

Police Officer Transparency and Accountability Task Force
Logistics Subcommittee
Findings and Recommendations Pertaining to the
Decertification of Police Officers
November 4, 2020

This document provides findings and recommendations on the process to revoke police officer certification. It is provided to the Logistics Subcommittee of the Police Officer Transparency and Accountability Task Force, which was established under Public Act 19-90, *An Act Concerning the Use of Force and Pursuits by Police and Increasing Police Accountability and Transparency* and had its mandated expanded under Public Act 20-01, *An Act Concerning Police Accountability*. This document is submitted by the Institute for Municipal and Regional Police, at Central Connecticut State University.

Included in this document are an overview of the process to revoke police officer certification (commonly referred to as decertification), findings and recommendations of the Logistics Subcommittee pertaining to the decertification process, and the issues that correlate to decertification that require further review by the subcommittee.

In this first phase of work, the Logistics Subcommittee's focused on two provisions of Public Act 20-01 specific to the revocation of police officer certification. First, to determine what, if any, grounds for revocation or cancellation of police officer certification should result in mandatory revocation by POSTC, as opposed to discretionary action taken by a police department or POSTC (§12). Second, defining the statutory language that expands the reasons for which POSTC may cancel or revoke a police officer's certification to include: (1) conduct undermining public confidence in law enforcement, (2) discriminatory conduct, or (3) excessive force (§3). The new law allows POST to develop policies and to offer guidance to police departments on the grounds for suspension, cancellation or revocation of certification including: (1) reporting procedures, (2) examples of conduct that undermines public confidence in police, (3) examples of discriminatory conduct, and (4) examples of misconduct outside of duty that may be serious enough for discipline.

Definition

State regulations (Sec. 7-294e) define police officer certification as the certificate issued by the Police Officer Standards and Training Council (POSTC) that authorizes the holder to preform police functions and to submit specific credentials that attests to qualification to perform police functions. POSTC certification requires the holder to perform police functions, demonstrate competence to perform police functions by examinations or other means and meeting certain minimum standards, and enforcement of standard by POSTC. A police officer must be employed by a law enforcement department to maintain certification.

There are differences in state statutes between decertification and revocation of certification. Generally, an officer may be decertified for failing to complete the required in-service training within a three-year

period¹, which is not the focus of this report. Revocation of certification is the cancelation of certification as a disciplinary action for substantiated misconduct. However, POSTC and the law enforcement community use these terms interchangeably as will be done throughout this report.

Background

POSTC is mandated to establish uniform minimum educational and training standards for police officers and to monitor, regulate and evaluate municipal police training, operate a basic recruit training academy, and create and maintain a system whereby police officers are certified to perform law enforcement duties. POSTC approves, licenses, and inspects any police training school operated by a municipality.

Police officers are certified through POSTC to actively work for a state or municipal law enforcement agency or unit after satisfactorily completion a basic training program, which includes a basic training academy followed by a field training phase. State law establish core requirements for police officer recruit training and POSTC creates the full curriculum.

To maintain certification, police officers of all ranks must satisfactorily complete at least 40 hours of review training every three years. POSTC tracks compliance with this requirement and renews certification for police officers. A police officer who fails to meet the recertification criteria within the time frame automatically forfeits certification.

POSTC has had oversight over municipal police training and certification and advises the Department of Emergency Services and Public Protection (DESPP) on training of state police troopers. However, Public Act 20-01 now requires state police troopers to be POSTC-certified; this is a new mandate that took effect in July 2020 and POSTC and DESPP are in the process of developing general orders for implementation.

Law enforcement departments are prohibited from hiring a person previously employed as a police officer who was (1) was dismissed for malfeasance or other serious misconduct calling into question the person's fitness to service as a police officer or (2) resigned or retired from a police department while under investigation for malfeasance or other serious misconduct. State law further requires that if officer leaves employment with a police department while under investigation for alleged conduct that may result in revocation of certification then another police department cannot hire him or her. A police department with knowledge that a former police officer applicant is ineligible under the statutory criteria must inform other police departments and POSTC. This does not apply to officers who were exonerated of allegations of malfeasance or serious misconduct.

¹ Police officers are required to complete at least 40 hours of review training every three years to maintain POSTC certification. POSTC tracks in-service review training records to ensure compliance by all officers. In-service review training is governed by statutes that set out the subject matter and hours and POSTC and individual police department also have other review training requirements. POSTC certifies instructors, approves curriculum content, and offers training course. Training courses are also offered by police departments, particularly those that operate a training academy. An officer who is not in compliance with the review training requirements may be decertified by POSTC.

The statutory definition of malfeasance relies upon the “commonly approved usage”; Webster’s Dictionary defines malfeasance as wrongdoing, especially by elected or appointed officials. Serious misconduct is defined in statute as the improper or illegal actions taken by a police officer in connection with official duties that could result in a miscarriage of justice or discrimination, including, but not limited to: (a) conviction of a felony, (b) fabrication of evidence, (c) repeated use of excessive force, (d) acceptance of a bribe, or (e) commission of fraud.

Police Officer Certification Revocation

The current process is governed by state law, including the Connecticut Uniform Administrative Procedures for administrative hearings (C.G.S. Chapter 54), state regulations, and POSTC general order. Public Act 20-01 established new standards and requirements that took effect upon passage and were recently incorporated into the POSTC general order.

Grounds for Revocation. State law establishes the grounds for revoking police officer certification as:

- certification was issued by administrative error or obtained through misrepresentation or fraud,
- officer falsified any document to obtain or renew certification,
- officer has been convicted of a felony, found not guilty of a felony by reason of mental disease or defect, or convicted of possessing a controlled substance, except less than one-half ounce of marijuana (CGS 21a-279),
- officer has been refused certification or had certification cancelled or revoked in another state on the grounds that would result in same action under Connecticut law or regulation,
- officer has been found to have used a firearm in an improper manner against procedures that resulted in the death or serious injury of another person, or
- officer has been found to have committed any action against procedures that would constitute tampering with or fabricating physical evidence, perjury, or false statement.

Public Act 20-01 expanded the grounds for revoking police officer certification to include conduct that undermines public confidence in law enforcement to include, but not be limited to:

- discriminatory conduct,
- falsification of traffic stop report in violation of the Alvin W. Penn Racial Profiling Prohibition Act (C.G.S. §§ 54-1l and 54-1m), or
- use of physical force on another person in a manner that was found after investigation to be excessive or not justifiable.

Further, police officers are now required to pass a urinalysis drug test for nonprescribed controlled substances and anabolic steroid as a condition of initial certification and renewal of certification. The law is silent as to whether this is a specific ground for revocation of certification but makes it a condition of certification.

Notification. POSTC initiates the revocation process only upon notification by a police department that believes it has substantiated grounds for revocation of an officer’s certification. Police departments often

refer an officer for revocation of certification after an internal investigation into the allegations. There is a POSTC general order, issued in 1988, that requires police departments must notify POSTC of any officer convicted of felony. However, there are no current requirements in state law or regulation that a police department must report the results of an internal investigation of an officer to POSTC even if the investigation substantiated a violation of the statutory grounds for revocation.

POSTC reported, in the past, it had requested police departments provide the results of internal investigations of officers after POSTC had become aware based on external sources such as television and print media reports that the officer had been arrested or accused of improper conduct. However, in 2019, DESPP issued an order prohibiting POSTC from initiating the revocation process based on information gathered from external sources outside of a police department.

Upon notification by a police department, POSTC reviews the investigation documentation, usually the department's internal affairs unit, for sufficient cause to proceed with the revocation process and to ensure the officer was given his or her rights and properly sworn prior to giving any statements or evidence. POSTC may proceed with revocation or decline and refer the case back to the police department. POSTC does not proceed with the revocation process if it found the police department conducted an improper or illegal investigation.

To proceed with the process, POSTC provides written notice to the police officer of the facts or conduct that warrant certification revocation. The written notice must include:

- time, date, location, and nature of compliance conference,
- statement of legal authority and jurisdiction under which compliance conference is to be held,
- reference to the sections of state law or regulations allegedly violated or not complied with,
- short and plain statement of the matters asserted, and
- statement that the officer may be represented by counsel.

Informal Compliance Hearing. The officer is given the opportunity to request in an informal compliance conference, which is like a Superior Court pre-trial hearing for criminal cases. The informal compliance hearing is not mandatory, and the officer may elect for a full compliance hearing. The executive director has complete discretion to grant or deny the request for an informal compliance conference. An informal compliance conference is intended to:

- narrow the scope of the issues in dispute,
- obtain stipulations as to matters of fact,
- stipulate as to the authenticity of documents which are to be offered in evidence,
- stipulate as to the qualification of any expert witnesses who are to testify at the hearing, and
- discuss the possibility of an informal disposition of the complaint.

During the informal compliance conference, the POSTC compliance officer presents the evidence based on the police department's internal investigation. A DESPP legal affairs attorney is typically present. POSTC has no statutory subpoena power.

The officer and his or her union representative and/or attorney are present to make a case why the evidence is insufficient for certification revocation and may offer other mitigating factors and or evidence.

The POSTC compliance officer may recommend certification revocation or find no grounds for such action. If revocation is recommended, the officer is notified of the decision and provided with the options to: (1) accept the decision and surrender his or her POSTC certification and department identification within 15 days, (2) take no action within the 15 days and POSTC will automatically revoke certification, or (3) request an full compliance hearing. If the officer requests a full compliance hearing, the POSTC compliance officer submits the written decision to the POSTC executive director. The report only provides a brief description of grounds for certification revocation; the report does provide detailed information as the POSTC executive director serves as the hearing officer at the full compliance hearing and cannot not receive detailed information of the evidence or testimony prior to the hearing.

If the compliance officer finds there is no grounds for certification revocation and the case is referred to the initiating police department. Most police departments generally take no further action against the officer.

POSTC acknowledges there is no statutory or regulatory grounds for revocation of certification without the official action of the full Police Officer Training and Standards Council. However, this is a practice that has evolved over the past several years and has not, to date, been challenged.

Compliance Hearing. Upon the request for a compliance hearing by the accused officer, the POSTC executive director must issue a complaint by certified mail or personal service to the officer and police department. The initial notice must contain:

- time, date, place, and nature of the compliance conference,
- statement of the legal authority and jurisdiction under which the compliance conference is to be held,
- reference to the sections of the statutes or regulations allegedly violated or not complied with,
- short and plain statement of the matters asserted, and
- statement that the respondent may be represented by counsel.

The officer may file a motion requesting additional time to prepare with the POSTC executive director, who may grant such motion and modify the hearing schedule. The officer may also request in writing a more complete statement as to the nature of the alleged grounds for revocation. Such request must be filed with the POSTC executive director no later than 15 days prior to the scheduled hearing. The POSTC executive director has complete discretion to grant or deny the motion.

During the hearing, which is governed by the state's Uniform Administrative Hearing Procedures laws (C.G.S. Chapter 54), the POSTC executive director presides over the hearing and is responsible to:

- regulate the course of the hearing and the conduct of the parties and their counsel,
- ensure that all testimony is given under oath,
- rule upon offers of proof and receive evidence,

- consider and rule upon all motions, and
- require any additional written and/or oral argument.

Each party in the hearing has the right to present evidence, cross-examine witnesses, enter motions and objections, and assert all other rights essential to a fair hearing. Intervention by interested parties shall be permitted within the discretion of the POSTC executive director. The POSTC compliance officer presents the grounds, facts and circumstances and evidence for certification revocation; compliance officer's role is like that of a prosecutor. A DESPP legal affairs attorney is also present. The officer may be represented by counsel and/or a union representative. An official record of the hearing is transcribed.

The POSTC executive director has up to 90 days to issue a final decision in writing, containing a statement of reasons for the decision and findings of fact and conclusions of law on each issue necessary to the decision. If the final decision upholds certification revocation, the officer may appeal to the full POST Council at the meeting at which the vote for decertification will occur. If the decertification is upheld by the full POST Council, the officer and their department will be provided written notification.

The officer may appeal the POSTC final decision to revoke certification to the Superior Court.

Upon revocation of the officer's certification, his or her name and the reason for the action is added to the Connecticut Decertification Database and National Decertification Index (NDI) of decertified police officers. A decertified officer may apply to POSTC to be removed from the database after two years. Once removed from the list the person is eligible to be rehired and recertified as a police officer after completing any required training. A person who is decertified for more than three years must repeat basic recruit academy training and be certified by POSTC if rehired by a police department.

A police department may terminate decertified officers or transfer them to civilian positions. POSTC reported most officers retire, resign, or were terminated prior to revocation of their certification.

Police officers are required to complete at least 40 hours of review training every three years to maintain POSTC certification. POSTC tracks in-service review training records to ensure compliance by all officers. In-service review training is governed by statutes that set out the subject matter and hours and POSTC and individual police department also have other review training requirements. POSTC certifies instructors, approves curriculum content, and offers training course. Training courses are also offered by police departments, particularly those that operate a training academy. An officer who is not in compliance with the review training requirements may be decertified by POSTC.

Findings and Recommendations

The Logistics Subcommittee reviewed state statutes (C.G.S. §7-275 et al), state regulations (Title 7 Municipalities: Department of Emergency Services and Public Protection), and the general orders adopted by the Police Officer Standards and Training Council (POSTC). The POSTC chairperson presented the revisions to the certification revocation process governed by Public 20-01 to the subcommittee. The Logistics Subcommittee submits the following findings and recommendations on the certification

revocation process. Finally, the subcommittee identified issues that correlate to the revocation process for further review, which were identified as priorities by the task force or are included in Public Act 20-01.

Conduct that Undermines Public Confidence

Public Act 20-10 added as a grounds for decertification conduct that undermines public confidence in law enforcement and defined that conduct to include, but not be limited to: (1) discriminatory conduct, (2) falsification of traffic stop report in violation of the Alvin W. Penn Racial Profiling Prohibition Act (C.G.S. §§ 54-1l and 54-1m), or (3) use of physical force on another person in a manner that was found after investigation to be excessive or not justifiable.

POSTC defined the conduct that may undermine public confidence in police. (Refer to Appendix A for POSTC general order.)

Discriminatory conduct is defined as actions to include:

1. Intentional acts of bigotry or bias intended to intimidate or harass another person based upon actual or perceived protected class membership, identity, or expression, including electronic, audio or visual posts containing images, acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.
 - a. POSTC made a specific note regarding social media: The state has a compelling interest in its police officers upholding the law fairly and without bias. Public posts that contain slurs or imagery that intentionally ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals should not and shall be tolerated by law enforcement. The Council is aware that this conduct may implicate First Amendment concerns. The Council does not wish to police social media debates or heated political discussions. However, the Council does have an interest in ensuring that police officers act in accordance within appropriate professional standards, including adherence to departmental social media policies.
2. Sexual Harassment is any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
3. Racial profiling means the detention, interdiction, or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual (as defined by state statute).

The abuse of power is defined as:

1. Inappropriate benefits are an act or pattern of acts that constitute the exploitation or misuse of the position of a police officer by compelling or threatening to compel an individual to provide opportunities or benefits for the officer or others that would not be available but for that position.
2. Inappropriate relationships are an act or pattern of acts that constitute an abuse of power through the exploitation or misuse of the position of a police officer to establish or attempt to establish a sexual, romantic, physical, intimate, or emotional relationship, by compelling or attempting to compel another person to engage in such relationship.

Failure to intervene is defined as:

1. An officer has failed to intervene or stop the use of excessive, unreasonable, or illegal force by another police officer, that resulted in or would likely result in serious physical injury or death.
2. An officer has failed to properly notify a supervisor and submit a written report of such acts where he or she has personal knowledge of such acts based upon their own observations and had the ability to prevent such act.

The Logistics Subcommittee finds the POSTC definitions of the terms discriminatory conduct, abuse of power, and failure to intervene provide some guidance in terms that may still be open to interpretation. The question is which is the better approach – specific or general language? The advantage of using specific language gives clear notice to police officers and police administrators of what conduct can result in the loss of certification. However, if an officer may be decertified only for specific conduct that means officers who have committed other types of misconduct, not specifically defined, may continue to work. In contrast, vague language like “abuse of power” or “conduct unbecoming” is also problematic. This is the subtly in language that resulted in the new provisions in Public Act 20-01.

The Logistics Subcommittee recognizes the need for POSTC, as well as the courts and labor boards, to have room to interpret the definitions based on the facts and circumstances of each complaint. However, there should be consistency in the application of those definitions so that there are not actual or perceived differences in outcomes among municipalities, police departments, or individual officers.

In reviewing the literature and experiences in other states, the subcommittee finds a hybrid approach that combines revocation for specific misconduct with more general language, is probably the best and most workable solution.

Given the most recent changes in state law and POSTC general orders, the Logistics Subcommittee recommends POSTC review all allegations of police discriminatory conduct, abuse of power, and failure to interview and the subsequent referral of the cases to POSTC by police departments, and the outcomes of the decertification process to ensure the definitions are consistency interpreted and applied. POSTC should also consider any decisions by labor boards and state courts in these cases, especially on issues pertaining to the definition of these terms.

It is further recommended state's practice for license revocation or cancellation for other professions and occupations be reviewed to determine what language for misconduct is used and whether the state courts have upheld that action under the specific language.

****Finding Based on discussion during meetings it seems like some members want to articulate specific felony and misdemeanor offenses in state penal code. I will include any findings based on discussion during November 4 meeting.*

Mandatory Reporting

POSTC reviews for revocation only those cases referred by police departments. The currently practice is that all referrals are made by the chief of police. There is no statutory requirement for police departments to refer an officer for decertification, except that state law established six grounds for revocation and Public Act 20-01 added three new grounds.

In its most recent general order, POSTC defined criteria for mandatory reporting. All police departments are required to refer to POSTC any violation where an officer has been found:

- to have used unreasonable, excessive, or illegal force that causes or was likely to cause serious physical injury or the death of another person,
- to have failed to intervene or stop the use of unreasonable, excessive, or illegal force by another police officer that caused or was likely to cause serious physical injury or death to another person, or failed to notify a supervisor and submit a written report of such acts where the holder has personal knowledge of such acts and the ability to prevent such act,
- to have intentionally intimidated or harassed another person based upon actual or perceived protected class membership, identity, or expression and in doing so threatens to commit or causes physical injury to another person, or
- to have been terminated, dismissed, resigned, or retired pursuant to the provisions of Section 7-291c of the Connecticut General Statutes.

The new general order further requires mandated reports submit specific documentation including, but not limited to: (1) cover letter, (2) investigative affairs reports and findings, (3) labor board findings, if available, (4) transcripts of interviews, (5) if the alleged conduct is related to a criminal investigation, all case reports, audios, videos and motor vehicle and body cam footage, unless the release of such documentation is prejudicial to the criminal prosecution, (6) if alleged conduct is related to a violation of the Alvin W. Penn Racial Profiling Prohibition Act, all information required for the traffic stop, and (7) any other documentation requested by POSTC. Failure of a police department to provide the required documentation will result in delays or refusal to bring the case to POSTC for review.

The Logistics Subcommittee finds POSTC should have more recourse in the event a police department is mandated to refer a case to POSTC but then fails or refuses to provide the required documentation or discovers a police department was mandated to refer a case but did not.

Literature on this issue has described this a politically problematic. There is no simple recourse. For example, the mandate to report does not carry any penalty nor does it give POSTC any specific remedy. While prosecutors have a right to file criminal charges against police chiefs, this is politically unlikely except in the most egregious cases, and in Connecticut this mandate to report is not defined as a criminal offense. Police chiefs can be decertified by the POST for malfeasance in office, but the chief's superior, such as the city manager or mayor or selectperson, may be able or willing to investigate the chief. Oregon has an unusual provision that avoids criminal prosecution but permits the imposition of a civil penalty up to \$1,500 on the police department for noncompliance.

Whatever policy or law is put in place will require an increase in the POSTC's staff, and in this time of fiscal constraint in the state budget, that may not be realistic.

Recommendation ... is there a role for IG here? I will write this based on the discussion and consensus of recommendations from the subcommittee.

Tracking Decertification Cases

POSTC currently does not track data on certification revocation cases. It cannot currently report on the number of cases referred by police departments, the number of informal compliance hearings or full compliance hearings conducted, or the dispositions of those hearings. Information is available on the Connecticut Decertified Database that lists the names of officers whose certification was revoked and the reasons for that action. Since 2008, the certifications of 76 officers were revoked. The majority (59) of revocations were for felony convictions, 10 for making false statements, and the remainder (7) for falsifying application or other documents.

POSTC reported tracking all disciplinary actions taken against police officers by police departments and POSTC would be labor intensive and it currently does not have the resources. However, POSTC should be able to track and report on that status of decertification cases processed by its staff.

The Logistics Subcommittee finds data on allegations of police misconduct and the resulting decertification cases is necessary to determine whether the recent changes in state law and POSTC general orders have an impact on improving policing in Connecticut. Therefore, it is recommended POSTC develop a system to track active and closed decertification cases.

This database should be historical in that the data may be used to review trends in the process (e.g., length of investigations, outcomes of investigations, number of hearings, disciplinary actions taken, etc.) The data should include, but not be limited to the following:

- referring agency,
- primary allegation,
- officer's name, rank, and date of hire,
- date of referral to POSTC,
- POSTC status of investigation,

- date POSTC investigation initiated,
- POSTC staff assigned to investigation,
- date POSTC investigation closed,
- outcome of POSTC investigation (e.g., unsubstantiated, substantiated),
- outcome of information hearing,
- date of information hearing,
- POSTC staff conducting informal hearing,
- outcome of full hearing,
- date of full hearing,
- final disposition of case (no action, revocation, suspension, other) and
- date of final action.

Issues for Further Review/Next Steps

There are additional issues that pertain to the revocation of police officer certification. These issues are provisions of Public Act 20-01 and/or were identified as priorities by the Police Transparency and Accountability Task force. The Logistics Subcommittee will review these issues during its work and prior to the submission of its final report in December 2021. The table lists the specific issues.

An issue that is not specifically defined in task force priorities or Public Act 20-01, but that came up during the Logistics Subcommittee review is the role and responsibilities of the newly formed inspector general (IG) in the officer decertification process. Given that the IG is responsible for review incidents involving the deadly use of force by police, it may be in a position to provide information and evidence that may be necessary to the decertification process initiated by a police department and POSTC. There may be a duplication of efforts by the IG and POSTC to investigate a case and this process could be more effective and efficient if both entities were allowed to collaborate and share records, information, and evidence.

Additionally, the IG may uncover facts and evidence about officers not identified as the subject of an investigation that could be grounds for suspension or decertification by POSTC or other disciplinary action by a police department. The Logistics Subcommittee may review this area and provide clarification and recommendations on the roles and responsibilities of the IG and the working relationship between the IG and POSTC.

Issues Pertaining to Revocation of Police Officer Certification (Decertification)	
Police Transparency and Accountability Task Force Priorities	Public Act 20-1 An Act Concerning Police Accountability
Make it mandatory that officers report misconduct and intervene when they see wrongdoing, with criminal penalties if they fail to do so.	Requires a police or correction officer to intervene and report another officer's use of excessive force. Any officer who fails to intervene may be prosecuted and punished for same act. This provision does not apply to officer operating in undercover assignment at the time of the incident. Prohibits law enforcement units or DOC from taking retaliatory action against intervening officer. (Sec.30 & 43)

<p>Reform Internal Affairs</p> <ul style="list-style-type: none"> a) Ensure that the internal affairs process is transparent and accountable b) Community involvement in internal affairs investigations 	
<p>Reform citizen complaint process</p> <ul style="list-style-type: none"> a) Require all law enforcement agencies operating in the State of Connecticut to accept electronic complaints and clearly lay out complaint procedure on their website. b) Create a statewide public database of police complaints by department and officer, listed by status (filed, pending, outcome) 	
<p>Identify state labor issues that prevent police administrators from easily removing unfit officers</p> <ul style="list-style-type: none"> a) Explore fair police union contracts b) Explore with POSTC the offenses and procedure for decertifying officers 	
<p>Amend Alvin Penn Law to include racial/ethnic/gender/religious data collection of Pedestrian stops (Trespass, Loitering, Disorderly Conduct), Breach of Peace, and Interfering with Police Officer</p>	<p>Establishes falsely reporting with specific intent an incident involving another person or group because of the actual or perceived race, religion, ethnicity, disability, sex, sexual orientation or gender identify or express of the person or group as an element of the crime of falsely reporting an incident (CGS 53a-180, 53-180a, 53-180b, 53-180c, 53-180d), class B felony crime of falsely reporting an incident involving serious physical injury or death (CGS 53-180a) and a class B felony of falsely reporting an incident resulting in serious physical injury or death. (Sec. 24, 25, 26, 27 & 28)</p>
	<p>Authorizes records on disciplinary matters or alleged misconduct to be released under Freedom of Information Act (FOI) even if those records are considered confidential under a collective bargaining agreement</p> <p>Prohibits collective bargaining agreements entered into by the state from blocking the disclosure of records pertaining to disciplinary action based on a violation of the code of ethics contained in officers' personnel files (Sec. 8 & 9)</p>
<p>Mandate community oversight of all police departments</p> <p>Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.</p>	<p>Allows each town's legislative body to establish a civilian police review board by ordinance (Sec. 17)</p>

	<p>Authorizes POST to require police officers to pass a drug test a condition of renewing their certification. (Sec 3)</p>
	<p>Expands the reasons for which POST may cancel or revoke a police officer's certification to include conduct undermining public confidence in law enforcement, discriminatory conduct, or excessive force. Authorizes POST to suspend certification for a period up to 45 days and may censure officer.</p> <p>POST may develop and issue written guidance to police departments on grounds for suspension, cancellation or revocation of certification including: (1) reporting procedures, (2) examples of conduct that undermines public confidence in police, (3) examples of discriminatory conduct, and (4) examples of misconduct outside of duty that may be serious enough for discipline. POST is required to provide guideline online. (Sec 3)</p>
<p>Implement psychological evaluation of officers into their recertification process</p>	<p>Authorizes POST to develop written policies regarding these assessments including (1) confidentiality and HIPAA compliance; (2) good faith reasons why police department may rely on when requesting officer undergo assessment; (3) availability of behavioral health treatment services for officers; (4) ability of officers to review and contest assessment results; (5) permissible personnel actions that may be taken by police department based on results and officer's due process rights; (6) process to select psychiatrists or psychologists to conduct assessments; and (7) financials incurred by police department and officer to conduct assessments. (Sec 3)</p>

Appendix A

Police Officer Standards and Training Council Revision to Decertification General Order

Section 1. Purpose

The purpose of this document is to provide guidance in accordance with the provisions of Section 7-294d(g) of the Connecticut General Statutes, which allows the Police Officers Standards and Training Council (hereafter "the Council") to develop and issue written guidance to law enforcement units concerning grounds for suspension, cancellation or revocation of certification. This guidance document addresses the following:

Section 2: Grounds for suspension, cancellation or revocation and an overview, Section 7 – 294d(c)(2), of C.G.S.

Section 3: Conduct that undermines public confidence in law enforcement

Section 4: Evaluation of Conduct

Section 5: Reporting Procedures

Sections 3 and 4 of the document shall serve as guidance for law enforcement units and the POST Council to determine what acts constitute conduct that undermines public confidence in law enforcement. Each section contains a framework in which to examine such conduct.

Section 5 describes from whom the Council shall receive requests for suspension, cancellation or revocation of certification and what acts of misconduct a law enforcement unit shall report to the council.

The prohibited conduct expressed in statute or guidance does not reflect the values or professional standards of the law enforcement community. The decertification process is designed to address those acts that ultimately cause irreparable damage to the trust between police officers and the community they serve and/or render a person unsuitable for police service.

The power to suspend, cancel, or revoke a certificate is a solemn one. The Council decertification process is not a tool to address trifling events, personal grievances, or to bypass traditional labor relations procedures. It is based upon an obligation to hold those who do not live up to the high standards of law enforcement accountable to the public and the law enforcement community.

Section 2. Overview of Conn. Gen. Stat. Section 7-294d(c)(2) and July Special Session, Public Act No. 20-1

A. Suspension

Pursuant to Conn. Gen. Stat. Section 7-294d(c)(2), the Police Officer Standards and Training Council may censure a police officer and suspend a holder's certificate for up to 45 days.

B. Grounds for Suspension, Cancellation, or Revocation

July Special Session, Public Act No. 20-1 provides for additional grounds for suspension, cancellation, or revocation. Newly added grounds are highlighted in bold.

The council may, cancel or revoke any certificate if:

- (A) The certificate was issued by administrative error,
- (B) The certificate was obtained through misrepresentation or fraud,
- (C) The holder falsified any document in order to obtain or renew any certificate,
- (D) The holder has been convicted of a felony,
- (E) The holder has been found not guilty of a felony by reason of mental disease or defect pursuant to section 53a-13,
- (F) The holder has been convicted of a violation of section 21a-279,
- (G) The holder has been refused issuance of a certificate or similar authorization or has had his or her certificate or other authorization cancelled or revoked by another jurisdiction on grounds which would authorize cancellation or revocation under the provisions of this subdivision,
- (H) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used a firearm in an improper manner which resulted in the death or serious physical injury of another person,

(I) (new) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit and considering guidance developed under subsection (g) of this section, to have engaged in conduct that undermines public confidence in law enforcement, including, discriminatory conduct, falsification of reports or a violation of the Alvin W. Penn Racial Profiling Prohibition Act pursuant to section 54-11 and 54-1m.

(J) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used physical force on another person in a manner that is unreasonable, excessive, or illegal.

(K) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have committed any act that would constitute tampering with or fabricating physical evidence in violation of section 53a-155, perjury in violation of section 53a-156 or false statement in violation of section 53a-157b.

Section 3. Guidance Regarding Conduct that Undermines Public Confidence in Law Enforcement

Section 7-294d(c)(2)(I) of the Connecticut General Statutes adds a new condition for suspension, cancellation, or revocation: "*The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, pursuant to procedures established by such unit and considering guidance developed under subsection (g) of this section...*"

The Council has identified five categories of conduct that may undermine public confidence in law enforcement. These categories are listed below in A through E.

A. Discriminatory Conduct

Discriminatory Conduct includes:

(1) **Intentional Acts of Bigotry or Bias.** An intentional act to intimidate or harasses another person based upon actual or perceived protected class membership, identity, or expression. Such acts shall include electronic, audio, or visual posts containing images, acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals.

Note on social media: The state has a compelling interest in its police officers upholding the law fairly and without bias. Public posts that contain slurs or imagery that intentionally ridicule, malign, disparage, or otherwise express bias against any race, any religion, or any protected class of individuals should not and shall be tolerated by law enforcement. The Council is aware that this conduct may implicate First Amendment concerns. The Council does not wish to police social media debates or heated political discussions. However, the Council does have an interest in ensuring that police officers act in accordance within appropriate professional standards, including adherence to departmental social media policies. The Council shall evaluate whether such conduct will result in revocation, cancellation, or suspension under guidance issued in Section 4 of his document.

(2) An act or acts that constitute Sexual Harassment. “Sexual harassment” shall, for the purposes of this section, be defined as any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment;

(3) Conduct that constitutes racial profiling (Alvin W. Penn Racial Profiling Prohibition Act. Section 54-11 and 54-1m). For the purposes of this section, “racial profiling” means the detention, interdiction, or other disparate treatment of an individual solely on the basis of the racial or ethnic status of such individual, *(as defined by state statute)*.

B. Abuse of Power

(1) Inappropriate Benefits. An act or pattern of acts that constitute the exploitation or misuse of the position of a police officer by compelling or threatening to compel an individual to provide opportunities or benefits for the officer or others that would not be available but for that position.

(2) Inappropriate Relationships. An act or pattern of acts that constitute an abuse of power through the exploitation or misuse of the position of a police officer to establish or attempt to establish a sexual, romantic, physical, intimate, or emotional relationship, by compelling or attempting to compel another person to engage in such relationship.

C. Untruthfulness and Lack of Integrity

(1) **Intentional Acts of Dishonesty.** the holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have intentionally committed any material act that would constitute evidence of untruthfulness during any investigation or official inquiry by a law enforcement unit, including but not limited to, a criminal or administrative investigation. (The statement or document need not be sworn).

(2) **Falsification of Reports.** the holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have falsified or alter any material information in a law enforcement unit report, whether the document is sworn or not sworn.

(3) **Intentional Disregard for Rules and Regulations of a Law Enforcement Unit.** The holder has committed an act or pattern of acts that indicate an intentional disregard for lawful orders to act in accordance with the rules and regulations of the law enforcement unit, and the holder has not responded to corrective measures of the law enforcement unit, to include disciplinary policies.

D. Failure to Intervene

(1) **Failure to Intervene.** The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, while acting in a law enforcement capacity, to have failed to intervene or stop the use of excessive, unreasonable, or illegal force by another police officer, that resulted in serious physical injury or death or the use of, unreasonable, excessive, or illegal force by another police officer that would likely result in serious physical injury or death, or to notify a supervisor and submit a written report of such acts where the holder has personal knowledge of such acts, based upon their own observations and the officer had the ability to prevent such act.

E. Dismissal or Resignation under Section 7-291c of the Connecticut General Statutes.

(1) The holder has been found by a law enforcement unit, to have been terminated, dismissed, resigned, or retired pursuant to the provisions of Section 7-291c of the Connecticut General Statutes.

Section 4. Evaluating Conduct

July Special Session, Public Act No. 20-1 instructs the Council to take into account whether a police officer or law enforcement instructor acted in their official capacity or identified themselves as police officers. "When evaluating any such conduct, the council considers such conduct engaged in while the holder is acting in such holder's law enforcement capacity or representing himself or herself to be a police officer to be more serious than such conduct engaged in by a holder not acting in such holder's law enforcement capacity or representing himself or herself to be a police officer;" Sec. 3 July Sp. Sess., Public Act No. 20-1

Conduct that occurs off-duty or where a holder does not identify themselves as a law enforcement officer may still result in suspension, cancellation, or revocation where the conduct is severe enough to undermine public confidence by adversely and irreparably affecting the officer's ability to exercise the duties of a law enforcement officer.

In determining whether an act or pattern of acts adversely and irreparably affect an officer's ability to exercise the duties of a law enforcement officer, law enforcement units and the Council may consider aggravating/mitigating factors, including but not limited to:

-Does the conduct grossly deviate from the generally accepted standards and behavior of law enforcement?

-Does the misconduct rise to the level of suspension or termination from the officer's law enforcement unit?

-Does the conduct constitute criminal conduct?

-Does the conduct subject an officer to impeachment in a court of law based on prior misconduct?

-Does the officer have a prior disciplinary history?

-Did the conduct result in severe physical injury?

-Did the conduct negatively and irreparably affect working relationships or otherwise interfere with the operation of a law enforcement unit?

On-duty conduct and conduct committed by an individual who holds themselves out to be police officers that meets the categories described in sections A through E shall be considered serious and should be given considerable weight against any possible mitigating factor. The Council may consider such factors in its decision to censure and suspend a police officer certificate as opposed to a revocation or cancellation.

Section 5. Reporting Procedures

A. Reporting Grounds for Suspension, Cancellation, or Revocation; Hearings.

The POSTC Certification Division shall only review requests for revocation or cancellation from local law enforcement units. Cases referred to the POSTC Certification Division by the public shall be referred to the appropriate state or local law enforcement unit for further review. POSTC administrative staff shall recommend to the appropriate Council subcommittee its' recommendation whether there are sufficient grounds to continue with further proceedings.

The Council shall conduct suspension, cancellation, or revocation of police officer certification hearings on matters submitted to the POST Council Certification Division by law enforcement units only. The Council may conduct suspension, cancellation, or revocation of law enforcement instructor or police training school certificate hearings submitted by the POST Council Certification Division.

B. Mandatory Reporting

All law enforcement units shall report any violation where:

1) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have used unreasonable, excessive, or illegal force that causes serious physical injury or the death of another person, or to have used unreasonable, excessive, or illegal force that was likely to cause serious physical injury or death to another person.

2) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, while acting in a law enforcement capacity, to have failed to intervene or stop the use of unreasonable, excessive, or illegal force by another police officer that caused serious physical injury or death to another person, or unreasonable, excessive, or illegal force that was likely to cause serious physical injury or death to another person, or to notify a supervisor and submit a written report of such acts where the holder has personal knowledge of such acts and the ability to prevent such act.

3) The holder has been found by a law enforcement unit, pursuant to procedures established by such unit, to have intentionally intimidated or harassed another person based upon actual or perceived protected class membership, identity, or expression and in doing so threatens to commit or causes physical injury to another person.

4) The holder has been found by a law enforcement unit, to have been terminated, dismissed, resigned, or retired pursuant to the provisions of Section 7-291c of the Connecticut General Statutes.

C. Documentation required by POST Council.

The POST Council Certification Division shall require the following documentation:

1) A Cover Letter from the Chief Law Enforcement Officer detailing conduct reasonably believed to be grounds for cancellation, revocation, or suspension;

2) Investigative Affairs Reports and Findings;

3) If available, Labor Board Findings;

4) Transcripts of Interviews;

5) If alleged conduct is related to a criminal investigation, all case reports, audio, and video, including MVR/Body Cam footage, unless release of such documentation shall be prejudicial to the administration of justice/prosecution.

7) If alleged conduct is related to a violation of the Alvin W. Penn Racial Profiling Prohibition Act, all information as required under Section 54-1m(b)(1) of the Connecticut General Statutes

8) Any other documentation requested by the POST Council Certification Division.

Failure to supply all required documentation shall result in delays or refusal to bring a request to the POST Council Certification Committee for review.