

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

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

Tracking Number: I-24-039

Re: Request for Investigation by Michael Montecalvo and Robert Bruner regarding the filling of police sergeant vacancies in the City of Lawrence.

RESPONSE TO REQUEST FOR INVESTIGATION

Background

On March 22, 2024, the Petitioners, Michael Montecalvo and Robert Bruner (Petitioners), both police officers employed by the City of Lawrence (City)'s Police Department (LPD), filed a petition with the Civil Service Commission (Commission), asking the Commission to investigate the decision of the City's Mayor, who serves as the Appointing Authority, to not promote them to fill police sergeant vacancies that existed for several months (according to the Petitioners) prior to the expiration of the eligible list for Lawrence police sergeant on February 15, 2024, only to make promotional appointments almost immediately thereafter from a new eligible list.

On April 16, 2024, I held a remote show cause conference. As part of the show cause conference, counsel for the Petitioners, citing [Leduc v. City of Lawrence](#), argued that the actions of the Mayor here show a pattern of making appointments and promotions based on impermissible personal and political reasons (i.e. – granting promotions to political supporters). The City denied the allegations.

I subsequently ordered the City and the state's Human Resources Division (HRD) to produce certain documents and for the City to submit a written reply to the Petition, with the Petitioners permitted to provide a response. I have reviewed all the documents¹ submitted as well as the written submissions of the parties.

Commission's Authority to Conduct Investigations

The Civil Service Commission (Commission), established pursuant to G.L. c. 7, § 4I, is an independent, neutral appellate tribunal and investigative entity. Section 2(a) of Chapter 31 grants the Commission broad discretion upon receipt of an alleged violation of the civil service law's provisions to decide whether and to what extent an investigation might be appropriate. Further, Section 72 of Chapter 31 provides for the Commission to "investigate all or part of the official and labor services, the work, duties and compensation of the persons

¹ The Commission acknowledges the assistance of Law Clerk Noah Nelson with the review of documents submitted.

employed in such services, the number of persons employed in such services and the titles, ratings and methods of promotion in such services.” The Commission exercises its discretion to investigate only “sparingly,” typically only when there is clear and convincing evidence of systemic violations of Chapter 31 or an entrenched political or personal bias that can be rectified through the Commission’s affirmative remedial intervention.

Commission’s Response

After a careful review of the parties’ submissions and all documents produced by the City and HRD, I have concluded that no further action, beyond that already taken here, is warranted by the Commission at this time. The Petitioners argue that the City’s Mayor delayed certain promotional appointments to the position of sergeant until a new eligible list was established for reasons related to personal and political favoritism. In short, the record as it exists today suggests that it is at least equally as plausible that the delay in filling these vacancies was tied to ambiguity and/or differences of opinion regarding how to proceed after HRD chose not to score the September 2023 sergeant promotional examinations after the Court’s decision in Tatum v. Commonwealth, Suffolk Sup. Ct. No. 0984CV00576 (10/27/2022) (Wilkins, J.) (Tatum Decision). The Tatum decision caused HRD to reschedule certain fire and police promotional examinations conducted or scheduled (in the ordinary course) during 2022, pending the completion of the redesign of the examinations by outside Subject Matter Experts (SMEs).

In a series of email exchanges between the City’s Mayor, the local police union, the Personnel Director and the Town’s then-Police Chief in or around November 2022, there were divergent opinions about the impact of HRD’s decision, including whether the City could – or should – proceed with permanent promotional appointments to the position of sergeant from the eligible lists already in place at the time of HRD’s decision. In fact, the City’s Personnel Director at the time, whom the Petitioners have suggested may provide information that would support opening an investigation, wrote in a November 15, 2022 email that, in her opinion, the existing eligible list could not be used to make promotions, which was ultimately shown to be incorrect based on further HRD guidance. Ultimately, the City chose to wait until a new eligible list was established in February 2024.

The record is insufficient to show that, should the Commission open an investigation, the Petitioners would have any likelihood of showing that the City’s decision to delay filling the sergeant vacancies in question on a permanent basis was motivated by personal or political bias.

Nothing in this response should be construed as the Commission expressing an opinion or portending the outcome of any other matters pending before the Commission or other oversight agencies as it relates to the hiring and promotional practices in the City’s Police Department.

For the above reasons, I recommend that the Commission deny the Petitioners’ request to open an investigation.

Civil Service Commission

Christopher C. Bowman

Christopher C. Bowman
Chair

On October 31, 2024, the Commission (Bowman, Chair; Dooley, Markey, McConney and Stein, Commissioners) voted to accept the recommendation of the Chair and deny the Petitioner's request for investigation.

Notice:

James Simpson, Esq. (for Petitioners)

Kevin Foley, Esq. (for City of Lawrence)

Aezad Aftab, Esq. (HRD)