



MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

November 18, 2024

CHAIR

Margaret R. Hinkle

COMMISSIONERS

Lester Baker

Hanya H. Bluestone

Lawrence Calderone

Eddy Chrispin

Deborah Hall

Marsha V. Kazarosian

Charlene D. Luma

Rev. Clyde D. Talley

EXECUTIVE DIRECTOR

Enrique A. Zuniga

In accordance with [M.G.L. c. 30A, §§ 18-25](#), and [St. 2021, c. 20](#), as amended by [St. 2022, c. 22](#), by [St. 2022, c. 107](#), and by [St. 2023, c. 2](#), 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 #57

November 21, 2024

8:30 a.m.

Remote Participation via [Zoom](#)

Meeting ID: 922 7769 6230

- 1) Call to Order
- 2) Approval of Minutes
 - a. October 17, 2024
- 3) Executive Director Report – Enrique A. Zuniga
- 4) Legal Update – Randall E. Ravitz, Pauline Nguyen, Elizabeth B. Smith, and Annie E. Lee
 - a. Update on Regulations
 - i) Corrections to 555 CMR 1.01(1): *Transmittal of Complaint by Agency to Commission* within 555 CMR 1.00: *Procedural Rules*
 - ii) Publication of 555 CMR 12.00: *Maintenance, Reporting, and Audits of Law Enforcement Records and Information*
 - iii) Municipal Police Training Committee's process of revising 555 CMR 3.00: *Requirements for Law Enforcement Officer Training*
 - b. Recertification
 - i) Issues related to officers' being of good moral character and fit for employment in law enforcement
 - ii) Issues related to officers' physical fitness and behavioral health
 - c. Agency Certification Initiative
 - i) Discussion of draft standard on Officer Code of Conduct

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mass.gov/orgs/post-commission

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- 5) Matters not anticipated by the Chair at the time of posting
- 6) Executive Session in accordance with the following:
 - M.G.L. c. 30A, § 21(a)(1), to discuss “the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, . . . or individual”;
 - M.G.L. c. 30A, § 21(a)(5), to discuss 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, to discuss the initiation of preliminary inquiries and initial staff review 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), to discuss and approve the minutes of prior Executive Sessions; and
 - M.G.L. c. 30A, § 21(a)(3), to discuss strategy with respect to litigation in the matter of *Scott Hovsepian, et al. v. Massachusetts Peace Officer Standards and Training Commission*, Case No. 2284CV00906 in the Suffolk County Superior Court, as an open meeting may have a detrimental effect on the litigating position of the POST Commission.
- a. Discussion of strategy with respect to litigation in the matter of *Scott Hovsepian, et al. v. Massachusetts Peace Officer Standards and Training Commission*, Case No. 2284CV00906 in the Suffolk County Superior Court.
- b. Suspension hearing in the matter of William Chu, Case No. 2024-040
- c. Reports of Preliminary Inquiry in the following cases:
 - i) PI-2024-042
 - ii) PI-2023-04-13-005
 - iii) PI-2024-038
 - iv) PI-2023-06-15-003
 - v) PI-2023-04-13-016
 - vi) PI-2023-04-13-017
- d. Division of Standards request to enter into voluntary decertification or suspension agreement in the following cases:
 - i) PI-2023-07-12-001
 - ii) PI-2023-10-24-006
- e. Division of Standards request for approval to conduct Preliminary Inquiries in the following cases:

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- i) PI-2024-069
- ii) PI-2024-070
- iii) PI-2024-071
- iv) PI-2024-072
- v) PI-2024-073
- vi) PI-2024-074
- vii) PI-2024-075
- viii) PI-2024-076

f. Approval of the minutes of the Executive Session of October 17, 2024

Note that M.G.L. c. 66, § 6A(d) provides that “[a]n electronically produced document submitted to an agency . . . for use in deliberations by a public body shall be provided in an electronic format at the time of submission.”

2a.

MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION
Public Meeting Minutes
October 17, 2024
8:30 a.m.
Via Zoom

Documents Distributed in Advance of Meeting

- September 19, 2024, Public Meeting Minutes
- September 24, 2024, Public Meeting Minutes
- Finance & Administrative Update
- Division of Police Standards Semi-Annual Report
- Legal Update, including:
 - 555 CMR 12.00: Maintenance, Reporting, and Audits of Law Enforcement Records and Information, revised version
 - 555 CMR 7:00: Recertification, revised version
 - 555 CMR 7:00: Recertification, revised version with comments and notes
 - Issues related to the certification requirement of being of good moral character and fit for employment in law enforcement
 - Memo Regarding Physical and Psychological Fitness Update
 - Memo Regarding Use of Force Reporting
 - 555 CMR 13.00: Agency Certification Standards – Draft Use of Force and Reporting Standards
 - Memo Regarding Law Enforcement Agency Certification Standards – Code of Conduct
 - 555 CMR 13.00: Agency Certification Standards – Draft Code of Conduct

In Attendance

- Commission Chair Margaret R. Hinkle
- Commissioner Lester Baker
- Commissioner Hanya H. Bluestone
- Commissioner Lawrence Calderone
- Commissioner Deborah Hall
- Commissioner Marsha V. Kazarosian
- Commissioner Charlene D. Luma
- Commissioner Clyde Talley

1. Call to Order

- The meeting began at 8:35 a.m.
- Chair Hinkle took a roll call of the Commissioners present. The roll call proceeded as follows:
 - Commissioner Baker – Present
 - Commissioner Bluestone – Present
 - Commissioner Calderone – Present
 - Commissioner Hall – Present
 - Commissioner Kazarosian – Present
 - Commissioner Luma – Present
 - Commissioner Talley – Present

- Chair Hinkle noted that Commissioner Eddy Chrispin would be absent for this meeting.
- 2. Approval of Minutes**
- Chair Hinkle asked for a motion to approve the September 19, 2024, minutes. There was a motion by Commissioner Talley, seconded by Commissioner Kazarosian.
 - The Commissioners voted to approve the September 19, 2024, public meeting minutes as follows:
 - Commissioner Bluestone – Yes
 - Commissioner Calderone – Yes
 - Commissioner Hall – Yes
 - Commissioner Kazarosian – Yes
 - Commissioner Luma – Yes
 - Commissioner Talley – Yes
 - The minutes were approved.
 - Chair Hinkle asked for a motion to approve the September 24, 2024, minutes. There was a motion by Commissioner Talley, seconded by Commissioner Luma.
 - The Commissioners voted to approve the September 24, 2024, public meeting minutes as follows:
 - Commissioner Baker – Yes
 - Commissioner Bluestone – Yes
 - Commissioner Calderone – Abstain
 - Commissioner Hall – Abstain
 - Commissioner Kazarosian – Yes
 - Commissioner Luma – Yes
 - Commissioner Talley – Yes
 - The minutes were approved.
- 3. Executive Director Report – Enrique A. Zuniga**
- Executive Director Zuniga provided an update on the progress within the Division of Police Certification.
 - He stated that they were continuing to make progress updating officer information, getting status reports, and capturing and updating law enforcement officer information.
 - The division was also preparing for infrastructure changes given the activities of the subcommittee on certification.
 - He then highlighted a panel discussion which would be taking place on the following day at the Commission’s office. The panel consisted of experts from the International Association of Chiefs of Police (IACP).
 - Executive Director Zuniga then introduced Chief Financial & Administrative Officer Rebello-Pradas for his update.
- 4. Finance & Administrative Update – Chief Financial & Administrative Officer (CFAO) Eric Rebello-Pradas**
- CFAO Rebello-Pradas began his presentation on fiscal year 2025. He stated as follows.
 - The first quarter of fiscal year 2025 ended in September. At that time, roughly 17% of the Commission’s budget had been spent.
 - The budget for fiscal year 2026 is currently under development and would be filed on January 22, 2025.

- To prepare for the budget for fiscal year 2026, a maintenance budget was developed and was due to the Executive Office for Administration and Finance on October 30, 2024.
- Once that is submitted, the Commission’s Treasurer and Executive Director would be briefed on the maintenance budget, and a final proposal would be put together.
- An update on this topic can be expected at the November Commission meeting.
- Executive Director Zuniga thanked CFAO Rebello-Pradas for his presentation.

5. Division of Police Standards Semi-Annual Report – Division of Police Standards (DPS) Director Matthew P. Landry

- DPS Director Landry thanked the Commission for the opportunity to present and shared a PowerPoint presentation to provide an update on the Division’s caseload from January 11, 2024, through September 30, 2024. He stated as follows.
 - During this time, 682 complaints were submitted by the public and 410 were submitted by law enforcement agencies through the new POST Commission Law Enforcement Agency (LEA) portal.
 - He stated that the 682 complaints submitted by the public did not include those that were screened out.
 - Complaints that were screened out included duplicate submissions, complaints against individuals who are not regulated by POST, and complaints that may not have been credible.
 - He stated that the POST LEA portal, which launched in January 2024, had been helpful for agencies and had provided a tool for the Commission to organize and track complaints.
- DPS Director Landry then provided an update on the Division’s investigatory work, stating as follows.
 - In January 2024, the Division had 26 active preliminary inquiries. In October 2024 that number increased to 68.
 - In total, 58 investigations had been concluded with a recommendation of discipline to the Commission, 11 cases had been completed without recommending discipline, and 53 suspensions had been issued.
 - In January 2024, nine officers had faced decertification by the Commission. In October 2024, that number had increased to 30.
- DPS Director Landry noted the work that had taken place since January 2024 and thanked his team for their hard work.
- Commissioner Luma thanked DPS Director Landry for his report and asked if he knew how many public complaints had resulted in inquiries or disciplinary action versus complaints that came in other forms.
- DPS Director Landry said that he didn’t have the numbers currently but could get them for her.
- Commissioner Luma stated that she wanted to see the numbers.
- Commissioner Talley asked whether certain types of complaints were being tracked.
- DPS Director Landry stated that they were, and that the POST LEA portal had made that process much easier.

- Executive Director Zuniga added that discussions are being held on how to modify the categories for complaint type within the portal, as many complaints are being entered as “other.”
- Chair Hinkle thanked everyone in the Division of Police Standards on behalf of the Commissioners. She then turned the floor to General Counsel Ravitz for the Legal Update.

6. Legal Update – Randall E. Ravitz, Pauline Nguyen, Elizabeth B. Smith, and Annie E. Lee

- General Counsel Ravitz shared a PowerPoint presentation regarding a set of regulations concerning maintaining, reporting, and auditing law enforcement records and information. He stated as follows.
 - The initiative began in May 2023 with an introductory presentation on the subject.
 - Between June and August 2024, emails were sent to interested parties seeking public comment, and a public hearing for verbal comments was held on August 1.
 - At the September Commission Meeting, a revised set of draft regulations was reviewed.
 - At the current meeting, a revised draft of the regulations presented at the September Commission Meeting will be discussed.
- General Counsel Ravitz summarized the changes that were made to the regulations. He stated as follows.
 - Language extending the protection against having to violate any privilege or law to all individuals was added.
 - Due to a concern regarding another regulatory process, the definition of appointing authority was clarified.
 - In provisions regarding records of investigations, the language was slightly edited to take into account that investigations by another authority may be confidential.
 - A change was made to confirm that if an individual is represented by counsel in a matter that any related notice is to be provided through that person.
 - An anti-retaliation provision that was already in the regulations was edited to incorporate a reference to the anti-retaliation provision in the Commission's governing statute.
- General Counsel Ravitz then asked the Commission for a vote to approve the set of regulations as it appeared in the packet, with the request that one phrase known to the Commission be added.
- Chair Hinkle asked for a motion to approve the proposed set of regulations. There was a motion made by Commissioner Kazarosian, seconded by Commissioner Talley.
- The Commissioners voted to approve the proposed set of regulations with the suggested change to 12.01(3)(d). The vote was unanimous in favor of the regulations.
- Chair Hinkle thanked the legal team for their hard work in developing these regulations and stated that they would next discuss the recommendations of the Subcommittee on certification policy.
- General Counsel Ravitz shared a PowerPoint presentation on the work of the Certification Policy Subcommittee and the key provisions of the proposed new certification regulations. He stated as follows.

- The Subcommittee consisted of Commissioner Calderone, Commissioner Bluestone, and Commissioner Kazarosian. It was active between February and October 2024.
- The Subcommittee gave particular attention to the following:
 - A draft set of new regulations on recertification;
 - Structuring and timing of the recertification process;
 - Good moral character and fitness for employment in law enforcement;
 - Physical and psychological fitness;
 - In-service training;
 - Oral interviews;
 - Examinations; and
 - Performance review.
- The Subcommittee also received and addressed the following:
 - Multiple drafts of new regulations on recertification;
 - Memoranda on the certification process and how it could be structured; and
 - A set of public comments including eight formal comment letters from stakeholders, seven oral statements at meetings, and other informal comments.
- While developing the regulations, the following sources were consulted by the Subcommittee:
 - The Commission’s governing statute;
 - An initial set of requirements and plan that the Commission approved in March 2022;
 - The current recertification regulations, 555 CMR 7.00;
 - The set of regulations that the Commission approved concerning initial certifications and self-sponsored certifications, 555 CMR 9.00;
 - The proposed regulations concerning recordkeeping, reporting, and auditing, 555 CMR 12.00; and
 - Ideas from inside and outside the Commission.
- Looking at the provisions that deal with procedural aspects, one provision would allow the Division of Police Certification to defer its final decision on recertification to the officer’s birthday month.
- Another provision would extend an officer’s certification period while the application has been submitted and is being processed, or while a decision is being challenged.
- Another provision would relieve individuals and agencies of having to comply with provisions and orders, if it would violate a privilege or a law.
- Additionally, the new regulations would now include specifications on when a conditional certification is required, allowable, or not allowed.
- These provisions would relieve an officer of having to satisfy any conditions attached to a certification while the officer is challenging the decision.
- General Counsel Ravitz then began discussing the actual requirements for certification. He stated as follows.
 - To be certified, the statute requires that officers must:
 - Attain the age 21;

- Successfully complete high school education, or the equivalent determined by the Commission;
 - Successfully complete a Municipal Police Training Committee (MPTC) approved basic training program;
 - Successfully complete a physical and psychological fitness evaluation approved by the Commission;
 - Successfully complete a state and national background check;
 - Pass a Commission-approved examination;
 - Possess current first aid and CPR certificates or the equivalent as determined by the Commission;
 - Successfully complete an oral interview administered by the Commission;
 - Be determined as having good moral character and fitness for employment in law enforcement by the Commission;
 - Not have a felony conviction;
 - Not be listed in the National Decertification Index or the Commission’s Decertification Database;
 - Not have been decertified pursuant to section M.G.L. 6E, § 10(a); and
 - Successfully complete in-service training mandated by the MPTC.
- The regulations also contained sections regarding restrictions that mirrored those in the regulations on initial and self-sponsored certification.
- Additionally, there was a section dealing with enforcement and discipline which was intended to mirror a similar section on enforcement and discipline contained in the regulations dealing with recordkeeping, reporting and auditing.
- General Counsel Ravitz stated that the draft regulations would come before the Commission at a future meeting.
- Until then, comments were welcomed and encouraged and proposed changes would be shown in redlining.
- If a version were to be approved by the full Commission, it would be subject to a public hearing and comment process, and it would return to the Commission for possible revision and final approval.
- Chair Hinkle thanked General Counsel Ravitz, the Commissioners participating in the Subcommittee, and the members of the public who submitted comments.
- General Counsel Ravitz then turned the floor to Deputy General Counsel Nguyen.
- Deputy General Counsel Nguyen then shared a PowerPoint presentation and began a discussion on the requirement that an officer must possess good moral character and be fit for employment in law enforcement.
- She began by summarizing the following changes made to the regulations:
 - Clarifying the definition of “character and fitness”;
 - Clarifying that a character-and-fitness assessment requires consideration of the totality of circumstances and that no one factor is dispositive;
 - Providing the factors a law enforcement agency must rely on to determine an officer’s character and fitness;
 - Making the relied-on factors mandatory rather than discretionary;
 - No longer incorporating the IACP Code of Ethics and Standards of Conduct by reference in the regulations; and

- Ensuring the regulations expressly state those instances of conduct that can be considered by the appointing authority, even if the officer is not engaged in multiple instances of similar or related misconduct.
- She stated that the main comments and concerns received from the public involved the idea that a character-and-fitness evaluation should be as concrete and objective as possible.
- Deputy General Counsel Nguyen then began discussing the two items that the Subcommittee reserved for consideration by the full Commission.
 - The first item was to have the appointing authority consider “credible allegations” versus “substantiated allegations,” or some other type of allegation.
 - The regulations list the factors to consider in evaluating an officer’s character and fitness.
 - They also list the type of information that an agency may consider when looking at these factors.
 - At the September Subcommittee meeting there was a discussion on whether to use the term “credible allegations” or “substantiated allegations.”
- Commissioner Luma asked whether there was a pattern of unsubstantiated allegations, and how that could be addressed.
- Commissioner Kazarosian stated that she was concerned about using “unsubstantiated” over “credible,” noting that complaints are just the starting point of the process, not the sole indicator.
- Commissioner Kazarosian also mentioned that some agencies require complainants to meet in person with a police officer to finalize their complaint, and if a complainant is uncomfortable with this, it could impact the substantiation of the complaint.
- Commissioner Calderone stated that he disagreed with Commissioner Kazarosian. He stated that every complaint that comes in is considered a credible complaint until it is found to be substantiated or not credible.
- Commissioner Calderone stated that the officer’s role has an impact on the quantity and quality of the complaints they received, and that the Commission needed to be careful and ensure that they are treating officers fairly.
- Commissioner Bluestone stated that it was clear that this distinction was significant, and that her view of the issue was whether the Commission would be heading in the direction of a false positive or a false negative.
- Commissioner Kazarosian agreed that the distinction was important but noted that the idea of decertifying an officer based on a credible yet unsubstantiated allegation was unrealistic. She clarified that the Commission does not make decisions based on allegations alone; rather, an allegation initiates the investigation, allowing the Commission to assess its credibility.
- Commissioner Luma agreed with Commissioner Kazarosian and expressed her concern that if the Commission limits itself to substantiated or unsubstantiated, they would not be able to consider a pool of complaints or allegations that it should review.
- Chair Hinkle asked Deputy General Counsel Nguyen what she was looking to do on this issue at this meeting.
- Deputy General Counsel Nguyen stated that the guidance provided by the Commissioners was helpful, but that she was unsure if they were ready for a vote.

- Chair Hinkle stated that the Commission was not ready to take a vote, and Commissioner Baker agreed.
- Deputy General Counsel Nguyen stated that she would return to a future Commission meeting with a new proposal and further definitions.
- Chair Hinkle then turned to General Counsel Ravitz who turned the floor to Elizabeth Smith, Paralegal in the Legal Division.
- Paralegal Smith shared a PowerPoint presentation and began discussing the Physical and Psychological Fitness Survey which she and Counsel Annie Lee drafted. She stated the following.
 - In February 2024, the Subcommittee received comments from stakeholders regarding physical and psychological standards.
 - In April 2024, a summary of research on the standards used in other states was presented to the Subcommittee.
 - During the April 2024 meeting, the Subcommittee decided to prepare a survey for officers to gather information on existing resources.
 - In October 2024, a draft agency questionnaire was reviewed and approved by the Subcommittee.
 - The following revisions were made to the survey prior to its approval:
 - The survey now focuses on physical and psychological fitness.
 - All the questions are optional.
 - The survey can be filled out either on the computer or on a smartphone or tablet.
 - The survey will be sent to agencies, and they will be given a month to complete it.
 - Once the data from the surveys is collected, it will be presented at a later Commission meeting.
- Paralegal Smith then highlighted an event which would be hosted by the Commission the following day at the Commission's office.
- Commissioner Bluestone acknowledged the tremendous amount of work that Paralegal Smith had done to pull the survey together. She then expressed concerns about putting physical and psychological fitness together on the survey.
- Paralegal Smith responded that she understood and that this wasn't leading the Commission to any policy decisions but was rather an initial step.
- Commissioner Calderone thanked Elizabeth Smith for her hard work.
- The Commission then turned back to Deputy General Counsel Nguyen who had another policy issue to address.
- Deputy General Counsel Nguyen shared a PowerPoint presentation and began discussing the second policy issue at hand. She stated the following.
 - The second policy decision to discuss was whether to require an appointing authority to provide a written explanation for a positive attestation, and if so, in which circumstances
 - For positive attestations, the regulation requires that the appointing authority provides supporting documentation.
 - For negative attestations, they state that the appointing authority must make a written report to the Commission.
 - In considering any proposal, the Commission should take into account the burdens of implementation.

- She then outlined a few options to address the issue at hand for the Commission's consideration.
- The first option available to the Commission was to keep the regulations the same.
- The second was to require a positive attestation report, but to only collect it at the Commission's request.
- The third was to require that all attestations be submitted to the Commission.
- The fourth was to require that a positive attestation report be submitted to the Commission in certain circumstances.
- Deputy General Counsel Nguyen then turned it back over to the Chair and the full Commission.
- Chair Hinkle thanked Deputy General Counsel Nguyen and asked the Commissioners if they had any questions.
- Commissioner Calderone stated that he was in possession of a letter submitted on behalf of the Boston Police Commissioner Michael Cox and asked if it was received.
- Executive Director Zuniga stated that he had received the letter, and that it was too late to submit the letter into the packet. He stated that it would be addressed at the next Commission meeting.
- Commissioner Calderone thanked Executive Director Zuniga and stated that he wanted to make sure that it was part of the record.
- Commissioner Calderone continued, stating that the letter was a four-page document, opposing what had been suggested when it came to the recertification of an officer.
- Commissioner Calderone then described some of the letter's contents. Specifically, that the expansion of the requirement to provide written explanations for all attestations places an undue burden on agencies.
- Executive Director Zuniga stated that the comment regarding the administrative burden was in line with other comments received on the matter and was being considered.
- Commissioner Calderone thanked Executive Director Zuniga for the explanation and stated that he was concerned about the burden this puts on a department.
- Commissioner Bluestone agreed and stated that she felt the administrative load needed to be considered. Commissioner Baker agreed as well.
- General Counsel Ravitz then turned to Counsel Lee for an update on the Agency Certification initiative.
- Counsel Lee began her update, stating the following.
 - At the September Commission Meeting, there was a vote to confirm a draft of use-of-force standards.
 - These standards build upon the Commission's use-of-force regulations.
 - While working on agency standards, Counsel Lee was required to consult MPTC.
 - The MPTC identified a number of topics they wanted to discuss further and continued to share general feedback.
- Commissioner Baker stated that Chief Hicks, the head of the MPTC, submitted a 13-page document with comments on this topic, and that he hadn't received any feedback.
- Counsel Lee stated that these comments had been considered on a staff level to resolve as much as possible prior to providing and reviewing the comments with the Commission.
- Commissioner Baker said that he felt this feedback should be at the forefront of the discussion.

- Commissioner Calderone expressed concern and stated that he had received similar comments from the MPTC.
- Commissioner Bluestone requested a copy of this document to review it.
- Commissioner Kazarosian stated that the Commission had worked with the MPTC very successfully on this topic, and that she had not heard anything to suggest that that was no longer the case.
- Executive Director Zuniga agreed with Commissioner Kazarosian and said that the Commission was in ongoing discussions with the MPTC and consulted with them regularly.
- Commissioner Baker stated that he thought the Commission worked well with the MPTC and apologized for giving a different impression.
- Commissioner Calderone asked that documents coming in from any agency be delivered to the Commissioners for consideration.
- Executive Director Zuniga responded that they would absolutely do that and asked whether he would want the documents as they come in or in the packet.
- Commissioner Calderone asked that they be sent as they come in.
- Counsel Lee clarified that the document which had been discussed here was provided by a consultant retained by the MPTC and the POST Commission and regarded the internal development process.
- Counsel Lee stated that she would pass on the document to the Commissioners and reiterated that there was no intention of preventing communication with the MPTC.
- Chair Hinkle thanked Counsel Lee and stated that she felt the Commission understood and appreciated that.
- Counsel Lee then began discussing the draft code-of-conduct standard. She stated the following.
 - The standard can be broken down into affirmative obligations and negative obligations.
 - Affirmative obligations require officers to take certain actions or act in a certain way that promotes the priorities and values of the Commission's enabling legislation.
 - The negative obligations are meant to bolster affirmative obligations, and proactively address behavior that has historically formed the basis for complaints against law enforcement officers.
 - The draft standard in the packet was revised to reflect feedback concerning the importance of protecting constitutional rights of those who are targets of law enforcement, surveillance, investigation, and arrest.
 - She clarified that they were not asking for a vote.
- Commissioner Calderone asked Counsel Lee to share the name of the firm she was consulting with.
- Counsel Lee responded, saying that it was Daigle Law Group and specifically Eric Daigle.
- Chair Hinkle thanked all the presenters for their presentations.

Matters Not Anticipated by the Chair at the Time of Posting

- The Chair indicated that she did not believe there were any matters not anticipated at the time of the posting of the meeting notice.

8. Executive Session

- The Chair raised the issue of moving into executive session in accordance with M.G.L. c. 30A, § 21(a)(5), in anticipation of discussion regarding the investigation of charges of criminal misconduct; under 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 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 the prior executive session.
- The Chair stated that:
 - The Commissioners will be considering reports of preliminary inquiries in 2 cases.
 - They will be considering the request to enter into voluntary decertification or suspension agreements with regard to two cases.
 - They will be considering requests from the Division of Police Standards to approve preliminary inquiries in eight cases.
 - They will also be hearing a motion to approve the minutes of the executive session of the September 24 Commission meeting.
- Executive Director Zuniga reminded the public that they can send comments and find contact information through the POST Commission website.
- The Chair informed members of the public that the Commission would not reconvene its public meeting after the executive session.
- General Counsel Ravitz asked that Commissioners raise any questions with the staff in between meetings so that they can be resolved before the upcoming meeting.
- The Chair thanked the public, and the public meeting was adjourned at 10:24 a.m.

3.



Executive Director Report

November 21, 2024



Agenda

1. Reports Due to POST
2. Officer Records – Letters of Commendation
3. Physical Health and Fitness Panel

Reports Due to POST



Open Complaints and Incident Reports (overdue > 90 days) *

- Many agencies closing out complaints in the portal
- 14 Agencies with **18 total** cases/complaints are overdue (have not requested extensions)
- Wareham (3), Lawrence (2), MSP (2) pending. 11 other agencies with one case pending
- Requirement to close the case or ask for extension
- Numbers have significantly decreased since last report (September 2024)

* Excludes cases/complaints where agency has requested and obtained an extension from POST

Reports Due to POST



Closed Cases (I/A's) but Discipline is Pending

- While I/A's may be closed, some agencies in some cases take a long time to impart discipline
- 56 cases across 13 agencies have a closed case with discipline pending
- Boston PD is outlier with more than ½ (34 cases) pending discipline
- Cambridge (5), Lawrence (4), MSP (3), Brookline (2) and eight other agencies with one case pending discipline
- Average # of days for Boston PD in which discipline is pending: 110 days
- Average # of days for all others in which discipline is pending: 61 days

Officer Records



Letters of Commendation

- Regulations provide that POST include letters of commendation in the public database - 555 CMR 8.06 §3(a)(5)
- POST is embarking in effort to scope and develop functionality and guidance in the portal to request and receive these data
- Will consult with departments regarding best approach to collect, aggregate and report on this data

Officer Records



Panel on Officer Health and Physical Fitness

- The panel on health and physical fitness took place on October 18
- Officer health and wellness is a topic of great interest nationally and internationally
- Multiple insights regarding the challenges affecting the profession and the case for training and maintaining a healthy police workforce
- Approach should be collaborative, evidence based (data-driven), incremental, and non-punitive
- Notes have been included in the packet



Massachusetts Peace Officer Standards & Training
POSTC-comments@mass.gov
www.mass.gov/orgs/post-commission
617-701-8401

4a(i).

555 CMR 1.00: PROCEDURAL RULES

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1.01: Review of Complaints by Agency

(1) Transmittal of Complaint by Agency to Commission. The head of an agency shall, within two days of their receipt of a complaint, which is any credible report, written or oral, evidencing or alleging the misconduct of an officer from a member of the public, personnel at the agency, or any other source, do the following:

(a) if the complaint is related to minor matters, a category that includes discourtesy and basic work rule violations such as tardiness, inattention to detail, equipment violations, grooming violations, or comparable infractions and the complaint does not involve evidence or an allegation of: bias on the basis of race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level; excessive, prohibited, or deadly force; or an action which resulted in serious bodily injury or death;

1. refer the complaint for resolution under the agency's internal resolution policy, which shall comply with any minimum requirements established by the commission;
2. if the agency does not have an internal resolution policy, if the agency's internal resolution policy is not in compliance with the minimum requirements established by the commission, or if the matter cannot be resolved under 555 CMR 1.01(1)(a)1. for any other reason;
- ~~2.~~ the agency shall maintain any documentation of the complaint, the name and commission certification identification number of the subject officer, a brief summary of the nature of the conduct that is the subject of the complaint, and any other documentation that the agency deems material to an understanding of the complaint and the agency's handling of the complaint or that the commission directs the agency to maintain; and
3. make any such complaint available to the commission upon request, or under any policy that may be established by the commission.

...

555 CMR 1.00: PROCEDURAL RULES

Section

- 1.01: Review of Complaints by Agency
- 1.02: Preliminary Inquiries
- 1.03: Confidentiality of Preliminary Inquiries
- 1.04: Required Notification of Preliminary Inquiries
- 1.05: Conduct of Preliminary Inquiries
- 1.06: Suspension of Certification Pending Preliminary Inquiry
- 1.07: Reports Following Preliminary Inquiries
- 1.08: Suspensions of Certifications following Arrests, Criminal Charges or Indictments for Felonies, or following Preliminary Inquiries
- 1.09: Single Commissioner Review of Suspensions
- 1.10: Final Disciplinary Hearings and Appeals of Certification Decisions

1.01: Review of Complaints by Agency

(1) Transmittal of Complaint by Agency to Commission. The head of an agency shall, within two days of their receipt of a complaint, which is any credible report, written or oral, evidencing or alleging the misconduct of an officer from a member of the public, personnel at the agency, or any other source, do the following:

(a) if the complaint is related to minor matters, a category that includes discourtesy and basic work rule violations such as tardiness, inattention to detail, equipment violations, grooming violations, or comparable infractions and the complaint does not involve evidence or an allegation of: bias on the basis of race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level; excessive, prohibited, or deadly force; or an action which resulted in serious bodily injury or death:

1. refer the complaint for resolution under the agency's internal resolution policy, which shall comply with any minimum requirements established by the commission;
2. if the agency does not have an internal resolution policy, if the agency's internal resolution policy is not in compliance with the minimum requirements established by the commission, or if the matter cannot be resolved under 555 CMR 1.01(1)(a)1. for any other reason, the agency shall maintain any documentation of the complaint, the name and commission certification identification number of the subject officer, a brief summary of the nature of the conduct that is the subject of the complaint, and any other documentation that the agency deems material to an understanding of the complaint and the agency's handling of the complaint or that the commission directs the agency to maintain; and
3. make any such complaint available to the commission upon request, or under any policy that may be established by the commission.

(b) if the complaint does not relate to minor matters as described in 555 CMR 1.01(1)(a), transmit a description of the complaint, whether or not the complaint was written, and a copy of any documentation of the complaint to the division of standards, and provide the following information, if known, in a form to be prescribed by the commission:

1. the name and commission certification identification number of the subject officer;
2. the date and location of the incident giving rise to the complaint;
3. the identity of the alleged victim of the misconduct described in the complaint;
4. the alleged victim's race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, socioeconomic or professional level, and any other relevant demographic information if the victim volunteered such information, provided that nothing herein should be construed to require that such information be elicited from the alleged victim or complainant; and
5. whether the complainant alleges that the officer's conduct:
 - a. was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status or socioeconomic or professional level;

4b(i).

Character and Fitness

Policy Decision: Whether to use the term “credible allegations” or “substantiated allegations”

One section of the proposed regulations lists the types of information an agency must take into account when evaluating an officer’s character and fitness. It is intended to be a non-exhaustive list and demonstrates that such an evaluation requires a totality of the circumstances review that includes looking at both the positive and negative factors of an officer’s history.

At the September subcommittee meeting, it was suggested by Commissioner Calderone that allegations should be “substantiated” to be considered in a character and fitness evaluation. There was a suggestion to use something less than “substantiated,” such as “non-frivolous,” “credible,” or “allegations that have not been rejected.” Commissioners Kazarosian and Bluestone preferred the term “credible.” Commissioner Bluestone recommended that this particular item be brought to the full Commission for discussion. At the end of the September subcommittee meeting, a member of the public submitted a comment stating that: “[t]here must be a finding with regard to any allegations”; “otherwise they should be disregarded” “given the nature of the policing,” “that is the only fair way to deal with these issues”; and if unsubstantiated allegations are considered, it will “open the door to smearing.”

In the character and fitness context, the term “credible” or “credibly” is currently in 555 CMR 7.05(4) and 555 CMR 9.07(1)(c)5., providing that an appointing authority may not consider an “allegation [that] is not specifically and credibly supported” in determining an officer’s character and fitness. The term credible also appears in other instances, such as describing the type of complaint that is reportable to the Commission. See 555 CMR 1.01(1) (“The head of an agency shall, within two days of their receipt of a complaint, which is any credible report, written or oral....”)

The proposed regulations state specifically:

(a) In making such an assessment, the ~~agency appointing authority~~ also may rely on the following, without limitation:

1. Questionnaires;
2. ~~Any~~ Guidance or forms approved by the Commission;
3. Performance reviews;
4. Relevant education;
5. Specialized training;
6. Professional awards;
7. Achievements;

8. Commendations by law enforcement agencies or officials or others;
9. Instances of imposed discipline;
10. ~~patterns~~ Credible (or substantiated) allegations of misconduct,
11. The applicant's age at the time of any conduct;
12. The amount of time since any conduct;
13. The reliability of the information concerning any conduct;
14. The seriousness of any conduct;
15. The type of substantiated allegations (e.g., -untruthfulness, excessive force);
16. The type of discipline imposed for each substantiated complaint;
17. Decisions from a body or person of authority;
18. Whether any conduct would subject the individual to discipline under M.G.L. c. 6E;
19. The cumulative effect of conduct or information;
20. The evidence of rehabilitation;
21. The applicant's positive social contributions since any conduct;
22. The applicant's positive contributions to public welfare and safety since any conduct;
23. The applicant's candor in the certification process;
24. The materiality of any omissions or misrepresentations;
25. The length of service in law enforcement at the federal, state, and municipal levels; and
26. Any other evidence of past performance.

Finally, whichever term the Commission decides to use to describe the type of allegation an agency may consider should be applied consistently to this list. Therefore, the change would apply to #10 and #15 in the list.

Please note that the use of “substantiated” in #16 is warranted in this case because it is presumed that the complaint must have been substantiated for discipline to have been imposed.

Policy Decision: Whether to require law enforcement agencies to provide a written explanation for a positive attestation, and if so in which circumstances.

On October 1, 2024, the subcommittee decided to have the full Commission discuss this matter. The regulations currently in effect provide for agencies to provide written explanations regarding any attestation that an officer *does not* possess the requisite good moral character and fitness for employment in law enforcement. One public comment stated that “agencies have no affirmative obligation under the regulations to explain any determination that an officer does possess good

character, even if an officer is known to have engaged in misconduct or has been repeatedly alleged to have engaged in a pattern of the same or similar misconduct.” Another public comment noted that “[appointing authorities] are required to merely attest to character and fitness without any explanation.”

The Commission may require that an appointing authority submit a written report or attestation where the appointing authority has determined that an officer does possess the requisite good moral character and fitness for employment as a law enforcement officer. In considering this proposal, the Commission should take into account the burdens of implementation, including the administrative tasks, associated with collecting positive attestation reports and weigh them against the benefit of understanding an appointing authority’s determination that an officer possessed the requisite character and fitness. It is noted that the Commission maintains a database of all officers’ disciplinary histories and would have the ability to collect information from that as well.

The Commission has the discretion to determine how and in which cases it would collect positive attestations. Options for the Commission’s consideration may be to:

1. Keep the regulations the same: the current regulations require an appointing authority to provide documentation supporting its determination that an officer possesses good character and fitness only at the request of the Commission. Where the appointing authority determines that an officer does *not* possess good character and fitness, it must submit a written report to the Commission, including an explanation, in accordance with 555 CMR 7.05(2)(c).
2. Require a positive attestation report, but to collect it only on request by the Commission.
3. Require that all attestations, both positive and negative, be submitted to the Commission. This would require a written attestation and explanation for all officers.
4. Require that a positive attestation report be submitted to the Commission in certain circumstances, based on a standard defined by the Commission.

The following proposal is for your consideration. It limits the circumstances in which a positive attestation would be made and submitted to the Commission. It requires that a positive attestation must be supported by a written report and collected by the Commission in two cases: 1) where an officer is alleged to have engaged in the type of conduct that is listed in the subcommittee’s proposed regulations, and 2) where an officer has engaged in two or more of instances of similar

or related misconduct. The requirements for the written report are similar to those already required for a negative attestation.

Current proposed regulation:

(~~f~~b) If an appointing authority determines that an applicant possesses character and fitness, the appointing authority shall provide, upon request by the Commission, documentation supporting such a determination.

New proposed regulation:

(f) If an appointing authority determines that an applicant possesses character and fitness, the appointing authority shall:

1. Provide, upon request by the Commission, documentation supporting such a determination; and

2. Make a written report to the Commission where:

a. Since the applicant's last certification, there has been an allegation that the applicant engaged in a form of conduct listed in 555 CMR 7.06(5); or

b. The allegation, regardless of whether it was substantiated or resulted in discipline, is related to one of the factors listed in 555 CMR 7.06(2)(b); and the applicant engaged in two or more of instances of similar or related misconduct, one of which occurred since the applicant's last certification.

(g) The written report shall contain an explanation for the appointing authority's determination including, but not limited to, a description of specific conduct supporting the appointing authority's determination. The written report must be sufficient to permit the Commission to evaluate the basis for the appointing authority's determination, and to permit the Commission to determine whether the applicant possesses character and fitness.

(h) As to each instance of specific misconduct or suspected misconduct cited in the appointing authority's report, the appointing authority shall address:

1. Any discipline imposed or decision issued by a body or person of authority as a result of the conduct, or the reasons why there was no discipline or decision;
2. The extent to which the applicant complied with any such discipline or decision;
3. Any similar conduct allegedly undertaken by the applicant subsequent to any such discipline or decision; and
4. The dates of each instance of conduct, and imposition of discipline or issuance of a decision.

(i) The Commission may make a determination regarding an applicant's character and fitness that is different from the appointing authority's determination.

These definitions are being provided to supplement discussion regarding any policy decision on whether to use the term “credible allegations” or “substantiated allegations.”

CREDIBLE

Our guidance clarifies that “[a] ‘credible report’ is one that is capable of being believed by a reasonable person and is not based solely on speculation or conjecture.”

SUBSTANTIATE

substantiate *vb.* To establish the existence or truth of (a fact, etc.), esp. by competent evidence; to verify. SUBSTANTIATE, Black's Law Dictionary (12th ed. 2024)

4b(ii).



Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

To: Chair Margaret R. Hinkle
Commissioner Lester Baker
Commissioner Hanya H. Bluestone
Commissioner Lawrence Calderone
Commissioner Eddy Chrispin
Commissioner Deborah Hall
Commissioner Marsha V. Kazarosian
Commissioner Charlene D. Luma
Commissioner Clyde Talley

From: Annie E. Lee, Counsel
Elizabeth B. Smith, Paralegal

Re: Officer Recertification – Physical Fitness and Behavioral Health

Date: November 15, 2024

This memorandum provides an overview of physical fitness and behavioral health¹ requirements for the purposes of officer recertification in the Commonwealth and beyond. This memorandum then identifies key policy questions the Commission should address prior to setting physical fitness and behavioral health requirements for the next cycle of officer recertification.²

I. Commission Law

Pursuant to M.G.L. c. 6E, § 4(i), the Commission “shall not recertify any person as a law enforcement officer unless the [C]ommission certifies that the applicant for recertification continues to satisfy the requirements of subsection (f).”

Subsection (f) establishes minimum certification standards for officers, including “successful completion of a physical and psychological fitness evaluation approved by the [C]ommission.”

¹ Massachusetts General Laws chapter 6E, section f(1) uses the term “psychological fitness.” This memorandum uses the term “behavioral health” to reflect terminology used by mental health professionals and to avoid the stigma associated with “psychological fitness.”

² Per section 102(d) of Chapter 253 of the Acts of 2020, *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*, officers were split into three groups based on their last names for the purposes of recertification and are recertified for three years. The first group of officers was recertified in 2022, the second group in 2023, and the final group in 2024. The Commission therefore completed its first full cycle of recertification in 2024 and is due to begin the second cycle of recertification in 2025.

Section 3(a)(28) empowers the Commission to “adopt, amend or repeal regulations . . . (iv) establishing a physical and psychological fitness evaluation pursuant to section 4 that measures said fitness to ensure officers are able to perform essential job duties.”

Due to the nascent nature of the Commission, which was established in 2021, the Commission did not promulgate or adopt any such regulations prior to the first cycle of recertification.

The Commission instead provided that, for recertification purposes, the requirement “shall be deemed satisfied if the officer successfully completed a physical and psychological fitness evaluation that was required for graduation from an academy or training program certified by the [Municipal Police Training Committee (“MPTC”)] or the training programs prescribed by M.G.L. c. 22C prior to” the date by which the officer would need to be recertified, absent any extension of time. 555 CMR 7.06(4). There were no requirements as to how recent the physical and psychological fitness evaluation had to be.

The provision was based on an earlier plan in which the Commission elaborated on its policy determinations and objectives. *See* Massachusetts Peace Officer Standards and Training Commission, *Requirements and Plan for Recertification of Certain Law Enforcement Officers* (2022). Both the regulations approved by the Commission and the earlier plan provided for the requirement to be deemed satisfied in the manner stated above only during the first recertification cycle.³ Also, the earlier plan provided that, only where the officer’s agency concluded that an officer was not able to perform “essential job duties,” meaning “the actual, primary, or dominant, duties of a law enforcement officer who holds the specific position in which the individual serves,” would the agency be required to notify the Commission and develop a non-punitive plan to aid the officer in reaching the requisite levels of fitness. *Id.* In other words, the Commission presumed, for the first full recertification cycle, that officers seeking recertification possessed the requisite physical and psychological fitness necessary to carry out the duties of an officer or where otherwise indicated, capable of attaining the necessary physical and psychological fitness to be an officer.

The Commission, however, also stated that it would “continue developing an evaluation of physical and psychological fitness, through the formal promulgation of sections of the Code of Massachusetts Regulations or otherwise.” *Id.* The Commission further stated that it would, in consultation with the MPTC, “also explore the development of standards for agency certification that require certain measures relative to the physical and psychological fitness of officers.” *Id.*

II. Related Law in the Commonwealth

While there are no laws in the Commonwealth that speak to an officer’s ongoing obligation to maintain behavioral health as a condition to employment, the Legislature has long evinced an interest in supporting officers’ behavioral health and has continued to reinforce that interest by requiring training and agency programming related to behavioral health.

³ The Office of the Secretary of the Commonwealth struck language in the regulations that would have provided for them to expire on June 30, 2025, on the grounds that such an action could only be effected through a regulatory amendment following a full promulgation process.

In Section 116K of Chapter 253 of the Acts of 2020, the Legislature required the MPTC to “develop and establish, within its recruit basic training curriculum and its in-service training curriculum available to in-service trainees, a course . . . on mental wellness and suicide prevention,” to “teach law enforcement officers how to (i) utilize healthy coping skills to manage the stress and trauma of policing; (ii) recognize the symptoms of post-traumatic stress disorder within themselves and other officers; and (iii) recognize the signs of suicidal behavior within themselves and other officer.” The Legislature also directed the MPTC, in consultation with the Executive Office of Public Safety and Security, to “promulgate regulations requiring law enforcement agencies to participate in critical incident stress management and peer support programs to address police officer mental wellness and suicide prevention as well as critical incident stress and the effect on public safety.” St. 2020, c. 253, § 118. “The programs [must] include, but [must] not be limited to, mental wellness and stress management pre-incident and post-incident education, peer support, availability and referral to professional resources and assistance,” and the MPTC must “ensure that each officer is notified of the program during each 3-year certification cycle.” *Id.* These provisions supplemented an existing statute that requires wellness programs for civil service officers, and allows localities to be partly reimbursed for wellness programs offered to those officers. M.G.L. c. 31, § 61B. Thus, the Legislature has demonstrated a long-standing interest in supporting officers’ behavioral health.

There is, however, more precise law in the Commonwealth that speaks to an officer’s ongoing obligation to maintain physical fitness as a condition to employment, though that law has never been enforced, as discussed in greater detail below.

The related law on physical fitness appears at M.G.L. c. 31, § 61A. It requires the Human Resources Division within the Executive Office for Administration and Finance (“HRD”) to establish, for all civil service officers, “in-service health and physical fitness standards” which “shall be rationally related to the duties of such positions and shall have the purpose of minimizing health and safety risks to the public, fellow workers, and the police officers . . . themselves.” It also requires all civil service officers to “undergo in-service medical and physical fitness examinations . . . no less frequently than once every four years.” It additionally calls upon HRD to establish procedures “for the administration of such medical and physical fitness examinations by cities and towns” and notes that “such examinations may be administered at the police academy . . . in accordance with such procedures.”

We understand that HRD intended to require all civil service officers to undertake and pass the Physical Ability Test (“PAT”), which consists of an obstacle course (simulating the actions necessary to pursue and “takedown” a suspect), a separation event (simulating the tasks that require separating one party from another and controlling individuals, such as in crowd control situations), and the dummy drag (simulating dragging a victim or suspect), to fulfill the ongoing physical fitness requirements of M.G.L. c. 31, § 61A.⁴ We also understand, however, that HRD received severe pushback from the law enforcement community and, as a result, never imposed or enforced the PAT as an ongoing physical fitness requirement. Therefore, while M.G.L. c. 31, § 61A on its face requires certain officers to meet ongoing physical fitness requirements, there are effectively no ongoing physical fitness requirements for officers in the Commonwealth.

⁴ The PAT is currently required of all civil service police candidates at the initial hiring stage.

III. Law in Other Jurisdictions

Other jurisdictions require officers to meet ongoing physical fitness and behavioral health requirements as a condition to continued employment, with some focusing solely on physical fitness, others on behavioral health, and a small number on both. Those requirements differ by state.

For example, on physical fitness:

- New Hampshire requires officers to “successfully pass the physical fitness performance test specified as the entry standards for full-time police officers, including the 1 1/2 mile run, pushups and situps performed at the 35th percentile, normed for age and gender as published by the Cooper Institute for Aerobic Research once every 3 years[.]” N.H. Code Admin. R. Pol 404.07(a).
- Texas requires certain state-employed officers to meet physical fitness standards that “must directly relate to the officer’s job duties and shall include individual fitness goals specific to the officer’s age and gender.” V.T.C.A., Government Code § 614.172. As of 2019, Texas allowed officers to pursue multiple options to demonstrate their physical fitness, including (1) rowing either 2,000 or 500 meters or for four minutes on a stationary machine; (2) completing the Combat Fitness Evaluation (consisting of a wall ball, sumo deadlift high pull, box steps/jumps, push press, and row for calories on a stationary machine); and (3) completing the Physical Readiness Test (consisting of abdominal crunches, push-ups, and a 1 1/2 mile run, to be performed at the 70th percentile).

A growing number of states are setting ongoing behavioral health requirements. For example:

- Connecticut requires “each police officer employed by [a] law enforcement unit to submit, as a condition of continued employment, to a periodic behavioral health assessment . . . every five years,” C.G.S.A. § 7-291e(b), which shall be conducted by “a board-certified psychiatrist, [a] psychologist . . . or a clinical social worker . . . , who has experience diagnosing and treating post-traumatic stress disorder.” C.G.S.A. § 7-291e(a)(2).
- Missouri requires all officers “to meet with a program service provider once every three to five years for a mental health check-in.” MO ST 590.192(2).
- Nevada requires “an annual behavioral wellness visit,” which must be designed to “(a) provide a peace officer with the opportunity to discuss [their] concerns regarding mental health issues; (b) educate a peace officer on mental health issues to: (1) increase awareness of and access to appropriate mental health care; and (2) reduce the stigma associated with discussing such issues; (c) improve the overall well-being of the peace officer; (d) address the specific mental health issues that the peace officer may experience as a result of the nature of [their] work; and (e) reduce any concerns the peace officer may have regarding the confidentiality of the information disclosed by the peace officer in such a visit.” NAC R-1190-22, § 1. The professional conducting the behavioral

wellness visit “must not conduct any medical assessment, evaluation, or test to diagnose whether the officer has any mental, emotional, or behavioral disorder or any associated distress which may interfere with the mental health of the officer.” *Id.*

At least one state requires officers to meet both ongoing physical fitness and behavioral health requirements.

- Maryland requires, as a condition of recertification, that officers “submit to a mental health assessment every 2 years and an annual physical agility assessment to establish continuing fitness to carry out the officer’s assigned duties as a police officer.” MD Code, Public Safety, § 3-209(e). The mental health assessment requires “a mental professional” to “conduct a psychological evaluation . . . and offer a positive recommendation indicating that the [officer] is: (1) emotionally and mentally fit; and (b) able to perform the duties of a police officer as these duties are determined by the law enforcement agency.” COMAR 12.04.01.08(B)(f) (citing COMAR 12.04.01.04(F)(2)). The physical agility assessment requires “a licensed, trained, and qualified medical doctor” to recommend that the officer “is physically able to: (a) perform the duties of a police officer as determined by the employing law enforcement agency; and (b) participate in the entrance-level training program.” COMAR 12.04.01.08(B)(f) (citing COMAR 12.04.01.04(F)(1)).

IV. Key Policy Questions for Consideration

Because M.G.L. c. 6E, § 4(f) does not specify what a physical fitness or behavioral health evaluation consists of or how it should be conducted, the Commission has the broad statutory authority to specify what those evaluations should look like and what will satisfy those evaluations. *See* M.G.L. c. 6E, § 3(a)(28)(iv). The statute only suggests that the evaluation should “ensure officers are able to perform essential job duties.” *Id.* However, the Commission should make several policy determinations before making such specifications.

Policy Question 1: Should the Commission continue to allow officers to satisfy physical fitness and behavioral health requirements based on a representation that they previously successfully completed a physical fitness and behavioral health evaluation, regardless of how long ago the evaluation was conducted?

Recommendation: No – past evaluations are not necessarily indicative of an officer’s current physical fitness and behavioral health and corresponding ability to perform their duties.

The Massachusetts Coalition of Police, during a Certification Policy Subcommittee meeting, provided a public comment suggesting that the Commission should continue to presume that officers seeking recertification continue to satisfy physical fitness and behavioral health requirements and should not require officers to affirmatively demonstrate their physical fitness and behavioral health.

That suggestion, however, directly conflicts with the Commission’s position that the presumption would only last “[u]ntil July 1, 2024” and apply “only to officers who were automatically certified under [Chapter 253 of the Acts of 2020] and are coming before the Commission for recertification for the first time.” Massachusetts Peace Officer Standards and Training Commission, *Requirements and Plan for Recertification of Certain Law Enforcement Officers* (2022). Indeed, the Commission stated that the presumption would be temporary due to the Commission’s need to certify “a very large number of officers . . . in a short amount of time” such that “it might not be practicable to conduct extensive, individualized evaluations of each officer . . . within the time provided by [Chapter 253 of the Acts of 2020].” *Id.* Furthermore, the Commission was concerned that officers “will not have had a great deal of notice as to any standards adopted by the Commission before their expiration date arrives” and that “[s]ome officers may understandably face challenges in achieving a certain level of fitness, and it may require significant time and effort for them to do so.” *Id.* Nonetheless, the Commission stated that it remained “dedicated to continuing to raise the level of fitness and professionalism among officers over time.” Thus, the presumption of ongoing physical and psychological fitness can be understood as a temporary solution in light of the time constraints presented by the first cycle of recertification.

Moreover, that suggestion fails to recognize that the results of an officer’s past physical fitness and behavioral health evaluations do not guarantee that an officer would obtain certain results in physical fitness and behavioral health evaluations administered today, particularly for officers who have not undergone a physical fitness or behavioral health evaluation since entering the police training academy. Indeed, as one Commissioner stated during a Certification Policy Subcommittee meeting, “it would be absurd to think that the Legislature believed that the fitness of a new, young officer who’s just coming into the profession would predict or be the same as the fitness level and the wellness level of an officer as they move through a long career in a very stressful profession.”

Furthermore, because physical fitness and behavioral health are highly correlated with greater safety and better outcomes, the Commission should require officers seeking recertification to affirmatively demonstrate that they currently meet requisite physical fitness and behavioral health standards to advance the intent and goals of the Commission’s enabling legislation, Chapter 253 of the Acts of 2020, *An Act Relative to Justice, Equity, and Accountability in Law Enforcement in the Commonwealth*, and the Commission’s governing statute, chapter 6E of the Massachusetts General Laws.

Policy Question 2: How, if at all, should physical fitness and behavioral health requirements for recertification differ from physical fitness and behavioral health requirements for initial certification?

Recommendation: The Commission should ensure that physical fitness and behavioral health requirements for recertification are not punitive and encourage officers to seek the physical fitness and behavioral health support they need and would benefit from.

We understand that, if officers seeking recertification were required to undergo the same physical fitness and behavioral health evaluations required of recruits entering a police training academy,

those officers, and their employing agencies, may find such evaluations burdensome. The Commission should therefore set different physical fitness and behavioral health evaluations for officers seeking recertification, versus initial certification. The task for the Commission will then be to devise a meaningful physical fitness and behavioral health evaluation that ensures that officers are physically and behaviorally capable of performing their job duties, while not being so stringent that large swaths of officers are not able to achieve recertification.

With respect to physical fitness, the Commission could consider requiring officers to undergo an annual physical exam with their primary care provider. The Commission could also consider requiring officers to obtain from their primary care provider a medical clearance report affirming that the officer is physically capable of performing the physical demands of their position, as determined by the officer's agency. Such an approach would provide minimum assurances that an officer possesses the physical fitness to carry out their job functions, while encouraging officers to maintain their physical fitness.

With respect to behavioral health, the Commission could consider requiring officers to complete a behavioral health education course and exam offered by the MPTC as part of its annual in-service training. This course could educate officers on the importance of behavioral health, the impact policing may have on behavioral health, warning signs that an officer's behavioral health is in jeopardy, and resources that officers may utilize if in need of behavioral health supports. The exam could be non-punitive and could, like the exam offered following state ethics training, seek to reinforce and educate officers on key takeaways from the course. The Commission could also consider requiring officers to designate to the Commission the resources they would utilize if they were in need of behavioral health supports, such as a mental health professional employed by the agency or a peer support officer. These approaches would educate officers on behavioral health and ensure that officers are aware of resources to support their behavioral health, without punishing officers for seeking behavioral health supports.

Conclusion

Now in its fourth year of operations and past the first full cycle of recertification, the Commission has the resources, experience, and time to develop and promulgate regulations articulating (1) the physical fitness and behavioral health standards officers are required to meet to earn recertification and (2) the mechanism by which officers' physical fitness and behavioral health will be evaluated. Commission staff has begun soliciting input from the law enforcement community on what those standards and mechanisms should look like, and expects to review that input with the Commission in due course. In the meantime, the Commission's key consideration will be how to develop meaningful, yet attainable and practical, requirements concerning officers' physical fitness and behavioral health.

4c(i).



Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

To: Chair Margaret R. Hinkle
Commissioner Lester Baker
Commissioner Hanya H. Bluestone
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Commissioner Eddy Chrispin
Commissioner Deborah Hall
Commissioner Marsha V. Kazarosian
Commissioner Charlene D. Luma
Commissioner Clyde Talley

CC: Enrique A. Zuniga, Executive Director
Randall E. Ravitz, General Counsel

From: Annie E. Lee, Counsel

Re: Law Enforcement Agency Certification Standards – Code of Conduct

Date: November 15, 2024

Enclosed for the Commission's convenience is a draft code of conduct standard¹, which was presented to the Commission during its September and October meetings.

The Commission previously considered the following key elements of a draft code of conduct standard:

- Affirmative obligations. Officers' affirmative obligations, meaning requirements, can be sorted into two categories:
 - Priorities and values. To reflect the priorities and values underlying the Commission's enabling legislation, Chapter 253 of the Acts of 2020, *An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth*, the Commission's governing statute, chapter 6E of the Massachusetts General Laws, and the International Association of Chiefs of Police's *Code of Ethics and Standards of Conduct*, which the Commission has incorporated by reference into the criteria for assessing officers' good character

¹ Massachusetts General Laws chapter 6E, section 5(b) requires the Commission to develop at least eight agency certification standards, of which an "officer code of conduct" is one.

and fitness for employment, *see* 555 CMR 7.05(2)(a) and 9.07(1)(b)(1), agencies should articulate the following priorities and values in their codes of conduct policies: respect for life and bodily integrity; impartial and unbiased policing; protection of vulnerable populations; service to the public; worthiness of public trust and the authority given to law enforcement; transparency, accountability, and responsibility; and truthfulness.

- Compliance. To reflect officers' ongoing compliance responsibilities, whether set by federal or state law, rules, regulations, policies, or regulatory or judicial orders, agencies should be required to include in their codes of conduct policies officers' compliance with: the Constitution; equal employment opportunity obligations; training requirements; certification requirements; and all other applicable laws, rules, regulations, policies, mission or value statements, and judicial or regulatory orders.
- Negative obligations. To further the priorities of the Commission's enabling legislation and governing statute and to reinforce officers' ongoing compliance obligations while proactively addressing behavior that has historically formed the basis for many complaints against law enforcement officers, agencies should prohibit in their codes of conduct policies: criminal activity; sexual misconduct; prohibited associations and visitations; retaliation; action prejudicial to the administration of justice; neglect of duties; abuse of authority or position as an officer; and conduct unbecoming an officer.
- Applicability. Because officers are also employees in a larger organization, agencies should require officers to adhere to their codes of conduct not only in the execution of their official duties in interacting with the public, but also in the workplace with their colleagues, whether they be other officers or civilian employees, as well as in their private lives unless otherwise prohibited.

Commission staff has consulted with the Municipal Police Training Committee, which has not provided further feedback or identified any additional revisions at this time. The code of conduct standard is therefore presented to the Commission for preliminary approval in its draft form.

Recommendation: The Commission preliminarily approve the code of conduct standard, as discussed and presented today, as a draft.

555 CMR 13.00: LAW ENFORCEMENT AGENCY CERTIFICATION STANDARDS

Section

- 13.01: Purpose and Scope
- 13.02: Definitions
- 13.03: Standards
- 13.04: Compliance
- 13.05: Assessment
- 13.06: Maintaining Compliance
- 13.07: Re-Assessment
- 13.08: Waiver
- 13.09: Enforcement and Disciplinary Action
- 13.10: Severability

13.01: Definitions

Agency. A Law Enforcement Agency as defined in M.G.L. c. 6E, § 1.

MPTC. The Municipal Police Training Committee as defined in M.G.L. c. 6, § 116.

Sexual Harassment. Unwelcome conduct of a sexual nature that creates an intimidating, hostile, or offensive environment. Sexual harassment includes unwelcome sexual advances and requests for sexual favors or acts, whether verbal, physical, graphic, or otherwise.

Sexual Misconduct. Conduct of a sexual nature or conduct based on sex or gender that is nonconsensual or has the effect of threatening, intimidating, or coercing a person. Sexual misconduct includes sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, stalking, and retaliation.

Officer. A Law Enforcement Officer as defined in M.G.L. c. 6E, § 1.

13.03: Standards

Each agency shall develop and implement written policies on the following topics in accordance with the following standards:

- (3) Officer code of conduct. An agency's officer code of conduct policy shall:
 - (a) Require officers to act professionally and ethically;
 - (b) Require officers to treat others with dignity and respect;
 - (c) Require officers to evince a respect for life and bodily integrity;

Agency Certification Standards – Draft Mandatory Standards

- (d) Require officers to act impartially and avoid the appearance of bias, and prohibit officers from harassing and discriminating against others based on bias, including bias on the basis of actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, limited English proficiency, accent, religion, sex, sexual orientation, gender identity, mental or physical disability, genetic information, ancestry, pregnancy or a condition related to said pregnancy, status as a veteran, marital status, parental status, public assistance reciprocity, socioeconomic level, education level, or professional level except where prohibiting the behavior would conflict with applicable law, rules, regulations, or judicial and regulatory orders;
- (e) Require officers to act in the best interests of the most vulnerable populations of the public, including children and young people; people experiencing medical, behavioral, or mental health crises; unhoused people; survivors of domestic violence, sexual assault, or human trafficking; differently-abled people; people living in poverty; veterans; and people historically harmed by policing;
- (f) Require officers to act with an ethic of service to the public;
- (g) Require officers to be worthy of the public trust and of the authority given to officers;
- (h) Require officers to uphold transparency, accountability, and responsibility principles;
- (i) Require officers to be truthful in any matter related to the officer's execution of their official duties, and prohibit officers from lying, falsifying, concealing, purposely distorting, diminishing, embellishing, or failing to disclose facts associated with the officer's execution of their official duties, except those matters in which there is a legitimate need for deception or non-disclosure of information in furtherance of the officer's execution of their official duties;
- (j) Require officers to comply with constitutional requirements, including those concerning:
 - 1. Investigatory stops;
 - 2. Traffic stops;
 - 3. Surveillance;
 - 4. Searches;

Agency Certification Standards – Draft Mandatory Standards

5. Seizures;
 6. Investigation;
 7. Arrests;
 8. No-knock entries;
 9. Interviews;
 10. Interrogations;
 11. Access to counsel;
 12. Exculpatory evidence; and
 13. Free assembly and expression.
- (k) Require officers to support the equal opportunity in employment throughout the workplace to all persons, regardless of actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, proficiency in a language other than English, accent, religion, sex, sexual orientation, gender identity, mental or physical disability, genetic information, ancestry, pregnancy or a condition related to said pregnancy, status as a veteran, marital status, public assistance recipiency, socioeconomic level, or education credential not material to job performance where it does not conflict with existing laws, rules, regulations, or judicial and regulatory orders;
- (l) Require officers to attend all required initial and ongoing training, including those trainings required by the MPTC;
- (m) Require officers to attain and maintain good moral character and fitness for employment in law enforcement necessary for certification in accordance with the requirements specified in 555 CMR 7.05 and 9.07;
- (n) Require officers to adhere to all applicable mission and values statements;
- (o) Require officers to adhere to their agency's policies and subpolicies;
- (p) Require officers to comply with all other applicable laws, rules, regulations, and judicial and regulatory orders;
- (q) Prohibit officers from engaging in criminal activity;
- (r) Prohibit officers from engaging in sexual misconduct;

Agency Certification Standards – Draft Mandatory Standards

- (s) Prohibit officers from engaging in prohibited associations with individuals or prohibited visitations of establishments;
- (t) Prohibit officers from engaging in any retaliatory action, including harassment and intimidation, against any other person based on that person's involvement in a report, complaint, participation in an inquiry or investigation, or testimony against that officer or any other officer;
- (u) Prohibit officers from taking action that is prejudicial to the administration of justice;
- (v) Prohibit officers from neglecting their duties as an officer;
- (w) Prohibit officers from abusing their authority or position as an officer;
- (x) Prohibit officers from engaging in any other action that demonstrates a problem with the officer's integrity, honesty, moral judgment, or character; brings discredit to the agency; or impairs the efficient and effective operation of the agency; and
- (y) Apply equally in an officer's execution of their official duties, in the workplace, and in their private life unless prohibited by applicable law, rules, regulations, and judicial or regulatory orders.

SUMMARY NOTES FROM PHYSICAL FITNESS PANEL

The following is a summary of the discussion from the Physical Fitness Panel event on October 18, 2024. Footnotes are used as a reference for certain statistics.

Panelists:

Melissa Metzke TSAC-F, is a highly knowledgeable professional in the field of first responder fitness, wellness and injury prevention.

Brianna Britt is the Deputy Director of the Civil Service Unit for the MA Human Resources Division. Brianna has a master's degree in industrial/organizational psychology.

Joe Dulla has over 40 years of experience in first responder roles, including emergency medical technician, lifeguard, mountain rescue and law enforcement.

Dr. Rob Orr is the Director of Tactical Research Unit at Bond University.

Dr. Robert Lockie is an Associate Professor of Strength and Conditioning at California State University Fullerton and has been a sports and tactical researcher for more than 20 years.

Dr. Jay Dawes is a Professor of Applied Exercise Science in the Department of Kinesiology, Health and Recreation at Oklahoma State University.

AN AGING WORKFORCE

- The largest age cohort in US police officers (48%) are over 40 years old.
- Average age of police officers has risen from 35.9 years to 40.8 years over a 30-year period.
- Birth rate decreased from 1982 – 2018, meaning fewer 18–40-year-olds are available for recruit training today than in the past.

IN GENERAL, RECRUITS ARE ENTERING POLICE ACADEMIES LESS PHYSICALLY FIT

- According to the World Health Organization (WHO), the worldwide prevalence of obesity has more than doubled between 1990 and 2022. In fact, 50% of the US population will be obese by 2030.¹
- Today's men are weaker than their fathers. Grip strength in 1985 was 117 pounds and decreased to 98 in 2016.² Grip strength is important for police officers because it's a key factor in many tasks they perform, including shooting, handling confrontations, grappling, apprehension and victim rescue, moving obstacles and carrying heavy items.³

¹ NHANES data

² Washington Post "Today's Men are Nowhere Near as Strong as their Dads Were, Researchers Say" August 15, 2016.

³ Effective Fitness, 2023

- Obesity and extra weight slows down recruits and veteran officers because they are carrying more non-functional mass.
- BMIs have increased over the years while physical strength has decreased.
- Physical education in K-12 is offered fewer times nationally and there are fewer multi-sport athletes with diverse athletic abilities.⁴

GREATER INJURY RISK FOR ACADEMY TRAINEES

- Poor muscular and cardiovascular endurance of academy cadets is correlated with higher odds of not graduating.
- Cadet separations from injuries and training failures pose significant financial burdens on academies and sponsoring agencies.
- The purpose and intent of the fitness program must be clearly articulated before program begins. Determine actual vs. perceived tasks of the officer's job to align with training.
- Physical assessments should be fair and account for differences in gender physicality and age-related changes in strength and power. Set fair assessment standards based on age and gender and consider varying the number of repetitions to account for differences in strength.
- Assessments help to identify and predict risk of injury. Those who are unfit are at a greater risk for injury than their fit counterparts.
- There is a big difference between recruit training (they are being paid to work) and ongoing officer work. Being paid to exercise is an incentive that veteran officers don't always have.
- In addition to risk of injury, curriculum and academy directors should take into account the reality that in periods of high physical demands, actual learning is likely diminished.

THE MASSACHUSETTS REQUIREMENT FOR THE ACADEMY TRAINING

- Currently, in Massachusetts, interested recruits can take the Civil Service Police Officer Physical Ability Test (PAT), a pre-employment test for Police Officers taken in conjunction with other pre-employment multiple choice testing, a background check, and a medical examination.
 - The PAT was developed over a three-year period. Occupational survey data garnered from small to large police departments in Massachusetts allowed the PAT to be tailored to the needs of departments of all sizes.
 - All candidates must pass this timed event according to the same standards. Candidates are encouraged to preview the PAT so they are familiar with the goals before signing up.

⁴ Secular Changes in Physical Education Attendance Among US High School Students YRBS 1991-2013; CDC National Physical Activity Plan Alliance

- Those who have passed are placed on a civil service list, and if selected by a municipal police department, will attend a police academy before being hired. This process can take many months to complete, from a few months to a few years.⁵
- Candidates with conditional offers from a department have two chances to pass the test. If they fail, they can decide to apply at another department in the future.
- The PAT is a simulation based occupational test developed through a job analysis process that measures the minimum qualifications of a police officer in Massachusetts. Candidates must pass all events to pass the test consisting of the obstacle course, separation/control event, and dummy drag as outlined below.
 - **The obstacle course event** simulates the actions necessary to pursue and take down a suspect. The event begins with an obstacle course where the candidate will be faced with going through an open window, traversing an uneven terrain, climbing over a wall, climbing up and down steps, and negotiating a series of cones arranged in a zigzag pattern. At the end of the course, the candidate will be required to grab hold of a weighted bag attached to a pulley and touch it to the ground. Next, the candidate secures a moveable bag to the ground, then reads a statement. The candidate will then immediately move to the power station to the handcuffing simulation where he/she will be required to individually pull on two hand levers until the cable hits the stop. The time limit is 163.4 seconds.
 - **The separation event** simulates tasks that require separating one party from another and controlling individuals, such as in crowd control situations. Candidates are required to pull a hanging bag backward, touching it to the ground across a marked line. Candidates will have to perform two "pulls". The time limit is 12.8 seconds.
 - **The Dummy Drag event** simulates dragging a victim or suspect. Candidates will be required to drag a dummy over a straight course. The time limit is 11.2 seconds.

MOVE TOWARD TASK-BASED TRAINING BASED ON OCCUPATIONAL REQUIREMENTS

- Student officer physical and mental readiness and curriculum must establish a culture of wellness.⁶
- The curriculum will be implemented throughout the Massachusetts Academy includes:
 - Physical readiness orientation
 - Nutrition for health and performance
 - Injury prevention: injuries have a negative impact on recruit retention
- Habits for a healthy lifestyle:
 - Physical activity for health
 - Sleep habits for police officers
- Fundamentals of exercise:
 - LEO physical job demands and injury risks
 - Human physiology

⁵ Brianna Britt, Deputy Director of the Civil Service Unit, MA Human Resources Division

⁶ Melissa Metzke MPTC

- Periodization
- Exercise program design
- Resilience:
 - Start: Understanding and Building Resilience
 - Midway: Reflection and Skill Enhancement
 - End: Application and Integration
- Traditional model of physical training and testing in academies requires certain physical standards (push-ups, mile run, etc.) adjusted for gender and age. However, this approach does not address the actual physical requirements of the job (i.e., jumping over a fence, going through a window) that also require additional skills.
- Training curriculum must change and evolve. Considerations when developing a training curriculum include:
 - Evidence-based best practices
 - Program design for officer job demands, injury risks and managing stress
 - Update current Physical Training Instructor Certification to the National Strength and Conditioning Tactical Strength and Conditioning Course,
 - Updated current staff instructor curriculum to include officer physical job demands and injury risks, human physiology, exercise program design, and data driven decision making.
- Academic and subject matter expert involvement in police training can help inform current research-based best practices in academy curriculum design and can create partnerships between police and academia. It also sets the groundwork for formal research partnerships and grant funding opportunities for ongoing research in the field to inform evidence-based practices.
- Lower fitness standards mean more injuries for all officers. Adapting fitness level to the person helps their conditioning increase while the risk of injury decreases.
- BMIs have increased over the years and training needs to adjust for the added weight. For example, the “body drag” standard is for a 150-pound person, but people today are closer (on average) to 200 pounds.
- Training approach can make a big difference if you meet individuals where they are at.
- Arbitrary fitness standards are mainly based on gender, but not job task.

POLICE WORK IS NOT CONDUCTIVE TO LONG TERM HEALTH

- Shift work, stress, disrupted sleep, and sedentary behaviors are all negative health factors leading to cardiovascular disease and issues like high cholesterol, lipids, coronary artery calcification and body fat.⁷
- Patrol officers are typically hypervigilant for long periods of time, thinking if they stay alert, they stay alive. Hypervigilance keeps officers safe but can be harmful when chronic or prolonged, leading to negative physical and psychological effects.⁸

⁷ Orr, R., Hinton B., Wilson A., Pope R., Dawes, J.” Investigating the routine dispatch tasks performed by police officers” Safety 6: 54, 2020.

⁸ The Biological Rollercoaster, Dr. Kevin Gilmartin

- There are potentially negative physiological and psychological effects of prolonged periods of hypervigilance.⁹ Conversely, officer jobs are often sedentary between intervals of high-stress and high-intensity encounters.
- Police officers are more prone to anxiety and depression than the rest of the population due to the stressful nature of their work. Police officers are more exposed to “Significant Emotional Events” (traumatic events such as violence, injuries, critical situations) and historically have been reluctant to seek treatment for behavioral due to stigmas.
- Untreated anxiety and depression can lead to dopamine-seeking behaviors such as alcohol and/or substance misuse or addiction.
- Officers who worked the midnight shift had 4x the symptoms of metabolic syndrome¹⁰ when compared to day shift officers. Officers have a higher risk of metabolic syndrome because they are more exposed to violence and other stressors, have sedentary periods at work, and may have other unhealthy personal habits, like poor nutrition, alcohol or cigarette smoking.
- Long term night shift work is associated with adverse health outcomes including cancer.¹¹ The International Agency for Research into Cancer (IARC) has found a correlation between night shift work with a potential increased risk of cancer.¹² Shift work is associated with other unhealthy outcomes because it can typically interfere with exercise, sleep and good nutrition.
- Cardiovascular fitness: Police officers often have cardiovascular fitness below the American College of Sports Medicine (ACSM) standards for healthy adults.¹³ Officers also experience significant decreases in cardiovascular fitness with age.¹⁴
- Body fat percentage and Body Mass Index (“BMI”): Police officers often have higher than normal increases in body fat percentage and BMI with age, and these values surpass recommendations.¹⁵
- Health risks: Police officers have elevated levels of cardiovascular disease and associated risks. The average age of a law enforcement officer who has suffered a heart attack is 49 years old, compared to 67 years of age for the general population.¹⁶

⁹ The Biological Rollercoaster, Dr. Kevin Gilmartin

¹⁰ Metabolic syndrome is a group of conditions that together raise the risk of coronary heart disease, diabetes, stroke, and other serious health problems. Metabolic syndrome, also called insulin resistance syndrome, is present if a person has three or more conditions such as: obesity, high blood pressure, high blood sugar, high blood triglycerides, high cholesterol, and low LDL (NIH National Heart, Lung and Blood Institute “What is Metabolic Syndrome?” May 18, 2022)

¹¹ National Toxicology Program

¹² A study of nearly 4 million women found that long-term night shift work increased the risk of several types of cancer, including skin cancer, breast cancer, gastrointestinal cancer, and lung cancer.

¹³ The ACSM established fitness standards for those aged 30-39 in four areas: forearm plank, grip strength, vertical jump and sit and reach.

¹⁴ MDPI, “Age-Related Declines in Health and Fitness among Law Enforcement Officers Compared to Population Norms”, by Katherine A. Frick, Philip J. Agostinelli, Julia F. Swinford, Mick E. Harris, C. Brooks Mobley and JoEllen Sefton

¹⁵ Ibid

¹⁶ Ibid

THE CASE FOR MAINTAINING HEALTH AND FITNESS FOR INCUMBENT OFFICERS

- When graduating from academies, officers have a higher level of physical fitness compared with the rest of the population. By the time officers leave the profession, their level of fitness is on average lower than the rest of the population.
 - Police officers experience elevated levels of cardiovascular disease and associated risks making fitness a peak concern.
 - A cross-sectional study investigated the cardiovascular health, muscular strength/endurance, and mobility of officers in a medium-sized police department of 4 females and 79 males and compared those findings to American College of Sports Medicine (ACSM) guidelines.
 - The findings revealed that police officers begin their careers with above average strength but demonstrate greater declines with age than the general population.
 - Officers also demonstrated cardiovascular fitness below ACSM standards and significant decreases with aging compared to the general population.¹⁷
- Given the above, maintaining a level of fitness during the tenure of an officer's career is an important goal
- An officer in poor physical fitness is more likely to use force in ways that put the health of themselves and others at greater risk. An unfit officer may not be able to operate effectively or respond swiftly to a given situation and thus be more likely to be injured. Low fitness levels could also lead an officer to use higher levels of required or necessary force to stop a real or perceived threat.
- Most states do not have standards for incumbent officers, but non-punitive annual fitness testing is recommended.
- Motivation is a very important factor in maintaining health and fitness. Fitness incentives can be helpful if the agency can afford to launch and sustain such programs.
- Agencies, departments and individuals should monitor fitness levels of academy recruits and veteran officers.
 - There can be increased benefits from deploying a benchmarking or "traffic light" system (color-coded system with multiple indicators that monitor health, assess health risks and help identify and manage risks from occupational hazards).
 - Such assessment tools make it easier to monitor health over time, predict and detect health issues and take preventative action.
- Attaining better fitness outcomes is often constrained by available time.
 - The effective dose of physical fitness for the general population is a minimum of 75 minutes per week of moderate to vigorous exercise or 150 minutes of low-to moderate impact exercise to increase life expectancy.

¹⁷ National Library of Medicine, "Age-Related Declines in Health and Fitness among Law Enforcement Officers Compared to Population Norms" March 2024.

- However, those who exercise at least 15 min per day at a moderate intensity reduce their risk of all-cause mortality by 14% and increase life expectancy by three years, when compared to those who are inactive.¹⁸
- Strength can be attained by resistance-training with just three 13-min sessions per week. Similar gains can be achieved with a substantially greater time commitment when training in a moderate loading range (8–12 repetitions per set).
- This finding has important implications for officers who are time-pressed, allowing the ability to get stronger in an efficient manner, and may help to promote greater exercise adherence.¹⁹
- Leadership involvement is a key factor in driving the culture shift toward maintaining health and wellness. Leadership should model healthy behaviors by leading by example and offer benefits and incentives to retain current officers and attract new ones. Status quo is not working to help officers deal with the growing operational stressors, family pressures and complex work environments.

¹⁸ Wen, C., Wai, J, Tsai M Yang, Y Cheng, T. Lee, M, and Wu, X. Minimum amount of physical activity for reduced mortality and extended life expectancy: A prospective cohort study. *The Lancet* 378 (9798): 1244-1253, 2011,

¹⁹ Schoenfeld BJ, Contreras B, Krieger J, Grgic J, Delcastillo K, Belliard R, Alto A. Resistance Training Volume Enhances Muscle Hypertrophy but Not Strength in Trained Men. *Med Sci Sports Exerc.* 2019 Jan;51(1):94-103. doi: 10.1249/MSS.0000000000001764. PMID: 30153194; PMCID: PMC6303131.



To: Massachusetts Peace Officer Standards and Training Commission
From: Association of Chiefs of Police – State Universities of Massachusetts
Date: Friday, October 25, 2024

Subject: Physical fitness and testing

The Association of Chiefs of Police – State Universities of Massachusetts (ACOP) hereby respectfully requests that the following letter regarding Physical Fitness and Testing be submitted to the record for review by the POSTc Executive Director and Commission Leadership. ACOP notes that the POST commission when recommending physical standards in conjunction with the Massachusetts Municipal Police Training Committee should proceed with significant consideration and a holistic approach, to ensure that the standards are fair, impartial, and not punitive in nature. Physical fitness and testing standards, which are deemed too rigorous will have a negative impact on police departments hiring and retaining of police officers rather than ensuring the positive well-being of officers.

As currently observed in New Hampshire, police chiefs advised legislators to adjust the required fitness test. This was due to the fitness standards being too rigorous and not reflective to that of current societal lifestyles and norms. NH police chiefs provided testimony to lawmakers referencing being plagued by staffing shortages across the state. Which in turn has made it difficult for police department to retain and hire officers. The Massachusetts Executive Office of Public Safety and Security (EOPSS) had also echoed concerns around police hiring and retention across the Commonwealth in the coming three to five years.

The State Universities and Community Colleges Police Departments have already inherently become training grounds for police departments within the Commonwealth of Massachusetts. Now with the newer POST Commission and MPTC regulations the University and Community College Police Officers are equally trained and can easily transfer to other police departments, such as municipalities for Group 4 Retirement. Such retention concerns disrupt the overall operation of University and Community College Police Departments from providing adequate staffing levels. Limited staffing and consistent training of new police officers is a financial burden not only incurred by the police departments, but the higher educational institutions and the Massachusetts taxpayers.

Massachusetts State University and Community College Police Departments are sworn personnel that are held to the exact standards of their counterparts, the municipal police officers, but not afford the same benefits. Within the past decade the training, duties and responsibilities of police officers at state public higher educational institutions has vastly changed and enhanced. The lack of Group 4 retirement classification has significantly hindered the ability of retention and recruitment of new officers. Now additional, physical fitness and testing standards that may appear to be significantly rigorous will further erode at the retention and recruitment of officers at higher educational institutions. Which could result in unattended consequences as it relates to a safe and secure learning environment for the students, staff, and faculty members.



On behalf, of the Association of Chiefs of Police – State Universities of Massachusetts we do ask that the POST commission leadership in solidarity with 20,000 police officers join in completing the physical fitness testing to show their true commitment towards these new set standards. Again, it is advised that the POST commission must take a holistic approach regarding physical fitness and testing standards for police officers. If hasty decisions are made, unintentional consequences can occur and could negatively impact the overall safety at higher educational learning environments at universities across the state for the students, staff, and faculty members.

Respectfully Submitted,

Joseph P. Cecchi

Chief Joseph P. Cecchi, MPA
MA-ACOP – President

cc: Assistant Chief Michael Froio Bridgewater State University Police Department
Chief Michael Cloutier, Fitchburg State University Police Department
Chief Joseph P. Cecchi, Framingham State University Police Department
Chief Deborah Crafts, MA College of Art and Design Police Department
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