



Edward M. Augustus, Jr.  
City Manager

CITY OF WORCESTER

cm2021feb18032800

Attachment for Item # 9.39 A

February 23, 2021

TO THE WORCESTER CITY COUNCIL

COUNCILORS:

Over the past year, this City, this Body, and my Administration has been challenged by crises that have tested our resolve and demanded our most serious and disciplined attention. The COVID-19 pandemic presented us with the single biggest health emergency of our lifetime, and we continue to recover from and respond to that.

At the same time, as we worked feverishly to save lives and stem the tide of COVID-19, we found ourselves called to bridge divides and heal wounds that have existed for generations in the form of racial injustice and inequality. We are at a critical point in our history, where we will be judged not just by what we say, but by what we do to address and stop racism.

The murder of George Floyd in May of last year wasn't just a call to action, it was a tragic reminder that for all the progress made in improving race relations, we still have a long road ahead of us. The anger and outrage we witnessed in protests across the nation – and here in Worcester – were not merely the result of Mr. Floyd's murder; they were the expressions of those who have suffered decades of mistreatment and injustice, too often at the hands of those sworn to protect them.

It is undeniable that structural and institutional racism permeate our entire society, at all levels of government, and in all institutions. To dismantle it, we must do more than give lip service, we must reimagine our ideals and take the necessary steps to achieve them. That means real reform that gives voice to those who have too often felt left out of the conversation.



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Over the past several months, we've heard from hundreds of residents calling for meaningful reform and change. We have had numerous meetings and conversations with local advocacy groups and organizations, including Black Families Together, Latino Empowerment and Organizing Network (LEON), the Human Rights Commission and the Board of Health. We have heard their concerns and frustrations. We were also guided by legislation enacted at the state level at the end of 2020, which we knew would impact some of the changes we sought to put in place.

Below is a summary of a combination of actions as a collective response to these many conversations and meetings:

**1. Executive Order to Assess and Address Structural and Institutional Racism;**

- a. This order is in response to the adopted resolution on June 16, 2020 by which the City Council acknowledges structural and institutional racism as a public health crisis.

**2. Police Reform Act Legislation summary and its impact to the City of Worcester;**

- a. *Chapter 253 of the Acts of 2020, An Act Relative To Justice, Equity and Accountability In Law Enforcement In The Commonwealth, commonly referred to as the police reform act.*
- b. This report focuses on those provisions of the Act that directly impact local police, particularly, the Worcester Police Department. After summarizing those issues, it also highlights some of the many commissions, both permanent and special legislative, created under the Act.

**3. Recommendations;**

- Beginning with the Worcester Police Department (WPD), Health and Human Services, and Human Resources I recommend a city-wide (racial) equity audit to: Review and assess institutional norms, systems, policies, and practices, that will culminate in a report with observations and recommendations as they pertain to institutional goals of racial equity. The results of this audit will assist in the development of citywide equitable policy development and employee training, and provide the City with a framework to disrupt systems of racism and inequity in any form.

- The Chief of Police will establish a Chief's Equity Advisory Council to serve as an implementation working group on the findings and recommendations from the equity audit. The Advisory Council will be composed of community members.
- Create a Division of Investigations, tasked with conducting city-wide internal investigations arising out of both employee and resident complaints. This Division will be developed within the Office of the City Manager, as the appointing authority.
- Remove School Resource Officers from the Worcester Public Schools at the end of the calendar year. In addition, I recommend establishing a working group to develop a comprehensive safety plan for the WPS by the end of 2021, and at that time removal of the day to day presence of WPD. A new safety plan will be put in place.
- Engage community conversations about the Body Camera Program conducted by the Human Rights Commission and WPD. The Commission will conduct at least five, one in each Councilor district, public listening sessions to discuss the program and its impact, as we await further guidance from State legislation.
  - *The Act establishes four permanent commissions and ten special legislative commissions, one of whom is specific to Body Cameras: Establishment of the Law Enforcement Body Camera Task Force, created by Executive Office of Public Safety and Executive Office of Technical Services and Security to propose regulations for a uniform code for the purchase and use of body-worn cameras. Report by 7/31/22*
- Recommend an ordinance to ban all facial recognition technology and prohibit any City official from obtaining facial recognition data/information via any third party.
- Recommend an ordinance that any surveillance technology moving forward proposed for acquisition shall be vetted through a public process and approved by City Council.
- In addition to the Worcester Police Department's (WPD) Crisis Intervention Team, create a process where Social/Outreach Workers and/or Licensed Specialists are deployed during a mental health incident.

- Implement a Paid Cadet Program in the WPD and Worcester Fire Department geared towards under represented individuals with interest in pursuing a career in public safety.
- Along with the current annual diversity trainings offered through our Human Resources Training Division, we will commit to prioritized diversity, equity and inclusion learning/trainings, designed to foster cultural change across the City Administration. As an example starting next month we will begin with the following:
  - RITE Academy: a Racial Intelligence training and workplace harassment prevention program where is nationally recognized in creating a bias-free work place. The RITE approach provides a safe environment to openly report on-the-job deviant behavior, workplace harassment, and abuse.
  - Race Equity And Leadership Training (REAL): REAL offers a host of training opportunities and programs to empower and equip local officials with the tools needed to address racial disparities in their communities.
- Establish an Equity Cabinet under the Executive Office of Diversity and Inclusion that consists of the City Manager's Cabinet members.
- Work collaboratively with the Office of Urban Innovation to create a public dashboard where WPD use of force complaints, incidences and other additional data in accordance with Massachusetts General Laws is displayed on the Municipal website for additional accountability and transparency.

The work to eradicate institutional racism is not easily accomplished. As such, these proposed reforms and structural changes do not represent the end of our efforts, but rather the continuation of our commitment to effect real change. It is the process we embarked upon when we enacted an Affirmative Action Plan. It is the process we embarked upon when we established our Chief Diversity Officer as a cabinet-level position. It is the process we started when we implemented a Pilot Body Camera program. And just as these recommendations have been shaped by the concerns of many different individuals, our continued work on these and other proposals will be guided by public input and deliberation. As these items move through the review process, there will be ample opportunity for additional public comment and input. The

discussion, and our work to address institutional racism, does not end here. In many cases, it is only the beginning.

Respectfully submitted,

A handwritten signature in cursive script that reads "Edward M. Augustus, Jr." The signature is written in black ink and is positioned above the typed name.

Edward M. Augustus, Jr.  
City Manager



## CITY OF WORCESTER, MASSACHUSETTS

Law Department

Michael E. Traynor  
City Solicitor

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**To:** Edward M. Augustus, Jr., City Manager  
**From:** Michael E. Traynor, City Solicitor  
**Date:** February 23, 2021  
**Re:** Police Reform Act

You asked for a report on Chapter 253 of the Acts of 2020, *An Act Relative To Justice, Equity and Accountability In Law Enforcement In The Commonwealth*, commonly referred to as the police reform act (the "Act"). This report focuses on those provisions of the Act that directly impact local police, particularly, the Worcester Police Department. After summarizing most of those provisions, it also highlights some of the many commissions, both permanent and special legislative, created under the Act.

### **Municipal Police Training Committee**

The Act changes the composition of the municipal police training committee ("MPTC"). The Act adds 4 new members to the committee – two sheriffs appointed by the governor; the chair of the Massachusetts Association of Minority Law Enforcement Officers; and the president of the Massachusetts Association of Women in Law Enforcement, Inc. The Act also alters the governor's appointments of nonvoting, advisory committee members by deleting the required appointment of one sheriff of a county or former county and adding two new advisory committee members, a social worker and a mental health clinician.

The Act also expands the powers and duties of the MPTC. The committee must set policies and standards for screening applicants who apply for admission to committee-certified academies. The committee, together with the division of police certification established as part of the new Massachusetts Peace Officer Standards and Training Commission, discussed below, will establish minimum certification standards for all officers. Further, the MPTC and the Peace Officer Standards and Training Commission will jointly promulgate rules and regulations for the use of force by law enforcement officers. These must be in place and will take effect as of September 1, 2021.

Other new obligations of the MPTC include maintaining records of training for all officers for whom the MPTC is responsible to provide training; issue confirmation of satisfactory completion of required training and provide records of the completion of training to the Peace Officers Standards and Training Commission.



The MPTC must establish and develop new in-service training programs to address developmentally appropriate de-escalation and disengagement tactics, techniques and procedures and other alternatives to the use of force for minor children; handling emergencies and complaints, including, but not limited to, those involving victims, witnesses or suspects with mental illness, substance abuse disorder, trauma history or developmental or intellectual disabilities; and to teach practices and techniques related to responding to mass gatherings or protests that emphasize de-escalation

The MPTC is also charged with developing an in-service training program to train school resource officers; training in appropriate interactions with persons on the autism spectrum and those with other intellectual and developmental disabilities; training in the use of physical force and de-escalation tactics; and training on mental wellness and suicide prevention.

The changes to the MPTC, as outlined, become effective July 1, 2021.

### **Massachusetts Peace Officer Standards and Training Commission**

A major component of the Act is the addition of Chapter 6E to the General Laws, creating the Massachusetts Peace Officer Standards and Training Commission (“POST Commission”).<sup>1</sup> The POST Commission will be comprised of the Commission and two divisions under the Commission – the Division of Police Certification (“DPC”) and the Division of Police Standards (“DPS”). Establishment of the POST Commission and the divisions becomes effective July 1, 2021.

The DPC will be responsible for establishing uniform policies and standards for the certification of all law enforcement officers. A public safety agency may not employ a law enforcement officer unless the POST Commission certifies the person. No person shall be eligible for admission to police schools, programs or academies or for appointment as a law enforcement officer if they are listed on the national decertification index or the database of decertified law enforcement officers maintained by the POST Commission<sup>2</sup>. Any officer who has completed an academy or training program certified by the MPTC as of July 1, 2021, and is appointed as a law enforcement officer on that date, shall be certified as of that date. Certification is for a three-year period. However, these initial certifications have staggered expiration dates. Officers whose last names begin with A to H, inclusive, have an initial certification of one year, officers whose last names begin with I to P, inclusive, have an initial certification of two years, and officers whose names begin with Q to Z, inclusive, have an initial certification of three years.

The DPC shall also be responsible for certifying all law enforcement agencies. In conjunction with the MPTC, and subject to the approval of the POST Commission, it will establish minimum certification standards for all law enforcement agencies that shall include, but not be limited to, use of force and reporting of use of force; officer code of conduct; officer response procedures;

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<sup>1</sup> The membership of the POST will consist of nine members: 3 appointed by the governor, one of whom shall be a police chief, one shall be a retired justice of the superior court and one a social worker; 3 appointed by the attorney general, one of whom shall be a law enforcement officer below the rank of sergeant who is a labor union representative, one shall be a minority law enforcement officer and one shall be an attorney; and 3 shall be appointed jointly by the governor and the attorney general from a list submitted by the Massachusetts Commission Against Discrimination. Except for those specifically required, all other members of the commission shall be civilians and cannot have been previously employed as a law enforcement officer or a retired law enforcement officer.

<sup>2</sup> Law enforcement agencies may not employ a decertified officer in any capacity, including, but not limited to, as a consultant or independent contractor.

criminal investigation procedures; juvenile operations; internal affairs and officer complaint investigation procedures; detainee transportation; and collection and preservation of evidence.

The DPS will be responsible for investigating officer misconduct and making disciplinary recommendations to the Commission. The head of each local agency must transmit any complaint the agency receives within two business days to the DPS. The local agency retains the authority to conduct its own internal investigation of a complaint. The POST Commission must wait until the local agency reaches a final disposition of the complaint, or one year elapses since the complaint was filed with the POST Commission or the local agency, before it may institute a revocation or suspension hearing. Upon final disposition of a complaint by the local agency, the head of the agency must file a final report to POST Commission, and if the recommended or imposed discipline includes retraining, suspension or termination, the head of the agency shall make a recommendation for disciplinary action by the POST Commission including, retraining, suspension, or revocation of the officer's certification.

If an officer resigns during a local agency's investigation, prior to its conclusion or prior to the imposition of discipline, the head of the agency shall notify the POST Commission and include a recommendation for disciplinary action by the POST Commission, including retraining, or suspension or revocation of the officer's certification.

While the POST Commission must await the conclusion of a local agency's investigation, an appeal of any discipline, or the resolution of criminal charges before commencing an actual decertification proceeding, the DPS *must* initiate a *preliminary inquiry* into an officer's conduct if the POST Commission receives a complaint, report or other credible evidence that the POST Commission deems sufficient that the officer: was involved in an officer-involved injury or death; committed a felony or misdemeanor, whether or not arrested; indicted; charged or convicted; used excessive force; failed to intervene; or the POST Commission receives a recommendation by the head of the local agency for disciplinary action, including retraining or suspension or revocation of the officer's certification.

The DPS *may* commence a preliminary inquiry into an officer's conduct if the POST Commission receives a complaint, report, or other credible evidence that the POST Commission deems sufficient that the officer may have engaged in prohibited conduct. These proceedings are confidential, except that the POST Commission may turn over any evidence that could be used in a criminal proceeding to the attorney general, the U.S. Attorney or the appropriate district attorney.

The DPS must notify any officer who is the subject of a preliminary inquiry, the head of the officer's collective bargaining unit, and the head of their appointing agency of the existence of such inquiry and the general nature of the alleged violation within thirty days of the inquiry's commencement.

The DPS must create and maintain a database of information related to an officer's – receipt of complaints and the nature of the complaints; allegations of untruthfulness; failure to follow commission training requirements; decertification by the commission; agency-imposed discipline; termination for cause; and any other information the commission deems necessary or relevant.



Under certain circumstances the POST Commission shall or may suspend an officer's certification pending a final resolution of the local agency's investigations.

An officer's certification *shall* be suspended if an officer is arrested, charged or indicted for a felony. The POST Commission shall also suspend an officer's certification if, after a required preliminary inquiry, the POST Commission concludes by a preponderance of the evidence that the officer has engaged in conduct that could constitute a felony and after a vote to initiate an adjudicatory proceeding of said conduct.

The POST Commission *may* suspend *after* a preliminary inquiry, an officer's certification if the officer has been arrested, charged or indicted for a misdemeanor and the POST Commission determines by a preponderance of the evidence that the crime affects the officer's fitness to serve as a law enforcement officer.

The POST Commission *may* suspend *during* a preliminary inquiry, an officer's certification if the Commission determines by a preponderance of the evidence that the suspension is in the best interest of the health, safety or welfare of the public.

The POST Commission *shall* revoke an officer's certification if, after a hearing, the POST Commission finds by *clear and convincing evidence*<sup>3</sup> that one or more of sixteen grounds requiring mandatory revocation apply.<sup>4</sup>

The POST Commission *may* suspend or revoke an officer's certification if, after a hearing, the POST Commission finds by *clear and convincing evidence* that the officer has violated one of five grounds to support such suspension or revocation.<sup>5</sup>

Additionally, the POST Commission may, after a hearing, order retraining for an officer upon one of nine findings.<sup>6</sup>

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<sup>3</sup> The "clear and convincing evidence" standard requires more than the "preponderance of the evidence" standard, which requires a "more likely than not" finding, but less than the "beyond a reasonable doubt" standard required for a criminal conviction.

<sup>4</sup> Officer, convicted of a felony; certification issued as a result of administrative error; certification obtained through misrepresentation; falsified any document in order to obtain or renew certification; termination of officer based on intentional conduct under color of office to: obtain false confessions, make a false arrest, create or use falsified evidence (including false testimony or destroying evidence to create a false impression); officer has been convicted of submitting false timesheets; knowingly files a written police report containing a false statement or commits perjury; tampers with a record for use in an official proceeding; officer used force in violation of [new standards discussed *infra*]; used excessive force resulting in death or serious bodily injury; used a chokehold; engaged in the intimidation of a witness; failed to intervene or attempt to intervene to prevent another officer from engaging in prohibited conduct or behavior; or, is not fit for duty and is dangerous to the public, as found by the Commission.

<sup>5</sup> Officer, has been convicted of a misdemeanor; was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct; has a pattern of unprofessional police conduct that the Commission believes may escalate; was suspended or terminated by their appointing authority for disciplinary reasons; or, has repeated sustained internal affairs complaints.

<sup>6</sup> Officer, failed to comply with the requirements of [new M.G.L. c. 6E], or the Commission's regulations, reporting or training requirements; was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct; used excessive force; failed to respond to an incident according to established procedure; has a pattern of unprofessional police conduct; was untruthful (except for a statement or action that mandates revocation); was suspended or terminated by their appointing agency for disciplinary reasons (except those reasons which mandate revocation); fails to intervene to prevent another officer from engaging in prohibited conduct or behavior (except a failure to intervene in conduct that mandates revocation), or would benefit in their job performance if retrained.

Any decision of the POST Commission relative to a preliminary inquiry, revocation and suspension proceeding is appealable pursuant to M.G.L. c. 30A. Final decisions of the POST Commission are appealable to Superior Court. No employment action taken by an appointing authority as the result of a mandatory revocation by the POST Commission shall be appealable to the civil service commission.

The POST Commission will publish any revocation order and its findings and provide all revocation information to the national decertification index. No officer may apply for certification after the officer's certification has been revoked.

The Act prohibits retaliatory action against any officer or employee of the commonwealth for providing information to the POST Commission or testifying in any POST Commission proceeding.

The POST Commission will maintain a publicly available database of all orders issued relative to revocations, suspensions and retraining.

On or before September 30, 2021, every law enforcement agency must provide to the POST Commission, a comprehensive disciplinary record for each law enforcement officer employed by the agency, to include every complaint of which the officer was the subject and all disciplinary records of the officer including the final disposition of a complaint and any discipline imposed.

On or before December 1, 2021, every law enforcement agency shall provide the POST Commission a similar comprehensive disciplinary record for each law enforcement officer previously employed by the agency.

### **School Resource Officers**

The Act makes significant changes to programs for school resource officers. Neither school department personnel nor any school resource officer may report to any law enforcement officer or agency, any information relating to a student or a student's family member concerning, suspected, alleged, or confirmed gang affiliation, unless it is germane to a specific unlawful activity the school is otherwise required to report.

The Act requires the creation of a new model school resource office memorandum of understanding ("MOU") review commission to develop and review the existing model MOU and make recommendations for changes the commission deems appropriate. The MOU shall prohibit school resource officers from serving as school disciplinarians, enforcers of school regulations or in place of school psychologists, psychiatrists or counselors and the use of police powers to address traditional school discipline issues, including non-violent disruptive behavior.

The Act provides that a chief of police, at the request of the superintendent of schools and subject to appropriation, shall assign at least one school resource officer to serve a city or town.

### **Use of Force**

The Act codifies an officer's authority to use force by establishing when and what type of physical force may and may not be used. The statutory provision prescribing the preconditions to the use of physical force takes effect December 1, 2021.

An officer may not use *physical force* unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and the force employed is necessary to effect the lawful arrest or detention of a person; prevent escape from custody of a person; or prevent imminent harm, and the amount of force used is proportionate to the threat of imminent harm, provided, however, that an officer may use the necessary, proportionate non-deadly force as authorized by regulations to be promulgated by the MPTC and the POST Commission (regulations to be in place and effective September 1, 2021).

An officer may not use *deadly force* 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 is proportionate to the threat of imminent harm.

The Act prohibits the use of chokeholds and prohibits the training of officers to use a lateral vascular neck restraint, carotid restraint or other action that involves placement of any part of an officer's body on or around a person's neck in a manner that limits the person's breathing or blood flow.<sup>7</sup>

Under the Act, an officer is prohibited from discharging any firearm into a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm.<sup>8</sup>

The Act also regulates the use of force a police department may use when it has advance notice of a planned mass demonstration. The department is obligated to attempt in good faith to communicate with the organizers of the event to discuss logistical plans, strategies to avoid conflict and potential communication needs between police and event participants. The department must make plans to avoid and de-escalate potential conflicts and designate an officer to be in charge of such planning and communication of the plans within the department.

In such settings, an officer shall not discharge or order the discharge of tear gas or any other chemical weapon, discharge or order the discharge of rubber pellets, or release or order the release of a dog to control or influence a person's behavior unless de-escalation tactics have been attempted and failed or are not feasible under the circumstances; and the measures used are necessary to prevent imminent harm and the foreseeable harm inflicted by the use of tear gas or other chemical weapon, rubber pellets or a dog is proportionate to the imminent harm.

If any of those measures are used, the department must file a report with the POST Commission detailing all measures taken in advance to reduce the probability of disorder and all de-escalation tactics and other measures taken at the time of the event to avoid their use.

The Act creates a duty to intervene when an officer observes another officer using physical force, including deadly force, beyond that which is necessary or objectively reasonable based on the totality of the circumstances, unless doing so would result in imminent harm to the officer or another identifiable individual. Further, an officer who observes another officer use such unnecessary force shall report the incident to an appropriate supervisor as soon as reasonably possible, but no later than the end of the officer's shift.

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<sup>7</sup>Chief Sargent informed me that the Worcester Police Department has never trained its officers to use chokeholds.

<sup>8</sup>Chief Sargent advised that this has been the Worcester Police Department's policy and how its officers have been trained for approximately twenty-five years.

## **Qualified Immunity**

Another of the statutory changes implemented by the Act provides that an officer will lose the protection of qualified immunity under the state civil rights law if the same act for which the officer is sued also resulted in the officer's decertification by the POST Commission. This change goes into effect July 1, 2021.

As stated earlier, the Commission must base a decertification on clear and convincing evidence, a higher standard than the preponderance of the evidence that is required for job termination by a local agency and for a plaintiff's verdict in a civil suit.

## **No-Knock Entries**

The Act provides that a warrant that does not require a law enforcement officer to knock and announce their presence and purpose before forcibly entering a residence shall not be issued unless by a judge and the officer's supporting affidavit establishes probable cause that if their presence is announced their lives or the lives of others will be endangered, and that the officer has no reason to believe that minor children or adults over the age of 65 are in the home, unless there is a credible risk of imminent harm to the minor or adult over the age of 65 in the home. An officer shall not dispense with these requirements except to prevent a credible risk of imminent harm. Any evidence seized or obtained during the execution of warrant shall not be admissible if the officer violates these requirements.

## **Facial Recognition Technology**

The Act requires that a law enforcement agency performing or requesting a facial recognition search using facial recognition technology may only do so through a written request submitted to the registrar of motor vehicles, the department of state police, or the FBI. A facial recognition search may only be performed to execute an order issued by a court or justice authorized to issue warrants in criminal cases, based on specific and articulable facts and reasonable inferences that provide reasonable grounds to believe the information sought would be relevant and material to an ongoing criminal investigation or to mitigate a substantial risk of harm to any individual or group of people; or without an order, to identify a deceased person or if the law enforcement agency reasonably believes that an emergency involving substantial risk of harm to any individual or group of people requires the performance of a facial recognition search without delay. This section of the Act goes into effect July 1, 2021.<sup>9</sup>

## **Amendment of the Public Records Law**

Section 2 of the Act amends the privacy exemption of the public records law, G.L. c. 4, § 7(26)(c), making it inapplicable to records related to a law enforcement misconduct investigation. The amended subclause (c) is set out below with the new language italicized.

“(c) personnel and medical files or information and any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; *provided, however, that this subclause shall not apply to records related to a law enforcement misconduct investigation.*”

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<sup>9</sup> Chief Sargent confirmed that the Worcester Police Department does not perform or request performance of facial recognition searches.

## **Permanent and Special Legislative Commissions**

The Act establishes four permanent commissions and ten special legislative commissions:

- Permanent Commission on the Status of African Americans
  - Permanent Commission on the Status of Latinos and Latinas
  - Permanent Commission on the Status of Persons with Disabilities
  - Permanent Commission on the Status of Black men and boys
- The permanent commissions will be effective as of July 1, 2021.
- Special legislative commission to review and make recommendations on improving, modernizing and developing comprehensive protocols for the training of state and county correction officers and juvenile detention officers. Report by 12/31/21
  - Establishment of the Law Enforcement Body Camera Task Force, created by Executive Office of Public Safety and Executive Office of Technical Services and Security to propose regulations for a uniform code for the purchase and use of body-worn cameras. Report by 7/31/22
  - Special legislative commission to conduct a study on government use of facial recognition technology in the commonwealth. Report by 12/31/21
  - Special legislative commission to study emergency hospitalizations pursuant to § 12 of G.L. c. 123. Report by 9/30/21
  - Special legislative commission to study and examine the civil service law, personnel administration rules, hiring procedures, and by-laws for municipalities not subject to the civil service law and state police hiring procedures. Report by 9/30/21
  - Special legislative commission to study the establishment of a statewide law enforcement officer cadet program. Report by 12/31/21
  - Special legislative commission on structural racism in correctional facilities in the commonwealth. Report by 9/30/21
  - Special legislative commission on structural racism in the parole system. Report by 9/30/21
  - Special legislative commission to investigate and study the impact to the administration of justice of the qualified immunity doctrine in the commonwealth. Report by 9/30/21

## **Worcester Police Department Policies and Procedures**

The changes in policing mandated by the Act will require police departments across the commonwealth to review and, if necessary, revise and/or clarify their various policies and procedures. Chief Sargent informs me that this review process has already begun. It is without question that the City and the Worcester Police Department will implement all policy changes necessary and proper to comply with the requirements of the Act. Potential changes in some policies await the regulations of the MPTC and the POST Commission.

Section 37 of the Act establishes in the General Laws the right of all persons to bias-free policing<sup>10</sup>. Section 83 of the act creates a statutory prohibition any law enforcement agency from engaging in racial or other profiling.<sup>11</sup> The WPD is currently finalizing a new policy addressing these two issues that it expects to release very soon.

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<sup>10</sup> Bias-free policing is defined as “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.”

<sup>11</sup> Racial or other profiling is defined as “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.”

In accordance with the newly created G.L. c. 6E, the POST Commission must certify every law enforcement agency of the Commonwealth. The DPS in consultation with the MPTC, and subject to the approval of the POST Commission, will establish minimum certification standards for all such law enforcement agencies that must include, but not be limited to, the following policies and procedures which are currently in place in the WPD:

- (i) use of force and reporting of use of force;
- (ii) officer code of conduct;
- (iii) officer response procedures;
- (iv) criminal investigation procedures;
- (v) juvenile operations;
- (vi) internal affairs and officer complaint investigation procedures;
- (vii) detainee transportation; and
- (viii) collection and preservation of evidence.

Please advise if you have any questions or concerns relative to this report.

Sincerely,



Michael E. Traynor  
City Solicitor

# **AN EXECUTIVE ORDER TO ASSESS AND ADDRESS STRUCTURAL AND INSTITUTIONAL RACISM WITHIN THE CITY OF WORCESTER'S MUNICIPALITY**

I, Edward M. Augustus, Jr., by virtue of the authority vested in me as city manager, do hereby order and direct the following:

## **§ 1. PURPOSE**

This order establishes the policy of the city of Worcester to acknowledge and affirm the city of Worcester's ongoing commitment to address the role of structural and institutional racism. Racial, economic and social inequities persist across many issue areas, including health, education, the justice system, employment, housing, the environment, arts and culture, and access to city services and contracting. This order acknowledges the role structural and institutional racism have had and continue to contribute to the individual and collective trauma for communities of color. This order sets forth the framework for the ongoing development of institutional capacity for reflection, change and resiliency.

## **§ 2. POLICY**

The city of Worcester's municipality embraces the diversity of its residents and non-residents, and is committed to providing an inclusive, equitable and non-discriminatory experience for all people living, working, visiting and doing business with the city of Worcester. Accordingly, it is the policy of the city that:

- A. By July 2021, starting with the Worcester Police Department, Human Resources, and the Department of Health and Human Services, the municipality will submit proposals from reputable and experienced third-party organization with expertise in conducting a racial equity audit to evaluate current policies, procedures, and culture, and provide recommendations to disrupt systems of racism and inequity in any form.
- B. By July 2021 the Executive Office of Diversity and Inclusion and the Office of Human Resources will work collaboratively to create training/professional development opportunities to prepare municipal staff for racial equity work.
- C. By September 2021 the municipality will undergo an internal review of municipality wide demographic and operational data collection and evaluation relative to advancing racial equity.
- D. By January 2022 the municipality commits to change business as usual and restructure our strategic planning which includes our mission, vision, and values (culture, policies and practices) with a focus on diversity, equity, and inclusion (DEI) using a racial equity lens throughout all departments with all stakeholders.

- E. By January 2022 the municipality will incorporate racial equity goals and objectives into their annual departmental development plan to ensure that departmental operational actions incorporate specific racial equity strategies to ensure our work leads to meaningful outcomes. Work plans will include timelines for implementation, designation of accountability, and performance measures for advancing racial equity as well as inclusive outreach and public engagement.
- F. By January 2022 the municipality will increase our commitment to reflect community in the workplace. Each department will incorporate a diversity recruiting action plan as part of their department development plan, which will highlight departmental goals, strategies, and candidate sourcing, specific to their department goals and operational needs.

### § 3. DEFINITIONS

Establishing a shared language to present data, describe conditions and outcomes and identify root causes of inequities serves an important function. A common language creates a narrative that makes it easier to communicate the commitment to racial equity, both internally and externally, and it creates a platform for coordinated work toward equitable outcomes.

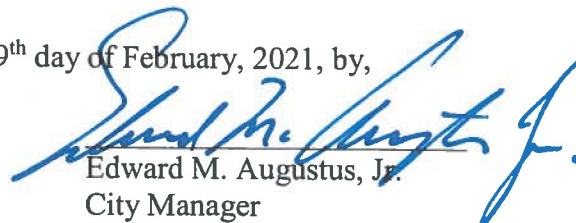
To illuminate racism, we need to name it, frame it and explain it. The following are definitions of core concepts that can help assist in the development of a shared language for racial equity and inclusion:

- A. As used in this Order, the term “**Diversity**” refers to the presence of difference within a given setting. You can have, for example, a diversity of species within an ecosystem, a diversity of clothing brands in your closet, or a diversity of opinion or experiences. Diversity is about a collective or a group and can only exist in relationship to others. E.g. A candidate for employment is not diverse they’re a unique, individual. They may bring diversity to our team or our hiring pool, but they in themselves are not diverse.
- B. As used in this Order, the term “**Equity**” is defined as treating everyone fairly. An equity emphasis seeks to render justice by deeply considering structural factors that benefit some social groups/communities and harms other social groups/communities. Equity is often conflated with the term “Equality” (meaning sameness). In fact, true equity implies that an individual may need to experience or receive something different (not equal) in order to maintain fairness and access. For example, a person with a wheelchair may need differential access to an elevator relative to someone else.



- C. As used in this Order, the term “**Equality**” is defined as treating everyone exactly the same. An equality emphasis often ignores historical and structural factors that benefit some social groups/ communities and harms other social groups/communities.
- D. As used in this Order, the term “**Inclusion**” shall mean authentically bringing traditionally excluded individuals and/or groups into processes, activities, and decision/policy making in a way that shares power & opinion. Inclusion is an intentional effort to transform the status quo by creating opportunity for those who have been historically marginalized. As used in this order, inclusion emphasizes outcomes of diversity rather than assuming that increasing the amount of explicit diversity of people automatically creates equity in access/opportunity, or an enhanced organizational climate.
- E. As used in this Order, the term “**Institutional Racism**” refers to institutions and systems of power. These are the unfair policies and discriminatory practices of institutions (schools, workplaces, systems of health, etc.) that routinely produce inequitable outcomes for different racial groups. The policy may never refer to any social identity group, but their effect is to create and sustain inequities.
- F. As used in this Order, the term “**Structural Racism**” refers to the interplay of policies, practices, programs and systems of multiple institutions which leads to adverse outcomes and conditions for Communities of Color compared to White communities, that occurs within the context of racialized historical and cultural conditions.
- G. As used in this Order, the term “**Racial Equity Lens**” is a set of reflective questions we ask ourselves when we are planning, developing or evaluating a policy, program or decision. It helps us assess if we are taking in the perspectives of the racially diverse people and communities we intend to serve, and whether our policies and programs are resulting in equitable or inequitable outcomes. An equity lens helps us assess where challenges and opportunities exist, so that we can make intentional steps to ensure more equitable outcomes for all individuals and communities.

ORDERED at City Hall this 19<sup>th</sup> day of February, 2021, by,

  
Edward M. Augustus, Jr.  
City Manager