



# The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

DIVISION OF LOCAL MANDATES

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SUZANNE M. BUMP, ESQ.  
AUDITOR

January 5, 2015

Ms. Jodi Ross  
Town Manager  
Town of Westford  
55 Main Street  
Westford, MA 01886

**RE: The Municipal Police Training Committee's Firearms Qualifications**

Dear Town Manager Ross:

According to the U.S. Department of Justice, Massachusetts has 357 law enforcement agencies and employs 18,342 sworn police officers.<sup>1</sup> Police departments play an integral role in our communities and their responsibilities run the gamut from traditional public safety roles to community education. What is required from our police departments has evolved over the years and continues to change. To help police departments meet the evolving needs of their respective communities, Massachusetts established the Municipal Police Training Committee (MPTC), formerly the Massachusetts Criminal Justice Training Council, to create training standards and programs to educate police officers and recruits.

This letter is in response to your request on behalf of the Town of Westford to the State Auditor's Division of Local Mandates (DLM). You informed us that changes in the MPTC requirements that increased the amount of rounds a police officer must fire in order to remain qualified in rifles and shotguns have impacted the Westford Police Department's training and supply budget. In preparation for this response, DLM staff met with you, Assistant Town Manager John Mangiaratti, Finance Director Daniel J. O'Donnell, and Chief of Police Thomas M. McEnaney. DLM also spoke with Deputy General Counsel Elisabeth Ryan from the Executive Office of Public Safety and Security (EOPSS).

Although we understand that required training can impose a cost upon municipalities, DLM concludes that the Local Mandate Law does not apply to the changes in the MPTC Basic Qualification Course for shotguns and rifles. The changes to the minimum firing requirements for shotguns and rifles are not a requirement for veteran in-service officers. Consequently, the changes to the requirements impose no direct service or cost obligation upon Westford, and, thus, fall outside of the scope of the Local Mandate Law.

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<sup>1</sup> U.S. Department of Justice, NCJS 233982, *Census of State and Local Law Enforcement Agencies, 2008* 15 (2011), available at <http://www.bjs.gov/content/pub/pdf/cslea08.pdf>.

## Application of the Local Mandate Law to the MPTC's Basic Qualifications Course

In general terms, the Local Mandate Law provides that any post-1980 state law, rule, or regulation that imposes additional costs upon any city or town must either be fully funded by the Commonwealth or subject to local acceptance. Pursuant to the Local Mandate Law, any community aggrieved by an unfunded state mandate may petition the Superior Court for an exemption from complying with the mandate until the Commonwealth provides sufficient funding. Prior to taking this step, a city or town may request an opinion from DLM as to whether the Local Mandate Law applies in a given case, and, if so, the compliance cost of any unfunded mandate. Pursuant to the Local Mandate Law, DLM's cost determination is *prima facie* evidence of the amount of funding necessary to sustain the local mandate. See M.G.L. c. 29, § 27C (e). Alternatively, a community may seek legislative relief.

To determine whether the anticipated local cost impact of a state law, rule, or regulation is subject to the Local Mandate Law, we apply the framework for analysis developed by the Supreme Judicial Court in *City of Worcester v. the Governor*, 416 Mass. 751 (1994). Of particular relevance to your petition, the challenged law must take effect on or after January 1, 1981, the challenged law must be a new law changing an existing law, and the challenged law must result in a direct service or cost obligation that is imposed by the Commonwealth, not merely an incidental local administration expense. *Id.* at 754-755. Moreover, the Legislature, in enacting the challenged law, must not have expressly overridden the Local Mandate Law. *Town of Lexington v. Commissioner of Education*, 393 Mass. 693, 698 (1985); *School Committee of Lexington v. Commissioner of Education*, 397 Mass. 593, 595 (1986).

Applying the analysis in *the City of Worcester v. the Governor* to the issue that you raised, DLM has determined that the increase in munitions required for rifle and shotgun qualifications does not trigger the anti-mandate provisions of the Local Mandate Law. The increased requirements are not imposed upon veteran in-service officers, and, thus, fall outside the scope of the Local Mandate Law.

The Supreme Judicial Court made clear in *Norfolk v. the Department of Environmental and Quality Engineering* that the Local Mandate Law applies only in situations where the Commonwealth has imposed an involuntary direct service or cost obligation on a city or town. As part of its responsibilities, MPTC issues standards for firearms qualification for police officers. The Minimum Standards for Handgun Requalification and Continual Training states, in pertinent part, that officers must “annually complete the MPTC Basic Qualification Course at least once with a minimum score of 80%.”<sup>2</sup> DLM contacted EOPSS to clarify whether the MPTC Basic Qualification Course, identified in the Minimum Standards for Handgun Requalification and Continual Training, included recertification for shotguns and rifles for veteran in-service officers. Deputy General Counsel Ryan informed DLM that municipal police departments are only required to ensure that their veteran in-service officer annually complete the MPTC Basic Qualification for handguns, not rifles and shotguns. Deputy General Counsel Ryan also informed DLM that the changes to the qualifications for rifles and shotguns only apply to recruit police officers attending the police academy, police officers transferring from another state to a Massachusetts police department, or police officers who wish to become shotgun or rifle instructors. Consequently, the changes to the MPTC Basic Qualification Course for rifles and shotguns are not a mandate within the meaning of the Local Mandate Law, because municipal police departments are not required to have the department's veteran in-service police officers complete those qualification courses. Thus, there is no direct service or cost obligation imposed on the municipality by the change in the MPTC Basic Qualification Course for rifles and shotguns.

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<sup>2</sup> Municipal Police Training Committee, *Minimum Standards for Handgun Requalification and Continual Training* (2010), available at [http://www.mlefiaa.org/files/MPTC\\_NEWS/Minimum\\_Standards\\_for\\_Handgun\\_Qualification\\_\\_\\_Training\\_FINAL\\_VERSION.pdf](http://www.mlefiaa.org/files/MPTC_NEWS/Minimum_Standards_for_Handgun_Qualification___Training_FINAL_VERSION.pdf).

## Conclusion

Continuing training for police officers provides police officers with the tools they need to perform their jobs. While we understand that training for police officers is important, we are also aware that training does not come without a cost to the local police departments.

Nevertheless, DLM has concluded that the MPTC changes to the qualifications courses for shotguns and rifles do not implicate the Local Mandate Law. As discussed above, the MPTC changes do not constitute a new law, rule, or regulation that would trigger the anti-mandate provision of the Local Mandate Law. The changes are not a requirement for veteran in-service officers, rather the changes only apply to recruit police officers, police officers transferring from another state to a Massachusetts police department, or police officers who wish to become shotgun or rifle instructors. Thus, the changes do not impose a direct service or cost obligation on municipalities.

This opinion does not prejudice the right of any city or town to seek independent review of the matter in Superior Court in accordance with Section 27C (e) of Chapter 29. Although we are sympathetic to the fiscal constraints facing all cities and towns, DLM must apply the Local Mandate Law consistently to each issue, as interpreted by the courts. We thank you for bringing this matter to our attention, and encourage you to contact DLM with further concerns on this or other matters impacting your district.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent P. McCarthy". The signature is written in a cursive, flowing style.

Vincent P. McCarthy, Director  
Division of Local Mandates

cc: Thomas McEnaney, Chief of Police, Westford Police Department  
Andrea J. Cabral, Secretary, Executive Office of Public Safety and Security  
Anne P. Powers, Undersecretary for Law Enforcement, Executive Office of Public Safety and Security  
Elisabeth Ryan, Deputy General Counsel, Executive Office of Public Safety and Security  
Daniel Zivkovich, Executive Director, Municipal Police Training Commission  
Wayne Sampson, Executive Director, Massachusetts Chiefs of Police Association