

## COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

**CIVIL SERVICE COMMISSION**  
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Boston, MA 02108  
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INVESTIGATION RE:

BOSTON POLICE DEPARTMENT & DUE PROCESS OF NON-SELECTED CANDIDATES

Tracking No. I-16-106

### FINDINGS & ORDERS

#### *Reason for initiating review*

1. On June 15, 2013, the state's Human Resources Division (HRD) administered an examination for Boston Police Officer.
2. On November 1, 2013, HRD established an eligible list of candidates for Boston Police Officer.
3. On April 27, 2015, HRD issued Certification No. 02742 to the Boston Police Department (BPD) officers.
4. Certification No. 02742 contained five hundred fifty-one (551) names, ranked from 1 to 50 with many candidates tied in various rankings.
5. According to the BPD, sixty-nine (69) candidates were appointed as police officers, including several candidates tied for 50<sup>th</sup>.
6. According to the BPD, the successful candidates were granted conditional offers of employment on or around October 31, 2015.
7. Pursuant to G.L. c. 31, § 27, if an appointing authority bypasses a candidate for appointment, it "shall immediately file with the administrator a written statement of his reasons for appointing the person whose name was not highest. Such an appointment of a person whose name was not highest shall be effective only when such statement of reasons has been received by the administrator. The administrator shall make such statement available for public inspection at the office of the department."
8. The Personnel Administration Rules (PAR) define a bypass as: "the selection of a person or persons whose name or names ... appear lower on a certification than a person or persons who are not appointed and whose names appear higher on said certification."

9. Since on or around October 2009, HRD, via a delegation agreement, effectively eliminated the requirement that appointing authorities notify HRD of bypass reasons.
10. As part of the delegation process, HRD forwarded all appointing authorities a guide outlining their delegated responsibilities.
11. On Page 5 of the Delegation Agreement, it states in relevant part that, “In compliance with the Personnel Administration Rules, bypassed candidates must be provided the selection reasons for lower ranked candidates who are appointed .... the candidate not selected for appointment has the right to appeal with the Civil Service Commission, per Personnel Administration Rules which must be clearly communicated to the effected candidate.”
12. In a document dated November 24, 2015, the BPD notified HRD of the names of those individuals who were appointed as Boston police officer, including candidates ranked in the 50<sup>th</sup> tie group.
13. According to the BPD, the candidates appointed from Certification No. 02742 commenced employment and were enrolled in the Police Academy on or around December 28, 2015.
14. Approximately three hundred (300) candidates were ranked above 50<sup>th</sup> (i.e. – 1<sup>st</sup> through 49<sup>th</sup>).
15. Of those approximately three hundred (300) candidates ranked from 1<sup>st</sup> to 49<sup>th</sup> who signed as willing to accept appointment and who were not selected for appointment, the BPD was required to provide them with bypass reasons.
16. The BPD did not begin to provide non-selected candidates with written notification of bypass reasons until on or about March 16, 2016, more than four (4) months after making conditional offers of employment and more than two (2) months after the successful candidates were enrolled in the police academy.
17. The Commission only received six (6) appeals from non-selected candidates ranked 1<sup>st</sup> through 49<sup>th</sup> on Certification No. 02742 who signed as willing to accept appointment. That appeared to be an unusually low number of appeals given the potentially high number of non-selected candidates ranked 1<sup>st</sup> through 49<sup>th</sup> who may have indicated a willingness to accept employment.
18. In regard to two (2) of the six (6) appeals filed with the Commission, the BPD’s written notice to the non-selected candidate failed to notify them of their right to file a bypass appeal with the Commission.
19. Given the low number of appeals received (6); the fact that the BPD failed to notify two (2) of those Appellants of their appeal rights; and the fact that the BPD had waited months to provide bypass reasons to any candidates, I asked counsel for the BPD to provide me with additional information regarding this hiring cycle, including, but not limited to, the number of candidates who signed the Certification as willing to accept appointment; of those, how

many were ranked 1<sup>st</sup> through 49<sup>th</sup> and were not selected; and, of those, how many were sent bypass reasons along with a notification of their appeal rights to the Commission.

20. The above-referenced information requests were made by me to counsel for the BPD verbally and via email and were referenced in a Procedural Order as well as a Decision issued by the Commission.
21. The BPD did not respond to those requests for information.
22. For these reasons, the Commission, on June 9, 2016, pursuant to G.L. c. 31, §§ 2(a) and 72 and G.L. c. 7, § 4I, opened an investigation and ordered the Boston Police Department to provide the following information no later than thirty (30) days from the issuance of the order:
  - A. A copy of Certification No. 02742 that includes the signatures of those candidates willing to accept appointment.
  - B. A copy of any correspondence, including notification of non-selection, to those candidates ranked 1<sup>st</sup> through 49<sup>th</sup> on Certification No. 02742, who signed as willing to accept appointment but who were not appointed.

*Review Completed by Commission*

23. The BPD provided the Commission with a timely response to the Commission's June 9<sup>th</sup> order on June 28, 2016 in the form of a three (3)-page letter from the BPD's legal department.
24. On June 30<sup>th</sup>, the Commission, after reviewing the June 28<sup>th</sup> correspondence, asked the BPD to provide supplemental information on or before July 15<sup>th</sup>. With the Commission's assent, the BPD submitted most of the supplemental information requested on July 18<sup>th</sup> and committed to provide information regarding the processing of active military duty candidates, not available as of July 18<sup>th</sup>, in the near future, along with any additional clarifying information, as necessary.
25. As part of its review, the Commission also reviewed the case files of six (6) bypassed candidates from Certification No. 02742, ranked within the 1<sup>st</sup> to 49<sup>th</sup> group of candidates, who filed an appeal with the Commission.
26. The Commission, as part of this review, also communicated with five (5) other candidates and/or their counsel whose names appeared among the candidates ranked 1<sup>st</sup> to 49<sup>th</sup> on Certification No. 02742, but who did not file a bypass appeal with the Commission.
27. The Commission, as part of its review, convened a public status conference, and heard from counsel for the BPD and other individuals, including a representative of the Lawyers'

Committee for Civil Rights and Economic Justice and Massachusetts Veterans' Edge, an initiative of Massachusetts Fallen Heroes.

28. Finally, the Commission reviewed all civil service laws, rules and delegation agreements applicable to the this appointment process, including, but not limited to, Chapter 31 of the General Laws, the Personnel Administration Rules (PARs), the 2009 delegation agreement between the state's Human Resources Division and civil service communities in Massachusetts, and all laws and rules applicable to candidates on active military duty, including, but not limited, to the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994.

*Findings / Conclusions / Corrective Actions Required*

The BPD, via its two (2) submissions, attributes the low number of bypass appeals filed with the Commission to the following factors, discussed in more detail below:

- A. Sixty (60) candidates who signed Certification No. 02742 as willing to accept appointment subsequently “failed to appear for or complete a required part of the process (i.e., orientation, meeting with a detective, medical and/or the Physical Abilities Test).” [Hereafter “Failed to Complete Process” Candidates]
- B. Fifty (50) candidates who signed Certification No. 02742 as willing to accept appointment subsequently “chose to voluntarily withdraw from the process.” [Hereafter “Voluntary Withdrawal” candidates]
- C. Two (2) candidates who signed Certification No. 02742 were on active military duty “at the time of their consideration and will be considered for the next recruit class. [Hereafter “active military duty” candidates]
- D. One (1) candidate who signed Certification No. 02742 exceeded the maximum age allowable at the time of consideration. [Hereafter “aged out” candidate]
- E. Two hundred nine (209) candidates ranked 1<sup>st</sup> through 49<sup>th</sup> failed to sign Certification No.02742 as willing to accept appointment. [Hereafter, “non-signers”]

*A. 60 “Failed to Complete Process” Candidates*

The BPD maintains that it has “no obligation to notify these candidates of their non-selection reasons and/or their right to file a bypass appeal with the Commission because “the circumstances resulting in their non-hiring by the Department does not constitute a bypass.”

As part of the Commission's review, we reviewed the case file of one of the sixty (60) candidates deemed by the BPD as "failing to complete the process" who, despite not being informed of his appeal rights, went forward and filed an appeal with the Commission. [Hereafter Candidate A1]

Candidate A1, who was among those candidates with a rank of 1<sup>st</sup> through 49<sup>th</sup>, signed Certification No. 02742 as willing to accept appointment. He underwent a comprehensive background investigation and was granted a conditional offer of employment by the BPD.

As part of the conditional offer of employment, Candidate A1 was required to undergo a psychological evaluation, which includes a written component and an interview with two (2) mental health professionals. Candidate A1 completed both the written component and was interviewed by two (2) mental health professionals. At the conclusion of this review, the mental health professionals wrote, in relevant part, that they recommended "a more comprehensive and in-depth reading analysis to inform as to whether or not the test results may not have been fully reliable, may not have been fully valid because of the reading problems."

According to the BPD, Candidate A1 was not "bypassed" as he was among the sixty (60) candidates who "failed to complete the process." Therefore, he was not provided with notification of his right to file a bypass appeal with the Commission.

As part of the Commission's review, we reviewed the case file of another one of the sixty (60) candidates deemed by the BPD as "failing to complete the process" who, despite not being informed of his appeal rights, went forward and filed an appeal with the Commission. [Hereafter Candidate A2]

Similar to Candidate A1, Candidate A2, who was among the candidates ranked 1<sup>st</sup> through 49<sup>th</sup>, signed the Certification as willing to accept appointment, filled out a comprehensive application and was subject to a background investigation by the BPD.

As part of that review process, Candidate A2 was required to verify that he had resided in the City of Boston for one year prior to the date of the civil service examination, a requirement for obtaining the residency preferences given to civil service candidates. While it is undisputed that Candidate A2 provided various documents to the BPD in this regard, the parties disputed whether Candidate A2 provided all of the documents requested.

According to the BPD, Candidate A2 was also not "bypassed" as, according to the BPD, he was among the sixty (60) candidates who "failed to complete the process." Therefore, he was not provided with notification of his right to file an appeal with the Commission.

In its response, the BPD also took the position that four (4) candidates who failed the Physical Abilities Test (PAT) had no right of appeal to the Commission and, thus, these candidates were not provided with bypass letters informing them of their appeal rights.

As part of the Commission's review, we also contacted another candidate, hereafter Candidate A3, who signed the Certification as willing to accept appointment and was identified by the BPD as "falling to complete the process." He was among the candidates ranked 1<sup>st</sup> through 49<sup>th</sup> and

was not appointed. He was not informed of his reason for non-selection and was not informed of his bypass appeal right and did not file an appeal with the Commission. Candidate A3 acknowledged that he did not attend the mandatory orientation required of all BPD candidates.

### **Conclusion / Corrective Action Required:**

Candidates A1 and A2 were bypassed. Consistent with the civil service law, the PARs and the 2009 delegation agreement, the BPD was required to notify these bypassed candidates of the reasons for bypass and their right to file a bypass appeal with the Commission. The BPD failed to provide both of these candidates with their right to file an appeal with the Commission.

In regard to the BPD's position that candidates who fail the PAT have no right of appeal, the BPD should know otherwise. In CSC Case No. G1-10-327, issued in 2012, a candidate for Boston police officer filed an appeal with the Commission, contesting an HRD determination that she failed the PAT. In that decision, the Commission *reiterated* that candidates deemed to have failed the PAT have a "right to an impartial review of the decision to revoke [his / her] conditional employment."

In regard to Candidate A3, he was aware of the need to attend an orientation and voluntarily chose not to attend the orientation. While, based on those circumstances, that may not constitute a bypass, it does not follow that all candidates who fail to attend an orientation are not bypassed. For example, the Commission recently granted relief to a public safety candidate in a Massachusetts city who successfully argued that he was never properly notified of the date and time of the required orientation.

To ensure that all candidates deemed by the BPD as failing to complete the process are provided with their due process rights, the BPD is required, within 30 days of receipt of this order, to provide all "failure to complete process" candidates with a rank of 1 to 49 with written notification of their right to file a bypass appeal with the Commission.

The Commission, upon receipt of individual bypass appeals, will then be able to determine, on a case-by-case basis, if a bypass occurred and, if so, whether there was reasonable justification for the bypass.

### *B. 50 "Voluntary Withdrawal" candidates*

The BPD maintains that 50 candidates who signed the Certification "voluntarily withdrew" from the hiring process; and, thus, these candidates were not bypassed and were not entitled to non-selection reasons or notification of their right to appeal to the Commission.

As part of its review, the Commission spoke with a candidate on the Certification, hereafter Candidate B1, who signed the Certification and was among the candidates ranked 1<sup>st</sup> through 49<sup>th</sup>. He signed the Certification, attended the mandatory orientation, and was subject to a background investigation. Candidate B1 stated that, as part of the background investigation, he was required to attend a meeting with a background investigator. According to Candidate B1, he was told by the investigator that he was likely to be bypassed; that he should consider

withdrawing from the hiring process; he was handed an “opt out form” and asked to sign it. According to Candidate B1, he told the background investigator that, given his age, he was concerned that he may not be eligible for consideration in future hiring rounds and, thus, refused to sign the opt-out form. According to Candidate B1, he was told to reconsider his decision not to sign the opt-out form and contact the BPD with his decision. He decided not to sign the opt-out form.

After speaking with Candidate B1, the Commission asked the BPD to provide additional information about the 50 “voluntary withdrawal” candidates including, but not limited to, a copy of any forms signed by these candidates indicating their desire to withdraw from the hiring process.

In response, the BPD provided forms with the heading, “Declaration of Voluntary Withdrawal from the Student Officer Application Process” and/or email communication from 45 candidates. 2 of the declaration forms stated that the candidate “refused to sign.”

In addition to acknowledging that they are “voluntarily” withdrawing from the hiring process, these candidates are also required to acknowledge that he /she “must contact Human Resources [BPD] directly to formally withdraw my candidacy for the student officer applicant selection process cited above. Failure to notify Human Resources of my voluntary withdrawal from this student officer applicant selection process may result in my removal from the current eligible candidate list for this student selection process and any future student officer applicant selection processes selected from the current eligible candidate list.” (emphasis added)

The BPD, as part of its follow-up submission, also provided the Commission with internal memoranda memorializing conversations with certain candidates regarding the BPD’s recommendation to the candidates to withdraw from the hiring process.

The problems with this so-called “voluntarily opt-out” process are two-fold. First, there is no indication that these candidates are informed, either verbally or in writing, that if he/she chose not to opt out of the process, he/she would have the right to appeal the reasons for his/her non-selection to the Commission. Being “encouraged” to opt out of the hiring process, without being informed of his/her statutory appeal rights, is inconsistent with providing candidates with their due process rights.

Second, the “Declaration of Voluntary Withdrawal” form that candidates are required to sign contains ominous – and misleading – information stating that a candidate could be removed from the eligible list maintained by HRD. This would prevent consideration of the candidate in future hiring rounds. Even under the 2009 delegation agreement, appointing authorities, including the BPD, have no authority to remove a candidate from an eligible list maintained by HRD. The BPD’s statement suggesting otherwise is erroneous and further calls into question whether the “voluntary withdrawal” candidates made an informed decision to sign the “Declaration of Voluntary Withdrawal” form created by the BPD.

Based on the above information, and to ensure that all of the “voluntary withdrawal” candidates are provided with their due process rights, the BPD is required, within 30 days of receipt of this

order to provide all “voluntary withdrawal” candidates with a rank of 1 to 49 with written notification of their right to file a bypass appeal with the Commission.

The Commission, upon receipt of individual bypass appeals from these candidates, will then be able to determine, on a case-by-case basis, if the withdrawal was voluntary, whether a bypass occurred and, if so, whether there was reasonable justification for the bypass.

Going forward, the BPD must ensure that all information provided to “voluntary withdrawal” candidates is accurate (i.e. – no reference to being ineligible for future consideration) and that all such candidates are informed of their right to file a bypass appeal should they opt not to voluntarily withdraw from the process.

As part of its submission, the BPD included email communication from a handful of candidates that appear to be bonafide voluntary withdrawals. For example, one candidate chose to accept a firefighter position and another candidate chose to accept a position with the State Police. We see no reason to deem these candidates as “bypassed”. On the contrary, these withdrawals were clearly initiated by the applicant, as opposed to being “encouraged” by the BPD. On a going forward basis, that will be an important distinction when the Commission determines if higher ranked “voluntary withdrawal” candidates were actually bypassed, triggering the need for written notification of reasons and appeal rights.

#### *C. Two (2) Active Military Duty Candidates*

Active military duty candidates have a right to be considered upon their return from active military duty and the BPD has indicated that two (2)<sup>1</sup> such candidates stated that they were on active military duty.

For reasons discussed in more detail below in Section E, the Commission is asking the BPD for clarification regarding their process for notification and consideration of active military duty candidates.

#### **Conclusion / Corrective Action Required:**

See Section E below.

#### *D. One (1) “Aged Out” Candidate*

The Commission recently heard an appeal from this candidate (hereafter Candidate D1) and determined that both the BPD and HRD acted in accordance with the civil service law regarding the non-consideration of this candidate.

#### **Conclusion / Corrective Action Required:**

All civil service law and rules were complied with. No corrective action required.

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<sup>1</sup> In follow-up correspondence submitted to the Commission, the BPD indicated that five (5) candidates on the Certification were on active military duty at the time.

*E. Two hundred nine (209) non-signers*

According to information provided by the BPD, 209 of the 342 candidates ranked 1<sup>st</sup> through 49<sup>th</sup> on Certification No. 02742 failed to sign the Certification as willing to accept appointment, a 61% “non-sign” rate among all such candidates and a “non-sign” rate of over 80% among those disabled veterans ranked at or near the top of the Certification.

As part of its review, the Commission contacted a disabled veteran candidate [hereafter Candidate E1] who did not sign the Certification as willing to accept appointment. Candidate E1 stated that he had been appointed from a prior Certification.

The Commission subsequently asked the BPD to: 1) review the list of all “non-signers” and determine how many of these candidates had been appointed in a prior hiring cycle; and 2) provide the Commission with any written policies, guidelines, memoranda, etc. relied upon by the BPD regarding candidates who are unable to accept appointment at the time of the Certification is issued as a result of being on active military duty and what steps were taken regarding this hiring cycle to comply with such including, but not limited to, the use of military substitutes.

In reply, the BPD stated that fifty (50) of the candidates whose names appeared on Certification No. 02742 were appointed in a prior hiring cycles and provided the names of those appointed candidates. It appears that only three (3) of these candidates, however, were disabled veterans.

In regard to procedures related to candidates on active military duty at the time their name(s) appear on a Certification, the BPD did not provide the Commission with any written policies or procedures, but did provide the following written statement:

“If a candidate notifies the Department that s/he is on active military duty at the time s/he is eligible for consideration for employment as a Boston police officer and, as a result, cannot complete the process, the Department defers their candidacy to [the] next available recruit class. It is the individual’s responsibility to notify the Department when s/he returns from active duty to ensure that they are considered during the next available hiring process. The Department, along with ... [HRD], ensures that these candidate name(s) appear on any subsequent certifications and receive consideration for employment.”

In regard to the use of military substitutes, the BPD stated that it was still reviewing its records and would provide a response at a later date.

**Conclusion / Corrective Action Required:**

The percentage of “non-signers”, particularly among those candidates identified as disabled veterans, appears to be inexplicably high. Even after considering that certain candidates on the Certification were appointed in a previous hiring cycle (and, therefore, would have no reason to sign this Certification), the “non-sign” rate, particularly among disabled veterans, remains high.

We encourage the BPD, on its own initiative, to inquire with some or all of the non-signing disabled veterans, to identify the reasons for their decision not to sign the Certification. This outreach could be done in conjunction with the Massachusetts Veterans Edge organization, which has sought to participate in the matters related to this review as they pertain to veterans and disabled veterans.

Further, although the BPD appears to have a practice of ensuring that candidates on active military duty receive proper consideration, it appears that they lack any written guidelines or procedures. To ensure clarity and uniformity, the BPD should develop written guidelines.

In 2014, the Boston Fire Department provided the Commission with a copy of its written guidelines, developed in conjunction with HRD, regarding active military duty candidates. (See Inquiry Regarding Active Military Service Candidates in the Boston Fire Department, CSC Tracking No. I-13-190 (2014). Those guidelines, approved by the Commission, should be looked to as a model template for the BPD, and all civil service communities.

*Other Matters Considered as Part of Review*

I        Untimely issuance of bypass letters

The BPD acknowledges that, as part of this hiring process, those bypass letters actually issued were sent 2-3 months after the Police Academy commenced and 3-4 months after conditional offers of employment were issued.

The BPD's response to this concern was unsatisfactory. Prompt notification of a bypass, and the reasons for said bypass, is an important part of the appellate process for non-selected candidates. We trust that no order from the Commission is necessary to ensure that the BPD resumes its prior practice of sending bypass letters to candidates in a timely manner.

II       Correspondence from Lawyers' Committee for Civil Rights and Economic Justice  
(Lawyers' Committee)

Subsequent to initiating this review, the Commission received correspondence from the Lawyers' Committee for Civil Rights and Economic Justice on behalf of the Massachusetts Association of Minority Law Enforcement Officers (MAMLEO) and the Boston Society of Vulcans of Massachusetts, two (2) non-profit organizations committed to diversity in law enforcement and fire departments, respectively.

In its correspondence, the Lawyers' Committee expressed concern about "resurgence of unfair hiring and promotional practices that disadvantage minority communities" and a purported "lack of transparency" related to requests to the BPD by the Lawyers' Committee for information concerning this most recent recruit class.

The BPD, while acknowledging that it took more than 10 days to gather the information requested, states that all information, including a racial breakdown of recruits, was indeed provided to the Lawyers' Committee.

Further, the BPD states that the Police Commissioner and other members of the BPD's senior command staff are committed to diversity and continue to meet with MAMLEO representatives to meet this goal within the civil service system.

Finally, the BPD references prior Commission decisions which stated that there has been "no evidence or allegation" of discrimination regarding the BPD's tie-breaking method.

The BPD's final point warrants clarification. The Commission's conclusion regarding the tie-breaking method related solely to two (2) candidates in the 50<sup>th</sup> tie group who were not bypassed for appointment as no candidates ranked below them were appointed. Further, the Commission's conclusion regarding "no evidence or allegation" of discrimination related solely to those two Caucasian candidates who filed an appeal before the Commission, neither of whom alleged or presented evidence that they were discriminated against. The BPD's repeated suggestion that the Commission reached a sweeping conclusion regarding whether discrimination did – or did not – occur during this hiring cycle is misleading.

In regard to the allegations by the Lawyers' Committee of unfair hiring practices that disadvantage minority communities, we take those allegations seriously. Both as a Commission, and as individual Commissioners who serve as hearing officers, we are charged with ensuring that all candidates receive fair and impartial treatment, consistent with basic merit principles, defined as

"(a) recruiting, selecting and advancing of employees on the basis of their relative ability, knowledge and skills including open consideration of qualified applicants for initial appointment; (b) providing of equitable and adequate compensation for all employees; (c) providing of training and development for employees, as needed, to assure the advancement and high quality performance of such employees; (d) retaining of employees on the basis of adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected; (e) assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, marital status, handicap, or religion and with proper regard for privacy, basic rights outlined in this chapter and constitutional rights as citizens, and; (f) assuring that all employees are protected against coercion for political purposes, and are protected from arbitrary and capricious actions." G.L. c. 31, s.1.

The Commission, with its scarce resources, spends at least 90% of its time hearing and deciding individual appeals, including those candidates bypassed for appointment to public safety positions. It is through the hearing of these individual appeals, which includes a full evidentiary hearing, that the Commission is best able to examine allegations of bias or favoritism, including allegations related to race or any other factor. That is precisely why it is imperative that all bypassed candidate are provided due process, including being informed of their statutory right to file an appeal with the Commission. The orders referenced above should begin to ensure that these due process rights, and the review that follows, are resumed, allowing the Commission to review individual allegations of bias.

The Commission, however, is likely not the most appropriate – or best equipped – agency to investigate global allegations of unfair hiring and promotional practices that disadvantage minority communities. Other agencies, including but not limited to, the Massachusetts Commission Against Discrimination (MCAD) have more resources – and the legislative authority – to investigate such allegations.

That does not, however, prevent the Civil Service Commission, in its role of hearing individual appeals, from hearing concerns, raised by the Lawyers' Committee and others, regarding the hiring practices of the BPD as they relate to ensuring that minority communities are not disadvantaged, and addressing those concerns as part of individual bypass appeals. To that end, the Commission, outside of this review, will seek to facilitate ongoing meetings with the Lawyers' Committee to hear their concerns. To ensure that the Commission itself remains fair and impartial, BPD representatives will be invited to attend.

### III Correspondence from Massachusetts Veterans' Edge on behalf of Massachusetts Fallen Heroes.

On July 20, 2016, the Commission also received correspondence from Massachusetts Veterans' Edge, submitted on behalf of Massachusetts Fallen Heroes seeking to participate in this review to determine "whether veterans were afforded all rights under the Law, including but not limited to notice of the reasons for being bypassed."

The Commission, as referenced above, is asking the BPD, possibly in conjunction with Veterans' Edge, to reach out to the high percentage of "non-signers" who are disabled veterans and veterans. Also, the BPD is required to develop, in conjunction with HRD, written guidelines regarding active military duty candidates. Soliciting input from Veterans' Edge on those guidelines would be prudent and advisable.

Similar to the dialogue referenced above with the Lawyers' Committee, the Commission would welcome the opportunity to receive ongoing input from Veterans' Edge regarding global issues related to disabled veterans and veterans in the context of the civil service appointment process.

#### *Conclusion*

The Boston Police Department does not have the authority to pre-judge which higher ranked civil service candidates have been aggrieved by their non-selection. Rather, the Boston Police Department is required to advise higher-ranked non-selected candidates of their appeal rights. The Civil Service Commission, the quasi-judicial agency charged with conducting independent, fair and impartial reviews, determines whether a higher-ranked non-selected candidate was aggrieved by his/her non-selection decision and, if so, if relief is warranted.

In regard to the orders referenced above, the BPD shall have sixty (60) days to provide the Commission with a written status update regarding the implementation of said orders.

SO ORDERED.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman  
Chairman

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Stein and Tivnan, Commissioners) on July 21, 2016.

Notice:

Nicole Taub, Esq. (Boston Police Department)

Courtesy Copies to:

John Marra, Esq. (Human Resources Division)  
Oren Sellstrom, Esq. (Lawyers' Committee for Civil Rights and Economic Justice)  
Patrick Bryant, Esq. (Massachusetts Veterans' Edge)