

## **POST Commission Regulations: Update**

**Updated for the January 2023**

### **MMA Annual Business Meeting and Trade Show**

As municipal police departments across the Commonwealth are aware, at the close of 2020, comprehensive police reform legislation for the Commonwealth was enacted, which established a Peace Officer Standards and Training (“POST”) Commission and certification system. This legislation, entitled “An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth,” (the “Act”) was the product of various compromises between the Governor and the state Legislature prior to its adoption.

For the past several years, the state’s newly established POST Commission has and continues to implement significant regulations as well as a statewide certification system for municipal police departments. The following items are of note with respect to POST’s implementation of the police reform legislation, to date:

- **Complaints and Investigations.**

- Complaints, as defined by the Commission, must be reported by police departments to POST within two (2) business days of receipt;
- A law enforcement agency must commence an internal affairs investigation as soon as practicable but no later than fourteen (14) days of receipt of the complaint;
- Investigations must be completed “as soon as practicable” or within ninety (90) days of receipt of the complaint (or notice of a complaint being filed with the POST Commission), unless extended by the POST Commission for good cause within the 90 day period;
- Investigation reports must be transmitted to the POST Commission immediately upon completion of the investigation; and
- Final disposition reports must be transmitted to the POST Commission immediately upon final disposition.

The POST Commission also recently established an online form where complaints for alleged officer misconduct can be filed by members of the public directly with the Commission. Under its recently adopted Regulations, 555 CMR 1.00, et seq., entitled “Procedural Rules for Receiving, Investigating, Hearing and Adjudicating Complaints Regarding Law Enforcement Officers” the POST Commission is also authorized to independently conduct officer misconduct investigations and hearings regarding alleged misconduct, and has subpoena authority to conduct such preliminary inquiries.

- **Disciplinary Records/Law Enforcement Misconduct Investigations.** The Act establishes requirements for statewide law enforcement databases. In 2022, the POST Commission drafted proposed Regulations relative to Databases and Dissemination of Information, which remain under consideration at this time. As such, prior to the adoption of the Regulations by POST, it is not clear what information will be made publicly available, although it appears that some degree of police officer complaints/records will be publicly accessible.
- **Police Officer Certification.** The law establishes a police officer certification system. In December 2022, the POST Commission publicly released a list of all certified law enforcement officers as of December 3, 2022. The POST Commission has also adopted law enforcement recertification regulations, 555 CMR 7.00, et seq., which went into effect on June 10, 2022. In addition to recertification, no person will be eligible for original appointment as a police officer without being certified by the POST Commission, and officers must maintain certification throughout their employment. The POST Commission has established conditions for certification by regulation. The POST Commission can also revoke or suspend an officer's certification for a number of enumerated reasons related to alleged officer misconduct.

In addition to the POST Commission's regulatory implementation of the Act referenced above, to date, the POST Commission is also proposing regulations regarding specialized certification of school resource officers, which remain under consideration at this time. The POST Commission has also issued several advisories regarding use of force and de-escalation matters for police departments.

As with all newly established comprehensive statutory schemes, it will take additional time for the promulgation of remaining relevant state regulations implementing the Act by the POST Commission, and then for the Act and its implementing regulations to be interpreted by relevant state agencies, officials, and, as necessary, the courts. Additionally, while the Act and its recently implemented Regulations contain many mandates and reporting requirements for municipal police departments, the implementation of these new requirements could arguably be subjects of mandatory union bargaining.

As we previously advised upon the initial passage of the Act, the full impacts of the law will only be fully realized over time. We will continue to keep you updated of any legal requirements of the Act and POST's implementing Regulations for implementation by your police department.

Please contact Attorney [Janelle Austin](#) or any member of the firm's Labor and Employment Practice Group at 617.556.0007 with any further questions.

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