

**PEACE OFFICER STANDARDS AND TRAINING COMMISSION  
PROPOSED REGULATIONS AT 555 CMR 2.00, *et seq.*  
CONSTRUCTION; APPLICATION OF RULES; NOTICE**

**CONSTRUCTION; APPLICATION OF RULES; NOTICE**

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**2.01 General Authority of the Commission Pursuant to M.G.L. c. 6E**

XXX CMR 1.00 and all regulations contained in this title are issued under and pursuant to the authority of M.G.L. c. 6E § 3(a)(28).

**2.02 Definitions**

As used in XXX CMR, the following words and phrases shall have the following meaning, unless the context clearly requires otherwise:

“Agency”, a law enforcement agency.

“Appointing agency”, the agency appointing a law enforcement officer.

“Chair”, the chair of the commission.

“Commission”, the Massachusetts Peace Officer Standards and Training Commission established pursuant to M.G.L. c. 6E, §1.

“Commissioner”, a member of the commission.

“Division of standards”, the division of police standards established pursuant to M.G.L. c. 6E, §18

“Division of certification”, the division of police certification established pursuant to M.G.L. c. 6E, §4.

“Executive director”, the executive director of the commission appointed pursuant to M.G.L. c. 6E, §2(g).

“Law enforcement agency”, (i) a state, county, municipal or district law enforcement agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department; (ii) a sheriff’s department in its performance of police duties and functions; or (iii) a public or private college, university or other educational institution or hospital police department.

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“Law enforcement officer” or “officer”, any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to M.G.L. c. 22C, §§ 58 or 63; a special sheriff appointed pursuant to M.G.L. c. 37, § 4 performing police duties and functions; a deputy sheriff appointed pursuant to section M.G.L. c. 37, § 3 performing police duties and functions; a constable executing an arrest for any reason; or any other special, reserve or intermittent police officer.

“Officer-involved injury or death”, any event during which an officer: (i) discharges a firearm, as defined in M.G.L. c. 140, § 121, actually or proximately causing injury or death to another; (ii) discharges any stun gun as defined in said M.G.L. c. 140, § 121, actually or proximately causing injury or death to another; (iii) uses a chokehold, actually or proximately causing injury or death of another; (iv) discharges tear gas or other chemical weapon, actually or proximately causing injury or death of another; (v) discharges rubber pellets from a propulsion device, actually or proximately causing injury or death of another; (vi) deploys a dog, actually or proximately causing injury or death of another; (vii) uses deadly force, actually or proximately causing injury or death of another; (viii) fails to intervene, as required by M.G.L. c. 6E, § 15, to prevent the use of excessive or prohibited force by another officer who actually or proximately causes injury or death of another; or (ix) engages in a physical altercation with a person who sustains serious bodily injury or requests or receives medical care as a result, provided that such medical care relates to an actual condition or injury that is more than de minimis. An injury is more than de minimis where it produces an observable injury or medical condition, the customary medical response to which would include that a person visit an emergency room, or have a doctor or other medical professional attend to, give an opinion regarding, diagnose, and/or provide medical treatment for the injury or condition.

“Presiding Officer,” the commissioner, panel of commissioners, or special hearing officer or panel of special hearing officers designated by the chair to conduct an adjudicatory proceeding pursuant to XXX CMR 1.10(1).

“Serious bodily injury”, bodily injury that results in: (i) permanent disfigurement; (ii) protracted loss or impairment of a bodily function, limb or organ; or (iii) a substantial risk of death.

“Single commissioner,” the commissioner assigned to conduct a hearing pursuant to XXX CMR 1.04.

**2.03 Construction**

- (1) Title XXX CMR shall be liberally construed to permit the commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the commission.
- (2) Unless otherwise specified, computation of any time period referred to in XXX CMR shall begin with the first day following the act which initiates the running of the time period. The last day of the time period is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the

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end of the next day that is not a Saturday, Sunday, or legal holiday. When the time period is seven (7) days or less, intervening Saturdays, Sundays, and legal holidays shall be excluded in the computation. When a time period is greater than seven (7) days, each intervening calendar day shall be included in the computation.

- (3) Any act that must be performed “immediately” under a provision of XXX CMR or M.G.L. c. 6E shall be performed as soon as the exercise of reasonable diligence will enable such performance.
- (4) A finding by clear and convincing evidence requires more than a preponderance of the evidence, but less than the proof beyond a reasonable doubt required in criminal cases.
- (5) If any portion of this title XXX CMR or the application thereof to any person or circumstance shall be held to be invalid by a court of competent jurisdiction for any reason, said portion shall be deemed a separate, distinct, and independent provision, and the validity of the other regulations shall not be affected.
- (6) In any instance in which an individual has a conflict precluding that person from exercising their authority under these regulations, their duties shall be exercised by the next most senior supervisor within the Agency, or if there is no such supervisor without a conflict of interest within the Agency, by an individual designated by the most senior disqualified individual’s appointing authority.

2.04 Notices to Public

- (1) The commission shall maintain a list of individuals or entities that request notice of commission proceedings. Individuals or entities may request notice from the commission by completing a form available on the commission’s website, or by mailing a request for notice with contact information to the commission’s offices.
- (2) Notice shall be provided, in a time and manner to be determined by the commission, to those individuals or entities on the list in advance for:
  - (a) Meetings or hearings of the commission or a subcommittee thereof; and
  - (b) Other events determined by the commission, in its discretion.
- (3) The individual or entity is responsible for ensuring that the information provided to the commission for the purpose of receiving notice remains current.