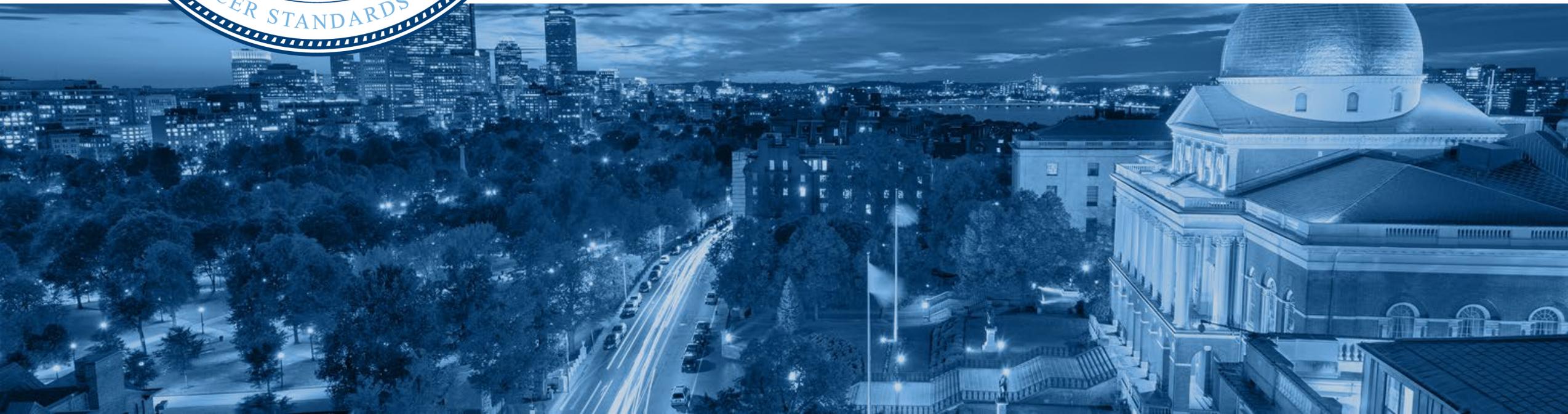




# Massachusetts Municipal Association

DECEMBER 12, 2023





# Agenda

1. Overview
2. Certification
3. Exceptions to Certification
4. Future Certification Policy Matters
5. Disciplinary Process

# Overview

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## POST Mandate

- Develop certification standards for officers in collaboration with the Municipal Police Training Committee (MPTC)
- Certify officers, school resource officers, and law enforcement agencies
- Receive complaints, investigate, adjudicate
- Implement a fair process to discipline officers who engage in misconduct, including power to suspend, condition or limit certification, order retraining or decertify an officer
- Maintain a public database with certain disciplinary records and certification status of officers

# Overview

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## Certification

- POST Certification is required for appointment and employment as a law enforcement officer
- Certification is required to conduct police duties and functions including powers of arrest, the ability to utilize force (including deadly force) conduct warrantless searches, etc.
- With the passage of Police Reform, active officers as of July 1, 2021 were certified by statute with staggered certification expiration dates (according to their last names)
- POST Certification is valid for three years and must be renewed to maintain police powers

# Overview

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## Disciplinary Process

- POST also has an important role in the disciplinary process
- Agencies are required to submit internal or external complaints (incident reports) within 2 business days of receiving such complaint
- Agencies are required to investigate complaints and submit results of Internal Affairs (IA) investigation, disposition and discipline as soon as available (processed is governed by 555 CMR 1.00)
- POST can receive complaints directly from members of the public and require that agencies complete the investigation and/or independently investigate and adjudicate

## 2. Certification

Process and Timeline

School Resource Officer (SRO) Certification

Law Enforcement Agency Portal

# Certification

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## Process & Timeline

- All officers employed as police officers in Massachusetts on July 1, 2021 were certified by statute. The law also set the timeline for POST recertification based on the officer's last name
- Officers with last names A-H were recertified as of July 1, 2022
- **Officers with last names I-P were recertified by July 1, 2023**
- Officers with last names Q-Z will be recertified by July 1, 2024

# Certification Update

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## Individual Officers Certified by POST \*

Category	Individuals *
Certified	16,125
Conditionally Certified	291
Not Certified	201
Not Certified – On Leave	84
Suspended	40
Administrative Suspension	3
Decertified	7

\* As of November 30, 2023

Does not include individuals who were active on July 1, 2021, and whose last name starts with Q-Z

# Certification Update

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## School Resource Officer (SRO) Certification

- Chapter 6E requires that a school resource officer meet certain additional criteria and be certified as an SRO by POST
- Prior to SRO Certification, officers must be certified as a law enforcement officer (LEO) by POST
- POST collaborated with MPTC in the formulation and deployment of the SRO application and certification
- SRO certification is governed by 555 CMR 10.00 “Specialized Certification for School Resource Officers”

# Certification Update

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## SRO Certification

- An individual officer may seek SRO certification, and/or the Chief of Police may seek an SRO certification on their behalf
- A certified police officer is required to attend SRO annual training provided by the MPTC. This training is offered twice per year
- In addition, the officer is required to fill out an SRO application form and the SRO attestation form (and make certain representations about their role) \*
- POST began certifying SRO October of this year. To date there are 427 individuals who have completed the required training and obtained an SRO certification

\* SRO application and attestation forms are available in POST website

# Law Enforcement Agency portal

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## POST Deployed New Agency Portal in May 2023

- Certification information is entered directly into portal
- Officers to be recertified are prepopulated in the portal
- Last year POST sent notifications to agencies & asked agencies to distribute
- This year POST sent notices directly to officers' agency e-mail
- Neither personal e-mail nor physical addresses are public records
- Agencies can access reports in the portal
- New platform will soon have functionality for submitting complaints and other reports due to POST

### 3. Exceptions to Certification

- Conditional Certification
- Declining to Certify (Not Certified)
- Possible Actions Following a Certification Decision

# Conditional Certification

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Officers deficient in one or more of the following requirements have an opportunity to complete them within a set timeframe

- Work requirements for Bridge Academy (2,400 hrs. by Jan 1, 2027)
- In-Service Training (September 30)
- Current CPR or First Aid Certificate (September 30)
- Completion of High School Education or Equivalent (July 1, 2024)

*Officers on approved or extended leave must complete their certification requirements no later than 90 days after the date of their return to active service, and advise POST of their return by filling out an “Officer Status Update Form”*

# Declining to Grant Full Certification

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If an officer does not meet the certification requirements and/or the time to complete the requirements expires:

- Most common instance: Chief declines to attest to good moral character of officer
- Division of Certification reviews and may decline to grant certification and designate the officer as “Not Certified”
- **A decision that does not provide for full recertification is different from decertification**
- If the decision is other than full recertification, officer can seek review by the Executive Director

# Declining to Grant Full Certification

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## Possible Action Following Decision

- Officer may submit a written petition to the Executive Director requesting review of the decision
- Executive Director Review: Within 21 days
- Executive Director may ask for additional information, including a meeting with the applicant and issue a written decision on the petition within a reasonable time
- Opportunity for Hearing: An officer may request a hearing before the Commission concerning an application for recertification

# Declining to Grant Full Certification

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## Possible Action Following Decision

- Vacating of prior decision to recertify:
  - If a decision declining to recertify is vacated, the officer shall be deemed to have been certified during the period between the decision not to recertify and the decision to vacate
- Reapplication by officer:
  - An officer may reapply for certification after a decision declining to certify. However, where an officer has received a decision denying a full recertification, the Commission may attach limitations, conditions, or restrictions on the officer's ability to reapply

## 4. Future Certification Policy Matters



# Future Certification Policy Matters

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## 1. The Second Round of Recertification begins July 2024

- The first group to be certified by POST were those graduating from academies after July 1, 2021. Officers with last names A-H will be required to be recertified on July 1, 2025
- Process for recertification need not be the same as initial certification
- Chapter 6E directs POST to examine compliance with the requirements of the statute every three years, yet also affords POST broad discretion
- Section 4 § 13(i) requires that “...the Commission certify that the applicant for recertification continues to satisfy the requirements of subsection (f)”

# Future Certification Policy Matters

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## 2. Physical & Psychological Fitness

- Initial certification by POST ascertained whether an agency had ever administered a physical and psychological evaluation to a given officer
- The statute assumes an on-going requirement of physical and psychological fitness
- Improving officer health and wellness is a broad topic

# Future Certification Policy Matters

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## 3. Certification of Agencies

- Chapter 6E § 5 states that all law enforcement agencies shall be certified by the Commission
- Areas for certification of agencies include all major areas of policing (use of force, code of conduct, response and investigation procedures, internal affairs and complaint investigation, etc.)
- In consultation with MPTC, establish minimum certification standards for LEA's

# Future Certification Policy Matters

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Addressing these policy matters will require research, consultation and deliberation

- Previous work and expertise within agencies
- Required consultation with MPTC
- Multiple stakeholders
- Broad discretion means different ways to approach
- Broad mandate merits incremental (ongoing) approach

## 5. Disciplinary Process

- Information due to POST
- Actions following a complaint
- Disciplinary Records
- Suspensions, Preliminary Inquiries, Hearings

# Disciplinary Process

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## Information due to POST

- Law Enforcement Agencies are required to submit to POST credible complaints alleging misconduct by an officer within 2 business days
- Complaints can originate from a member of the public (external complaint), from personnel at the agency (internal complaint or incident), or any other source
- Other reports due to POST include excessive force, officer-involved shooting, or events that resulted in serious bodily injury or death
- Process governed by 555 CMR 1.00
- Additional guidance is available at the POST website

# Disciplinary Process

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All complaints and incidents that fall in the following four categories must be submitted to POST:

1. Complaints alleging bias based on race, ethnicity, sex, gender identity, sexual orientation, age, religion, mental or physical disability, immigration status, or socioeconomic or professional level
2. Complaints regarding use of force (excessive, prohibited, or deadly force)
3. Actions that resulted in serious bodily injury or death (including officer-involved shootings or “OIS”)
4. Incidents involving prohibited conduct (section 10, 14 and 15 of c. 6E)

Complaints that allege “unprofessionalism” are also due to POST, except for minor matters like discourtesy, grooming violations, tardiness, inattention to detail, etc.

# Disciplinary Process

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## Actions Following a Complaint

- LEA's are required to investigate the complaint and submit the results of that Internal Affairs (IA) to POST
  - A description of the Investigation (IA Report) and findings (Unfounded, Not Sustained, Sustained, Exonerated)
  - Any discipline imposed
  - IA Report and Disposition (discipline) may be different submissions
- Head of Agency may recommend POST take certain action (up to an including decertification)
- In the event of appeal or reversal => submit update to POST

# Disciplinary Records Release

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## Historical Disciplinary Records

- POST published historical disciplinary records earlier this year, and have subsequently issued updated versions
- Records include sustained complaints, and exclude not-sustained complaints
- Officers who have resigned or retired in good standing are not included; data includes those who have resigned or retired to avoid discipline
- Information is updated regularly

# Suspensions

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## Administrative Suspensions

The Commission administratively suspends the certification of an officer who fails to complete in-service training within 90 days of the imposed deadline

- Exceptions for injury or physical disability, leave of absence or documented hardship
- Certification is reinstated once the officer completes the training requirement
- An officer may also face administrative suspension for failure to submit certain reports due to POST

# Suspensions

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## Mandatory Suspensions

- The Commission shall immediately suspend the certification of an officer who is arrested, charged or indicted for a felony
- Officer may request a hearing before a single Commissioner prior to the mandatory suspension
- If charges are dropped, or reduced officer may request lifting that suspension to the full Commission

# Suspensions

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## Other Commission Imposed Suspensions

- The Commission may suspend an officer who is charged, indicted or convicted of a misdemeanor
- If the Commission determines by a preponderance of the evidence that the crime affects the fitness of the officer to serve as a law enforcement officer

# Preliminary Inquiries

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## Division of Standards initiates a Preliminary Inquiry (PI) if:

- Complaint, report or other credible evidence that officer was involved an officer-involved injury or death;
- Committed a felony or misdemeanor, (whether the officer has been arrested, indicted, charged or convicted);
- Engaged in prohibited conduct (chapter 6E section 10);
- Commission receives an affirmative recommendation by the head of an appointing agency for disciplinary action by the Commission, including retraining or suspension or revocation of the officer's certification.

# Preliminary Inquiries (PI)

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- Preliminary Inquiry proceedings are confidential
- Division of Standards request approval from Commission to initiate PI in Executive Session
- Officer, Head of Agency, and Head of Bargaining Unit are notified of these proceedings (within 30 days)
- Commission may suspend certification of an officer as part of a Preliminary Inquiry
- After PI Report, Commission may vote to initiate adjudicatory proceedings (Hearings)

# Division of Standards Preliminary Inquiry

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## Adjudicatory Hearings

- Commission may conduct hearings to issue findings, impart discipline, order retraining, condition, limit or revoke the certification of an officer
- POST will not initiate revocation proceedings until an LEA has issued a final disposition or a year has passed (*whichever is sooner*)
- Hearings are presumed to be public, but part or all the hearing may be closed at the discretion of the chair
- After hearing, Commission will consider all evidence submitted as part of the record, deliberate and issue a written determination

# Decertification

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- An officer may be **decertified** as a result of certain forms of misconduct after appropriate procedures have been taken by the Commission
- Decertified officers cannot work for a law enforcement agency, a sheriff, or the Executive Office of Public Safety and Security in the Commonwealth in any capacity
- The names of decertified officers are placed in the National Decertification Index (“NDI”)
- *Note: Being classified as **not certified** is different from being **decertified***

# Public Meetings and Hearings

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- Public Meetings are held monthly
- Public Hearings are held periodically
- Public comment: [POSTC-Comments@mass.gov](mailto:POSTC-Comments@mass.gov)
- Sign up for email alerts of meetings, hearings and Commission news
- All meetings and hearings are available online
  - Visit our website: [www.mass.gov/orgs/post-commission](http://www.mass.gov/orgs/post-commission) and click “Commission Meetings and Hearings”
  - Visit our YouTube channel for past meeting video recordings

# Visit our website: [www.mass.gov/orgs/post-commission](http://www.mass.gov/orgs/post-commission)



## Featured Services



## What Would You Like To Do?

[View Law Enforcement Officer Disciplinary Records →](#)

[View Law Enforcement Officer Status Information →](#)

[View Decisions, Orders and Reviews →](#)

[File a Police Misconduct Complaint \(members of public only\) →](#)

[Learn about the Adjudicatory Process →](#)

[Read the 2022 Annual Report →](#)



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Enrique Zuniga  
Enrique.Zuniga@mass.gov  
[www.mass.gov/orgs/post-commission](http://www.mass.gov/orgs/post-commission)  
617-701-8401

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