

# The Commonwealth of Massachusetts

Decision mailed: 1/8/10  
Civil Service Commission  
CS

**PHYLLIS IGOE,**  
*Appellant*

v.

**BOSTON POLICE  
DEPARTMENT,**  
*Respondent*

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

**Case No.: D1-08-136**

## DECISION

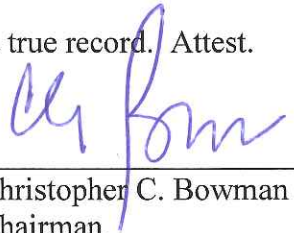
After careful review and consideration, the Civil Service Commission voted at an executive session on January 7, 2010 to acknowledge receipt of the report of the Administrative Law Magistrate dated August 18, 2009. On November 23, 2009, the Commission received Appellant's Objections to Administrative Magistrate's Findings of Fact and Recommended Decision, Appellant's Motion to Reopen Record, and Affidavit of Phyllis Igoe. On December 17, 2009, the Commission received the Respondent's Opposition to the Appellant's Motion to Reopen the Record.

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 Motion to Reopen Record is *denied*. The Appellant's appeal is hereby *dismissed*.

By vote of the Civil Service Commission (Bowman, Chairman; Henderson, Stein, and Taylor, [Marquis, absent] Commissioners) on January 7, 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)(I), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for the purpose of tolling the time for appeal.

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

Notice to:

Howard Mark Fine, Esq. (for Appellant)  
Nicole I. Taub, Esq. (for Appointing Authority)  
Richard C. Heidlage, Esq. (DALA)

COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION

SUFFOLK, ss.

CASE NUMBER D1-08-136

PHYLLIS IGOE )  
Appellant, )  
 )  
v. )  
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BOSTON POLICE DEPARTMENT )  
Respondent. )  
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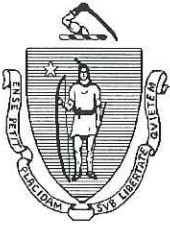
**ALLOWED/DENIED**

*Angela C. McConney*  
Angela C. McConney, General Counsel  
Date: 1/7/2010  
Civil Service Commission

**APPELLANT'S MOTION TO REOPEN RECORD**

NOW comes Howard Mark Fine, counsel for the appellant in this matter, Phyllis Igoe (hereinafter the "Appellant" or "Ms. Igoe"), and hereby moves this Honorable Commission, pursuant to 801 CMR 1.01(7)(k), to reopen the record. As grounds therefore, the following is stated:

1. On May 30, 2008, the Boston Police Department (hereinafter the "Respondent" or "BPD"), after an administrative hearing, terminated the Appellant's civil service employment as a School Traffic Supervisor (hereinafter "STS").
2. For 37 years Ms. Igoe was employed by BPS as a STS.
3. Subsequent to BPD's termination decision, the Appellant timely filed the herein appeal.
4. A full hearing was conducted by Administrative Magistrate James P. Rooney of the Massachusetts Division of Administrative Law Appeals. The hearing was conducted on October 30, 2008 and November 25, 2008.
5. Throughout the proceeding, Ms. Igoe appeared pro se and the BPD was represented by its counsel, Attorney Nicole Taub.



THE COMMONWEALTH OF MASSACHUSETTS  
DIVISION OF ADMINISTRATIVE LAW APPEALS  
98 NORTH WASHINGTON STREET, 4<sup>TH</sup> FLOOR  
Boston, MA 02114

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August 18, 2009

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

**Re: Phyllis Igoe v. Boston Police Department**  
**DALA Docket No. CS-08-535**

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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.

Sincerely,

  
Richard C. Heidlage  
Acting Chief Administrative Magistrate

RCH/das

Enclosure

cc: Phyllis Igoe  
Nicole I. Taub, Esq.

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

Phyllis Igoe,

Appellant

v.

Docket Nos. CS-08-535

DI  
P-08-136

Boston Police Department,

Respondent

**Appearance for Appellant:**

Phyllis Igoe, *pro se*  
80 Maynard Street  
Roslindale, MA

**Appearance for Respondent:**

Nicole Taub  
Boston Police Department  
Office of the Legal Advisor  
1 Schroeder Plaza  
Boston, MA 02118

**Administrative Magistrate:**

James P. Rooney, Esq.

**SUMMARY**

The Boston Police Department demonstrated just cause to terminate Phyllis Igoe as a School Traffic Supervisor based on evidence that she was not at her post for the duration of the time she was supposed to be there and neglected her duty when she was there.

**RECOMMENDED DECISION**

On May 30, 2008, the Boston Police Department terminated longtime School Traffic Supervisor Phyllis Igoe for failure to appear and remain at her post during her designated hours

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and failure to perform her duties properly. Ms. Igoe filed a timely appeal with the Civil Service Commission.

I held a hearing on October 3 and November 25, 2008 at the Division of Administrative Law Appeals, 98 North Washington Street, Boston, Massachusetts. I admitted into evidence 23 documents offered by the Boston Police Department; I admitted 10 documents offered by Ms. Igoe on the second day of hearing.<sup>1</sup> I recorded the hearing on two tapes. The Police Department presented testimony from Police Officer Luis Vasquez, Sergeant Jason S. Gilmore, Captain James Hasson, and Jane Gibbons, the principal of the St. Theresa School. Ms. Igoe testified for herself and presented one additional witness, Joanne Freeman.

### **FINDINGS OF FACT**

Based on the testimony and exhibits admitted at the hearing and reasonable inferences from the evidence, I make the following findings of fact:

1. Phyllis Igoe was first employed by the Boston Police Department as a School Traffic Supervisor in 1971. She was assigned each school year to a particular street corner where she was to assist school children crossing streets in the morning on their way to school and in the afternoon on their way home. (Igoe and Vasquez testimony and Igoe Ex. 1.) As a civilian employee of the Police Department, she was bound to act in accordance with Department Rule 102, which required that she perform her established and ordinary duties, obey orders of superior officers, report for duty at the time and place specified by her superior officer, not engage in personal business while on duty, and file only truthful reports. (BPD [Boston Police Department] Ex. 1 [sec. 4 – neglect of duty, sec. 8 – directives and orders, sec. 10 – reporting for duty, sec. 18 – personal business, and sec. 23 – Department reports].) She was also

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1. The Police Department objected to three of those documents. I overruled the objection.

subject to Guidelines for School Traffic Supervisors, which required that traffic supervisors be in full uniform (including a white shirt and a white hat) and “at their posts at [their] scheduled times and for the duration of scheduled time.” (Vasquez testimony and BPD Ex. 2.) She signed a copy of the 2004-2005 guidelines. (BPD Ex. 2.)

2. Iggoe’s last assignment was at the St. Theresa School in West Roxbury, an elementary which 375 children attend. (Vasquez, Gibbons, and Iggoe testimony.) During the 2006-2007 school year, her post was at the corner of St. Teresa Avenue and Homewood Road; during the 2007-2008 school year, her post was at the corner of St. Teresa Avenue and Pine Lodge Road. (BPD Ex. 3.) Her assigned hours were from 7:30 a.m. until 8:30 a.m. and from 2:00 p.m. until 3:00 p.m. (Vasquez and Iggoe testimony.) The school day began at 7:45 a.m. and ended at 2:30 p.m., although some of the younger children were dismissed by 2:20 p.m. (Gibbons testimony.) Iggoe signed out at the police station when following her afternoon shift. (Iggoe Ex. 7.)

3. Iggoe was supervised by Police Officer Luis Vasquez, one of whose jobs as a community service officer is to supervise 18 traffic supervisors. (Vasquez testimony.) In October 2006, Officer Vasquez and his supervisor, Sergeant Jameson, reported to Captain James Hasson, who had been assigned two months earlier to District 5 in which St. Teresa’s is located, that Iggoe’s performance as a traffic supervisor was a longstanding problem. The officers told the captain that Iggoe was not doing her job, was not wearing her uniform, and was refusing to cooperate. Captain Hasson spoke to Iggoe and gave her an oral warning, but told her she had a clean slate with him and reviewed with her the Department’s expectations for traffic supervisors. He believed from her responses that she understood the nature of her responsibilities. (Hasson testimony.)

4. Within a month, however, the Police Department suspended Igoe for one day for leaving her post at 8:07 a.m. on October 19, 2006, thereby failing to stay for the full hour from 7:30 to 8:30 a.m. that day. The suspension also addressed “multiple violations of the Rules and Regulations committed between February 2004 and October 2006.” (BPD Ex. 18.) Igoe did not appeal this suspension. (Hasson testimony.) Starting in November, 2006 she had pictures taken of her at her post to verify she was there. (Igoe Ex. 1.)

5. The Police Department next suspended Igoe for three days for failing to be at her post on November 6 and 7, 2006. BPD Ex. 19. Captain Hasson spoke to her again and told her she would not have a problem with the Police Department if she just did her job. (Hasson testimony.) But no such resolution was reached, and the Department then suspended her for five days for failing to be at her post at 7:41 a.m. on February 6, 2007. (BPD Ex. 20.) She appealed both suspensions. The Civil Service Commission affirmed the suspensions on July 25, 2008, finding that the evidence showed that Igoe was not at her post during her designated shifts on November 6 and 7, 2006 and February 6, 2007. (Igoe Ex. 1.)

6. On May 8, 2007, Officer Vasquez spot checked Igoe’s post on his way to answer another call. He arrived at 2:38 p.m. and did not find Igoe there. He waited for her to appear, but when she did not, he took over the crossing and later he and the officer accompanying him filed reports on what had happened. (Vasquez testimony and BPD Exs. 6 and 7.) The following day, Igoe responded to these reports in a handwritten memo to Captain Hasson in which she stated, “I was at my post 5-8-7 in the afternoon doing my job.” (BPD Ex. 9.)

7. Prior to the beginning of the next school year, Officer Vasquez met with Igoe. He reminded her that she was expected to wear her full uniform, including her hat, and that “her primary duty at her crossing location is to safely cross the children.” (BPD Ex. 3.) Because she

had chosen that year to work at the corner of St. Theresa Avenue and Pine Lodge Road, Officer Vasquez gave her specific instructions regarding Pine Lodge Road, which is a dead end street on which parking is not allowed. (Gilmore testimony and BPD Ex 3.) He advised her that:

she is not to allow parents to illegally park on St. Theresa Ave. and Pinelodge Rd., as this compromises the safety of the children. She is supposed to stop parents from driving on Pinelodge Rd., as this also endangers the children. That is the reason the school principal has made arrangements for cones to be set in front of Pinelodge Rd. every morning and also for afternoon dismissal time.

(BPD Ex. 3.)

8. Igoe's performance at the start of the school year did not meet with the approval of St. Theresa's principal, Jane Gibbons, who sent ten emails to Officer Vasquez between September 6 and September 25, 2007. She reported that Igoe stood at the corner while teachers helped students cross the street, did nothing to prevent parking on Pine Lodge Road or traffic tie-ups there, occasionally left her post early or was in her car when children were still moving about the area, and spent some of her time taking pictures. Gibbons invited someone from the Police Department to come to the school and observe Igoe at work. (Gibbons testimony and BPD Ex. 15.)

9. On September 18, 2007, at Captain Hasson's direction, Sergeant Jason Gilmore went to the school to observe Igoe at work. He stayed in the school's main office and watched Igoe's post through the window. Igoe did not arrive until 7:52 a.m. and was not wearing her white hat. (Gilmore testimony and BPD Ex. 12.) She parked in a private driveway on Pine Lodge Road, which unknown to Gilmore, she had permission to do. (Gilmore testimony.) She crossed only five children, while 30-40 children crossed alone. She took photos of the school and was reading a piece of paper while leaning against a wall at times when children were crossing the street. (Gilmore testimony and BPD Ex. 12.) And as far as traffic control was



concerned, Gilmore wrote in a memo to Captain Hasson that “[i]t was apparent that Ms. Igoe has no regard for the safety of the children, because she allowed every car that turned onto Pine Lodge Road to enter.” (BPD Ex. 12.) At 8:06 a.m., when the neighbor in whose driveway she parked asked her to move her car, she got into her car and left. (Gilmore testimony and BPD Ex. 12.)

10. During the afternoon shift of September 18, 2007, Sergeant Gilmore saw Igoe arrive at 2:06 p.m. She was wearing a dark colored shirt rather than a white shirt. She leaned against a wall at the corner of Pine Lodge Road and St. Theresa Avenue and proceeded to read the *Boston Herald*. She did nothing when a driver moved an orange cone on Pine Lodge Road and then proceeded to drive down the road. She also did not stop parents from parking on the sidewalk on St. Theresa Avenue. She crossed a few children, took more photographs of the school, and drove off at 2:44 p.m. (Gilmore testimony and BPD Ex. 12.)

11. Sergeant Gilmore returned to the school on the morning of September 19, 2007. Igoe arrived at 7:32 a.m., again without her hat. She leaned against a wall, then spoke to a parent, who appeared to be signing something in a red folder Igoe brought with her. At 7:45 a.m., she started taking photographs of the school building and subsequently stared into the windows at the office staff. She got into her car at 8:01 a.m. and drove off at 8:06 a.m. Sergeant Gilmore did not see her crossing any children. (Gilmore testimony and BPD Ex. 13.)

12. Later that day, Igoe submitted a hand written note to Captain Hasson concerning her job performance on September 18, 2008. She stated in the note that “[o]n 9-18-7 I was doing my job at the right time.” (BPD Ex. 14.) Captain Hasson initiated an internal complaint. (Hasson testimony.)

13. The following day, September 20, 2008, Sergeant Detective Christopher Cuniff of Internal Affairs watched Igoe during her afternoon shift. At 2:15 p.m., she was sitting in her car; five minutes later, she got out of the car and stayed at her post until 2:40 p.m., when she drove off. He returned the next day in the morning and observed that Igoe left her post at 8:15 a.m. (BPD Ex. 17.)

14. On November 5, 2007, Principal Gibbons sent a memo to parents informing them that:

Effective Tuesday November 13, 2007, teachers will no longer walk children up St. Theresa Avenue to the mailbox at Homewood Road . . . . This abrupt policy change is necessitated by the unsafe traffic conditions on Pine Lodge Road and St. Theresa Avenue.

(Igoe Ex. 9.)

15. Captain Hasson filed two complaints against Igoe. The first, case number 096-07, alleged that on May 7, 2007, Igoe violated Rule 102 §4 (neglect of duty) by not being at her post and Rule 102 §10 (reporting for duty) by leaving her post early. The complaint also alleged that she violated Rule 102 §8 (directives and orders) by disregarding directives and orders of Captain Hasson on numerous occasions. (BPD Exs. 4 and 5.) The second complaint, case number 177-07, alleged that on numerous occasions, Igoe violated Rule 102 §4 (neglect of duty) by allowing cars to pass when children attempted to cross the street without her assistance and spent time soliciting parent signatures and taking pictures of the school while on duty and Rule 102 §8 (directives and orders) by disregarding orders of Officer Vasquez and Captain Hasson concerning her duties. The complaint also alleged that she violated Rule 102 §10 (reporting for duty) by arriving at her assignment late and leaving early on September 18, 19, 20 and 21, 2007, Rule 102 §18 (personal business) by soliciting signatures, reading the newspaper and taking

pictures of the school while on duty on September 18 and 19, 2007, and Rule 102 §23 (truthful reports) by filing a false report with Captain Hasson on September 19, 2007 regarding her location and the performance of her duties. (BPD Exs. 10 and 11.)

15. On March 31, 2008, The Police Department's Chief Administrative Hearing Officer held a hearing on the two complaints and found that evidence had been submitted to sustain both of them. On May 30, 2008, Police Commissioner Edward Davis sent a letter to Igoe in which he stated that "[i]n view of the evidence presented, I hereby find that the charges against you for violations of Rule 102, §§4, 8, 10, 18, 23 are sustained and hereby terminate you from your employment effective May 30, 2008." (BPD Ex. 22.) Igoe appealed. (BPD Ex. 23.)

### **DISCUSSION**

A tenured Civil Service employee may be discharged for "just cause." M.G.L. c. 31, § 41. At the *de novo* hearing before the Division of Administrative Law Appeals, the Police Department had to prove by a preponderance of the evidence that just cause existed for Igoe's discharge. See M.G.L. c. 31, § 43 and *School Committee of Brockton v. Civil Service Commission*, 43 Mass. App. Ct. 486, 684 N.E.2d 620, 622 (1997).

I find that the Boston Police Department has shown just cause on multiple grounds to terminate Phyllis Igoe as a School Traffic Supervisor. Most tellingly, the Police Department submitted evidence showing that Igoe was not at her post during all her assigned hours on May 8, 2007 and September 18-21, 2007 and failed to cross numerous children when she was there.

Igoe's defense focused mainly on whether she showed up for work on those days. She submitted numerous photographs showing her on the job at the school, and Joanne Freeman testified to having seen Igoe work. Neither the photographs nor Freeman's testimony undermine the testimony of the police officers who observed Igoe missing from her post or who saw her

there, but not doing her job.<sup>2</sup> None of the photographs were taken on May 8, 2007 or September 18-21, 2007. They show that she was on the job on other days (some of which were days that were the subject of prior disciplinary actions) – and possibly give some explanation as to why she was seen taking photographs of the building, because the series of photographs not only show her in the street but also show the particular corner where she was assigned to demonstrate that the pictures were taken at the school crossing. But the photographs do not address the central charge by the Police Department concerning Igoe's absence from her post, namely that she was not there for the entire two hours she was assigned on May 8, 2007 and September 18-21, 2007.

Freeman's testimony did not address that charge either, for while she saw Igoe at work on many afternoons, she did not recall exact dates and could not state at what time Igoe ended her afternoon shift on any particular date.

Igoe also claimed she had little to do because Principal Gibbons rerouted the children after they were dismissed for the day and that, in any event, it had long been the practice that traffic supervisors could leave once the children had crossed and gone into school in the morning or gone home in the afternoon. She submitted a memorandum from Principal Gibbons to support the former argument (Igoe Ex. 9) and photographs of sign-out sheets to support the latter argument (Igoe Exs. 7 and 8).

The memo from Principal Gibbons was dated November 5, 2007. In it, she stated that:

Effective Tuesday November 13, 2007, teachers will no longer walk children up St. Theresa Avenue to the mailbox at Homewood Road . . . . This abrupt policy change is

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2. The photographs also consistently show Igoe without the white cap that was part of her uniform and thus tend to support the Police Department's case that she was not properly in uniform and ignored directives to wear the white cap.

necessitated by the unsafe traffic conditions on Pine Lodge Road and St. Theresa Avenue.

(Igoe Ex. 9.) The memo shows that Principal Gibbons redirected school children away from the post to which Igoe was assigned at Pine Lodge Road, just as Igoe claimed, but this occurred in November 2007, after the events in May and October 2007 relevant to the charges brought by the Police Department. Thus, the memo does not provide Igoe with a defense.

The photographs of the sign-out sheets are more helpful to Igoe. They show sign-out sheets maintained by the Police Department that list the name of each traffic supervisor, the school assignment, the time when the supervisor is finished for the day, and a signature block for the supervisor to sign after completing work. The photographs Igoe submitted for May 4 and May 14, 2007 are time-stamped before 3:00 p.m. and show that three traffic supervisors (other than Igoe) had signed out before their 3:00 p.m. end-of-duty times on each of these days. A photograph from October 15, 2007 show that six supervisors (including Igoe) had signed out by 3:01 p.m. Because traffic supervisors must go to the police station to sign out, it would appear that they had to leave their posts before 3:00 p.m. to do so. (*See* Igoe Ex. 8.)

A civil service employee may be able to obtain relief from a negative employment action by demonstrating that the appointing authority acted with bias or in a manner unrelated to neutrally applied policy objectives. *City of Cambridge v. Civil Service Commission*, 43 Mass. App. Ct. 300, 304, 682 N.E.2d 923, 926 (1997). The photographs of the sign-out sheets could potentially support an argument that the Police Department was biased against Igoe because it disciplined her for leaving work before 3:00 p.m., although it routinely allowed others to do so. The photographs alone, however, do not establish bias. Igoe submitted her documents on the second day of the hearing, when only Freeman testified. Thus, neither she nor any of the Police

Department's witnesses testified about the sign-out sheets. Some testimony was needed to establish at the very least that the photographs were taken before or just after 3:00 p.m. on days indicated in the pictures. *See United States v. Fadayini*, 28 F.3d 1236, 1241 (D.C. Cir. 1994)(ATM photographs, including time and date information, authenticated by bank personnel familiar with operation of ATM cameras); *see also* 3 Am. Jur. Trials 1st §38 (if time of photograph is an issue, accuracy of time notation must be authenticated).

Despite the photographs, I am not convinced that the record as it stands show that the Department acted with bias against Igoe. Even if Igoe is correct that it had long been the practice of the Police Department (at least in District 5) to allow traffic supervisors to leave once the children were in school in the morning or had all crossed in the afternoon, the record shows that the Police Department informed her on several occasions that she was not staying at her post as long as she was expected to be there. She was presented guidelines for traffic supervisors for 2004-2005 that stated the Department's requirement that traffic supervisor's stay at their posts for the duration of their shifts. (BPD Ex. 2.) She met with Captain Hasson in October 2006, a few months after he became a captain in District 5, and he reviewed with her the Department's job expectations for traffic supervisors. (Hasson testimony.) Hasson did not testify that he explicitly told Igoe that she must remain at her post for the duration of her shift. However, it should have been apparent to Igoe that Hasson in fact expected this after she was disciplined for leaving her post at 8:07 a.m. on October 19, 2006 rather than staying till 8:30 a.m. (BPD Ex 18.) This message was reinforced by the subsequent three day and five day suspensions for failing to be at her post on November 6 and 7, 2006 and failing to be at her post at 7:41 a.m. on February 6, 2007. (BPD Exs. 19 and 20.)<sup>3</sup>

3. Because Igoe started taking pictures to protect herself in November 2006, she understood the Police Department's message about her time to some degree. But it is not clear to me that she ever understood



Not only was Igoe on notice that the Police Department expected her to stay longer at her post, but the record shows that she did more than just leave a few minutes early. On May 8, 2007, Officer Vasquez could not find her at her post at 2:38 p.m. — eight minutes after school was dismissed. (Vasquez and Gibbons testimony.) On the morning of September 18, 2007, she was at her post from 7:52 a.m. until 8:06 a.m., which was only 14 minutes of the one hour she was supposed to be there. (Gilmore testimony.) That afternoon she was there for only 38 minutes and the following morning for only 34 minutes. (Gilmore testimony.) The following afternoon, September 20, 2007, she was at her post for 25 minutes. (BPD Ex. 17.) This evidence was sufficient to show that Igoe was not reporting to her post for the duration of the time specified by her superior officer.

The evidence was also sufficient to demonstrate that she was not performing her job adequately when she was at her post. Officer Gilmore observed that most of the children who crossed at her corner on the morning of September 18, 2007 did so without her assistance. The following morning, she crossed no children. (Gilmore testimony.) While, as a traffic supervisor, she had no authority to enforce parking laws, she had been told by Officer Vasquez that one of her roles at the Pine Lodge Road corner would be to encourage parents not to drive down or park on that dead end street. (Gilmore testimony and BPD Ex. 3.) Officer Gilmore observed that on the morning and afternoon of September 18, 2007, Igoe made no effort to encourage parents to avoid driving or parking on Pine Lodge Road, and he became concerned for the safety of the

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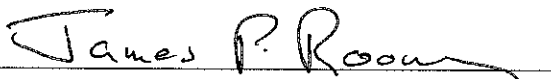
fully that the Department objected to her leaving as early as she did. As a consequence, I am not convinced that her report to Captain Hasson that she “was doing my job at the right time” on September 18, 2007 was a false report because she actually believed she was present on duty for as long as she needed to be present.

children crossing because Igoe "allowed every car that turned onto Pine Lodge Road to enter."  
(Gilmore testimony and BPD Ex. 12.)

Finally, the evidence also shows that she was engaged in other apparently non-work-related activities while she was at her post, including taking photographs, reading the newspaper, and obtaining parents' signatures on an unidentified document. Igoe acknowledged that these activities were not part of her job, although she denied soliciting signatures. (Igoe testimony.) The only one of these activities that was arguably job-related was taking photographs to show the Police Department that she was actually on the job. But gathering evidence to protect her position was hardly as important as performing her job. She had been told by Officer Vasquez that the most important part of her job was crossing children safely, yet when Officer Gilmore observed her in the morning of September 18, 2007, Igoe was taking photographs at times when children were crossing the street. (Gilmore testimony and BPD Ex. 3.)

The Boston Police Department demonstrated that Igoe violated Department Rule 102 by failing to be at her post for the duration of the time she was supposed to be there and neglecting her duty when she was there, in contravention of directives she had received from superior officers, all this after having gone through the process of progressive discipline for similar offenses. Accordingly, I recommend that the Civil Service Commission affirm the action of the Boston Police Department terminating Phyllis Igoe from her position as a Traffic Control Supervisor.

DIVISION OF ADMINISTRATIVE LAW APPEALS



James P. Rooney  
Administrative Magistrate

DATED: **AUG 18 2009**