**
 - 2. Request that the proposed monitor address whether the proposed monitor satisfies the requirements set forth in 555 CMR 9.14.**
- (2) The Commission shall prescribe a fee for the Commission to conduct its own background check concerning an applicant in accordance with 555 CMR 9.06, pursuant to M.G.L. c. 6E, § 3(a)(22).
- (3) The Executive Director shall set a deadline by which an independent applicant who is certified must submit an application in order to benefit from 555 CMR 9.04.
- (a) The Executive Director may extend the initial deadline or any revised deadline for good cause, provided that no extension exceeds 30 calendar days.
- (4) An endorsed applicant will be considered for certification only where the endorsing law enforcement agency:
- (a) Submits to the Division a completed application form that:
 - 1. Is accompanied by a completed character and fitness attestation form in accordance with 555 CMR 9.08;
 - 2. Addresses whether the applicant satisfies each other applicable standard set forth in 555 CMR 9.09(2); and
 - 3. Is signed by a representative of the agency under the pains and penalties of perjury and/or the risk of disciplinary action pursuant to M.G.L c. 6E, §§ 3(a), 4(f)(4), 5(c), 8, 9, and/or 10.
- (5) An independent applicant will be considered for certification only where the applicant:
- (a) Submits to the Division a completed application form that:
 - 1. Addresses whether the applicant satisfies each standard set forth in 555 CMR 9.09(2);
 - 2. Is signed by the applicant under the pains and penalties of perjury and/or the risk of disciplinary action pursuant to M.G.L c. 6E, §§ 3(a), 4(f)(4), 8, 9, and/or 10.

- (b) Causes the following to be submitted to the Division:
 - 1. Professional reference forms completed by three professional references, at least one of which is a certified law enforcement officer, that address whether the applicant possesses good character and fitness for employment;
 - 2. Either of the following:
 - a. All information generated by a background check conducted by a law enforcement agency in accordance with 555 CMR 9.06; or
 - b. A completed background check form providing authorization from the applicant for the Commission to conduct a background check in accordance with 555 CMR 9.06, along with any prescribed background check fee; **and**
 - 3. **If the applicant is a constable, a constable monitor form completed by a proposed monitor that addresses whether the proposed monitor satisfies the requirements set forth in 555 CMR 9.14.**

9.06: Background Check

- (1) To be sufficient for evaluation under 555 CMR 9.00, any background check must at least include the following, consistent with M.G.L. c. 6E, §§ 4(f)(1)(v) and 4(f)(2):
 - (a) A state and national check of the applicant's background;
 - (b) Fingerprinting;
 - (c) A full employment history;
 - (d) An evaluation of the applicant's full employment record, including complaints and discipline, if the applicant has been previously employed in law enforcement in any state or United States territory or by the federal government; and
 - (e) A determination of whether the applicant has been convicted of a felony.
- (2) With respect to an endorsed applicant:
 - (a) The endorsing law enforcement agency must conduct a background check in accordance with 555 CMR 9.06(1);
 - (b) The endorsing law enforcement agency shall provide the applicant with the results of any background check;
 - (c) The Division shall refrain from determining that the applicant has failed the background check without first affording the applicant 14 calendar days in which to submit a response to any background check or to indicate that no response will be submitted; and
 - (d) In any evaluation of whether the applicant has passed a background check, the Division shall rely on the results of any sufficient background check conducted by the endorsing law enforcement agency, as well as any response provided by the applicant pursuant to 555 CMR 9.06(2)(c).
- (3) With respect to an independent applicant:
 - (a) A law enforcement agency may assess a reasonable fee for conducting a background check at the applicant's request;
 - (b) The Division shall provide the applicant with the results of any background check obtained by the Division in connection with the application that the applicant has not previously received;
 - (c) The Division shall refrain from determining that the applicant has failed a background check without first affording the applicant 14 calendar days in which to submit a response to any such background check or to indicate that no response will be submitted; and
 - (d) In any evaluation of whether an independent applicant has passed a background check, the Division shall rely on:
 - 1. The results of any sufficient background check conducted by a law enforcement agency and provided to the Division, and any response provided by the applicant pursuant to 555 CMR 9.06(3)(c); or
 - 2. If the Division has not received such results, a sufficient background check conducted by the Division, provided that the applicant has tendered any background check fee prescribed by the Commission pursuant to 555 CMR 9.05(2); as well as any response provided by the applicant pursuant to 555 CMR 9.06(3)(c); and
 - (e) If the Division does not conduct its own background check, it shall return to an applicant any background check fee that the applicant tendered to the Commission.

9.07: Oral Interview

- (1) Any oral interview of an endorsed applicant shall be administered by the Division and conducted:
 - (a) By a supervisory officer in the endorsing law enforcement agency;
 - (b) In accordance with Commission guidelines, which may provide:
 1. A set of questions to be asked;
 2. A set of topics to be discussed; and/or
 3. A written questionnaire to be completed in advance by the applicant and discussed in the interview.

- (2) Any oral interview of an independent applicant shall be administered by the Division and conducted:
 - (a) By one or more of the following:
 1. Commission staff members;
 2. Willing Commissioners;
 3. Willing MPTC members or MPTC staff members; or
 4. Other willing individuals deemed suitable by the Commission;
 - (b) On a date and time that are agreeable to the interviewer(s) and the applicant; and
 - (c) In accordance with Commission guidelines, which may provide:
 1. A set of questions to be asked;
 2. A set of topics to be discussed; and/or
 3. A written questionnaire to be completed in advance by the applicant and discussed in the interview.

9.08: Good Character and Fitness for Employment

- (1) Any assessment of whether an applicant possesses good character and fitness for employment, by an endorsing law enforcement agency or by the Division:
 - (a) Shall involve due consideration of:
 1. The results of a background check conducted in accordance with 555 CMR 9.06;
 2. The applicant's responses to any questionnaire that the Commission prescribed for use in such a certification process;
 3. Any available information regarding the statements and conduct of the applicant in an oral interview conducted in accordance with 555 CMR 9.07;
 4. All other available information regarding the applicant; and
 5. The applicant's on-duty and off-duty conduct; and
 - (b) May also take into account:
 1. Whether the applicant adheres to state and federal law, acts consistently with recognized standards of ethics and conduct as set forth in the October 1957 Law Enforcement Code of Ethics and July 2019 Standards of Conduct 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;
 2. Questionnaires, 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;
 3. Information regarding the applicant that has been obtained by:
 - a. Requesting that the applicant provide names of or letters from professional references, in addition to any who provided letters in connection with the application, and contacting those professional references to discuss the applicant;
 - b. Posting a notice concerning the application on a website, and inviting members of the public to provide comment on the application within a reasonable period of time;
 - c. Affording the applicant further opportunities to respond to any information or allegations that have surfaced; or
 - d. Taking other reasonable steps;

- (c) Shall not, unless there has been an allegation that an applicant has engaged in multiple instances of similar or related misconduct, or protocols adopted by the Commission provide otherwise, take into account an allegation of a particular instance of misconduct, where:
1. An authority has made a decision in the applicant's favor on the merits of a complaint alleging such misconduct;
 2. The alleged misconduct is currently the subject of a pending investigation or adjudication by any authority;
 3. The applicant 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 applicant has not engaged in any similar conduct since the discipline or decision;
 4. The alleged misconduct did not result in either a disciplinary proceeding or court action, and the employer, if any, has not offered a reasonable explanation as to why no such proceeding or action was commenced; or
 5. The allegation is not specifically and credibly supported; and
- (d) Shall otherwise conform to any protocols developed by the Commission.

- (2) After a law enforcement agency completes an assessment of whether an applicant possesses good character and fitness for employment:
- (a) If the agency concludes that the applicant possesses such character and fitness, the agency must execute an attestation to that effect in a form prescribed by the Commission in order to serve as an endorsing law enforcement agency for the applicant;
 - (b) If the agency does not conclude that the applicant possesses such character and fitness, the agency may not serve as an endorsing law enforcement agency for the applicant; and
 - (c) The agency shall provide documentation concerning the applicant and the agency's assessment upon request by the Commission.

9.09: Division Evaluation of an Application

- (1) Except as otherwise provided in 555 CMR 9.09(2), the Division may:
- (a) Evaluate an application against the certification standards set forth in 555 CMR 9.09(2) in any order that the Division considers expedient; and
 - (b) Refrain from evaluating any standard upon determining that an applicant's failure to satisfy any other standard is sufficient to warrant denial of the application.
- (2) Except as provided in 555 CMR 9.10, the Division may grant an application only if the Division determines that:
- (a) The application satisfies the requirements of 555 CMR 9.05.
 - (b) If the applicant was certified at the time of submitting the application, the applicant satisfies the standards stated in the following provisions:
 1. 555 CMR 7.06(1): *Attaining the Age of 21*;
 2. 555 CMR 7.06(2): *Successful Completion of a High School Education or Equivalent*;
 3. 555 CMR 7.06(3): *Successful Completion of Basic Training Program*;
 4. 555 CMR 7.06(4): *Successful Completion of a Physical and Psychological Fitness Evaluation*;
 5. 555 CMR 7.06(6): *Successful Completion of an Examination*; and
 6. 555 CMR 7.06(7): *Possession of Current First Aid and Cardiopulmonary Resuscitation Certification*;
 - (c) If the applicant was not certified at the time of submitting the application, the applicant satisfies the following standards:
 1. Attaining the age of 21;
 2. Successfully completing a high school education or obtaining a General Educational Development (GED) certification from an accredited program;
 3. Successfully completing a basic training program approved by the MPTC;
 4. Successfully completing a physical and psychological fitness evaluation that was required:

- a. For graduation from an academy or training program certified by the MPTC;
 - b. For graduation from a training program prescribed by M.G.L. c. 22C; or
 - c. Pursuant to a policy adopted by the Commission;
5. Passing an examination that was required for completion of a basic training program approved by the MPTC; and
 6. Possessing current first aid and cardiopulmonary resuscitation certificates or the equivalent;
- (d) The applicant has passed a state and national background check conducted in accordance with 555 CMR 9.06;
- (e) The applicant has successfully completed an oral interview conducted in accordance with 555 CMR 9.07;
- (f) The applicant possesses good character and fitness for employment, based on the standards set forth in 555 CMR 9.08;
- (g) The applicant has not been convicted of a felony;
- (h) The applicant is not listed in the National Decertification Index or in the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i);
- (i) The Division has not concluded that, while previously employed in law enforcement in any state or United States territory or by the federal government, the applicant would have had a certification revoked by the Commission if employed by a law enforcement agency in the Commonwealth, which determination shall take into account:
1. The results of a background check of the applicant conducted in accordance with 555 CMR 9.06;
 2. Any available information regarding the statements and conduct of the applicant in an oral interview conducted in accordance with 555 CMR 9.07;
 3. An assessment of whether the applicant possesses good character and fitness for employment conducted in accordance with 555 CMR 9.08;
 4. A determination of whether the applicant is listed in the National Decertification Index or in the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i); and
 5. All other available information regarding the applicant;
- (j) The applicant has successfully completed all in-service training and retraining that was required by the MPTC or the Commission within the preceding three years, which determination shall take into account:
1. Information obtained from the MPTC;
 2. Information obtained from the Division of Police Standards established pursuant to M.G.L. c. 6E, § 8; **and**
- (k) The applicant has a monitor who satisfies the requirements of 555 CMR 9.14, if the applicant is a constable.**

(3) If the Division determines that the applicant has not satisfied any of the certification standards set forth in 555 CMR 9.09(1), and has not found the circumstances described in 555 CMR 9.10(1)(a) to apply, the Division shall deny the application in accordance with 555 CMR 9.11.

9.10: Conditional Certification

- (1) If the Division determines that an applicant has not satisfied any certification standard set forth in 555 CMR 9.09(1), the Division may conditionally certify the applicant where:
- (a) The applicant has been unable to meet such a certification standard solely due to circumstances that are beyond the applicant's control and that are attributable to a current or former employer of the applicant, to the MPTC, or to the Commission; and
 - (b) A conditional certification is warranted by other appropriate circumstances, including, but not limited to, where:
 1. The application is substantially complete and does not reveal any basis for denying certification, but certain additional details need to be supplied or certain information needs to be verified;

2. The applicant has been unable to satisfy a certification standard because the applicant was on approved leave during the relevant time or because of another valid reason;
3. The applicant has experienced a demonstrable hardship which has interfered directly with the applicant's ability to meet a certification standard; or
4. The applicant has taken all required steps in connection with the certification process, but circumstances beyond the applicant's control have delayed a final decision on the application.

(2) If the Division determines that an applicant has satisfied all certification standards set forth in 555 CMR 9.09(1), the Division may nevertheless conditionally certify the applicant where it deems a conditional certification warranted, pursuant to M.G.L. c. 6E, §§ 3(a) and 4.

(3) Where the Division conditionally certifies an applicant pursuant to 555 CMR 9.10(1) or (2), it shall set appropriate conditions that must be met in order for the applicant to maintain a certification.

(4) In any case, the Division may attach to an applicant's certification any limitations or restrictions that it deems warranted, pursuant to M.G.L. c. 6E, §§ 3(a) and 4.

(5) Where an applicant is conditionally certified:

- (a) If the applicant was certified at the time of applying and is lawfully serving as an officer when the application is granted, the Division shall stipulate that the applicant need not satisfy any condition attached to a conditional recertification, and that no time periods associated with any such condition will 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 9.12; and
- (b) In other instances, the Division may, in its discretion, so stipulate.

(6) When an applicant fails to satisfy a condition of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 9.10(5), the Division shall terminate the applicant's certification, unless good cause for an extension of time for the applicant to satisfy the condition has been shown.

(7) When an applicant satisfies all conditions of a conditional certification within the time allowed, taking into account the provisions of 555 CMR 9.10(5), and the Commission has not otherwise limited, restricted, or suspended the applicant's certification, the Division shall convert the conditional certification into a full certification with an expiration date of three calendar years from the date of issuance of the conditional certification under 555 CMR 9.13(2).

(8) An applicant's failure to act in accordance with a limitation or restriction on a certification may constitute grounds for disciplinary action pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 8, 9, and/or 10.

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

9.11: Issuance of a Certification Decision

(1) The Division shall issue a decision on an application within a reasonable time.

(2) As a decision declining to grant full certification is distinct from decertification, the procedures prescribed by M.G.L. c. 6E, § 10 need not be followed before such a decision is issued.

(3) The Division shall provide written notification of a decision on an application to:

- (a) The applicant;
- (b) The applicant's endorsing law enforcement agency, if any;
- (c) The head of the applicant's collective bargaining unit, if named in the application; **and**
- (d) **The applicant's proposed monitor, if the applicant is a constable.**

(4) If the Division's decision on an application provides for anything other than full certification, the notification described in 555 CMR 9.11(3) shall also inform the applicant of:

- (a) Any condition, limitation, or restriction attached to the certification, and any associated terms; and
- (b) The ability to seek review by the Executive Director as provided for in 555 CMR 9.12(1) and a hearing as provided for in 555 CMR 9.12(2).

9.12: Possible Action Following a Decision Declining to Grant Full Certification

(1) An applicant who receives a decision from the Division declining to grant a full certification may seek review by the Executive Director as follows.

(a) Within 21 days of the Division's decision, the applicant or an endorsing law enforcement agency may submit a written petition to the Executive Director requesting review of the decision.

1. If an endorsed applicant files the petition, the applicant shall provide a copy of the petition to any endorsing law enforcement agency at the time of its filing.

2. If an endorsing law enforcement agency files the petition, the agency shall provide a copy of the petition to the endorsed applicant at the time of its filing.

3. If the applicant is a constable, the applicant shall provide a copy of the petition to the applicant's proposed monitor, if any.

(b) 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.

(c) The Executive Director shall, within a reasonable time, provide a written decision on the petition to:

- 1. The applicant;
- 2. The applicant's endorsing law enforcement agency, if any; **and**
- 3. The applicant's proposed monitor, if any, if the applicant is a constable.**

(2) Following the process described in 555 CMR 9.12(1), an applicant or an endorsing law enforcement agency may request a hearing before the Commission concerning an application in accordance with 555 CMR 1.10: *Final Disciplinary Hearings and Appeals of Certification Decisions*.

(3) Where an applicant has received a decision declining to grant a full certification, the Commission may attach conditions, limitations, or restrictions on the applicant's ability to reapply.

9.13: Certification Status

(1) An 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) When an application is granted pursuant to 555 CMR 9.00, the new certification shall be deemed to have been issued on, and the three-year period prescribed by M.G.L. c. 6E, § 4(f)(3) shall be deemed to commence on:

(a) The reference date for the officer, if the applicant was certified at the time of applying and is lawfully serving as an officer when the application is granted; and

(b) In all other instances, the later of:

- 1. The date upon which the application is granted; or
- 2. The date upon which the applicant lawfully becomes an officer.

(3) The granting of a certification shall not preclude the conditioning, limiting, restricting, suspending, or revoking of the certification in accordance with law, when warranted.

(4) The Commission may reconsider, and revise or vacate, a decision on an application for certification, when such action is warranted.

- (5) If a decision to certify an applicant is vacated, the applicant shall be deemed to have been certified during the period of time between the decision to certify and the decision to vacate.

9.14: Monitor for a Constable

- (1) To qualify as a monitor for a constable, an entity must:
- (a) Be the constable's appointing authority, or be the principal law enforcement agency, within and for a Massachusetts municipality in which the constable desires to serve;
 - (b) Be the same entity as any law enforcement agency that, at the time of the constable's application, is serving as the constable's sponsoring agency under the MPTC regulations found at 550 CMR 3.00;
 - (c) Agree in writing to serve as the constable's monitor; and
 - (d) Designate one or more individuals who:
 - 1. Are under the entity's control and supervision;
 - 2. Are certified officers;
 - 3. Have no familial relation to the constable;
 - 4. Have sufficient resources and experience to perform the duties specified in 555 CMR 9.14(1)(d)5; and
 - 5. Will be responsible for performing the following duties, without regard to whether any conduct by the constable was undertaken within the monitor's jurisdiction:
 - a. Obtaining periodic reports from the constable regarding the constable's exercise of duties as a constable, in a form prescribed by the Commission;
 - b. Taking steps to ensure that the constable complies with 555 CMR 9.15;
 - c. Immediately informing the Commission of any allegation of misconduct of the type identified in M.G.L. 6E, §§ 9 or 10 by the constable;
 - d. Immediately informing the Commission of any failure by the constable to timely complete any required in-service training or retraining;
 - e. Investigating alleged misconduct by the constable, and submitting complaints, reports, and recommendations to the Commission regarding the constable, in accordance with M.G.L. c. 6E, §§ 8 and 10(h);
 - f. Receiving reports, consistent with M.G.L. c. 6E, §§ 14(e), 15(b), and 15(c), regarding uses of force or methods of the type described therein by the constable;
 - g. Making records regarding the constable available for audit or inspection pursuant to M.G.L. c. 6E, §§ 3(a) and 8(d); and
 - h. Providing notifications to the constable at the direction of the Commission.
- (2) A constable's monitor must ensure that the duties specified in 555 CMR 9.14(1)(d)5 are performed.
- (3) An officer who is designated by a constable's monitor pursuant to 555 CMR 9.14(1)(d) must perform the duties specified in 555 CMR 9.14(1)(d)5.
- (4) The failure of a monitor to satisfy an obligation under 555 CMR 9.14(2), or the failure of an officer to satisfy an obligation under 555 CMR 9.14(3), may constitute grounds for conditioning, limiting, restricting, or suspending the certification of the constable pursuant to M.G.L. c. 6E, § 3(a).
- (5) The failure of a monitor that is a law enforcement agency to satisfy an obligation under 555 CMR 9.14(2) may constitute grounds for investigating and taking appropriate action against the law enforcement agency pursuant to M.G.L. c. 6E, §§ 3(a) and 5(c).
- (6) The failure of an officer who is designated by a monitor pursuant to 555 CMR 9.14(1)(d) to satisfy an obligation under 555 CMR 9.14(3) may constitute grounds for

investigating and taking appropriate action against the officer pursuant to M.G.L. c 6E, §§ 3(a), 4(f)(4), 8, 9, and/or 10.

9.15: Powers and Duties of a Constable

- (1) A constable who is certified, or who executes an arrest without being certified, shall, for the remainder of any service as a constable:**

 - (a) Be subject to all the provisions of M.G.L. c. 6E and 555 CMR governing officers, except where they expressly provide otherwise;**
 - (b) Comply with any other applicable policies established by the Commission;**
 - (c) Comply with the provisions of M.G.L. c. 6E, § 14(e) that are applicable to police departments;**
 - (d) Report uses of force of the type described in M.G.L. c. 6E, § 15(b) by another officer to that officer’s supervisor; and**
 - (e) When reporting abuse on the part of other law enforcement personnel, be subject to the protections of any antiretaliation policy or procedure consistent with M.G.L. c. 6E, § 15(c) that is maintained by a law enforcement agency that employs such personnel.**

- (2) An individual may execute an arrest as a constable only if:**

 - (a) The individual possesses a certification that has not been suspended and that has not been conditioned, limited, or restricted in a manner that precludes the execution of such an arrest; and**
 - (b) The individual otherwise possesses the legal authority to execute arrests of the type involved as a constable.**

- (3) If an individual executes an arrest as a constable absent satisfaction of the requirements of 555 CMR 9.15(2), or otherwise violates M.G.L. c. 6E or any Commission rule, regulation, or order, the Commission may take any appropriate action, including, but not limited to, the following, to the extent allowed by law:**

 - (a) Disqualifying the individual from obtaining a certification for a specified period of time, pursuant to M.G.L. c. 6E, §§ 3(a) and 4(f)(2);**
 - (b) Conditioning, limiting, restricting, suspending, or revoking any certification the individual may possess, or the powers that the individual may exercise, pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), 8, 9, and/or 10;**
 - (c) Ordering the individual to undergo retraining, pursuant to M.G.L. c. 6E, §§ 3(a), 4(f)(4), and/or 10(d); and**
 - (d) Assessing the individual a reasonable civil fine of up to \$5,000 for each impermissible arrest, pursuant to M.G.L. c. 6E, §§ 3(a)(4), 3(a)(22), and 4(f)(4).**

- (4) Other than granting the power to execute arrests, certification by the Commission does not expand the scope of authority of a constable beyond those powers authorized by M.G.L. c. 41, § 94 and the common law.**

REGULATORY AUTHORITY

555 CMR 9.00: M.G.L. c. 6E, §§ 3(a) and 4

4b.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**Authorization to Publish List of Certified Officers on the Commission's Website
(Proposed)**

I. AUTHORIZATION

The Commission hereby approves publication, on the Commission's public website, of a list containing the name, employing agency, and certification status of all law enforcement officers who have been granted initial certification since December 15, 2021 or granted full recertification.

II. KEY SOURCES OF AUTHORITY

An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth, St. 2020, c. 253, Section 102.

(a) ... a law enforcement officer, ... who has completed an academy or training program certified by the municipal police training committee or the training programs prescribed by [M.G.L. c. 22C] on or before [July 1, 2021] and is appointed as a law enforcement officer as of [July 1, 2021], shall be certified as of [July 1, 2021]. ... [A] law enforcement officer, ... who has completed an academy or training program certified by the municipal police training committee or the training programs prescribed by [M.G.L. c. 22C] on or before December 1, 2021, and is appointed as a law enforcement officer as of December 1, 2021, shall be certified as of [July 1, 2021]. ...

(b) All law enforcement officers who have completed a reserve training program on or before the effective date of this section shall be certified as of [July 1, 2021]. ...

(d) The certification of a law enforcement officer who has graduated from an academy or training program certified by the municipal police training committee or the training programs prescribed by said chapter 22C who is certified as a result of this section and whose last names begin with:

- (i) A to H, inclusive, shall expire 1 year after the effective date of this section;
- (ii) I to P, inclusive, shall expire 2 years after the effective date of this section; and
- (iii) Q to Z, inclusive, shall expire 3 years after the effective date of this section.

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(3) certify qualified applicants;

(17) prepare, publish and distribute, with or without charge as the commission may determine, such studies, reports, bulletins and other materials as the commission considers appropriate;

(27) maintain an official internet website for the commission;

M.G.L. c. 6E, § 4

(h) The division of police certification, in consultation with the division of police standards, shall create and maintain a database containing records for each certified law enforcement officer, including, but not limited to:

- (1) the date of initial certification;
- (2) the date of any recertification;
- (3) the records of completion of all training and all in-service trainings, including

the dates and locations of said trainings, as provided by the municipal police training committee established in section 116 of chapter 6, and the department of state police;

(4) the date of any written reprimand and the reason for said reprimand;

(5) the date of any suspension and the reason for said suspension;

(6) the date of any arrest and the charge or charges leading to said arrest;

(7) the date of, and reason for, any internal affairs complaint;

(8) the outcome of an internal affairs investigation based on an internal affairs complaint;

(9) the date of any criminal conviction and crime for said conviction;

(10) the date of any separation from employment with an agency and the nature of the separation, including, but not limited to, suspension, resignation, retirement or termination;

(11) the reason for any separation from employment, including, but not limited to, whether the separation was based on misconduct or whether the separation occurred while the appointing agency was conducting an investigation of the certified individual for a violation of an appointing agency's rules, policies, procedures or for other misconduct or improper action;

(12) the date of decertification, if any, and the reason for said decertification; and

(13) any other information as may be required by the commission.”)

(j) The commission shall promulgate regulations for the division of police certification to maintain a publicly available and searchable database containing records for law enforcement officers. In promulgating the regulations, the commission shall consider the health and safety of the officers.

M.G.L. c. 4, § 7, cl. 26

Twenty-sixth, “Public records” shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, or any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in section 1 of chapter 32, unless such materials or data fall within the following exemptions in that they are:

(a) specifically or by necessary implication exempted from disclosure by statute;

(b) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;

(c) personnel and medical files or information and any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; provided, however, that this subclause shall not apply to records related to a law enforcement misconduct investigation.

(d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;

(e) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;

(f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;

(g) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subclause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;

(h) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;

(i) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;

(j) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;

[There is no subclause (k).]

(l) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;

(m) contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal government and (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self insured and provides health care benefits to its employees.

(n) records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities,

utilities, transportation, cyber security or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (c) of section 10 of chapter 66, is likely to jeopardize public safety or cyber security.

(o) the home address, personal email address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6.

(p) the name, home address, personal email address and home telephone number of a family member of a commonwealth employee, contained in a record in the custody of a government agency which maintains records identifying persons as falling within the categories listed in subclause (o).

(q) Adoption contact information and indices therefore of the adoption contact registry established by section 31 of chapter 46.

(r) Information and records acquired under chapter 18C by the office of the child advocate.

(s) trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy; provided, however, that this subclause shall not exempt a public entity from disclosure required of a private entity so licensed.

(t) statements filed under section 20C of chapter 32.

(u) trade secrets or other proprietary information of the University of Massachusetts, including trade secrets or proprietary information provided to the University by research sponsors or private concerns.

(v) records disclosed to the health policy commission under subsections (b) and (e) of section 8A of chapter 6D.

Any person denied access to public records may pursue the remedy provided for in section 10A of chapter sixty-six.

M.G.L. c. 66, § 10

(a) A records access officer ... shall at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record ... or any segregable portion of a public record, not later than 10 business days following the receipt of the request....

(b) If ... the magnitude or difficulty of the request... unduly burdens the other responsibilities of the agency or municipality such that the agency or municipality is unable to do so within the timeframe established in subsection (a), the agency or municipality shall inform the requestor in writing not later than 10 business days after the initial receipt of the request for public records. The written response shall be made via first class or electronic mail and shall:

- (i) confirm receipt of the request;
- (ii) identify any public records or categories of public records sought that are not within the possession, custody, or control of the agency or municipality that the records access officer serves;
- (iii) identify the agency or municipality that may be in possession, custody or control of the public record sought, if known;
- (iv) identify any records, categories of records or portions of records that the agency or municipality intends to withhold, and provide the specific reasons for such withholding, including the specific exemption or exemptions upon which the withholding is based, provided that nothing in the written response shall limit an agency's or municipality's ability to redact or withhold information in accordance with state or federal law;
- (v) identify any public records, categories of records, or portions of records that the agency or municipality intends to produce, and provide a detailed statement describing why the magnitude or difficulty of the request unduly burdens the other responsibilities of the agency or municipality and therefore requires additional time to produce the public records sought;
- (vi) identify a reasonable timeframe in which the agency or municipality shall produce the public records sought; provided, that for an agency, the timeframe shall not exceed 15 business days following the initial receipt of the request for public records and for a municipality the timeframe shall not exceed 25 business days following the initial receipt of the request for public records; and provided further, that the requestor may voluntarily agree to a response date beyond the timeframes set forth herein;
- (vii) suggest a reasonable modification of the scope of the request or offer to assist the requestor to modify the scope of the request if doing so would enable the agency or municipality to produce records sought more efficiently and affordably;
- (viii) include an itemized, good faith estimate of any fees that may be charged to produce the records; and
- (ix) include a statement informing the requestor of the right of appeal to the supervisor of records under subsection (a) of section 10A and the right to seek judicial review of an unfavorable decision by commencing a civil action in the superior court under subsection (c) of section 10A.

(c) If the magnitude or difficulty of a request ... unduly burdens the other responsibilities of the agency or municipality such that an agency or municipality is unable to complete the request within the time provided in [M.G.L. c. 66, §10(b)(vi)], a records access officer may, as soon as practical and within 20 business days after initial receipt of the request, or within 10 business days after receipt of a determination by the supervisor of public records that the requested record constitutes a public record, petition the supervisor of records for an extension of the time for the agency or municipality to furnish copies of the requested record, or any portion of the requested record, that the agency or municipality has within its possession, custody or control and intends to furnish. The records access officer shall, upon submitting the petition to the supervisor of records, furnish a copy of the petition to the requestor. Upon a showing of good cause, the supervisor of records may grant a single extension to an agency not to exceed 20 business days and a single extension to a municipality not to exceed 30 business days. In determining whether the agency or municipality has established good cause, the supervisor of records shall consider, but shall not be limited to considering:

- (i) the need to search for, collect, segregate or examine records;
- (ii) the scope of redaction required to prevent unlawful disclosure;
- (iii) the capacity or the normal business hours of operation of the agency or municipality to produce the request without the extension;
- (iv) efforts undertaken by the agency or municipality in fulfilling the current request and previous requests;
- (v) whether the request, either individually or as part of a series of requests from the same requestor, is frivolous or intended to harass or intimidate the agency or municipality; and
- (vi) the public interest served by expeditious disclosure. ...

M.G.L. c. 66, § 6A

(d) If the public record requested is available on a public website pursuant to [G.L. c. 66, § 19(b), G.L. c. 7, § 14C,] or any other appropriately indexed and searchable public website, the records access officer may furnish the public record by providing reasonable assistance in locating the requested record on the public website.

M.G.L. c. 66, § 19

(b) Every agency shall provide on a searchable website electronic copies, accessible in a commonly available electronic format, of the following types of records, provided that any agency may withhold any record or portion thereof in accordance with state or federal law:

- (i) final opinions, decisions, orders, or votes from agency proceedings;
- (ii) annual reports;
- (iii) notices of regulations proposed under chapter 30A;
- (iv) notices of hearings;
- (v) winning bids for public contracts;
- (vi) awards of federal, state and municipal government grants;

- (vii) minutes of open meetings;
- (viii) agency budgets; and
- (ix) any public record information of significant interest that the agency deems appropriate to post.

4c.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

**Delegation of Authority to Issue Certain Suspensions of Certification
(Proposed)**

I. DELEGATION

- A. The Commission hereby delegates to the Executive Director, or the Executive Director’s designee, the authority to issue suspensions of a law enforcement officer’s certification under M.G.L. c. 6E, §§ 9(a)(1), 9(b), or 9(c).
- B. For purposes of applying M.G.L. c. 6E, § 9(b), the Commission hereby:
 - 1. Adopts the requirements and deadlines for in-service training established by the Municipal Police Training Committee as the requirements and deadlines of the Commission; and
 - 2. Adopts the exemptions that the Commission approved on March 16, 2022 in the *Requirements and Plan for Recertification of Certain Law Enforcement Officers*.

II. KEY SOURCES OF AUTHORITY

M.G.L. c. 6E, § 1

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

“Commission”, the Massachusetts peace officer standards and training commission established pursuant to section 2.

“Commissioner”, a member of the commission.

...

“Executive director”, the executive director of the commission appointed pursuant to subsection (g) of section 2.

...

M.G.L. c. 6E, § 2

(e) Seven commissioners shall constitute a quorum and the affirmative vote of a majority of commissioners present and voting shall be required for an action of the commission. The commission shall meet monthly and at other times as it shall deem necessary or upon the written request of 4 commissioners or the chair; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. . . .

(g) The commission shall appoint an executive director, who shall not be a member of the commission. The executive director shall serve at the pleasure of the commission, shall receive such salary as may be determined by the commission, and shall devote full time and attention to the duties of the office. The executive director shall be a person with skill and experience in management, shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing the provisions of law relative to the commission and to each administrative unit thereof. . . .

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(1) act as the primary civil enforcement agency for violations of this chapter;

. . .

(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;

. . .

(12) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;

. . .

(18) gather facts and information applicable to the commission's obligation to issue, suspend or revoke certifications for: (i) a violation of this chapter or any regulation adopted by the commission; (ii) a willful violation of an order of the commission; (iii) the conviction of a criminal offense; or (iv) the violation of any other offense which would disqualify a person from being certified;

. . .

(20) request and receive from the state police, the department of criminal justice information services or other criminal justice agencies, including, but not limited to, the Federal Bureau of Investigation and the federal Internal Revenue Service, such criminal offender record information relating to the administration and enforcement of this chapter;

. . .

(23) restrict, suspend or revoke certifications issued under this chapter;

. . . .

M.G.L. c. 6E, § 8

(b)(1) The head of an agency shall transmit any complaint received by said agency within 2 business days to the division of police standards, in a form to be determined by the commission;

(2) Upon completion of the internal investigation of a complaint, the head of each agency shall immediately transmit to the division of police standards an investigation report in a form to be determined by the commission;

(3) Upon final disposition of the complaint, the head of each agency shall immediately transmit to the division of police standards a final report in a form to be determined by the commission;

(4) If an officer resigns during an agency investigation, prior to the conclusion of an agency investigation or prior to the imposition of agency discipline, up to and including termination, the head of said agency shall immediately transmit to the division of police standards a report in a form to be determined by the commission;

M.G.L. c. 6E, § 9

(a)(1) The commission shall immediately suspend the certification of any officer who is arrested, charged or indicted for a felony.

. . . .

(5) A suspension order of the commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the commission or until revoked by the commission.

(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.

(c) The commission shall administratively suspend the certification of an officer with a duty to report information to the commission pursuant to section 8 who fails to report such information. The commission shall reinstate the certificate of an officer suspended pursuant to this subsection upon completion of said report.

(d) A law enforcement officer whose certification is suspended by the commission pursuant to subsection (a), (b) or (c) shall be entitled to a hearing before a commissioner within 15 days. The terms of employment of a law enforcement officer whose certification is suspended by the commission pursuant to said subsection (a) (b) or (c) shall continue to be subject to chapter 31 and any

applicable collective bargaining agreement to which the law enforcement officer is a beneficiary.

Requirements and Plan for Recertification of Certain Law Enforcement Officers

[III]C. In-service Training Requirements

1. In order to receive a recertification free of any limitation, condition, restriction, or suspension, an officer must have completed, in advance of the expiration of the officer's initial certification, all in-service training that the officer was required to complete by that point.
2. The Commission adopts the standard that appears in Section III.C.1 directly above pursuant to M.G.L. c. 6E, §§ 3(a) and 4(a)(1). That standard is separate from, and additional to, those that must be satisfied for certification and recertification under M.G.L. c. 6E, §§ 3(a)(2), 4(f), and 4(i).
3. For purposes of this Plan, the additional training mandated by St. 2020, c. 253, § 102(b) should be understood to constitute a form of in-service training.
4. Except in circumstances as to which Section III.D below applies, where the standard in Section III.C.1 above is not satisfied, the Executive Director, or the Executive Director's designee, shall determine whether the officer's recertification shall be limited, conditioned, restricted, or denied, and the nature of any conditions, limitations, or restrictions. See M.G.L. c. 6E, §§ 2(g), 2(h), 3(a), 4(a)(1), 9(b).
5. Nothing herein shall be construed to preclude the Commission's ordering retraining for an officer where warranted. See M.G.L. c. 6E, §§ 3(a), 10(d)-(f).

[III]D. Authorization of Conditional Recertification for Certain Law Enforcement Officers Who Are Unable to Complete In-service or Supplemental Training Due to Documented Hardship

1. Where an individual is unable to satisfy the in-service training requirements referenced in Section III.C above due to certain documented hardship, the individual may be conditionally recertified as a law enforcement officer and receive a temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b). See M.G.L. c. 6E, §§ 3(a), 4, 9(b).

2. An individual will be eligible for such a conditional recertification and temporary exemption if:
 - a. The individual was automatically certified as a law enforcement officer pursuant to St. 2020, c. 253, § 102;
 - b. The individual applies to the officer's employing agency for such a conditional recertification and temporary exemption;
 - c. The individual provides documentation to the employing agency that sufficiently establishes that the individual is unable to complete required in-service training due to a circumstance listed in Subsection III.D.4, below;
 - d. The individual otherwise meets all qualifications for recertification; and
 - e. The individual's employing agency certifies that the individual meets the criteria for a conditional recertification and temporary exemption described herein. See M.G.L. c. 6E, §§ 3(a), 4, 9(b).
3. Such a recertification and temporary exemption will be subject to the following conditions:
 - a. The individual must complete the required training before the expiration of an extension afforded under Subsection III.D.4 below; and
 - b. The officer's employing agency may decide to limit the powers and duties of the officer while that officer's recertification remains conditional, based on an exercise of sound discretion that takes into account, at a minimum, the officer's experience and qualifications, the needs of the agency and the communities that it serves, and the safety and interests of the public. See M.G.L. c. 6E, §§ 3(a), 4, 5(c), 9(b).
4. Extensions of time may be afforded according to the following terms, based on a proposal by the MPTC:
 - a. Military leave: 90 days after the military leave ends;
 - b. Injured-on-duty leave under M.G.L. c. 41, § 111F: 90 days after the injury leave ends;

- c. Workers' compensation leave: 90 days after the workers' compensation leave ends;
 - d. Chemotherapy/radiation treatment: 90 days after the medical leave related to chemotherapy/radiation treatment ends;
 - e. Parental leave, including pregnancy, maternity, paternity, and adoption leave: 90 days after the leave ends;
 - f. Family and Medical Leave Act leave / Paid Family and Medical Leave: 90 days after the leave ends; and
 - g. Emergency exigencies approved by majority vote of the Commission: 90 days or such other period as the Commission in its discretion decides.
 - h. Any extension that has not ended by five years after the original deadline shall lapse and application for reinstatement shall be required.
5. Where an individual fails to satisfy all training requirements before the expiration of an extension, the previously granted temporary exemption will end, and the individual will be subject to the provisions of M.G.L. c. 6E, § 9(b), with the date on which the extension expired being treated as the "deadline imposed by the commission" to "complete in-service training requirements of the commission."
6. If the conditional status of an individual's recertification, and an individual's temporary exemption from the administrative-suspension provisions of M.G.L. c. 6E, § 9(b), are based solely on the individual's inability to satisfy a training requirement described herein, such status and exemption shall automatically end upon the individual's completion of the required training. See M.G.L. c. 6E, §§ 3(a), 4, 9(b).