



## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

March 13, 2023

### 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 #35**

**March 16, 2023**

**8:30 a.m.**

**Remote Participation via [Zoom](#)**

**Meeting ID: 995 9076 7695**

- 1) Call to Order
- 2) Executive Director Report – Enrique Zuniga
  - a. Certification I – P
  - b. Administrative Suspensions
  - c. Budget Update
- 3) Legal Update – General Counsel Randall Ravitz
  - a. Collecting information regarding uses of force, injuries, and deaths
  - b. Proposed regulations re: Initial Certification of Officers; and Initial or Renewed Certification of Independently Applying Officers, Including Constables (555 CMR 9.00)
- 4) Matters not anticipated by the Chair at the time of posting
- 5) Executive Session in accordance with the following:
  - M.G.L. c. 30A, § 21(a)(5), in anticipation of discussion regarding the investigation of charges of criminal misconduct;
  - M.G.L. c. 30A, § 21(a)(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 preliminary inquiries and initial staff review

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related to the same, and regarding certain criminal offender record information; and

- M.G.L. c. 30A, § 21(a)(7), combined with M.G.L. c. 30A, §§ 22(f) and (g), in anticipation of discussion and approval of the minutes of prior Executive Sessions.
- a. Division of Standards request approval of conducting Preliminary Inquiries in the following cases:
    - i) PI-2023-03-16-001
    - ii) PI-2023-03-16-002
    - iii) PI-2023-03-16-003
  - b. Approval of commencement of revocation proceedings in the following cases:
    - i) PI-2022-11-22-006
    - ii) PI-2022-12-13-001
    - iii) PI-2022-12-13-006
    - iv) PI-2023-01-12-003
  - c. Suspension status
    - i) SU-2023-01-10-002
  - d. Approval of the minutes of the Executive Session of 2/16/23

2a.



# MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

## MEMORANDUM

### CHAIR

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## RECERTIFICATION PROCESS 2023 – Officers with last names I - P

Chapter 6E stipulated the recertification requirements and timelines for recertification for all officers. The statutorily granted certification of the second group of officers (last name beginning I – P) expires on June 30, 2023. As such over the next few months, POST and Law Enforcement Agencies (LEA's) will work to recertify individuals with last names I-P.

The recertification process is governed by the Recertification Regulations (555 CMR 7.00) and is based on the principles described in those regulations. They are:

- a) Agencies apply for recertification on behalf of officers
- b) Agencies utilize a questionnaire to conduct an oral interview (administered by the Chiefs or their designees)
- c) The head of the agency makes (or declines to make) an attestation to the good moral character and fitness for duty as a law enforcement officer for each individual officer. In the case of the Chief, their appointing authority makes such attestation.

The following memo describes important updates to the process for recertification. None of these updates require a change to the regulations, however it is important to communicate these changes in advance, as we believe will make the process for recertification more efficient.

### 1) POST will utilize a new technology platform

A year ago, POST staff conducted the initial recertification process (last names A-H) using JIRA a technology platform meant to be used as an “interim solution” given the known limitations of that platform but aggressive timelines in the statute. That technology platform is being phased out on March 15, 2023.

For the past few months, we have been working on developing the “permanent solution” platform that will facilitate the second year of the re-certification process. Our new platform is built on a robust client relationship management (CRM) software called Salesforce. The process is nearing the final stages of development and will be deployed for internal testing and operation on March 15, 2023.

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We are currently undergoing a process to extract legacy data from JIRA and import it into Salesforce. We are also working to import other data (housed in SharePoint) and bring into Salesforce, given that Salesforce will become our main technology platform and system of record. This includes certification information regarding new academy graduates, and any information concerning officers' deferrals and changes of status.

LEA's will be trained through virtual sessions. Every individual who last year had credentials to log into JIRA will have credentials to log into the Salesforce LEA portal. Those credentials will be e-mailed to individuals once the portal is ready to accept information.

### **2) We segregated the process for obtaining attestations for Chiefs with last names I – P from the rest of officers. We have already started such process.**

This year, we will collect the attestations for Chiefs with last names I-P separately from the recertification submission of officers. The recertification information of Chiefs still must be entered into the portal at the time of submission.

We have identified all Chiefs with last name I-P and e-mailed them about the new process. We have communicated with these Chiefs regarding the attestation form they must submit. Like last year, the attestation form must be signed by the Chief's appointing authority. Our goal is to have attestations for all Chiefs collected by May 1, 2023.

### **3) We have updated certain questions in Part 1 of the Certification Packet. Part 2 of the recertification packet (Questionnaire) remains the same.**

The technical questions in Part 1 of the Recertification Packet have been modified to improve data accuracy. We will also capture additional identifying information, officer type status and individual officer contact information.

The questions that constitute Part 1 of the recertification packet are similar to those required for A-H officers but will be presented in simpler ways. For example, rather than asking if *an officer has completed a basic training program approved by the MPTC OR received an exemption OR completed the MPTC Bridge Academy AND met the work hours requirement*, we have separated this question to better capture compliance with training requirements.

Regarding in-service training, we will ask if the officer has completed or is expected to complete FY23 in-service training by July 1, 2023. This will allow officers to complete this requirement within the stipulated timeframe (by June 30) and allow agencies to report to the MPTC within their stipulated reporting timeframe (September 30). After September 30, POST will and MPTC will audit those Acadis records.

The certification process for A-H individuals initially included a Questionnaire (Part 2) with eight questions. Two of those questions were eliminated because of two complaints filed against POST. The remaining six questions were then deployed to all officers with last names A-H. Those 6 questions remain unchanged for this upcoming recertification cycle.

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**4) The timeframe should allow for the timely processing of certification information. POST staff will have more time to review the information submitted.**

The recertification packet and supporting documentation should be available by April 1, 2023. We anticipate training the LEA's by May 1, 2023, with the new Salesforce portal accepting input information by May 22, 2023. All submissions will be reviewed by staff before sending notification notices. The Division of Certification will generate reports including exception reports, and corroborate certain information with the MPTC prior to sending notices.

POST will process applications for recertification throughout the month of July. The certifications will not be immediately available through the portal on July 1st (as with A-H officers last year), but departments will receive a notification via email when certifications have been processed.

NOTE: If an officer has not received any notification of certification status by POST but the agency has submitted the recertification application (or asked for and was granted an extension), that officer remains CERTIFIED per the recertification regulations.

We anticipate that this process will significantly minimize the need to issue correction letters.

**5) POST will e-mail the certification notices directly to officers. POST will also streamline the process for review.**

Last year, we sent notices to agencies, and asked agencies to distribute these notices. This year we are capturing officer contact information because we will send the recertification notices individually to each officer.

Upon completion of the recertification review, agencies will receive a single report on the recertification outcome of all officers submitted. Like last year, agencies will be able to lookup the recertification information by accessing the portal at any time.

Where a Chief declines to attest to the good moral character and fitness for duty as a law enforcement officer, the individual will be notified directly that they should receive a report (explanation) directly from the Chief stating the reasons for the lack of attestation. These cases will be marked as "Further Certification Review Required." These individuals will be provided an opportunity to have their outcome reviewed by the Executive Director and must request an opportunity to do so within 14 days of receipt of the notification.

**6) Agencies will submit information directly into the LEA Portal. Agencies submitting recertification information for 100 or more officers will be offered a data migration option.**

Agencies can enter officer information directly into the portal. It is no longer necessary to fill out a template and upload the template. However, POST will make available a worksheet to help agencies during the data collection process.

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Entering information directly into the portal will also enhance data integrity, and can be done a different times. This feature will also help POST process information and send out notifications. However, for large agencies, entering directly into the portal may represent a time-consuming effort. For this reason, POST will allow agencies submitting information on behalf of more than 100 officers, to enter that information into the worksheet, and POST will conduct a data migration effort for those agencies.

**7) The deadline for submitting information into the portal is now June 30, 2023. Agencies can request and extension, but no longer need to submit a roster of individuals to POST.**

The deadline for submitting the recertification information to POST is now June 30, 2023. Like last year, agencies can request a 30-day extension to submit the required information. POST staff will grant extension requests if agencies show good cause. Unlike last year, agencies will not need to submit a roster of their individual officers as part of these requests, because POST already has the names of officers who we can expect will be asking for recertification. If an agency has submitted their recertification packets or successfully obtained an extension for this submission, all officers will remain certified until POST makes a decision and sends a notification.

The overall timeline is planned as follows:

DATE	MILESTONE / ACTIVITY
	<b>Recertification Process - POST Internal due diligence</b>
March 1	Technology vendor (Slalom) completes functionality for recertification
March 1	Begin migration data from legacy systems (JIRA, SharePoint) into Salesforce
March 7 – 15	POST Certification staff testing new platform and updating contact information
	<b>Chief Attestation</b>
February 3	Requests to Chiefs to obtain attestations from Appointing Authorities
May 1	Anticipation completion of Chief’s Attestations
	<b>Recertification Process – Law Enforcement Agencies</b>
April 15	Recertification documents and questionnaire (Part 1 and Part 2) available on POST website Worksheet and Questionnaires available to Agencies on line
April 24	Training sessions and materials made available to agencies that will be submitting recertification data
May 22	LEA Portal will be released for use
June 30	Anticipated end date for officer recertification submission
July 31	Distribute Certification Outcomes

2b.





## PEACE OFFICER STANDARDS & TRAINING COMMISSION

December 29, 2022

Dear Law Enforcement Officer:

I am writing today regarding the annual in-service training requirement.

Although you are currently classified as a “Certified” law enforcement officer, according to the records of the MPTC you are not in compliance with the in-service training requirement.

The deadline for reporting in-service training compliance to the MPTC was September 30, 2022. The MPTC, however, has not yet received confirmation that you have satisfied the requirements for in-service training for FY22. This may be a reporting issue (such as a failure by your agency to provide the required documentation to the MPTC), or a compliance issue (a failure by you to complete the required training).

You are receiving this notice to provide you and your agency until January 31, 2023 to contact the MPTC or provide updates to Acadis in order to clarify your situation and satisfy said requirement. Please contact the MPTC at [MPTCAcadis@mass.gov](mailto:MPTCAcadis@mass.gov) to resolve this training and/or reporting issue and provide the necessary documentation.

Failure to be in compliance will result in your certification being administratively suspended. Your certification can be reinstated upon completion of the in-service training requirement.

Note that, in any event, you must remain in compliance with the requirements of Chapter 6E of the Massachusetts General Laws and all regulations promulgated by the Commission for the duration of your employment as a law enforcement officer. Additional information regarding the Commission, its governing laws, and its procedures can be found at <https://www.mass.gov/orgs/post-commission>.

Sincerely,

Enrique A. Zuniga  
Executive Director  
Peace Officer Standards and Training Commission

cc: Law Enforcement Agency Head

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3b.

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~~Supervisor 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 an arrest and so understood by the person detained. For purposes of applying this definition, the following shall constitute seizures: an application, to the body of a person, of physical force that objectively manifests an intent to restrain; a show of authority, through words or conduct, that a reasonable person would consider coercive; and an exercise of the powers of a constable that is facilitated by the use or display of a weapon.**~~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.

**Municipal Executive. A mayor, select board, town manager, town administrator, or comparable executive official of a municipality.**

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.

**Supervisor. When used in relation to a constable, an individual or entity performing, or responsible for performing, the duties of a supervisor specified in 555 CMR 9.14.**

#### 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~~supervisor 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~~supervisor address whether the proposed ~~monitor~~supervisor 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~~supervisor form completed by a proposed ~~monitor~~supervisor that addresses whether the proposed ~~monitor~~supervisor 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~~supervisor 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~~supervisor, 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~~supervisor, 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~~supervisor, 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~~Supervisor for a Constable**

- (1) To qualify as a ~~monitor~~supervisor for a constable, an entity must:
  - (a) ~~Be either: 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;~~
    1. A municipal executive of a Massachusetts municipality in which the constable desires to serve; or
    2. The principal law enforcement agency of a Massachusetts municipality in which the constable desires to serve, provided that such agency has not been barred from serving as the constable's supervisor by a municipal executive of the municipality.
  - (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~~supervisor; 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~~supervisor'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~~**supervisor** must ensure that the duties specified in 555 CMR 9.14(1)(d) are performed.
- (3) An officer who is designated by a constable's ~~monitor~~**supervisor** pursuant to 555 CMR 9.14(1)(d) must perform the duties specified in 555 CMR 9.14(1)(d).
- (4) The failure of a ~~monitor~~**supervisor** 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~~**supervisor** 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~~**supervisor** 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.

555 CMR: PEACE OFFICER STANDARDS AND TRAINING COMMISSION

REGULATORY AUTHORITY

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