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Hanya H. Bluestone
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Charlene Luma
Kimberly West
Michael Wynn

**EXECUTIVE
DIRECTOR**

Enrique Zuniga

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

March 29, 2022

In accordance with Sections 18-25 of Chapter 30A of the Massachusetts General Laws and [An Act Extending Certain COVID-19 Measures Adopting During the State of Emergency](#), notice is hereby given of a meeting of the Peace Officer Standards and Training Commission. The meeting will take place as noted below.

PEACE OFFICER STANDARDS AND TRAINING COMMISSION

April 4, 2022

8:30 AM

Public Meeting #18

Remote Participation via [Zoom](#)

Meeting ID: 995 5176 1054

PUBLIC MEETING AGENDA

1. Call to Order
2. Approval of Minutes
 - a. March 16, 2022
3. Executive Director Report – Enrique Zuniga
 - a. Personnel Update
 - i. Director of Standards Appointment – William Bloomer
 - b. Administrative & Staffing Update
4. Plan for officer re-certifications (officers with last name A–H) – Executive Director Zuniga
 - a. Attestation Form (Questionnaire Part 2) – Draft
 - b. Summary of Process for Exceptions
5. Discussion of In Scope Out of Scope Agencies – General Counsel Ravitz
6. Public comment
7. Matters not anticipated by the Chair at the time of posting

2a.

RPEACE OFFICER STANDARDS & TRAINING COMMISSION

March 16, 2022

8:30 AM

**Peace Officer Standards and Training Commission
Remote Participation**

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Draft Meeting Minutes of February 15, 2022
- Draft Executive Session Minutes of January 14, 2022
- Policy Regarding Appointment of Commission Officers and Hiring of Other Commission Employees (Proposed)
- Memorandum Re: Misconduct Complaint Form
- Requirements and Plan for Recertification of Certain Law Enforcement Officers (Proposed)
- Preliminary Milestone Schedule for Recertification of Certain Law Enforcement Officers (A-H) (Proposed)
- Statement Regarding M.G.L. Chapter 123, s. 12(a) and 12(e) Draft 3/2/2022
- Construction of Scope of Chapter 6E of the Massachusetts General Laws (Proposed)

In Attendance:

- Chair Margaret R. Hinkle
- Commissioner Hanya Bluestone
- Commissioner Lawrence Calderone
- Commissioner Clementina M. Chéry
- Commissioner Larry Ellison
- Commissioner Charlene D. Luma
- Commissioner Kimberly P. West
- Commissioner Michael Wynn

1. Call to Order

- The Chair recognized a quorum.

2. Approval of Minutes

a. February 15, 2022

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

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

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

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

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

3. Executive Director Report – Enrique Zuniga

a. Personnel Update

i. Director of Certification Appointment – Steven Smith

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

b. Administrative & Staffing Update

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

of 188 officer certifications, including 172 police officers and 16 special state police officers from a total of 50 agencies, including 39 municipal police department and 11 special state police officer facilities. Certification has been a somewhat manual process and the Commission continues to work on an interim solution. The Commission receives regular questions regarding the certification of new officers, and Executive Director Zuniga anticipates those questions will increase during the new fiscal year. He thanked law enforcement agencies and officers for their patience and understanding as the Commission continues to refine and ramp up the certification process.

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

4. Delegation of Hiring Authority – General Counsel Ravitz

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

5. Complaint Submission Form – Senior Certification Specialist Joyce

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

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

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

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

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

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

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

c. Timeframe

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

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

4.



PEACE OFFICER STANDARDS AND TRAINING COMMISSION

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EXECUTIVE DIRECTOR

Enrique Zuniga

March 30, 2022

Heads of Massachusetts Law Enforcement Agencies:

I am writing today to provide preliminary details regarding the upcoming recertification process for officers whose last names begin with letters A through H (inclusive).

As you are aware, Section 102 of Chapter 253 of the Acts of 2020 provides in relevant part:

“The certification of a law enforcement officer ... who is certified as a result of this section and whose last names begin with ... A to H, inclusive, shall expire 1 year after the effective date.”

Such expiration date is July 1, 2022 for those officers. The statute further provides that the POST Commission cannot recertify an officer unless certain criteria are met.

In order to comply with the statutory directives, the POST Commission recently approved a plan for recertification. To implement this plan, we are asking that Law Enforcement Agency Heads or appointing authorities, and/or their designees, take certain steps, and attest to and submit certain information, in two parts:

Part 1: Complete an attestation that each individual due for recertification has met certain statutory requirements.

Part 2: Provide each individual with a questionnaire (that will be furnished by the POST Commission) to inform your attestation as to the individual’s good moral character and fitness for employment as a Law Enforcement Officer.

Note: The attestation template provided in Part 1 cannot be completed until after the questionnaire in Part 2 has been received and processed. We are currently finalizing the Part 2 document (questionnaire).

After completing the two parts described above for the officers in question, submit that information to the POST Commission using the Submission Template.

We are planning on having agencies submit one attestation signature page and a Submission Template for multiple officers at a time (i.e., all officers within their ranks with last names beginning with A through H). We will be asking that agencies submit those two documents at the same time.

We will also be providing a link to a web-based portal to submit the attestation. An agency will not need to submit any completed questionnaire unless the POST Commission asks for its submission. Please do not submit attestations for recertification to any POST Commission mailbox previously provided for other purposes.

The Part 1 attestation document, the Submission Template and instructions are available on our website <https://www.mass.gov/info-details/post-commission-officer-recertification-packet-outline-instructions>.

Although the Part 1 attestation is available now, it cannot be finalized until the officer questionnaire (Part 2) has also been provided, so **DO NOT SUBMIT THE SUBMISSION TEMPLATE TO THE POST COMMISSION YET**. We will provide access and instructions when the POST Commission is ready to receive the recertification information.

You may begin performing the due diligence necessary to be able to make the relevant representations to the POST Commission. **Please note that the Part 1 document includes the requirement for individuals to complete in-service training requirements for Fiscal Year 2022.** As such, please ensure those individuals are taking steps to complete that training if it has not yet been completed.

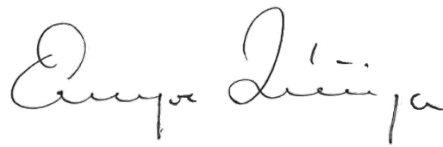
We anticipate that the Part 2 questionnaire will be available around April 8, 2022. Further, we anticipate that the site for submitting completed attestations using the Submission Template will be available in mid-April.

Submission of required attestation documents for all officers (last names beginning with A-H) is due by June 15, 2022.

Finally, it is possible a small number of individuals may not be in compliance with one or more of the criteria listed on the attestation form. We will be asking agencies to explain any of these instances. Although the lack of compliance with a certain criterion may not necessarily result

in the denial of recertification of the officer, you should assume that, at a minimum, it will likely result in a delay or conditional recertification.

Thank you for your assistance, as we continue to roll out the process for recertification in accordance with the statute. If you have any questions, please contact us at POSTCAttestation@mass.gov.

A handwritten signature in black ink, appearing to read "Enrique Zuniga". The signature is written in a cursive style with a large initial "E" and a long, sweeping tail.

Enrique A. Zuniga
Executive Director, POST Commission

4a.

Peace Officer Standards and Training Commission

Recertification Packet: Part 2 Officer Questionnaire

**Questionnaire for
Law Enforcement Officer Recertification**

I. Instructions

A. Instructions for the Agency Head or Designee

To be recertified as a Law Enforcement Officer by the Peace Officer Standards and Training (POST) Commission in accordance with Chapter 6E of the Massachusetts General Laws, an Officer must meet certain specified standards.

The POST Commission thus asks that you provide this form to an individual (the “Interviewer”) within your Agency who will be charged with providing this questionnaire to the Officer seeking recertification. The Interviewer may be any officer designated by the Agency Head of higher rank than the Officer being reviewed. An Agency Head or the designated Evaluator of Part 1 may also serve as the Interviewer. You should direct the Interviewer to do the following: provide the questionnaire below to the Officer; ensure that the Officer answers the questions listed; review the Officer’s responses; and orally discuss the responses with the Officer. As discussed in other materials provided by the POST Commission, the Officer’s answers and oral comments should be considered when evaluating whether the Officer satisfies the requirement to be of good moral character and fit for employment as a law enforcement officer, but any ultimate determination of character and fitness should be based on the totality of the information obtained. Also, no form of information that is provided by the Officer will automatically lead to a denial of recertification, but certain responses may prompt further review by the POST Commission. All the Officer’s answers, and all notes from any discussion with the Officer concerning those answers, must be retained by the Agency. DO NOT submit this questionnaire to the POST Commission unless requested to do so.

B. Instructions for the Interviewer

Please provide this questionnaire to the Officer, ensure that the Officer answers the questions listed, and review the Officer’s responses. Responses must be orally discussed with the Officer. If any written or oral responses by the Officer raise concerns in your mind, bring them to the attention of your Agency Head or their Designee. Follow any other instructions provided by your Agency Head. All the Officer’s answers, and all notes from any discussion with the Officer concerning those answers, must be retained by the Agency.

C. Instructions for the Officer Seeking Recertification

To facilitate a thorough evaluation process for Law Enforcement Officer recertification in the Commonwealth, the POST Commission asks that each Officer answer the questions below and then participate in any related discussions required by a superior officer. If you have a good faith belief that you cannot answer a question completely and accurately without waiving a privilege,

3. Have you ever been a defendant in a civil suit in which it was alleged that you acted violently or abusively, or utilized excessive force, towards another person? If so, please provide details as to each such suit. Yes No

4. Have you ever been the subject of a restraining order or any other court order that restricted, or imposed consequences based on, your conduct? Have you ever been found in violation of either? If so, please give the details regarding each order, including the time frame in which it was issued and the identity of the court that issued it. Yes No

5. Have you ever been subjected to disciplinary action, consisting of a suspension of more than 5 days with or without pay, or where bias or excessive force was found by investigation, in connection with any employment, including employment by your current law enforcement agency? If yes, please give details as to each such incident and the nature of the disciplinary action taken.

No, not the subject of any suspensions more than 5 days

Yes, suspended for more than 5 days

6. In the last five years, have you ever sent or displayed a public communication on social media that you believe could be perceived as biased against anyone based on their actual or perceived race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status, or socioeconomic or professional level, provided you were at least 18 years old at the time? If yes, please provide each such public communication, and details. For these purposes, “communications” include, without limitation, posts, comments, and messages; and “public”

communications are those that were made available to three or more people other than you. Yes No

7. Do you currently belong, or have you ever belonged, to any organization that, at the time you belonged, unlawfully discriminated (including by limiting membership) on the basis of actual or perceived race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status, age or socioeconomic or professional level? If so, please provide details regarding each such organization.
Yes No

8. Thinking broadly, do you have any knowledge or information, in addition to that specifically addressed in the preceding questions, which may be relevant, directly or indirectly, to your eligibility or fitness to be recertified as a law enforcement officer with this law enforcement agency? This would include, but is not limited to, knowledge or information concerning your character, temperament, habits, employment, education, criminal records, traffic violations, residence, or otherwise. If so, please provide details. Yes No

IV. Officer Affirmation

I hereby swear or affirm under penalties of perjury that the information provided herein is true and complete.

Signature: _____

Date: _____

Initials: _____

Additional space to answer questions, if needed (Please number accordingly)

5.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION

CONSTRUCTION OF SCOPE OF CHAPTER 6E OF THE MASSACHUSETTS GENERAL LAWS (Proposed)

The Peace Officer Standards and Training Commission hereby construes certain provisions of M.G.L. c. 6E in the manner described below. The provisions at issue are those that define the range of agencies and officers that are covered by, and subject to the terms of, M.G.L. c. 6E.

I. KEY STATUTORY PROVISIONS

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:

“Agency”, a law enforcement agency.

...

“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.

“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, which concerns the Port of Boston Authority] or [M.G.L. c. 22C, § 63, which concerns educational institutions and hospitals]; a special sheriff appointed pursuant to [M.G.L. c. 37, § 4] performing police duties and functions; a deputy sheriff appointed pursuant to [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.

.....

M.G.L. c. 6E, § 2

(i) No employee of the division of standards, established pursuant to [M.G.L. c. 6E, § 8], or the executive director shall have previously been employed as a law enforcement officer, previously employed by a law enforcement agency or be a retired law enforcement officer or retired from a law enforcement agency;

provided, however, that such employee may have been a previous employee of or have retired from the division of standards.

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 [M.G.L. c. 6E];
...

(3) certify qualified applicants[]
....

M.G.L. c. 6E, § 8

(g) The division of police standards shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of this chapter, including the power to receive intelligence on an applicant for certification or an officer certified under this chapter and to investigate any suspected violations of law.

II. CONSTRUCTION OF THE STATUTE

The Commission understands the following terms, as used in M.G.L. c. 6E, to have the meanings outlined below. Interpretive language has been added in brackets to the statutory text.

“Law enforcement agency”[means:]

(i) a state, county, municipal or district law enforcement agency, including, but not limited to[the following,][meaning that provided that, any agency not listed below nevertheless constitutes a police department or sheriff's departmentthe agency is listed below, or the agency principally -and performs law enforcement functions that are the same as, or substantially similar to, those performed by the agencies listed below]:

- [a.] a city, town or district police department,
- [b.] the office of environmental law enforcement,
- [c.] the University of Massachusetts police department,
- [d.] the department of the state police,
- [e.] the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and
- [f.] the Massachusetts Bay Transportation Authority police department; [or]

- (ii) a sheriff's department in its performance of police duties and functions[, meaning ~~that it~~ part of the sheriff's office that actually performs the full range of police duties and functions, including all types of arrests]; or
- (iii) a public or private college, university or other educational institution or hospital police department[; or]
- ~~(iv)~~ [the Division of Police Standards of the Massachusetts Peace Officer Standards and Training Commission].

“Law enforcement officer” or “officer”[means:]

- [i.] any officer of an agency, including the head of the agency[if that person is an officer];
- [ii.] a special state police officer appointed pursuant to[:]
 - [a.] [M.G.L. c. 22C, § 58, which applies to police for the Massachusetts Port Authority, also known as the Port of Boston Authority] or
 - [b.] [M.G.L. c. 22C, § 63, which applies to police for educational institutions and hospitals];
- [iii.] a special sheriff appointed pursuant to [M.G.L. c. 37, § 4] performing [the full range of] police duties and functions[, including all types of arrests];
- [iv.] a deputy sheriff appointed pursuant to [M.G.L. c. 37, § 3] performing [the full range of] police duties and functions[, including all types of arrests];
- [v.] a constable executing an arrest for any reason[, meaning a constable who ~~can be expected to exercise arrest powers~~ executes, or expects to execute, arrests]; or
- [vi.] any other special, reserve or intermittent police officer[, meaning a temporary or part-time officer who has the full range of powers of a police officer, including all powers of arrest, and is among the types of officers listed above].

Additionally, the Commission understands that the Legislature has given it discretion to decide whether to require two other types of officials to be certified as law enforcement officers.

The first type is an employee of the Civil Defense Agency who is serving as a special State Police officer pursuant to M.G.L. c. 22C, § 64. See St. 2020, c. 253, § 64 (amending M.G.L. c. 22C, § 64, and providing that such officers shall “receive *such certification* as the [POST Commission] *shall direct*,” even as they shall “have the same power to make arrests as the state police of any criminal offense committed in or upon lands or structures located in the town of Framingham within the charge of [the agency] director” (emphasis added)).

The second type is an employee of the State Auditor’s Office’s Bureau of Special Investigations who is serving as a special State Police officer pursuant to M.G.L. c. 22C, § 68. See St. 2020, c. 253, § 65 (amending M.G.L. c. 22C, § 68, and providing for the appointment of such officers “who have undergone certification *as required by* the [POST Commission],” even as they “shall

have . . . the same powers as state police officers to serve warrants,” though “not . . . the authority to arrest without a warrant” or authorization, by way of that statute, to carry a firearm).

III. APPLICATION OF THE ABOVE CONSTRUCTION OF THE STATUTE

In light of the above construction of the statute, below are lists of individuals who would, and would not, be considered “law enforcement officers” subject to M.G.L. c 6E. Given the range of individuals as to whom questions may be raised, the lists below should not be seen as exclusive.

A. **Individuals Subject to the Statute**

1. City, town, or district police officers, including department heads who are officers.
2. Civil Defense Agency employees serving as special State Police officers under M.G.L. c. 22C, § 64, to the extent that the Commission has exercised its discretion to require their certification pursuant to that statute.
3. Constables who execute or expect to execute arrests.
4. Deputy sheriffs appointed pursuant to M.G.L. c. 37, § 3 who perform the full range of police duties and functions, including all types of arrests.
5. Educational institution special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads who are officers.
6. Harbormasters and assistant harbormasters appointed or employed as law enforcement officers by law enforcement agencies.
7. Hospital Police Department special State Police officers serving pursuant to M.G.L. c. 22C, § 63, including department heads who are officers.
8. Massachusetts Bay Transportation Authority Police Department officers, including the department head if that person is an officer.
9. Massachusetts Port Authority Police Department (Port of Boston Authority Police Department) special State Police officers serving pursuant to M.G.L. c. 22C, § 58, including the department head if that person is an officer.
10. Natural resource officers, shellfish constables, and shellfish wardens appointed or employed as law enforcement officers by law enforcement agencies.
11. Office of Environmental Law Enforcement officers, including the office head if that person is an officer.
12. Peace Officer Standards and Training Commission Division of Police Standards employees, including the agency head, if they are officers.
13. Sheriffs who perform the full range of police duties and functions, including all types of arrests, and thus may be viewed as both heads and officers of the parts of their offices that perform such duties and functions.
14. Special sheriffs appointed pursuant to M.G.L. c. 37, § 4 who perform the full range of police duties and functions, including all types of arrests.
15. State Auditor’s Office Bureau of Special Investigation special State Police officers serving under M.G.L. c. 22C, § 68, to the extent that the

Commission has exercised its discretion to require their certification pursuant to that statute.

16. State Police officers, including the Superintendent.
17. University of Massachusetts Police Department officers, including the department head if that person is an officer.
18. Other special, reserve, and intermittent police officers who are temporary or part-time officers, have the full range of powers of a police officer, including all powers of arrest, and are among the types of officers listed above.

B. Individuals Not Subject to the Statute

1. Alcoholic Beverages Control Commission special investigators.
2. Constables who do not execute or expect to execute arrests.
3. Court officers.
4. Department of Youth Services officers.
5. Federal officers.
6. Harbormasters and assistant harbormasters not appointed or employed as law enforcement officers by law enforcement agencies.
7. Natural resource officers, shellfish constables, and shellfish wardens not appointed or employed as law enforcement officers by law enforcement agencies.
8. Parole officers.
9. Peace Officer Standards and Training Commission employees, including the agency head, if they do not serve in the Division of Police Standards or they do not serve as officers.
10. Probation officers.
11. Sheriffs who do not perform the full range of police duties and functions, including all types of arrests, and thus cannot be viewed as officers of the parts of their offices that perform such duties and functions.
12. Special State Police officers who derive their powers from a section of M.G.L. c. 22C other than §§ 58 and 63, including:
 - a. Civil Defense Agency employees serving under § 64, to the extent that the Commission has not exercised its discretion to require their certification pursuant to that statute.
 - b. Employment and Training Division employees serving under § 66.
 - c. Humane society and association agents serving under § 57.
 - d. Massachusetts Society for Prevention of Cruelty to Children agents serving under § 56.
 - e. Mental health or developmental services department employees serving under § 59.
 - f. Middlesex County Sanatorium employees serving under § 65.
 - g. Public Health Department employees serving under § 60.
 - h. Railroad corporation, railway company, The Boston Terminal Corporation, Railway Express Agency, Inc., or common carrier of passengers by water for hire employees serving under § 51.

- i. Soldiers' home employees serving under § 62.
- j. State Auditor's Office Bureau of Special Investigation employees serving under § 68, to the extent that the Commission has not exercised its discretion to require their certification pursuant to that statute.
- k. State Lottery Commission employees serving under § 67.
- 13. State and county correctional officers who are not: sheriffs who perform the full range of police duties and functions, including all types of arrests; special sheriffs appointed pursuant to M.G.L. c. 37, § 4 who perform the full range of police duties and functions, including all types of arrests; or deputy sheriffs appointed pursuant to M.G.L. c. 37, § 3 who perform the full range of police duties and functions, including all types of arrests.

IV. RESERVATION OF RIGHTS

The Commission reserves the ability to adopt a revised construction of M.G.L. c. 6E at any time.