

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

Decision mailed: 5/16/08
Civil Service Commission *CB*

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

TIMOTHY M. CULLEN,
Appellant

v.

**DEPARTMENT OF
CORRECTIONS,**
Respondent

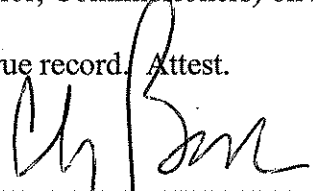
Case No.: D1-07-305

DECISION

After careful review and consideration, the Civil Service Commission voted at an executive session on May 15, 2008 to acknowledge receipt of the report of the Administrative Law Magistrate dated April 7, 2008. No comments were received by the Commission from either party. The Commission voted to adopt the findings of fact and the recommended decision of the Magistrate therein. A copy of the Magistrate's report is enclosed herewith. The Appellant's appeal is hereby *dismissed*.

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Marquis and Taylor, Commissioners) on May 15, 2008.

A true record. Attest.



Christopher C. Bowman
Chairman

Either party may file a motion for reconsideration within ten days of the receipt of a Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(I), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's order or decision.

Notice to:
Bradford Louison, Esq. (for Appellant)
Carol Colby, Esq. (for Appointing Authority)
Sarah H. Luick, Esq. (DALA)



COMMONWEALTH OF MASSACHUSETTS

Division of Administrative Law Appeals

98 North Washington Street, 4th Floor

Boston, MA 02114

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April 7, 2008

Christopher Bowman, Chairman
Civil Service Commission
One Ashburton Place, 5th Floor
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Bradford Louison, Esq.
Louison, Costello, Condon & Pfaff, LLP
67 Batterymarch Street
Boston, MA 02110

Carol A. Colby, Esq.
Joel Posner, Esq.
Department of Correction
Legal Division
70 Franklin Street, Suite 600
Boston, MA 02110

Re: *Timothy A. Cullen v. Department of Correction*, D1-07-305, CS-08-81 (DALA)

Dear Chairman Bowman, Attys. Louison, Colby and Posner:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that, pursuant to 801 CMR 1.01(11)(c), they have 30 days to file written objections to the decision with the Civil Service Commission, which may be accompanied by supporting briefs.

Very truly yours,

Sarah H. Luick
Sarah H. Luick
Administrative Magistrate

encl.

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CIVIL SERVICE COMMISSION

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

Timothy M. Cullen,
Appellant

v.

Docket Nos. D1-07-305
CS-08-81 (DALA)

Department of Correction,
Appointing Authority

Appearance for Appellant:

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Appearance for Appointing Authority:

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Joel Posner, Esq.
Department of Correction
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Boston, MA 02110

Administrative Magistrate:

Sarah H. Luick, Esq.

RECOMMENDED DECISION

Pursuant to G. L. c. 31, § 43, the Appellant, Timothy M. Cullen, is appealing the August 17, 2007 decision of the Appointing Authority, the Department of Correction (DOC), terminating him from his employment as a Correction Officer (CO) I. (Ex. 3) The appeal was timely filed with the Civil Service Commission. (See, Ex. 1) A hearing was held for the Civil Service Commission on February 6, 2008, at the offices of the Division of Administrative Law Appeals (DALA), 98 North Washington Street, 4th Floor, Boston, MA 02114.

COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

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Various documents are in evidence. (Exs. 1 – 10)¹ Three tapes were used. The Appointing Authority presented the testimony of Sergeant Thomas Mauretti of the Fall River Police Department's Detective Division. The Appellant testified on his own behalf. Both parties made arguments on the record.

FINDINGS OF FACT

1. Timothy Cullen, d.o.b. 12/20/68, became a CO I for DOC in September 2000. He sought this job after his honorable discharge from the United States Air Force Reserves/National Guard. He successfully completed the required academy training for CO work. He worked at M.C.I. Shirley with maximum security inmates until about the fall of 2005 when he transferred to the Massachusetts Alcohol and Substance Abuse Center (MASAC) at M.C.I. Bridgewater. He had no formal discipline on his record. He enjoyed working at MASAC, which is a thirty day rehabilitation program for alcohol and narcotics abusers. He worked the third shift there from 11:00 PM to 7:00 AM. (Exs. 1, 7 & 8. Testimony)

2. Mr. Cullen had a criminal record at the time of his hire, but he had no convictions on his record. He had been arraigned in 1992 and in 1993 on charges of sexual conduct for a fee, indecent exposure, and lewd and lascivious speech and behavior. Mr. Cullen had a history of problems with alcohol use over a twenty year time period by 2005, but had no alcohol related incidents at work. He found by 2005 that his alcohol use could at times have an impact on his short and long term memory. (Exs. 7, 8, 9 & 10. Testimony)

¹ Exhibit 9 is a DVD (film and audio) of an interview/interrogation of the Appellant. The audio portion of it, in terms of the Appellant's responses, is at times difficult to discern.

3. At the time of his hire, Mr. Cullen received a copy of the DOC Rules and Regulations booklet that governs the responsibilities and conduct of COs. (Ex. 5.

Testimony)

4. Mr. Cullen was off duty on or about November 8, 2005 when he drove his car to Fall River and parked his car at or near 33 Oak Street. He had been consuming alcohol. While in his car, he was seen masturbating by a Fall River Fire Fighter who was at the door of 33 Oak Street on steps about four feet above the ground from which he was able to have a good view of inside Mr. Cullen's car. He saw Mr. Cullen holding his exposed penis in his hands. The Fire Fighter also saw a female walking by Mr. Cullen's car. He could not detect whether or not the female saw what he was seeing, but he was very concerned that she could have. He wrote down the license plate number of Mr. Cullen's car and a description of it. He did not approach or yell out to Mr. Cullen. (Exs. 7, 9 & 10. Testimony)

5. This was not the first time Mr. Cullen had engaged in masturbating in his car on a public street either parked in his car or while driving. He had also done this conduct along with, or instead of, paying for the services of prostitutes. He had done this conduct in the years leading up to November 2005 as many as six times a year. His practice was not to flash his penis to persons walking by his car in an effort to have them see him masturbating. He would not be aroused to engage in this conduct in reaction to seeing children, and he had not done this conduct at playgrounds. He did not do this in reaction to watching men or young girls. (Exs. 7, 9 & 10. Testimony)

6. As he had on November 8, 2005 in Fall River, when Mr. Cullen engaged in this conduct, he often also engaged in drinking alcohol at and around the same time.

Due to the use of alcohol, he also would not have a clear memory of exact dates when he engaged in such conduct although he could recall engaging in such conduct. (Exs. 7, 9 &

10. Testimony)

7. The "General Policy" in the DOC Rules and Regulations sets forth a

constant obligation to render good judgment, full and prompt obedience to all provisions of law Improper conduct affecting or reflecting upon any correctional institution or the Department of Correction in any way will not be exculpated whether or not it is specifically mentioned and described in these rules and regulations. (Ex. 5 at p. 1)

At "Rule 1. Standards of Correctional Service," a CO is instructed to always "remember that you are employed in a disciplined service which requires an oath of office," so that such "employees should give dignity to their position and be circumspect in personal relationships regarding the company they keep and places they frequent." (Ex. 5 at p. 6)

At "Rule 2. General Requirements: Appointment, Employment, Termination," a CO at (b) is warned:

Report promptly in writing to your Superintendent, ...[DOC] Department Head, or their designee, any change of events regarding your residential address, home telephone number, marital status, and any involvement with law-enforcement officials pertaining to any investigation, arrest or court appearance. (Ex. 5 at p.6)

At "Rule 19. Administrative Procedures," at (d), a CO is instructed:

It is the duty and responsibility of all institution and ... [DOC] employees to obey these rules and official orders and to ensure they are obeyed by others. (Ex. 5 at p. 27)

8. The Fall River Police Department received information about Mr. Cullen's November 8, 2005 conduct of masturbating in his car at 33 Oak Street from a Fall River Fire Fighter who claimed to have witnessed a man masturbating in his car on that date at

that location. Fall River Police Sergeant Thomas Mauretti of the Detective Division conducted a telephone interview with the Fire Fighter. The Fire Fighter, a male, told him the car registration number and described the car along with what he had witnessed. Sgt. Mauretti researched and was able to identify the car as owned by Timothy Cullen. He secured a description of the car. He also ran a criminal background check on Mr. Cullen, and uncovered the prior charges filed against him for sexual offenses.

(Testimony)

9. Sgt. Mauretti went with Fall River Police Detective Michael Fogarty on January 9, 2006 to Mr. Cullen's home, arriving about 1:00 PM, in order to ask him to go to the Fall River Police Department to be questioned. They found Mr. Cullen, who answered the door, willing to go with them even without knowing the underlying reasons for the questioning. Mr. Cullen drove his own car to the Fall River Police Station. Sgt. Mauretti saw that it was the car he had uncovered doing his background work and which matched the description the Fire Fighter had given him. Once at the Police Station Mr. Cullen continued to be cooperative. He had been drinking alcohol once he had arrived home from his shift at work, but had been resting for at least an hour before the Officers arrived at his door. He was able to drive without incident to the Police Station. Once there, he was not noted to be drunk. (Testimony)

10. Sgt. Mauretti read Mr. Cullen his Miranda warnings before commencing to talk to him in an interrogation room setting with video and tape recording of the interview. Mr. Cullen continued to be cooperative even though he was still not told what he was going to be questioned about. Mr. Cullen acknowledged that he had been given

and understood his Miranda rights. He acknowledged and understood that he could end the interview at any time and leave the Police Station. (Testimony)

11. Sgt. Mauretti asked many questions of Mr. Cullen one after the other in rapid succession. In talking to Mr. Cullen, Sgt. Mauretti controlled the conversation, but permitted Mr. Cullen to fully respond to his statements. Sgt. Mauretti did not coerce answers from Mr. Cullen. He often asked Mr. Cullen to offer his version of events, including telling him to explain why his conduct may not have been what it looked like. The interrogation lasted about one hour. At the early stages of it Mr. Cullen only very softly replied that he could not recall much. Despite Sgt. Mauretti suggesting exculpatory answers for Mr. Cullen to agree to, by the latter part of the interview, Mr. Cullen admitted he masturbates in his car on public streets. He told Sgt. Mauretti he had no good memory of any particular date when he engaged in this conduct. He also admitted to engaging in such conduct about a six times a year, and that he engaged in this conduct in lieu of seeing or in association with receiving services from prostitutes. He revealed how he carried out this conduct in the car and what if any triggers for this conduct were involved such as watching women. Mr. Cullen volunteered that he always used alcohol when he engaged in this conduct. At the conclusion of the interview, Sgt. Mauretti told him he would be receiving a summons to appear in court, and that Sgt. Mauretti would be informing his employer, DOC, about the interview. (Ex. 9. Testimony)

12. Mr. Cullen went to work for the 11:00 PM – 7:00 AM shift on January 9, 2006. He did not inform his superiors about the incident with Sgt. Mauretti or that he was going to be summonsed to court to face criminal charges. He finished his shift and

went home. On January 10, 2006 at about 10:00 AM, Sgt. Mauretti informed DOC about his interview with Mr. Cullen. Once home on January 10, 2006, Mr. Cullen found a letter from his employer. (Ex. 2, 3 & 4. Testimony) The January 10, 2006 letter of MASAC Superintendent Karin Bergeron stated:

Effective immediately, you are being detached with pay and without prejudice from your Correction Officer I position at ... [MASAC] pending the results of an investigation.

You are to remain available for questioning during the normal business hours of 9:00 a.m. through 5:00 p.m.

Additionally, be advised that you are required to immediately surrender your Department of Correction identification card. Upon your return to work your identification card will be returned to you. (Ex. 4)

13. Also on January 10, 2006 Mr. Cullen received a Summons to go to the Fall River District Court to face criminal charges of Open and Gross Lewdness occurring on November 8, 2005 in Fall River. This was a felony charge for violating G. L. c. 272, § 16. After receiving the summons, Mr. Cullen had six court appearances on: May 2, June 13, August 23, September 8, September 24, and December 12, 2006. He did not inform his employer about these criminal court appearances or report that he was facing a felony charge. (Ex. 7. Testimony)

14. Mr. Cullen secured legal counsel to face the criminal charge. He also began treatment for his alcohol use. He entered an alcohol treatment program that lasted about one month. He attended the program three hours a day, three days a week. After that, the program involved early recovery treatment once a week for six months and then advance recovery treatment once a week for six months. This program ended in January 2007. He also began to regularly attend Alcoholic Anonymous meetings. He began to

see a psychologist in and around April 2006, stopping in December 2006. During this time period he was evaluated to see if he would be helped by use of medications to address his conduct, but no medications were prescribed. (Testimony)

15. Mr. Cullen's criminal case was addressed by the Fall River District Court on December 12, 2006. He admitted to sufficient facts on the felony charge. The Court permitted the case to be continued without a finding for five years to December 13, 2011. But, there were many conditions imposed. Mr. Cullen faced one year in prison if he committed a similar violation of the law within the next year. He had to have sex offender counseling as recommended by the probation department. He had to abstain from the use of alcohol and drugs, and to undergo random drug and alcohol testing as required by the probation department. He had to have substance abuse counseling as recommended by the probation department. He had to attend weekly Alcoholics Anonymous meetings. He had to have a psychopharmacological evaluation for medication to address his behaviors. He was not to have any contact with or association with prostitutes. Mr. Cullen did not inform his employer about the outcome of the criminal matter, including not informing his employer about the terms and conditions the Court imposed to cover the next five years. (Ex. 7. Testimony)

16. Independent of Mr. Cullen, DOC had followed his criminal case with help from Sgt. Mauretti and the Assistant District Attorney on the case. DOC began an investigation of Mr. Cullen in January 2007. Sgt. Mauretti was interviewed on January 23, 2007. He emphasized that Mr. Cullen had revealed the misconduct and was cooperative at all times during the January 9, 2006 interrogation. On February 6, 2007, Mr. Cullen was interviewed. He was accompanied by his attorney and union

representative. He acknowledged what happened at the interview with Sgt. Mauretti. His counsel argued that some of Sgt. Mauretti's questioning went beyond the conduct Mr. Cullen was being investigated for, in particular, the information asked about seeing prostitutes. Mr. Cullen acknowledged his prior sex offense charges as listed in his criminal background information. Mr. Cullen acknowledged he had a problem with alcohol for over twenty years. He explained that he did not think he needed to inform his employer about the onset of the criminal matter because Sgt. Mauretti reported the information to DOC, and that after that, because he was in the status of detached from work, he did not think he was obligated to further inform his employer. He explained how the criminal matter was continued without a finding for five years. His counsel argued that there was no finding of guilt entered at the time he admitted to sufficient facts. Mr. Cullen noted how he had already by the time the criminal case was disposed of, voluntarily entered an alcohol program, regularly attended alcoholic anonymous meetings, and regularly saw a psychologist. (Exs. 7, 8 & 10. Testimony)

17. Once the internal affairs investigation ended, DOC decided to seek discipline against Mr. Cullen up to and including discharge. He received a "Notice of Charges and Hearing" dated April 18, 2007. The hearing was set for May 4, 2007. He was informed:

The purpose of the hearing is to determine whether you violated ... [DOC] rules, regulations, or policies ... and, if so, to determine the appropriate level of discipline to be imposed against you, up to and including termination. (Ex. 2)

Mr. Cullen was notified the issues involved his

Fall River [MA] Police Department ... investigative interview regarding your alleged criminal actions on November 8, 2005 involving witnessed acts of Open and Gross Lewdness in a public

place ... [driving] throughout the City of Fall River [MA] while being under the influence of alcohol, ... [masturbating] at the sight of women and ... [soliciting] prostitutes for indecent acts in your vehicle and at your home [Y]ou were summonsed to appear at ... District Court and were arraigned on the charge of violating M. G. L. c. 272, § 16, Open and Gross Lewdness [The] case was disposed of and the charge was Continued Without a Finding with specific conditions required of you during your supervised probation, which ceases on December 13, 2011 [T]his law enforcement contact and the six subsequent ... District Court appearances regarding this incident were never reported to ... [DOC], as it was your duty to do. (Ex. 2)

The Notice cited to the following DOC Rules and Regulations as being violated by this alleged conduct: General Policy I; Rule 1; Rule 2(b); and, Rule 19(d). (Ex. 5. See also Ex. 2 for the portions of the cited rules at issue:)

18. The Appointing Authority hearing was held May 4, 2007. DOC Acting Commissioner Ronald T. Duval reviewed the Hearing Officer's report of the hearing. By decision of August 17, 2007 he found, "substantial evidence presented to support the charges ... [and] in light of the seriousness of the offense as charged I find just cause to terminate your employment with ... [DOC]." He found against Mr. Cullen on all the alleged misconduct and on all the rules alleged to have been violated. (See, Ex. 3)

19. Mr. Cullen filed a timely appeal of the termination decision with the Civil Service Commission.² (See, Ex. 1)

20. Since the disposition of his court case, Mr. Cullen has complied with all the required terms and conditions imposed by the court, including attending the treatment and counseling sessions, and including undergoing all the required evaluations. He has also not been found to have engaged in the same or similar misconduct he committed on

² Mr. Cullen had claimed G. L. c. 31, § 41 violations in addition to seeking a hearing on the merits, but he withdrew these Section 41 claims at the hearing.

November 8, 2005, and he has stayed away from prostitutes as ordered. He has been successful in the treatment of his alcohol problems. (Testimony)

Conclusion and Recommendation

Mr. Cullen is to be commended that he has been able to get help for his alcohol and behavior issues, and to have followed the Court ordered terms and conditions. Nevertheless, that is not enough to overcome the evidence that supports the action taken by DOC. I conclude DOC has shown by a preponderance of the evidence, that just cause exists to terminate Mr. Cullen. Gloucester v. Civil Service Commission, 408 Mass. 292, 297 (1990) There are a number of factors that when considered together, amply justify the decision to terminate Mr. Cullen.

The Appointing Authority does not need to rely only on a criminal conviction for violating G. L. c.272, § 16 to support its termination decision. The fact that Mr. Cullen admitted to sufficient facts on this criminal charge is support for the action taken even though it was not followed by a conviction on the charge but led to the case being Continued Without a Finding so long as Mr. Cullen is able to comply with all the court's terms and conditions by December 13, 2011. See, Commonwealth v. Duquette, 386 Mass. 834 (1982); United States v. Morillo, 178 F. 3d 18 (1st Cir. 1999).

The findings show that on November 8, 2005, Mr. Cullen was seen masturbating in his parked car on a public street. He was seen holding onto his exposed penis. He did this as a woman passed by his car. These findings are supported by Mr. Cullen's admission to this conduct during Sgt. Mauretti's interrogation. Exhibit 9 showed the video and audio of the interrogation. That along with the credible testimony of Sgt. Mauretti that Mr. Cullen made this admission to him support this finding. I do not agree

with Mr. Cullen that Sgt. Mauretti coerced this admission from him during the interrogation. I do not agree with Mr. Cullen that the information Sgt. Mauretti elicited at the interrogation involved information not pertinent to determining whether there is just cause to support the DOC charges against him. I find it is relevant and material to learn that Mr. Cullen's masturbation conduct at times was connected to seeing prostitutes as well as to alcohol use. (See, Exs. 7 & 9.)

Other evidence that supports the finding that Mr. Cullen engaged in this misconduct on November 8, 2006 is the DOC internal affairs investigation process. Mr. Cullen did not deny engaging in the criminal activity or deny that he was held to court ordered terms and conditions governing his conduct for the next five years. I also conclude that the testimony Mr. Cullen gave at the hearing was sufficient to be an admission that he engaged in masturbating in public his car on November 8, 2006, and that he had done this kind of conduct in the past. He presented no evidence to refute this conclusion.

There is also support for the termination decision due to the terms and conditions Mr. Cullen has to fulfill until December 13, 2011. These court ordered requirements include having sex offender counseling, regularly attending Alcoholic Anonymous meetings, drug and alcohol testing, refraining from contact with prostitutes and/or engaging in masturbating in public or engaging in similar conduct, and a psychopharmacological evaluation to uncover if there is medication to help control his criminal behavior. (See, Exs. 7 & 10.) These terms and conditions are now public information, and having to satisfy them does not as the DOC Rules and Regulations admonish, "give dignity to [his] position." (Ex. 5 at p. 6)

In addition, Mr. Cullen failed to fulfill the obligations of the DOC Rules and Regulations he had agreed to fulfill upon becoming a CO I. I find he violated the particular provisions cited by the Appointing Authority. Although Mr. Cullen claims that he acted in good faith in not reporting his contacts with law enforcement and the court starting with the interrogation on through to the court disposition on December 12, 2006, I do not find sufficient or credible his excuse that being detached from service meant he did not need to comply with Rule 2(b) requiring that he report such contacts. He knew at all pertinent times that he remained an employee/CO of DOC; he continued to be paid during his time of being detached from service. The Rule is intended to reach just what Mr. Cullen faced. He has to bear responsibility for this knowing failure to do the required reporting. That Sgt. Mauretti informed DOC on January 10, 2006 about the interrogation and that charges would be filed against Mr. Cullen does not excuse him from his failure to report that initial information to DOC. On January 9-10, 2006 he worked a full shift during which he could have informed DOC about his encounter with the Fall River Police on January 9, 2006. The Rule calls for reporting such information "promptly in writing." (Ex. 5 at p. 6)

The conduct relied upon to support a termination should be "reasonably related to the fitness of the employee to perform his position." School Committee of Brockton v. Civil Service Commission, 43 Mass. App. Ct. 486, 491 (1997). In School Committee of Brockton, a school custodian was arrested in Brockton in a wooded area of a public park in the daylight hours engaging in a homosexual act with another adult male. He was charged with violating G. L. c. 272, § 35. The custodian's name was printed in the local newspaper as having been arrested with the criminal charge noted. The criminal charge

was later dismissed. The custodian was not on duty at the time of the arrest, and was not on any school grounds. No evidence was presented that he was an ongoing threat to school children. The Civil Service Commission found no nexus between the conduct and the custodian's employment. The Appointing Authority appealed. The Court found,

no indication that the trust imposed upon him by his custodial position is such as to render virtually any public indiscretion sufficient to support discharge, as in the case of a police officer ... In the absence of a relevant regulation or explicit job standards, a rubric describing conduct as 'inappropriate and unbecoming,' even if generally accurate and applied in good faith, is insufficient to justify discharge Here, there is no evidence that the commission has forced an unreasonable risk upon the school committee. *Id.*, at 492.

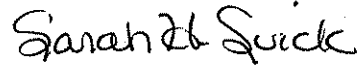
Because of the nature of the position he holds, the School Committee of Brockton, *supra*, decision does not help Mr. Cullen avoid termination. As the Court of Appeals remarks, there can be just cause to discharge an employee for committing lewd acts in public places if the employee is a police officer subject to rules and regulations that admonish the employee to avoid this kind of conduct. *Id.*, at 492. I conclude by implication this determination reaches COs who also have rules and regulations governing their conduct. The DOC Rules and Regulations gave Mr. Cullen notice to avoid engaging in "improper conduct affecting or reflecting upon any correctional institution or the Department of Correction" (*See*, Ex. 5 at General Policy at p. 1) I conclude this includes criminal conduct like masturbating in public and doing so in a way where he can be observed.

Mr. Cullen's misconduct, even though done while off duty, makes him unsuitable and unacceptable for work as a CO I. He comes in contact at MASAC with persons having court ordered treatment for alcohol and drug problems, just like he is undergoing

now due to his Court orders. But even if he was transferred to another DOC facility, a CO I is an official position in which the authority over inmates in his care and custody is a central part of the work. Allowing Mr. Cullen to remain employed would risk compromising his authority and that of his fellow COs. This is a “reasonably foreseeable, specific connection between [his] ... conduct and the efficiency of the service.” School Committee of Brockton, 43 Mass. App. Ct. at 491.

For these reasons, I recommend that the Civil Service Commission affirm the termination decision of DOC.

DIVISION OF ADMINISTRATIVE
LAW APPEALS



Sarah H. Luick, Esq.
Administrative Magistrate

DATED: