

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street, Suite 200
Boston, MA 02114

RANDY CHEAM,
Appellant

v.

BOSTON POLICE DEPARTMENT,
Respondent

Docket Number:

G1-25-033

Appearance for Appellant:

Randy Cheam, *Pro se*

Appearance for Respondent:

Joseph A. McClellan, Esq.
Boston Police Department
Office of the Legal Advisor
One Schroeder Plaza
Boston, MA 02120

Commissioner:

Angela C. McConney¹

SUMMARY OF DECISION

The Commission affirmed the decision of the Boston Police Department to bypass a candidate for appointment as a police officer based on his driving history.

DECISION

Pursuant to G.L. c. 31, § 2(b), the Appellant, Randy Cheam, appealed to the Civil Service Commission (Commission) the January 13, 2025 decision of the Boston Police Department (Department) to bypass him for original appointment to the position of police officer in the

¹ The Commission acknowledges the assistance of law clerk Jason Walker in the drafting of this decision.

Department. The Department based its decision on Mr. Cheam's judgment and poor driving record, including four NSC courses.

The Commission held a pre-hearing conference on March 13, 2025 via remote videoconference. On April 30, 2025, I conducted an evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston.² I recorded the hearing via the Webex platform.³ The parties filed post hearing briefs in June 2025, whereupon the administrative record closed.

FINDINGS OF FACT

The Department entered four exhibits (R. Exhibits 1-4) into evidence. I admitted the Appellant's appeal as Appellant Exhibit 1 (A. Exhibit 1). Based on the exhibits entered into evidence and the testimony of the following witnesses:

Called by the Department:

- Natasha Levarity, Director of Human Resources, BPD
- Detective Sophia Vega-Jones

Called by the Appellant:

- Randy Cheam, Appellant

and taking administrative notice of all matters filed in the case, pertinent law, and reasonable inferences from the credible evidence, I make the following findings of fact:

² The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. §§ 1.01 et seq. (Formal Rules) apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

³ Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission's official recording.

1. Randy Cheam (Mr. Cheam or Appellant) is a resident of the City of Boston. He is a naturalized citizen, originally from Haiti. (Testimony of Appellant)

2. Mr. Cheam earned a bachelor's degree in sports management and currently works as an athletic assistant at a community center. (Testimony of Appellant)

3. Mr. Cheam's job duties include operating a company van to transport youth to various activities. (Testimony of Appellant)

4. Mr. Cheam collaborates with Department police officers who volunteer for the community center's youth basketball programs, toy drives and holiday turkey giveaways. (Testimony of Appellant)

Civil Service Process

5. On March 16, 2024, Mr. Cheam took the civil service examination for the position of permanent full-time police officer. (Stipulated Fact)

6. On June 1, 2024, the state's Human Resources Division (HRD) established an eligible list for Boston police officer. Mr. Cheam ranked 77th on the eligible list. (Stipulated Facts)

7. On June 28, 2024, HRD issued Certification No. 09999 to the Department, from which it could fill vacancies from the top candidates willing to accept conditional employment. (Stipulated Facts)

8. The Department convened a roundtable comprised of representatives from Human Resources (HR), the Legal Department and the Internal Affairs Department (IAD) to review Mr. Cheam's candidacy for the position of permanent full-time police officer. Director Natasha Levarity served as HR's representative at the roundtable. The HR and IAD representatives are the only voting members of the roundtable. (Testimony of Levarity)

9. The roundtable did not recommend Mr. Cheam for appointment. The Department extended conditional offers to 30 other candidates ranked below Mr. Cheam on the certification. (Stipulated Facts)

10. HR Director Natasha Levarity informed Mr. Cheam of the Department's decision in a January 13, 2025 letter, enclosing his appeal rights. (R. Exhibit 1; Testimony of Levarity)

11. Director Levarity referenced two reasons for bypass in the January 13, 2025 letter: Mr. Cheam's poor judgment and driving history, citing specifically his four National Safety Council (NSC) courses and his five warnings received after his last NSC course. (R. Exhibit 1; Testimony of Levarity)

12. Ms. Levarity noted in regard to poor judgment:

You were arrested in May of 2020 ... for failure to stop for a police officer, driving to endanger, red light violation, failure to use turn signal, crosswalk violation and open container of alcohol. While the charges were dismissed at arraignment on 6/22/20, the Boston Police Department has significant concern with your judgment.

... As a result, your prior conduct and poor judgement deems you unsuitable for employment as a Boston Police Officer.

(R. Exhibit 1)

13. Ms. Levarity noted in regard to the driving history:

You reported receiving 12 citations ranging from 2013 to 2020. These citations include: 3 violations for payment defaults, 1 violation for speeding, 2 violations for failure to obey stop/yield sign, 1 violation for miscellaneous municipal motor vehicle ordinance, 1 violation for operating a motor vehicle with a modification height and 4 violations for improper operation of a motor vehicle.

(R. Exhibit 1)

14. On January 30, 2025, Mr. Cheam filed his appeal with the Commission. (A. Exhibit 1)

Background Investigation

15. The Recruit Investigations Unit (RIU) assigned Det. Sophia Vega-Jones, a 30-year veteran of the Department, to conduct Mr. Cheam's background investigation. The detective investigated his education, work history, residency, criminal offender registry information (CORI), financial records, driving record, military history, social media, drug usage, field investigation and observation (FIOs), interviews, references and other reports. (Testimony of Vega-Jones)

16. On October 18, 2024, Det. Vega-Jones completed a "Privileged and Confidential Memorandum" (PCM), containing the results of her investigation. (R. Exhibit 2; Testimony of Levarity)

17. Det. Vega-Jones found that Mr. Cheam's significant other reported no domestic issues. (R. Exhibit 2)

18. Mr. Cheam's current employer reported that he was respectful, dedicated to his job with the youth, very professional and worked great with others. (R. Exhibit 2)

19. Det. Vega-Jones visited Mr. Cheam's home and found that it was well kept, very neat and orderly, with personal effects present throughout the home. The detective concluded that Mr. Cheam met the residency requirement based on the March 2024 civil service exam. She completed a Home Inspection Form and placed it in Mr. Cheam's file. (R. Exhibit 2)

20. She reviewed Mr. Cheam's Registry of Motor Vehicles (RMV) driving history and found 13 separate incidents from January 2013 to March 2022. (R. Exhibit 2)

21. According to the RMV driving history, Mr. Cheam was found Responsible for a January 16, 2013 speeding incident; Responsible for failing to yield in a March 30, 2013 incident; failing to obey a sign in an October 19, 2015 incident; and improper operation of a motor vehicle on August 6, 2017. On September 11, 2017, Mr. Cheam's driver's license was suspended for failure to pay fines and costs. (R. Exhibit 2)

22. Mr. Cheam had a surchargeable accident on February 27, 2019 after he reversed from a parking lot into the public way and was hit by another operator already traveling in the public way. (R. Exhibit 2)

23. According to the RMV driving history, Mr. Cheam was found Responsible for violation of a municipal motor vehicle ordinance/bylaw for a June 13, 2020 incident. He was found Responsible for two counts of improper operation of a motor vehicle and operating a motor vehicle with improper height stemming from a June 26, 2020 incident. On August 1, 2020, his driver's license was suspended for a second time for failure to pay fines and costs. (R. Exhibit 2)

24. Det. Vega-Jones found an arrest when she searched Mr. Cheam's name in the Department's database. Mr. Cheam was arrested on May 16, 2020 after he refused to pull over after police officers saw him speeding.⁴ The police report indicates that Mr. Cheam ignored the police pursuit with sirens and lights, drove through a red light, and made a right turn. The report further indicates that the officers continued to chase Mr. Cheam until he eventually pulled over and parked in a crosswalk. Officers reportedly found an open container of alcohol in the motor

⁴ This incident is documented in the RMV driving history with a May 16, 2020 incident date for a) the failure to stop/yield, b) reckless operation of a motor vehicle, c) open container of alcohol in motor vehicle, d) crosswalk violation with court date of July 1, 2020. However, there is no notation of the court disposition. (R. Exhibit 2)

vehicle and Mr. Cheam said that he did not know the alcohol was there and that it must belong to his passenger. Further, the report indicates that he said that he was rushing home in order to use the bathroom. The officers arrested Mr. Cheam on charges of failure to stop for a police officer, driving to endanger, red light violation, failure to use a turn signal, making a crosswalk violation, and possessing an open container of alcohol. The court dismissed the charges at the June 2020 arraignment. (R. Exhibits 2 and 4)

25. The RMV issues a suspension notice to operators with three surchargeable events (including out-of-state violations) within a two-year period. G.L. c. 175, § 113B. If another surchargeable event is added to an operator's driving record, and two of the previous violations are within a three-year period, the operator will be given an additional three-surchargeable event suspension or revocation. There is no limit to the number of these suspensions or revocations that can be added. Multiple three-surchargeable events suspensions or revocations may be served at the same time. An NSC course or Massachusetts Driver Retraining Program is required each time a suspension or revocation of this type is issued.⁵ G.L. c. 175, § 113B. (R. Exhibit 2)

26. Mr. Cheam completed four NSC courses, the last one in October 2020. Since then, he has received five warnings: three warnings for a single February 2021 incident for miscellaneous equipment violation, lights violations and for speeding (Mr. Cheam was first Responsible for speeding in a January 16, 2013 incident); a warning in January 2022 for

⁵ The operator has 90 days from the issuance of the suspension notice to complete a mandatory NSC course or Massachusetts Driver Retraining Program before the suspension or revocation becomes active. If the operator completes the course before the date listed on the suspension notice, the RMV will not take any additional actions to suspend or revoke one's permit, license, or right to operate. If the operator fails to complete the course before the date on the notice, the RMV will suspend or revoke the operator's permit, license, or right to operate until he/she has successfully completed the course. G.L. c. 175, § 113B.

obstructed windows; and a warning in March 2022 for a number plate violation. Operators may not appeal warnings. (R. Exhibit 2)

Applicable Legal Standard

The core mission of Massachusetts civil service law is to enforce “basic merit principles” for “recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills” and “assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions.” G.L. c. 31, § 1. *See, e.g., Massachusetts Ass’n of Minority Law Enforcement Officers v. Abban*, 434 Mass. 256, 259 (2001); *MacHenry v. Civil Serv. Comm’n*, 40 Mass. App. Ct. 632, 635 (1995), rev. den., 423 Mass. 1106 (1996). *See also Brookline v. Alston*, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law). The role of the Civil Service Commission in a bypass appeal is to determine whether “on the basis of the evidence before it, the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by appointing authority.” *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). *See Watertown v. Arria*, 16 Mass. App. Ct. 331 (1983); *McIsaac v. Civil Serv. Comm’n*, 38 Mass. App. Ct. 411 (2000); *Police Dep’t of Boston v. Collins*, 48 Mass. App. Ct. 411 (2000); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 728 (2003).

Original appointments of civil service employees are made from a list of candidates, called a “certification,” whose names are drawn in the order in which they appear on the civil service “eligible list,” using what is called the 2n+1 formula. G.L. c. 31, §§ 6 – 11; 16 – 27; Personnel Administration Rules, PAR.09. An appointing authority must provide specific written

reasons, consistent with basic merit principles, when choosing to bypass a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4).

In its review of bypass decisions, the Commission must determine whether the appointing authority has shown, by a preponderance of the evidence, that it had “reasonable justification” for the bypass, after conducting an “impartial and reasonably thorough review” of the relevant background and qualifications bearing on the candidate’s present fitness to perform the duties of the position. *Boston Police Dep’t v. Civil Serv. Comm’n*, 483 Mass. 461, 474-78 (2019); *Police Dep’t of Boston v. Kavaleski*, 463 Mass. 680, 688-89 (2012); *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. 182, 187 (2010); *Leominster v. Stratton*, 58 Mass. App. Ct. at 727-28. An action to bypass a candidate is justified when it is “done upon adequate reasons sufficiently supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law.” *Cambridge*, 43 Mass. App. Ct. at 304, quoting *Selectmen of Wakefield v. Judge of First Dist. Court of Eastern Middlesex*, 262 Mass. 477, 482 (1928); *Commissioners of Civil Serv. v. Municipal Court of the City of Boston*, 359 Mass. 211, 214 (1971). *Cambridge* further states, “[i]n the task of selecting employees of skill and integrity, appointing authorities are invested with broad discretion.” *Id.* at 304.

The Commission’s role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority’s actions. *Falmouth v. Civil Serv. Comm’n*, 447 Mass. 814, 824-26 (2006). The issue for the Commission is “not whether it would have acted as the appointing authority had acted, but whether, on the facts found by the Commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the Commission to have existed when the appointing authority made its decision.” *Arria*, 16 Mass. App. Ct. at 334. *See Commissioners of Civil Serv. v.*

Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. at 727-28. The Commission owes substantial deference to the appointing authority's exercise of judgment in determining whether there was “reasonable justification” shown. *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. at 188. That “deference is especially appropriate with respect to the hiring of police officers.” *Id.*

Public safety officers are vested with considerable power and discretion and therefore must be held to a high standard of conduct. *See, e.g., Falmouth v. Civil Serv. Comm’n*, 61 Mass. App. Ct. 796, 801 (2004), citing *Cambridge, supra*, 43 Mass. App. Ct. at 303-305; *Police Comm’r v. Civil Serv. Comm’n*, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986).

Analysis

The Department has proven by a preponderance of the evidence that it had reasonable justification to bypass Mr. Cheam for appointment due to his poor driving history.

Police departments are rightfully concerned with liability should an officer injure a member of the public or cause property damage by driving unsafely. However, the analysis of a candidate’s driving history should be based on the totality of their record, not singular events. *See White v. Boston Police Dep’t*, 38 MCSR (2025). For these reasons, the Commission has found that an exceptionally poor driving record is a reasonable justification for a bypass of a candidate. *See Serebour v. Boston Police Dep’t*, 36 MCSR 293 (2023); *Gilmore v. Boston Police Dep’t*, 36 MCSR 212 (2023); *McGrath v. Lowell*, 22 MCSR 560 (2009); *Torres v. Lowell*, 22 MCSR 558 (2009); *Campbell v. Boston Fire Dep’t*, 22 MCSR 489 (2009); *Jones v. Boston Police Dep’t*, 22 MCSR (2008).

There is no denying the appropriateness of diligently investigating a candidate’s driving record, as police officers are often called upon to operate a police cruiser, sometimes at high

speeds in stressful situations. *Moore v. Boston Police Dep't*, 37 MCSR 146 (2024), *aff'd Moore v. Boston Police Dep't, et al.*, No. 2484CV02253 (Suff. Sup. Ct., Sept. 19, 2025). As the Commission has previously found, however, an appointing authority must conduct a reasonably thorough review of the candidate's driving record *and* consider the applicant's driving history in the proper context in order to determine whether there is a *nexus* between the prior misconduct and the candidate's current ability to perform the duties of the position to which they seek appointment.

“An appointing authority, as part of a reasonably thorough review, should at least afford the applicant with the opportunity to address the underlying issues, either with the background investigator or an interview panel.” *Wine v. City of Holyoke*, 31 MCSR 19, 24 (2018). By affording a candidate the opportunity to address driving infractions head-on, an appointing authority will have an adequate basis on which to decide whether the infractions have any bearing on the candidate's fitness to perform the responsibilities of the position.

To evaluate driving histories in the proper context, the Commission has ruled that appointing authorities must consider such factors as:

- The recency of any infractions;
- Whether the candidate is required to drive more frequently because of their occupation, particularly in high traffic areas;
- Whether any of the violations such as nonpayment of fines for inspection stickers may be attributable to socioeconomic factors, and, accordingly, may have no bearing on whether an appellant can effectively serve in a public safety position.

See, e.g., Stylien v. Boston Police Dep't, 31 MCSR 209, 210 (2018); *Stylien v. Boston Police Dep't*, 31 MCSR 154 (2018); *Gibbons v. Woburn*, 32 MCSR 14 (2019); *Kodhimaj v. Department of Correction*, 32 MCSR 377 (2019); *Dorn v. Boston Police Dep't*, 31 MCSR 375, 376 (2018).

More broadly, when the bypass, as here, involves a person of color, appointing authorities must consider public policy concerns related to the racial disparity in traffic stops. *See Commonwealth v. Gonsalves*, 429 Mass. 658, 670 (1999) (Ireland, J., concurring) (“The widespread public concerns about police profiling, commonly referred to as ‘DWB—driving while black,’ has been the subject of much discussion and debate both across the country and within the Commonwealth”).

The Department conducted a reasonably thorough review of Mr. Cheam’s driving record. They reviewed information lawfully available to them through the RMV and the CJIS related to his driving record. Det. Vega-Jones then provided Mr. Cheam with an opportunity to address each of the entries on the report. As part of his report to the roundtable, the background investigator provided an itemized list of the driving history, giving the voting members the opportunity to make an informed decision.

During his employment with the community center, Mr. Cheam routinely transported young people in a company vehicle as part of his employment duties without incident. *See Serebour v. Boston Police Dep’t*, 36 MCSR 293, 296 (2023). Mr. Cheam’s driver’s license was suspended twice for failure to pay fines and costs, but he did not assert that this was due to economic circumstances.

It is undisputed that Mr. Cheam had to take four NSC courses in order to maintain his license. The administrative record does not include the dates of the NSC courses, so I was unable to verify whether Mr. Cheam took courses for every three driving offenses that occurred within a two-year window, or if he had to attend an additional NSC course when two of his previous violations fell into a three-year window. G.L. c. 175, § 113B. Thus, an operator may fall into a

“trap” of repeating NSC courses. Nonetheless, it is entirely within the candidate’s power to drive safely and obey the rules of the road.

Two years after his last NSC course in October 2020, Mr. Cheam received five warnings. In a single February 2021 incident, he received three warnings for miscellaneous equipment violation, lights violations and for speeding. In January 2022, he received a warning for obstructed windows; and a warning in March 2022 for a number plate violation. While it is true that operators may not appeal warnings, I admitted them as evidence while reserving judgment on the weight I would give to them in deciding this appeal.

I do not believe that the five 2021 and 2022 warnings alone permit a conclusion that Mr. Cheam has a poor driving history justifying his bypass. But when viewed in combination with his driving record during the several years preceding 2020, those warnings contributed to my decision that the Department was justified in bypassing him for appointment. Only one warning was a repeat of a previous offense – speeding, but the remaining four warnings were related to the offenses of lights violation, equipment violation, window obstruction and number plate violation. *Kogut v. Tildon*, Mass. Dist. Ct., No. 19-ADCV-118WE (2020).

The primary responsibility of a police officer is to uphold the law. To do so, an officer must be first trusted to follow the law. For this reason, “it is well settled that police officers voluntarily undertake to adhere to a higher standard of conduct than that imposed on ordinary citizens.” *Garrett v. Haverhill*, 18 MCSR 281, 285 (2005). It is reasonable for a police department to expect its applicants to have shown good judgment in the past.

To that end, Mr. Cheam’s record shows several minor lapses in judgment where he did not follow the law. His 2022 warnings were related to a number plate violation and a window obstruction citation. To be clear, these minor citations are not a sufficient ground for a bypass on

their own. Particularly because of the factors that make it easier for members of some socioeconomic groups to become subject to these citations, they may be evaluated with such considerations in mind. Nonetheless, Mr. Cheam's record of consistent and recent citations supports the bypass.

Most concerning is the May 2020 driving incident where Mr. Cheam was observed speeding, and continued to do so in an effort to evade the police. This shows a conscious violation of the law, a willingness to endanger others, and a brief attempt to evade law enforcement. While Mr. Cheam may indeed have needed to use the bathroom, it does not justify his behavior. There is also the matter of the open container of alcohol in the car, but Mr. Cheam was *not* charged with operating under the influence, and there were no field sobriety or breathalyzer tests.

Had the officers in the field suspected Mr. Cheam of an OUI, it is likely that they would have conducted the appropriate tests. Although the police incident report does not mention a passenger, it does not state that Mr. Cheam was the sole occupant of the motor vehicle. I decline to determine whether or not there was a passenger in the motor vehicle. This incident, occurring within the last five years, is sufficient to demonstrate poor judgment from Mr. Cheam.

At this time, the Department has reasonable justification to bypass Mr. Cheam based on his NSC courses and the totality of his driving history. I find that Mr. Cheam's record is sufficiently problematic to support the Department's legitimate concerns about his ability to safely operate a cruiser in the city of Boston. *Moore* at 37 MCSR 176 (2024).

However, this decision should not be seen as a permanent disqualification and a bar to Mr. Cheam's desire to be a Boston police officer. Should his driving record improve over time—particularly if Mr. Cheam continues to maintain a clean driving record as he has during the last

three years—then the Department must conduct a detailed, thorough review of the application and examine the full context of his record at that time.

CONCLUSION

Based on the preponderance of credible evidence, taken together, I conclude that the Boston Police Department had reasonable justification to bypass Randy Cheam based on his driving history. Accordingly, the appeal docketed under G1-25-033 is hereby *denied*.

Civil Service Commission

/s/ Angela C. McConney
Angela C. McConney
Commissioner

By vote of the Civil Service Commission (Bowman, Chair, Dooley, Markey, McConney, and Stein), Commissioners on November 13, 2025.

Either party may file a motion for reconsideration within ten days of receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 C.M.R. § 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:
Randy Cheam (Appellant)
Joseph A. McClellan, Esq. (for Respondent)