

Accreditation and the "other than full-time" Police Officer

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Introduction

- Full-time occupation
 - Corporate Controller, CPA -Technology Industry
- Other than full-time avocation
 - Commanding Officer – Framingham Auxiliary Police
 - Law Enforcement Volunteer – 35 Years

Workshop Objective

- Provide information that will substantiate the fact that you can:
 - Have a professional auxiliary / reserve officer program;
 - that will be a benefit to your agency;
 - and not be an obstacle in the accreditation process

Agenda

- Reserve Policing
- Auxiliary and Reserve Police in Massachusetts
- Legal Authority - Massachusetts Auxiliary Police
 - Civil Defense Act
 - De Facto Authority
 - Citizen's Arrest / Self Defense
 - Transferred Authority
- Accreditation Standards
- Framingham Auxiliary Police
- Best Practices
 - Officer Selection
 - Training
- Wrap-up and Questions

Definitions


- Auxiliary and Reserve Officers derive the bulk of their income in a field other than Law Enforcement
 - Some of these officers are compensated;
 - Some volunteer their services
 - If they are trained to a different level than full-time officers – their assignments should reflect their level of training
 - This does not limit an auxiliary/reserve officer's commitment to the Law Enforcement profession
- The terms Auxiliary, Reserve, Special, part-time are interchangeable and have the same meaning in this presentation; except as it relates to Massachusetts law

Survey - Massachusetts Police Volunteers

- Part of Volunteers in Police Service (VIPS) Conference
- 55 agencies responded
- Survey conducted in the fall of 2006
- Survey results will be shared throughout this presentation



Reserve Policing



International Auxiliary/Reserve Police Conference – Victoria, BC 2006

Reserve Policing is International

- Reserve Policing is not unique to Massachusetts
- Strong Reserve Police Programs exist around the world
- I have had the pleasure to meet and learn from career and reserve officers from programs in the around the United States, as well as the UK, Germany, Bermuda, South Africa, Cayman Islands, Bahamas, Virgin Islands and Canada

The International Reserve Police Community



Volunteer Police Officers

- There are an estimated 400,000 Volunteer Auxiliary and Reserve Police Officers in the United States ^(a)
- Auxiliary and Reserve Police Officers:
 - Increase police visibility and help deter crime
 - Bring police officers into more contact with citizens as a result of volunteers working in the police department
 - Add a ready and trained reserve component to an agency in times of emergencies
 - Are the "Ultimate Volunteer" ^(b)
- Massachusetts Volunteer Officers are most commonly know as Auxiliary Police Officers

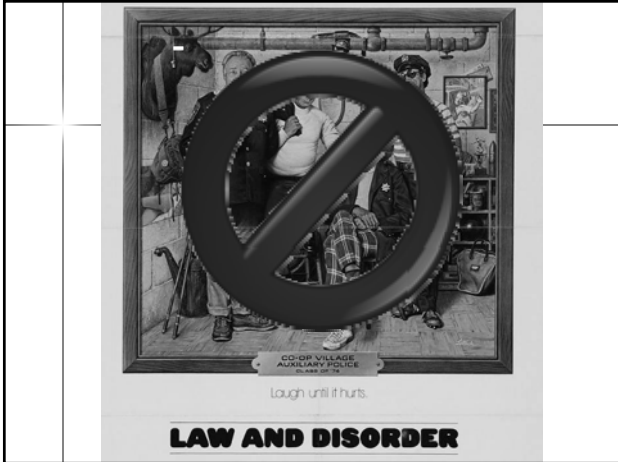
(a) National Reserve Law Officers Association
 (b) Royal Canadian Mounted Police – Auxiliary Program Motto

Examples of Large Reserve Programs

- Metropolitan Police – London – 2,600 Special Constables
- NYPD – 4,000 Auxiliary Officers
- RCMP – 2,500 Auxiliary Constables
- LAPD – 600 Reserve Officers
- LASD – 700 Reserve Deputies
- Florida Highway Patrol – 400 Auxiliary Troopers

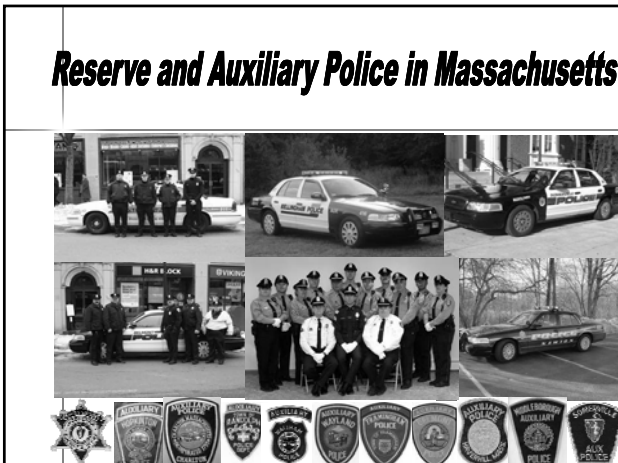
Image Problem

- Carry-over from decades of ill conceived programs
 - No Selection Process
 - No Training
 - No Discipline
- We have all seen these types of programs



This Image no Longer Exists in Most Parts of the Country

- Successful Reserve Programs have become professional over the past 25 years
- Selection Processes have been put in place that parallel full-time officer selection
- Academy training programs are held at locations and scheduled at times to allow reserve officers to attend training classes
- State Laws have been changed to mandate proper training – to the level of responsibility
- In Massachusetts we are somewhat behind the curve – as you will see our laws are old; and do NOT require auxiliary officer training



Over 20% of Massachusetts Municipal Police Officers are “other than full-time”

(a) Scheft Report to the Massachusetts Working Group for Law Enforcement Training

“Other than full-time” Police Officers in the Commonwealth

Reserve Officers	2,188	(a)
Auxiliary Officers	1,200	(b)
Summer Officers	UNKNOWN	(a)
Special Officers	UNKNOWN	(a)
	<u>3,388</u>	

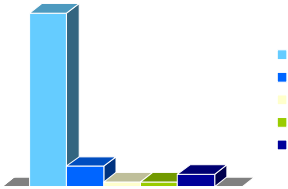
(a) Scheft Report to the Massachusetts Working Group for Law Enforcement Training
 (b) Volunteers in Police Service Conference Survey 11/2006

Police Volunteers in Massachusetts

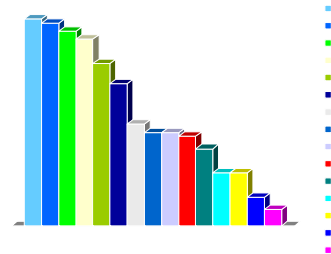
- Over 70 communities with programs
- Over 1,200 Auxiliary Police Officers
- Volunteered 170,000 hours in 2005
- \$3.7 Million of volunteer efforts



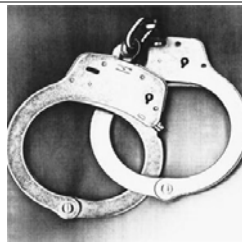
Survey Results - Massachusetts Volunteer Officer Designation



Survey Results - Activities and Assignments



Legal Authority



Attorney Brian E. Simoneau

Massachusetts – Different Status – Different Authority

- Sworn Reserve or Part-time (paid) Police Officer
- Sworn Special Police Officer
- Auxiliary Police Officer; Not Sworn as Special or Reserve
- Full Authority – Same as Regular Police Officer
- Full Authority – Same as Regular Police Officer; or Authority can be limited (ex: store security guards)
- Authority - Civil Defense Act, St. 1950, c. 639.

	<p>Sources of Authority for the Auxiliary Police Officer</p>
	<ul style="list-style-type: none"> ▪ Civil Defense Act, St. 1950, c. 639. ▪ De Facto Authority ▪ Citizen's Arrest / Self Defense ▪ Transferred Authority

	<p>Civil Defense Act, St. 1950, c. 639.</p>

	<p>Civil Defense Act, St. 1950, c. 639.</p>
	<p>“Specific statutory authority for the creation of auxiliary police officer units in the cities and towns of Massachusetts appears in the state's Civil Defense Act, St. 1950, c. 639.”</p>

	<p>Civil Defense Act, St. 1950, c. 639.</p>
	<ul style="list-style-type: none"> ▪ The mayor & city council in cities and the selectmen in towns...are authorized by law to appoint unpaid auxiliary firemen and auxiliary police and may establish and equip such other volunteer...

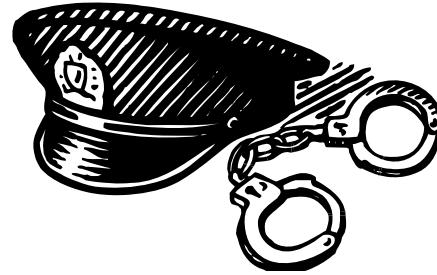
	<p>Civil Defense Act, St. 1950, c. 639.</p>
	<ul style="list-style-type: none"> ▪ “Persons appointed to the auxiliary police force in a city or town shall exercise or perform such of the powers or duties of police officers as may be prescribed by the appointing authority...”

	<p>Civil Defense Act, St. 1950, c. 639.</p>
	<ul style="list-style-type: none"> ▪ Auxiliary police officers shall exercise or perform such powers and duties of police officers as the appointing authority allows. ▪ Section 11(c) provides that said powers and duties shall not be exercised or performed by auxiliaries unless: (3 Requirements)

Civil Defense Act Requirements

1. Active duty
2. Displaying an authorized badge or insignia
3. In police chief's opinion, situation cannot be adequately handled by the regular or reserve police force.

"De Facto" Authority



"De Facto" Authority

- There is case law to support the argument that **an officer acting under color of appointment to office is a *de facto* officer whose authority to act cannot be collaterally attacked or challenged** even though some infirmities may exist which prevents the appointment from being valid.

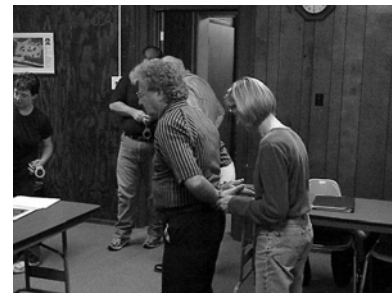
Comm. v. Vaidulas, 433 Mass. 247 (2001)

- A de facto officer is "one whose **title is not good in law**, but who is in fact in the **unobstructed possession of an office & discharging its duties in full view of the public**, in such manner and under such circumstances as not to present the appearance of being an intruder or usurper."

Comm. v. Vaidulas, 433 Mass. 247 (2001)

- The Mass. SJC has "recognized the exercise of de facto authority by a variety of governmental officials."
- "So far as the validity of their action is concerned there is no difference between an officer de facto and an officer de jure."

Citizen's Arrest



Citizen's Arrest

- **"Our common law has long recognized a private citizen's right to arrest."** *Comm. v. Klein*, 372 Mass. 823, 829 (1977).

Citizen's Arrest

- **"A private citizen in Massachusetts may lawfully arrest someone who has in fact committed a felony."**
Chief's Guide to Practical Skills, Comm. v. Lussier, 333 Mass. 83 (1955)

Use of Force by a Private Citizen

- We [the SJC] have said that the person attempting a valid arrest has the right to use the force which is reasonably necessary to overcome physical resistance by the person sought to be arrested.

Use of Force by a Private Citizen

- A person has the right to use reasonable force, proper in kind and degree, to protect one's person against assault or immediately impending assault.
- Reasonableness of force used in self-defense must be commensurate with the harm threatened.

Use of Force by a Private Citizen

- A person may use non-deadly force, such as his or her fists, in self-defense if the person is reasonably concerned about personal safety.

Use of Deadly Force in Self Defense

1. Reasonable grounds to believe, and actually believes, that he or she is in **imminent danger of death or serious bodily harm** from which the person can be saved only by using deadly force;

Use of Deadly Force in Self Defense

2. the person has availed himself or herself of all proper means to avoid physical contact;
3. No more force than is reasonably necessary.

Use of Force to Protect 3rd Person

1. A reasonable person in the actor's position would believe intervention was necessary to protect the victim; &
2. The victim would be justified in using the same force in self-defense
3. The right to defend another is not limited to defense of persons related to the actor.

Use of Force to Protect 3rd Person

4. The right to defend another is not limited to situations involving threat of great bodily harm.

Transferred Authority



G.L. c. 268 Sec. 24

- Whoever, being required in the name of the commonwealth by a sheriff, deputy sheriff, constable, **police officer** or watchman, **neglects or refuses to assist him** in the execution of his office in a criminal case, in the preservation of the peace or in the apprehension or securing of a person for a breach of the peace,....**shall be punished...**

G.L. c . 37 Sec. 13.

- They may require suitable aid in the execution of their office in a criminal case, in the preservation of the peace, in the apprehending or securing of a person for a breach of the peace and in cases of escape or rescue of persons arrested upon civil process.

Comm. v. Morrissey

- "When one is called to assist an officer he, during the time that duty rests upon him, is justified in doing whatever the officer himself might lawfully do."

Comm. v. Morrissey

- A detention "by the aid or assistant, [in] such circumstances, would be, to all intents and purposes, as valid as if the same had been made by the [local police officer's] proper hand;--and ... the aid or assistant would be under the same protection of the law as the [local police officer] himself."

Comm. v. Morrissey

- A private actor is not civilly liable and "is privileged to rely upon the officer's request and assist him unless the facts are such that the actor knows ... that the officer is not himself privileged to make the arrest."

Transferred Authority

- Crime must involve a "breach of the peace"
- Breach of the peace has occurred (or)
- There is imminent danger of such a breach occurring.

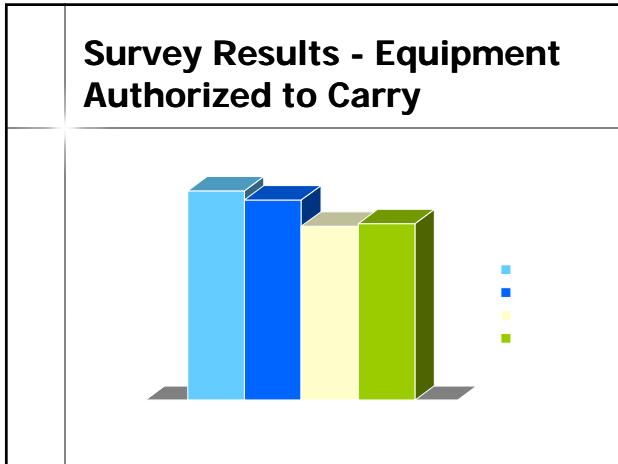
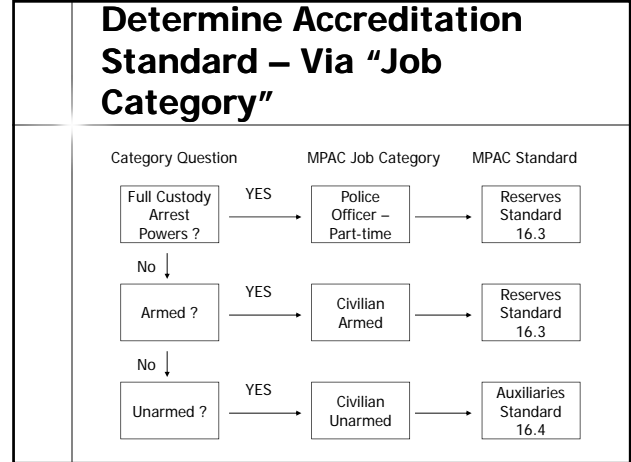
Accreditation Standards



Auxiliary / Reserve Officers and Accreditation

- These officers are part of your department
- What the officers are called (Reserve; Intermittent; Auxiliary; Special etc...) does not matter
- Their authority and duties they perform are the measure of what accreditation standard needs to be achieved
- There are two standards that are considered
 - 16.3 – Reserves (A higher hurdle)
 - 16.4 – Auxiliaries
- MPAC identifies the standard to follow based on "Job Category"

MPAC Job Category Table	
Sworn Personnel: 2 Categories	
<input type="checkbox"/> Police Officer: Full-time <input type="checkbox"/> Police Officer: Part-time (Standard - Reserves 16.3)	
Civilian Personnel: 3 Categories	
<input type="checkbox"/> Civilian: Armed (Standard - Reserves 16.3) <input type="checkbox"/> Civilian: Unarmed and Uniformed in the Field (Standard - Auxiliaries 16.4) <input type="checkbox"/> Civilian: Unarmed and Administrative/Other	



- ### Standard 16.3 "Reserves"
- **16.3.1** A written directive establishes and describes the agency's reserve officer program.
 - **16.3.2** The selection criteria for reserves are the same as that for full-time officers.


- ### Standard 16.3 "Reserves"
- **16.3.3** The agency requires all sworn reserve officers to complete a recruit academy training program comparable to that required in standard 33.4.1, prior to any routine assignment in which the reserve officer is allowed to carry a weapon or is in a position to make an arrest, except as part of a formal field training program required in standard 33.4.4. If the agency restricts or prohibits reserves from performing specific functions, topics related to those functions may be omitted from the curriculum.
 - Reserve Intermittent Academy is accepted under this standard


- ### Standard 16.3 "Reserves"
- **16.3.4** Uniforms and equipment for reserve officers are the same as those for full-time officers performing like functions.
 - **16.3.5** Reserve officers receive in-service training equivalent to that statutorily required for full-time officers performing like functions
 - **16.3.6** Reserve officers are trained in use-of-force policy(s) and tested for firearms proficiency with the same frequency as full-time officers.
 - **16.3.7** Reserve officers are bonded and/or provided with public liability protection equal to that provided to full-time officers.


Standard 16.3 "Reserves"
<ul style="list-style-type: none"> ■ 16.3.8 A written directive requires performance evaluations for reserve officers be conducted in accordance with the standards in Chapter 35 (Performance Evaluation). * <p>* New Standard in 5th edition</p>

Standard 16.4 "Auxiliaries"
<ul style="list-style-type: none"> ■ 16.4.1 A written directive establishes and describes the agency's auxiliary program to include: <ul style="list-style-type: none"> – a statement that auxiliaries are not sworn officers; and – a description of the duties of auxiliaries, including their role and scope of authority. ■ 16.4.2 Auxiliaries receive training in those authorized and assigned duties. ■ 16.4.3 If auxiliaries wear uniforms, the uniforms clearly distinguish them from sworn officers.

Framingham Auxiliary Police


Mission Statement
<p>The Mission of the Framingham Auxiliary Police is to be prepared to assist the Town of Framingham in the event of civil or natural disaster</p>


Framingham Auxiliary Police
<ul style="list-style-type: none"> ■ Formed in 1942 as part of WWII civil defense ■ Has been active for over 67 years ■ Component of Framingham Emergency Management ■ 20 auxiliary officers ■ 160 combined years of service ■ Generally between 3,000 and 4,000 annual hours of service ■ Recipient of the Presidential Volunteer Service Award 2003 through 2008 

Organization
<ul style="list-style-type: none"> ■ Statutory authority exists under Massachusetts civil defense law ■ Operates within police department guidelines ■ Reserve Intermittent Academy Trained ■ Internal paramilitary structure <ul style="list-style-type: none"> – Captain (Commanding Officer) – Lieutenants – Sergeant – Officer 

Regular Assignments and Duties
<ul style="list-style-type: none"> ■ Train for emergencies <ul style="list-style-type: none"> - Weekend training patrols - Assistance at the police station - Ride-a-long with Framingham Officers - Public Safety for Community Events (Parades, Celebrations, Concerts, Road races) - Annual and monthly in-service training ■ Assist during emergencies <ul style="list-style-type: none"> - Hurricanes, blizzards, floods, fire, EOC - Provide police services at emergency shelters

Community Involvement
<ul style="list-style-type: none"> ■ Traffic Control for community events ■ Training Role Players for the FPD ■ Missing Children / Elderly Searches ■ Level 3 Sex Offender – Neighborhood Notifications ■ Child Safety – Fingerprinting ■ Assist FPD at large community celebrations and events



Auxiliary / Reserve Police Selection
<ul style="list-style-type: none"> ■ It starts with only hiring the best! ■ Reserve Police Officers can be enhancements to police service delivery – if they are held to the same high standards as full-time officers ■ Best Practices around the world are that you select the same high quality candidate for an auxiliary or reserve officer as you would a full-time officer

Membership Requirements in Framingham
<ul style="list-style-type: none"> ■ Resident of the Town of Framingham and resident for at least six months prior to application ■ Applicants must be at least 21 years of age ■ Applicants must be Citizens of the United States of America ■ Applicants must have as a minimum education the equivalence of a high school degree ■ Applicants must demonstrate interest, motivation, and intent to perform a volunteer community service to the Town of Framingham as an auxiliary police officer

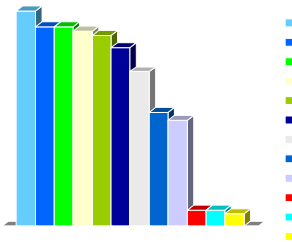
Selection Process used in Framingham

- Completed application received
 - Same application as used by the FPD – with additional auxiliary questions
- Computer record check
- Auxiliary police entrance exams
 - Entry Level Police Officer Test (Laser Associates)
 - Psychological Exam (IPAT)
 - Background Review (Johnson, Roberts & Associates)
 - Cost is approximately \$20 for each exam scored
- Oral Board Interview
- Background investigation

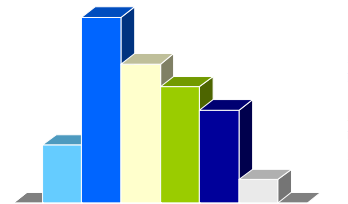
Selection Criteria used in Framingham

- Passing score on police officer entrance exams
- Clean background
- Good driving history
- Medical clearance from Medical Doctor
- Positive interview with selection committee
- A demonstrated serious commitment to community service
- Rejection Rate: 55% - 60%

Survey Results - Selection Process Includes:



Survey Results - Acceptance Rate



Best Practices - Training



Initial Training Requirements

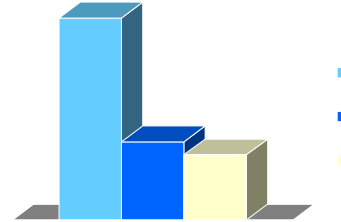
- MPTC Reserve Intermittent Academy
- First Responder First Aid
- CPR / AED
- Introduction to the Auxiliary Police
- Field Training Commences (Unarmed)
- Trained and Certified in Use of Force, OC, Baton and Firearms – before carrying
- Probationary Period before firearms carry

Initial Training Before Uniform Issued

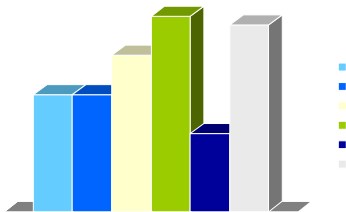
- MPTC reserve academy - 120 hours
- First responder first aid - 40 hours
- CPR/AED certification - 16 hours
- Framingham Auxiliary intro - 24 hours

- **Total - 200 hours – Before Field Training and Use of Force Training**
- Academy fee reimbursed after 1 year of service

Survey Results - Reserve Intermittent Academy Required



Survey Results - No Academy Required - % of Officers with Reserve Intermittent Academy

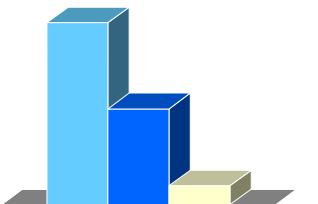


In-Service Training

- Annual In-Service for Reserve Officers – conducted in-house coordinated with MPTC training requirements
- Use of Force, OC, Baton, and Firearms re-certification with FPD
- First Responder and CPR/AED
- Legal Update
- Monthly Training Meetings



Survey Results - Annual Reserve In-service Required



Wrap-up

- Accreditation will enhance your auxiliary and reserve programs
- Accreditation Standards follow best practices – that professional programs follow
- You can have a professional program that will be of benefit to your agency and NOT be an obstacle in Accreditation

Concluding Statement

You wouldn't go in there for a million bucks.
A cop does it for a lot less.
A reserve does it for free.



Questions ?

