

COMMONWEALTH OF MASSACHUSETTS
PEACE OFFICER STANDARDS AND TRAINING COMMISSION

IN THE MATTER OF)	
)	Case No. 23-002-C
)	Certification No. BIG-R2022-10884
)	
GREGG BIGDA)	

FINAL DECISION

(Pursuant to G.L. c. 30A, § 11(8); 555 CMR 1.10(4)(e))

On October 20, 2022, the Division of Police Certification (“Division”) of the Peace Officer Standards and Training Commission (“Commission”) denied the application for recertification of Springfield Police Officer Gregg Bigda (“Mr. Bigda”). On March 24, 2023, Mr. Bigda requested a review of the Division’s certification decision by the Commission’s Executive Director, Enrique A. Zuniga (“Mr. Zuniga”). On May 31, 2023, Mr. Zuniga affirmed the Division’s denial of Mr. Bigda’s application for recertification, and on June 5, 2023, Mr. Bigda requested a hearing before the Commission.

In accordance with and pursuant to G.L. c. 6E, §§ 3(a) and 4, and 555 CMR 1.10(1), the Chair of the Commission, Hon. Margaret R. Hinkle (Ret.) (“Chair”), designated Hon. Charles J. Hely (Ret.) (“Presiding Officer”) to preside over the evidentiary hearing on Mr. Bigda’s objections in the first instance. The hearing, held in conformance with G.L. c. 30A, §§ 10, 11, and 13, commenced on November 6, 2023 and lasted for three days.

The Presiding Officer issued his Initial Decision pursuant to G.L. c. 30A, § 11(7) and 11(8), and 555 CMR 1.10(4)(e)(2) on January 8, 2024, recommending that the Commission DENY Mr. Bigda’s application for recertification. On or about February 6, 2024, Mr. Bigda notified Mr. Zuniga of his objections to findings, rulings, and recommendations contained in the Presiding Officer’s Initial Decision. Thereafter, the Commission established a schedule for briefing of the objections and responses, and scheduled a further hearing before the full Commission.

The Commission held a hearing on Mr. Bigda’s objections during the Commission’s public meeting on April 18, 2024. Prior to the hearing, the Commission¹ received and reviewed the

¹ A quorum consisting of eight of the nine members of the Commission was present for the hearing on Mr. Bigda’s appeal on April 18, 2024.

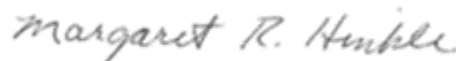
voluminous record pertaining to Mr. Bigda's objections and his request that the Commission reject the Initial Decision of the Presiding Officer, including the briefs filed by both parties. At all times relevant, Mr. Bigda was represented by Attorney Donald C. Keavany, Jr. The Division's duly appointed counsel, attorneys Shaun Martinez and Amy C. Parker, appeared in response to Mr. Bigda's objections. Each side was afforded a total of fifteen minutes for argument before the Commission. The public meeting/hearing was held remotely via Zoom, in accordance with St. 2023, c. 2, § 40 and 940 CMR 29.10. Cf. 555 CMR 1.10(4); 801 CMR 1.01(12).

In rendering this Final Decision, the Commission hereby incorporates by reference the Presiding Officer's Initial Decision, which is also attached hereto.

After a careful review and consideration of the findings of fact, rulings of law, and recommendation of the Presiding Officer articulated in his Initial Decision, the eight Commissioners present voted unanimously to affirm and adopt the Initial Decision of the Presiding Officer in its entirety and without modification as its Final Decision. The Commissioners thereby affirmed that they did not find substantial evidence to warrant certification pursuant to G.L. c. 6E, § 4, which evidence is required for reversal under 555 CMR 1.10(4)(c)(3), and accordingly denied Mr. Bigda's request that the findings, rulings, and recommendations of the Presiding Officer be rejected by the Commission.

The filing of any appeal of this Final Decision shall be to the Superior Court and must be filed within thirty (30) days of receipt of this Final Decision, in accordance with G.L. c. 30A, § 14. Appeals to the Superior Court shall not stay enforcement of this Final Decision, but by motion to the Commission within ten (10) days of the Final Decision, the Commission may, for good cause shown, stay enforcement pending appeal to the Superior Court, pursuant to 555 CMR 1.10(4)(e)(2)(d).

Dated: 4/22/2024



Hon. Margaret R. Hinkle (Ret.), Chair

**COMMONWEALTH OF MASSACHUSETTS
PEACE OFFICER STANDARDS AND TRAINING COMMISSION**

In the Matter of)	
)	Case No. 23-001-C (ED23-002-C)
)	MPTC User ID No. 6237-5091
Gregg Bigda)	
)	

INITIAL DECISION OF THE PRESIDING OFFICER
(Pursuant to M.G.L. c. 30A, § 11(8); 555 CMR 1.10(4)(e)(2))

A. Introduction

Beginning in 2021, the Massachusetts Peace Officer Standards and Training Commission (“Commission”) was given the statutory authority to issue certifications for police officers throughout Massachusetts. All police officers in Massachusetts are now required to obtain a certification or a recertification from the Commission in order to be employed by law enforcement agencies in the Commonwealth. The Commission also has the authority to deny applications for recertification and to revoke certifications.

Gregg Bigda is an officer in the Springfield Police Department. In 2021, the Commission issued initial one-year certifications to large groups of active police officers throughout the Commonwealth. Officer Bigda received a one-year certification as part of a group of officers whose last names began with the letters A-H. This certification was automatic under the statute. When Officer Bigda’s one-year certification was close to its expiration date, he made a timely application to the Commission for a three-year recertification.

After a full review of his application, the Commission’s Division of Certification denied Officer Bigda’s application for recertification. Officer Bigda appealed the denial of his recertification by petitioning for review by the Executive Director. The Executive Director affirmed the Division of Certification’s denial of recertification. The appeal process culminated in a two-and-a-half day adjudicatory hearing before the Honorable Charles J. Hely (ret.), a hearing officer appointed by the Commission. The evidence at the hearing included the testimony of thirteen witnesses, hundreds of pages of written reports and records, and one video recording. The hearing concluded on October 30, 2023.

Based on the evidence and the applicable statute and regulations, the hearing officer recommends that the Commission deny Officer Bigda’s application for recertification.¹

¹ Under the Commission’s regulations, an officer’s application for recertification (555 CMR 7.00) is to be distinguished from a revocation of an officer’s certification (M.G.L. c. 6E, §. 10).

B. The Palmer Police Station Incidents: Officer Bigda's Abuse of Two Juveniles in Custody

On the night of February 26, 2016, at around 8:27 p.m., Springfield Police Officer Steven Vigneault parked a Springfield police vehicle, an unmarked Chevy Trailblazer, in front of a Springfield pizza shop. Officer Vigneault left the car unlocked, unoccupied, and with its motor running. Three juveniles stole the car.²

In the early morning hours of February 27, 2016, a Wilbraham Police officer spotted the stolen Trailblazer in Wilbraham. The Trailblazer was heading east toward Palmer, a small city about sixteen miles east of Springfield. Officers pursued the Trailblazer at high speeds into Palmer.

Officer Bigda was on duty on the night of February 26-27 when he learned of the car theft. Later he learned that the Trailblazer was seen entering Palmer. Officer Bigda then drove to Palmer to assist Palmer Police and other officers in searching for the stolen car and the suspects.

After a lengthy search, officers found the stolen Trailblazer in Palmer. Later that night the officers located three male juveniles whom they suspected to be the thieves. The three juvenile suspects fled from the officers on foot. In the course of the officers' pursuit, a State Police canine bit the leg of one of the juveniles and caused visible bleeding.

At about 3:00 a.m. on February 27, 2016, officers arrested the three juveniles. They are identified in the exhibits as: J.T., age 16, and in a red shirt; D.R., age 15 and in a gray shirt; and E.P., age 17. The three juveniles were taken to the Palmer Police Station. Each juvenile was confined in a separate cell. Each of the cells had video surveillance equipment.

Officer Bigda and Springfield Officer Luke Counoyer entered J.T.'s cell (Cell 4M) at 5:10 a.m. on February 27. In the video, Officer Bigda appears in black or dark blue casual clothes. Officer Counoyer is in a purple sweatshirt. Officer Bigda interrogated J.T. for about six minutes.

Both officers next went into D.R.'s cell. Officer Bigda interrogated D.R. for about twelve minutes. The officers then returned into J.T.'s cell and Officer Bigda resumed his interrogation of J.T. The officers' second visit into J.T.'s cell lasted about twelve minutes. The Palmer cells were equipped with video recording cameras that recorded the interrogations of J.T. and D.R. The recordings are exhibits in this case. (Exs. R-8a and R-8b). The total time of the recording of these interrogations is about thirty minutes. An officer in uniform occasionally looked in silently during the interrogations.

At times Officer Bigda leaned over and shouted close to each boy's ear. At one point he leaned forward and pointed his finger in J.T.'s face. Officer Bigda was yelling at the two boys for about a quarter of the total time he spent with them.

Officer Bigda threatened J.T. by saying that he would beat him badly, especially when "we get back to Springfield." Below are representative quotes from Officer Bigda's interrogation of the sixteen-year-old, J.T. Officer Bigda's frequent injections of the F-word need not be transcribed:

² There may have been a fourth thief involved, but the three juveniles were the only ones who were caught.

-Who's the kid at the hospital? Look at that [pointing to his own boot]. That's his blood.
 -When we go back to Springfield, you're mine, and we're leaving here in a minute.
 -If I find out you're lying . . . [pointing to his boot again] that will be your blood on this shoe.
 -You see that camera up there? At my department, that doesn't exist. If I don't put it in my report, it never happened.
 -Do you want this to be the worst day of your life?
 -You know I'm going to beat the [F-word] out of you when we get back to Springfield, right? You just lied right to my face.
 -When we get back, I am going to tune you the [F-word] up.
 -That's my [F-word] car. The coins were not in the car, you stupid [F-word].
 -Wrinkle your arms and shrug your shoulders again, [F-word], I dare you.
 -You're a [F-word] degenerate. You have to remember you live in Springfield. I'm there every day. He's there every day. The other 500 police officers are there every day. When I put you out there as the PD's bitch, every time you put your head out . . .
 -When we hit the Springfield line, I am going to bloody your body.
 -You are [F-word] 3/4 retarded, aren't you? Everything you said is dumb as [F-word]
 You are so [F-word] stupid. You're an idiot.

Representative quotes from Officer Bigda's interrogation of the fifteen-year-old D.R are below.:

-You think it hurts now? You know what we're doing after this? We're going to Springfield. See that camera up there? You know what Springfield doesn't have?
 -You think your eye hurts now? You're coming back to my house. That's my car you [F-word] stole.
 -Do you know where we're going here? We're going for a hospital trip for you.
 -I could [F-word] crush your skull and get away with it. We could bring the dog back and let him go at you. You just put yourself on a list.
 -Not only do you have to survive tonight, which is questionable, but you live in Springfield don't you? Didn't you steal a cop car? How do you think that's going to be for the rest of your life?
 -You probably don't even know who your father is.
 -I'll [F-word] kill you in the parking lot if you lie to me.
 -Save yourself a whole lot of angry cops hunting you every day.
 -I'll charge you with killing Kennedy and make it stick. I'm not hampered by the truth because I don't give a [F-word].
 -People like you belong in jail. I'll stick a kilo of coke in your pocket and put you away for fifteen years. I don't give a [F-word] about you.
 -I don't give a [F-word] about the truth.
 -I am going to kick you right in the [F-word] face as soon as we cross the Springfield line.

Neither boy was given *Miranda* warnings. The *Miranda* warnings are required for any interrogation of a person in police custody regardless of whether or not the police plan to prosecute the person. *Miranda v. Arizona*, 384 U.S. 436 (1966).

Officer Bigda also made no effort to comply with the “interested adult” rule. In Massachusetts, juveniles between fourteen and seventeen years old must be “afforded the opportunity to consult with an interested adult” prior to a custodial interrogation. *Commonwealth v. Smith*, 471 Mass. 161, 165 (2015).

Officer Bigda testified that at the time of his interrogations he had been on duty for about twenty-four hours. He said that *Miranda* warnings were not required because he knew that the juveniles would not be prosecuted. He testified that he was trying to discover and investigate possible store robberies or home invasions. When asked under oath about his interrogations of the two juveniles, he admitted that his conduct was “out of line.”

Intimidation of a witness is a crime in Massachusetts. M.G.L. c. 268, § 13B. It is also a crime to threaten to crush the skull of another person. M.G.L. c. 275, §§ 2 and 3. Officer Bigda’s interrogations of these two boys were hostile, demeaning, and in violation of the law.

C. The East Longmeadow Incidents

On March 12, 2016, at about 2:00 a.m., Officer Bigda twice entered the East Longmeadow home of an ex-girlfriend without her permission. The ex-girlfriend was, and still is, a Springfield police officer. To protect her privacy, she will be referred to as Officer EGF.

Officer Bigda and Officer EGF had a relationship that ended in the Fall of 2014. On March 12, 2016, Officer Bigda knew that Officer EGF and Springfield Officer Steven Vigneault were involved in an ongoing relationship.

In both of Officer Bigda’s March 12 intrusions, he entered Officer EGF’s house through a closed but unlocked door. In his first intrusion, Officer Bigda walked through the kitchen, down a hall, and into a bedroom. There he confronted Officer EGF and Officer Vigneault. He screamed and yelled at them. Officer EGF told Officer Bigda to leave, but he refused to do so. Officer Bigda said multiple times: “I am going to destroy you two.” Officer EGF reported that she “took this as meaning a physical and career threat.” Officer Bigda left the house after about ten minutes. He then started sending insulting texts and a voicemail to Officer EGF. In his texts or his voicemail, he threatened to tell Officer Vigneault’s wife about Officer Vigneault’s relationship with Officer EGF.

Shortly afterward, Officer Bigda again entered the house without permission through a closed but unlocked door. Officer EGF demanded that he leave. Again, Officer Bigda refused to leave.

Officer EGF approached Officer Bigda to escort him out. When she came close to him, he raised his arms to keep her away. Officer EGF put her arms up to stop Officer Bigda’s arms from reaching her. Officer EGF reported that Officer Bigda was so intoxicated that he lost his balance and fell to the floor. Officer EGF fell to the floor at the same time. Officer EGF felt Officer

Bigda's firearm on his waist. Officer Vigneault also saw that Officer Bigda had a firearm in a holster at his waist.³

While Officer Bigda and Officer EGF were still on the floor, Officer Bigda continued to flail his arms. To protect herself, Officer EGF pushed him and forced him away from her. Officer Vigneault stepped in and ended the altercation. Officer Bigda was irate, but he finally left the house.

Officer EGF reported the March 12 home intrusions to the East Longmeadow Police. Officer EGF was not injured in the altercation. Officer EGF reported that Officer Bigda did not hit her or land any blows upon her in the March 12 intrusions.

Later, during the Springfield Police investigation into the March 12 incidents, both Officer EGF and Officer Vigneault reported that Officer Bigda was intoxicated during the intrusions. In his testimony during the adjudicatory hearing, Officer Bigda acknowledged that he had been drinking that night. He did not recall how many drinks he had consumed, but he testified that he had consumed enough drinks "to impair my judgment."

On March 14, 2016, with the assistance of the East Longmeadow Police, Officer EGF obtained a restraining order from the Palmer District Court against Officer Bigda under M.G.L. c. 209A (a "209A order"). In the restraining order Officer Bigda was ordered not to abuse, harm or threaten Officer EGF. Officer Bigda was further ordered to: "STAY AWAY FROM THE PLAINTIFF'S RESIDENCE."⁴

The East Longmeadow Police also requested that the Palmer court issue a criminal complaint against Officer Bigda, charging him with two counts of breaking and entering into a building with intent to commit a misdemeanor (trespass) (M.G.L. 266, §. 16A) and two counts of trespass.

March 23, 2016, was the initial expiration date specified in the restraining order against Officer Bigda. At a hearing on March 23, the judge who had issued the restraining order ruled that the restraining order would not be extended to a later date. The Palmer court did not pursue the application for criminal complaints.

On March 30, 2016, a further hearing was held before the same judge. Officer Bigda and Officer EGF were present at this hearing. The judge ruled that the restraining order against Officer Bigda was "reinstated by joint request of the parties" until a new expiration date of May 17, 2016.

³ In his testimony during the adjudicatory hearing, Officer Bigda denied that he was carrying a firearm during the East Longmeadow intrusions. Other than that, Officer Bigda's testimony did not dispute the essential facts reported by Officers EGF and Vigneault about what happened inside Officer EGF's house in the early hours of March 12, 2016.

⁴ This sentence, in all capital letters, was conspicuous on the face of the restraining order. Palmer District Court records at POST Bigda 0385-0390.

Four days later, on April 3, 2016, at about 12:45 a.m., Officer EGF and Officer Vigneault heard screeching tires outside Officer EGF's house. Officer Vigneault also heard a car horn honking steadily for an extended period. Officer EGF looked out and saw Officer Bigda's Cadillac turning onto North Main Street toward the rotary. Officer EGF reported the April 3 incident to the East Longmeadow Police.

The East Longmeadow Police notified the Springfield Police about the March 12, 2016, and April 3, 2016, incidents involving Officer Bigda. The East Longmeadow Police also filed with the Palmer court an application for a criminal complaint against Officer Bigda for violating the restraining order. The Palmer court did not pursue the application for a criminal complaint for violating the restraining order.

At the Commission's adjudicatory hearing, Officer Bigda denied driving by Officer EGF's house on the night of April 3, 2016. He denied violating the restraining order. The Hearing Officer finds that the reports by Officers EGF and Vigneault are more credible than Officer Bigda's denial of violating the restraining order.

D. The Springfield Police Investigation and Disciplinary Action Regarding the East Longmeadow Incidents

The Springfield Police Department's Internal Investigation Unit ("IIU") investigates complaints alleging misconduct by Springfield officers. ("IIU" also refers to investigations conducted by the Internal Investigation Unit.) The Springfield Police Department requires that IIU investigations must be completed within ninety days of the date of the incident being investigated. (Ex. A-24).

Officer Bigda testified that complaints about his conduct as an officer had been the subject of about thirty IIU investigations. Prior to the 2016 Palmer and East Longmeadow incidents, none of the complaints about his conduct had been "sustained" in the IIU investigations.

The Springfield Police Department conducted separate IIU investigations for the Palmer incidents and the East Longmeadow incidents. The IIU investigation for the East Longmeadow incidents (IIU 16-032) was completed before the completion of the IIU investigation of the Palmer Police Station incidents. (Ex. A-24).

Upon the conclusion of the Springfield Police investigation of the East Longmeadow incidents, Springfield Police Commissioner John R. Barbieri, Officer Bigda, and Officer Bigda's union local entered into an agreement to "fully and completely resolve all issues arising out of an incident which was the subject of Special Order 16-032." Under this July 29, 2016, agreement, Officer Bigda "agreed to serve a ten-workday suspension with pay" based on the East Longmeadow incidents. Determination of Executive Director, pg. 10, ¶ 37. (Ex. R-3).

E. The Springfield Police Investigation and Disciplinary Action Regarding the Palmer Police Station Incidents

On March 15, 2016, the Springfield Police Department initiated an internal investigation “into a report from a Wilbraham, MA police officer alleging excessive force by a ‘plain-clothed’ Springfield Police Officer.” (Ex. R-11, POST_ Bigda 0644). This investigation of the Palmer Police Station incidents was designated SO 18-239 and IIU 18-239. (Ex. R-11).

Commissioner Barbieri’s October 31, 2018, letter to Officer Bigda stated that the Palmer incidents’ investigation “concluded with an agreed upon sixty (60) day suspension for you.” (Ex. R-11, POST Bigda_0644).

F. The Federal Indictment and Trial Based on the Palmer Police Station Incidents

On October 31, 2018, Officer Bigda was arrested under a federal indictment based on the February 27, 2016, Palmer Police Station incidents. The Federal indictment charged Officer Bigda with:

- 1.) Deprivation of civil rights under color of law - excessive force (one count);
- 2.) Deprivation of civil rights under color of law – abusive interrogation (two counts);
- 3.) Obstructing justice – false report (one count).

On October 31, 2018, in a response to the federal indictment, Commissioner Barbieri ordered an indefinite suspension of Officer Bigda without pay. This suspension was authorized by G.L. c. 28A, § 25, which permits a municipal appointing authority to suspend an officer or employee during any period in which the officer or employee is under indictment for misconduct in his or her office or employment.

On December 13, 2021, the jury in Officer Bigda’s federal criminal trial found him not guilty on all charges. Four days later, the Springfield Police Department placed Officer Bigda on administrative leave with pay.

G. The Federal Civil Lawsuits Against Officer Bigda, the City of Springfield, and Other Officers

In addition to the federal indictment, two federal civil suits based on the Palmer Police Station incidents were filed against Officer Bigda, the City of Springfield, and other defendants. D.R. was a plaintiff in one of the two Federal civil suits. D.R. was the fifteen-year-old juvenile in the Palmer Police Station incidents.

On February 3, 2022, the City of Springfield agreed to pay \$262,500 in a settlement of D.R.’s civil rights suit. The settlement amount included attorney fees. The settlement amount was publicized in the Springfield area by the MassLive internet news outlet.⁵

⁵ The MassLive news report on this large settlement amount was reliably based on information provided by the Springfield City Solicitor.

The plaintiff in the second civil rights suit based on the Palmer Police Station incidents was one of the three juveniles arrested in the Palmer incidents. This juvenile was the one who was not interrogated by Officer Bigda. In April 2022, this plaintiff settled his suit against Officer Bigda and the City of Springfield.

H. Officer Bigda's 2022 Application for Recertification

In December 2020, four years and nine months after the Palmer and East Longmeadow incidents, the Governor signed the legislation that established the Massachusetts Peace Officers Standards and Training Commission (The "POST Commission"). St. 2020, c. 253, § 30; and M.G.L. c. 6E (2021).

Chapter 6E, for the first time, required the Commission to certify all active police officers in Massachusetts in order to continue to serve as police officers. Chapter 6E provided certifications for limited periods of time to all officers then serving in Massachusetts. Officers with last names beginning with the letters A-H were certified for one year before they had to apply for a recertification.

Specifically, to continue to serve as an officer beyond the one-year period, Officer Bigda was required to apply for a standard three-year recertification by June 30, 2022. Officer Bigda submitted his application for recertification on June 9, 2022.

The Commission's application form included a written questionnaire that applicants were required to complete. All recertification applicants were required to complete the same written questionnaire as part of their applications. The questionnaire portion of Officer Bigda's application is Ex. A-28.

I. The Commission's First Steps in Responding to Officer Bigda's Application for Recertification

The Commission's regulations require that when an officer has applied for recertification, the "employing agency" (in this case, the Springfield Police Department) must provide to the Commission a written report concerning whether the officer "possesses good character and fitness for employment, in accordance with commission policy." 555 CMR 7.05 (2) (a). The good character and fitness standard is further defined as "being of good moral character and fitness for employment in law enforcement, as determined by the commission." M.G.L. c. 6E, sec. 4 (f) (1) (ix).

In assessing whether an officer meets the good character and fitness standard, the employing agency "shall take into account on-duty and off-duty conduct." 555 CMR 7.05 (1).

On July 30, 2022, Springfield Police Superintendent Cheryl C. Clapprood submitted to the Commission the required written report. Superintendent Clapprood's report to the Commission concluded that Officer Bigda "does not possess the required good moral character and/or is not fit for employment as a law enforcement officer." (Ex. R-2).

J. The Commission's Consideration of Officer Bigda's Application: the Division of Certification's Review and the Executive Director's Review

The next step in the Commission's standard procedure was a review of Officer Bigda's application by the Commission's Division of Certification. The Division of Certification considered the information submitted by the Springfield Police Department and Officer Bigda. The information provided by Officer Bigda included his June 9, 2022, responses to the written questionnaire that was part of his application. (Ex. R-1)

On October 20, 2022, the Division of Certification notified Officer Bigda that it was denying his application for recertification. (Ex. A-29, POST Bigda_0001-0002).

In March 2023, Officer Bigda requested a review of his application by the Commission's Executive Director. The Executive Director conducted the requested review over the next two months. In conducting this review, the Executive Director met with Officer Bigda and his attorney on April 20, 2023.

The Executive Director's interview included a review of Officer Bigda's June 9, 2022, written questionnaire responses. One question from the questionnaire asked Officer Bigda if he ever had a license or permit to possess or carry a firearm revoked or suspended, "and if it has been revoked or suspended, provide details." Officer Bigda checked "Yes" and added: "Springfield previous suspension, subsequently reinstated." He gave no further details in the questionnaire. (Ex. A-28)

Another question asked Officer Bigda: "Have you ever been a defendant in a civil suit in which it was alleged that you acted violently or abusively, or utilized excessive force, towards another person. If so, please provide details as to each such suit." On the questionnaire, Officer Bigda wrote: "Yes." He noted: "Settled by the city." Again, he failed to provide any details.

In his April 20, 2023, interview with the Executive Director, Officer Bigda confirmed that the lawsuit he referred to in his questionnaire was the federal civil lawsuit, *Douglas v. City of Springfield*. The Douglas case involved the arrest of Mr. Douglas in 2004. The plaintiff alleged that after he was arrested, Officer Bigda punched him in the jaw and beat him as he fell to the ground. Several other officers were also named as defendants.

In the April 20, 2023, interview, Officer Bigda told the Executive Director that he had admitted no wrongdoing in the *Douglas* case, and that the City settled the case and paid the plaintiff under the terms of the agreement. Officer Bigda said that he did not know how much the plaintiff was paid.

Officer Bigda failed to mention in his questionnaire or in his interview that there were two other civil suits filed against him that alleged that he had acted abusively toward two of the juveniles

in the Palmer Police Station incidents. As noted in Section G above, the settlement amount in one of those two cases was \$262,500.

The Executive Director also reviewed hundreds of pages of reports from the Springfield Police Department, including reports by police officers, statements from witnesses, Internal Investigatory Unit reports, and court records. The Executive Director also considered some records of prior disciplinary decisions involving Officer Bigda.

On May 31, 2023, the Executive Director notified Officer Bigda that his application for recertification was denied. The Executive Director submitted a twenty-one page “Determination of the Executive Director” in support of his decision. (Ex. R-3)

Officer Bigda thereafter appealed the denial of his application for recertification. 555 CMR 1.10 (1) (d).

K. Superintendent Clapprood’s Report, Her Testimony and the Harmful Effects of the Palmer Police Station Incidents

In her written report to the Commission, Superintendent Clapprood referred to the federal indictment against Officer Bigda based on the Palmer Police Station incidents. (Ex. A-28). Although the jury later found Officer Bigda not guilty, “his actions continue to draw ill will and sentiment from the public towards him and the department.” (Ex. A-28). Superintendent Clapprood’s report pointed out that Officer Bigda: “entered the cell block of Palmer Police Department and began berating and lying to the juveniles under arrest while in their cell block.” She noted that “[t]his incident was captured on tape and was viewed by the public causing great embarrassment to the police department.”

According to YouTube and the MassLive news outlet, the video recording of Officer Bigda’s interrogations of the two boys had been on YouTube and available to the public since 2016.⁶

In reference to the East Longmeadow incidents, Superintendent Clapprood’s written report stated: “Officer Bigda has been the defendant of a 209A restraining order from a past incident in which he entered his ex-girlfriends home and fought with the occupants.” (Ex. A-28).

Superintendent Clapprood has been a Springfield Police officer for forty-four years. As the Superintendent she is in charge of approximately 480 police officers. In her testimony, Superintendent Clapprood elaborated on her reasons for concluding that Officer Bigda did not meet the good character and fitness standard.

The Commission required the Springfield Police Department to submit to the Commission all of the IIU reports regarding Officer Bigda before Superintendent Clapprood submitted her written report to the Commission. Superintendent Clapprood was familiar with Officer Bigda’s prior

⁶ MassLive, Springfield detective Gregg Bigda interrogates teens in jail cell (Full video), YouTube (Nov. 5, 2016), <https://www.youtube.com/watch?v=r1i3a0-qhME>

IIU reports. She was familiar with his behavior in the Palmer Police Station and East Longmeadow incidents.

Superintendent Clapprood testified that the Springfield Police Department was in a difficult period during the time leading up to her written report to the Commission. The Springfield Police Department was operating under a U.S. Department of Justice consent decree requiring close interaction between the Justice Department and the Springfield Police. Superintendent Clapprood testified that the Springfield Police Department was under a spotlight of news media attention because of complaints about misconduct by Springfield officers.

Superintendent Clapprood testified that Officer Bigda's misconduct in the Palmer Police Station and East Longmeadow incidents "affected the whole community" in a harmful way. Superintendent Clapprood had heard at community meetings complaints about Officer Bigda's behavior. Senators, Representatives, and City Councilors were concerned about the reputation of the Police Department. She testified that Officer Bigda's misconduct and the video recording "harmed us in a large way."

Superintendent Clapprood also testified that she believed that Officer Bigda was under the influence of alcohol in both the Palmer Police Station incidents and the East Longmeadow incidents. In her testimony, Superintendent Clapprood said that she thought Officer Bigda's behavior was not going to change.

With respect to alcohol abuse and criminal offenses, it turned out that Officer Bigda's behavior did not change. His behavior did not change even as he came close to the scheduled date for his adjudicatory hearing on October 19, 2023.

The Hearing Officer finds that Superintendent Clapprood's testimony was highly reliable in explaining her reasons for concluding that Officer Bigda did not meet the good moral character and fitness standard for employment in law enforcement.

L. Officer Bigda's October 1, 2023, Arrest for Operating Under the Influence of Liquor and Related Driving Offenses

Officer Bigda's adjudicatory hearing date was assigned in August 2023 and was scheduled to begin on October 19, 2023.

On October 1, 2023, at 1:27 a.m., Officer Bigda was arrested in Palmer for two criminal offenses: operating a motor vehicle under the influence of liquor ("OUI") and negligent operation of a motor vehicle so that the lives or safety of the public might be endangered. M.G.L. c. 90, §. 24 (1) (a) (1); M.G.L. c. 90, §. 24 (2) (a). He was also charged with a civil marked lanes violation. M.G.L. c. 89, § 4A.

On October 2, 2023, Superintendent Clapprood delivered to Officer Bigda a "Notice of Suspension Without Pay" based on his OUI and related driving offenses and suspended him without pay for five workdays. (Ex. R-12)

The Notice of Suspension quoted a series of Springfield Police Department Rules. Some of these rules are particularly pertinent to Officer Bigda's OUI arrest and the Palmer and East Longmeadow incidents. Rule 29, sec. 9, states that "No member while off duty shall drink an alcoholic beverage to an extent which renders him unfit to report for duty, or which results in the commission of an . . . offensive act which might tend to discredit the Department."

Rule 29, sec. 1, states: "All members of the Department shall obey the Rules and Regulations as set forth herein, . . . the laws of the Commonwealth of Massachusetts . . . , and shall perform their duties . . . placing the safety and welfare of the City of Springfield and its citizens first at all times."

While no one was injured in these offenses, Officer Bigda was not placing the safety of area residents first.

M. The Testimony of Officer Bigda and His Character Witnesses and Commendations

In the adjudicatory hearing, Officer Bigda testified on his own behalf. Eleven fellow officers also testified. They all described Officer Bigda's work as a police officer in positive terms. Ten of these witnesses had served with Officer Bigda in the Springfield Police. The eleventh witness in his favor was a Wilbraham Police officer who had worked with Officer Bigda in joint operations with the Springfield Police.

These witnesses were: Officer Juan Carlos Rodriquez; Officer Pedro Solar; Lieutenant Julio Toledo; Officer John Wadlegger; retired Lieutenant Mel Kwatkowski, formerly in the Tactical Response Unit; Officer Neal Maloney; Sergeant Martin Ambrose; Wilbraham Police Captain Shawn Baldwin; Officer Carla Daniele; Officer Mark Provost; and Deputy Chief Steven Kent.

In summary the 11 officers testified as follows: Officer Bigda has served as a Springfield Police officer for just under thirty years. During his career, Officer Bigda has served in a variety of assignments. He has served in uniform patrols in the most difficult and dangerous parts of the city. He has been assigned many times to special units within the Department. These units included an anti-gang unit, the narcotics unit, and the Tactical Response Unit (also known as a SWAT team). In Springfield, these assignments and units often put the officers in dangerous situations. Officer Bigda was respected by these witnesses for teaching them the best methods for responding to difficult and dangerous situations.

These witnesses testified that Officer Bigda used and taught de-escalation techniques that reduced the risks of harm to officers and residents in potentially dangerous situations.

In the narcotics unit, Officer Bigda was skillful in recruiting lower-level drug dealers as informants against higher-level dealers. He often won the trust of potential informants by approaching them in a non-threatening manner and building a rapport with them. His techniques often led to successful arrests of higher-level dealers.

In his years of service as a police officer, Officer Bigda often assisted when mentally ill or drug addicted persons were creating dangerous situations for themselves or the people around them. He dealt calmly and successfully with suicidal persons and persons in danger of death through

severe drug addiction. He assisted effectively with persons who tried to commit “suicide by cop” through provocative and violent behavior toward officers.

Lieutenant Toledo described an incident when he was kidnapped and held in a building by five drug dealers who were trying to force him to smoke crack cocaine. One of the kidnappers had a rifle in his possession. Lieutenant Toledo testified that Officer Bigda and one other officer were the first two officers who rushed in to rescue him.

All of these officers had worked closely with Officer Bigda at various points in their careers. They all spoke highly of Officer Bigda’s knowledge, his skills, his character, and his behavior as a police officer. These witnesses testified that they had never observed Officer Bigda use excessive force. They testified that they had never observed Officer Bigda abuse any person. They testified that they had never observed Officer Bigda treat anyone unfairly or differently based on race, Hispanic background, or sexual preference.

On cross-examination, several of Officer Bigda’s witnesses were asked if they had seen the video recording of the Palmer Police Station interrogations and if they had any comments about his conduct as it was displayed in the video. Lieutenant Kwatkowski replied: “I wouldn’t have done it the way he did it.”

Lieutenant Toledo testified that he was “surprised by Officer Bigda’s conduct and abusive language on the video.” Lieutenant Kwatkowski said that the behavior on the video was “insulting” and “could be disrespectful.” Lieutenant Kwatkowski acknowledged that he was a friend of Officer Bigda and that they socialized and went dining and fishing together.

When Deputy Chief Steven Kent was asked about Officer Bigda’s behavior on the video, he replied that it was “probably over the top.” He testified that he thought that “a couple of weeks of suspension would be enough.”

Only Officer Neal Maloney went so far as to say that he did not think Officer Bigda did anything wrong on the video.

In addition to these character witnesses, between 1996 and 2008 the Springfield Police Department received ten letters commending Officer Bigda for exemplary performance as a police officer in a variety of situations. The commendation letters were received from Springfield Police superiors, other law enforcement agencies, and local residents and businesses. Officer Bigda’s exhibits also include several certificates for advanced training.

N. Five Rulings on Admissibility of Evidence

(1) Officer Bigda’s Objection to Evidence of the Palmer Police Station and East Longmeadow Incidents

Officer Bigda’s counsel has argued that Officer Bigda’s behavior in the Palmer Police Station and East Longmeadow incidents should have been excluded from the evidence because Officer Bigda has complied with prior disciplinary action imposed by the Springfield Police Department

for the Palmer and East Longmeadow incidents. This argument relies on 555 CMR 7.05 (4) of the Commission's regulations, the so called "prior-discipline rule."

In response, Enforcement Counsel for the Commission relied on an exception to the prior-discipline rule that is contained in the same regulation. 555 CMR 7.05 (4). The pertinent parts of 555 CMR 7.05 (4) are copied in the indented lines below. For ease of reference, the Hearing Officer has inserted italics on key segments of the regulation and added an extra line space between each subsection:

(4) Consideration of Particular Matters. In rendering a determination regarding an officer's good character and fitness for employment, *unless there have been allegations that an officer has engaged in multiple instances of similar or related misconduct* or protocols adopted by the commission provide otherwise, neither the employing agency nor the division of certification shall consider an allegation of a particular instance of misconduct, where: (a) *An authority has made a decision in the officer's favor on the merits of a complaint alleging such misconduct;*

....

(c) *The officer has complied, or is in the process of complying, with any disciplinary action or other adverse decision by an authority, in relation to the alleged misconduct, and the officer has not engaged in any similar conduct since the discipline or decision*

....

The Hearing Officer finds that the Palmer Police Station incidents, the East Longmeadow incidents, and the OUI arrest were admissible as evidence because they were "multiple instances of similar or related misconduct." The Palmer Police Station offenses and the East Longmeadow offenses are similar and related in that they both involved abusive and threatening behavior and crimes under Massachusetts law.

In the Palmer Police Station incidents Officer Bigda's behavior was out of control. He showed terrible judgment during his thirty-minute tirade containing threats to kill or severely injure the two suspects. Two weeks later, Officer Bigda again showed bad judgment and lack of self-control during his two criminal intrusions into Officer EGF's East Longmeadow home.

In the East Longmeadow incidents, Officers EGF and Vigneault both reported that Officer Bigda was intoxicated when he made his two intrusions into Officer EGF's home.

Excessive alcohol consumption was also a factor in Officer Bigda's OUI arrest in October 2023. Although Officer Bigda's operation of a motor vehicle under the influence of alcohol contained no verbal threat, it was a criminal offense that presented a genuine threat to the safety of the public.

Superintendent Clapprood testified that she had seen the Palmer Police Station video and that she believed that Officer Bigda's behavior was influenced by alcohol that night. That was not an unreasonable inference.

Considering this combination of factors, the Hearing Officer concluded that the Palmer Police Station and East Longmeadow incidents and the 2023 OUI offense were "multiple instances of similar or related misconduct" and were admissible under 555 CMR 7.05 (4).

(2) Officer Bigda's Argument that the Executive Director's Report Should Not Have Been Admitted Into Evidence

There is no merit to Officer Bigda's counsel's argument that the Executive Director's report should not have been considered as evidence. Officer Bigda requested this review. The Executive Director was required by the Commission's regulations to comply with that request. 555 CMR 7.10 (1). The Commission has a duty to "gather facts and information applicable to the commission's obligation to issue, suspend or revoke certifications. . . ." M.G.L. c. 6E, § 3.

The Executive Director carefully reviewed hundreds of pages of witness reports, IIU investigations, a questionnaire and an interview with Officer Bigda, the video and other evidence on the Palmer Police Station and East Longmeadow incidents, and all other relevant and available evidence.

While the Determination of Executive Director may be considered by the Hearing Officer, there is no doubt that the Hearing Officer must make fact findings and draw conclusions of his own that are independently based on the underlying evidence.

(3) Enforcement Counsel's Offer of Evidence of Two Prior Complaints Alleging Excessive Force by Officer Bigda

During the hearing, Enforcement Counsel offered into evidence two prior incidents in which Officer Bigda was alleged to have caused significant physical injury to a suspect by using excessive force. For the reasons set out below, these matters were not considered by the Hearing Officer.

The first incident occurred in May 2006. The second incident occurred in January 2012. The Springfield Police Department Internal Investigation Unit ("IIU") conducted an investigation into each of these incidents.

In the 2006 incident, the investigation (IIU 06-112) "exonerated" Officer Bigda. In the 2012 incident, the investigation (IIU 12-012) determined that the allegations against Officer Bigda were "not substantiated." The "exonerated" and "not substantiated" outcomes in these incidents were decisions in Officer Bigda's favor on the merits of the complaints. 555 CMR 7.05 (4) (a). The excessive force and physical injury nature of these two complaints were not sufficiently similar or related to the Palmer Police Station, East Longmeadow and OUI incidents to make them admissible under 555 CMR 7.05 (4).

(4) The Exclusion of Four Paragraphs in the Determination of the Executive Director

Paragraphs 3, 50, 51 and 52 in the Determination of the Executive Director have not been considered by the Hearing Officer as evidence in this case. Paragraph 3 discusses several allegations of misconduct by Officer Bigda that were not sustained in IIU investigations. The Hearing Officer concludes that the unsustained IIU allegations in Paragraph 3 do not qualify for an exception under 555 CMR 7.05 (4).

Paragraph 3 also contains an excerpt from a Federal District Court judge's Memorandum of Decision and Order in Douglas v. City of Springfield. In that decision the federal judge referred to judicial rulings and opinions in Massachusetts Superior Court cases stating that Officer Bigda testified falsely in some cases. It is not clear that these references are admissible under the Commission's regulations. The Hearing Officer has not considered these references as part of the evidence in this case.

(5) First Aid and Cardiopulmonary Resuscitation Certificates

The Commission's regulations for recertification require that the applicant possess current first aid and cardiopulmonary resuscitation certificates. 555 CMR 7.06 (7). There is, however, a ninety-day grace period for an applicant to obtain these training requirements. See 555 CMR 7.06 (7).

Officer Bigda did not have the two certificates when he applied for recertification as a police officer. The lack of the two training certificates, however, should not have been considered as one of the Division of Certification's reasons for denying Officer Bigda's application for recertification. The Determination of the Executive Director, p. 20, footnote 6, recognized this point.

O. Recommendation and Summary of Fact Findings in Support of the Recommendation

The key fact issue on appeal is whether Officer Bigda *currently* meets the minimum certification standard of "good moral character and fit[ness] for employment in law enforcement, as determined by the commission." M.G.L. c. 6E, § 4(f) (1) (ix) [italics added]; 555 CMR 7.01 Definitions. [italics added].

With respect to an application for recertification, the Commission "shall not recertify any person as a law enforcement officer unless the commission certifies that the applicant for recertification continues to satisfy the requirements of [M.G.L. c. 6E, § 4 (f)]." M.G.L. c. 6E, § 4(i).

The February 27, 2016, video recording of Officer Bigda's behavior in the cells of the Palmer Police Station cannot be disputed. Officer Bigda's threats and abusive behavior toward the fifteen-year-old and sixteen-year-old boys were shocking and inexplicable.

Officer Bigda boasted about having blood on his boot from the boy who was taken to the hospital. He told D.R. that he could "crush your skull and get away with it." He told D.R. that he would "stick a kilo of coke in your pocket and put you away for fifteen years." This is not good moral character.

At a minimum, a law enforcement officer must act lawfully. If an officer repeatedly fails to act lawfully it shows a lack of "fit[ness] for employment in law enforcement." M.G.L. c. 6E, § 4(f) (1) (ix).

Three weeks after the Palmer incidents, on March 12, 2016, at about 2:00 a.m., Officer Bigda twice made a criminal entry into the home of his ex-girlfriend. Officer EGF and Officer Vigneault both reported that he was intoxicated.

On April 3, 2016, Officer Bigda violated the court order to stay away from Officer EGF's residence.

On October 1, 2023, eighteen days before the start of the adjudicatory hearing, Officer Bigda was arrested for operating a motor vehicle under the influence of alcohol and operating negligently.

Officer Bigda's East Longmeadow offenses and his recent OUI and negligent driving offenses were less severe than his Palmer Police Station offenses. Taken together, however, they demonstrate a lack of fitness for employment in law enforcement.

Based on the evidence and the applicable statutes and regulations, the Hearing Officer recommends that the Commissioners deny Officer Bigda's application for recertification.⁷

Pursuant to 555 CMR 1.10(4) (e) (2) (b), "upon receipt of the presiding officer's initial decision, if there is an objection by the officer in writing to the Executive Director regarding the presiding officer's findings and recommendations, the [C]ommission shall set dates for submission of briefs and for any further hearing which the [C]ommission in its discretion deems necessary. The [C]ommission shall review, and may revise, the findings of fact, conclusions of law, and recommendation of the presiding officer, giving deference to the presiding officer's evaluation of the credibility of the testimony and other evidence presented at the hearing. Failure by the officer to object to the presiding officer's initial decision within 30 days shall constitute a waiver of the officer's right to appeal under M.G.L. c. 30A § 14."



Hon. Charles J. Hely (Ret.)
Hearing Officer

Dated: January 8, 2024

⁷ Under the Commission's regulations, an officer's application for recertification (555 CMR 7.00) is to be distinguished from a revocation of an officer's certification (M.G.L. c. 6E, § 10).

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