

PEACE OFFICER STANDARDS & TRAINING COMMISSION

November 22, 2021

8:30 AM

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

PUBLIC MEETING MINUTES

Documents Distributed in Advance of Meeting:

- Draft Meeting Minutes of October 18, 2021
- Memorandum from Executive Director Zuniga to Commission regarding Law Enforcement Officer Certification Standards
- Statutory Law Enforcement Officer Certification Requirements, Recommendations, and Considerations
- Draft Questionnaire for Law Enforcement Officer Applicants
- Draft Background Attestation Form for Law Enforcement Officer Applicants
- Draft Phase I Regulations

In Attendance:

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

1. Call to Order

- The Chair recognized a quorum.
- The Chair welcomed Randall Ravitz, the Commission's General Counsel.

2. Approval of Minutes of October 18, 2021 – VOTE

- Commissioner Calderone moved to approve the minutes.
- Commissioner Luma seconded the motion.
- The Commission unanimously voted to approve the minutes.

3. Executive Director Report

- Executive Director Zuniga continues to work with EOTSS on developing a database for accepting reports of complaints and MPTC on certification matters.
- The Request for Responses for outside counsel closes on November 22. Commissioners Kazarosian and West will serve on a subcommittee with Executive Director Zuniga to review responses.

- a. Staffing update
 - A conditional offer has been made for the position of an Administrative Assistant, pending a background check. If successful, that candidate will likely start in a week or two.
 - The Commission is undertaking its due diligence on candidates for the position of Chief Technology Officer.
 - The application period for the position of Chief Financial Officer has closed.
 - Postings for the Directors of Certification and Standards, including job descriptions and link to the application, are available on the website and candidates have begun applying.
- b. Office space
 - The process of obtaining office space has been progressing slower than desired. The Commission is looking to acquire space in Boston, but has only received one adequate response. However, there is at least one more response that will come in such that there may be four adequate responses.
 - Commissioner Ellison stated that he has been receiving calls from community organizations curious to learn more about the Commission and how it is functioning. There appears to be an appetite within the community for engaging with the Commission. To that end, diverse communities should receive information about open job postings. Executive Director Zuniga agreed, and suggested that Commission Ellison could begin by sharing the job postings on LinkedIn and with organizations that could further distribute the postings.
 - Commissioner Bluestone inquired if a non-attorney could assist with the review of Request for Responses for outside counsel. Chair Hinkle asked the Commission if others would be interested in joining the subcommittee and Commissioners Bluestone and Ellison expressed their interest. Chair Hinkle said she would speak with Executive Director Zuniga about the size of the subcommittee, and Executive Director Zuniga would follow up with Commissioner Bluestone.
 - Commissioner Calderone volunteered to serve on any subcommittees as needed.
 - Executive Director Zuniga clarified that there was no subcommittee reviewing the Requests for Responses for outside counsel.
 - Commissioner Luma expressed her agreement with Commissioner Bluestone about diversifying the professions and disciplines represented in any working group.
4. Discussion of Certification Standards: Chapter 6E section 4(f)(j) – Commissioner West
 - Commissioner West explained that the Commission’s enabling statute requires the establishment of minimum standards for law enforcement officer certification, as described in Executive Director Zuniga’s memo. Under the statute, officers are automatically certified prior to December 1, but post December 1, the Commission must certify law enforcement officers.
 - Under current practices, candidates who attend the Police Academy typically already have jobs with towns. Thus, the certification process should begin at the beginning of the process when candidates are interviewing for employment at the department level before attending the Police Academy.

- However, as described in Executive Director Zuniga’s memo, the Commission has to do this certification process on the back end as candidates are graduating from the Police Academy, rather than at the beginning of the employment process as would normally happen.
- The statute requires elements for certification that are already occurring, like completing a high school education and basic training.
- Three elements in the statute require more effort – a background check, an oral interview, and the determination of good moral character and fitness. Those elements could potentially happen at the front end of the employment process by local police chiefs with oversight by the Commission. To address that gap, Commissioner West has drafted a questionnaire for candidates and police chiefs to complete to ensure that the Commission is comfortable with those three elements that have presumably already happened at the local department level.
 - With regards to the background attestation, local police chiefs would attest that a candidate has successfully completed a background check. The list distributed includes items that are typically covered in a background check. Commissioner West also drew from the state police background check process.
 - In the future, police chiefs will be asked to do this work on the front end so candidates going through the Police Academy have already complied with these requirements.
 - Commissioner West has drafted a questionnaire for candidates to complete and for police chiefs to review with them, and interview and discuss any topics that a candidate answers in the affirmative.
 - General Counsel Ravitz advised that any restrictions in statute about what can be asked regarding criminal history is likely trumped by the Commission’s enabling statute, which gives the Commission broad powers to gather information and conduct interviews related to officer qualifications. However, sealing and expungement statutes may apply, if not also trumped by the Commission’s enabling statute.
 - Commissioner West clarified that the purpose of the questionnaire is to meet the minimum certification standards required by statute, but there are some items that are informed by the state police’s procedure, as well as standards in other states.
 - Commissioner Ellison asked how police chiefs will be held accountable when they are not always the party to conduct background checks. Commissioner West clarified that where the questionnaire is only meant to be a short-term solution, it is unlikely to come up, but agreed that the concern was well raised.
 - Commissioner Wynn added that police chiefs do not always make hiring decisions and raised concerns about the differences between levels of resources available to the state police and small towns. Commissioner Wynn also raised concerns about asking questions that may be covered by medical privacy and disability law. Commissioner West responded that the current class of candidates

does not implicate many small towns, but expressed her understanding that there may be some growing pains. She also clarified that the Commission was obligated to ask health-related questions because it is required in the enabling statute.

- Commissioner Calderone expressed his wishes that he had been included in the working group with the MPTC, and expressed concerns that the questionnaire was too far reaching, particularly with respect to social media.
 - Executive Director Zuniga clarified that the intent of the question is to discover membership in groups that may be set to “private.”
 - The Chair encouraged the Commissioners to direct their questions about these materials to Commissioner West via email.
5. Draft Phase 1 Regulations: Review of Complaints by an Agency, Preliminary Inquiries, Suspensions and Disciplinary Hearings – Lon Povich and Mina Makarious, Anderson & Kreiger
- Mr. Povich explained that in order for the Commission to decertify officers, it must first be able to accept complaints regarding those officers. These drafted regulations cover what is an actionable complaint and how to process and resolve those complaints.
 - Mr. Povich then explained the process for initially screening complaints.
 - Commissioner Bluestone asked if there was any discussion regarding age when identifying groups that may be subject to biased policing. Mr. Povich clarified that the groups identified are the groups listed in the Commission’s enabling statute, but provided that the Commission can expand on that identification.
 - Commissioner Ellison raised a concern that minor complaints may be a major issue if there are multiple minor complaints. Commissioner Luma agreed with the concern.
 - Commissioner Luma asked whether the Commission or the local police departments would determine if a complaint alleging bias was substantiated.
 - Commissioner Chery asked if there was any mechanism for an individual to directly complain to the Commission, and Mr. Povich confirmed there was.
 - Commissioner Wynn provided that the IACP had an alert system for officers who are accused of certain offenses, and that he would add those criteria to the regulations.
 - Mr. Povich next explained the internal investigation procedures.
 - Mr. Makarious then reviewed the preliminary inquiry and adjudication procedures.
 - Commissioner Ellison asked if the Commission was responsible for dealing with the financial aspects of suspending an officer. Mr. Makarious confirmed that the Commission is only responsible for licensing decisions and cannot affect bargained-for rights.
 - Mr. Makarious then reviewed the single commissioner review procedure.
 - Commissioners Calderone and Ellison expressed concerns about transparency and procedures for selecting a single commissioner to

preside over reviews. Mr. Makarios advised that as an internal decision among the Commission, that procedure did not have to be detailed in the regulations and that the Chair and Executive Director could provide guidelines or procedures in a separate policy.

- Mr. Makarios next reviewed the certification revocation procedures.
 - Commissioners Calderone, Bluestone, and West again raised concerns about the transparency of selecting single Commissioners. Mr. Povich suggested that he would try to draft a procedure for the Commission's feedback.
 - Commissioner Kazarosian expressed that she had concerns and asked where she could raise those. Mr. Povich directed her to raise it with Commission staff.
 - Mr. Makarios explained definitions and rules of constructions.
 - Ms. Lee reviewed the process for promulgating procedures.
6. Recent stakeholder meetings and outreach
- Commissioner Wynn briefed the Commission on the Chiefs' association's annual meeting. The Chair, Commissioner Wynn, Executive Director Zuniga, and Mr. Povich sat on a panel and were able to answer questions and receive feedback.
 - Executive Director Zuniga provided that he has received requests for meetings, and engaged in such meetings with various Commissioners, with community groups.
 - Commissioners Luma and Calderone expressed their interest in being part of those meetings.
7. Public comment
- There were no questions from the public.
8. Matters not anticipated by the Chair at the time of posting
- The Chair did not have any new business to raise.
9. Adjourn
- Commissioner Kazarosian moved to adjourn the meeting.
 - Commissioner Ellison seconded the motion.
 - The Commission unanimously voted to adjourn the meeting.