





# POLICIES AND PROCEDURES MANUAL

	<b>INTERNAL AFFAIRS</b>	
	<b>POLICY NUMBER: 26-5</b>	ISSUING AUTHORITY 
	<b>EFFECTIVE DATE: June 12, 2025</b>	Christine A. Elow Police Commissioner

## I. GENERAL CONSIDERATIONS AND GUIDELINES

A relationship of trust and confidence between the employees of the Cambridge Police Department and the citizens of the community is essential to the successful accomplishment of law enforcement objectives. This relationship depends, in large part, on a consistently high standard of conduct maintained by department members both on and off duty.

To promote these high standards, the department supports an internal affairs function that receives, documents, investigates, and responds to all allegations of misconduct. Through the Professional Standards Unit, the department will maintain a system of internal affairs that is transparent, fair, and impartial.

The Professional Standards Unit will *direct* all activity in this regard, whether the infraction is minor in nature or more serious, and is responsible for maintaining the confidentiality of all investigations and records to the extent allowed by law. This policy shall apply to all employees of the police department, whether sworn, non-sworn or civilian.

All alleged or suspected violations of law, department policies and procedures, or written directives will be investigated according to the procedures outlined for each. These include the following.

- A. All observed, suspected, or perceived violations reported to the department's superior officers by other members of the department, either orally or in writing.
- B. Citizen complaints of alleged police misconduct that are made in person, by letter, by telephone, email, or social media including anonymous complaints and complaints made by detainees.

## II. POLICY

It is the policy of the Cambridge Police Department to:

- A. 26.2.1 (M) Investigate all complaints, including anonymous complaints, against the department or a member of the department, regardless of the source of such complaints, through a regulated, fair, and impartial Internal Affairs/Professional Standards program that complies with relevant

collective bargaining agreements. Complaints that after preliminary review are determined to be false or plainly unsubstantiated may at the reasonable discretion of the Police Commissioner be closed without further investigation or action;

- B. review all complaints to determine if such complaints are valid, understanding that anonymous complaints can be difficult to investigate without a credible complainant;
- C. provide all community members a fair and effective avenue for redress of legitimate complaints, protect members of the department from false or unfounded allegations, and protect the right of community members and police department personnel of due process granted under State and Federal Constitutions and collective bargaining agreements covering police department employees;
- D. take appropriate action when warranted and necessary to include training, counseling, and/or disciplinary sanctions, including dispositions from the Division of Police Certification and the Division of Police Standards under the Massachusetts Peace Officer Standards and Training (POST) Commission; and
- E. ensure confidentiality of investigations and related matters and make public all matters required by Accreditation standards, those approved for public distribution by the City of Cambridge, as well as public disclosures from POST.

### III. DEFINITIONS

- A. *Exculpatory Evidence*: Evidence that is favorable to the accused; is material to the guilt, innocence, or punishment of the accused; and/or may impact the credibility of a government witness, including a law enforcement officer or other agency employee.
- B. *POST*: The Massachusetts Peace Officer Standards and Training (POST) Commission is charged with creating a mandatory certification process for police officers, as well as processes for decertification, suspension of certification, retraining, or reprimand in the event of certain misconduct.

### IV. PROCEDURES

- A. Complaint Procedures
  - 1. 26.2.3 (M) The Lieutenant of the Professional Standards Unit shall be responsible for managing the internal affairs function and shall appraise the Director of Professional Standards regarding all internal affairs matters when appropriate. In some cases, when the sensitivity and impact of internal affairs require that the Commissioner receive all pertinent information, the Director or Lieutenant of Professional Standards shall have access to and report such matters directly to the Commissioner.
  - 2. 26.2.5 (M) The lieutenant of the Professional Standards Unit shall annually compile an anonymized statistical summary of internal affairs investigations and shall appraise the

Commissioner of the findings. The yearly summaries shall be made available to the public and to department personnel on the Cambridge Police Department website.

3. 26.2.2 (M) All complaints, whether registered by a citizen or a detainee, initiated from within the police department, or forwarded by another governmental agency, shall be recorded and maintained by the Lieutenant of Professional Standards. Such records shall be kept confidential with access limited to authorized personnel only.
4. 26.2.4 (M) Receiving and Recording Complaints
  - a. General Procedures
    - (1) The shift commander or other available supervisor, at the time the complaint is made, shall be responsible for the receiving and recording of any complaint of police misconduct made in person, by telephone, or in some cases by email.
    - (2) The utmost courtesy and cooperation should be extended to all persons registering complaints or otherwise inquiring about complaint procedures.
    - (3) The initial contact between a complainant and police authorities is an important stage in the process as the complainant may be tense, angry, or emotionally upset.
    - (4) No person should be denied an opportunity to register a complaint, nor should any such person be directed to return or call back later.
    - (5) Every complaint report form shall be given an identifying number, so that the processing of complaints can be carefully monitored. This identifying number will be assigned by the Lieutenant of Professional Standards.
    - (6) 26.3.7 (M) If the substance of the employee misconduct warrants it, the shift commander may relieve the employee from duty, with pay, for the remainder of their shift pending notification of the Lieutenant of the Professional Standards Unit, the Director of Professional Standards, and the Commissioner. The following is a sample of circumstances that may result in an employee being relieved from duty.
      - (i) Reporting for duty in an unfit condition.
      - (ii) Insubordination.
      - (iii) Leaving an assigned duty location or refusing to perform assigned duties.
      - (iv) Criminal offense committed while on or off duty.
      - (v) Improper use of agency's property.
      - (vi) Falsifying a statement or record.
      - (vii) Abusing, destroying, damaging, stealing, or defacing property, tools, or equipment of the department or that of others.
5. Types of Complaints

- a. Complaints Made by Parents of Juveniles
  - (1) Any time a parent, guardian, or caretaker on behalf of a juvenile or other dependent submits a complaint to the police department, such complaint will be accepted and processed according to this policy.
- b. In Person Complaints
  - (1) Citizens making complaints in person should be requested to read their completed report, make any necessary corrections or additions, and sign the complaint. If the complainant is a minor, the form should be signed by an accompanying parent or guardian.
  - (2) If a complainant refuses to sign a complaint, a notation to that effect should be made on the complaint form.
- c. Telephone Complaints
  - (1) Complaints received by telephone shall be documented and referred to an appropriate supervisor. No telephone complaint should be refused or rejected because the complainant does not wish to be identified.
- d. Complaints Received by Mail/Electronic Mail or Social Media
  - (1) Complaints received by mail, email, or social media shall be forwarded to the Lieutenant of Professional Standards for review. In some cases, complaints may be received directly by Command Staff who will review the complaints prior to forwarding them to Professional Standards.
  - (2) If the information so received is insufficient or incomplete, the complainant shall be contacted, if possible, for additional information.
- e. Departmental Complaints
  - (1) Departmental complaints of misconduct or performance against a department employee shall be forwarded to the Lieutenant of Professional Standards who will review all documentation and related materials for investigation.
- f. Complaints by Prisoners and Detainees
  - (1) Any prisoner or detainee who alleges misconduct or mistreatment by a department employee shall be advised by the shift supervisor of their right to submit a complaint report form in the usual manner and such complaints shall be investigated and processed in the same manner as other citizen complaints.
- g. Complaints from Governmental Agencies
  - (1) When information is received or obtained from other governmental agencies alleging specific acts of misconduct by a department employee, the information received shall be recorded and an investigation initiated.

- h. Street Complaints
    - (1) If an officer on the street is approached by a citizen regarding a complaint of alleged misconduct against an employee of the police department, the officer receiving the complaint shall direct the complainant to the shift supervisor and shall provide contact information for the Professional Standards Unit.
  - i. Complaints referred to the department from the Police Review & Advisory Board (PRAB).
    - (1) The Professional Standards Unit is the investigative arm of the PRAB and will advise the members of any findings.
  - j. Verification of Receipt
    - (1) Every person making a complaint against a department employee shall be notified by email or phone verifying that the complaint has been received, if contact information is available.
    - (2) If the complaint is made in person, the complainant should be provided with a copy of the complaint in hand as verification of receipt.
  - k. Periodic Status Reports
    - (1) In all cases of reporting, except anonymous reports, the complaining party shall periodically receive information regarding the status of the investigation, if appropriate.
- B. 26.3.1 (M) Investigative Procedures
- 1. Categories of Complaints
    - a. Complaints to be investigated by a shift supervisor or officer-in-charge may include, but are not limited to:
      - (1) a complaint received from the public regarding parking ticket violations;
      - (2) rudeness; and
      - (3) other matters that do not rise to the level of a Professional Standards Unit investigation and can be easily resolved.
    - b. Complaints to be investigated by the Professional Standards Unit include, but are not limited to:
      - (1) corruption; brutality; use of excessive force;
      - (2) violations of civil rights; criminal misconduct;
      - (3) other unprofessional conduct; and
      - (4) any other matter as directed by the Police Commissioner.

- c. Reports of investigations conducted by shift supervisors shall be forwarded and reviewed by the Lieutenant of the Professional Standards Unit.
  - d. Generally, complainants and witnesses will be interviewed separately.
2. Immediate Resolution of a Complaint
    - a. In some cases, a complaint can be resolved to the complainant's satisfaction at the time by the shift supervisor or officer-in-charge, in which case this should be reported in writing to the Lieutenant of Professional Standards.
    - b. This immediate resolution can often be accomplished if the incident is clearly not of a serious nature or arises from a misunderstanding or lack of knowledge of the law or of the limitation of a police officer's authority.
    - c. Under no circumstances, however, will a complaint be refused, delayed, or otherwise rejected.
  3. Investigation of Complaints
    - a. 26.2.3 (M) The Lieutenant of the Professional Standards Unit shall be responsible for conducting Internal Affairs investigations under the supervision of the Director of Professional Standards.
      - (1) The affected employee shall be provided with a written statement of the allegations against them in a timely manner unless it is determined that disclosure might jeopardize an investigation. Generally, this will be done in a P650 Request and/or an Interview Notification.
        - (i) NOTE: The employee must receive written notification prior to any interrogation or administrative or criminal hearing.
      - (2) The Lieutenant of Professional Standards shall be responsible for providing to the Director of Professional Standards status reports on the progress of the investigation every fourteen (14) days. These reports shall contain all pertinent information relating to the progress of the investigation and may be verbal or in writing.
      - (3) 26.3.2 (M) If the substance of a complaint, if proven, would be of a grave nature or is an accusation of a serious crime and immediate action is deemed necessary, the Commissioner, or designee shall be notified forthwith in order that an investigation can be initiated without delay.
        - (i) The Commissioner will be notified immediately upon receipt of a complaint of criminal activity, excessive force, or any action that could bring substantial discredit to the department.
        - (ii) Those complaints for which notification to the Commissioner can be delayed include performance and code of conduct violations.

- (4) 26.3.5 (M) Before a department employee is questioned or directed to submit a report regarding a complaint, and unless the Commissioner determines that disclosure might jeopardize the investigation, such employee shall be issued a written statement of the allegations and in either case the employee will be advised of their rights and responsibilities relative to the investigation.
- b. 26.3.3 (M) Any Internal Affairs investigation must be commenced immediately upon receipt of the complaint and must be completed within thirty (30) days.
    - (1) If extenuating circumstances preclude completion within thirty (30) days, the Director of Professional Standards shall request an extension from the Commissioner and provide notification to the employee (if previously notified of the complaint and investigation) and complainant of the delay.
    - (2) If the investigation is not completed within thirty days, the complainant shall be provided with a progress report every thirty days until the completion of the investigation. The complainant shall be notified at the conclusion of the investigation.
  - c. An internal administrative investigation may inquire into a department employee's on-duty or off-duty conduct if such inquiry is reasonably and directly related to the employee's performance of duty, if such conduct affects the employee's fitness or ability to continue in the police service, or reflects discredit on the department.
  - d. Criminal Proceedings: If it is determined after a preliminary investigation that allegations against a department employee could result in a criminal prosecution, the accused employee must be granted all applicable contractual, constitutional and statutory rights.
    - (1) Prior to being questioned regarding alleged personal involvement in criminal activity, a department employee shall be given *Miranda* warnings.
    - (2) After *Miranda* warnings have been given, any voluntary statement made thereafter could be admissible in a criminal proceeding, and it may otherwise be used for departmental disciplinary purposes.
    - (3) A department employee who is being questioned about alleged personal involvement in criminal activity that could result in a criminal prosecution cannot be discharged or otherwise penalized solely for invoking the right to remain silent as guaranteed by the Fifth Amendment and Article 12. However, as discussed below, an employee may be compelled to answer questions narrowly and specifically defined regarding the performance of police department duties, professional responsibilities, and fitness to perform those duties and may be disciplined, up to and including termination, for failure to answer truthfully.
  - e. Departmental Disciplinary Action: If as a result of a preliminary investigation it is determined that allegations made against a department employee could result in departmental disciplinary action, the accused employee is entitled to a fair, objective, prompt and lawful investigation and resolution of the charges made.

- (1) All department employees, when requested by the Commissioner, or by a superior officer designated by the Commissioner, must respond fully and truthfully to all questions regarding their performance of official duties or their off-duty misconduct which affects their fitness or ability to perform their police duties, and any failure to answer completely and truthfully to such inquires may be punished by appropriate disciplinary action, including dismissal from the department.
    - (i) If the employee or their counsel or representative asks, the official conducting the interrogation must specify, at the time of the interrogation, the potential repercussions that may result if the officer fails to respond.
  - (2) When a department employee, after invoking the constitutional right to remain silent, is ordered to submit a report or to answer questions under a threat of the penalty of discipline, that employee, by law, will be granted transactional immunity from criminal prosecution for any offenses to which the compelled testimony relates.
    - (i) The Supreme Judicial Court has held that Article 12 of the Massachusetts Declaration of Rights requires *transactional immunity* to supplant the privilege against self-incrimination when a public employee is being compelled to answer questions concerning possible criminal activities connected with their employment. Transactional immunity grants immunity from prosecution for offenses to which compelled testimony relates.
  - (3) If the questions specifically, directly, and narrowly relate to the employee's performance of official duties or their off-duty conduct which affects their fitness or ability to remain in the police service, and if such employee receives a grant of transactional immunity from criminal prosecution, they must answer or face disciplinary action, including dismissal from the department, for refusing to answer such questions.
  - (4) The Commissioner shall secure a written grant of transactional immunity from the Attorney General's Office and any appropriate District Attorney. An employee may decline to answer questions in a criminal investigation until such documentation is received and the employee has been afforded a reasonable opportunity to have it reviewed by counsel.
- f. Double jeopardy: No double jeopardy exists when a department employee is found not guilty in court of criminal charges and is then found responsible for departmental charges after a disciplinary hearing, as the department charges are administrative in nature and can be sustained by a *preponderance of the evidence* rather than the criminal court standard of *beyond a reasonable doubt*.
- g. All department employees attending a PSU interview or disciplinary hearing shall be punctual in attendance and dressed professionally, either in uniform or business casual attire, with their grooming appearance neat and clean. When presenting evidence or testimony they shall speak clearly in a distinct and audible tone to be easily understood.



They shall give evidence with accuracy, confining themselves to the PSU investigation in question and shall neither suppress nor overstate the slightest circumstances with an intention of favoring any person or projecting ill-will to the complainant. When answering questions from PSU investigators or City representatives, employees shall answer with civility and readiness.

- h. In conducting internal administrative investigations, in the absence of a requirement in a collective bargaining agreement, there is no legal obligation for the police department to provide department employees with an opportunity to consult with an attorney before being questioned on work-related matters. However, a request for an attorney or an employee representative to be present will be granted if the investigation is not unduly delayed.
  - (1) Except in unusual situations, any interview or questioning should take place during the employee's regular duty hours.
  - (2) Any interview or questioning should not be prolonged without reasonable rest periods and the opportunity for meals and such other personal necessities as are reasonably required.
  - (3) A department employee shall not be improperly harassed or threatened during this period of questioning.
- i. In conducting investigations of alleged employee misconduct, all appropriate investigative techniques and methods should be employed, consistent with legal requirements and all necessary concern for the individual rights of the accused employee.
  - (1) An internal administrative investigation should be conducted with the same degree of professional competence as is devoted to a criminal investigation.
  - (2) Upon orders of the Commissioner or designee and as specified in the CBA, an employee may be required to submit to a medical or laboratory examination, at the department's expense, which may include drug and/or alcohol testing and psychological examination. Such examinations must be specifically directed and narrowly focused to a particular internal affairs investigation being conducted by the department.
- j. Identification: A police officer may also be required to be photographed and can be compelled to stand in a lineup for identification in connection with an internal affairs investigation; a refusal can be the basis for an additional disciplinary charge of refusal to obey a lawful order. Such a lineup should be constructed in accordance with the provisions as outlined in the policy on *Eyewitness Identification*.
- k. Searches
  - (1) A police officer's personal property, including their home, car, and other property, is protected from unreasonable search and seizure under the Massachusetts Declaration of Rights and United States Constitution, and it is possible that any

evidence illegally obtained may not be used as evidence in an administrative proceeding.

(2) Department property furnished to the officer, such as desks, lockers, or vehicles, phones, and computers, in which it is clearly understood in advance that an officer has no expectation of privacy may be searched without a warrant.

- l. Financial disclosure: A police officer may be compelled to submit a financial disclosure statement as part of an internal affairs investigation provided such statement is narrowly focused and material to the investigation being conducted.
  - m. Under the provisions of M.G.L. c. 149, § 19B, police officers may be required to submit to a polygraph or other lie detector test if such test is conducted by a law enforcement agency during a departmental investigation of criminal activity. Officers may face disciplinary action for refusal.
  - n. Recording interviews: The complete interview with an employee in all internal administrative investigations should be audio and video recorded. Non-employees may elect to forego audio and/or video recording.
  - o. Withdrawn complaints: If during the progress of an internal investigation, the complainant indicates a desire to withdraw the complaint, effort should be made to allow for a voluntary decision, and a signed statement to this effect should be obtained from the complainant.
    - (1) Any attempt, directly or indirectly, on the part of a department employee to obstruct any internal investigation or to threaten or persuade any complainant to withdraw or abandon the complaint, is prohibited.
- C. Report of Investigation
1. At the conclusion of any administrative investigation, a full written report shall be prepared for submission to the Commissioner, which shall include the following.
    - a. The original complaint.
    - b. Any additional statements taken from the complainant or statements obtained from witnesses.
    - c. Any statements made or reports submitted by the department employee under investigation.
    - d. A summary of all evidence gathered.
    - e. Any mitigating or aggravating circumstances.
    - f. An evaluation of the complaint, a conclusion of facts, and a definitive statement as to whether the charges made by the complainant were:
      - (1) *Substantiated*: The complaint was valid and supported by sufficient evidence;

- (2) *Inconclusive*: There was inadequate or insufficient evidence to either prove or disprove the complaint;
  - (3) *Cleared*: The allegations were baseless and without foundation; or the complaint was unjustified or unwarranted as the actions of the accused department employee were in compliance with law or in accordance with department policy and procedure; or
  - (4) *Closed without a finding*: After examining all available information, there is no indication that any further investigation into the complaint will reveal any evidence or proof of violations of the Department's rules, policies, or procedures. The investigative work done with these complaints will be kept in the Professional Standards Unit but the complaint will not be linked to the officer's Professional Standards history. The department reserves the right to reopen any investigation that were closed without a finding if new information becomes available.
2. Upon receipt of the report of investigation, the Commissioner should take further action as is necessary based upon substantiated findings in the particular case.
  3. The subject of the investigation shall be promptly notified of the final results of the investigation. If the department employee is cleared of the charges made, they shall be officially exonerated in writing.
  4. Every person who has filed a complaint against an employee may be notified, if appropriate, as to the final results of the investigation, by phone, email, or certified mail.
    - a. If a disciplinary hearing is deemed necessary, the complainant shall be notified that their testimony may be required at that time.
- D. 26.2.2 (M) Confidentiality of Internal Affairs
1. To provide for the lawful protection of the individual rights of officers who are the subject of an Internal Affairs investigation, all materials relevant to that investigation shall be kept strictly confidential and secured by all members of the Professional Standards Unit. The Lieutenant and/or designee shall maintain the records of all complaints against the department or its employees separate from personnel and the centralized records system for a period to be determined by the Commissioner.
  2. Internal Affairs investigators should note in their reports any instances where witnesses refused or were reluctant to speak with them unless they were assured that their statements would be kept confidential, at least to the extent allowed by law.
  3. No statement regarding an Internal Affairs investigation will be made or issued to the public or media unless the charges have been sustained and action has been taken or initiated against the officer or employee.

4. All employees of the department involved in an Internal Affairs investigation are prohibited from discussing the facts and circumstances surrounding such except with union representatives and legal counsel.

E. Liaison with District Attorney

1. Any Internal Affairs investigation which may, or does, result in criminal charges being brought against an officer shall require the District Attorney's or Attorney General's office to be appraised of the case for the purpose of advising on legal issues and ultimately prosecution if necessary.
2. The Cambridge Police Department is required to disclose exculpatory evidence to the Middlesex District Attorney's Office or other applicable prosecutorial agency, pursuant to the U.S. Supreme Court decisions in *Brady v. Maryland* and *Giglio v. U.S.* The Middlesex District Attorney's Office has determined the following conduct may result in the officer's inclusion on the *Brady List* and may affect the officer's ability to serve as a witness for the Commonwealth.
  - a. An officer is charged with a crime, has admitted to sufficient facts, or been convicted of a crime, whether a felony or a misdemeanor.
  - b. A finding of untruthfulness in connection with an internal administrative process such as an internal affairs (IA) investigation or a proceeding before a Hearing Officer or arbitrator or other administrative body or appeal.
  - c. A judicial finding that an officer knowingly provided false testimony or lied in an affidavit in support of a search warrant (Franks hearing).
  - d. A finding that an officer engaged in conduct, whether criminal or not, shows a lack of truthfulness or adversely affects their credibility. Specific examples of this category include, but are not limited to, the following.
    - (1) Any misconduct that either casts a substantial doubt upon the accuracy of any evidence that the prosecutor intends to rely on.
    - (2) Racial or gender profiling of motorists or other stopped on suspicion of criminal conduct.
    - (3) Sexual harassment or other discrimination against co-workers or civilians.
    - (4) Mishandling or tampering with evidence.
    - (5) Excessive use of force
3. An employee who becomes aware of exculpatory evidence post-conviction shall promptly investigate and document the information in addition to notifying their supervisor. The supervisor is responsible for ensuring that the exculpatory evidence is disclosed to the Middlesex District Attorney's Office or other relevant prosecuting authority in a timely manner.

## F. Police Reform Bill; M.G.L. c. 6E, § 8: POST Commission, Division of Police Standards

1. The purpose of the Division of Police Standards is *to investigate* officer misconduct and make disciplinary recommendations to the POST Commission.
  - a. Within two business days, the head of the department shall transmit to the Division of Police Standards any complaint received by the agency to include but not be limited to:
    - (1) the name and commission certification number of the subject officer;
    - (2) the date and location of the incident;
    - (3) a description of the circumstances of the conduct;
    - (4) whether the complaint alleges that the conduct was based on (a) bias of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status, or socioeconomic or professional level; (b) was unprofessional; (c) involved excessive, prohibited, or deadly force; or (d) resulted in serious bodily harm or death;
    - (5) a copy of the original complaint submitted directly to the agency considering a minimum threshold established by the Commission for the reporting or handling of minor complaints that do not involve the use of force or allegations of biased behavior.
  - b. Upon completion of the internal investigation of a complaint, the head of the department shall transmit to the Division of Police Standards an investigation report to include but not be limited to:
    - (1) a description of the investigation and disposition;
    - (2) any disciplinary action recommended by IA or the supervising officer; and
    - (3) if the recommended disciplinary action includes retraining, suspension or termination, a recommendation by the head of the department for disciplinary action by the Commission including retraining, suspension, or revocation of the officer's certification.
  - c. Upon final disposition, the head of the department shall transmit to the Division of Police Standards a final report to include but not be limited to:
    - (1) any disciplinary action initially recommended by IA or the supervising officer;
    - (2) the final discipline imposed and a description of the adjudicatory process; and
    - (3) if the disciplinary action recommended or imposed included retraining, suspension or termination, a recommendation by the head of the department for disciplinary action by the Commission including retraining or suspension, or revocation of the officer's certification.

- d. If an officer resigns during an agency investigation prior to the conclusion of the investigation or the imposition of discipline, the head of the department shall transmit to the Division of Police Standards a report to include but not be limited to:
    - (1) the officer's full employment history;
    - (2) a description of the events or complaints surrounding the resignation; and
    - (3) a recommendation by the agency for disciplinary action by the Commission including retraining or suspension or revocation of the officer's certification.
  - e. Notwithstanding any general or special law or collective bargaining agreement to the contrary, nothing shall limit the ability of the head of the department to make a recommendation in their professional judgement to the Commission relative to the certification status of an officer after an IA procedure and any appeal.
2. The Division of Police Standards *shall initiate* a preliminary inquiry into the conduct of an officer if the POST Commission receives a complaint, report, or other credible evidence deemed sufficient by the Commission that the officer:
    - a. was involved in an officer-involved injury or death;
    - b. committed a felony or misdemeanor whether or not the officer has been arrested, indicted, charged, or convicted;
    - c. engaged in conduct prohibited pursuant to Section 14 (Use of Force);
    - d. engaged in conduct prohibited pursuant to Section 15 (Failed to Intervene); or
    - e. the 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.
  3. The Division of Police Standards *may initiate* a preliminary inquiry into the conduct of an officer upon receipt of a complaint, report, or other credible evidence that is deemed sufficient by the POST Commission that the officer *may have* engaged in prohibited conduct.
    - a. All proceedings and records of such preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential except that the Executive Director may turn over to the Attorney General, US Attorney, or a District Attorney of competent jurisdiction evidence which may be used in a criminal proceeding.
    - b. Within 30 days of commencement of the inquiry, the Division shall notify any officer who is the subject of the preliminary inquiry, the head of the bargaining unit, and the head of the department, the existence of such inquiry and the nature of the alleged violation.
    - c. The Division may audit all records related to the complaints, investigations, and investigative reports of any agency related to the complaints of officer misconduct or unprofessionalism, including but not limited to personal records.

- d. The Commission shall promulgate rules and regulations for such audits provided that the rules and regulations shall not limit the ability of the Division to initiate an audit at any time and for any reason.
  4. The Division of Police Standards shall create and maintain a database containing information related to an officer's:
    - a. receipt of complaints and related information, including, but not limited to the officer's appointing agency, date, circumstances of the conduct that is the subject of the complaint, and whether the complaint alleges that the conduct:
      - (1) was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;
      - (2) was unprofessional;
      - (3) involved excessive, prohibited, or deadly force; or
      - (4) resulted in serious bodily injury or death;
    - b. allegations of untruthfulness;
    - c. failure to follow Commission training requirements;
    - d. decertification by the Commission;
    - e. agency-imposed discipline;
    - f. termination for cause; and
    - g. any other information the Commission deems necessary or relevant.
  5. The Division of Police Standards shall actively monitor the database to identify patterns of unprofessional police conduct. Upon identifying a pattern of unprofessional police conduct, the Division may recommend the evidence in its possession for review in a preliminary inquiry.
  6. 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 M.G.L. c. 6E, including the power to receive intelligence on an applicant for certification of an officer already certified under this chapter, and to investigate any suspected violations of law.
- G. Police Reform Bill; M.G.L. c. 6E, § 9: Suspension of an Officer's POST Certification
1. The POST Commission shall immediately suspend the certification of any officer who is arrested, charged, or indicted for a felony.
    - a. If, after a preliminary inquiry pursuant to paragraph (1) of subsection (c) of section 8, the POST Commission concludes by a preponderance of the evidence that an officer has engaged in conduct that could constitute a felony and upon a vote to initiate an adjudicatory proceeding of the conduct, the commission shall immediately suspend an officer's certification.

- b. The POST Commission may, after a preliminary inquiry suspend the certification of any officer who is arrested, charged, or indicted for 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.
  - c. The POST Commission may, pending preliminary inquiry, suspend the certification of any officer if the Commission determines by a preponderance of the evidence that the suspension is in the best interest of the health, safety, or welfare of the public.
    - (1) A suspension order of the POST Commission issued pursuant to this subsection shall continue in effect until issuance of the final decision of the Commission or until revoked by the Commission.
2. The POST Commission shall administratively suspend the certification of an officer who fails to complete in-service training requirements of the Commission within 90 days of the deadline imposed by the Commission provided that the Commission may promulgate reasonable exemptions including, but not limited to, exemptions for:
    - a. injury or physical disability;
    - b. a leave of absence; or
    - c. other documented hardship.
  3. The Commission shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of the in-service training requirements of the Commission.
  4. The Commission shall administratively suspend the certification of an officer with a duty to report information to the Commission pursuant to section 8 who fails to report such information and shall reinstate the certification of an officer suspended pursuant to this subsection upon completion of said report.
  5. An officer whose certification is suspended by the Commission pursuant to said subsections (a) (b) or (c) shall be entitled to a hearing before a Commissioner within 15 days. The terms of employment of an officer whose certification is suspended by the Commission shall continue to be subject to chapter 31 and any applicable collective bargaining agreement to which the officer is a beneficiary.
- H. Police Reform Bill; M.G.L. c. 6E, § 10: Revocation of an Officer's POST Certification
1. The Commission shall, after a hearing, revoke an officer's certification if the Commission finds by clear and convincing evidence that:
    - a. the officer is convicted of a felony;
    - b. the certification was issued as a result of administrative error;
    - c. the certification was obtained through misrepresentation or fraud;
    - d. the officer falsified any document in order to obtain or renew certification;



- e. the officer has had a certification or other authorization revoked by another jurisdiction;
  - f. the officer is terminated by their appointing agency, and
    - (1) any appeal of said termination is completed,
    - (2) based upon intentional conduct performed under the color of their office to:
      - (i) obtain false confessions;
      - (ii) make a false arrest;
      - (iii) create or use falsified evidence, including false testimony or
      - (iv) destroying evidence to create a false impression;
    - (3) engaged in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C; or
    - (4) directly or indirectly received a reward, gift or gratuity on account of their official services;
  - g. the officer has been convicted of submitting false timesheets in violation of section 85BB of chapter 231;
  - h. the officer knowingly files a written police report containing a false statement or commits perjury, as defined in section 1 of chapter 268;
  - i. the officer tampers with a record for use in an official proceeding, as defined in section 13E of chapter 268;
  - j. the officer used force in violation of section 14;
  - k. the officer used excessive use of force resulting in death or serious bodily injury;
  - l. the officer used a chokehold in violation of said section 14;
  - m. the officer engaged in conduct that would constitute a hate crime, as defined in section 32 of chapter 22C;
  - n. the officer engaged in the intimidation of a witness, as defined in section 13B of chapter 268;
  - o. the officer failed to intervene, or attempt to intervene, to prevent another officer from engaging in prohibited conduct or behavior, including, but not limited to, excessive or prohibited force in violation of section 15;
  - p. the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the commission.
2. The Commission may, after a hearing, *suspend* or *revoke* an officer's certification if the Commission finds by clear and convincing evidence that the officer:
- a. has been convicted of any misdemeanor;

- b. was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
  - c. has a pattern of unprofessional police conduct that Commission believes may escalate;
  - d. was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed; or
  - e. has repeated, sustained internal affairs complaints, for the same or different offenses.
3. The Commission may reinstate the certification of an officer suspended pursuant to this section at the expiration of the suspension, if the Commission finds that all conditions of the suspension were met.
4. The Commission may, after a hearing, order retraining for any officer if the commission finds substantial evidence that the officer:
  - a. failed to comply with this chapter or Commission regulations, reporting requirements or training requirements;
  - b. was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct;
  - c. used excessive force;
  - d. failed to respond an incident according to established procedure;
  - e. has a pattern of unprofessional police conduct;
  - f. was untruthful, except for a statement or action that mandates revocation pursuant to subsection (a);
  - g. was suspended or terminated by their appointing agency for disciplinary reasons, except those reasons which mandate revocation;
  - h. failed to intervene to prevent another officer from engaging in prohibited conduct or behavior, except a failure to intervene in conduct that mandates revocation pursuant to subsection (a); or
  - i. would benefit in their job performance if retrained.
5. The Commission shall immediately notify the officer and the head of the appointing department of the officer who is decertified, suspended, or ordered to undergo retraining of the order. The Commission shall conduct preliminary inquiries, revocation and suspension proceedings and hearings, and promulgate regulations for such proceedings and hearings, pursuant to sections 1, 8, and 10 to 14, inclusive, of chapter 30A. Any decision of the Commission relative to a preliminary inquiry, revocation and suspension proceeding shall be appealable pursuant to chapter 30A. No adverse action taken against a certification by the Commission pursuant to this section shall be appealable to the Civil Service Commission

established under chapter 31. No employment action taken by an appointing authority that results from a revocation by the Commission shall be appealable to the Civil Service Commission established under chapter 31.

6. 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.
  7. An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within one year of receiving a complaint or notice from the Commission of the complaint being filed.
    - a. The Commission may, upon a showing of good cause, extend the time to complete the investigation. The Commission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the Commission, whichever is sooner.
    - b. If the officer notifies the Commission that the officer wishes to suspend such hearing pending an appeal or arbitration of the appointing agency's final disposition, the Commission shall suspend the hearing. Any such suspension of the hearing shall not exceed 1 year from the officer's notice to the Commission; provided, however, that at any time during which the hearing is so suspended and upon a showing of good cause by the officer, the Commission shall further suspend the hearing for a period of not less than 6 months and not more than the Commission determines is reasonable; provided, however, that any delay in instituting a revocation or suspension hearing shall not exceed 1 year from the officer's request. If the officer notifies the Commission that the officer wishes to suspend such hearing pending the resolution of criminal charges, the Commission shall suspend the hearing; provided, however, that the officer's certification shall be suspended during the pendency of any delay in such hearing. This subsection shall not impact the Commission's authority to suspend a certification pursuant to section 9.
- I. Police Reform Bill; M.G.L. c. 6E, § 11: Decertified Officers Not Eligible for Employment
1. Neither any agency, nor a sheriff, nor the executive office of public safety and Security, nor any entity thereunder, shall employ a decertified officer in any capacity, including, but not limited to, as a consultant or independent contractor.
- J. Police Reform Bill; M.G.L. c. 6E, § 12: Protections for Testifying Before POST
1. No officer or employee of the Commonwealth or of any county, city, town, or district shall discharge an officer or employee, change their official rank, grade or compensation, deny a promotion or take any other adverse action against an officer or employee or threaten to take any such action for providing information to the Commission or testifying in any Commission proceeding.
- K. Police Reform Bill; M.G.L. c. 6E, § 13: Non-Disclosure Agreements

1. Agencies shall not include nondisclosure, non-disparagement, or other similar clause in a settlement agreement between the agency and a complainant in order to settle a complaint of professional misconduct by a law enforcement officer unless the complainant requests such a provision in writing.