

White and Williams Obtains Preliminary Injunction in Constitutional Challenge to Massachusetts Police Recertification Procedures

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David Chaffin and Eric Hermanson, Partners in the firm's Boston office, and Sabina Corrado, an Associate in our New York office, recently obtained a preliminary injunction barring the Massachusetts Peace Officer Standards and Training Commission (POST Commission) from requiring police officers to submit to unconstitutional questioning in connection with the recertification of their employment. The order was issued in *Hovsepian, et al. v. Massachusetts Peace Officer Standards and Training Commissions*, Case No. 2284-CV-00906 (Suffolk County, Massachusetts, Superior Court).

The POST Commission is a nine-member body created by Massachusetts police reform legislation in 2020. As part of its mandate, the POST Commission was charged with creating a mandatory recertification process for police officers, together with processes for decertification, suspension of certification, or reprimand in the event of certain misconduct. As part of this recertification process, the POST Commission issued a questionnaire, which asked a series of highly invasive questions probing — among other things — officers' social media activity and membership in certain organizations.

The ostensible purpose of the questionnaire was to determine whether officers were of good moral character and were fit for continued employment. Police officers were required to complete the questionnaire (under oath) as part of the recertification process, and refusal to respond would result in a loss of employment.

White and Williams represented the heads of three law enforcement unions, who challenged the POST Commission's questions as overbroad, unconstitutionally vague, and violative of officers' First Amendment rights of speech and association. In mid-May 2022, with deadlines for recertification looming, our clients moved for a preliminary injunction prohibiting the POST Commission from using the offending questions in the recertification process.

On June 27, 2022, Superior Court Associate Justice Jackie Cowin granted the motion, in pertinent part. In a closely-watched decision, she enjoined the POST Commission from asking two of the four offending questions (the ones of most concern), and ruled that officers who had already responded to the questions could not be denied recertification on the basis of their responses.

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A copy of Judge Cowin's order may be accessed [here](#).