

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

CIVIL SERVICE COMMISSION

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

KERRI CAWLEY,
Appellant

v.

G1-06-95

BOSTON POLICE DEPARTMENT,
Respondent

Appellant's Attorney:

Leah H. Barrault, Esq.
Pyle, Rome, Lichten, Ehrenberg &
Liss-Riordan, PC
18 Tremont Street: Suite 500
Boston, MA 02108
(617) 367-7200
lbarrault@prle.com

Respondent's Attorney:

Tsuyoshi Fukuda, Esq.
Office of the Legal Advisor
Boston Police Department
One Schroeder Plaza
Boston, MA 02120
(617) 343-5034
Fukudat.bpd@boston.ma.us

HRD Attorney:

Martha Lipchitz-O'Connor, Esq.
Commonwealth of Massachusetts
Human Resources Division
One Ashburton Place: Room 211
Boston, MA 02108
(617) 878-9766
Martha.l.oconnor@state.ma.us

Commissioner:

Christopher C. Bowman

DECISION

Pursuant to the provisions of G.L. c. 31, § 2(b), the Appellant, Kerri Cawley (hereafter “Cawley” or Appellant”) is appealing the decision of the Personnel Administrator to accept the reasons of the Respondent, the Boston Police Department (hereafter “Appointing Authority”, “City” or “BPD”), bypassing her for original appointment to the position of police officer as she was deemed to be psychologically unfit for appointment to the position. A full hearing was held on September 8, 2006 and October 17, 2006 at the offices of the Civil Service Commission. Six (6) tapes were made of the hearing.

FINDINGS OF FACT:

Forty-three (43) exhibits were entered into evidence at the hearing. Based on these exhibits and the testimony of the following witnesses:

For the Appointing Authority:

- Dr. Julia M. Reade;

For the Appellant:

- Kerri Cawley, Appellant;
- Lt. Roy Hechavarria;
- Dr. James C. Beck;
- Dr. Mark S. Schaefer;

I make the following findings of facts:

1. The Appellant is a thirty (30) year old recently-married female from Dorchester who has been employed with the Boston Police Department in the 911 Operations Center for three (3) years as a full-time Communications Equipment Operator. From 1999-2003, the Appellant served as a Boston Police Department cadet, serving in the Juvenile Detention Facility, Hackney, Operations and Labor Relations divisions.

(Testimony of Appellant)

2. The Appellant received her bachelor's degree in Criminal Justice from UMASS Boston in 2000. (Testimony of Appellant)
3. On December 12, 2005, the Appellant's name appeared on Certification 251238 for the position of female police officer for the Boston Police Department. (Stipulated Facts & Exhibit 32)
4. On or about December 19, 2005, the Appellant met with the Department's Recruitment Investigations Unit and provided them with her Student Officer Application, three (3) letters of personal reference, supervisor/human resources data forms and three confidential neighborhood assessment forms. (Stipulated Facts and Exhibit 12)
5. On December 28, 2005, the Department offered the Appellant a conditional offer of employment as a police officer contingent upon successfully completing the medical and psychological screening components of the hiring process. (Exhibit 11)
6. The Boston Police Department had previously submitted a psychological screening plan to the state's Human Resource Division (HRD) which was approved by HRD in July 2004. (Exhibit 33)
7. On January 5, 2006, the Appellant completed the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) and the Personality Assessment Inventory ("PAI"). (Stipulated Facts)
8. Dr. Schaefer, a licensed psychologist who testified on behalf of the Appellant, testified that the MMPI-2 is the "best researched, grand-daddy of tests" and that it can either be scored by computer or by hand. (Testimony of Dr. Schaefer)

9. The BPD had the Appellant's MMPI-2 and PAI results scored and interpreted by a computer. (Testimony of Dr. Schaefer)

Summary of MMPI-2 and PAI computer-generated reports

10. The Appellant's MMPI-2 Profile Validity noted that, "It is not possible to interpret her MMPI-2 profile. Her MMPI-2 responses were too defensive to permit an adequate assessment of her psychological adjustment." (Exhibit 13)

11. The Appellant's invalid MMPI-2 result was the second time she invalidated the MMPI-2 for being overly defensive. (Exhibit 16)

12. The PAI noted that the Appellant has a high risk of integrity problems, and moderate risk levels in job-related problems, anger management problems, alcohol use concerns and substance abuse proclivity. (Exhibit 14)

Opinions of Appointing Authority Psychiatrists (Dr. Marcia Scott & Dr. Julia M. Reade)

13. Subsequent to taking the MMPI-2 and PAI examinations, the Appellant was interviewed by two Appointing Authority psychiatrists, Dr. Marcia Scott and Dr. Julia M. Reade. Dr. Reade testified at the Commission hearing for the Appointing Authority.

14. The Appellant's interview with Dr. Scott lasted approximately fifteen minutes. (Testimony of Appellant)

15. Dr. Scott observed the Appellant and summarized, "[o]ver the past few months Ms. Cawley has sought help from friends and co-workers to deal with this interview. On this occasion, she tried to smile but was inhibited by anxiety. However, despite the obvious anxiety she was not hostile or unable to respond. She remained affectively

stable and cognitively intact and her thinking was clear and responsive tho (sic) constricted.” (Joint Ex. 15)

16. Although Dr. Scott concluded that, “There is no evidence of an Axis I mental disorder, current mental impairment or difficulty with behavioral control or judgment that would prevent her from successfully training for or performing the duties of an armed police officer,” the Appellant was referred to Dr. Julia M. Reade for a Second Level Psychiatric Review because of Dr. Scott’s initial determination that the Appellant was not psychologically fit to be a Boston police officer. (Joint Ex. 15 and Reade testimony)
17. On January 23, 2006, the Appellant was interviewed by Dr. Julia M. Reade, an Appointing Authority psychiatrist, for a “Second Opinion Psychiatric Review”. (Exhibit 16)
18. Dr. Reade is a Board Certified psychiatrist who has worked for the BPD for 8-9 years conducting Second Level Psychiatric Interviews for police officer recruits. She is Board Certified in General Psychiatry and Forensic Psychiatry and has extensive experience in Law and Psychiatry as well as Occupational Psychiatry. (Testimony of Dr. Reade and Exhibit 43)
19. Dr. Reade has conducted approximately 200 Second Level Psychiatric Screenings for the Boston Police Department. (Testimony of Dr. Reade)
20. Dr. Reade conducts Second Level Psychiatric Screening interviews when Dr. Scott deems an applicant as not psychologically fit to be a Boston police officer and when an applicant was psychologically bypassed in the past, has reapplied and subsequently

been deemed psychologically fit by Dr. Scott or another first level screener.

(Testimony of Dr. Reade)

21. Dr. Reade has overruled Dr. Scott or other first level screeners and has deemed recruits as psychologically fit to be Boston police officers approximately 10%-20% of the time. (Testimony of Dr. Reade)
22. Dr. Reade testified that the Department's Psychological Screening Process is in place because the Boston Police Officer position is a complicated job, a high stakes job, that requires autonomy, the ability to get along well with others, adjust to difficult circumstances, review and be accountable for your own behaviors, adjust to a hierarchal structure, be flexible, deal with very high levels of stress and deal with high levels of boredom. She also testified that the process is important to protect the safety of the general public; the safety of the actual recruit/police officer; the safety of their partner(s); and the reputation of the Department. (Testimony of Dr. Reade)
23. Dr. Reade stressed the high stakes nature of a police officer's job and the impact their split second decision can have on themselves and others. (Testimony of Dr. Reade)
24. After the interview, Dr. Reade generated a summary report that was not meant to be an exhaustive report that delineates every specific detail, reason and rationale for her recommendation to bypass. (Testimony of Dr. Reade and Exhibit 16)
25. Prior to the interview, Dr. Reade reviewed the Appellant's background documents, including the recruit investigation file and personal data questionnaire, and her MMPI-2 and PAI test scores/results. (Testimony of Dr. Reade)
26. Dr. Reade used the MMPI-2 and the PAI to help focus her inquiry during her interview with the Appellant. (Testimony of Dr. Reade)

27. Dr. Reade did not base her recommendation to bypass solely on the Appellant's MMPI-2 and PAI test results. (Testimony of Dr. Reade)
28. Dr. Reade's observations of her interview with the Appellant were subsequently recorded in her summary report, which in part, stated, "Ms. Cawley was very contained, but clearly making an effort to be open and non-defensive. She responded with much greater detail and directness about subjects she had denied or avoided in the last interview, for example, her mother's problems, her shoplifting charge and her dissatisfaction with the first college she attended. Ms. Cawley's thinking was notably concrete, however, and she grew increasingly evasive and literal when I asked her about her answers to questions I had posed in the previous interview. She initially stated that she had been unforthcoming with me about her childhood experiences because 'I didn't know how deep' to answer the questions. When I read back to her the exchange from the earlier interview, however, which clearly demonstrated that she had repeatedly lied to me, evaded my very specific questions and refused to provide information that she clearly possessed, Ms. Cawley stared at me blankly." (emphasis added) (Exhibit 16)
29. When this Commissioner asked Dr. Reade how the Appellant was supposed to respond to the allegation that she had lied, Dr. Reade indicated that the Appellant should have been more forthcoming and been able to offer an explanation for the discrepancies. (Testimony of Dr. Reade)
30. Dr. Reade concluded her report stating that, "despite her clear efforts to be more forthcoming and less evasive, it is my opinion that Ms. Cawley continues to have difficulty offering up information, and is characterologically defensive and rigid to a

degree that inhibits her ability to look at her part in a given incident or to take appropriate responsibility for her decisions and behavior. For these reasons, Ms. Cawley would have difficulty functioning effectively in the role of a police officer and is currently found unacceptable.” (Exhibit 16)

31. In a letter dated April 3, 2006 from Robin W. Hunt, the Boston Police Department Human Resources Director, the Appellant was informed, among other things, that the “results of your psychological screening indicate that you cannot adequately perform the essential functions of the public safety position for which you have applied and a reasonable accommodation is not possible. Therefore you will not be appointed as a police officer at this time.” (Exhibit 18)

32. In a letter dated April 3, 2006, the BPD notified HRD that the Appellant failed to meet the psychological criteria for appointment as a police officer and that it was bypassing her for the position of female police officer. Specifically, the BPD stated that it was relying upon Dr. Reade’s second opinion report, concurred to by Dr. Marcia Scott, which psychologically disqualified the Appellant. (Exhibit 18)

33. On June 15, 2006, HRD accepted the Department’s reasons for bypassing the Appellant. (Exhibit 20)

Opinions of Appellant Psychiatrists (Dr. Mark Schaefer & Dr. James Beck)

34. On August 2, 2006, Dr. James Beck interviewed and performed an independent psychological consultation of the Appellant. (Exhibit 41)

35. Dr. Beck is a licensed psychologist and board certified psychiatrist who is a graduate of Harvard and Yale. He has taught at the Harvard Medical School for over thirty (30) years. Dr. Beck has conducted numerous police “fitness for duty” interviews,

but was unable to recall if had participated in any “prescreening” for police recruits.
(Testimony of Dr. Beck)

36. In the 1970s, Dr. Beck served as a consultant to the state’s Human Resources Division (then the Personnel Administration) and participated in earlier versions of HRD’s regulations with respect to psychological evaluations. He has never worked with the City of Boston Police Department. (Testimony of Dr. Beck)
37. Dr. Beck interviewed the Appellant’s Recruit Application materials, the results of her MMPI-2 and the PAI, as well as the reports of Dr. Scott and Dr. Reade disqualifying the Appellant. (Exhibit 41)
38. Dr. Beck testified that, in his opinion, there absolutely must be a diagnosable psychological disorder in order to bypass someone. (Testimony of Dr. Beck)
39. Dr. Beck testified that there was no psychological disorder that would disqualify the Appellant in this case. (Testimony of Appellant; Exhibit 41)
40. On this key point, Dr. Reade, the Appointing Authority’s psychiatrist, disagreed stating that a person’s “psychological traits and characteristics” could disqualify an applicant for a job as a police officer. Moreover, according to Dr. Reade, a mental “disorder” can comprise “a constellation of enduring characteristics or traits that affect a person’s ability to perform.” (Testimony of Dr. Reade)
41. The issue of whether or not the presence of a psychological “disorder” is the bar for justifying a psychological bypass was a central issue throughout this proceeding. In regard to this issue, The Boston Police Department Psychological Screening Plan, which was approved by HRD states:

“The goal of this proposed psychological screening process is to identify candidates who may exhibit evidence of a mental disorder

as described in the Regulations for Initial Medicine and Physical Fitness Standards Tests for Municipal Public Safety Personnel, promulgated by the Human Resource Division and as recommend (sic) by the Police Psychological Services Section of the International Association of Chiefs of Police Pre-Employment Psychological Evaluation Guidelines. This process will be used to detect through a review of the background investigation, personal history as provided by the candidate, psychological testing, interviews, any psychological or behavioral characteristics, which would significantly interfere with the candidate's successful performance of the essential functions duties (sic) of the position of Boston Police Officer." (emphasis added) (Exhibit 33)

42. The "Regulations for Initial Medical and Physical Fitness Standards Tests for Municipal Public Safety Personnel" establishes two categories of medical conditions, "Category A" and "Category B".

A "Category A" Medical Condition is "a medical condition that would preclude an individual from performing the essential job functions of a municipal police officer, or present a significant risk to the safety and health of that individual or others."

(emphasis added)

A "Category B" Medical Condition is "a medical condition that, base on its severity or degree, may or may not preclude an individual from performing the essential job functions of a municipal police officer, or present a significant risk to the safety and health of that individual or others. (emphasis added) (Exhibit 36)

43. Using the same above-referenced "A" and "B" categories, the "Psychiatric" section of the regulations indicated that a "Category A" medical condition shall include:

"disorders of behavior; anxiety disorders; disorders of thought; disorders of mood; disorders of personality." A "Category B" medical condition shall include: "a history of any psychiatric condition, behavior disorder, or substance abuse problem not covered in Category A. Such history shall be evaluated base on that individual's

history, current status, prognosis, and ability to respond to the stressor's job;" or "any other psychiatric condition that results in an individual not being able to perform as a police officer." (emphasis added) (Exhibit 36)

44. On August 30, 2006, Dr. Mark Schaefer interviewed and performed an independent psychological consultation of the Appellant. (Testimony of Dr. Schaefer and Exhibit 37)
45. Dr. Schaefer is a licensed clinical and forensic psychologist. He has been performing psychological pre-screenings for police departments, including those in Watertown, Framingham, Lynn and Randolph, since 1980. He has administered and interpreted hundreds of MMPI's. In this capacity, Dr. Schaefer has served as a first level screener of police department applicants. He testified that, of the candidates he has interviewed over the years, he has only recommended bypassing about 5% for psychological reasons. Among those 5% of cases in which he believed the candidate should be disqualified for psychological reasons, Dr. Schaefer testified that, "the majority of time I'm overruled" by a 2nd level psychiatrist. (Testimony of Dr. Schaefer)
46. Dr. Schaefer concluded that, "I see no indication that this candidate currently manifests gross psychopathology or poor judgment, nor a significant history of anti-social behavior and/or impulse control problems which might interfere with job performance as a police officer. There was also no indication that the candidate experiences a loss of reality orientation under stress and no indications of any current dependence on alcohol or drugs. Based on these results, I would not recommend

disqualification of this candidate for the position of police officer for the Boston Police Department. (emphasis in original) (Exhibit 37)

Testimony of Appellant's Supervisor at the Boston Police Department

47. The Appellant's former supervisor, Lt. Hechavarria, testified that the Appellant, as an employee of the Missing Persons division, takes missing persons calls, documents the calls into reports, and then enters these reports into local and national databases. He testified that the Appellant is a very hard-working and reliable employee, and she handles the sometimes fast-paced and stressful nature of her position with ease.

(Testimony of Lt. Hechavarria)

Follow-Up Psychological Evaluation

48. Subsequent to this appeal, the Appellant was given another conditional offer of employment via a new certification requested by the Boston Police Department -- and she was once again evaluated by Dr. Reade. Based on Dr. Reade's recommendation, the Appellant was again bypassed for psychological reasons.

(Testimony of Dr. Reade)

CONCLUSION:

The role of the Civil Service Commission is to determine "whether the Appointing Authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority." City of Cambridge v. Civil Service Commission, 43 Mass. App. Ct. 300, 304 (1997). Reasonable justification means the Appointing Authority's actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law. Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex,

262 Mass. 477, 482 (1928). Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 214 (1971). G.L. c. 31, s. 2(b) requires that bypass cases be determined by a preponderance of the evidence. A "preponderance of the evidence test requires the Commission to determine whether, on the basis of the evidence before it, the Appointing Authority has established that the reasons assigned for the bypass of an Appellant were more probably than not sound and sufficient." Mayor of Revere v. Civil Service Commission, 31 Mass. App. Ct. 315 (1991).

Appointing Authorities are rightfully granted wide discretion when choosing individuals from a certified list of eligible candidates on a civil service list. 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." Watertown v. Arria, 16 Mass. App. Ct. 331, 334 (1983). See Commissioners of Civil Serv. v. Municipal Ct. of Boston, 369 Mass. 84, 86 (1975) and Leominster v. Stratton, 58 Mass. App. Ct. 726, 727-728 (2003). However, personnel decisions that are marked by political influences or objectives unrelated to merit standards or neutrally applied public policy represent appropriate occasions for the Civil Service Commission to act. City of Cambridge, 43 Mass. App. Ct. at 304.

The Boston Police Department employs approximately 2,000 sworn officers. Inherent in their responsibilities is the ability to confront dangerous, stressful and life-threatening situations on a daily basis. The City's current crime statistics provide a glimpse of the dangers facing these public servants. During the first six months of 2006, the City

reported 41 homicides, 173 rapes or attempted rapes, over 1,300 robberies or attempted robberies and over 2,300 cases of aggravated assault. (Boston Police Department: Reported Part One Crime in the City of Boston by Offense and by District / Area; January 1st – July 16th, 2006 Data)

Dr. Julia Reade, the Boston Police Department contracted psychiatrist who conducted the second level psychological screening of the Appellant, stressed the high stakes nature of a police officer's job and the impact split-second decisions regarding safety of the officer as well as the safety of other police officers and the public.

Given the dangerous and stressful nature of the job, the psychological screening of potential candidates is a critical part of any police department's screening process and should be undertaken with the utmost seriousness and objectivity. To that end, the Boston Police Department developed a psychological screening plan for all police officer candidates that was approved by the state's Human Resources Division. As part of this screening process, every potential police officer given a conditional offer of employment, including the Appellant, must take the MMPI-2 and PAI exams, meet with a 1st Level Psychiatrist, and if he or she is given an unfavorable 1st Opinion is referred to Dr. Julia Reade for a 2nd Level Screening review.

In the instant case, both department psychiatrists reviewed the Appellant's background information and test scores and results prior to conducting their interviews. After examining and evaluating the totality of the information before her, Dr. Scott concluded that there was no evidence of a mental disorder, current mental impairment or difficulty

with behavioral control or judgment that would prevent the Appellant from successfully training for or performing the duties of an armed police officer.

Although Dr. Scott gave the Appellant a favorable recommendation, because Dr. Scott had previously (as part of a prior hiring process) concluded that the Appellant was not psychologically fit to be a Boston police officer, she referred the Appellant to Dr. Reade for a 2nd Level psychiatric screening. After examining and evaluating the information before her, Dr. Reade concluded that the Appellant was not psychologically fit for appointment as a Boston police officer.

Subsequent to her disqualification, the Appellant contracted with a psychologist and a psychiatrist, both of whom, after reviewing the same information and conducting their own interviews, reached the opposite conclusion. Both of those mental health professionals testified before the Commission. Dr. Beck, the above-referenced psychiatrist who testified on behalf of the Appellant, has impeccable credentials. The overarching testimony of Dr. Beck, however, centered on his opinion that an applicant must have a “diagnosable disorder or history of a disorder” in order to be deemed unfit to serve as a police officer for psychological reasons. That is contrary to the plain language of the HRD-approved psychological screening plan, which is not being disputed by the Appellant. That plan states in part, “this (screening) process will be used to detect through a review of the background investigation, personal history as provided by the candidate, psychological testing, interviews, any psychological or behavioral characteristics, which would significantly interfere with the candidate’s successful performance of the essential functions duties (sic) of the position of Boston Police Officer.” (emphasis added) (Exhibit 33)

Dr. Schaefer, the psychologist also contracted by the Appellant, has performed 1st level screening of police officer candidates for at least four other cities and towns in Massachusetts. He testified that, on average, that he only recommends bypassing a candidate for psychological reasons approximately 5% of the time, and on those occasions, he is overruled by a 2nd level screener the majority of the time. Both of these statistics raised the eyebrow of Dr. Reade, the Appointing Authority's psychiatrist, who suggested that the 5% disqualification rate for a 1st level screener is low. Further, Dr. Reade testified that, as a 2nd level screener, she only overrules the 1st level screener 10-15% of the time.

Despite a track record of disqualifying what appears to be a relatively low percentage of police officer candidates for psychological reasons, Dr. Schaefer did appear to take a broader view (than his colleague Dr. Beck) of what would justify a psychological bypass, focusing his testimony on any "overriding psychological or substance abuse issues" that would disqualify a candidate. Even using this broader standard, Dr. Schaefer testified that he saw nothing in the data that would disqualify the Appellant from serving as a police officer.

Both Dr. Beck and Dr. Schaefer, in their written reports and their testimony before the Commission, suggested that the psychiatrists contracted by the Boston Police Department, including Dr. Reade, gave too much weight to the "paper and pencil" psychological tests taken by the Appellant. Further, while not explicitly stated, they both strongly implied that Dr. Reade misread the natural nervousness that any candidate would experience during such a high-stakes interview as something more serious. After hearing the live testimony of Dr. Reade, I conclude that there is no evidence to substantiate the

assertions of Drs. Beck and Schaefer on this front. First, Dr. Reade explicitly stated that she would never use a written examination as the sole reason for recommending that a candidate be bypassed for psychological reasons. Second, Dr. Reade offered credible testimony regarding the need to discount a candidate's natural nervousness during these interviews.

The Commission is, however, troubled that the Appellant in this case, a 30 year-old Boston resident who will no longer be eligible to be a police officer in two years due to age restrictions, faces a conundrum that is against equity and good conscience. Ms. Cawley successfully served as a Boston Police Cadet, obtained a bachelors degree in criminal justice and plans to get a masters degree. Moreover, a psychiatrist for the City concluded that there was "no evidence of a mental disorder, current mental impairment or difficulty with behavioral control or judgment that would prevent the Appellant from successfully training for or performing the duties of an armed police officer." Had this been Cawley's first application for employment with the BPD, she would have met the requirements of the conditional offer of employment and would have been hired as a Boston police officer. In this case, however, Ms. Cawley had previously failed a prior psychological evaluation and therefore was once again referred to the same second level screener she had interviewed with before, Dr. Julia Reade.

Despite the unquestionable credentials of Dr. Reade and her honest, forthright testimony before the Commission, it is clear that Dr. Reade has unwittingly established an unattainable bar for this Appellant that appears to be tinged with personal bias. Dr. Reade first disqualified the Appellant for psychological reasons primarily because she had difficulty "offering up information" demonstrating her rigid and inflexible manner.

When the Appellant sought to be more forthcoming during an interview that was part of a second round of hiring, filling in the blanks to questions in which she had previously offered no information, Dr. Reade concluded that the Appellant's forthright answers during this second interview were actually contradictory to the answers given in the first interview, thus making the Appellant a liar. It is worth noting that this case is one of three BPD bypass appeals involving psychological reasons from the same list that, at the request of the Appellant's counsel, were heard simultaneously by the Commission. The somewhat harsh and personal nature of Dr. Reade's comments involving Ms. Cawley stood out when compared against her testimony involving the two other Appellants with an appeal before the Commission. The Commission agrees with counsel for the Appellant, that Ms. Cawley has left an indelible black mark with Dr. Reade that is likely to permanently bar the Appellant from appointment to the Boston Police Department.

While it is not the Commission's role to determine if Ms. Cawley is psychologically fit to serve as a Boston police officer and while it well-established that the Commission should not substitute its judgment for the Appointing Authority, intervention is warranted in cases such as this where personal bias has tainted a hiring process.

Therefore, the Appellant's appeal under Docket No. G1-06-95 is hereby ***allowed***. To ensure that the Appellant in this case is given fair and objective consideration for the position of police officer, the Commission, pursuant to its powers inherent in Chapter 310 of the Acts of 1993, orders the following:

- HRD shall revive the Appellant's eligibility, if necessary, and reinstate her name on the eligible list for police officer in order to recertify her name in the City of Boston at the top of the next certification list for police officer vacancies.
- At the next vacancy, the Commission orders the psychological examination of the Appellant by a psychologist and psychiatrist, other than Dr. Reade and Dr. Scott.

Civil Service Commission

Christopher C. Bowman, Commissioner

By vote of the Civil Service Commission (Bowman, Guerin, Marquis and Taylor, Commissioners [Goldblatt, Chairperson – Absent]) on November 22, 2006.

A true record. Attest:

Commissioner

A motion for reconsideration may be filed by either Party within ten days of the receipt of a Commission order or decision. A motion for reconsideration shall be deemed a motion for rehearing in accordance with M.G.L. c. 30A § 14(1) for the purpose of tolling the time for appeal.

Any party aggrieved by a final decision or order of the Commission may initiate proceedings for judicial review under section 14 of chapter 30A 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:

Leah M. Barrault, Esq.

Tsuyoshi Fukuda, Esq.

Martha O'Connor, Esq.