

# Section 15 Forfeiture Mock Hearing

August 2008  
Commonwealth of Massachusetts  
Public Employee Retirement Administration Commission

Barbara Phillips, *PERAC General Counsel*  
Judith Corrigan, *PERAC Deputy General Counsel*  
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***Commonwealth of Massachusetts***

**Public Employee Retirement Administration Commission**

The Honorable Domenic J. F. Russo, *Chairman* | The Honorable A. Joseph DeNucci, *Vice Chairman*

The Honorable Deval Patrick | The Honorable Paul V. Doane | Kenneth J. Donnelly

James M. Machado | Donald R. Marquis

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Published by PERAC, 2008. Printed on recycled paper.

# CRIMINAL COMPLAINT

|   |  |  |   |   |
|---|--|--|---|---|
| <b>CRIMINAL COMPLAINT<br/>PROSECUTOR COPY</b>   | <b>DOCKET<br/>NUMBER<br/>0808PER1930</b>           | <b>NO. OF<br/>COUNTS<br/>1</b>         |   | <b>Trial Court of Massachusetts</b>   |
| <b>DEFENDANT NAME &amp; ADDRESS<br/>Florence S. Craig Simpsons Blvd.<br/>Periwinkle, MA 00001<br/>413-000-9999</b>  |  |  |   | <b>Court name and address;<br/>Quabbin Courthouse, Two Main<br/>Street, Quabbin, MA 01234</b> |
| <b>DEFENDANT DOB<br/>10/10/1961</b>   | <b>COMPLAINT<br/>ISSUED<br/>1/19/07</b>            | <b>DATE OF<br/>OFFENSE<br/>1/18/07</b> | <b>ARREST DATE<br/>January 18, 2007</b> |   |
| <b>OFFENSE CITY/TOWN<br/>Quabbin</b>  | <b>OFFENSE<br/>ADDRESS</b>                         |  |   | <b>NEXT EVENT DATE &amp; TIME</b>   |
| <b>POLICE DEPARTMENT<br/>Quabbin PD</b>   | <b>POLICE<br/>INCIDENT<br/>NUMBER<br/>07-01-QU</b> |  |   | <b>NEXT SCHEDULED EVENT</b>   |
| <b>OBTN</b>   |  |  |   | <b>ROOM/SESSION</b>   |
| The undersigned complainant, on behalf of the Commonwealth, on oath complains that on the dates(s) indicated below the defendant committed the offense(s) listed below and on any attached pages. |  |  |   |   |

| <b>COUNT</b>  | <b>CODE</b>   | <b>DESCRIPTION</b>                |
|---|---------------|-----------------------------------|
| <b>1</b>  | <b>217/44</b> | <b>manslaughter c. 265, s. 13</b> |
| On or about January 18, 2007 Defendant did commit manslaughter on another person, in violation of G.L. c. 265, §13.<br>PENALTY: Imprisonment in the House of Correction of 1 and 1/2 years and a fine of not less than \$100. |               |                                   |

# PERAC'S NOTICE TO BOARD OF CRIMINAL PROCEEDINGS

# PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*  
MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

February 7, 2007

John Smith, Executive Director  
Quabbin Retirement Board  
Room 123 – Town Hall  
Quabbin, MA 01234

RE: Florence S. Craig

Dear Mr. Smith:

It has come to our attention that a criminal matter involving former Election Clerk, Florence Craig, is pending resolution. When the judicial proceedings are complete, I would appreciate it if you would let me know what action, if any, your Board decides to take in this case. If we can provide information, please feel free to contact me.

Sincerely,



Joseph E. Connarton  
Executive Director



# JURY VERDICT

QUABBIN SUPERIOR COURT

COMMONWEALTH v. CRAIG

Docket No. 0808 PER 1930

We the Jury in the above-entitled case find the Defendant, Florence S. Craig

Guilty

Not Guilty

of the Crime of Manslaughter, in contravention of M.G.L. c. 265, § 13, more specifically:

That on or about January 18, 2007, the Defendant did unlawfully cause the death of Marianna Sharon MacPherson, a human being, without malice aforethought.

Entered this 6th day of April, 2007.

BY: THE FOREMAN on behalf of the entire jury:

Scott T. Foreman

SO SAY US ALL.

# PERAC'S NOTICE TO BOARD OF MEMBER'S CONVICTION

# PERAC

COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*

JOSEPH E. CONNARTON, *Executive Director*

MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

April 10, 2007

John Smith, Executive Director  
Quabbin Retirement Board  
Room 123 – Town Hall  
Quabbin, MA 01234

RE: Florence S. Craig

Dear Mr. Smith:

It has come to our attention that a former Election Clerk, Florence S. Craig, has been convicted of manslaughter. I would appreciate it if you would let me know what action, if any, your Board decides to take in this case. If we can provide information, please feel free to contact me.

Sincerely,



Joseph E. Connarton  
Executive Director



# BOARD'S NOTICE TO MEMBER OF RIGHT TO A HEARING

Quabbin Retirement Board  
Room 123 – Town Hall  
Quabbin, MA 01234  
(413) 555-2828

July 8, 2008

Florence Craig  
874 Simpsons Avenue  
Periwinkle, MA 02241

Dear Ms. Craig:

It has been brought to the attention of the Quabbin Retirement Board that you have been convicted of killing your co-worker, and have only recently been released from prison. The conviction was for manslaughter. The victim was another employee of the election department, Marianna MacPherson.

You should be aware that if you are convicted of a crime related to your office or position, you forfeit your right to a retirement allowance under Section 15 of Chapter 32. Therefore, the Board is preparing to revoke your right to a retirement allowance, and return your deductions to you without interest.

If you would like to be heard about this, please contact me at the number listed above and we will put you on the agenda for the next Board meeting. I have enclosed copies of Section 15 and Section 16(1), which describes your right to a hearing.

Sincerely,

*John Smith*

John Smith  
Executive Director

# MEMBER'S REQUEST FOR A HEARING

874 Simpsons Ave.  
Periwinkle, MA 02241  
July 11, 2008

John Smith  
"Executive Director"  
Quabbin Retirement Board  
Room 123 – Town Hall  
Quabbin, MA 01234

Dear Mr. Smith:

I have read your letter that you sent to me about the loss of my pension. Please be advised that I plan to retire as an "eighty per center." That has always been my plan, and that is how I have prepared for retirement. As you know, I am suing the Election Department to get my job back.

I read the law you sent and I never committed a crime related to the election laws. Also, in my mind, I never committed a crime. I did everybody a favor! Wherever she is now (I suspect it's some place very warm) if she thinks she's going to steal my lunch, steal my things, and then steal my pension she has another thing coming!

My lawyer says you are full of ■■■. Please schedule me for a hearing.

Very truly,

*Florence S. Craig*  
Florence S. Craig

# BOARD'S NOTICE OF HEARING DATE

Quabbin Retirement Board  
Room 123 – Town Hall  
Quabbin, MA 01234  
(413) 555-2828

July 22, 2008

Florence Craig  
874 Simpsons Avenue  
Periwinkle, MA 02241

Dear Ms. Craig:

This is in response to your letter, dated July 11, 2008, regarding your request for a hearing before your rights to a retirement allowance are forfeited pursuant to Section 15 of Chapter 32 of the General Laws.

A hearing in this matter will be held before the Quabbin Retirement Board on Monday, August 18, 2008 at 2:30 PM here at Quabbin Town Hall. You will have the right to call witnesses and to cross examine witnesses. After the conclusion of the hearing, the Board will take your request to retain rights to a future retirement allowance under advisement.

Please call me at the number listed above if you have any questions or concerns about this. Please be advised a member of the Quabbin Police Department will be present at the hearing, as will Ms. MacPherson's widower.

Sincerely,



John Smith  
Executive Director

*All roads lead through Quabbin*

# RELEVANT STATUTES

## Chapter 32: Section 15. Dereliction of duty by members

Section 15. (1) *Misappropriation of Funds.* — Any member who has been charged with the misappropriation of funds or property of any governmental unit in which or by which he is employed or was employed at the time of his retirement or termination of service, as the case may be, or of any system of which he is a member, and who files a written request therefor shall be granted a hearing by the board in accordance with the procedure set forth in subdivision (1) of section sixteen. If the board after the hearing finds the charges to be true, such member shall forfeit all rights under sections one to twenty-eight inclusive to a retirement allowance or to a return of his accumulated total deductions for himself and for his beneficiary, or to both, to the extent of the amount so found to be misappropriated and to the extent of the costs of the investigation, if any, as found by the board. He shall thereupon cease to be a member, except upon such terms and conditions as the board may determine.

(2) *Initiation of Proceedings.* — Proceedings under this section may be initiated by the board, by the head of the department, by the commission or board of the commonwealth or of any political subdivision thereof wherein the member is employed or was last employed if not then in service, or in a county by the county commissioners, in a city by the mayor, in a town by the board of selectmen, in the Massachusetts Turnpike Authority by the authority, in the Massachusetts Housing Finance Agency by the agency, in the Massachusetts Port Authority by the authority, in the Greater Lawrence Sanitary District by the district, in the Blue Hills Regional School System by the system or in the Minuteman Regional Vocational Technical School District by the district. The procedure set forth in subdivision (1) of section sixteen relative to delivery of copies, statement of service thereof, notice, hearing, if requested and the filing of a certificate of findings and decision, so far as applicable, shall apply to any proceedings under this section.

(3) *Forfeiture of Rights upon Conviction.* — In no event shall any member after final conviction of an offense involving the funds or property of a governmental unit or system referred to in subdivision (1) of this section, be entitled to receive a retirement allowance or a return of his accumulated total deductions under the provisions of sections one to twenty-eight inclusive, nor shall any beneficiary be entitled to receive any benefits under such provisions on account of such member, unless and until full restitution for any such misappropriation has been made.

(3A) *Forfeiture of rights upon conviction.* — In no event shall any member after final conviction of an offense set forth in section two of chapter two hundred and sixty-eight A or section twenty-five of chapter two hundred and sixty-five pertaining to police or licensing duties be entitled to receive a retirement allowance or a return of his accumulated total deductions under the provisions of sections one to twenty-eight, inclusive, nor shall any beneficiary be entitled to receive any benefits under such provisions on account of such member.

(4) *Forfeiture of pension upon misconduct.* — In no event shall any member after final conviction of a criminal offense involving violation of the laws applicable to his office or position, be entitled to receive a retirement allowance under the provisions of section one to twenty-eight, inclusive, nor shall any beneficiary be entitled to receive any benefits under such provisions on account of such member. The said member or his beneficiary shall receive, unless otherwise prohibited by law, a return of his accumulated total deductions; provided, however, that the rate of regular interest for the purpose of calculating accumulated total deductions shall be zero.

(5) If the attorney general or a district attorney becomes aware of a final conviction of a member of a retirement system under circumstances which may require forfeiture of the member's rights to a pension, retirement allowance or a return of his accumulated total deductions pursuant to this chapter, sections 58 or 59 of chapter 30 or section 25 of Chapter 268A, he shall immediately notify the commission of such conviction.

### **Chapter 32: Section 16. Involuntary retirement; right to a hearing; right of review or appeal**

Section 16. (1) *Involuntary Retirement and Right to a Hearing.* — (a) Any head of a department who is of the opinion that any member employed therein should be retired for superannuation, ordinary disability or accidental disability, in accordance with the provisions of section five, six, or seven, as the case may be, may file with the board on a prescribed form a written application for such retirement. Such application shall include a fair summary of the facts upon which such opinion is premised. The applicant shall forthwith deliver to such member by registered mail, with a return receipt requested, a true copy of such application, together with a brief statement of the options available to such member on his retirement and a statement of his right, if any, to request a hearing with regard to such retirement and of the right, if any, of review available to him, as provided for in this section, in case he is aggrieved by any action taken or decision of the board rendered or by failure of the board to act upon his request or to render a decision within the time specified in this subdivision. Upon such delivery to such member the head of the department, or one acting in his behalf, shall file with the board under the penalties of perjury a written notice of such delivery, including the date thereof.

(b) Any member in service classified in Group 1, Group 2 or Group 4 who has attained age fifty-five and completed fifteen or more years of creditable service, or any member in service so classified who has not attained age fifty-five but who has completed twenty or more years of creditable service, for whom an application for his retirement is filed by the head of his department as provided for in paragraph (a) of this subdivision, may, within fifteen days of the receipt of his copy of such application, file with the board a written request for a private or public hearing upon such application. If no such request is so filed, the facts set forth in such application shall be deemed to be admitted by such member; otherwise such hearing shall be held not less than ten nor more than thirty days after the filing of the request. The board, after giving due notice, shall conduct such hearing in such manner and at such time or times as the best interests of all parties concerned may require. The board shall prepare and file with its clerk or secretary a certificate containing its findings and decision, copies of which shall be sent to the proper parties within fifteen days after completion of such hearing.

### **Chapter 265: Section 13. Manslaughter; punishment**

Section 13. Whoever commits manslaughter shall, except as hereinafter provided, be punished by imprisonment in the state prison for not more than twenty years or by a fine of not more than one thousand dollars and imprisonment in jail or a house of correction for not more than two and one half years. Whoever commits manslaughter while violating the provisions of sections one hundred and one to one hundred and two B, inclusive, of chapter two hundred and sixty-six shall be imprisoned in the state prison for life or for any term of years.









***Commonwealth of Massachusetts***  
**Public Employee Retirement Administration Commission**  
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