

COMMONWEALTH OF MASSACHUSETTS

Decision mailed: 1/29/10
Civil Service Commission *CB*

ROBERT GRIFFIN,
Appellant

v.

CITY OF CHELSEA,
Respondent

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

Case No.: D-05-391

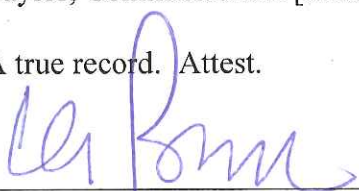
DECISION

After careful review and consideration, the Civil Service Commission voted at an executive session on January 28, 2010 to acknowledge receipt of the report of the Administrative Law Magistrate dated November 13, 2009. The Commission received the Appellant's comments on December 14, 2009. By a 4-1 vote, 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 a 4-1 vote of the Civil Service Commission (Bowman, Chairman; Marquis, Stein and Taylor, Commissioners [Henderson, Commissioner – No]) on January 28, 2010.

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)(l), 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:

John M. Becker, Esq. (for Appellant)
Mary Maslowski, Esq. (for Appointing Authority)
Richard C. Heidlage, Esq. (DALA)



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ADMINISTRATIVE LAW APPEALS

98 NORTH WASHINGTON STREET, 4TH FLOOR

BOSTON, MA 02114

RICHARD C. HEIDLAGE
ACTING CHIEF ADMINISTRATIVE MAGISTRATE

TEL: 617-727-7060
FAX: 617-727-7248

November 13, 2009

Christopher C. Bowman, Chairman
Civil Service Commission
One Ashburton Place, Room 503
Boston, MA 02108

Re: Robert Griffin v. City of Chelsea
DALA Docket No. CS-07-1122, D-05-391

Dear Chairman Bowman:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that, pursuant to 801 CMR 1.01(11)(c)(1), they have thirty days to file written objections to the decision with the Civil Service Commission. The written objections may be accompanied by supporting briefs.

If either party files written objections to the recommended decision, the opposing party may file a response to the objections within 20 days of receipt of a copy of the objections

Sincerely,

Judithann Burke
Administrative Magistrate

Enclosure

cc: John M. Becker, Esq.
Mary Maslowski, Esq.

RECEIVED
2009 NOV 16 A 9:20
COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law
Appeals

Robert Griffin
Appellant,

v.

DALA Docket No. CS-07-1122¹
Civil Service Comm'n. Docket No. D-05-391

City of Chelsea,
Appointing Authority.

Appearance for Appellant:

John M. Becker, Esq.
Sandulli Grace, PC
One State Street, Suite 200
Boston, MA 02109

Appearance for Appointing Authority:

Mary Maslowski, Esq.
City of Chelsea Law Dept.
Chelsea City Hall
500 Broadway
Chelsea, MA 02150

Administrative Magistrate:

Shelly Taylor, Esq.

SUMMARY OF RECOMMENDED DECISION

Upholds one-day suspension for insubordination in failing to follow chain of command,
obey a direct order.

RECOMMENDED DECISION

¹ There are two separate Civil Service Appeals brought by Robert Griffin, docketed under a single number, DALA Docket No. CS—07-1122. The Civil Service Commission Docket numbers are D-05-391 and D-05-344. These matters were not consolidated. This decision pertains to Civil Service Docket No. D-05-391. Civil Service Docket No. D-05-344 is addressed in a separate opinion.

RECEIVED
2009 NOV 16 A 9 30
COMMONWEALTH OF MASS
CIVIL SERVICE COMMISSION

After proceedings before the Civil Service Commission in 2005 and 2006, on August 1, 2007, the Commission scheduled this matter and another for hearing on December 5, 2007 before the Division of Administrative Law Appeals. I held a hearing on that date. Seventeen exhibits, labeled 1-15, Ex. Y and Ex. Z, were marked and admitted. Two witnesses, Thomas Dunn and the appellant, Robert Griffin, both members of the Chelsea Police Department, testified at the hearing. Both parties submitted pre and post-hearing memoranda. There are three tapes of the hearing.

A. PRELIMINARY RULINGS

The parties raised the question of whether the officer referred to here as "Sgt. X" could be identified because of testimony regarding his alleged relationship to various city officials. In response, I provisionally ordered the testimony and record in this case impounded. I hereby refer this order to the Commission for a final determination.

B. FINDINGS OF FACT

1. The appellant, Robert Griffin has been a member of the Chelsea Police Department since June of 1987. Griffin testimony. In addition to his position with the Chelsea Police Department, Griffin is a member of the U.S. Navy Reserves.

2. In March of 2003, Griffin was ordered by the Navy Reserves to report to U.S. Central Command at McDill Air Force Base in Tampa Florida. In the reserves, he began as an intelligence specialist second class and then became an intelligence specialist first class. Griffin testimony.

3. As an intelligence specialist second class, he was assigned a unit responsible for tracking the Iraq high value targets, i.e. the top ten military targets in Iraq. Griffin testimony.

4. While on duty with the Navy reserves, Griffin was on military leave from the Chelsea Police Department. He continued to receive partial pay from the Department and also received pay from the U.S. Navy. Griffin testimony.

5. While on leave he was able to and did communicate with members of the police force and others by phone and email. Griffin testimony. Dunn testimony.

6. In August 2003, Griffin was in Tampa, preparing for deployment.

7. Lt. Thomas Dunn has been with the Chelsea Police Department for over 21 years. In August 2003, he was the internal affairs investigator for the department, a position he had held for five years. He estimated that in this capacity, he has investigated approximately 75 cases. Lt. Dunn was the lead investigator in the Griffin matter. Dunn testimony.

8. Lt. Dunn was working with the Drug Enforcement Administration in an investigation of a Chelsea Police Sergeant, "Sgt. X." Tandem investigations of Sgt. X were conducted by the DEA, led by Special Agent Harry Brady, and the Chelsea Police Internal Affairs Department, led by Lt. Dunn and others, including Chelsea Police Lt. Chris Borum, who was assigned by Chelsea to DEA Task Force 2. Dunn testimony.

9. During the investigation of Sgt. X, Special Agent Brady contacted Dunn to report that he had been contacted by Griffin, who was on military leave in Tampa at the time. Dunn testimony.

10. Dunn testified that the Department initiated an investigation of Griffin after informing the police chief about Brady's call, who directed Dunn to investigate the alleged communication. Dunn testimony.

11. As reported in Dunn's formal inquiry to Griffin, sent on Tuesday, August 19, 2003, 9:35 AM:

It has come to my attention that you may have contacted the DEA relative to an ongoing IA/Federal Investigation. I am officially informing you that you are now

the focus of an IA Investigation which will be administrative in nature. Further, I am ordering you to answer the following questions, in writing, and send your responses back to me by email by Friday, August 22, 2003...

Ex. 3; Dunn testimony.

12. In the email, Dunn ordered Griffin to respond to a list of questions, including question 3, "Do you have any direct information or knowledge relevant to any criminal or illegal activity presently or in the past by former Sgt. X? If yes, provide the information now." Dunn Testimony; Ex. 3.

13. Attached to Dunn's August 19, 2003 was a formal "Notification of Investigation" which states in part:

You are advised to carefully review your rights and responsibilities regarding an administrative and/or criminal investigation contained in the Chelsea Police Department Internal Investigations Policy pursuant to General Order 00-02. You are also directed not to discuss this matter with any other individual other than your Union Representative (or Attorney if applicable).

Ex. 3. Griffin was ordered to respond to a list of questions by a date certain. Dunn Testimony; Ex. 3; Griffin testimony.

14. About an hour after Dunn first emailed Griffin, Dunn received a call from Chelsea Detective Borum, who was also assigned with Agent Brady to the DEA task force. Borum told Dunn that he had spoken with Griffin and learned that Griffin had once again contacted the DEA office looking for Agent Brady, but Brady was not available. Dunn testimony.

15. According to Dunn, Griffin could have learned of the Internal Affairs investigation of Sgt. X because it is standard practice to issue a department-wide notice when an officer is placed on administrative leave. Sgt. X was placed on administrative leave and an email message was sent out notifying department members. Dunn testimony.

16. Griffin told Dunn that he had been checking his email and did get the notification that Sgt. X had been placed on leave. Dunn testimony.

17. Griffin testified that he received the August 19, 2003, 9:35 AM email but testified that he did not read the attachment, ordering him not to discuss the matter with anyone other than his union representative or attorney, until later.

18. According to Lt. Dunn, in the course of his investigation, he determined in addition to contacting Special Agent Brady, initially, Griffin had also contacted Brady a second time, after having been ordered not to do so. Dunn testimony.

19. Later on the same day, Tuesday, August 19, 2003 at 4:21, Dunn sent Griffin a second email, drawing his attention to the prior directive not to discuss the matter except with designated individuals, and stating in part:

I have been notified by a representative of the DEA that you called at 10:40AM today and When the Call was returned you stated something to the effect that the DEA got you involved in an IA investigation.

You are now officially notified that Insubordination will be added to the charges in that you disregarded my direct order and notified the DEA relative to your case.

I also direct you to furnish me with a written response containing any and all the discussion you had with any person you spoke with today 8/19/03 at the DEA. This report should be sent to me by August 22, 2003 at 7:00AM.

Finally, I am ordering you not to have any future contact with the DEA or any other representative of that agency until this IA Investigation is concluded.

Ex. 4; Dunn testimony.

20. When Dunn spoke with Griffin, he asked him if he had any specific allegations about Sgt. X. Griffin referred to Dick's Café and referred to a gun belonging to Sgt. X which was stolen. However this incident, according to Dunn, was never linked to Sgt. X. Dunn testimony.

21. According to Lt. Dunn, department policy requires an officer in Griffin's position to utilize the chain of command. Where his supervisor was under investigation, department

policy would have permitted him to skip that step in the chain of command and to notify Lt. Dunn or the police chief with his concerns.

22. Dunn testified that special agent Brady is not affiliated with the CPD.

23. According to Lt. Dunn, Griffin's conduct violated several department policies set forth in General Order 00-12 of the Chelsea Police Department pertaining to the conduct of internal affairs investigations. Dunn testimony. See also, Ex. 10 and Ex.12.

24. In addition, Rule 7.01 of the Chelsea Police Department Rules and Regulations Manual provides:

Rule 7.01 – INSUBORDINATION

Officers shall not be insubordinate. Insubordination shall include: any failure or deliberate refusal to obey a lawful order (written or oral) given by a Superior Officer or as otherwise specified above...

25. Dunn testified that it is sometimes appropriate to speak to someone who has heard rumors about a matter under investigation because it might lead to something.

26. He distinguished this from Griffin's conduct because according to Dunn, Officer Griffin was a police officer, not a private citizen, and as a police officer, he had a responsibility to bring this forward up the chain of command to maintain a coordinated approach which protects the integrity of the investigation. Dunn testimony.

27. Griffin's written response to Dunn about the matter states in pertinent part as follows:

1.) Yes. I spoke with DEA Special Agent Harry Brady of DEA task force 2 sometime during the week of August 11-15, 2003 concerning former [Sgt. X]. At the time I spoke with him, I did not know that he was involved in the investigation of former [Sgt X].

I received a copy of Personnel Order 03-12 from Capt. Brian Kyes via email stating that [X] had been placed on administrative leave effective August 4, 2003. I had also heard the same information from several other members of the Chelsea Police Department and other city officials. I was also told that it had something to do with the DEA but few details were provided me.

I did not make an "inquiry" of the DEA. I contacted them for the purpose of providing information about past allegations involving [X] and his close relationship with city officials that I believed they should be aware of if they were conducting a criminal investigation.

I immediately made it clear to SA Brady that I did not want to know anything about the alleged investigation. I merely wanted to provide the agency with information that I felt was important to their criminal investigation. I advised him supervisors and employees within the Chelsea Police Department commonly knew the information already. However, I requested that he not discuss our conversation with any member of the department. I explained to him that I am not a disinterested person. I have a pending civil service appeal involving [] and I am the next person in line for promotion to sergeant. I feared retaliatory action. Although he never mentioned [X] by name, he stated that the DEA had turned information over to the Chelsea Police Department concerning "an officer." He assured me that our conversation would be kept confidential and the information would be provided to the appropriate individual [which I understood to be the agent handling the investigation)....

I advised SA Brady that if [X] was suspected of involvement with illegal narcotics, he should be aware that it is not the first time. During my first few years with the Chelsea Police Department, there was an allegation that [X] was using cocaine and frequently coming to work under the influence of narcotics. As far as I know, this was never reported or investigated.

I also advised him that [X] was a frequent patron at Dick's Café, a local bar, which was the target of a successful narcotics investigation. [X] frequented the establishment and often served drinks from behind the bar. He also commented to many officers at the station that he was a "silent partner." With the amount of illegal narcotics dealing that was allegedly occurring in the establishment, it was believed by many that [X] had to know what was going. Many officers believed that he continued to use cocaine during this period.

Also, [X]'s police department issued firearm was alleged stolen while he was at this establishment. Many people believed the theft was suspect. Despite officers' suspicions, no allegation was ever reported or investigated as far as I know. However, the narcotics investigation of the bar was successful and the establishment was eventually shutdown. I believe [X]'s weapon was later located by another agency.

Ex. 5.

28. Dunn testified that the proper route for one in Griffin's situation under department policy would have been to go up the chain of departmental command or to go directly to Internal Affairs or the Chief of Police if he had information pertaining to an ongoing investigation.

Griffin could have called Lt. Dunn, as he had done previously while on military leave, or he could have called the chief of police with the information. Dunn testimony.

29. Dunn wrote a summary report of his investigation, which he forwarded to the Chief of Police with a recommendation as to discipline for a number of violations. Dunn testimony.

30. Sergeant Griffin received a one day suspension for insubordination. According to the Hearing Officer's report, it was charged that Griffin spoke to an agent of the Drug Enforcement Agency despite having been previously ordered not to speak to the DEA. This conduct, the Department contended, violated General Order 00-12-12 (I.A. Policy)

31. The disciplinary action was issued based on the following finding by the designated Hearing Officer, Thomas J. Durkin, Acting Deputy City Manager:

...It is reasonable to require police officers to participate in a coordinated official strategy to right a particular wrong if such a coordinated official strategy exists. I find that such an effort did exist. Lt Dunn was in charge of the REDACTED-1 internal affairs investigation and Detective REDACTED-2 was designated as the DEA Liason. Sgt. Griffin did not seek a remedy through these individuals but rather circumvented the established strategies of the police department and took it upon him self to become involved with the DEA. It is reasonable to describe Sgt. Griffin's actions as interference. If St Griffin's intention was to report the apparent wrongful behavior of Officer REDACTED -1, to insure that a careful investigation was conducted and to see that Sgt. REDATED-1 was appropriately disciplined, Sgt. Griffin must first address these issues through the chain of command. There was no evidence presented that Sgt. Griffin made this effort. I find that Sgt. Griffin did interfere with an internal investigation and is therefore in violation of General Order 00-12, policy #200 section VII which states that "Any contact with regard to criminal charges will be made through the IA Investigator who will act as a liaison to any outside agency.

It has been suggested by Sgt. Griffin through his attorney that Sgt. Griffin may not be required to obey the rules of the Chelsea Police Department while serving in the military. While it is difficult, I imagine that there could be times when the mission of the United States military could be compromised by the adherence to the Chelsea Police Department Rules. In such a case latitude should be afforded to a police officer. This is not such a case. Therefore I find that in this instance it is quite reasonable to expect that Sgt. Griffin would act in accordance with the rules and regulations of the police department while serving in the military. While serving in the military he is still a Chelsea Police officer. This connection

to the police department is supported by his supplemental pay, continuing time service for retirement credit and other creditable time considerations and while he does not have regular duties and is not present for roll calls, he continues to be a Chelsea police officer.

Ex. 9.

32. By notice dated October 28, 2005, City Manager Jay Ash notified Sgt. Griffin that he accepted the recommended disciplinary action and upheld the one day suspension. Additional charges were not upheld and are not the subject of this appeal.

33. Griffin testified that he learned about an investigation of Sgt. X. while stationed in Tampa, where he received phone calls from several people both within and outside the police department who told him the Sgt. X had been placed on administrative leave. Griffin testimony.

34. He logged into the city webmail system and saw the general order placing Sgt. X on administrative leave.

35. He understood that the DEA was investigating criminal activity. He also inferred from the fact that Chelsea had placed Sgt. X on leave that the Chelsea Police Department was also investigating Sgt. X.

36. Initially, he didn't do anything. He told some Navy Reserve intelligence colleagues telling them about Sgt. X, and that in the past, he had gotten away with this, however, and couple of colleagues recommended that Griffin talk to the DEA "LNO" officer at the base, an officer who, according to Griffin is a federal agency liaison officer to the DEA, and after making several inquiries, Griffin reached Special Agent Brady's voice mail and left a message. Griffin testimony

37. Brady returned the call and in their initial conversation Griffin told him that he did not know if the Department would be forthcoming about the past allegations about Sgt. X; that some allegations involving drug use on the job had been lodged against

him in his past and didn't appear to have been followed up on; that his family had political connections, i.e. two siblings who were current or former city officials and a relative who was the city manager. He warned Brady that he should be cautious in dealing with local officials. He also told him that he had some interest in the matter because if Sgt. X left the department, Griffin was next in line for the position of Sergeant. Griffin asked Brady to keep their conversation confidential, indicating that he did not want to testify but if he had to, he would. Griffin testimony.

38. After notice that Internal Affairs was investigating him, Griffin again called Special Agent Brady, telling him he thought their conversation was confidential. He was concerned that they were trying to shut him up, however Brady told him that Lt. Dunn and Police Chief Garvin had been behaving professionally and had been cooperating, to which Griffin replied something to the effect "that's good because that's not always how it's been done." Griffin testimony.

39. Griffin first heard allegations regarding Sgt X early on in his years as a patrolman during the late 80s or early 90s. When these allegations first came to his attention, he did not recall speaking to a superior officer about them; he discussed them with his coworkers all the time but he never reported them to any other member of the department, until called upon to do so by Lt. Dunn. Griffin testimony.

40. He had overheard Sgt. X saying that he would be all set when faced with disciplinary action and this, and his relationship to city officials, led Griffin to believe that Sgt. X "was being taken care of."

41. He feared repercussions from the department by talking to Agent Brady and that is why he asked Brady to keep the conversation confidential.

42. In the past, when he expressed concern about the circumstances under which there was to be a call for a civil service list, he spoke to the City Manager about it and received what he characterized as a verbal reprimand for having talked to the City Manager.

43. On another occasion, according to Griffin, the chief accused him of filing a grievance in order to embarrass Sgt. X.

44. Sgt. X resigned and the U.S. Attorney brought criminal charges against him. Dunn testimony.

45. Griffin was promoted to Sgt in March 2004 while on military leave in Baghdad. Griffin testimony.

B. CONCLUSIONS OF LAW

Sgt. Griffin does not dispute that he contacted Special Agent Brady without following the chain of command of the Chelsea Police department. Nor does he dispute that he did not notify anyone in the department, in writing or otherwise, of his concerns about Sgt. X before contacting the DEA. It is clear, and I find, that Griffin's conduct constitutes insubordination within the meaning of the department rule. Griffin concedes that he contacted Brady after he received Lt. Dunn's August 19, 2003 order, but asserts that he was unaware of the order to restrict his communications because he didn't read the entire communication. Griffin did not press this point, and I conclude that the fact that Griffin did not read Dunn's orders completely does not excuse him of the obligation to adhere to them.

Griffin's chief contention is that the state "whistleblower" statutes trump the police department rules and such that he is protected from discipline on account of his communication to the DEA. So-called "whistleblowers" - i.e. those who suffer

retaliation for bringing to light matters of public import – have statutory rights under Massachusetts law to sue for damages under certain circumstances. I assume without deciding that the provisions of these statutes, which create a right of action, can be grafted onto the civil service law to excuse conduct as to which disciplinary by an appointing authority would otherwise be permissible.

The Massachusetts whistleblower statute provides that an employer

shall not take any retaliatory action against an employee because the employee does any of the following: (1) Discloses...to a public body an activity, policy or practice of the employer ... that the employee reasonably believes is in violation of a law... or which the employee reasonably believes poses a risk to public... safety...

G.L. c. 149 § 185(b)(1).

In the usual case, an employee cannot recover damages for reporting activity in violation of law to a public body, such as the DEA, unless the employee has first brought the activity “to the attention of a supervisor of the employee by written notice and afforded the employer a reasonable opportunity to correct the activity, policy or practice.” C. 149, § 185(c)(1). One is exempted from the obligation to notify the employer of the illegal activity under several exceptions. *See* § 185(c)(2). Griffin claims exemption on the ground that his disclosure was to a public body, the DEA, “for the purpose of providing evidence of what the employee reasonably believes to be a crime.” *See id.*

I disagree because I find insufficient evidence from which to conclude that Sgt. Griffin disclosed activity which he reasonably believed was in violation of law or posed a risk to public safety as required under § 185(b). Therefore, the applicability of the exemption from giving notice is immaterial. By his own testimony, Sgt. Griffin was aware of the activity he reported to the DEA since at least the 90’s, and possibly as early as his first years on the Chelsea police force. Arguably, this could be an even more serious case had the department found that Griffin,

a police officer, had meaningful information about criminal violations which may have put the public at risk, yet kept this information from the attention of his superior officers for ten years or more.

The timing of the report to Special Agent Brady suggests several possibilities. Perhaps Griffin did not genuinely believe that public was at risk, or that he genuinely believed that nothing would be done had he reported the information about Sgt. X when it first came to his attention. Perhaps he thought that rumors, without more, were not substantial enough to bring to the attention of his superiors, or perhaps his admitted interest in being promoted was a factor.

The motivation does not matter here, because what Griffin did eventually report to the DEA was not a current violation, but rather rumors of misconduct dating back to the late 80s or 90s. By Griffin's own testimony, the matter of Dick's bar had already been successfully investigated and resolved with the closing of the establishment. *See* Ex. 5. When the communications at issue now were made, however, Griffin was on military leave and had no current information that Sgt. X might be violating the law.

Nor was there any risk to public safety in the subject matter of Griffin's report. By the time he reached out to the DEA, he knew that Sgt. X had been placed on administrative leave and that two law enforcement agencies were collaborating in an investigation of his activities. Moreover, Special Agent Brady himself, to whom Griffin took his concerns, assured him that the two agencies involved were collaborating effectively. Lack of faith in the integrity of the department may have caused Griffin to refrain from stepping forward in his early years on the force. However, I find that there is insufficient evidence to warrant a conclusion that in 2003, Griffin had good reason for refraining from going to the department rather than to the DEA.

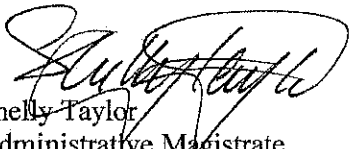
More broadly, I do not find that the City's actions in this case were retaliatory. I credit the testimony of Lt. Dunn regarding the importance of following the chain of

command, and nothing in the records suggests he or others in the department had any ulterior motive for the actions taken in Griffin's case. Rather, it appears that Griffin's superiors believed in a good faith belief Griffin breached his duty as a police officer and that this warranted disciplinary action. I do not construe the actions of the Appointing Authority as punishing the speech itself, i.e. the communications to Special Agent Brady. Rather, the discipline was specific to the act of violating the chain of command.

Although he alleges that it would have been futile to take his concerns to the department, given that Sgt. X' reputation for drug use was common knowledge, there is no explanation as to why he did not take his concerns to the DEA or some other public body sooner. Moreover, he conceded that he knew, by virtue of the fact that Sgt. X had been placed on administrative leave, that the Chelsea Police Department was investigating Sgt. X. As discussed above, given the fact that an investigation was in fact under way and the offending officer on leave, I do not credit the assertion that following the chain of command would have been futile.

For the foregoing reasons, I recommend that the decision of the Appointing Authority, the City of Chelsea, be affirmed.

SO ORDERED.


Shelly Taylor
Administrative Magistrate

DATED: 11-13-2009