

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge Street: Suite 200
Boston, MA 02114
(617) 979-1900

Re: Request by Malden Police Department to revive revoked eligible list for
Police Lieutenant

E-23-169

Commissioner:

Christopher C. Bowman

SUMMARY OF DECISION

The Commission allowed the request of the Malden Police Department to revive the revoked eligible list for Police Lieutenant after concluding that doing so is consistent with the effective maintenance of the merit system.

DECISION

On September 5, 2023, the Malden Police Department (MPD) filed a request with the Civil Service Commission (Commission) to revive a revoked eligible list for Police Lieutenant. On September 12, 2023, I held a remote pre-hearing conference which was attended by the General Counsel of the state's Human Resources Division (HRD) and the MPD Police Chief. Counsel for the local superior officer's union emailed the Commission prior to the pre-hearing and indicated that the union took no position on the petition. Based on the information provided prior to and at the pre-hearing conference, the following appears to be undisputed:

1. On September 21, 2019, HRD administered a promotional examination for Malden Police Lieutenant.
2. On December 17, 2019, HRD established an eligible list for Malden Police Lieutenant.

3. The MPD made two promotional appointments from the lieutenant eligible list between November 5, 2021 and July 1, 2022.
4. The eligible list was set to expire in December 2021, two years from when it was established. However, since no new eligible list was in place at the time, the eligible list, pursuant to HRD policy, was extended until September 1, 2022, three years from the first day of the month in which the eligible list was established (September 2019).
5. On September 1, 2022, HRD revoked the eligible list, along with many other eligible lists in other communities that had been established on the same date.
6. At the time that the eligible list was revoked, the name of Sergeant Scott Carroll was ranked first on that eligible list.
7. On September 17, 2022, HRD administered statewide police promotional examinations, including for Malden Police Lieutenant. Multiple Malden police sergeants sat for the September 17th examination.
8. On October 27, 2022, the Superior Court issued its decision re: [Tatum et al. v. Human Resources Division](#). In response to the Court's Tatum decision, HRD decided to not score any of these September 2022 police promotional examinations. Instead, HRD, with the assistance of a stakeholders' group, is working to establish and administer revised promotional examinations that address the issues raised in Tatum.
9. Should vacancies arise between now and December 2023, the MPD wishes to fill the vacancies through a permanent, full-time promotional appointment, as opposed to a provisional promotion.

Reasons for MPD's Request to Revive Revoked Eligible List

As part of his request submitted to the Commission, the Malden Police Chief wrote in part:

The City of Malden is of the belief that we would rather make a permanent appointment from a certified list whenever possible instead of having to make a provisional appointment that may ultimately result in the appointed individual(s) having to vacate the position upon establishment of a new list.

Having an active list in place ensures that should a vacancy arise, which we anticipate; the vacancy is filled in accordance with Civil service Law and basic merit principles in play.

In addition to these reasons, I have been asked by the Union to request this extension.

We have candidates signed up for the readministered exam in September so by granting our request to resurrect the list and extend, it would not likely be extended for a lengthy time, assuming the new list will be available shortly after the administration of the September exam.

Conclusion / Order

Based on the facts presented here, and for all the reasons stated above, I conclude that reviving the revoked eligible list for MPD Police Lieutenant at this time is consistent with the effective maintenance of the merit system. For that reason, the MPD's request is hereby **allowed**. The Commission, pursuant to its authority under Chapter 310 of the Acts of 1993, hereby orders the following:

- 1) HRD shall revive the MPD eligible list for Police Lieutenant revoked on September 1, 2022.
- 2) Upon its revival, the City may appoint from the revived list until such time as a new eligible list has been established from the results of the September 23, 2023 promotional examination.

SO ORDERED.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chair

By a vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney, Stein and Tivnan, Commissioners) on September 21, 2023.

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)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

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

Notice to:
Malden Police Chief Glenn Cronin
Alan Shapiro, Esq. (Counsel for Superior Officers' Union)
Michele Heffernan, Esq. (HRD)
Regina Caggiano (HRD)