



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

---

## **POLICY ON REMOVAL OF CERTAIN INFORMATION FROM THE COMMISSION'S PUBLIC DATABASE**

**(Approved by the Commission on November 16, 2023)**

The Massachusetts Peace Officer Standards and Training Commission hereby adopts this Policy regarding the removal of information on disciplinary matters and complaints concerning former or departing officers from the public database maintained by the Commission pursuant to 555 CMR 8.06.

### **I. TERMS OF POLICY**

- A. For purposes of this Policy:
1. The term “Commission” refers to 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;
  2. The term “Commissioners” refers to the Commissioners of the Commission appointed pursuant to M.G.L. c. 6E, § 2(a), collectively;
  3. The term “Executive Director” refers to the Executive Director of the Commission appointed pursuant to M.G.L. c. 6E, § 2(g), or that person’s designee for relevant purposes; and
  4. The terms “law enforcement agency” and “law enforcement officer” have the meanings ascribed to those terms in M.G.L. c. 6E, § 1.
- B. The Executive Director shall develop an Application form that may be used by an individual who has served as, or has been certified as, a law enforcement officer to request that the Commission remove information concerning complaints and disciplinary matters against the individual from the public database maintained by the Commission pursuant to 555 CMR 8.06.
- C. An individual may apply for such relief by submitting a completed Application form to the Executive Director.
- D. The Application form shall inform the applicant that:
1. In order for the Application to be considered, the applicant must:
    - a. Not have been decertified pursuant to M.G.L. c. 6E, § 10;
    - b. Provide details regarding each arrest of the applicant, and criminal prosecution, civil action, and disciplinary proceeding brought

- against the applicant in any jurisdiction in the preceding year;
      - c. Provide details regarding any entry in the National Decertification Index involving the individual;
      - d. Expressly state that the applicant is no longer appointed or employed as a law enforcement officer by a law enforcement agency, or that the applicant will resign from any such position before any decision granting the Application becomes effective; and
      - e. Attest to the veracity of all information in the Application under the pains and penalties of perjury;
    2. The Commission may invite comments on the Application from members of the public; and
    3. The provision of inaccurate information in the Application may constitute grounds for disciplinary action pursuant to M.G.L. c. 6E, § 3(a), 4(f)(4), 8, 9, and/or 10.
- E. The Application form shall further inform the applicant that, if the Commissioners vote pursuant to M.G.L. c. 6E, § 2(e) to allow the requested relief:
  1. The Commissioners will give the applicant notice of any conditions that would be attached to such relief and will provide the applicant with an opportunity to withdraw the Application before the decision granting the Application with conditions becomes effective;
  2. Once the decision becomes effective, the Commission will, pursuant to M.G.L. c. 6E, § 3(a) and 555 CMR 8.06(4)(b)12., make information concerning complaints and disciplinary matters against the applicant unavailable to members of the general public in the public database maintained by the Commission pursuant to 555 CMR 8.06;
  3. Information concerning complaints and disciplinary matters against the applicant, even if made unavailable to the general public in the public database established by the Commission in accordance with 555 CMR 8.06:
    - a. May still be made accessible to particular individuals to the extent not precluded by law, pursuant to 555 CMR 8.06(5);
    - b. Will still be maintained in one or more “Division Databases” established in accordance with 555 CMR 8.05, if otherwise warranted under that regulation; and
    - c. May still be disseminated:
      - i. In response to a public records request pursuant to M.G.L. c. 66, § 10;
      - ii. In response to a request pursuant to the Fair Information Practices Act, M.G.L. c. 66A;
      - iii. In response to compulsory legal process;
      - iv. Pursuant to any other requirement of law; and
      - v. By a vote of the Commissioners pursuant to M.G.L. c. 6E, § 2(e).

- F. Upon receiving an Application, the Executive Director:
  - 1. Shall provide a copy of the Application to all Commission divisions and afford each division a reasonable time within which to inform the Executive Director of any issues related to the Application;
  - 2. Shall review the following:
    - a. Available records relating to any arrests, criminal prosecutions, civil actions, and disciplinary proceedings involving the applicant;
    - b. Any information regarding the applicant within the National Decertification Index; and
    - c. Any information regarding the applicant within Commission databases;
  - 3. May invite comments on the Application from members of the public; and
  - 4. Shall, if the Application satisfies all the requirements in Section I.D above:
    - a. Provide the Application, along with any other appropriate information and recommendations, to the Commissioners; and
    - b. Ask the Commission Chair to place the following issues on the agenda of an upcoming meeting of the Commissioners:
      - i. Whether to approve the requested relief; and
      - ii. Whether to attach conditions to any such approval upon giving the applicant notice of those conditions and an opportunity to withdraw the Application before the decision granting the Application with conditions becomes effective.
  
- G. The Commission reserves the ability to rescind or amend this Policy at any time.

**II. KEY SOURCES OF AUTHORITY**

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.

.....

“Chair”, the chair of the commission.

.....

“Commission”, the Massachusetts peace officer standards and training commission established pursuant to section 2.

“Commissioner”, a member of the commission.

.....

“Decertified”, an officer whose certification is revoked by the commission pursuant to section 10.

.....

“Executive director”, the executive director of the commission appointed pursuant to subsection (g) of section 2.

“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; (iii) a public or private college, university or other educational institution or hospital police department; or (iv) a humane society police department in section 57 of chapter 22C.

“Law enforcement officer” or “officer”, any officer of an agency, including the head of the agency; a special state police officer appointed pursuant to section 57, section 58 or section 63 of chapter 22C; a special sheriff appointed pursuant to section 4 of chapter 37 performing police duties and functions; a deputy sheriff appointed pursuant to section 3 of said chapter 37 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

....

(e) Seven commissioners shall constitute a quorum and the affirmative vote of a majority of commissioners present and voting shall be required for an action of the commission. The commission shall meet monthly and at other times as it shall deem necessary or upon the written request of 4 commissioners or the chair; provided, however, that notice of all meetings shall be given to each commissioner and to other persons who request such notice. The commission shall adopt regulations establishing procedures, which may include electronic communications, by which a request to receive notice shall be made and the method by which timely notice may be given.

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:

...

(13) enter into agreements or other transactions with a person, including, but not limited to, a public entity or other governmental instrumentality or authority in connection with its powers and duties under this chapter;

...

(27) maintain an official internet website for the commission;

....

M.G.L. c. 6E, § 4

(h) The division of police certification, in consultation with the division of police standards, shall create and maintain a database containing records for each certified law enforcement officer, including, but not limited to:

(1) the date of initial certification;

- (2) the date of any recertification;
- (3) the records of completion of all training and all in-service trainings, including the dates and locations of said trainings, as provided by the municipal police training committee established in section 116 of chapter 6, and the department of state police;
- (4) the date of any written reprimand and the reason for said reprimand;
- (5) the date of any suspension and the reason for said suspension;
- (6) the date of any arrest and the charge or charges leading to said arrest;
- (7) the date of, and reason for, any internal affairs complaint;
- (8) the outcome of an internal affairs investigation based on an internal affairs complaint;
- (9) the date of any criminal conviction and crime for said conviction;
- (10) the date of any separation from employment with an agency and the nature of the separation, including, but not limited to, suspension, resignation, retirement or termination;
- (11) the reason for any separation from employment, including, but not limited to, whether the separation was based on misconduct or whether the separation occurred while the appointing agency was conducting an investigation of the certified individual for a violation of an appointing agency's rules, policies, procedures or for other misconduct or improper action;
- (12) the date of decertification, if any, and the reason for said decertification; and
- (13) any other information as may be required by the commission.

...

(j) The commission shall promulgate regulations for the division of police certification to maintain a publicly available and searchable database containing records for law enforcement officers. In promulgating the regulations, the commission shall consider the health and safety of the officers.

M.G.L. c. 6E, § 13

(a) The commission shall maintain a publicly available database of orders issued pursuant to section 10 on the commission's website, including, but not limited to: (i) the names of all decertified officers, the date of decertification, the officer's last appointing agency and the reason for decertification; (ii) the names of all officers who have been suspended, the beginning and end dates of suspension, the officer's appointing agency and the reason for suspension; and (iii) the names of all officers ordered to undergo retraining, the date of the retraining order, the date the retraining was completed, the type of retraining ordered, the officer's appointing agency and the reason for the retraining order.

(b) The commission shall cooperate with the national decertification index and other states and territories to ensure officers who are decertified by the commonwealth are not hired as law enforcement officers in other jurisdictions, including by providing information requested by those entities.

555 CMR 8.06: Public Database

(1) The Commission shall establish, by a date adopted by a vote of the Commissioners,

and thereafter shall maintain, a public database of information concerning individuals who, at any point since July 1, 2021, have served as an officer or have been certified.

(2) The public database must be searchable and accessible to the public through the Commission's official website.

(3) Except as provided in 555 CMR 8.06(4), the public database shall make the following available to the general public, to the extent that the information is possessed by the Commission:

(a) These forms of information for each officer identified in 555 CMR 8.06(1):

...

6. The date of, and reason for, any decertification by the Commission or by a comparable body in any other jurisdiction;

...

10. A summary of the officer's disciplinary record, which may incorporate information provided by law enforcement agencies that have employed the officer, and which shall list:

- a. Complaints against the officer;
- b. The final disposition of each listed complaint;
- c. The nature of any discipline imposed as a result of each listed complaint;
- d. Whether each complaint was submitted anonymously; and
- e. Whether each complaint was submitted under the pains and penalties of perjury.

....

(4) Except as provided in 555 CMR 8.06(5), the public database shall not make available to members of the general public:

(a) The following forms of information:

...

(b) The following additional forms of information:

...

- 4. Information that an individual has the ability to have corrected, amended, or removed pursuant to M.G.L. c. 66A, § 2(j) or 555 CMR 8.08;
- 5. Information that shall not be disclosed pursuant to 555 CMR 8.08(10);

...

12. Information concerning a complaint or disciplinary matter that the Commission, by vote of the Commissioners, has decided not to make available to members of the general public;

13. Information concerning any individual who is no longer serving as an officer and who last received a certification more than three years earlier, but who has not been decertified; . . . .

(5) The public database may be designed to allow particular individuals to access certain forms of information that are listed in 555 CMR 8.06(4) to the extent that the Commission is not precluded by law from making such information available to those individuals.

(6) The Commission may make other determinations concerning the content, the accessibility of information, and the format of the public database as follows:

(a) Any such determination shall be made in accordance with guidelines

- established by a vote of the Commissioners following an opportunity for public input, or, if no such guidelines are established, in accordance with guidelines established by the Commission's Executive Director;
- (b) Such a determination may provide for forms of information that are not specifically referenced in 555 CMR 8.06(3) or (4) to be made available, or to be made unavailable, to the general public or to particular individuals;
  - (c) Any such determination must be consistent with 555 CMR 8.00 and other relevant provisions of law; and
  - (d) Any such determination must be made with due consideration for the health and safety of officers.

555 CMR 8.08: *Objections Concerning Data*

- (1) An individual who is identified in data maintained by the Commission, or the individual's representative, may raise objections related to the accuracy, completeness, pertinence, timeliness, relevance, or dissemination of the data, or the denial of access to such data by filing a written petition for relief with the Executive Director, in a form prescribed by the Commission, at any time.
- (2) Upon receiving a petition filed pursuant to 555 CMR 8.08(1), the Executive Director shall promptly evaluate the petition, including by obtaining relevant information.
- (3) If the Executive Director determines that the relief requested in a petition filed pursuant to 555 CMR 8.08(1) is warranted, the Executive Director shall promptly:
  - (a) Take appropriate steps to grant such relief, or comparable relief;
  - (b) Make information concerning the action taken available to the Commissioners;
  - (c) Notify the petitioner of the status of the petition.
- (4) After the Executive Director takes the steps prescribed by 555 CMR 8.08(3):
  - (a) The Chair may take any further action allowed by law with respect to the petition filed pursuant to 555 CMR 8.08(1); and
  - (b) The Executive Director shall notify the petitioner regarding any change in the status of the petition.
- (5) If the Executive Director determines that the relief requested in a petition filed pursuant to 555 CMR 8.08(1) is unwarranted, the Executive Director shall:
  - (a) Within a reasonable time, notify the petitioner in writing that such determination was made and that the petitioner shall have the opportunity to submit a statement reflecting the petitioner's position regarding the data;
  - (b) At or around the same time, make information concerning the determination available to the Commissioners; and
  - (c) Cause any such statement to be included with the data and with any subsequent disclosure or dissemination of the data.
- (6) After the Executive Director takes the steps prescribed by 555 CMR 8.08(5):
  - (a) The Chair may take any further action allowed by law with respect to the petition filed pursuant to 555 CMR 8.08(1); and
  - (b) The Executive Director shall notify the petitioner regarding any change in the status of the petition.
- (7) Within 30 days of receiving a notification pursuant to 555 CMR 8.08(3)(c), (4)(b),

5(a), or 6(b), a petitioner may file a written request for further review with the Executive Director.

(8) The Executive Director shall provide any request for further review made pursuant to 555 CMR 8.08(7) to the Chair promptly upon receiving it.

(9) The Chair may take any action allowed by law with respect to a request for further review made pursuant to 555 CMR 8.08(7).

(10) If the Commission has a good-faith, reasonable belief that an employee possesses a right to have information that is contained in a personnel record maintained by an employer corrected or expunged by an employer pursuant to M.G.L. c. 149, § 52C, the Commission shall not disclose such information without first giving the employee the opportunity to exercise the right, unless the law requires otherwise.