

**COMMONWEALTH OF MASSACHUSETTS**

**CIVIL SERVICE COMMISSION**

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

**DOMINIQUE WHITE,**

*Appellant*

v.

**BOSTON POLICE DEPARTMENT,**

*Respondent*

Docket Number:

G1-24-100

Appearance for Appellant:

James Gilden, Esq.  
173 N. Main Street  
Sharon, MA 02027-1230

Appearance for Respondent:

Jennifer Cipolletti, Esq.  
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Commissioner:

Angela McConney

**SUMMARY OF DECISION**

The Commission affirmed the decision of the Boston Police Department to bypass a candidate for appointment based on her driving history, poor work history and criminal history.

**DECISION**

On June 28, 2024, the Appellant, Dominique White (Appellant or Ms. White), acting pursuant to G.L. c. 31, § 2(b), timely appealed to the Civil Service Commission (Commission), contesting the May 9, 2024 decision of the Boston Police Department (Department or BPD) to bypass her for appointment to the position of police officer in the Department.

The Commission held a pre-hearing conference on July 30, 2024 via remote videoconference. On November 24, 2024, I conducted an evidentiary hearing at the offices of the Commission, located at 100 Cambridge Street, Boston, Massachusetts.<sup>1</sup> I recorded the hearing via the Webex platform, and forwarded a link to this recording to both parties.<sup>2</sup> The parties filed post hearing briefs in January 2025, whereupon the administrative record closed.

## **FINDINGS OF FACT**

I admitted one exhibit from the Appellant (A. Exhibit 1), and nine exhibits from the Respondent (R. Exhibits 1-9). I admitted the Appellant's appeal form as A. Exhibit 2. Based on the documents entered into evidence, the testimony of the following witnesses:

*Called by the Appellant:*

- Dominique White, the Appellant

*Called by the Department:*

- Natasha Levarity, Director, Human Resources
- Det. Ellys Lee, formerly detailed to the Recruit Investigations Unit

and taking administrative notice of all pleadings filed in this case, plus pertinent rules, statutes, regulations, case law and policies, and drawing reasonable inferences from the credible evidence, I make the following findings of fact:

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 C.M.R. § 1.01 (formal rules), apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

<sup>2</sup> Should there be a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. In such cases, the plaintiff in the judicial appeal must transcribe the transcript from the Commission's official recording.

1. Dominique White has been employed as a correction officer since April 2022. (R. Exhibit 1; Testimony of Appellant)

2. Ms. White holds a bachelor's degree. (Testimony of Appellant)

3. Ms. White took the civil service examination for police officer on March 18, 2023. (Stipulated Fact)

4. On July 1, 2023, the state's Human Resources Division (HRD) established an eligible list for Boston Police Officer. On August 11, 2023, HRD issued Certification No. 09448 to the Department, from which it could fill 163 vacancies from the top 327 candidates willing to accept conditional employment; 139 conditional offers were made. (Stipulated Facts)

5. Ms. White ranked 81<sup>st</sup> on the certification. (Stipulated Fact)

6. The Department extended offers to approximately 34 candidates ranked below the Appellant. (Stipulated Fact)

7. It is the Department's practice to send out employment packets to the candidates seeking information related to work history, residency, criminal offender registry information (CORI), interviews and references. (Testimony of Levarity)

8. The Department's Recruit Investigation Unit (RIU) assigns a detective to conduct a background investigation for each candidate. After the background investigation is complete, the RIU detective compiles the background investigation findings into a document commonly referred to as a "Privileged and Confidential Memorandum" (PCM). (Testimony of Det. Lee)

9. Det. Ellys Lee was Ms. White's assigned RIU investigator. He conducted a full background search, including BPD and other police databases, criminal history, driving history, employment history, and interviews with references and neighbors. (Testimony of Det. Lee)

### *Driving History*

10. Det. Lee pulled Ms. White's driving history from the Massachusetts Registry of Motor Vehicles (RMV) on November 11, 2023. In the record which spanned over 20 years (from February 10, 2003 to September 14, 2023), the detective noted 28 incident dates. Ms. White's sole surchargeable accident took place over twenty years ago in February 2005. (R. Exhibit 1; Testimony of Ms. Levarity)

11. Ms. White's first RMV entry was for the February 10, 2003 concealing of the theft of a motor vehicle. On January 14, 2005, she had a surchargeable accident. Ms. White was later found responsible for speeding and failing to signal in a July 26, 2008 incident. She was found responsible for not having her registration in her possession on July 5, 2009. On August 10, Ms. White's license was suspended for failure to pay fines and costs. On November 18, 2009, Ms. White was found responsible for speeding on October 21, 2009. On November 27, 2009, Ms. White license was suspended for failure to pay fines and costs. On October 27, 2009, Ms. While was found responsible for failing to wear a seat belt and failing to have her license in her possession on September 23, 2011. Ms. White was found responsible for failing to obey a sign on October 15, 2015. Ms. White's license was suspended for failure to pay fines and costs on November 20, 2015. She was found responsible for operating with obstructed windows/nontransparent windows on February 4, 2016. She was found responsible for speeding on May 31, 2016. Ms. White's license was suspended for failure to pay fines and costs on August 31, 2016. On October 4, 2018, Ms. White was found responsible for failing to notify the RMV of her new address and received a warning for failure to have an inspection sticker and for operating with obstructed windows/nontransparent windows. She was found responsible for failing to wear a seat belt on May 18, 2019. Ms. White's driver's license was suspended on July 22, 2019. She was found responsible for operating with obstructed windows/nontransparent windows on

October 28, 2019, and received warnings for operating with obstructed windows/nontransparent windows on March 9 and 14, 2020. She received a warning for making an improper turn on March 5, 2022. She received warnings for operating with a lights violation and speeding on December 7, 2022. She received warnings for speeding and for operating with obstructed windows/nontransparent windows on December 29, 2022. Ms. White's last RMV entry was a warning for a marked lanes violation on February 9, 2023. (R. Exhibit 1)

12. Some of Ms. White's RMV difficulties were due to financial hardship. As stated in the above-referenced finding of fact, she was found responsible for not being in possession of her registration in July 2009 and failed to pay fines and costs in November 2009, October 2011, November 2016 and August 2019 (the latter leading to suspension of her driver's license on February 25, 2019). (R. Exhibit 1)

13. Ms. White was cited seven times for obstructive/nontransparent windows. She received five warnings and was found responsible on March 2, 2016, and January 14, 2020. Ms. White testified that she tinted her car windows as a protective measure after her cousin was murdered on the front porch of the family home. She believes that her children are safer when she drives them in the obstructively tinted vehicle. (Testimony of White)

14. The Department produced the driving histories of the following selected candidates:

Recruit	No. of Incident Dates	No. for Speeding	No. for Failure to Stop/Yield	No. of Surchargeable Accidents	No. NSC courses
Candidate A	11	2	3	2	0
Candidate B	6	3	0	0	0
Candidate C	9	1	0	4	0
Candidate D	13	4	2	2	2
Candidate E	16	4	2	0	0
Dominique White, Appellant	28	6	0	1	Request Cancelled

(A. Exhibit 1)

### *Work History*

15. In the Fall of 2023, Det. Lee reviewed the former employer information submitted on the Recruit Officer Application and contacted Ms. White's current and former employers. He learned that Ms. White has been employed in her current position since April 2022. Her current employer reported that Ms. White had used 168.5 hours of sick time (more than one day per month in her short tenure) and had been AWOL for 16 hours. (R. Exhibit 1)

16. Ms. White previously worked for the regional transportation authority from October 2014 until November 2018, before being terminated for attendance issues. Ms. White stated that after her grandmother became terminally ill in November 2017, she took time off from work to take her to medical appointments and multiple inpatient admissions. Ms. White self-reported that she used five days of sick time during this employment. She had not applied for leave under the Family and Medical Leave Act (FMLA) or any other similar leave program. Det. Lee was unable to reach this former employer during his investigation. (R. Exhibits 1-2; Testimony of Appellant)

17. As part of the employment process, Ms. White submitted two Peace Officer and Standards Training (POST) Commission Questionnaires. (R. Exhibit 4)

18. Question 8, Part A, entitled *Education and Employment*, stated:

Have you ever been dismissed or asked to resign from any employment? Have you ever been dismissed from, or not re-assigned to, a position in law enforcement? If the answer to either question is yes, please provide details as to each instance.

(R. Exhibit 4)

19. Ms. White responded, "No & No," without further explanation. (R. Exhibit 4)

20. Question 18, under Part C, entitled *Other Legal Matters* stated:

Have you ever been arrested or been the subject of a criminal complaint as an adult or as a juvenile? If so, please indicate the disposition of each case, including any dismissal or other disposition not resulting in a conviction.

(R. Exhibit 4)

21. On the first questionnaire, Ms. White wrote, “No,” without further explanation. In the second POST questionnaire, Ms. White responded wrote, “yes,” without any further explanation. (R. Exhibit 4)

22. During the hearing, Ms. While acknowledged that she failed to disclose her criminal background to the Department in her POST questionnaire. (R. Exhibit 5; Testimony of Appellant)

#### *Criminal History*

23. As part of his investigation, Det. Lee reviewed Ms. White’s Board of Probation Report (BOP) and searched for her in police databases. According to the BOP,<sup>3</sup> Ms. White has been arraigned on six separate occasions (for eight offenses) as an adult and once as a juvenile. (Testimony of Lee; R. Exhibits 1 and 9)

24. After Det. Lee completed the background investigation, the Department convened a roundtable comprised of representatives from Human Resources, the Legal Department and the Internal Affairs Department (IAD) to review Ms. White’s PCM. Ms. Levarity represented the Human Resources (HR) Department in her capacity as Director. Det. Lee presented the PCM and left the room so that the roundtable could deliberate. (Testimony of Levarity, Testimony of Lee)

25. In considering a recruit applicant’s work history, the Department looks for a work history of reliable attendance because the BPD currently has minimum staffing. The roundtable

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<sup>3</sup> All of Ms. White’s adult and juvenile appearances are sealed. However, sealed records are available to criminal justice agencies as defined in G.L. c. 6, §167 for official criminal justice purposes and as otherwise authorized by law.

was concerned that Ms. White had used 168.5 hours of sick time – amounting to more than 20 days, and had been away without leave (AWOL) for 16 hours in her current employment of (then) less than two years’ duration. (R. Exhibits 1 and 2; Testimony of Levarity)

26. The roundtable also reviews a candidate’s disciplinary issues. Terminations are a red flag because they indicate behavior leading to separation of employment. The roundtable considered that a previous employer had terminated Ms. White for poor attendance. (R. Exhibits 1 and 2; Testimony of Levarity)

27. The roundtable was concerned that Ms. White was the subject of at least twenty police incident reports. While the incidents were not assigned the same weight, some of them were problematic from a hiring perspective. (Testimony of Ms. Levarity).

28. Ms. Levarity cited 18 Boston Police incident reports where Ms. White was the suspect and the subject of a criminal complaint for offenses including reported stolen items (2003), shoplifting (2009), receiving a CWOFF for shoplifting and assault (2011), and participating in the theft of a motor vehicle (2003). (R. Exhibit 9; Testimony of Levarity)

29. Ms. Levarity also cited four Wrentham Police incident reports for criminal offenses including fraud (2012), shoplifting (2009), and trespassing (2012); and two Dedham Police incident reports for events including the reporting of stolen items (as victim) and dispute over ownership of property. (R. Exhibit 9; Testimony of Levarity)

30. After deliberating, the roundtable voted to bypass Ms. White. (Testimony of Levarity)

31. In a May 9, 2024 bypass letter enclosing her appeal rights, Ms. Levarity informed Ms. White that the Department had significant concerns about her driving history and prior work history and truthfulness. In regard to Ms. White’s driving history, the first bypass reason, Ms.

Levarity wrote:

Most recently, you received a warning for marked lane violation (02/09/2023). In 2022 you received 5 warnings: Speeding and Window Obstructed/Nontransparent (12/29/2022), Speeding and Lights Violation (12/07/2022) and Improper Turn (03/05/2022). You self reported that you had received 8 citations from MA police in regards to tinted windows.

The ability to safely operate a vehicle is an essential duty of a Boston Police Officer and officers are often called upon to issue citations for motor vehicle infractions. *Your motor vehicle history reflects negatively on your ability to complete this essential task and deems you unsuitable for employment as a Boston Police Officer.* Police Officers must behave in a manner consistent with the laws that they are sworn to enforce in order to gain and preserve public trust, maintain public confidence, and avoid an abuse of power by law enforcement officials.

(R. Exhibit 9; Testimony of Levarity, Testimony of Ellis)

32. In regard to Ms. White's work history, the second bypass reason, Ms. Levarity wrote:

In reference to your work history, you were terminated from the MBTA in November 2017 due to attendance. You informed Boston Police that you were the legal guardian of your grandmother who became ill and required home medical care. You also reported that you were responsible for transporting her back and forth to doctors' appointments. This led you to ultimately be[ing] terminated.

(R. Exhibit 9; Testimony of Levarity, Testimony of Ellis)

33. In regard to whether Ms. White had been the subject of a criminal complaint as an adult or juvenile, the third bypass reason, Ms. Levarity wrote:

... on your POST Questionnaire, you answered "no" to question #18, Section C, of the Other Legal Matters section "Have you ever been arrested or been the subject of a criminal complaint as an adult or as a juvenile?[""] *However, you have been involved in several police incidents reports as a suspect* and been the subject of a criminal complaint.

(R. Exhibit 9; Testimony of Levarity, Testimony of Ellis) (emphasis added)

34. Ms. Levarity concluded the bypass letter by stating that police officers are not only "required to provide sound judgment and have the ability to render decisions

quickly,” but “must conduct themselves in a manner consistent with the law that they are sworn to enforce.” This is necessary “in order to gain and preserve public trust, maintain public confidence, and avoid an abuse of power by law enforcement officials. As a result, your inability to conduct yourself appropriately renders you unsuitable for employment as a Boston Police Officer.” (R. Exhibit 9)

35. Ms. White appealed to the Commission on June 28, 2024. (A. Exhibit 2)

### ***Applicable Legal Standard***

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); *See also Brookline v. Alston*, 487 Mass. 278 (2021) (analyzing broad scope of the Commission’s jurisdiction to enforce basic merit principles under civil service law). The role of the Civil Service Commission in a bypass appeal is to determine whether “on the basis of the evidence before it, the appointing authority has sustained its burden of proving that there was reasonable justification for the action taken by appointing authority.” *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 304 (1997). *See Watertown v. Arria*, 16 Mass. App. Ct. 331 (1983); *McIsaac v. Civil Serv. Comm’n*, 38 Mass. App. Ct. 411 (2000); *Police Dep’t of Boston v. Collins*, 48 Mass. App. Ct. 411 (2000); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 728 (2003).

Original appointments of civil service employees are made from a list of candidates, called a “certification,” whose names are drawn in the order in which they appear on the civil service “eligible list,” using what is called the 2n+1 formula. G.L. c. 31, §§ 6 – 11; 16 – 27; Personnel Administration Rules, PAR.09. An appointing authority must provide specific written reasons, consistent with basic merit principles, when choosing to bypass a higher ranked candidate in favor of a lower ranked one. G.L. c. 31, § 27; PAR.08(4).

In its review of bypass decisions, the Commission must determine whether the appointing authority has shown, by a preponderance of the evidence, that it had “reasonable justification” for the bypass, after conducting 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 Serv. Comm’n*, 483 Mass. 461, 474-78 (2019); *Police Dep’t of Boston v. Kavaleski*, 463 Mass. 680, 688-89 (2012); *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. 182, 187 (2010); *Leominster v. Stratton*, 58 Mass. App. Ct. 726, 727-28 (2003). An action to bypass a candidate is justified when it is “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.” *Cambridge*, 43 Mass. App. Ct. at 304, quoting *Selectmen of Wakefield v. Judge of First Dist. Court of Eastern Middlesex*, 262 Mass. 477, 482 (1928); *Commissioners of Civil Serv. v. Municipal Court of the City of Boston*, 359 Mass. 211, 214 (1971). *Cambridge* further states, “[i]n the task of selecting employees of skill and integrity, appointing authorities are invested with broad discretion.” *Id.* at 304.

The Commission’s role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority’s actions. *Falmouth v. Civil Serv. Comm’n*, 447 Mass. 814, 824-26 (2006). The issue for the Commission is “not whether it would

have acted as the appointing authority had acted, but whether, on the facts found by the Commission, there was reasonable justification for the action taken by the appointing authority in the circumstances found by the Commission to have existed when the appointing authority made its decision.” *Arria*, 16 Mass. App. Ct. at 334. *See Commissioners of Civil Serv. v. Municipal Ct. of Boston*, 369 Mass. 84, 86 (1975) and *Leominster v. Stratton*, 58 Mass. App. Ct. at 727-28. The Commission owes substantial deference to the appointing authority's exercise of judgment in determining whether there was “reasonable justification” shown. *Beverly v. Civil Serv. Comm’n*, 78 Mass. App. Ct. at 188. That “deference is especially appropriate with respect to the hiring of police officers.” *Id.*

Public safety officers are vested with considerable power and discretion and therefore must be held to a high standard of conduct. *See, e.g., Falmouth v. Civil Serv. Comm’n*, 61 Mass. App. Ct. 796, 801 (2004), citing *Cambridge, supra*, 43 Mass. App. Ct. at 303-305; *Police Comm’r v. Civil Serv. Comm’n*, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986).

### ***Analysis***

The Boston Police Department, by a preponderance of the evidence, has proven that it had reasonable justification to bypass Ms. White based on her driving history, poor employment record and criminal history.

#### ***First bypass reason – Driving history***

Public safety officers are vested with considerable power and discretion and must be held to a high standard of conduct. *See, e.g., Falmouth v. Civil Serv. Comm’n*, 61 Mass. App. Ct. 796, 801 (2004), citing *Cambridge v. Civil Serv. Comm’n*, 43 Mass. App. Ct. 300, 303-305, rev. den., 428 Mass. 1102 (1997); *Police Comm’r v. Civil Serv. Comm’n*, 22 Mass. App. Ct. 364, 371, rev. den. 398 Mass. 1103 (1986). “Since police officers operate cruisers as part of their duties, an

appointing authority is entitled to weigh the driving records of applicants when making appointments.” *Kelly v. Wakefield*, 24 MCSR 284 (2011).

The analysis of a candidate’s driving history is based on the totality of the record, and the Department rightfully places considerable weight on an applicant’s ability to operate a motor vehicle safely. Liability is an issue for the Department as police must operate the cruisers safely in emergency situations.

There is a clear nexus between the driving background of a candidate for a police officer position and the candidate’s current ability to perform the duties of a police officer: “Since police officers operate cruisers as part of their duties, an appointing authority is entitled to weigh the driving records of applicants when making appointments.” *Kelly v. Wakefield*, 22 MCSR (2011). Liability is also issue because police officers must operate cruisers safely to and from emergency situations. The Department must ensure that police officers are not putting themselves, their passengers, or members of the public in danger. When a candidate is not a safe operator, the Department cannot be expected to assume the significant risk of his or her employment.

The Commission has found that an exceptionally poor driving record is a reasonable justification for a bypass of a candidate. *See Serebour v. Boston Police Dep’t*, 36 MCSR 293 (2023); *Gilmore v. Boston Police Dep’t*, 36 MCSR 212 (2023); *McGrath v. Lowell*, 22 MCSR 560 (2009); *Torres v. Lowell*, 22 MCSR 558 (2009); *Campbell v. Boston Fire Dep’t*, 22 MCSR 489 (2009); *Jones v. Boston Police Dep’t*, 22 MCSR (2008).

The Commission is mindful that there are disparities in law enforcement, and that people of color are subjected to more frequent field investigative operations (FIOs) and traffic stops than whites. More broadly, when the bypass, as here, involves a person of color, appointing authorities must consider public policy concerns related to the racial disparity in traffic stops.

“The widespread public concerns about police profiling, commonly referred to as ‘DWB—driving while black,’ has been the subject of much discussion and debate both across the country and within the Commonwealth.” *Commonwealth v. Gonsalves*, 429 Mass. 658, 670 (1999) (Ireland, J., concurring), *see also Cenatus v. Boston Police Dep’t*, 38 MCSR 57 (2025) (When a bypass, as here, involves a person of color, appointing authorities must consider public policy concerns related to documented racial disparities in traffic stops.)

Ms. White’s driving history includes 28 incident dates. She was cited six times for speeding, with her last finding of responsible for speeding occurring in July 2016. Her record also includes marked lanes violations, failure to drive in the right lane, making improper turns, and one surchargeable accident in 2005.

The Commission is mindful that economic roadblocks may play a greater role in the driving history of candidates of color,<sup>4</sup> and Ms. White testified that financial hardship played a role in her RMV history. When Ms. White failed to pay fines and costs on one occasion, her

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<sup>4</sup> The Legislature is addressing debt-based revocation of driving privileges as a public policy issue. During the current legislative session and the last 2023-2024 session, the General Court has filed bills extending hardship licenses (currently available to operators who have lost licenses due to OUIs) to operators unable to pay RMV fines (including EZ Pass past due tolls and penalties).

SECTION 7. Section 33 of said chapter 90, as so appearing, is hereby amended by inserting at the end of paragraph 38, the following paragraph:-  
(39) For the renewal or reinstatement of any license to operate a motor vehicle, an applicant may request a reduction or waiver of any unpaid fees or fines, or request a noncriminal hearing to determine eligibility for a reduction or waiver of such fees or fines based on financial hardship as determined by section 3 of chapter 90C.

AN ACT TO INCREASE OPPORTUNITY BY ENDING DEBT-BASED DRIVING RESTRICTIONS, 2025, 194<sup>th</sup> Session, House Bill 3362.

Accord AN ACT TO INCREASE OPPORTUNITY BY ENDING DEBT-BASED DRIVING RESTRICTIONS, 2025, 194<sup>th</sup> Session, Senate Bill 2368. *See also* AN ACT TO END DEBT-BASED DRIVING RESTRICTIONS AND REMOVE ECONOMIC ROADBLOCKS, 2023-2024, 193<sup>rd</sup> Session, House Bill 3314; AN ACT TO END DEBT-BASED DRIVING RESTRICTIONS AND REMOVE ECONOMIC ROADBLOCKS, 2023-2024, 193<sup>rd</sup> Session, Senate Bill 2227.

license was suspended. It is documented that she failed to pay fines and costs at least four times: in November 2009, October 2011, November 2016 and August 2019.

Ms. White's driving history presented repeated citations for illegally tinted windows. Ms. White received five warnings (October 2018, three dates in March 2020, December 2022) and was found responsible on two occasions (March 2016 and January 2020). Ms. White testified that her tinted car windows were a protective measure to safeguard her children as she drove. Ms. White testified that she was fearful for her children's safety after her cousin was murdered on the front porch of the family home. (Finding of Fact 13) She was stopped for obstructed/nontransparent window in September 2023 (and later found not responsible), only two months before the November 2023 roundtable on her candidacy.

As a police officer, Ms. White would be expected to issue citations for obstructed/nontransparent windows, but her repeated citations had no curative effect.

Ms. Levarity testified that the Department considered the totality of a person's driving history. While Candidate C, for example, had more accidents than Ms. White, he had not had a moving violation or accident since 2019.

I find that Ms. White's driving record provides sufficient reason for bypass.

#### *Second bypass reason – Work history*

The Department is currently operating at minimal staffing levels, so it looks for reliability among candidates. Ms. White's attendance issues presented red flags for the Department.

The roundtable was concerned that Ms. White had used 168.5 hours of sick time – amounting to more than 20 days, and had been absent without leave (AWOL) for 16 hours in the short time that she has been employed in her current position.

The roundtable also considered Ms. White's disciplinary issues. The roundtable members treated her termination from the transport authority as a red flag, and was concerned that Ms. White was repeating the same pattern of absences at her current position. Ms. White's behavior would not be a good fit for the hierarchical structure of the Department and the reliability that it must place on its sworn officers. Ms. White's potential for excessive absences would present a safety issue in the current minimal staffing of the Department.

I find that the Department was reasonably justified in bypassing Ms. White based on her work history.

*Third bypass reason – Untruthfulness, Criminal conduct*

For its third bypass reason, the Department stated that Ms. White had been untruthful on the POST Questionnaires when she denied that she had been arrested or had been the subject of criminal complaints as an adult or juvenile. However, the Department learned that she had "been involved in several police incidents reports as a suspect and been the subject of a criminal complaint." (R. Exhibit 9)

Police recruits must submit a POST Questionnaire, signed under the pains and penalties of perjury, as part of the BPD application process. Ms. White submitted two separate POST questionnaires as part of the application process.

However, the Department would have learned of Ms. White's criminal record, or lack thereof, from running a BOP. The Department then cited several supporting police incident reports from the Boston and Wrentham police departments. From a separate database, Det. Lee would have learned of any police incident reports.

Regardless of Ms. White's responses to the POST Questionnaires (or whether or not she was evasive), the aforementioned checks were a necessary component of the background

investigation – and easily discoverable by the assigned RIU detective. (*See* Findings of Fact 8 and 9)

The Commission has consistently recognized that “a police officer must be truthful at all times,” and “failure to do so constitutes conduct unbecoming an officer.” *MacHenry v. Wakefield*, 7 MCSR 94 (1994). Indeed, there is a “strong public policy against employing police officers who are untruthful.” *Royston v. Billerica*, 19 MCSR 124, 128 (2006).

An appointing authority is well within its rights to bypass an individual for lack of truthfulness as part of an application for a civil service position. It is reasonable for a police department to have concerns about an applicant’s candor during their job performance if they were willing to distort the truth in their application. *See O’Brien v. Somerville*, 25 MCSR 292 (2012). *See also Minoie v. Braintree*, 27 MCSR 216 (2014); *Polin v. Randolph*, 23 MCSR 229 (2011). To that end, the Commission has stated that “it is well settled that police officers voluntarily undertake to adhere to a higher standard of conduct than that imposed on ordinary citizens.” *Garrett v. Haverhill*, 18 MCSR 281, 285 (2005). As such, allegations of untruthfulness ought to be made with an appropriate degree of seriousness and investigated with sufficient diligence. *See, e.g., Morley v. Boston Police Dep’t*, 29 MCSR 456 (2016).

Police officers must conduct themselves in a manner consistent with the laws they are sworn to enforce. They must gain and preserve public trust, maintain public confidence, and avoid an abuse of power.

How should an appointing authority address a candidate’s CORI information?  
Operationally, an appointing authority may obtain a candidate’s CORI record and, after

providing the candidate with a copy of those records, ask the candidate to address the information contained therein.<sup>5</sup> *Camilo*, 35 MCSR 287 (2022); *Abreu*, 37 MCSR 349 (2024).

A series of Commission decisions have concluded that, while public safety employers are rightfully granted far greater access to a candidate’s CORI records (including sealed records) than non-public safety employers, the anti-discrimination laws do not appear to exempt public safety employers from the limitations regarding what questions can – and cannot – be asked of a job applicant regarding their criminal records. *Camilo v. Lawrence*, 35 MCSR 287 (2022); *Abreu v. Lawrence*, 37 MCSR 349 (2024). The Commission is unaware of any statute change that has superseded the anti-discrimination law as it pertains to the permissibility of arrest-related employment application questions.

Given the specific facts of this case, however, I need not address the issue of whether the broad question now contained on the POST affidavit is permitted under state law.<sup>6</sup> Ms. White’s criminal history was retrieved through means independent of the POST affidavits, leading Ms. Levarity to write in the bypass letter, “... your inability to conduct

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<sup>5</sup> Sharing CORI-related information with a candidate and giving them the opportunity to discuss that information is consistent with Executive Order 495 (2008) *Regarding the Use and Dissemination of Criminal Offender Record Information by the Executive Department*.

<sup>6</sup> An appointing authority may not elicit from a candidate, via POST Questionnaire or otherwise, information about any arrest the candidate experienced that did not result in a conviction without running afoul of G.L. c. 151B:

For an employer, himself or through his agent, in connection with an application for employment, or the terms, conditions, or privileges of employment, ... or in any other matter relating to the employment of any person, to request any information, ... through a written application or oral inquiry or otherwise regarding: (i) an arrest, detention, or disposition regarding any violation of law in which no conviction resulted ....

G.L. c. 151B, § 4(9).

yourself appropriately renders you unsuitable for employment as a Boston Police Officer.” (R. Exhibit 9)

Because her entire criminal record (both adult and juvenile) was sealed, Ms. White may not have understood that law enforcement had access to her BOP. In the hiring process, the Department is not limited to considering only criminal behavior that has resulted in convictions. As a matter of fact, some of Ms. White’s offenses did not lead to charges or court intervention.

However, no one from the Department provided Ms. White with her CORI information and questioned her about its contents. The dispositions resulting from the eight entries within Ms. White’s BOP amount to two findings of not guilty (3/24/2017), four CWOs (9/26/2003, 4/6/2009, 12/21/2012, 12/21/2012) and two dismissals upon court costs (10/22/2009, 8/1/2012). Ms. White has had no entries on her BOP for eight years. She has no felony convictions, restraining orders or OUIs. More than seven years have passed since the end of the probationary period of her last CWO (12/21/2012).

I find that Ms. White’s alleged untruthfulness on the POST Questionnaire in regard to her criminal history is not a valid reason for bypass. However, her underlying criminal history is. Although the Department failed to proceed in the right way, by presenting Ms. White with her BOP and asking her to explain her criminal history, I find that her criminal history provides sufficient reason for bypass. Finally, I see no evidence that the appointing authority’s decision was based on political considerations, favoritism or bias.

## CONCLUSION

Based on the preponderance of credible evidence, I conclude that the Boston Police Department had reasonable justification to bypass Dominique White.

Accordingly, the appeal docketed under G1-24-100 is hereby *denied*.

Civil Service Commission

/s/ Angela C. McConney  
Angela C. McConney  
Commissioner

By vote of the Civil Service Commission (Bowman, Chair, Dooley, Markey, McConney, and Stein, Commissioners on May 29, 2025.

Either party may file a motion for reconsideration within ten days of receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 C.M.R. § 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:  
James Gilden, Esq. (for Appellant)  
Jennifer Cipolletti, Esq. (for Respondent)