

# **STATUS REPORT FROM THE TOWN OF ARLINGTON CIVILIAN POLICE ADVISORY BOARD STUDY COMMITTEE**

**August 24, 2021**

## **Introduction & Purpose of Status Report**

The 2020 Town Meeting established a Civilian Police Advisory Board Study Committee (“The Study Committee”) and gave directives on its structure, organization and charge. On March 18, 2021 the Study Committee met for the first time and we continue to meet monthly, virtually via Zoom. As we reach the six-month mark of our work, the Study Committee is issuing this Status Report to memorialize for Town Meeting, for the broader Arlington community, and for ourselves, the steps we have taken and the progress we are making toward fulfilling our Charge.

This Status Report does not include findings and recommendations because our work and deliberations continue. Nevertheless, the Study Committee believes now is an appropriate time to report on our progress.

We hope you find our Status Report informative and reassuring and invite you to contact the co-chairs with your feedback.

## **Study Committee Membership**

Town Meeting established the parameters for membership of the Study Committee. It is to include seventeen (17) members: four (4) non-voting, ex-officio members, and thirteen (13) voting members.

Members ex-officio represent the Select Board; the Arlington Chief of Police; the Town Counsel; and the Office of Diversity, Equity and Inclusion. The voting members include three (3) Town Meeting Members appointed by the Town Moderator; one (1) graduate of the Citizens Police Academy; one (1) Arlington High School student recommended by the AHS Principal; and one (1) representative from each of the following groups:

- Envision Arlington Standing Committee
- Arlington Human Rights Commission
- LGBTQIA+ Rainbow Commission
- The Disability Commission
- The Board of Youth Services
- Envision Arlington Diversity Task Group
- Council on Aging
- Menotomy Manor Tenants Association

Town Meeting further directed that appointing authorities should "designate representatives who reflect racial, ethnic and other forms of diversity to be found in Arlington, including at least one representative with legal defense experience regarding police arrests or detainment, especially with regard to disadvantaged populations."

A list of all voting and non-voting members of the Study Group and the organizations they represent can be found at Appendix A at the end of this Report.

### **The Charge**

Town Meeting's charge for the Study Committee is as follows:

- A. The Study Committee shall study the creation of alternative mechanisms for civilians to file complaints regarding police interactions, considering the various models including a police civilian review board independent from the police department with the authority and resources to receive and investigate complaints. Said committee shall also review police services, examine the experience of comparable communities, and consider the impact of the pending legislation.
- B. The Study Committee shall report its findings and any recommendations to the 2022 Annual Meeting, any earlier Annual or Special Town Meeting, and/or other appropriate administrative, management or elected or appointed officials.

The Study Committee has organized our work around a number of questions and issues arising from this Charge. (Note: This list is not exhaustive. We expect to add to and refine it as our work progresses)

1. Is the Study Committee charged with solving a specific problem or addressing a specific need in our Town? If so, what is that problem or need?
2. What are the **various models** for a police civilian review board?
3. What successful **alternative mechanisms** exist in other cities and towns which allow for **civilians to file complaints regarding police interactions**? How should we assess them?
4. Does any newly enacted or pending Massachusetts **State Legislation** regarding policing affect our Charge? If so, how?
5. What **authority and resources** would a community board/entity need in order to **receive and investigate** (effectively) **complaints** regarding police interactions?
6. What role should community input play in our Study and at what point(s) in the timeline should community voices be incorporated?
7. What **police services** shall the Committee review and how shall we approach this work?
8. How shall we **examine the experiences of comparable communities** and what would be an appropriate peer group?
9. What other sources of information are available to inform our study? (Non-profit organizations, professional groups, academic studies, for example)
10. How might any collective bargaining agreement covering the Town, and particularly the APD, affect our study, analysis and recommendation(s)?

*Please note: Words that are **bolded** appear in the Charge.*

## **How the Committee Has Approached Its Work**

At its first meeting, the Study Committee elected from among its members Co-Chairs (Susan Ryan-Vollmar and Laura Gitelson) and a Secretary (Sanjay Newton). The Co-Chairs set the agenda for our monthly meetings, and the agenda is distributed to members in a time/place/manner consistent with Open Meeting Laws. Meetings are open to the public.

Information on the dates and times of each monthly meeting, as well as the agenda and meeting materials, can be found on the [Town of Arlington's website](#).

In keeping with our responsibility to study the issue of civilian oversight of police functions, our meetings have focused on determining what information we need to inform our thinking, who shall be responsible for obtaining it, and when and how the information shall be presented. Each month, individual members have generously volunteered to research topics, speak with subject-matter experts, gather data, and interview those who may have relevant information.

The Committee has also benefited from the expertise and presentations of our ex-officio members including Chief of Police, Julie Flaherty, Town Counsel, Doug Heim, and Director of Diversity Equity & Inclusion, Jillian Harvey, as well as from Brian Corr, the Immediate Past President of the National Association for Civilian Oversight of Law Enforcement (NACOLE). NACOLE is a nationally-recognized non-profit organization whose mission is to create “a community of support for independent, civilian oversight entities that seek to make their local law enforcement agencies more transparent, accountable, and responsive to the communities they serve.”

One of the more interesting facts to emerge from our study is the realization that civilian oversight of law enforcement is not a recent innovation, but has been in use since the mid-19<sup>th</sup> century. Over the years, dozens of states and municipalities have experimented with various organizational structures, some more successful than others, and each with its own mission and goals.

NACOLE reports that today there are more than 200 civilian review boards in use across the U.S. with almost no two exactly alike. Despite their differences, however, the majority of civilian oversight boards fall into three (3) distinct models, with the remainder being best described as “hybrids,” blending functions and characteristics of the other three. All four models are briefly described later in this Report.

## **The Goals of Civilian Oversight**

Whatever model of civilian review is adopted, the goals of these oversight boards are usually similar. NACOLE<sup>1</sup> has identified eight (8) common functions which the Study Committee believes are appropriate to our Charge.

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<sup>1</sup> These eight goals, the information about the civilian review models, as well as other information and observations contained in this Report have been reproduced from NACOLE publications and presentations with its permission.

1. To **Establish** a complaint process that is accessible to all and to remove impediments to the filing of complaints
2. To **Ensure** that investigations of civilian complaints are fair and thorough
3. To **Promote** public confidence in the police
4. To **Enhance** transparency of police departments through a process of accountability
5. To **Improve** the public's understanding of police policy, training and practices
6. To **Deter** officer misconduct by establishing effective and consistent investigation and disciplinary processes
7. To **Analyze** patterns and data to improve police policies, practices, training and management
8. To **Reduce** legal liability from officer misconduct

Which of these goals should be prioritized over others, and how these goals can be effectively achieved, will most likely turn on which model the Study Committee recommends and which the Town Meeting adopts, if any.

### **Models of Civilian Oversight**

There is a great deal of variation in the structures of civilian oversight entities. The information in this section is also summarized in table form in Appendix B. A list of resources used to compile this section, including additional information about each of the models described below, can be found in Appendix C.

#### **A. Investigative/Quality Assurance Model**

The Investigative model of civilian oversight board *investigates individual complaints* filed by members of the public; this model operates independently of the local police department, sometimes replacing the internal affairs functions of the local police force and other times working in parallel to it.

Investigative models can vary significantly, but share these characteristics:

- Receive and review complaints to confirm jurisdiction;
- Classify complaints according to their seriousness and other factors;
- Investigate allegations, subpoena witnesses and documents, and hold hearings both public and in executive session;
- Reach findings and conclusions, and recommend appropriate discipline to Town and police management if the allegations are proven.

Key Strengths:

- May reduce actual or perceived bias in police investigations and/or their outcomes because they are independent of internal affairs operations;
- May increase community trust in police misconduct investigations
- May be conducted by and with civilians with highly specialized training

Potential Weaknesses: This model is the most expensive to fund and the most complex to operate because it typically requires the hiring of a regular staff with investigative training. Civilian investigators may face resistance from police officers, police management, defense lawyers and union representatives as they go about their work; and public confidence may decline over time if recommendations for discipline are not frequently adopted.

Locations where used: Syracuse, NY, San Francisco, Washington, D.C., New York City, San Diego County, CA, Pittsburg, PA.

### **B. Auditor/Monitor-focused Model**

This model *evaluates the process* by which police misconduct complaints are submitted, and *assesses* the thoroughness and fairness of the investigative process used to address them. This model typically provides for:

- Overseeing complaint intake and quality control
- Data collection and analysis
- Identifying policy and practice concerns
- Assisting with Alternative Dispute Resolution
- Public reporting

Key Strengths:

- Monitors the efficacy of internal affairs/professional standards
- Identifies and addresses problems with the complaint filing process or the investigative steps and procedures used by the investigative body
- Identifies gaps in police training, policies or procedures
- Ensures fairness and consistency in disciplinary investigations and outcomes
- Facilitates public reporting and data access to improve transparency, enhance community-police dialogues and inspire confidence in the community

Potential Weaknesses: The Auditor/Monitor model is *advisory* in nature with a focus on long-term improvements. This model is not case specific; rather, it examines broad patterns of community policing concerns. This model's success often depends on the professional expertise of the volunteers or staff tasked with the auditing and monitoring functions.

Locations where used: Tucson, AZ, San Jose, CA, Denver, CO, New Orleans, LA, Los Angeles, CA

### **C. The Review-focused Model**

The Review model *examines* the quality of internal investigations, particularly those conducted by internal affairs officers/units. Civilian boards which use the Review model engage in these functions:

- Receive complaints from the community
- Assess the quality of already completed police internal affairs investigations
- Advocate to town and police officials for further review and investigation on individual matters
- Hold public meetings to gather, review and report on issues of public concern about local police activity or absence of police response

Key Strengths:

- Ensures community input in complaint investigation process
- May increase public trust in police misconduct investigative process
- Considered the least expensive model because the work can usually be accomplished by town resident volunteers

Potential Weaknesses: The Review model grants less authority and typically operates less independently than other oversight models. This model may not authorize the evaluation of police policies or procedures, or provide opportunities to recommend policy changes or examine patterns of police conduct.

Locations where the Review model is used: Albany, NY, Indianapolis, IN, Urbana, IL, St. Petersburg, FL

#### **D. The “Hybrid” Model<sup>2</sup>**

The Hybrid-model reflects its name: it contains elements from two or more of the traditional civilian review models and incorporates modifications to address the particular needs, preferences, and goals of the community it serves while respecting budget and resource limits.

Although the Study Committee has not formally begun deliberating model preferences, the organizational challenges and weaknesses of the three traditional oversight models suggest that a hybrid model may have the greatest appeal to Arlington residents as effective, sustainable, and affordable.

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<sup>2</sup> There is a fourth, but lesser used, model commonly referred to as the “Appeal” model. This approach permits *both* police officers, and those who have complaints about the police, to ask for a review of internal police departments findings and recommendations with which they disagree. The Study Committee has not spent time studying this model but may do so as our work progresses.

## **Making the Best Recommendation for Arlington**

In addition to this work on organizing ourselves and defining a path forward, the Study Committee has begun collecting the data that will inform our decision-making. In particular, we have collected and are assessing the following information.

### **A. APD Statistics**

Chief of Police, Julie Flaherty, an active member of the Study Committee, has been generous in supplying the Committee with statistical data about her force. This data, and particularly the data regarding the total number of civilian complaints filed against the Town's approximately 60 police officers during the period from 2016 to April 30, 2021 (18 citizen complaints total), will be considered in determining an organizational structure to best serve residents' needs, even in the expected event that the number of citizen complaints rise once a formal mechanism is developed and announced for public use.

Please see Appendix D for a copy of the police data shared by Chief Flaherty with the Study Committee.

### **B. Massachusetts Police Legislative Reform**

In its Charge, Town Meeting directed the Study Committee to "consider impacts of pending legislation" concerning police misconduct and we have endeavored to do so. Town Counsel and Study Committee Member, Doug Heim, presented a helpful summary of the JEALE Act which was enacted last year. A copy of his presentation can be found at Appendix F.

The JEALE Act may be relevant to the Study Committee's work because it provides for increased police accountability and transparency in police misconduct cases while prohibiting certain police tactics (including racial profiling and choke holds), changing rules about the use of no-knock warrants and non-disclosure agreements, mandating de-escalation training for officers, and requiring officers to intervene and render aid in police custody situations.

Most importantly, the JEALE Act provides the establishment of a new Peace Officers Standards and Training Commission (P.O.S.T) which is empowered to investigate citizen complaints concerning police misconduct from any source; to subpoena persons and documents; and to de-certify any police officer who is found to have violated the state standards. Understanding how P.O.S.T. may work in conjunction with, or alongside a local civilian oversight board, will be part of our ongoing discussions.

### **C. Comparative/Peer Group Data**

Understanding forms and functions of police oversight used in neighboring communities and other cities and towns beyond Route 128 will also be considered. One member of the Study Committee has gathered helpful data to inform our deliberations. See Appendix E for examples of data collected so far.

Our research has also provided many suggestions for data that other municipalities have found useful as they address the same issues. As our work continues we will

discuss what additional data collection might be helpful in Arlington. NACOLE has suggested the collection and analysis of the following:

1. Police use of force, broken down in a way that can be understood by police management, local government, and the public
2. Injuries to and deaths of persons in custody
3. All complaints and their dispositions
4. Stops, searches, and arrest data that includes sufficient demographic data
5. All criminal proceedings, including domestic violence
6. Motions to suppress granted based on officer's constitutional violation(s)
7. All disciplinary and non-punitive action taken against employee
8. All awards and commendations
9. Traffic collisions, both preventable and non-preventable
10. Firearms qualifications
11. Assignments
12. Training
13. Civil lawsuits and administrative claims
14. Vehicle pursuits

#### **D. Collective Bargaining/Union Considerations**

As of the writing of this report the committee has not spent much time discussing what, if any, collective bargaining issues merit consideration. A presentation and discussion about the APD contract are on the agenda for our September 8 meeting.

#### **Next Steps**

The Study Committee's next steps are to evaluate and deliberate on the data and information we have gathered to make our findings and recommendations by the Town Meeting's deadline. As we do so, we are mindful that the voice of the Arlington community should be considered as we proceed. We invite you to let us know what you think in four ways:

1. You can send an email to the co-chairs with your comments, suggestions and concerns.
2. You can contact any of the organizations (see Appendix A) who have a representative on the Study Committee and share your thoughts.
3. You can attend [committee meetings](#) which are open to the public.
4. You can attend community meetings this fall which will be announced on the [Study Committee website](#).

Thank you for your confidence and support in this important Town project. We hope to hear from many of you in the coming weeks.

Sincerely,  
Laura Gitelson and Susan Ryan-Vollmar (Co-Chairs)



## APPENDIX A

### Ex-officio members (non-voting members):

A member of the Select Board or their designee for the purposes of administering the organizational meeting only: Ashley Maher [amaher@town.arlington.ma.us](mailto:amaher@town.arlington.ma.us)

- The Town Counsel or designee: Doug Heim [dheim@town.arlington.ma.us](mailto:dheim@town.arlington.ma.us)
- The Chief of Police or designee: Julie Flaherty [jflaherty@town.arlington.ma.us](mailto:jflaherty@town.arlington.ma.us)
- The Diversity, Equity & Inclusion Director or designee: Jillian Harvey [jharvey@town.arlington.ma.us](mailto:jharvey@town.arlington.ma.us)

### Voting members:

- One (1) member of the Envision Arlington Standing Committee: Michael Brownstein [michaeltbrownstein@gmail.com](mailto:michaeltbrownstein@gmail.com)
- One (1) member of the Arlington Human Rights Commission: Kathy Rogers [rogers@simmons.edu](mailto:rogers@simmons.edu)
- One (1) member of the LGBTQIA+ Rainbow Commission: Susan Ryan-Vollmar [susanryanvollmar@gmail.com](mailto:susanryanvollmar@gmail.com)
- One (1) member of the Disability Commission: Kerrie Fallon [4kfallon@gmail.com](mailto:4kfallon@gmail.com)
- One (1) member of the Board of Youth Services: Karen Bishop [kbishopdumay@gmail.com](mailto:kbishopdumay@gmail.com)
- One (1) designee of the Envision Arlington Diversity Task Group: Carlos Morales [carlos.j.morales@gmail.com](mailto:carlos.j.morales@gmail.com)
- One (1) member of the Council on Aging: Anne Brown [dtat98@yahoo.com](mailto:dtat98@yahoo.com)
- One (1) member of the Menotomy Manor Tenants Association: at the time the committee was formed there was no active Menotomy Manor Tenants Association, so this position remains vacant.
- One (1) Arlington High School student as recommended by the AHS Principal: Mona Mohtadi [MMohtadi2023@spyponders.com](mailto:MMohtadi2023@spyponders.com) (and Elliot Elkin [Elkin2024@spyponders.com](mailto:Elkin2024@spyponders.com) as an alternate)
- One (1) graduate of the Citizens Police Academy to be appointed by the Diversity, Equity & Inclusion Director or designee: Bob Radochia [bobrj.rad@gmail.com](mailto:bobrj.rad@gmail.com)
- Three (3) Town Meeting Members appointed by the Town Moderator: Laura Gitelson [lbg217@gmail.com](mailto:lbg217@gmail.com), Clarissa Rowe [clarissa.rowe@comcast.net](mailto:clarissa.rowe@comcast.net) and Sanjay Newton [sanjaynewton@gmail.com](mailto:sanjaynewton@gmail.com)

**APPENDIX B**  
**Summary Table of Oversight Models – Prepared by Michael Brownstein**

<b>Model</b>	<b>Characteristics</b>	<b>Key Strengths</b>	<b>Potential Weaknesses</b>	<b>Locations Used</b>
Investigative	<ul style="list-style-type: none"> <li>● Receive and review complaints to confirm jurisdiction</li> <li>● Classify complaints according to their seriousness and other factors</li> <li>● Investigate allegations, subpoena witnesses and documents, and hold hearings both public and in executive session</li> <li>● Reach findings and conclusions, and recommend appropriate discipline to Town and police management if the allegations are proven</li> </ul>	<ul style="list-style-type: none"> <li>● May reduce actual or perceived bias in police investigations and/or their outcomes because they are independent of internal affairs operations</li> <li>● May increase community trust in police misconduct investigations</li> <li>● May be conducted by and with civilians with highly specialized training</li> </ul>	<ul style="list-style-type: none"> <li>● Most expensive to fund and the most complex to operate</li> <li>● Civilian investigators may face resistance from law enforcement stakeholders as they go about their work</li> <li>● Public confidence may decline over time if recommendations for discipline are not frequently adopted</li> </ul>	<ul style="list-style-type: none"> <li>● Syracuse, NY</li> <li>● San Francisco, CA</li> <li>● New York, NY</li> <li>● San Diego County, CA</li> <li>● Pittsburg, PA</li> </ul>
Auditor/ Monitor	<ul style="list-style-type: none"> <li>● Overseeing complaint intake and quality control</li> <li>● Data collection and analysis</li> <li>● Identifying policy and practice concerns</li> <li>● Assisting with Alternative Dispute Resolution</li> <li>● Public reporting</li> </ul>	<ul style="list-style-type: none"> <li>● Monitors the efficacy of internal affairs/professional standards</li> <li>● Identifies and addresses problems with the complaint filing process or the investigative steps and procedures used by the investigative body</li> <li>● Identifies gaps in police training, policies or procedures</li> <li>● Ensures fairness and consistency in disciplinary investigations and outcomes</li> <li>● Facilitates public reporting and data access to improve transparency, enhance community-police dialogues and inspire confidence in the community</li> </ul>	<ul style="list-style-type: none"> <li>● Advisory in nature with a focus on long-term</li> <li>● Not case specific; it examines broad patterns of community policing concerns</li> <li>● Depends on the professional expertise of the volunteers or staff tasked with the auditing and monitoring functions</li> </ul>	<ul style="list-style-type: none"> <li>● Tucson, AZ</li> <li>● San Jose, CA</li> <li>● Denver, CO</li> <li>● New Orleans, LA</li> <li>● Los Angeles, CA</li> </ul>
Review	<ul style="list-style-type: none"> <li>● Receive complaints from the community</li> <li>● Assess the quality of already completed police internal affairs investigations</li> <li>● Advocate to town and police officials for further review and investigation on individual matters</li> <li>● Hold public meetings to gather, review and report on issues of public concern about local police activity or absence of police response</li> </ul>	<ul style="list-style-type: none"> <li>● Ensures community input in complaint investigation process</li> <li>● May increase public trust in police misconduct investigative process</li> <li>● Considered the least expensive model because the work can usually be accomplished by town resident volunteers</li> </ul>	<ul style="list-style-type: none"> <li>● Grants less authority and typically operates less independently than other oversight models</li> <li>● May not authorize the evaluation of police policies or procedures, or provide opportunities to recommend policy changes or examine patterns of police conduct</li> </ul>	<ul style="list-style-type: none"> <li>● Albany, NY</li> <li>● Indianapolis, IN</li> <li>● Urbana, IL</li> <li>● St. Petersburg, FL</li> </ul>
Hybrid	<ul style="list-style-type: none"> <li>● Contains elements from two or more of the traditional civilian review models</li> </ul>	<ul style="list-style-type: none"> <li>● Incorporates modifications to address the particular needs, preferences, and goals of the community it serves while respecting budget and resource limits.</li> </ul>	<ul style="list-style-type: none"> <li>● TBD</li> </ul>	<ul style="list-style-type: none"> <li>● BART OIPA</li> <li>● Washington, D.C.</li> </ul>

## APPENDIX C List of Resources and Information

### Local

Lexington:

[“Review of Lexington Police Department Policies and Practices: Report to Lexington Select Board”](#) (May 3, 2021)  
[Summary of Lexington MA town activities](#) regarding police policy and practice review

Newton:

[“Newton Police Reform Task Force: Recommendations”](#) (March, 2021)

Brookline:

[“Task Force to Reimagine Policing in Brookline: Final Report”](#) (February, 2021)

Somerville:

[“Civilian Oversight of Police in Somerville: Preliminary Analysis Report”](#) (February 2021)

Cambridge:

[“NACOLE Case Studies on Civilian Oversight Police Review and Advisory Board Cambridge, Massachusetts Review-Focused Model”](#) (2021)

Pittsfield:

Ordinance [establishing a Police Advisory and Review Board](#)  
Information about [the history of Pittsfield’s Police Advisory and Review Board and how to file a complaint](#)

Springfield:

[Community Police Hearing Board](#) (created by executive order by Springfield Mayor Domenic Sarno in 2010)  
[Annual and quarterly reports](#) issued by the Community Police Hearing Board dating back to 2011

Boston:

[City Council ordinance establishing an Office of Police Accountability and Transparency](#) (January 2021)

### National

National Association for Civilian Oversight of Law Enforcement (NACOLE):

[https://www.nacole.org/civilian\\_oversight\\_basics](https://www.nacole.org/civilian_oversight_basics)  
[Civilian Oversight Agency Directory](#)

U.S. Department of Justice:

[Civilian Oversight of Law Enforcement](#) (June 2021)  
[The Evolution and Growth of Civilian Oversight](#) (June 2021)

[“Final Report of the President’s Task Force on 21st Century Policing”](#) [portions of the report relevant to advancing/improving community-police relations can be found on pages 2, 11, 26, and 89] (2015)

[“An Evidence-Assessment of the Recommendations of the President’s Task Force on 21st Century Policing — Implementation and Research Priorities”](#) published by the International Association of Chiefs of Police, 2016.

“[‘Not Dead Yet’: The National Police Crisis, A New Conversation About Policing, And The Prospects For Accountability-Related Police Reform](#),” published in the University of Illinois Law Review, 2018. Written by Samuel Walker, Professor Emeritus of Criminal Justice, University of Nebraska at Omaha and author of numerous books and journal articles on the topic of police accountability.

**APPENDIX D  
ARLINGTON POLICE DEPARTMENT**



**Police Data 2016-2021**



	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021*</b>
<b># of Officers</b>	60	65	64	63	63	59
<b>Calls For Service</b>	22,586	22,296	20,479	19,152	15,582	4,486
<b># of Police Reports</b>	4,029	4,166	3,297	2,831	2,788	861
<b># of Citations Issued</b>	2,527	3,016	1,981	1,499	507	30
<b># of Parking Tickets Issued</b>	15,498	19,454	16,782	16,240	5,477	2,750
<b># of Citizen Complaints</b>	2	4	5	1	2	4
<b># of IA Investigations</b>	4	6	6	3	4	4
<b># of Excessive Use of Force Complaints</b>	0	0	0	0	0	1
<b># of Use of Force Reports Filed</b>	4	8	5	2	6	2

(\*2021 Data is through 4/30/21)

**IA Investigations**

**2016**

1	Threatening Behavior - Parking Control
2	Failure to Log Info – Dispatcher
3	Detail Issue
4	Alleged Theft of Department Property - Mechanic

**2017**

1	CIT Alleged "Intimidating" Behavior on Traffic Stop
2	CIT Violation of Calls for Service - Customer Service Policy - Dispatch
3	Detail Violations
4	Detail Violations
5	CIT Discourteous
6	CIT Behavior of Officers at Accident - Impartial Treatment b/c of Knowing One Operator

**2018**

1	Failure to Appear in Court
2	CIT Racial Bias Complaint by Witness in Regards to Shoplifter
3	CIT Dispatch Violations - Lost Dog Call
4	CIT MV Stop - Complaint of Not Using Discretion to Not Give Written Warning
5	CIT Civil Matter - Officers "Agitated" the Matter and Raised Voice

6	CIT Dispatch Procedures - Entries in the CAD
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**2019**

1	Discourteous, Rude, Abuse of Authority (Internal to Department)
2	CIT Dispatch Releasing Caller Info to Public
3	Calling in Sick Abuse

**2020**

1	CIT Civil Matter-Tree Removal- Alleging Possible Bias in Treatment
2	Off Duty Behavior – OUI
3	Discourtesy, Disrespectful to Supervisor (Internal to Department)
4	CIT Civil Matter- Alleging Police Gave Info from Incident to Potential Employer

**2021**

1	CIT Missing Person - Alleging Racial Bias in Response/Actions of Officers
2	CIT Arrest - Excessive Force Allegations
3	CIT Election Poll - Discourteous Behavior
4	CIT Domestic incident - Alleging "Hostile" Behavior, Yelling, "Intimidating"

(\*CIT= Citizen Initiated Complaint)

**APPENDIX E**  
**Community Comparisons from Bob Radochia**

<u>Area---Sq. Mi.</u>		<u>Population (1000 residents)</u>	
Lexington	16.4	Cambridge	118.9
Woburn	12.7	Somerville	81.4
Reading	9.3	Medford	57.3
Medford	8.1	<b>Arlington</b>	<b>45.5</b>
Wakefield	7.5	Woburn	40.2
Cambridge	6.4	Watertown	35.9
Winchester	6.1	Lexington	33.1
<b>Arlington</b>	<b>5.2</b>	Melrose	28.0
Melrose	4.7	Wakefield	27.0
Belmont	4.6	Belmont	26.1
Somerville	4.1	Reading	25.4
Watertown	4.1	Winchester	22.8

<u>Density—Pop/Sq. Mi.</u>		<u>Police Employees/10,000 residents)</u>	
Somerville	19,795	Cambridge	26.0
Cambridge	18,495	Belmont	21.6
<b>Arlington</b>	<b>8,789</b>	Watertown	21.3
Watertown	8,744	Reading	21.3
Medford	7,044	Winchester	20.0
Melrose	5,793	Woburn	19.7
Belmont	5,604	Somerville	18.7
Winchester	3,774	Lexington	18.5
Wakefield	3,620	<b>Arlington</b>	<b>17.6</b>
Woburn	3,175	Medford	17.3
Reading	2,558	Wakefield	16
Lexington	2,020	Melrose	15.7

<u>Crime Rate &amp; % Change from 2019</u>			<u>Crime Rate/1000 Residents</u>	
Cambridge	6018	+30.1	Cambridge	50.6
Somerville	2050	-6.1	Belmont	34.2
Medford	1660	+27.9	Medford	28.8
Woburn	1114	+1	Watertown	28.8
Watertown	1030	+33.3	Winchester	28.5
Belmont	894	+139.7	Woburn	27.8
Winchester	649	+332.6	Somerville	25.1
Wakefield	603	+ 9.6	Wakefield	22.8
<b>Arlington</b>	<b>424</b>	<b>--15.5</b>	Melrose	11.8
Melrose	331	--29.7	Reading	11.8
Reading	302	+9.8	<b>Arlington</b>	<b>9.3</b>
Lexington	272	+8.7	Lexington	8.2

**Mass Safest Communities Rankings**

<i>Lexington</i>	6
<i>Reading</i>	10
<i>Winchester</i>	11
<b><i>Arlington</i></b>	<b>21</b>
<i>Belmont</i>	26
<i>Melrose</i>	41
<i>Wakefield</i>	42
<i>Watertown</i>	44
<i>Medford</i>	75
<i>Woburn</i>	76
<i>Somerville</i>	90
<i>Cambridge</i>	114

**Reported Hate Crimes**

<i>Cambridge</i>	27
<i>Somerville</i>	14
<i>Medford</i>	11
<b><i>Arlington</i></b>	<b>7</b>
<i>Belmont</i>	1

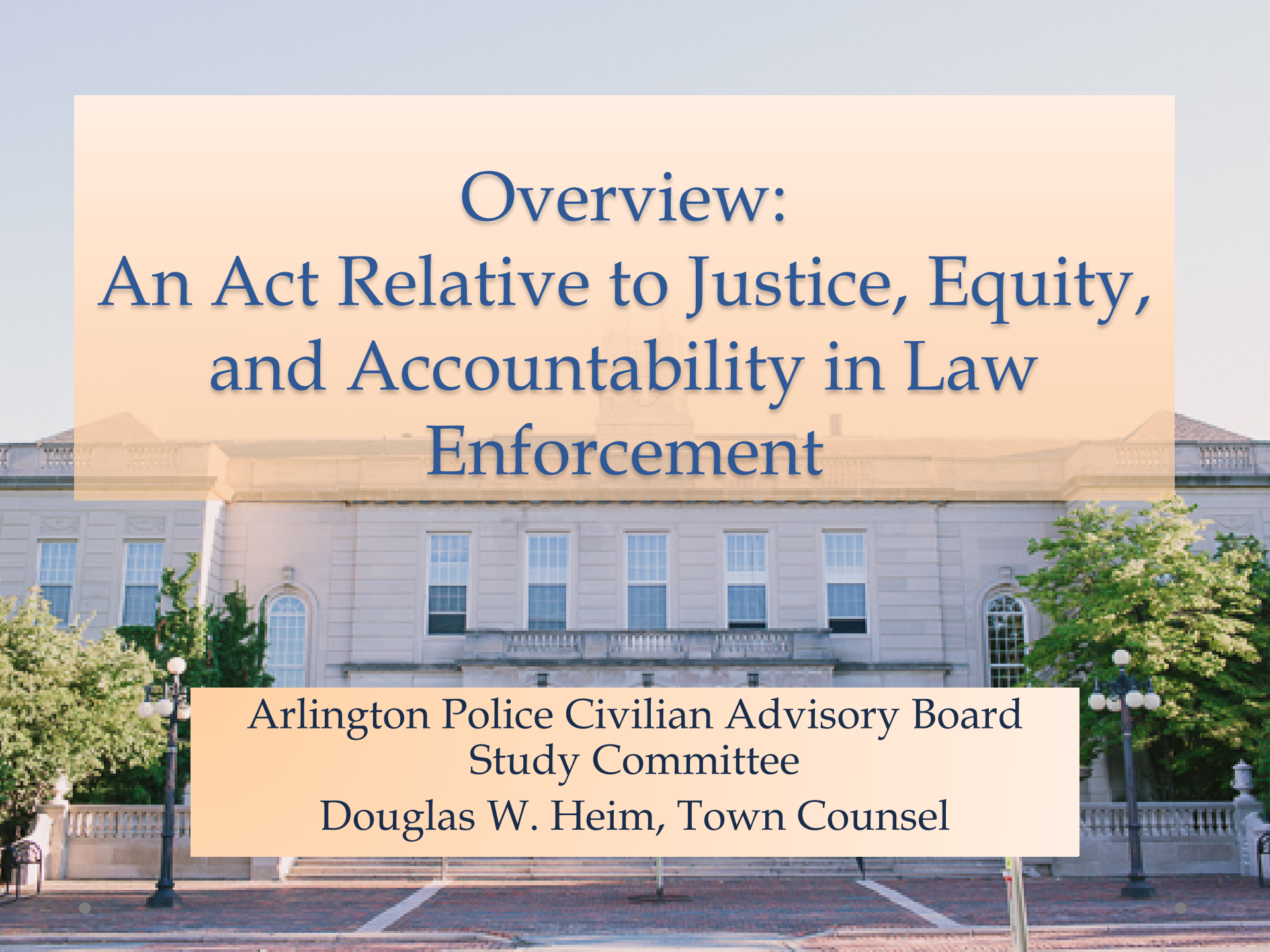
*Compiled by Bob Radochia 7/28/21*

**Sources:**

1. *Mass Gov Crime Statistics-2020*
2. *Boston .com Your Town Police-2011*
3. *Safewise Mass Safest Cities -2021*



**APPENDIX F**  
**JEALE Act Presentation from Town Counsel Douglas W. Heim**



# Overview: An Act Relative to Justice, Equity, and Accountability in Law Enforcement

Arlington Police Civilian Advisory Board  
Study Committee

Douglas W. Heim, Town Counsel

- 139 Page Bill
- Revisions & Tensions with Prior Reforms
- Emergency Law
- Staggered Effect Dates for provisions:
  - Immediate (December 31, 2021)
  - July 1, 2021
  - December 1 or 31, 2021



## JEALE ACT SCALE

# Outline of Overview

## Prohibited Practices & Mandates of JEAL Act

- Racial Profiling prohibited & Bias-Free Policing Mandated,
- Use of Force Reforms
  - De-escalation mandatory,
  - Choke holds prohibited
  - Duty to Intervene
  - Mass Demonstrations

## Establishes “POST” Peace Officer Standards and Training Commission w/ power to:

- Certify and De-Certify both officers and agencies
- Revises and establishes new training and certification standards
- Receive & Investigate Misconduct Complaints Independent from LEOs and State and Local Authorities
- Subpoena & Audit

## School Reform

- School Resource Officer Optional
- SRO Specialized Training
- Model MOUs

## Miscellaneous Legal Issues:

- Revises Qualified Immunity for MCRA claims
- No-Knock Warrants
- Prohibits Settlement NDAs
- AG “Pattern and Practice” Case Jurisdiction

# JEALE ACT SCOPE & FOCUS

## Scope

## Focus

- Most Law Enforcement
  - Local Police Departments
  - State Police
  - Specialized law enforcement officers, i.e. Env. Police
  - Corrections & Juveniles\*
- Increased Police Accountability
- Increased Transparency
- Civilian Oversight
- Specific Issues
  - Qualified Immunity
  - Demilitarization
  - School Resource Officers

# Bias & Profiling Free Policing

## Racial Profiling

A law enforcement agency... shall not engage in racial *or other profiling*.

- Profiling = *differential treatment by a law enforcement officer based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, religion, gender, gender identity or sexual orientation in conducting a law enforcement action, whether intentional or evidenced by statistically-significant data showing disparate treatment*
- Profiling" ≠ use of such characteristics, in combination with other factors, to apprehend a specific suspect based on a description that is individualized, timely and reliable.
- AG Authorized to bring suit to enforce

## Bias-Free

Training and additional regulations for "bias-free" policing

- Bias-free policing = policing decisions made by and conduct of law enforcement officers that shall not consider a person's race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level; including decisions.
- Bias-free can include decisions:
  - (1) based on a law enforcement purpose or reason which is non-discriminatory, or which justifies different treatment; or
  - (2) consider a person's race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level because such factors are an element of a crime.

# Prohibitions & Mandates: Use of Force

- Bans use of chokeholds
- Requires de-escalation before use of force
- Deadly force not authorized to effect arrest or prevent escape
- Prohibit firing at moving vehicle (unless necessary to prevent imminent harm)
- Commission on force rules in corrections
- Regulations to be Promulgated by POST and MPTC, but force should be:
  - Necessary
  - Proportionate
  - Non-deadly
  - After de-escalation

# Section 14(a) Use of Force Articulated

An Officer shall not use physical force upon another person:

1. *Unless de-escalation tactics have been attempted and failed, or are not feasible based on the totality of the circumstances; AND*
2. Such force is necessary to:
  - a) effect the lawful arrest or detention of a person; or
  - b) prevent the escape from custody of a person; or
  - c) prevent imminent harm and the amount of force used is proportionate to the threat of imminent harm;
3. Provided, however,
  - a) that a law enforcement officer may use necessary, proportionate and non-deadly force in accordance with the *regulations promulgated jointly by the commission and the municipal police training committee pursuant to subsection (d) of section 15.* and/
  - (b) A law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.



# Prohibitions & Mandates:

## Duty to Intervene and Report

### Intervene

*(a) An officer present and observing another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, shall intervene to prevent the use of unreasonable force unless intervening would result in imminent harm to the officer or another identifiable individual.*

### Report

*(b) An officer who observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances shall report the incident to an appropriate supervisor as soon as reasonably possible but not later than the end of the officer's shift. The officer shall prepare a detailed written statement describing the incident consistent with uniform protocols. The officer's written statement shall be included in the supervisor's report.*

### Agency Process

*(c) A law enforcement agency shall develop and implement a policy and procedure for law enforcement personnel to report abuse by other law enforcement personnel without fear of retaliation or actual retaliation.*

### Regulations

*(d) POST & MPTC Rules and Regulations for the Use of force & Duty to Intervene*

# Prohibitions & Mandates: Mass Demonstrations

Consistent with force principles – no tear gas, non-lethal rounds, etc. but as needed for public safety.

- Encourage prospective de-escalation planning
- Require reporting and review

# 18 Commissions & Task Forces

- ❖ Permanent Commission on *Status of African Americans*;
- ❖ Permanent Commission on Status of Latinos/Latinas;
- ❖ Permanent Commission on the Status of Persons with Disabilities;
- ❖ Permanent Commission on the Social Status of Black Men and Boys;
- ❖ Review Commission for Model School Resource Officer Memorandum
- ❖ Commission on Training of Correction Officers and Juvenile Detention Officers
- ❖ Task Force on the Implementation of Body Worn Camera Program
- ❖ Special Legislative Commission on Use of Facial Recognition Technology
- ❖ Special Legislative Commission on Emergency Hospitalizations
- ❖ Special Legislative Commission to Study and Examine the Civil Service
- ❖ Special Legislative Commission on Statewide LEO Cadet Program
- ❖ Special Legislative Commission on Structural Racism in Correctional Facilities
- ❖ Special Legislative Commission on Structural Racism in Parole
- ❖ Special Legislative Commission on Structural Racism in the Massachusetts Probation Service
- ❖ MPTC to Study on Consolidating Police Academies
- ❖ Special Legislative Commission on Qualified Immunity
- ❖ The Community Policing and Behavioral Health Advisory Council
- ❖ The Massachusetts Peace Officer Standards and Training Commission (POST)

# P.O.S.T. Membership & Structure

## Commonwealth of Massachusetts

### Peace Officers Standards & Training Commission



#### POST Commission Membership

##### G.L Chapter 6E

Appointments Effective 4/1/21  
9 Members (3 Gov, 3 AG, 3 Joint)

**Guv:** Police Chief

**Guv:** (Retired) Superior Court Justice

**Guv:** Social Worker

**AG:** LE Policy Group Chair

**AG:** LEO (MAMLEO)

**AG:** Attorney (Civil Rights/Social Justice)

**Guv / AG:** MCAD Appointee

**Guv / AG:** Non-LE Appointee

**Guv / AG:** Non-LE Appointee

Note: Chair is chosen by Guv / Term = 5 years  
Quorum = 7 / Meet Monthly / Broad Powers ALL LE  
Agencies: > "Certified" by POST

Executive Office Of  
Public Safety/Security

#### MPTC

15 Total Members

- 4 Regional Chiefs
- 1 MCOPA Chief
- Transit
- BPD;MSP
- AG;EOPSS
- MPA
- 2 County Sheriffs
- MAWLE
- MAMLEO



POST Executive Director  
(Selected by POST)  
Non-LE Officer

#### Law Enforcement Agency:

Local, County, State,  
Environmental,  
UMass,MassPort, Transit,  
Sheriffs, Public/Private  
College/University,  
Hospital Police

#### Division of Police Standards

Investigate Misconduct

- Maintain Complaint Database
- May Conduct audit of IA Files
- Shall be a Law Enforcement Agency

Certification Director

#### Division of Police Certification

DPC+MPTC = minimum

Certification standards for ALL LE  
Officers

DPC>Maintain Database for all LE  
DPC+MPTC+Post = LE Agency  
Certification Standards



# P.O.S.T. Features

Independent of Executive Office of Public Safety Services

Majority Civilian (6-3) with non-EOPSS Civilian Director

Proceeds by Majority Vote

Division of Certification Works with EOPSS Division on Training, Certification and Regulations – the Massachusetts Police Training Commission

Division of Police Standards receives, and has authority to investigate complaints from *any* source

- ❖ Subpoena and audit powers
- ❖ De-Certification process
- ❖ Implications for civil liability

# P.O.S.T. OVERSIGHT

## Certification Arm: Div. of Police Certification

## De-Certification Arm: Division of Police Standards

- Develops training and minimum standards for certification to serve as a police officer
  - Including Police Academies
- Works with Massachusetts Police Training Commission (MPTC on training and standards)
- Background checks

- Database for all officers
  - Certifications & De-Certifications
  - Arrests & Convictions
  - Complaints at POST and Local
  - Prior Separations from LEAs
- Investigation & Remedial Directives/De-Certification

# Division of Police Standards: Preliminary Investigations

- Pro-active and reactive investigatory powers
  - ✓ Receive complaints directly
  - ✓ Reporting requirement of local complaints to police departments
  - ✓ Tracks all complaints
  - ✓ 30-Day Notice to LLEOs, Appointing Authority and Union
  
- May investigate on evidence it deems sufficient and must investigate most serious cases. Preliminary invest is confidential, but may refer.
  - ✓ Likely *prima facie* approach
  - ✓ Preliminary investigations confidential
  - ✓ May refer to any state or federal entity
  
- May *suspend certification* after preliminary investigation on *prima facie* case.
  - ✓ Preponderance of the evidence standard;
  - ✓ Employment consequences of preliminary suspension subject to bargaining and civil service.
  - ✓ Hearing within 15-days

# Division of Police Standards: Final Decertification

- Final decertification or suspension goes forward *after* agency action
  - ✓ One Year Limit for agency investigation
  - ✓ One Year, *upon request* one for appeals
  - ✓ Indefinite delay to resolve criminal charges
  
- Decertify or suspend after finding of serious violations
  - ✓ Clear and convincing evidence
  - ✓ Majority vote
  
- **No civil service appeal of either decertification or termination due to decertification.**
  
- **No employment of decertified officers.**



# Decertification Standards

## Mandatory

- Felony Convictions
- Error, fraud, or falsification in Certification
- Revocation of Certification by another jurisdiction
- Law enforcement integrity violation – false testimony or police reports, willful destruction of evidence, witness intimidation
- Public service integrity violation: false timesheets, pay for service
- Use of force in violation resulting in death or serious bodily injury
- Failure to intervene as defined
- Not fit for duty and public safety risk

## Discretionary

- Conviction of misdemeanor
- Acted with bias on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level
- Pattern of unprofessional conduct + escalation
- Terminated for disciplinary reasons
- Repeated sustained internal complaints

# Other Division of Standards Relief & Consequences

- Suspension
- Re-Training
- New Training
- Database
- Qualified Immunity re MCRA\*

# Civil Relief and Criminal Consequence Reforms

- MCRA Action revisions to qualified immunity defense & loss of QI following de-certification\*;
- Prohibit NDAs in Police Misconduct Civil Cases\*
- Overtime Fraud Offense
- Authorizes AG “pattern and practice” Suits

# School Resource Officers

## ❖ SROs Not Mandated

- Superintendent determines

## ❖ Model MOU between SRO and school officials

- MOU review commission to create a template

## ❖ Standards for sharing student information between schools and police departments

- ❖ Must be connected to specific unlawful incident suspected specific illegal activity

## ❖ Specialized training and certification for SROs



# Miscellaneous

- No-Knock Warrants for Specific Safety Concerns only
- Facial Recognition require Court Orders or Emergencies