

COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION
One Ashburton Place – Room 503
Boston, MA 02108
(617) 979-1900

MARISSA HOLLAND,
Appellant

CASE NO. G2-21-001

v.

TOWN OF DEDHAM,
Respondent

Appearance for Appellant:

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Appearance for Respondent:

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Commissioner:

Paul M. Stein

Summary of Decision

The Commission allowed the appeal of a female Dedham police officer who was bypassed for promotion to Sergeant in favor of a male candidate, after finding that the promotional process was unlawfully influenced by a predisposition for the selected candidate and unjustified personal bias against the Appellant and an unreasonably subjective interview procedure.

DECISION

On January 1, 2021, the Appellant, Marissa Holland, currently a Patrol Officer with the Town of Dedham (Dedham) Police Department (DPD), appealed to the Civil Service Commission (Commission), pursuant to G.L. c. 31, §2 (b), from her bypass by the DPD Police Chief, the Appointing Authority, for promotion to the position of Police Sergeant.¹ The Commission held a pre-hearing conference on February 2, 2021 via remote videoconference (Webex). A full hearing

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

was held, also by remote videoconference (Webex), initially over two days on April 21, 2021 and May, 13, 2021, which was digitally recorded. The record was reopened and further evidence was taken at a third day of hearing on October 1, 2021, by remote videoconference (Webex), also digitally recorded.² Thirty-two (32) exhibits (*Resp.Exh.1 through Resp.Exh.28; App.Exh.1 through App.Exh.4*) were received in evidence. One exhibit was marked for identification (*App.Exh.5ID*). Each party filed a Proposed Decision on November 19, 2021. For the reasons stated below, Officer Holland's appeal is allowed.

FINDINGS OF FACT

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

Called by the Appointing Authority:

- Michael d'Entremont, DPD Police Chief
- Michael Buckley DPD Deputy Police Chief
- Lauren Bailey, former Dedham Human Resources Director

Called by the Appellant:

- Marissa Holland, Appellant, DPD Police Officer
- Mark Black, DPD Police Lieutenant
- Robert Walsh, former DPD Police Sergeant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

1. The Appellant, Marissa Holland, is a tenured DPD municipal police officer who was appointed to her position by DPD Police Chief d'Entremont in September 2011. (*Resp.Exh.1;*

Testimony of Appellant & Chief d'Entremont)

2. The top-ranked candidate on the certification from which Officer Holland was appointed, a male, was bypassed in order to appoint her and one other female, two of the four incumbent

² A link to the digital recording of the full hearing was provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal becomes obligated to use the recording to supply the court with the stenographic or other written transcript of the hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

female DPD Patrol Officers, all hired by Chief d'Entremont. (*Resp.Exh.1; Testimony of Chief d'Entremont*)

3. The DPD employs approximately 50 to 56 sworn officers, including Chief d'Entremont, a Deputy Chief, four (4) Lieutenants, eight (8) sergeants and approximately 40 other officers. At the time of the Commission hearing, all DPD superior officers were male. (*Administrative Notice* [<https://www.dedham-ma.gov/departments/police/departments-divisions/departments-roster>];

Testimony of Appellant & Chief d'Entremont)

4. In selecting Officer Holland for appointment as a patrol officer, Chief D'Entremont cited her exceptional interview performance, strong academic record, and experience as a private investigator. (*Resp.Exh.1; Testimony of Chief d'Entremont*)

5. Officer Holland holds a Bachelor's Degree in Criminal Justice. She has completed over 350 hours of professional training, focused on domestic violence, sexual assault, and crisis intervention, especially with mentally and emotionally challenged persons. Colleagues praised her for "bringing things back from training and putting them to use", applying her own "intuitive ability to handle those situations as well as supporting her colleagues as a resource in responding to such high-stressful calls". She has worked undercover on drug "buys" and "takedowns", a high-risk, unarmed assignment that required wearing a "wire". She served as a Field Training Officer (FTO), a volunteer appointment in which she mentors newly appointed officers. (*App.Exhs.1 through 3; Testimony of Appellant, Lt. Black, Sgt. Walsh & HR Director Bailey*)³

6. In 2016, Officer Holland applied to fill a vacancy in the position of the DPD's School Resource Officer (SRO). She was one of two finalists, but the position was given to another officer,

³ Lt. Black and Sgt. Walsh recommended that Officer Holland be appointed an FTO, but Chief D'Entremont did not accept their recommendations, initially; one of the few occasions on which Sgt. Walsh recalled he and Chief D'Entremont did not agree. After Officer Holland approached Chief D'Entremont to see what she needed to do to become an FTO, Chief D'Entremont reconsidered. Officer Holland was sent to FTO school in September 2016 (*Testimony of Appellant, Chief D'Entremont, Lt. Black and Sgt. Walsh*)

(Officer F). When Officer Holland asked Chief d'Entremont what she could do to win the position in the future, he told her she needed to increase her "numbers" and that the selected male candidate (Officer F) had served as a chaperone for a middle school student ski trip which made him a better choice. (*Testimony of Appellant & Chief D'Entremont*)

7. On November 6, 2016, DPD officers responded to a complaint from Officer Holland's ex-boyfriend that she refused to return a bicycle to him. The police report stated that Officer Holland denied the allegations and that, in fact, the ex-boyfriend was blocking her driveway and preventing her from leaving. The officers told the ex-boyfriend that he needed to leave and was no longer welcome on her property. Chief d'Entremont informed the Dedham Fire Chief of this incident the next day, because the ex-boyfriend worked for the Dedham Fire Department. No further action was taken at the time as a result of this report. (*Resp.Exhs.14 & 16*)

8. On December 21, 2016, Chief D'Entremont emailed Officer Holland and four other DPD Officers, noting that he had recently attended a presentation by the Community Safety Institute (CSI), which was offering a three-day de-escalation "train the trainer" program in January 2017 in Milford, CT. He asked if any of the five officers were interested in attending the program with the expectation that whoever attends "would bring the training back to the Department and actively develop a program to instruct other department members via various means on the de-escalation techniques and processes presented in the course." (*Resp.Exh.8*)

9. Officer Holland responded: "I would be interested in the training in January!" Although Chief d'Entremont hoped to send several officers to the training, Officer Holland was the only officer who expressed interest. Chief D'Entremont immediately enrolled Officer Holland and she attended the training, with the DPD paying for her hotel, mileage, meals and overtime allowances. (*App.Exh.4; Resp.Exh.8; Testimony of Appellant*)

10. Upon her return from the CSI de-escalation training, Sgt. Walsh informed Chief d'Entremont that he had spoken with Officer Holland and "thought it would be helpful for you to know that she's bringing things back from training and putting them to use". Sgt. Walsh proposed that she collaborate with him to prepare a block of de-escalation training to incorporate with firearms training in the fall. Chief d'Entremont replied that he envisioned the de-escalation topic to be a stand-alone training block that would be presented "in some manner annually" (*App. Exh.2; Testimony of Sgt. Walsh*)

11. Officer Holland took the CSI materials and, on her personal time during the month of May 2017, prepared a preliminary draft that she sent to Chief d'Entremont, who replied and questioned whether the DPD needed a full four-hour training. Officer Holland went through several iterations of the presentation, further deleting and editing the material and inserting new material found through research conducted on her own. Eventually, she whittled down the material to a one-hour training block, which she presented five times in June 2017 to all DPD officers. (*Resp. Exhs.15, 19 through 23, 25, 26 & 28; Testimony of Appellant*)⁴

12. In September 2017, a "Concerned Citizen" began writing to Chief D'Entremont anonymously about a "very serious concern" about Officer Holland's "illegal activity" and "mental health issues". Chief D'Entremont eventually identified the complainant and met with

⁴ It later became apparent that the version of the de-escalation training introduced by the DPD in evidence was the first draft that Officer Holland sent to Chief d'Entremont on May 9, 2017, not the final version used in the training in June. Chief d'Entremont did not recall what he saw when he attended the training or whether he had seen the final version of her training material. He was not aware that Officer Holland had prepared the training on her own time, expecting that she could have and should have done it during working hours. Officer Holland testified that she could not work on the presentation on-duty, due to the nature of her patrol and detail assignments. I find her explanation credible. (*Resp.Exhs.15, 19, 23 through 26; Testimony of Appellant, Chief d'Entremont & Lt. Black*)

him. (*Resp.Exh.14A for identification*⁵; *Testimony of Appellant & Chief D'Entremont*)

13. In November 2017, Officer Holland got wind of the complaint asked to meet with Chief D'Entremont. At the meeting with Chief d'Entremont, Officer Holland expressed her concern that she was being harassed and her reputation tarnished. Chief D'Entremont counseled Officer Holland to be “careful who she associates with inside and outside of” work. Chief d'Entremont provided Officer Holland with copies of the anonymous emails (but not other documentation he had received or the memorandum of his meeting with the “anonymous” citizen). He told Officer Holland that “[w]e are here to help” and “want her and others to succeed” and told her that she should not to “react to the emails in any way.” No further action was taken on the citizen’s complaints. (*Resp.Exhs.14A for identification; Testimony of Appellant & Chief D'Entremont*)

14. At the end of 2017, Officer Holland’s supervisor, Sgt. Walsh, recommended Officer Holland for Officer of the Year⁶, to his superior, Lt. Black. One reason she was nominated involved her assistance in relocating a resident of a veterans’ housing project with mental health issues of concern of other residents. Lt. Black concurred and forwarded the recommendation to Chief D'Entremont. Chief D'Entremont responded that he would not be forwarding Officer Holland’s name for input from the other superior officers, but Chief D'Entremont did not provide any reason for this decision. (*Testimony of Lt. Black & Sgt.(ret.) Walsh*)

⁵ The “anonymous” complaints and certain other material included in Resp.Exh.14 were attributed to an ex-boyfriend of Officer Holland (the person involved in the bicycle incident described earlier) and another unidentified acquaintance allegedly known to Officer Holland; the allegations, however, were not thoroughly investigated or corroborated and I find that the hearsay on which they were based was not shown to be reliable. (*Testimony of Chief d'Entremont*) During the hearing, I ordered the material extracted from Exhibit 14 and separately marked as Confidential Resp.Exh.14A for identification. I have considered Resp.Exh.14A and Resp.Exh.16 and the rebuttal testimony of Chief d'Entremont for the limited purpose of showing that he relied on these hearsay complaints in forming conclusions about Officer Holland as well as to identify what portion of the information Chief d'Entremont shared with her and what he did not provide to her.

⁶ Each year the DPD selects one police officer as “Officer of the Year.” Nominations are solicited from superior officers, with the final decision made by Chief D'Entremont. (*Resp.Exhs. 12 & 13; Testimony of Chief D'Entremont*)

15. I find that the uncorroborated 2016 and 2017 complaints concerning Officer Holland remained on Chief D'Entremont's mind and weighed on him as continuing doubt about Officer Holland's character. A copy of the report of the November 2016 incident introduced at the Commission hearing shows that Chief D'Entremont retrieved and printed this police report a year later, on November 3, 2017. I find, specifically, that these incidents played a significant role in Chief D'Entremont's decision to hold back the recommendations by Sgt. Walsh and Lt. Black to consider Officer Holland as Officer of the Year, as they later suspected. (*Resp.Exhs. 14 & 16; Testimony of Chief D'Entremont, Lt. Black & Sgt. Walsh*)

16. On December 29, 2017, Chief d'Entremont sent Officer Holland a recent article he had seen about de-escalation training and told her "[w]e should put together another training segment for all officers." Officer Holland replied: "Great! I'll get started putting something together. I think a segment like we did last time with some up-to-date research would be helpful. I was also thinking . . . we can have officers watch some videos on their own . . ." (*Resp.Exh.8*)

17. In March 2018, Officer Holland began to study for the next sergeant's promotional examination to be held in the fall of 2018. (*Testimony of Appellant*)

18. On or about March 23, 2018, Officer F, the School Resource Officer (SRO (who had been selected over Officer Holland in 2016), informed Chief d'Entremont that he wanted to step down from the SRO assignment and return to patrol duty for personal reasons. Officer F explained that he was expecting to start a family and wanted to return to patrol duty so he could have increased opportunities for overtime and detail work to increase his income. Officer F wanted to be sure this change would not hurt his future promotional chances. Chief D'Entremont assured him it would not. (*Resp.Exh.7; Testimony of Chief D'Entremont*)

19. Officer Holland again applied to fill the SRO position vacated by Officer F. By this time, she, too, had served as a chaperone on the Middle School ski trip. (*Testimony of Appellant*)

20. On April 10, 2018, Chief D'Entremont chose a male officer, (Officer S) to fill the position. When Officer Holland asked why she was not chosen, Chief D'Entremont told her that she had submitted a cover letter that was too wordy and focused more on the duties of a community officer, not an SRO and that new regulations required input from the School Superintendent who, according to Chief d'Entremont preferred Officer S. (*Resp.Exh.7; Testimony of Appellant & Chief D'Entremont*)⁷

21. On April 24, 2018, Chief d'Entremont emailed Officer Holland asking her: "How you are doing organizing another de-escalation segment for our officers?" (*Resp.Exh.8*)

22. Officer Holland replied:

I have received your latest email as well as the first in regards to the deescalation class I presented last year and asked to also conduct this present year. I appreciate your trust in me to conduct the training of the officers in the department. After looking into the requirements of up-keeping this seminar to the updated information and requirements as an instructor to produce a course fine tuned to our department as done in the past, I must respectfully turn down the future instruction of this course. At this time focusing on my personal goals within the department are time consuming and important, these goals have taken priority in my career. The value of the course and the importance of the training while working in law enforcement are very important, I hope there is a way another officer in the department or elsewhere will be able to more adequately devote time in this area as I am taking the time to fulfill goals I have set for myself within my own career as a police officer. Thank you and I hope you can understand my choice in this matter.

(*Resp.Exh.8*)

23. Chief d'Entremont believed that Officer Holland's decision to "walk away" from further de-escalation training "because she was turned down" for the SRO position. He called her action an "egregious act." (*Testimony of Chief d'Entremont*)

⁷ Chief D'Entremont characterized Officer Holland's interactions with him about her non-selection for the SRO (and FTO) positions as complaining that she was owed these opportunities. I do not credit his perception as accurate. Officer Holland credibly testified that she only meant to gain constructive feedback. (*Testimony of Appellant & Chief D'Entremont*)

24. No evidence was introduced to show that Chief d'Entremont replied to Officer Holland's message or took any other action to engage with Officer Holland, Nor did he approach or any other officer to conduct any future de-escalating training. Future de-escalation training consisted of viewing pre-packaged videos. (*Resp.Exhs 8 & 28; Testimony of Appellant & Chief d'Entremont*)

25. Officer Holland took and passed the Sergeant's Promotional Examination administered by HRD on September 15, 2018. Her name was placed second on the eligible list established on December 14, 2018, tied with one other candidate. (*Stipulated Fact: HRD Packet submitted with letter dated 2/1/2021*)

26. At the end of 2019, Officer Holland was again nominated for Officer of the Year, receiving multiple nominations that included the following reasons for choosing her:

LT. BLACK:

"Officer Holland always represents the Dedham Police Department positively in both appearance and attitude. . . . She interacts exceptionally well with her coworkers and is well respected. Marissa has always accepted additional assignments without question and has done them very well. . . . Officer Holland is very committed to our domestic violence initiative . . . I was very proud of how she handle[d] the serious domestic at [redacted]. She was able to get a victim (who was very scared of her boyfriend) to come forward . . . The victim at first would tell the officers everything was okay. It was soon discovered that she had been physically assaulted and strangled to the point of passing out. It was Officer Holland's ability to communicate with victims that made this possible. There are numerous other domestic calls that Officer Holland has handled exceptionally well. Her coworkers often seek her assistance in such instances."

"[S]he often goes above and beyond what is required of our officers. [She] would make it a point to make some of her walk and talks at [redacted]. We all know that [redacted] would call the station seeking attention. Officer Holland would jump on those calls even if it was not her sector (calling me on the phone get permission to go). . . ."⁸

SGT CLEMENTS

"I don't normally [write] endorsements of officers for many reasons but this year I feel I must. . . . Officer Holland possess[es] many great qualities but one that jumps out is her ability to speak with and connect with all types of people. Being on the street day after day I witness her communicating with and building relationships with residents and strangers alike. She demonstrates empathy and a true desire to help those that need it. . . . Everyone seems to know her and . . . she can supply background and relevant information while

⁸ The redactions refer to an elderly Dedham resident who often called the police on non-emergency matters. (*Testimony of Chief d'Entremont*)

handling calls. People love her! She is an awesome public ambassador for our department. . . . [She] is always willing to help me or a fellow officer . . . She does not shy away from ANY call and is usually one of the first on scene. I am very impressed with her work ethic and her ability in the field. She writes a great report as well. Most importantly, her coworkers think very highly of her as well.”

“Officer Holland . . . interacts well with . . . students and business owners. The students love her. I’ve been told that when they see someone like Officer Holland they see themselves doing similar things in their futures. Again, a great ambassador for our department.”

(App.Exh.3; Testimony of Lt. Black)

27. Officer Holland received the votes of three of four DPD Lieutenants but Chief d’Entremont selected Officer M instead, who had been nominated by former SRO Officer F and received the vote of one Lieutenant.⁹ Chief d’Entremont cited Holland’s decision to “walk away” from the de-escalation training in 2018 and the negative allegations of off-duty misconduct in 2016 and 2017.

(App.Exh.3; Testimony of Chief d’Entremont & Dep. Chief Buckley)

28. When he announced to the Dedham Board of Selectmen that Officer M had been selected as 2019 Officer of the Year, Chief d’Entremont said something to the effect that he didn’t expect Officer M to remain a patrol officer for the rest of his career. Officer M had told Chief d’Entremont that he wanted to be the DPD Chief. He was then fourth on the Sergeant’s eligible list, behind Officer Holland. *(Stipulated Facts; Resp.Exhs. 2 & 3; Testimony of Chief d’Entremont)*

29. On or about November 9, 2020, HRD issued Certification # 05468 to the DPD to fill two vacancies in the position of Police Sergeant. Four candidates remained on the eligible list – Officer F was ranked first, Officer Holland second, and Officer S and Officer M were tied for third.

(Stipulated Facts; HRD Packet submitted with letter dated 2/1/2021)

⁹ Officer M’s father is a former DPD police officer. His uncle is the Dedham Town Clerk who. participates in sports activities with Chief d’Entremont. *(Testimony of Chief d’Entremont & Dep. Chief Buckley)*

30. On November 23, 2020, the four candidates on the certification were interviewed remotely (Zoom) over a four-hour period¹⁰ by a panel consisting of Chief d'Entremont, Deputy Chief Buckley and the Dedham HR Director. Each panelist received in advance a printed sheet of interview questions asked of all candidates. The panelists took notes but interviews were not audio or video recorded. (*Resp. Exhs. 4-6; Testimony of Chief d'Entremont, Dep. Chief Buckley & HR Director Bailey*)

31. Officer Holland's interview lasted approximately 30 minutes. None of the questions raised concerns about the 2016 incident involving her ex-boyfriend, the 2017 anonymous complaints about her, or her decision to withdraw from conducting a 2018 de-escalation training. (*Resp.Exh.4 through-6; Testimony of Appellant, Chief d'Entremont, Dep .Chief Buckley & HR Director Bailey*)

32. The interview process did not include a prescribed scoring system. After all candidates were interviewed, Chief d'Entremont assigned each candidate a ranking based on his overall impressions – with Officer M ranked first and Officer Holland ranked fourth. Dep. Chief Buckley ranked the answers to each interview question separately from #1 to #4 – giving Officer M his #1 ranking on 9 of 14 questions and giving Officer Holland his #4 ranking on 10 of the 14 questions. HR Director Bailey did not use any scoring system but she testified that she concurred that Officer M gave the best interview and Officer Holland gave the weakest interview. (*Resp.Exh.4-6; Testimony of Appellant, Chief d'Entremont, Dep. Chief Buckley & HR Director Bailey*)

33. Chief d'Entremont selected Officer F (first on the certification) and Officer M (third on the certification) for appointment, bypassing Officer Holland. By letter dated December 14, 2020,

¹⁰ Officer Holland was the first candidate interviewed at 1:00 pm; Officer M was the last candidate interviewed at 4:00 pm. The panelists met the next day to discuss their impressions. HR Director Bailey waited to hear the recommendations of Chief d'Entremont before giving her impressions. (*Resp.Exhs.4-6; Testimony of Chief d'Entremont, Deputy Buckley & HR Director Bailey*)

Chief d'Entremont provided both a negative reason for not appointing Officer Holland and positive reasons for preferring Officer M over her. (*Resp.Exh.2; Testimony of Chief d'Entremont*)

34. Officer Holland was the first DPD officer whom Chief d'Entremont had bypassed for promotion. (*Testimony of Chief d'Entremont*)

35. Chief d'Entremont's bypass letter stated his concern with one "particular situation related to your performance", specifically, her "decision to decline to continue to serve the department as an instructor in the area of de-escalation calls into question your capacity to assume the responsibilities of a Superior Officer Your behavior in failing to continue to serve the Department as an instructor in de-escalation shows a lack of compliance with expectations, reliability and leadership. This is a negative predictive factor with regards to your capacity to serve the Department as a supervisor." (*Resp.Exh.2*)

36. Chief d'Entremont attributed Officer Holland's decision not to conduct a second de-escalation training in 2018 to her dissatisfaction with his decision not to offer her the SRO position and to her "plac[ing] her own goals over Department objectives", behavior which he called "inconsistent with the expectations for Patrol Officers . . . but also inconsistent with the expectation of Sergeants You let the Department down by failing to meet expectations, demonstrate commitment, be a leader within the Department, and provide on-going training in the important area of de-escalation." (*Resp.Exh.2; Testimony of Chief d'Entremont*)

37. In a separate document, also dated December 14, 2020, Chief d'Entremont detailed four positive reasons for appointing Officer M over Officer Holland:

- (a) Officer M held two Master's Degrees (one in Business Administration and one in Criminal Justice) which provided "a foundation to better position himself for potential future advancement to even higher ranks" and gave him "a high level of related educational experience" to support the administrative and management functions of a DPD Sergeant."

- (b) Officer M was “committed to important Department initiatives”, specifically, assisting DPD to maintain accreditation status and participating in the registration of sex offenders.
- (c) Officer M’s “activity level as a patrol officer is that of a leader” and “demonstrates a high level of commitment”, citing statistics from the DPD’s record management system which reflected that Officer M’s activity level during 2018 and 2019 was “40% higher than the next highest patrol officer.”
- (d) Officer M “impressed the interview panel” by his cover letter and resume along with his responses during the interview, in which he referred to “being a mentor and guide for patrol officers”, “providing feedback and listening”, “leading by example”, being aware of “the challenges being fact by police officer across the country” and a willingness “to work . . . in a collaborative manner with the community to move the profession forward.”

(Resp.Exhs.3 & 10)

38. At the Commission hearing, Chief d’Entremont acknowledged that Officer M worked the busiest sector and that the activity statistics include all activity from routine building checks to more complex responses. The total activity recorded for Officer M for 2018-2019 included about 54% more “incidents” reported but in terms of specific activities, the two-year data are: (a) Arrests – Eighteen (18) for Officer M; Nineteen (19) for Officer Holland; (b) Incident Reports written – 937 reports out of 4,422 incidents (21%) for Officer M; 752 reports out of 2,879 incidents (26%) for Officer Holland; (c) Domestic Calls – Twenty-five (25) for Officer M; Thirty-two (32) for Officer Holland; Details/Overtime – 1,482 hours (14 hours per week) for Officer Holland; Officer M’s details/overtime not reported. *(Resp.Exhs. 9, 11, 17 & 18; Testimony Chief D’Entremont)*

39. After Officer Holland testified at the second day of the Commission hearing on May 23, 2021, Chief d’Entremont concluded that Officer Holland’s recollection of the level of personal

effort she had made to convert the Power Point presentation obtained during her CSI training into the one-hour module presented to the DPD officers “did not have the ring of truth”. (*Resp.Exh.27*)

40. Chief d’Entremont contacted CSI and requested a copy of the original Power Point presentation created by CSI that Officer Holland received during her “train the trainer” course and received an email reply with a Dropbox link to a PDF copy of what CSI stated were all the slides and notes used by CSI during that training. (*Resp.Exhs.20 & 27*)

41. Chief d’Entremont compared the material he received from CSI (*Resp.Exh.20*) with the Power Point Presentation in evidence (*Resp.Exh.15*) that Officer Holland had sent to Chief d’Entremont on or about May 8, 2017, which was the document that was shown to her during her testimony before the Commission. Based on his review, Chief d’Entremont submitted an affidavit in which he stated that “it is evident to me that Officer Holland testified falsely in numerous respects during the CSC hearing in this matter.” (*Resp.Exh.27*)

42. Chief d’Entremont engaged a private investigator and provided him with the two sets of Power Point materials he had obtained, along with certain DPD rules and regulations as well as a copy of the bypass letter issued to Officer Holland, which is the subject of this appeal, and directed the investigator to examine “the veracity of her testimony, made under oath, during a Civil Service Appeal Hearing held virtually on May 13, 2021.” (*App.Exh.5 for identification*)

43. The investigator reviewed the materials he was provided and arranged to obtain a transcript of Officer Holland’s May 13, 2021 testimony before the Commission hearing that I conducted. He met with Officer Holland and her union attorney on July 1, 2021. On advice of counsel, she asserted her right against self-incrimination and declined to provide any detailed statements without receiving transactional immunity. (*App.Exh.5 for identification*)

44. On July 14, 2021, the investigator submitted a report to the DPD in which he found that “culling the original presentation down from 58 slides to 32 in order to trim the course to one hour

took original thought and effort, however minimal”, but “the fact has been established that Officer Holland added nothing to the prompt notes and nothing to the material to the slides . . .” Based on his findings, the investigator concluded that Officer Holland was “INTENTIONALLY UNTRUTHFUL on May 13, 2021 . . . regarding the amount of input of original creative material she contributed to the Holland [de-escalation] PowerPoint Presentation” and that she “knowingly and willfully made deliberately untruthful statements which were material to her appeal [during her testimony under oath before the Commission].” (*App.Exh.5 for identification*)

45. On July 14, 2021, Officer Holland was placed on paid administrative leave and the DPD opened an internal affairs investigation into her alleged misconduct at the Commission hearing.¹¹

46. As part of this internal affairs investigation, Officer Holland was interviewed by DPD counsel on August 24, 2021 and September 9, 2021. (*Resp.Exhs.25 & 26*)

47. During the internal affairs investigation, new evidence came to light concerning Officer Holland’s 2017 de-escalation presentation as well as the extent of the preparatory work she had done. In particular, Officer Holland discovered that the PowerPoint presentation she was shown when she testified on May 13, 2021, and which Chief d’Entremont and the private investigator believed was the version she presented during her training, was actually an initial draft, not the version she used to present the training. The final version showed considerably more deletions, additions and editing from the CSI version than the initial draft provided to Chief d’Entremont the

¹¹I received notice of the July 14, 2021 internal affairs investigation at a status conference with counsel on July 16, 2021. I was also informed at that status conference that a claim of gender discrimination filed at the MCAD by Officer Holland against the DPD had been recently withdrawn and moved to Superior Court under Chapter 151B, § 9. On August 13, 2021, I issued a Procedural Order reopening the record of the appeal to consider the significance of these new developments on the issues in this appeal, and I set a third hearing date of October 1, 2021. The parties submitted additional documents which have been entered into evidence, but no additional sworn testimony was received at the October 1, 2021 hearing. (*See App.Exh.5 for identification; Resp.Exhs.19 through 28; Webex Remote Videoconference on 10/01/2021; Administrative Notice [Email from Appellant’s Counsel dated 5/20/2022]*)

private investigator and confirmed her recollection that she had “added to” the version shown to her when she testified. (*App.Exh.5 for identification; Resp.Exhs.15, 20 through 27*)

48. During the internal affairs investigation, Officer Holland also discovered additional email exchanges with Chief d’Entremont and recalled that, although she had been in regular contact with Chief d’Entremont about the presentation, she may not have provided him a copy of the final version of the presentation. (*Resp.Exhs.26 through 28*)

49. The parties recently reported that Officer Holland returned to duty on November 30, 2021 with a written reprimand for giving “inaccurate, self-serving, and intentionally overstated” testimony to the Commission about the degree of original work that she contributed to the PowerPoint presentation on de-escalation techniques. Officer Holland grieved the discipline which was upheld by Chief d’Entremont and is now pending arbitration.¹² (*Administrative Notice [Email from Appellant’s Counsel dated 5/20/2022; Email from Respondent’s Counsel dated 5/24/2022]*)¹³

APPLICABLE CIVIL SERVICE LAW

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).

Basic merit principles in promotion call for regular, competitive qualifying examinations, open to all qualified applicants, from which eligible lists are established, ranking candidates according

¹² Written reprimands cannot be appealed to the Civil Service Commission.

¹³ Officer Holland’s Chapter 151B gender discrimination civil action is in the discovery stage in Superior Court. (*Administrative Notice [Email from Appellant’s Counsel dated 5/20/2022]*)

to their exam scores, along with certain statutory credits and preferences. Appointments are then made, generally, in rank order, from a “certification” of the top candidates on the applicable civil service eligible list, using what is called the 2n+1 formula. G.L. c. 31, §§ 6 through 11, 16 through 27; Personnel Administration Rules, PAR.09. In order to deviate from that formula, an appointing authority must provide specific, written reasons – positive or negative, or both – consistent with basic merit principles, to affirmatively justify bypassing a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4).

A person may appeal a bypass decision under G.L. c. 31, § 2(b) for de novo review by the Commission. The Commission’s role is to determine whether the appointing authority had shown, by a preponderance of the evidence, that it has “reasonable justification” for the bypass after 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 Service Comm’n, 483 Mass. 474-78 (2019); Police Dep’t of Boston v. Kavaleski, 463 Mass. 680, 688-89 (2012); Beverly v. Civil Service Comm’n, 78 Mass. App. Ct. 182, 187 (2010); Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-28 (2003).

“Reasonable justification . . . means ‘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’”. Brackett v. Civil Service Comm’n, 447 Mass. 233, 243 (2006); Commissioners of Civil Service v. Municipal Ct., 359 Mass. 211, 214 (1971) and cases cited. See also Mayor of Revere v. Civil Service Comm’n, 31 Mass. App. Ct. 315, 321 (1991) (bypass reasons “more probably than not sound and sufficient”).

The governing statute, G.L. c. 31, § 2(b) gives the Commission’s de novo review “broad scope to evaluate the legal basis of the appointing authority's action” and it is not necessary that the Commission find that an appointing authority acted “arbitrarily and capriciously.” City of

Cambridge v. Civil Service Comm'n, 43 Mass. App. Ct. 300, 303-305, rev. den., 428 Mass. 1102 (1997). The commission “. . . cannot substitute its judgment about a *valid* exercise of *discretion based on merit or policy considerations*” by an appointing authority, but, when there are “*overtones of political control or objectives unrelated to merit standards or neutrally applied public policy*, then the occasion is appropriate for intervention by the commission.” Id. (*emphasis added*) The broad scope of the Commission’s jurisdiction to enforce basic merit principles of civil service law encompasses the responsibility to ensure that all forms of unlawful bias do not influence personnel actions, which includes intentional and unconscious class-based or personal bias (positive or negative) formed about any civil service employee. See G.L. c. 31, §1, ¶4. See generally Town of Brookline v. Alston, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law).¹⁴

Law enforcement officers are vested with considerable power and discretion and must be held to a high standard of conduct. See, e.g., Police Comm’r v. Civil Service Comm’n, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986). The duty imposed upon a police officer to be truthful is one of the most serious obligations he or she assumes. “[P]olice work frequently calls upon officers to speak the truth when doing so might put into question a search or might embarrass a fellow officer.” Falmouth v. Civil Service Comm’n, 61 Mass. App. Ct. 796, 801 (2004), citing City of Cambridge v. Civil Service Comm’n, 43 Mass. App. Ct. 300, 303-305, rev. den., 428 Mass.

¹⁴ I note that Chief d’Entremont understands that everyone is subject to unconscious bias and that the DPD has taken steps to train its officers, including Chief d’Entremont, to guard against allowing such bias to influence their behavior. (*Testimony of Chief d’Entremont*) By definition, however, unconscious bias never disappears and must be viewed as a continuing work in progress. See generally, WHAT IS UNCONSCIOUS BIAS, <https://www.unconsciousbiasproject.org/resources/explain-unconscious-bias>; WHAT IS UNCONSCIOUS BIAS (AND HOW YOU CAN DEFEAT IT, <https://psychologytoday.com/is/blog/intentional-insights/202007/what-is-unconscious-bias-and-how-you-can-defeat-it>; 5 TYPES OF UNCONSCIOUS BIAS IN THE WORKPLACE, <https://thehrsource.com/5-types-of-unconscious-bias-in-the-workplace>; 19 UNCONSCIOUS BIASES TO OVERCOME AND HELP PROMOTE INCLUSIVITY, <https://asama/cp/resources/unconscious-bias-examples>

1102 (1997) (“The city was hardly espousing a position devoid of reason when it held that a demonstrated willingness to fudge the truth in exigent circumstances was a doubtful characteristic for a police officer. . . . It requires no strength of character to speak the truth when it does not hurt.”) See, e.g., Desmond v. Town of West Bridgewater, 27 MCSR 645 (2014); Ung v. Lowell Police Dep’t, 24 MCRS 567 (2011); Gallo v. City of Lynn, 23 MCSR 348 (2010). See also Minoie v. Town of Braintree, 27 MCSR 216 (2014); Everton v. Town of Falmouth, 26 MCSR 488 (2013) and cases cited, aff’d, SUCV13-4382 (2014); Gonsalves v. Town of Falmouth and cases cited, 25 MCSR 231 (2012), aff’d, SUCV12-2655 (2014); Keating v. Town of Marblehead, 24 MCSR 334 (2011) and cases cited.

Providing incorrect or incomplete information does not always equate to untruthfulness, which is “an inherently subjective determination that should be made only after a thorough, serious and [informed] review that is mindful of the potentially career-ending consequences that such a conclusion has” on a law enforcement officer. . . .” See Kerr v. Boston Police Dep’t, 31 MCSR 35 (2018), citing Morley v. Boston Police Department, 29 MCSR 456 (2016). Thus, the serious consequences that flow from a finding that a law enforcement officer has violated the duty of truthfulness require that any such charges must be carefully scrutinized so that the officer is not unreasonably disparaged for honest mistakes or good faith mutual misunderstandings. See, e.g., Boyd v. City of New Bedford, 29 MCSR 471 (2016); Morley v. Boston Police Dep’t, 29 MCSR 456 (2016); Lucas v. Boston Police Dep’t, 25 MCSR 420 (2012) (mistake about appellant’s characterization of past medical history).

ANALYSIS

The DPD failed to meet its burden to establish that the decision to bypass Officer Holland was reasonably justified and based upon an impartial and thorough review of the facts. Chief d’Entremont’s stated reason for bypassing her – putatively insubordinate behavior in “choosing

her own goals” over her responsibilities to the DPD he had assigned to her -- was not proved by a preponderance of the evidence. Rather, the preponderance of the evidence showed Chief d’Entremont carried into the bypass decision a long-held, unjustified, unconscious (or, as the concurring commissioners conclude, even conscious) bias against Officer Holland and in favor of the selected candidate, formed by misinformation, which led him to misinterpret her actions, unreasonably discount a well-recognized record worthy of promotion, and apply a series of highly subjective, and somewhat overstated, judgments about his favored candidate’s credentials. While not meaning to detract from Officer M’s own accomplishments, the fact remains that the promotional process did not afford Officer Holland the unbiased level playing field that basic merit principles requires. Her bypass appeal must be allowed so that she receives an unbiased opportunity to be promoted to DPD Sergeant based on her qualifications as required by civil service law.

First, I conclude that the reason provided by the DPD for bypassing Officer Holland – i.e., a “lack of compliance with expectations, reliability and leadership,” “failing to . . . demonstrate commitment” and “be a leader within the Department” because she “placed her own goals over Department objectives” -- was not based on a reasonably thorough and impartial review of the facts and was not supported by a preponderance of the evidence. The preponderance of the evidence proved just the opposite: Officer Holland brings an accomplished record of reliability and commitment to the DPD. She is well-respected by superiors and peers as a hard-working and knowledgeable professional law enforcement officer. Those who have percipient knowledge of her work described her as “an awesome public ambassador for our department” who “is always willing to help” fellow officers who “often seek her assistance”, especially on “high stressful calls” such as domestic violence complaints. She is a Field Training Officer (FTO) responsible for mentoring newly-appointed officers, the only female officer appointed to that position. She has a

reputation as having excellent communications and writing skills. Students look-up to her as a role model. In addition to her regular duties, she put in approximately 14 hours per week in overtime and detail work in the two years prior to the bypass (2018 & 2019).

Chief d'Entremont was certainly entitled to be disappointed to receive Officer Holland's email in which she informed him she declined to do another de-escalation training in the Spring of 2018. His assumption that Officer Holland made this decision because he had just rejected her application to become a School Resource Officer (for the second time) probably had some validity, but he did nothing to confirm this assumption at the time. This incident, moreover, deserved to be considered in context with the entire record of her tenure which, for some reason, Chief d'Entremont did not, or could not, grasp.

After her first rejection for SRO, she took steps to prepare herself for the next opportunity by participating as a chaperone on a student ski trip, one of the reasons she was told she didn't get the appointment the first time. According to one of her Sergeants, "students love her" and "when they see someone like Officer Holland they see themselves doing similar things in their futures." Officer Holland might have been more diplomatic in explaining herself, but to say that her second non-selection for SRO came as a blow and led her to refocus her efforts on studying for the Sergeant's civil service examination (where she could expect to be assessed objectively) should not have come as a surprise.

Chief d'Entremont's decision to use Officer Holland's decision to prioritize her "goals" within the DPD rather than prepare another de-escalation training reflects a larger, more troubling flaw in his assessment of her qualification for promotion and discloses what I find to be a long-standing conscious and/or unconscious personal bias against her, stemming from the complaints made against her in 2016 and 2017 (if not earlier). These uncorroborated complaints remained firmly in Chief d'Entremont's mind and influenced his judgment about her, leading him to be pre-disposed

to see her actions in a negative light and discount the many positive attributes that most others saw in her, sometimes called the “horns effect” or “confirmation bias”, i.e., forming a negative impression based on a single trait or interaction and tending to seek out and use information that reinforces and confirms those views.

For example, rather than view her desire to seek professional advancement as a plus for the DPD, he took it as a slight to his authority for not appointing her to the position of SRO. When Officer F, a male officer, asked to step down as the SRO so that he could make more money to cover the costs of starting a family, however, Chief d’Entremont took no offense. He discounted Officer Holland’s acknowledgement that continuing de-escalation training was important and ignored her suggestion that he find another officer to step into that role. Similarly, when he was confronted with Officer Holland’s credible testimony that she was motivated by her commitment to spend her off-duty time studying for Sergeant’s exam, not the loss of the SRO assignment, which discredited his own statements that Officer Holland could have prepared the de-escalation training with little effort during work-time and still studied for the Sergeant’s examination off-duty, he embarked on a mission to discredit her explanation, the results of which have actually persuaded me that Officer Holland was completely honest about the extent of the work she did to create the first de-escalation training module on her own time – her duties as patrol officer in a cruiser or on a beat making it impossible for her to do the work on duty as Chief d’Entremont postulated – and that preparing another module before the Sergeant’s examination would unduly interfere with her study time.

After carefully reviewing Officer Holland’s testimony before me and making a thorough review of the various exhibits relating to the June 2017 de-escalation training – I find Officer Holland’s testimony (four years after the fact) about the level of personal effort she put into researching and revising the CSI materials in 2017, and her testimony that she did not believe she

had the off-duty time to do an satisfactory job of updating and preparing a new de-escalation training while she needed to study for the 2018 Sergeant’s examination, DOES carry the “ring of truth”. She presented with a calm demeanor, gave careful and responsive answers to questions, both on direct and cross-examination. I found her candid, respectful and not unduly self-serving, willing to acknowledge facts that were not entirely favorable. As to her testimony about her level of work on the de-escalation training, I find that she was entirely truthful and honest to the best of her recollection; and that nothing she stated during the Commission hearing can fairly be characterized as materially inaccurate or intentionally misleading or overstated. Indeed, the ends to which Chief d’Entremont went to discredit the testimony of one of his officers with an unsubstantiated charge of untruthfulness reinforces my conclusion that he operated under the influence of a negative personal bias against Officer Holland.¹⁵

Second, I find that Chief d’Entremont’s preference for the selected candidate, Officer M, is the product of the precise opposite form of bias, sometime referred to as “confirmation “ or “affinity bias” or the tendency to favor people who share similar interests, backgrounds and experiences, as well as a “halo effect”, i.e., having a pre-disposed affinity for an individual that leads to characterizing all of that person’s attributes favorably and uncritically. Here, for example, Chief d’Entremont selected Officer M, whose father was a former DPD officer and his uncle was the Town Clerk, as 2019 Officer of the Year, even though he only had the support of one Lieutenant, over Officer Holland, who had the support of three Lieutenants and her Sergeant. Although Officer M then was fourth on the Sergeant’s promotional list, and Officer Holland was ahead of him, it was Officer M whom he thought would soon be promoted and be on his way up the ranks, possibly

¹⁵ I have the same concern for the conclusion contained in the private investigator’s report which concluded that Officer Holland was “Intentionally Untruthful” in her testimony before me – a potentially career ending claim of perjury. The Commission has been critical of this same investigator in making similarly unsubstantiated charges against a police officer and I give no weight to the conclusions of that investigator’s report. See, e.g., Grasso v. Town of Agawam, 30 MCSR 347 (2017).

becoming Chief one day. Similarly, Chief d'Entremont thought Officer M showed his ability as a “leader” based on overall-incident statistics which, at best, provide little distinction between the actual performance of Officer M and Officer Holland when those statistics are scrutinized. This “halo effect” persists in Chief d'Entremont characterization of Officer M’s advanced academic degrees as evidence of his “potential for future advancement to even higher ranks” while giving relatively short shrift to Officer Holland’s hundreds of hours of professional training.

Third, Chief d'Entremont’s biases were also in play as part of the interview process. Public safety agencies are properly entitled, and often do, conduct interviews of potential candidates as part of the hiring process. In an appropriate case, a properly documented poor interview may justify bypassing a candidate for a more qualified one. See, e.g., Dorney v. Wakefield Police Dep’t, 29 MCSR 405 (2016); Cardona v. City of Holyoke, 28 MCSR 365 (2015). Some degree of subjectivity is inherent (and permissible) in any interview procedure, but care must be taken to preserve a “level playing field” and “protect candidates from arbitrary action and undue subjectivity on the part of the interviewers”, which are the lynchpin elements of the basic merit principle of civil service law. See, e.g., Malloch v. Town of Hanover, 472 Mass. 783, 796-800 (2015); Flynn v. Civil Service Comm’n, 15 Mass. App. Ct. 206, 208, rev. den., 388 Mass. 1105 (1983); Pilling v. City of Taunton, 32 MCSR 69 (2109); Conley v. New Bedford Police Dep’t, 29 MCSR 477 (2016); Phillips v. City of Methuen, 28 MCSR 345 (2015); Morris v. Braintree Police Dep’t, 27 MCSR 656 (2014).

In this case, insufficient objective procedures were incorporated into the interview process here to insulate the candidates from Chief d'Entremont’s personal biases that favored Officer M and worked against Officer Holland. The interview panelists played only an advisory role. There were no objective scoring criteria. The candidates were ranked in a group discussion (in which Chief d'Entremont took the lead) after all interviews were finished; and, given that Officer Holland was

the first interview and Officer M the last interview, over three hours had lapsed between the two interviews, and the panelists did not discuss their impressions with each other until the next day. The stated reasons for ranking Officer M as the best interviewee are substantially all subjective judgments for which I am unable to find specific objective support in the evidence. Finally, at no time was Officer Holland asked about the (ultimately determinative) concern that Chief d'Entremont harbored as the reason for bypassing her. I am also skeptical of panelists' uniform conclusion that Officer Holland gave the worst interview, as (a) her exceptional interview performance (along with her strong academic record and prior professional experience) was cited by Chief d'Entremont as the reasons he decided to hire her; (b) her supervisors ranked her highly in interpersonal skills; and (c) my own assessment of her testimony (confirmed by her performance at the subsequent investigatory interviews) found her respectful, responsive and well-spoken.

Fourth, I address the issue of gender bias. The evidence contains numerous red flags of gender bias (e.g., the small number of female officers, the overwhelming preference of male officers over females for special assignments and promotions, the disparate treatment of Officer F who expressed interest in a career move for personal reasons versus treating Officer Holland's interest in pursuing her own personally important professional goals, as a betrayal of commitment). Officer Holland has an active discrimination civil action pending in Superior Court. The finding I make that Chief d'Entremont plainly harbored unconscious personal biases that led to Officer Holland's bypass suffices to conclude that the DPD violated basic merit principles of civil service law. That alone requires that her bypass appeal be allowed. Accordingly, it is not necessary to decide the specific issue of gender bias which can be equally, if not more effectively, litigated in the Superior Court in this particular case.

Finally, I have considered the form of relief that must be granted to the Appellant. The most common type of relief ordered by the Commission regarding bypass appeals is to order the

placement of the candidate's name at the top of the next Certification to ensure reconsideration and to order a retroactive civil service seniority date, if and when the candidate is appointed. The Commission, however, has broad discretion regarding the appropriate relief to be granted based on the circumstances regarding each appeal. See Boston Police Dep't v. Kavelski, 463 Mass. 680 (2012) (nothing in the HRD rules requires further [psychological] screening after BPD candidate had successfully appealed a psychological bypass decision); Mulhern v. Civil Service Comm'n, 57 Mass. App. Ct. 920 (2003) ("The remedy to be accorded a plaintiff is a matter within the commission's discretion and will rarely be overturned") citing Bielawski v. Personnel Administrator, 422 Mass. 459, 464 n.1, 465 (1996) and Thomas v. Civil Serv. Comm'n, 48 Mass. App. Ct. 446, 451 (2000).

CONCLUSION

For the reasons stated herein, this appeal of the Appellant, Marissa Holland, CSC Docket No. G2-21-001, is *allowed*.

After considering the particular factors involved in this appeal, I conclude that, in addition to placing Officer Holland at the top of all current and future certifications, additional protections are necessary to assure that any future consideration is not impaired by the same biases (whether conscious or unconscious) that produced the current unlawful bypass.

I also take administrative notice that the Peace Officer Standards and Training Commission (POST), as part of its authority under G.L. c. 6E to recertify incumbent police officers, is currently requiring Police Chiefs to indicate whether an officer is "of good moral character and fit for employment in law enforcement." To ensure clarity, there is nothing in the record before me that would support a conclusion that Ms. Holland does not meet this standard.

Accordingly, pursuant to the powers of relief inherent in Chapter 310 of the Acts of 1993, the Commission **ORDERS** that the Massachusetts Human Resources Division and/or the Dedham

Police Department in its delegated capacity take the following action:

1. Officer Holland shall be placed at the top of any current and all future Certification for DPD Police Sergeant until such time as she is promoted, or bypassed

2. In any future consideration of Officer Holland for promotion to DPD Police Sergeant, the DPD shall not bypass her as a result of any facts or circumstances of which it had knowledge prior to her return to duty in November 2021, including, in particular, but without limitation, the incidents of alleged misconduct reported about her in 2016 and 2017, her decision to decline to prepare a second de-escalation training in 2018; the alleged (but unsubstantiated) claim that she gave untruthful or misleading testimony before the Commission in this appeal; and any discipline imposed for such alleged untruthful or inaccurate testimony provided to the Commission.

3. No promotional appointment to DPD Police Sergeant of any candidate ranked below Officer Holland shall become effective until such time as: (a) the DPD has provided Officer Holland with reasons for bypass; (b) Officer Holland has had the opportunity to file an appeal with the Commission; and, if one is lodged, (c) the Commission has issued a final decision in any such future bypass appeal.

Civil Service Commission

/s/Paul M. Stein

Paul M. Stein, Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Camuso, Stein and Tivnan, Commissioners) on June 2, 2022

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), 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:

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COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION
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MARISSA HOLLAND,
Appellant

CASE NO. G2-21-001

v.
TOWN OF DEDHAM,
Respondent

CONCURRING OPINION OF COMMISSIONERS BOWMAN AND TIVNAN

We support the well-reasoned findings and conclusions of Commissioner Stein. We do not, however, believe that the harm done to Officer Holland here was the result of *unconscious* bias. To us, the record shows a glaring example of personal animus. Most disturbing is the unprecedented decision by Chief d’Entremont to hire a private investigator to determine whether Officer Holland’s testimony *before the Civil Service Commission* was truthful. As clearly stated in Commissioner Stein’s decision, Officer Holland was not untruthful in her testimony before the Commission. Even after it was determined that the private investigator was basing his initial conclusions on the wrong set of documents, Chief d’Entremont still labeled Officer Holland as untruthful, a potentially career-ending conclusion that becomes even more consequential given the ongoing recertification of police officers by POST. The actions taken by Chief d’Entremont against Officer Holland here are contrary to basic merit principles and, left unchecked, may have a chilling effect in regard to police officers giving testimony before the Civil Service Commission.

Civil Service Commission

/s/ Christopher C. Bowman, Chair
/s/ Kevin M. Tivnan, Commissioner

June 2, 2022