

Earlier this week, the House and Senate advanced police reform legislation released by the Conference Committee – S.2963, *An Act relative to justice, equity and accountability in law enforcement in the Commonwealth*. The bill now goes to the Governor for his signature.

MAPC flagged several key priorities during the consideration of the House and Senate bills and the conference process, many of which were included in the pledge that so many local officials signed. Below is an explanation of how our key priorities fared, along with other important items included in the bill.

Certification and Accountability

This was a main area of focus for our advocacy and the conference bill includes many of the reforms we sought, while also including some elements that could potentially extend disciplinary processes against law enforcement officers.

Most importantly, the bill creates the Massachusetts Peace Officer Standards and Training Commission (MPOSTC), which will be responsible for certifying, suspending, and decertifying officers. Officers will need to be recertified every three years. This bill expands mandatory anti-bias police training to all law enforcement agencies, and not just local departments. Additionally, new training would require a comprehensive curriculum on handling cases of domestic violence and sexual assault, hate crimes, mental illness, substance abuse, intellectual disabilities, and bicycle safety enforcement.

MPOSTC, through its Division of Police Standards, will possess strong investigatory powers that will enable it to pursue inquiries based on complaints, reports, or other sources of evidence that suggest a law enforcement officer was engaged in defined areas of misconduct, such as an officer-involved injury or death. Importantly, the bill gives decertification some real teeth, stating that no local police agency or Commonwealth public safety department can employ, in any capacity, an officer who has been decertified. MPOSTC will create a public database of decertified officers and officer suspensions to prevent their rehire in other jurisdictions. These elements of the bill represent major progress on officer accountability.

Unfortunately, the bill includes provisions that could lengthen MPOSTC suspension or decertification proceedings where a local disciplinary action has not been completed or when an officer requests a delay because their case has been appealed or is in arbitration. The bill caps such delays at a year from initiation, but we know that disciplinary actions against officers are already time consuming and costly for municipalities, and it is hard to gauge whether this will further elongate such processes. The bill is otherwise silent on arbitration and how the MPOSTC interacts with that process and other relevant collective bargaining provisions will bear watching as the legislation is implemented. MAPC may want to consider arbitration reform proposals in the next legislative session that mesh better with the new powers of MPOSTC.

Independent Prosecution of Illegal Use of Force

Another goal we had was for an independent body or office holder to be designated to prosecute illegal use of force cases. The bill unfortunately does not create such an entity and did not require mandatory referral of evidence of illegal use of force to a prosecutorial authority. However, the bill does allow MPOSTC to refer cases to relevant federal, state, or local authorities and hopefully in practice that will enable more effective prosecution to take place.

Enabling Civil Service System Withdrawal

Currently, cities and towns can withdraw from the civil service system for police and fire hiring by reversing the legislative process they used to enter the system (e.g., if a Town entered civil service via a home rule petition many years ago, withdrawal must be effectuated by a similar mechanism, thereby requiring legislative approval for many withdrawals). MAPC recommended changing state law so any community could leave the civil service by a simple majority vote of their legislative body and without it being considered a working condition change per collective bargaining. These ideas were not adopted. The bill does however create a commission to study and examine the civil service law, personnel administration rules and hiring procedures, and by-laws for municipalities not subject to the civil service law. While making it easier for cities and towns to leave the system will remain a goal, engaging with this new commission will also be important as it develops recommendations, which are due to the Legislature by September 30, 2021.

Use of Force and Tactics

The bill helpfully includes clear statutory limits on police use of dangerous practices, e.g., banning chokeholds and limiting no-knock warrants. Additionally, the bill requires that de-escalation tactics must be exhausted before force can be applied and that officers are obligated to intervene in instances where excessive force is being used by a colleague. These provisions are consistent with many local use of force policies but codifying them in state law could strengthen the ability of local departments or MPOSTC to pursue action where such practices are deployed.

Supporting Anti-Racism Training in Municipal Government

The bill does not include funds for training non-law enforcement municipal officials or staff, nor is such funding included in either the House or Senate version of the FY2021 budget, which is currently in conference committee. Seeking such funding in the future will be an important goal.

Various Commissions

In addition to the commission to study civil service, S.2963 creates a permanent Commission on the Status of African Americans, a permanent Commission on the Status of Latinos and Latinas. It also creates three separate commissions on structural racism examining: incarcerated populations at state and county correctional facilities; the parole process; and the probation process. All three of these commissions must report their recommendations to the Legislature by September 30, 2021.

Other Items

- Revoking “qualified immunity” for an officer would apply only if that officer has been decertified. The bill creates another legislative commission to study qualified immunity and report its findings to the Legislature by September 30, 2021.
- In a change in current law, school districts would no longer be required to employ School Resource Officers (SROs); instead, the school superintendent would request an SRO, if they so desired, and then enter into an MOU with the relevant police department. The bill creates a commission charged with developing an MOU between school districts and police departments, explaining the new responsibilities of SROs. The bill prohibits school districts from sharing students’ information for police gang databases.
- The bill also expands access to record expungement for young people by allowing individuals with more than one charge on their juvenile record to qualify for expungement. The 2018 Criminal Justice Reform bill included language allowing for an expungement of an individual’s record for minor crimes committed before the age of 21. However, since passage of that bill, the number of individuals benefiting from this change

has been limited because it only applies to individuals with only one case on their record, and this threshold does not take into account the full context of that person's behavior or change.

- The bill creates a commission to review and make recommendations for training of correctional and youth detention officers. Recommendations to Legislature are due on December 31, 2021.
- The legislation bans the use of biometric surveillance until there is a law governing its use, **unless** by the RMV.

If you have any questions, please feel free to contact Diego Huezo in Government Affairs at dhuezo@mapc.org or Mark Fine, Director of Municipal Collaboration, at mfine@mapc.org.