

**COMMONWEALTH OF MASSACHUSETTS**

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503  
Boston, MA 02108  
(617) 727-2293

INITIATION OF INVESTIGATION RE:

BOSTON POLICE DEPARTMENT & DUE PROCESS OF NON-SELECTED CANDIDATES

Tracking No. I-16-106

**INITIATION OF INVESTIGATION**

1. On June 15, 2013, the state's Human Resources Division (HRD) administered an examination for Boston Police Officer.
2. On November 1, 2013, HRD established an eligible list of candidates for Boston Police Officer.
3. On April 27, 2015, HRD issued Certification No. 02742 to the Boston Police Department (BPD) to appoint thirty-five (35) police officers.
4. Certification No. 02742 contained five hundred fifty-one (551) names, ranked from 1 to 50 with many candidates tied in various rankings.
5. According to the BPD, seventy (70) candidates were appointed as police officers, including several candidates tied for 50<sup>th</sup>.
6. According to the BPD, the successful candidates were granted conditional offers of employment on or around October 31, 2015.
7. Pursuant to G.L. c. 31, § 27, if an appointing authority bypasses a candidate for appointment, it "shall immediately file with the administrator a written statement of his reasons for appointing the person whose name was not highest. Such an appointment of a person whose name was not highest shall be effective only when such statement of reasons has been received by the administrator. The administrator shall make such statement available for public inspection at the office of the department."
8. The Personnel Administration Rules (PAR) define a bypass as: "the selection of a person or persons whose name or names ... appear lower on a certification than a person or persons who are not appointed and whose names appear higher on said certification."

9. Since on or around October 2009, HRD, via a delegation agreement, effectively eliminated the requirement that appointing authorities notify HRD of bypass reasons.
10. As part of the delegation process, HRD forwarded all appointing authorities a guide outlining their delegated responsibilities.
11. On Page 5 of the Delegation Agreement, it states in relevant part that, “In compliance with the Personnel Administration Rules, bypassed candidates must be provided the selection reasons for lower ranked candidates who are appointed . . . . the candidate not selected for appointment has the right to appeal with the Civil Service Commission, per Personnel Administration Rules which must be clearly communicated to the effected candidate.”
12. On December 28, 2015, the BPD notified HRD of the names of those individuals who were appointed as Boston police officer, including candidates ranked in the 50<sup>th</sup> tie group.
13. According to the BPD, the candidates appointed from Certification No. 02742 commenced employment and were enrolled in the Police Academy on or around December 28, 2015.
14. Approximately three hundred (300) candidates were ranked above 50<sup>th</sup> (i.e. – 1<sup>st</sup> through 49<sup>th</sup>).
15. Of those three hundred (300) candidates ranked from 1<sup>st</sup> to 49<sup>th</sup> who signed as willing to accept appointment and who were not selected for appointment, the BPD was required to provide them with bypass reasons.
16. The BPD did not begin to provide non-selected candidates with written notification of bypass reasons until on or about March 16, 2016, more than four (4) months after making conditional offers of employment and more than two (2) months after the successful candidates were enrolled in the police academy.
17. The Commission has only received six (6) appeals from non-selected candidates ranked 1<sup>st</sup> through 49<sup>th</sup> on Certification No. 02742. That appears to be an unusually low number of appeals given the potentially high number of non-selected candidates ranked 1<sup>st</sup> through 49<sup>th</sup> who may have indicated a willing to accept employment.
18. In regard to two (2) of the six (6) appeals filed with the Commission, the BPD’s written notice to the non-selected candidate failed to notify them of their right to file a bypass appeal with the Commission.
19. Given the low number of appeals received (6); the fact that the BPD failed to notify two (2) of those Appellants of their appeal rights; and the fact that the BPD had waited months to provide bypass reasons to any candidates, I asked counsel for the BPD to provide me with additional information regarding this hiring cycle, including, but not limited to, the number of candidates who signed the Certification as willing to accept appointment; of those, how many were ranked 1<sup>st</sup> through 49<sup>th</sup> and were not selected; and, of those, how many were sent bypass reasons along with a notification of their appeal rights to the Commission.

20. The above-referenced information requests were made by me to counsel for the BPD verbally and via email and were referenced in a Procedural Order as well as a Decision issued by the Commission.
21. The BPD has ignored these requests for information.
22. Pursuant to G.L. c. 31, §§ 2(a) and 72 and G.L. c. 7, § 4I, the Civil Service Commission, on its own initiative, hereby opens an investigation and orders the Boston Police Department to provide the following information no later than thirty (30) days from the issuance of this order:
  - A. A copy of Certification No. 02742 that includes the signatures of those candidates willing to accept appointment.
  - B. A copy of any correspondence, including notification of non-selection, to those candidates ranked 1<sup>st</sup> through 49<sup>th</sup> on Certification No. 02742, who signed as willing to accept appointment but who were not appointed.

After receipt of this information, the Commission reserves the right to request additional information and/or make additional orders.

SO ORDERED.

Civil Service Commission

/s/ Christopher Bowman  
Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on June 9, 2016.

Notice:

Meryum Khan, Esq. (Boston Police Department)  
Peter Geraghty, Esq. (Boston Police Department)  
Katherine Hoffman, Esq. (Boston Police Department)

Courtesy Copy to:

John Marra, Esq. (Human Resources Division)