

Small Town Administrator's Association (STAM)

Thursday, January 13, 2022

An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth.

Signed into Law December 31, 2020

Establishes sixteen (18) separate commissions:

1. Permanent Commission on Status of African Americans
2. Permanent Commission on Status of Latinos/Latinas
3. Permanent Commission on Status of Persons with Disabilities
4. Permanent Commission on the Social Status of Black Men and Boys
5. Commission for Model School Resource Officer Memorandum of Understanding
6. Commission for training of state and county correctional officers and juvenile detention officers
7. Task force on the Implementation of Body Worn Camera Program
8. Commission to Study Government Use of Facial Recognition technology
9. Commission on Emergency Hospitalizations (MGL 123 s.12)
10. Commission to Study and Examine the Civil Service Law
11. Commission on Statewide Law Enforcement Cadet Program
12. Commission of Structural Racism in Correctional Facilities
13. Commission of Structural Racism in the Massachusetts Probation Service
14. Commission of Structural Racism in the Massachusetts Parole process
15. MPTC to study costs associated with Consolidating Police Academies
16. Commission to Investigate and Study the impact of qualified immunity doctrine
17. Community policing and behavioral health advisory council
18. Massachusetts Police Officer Standards and Training Commission

Which agencies are effected by the newly enacted law: all local police, state police, UMass campus police, Environmental Police, all sworn Deputy Sheriff's, MassPort, Transit, public and private College police, & hospital police.

POST Commission make up:

Appointees of the Governor

The Honorable Judge Margaret R. Hinkle (Ret.) served from 1993 until 2011 as a Justice of the Superior Court of Massachusetts, and will serve as Chair of the POST Commission. Since her retirement in 2011, Judge Hinkle has worked as an alternative dispute resolution professional for JAMS, a private alternative dispute resolution provider, serving as an arbitrator, mediator and discovery master. During her time on the Superior Court, Judge Hinkle presided over hundreds of cases, and served terms as the Administrative Justice of the Business Litigation Session and as the Suffolk County Regional Administrative Justice for Civil Business. Prior to her appointment to the bench, Judge Hinkle served as an Assistant United States Attorney in Boston on the Economic Crimes Unit from 1989 until 1993, and as Director of the US Department of

Justice's New England Bank Fraud Task Force from 1992 until 1993. Before joining the US Attorney's Office, Judge Hinkle began her legal career as a Law Clerk for Chief Judge Andrew A. Caffrey of the US District Court in Boston, serving from 1977 until 1978. She then worked in private practice for Goodwin, Procter & Hoar in Boston from 1978 until 1989, and as a Partner from 1986 until 1989. Judge Hinkle earned her Juris Doctorate from Boston College Law School, and her Bachelor's Degree from College of St. Catherine in St. Paul, Minnesota.

Michael J. Wynn has served since 2007 as Chief of the Pittsfield Police Department. Prior to his appointment as Chief of Police, Chief Wynn served successively beginning in 1995 as a Patrol Officer, Shift Supervisor, Shift Commander and Administrative Captain of the Pittsfield Police Department. He has also served as both a subject matter instructor and drill instructor at multiple police academies, including as an Adjunct Instructor for the Justice System Training and Research Institute at Roger Williams University since 2006, an Instructor for the Municipal Police Training Committee in Randolph since 2001, and as a Staff Instructor for the Municipal Police Training Committee in Springfield from 2001 until 2007. From 2003 until 2004, Chief Wynn served as a Leadership Fellow with the Drug Enforcement Administration's (DEA) Leadership Development Unit, where he earned certification as a DEA Tactical Instructor. He also has served since last year on the National Leadership Council of Fight Crime: Invest in Kids, a nonprofit that promotes bipartisan solutions to reduce crime and help children succeed, after serving as a local member for the previous 10 years, and has served as an Adjunct Professor at Massachusetts College of Liberal Arts since 2018. He earned a Master's in Criminal Justice from Anna Maria College, and his Bachelor's Degree from Williams College.

Charlene D. Luma is a licensed social worker who has served since 2019 as the Chief of the Victim Witness Assistance Program for the Suffolk County District Attorney's Office, overseeing Victim Witness Advocates to provide crisis assessment and intervention, supportive counseling, information, referrals and advocacy services to victims, witnesses and their families throughout the criminal justice system. Prior to joining the Suffolk County District Attorney's Office, Ms. Luma worked from 2012 until 2019 for the Justice Resource Institute in Boston, beginning as a Senior Clinician for the SMART Team, which provides in-home therapy and support for local young people who are victims and survivors of homicide and community violence. She then served as Program Director for the SMART Team from 2014 until 2015, and as Program Director for Boston Trauma Response from 2015 until 2019. Before joining the Justice Resource Institute, Ms. Luma worked as a Clinical Social Worker for Youth Connect in Boston from 2005 until 2010, and as a Clinician for the Children with Voices Program and Family Clinic at the Guidance Center in Somerville from 2010 until 2012. In both roles, she served children, adolescents and their families with histories of domestic violence. Ms. Luma earned both her Master's of Social Work and her Bachelor's Degree from Boston College.

Appointees of the Attorney General

Lawrence "Larry" Calderone is the Chair & President of the Massachusetts Law Enforcement Policy Group, and President of the Boston Police Patrolmen's Association. He has served as a Boston Police Officer since 1994, working in the communities of Roxbury and Mattapan, and with the Special Operations Motorcycle Unit & SWAT Team. He is currently assigned to the station in West Roxbury, where he previously focused on motor vehicle and pedestrian safety and traffic reconstruction. Officer Calderone has been a representative of the Boston Police Patrolmen's Association for over twenty years, and served previously as the Legislative Director for the Association, managing its communications and government affairs, and advocating for the interests of Boston Patrol Officers to government entities and other organizations. Additionally, he is a member of the Massachusetts Joint Labor Management Committee, where he represents police union organizations in collective bargaining negotiations with municipalities across the Commonwealth. Officer Calderone was born and raised in Jamaica Plain, and is a graduate of Catholic Memorial High School in West Roxbury. He earned a Master's in Law Enforcement from Western New England University, a graduate degree in Public Administration from Suffolk University, and his Bachelor's Degree in Criminal Justice from Western New England University.

Larry Ellison is currently a Detective in the Boston Police Department's School Unit, a position he has held since 2005. He has served in the Department since 1983, including as a Detective in the Narcotics Division, a Detective in the Brighton district, and as an officer with years of experience across districts and communities. Detective Ellison previously served as the President of the Massachusetts Association of Minority Law Enforcement Officers from 2010 until 2018, where he was instrumental in advocating for more officers of color in higher-ranking positions, protecting minority officers' rights, and securing pro bono legal assistance for minority officers. In this role, he also sponsored and implemented several youth development programs in conjunction with community organizations and foundations. His tremendous contributions to his community and unique commitment to improving the lives of others led the Boston Celtics to present Detective Ellison with the Heroes Among Us Award in 2016. Detective Ellison is a graduate of South Boston High School, where he was the first Black class president in the school's history. He earned his Bachelor's Degree in Criminal Justice from Northeastern University, and has completed several Boston Police Department trainings as well as leadership training at Suffolk University Law School.

Marsha V. Kazarosian is an experienced trial attorney who has been practicing in Massachusetts since 1982, handling multiple high-profile cases that have gained her recognition in New England and across the country. Attorney Kazarosian is currently a Partner at Kazarosian Costello LLP, where her practice areas include civil rights law, discrimination cases, and police misconduct cases. She is a past President of the Massachusetts Bar Association, the Massachusetts Academy of Trial Attorneys, and the Essex County Bar Association, and currently co-Chairs the Civil Rights & Social Justice Section of the Massachusetts Bar Association. Attorney Kazarosian began her career as a criminal defense attorney with the Essex County Bar Advocates and transitioned to a focus on civil rights and discrimination cases. Notably, she represented several women in a landmark gender discrimination suit against the Haverhill Country Club that garnered the attention of national media. She secured a \$3.9 million financial judgment for the plaintiffs that was later upheld by the state appeals court, the first time a state's public accommodations law was said to apply to discrimination in a country club setting. She then pivoted to representing plaintiffs in police misconduct and excessive force cases. Attorney Kazarosian is a frequent commentator on legal issues for various media outlets and teaches trial advocacy courses for continuing legal education. She was appointed by the Supreme Judicial Court to serve on the Board of Bar Overseers and the Advisory Committee on Ethical Opinions for Clerks of Court and continues to serve in both capacities. She was also appointed by the

Supreme Judicial Court to serve on the Special Nominating Commission for the Supreme Judicial Court in 2016. Attorney Kazarosian is a graduate of Phillips Academy Andover, and earned her Juris Doctorate from Suffolk University Law School and a Bachelor's Degree in English from the University of Massachusetts Amherst.

Joint Appointees of the Governor and Attorney General

Dr. Hanya H. Bluestone is a licensed psychologist who has served since 2016 as CEO of Labyrinth Psychological Services, PC, in Holden, providing specialized trauma and behavioral medicine treatments to patients of all ages. Prior to her current role, Dr. Bluestone served from 2007 until 2016 as a Psychologist IV for the Department of Mental Health, where her responsibilities included conducting mental health and substance abuse evaluations, testifying in the District and Superior Courts, and providing clinical consultations to families, probation and judges. Dr. Bluestone began her career in 1995 as a Fellow in Forensic Psychology at the University of Massachusetts Medical Center and Bridgewater State Hospital, before serving as Director of Clinical Services for The Devereux Center in Rutland from 1996 until 2001. She then served as Director of Forensic Services for Boston Road Clinic and Spectrum Health Systems, overseeing mental health services for inmates at the Worcester County Jail and House of Correction, before joining Glenhaven Academy in Marlborough, a residential treatment program for at-risk adolescent girls, as Program Director and Clinical Director until joining a private practice in Holden in April 2002. While in private practice, Dr. Bluestone also served as a Forensic Psychologist for the Center for Health and Development in Worcester and Fitchburg from 2005 until 2007, conducting forensic mental health and substance abuse evaluations for the District and Superior Courts. Dr. Bluestone has also served since 2013 as an Affiliate Professor at the University of Massachusetts Medical School, and served previously as an Adjunct Professor at Assumption College from 2006 until 2017. Dr. Bluestone earned her PhD in Clinical Psychology and her Master's of Clinical Psychology from the California School of Professional Psychology in Fresno, and her Bachelor's Degree from Harvard University.

Clementina M. Chéry is an ordained senior chaplain and the Co-Founder & CEO of the Louis D. Brown Peace Institute in Boston, a center of healing, teaching and learning for families and communities impacted by homicide, trauma, grief and loss. The center was named for her son, Louis, who was killed in the crossfire of a shootout in 1993. Chaplain Chéry is a recognized expert on best practices in the field of homicide response, and has extensive experience training public health professionals and law enforcement officials to better serve families impacted by murder and interrupt cycles of retaliatory violence. Her accomplishments include working closely with the Boston Police Department to establish a Family Resource Officer within the Homicide Unit to better serve families of homicide victims, convening the first ever Homicide Response Briefing in Massachusetts for over 100 law enforcement officials from across the Commonwealth, and successfully advocating for additional support for funeral and burial services from the Massachusetts Office of Victim Compensation for families of homicide victims. In 2017, Chaplain Chéry was chosen as a Barr Fellow for her vision and collaborative leadership, and her capacity to motivate others, drive change and produce results. She was also named Citizen of the Year by the National Association of Social Workers in 2011, and one of Boston's 100 most influential leaders of color in 2016 by Collette Phillips Communications. Chaplain Chéry holds honorary doctorate degrees from College of the Holy Cross, Regis College and Mount Ida College.

Kimberly P. West has served since 2019 as a Partner of Ashcroft Law Firm in Boston, where she represents clients in investigations involving federal and state agencies, including the Securities and Exchange Commission, Department of Justice and Department of the Treasury. Prior to entering private practice, Attorney West served from 2015 until 2019 as Chief of the Criminal Bureau of the Massachusetts Office of the Attorney General, leading a team of over 120 attorneys, support staff and State Police in the strategic prosecution of a wide range of crimes and serving on the Office of the Inspector General's Council providing oversight of state agencies. Before joining the Office of the Attorney General, Attorney West served as an Assistant United States Attorney for the United States Attorney's Office in Boston in the Health Care Fraud Unit from 2013 until 2015, after having served previously in the National Security Unit from 2002 until 2008. From 2008 until 2013, she served as a Trial Attorney in the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia in the Hague, Netherlands, successfully obtaining guilty verdicts for war crimes including genocide. Attorney West began her legal career in 1996 as an Assistant District Attorney in the Plymouth County District Attorney's Office, before joining the Massachusetts Office of the Attorney General as an Assistant Attorney General in the Public Integrity Unit from 2000 until 2002. She earned her Juris Doctorate from Suffolk University, and her Bachelor's Degree from Boston College.

Section 5: [Certification of Law Enforcement Agencies]

(a) All law enforcement agencies shall be certified by the POST Commission.

(b) The Division of Police Certification *in consultation with* the municipal police training committee established in section 116 of chapter 6, and subject to the approval of the commission, shall establish minimum certification standards for all law enforcement agencies that shall include, but shall not be limited to, the establishment and implementation of agency policies regarding:

(i) use of force and reporting of use of force;

- (ii) officer code of conduct;
- (iii) officer response procedures;
- (iv) criminal investigation procedures;
- (v) juvenile operations;
- (vi) internal affairs and officer complaint investigation procedures;
- (vii) detainee transportation; and
- (viii) collection and preservation of evidence.

One of largest questions regarding small towns; does the Division of Police Certification in consultation with the Municipal Police Training Committee allow agencies to be certified by these eight minimum criteria, or do they vote a higher standard, such as the Massachusetts Police Accreditation Commission (MPAC), certified agency which includes 159 criteria. There is a vast difference between 8 and 159 criteria. *MPAC associated fees and admin costs.

All new police officers after July 1, 2021 will be required to;

1. be 21 years old
2. high school diploma or equivalency
3. complete a MPTC Recruit Class
4. complete POST approved medical exam
5. psychological evaluations
6. pass a state and national background check
7. "passage of an examination approved by the commission"
8. successfully complete an interview administered by POST (Chief's authorized)
9. be of good moral character for law enforcement employment in POSTC's judgment.

Existing personnel will need to recertify every three years. Officers will need to complete their annual forty (40) hours of in-service training, three firearms training events, first responder and CPR. These are the basic requirements and do not include any specialized programs; sexual assault investigator, advanced accident investigation, background investigation, etc. **I would recommend departments budget for eighty (80) hours of training per officer annually.**

Bridge academy; All police officers will now have one standard of training after July 1, 2021, and therefore the part-time police academy will be eliminated. All those that have part-time certification and are currently working for an agency will be grandfathered in, however they WILL be required to attend a bridge academy to bring their certification up to the single standard (full-time). The average cost to a community is \$6,000 per officer. The officer is then more marketable to other agencies in a full-time capacity.

1. **A-H** last names in fiscal year 2022, **I-P** in FY23, **Q-Z** in FY24
2. Bridge program is 200 hours
3. 80 hours on line learning/testing
4. 40 hours defensive tactics
5. 40 hours emergency vehicle operator's course (EVOC). They will need a department cruiser for one week (tires, gas, brakes, alignment upon return)
6. 40 hours of firearms training, 1,500 rounds of ammunition, and there is a shortage
7. Comprehensive exam upon completion of the on-line portion.

In order to be fully certified, personnel within five years, from January 1, 2022, will need proof that they have worked 2,400 hours of patrol time responding to calls for service. This does not include training and/or details. Once an officer has completed the bridge academy and the 2,400 hours of patrol time responding to calls, the Chief of Police then may submit an exemption form to the Municipal Police Training Committee to be voted on. After a formal vote by the MPTC, the officer is then fully certified.

Three prongs; bridge academy, 2,400 of patrol time, and an exemption request granted by the MPTC.

Once an officer is fully certified, they then are marketable to other agencies as a full-time certified officer. Smaller community agency retention is going to suffer dramatically. Shrinking pool of candidates, increase in compensation to recruit and retain qualified officers.

Creates a duty to intervene and a duty to report in any unreasonable use of force incident. There was a 1983 case which already addressed the issue, the solidified it into law.

Mandated training classes:

1. Best practices, including effort to prioritize de-escalation tactics and techniques in crisis response situations
2. Institutional and structural racism and implicit bias
3. Best practices for responding to mass gatherings or protests that shall emphasize de-escalation and minimizing the necessity for use of force
4. Community policing principles
5. Juvenile issues and the development of the brain
6. Mental health and autism

Submission of disciplinary records to the POSTC:

1. Existing personnel were due by December 31, 2021
2. All past personnel "transfers" are due by January 31, 2022

Challenge for the smaller communities of the Commonwealth:

1. Bridge program – costs \$6k - \$8k per officer
2. Departments will need to be "certified" 8 criteria, or possibly 159
3. Hiring practices will change dramatically
 - a. Most of us started officers as part-time prior to full-time, which provided a much greater ability to learn their pro's and con's.
 - b. All new personnel, whether or not they will be utilized on a part/full-time basis, need to go thru the recruit training academy.
4. Attrition for the smaller communities is going to dramatically increase.
5. Lowest interest in criminal justice candidates in my 28 years.

Costs to hire a new police officer, whether they are going to be part-time or full-time:

1. Pass a commission authorized exam?
2. Interview with the Chief of Police
 - a. Trigger a conditional officer of appointment
 - i. Pass a State and National background check, including a decertification index check
 - ii. Medical exam (\$500-\$1,100)
 - iii. Psychological exam (\$400-\$950)
 - iv. Successfully complete a recruit officer training program (780 hours paid)
 - v. Be of good moral character for law enforcement employment in POSTC's judgment
 - vi. On probation for one year upon academy graduation

Completed to date:

1. Guidance issued for de-escalation and alternatives to use of force on minor children
2. Use of Force Regulations issued

3. Recommendations for de-escalation
4. Draft phase 1 Regulations on complaints, inquiries, suspensions and hearings.
5. Annual in-service
 - a. De-escalation and use of force
 - b. Human trafficking
 - c. Officer wellness series
 - d. Responding to emergencies involving the mentally ill
 - e. Implicit bias training
 - f. First responder/CPR
 - g. Firearms training
6. Existing personnel certified to POSTC
7. Existing personnel disciplinary records to POSTC
8. POSTC had to address 511 candidates prior to graduation from the full-time academy

The long forgotten criminal justice reform bill passed in 2018, we are still working on the items contained in that bill. Next upcoming issue:

1. Cross tracking criminal records
2. Massachusetts has three different criminal databases; probation, mass courts, & III
3. Policies need to be re-written
4. Deployment of livescan (AFIS -Automated Fingerprint Identification Units) units to the agencies that do not have them
5. Each and every criminal defendant will need to be fingerprinted, including summons subjects post arraignment.

Key take aways:

- Hiring practices have entirely changed, a de-personalized approach geared towards larger agencies
- Training budgets will increase
- Recruitment is at a record low (civil service exam going annual, SP 35k to 6K)
- Retention is going to be a challenge for the smaller communities (higher pay)
- Agencies will need to be “certified”
- Officers will need to be certified and re-certified every three years
- Retired officers that are certified, may be used, hours limit is now 1,200 annually
- Agencies are going to transition from part-time officers, to full-time only
- The very small communities will likely need to regionalize, or look at other options
- Greater reliance on State Police or mutual/primary aid