KP LAW
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eUpdate

Constables: Election, Appointment, and Authority & New POST Commission Guidance

(Prepared for 2026 MMA Connect 351)

The Massachusetts Peace Officer Standards and Training Commission ("POST Commission") has promulgated regulations implementing "An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth" ("Police Reform Act" or "Act") and recently issued related guidance for constables, found here, explaining new limitations on the traditional authority of constables. This eUpdate provides a broad overview of the law applicable to election and appointment of constables, and examines the application of new limitations on traditional powers and duties of constables in the absence of appropriate POST Commission certifications.

Elected and Appointed Constables

A. Towns: In a town without a special act or charter, the general rule is that one or more constables are elected for terms of one or more years in accordance with G.L. c.41, § 1. However, the statute also allows a town to vote to instead appoint constables, and G.L. c.41, § 91A provides that a select board may appoint constables for terms not exceeding three years. Officials appointed for a term found in law, including constables, cannot be removed from office prior to the expiration of their appointed term unless a charter or special act so provides. Similarly, an elected constable cannot be removed from office unless a special act or charter provision provides for recall of elected officials.

B. Cities: In a city without a special act or charter, constables are elected unless the city council has accepted G.L. c.41 § 91, in which case the mayor may appoint an individual to the position of constable for a term not to exceed three years. In a city that has accepted G.L. c.41, § 91, an appointed constable can be removed by the mayor with the approval of the city council for gross misconduct. If a constable is appointed in a city pursuant to a charter or special act, the charter or special act may address the process for hiring and removal of city officials, including constables, which process would supersede state law.

C. Conflict of Interest Issues: Constables are "municipal employees" for purposes of G.L. c.268A, (see, e.g., State Ethics Commission Opinion EC-COI-03-1, August 14, 2003), regardless of whether they are elected or appointed, paid or unpaid, and are subject to the prohibitions of the Conflict of Interest Law.

D. Application Requirements for Appointed Constables: If constables are appointed rather than elected, a constable must be a person of "good repute and character and qualified to hold [the] office." Pursuant to G.L. c.41, § 91B, the candidate must submit to the appointing authority an application including statements as to: (1) the applicant's reasons for seeking appointment and any reasonably requested information regarding the applicant's fitness for office; and (2) the moral character of the applicant signed by at least five "reputable citizens" of the appointing municipality, one of whom must be an attorney. The police chief must investigate the

reputation and character of every applicant, and must comply with applicable confidentiality requirements if a background investigation involves the potential use and/or disclosure of an individual applicant's criminal history.

Authority of Constables: Recent Changes and Guidance Issued by the POST Commission

To review, the Act established a statewide mandatory certification system for law enforcement officers and created the POST Commission, which has authority, among other things, to establish policing standards and certify law enforcement officers in the Commonwealth. As part of the Act, certain law enforcement power and authority traditionally granted to constables to arrest people and perform other law enforcement duties can no longer be exercised unless the constable is also individually certified by POST as a law enforcement officer.

In December 2025, the POST Commission issued what it terms "practical guidance" for municipalities, found here, concerning the authority of constables who are, and who are not, certified by the POST Commission. The guidance, using specific examples, indicates that constables without a POST certification may not execute arrests nor generally seize or detain individuals by blocking, grabbing, pushing or handcuffing them or by threatening to do so, whether verbally, showing them an official looking badge, a weapon, or otherwise. A constable is permitted to serve papers on an individual, to remove property as part of an eviction with proper legal authority, call the police if they have concerns about the personal safety of themselves or others or due to other threat of violence, and to protect themselves from a direct attack if unable to escape. Importantly, the POST Commission has also indicated that action taken by a constable in violation of applicable statutes or regulations may subject that person to a fine or sanction permitted by law, including G.L. c.6E, § 3. The POST Commission, in February 2025, also issued general guidance for constables and other law enforcement personnel, found here, reviewing various provisions of 555 CMR 9.00.

Certification

In addition to any requirements applicable to an individual applicant for POST certification pursuant to 555 CMR 9.02, a constable seeking certification must meet additional requirements.

The provisions of 555 CMR 9.12(7) clarify that, "[a] certification granted pursuant to 555 CMR 9.00 shall be active only while the certified individual is serving as a law enforcement officer for a law enforcement agency and shall otherwise be restricted." [emphasis added]. Therefore, a constable may apply for or receive certification even when they are not serving as a "law enforcement officer" for a "law enforcement agency", but the certification will be active, allowing them to engage in law enforcement activity, only when they are working for a law enforcement agency.[1]

Further, the definition of "law enforcement agency", as set forth in G.L. c.6E, § 1, includes, but is not limited to "a city, town or district police department", but not a municipality. [emphasis added]. Thus, a constable who is

[1] See Massachusetts POST Commission, *Guidance for Constables and Other Law Enforcement Personnel Regarding 555 CMR 9.00* (2025). Guidance-on-555-CMR-9.00-as-approved-on-09-14-23-Revised-021125.pdf

employed by a municipality generally, but not by a municipal police department, would not be considered otherwise to have an active certification under 555 CMR 9.00.

For further information, please contact Attorneys Janelle Austin or Michele Randazzo or your KP Attorney at 617.556.0007.