



## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

May 12, 2025

### 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](#), by [St. 2023, c. 2](#), and by [St. 2025, 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 #63

May 15, 2025

8:30 a.m.

Remote Participation via [Zoom](#)

Meeting ID: 986 2449 7915

- 1) Call to Order
- 2) Approval of Minutes
  - a) April 17, 2025
- 3) Executive Director Report – Enrique A. Zuniga
  - a) National Peace Officer Memorial Day
  - b) Complaint & Incident Reports Update
  - c) Certification Update
- 4) Finance & Administrative Update – Eric Rebello-Pradas
- 5) Legal Update – Randall E. Ravitz and Annie E. Lee
  - a) Agency Certification Initiative
    - i) Discussion of draft standard on criminal investigation procedures
  - b) Policy on Information in the National Decertification Index
    - i) Discussion of proposed Policy

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[mass.gov/orgs/post-commission](https://mass.gov/orgs/post-commission)

## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

- c) Guidance Regarding the Meaning of “Performance of Police Duties and Functions” as Used in the POST Commission’s Governing Statutes and Regulations
    - i) Discussion of proposed Guidance
- 6) Matters not anticipated by the Chair at the time of posting
- 7) 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 a prior Executive Session.
- a) Suspension hearing in the matter of Auria Rojas, Case No. 2024-047
- b) Reports of Preliminary Inquiry in the following cases:
  - i) PI-2024-041
  - ii) PI-2024-070
  - iii) PI-2023-09-14-002
  - iv) PI-2025-008
  - v) PI-2024-073
- c) Division of Standards request to enter into voluntary decertification or suspension agreement in the following cases:
  - i) PI-2024-052
  - ii) PI-2023-12-19-006
- d) Update on the following Preliminary Inquiry matter:
  - i) PI-2024-068
- e) Division of Standards request for approval to conduct Preliminary Inquiries in the following cases:

## MASSACHUSETTS PEACE OFFICER STANDARDS & TRAINING COMMISSION

- i) PI-2025-024
  - ii) PI-2025-025
  - iii) PI-2025-026
  - iv) PI-2025-027
  - v) PI-2025-028
- f) Approval of the minutes of the Executive Session of April 17, 2025

*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.

DRAFT

**MASSACHUSETTS PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

**Public Meeting Minutes**

**April 17, 2025**

**8:30 a.m.**

**Via Zoom**

**Documents Distributed in Advance of Meeting**

- March 20, 2025, Public Meeting Minutes
- Executive Director Report
- Division of Police Standards Semi-Annual Report
- Memo concerning law enforcement agency certification initiatives: draft standard on use of force and draft standard on officer response procedures
- Draft policy regarding voluntary relinquishment of law enforcement officer certification

**Commissioners in Attendance**

- Commission 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

**1. Call to Order**

- The meeting began at 8:37 AM.
- 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 Chrispin – Present
  - Commissioner Hall – Present
  - Commissioner Kazarosian – Present
  - Commissioner Luma – Present
  - Commissioner Talley – Present
- Chair Hinkle noted that all Commissioners were in attendance and recognized a quorum was present.

**2. Approval of Minutes**

- Chair Hinkle asked for a motion to approve the March 2025 minutes. Commissioner Kazarosian moved to approve the minutes. Commissioner Talley seconded the motion.
- The Commissioners voted to approve the March 2025 public meeting minutes as follows:
  - Commissioner Bluestone – Yes
  - Commissioner Calderone – Yes

- Commissioner Chrispin – Yes
  - Commissioner Hall – Yes
  - Commissioner Kazarosian – Yes
  - Commissioner Luma – Yes
  - Commissioner Talley – Yes
  - Commissioner Baker recused himself from the vote because he was not present at the March 2025 public meeting. The motion carried.
- 3. Executive Director Report – Executive Director Zuniga**
- Executive Director Zuniga began his report by reminding the public that the Commission does not accept public comments or answer questions during the public meetings.
  - He reminded members of the public and the press that they can contact the Commission through the general mailbox, [POSTCCComments@mass.gov](mailto:POSTCCComments@mass.gov).
  - Executive Director Zuniga began with an update on the plan for the second round of officer recertification. He continued as follows.
    - About 8,000 officers with last names beginning with letters “A” through “H” have certification that will expire at the end of FY 25 on June 30, 2025.
    - This is the second time most officers in this cycle will apply for recertification. The initial certification for officers in this cycle expired on July 1, 2022.
    - The Division of Police Certification (“Division of Certification”) implemented a streamlined process to verify the information provided to the Commission is up to date.
    - There are about 22,000 officers under the Commission’s scope.
    - The certification portal will open on May 5, 2025.
    - The Division of Certification is reaching out to agencies to confirm credentials and authorized users.
    - The Commission is no longer accepting spreadsheets from large agencies. All information should be submitted directly through the portal.
    - The Commission is changing its recertification cycle to be every “three-year plus the first day of the month of an officer’s birth date.” This will allow more regular interaction between agencies and the Division of Certification.
    - There were 686 unassociated officers who will be removed from the certification list. Most officers in this category have resigned or retired in good standing with the Commission. The certifications for these unassociated officers will be marked as expired.
    - Information on expired certifications will remain in the public database for three years.
    - The Commission will continue to regularly share information with the Municipal Police Training Committee (“MPTC”). The Commission will also conduct a review of in-service training. Officers not compliant with the MPTC’s in-service training requirements will be given 90 days to complete the requirements. The Commission will mark non-compliant officers as “conditionally certified.”
- 4. Finance and Administrative Update – Chief Financial and Administrative Officer Eric Rebello-Pradas**
- CFAO Rebello-Pradas provided an update on the FY 25 budget. He stated as follows.
    - Two-thirds of the budget was committed by the end of the third quarter on March 31, 2025.

- The budget commitment aligned with 75% of the fiscal-year progression. The Commission saw significant savings in payroll due to fluctuations in employee onboarding and variations in employee work hours.
- The savings offset increased spending on office operations which includes a security officer in reception and a business-intelligence tool in IT.
- He estimated potential reversions between \$500,000 and \$600,000. The reversion amount could potentially increase pending some IT commitments.
- Representatives of the Commission testified before the Joint Ways and Means Committee on the FY 26 budget. The Governor's budget appropriated \$8.9 million. The Commission originally requested \$9.4 million. This is a difference of about \$570,000. The Commission pushed for the higher number during its testimony.
- The House Ways and Means maintained the Governor's proposed budget.
- The next step in the budget process will be the House debate on budget amendments. The Senate will announce their budget in mid-May.
- CFAO Rebello-Pradas gave a quick administrative update.
  - The Commission welcomed Heather Hall as the Deputy Director of the Division of Certification.
  - The Commission has two open positions posted on the website: Records Access Officer for the Legal Division, and Data Analytics Manager for the IT Division.
  - The Commission will have several interns this summer for the Legal Division, Division of Police Standards, and IT.
  - The Commission's current employee headcount is 51. The projected headcount by the end of FY 25 is 53.
- CFAO Rebello-Pradas concluded his presentation. Executive Director Zuniga congratulated Legal Fellows Alexander Utz and George Boateng on passing the bar exam.
- No questions or comments were offered so the Chair turned the floor over to the Division of Police Standards Director, Matthew Landry.

## **5. Division of Police Standards Semi-Annual Report – Director Landry**

- Director Landry provided an update on the work of the Division of Police Standards ("Division of Standards") regarding intake, review of complaints, and the caseload of investigations and disciplinary matters.
  - The Division of Standards received 359 complaints from October 1, 2024, through March 31, 2025. Complaints are received through the online web form, telephone, and mail.
  - The Division of Standards received about 30 new complaints each week. This number did not include duplicate complaints.
  - The Division of Standards received 410 reports from law enforcement agencies. The reporting rate increased from the last update provided in the fall.
  - The increase can be attributed to the continued rollout of the agency portal and ongoing education and training the Division of Standards is doing with agencies.
- Commissioner Luma asked if any of the public complaints resulted in further investigation or further action by the Commission.
  - Director Landry stated that the Division of Standards had a total of 84 cases under investigation as preliminary inquiries. Many of those matters involve ongoing

criminal proceedings. The Division of Standards monitors the progress of those cases, so not all cases are actively investigated at the same time.

- Since the last update, the Division of Standards closed an additional 18 cases with recommendations for discipline for a total of 76 cases in which the Commission issued a final decision. The Division of Standards closed four preliminary inquiries without discipline, bringing the total to 15.
- The Commission issued 43 decertification orders. Since last fall, 13 officers were decertified and placed onto the National Decertification Index (“NDI”).
- Director Landry concluded his report. Chair Hinkle thanked him for the information and moved to General Counsel Randall E. Ravitz for a legal update.

#### **6. Legal Update – General Counsel Ravitz and Counsel Annie Lee**

- General Counsel Ravitz thanked Chair Hinkle and turned the floor over to Counsel Lee.
- Counsel Lee provided follow-up to a question raised at the last Commission meeting concerning the Use-of-Force standard. She also provided an overview of a draft standard on officer response procedures.
  - No Commission vote was requested.
  - Counsel Lee addressed a previous Commission inquiry about the phrase “age or developmental status” in the draft Use-of-Force standards. It was unclear whether the phrase referred to developmental differences or intellectual or developmental disabilities between adults and youth.
  - She consulted with Strategies for Youth, which submitted comments to the Commission advocating for the inclusion of age or developmental status in the critical thinking and de-escalation section of the standard.
  - Strategies for Youth clarified that “age or developmental status” refers to the developmental differences between adults and youth, and not intellectual or developmental disabilities, which might otherwise be covered by the phrase “mental or physical condition.” They suggested that “age or developmental maturity” may be clearer to avoid confusion that “status” may create.
- Counsel Lee provided an initial overview of a draft standard concerning officer response procedures. The Commission is directed by M.G.L. c. 6E, § 5(b) to develop at least eight agency certification standards for officer response procedures.
  - She provided materials from the federal government, law enforcement, interest groups, reform-focused non-profits, state-led accreditation and certification programs, and public comments to collect diverse perspectives on important topics.
- The key principles covered were:
  - Officer conduct guidelines;
  - Responding to vulnerable populations;
  - Different response models;
  - Investigatory and traffic stops;
  - Critical incident management;
  - Motor vehicle pursuits;
  - Body-worn camera protocols; and
  - Vehicle recording system guidelines.

- The draft standard focused on enhancing transparency in policing, addressing historical inequities in law enforcement, establishing clear guidelines for officer behavior, and protecting individual rights during law enforcement interactions.
- Chair Hinkle asked where the phrase “reasonable articulable suspicion” is from.
  - Counsel Lee stated that the reasonable suspicion standard comes from the Supreme Court’s *Terry v. Ohio* case. These are investigatory stops, also known as *Terry* stops.
  - Chair Hinkle clarified her question, asking what the difference is between reasonable suspicion and reasonable articulable suspicion.
  - Counsel Lee said the articulable phrase means an officer must be able to verbally explain the reason for the stop to the person being stopped and the agency. The purpose was to limit the scope of a stop and limit searches to situations where an officer has reasonable articulable suspicion and will find evidence of the offense the stop is based on. This standard is from the Massachusetts Courts’ interpretation of the standard.
- Commissioner Calderone asked about the necessity of including language in the draft standard regarding limiting the duration of traffic stops because officers already do that.
  - Counsel Lee said this is articulated in the standard to make it clear to officers and members of the public what to expect during a stop.
- Commissioner Calderone asked if “time limit” was intended to put a time or threshold on a reasonable amount of time for a stop.
  - Counsel Lee said that was not the intention. It was meant to achieve a balance between protecting public safety and avoiding “a fishing expedition” for evidence.
- Commissioner Calderone said the proposed language seemed redundant by restating existing practices. He expressed concern that the additional language would cause confusion for officers conducting these stops.
- Commissioner Kazarosian stated that it is important for the public to understand what officers are doing and what is expected of them.
- Commissioner Calderone agreed that the information should be available to the public. He was concerned about the language “limiting the duration and scope” of stops.
  - Counsel Lee offered to revise or clarify that language.
- Commissioner Baker wanted to bring attention to the category of “vulnerable people.” He said Counsel Lee mentioned the things that officers and departments are doing and they go above and beyond that.
  - He expressed a desire to see more of the co-response model and other alternatives to dealing with vulnerable people, but wanted to highlight the great work departments are doing. He said funding is not at the same level to increase training and resources for vulnerable people.
- In response to Commissioner Calderone’s concerns, Commissioner Baker said the current language seems to limit officer activity.
  - Counsel Lee acknowledged the Commissioners’ concerns over language in the minimum standards, but she emphasized that the intent is to set baseline expectations for what officers should be doing.
- Commissioner Chrispin commented that the wording in the draft standards is consistent with the law and case law. He said it is the Commission’s job to educate the public, and

it is important to put out these standards to remind officers and the public what is expected of officers.

- Counsel Lee moved to the next element of the officer-response-procedure standard regarding critical incidents.
  - Critical incidents refer to sudden or progressive developments requiring immediate law enforcement attention and action. These are events that pose substantial risk to the public and officers such as disaster-related emergencies, active shooter scenarios, search and rescue efforts, and anti-terrorism.
  - The draft standard suggested agencies include a policy or provision concerning responding to critical incidents as part of officer response procedures.
- Commissioner Bluestone asked whether the term “critical incidents” referred to emergency incidents or incidents classified by law enforcement as events that officers may need debriefing from.
  - Counsel Lee said critical incidents referred to a mix of the two. However, based on her understanding of the literature, critical incident refers to unexpected situations that require immediate law enforcement action.
  - Commissioner Bluestone said this term should be clarified for the draft standards.
- Commissioner Baker and Commissioner Calderone agreed that critical incident has many meanings and should be clarified for the standards.
- Counsel Lee asked Commissioner Baker what a better term may be for capturing these types of events.
  - Commissioner Baker invited other Commissioners to provide input. He suggested taking some time to think about alternative ways to refer to critical incidents.
  - Commissioner Luma said the incidents are ones that likely require a coordinated, multi-agency response.
  - Commissioner Calderone suggested removing specific examples of critical incidents because a critical incident for a smaller department may not be critical for a larger department.
  - Commissioner Kazarosian suggested saying “disaster-related incidents” or “disaster-related emergencies.”
  - Counsel Lee agreed with the approach suggested by Commissioner Calderone to remove specific examples. The revised language would read, “critical incident means a sudden or progressive development or event that requires immediate law enforcement attention and decisive action to prevent or minimize any negative impact on the health, safety, or welfare of others.”
- Commissioner Bluestone emphasized the necessity to clarify between officer-related response and supportive response for officers.
  - Counsel Lee thanked the Commissioners for their input and was open to additional comments following the last section of the presentation.
- Counsel Lee presented draft standards on body-worn cameras and vehicle recording systems.
  - The purpose of the policy is to promote transparency and accountability and establish clear guidelines for camera and recording system usage.
  - The standards suggest agencies adopt a policy or provision detailing:
    - Circumstances under which cameras and systems should be activated;

- When they should be deactivated; and
  - Requirements for downloading and uploading recordings.
- The draft standard also suggests that agencies ensure all officers are trained in officer response procedures in accordance with all training requirements, including those set by the MPTC.
- Chair Hinkle thanked Counsel Lee for her presentation and turned the floor over to General Counsel Ravitz.
- General Counsel Ravitz reintroduced a proposed policy for voluntary relinquishment of certification that was presented at the last Commission meeting.
- Following his presentation, he asked the Commission to vote and approve the policy. He stated as follows.
  - The policy is intended to provide a mechanism for law enforcement officers to voluntarily surrender their certification while including safeguards against potential misconduct that may warrant action by the Commission.
  - The policy would provide for an individual to submit an application for relinquishment. The form calls attention to the terms of the policy and requires the applicant provide information about:
    - Criminal matters;
    - significant civil and administrative agency matters in their background; and
    - agree to the terms of the policy and attest to the accuracy of the information provided under pains and penalties of perjury.
  - The Executive Director or designee will review completed applications and cross-reference it with information in the Commission's possession including disciplinary proceedings, entries into the NDI, and our own databases.
    - The application will be provided to all staff divisions to raise any issues or concerns.
  - The application will then be posted on the Commission website for comments.
  - The Executive Director, or the designee, will provide the Chair with the application and relevant information and recommendations on whether the Commission should grant the application. Any additional conditions will be attached with the recommendation.
  - Applications for relinquishment of certification will be put before the Commission at meeting. The Commission could decide to:
    - Grant application without conditions
    - Grant application with additional conditions;
    - Deny application; or
    - Allow applicant to withdraw if conditions are proposed.
  - The terms of conditions of relinquishment include:
    - Can no longer be appointed or employed as a law enforcement officer or execute arrest or perform police duties and functions in any manner;
    - The Commission can still take disciplinary action for past conduct that occurred when the applicant was certified or employed as a law enforcement officer, or that occurred as part of the application process and submit information to the NDI for inclusion in public database records.

- General Counsel Ravitz concluded his presentation and opened for questions before asking for a vote to adopt the policy.
- The Chair did not see any questions or comments and entertained a motion to adopt the policy. Commissioner Kazarosian moved to approve the policy. Commissioner Luma seconded the motion.
- The vote proceeded as follows:
  - Commissioner Baker – Yes
  - Commissioner Bluestone – Yes
  - Commissioner Calderone – Yes
  - Commissioner Chrispin – Yes
  - Commissioner Hall – Yes
  - Commissioner Kazarosian - Yes
  - Commissioner Luma – Yes
  - Commissioner Talley – Yes
- The Commission unanimously voted to adopt this policy.

**7. 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)(1), to discuss the discipline or dismissal of, or complaints or charges brought against a public employee, a public officer, or an individual; under 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; 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.
- Commissioner Baker moved to enter into executive session. Commissioner Luma seconded the motion.
- The Commissioners voted as follows.
  - Commissioner Baker – Yes
  - Commissioner Bluestone – Yes
  - Commissioner Calderone – Yes
  - Commissioner Chrispin – Yes
  - Commissioner Hall – Yes
  - Commissioner Kazarosian – Yes
  - Commissioner Luma – Yes
  - Commissioner Talley – Yes
- The motion unanimously carried.
- The Chair informed members of the public that the Commission would not reconvene its public meeting after the executive session.
- The Chair thanked the staff for their extraordinary work, and the public meeting was adjourned at 9:56 AM.

**Summary of Matters Voted on by the Commission**

- Approval of minutes of March 20, 2025, meeting.
  - o The Commission voted to approve the minutes included in the meeting packet.
- Proposed policy concerning the voluntary relinquishment of an individual's certification as a law enforcement officer.
  - o The Commission unanimously voted to approve the proposed policy.

3.



# Executive Director Report

May 15, 2025

POSTC-comments@mass.gov  
www.mapostcommission.gov  
617-701-8401



# Agenda

1. National Peace Officer Memorial Day
2. Complaints & Incident Reports Quarterly Update
3. Certification Update
4. Finance & Administrative Update

# National Memorial Day & Police Week

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## May 15 is National Peace Officers Memorial Day

- Recognizes those law enforcement officers who have lost their lives in the line of duty for the service and protection of others
- In 1962 President Kennedy proclaimed May 15 as the National Peace Officers Memorial Day
- The week that includes May 15 is National Police Week
- National Law Enforcement Memorial Fund (<https://nlemf.org>)

# Complaints & Incident Reports

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## Disciplinary Records

- Ongoing complaints via the public complaint form\* and incident reports from agencies via the portal
- We track, review and corroborate discipline on complaints with sustained allegations to publish disciplinary records
- April 2025: POST received 136 public complaints and 59 reports from agencies for an average of ~ 49 reports per week (34 complaints/week + ~15 reports/week)
- 2024 weekly averages were (30+10)/week

\* <https://policecomplaints.mass.gov> also accessible through [www.mapostcommission.gov](http://www.mapostcommission.gov)

# Complaints & Incident Reports



## Open Complaints & Incident Reports (overdue > 90 days)\*

| November 2024   | February 2025   | May 2025  |
|---|---|---|
| 14 Agencies<br>18 complaints/incidents<br>Wareham (3)<br>Lawrence (2)<br>Mass State Police (2)<br>15 Agencies (1) | 11 Agencies<br>24 complaints/incidents<br>Boston (9)<br>Wareham (3)<br>Western NEU (3)<br>Mass State Police (2)<br>7 Agencies (1) | 12 Agencies<br>28 complaints/incidents **<br>Mass State Police (9)<br>Boston (5)<br>Wareham (3)<br>Palmer (2)<br>Granby (2)<br>7 Agencies (1) |

\* Excludes cases where agency has requested and been granted an extension from POST

\*\* POST is currently reviewing 4 extension requests (not included above)

# Complaints & Incident Reports



## Closed Cases (I/A's) but Discipline Is Pending \*

| November 2024   | February 2025  | May 2025  |
|---|--|---|
| 13 Agencies<br>56 cases<br>Boston (34)<br>Cambridge (5)<br>Lawrence (4)<br>Mass State Police (3)<br>Brookline (2)<br>8 Agencies (1) | 11 Agencies<br>45 cases<br>Boston (25)<br>Lawrence (6)<br>Cambridge (4)<br>Brookline (3)<br>7 Agencies (1) | 15 Agencies<br>46 cases<br>Boston (26)<br>Cambridge (6)<br>MEP (2)<br>12 Agencies (1) |

\* POST publishes cases closed by Agencies and reviewed by POST, even if discipline is pending

\*\* Some cases in each of these columns may be the same case

# Complaints & Incident Reports



## Average Number of Days where Discipline is Pending\*

| November 2024   | February 2025  | May 2025   |
|---|--|--|
| All Agencies: 91 days<br>Boston: 110 days<br>All other Agencies 61 days | All Agencies: 123 days<br>Boston: 139 days<br>All other Agencies: 103 days | All Agencies: 152 days<br>Boston: 161 days<br>All other Agencies: 134 days |

\* POST publishes cases closed by Agencies and reviewed by POST, even if discipline is pending

\*\* Some cases may appear in more than one timeframe (column)

# Complaints & Incident Reports



## Disciplinary Records

- Continue to review & publish additional disciplinary records every month

| Item Published        | March 2025 | May 2025 | Difference |
|-----------------------|------------|----------|------------|
| Number of Complaints  | 4,354      | 4,539    | 185        |
| Number of Allegations | 6,847      | 7,449    | 602        |

| Item Published        | May 2024 | May 2025 | Difference |
|-----------------------|----------|----------|------------|
| Number of Complaints  | 4,214    | 4,539    | 325        |
| Number of Allegations | 5,930    | 7,449    | 1,519      |

\* <https://policecomplaints.mass.gov> also accessible through [www.mapostcommission.gov](http://www.mapostcommission.gov)

# Certification Update

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## Recertification of Incumbent Officers (A-H) – July 1, 2025

- Portal successfully opened on May 5
- Seven sessions of training and office hours so far
- Clarifying questions about new process
- Agencies submitting information
- Going forward Agencies will be able to submit information on a quarterly or monthly basis

# Finance & Administrative Update



# FY26 Budget Outlook

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## House

- Wrapped up budget debate April 30<sup>th</sup>
- Appropriation remained unchanged at **\$8.9M**

## Senate

- Unveiled budget last week
- Appropriation remained unchanged at **\$8.9M**
- Debate begins May 20<sup>th</sup>

## Conference Committee

- Expected first or second week of June
- Appropriation of **\$8.9M** likely to be ***Not In Conference***

# FY26 Budget Outlook

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## \$8.9M is Manageable

- Final appropriation is ***\$570K less than*** POST's original request of **\$9.5M - - 6%**
- Does not deter from goal of achieving full operational status
- Budget appropriation is an estimate with various assumptions

# FY26 Budget Outlook & Considerations

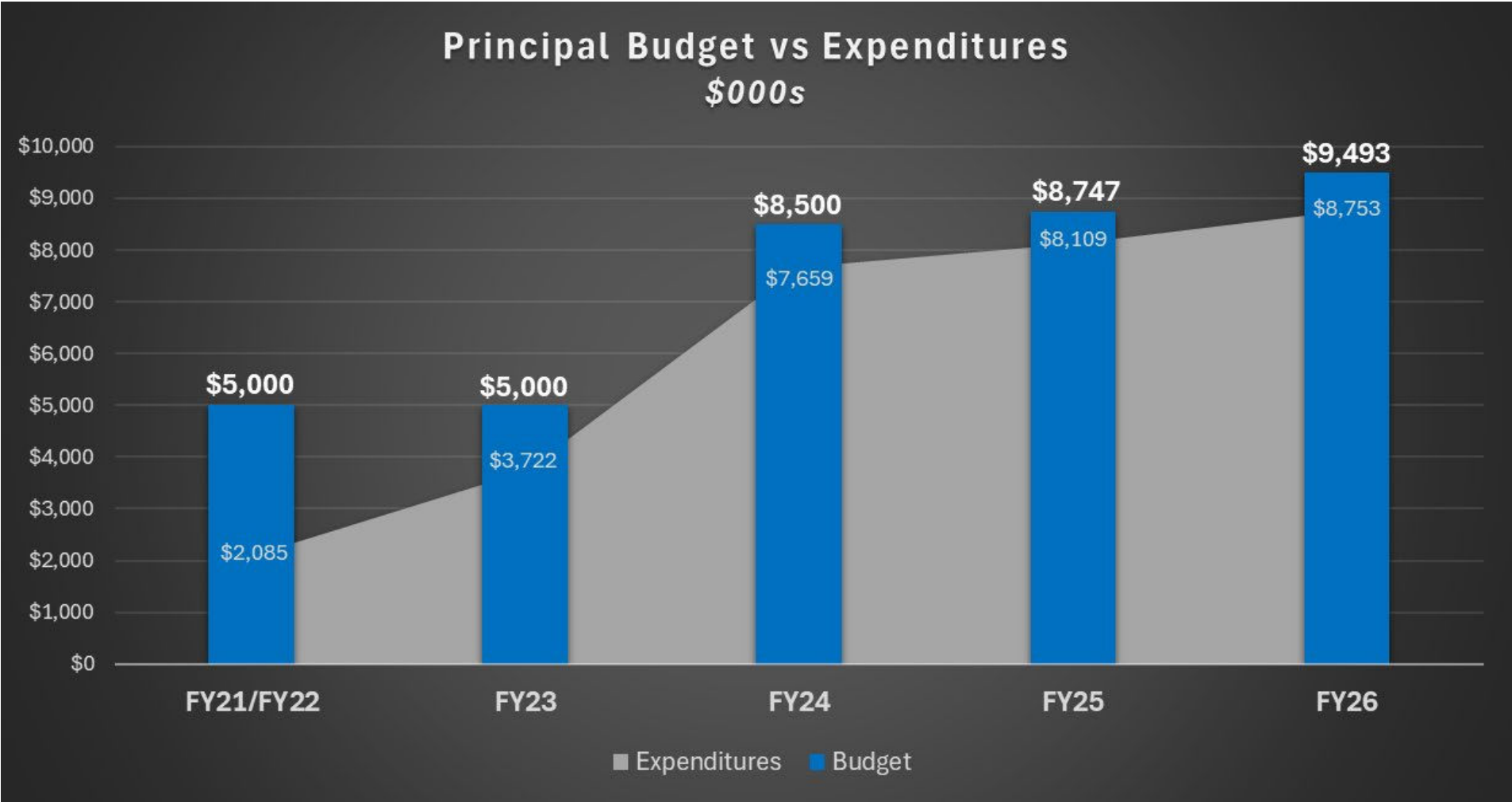
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- Projected payroll savings due to:
  - ✓ Part-time employees
  - ✓ Estimated salaries for open positions
  - ✓ Annualized-to-Actual Payroll Differential
- Variables in IT spending
  - ✓ Pre-paid subscriptions and engineering support
- Fewer consultant hours
  - ✓ Difficult to budget to the penny
- Options for Budget Planning
  - ✓ Postpone certain hires until later in the fiscal year
  - ✓ Limit fellowships/internships

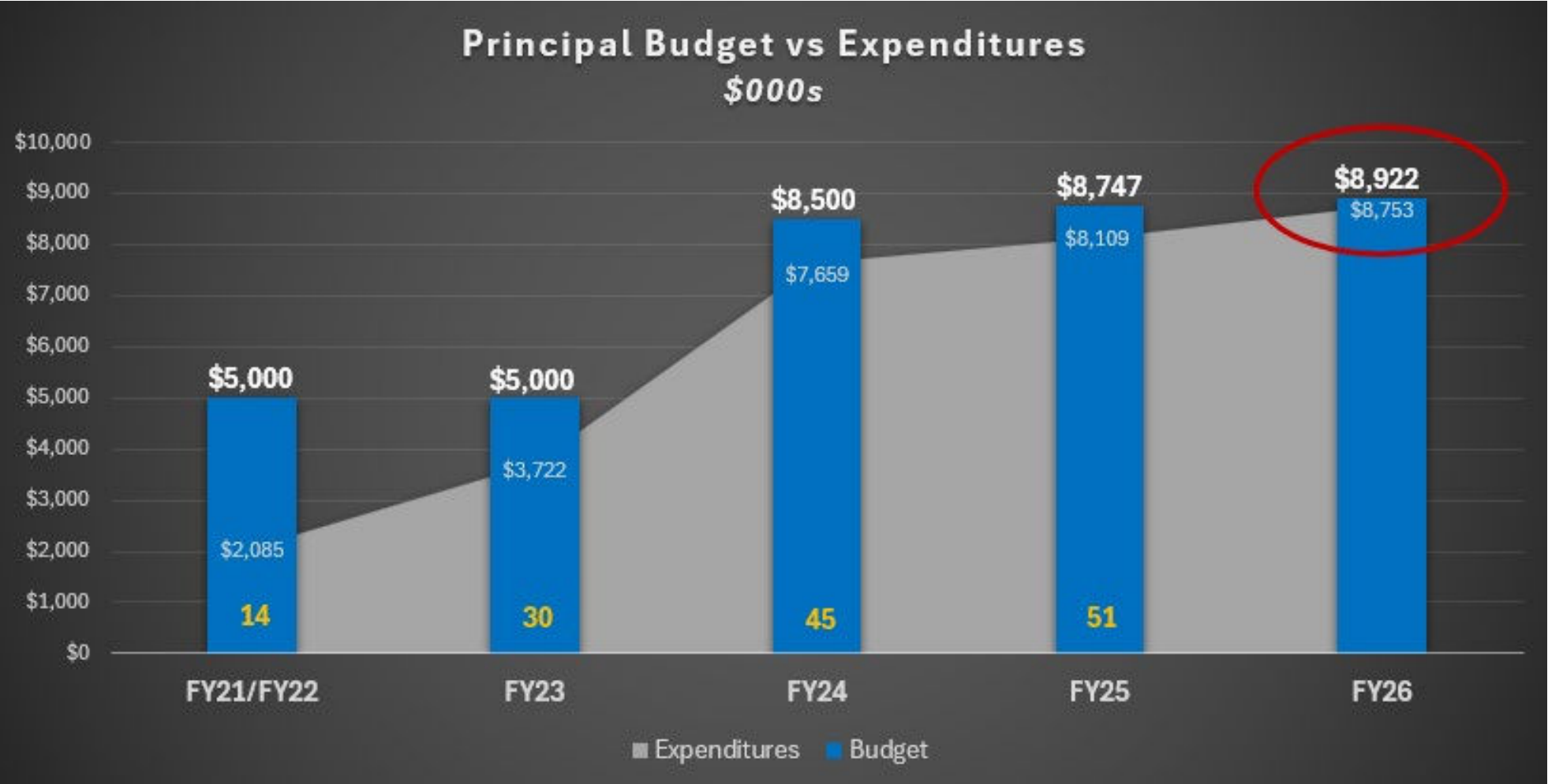
# FY26 Budget Outlook

## Historical Reversions



# FY26 Budget Outlook

## Historical Reversions





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Massachusetts Peace Officer Standards & Training  
POSTC-comments@mass.gov  
www.mapostcommission.gov  
617-701-8401

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5a(i).



# LAW ENFORCEMENT AGENCY (“LEA”) CERTIFICATION

Annie E. Lee, Counsel  
May 2025



# STATUTORY MANDATE

M.G.L. c. 6E, § 5(b) calls on the Commission to certify LEAs in accordance with “minimum certification standards,” including:

- (1) Use of force and reporting of use of force;
- (2) Officer code of conduct;
- (3) Officer response procedures;
- (4) Criminal investigation procedures;**
- (5) Juvenile operations;
- (6) Internal affairs and officer complaint investigation procedures;
- (7) Detainee transportation; and
- (8) Collection and preservation of evidence



# RESOURCES CONSULTED

- The Boston Globe, *Snitch City* (2025)
- Massachusetts Police Accreditation Commission, *Criminal Investigation* (2024)
- United States Department of Justice Civil Rights Division and United States Attorney's Office District of Massachusetts, *Investigation of the Worcester Police Department and the City of Worcester, Massachusetts* (2024)
- Massachusetts State Police, *Criminal Investigations* (2023)
- New Hampshire Law Enforcement Accreditation Commission, *Program Standards Manual* (2023)
- New York State Law Enforcement Agency Accreditation Council, *Standards and Compliance Verification Manual* (2023)
- Strategies for Youth, *Model Law Enforcement Policies for Youth Interactions* (2023)
- International Association of Chiefs of Police, *Standards of Conduct* (2019)
- Massachusetts General Laws
- Public comments



# KEY ELEMENTS

- Key principles
- Reporting criminal activity
- Management
- Investigatory techniques
- Conflicts of interest
- Youths
- Coordinated investigations
- Criminal intelligence data
- Victim or witness assistance
- Communications
- Training



# KEY PRINCIPLES

- Highlighting from code of conduct duty to comply with the Constitution.



# REPORTING CRIMINAL ACTIVITY

- Methods:
  - In person;
  - Virtual;
  - Verbal;
  - In writing;
  - Anonymously;
  - Languages other than English; and
  - Via third party.
- Agency and officer conduct:
  - Prohibit:
    - Requiring reports under oath or penalty of perjury;
    - Conducting criminal background check;
    - Conducting warrant check; and
    - Conducting immigration check.
  - Allow prospective reporters to review statements for completeness and accuracy; and
  - Accept and screen all complaints.



# MANAGEMENT

- Initiation;
- Assignment;
- Supervision;
- Initial or preliminary investigation;
- Follow-up investigation;
- Collection, preservation, and use of evidence;
- Internal progress reporting and accountability;
- Recommended time limits;
- Resolution;
- Documentation; and
- Case file maintenance.



# INVESTIGATORY TECHNIQUES

- Non-custodial interviews;
- Custodial interrogations;
- Informants;
- Identification procedures;
- Background investigations;
- Surveillance;
- Searches;
- Undercover operations;
- Deception;
- Enticement; and
- Facial recognition technology.



# CONFLICTS OF INTEREST

- A conflict of interest exists when an officer seeks to conduct an investigation that involves a member of investigating officer's family or an individual with whom investigating officer has a close personal or business relationship;
- Key principles:
  - Duty to act professionally; and
  - Duty to be worthy of public trust and authority given to officers;
- Prohibit investigating when there is a conflict of interest;
- Reporting;
- Evaluation;
- Measures to prevent interference;
- Unmanageable conflicts; and
- Compliance with applicable laws, rules, and regulations.



# YOUTHS

- Non-custodial interviews:
  - Explain:
    - Interview and purpose; and
    - Youth's rights;
  - Provide interested adult opportunity to be present;
  - Obtain understanding of youth's rights; and
  - Utilize youth-specific tactics and techniques.
- Custodial interrogations:
  - Explain:
    - Interrogation and purpose; and
    - Youth's rights
  - Interested adult rule:
    - Youths under the age of fourteen; and
    - Youths at least fourteen years old;
  - *Miranda* rights:
    - Issuance;
    - Understanding; and
    - Waiver;
  - Prohibit:
    - Threats;
    - Intimidation; and
    - Coercion.



# COORDINATED INVESTIGATIONS

- Circumstances for coordination;
- De-confliction standards and procedures;
- Management;
- Communications; and
- Dissemination and sharing of investigation materials, documents, or evidence.



# CRIMINAL INTELLIGENCE DATA

- Collection;
- Privacy and security;
- Storage;
- Dissemination and sharing;
- Modification, correction, amendment, or destruction; and
- Participation in inter- or intra-jurisdictional data sharing system; and
- Compliance with applicable laws, rules, and regulations.



# VICTIM OR WITNESS ASSISTANCE

- Utilize victim- or witness-sensitive tactics and techniques;
  - Connections to appropriate support services; and
  - Compliance with applicable laws, rules, and regulations.
- 
- Commission victim resources page:
    - <https://mapostcommission.gov/about-post/contact-us/victim-resources/>



# COMMUNICATIONS

- Individuals who report criminal activity:
- Agency channels; and
- Media.



# TRAINING

- Ensure training in accordance with all applicable training requirements.



Members of law enforcement and the public are encouraged to submit comments and suggestions to [POSTC-comments@mass.gov](mailto:POSTC-comments@mass.gov)





# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

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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

Re: Law Enforcement Agency Certification Standards – Criminal Investigation Procedures

Date: May 8, 2025

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Under Massachusetts General Laws chapter 6E, section 5(b), the Commission is directed to develop at least eight agency certification standards, of which “criminal investigation procedures” is one.

Attached at Exhibit A for the Commission’s review is a draft criminal investigation procedures standard. This standard is presented to the Commission for discussion and feedback; it is **not** presented to the Commission for preliminary approval.

The draft officer response procedures standard includes the following key elements:

- Key principles. The draft standard suggests that an agency’s criminal investigation procedures policy should emphasize officers’ duty to comply with the Constitution, given that criminal investigations have the potential to significantly impact individuals’ civil rights and civil liberties.
- Reporting criminal activity. An essential component of providing for public safety is investigating criminal activity reported by the public. To facilitate and encourage the reporting of criminal activity, the draft standard suggests that an agency’s criminal investigation procedures policy should address: (1) the methods by which the public may report criminal activity, and (2) conduct the agency and its officers should undertake when the public seeks to report criminal activity.

- Methods. To ensure that the public is able to report criminal activity, the draft standard suggests that agencies should establish, as is within their means, a variety of easily accessible methods by which individuals may report criminal activity. To reduce barriers to reporting, such as intimidation and language differences, the draft standard also suggests that agencies should allow individuals to report criminal activity anonymously, via a third-party, and in languages other than English.
- Agency and officer conduct. The draft standard also suggests that, to avoid inadvertently deterring or retaliating any individual who seeks to report criminal activity from doing so, agencies and officers should be prohibited from engaging in certain behaviors. Those prohibited behaviors include: (1) requiring a prospective or actual reporter to make their report under oath or penalty of perjury, and (2) conducting a criminal background, warrant, or immigration check of a prospective or actual reporter. Crucially, the draft standard does not suggest that agencies and officers should never require statements under oath or conduct criminal background, warrant, or immigration checks; indeed, statements under oath and such checks may be part of a reasonable criminal investigation. Rather, the draft standard prohibits such behavior only when there is no independent justification beyond the fact that an individual seeks to report or has reported criminal activity, in order to minimize barriers and prevent retaliation that may otherwise prevent the public from reporting criminal activity.

As matters of best practice, the draft standard also suggests that agencies should allow prospective reporters to review their statements for completeness and accuracy prior to finalizing a report of criminal activity, and should accept and screen all reports of criminal activity for the purposes of determining whether to initiate a criminal investigation.

- Management. The draft standard next suggests that agencies should, as part of a criminal investigation procedures policy, detail requirements concerning the management of a criminal investigation. Those requirements should cover the entire criminal investigation process from initiation to resolution and should address topics such as personnel involved in a criminal investigation (i.e., assignment and supervision), internal progress reporting and accountability, recommended time limits, documentation, and case file maintenance.
- Investigatory techniques. The draft standard also suggests that agencies should include, as part of a criminal investigation procedures policy, requirements concerning investigatory techniques used in a criminal investigation. Those requirements should detail when it is appropriate to use a given technique and the processes that must be followed when using that technique. Doing so not only safeguards individual civil liberties, but also buttresses the integrity of any criminal prosecution that may follow a criminal investigation.

- Conflicts of interest. To ensure the integrity of a criminal investigation and promote public confidence in policing, agencies should also include a sub-policy or provision concerning conflicts of interest in a criminal investigation. That sub-policy or provision should first prohibit an officer from conducting a criminal investigation where they have an actual or potential conflict of interest, and then should address the requirements for reporting and evaluating a potential or actual conflict of interest. Finally, where an agency has confirmed the existence of a conflict of interest in a criminal investigation, the sub-policy or provision should address the management of the conflict of interest, including measures that will be taken to prevent the conflicted officer from interfering with the criminal investigation and the circumstances under which the criminal investigation will be referred out because the agency cannot adequately manage the conflict of interest.<sup>1</sup>
- Youths. Federal and state courts have long recognized that youths experience criminal investigations, and in particular, non-custodial interviews and custodial interrogations, differently from adults. In recognition of this difference, courts call on law enforcement to take extra precautions when interviewing and interrogating youths.

In the Commonwealth, those precautions are provided through the “interested adult” rule. *See Commonwealth v. A Juvenile (No. 1)*, 389 Mass. 128, 134 (1983). The “interested adult” rule provides that, for a youth to knowingly and intelligently waive their *Miranda* rights (i.e., Fifth Amendment right against self-incrimination and Sixth Amendment right to counsel), three conditions must be met. *See id.* First, the youth’s parent or interested adult must be present for the issuance of the youth’s *Miranda* rights. *Id.* Second, the youth’s parent or interested adult must understand the youth’s *Miranda* rights and the implications of waiving one’s *Miranda* rights. *Id.* Third and finally, the youth’s parent or interested adult must have the opportunity to explain to the youth their *Miranda* rights and the significance of waiving their *Miranda* rights.

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<sup>1</sup> A sub-policy or provision concerning conflicts of interest may also be appropriate, given public comments the Commission has received.

On July 23, 2024, the Commission received a public comment from Kevin and Carine Berner, who called for the Commission to establish a stringent conflict of interest standard for agencies, based on an incident involving the Berners’ son and the Braintree Police Department. The Berners alleged that a Braintree officer failed to disclose personal and professional conflicts of interest when conducting a criminal investigation into an incident where the alleged perpetrator was the child of another Braintree officer and a family friend of the investigating officer. The Berners claimed that an independent review of the criminal investigation and subsequent internal affairs investigation concluded that, while multiple Braintree officers had violated state ethics law, those officers technically did not violate agency policy because the Braintree Police Department did not have a policy against investigating someone with whom the investigating officer has a close personal or professional relationship and thus were not disciplined. The Berners called on the Commission to “set expectations on ethical conduct” to prevent such an incident from occurring again. A copy of the Berners’ comment is attached at [Exhibit B](#).

On July 31, 2024, the Commission received a related public comment from state Senator John F. Keenan, suggesting that the Commission develop, as part of the agency certification process, a standard concerning conflicts of interests based on the matter described in the Berners’ public comment. A copy of Senator Keenan’s comment is attached at [Exhibit C](#).

- Non-custodial interviews. Although the “interested adult” rule does not apply to non-custodial interviews, the draft standard suggests that agencies should, in addition to utilizing youth-specific tactics and techniques, allow the youth’s parent, legal guardian, or responsible adult to be present for a non-custodial interview of the youth, provided the presence of such an adult is appropriate and time and circumstances permit. Doing so may be beneficial where youths may not, on their own, understand that non-custodial interviews are voluntary and that they are free to leave if they do not wish to participate in such an interview.
- Custodial interrogations. The Supreme Judicial Court distinguishes between youths under the age of fourteen and youths at least fourteen years old when applying the “interested adult” rule. When a youth is under the age of fourteen, the youth must *actually* consult with an interested adult before a waiver of their *Miranda* rights may be considered valid. *A Juvenile (No. 1)*, 389 Mass. at 134. When a youth is at least fourteen years old, the youth only needs the *opportunity* to consult with an interested adult before a waiver of their *Miranda* rights may be considered valid. *Commonwealth v. Berry*, 410 Mass. 31, 34-35 (1991). Agencies should therefore explicitly instruct officers on how to administer *Miranda* rights to youths under the age of fourteen and youths at least fourteen years old to ensure that any waiver of *Miranda* rights by youths are adequately knowingly and intelligently made.

In addition, because youths are more susceptible than adults to threats, intimidation, and coercion, the draft standard suggests that agencies should prohibit officers from threatening, intimidating, and coercing youths during custodial interrogations.

- Coordinated investigations. The draft standard next suggests that agencies should develop sub-policies or provisions concerning the coordination of criminal investigation efforts. That sub-policy or provision should address: when criminal investigations will be coordinated, de-confliction standards and procedures, management, communications, and the dissemination and sharing of investigative materials, documents, or evidence. Doing so will ensure that coordinated criminal investigations are both efficient and effective.
- Criminal intelligence data. Agencies routinely collect criminal intelligence data as a means of conducting criminal investigations and proactively devising strategies and practices to protect the health, safety, and welfare of the public. These collection practices, however, when not standardized, can intrude on an individual’s privacy, civil rights, and civil liberties, produce flawed analysis, and result in data leaks. To preserve the benefits of criminal intelligence data while safeguarding against such abuses and errors, agencies should address, in a sub-policy or provision concerning criminal intelligence data collection: what data is and is not permissible to collect; privacy and security measures that the agency will take to protect such data; the storage of such data; the dissemination and sharing of such data; the modification, correction, amendment, and destruction of such data; and the agency’s participation in an inter- or

intra-jurisdictional criminal intelligence data sharing system (e.g., Boston Regional Intelligence Center and the Commonwealth Fusion Center).

- Victim or witness assistance. To foster positive relationships with the public, which encourages the reporting of criminal activity and cooperation in criminal investigations, agencies' criminal investigation procedures policies should include a sub-policy or provision concerning victim and witness assistance. That sub-policy or provision should direct officers to employ appropriately sensitive tactics and techniques when engaging with victims and witnesses and to connect victims and witnesses to appropriate support services, when appropriate.<sup>2</sup>
- Communications. To encourage transparency and accountability, an agency's criminal investigations procedures should also include a sub-policy or provision concerning communications about criminal investigations, as the agency deems appropriate, with individuals who report criminal activity, the public, and the media about criminal investigations.
- Training. To ensure compliance with the agency's criminal investigation procedures policy, the draft standard suggests that agencies should ensure that all officers are trained in criminal investigation procedures in accordance with all applicable requirements.

Commission staff is consulting with the Municipal Police Training Committee and its staff and expects to present a revised criminal investigations procedure standard to the Commission in due course.

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<sup>2</sup> A victim and witness assistance sub-policy or provision also complements recent efforts the Commission has undertaken to support individuals who are victims of crimes or who have experienced a trauma event related to policing. See Massachusetts POST Commission, *Victim Resources*, available at: <https://mapostcommission.gov/about-post/contact-us/victim-resources/>.



# EXHIBIT A

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

13.02: Definitions

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

Criminal Intelligence Data. Intelligence Information as that term is defined in M.G.L. c. 6, § 167.

Family. An adult or minor parent, spouse, child, sibling, child of a sibling, grandparent, grandchild, sibling of a parent, child of a sibling of a parent, parent-in-law, sibling-in-law, child of a sibling-in-law, grandparent of a spouse, sibling of a parent-in-law, child of a sibling of a parent-in-law or household member.

Custodial Interrogation. Questioning initiated by an officer after an individual has been taken into custody or otherwise deprived of their freedom of action in any significant way.

Developmentally and Age Appropriate, Trauma Informed, Racially Equitable, and Culturally Relevant Tactics and Techniques. Tactics and techniques that take into account an individual's contextual factors, including, but not limited to, mental or physical condition, age or developmental maturity, language or cultural differences, the legacy of policing on vulnerable populations, and the agency's history with the public. Such tactics and techniques include, but are not limited to, tactics and techniques consistent with the Commission's guidance entitled *Developmentally Appropriate De-escalation and Disengagement Tactics, Techniques and Procedures and Other Alternatives to the Use of Force for Minor Children* (2021).

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

Non-Custodial Interview. Questioning initiated by an officer in which an individual is not in custody and is free to leave at any time.

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

Responsible Adult. An individual eighteen or older with authority to make decisions on behalf of a youth. A responsible adult includes, but is not limited to, the attorney of the youth, or the attorney of the youth's parent or guardian.

Youth. An individual under the age of eighteen.

### 13.03: Standards

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

[RESERVED FOR STANDARDS ON OTHER SUBJECTS]

- (5) Criminal investigation procedures. An agency's criminal investigation policy shall:
- (a) Ensure compliance with constitutional requirements consistent with the agency's code of conduct policy developed pursuant to 555 CMR 13.03(3);
  - (b) Require the agency to establish easily accessible methods, to the extent possible, by which individuals may report criminal activity including:
    - 1. At the agency;
    - 2. Over the phone, which may include text messages;
    - 3. Over the internet, which may include e-mail, social media, or a form on the agency's website;
    - 4. Orally;
    - 5. In writing;
    - 6. Anonymously;
    - 7. In languages other than English that are spoken by a substantial proportion of residents in the agency's geographical jurisdiction; and
    - 8. Via a third party;
  - (c) Prohibit the agency from discouraging, intimidating, or retaliating against individuals who seek to report criminal activity, including by:
    - 1. Requiring any such individual to make their report under oath or penalty of perjury;

2. Conducting a criminal background check of any such individual solely on the basis that such individual seeks to report or has reported criminal activity;
  3. Conducting a warrant check of any such individual solely on the basis that such individual seeks to report or has reported criminal activity; and
  4. Conducting an immigration check of any such individual solely on the basis that such individual seeks to report or has reported criminal activity;
- (d) Require the agency to allow the prospective reporter the opportunity to review a copy of their own statement for completeness and accuracy, when time and circumstances reasonably permit;
- (e) Require the agency to accept and screen all reports of criminal activity for the purposes of determining whether to initiate a criminal investigation;
- (f) Set forth specific and comprehensive requirements concerning the management of a criminal investigation, including:
1. Initiation;
  2. Assignment;
  3. Supervision;
  4. Initial or preliminary investigation;
  5. Follow-up investigation;
  6. Collection, preservation, and use of evidence, consistent with the agency's collection and preservation of evidence policy developed pursuant to 555 CMR 13.03(8), and 515 CMR where applicable;
  7. Internal progress reporting and accountability;
  8. Recommended time limits;
  9. Resolution, including by methods other than arrest and incarceration;
  10. Documentation; and

11. Case file maintenance;
- (g) Set forth specific and comprehensive requirements concerning the use of investigatory techniques in a criminal investigation, including:
1. Non-custodial interviews;
  2. Custodial interrogations;
  3. Informants, including confidential informants and jailhouse informants;
  4. Identification procedures, including photo arrays, in-person line-ups, show-ups, and admonitions;
  5. Background investigations;
  6. Surveillance, including wiretapping and other methods of eavesdropping;
  7. Searches;
  8. Undercover operations;
  9. Deception;
  10. Enticement, including promises, rewards, or inducements made to a witness, informant, or suspect; and
  11. Facial recognition technology;
- (h) Include a sub-policy or provision concerning the management of conflicts of interest in a criminal investigation that:
1. Emphasizes an officer's duty to act professionally and ethically, and to be worthy of the public trust and authority given to officers consistent with the agency's code of conduct policy developed pursuant to 555 CMR 13.03(3);
  2. Prohibits an officer, regardless of rank, from conducting a criminal investigation, in whole or in part, that involves a member of the officer's family or an individual with whom the officer has a close personal or business relationship;
  3. Sets forth specific and comprehensive requirements concerning the internal reporting of a potential or actual conflict of interest to the

- prospective conflicted officer's supervisor, superior, or appointing authority;
4. Sets forth specific and comprehensive requirements concerning the agency's evaluation of the reported conflict of interest for the purposes of determining whether an actual conflict of interest exists;
  5. Sets forth specific and comprehensive requirements concerning measures that the agency will take to prevent the conflicted officer from interfering with the criminal investigation;
  6. Addresses the circumstances under which the criminal investigation will be referred to another agency because the agency cannot adequately manage the conflict of interest; and
  7. Complies with all applicable laws, rules, and regulations, including M.G.L. c. 6E, § 12, M.G.L. c. 149, § 185, M.G.L. c. 268A, and 555 CMR 2.03(5) and 6.07;
- (i) Include a sub-policy or provision concerning the non-custodial interviewing of a youth during a criminal investigation that directs officers to:
1. Explain, in developmentally and age appropriate, trauma informed, racially equitable, and culturally relevant language, that the officer is seeking to interview the youth, the purpose of the interview, and the youth's rights;
  2. Provide the youth's parent, legal guardian, or responsible adult the opportunity to be present for the interview, if appropriate and when time and circumstances reasonably permit;
  3. Obtain the youth's clear and unambiguous understanding that the interview is voluntary and they are free to leave if they do not wish to participate in the interview; and
  4. Utilize developmentally and age appropriate, trauma informed, racially equitable, and culturally relevant tactics and techniques, in light of the youth's age, mental ability, education level, and prior experience with law enforcement, and the seriousness of the matter in question;
- (j) Include a sub-policy or provision concerning the custodial interrogation of a youth during a criminal investigation that:

1. Directs officers to:
  - a. Explain, utilizing developmentally and age appropriate, trauma informed, racially equitable, and culturally relevant tactics and techniques, that the officer is seeking to interrogate the youth, the purpose of the interrogation, and the youth's rights;
  - b. Utilize developmentally and age appropriate, trauma informed, racially equitable, and culturally relevant tactics and techniques, in light of the youth's age, mental ability, education level, and prior experience with law enforcement, and the seriousness of the matter in question;
  - c. When seeking to interrogate a youth under the age of fourteen, wait for the youth's parent, legal guardian, or responsible adult to arrive at the location of the interrogation prior to issuing to the youth their *Miranda* warnings, unless there is an objectively reasonable need to interrogate the youth in order to protect the officer or others from an immediate danger;
  - d. When seeking to interrogate a youth at least fourteen years old, inform the youth that the youth has the right to have their parent, legal guardian, or responsible adult present for the issuance of the youth's *Miranda* rights and before the interrogation begins and, if the youth requests such a person, wait for the youth's parent, legal guardian, or responsible adult to arrive at the location of the interrogation, unless there is an objectively reasonable need to interrogate the youth in order to protect the officer or others from an immediate danger;
  - e. Issue to the youth, in the presence of their parent, legal guardian, or responsible adult, if such person is required or requested, the youth's *Miranda* warnings in accordance with *Com. v. A Juvenile (No. 1)*, 389 Mass. 128 (1983), unless there is an objectively reasonable need to interrogate the youth in order to protect the officer or others from an immediate danger;
  - f. Obtain the youth's, clear and unambiguous understanding of the youth's *Miranda* rights;
  - g. Allow the youth adequate time and space, with their parent, legal guardian, or responsible adult, if such person is

required or requested, to consider their *Miranda* rights outside of the officer's presence and hearing; and

- h. If the youth chooses to waive their *Miranda* rights:
  - i. Explain to the youth the consequences of waiving their *Miranda* rights; and
  - ii. Obtain the youth's clear and unambiguous waiver of their *Miranda* rights;

2. Prohibits officers from:

- a. Restraining the youth, unless the youth is engaging in behavior reasonably likely to cause injury to themselves or others;
- b. Using, threatening to use, or causing the youth to perceive that the officer will use force;
- c. Threatening the youth;
- d. Using profanity or derogatory language, or engaging in demeaning, threatening, or humiliating speech or tactics; and
- e. Using deception;

(k) Include a sub-policy or provision concerning the coordination of criminal investigation efforts with other law enforcement agencies and governmental entities that sets forth specific and comprehensive requirements concerning:

- 1. The circumstances under which the agency will coordinate its criminal investigation efforts with another body or entity;
- 2. Standards and procedures for deconflicting investigative efforts between the agency and the other body or entity with which it is coordinating;
- 3. The management of coordinated criminal investigation efforts between the agency and the other body or entity with which it is coordinating;

4. Communications about the coordinated criminal investigation efforts between the agency and the other body or entity with which it is coordinating; and
  5. The dissemination and sharing of criminal investigation materials, documents, or evidence;
- (l) Include a sub-policy or provision concerning criminal intelligence data collection that sets forth specific and comprehensive requirements concerning:
1. The collection of criminal intelligence data, including limiting criminal intelligence data to data concerning criminal conduct and activities that present a threat to the public;
  2. The privacy and security of criminal intelligence data in the agency's possession, custody, or control;
  3. The storage of criminal intelligence data in the agency's possession, custody, or control;
  4. The dissemination and sharing of criminal intelligence data in the agency's possession, custody, or control;
  5. The modification, correction, amendment, or destruction of criminal intelligence data in the agency's possession, custody, or control;
  6. The agency's participation in an inter- or intra-jurisdictional criminal intelligence data sharing system; and
  7. Compliance with all applicable laws, rules, and regulations, including, M.G.L. c. 6, § 167, et seq., and regulations promulgated thereunder;
- (m) Include a sub-policy or provision concerning victim or witness assistance that:
1. Directs officers to employ developmentally and age appropriate, trauma informed, racially equitable, and culturally relevant tactics and techniques when engaging with a victim or witness;
  2. Directs officers to make efforts to connect a victim or witness in need to appropriate support services, when time and circumstances reasonably permit; and

- 3. Complies with all applicable laws, rules, and regulations, including M.G.L. c. 258A;
- (n) Include a sub-policy or provision concerning communications about a criminal investigation, to the extent appropriate:
  - 1. With an individual who reports criminal activity;
  - 2. On the agency's website and social media; and
  - 3. With the media;
- (o) Ensure that all officers are trained in criminal investigation procedures in accordance with all applicable training requirements.

# **EXHIBIT B**

## Lee, Annie (PST)

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**From:** POSTCcomments (PST)  
**Sent:** Tuesday, July 23, 2024 8:54 AM  
**To:** Lee, Annie (PST)  
**Subject:** FW: LEA Certification Standards: Conflicts of Interest  
**Attachments:** POST-Comments\_Berner\_07232024.pdf

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**From:** Kevin Berner [REDACTED]  
**Sent:** Tuesday, July 23, 2024 7:32 AM  
**To:** POSTCcomments (PST) <POSTC-comments@mass.gov>  
**Subject:** LEA Certification Standards: Conflicts of Interest

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Attorney Lee and Members of POST Commission:

We are private citizens living in Braintree MA writing to provide public comments on [POST Commission's LEA Certification Standards](#). We are expressing support for the inclusion of clear conflict of interest guidelines and responses for section (2) *officer code of conduct*. Our family was directly impacted by unethical police conduct, and no policies or standards existed at our local department, nor were there any state-level agencies equipped to provide oversight or to address the unethical police conduct.

Our disabled 12-year-old child was a victim of sexual abuse from some children in his grade. The neighborhood bully lured [REDACTED] into a teammate's basement, coerced him into removing his clothes, had him pose naked for photos, and disseminated these naked photos to classmates in order to humiliate and harm. The bully was the son of a sergeant detective in our local police department, his mother works for the Mayor's office, and other relatives are also town employees. Other children who shared the naked photo had connections to law enforcement in surrounding municipalities, and one was the son of a municipal judge. The police investigation was assigned to Lt Detective Michael Moschella, the involved sergeant's direct supervisor. This obvious conflict of interest was not declared. Braintree Police immediately downplayed the seriousness of the incident as "boys being boys." We requested reassignment to the State Police or a neighboring department as the professional conflicts within Braintree PD were obvious to us and the Child Advocacy Center staff we spoke with. This request was denied. We requested an internal affairs review of this investigation. We received a response from then Braintree Police Chief Mark Dubois on 11/9/2022 that indicated that the investigation in question was overseen by him and the deputy chiefs *and* that he and the deputy chiefs reviewed the matter and found no bias. It is unreasonable for command officers to fairly review a matter that they were directly involved with overseeing. This internal affairs process was flawed and invalid and failed to appropriately review the conduct of the conflicted detective.

After the case was closed, we learned that the personal and professional conflicts were even deeper than we had initially understood. We learned from a town councilor and some neighbors that Detective Moschella and the involved Sergeant were close friends since the start of high school, played on sports teams together, and had remained close since. We learned that Detective Moschella and the involved Sergeant not only lived <.5 mile away from each other, but their older children were in the same grades and their families attended school events, fundraisers and church events together. We learned that Detective Moschella and the involved

Sergeant worked together in the small Braintree Police Department for 18 years, and had a supervisory relationship for at least 13 years. Deputy Chief Cohoon was aware of the extent of the personal and professional relationships, and declined to disclose or address the conflicts. We also learned that Detective Moschella had a personal friendship with another father of an involved child. A copy of the police report retrieved from the district attorney's office had been tampered with by Detective Moschella and was missing 2 lines describing the interview with this involved father. The POST Commission, DA and Attorney General's office refused to act on this.

The conflicts were only the start of it, a review of the police report revealed a deeply flawed investigation: 1) none of the involved children were interviewed at all, only the fathers of the involved children were interviewed, 2) **Detective Moschella had the involved sergeant interview his own son**, 3) Detective Moschella asked a civilian to interview a neighborhood child who had possessed the naked photo, 4) several involved children/families were not interviewed at all, and 5) there were no documented attempts to requested involved phones or to recover the naked photo evidence.

This was no trivial matter. Child sexual abuse and exploitation can have a serious and lifelong impact on a victim, as survivors of child sexual abuse have higher rates of substance use disorders, psychiatric illnesses, and suicidality. Failing to recover this naked photo not only impacted the potential for criminal charges in this case, it also made it impossible to determine how widely the image was shared. This greatly increases the likelihood that the naked image documenting our child's sexual abuse will re-emerge in the future to retraumatize. Braintree Police's failure to identify and address obvious conflicts of interest greatly increased the likelihood that our child will continue to be impacted by this trauma. This sickens us.

We reached out to our local elected officials and state agencies for help. The FBI indicated that the incident had to be addressed by the State Police or local police because it involved minors. A State Police Sergeant said they could not intervene because the local police department was already involved. The POST Commission indicated that conflicts of interest and ethical violations were out of their purview. The Attorney General's Office shared that they also could not intervene with a local police department, but suggested to seek solutions from our town council and mayor. Braintree then Mayor Kokoros declined multiple requests for an inquiry.

We were eventually able to convince the former mayor of Braintree to launch an independent review of this investigation using the former MA Commissioner of Public Safety Daniel Bennett's Comprehensive Investigations and Consulting (CIC) firm. This review identified serious ethical concerns, and concluded that multiple Braintree Police command staff violated the MA Conflict of Interest Law [M.G.L. 268A sec 23 a](#). Since there was no department policy against investigating someone with whom you have a close personal or professional relationship, Detective Moschella did not technically violate policies of the Braintree Police Department. Bennett recommended that *"Braintree Police Policies and Procedures should be modified,"* that there should be *"training on M.G.L.c 268A sec. 23 a. (3) for the command staff,"* and *"In the future, when an investigation involves a family member of a police officer, the department should determine whether the investigation should be referred to another agency or assigned to an officer within the department with no personal relationship."*

The [guidelines set forth by the International Association of Chiefs of Police Standards of Conduct](#) are clear: A police department, at minimum, needs to adopt standards that are consistent with best practices and recommendations, inclusive of a standard that *"officers shall not participate or interfere in investigations involving family members or persons with whom they have a close personal or business relationship."* In our case, Det Moschella investigated a colleague with whom he was closer than most people are with their own siblings.

The [Boston Globe published an investigative report of this incident](#) in February 2024. It is clear that Braintree PD's misconduct and unethical practices have further eroded public trust in law enforcement. The 500+ comments on [Bostonglobe.com](#) and the [Instagram post of the story](#) are highly critical of this morally bankrupt Braintree PD. Recent incidents in other South Shore towns like Stoughton and Canton have strengthened the perception that local police departments routinely cover up the misdeeds of the officers in their ranks. I am from a law enforcement family myself. My late father served for 18 years on the New York City Police

Department before duty-related injuries forced his retirement. His brother served in New Jersey, and his uncle served in Maine. I understand and respect the sacrifices every officer and police family makes each day when they pick up their badge. My father would be disgusted as to how his police “brothers” chose to serve themselves instead of serving the public.

Even though the December 2023 independent report recommended a conflict of interest policy, no policy was developed by Braintree PD until they were pressed by the new Mayor Joyce this Spring. A conflict of interest policy was eventually developed by now Chief Cohoon in April 2024, but it was insufficient and failed to address personal and professional conflicts. [Revisions in June of 2024](#) included personal and professional conflicts but still put the responsibility of addressing conflicts in the hands of the command staff. In the Braintree PD, multiple members of the command staff failed to identify, disclose or address multiple personal and professional conflicts. Two of these failed leaders were promoted, and another resigned to bring his unethical behavior to lead an out-of-state police department. Ethical misconduct occurred at the highest levels of the Braintree Police Department, and no higher-ranked officers exist to discipline involved officers or monitor for future ethical issues. It is unrealistic to expect a new mayor with a background in civil engineering to be equipped to monitor or address police misconduct. It is critical that a state agency set expectations on ethical conduct, and have a clear method for whistleblowers to identify ethical issues to be investigated. The POST needs to be the agency to address these ethical issues.

This is not a Braintree problem, this is a Massachusetts problem. Community Policing has many benefits, and we see these benefits in our own community. We felt proud and safe seeing our uniformed officer neighbor dropping his kids off at school when they were in my children’s classes. Officers patrolling on motorcycles give out candy to trick-or-treaters on Halloween. The school resource officers are beloved by *all* the students at my child’s middle school. We rallied around injured officers and K-9 Kitt when he was killed in the line of duty. However, expecting officers to police and investigate individuals with whom they have close personal, family, and business relationships is a clear conflict and deepens mistrust. POST must adopt clear state-wide standards expecting departments to adopt conflict of interest policies that addresses close personal, family, and business relationships.

Respectfully,

Thank you for your attention to this matter,  
Kevin & Carine Berner

# **EXHIBIT C**

## Lee, Annie (PST)

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**From:** POSTCcomments (PST)  
**Sent:** Wednesday, July 31, 2024 11:00 AM  
**To:** Lee, Annie (PST)  
**Cc:** Ennis, Jamie (PST)  
**Subject:** FW: LEA Certification Standards

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**From:** Sternman, Mark (SEN) <Mark.Sternman@masenate.gov>  
**Sent:** Wednesday, July 31, 2024 10:40 AM  
**To:** POSTCcomments (PST) <POSTC-comments@mass.gov>  
**Subject:** LEA Certification Standards

Submitting the comment below from Sen. Keenan:

Thank you for accepting comments on law enforcement agency certification standards.

In response to a recent case, the Town of Braintree has adopted a conflict-of-interest policy that may help the POST Commission in its review of crafting a statewide policy; there are national templates that can be used for guidance as well. My hope is that the POST Commission will ultimately produce a conflict-of-interest policy that becomes the national standard.

I appreciate your consideration of this matter and wholeheartedly support the important work of the POST Commission.

Sincerely,  
John F. Keenan

**Mark S. Sternman**  
*Chief of Staff*  
Office of Senator John F. Keenan  
State House, Room 413-F  
Boston, MA 02133  
(617) 722-1494

5b.



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

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## **POLICY ON INFORMATION IN THE NATIONAL DECERTIFICATION INDEX**

**(May 2025)**

**(Proposed)**

The Massachusetts Peace Officer Standards and Training Commission hereby adopts this policy concerning the submission of information to the National Decertification Index and the treatment of information contained therein.

### **I. GENERAL PROVISIONS**

#### **A. For purposes of this Policy:**

1. The following terms have the meanings ascribed to those terms in M.G.L. c. 6E, § 1:
  - a. “Agency”;
  - b. “Commission”;
  - c. “Decertification”;
  - d. “Law enforcement agency”; and
  - e. “Law enforcement officer”;
2. The following terms, as used in quotations from 555 CMR 9.08(2) and 9.09, have the meanings ascribed to those terms in 555 CMR 9.02:
  - a. “Applicant”;
  - b. “Application”;
  - c. “Certification”;
  - d. “Conditional Certification”; and
  - e. “Division”;
3. “Executive Director” refers to the Executive Director of the Commission appointed pursuant to M.G.L. c. 6E, § 2(g), or that person’s designee for relevant purposes;
4. “Massachusetts information” refers to information concerning action taken by an entity in Massachusetts or concerning an individual who is certified or employed as a law enforcement officer in Massachusetts;
5. “NDI” refers to the National Decertification Index maintained by the International Association of Directors of Law Enforcement Standards and Training;
6. “NDI-based restrictions” refers to the provisions of:
  - a. M.G.L. c. 6E, § 4(d) stating that “[n]o person shall be eligible for admission to police schools, programs or academies approved by

- the municipal police training committee pursuant to [M.G.L. c. 6, § 118], or the training programs prescribed by [M.G.L. c. 22C], or for appointment as a law enforcement officer or for employment with an agency if they are listed in the national decertification index”;
- b. M.G.L. c. 6E, § 4(f)(2) stating that “[t]he commission shall not issue a certificate to an applicant . . . whose name is listed in the national decertification index”;
- c. 555 CMR 9.08(2) stating that “the Division may grant an application [for certification] only if the Division determines that . . . [t]he applicant is not listed in the National Decertification Index,” “[e]xcept as provided in 555 CMR 9.09,” which concerns “Conditional Certification”; and
- d. M.G.L. c. 41, § 96A stating that “[n]o person . . . whose name is listed in the national decertification index . . . shall be appointed as a police officer of a city, town or district”; and
- 7. “Officer,” as used in quotations from 555 CMR 12.04(1), has the meaning ascribed to that term in 555 CMR 12.02.

B. The Commission reserves the ability to rescind or amend this Policy at any time.

## **II. TREATMENT OF INFORMATION THAT HAS BEEN, OR MAY BE, SUBMITTED TO THE NDI**

- A. The Commission construes the NDI-based restrictions listed in Section I as being applicable only where an individual:
  - 1. Is listed in the NDI; and
  - 2. Either:
    - a. Has been decertified by the Commission;
    - b. “[H]as had a certification or other authorization revoked by another jurisdiction,” M.G.L. c. 6E, § 10(a)(v); or
    - c. Has been subject to an action by an entity other than the Commission that is substantially equivalent to decertification by the Commission.
- B. Except as limited by Section II.A, the Commission and its personnel may take into account information maintained in the NDI in making any determination or deciding whether to take any action, to the extent permitted by law.
- C. The requirement of 555 CMR 12.04(1) that a “law enforcement agency shall,” “without request,” “report to the Commission regarding” “[e]ach placement of an agency officer’s name, or change of an agency officer’s status or listing, in the [NDI]” applies without regard to:
  - 1. The nature of such information;
  - 2. The entity that submitted such information to the NDI; and
  - 3. The nature of any action taken with respect to the individual at issue.

- D. The Commission requests that entities and individuals other than the Executive Director, regardless of whether they are employed by the Commission:
1. Refrain from submitting Massachusetts information to, revising Massachusetts information maintained by, or withdrawing Massachusetts information from the NDI; and
  2. Immediately bring to the attention of the Executive Director any Massachusetts information within the NDI that is believed to be incorrect and any Massachusetts information not within the NDI that is believed to be appropriate for submission to the NDI.

**APPENDIX**  
**KEY SOURCES OF AUTHORITY**

M.G.L. c. 6, § 116

....

The committee shall set policies and standards for the screening of all applicants for admission to committee-certified academies. The committee shall set policies and standards for background investigations for all persons appointed to committee-certified academies and initial appointments of those persons, which investigations shall require at a minimum verification against the national decertification index or the database of decertified law enforcement officers maintained by the Massachusetts peace officer standards and training commission established in section 2 of chapter 6E.

....

M.G.L. c. 6E, § 1

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Agency”, a law enforcement agency.

....

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

....

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

....

“Law enforcement agency”, (i) a state, county, municipal or district law enforcement agency, including, but not limited to: a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department; (ii) a sheriff’s department in its performance of police duties and functions; (iii) a public or private college, university or other educational institution or hospital police department; or (iv) a humane society police department in section 57 of chapter 22C.

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

for any reason; or any other special, reserve or intermittent police officer.

....

M.G.L. c. 6E, § 2

(g) . . . The executive director shall be a person with skill and experience in management, shall be the executive and administrative head of the commission and shall be responsible for administering and enforcing the provisions of law relative to the commission and to each administrative unit thereof. . . .

M.G.L. c. 6E, § 3

(a) The commission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

(1) act as the primary civil enforcement agency for violations of this chapter;

...

(3) certify qualified applicants;

(4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable;

(5) receive complaints from any source and preserve all complaints and reports filed with the commission for the appropriate period of time;

...

(9) conduct audits and investigations pursuant to section 8;

...

(12) execute all instruments necessary or convenient for accomplishing the purposes of this chapter;

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

...

(17) prepare, publish and distribute, with or without charge as the commission may determine, such studies, reports, bulletins and other materials as the commission considers appropriate;

(18) gather facts and information applicable to the commission's obligation to issue, suspend or revoke certifications for: (i) a violation of this chapter or any regulation adopted by the commission; (ii) a willful violation of an order of the

commission; (iii) the conviction of a criminal offense; or (iv) the violation of any other offense which would disqualify a person from being certified;

(19) conduct investigations into the qualifications of all applicants for certification;

...

(22) levy and collect assessments, fees and fines and impose penalties and sanctions for a violation of this chapter or any regulations promulgated by the commission;

(23) restrict, suspend or revoke certifications issued under this chapter;

....

M.G.L. c. 6E, § 4

---

(a) (1) There shall be within the commission a division of police certification. The purpose of the division of police certification shall be to establish uniform policies and standards for the certification of all law enforcement officers, subject to the approval of the commission. The head of the division shall be the certification director, who shall be appointed by the commission.

<[ There is no paragraph (2) of subsection (a).] >

<[ There are no subsections (b) and (c).] >

---

(d) No person shall be eligible for admission to police schools, programs or academies approved by the municipal police training committee pursuant to section 118 of chapter 6, or the training programs prescribed by chapter 22C, or for appointment as a law enforcement officer or for employment with an agency if they are listed in the national decertification index or the database of decertified law enforcement officers maintained by the commission pursuant to clause (i) of subsection (a) of section 13.

<[ There is no subsection (e).] >

....

[f](2) The commission shall not issue a certificate to an applicant who: (i) does not meet the minimum standards enumerated in paragraph (1) or the regulations of the commission; (ii) has been convicted of a felony or whose name is listed in the national decertification index or the database of decertified law enforcement officers maintained by the commission pursuant to clause (i) of subsection (a) of section 13; or (iii) while previously employed in law enforcement in any state or United States territory or by the federal government, would have had their certification revoked by the commission if employed by an agency in the commonwealth.

(3) The commission may issue a certificate to a qualified applicant consistent with the provisions of this chapter. The commission shall determine the form and manner of

issuance of a certification. A certification shall expire 3 years after the date of issuance.

....

(g) No agency shall appoint or employ a person as a law enforcement officer unless the person is certified by the commission.

....

(i) Each certified law enforcement officer shall apply for renewal of certification prior to its date of expiration as prescribed by the commission. The commission shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of subsection (f).

---

M.G.L. c. 6E, § 8

(a) There shall be within the commission a division of police standards. The purpose of the division of police standards shall be to investigate officer misconduct and make disciplinary recommendations to the commission.

....

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

---

M.G.L. c. 6E, § 10

(a) The commission shall, after a hearing, revoke an officer's certification if the commission finds by clear and convincing evidence that:

...

(v) the officer has had a certification or other authorization revoked by another jurisdiction;

....

(g) The commission shall publish any revocation order and findings. The commission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.

---

M.G.L. c. 6E, § 13

....

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

M.G.L. c. 41, § 96A

No person who has been convicted of any felony or whose name is listed in the national decertification index or the database of decertified law enforcement officers maintained by the Massachusetts peace officer standards and training commission pursuant to chapter 6E shall be appointed as a police officer of a city, town or district.

555 CMR 2.03: Construction

....  
(3) Any act that must be performed “immediately” under a provision of 555 CMR or M.G.L. c. 6E shall be performed as soon as the exercise of reasonable diligence will enable such performance.  
....

555 CMR 9.01: Scope

- (1) 555 CMR 9.00 governs:
- (a) The initial certification of an endorsed applicant;
  - (b) The initial certification of an independent applicant; and
  - (c) The recertification of an independent applicant, in which case 555 CMR 9.00 supersedes 555 CMR 7.00: *Recertification*, except where 555 CMR 9.00 expressly incorporates 555 CMR 7.00.
- (2) The recertification of an endorsed applicant is not governed by 555 CMR 9.00 and remains subject to 555 CMR 7.00: *Recertification*.  
....

555 CMR 9.02: Definitions

(1) 555 CMR 9.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 9.02(2).

(2) For the purposes of 555 CMR 9.00, the following terms have the following meanings, unless the context requires otherwise:  
....

Applicant. An individual who submits, or intends to submit, an application to the Commission.

Application. A request by an individual to be certified as an officer.  
....

Certification. An initial certification or a recertification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, regardless

of whether it is subject to any condition, limitation, restriction, or suspension.

....

Commission. The Massachusetts Peace Officer Standards and Training Commission established under M.G.L. c. 6E, § 2 as an agency, including its Commissioners and its staff.

Conditional Certification. A certification of the type described in 555 CMR 9.09.

....

Decertification or Revocation of Certification. A revocation of certification by the Commission pursuant to M.G.L. c. 6E, §§ 3(a) and 10, an action distinct from a denial, a nonrenewal, an expiration, or a suspension of certification.

....

Division. The Division of Police Certification established pursuant to M.G.L. c. 6E, § 4.

....

Law Enforcement Agency. A “law enforcement agency” as defined in M.G.L. c. 6E, § 1.

....

#### 555 CMR 9.08: Division Evaluation of an Application

....

(2) Except as provided in 555 CMR 9.09, the Division may grant an application only if the Division determines that:

...

(i) The applicant is not listed in the National Decertification Index or in the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i);

(j) The Division has not concluded that, while previously employed in law enforcement in any state or United States territory or by the federal government, the applicant would have had a certification revoked by the Commission if employed by a law enforcement agency in the Commonwealth, which determination shall take into account:

...

4. A determination of whether the applicant is listed in the National Decertification Index or in the database of decertified law enforcement officers maintained by the Commission pursuant to M.G.L. c. 6E, § 13(a)(i); ....

#### 555 CMR 12.02: Definitions

(1) 555 CMR 12.00 incorporates all definitions and rules of construction set forth in 555 CMR 2.02: *Definitions* and 2.03: *Construction*, except those definitions of terms that are defined in 555 CMR 12.02(2).

(2) For the purposes of 555 CMR 12.00, the following terms have the following meanings, unless the context requires otherwise:

....

Certification. The certification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, either as an initial certification or a recertification, and regardless of whether it is subject to any condition, limitation, restriction, or suspension.

Commission. The Massachusetts Peace Officer Standards and Training Commission established pursuant to M.G.L. c. 6E, § 2, including its Commissioners and its staff.

....

Law Enforcement Agency. A “law enforcement agency” as defined in M.G.L. c. 6E, § 1.

....

Officer. A “law enforcement officer” as defined in M.G.L. c. 6E, § 1, or an individual who possesses an officer certification.

Officer Certification. A certification of an individual as an officer pursuant to M.G.L. c. 6E, §§ 3(a) and 4, or pursuant to St. 2020, c. 253, § 102, regardless of whether it is subject to any condition, limitation, restriction, or suspension.

....

Recertification. A type of certification involving a renewal of a previously granted certification.

....

SRO Certification. An initial specialized certification of an individual as a school resource officer pursuant to M.G.L. c. 6E, §§ 3(a) and 3(b), regardless of whether it is subject to any condition, limitation, restriction, or suspension.

....

Suspension. When referring to an officer certification or an SRO certification, a suspension of the certification, including an administrative suspension, pursuant to M.G.L. c. 6E, §§ 3, 9, and/or 10.

#### 555 CMR 12.04: Law Enforcement Agency Reporting of Information

(1) Each law enforcement agency shall report to the Commission regarding the following, without request, pursuant to 555 CMR 1.01: *Review of Complaints by Agency* if that regulation is applicable, or otherwise immediately:

...

(b) Each placement of an agency officer’s name, or change of an agency officer’s status or listing, in the National Decertification Index maintained by the

International Association of Directors of Law Enforcement Standards and  
Training;

....

5c.



# Massachusetts POST Commission

84 State Street, Suite 200, Boston, MA 02109

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## **GUIDANCE REGARDING THE MEANING OF “PERFORMANCE OF POLICE DUTIES AND FUNCTIONS” AS USED IN THE POST COMMISSION’S GOVERNING STATUTES AND REGULATIONS**

**(May 2025)**

**(Proposed)**

The Massachusetts Peace Officer Standards and Training Commission provides this clarification and guidance on the meaning of “performance of” and “performing” “police duties and functions” as used in M.G.L. c. 6E, § 1, and “perform police duties and functions” as used in 555 CMR 9.12. This *Guidance* is issued pursuant to M.G.L. c. 6E, § 3(a) and 555 CMR 11.00. The *Guidance* is intended to offer explanations and details that are consistent with relevant statutes, regulations, and judicial opinions. The Commission reserves the ability to revise its regulations and this *Guidance* in the future.

### **I. THE MEANING OF “PERFORMANCE,” “PERFORMING,” AND “PERFORM”**

For purposes of M.G.L. c. 6E and 555 CMR, the terms “performance,” “performing,” and “perform” refer to either of the following forms of conduct:

1. Personally engaging in a form of activity; or
2. Supervising or overseeing another’s engagement in a form of activity.

### **II. THE MEANING OF “POLICE DUTIES AND FUNCTIONS”**

For purposes of M.G.L. c. 6E and 555 CMR, the phrase “police duties and functions” refers to the following forms of conduct, provided that a reasonable person would view the conduct as involving an assertion of authority over another individual or entity using, or purporting to use, law enforcement powers:

1. Suppressing and preventing disturbances and disorder;
2. Dispersing people;
3. Entering private premises to suppress breaches of the peace;
4. Stopping, arresting, processing, and confining suspects;
5. Searching individuals, and seizing evidence and contraband;
6. Questioning individuals and otherwise investigating; and
7. Carrying a weapon.<sup>1</sup>

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<sup>1</sup> The list above is derived from M.G.L. c. 41, § 98 and *Commonwealth v. Gernrich*, 476 Mass. 249,

The phrase does not include the mere service of process or transport of prisoners or other persons in custody, without more.<sup>2</sup>

### III. THE USE OF “PERFORMANCE OF” AND “PERFORMING” “POLICE DUTIES AND FUNCTIONS” IN M.G.L. C. 6E, § 1

The definition section of M.G.L. c. 6E extends the terms “law enforcement agency” and “agency” to “a sheriff’s department in its performance of police duties and functions,” among other entities. M.G.L. c. 6E, § 1 (setting forth definitions of terms as used in the chapter “unless the context clearly requires otherwise”). It also extends the terms “law enforcement officer” and “officer” to “any officer of an agency, including the head of the agency,” “a special sheriff appointed pursuant to [M.G.L. c. 37, § 4] performing police duties and functions,” and “a deputy sheriff appointed pursuant to [M.G.L. c. 37, § 3] performing police duties and functions,” among other individuals. *Id.*<sup>3</sup>

The Commission has construed the phrase “sheriff’s department in its performance of police duties and functions” within the definitions of “law enforcement agency” and “agency” as referring to “the part of the sheriff’s office that actually performs the full range of police duties and functions, including all types of arrests.” *Construction of Scope of Chapter 6E of the Massachusetts General Laws* (approved Apr. 4, 2022). Accordingly, the phrase an “officer of an agency, including the head of the agency” within the definition of “law enforcement officer” extends to a sheriff who performs “the full range of police duties and functions, including all types of arrests,” and thus serves as both an “officer” and the “head” of the part of a sheriff’s office that performs “police duties and functions” and thereby constitutes a “law enforcement agency.” *Id.* The Commission has likewise construed the statutory language regarding a “special sheriff” and a “deputy sheriff” to refer to “a special sheriff appointed pursuant to M.G.L. c. 37, § 4” and “a deputy sheriff appointed pursuant to M.G.L. c. 37, § 3” “performing the full range of police duties and functions, including all types of arrests.” *Id.* (brackets omitted). The phrase “all types of arrests” refers to warrant-based arrests and warrantless arrests.

The definition of “law enforcement officer” and “officer” extends to sheriffs, special sheriffs, and deputy sheriffs if they *actually perform* or have the *power to perform* each of the duties and functions listed in Section I above, including all types of arrests, in *at least some circumstances*. For example, deputy sheriffs who have the power to perform warrant-based arrests, as well as warrantless arrests in at least some circumstances, should be viewed as “performing . . . all types of arrests” for these purposes, even though they cannot perform warrantless arrests in certain circumstances in which municipal police officers could do so.<sup>4</sup>

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249-57 (2017), both of which address the powers, duties, and functions of municipal police officers.

<sup>2</sup> See *Gernrich*, 476 Mass. at 254.

<sup>3</sup> The Commission’s regulations incorporate these definitions. See 555 CMR 2.02, 6.03, 8.03, 9.02, 10.03, 11.02, 12.02.

<sup>4</sup> See *Gernrich*, 476 Mass. at 249-57. To the extent that individuals are “law enforcement officers” under M.G.L. c. 6E, § 1, other references to “law enforcement officers” in M.G.L. c. 6E and 555

#### **IV. THE PRESUMPTION THAT SHERIFF'S OFFICE PERSONNEL ARE EMPOWERED TO PERFORM POLICE DUTIES AND FUNCTIONS, AND THUS CONSTITUTE "LAW ENFORCEMENT OFFICERS"**

The Commission will presume that a sheriff, a special sheriff appointed pursuant to M.G.L. c. 37, § 4, or a deputy sheriff appointed pursuant to M.G.L. c. 37, § 3 is empowered by the employing sheriff's office to perform the full range of police duties and functions, including all types of arrests, and thus constitutes a "law enforcement officer" under M.G.L. c. 6E, § 1. The Commission will not find the presumption to be overcome unless it receives documentation from the sheriff's office establishing all the following:

1. The acknowledgments of both the office and the member the member is not empowered by the office to perform the full range of police duties and functions, including all types of arrests;
2. The duties and functions that the member is empowered by the office to perform; and
3. Any additional information that the Commission requires in order for it to determine whether the member constitutes a "law enforcement officer" under M.G.L. c. 6E, § 1.

#### **V. THE USE OF "PERFORM POLICE DUTIES AND FUNCTIONS" IN 555 CMR 9.12**

A subsection of 555 CMR 9.12 provides as follows:

The following individuals may not execute any type of arrest, as that term is defined in 555 CMR 9.02(2), or otherwise perform *police duties and functions*:

- (a) An individual who is serving as a law enforcement officer as that term is defined in M.G.L. c. 6E, § 1 – whether as an officer of a law enforcement agency; a special state police officer; a special sheriff; a deputy sheriff; a constable; or a special, reserve, or intermittent police officer – but is not certified;
- (b) An individual whose certification is suspended;
- (c) An individual whose certification has been revoked;
- (d) An individual whose certification has been conditioned, limited, or restricted in a manner that precludes the relevant form of activity; and
- (e) An individual who otherwise lacks the legal authority to engage in the relevant form of activity.

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CMR generally extend to them. But that fact alone does not give them the ability to exercise law enforcement powers in circumstances beyond those in which they may be exercised under other sources of law. *See generally* M.G.L. c. 6E; 555 CMR. The same is true for the fact of being certified as a law enforcement officer. Indeed, 555 CMR 9.12(8) affirms that "individuals may not execute any type of arrest, as that term is defined in 555 CMR 9.02(2), or otherwise perform police duties and functions" if they "otherwise lack[] the legal authority to engage in the relevant form of activity." For example, deputy sheriffs would not be able to perform warrantless arrests in a wider range of situations than those identified by the Supreme Judicial Court in *Gernrich*. 476 Mass. at 252-54.

555 CMR 9.12(8) (emphasis added); *see also* 555 CMR 9.02 (defining, among other terms, “Arrest,” “Certification,” “Conditional Certification,” “Decertification or Revocation of Certification,” and “Law Enforcement Agency”); *Guidance for Constables and Other Law Enforcement Personnel Regarding 555 CMR 9.00* (discussing definition of “Arrest” and implications of 555 CMR 9.12(8)).

Because the individuals referenced in 555 CMR 9.12(8) are prohibited from performing police duties and functions, they violate the regulation by engaging in *any form of conduct* of the type listed in Section I above.