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Last year's police reform law created standards regarding the use of deadly force, no-knock warrants, dogs, tear gas, and pellet guns by law enforcement, requiring that the training of law enforcement officers and guidance on use of force include "developmentally appropriate de-escalation and disengagement tactics, techniques and procedures and other alternatives to the use of force for minor children." The newly created Peace Officers Standards and Training (POST) recently issued their first guidance on this topic. CfJJ asked Lisa Thureau-Gray, Executive Director of [Strategies for Youth](#), to explain the significance of this guidance.

Baby Steps in the Right Direction; Miles to Go!

The newly formed Massachusetts Peace Officers Standards and Training (POST) Commission recently issued [guidance](#) on how Massachusetts law enforcement agencies should de-escalate interactions with youth. The POST was created by the state Legislature as part of its broader 2020 police reform bill, An [Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth](#), in December 2020. The law included an amendment championed by Sen. Cindy Friedman (D-Arlington) directing the Commission to issue "guidance" for how police officers should de-escalate interactions with youth. SFY was invited to present on [de-escalation with youth](#) to inform the guidance.

While symbolically heartening, and certainly a step in the right direction, this "guidance" is, unfortunately, neither legally enforceable nor binding.

What is a POST?

Massachusetts is the 47th state to create a POST. These Commissions set training requirements and standards for law enforcement agencies. Most also have systems in

place for certifying police officers, and, importantly, for de-certifying those who have committed crimes, used unreasonable and excessive force, or otherwise engaged in derelictions of duty. For decades, Massachusetts police chiefs have recommended that the state create a POST, but state law enforcement patrol officers' unions blocked their creation until 2020 when a coalition of Black and Latino legislators adopted Rep. Russell Holmes' (D-Boston) bill among their [10-point police reform](#) plan.

Historically, the U.S. has committed to a profoundly de-centralized approach to policing and does not support much oversight of law enforcement. There are a total of 17,985 departments across the country, and each one functions as a fiefdom unto itself, with little or no oversight by state agencies. Indeed, the primary source of oversight is lawsuits brought against individual police officers for misconduct.

SFY's nationwide study of state public safety departments and POST Commissions, [Where's the State?](#) found that:

- No state issues model approaches or guidance for law enforcement interactions with youth;
- Few state POSTs issue standards that address expectations for interactions and encounters with youth. Those that do, such as California and Georgia, issue only recommendations that can, and frequently are, ignored by individual law enforcement agencies;
- Most state POSTs issue training recommendations for police recruits at the Academy level. These are woefully inadequate and fail to equip officers with either knowledge about how adolescents think and behave, or strategies for de-escalating interactions with teens.

What the "Guidance" Means—Politically & Legally:

The Massachusetts law creating the POST requires that it be staffed and operational as of July 1, 2021. Section 119 of the law required the Commission to issue no later than June 30, 2021 "guidance on developmentally appropriate de-escalation and disengagement tactics, techniques and procedures and other alternatives to the use of force for minor children..." and mandating officers to consider age, disability status, and mental health when taking action. SFY was a member of the statewide [Juvenile Justice Reform](#) Coalition that pushed hard during the summer of 2020 to include special protections for youth in the police reform legislation.

Politically, the guidance delivers a broad framework of factors that law enforcement agencies recommend officers consider when interacting with young people. That is a positive step forward for the state, since few law enforcement agencies have any policies guiding interactions with youth. Those that do rarely take into account youths'

developmental differences or the way in which trauma may increase youths' legal risk when encountering police officers. Notably, the guidance relies heavily on input from the Massachusetts Police Training Committee (MPTC) which has historically excluded youth advocates from participating in its decision-making. This means that those who are often most familiar with the more harmful aspects of policing are locked out of policy-making mechanisms.

Legally, the impact of the guidance is weak. It is neither enforceable nor binding. Parents can't hold up a guidance in order to demand better treatment for their children or receive answers for why they were treated poorly. In order for an individual or group to win a lawsuit, they will need to show that officers were trained and supervised to appropriately and effectively follow the policies their departments had affirmatively adopted and that officers used unreasonable and excessive use of force according to precedent. And of course, they will have to overcome claims of qualified immunity.

Massachusetts' guidance also falls short in that it contains no language requiring its adoption in law enforcement agency policies to serve as the basis for discipline of officers. At best, it represents the "spirit" but not the letter of what judges may interpret to be required of law enforcement officers in their treatment of youth.

Where does that leave Advocates Seeking to Protect Youth in Interactions with Police?

The issuance of the guidance by Massachusetts' POST Commission is an important step forward, and a sign that decision-makers in the state are listening to youth advocates. But it is a baby step.

No other state or POST Commission has issued similar guidance. In the past few years, more state Attorney Generals issuing directives to police departments with detailed instructions on how they should interpret U.S. Supreme Court decisions about police interactions with youth (see the [New Jersey State Attorney General's Law Enforcement Directive 2020-12](#)).

Below are three steps that I believe the state's youth advocates need to take in a coordinated fashion to capitalize on this progress:

1. Make the case: Too many folks in the body politic believe Massachusetts has the most progressive law enforcement and justice system in the country. My experience traveling around the U.S. indicates otherwise. Sometimes the "red" states perceived as far more conservative than Massachusetts have actually

implemented some of the most wide-ranging policing reforms related to youth. We need to document how many law enforcement agencies have such policies? Why does Massachusetts continue to have some of the highest racial disparities in the country?

2. Organize to ensure that the MA POST and MPTC incorporate developmentally-appropriate best practices in the upcoming [Use of Force rules and regulations](#). These policies must be developed by a diverse group, with collective expertise and experience in police interactions and youth development.
3. Organize to ensure that the MPTC, which is responsible for creating training requirements for police officers, is truly open to all members of the Commonwealth and does not exclude those with expertise, knowledge and experience, but who, perhaps, differ in overall philosophy.

We're delighted that the Legislature made youth a priority in the work of the MA POST Commission. But it will take vigilance from all of us to keep them there.
