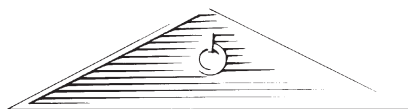


Massachusetts Civil Service Reporter

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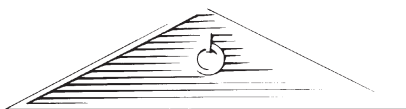
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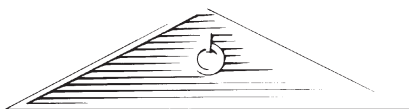
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ABRIDGED SAMPLE

CUMULATIVE
SUBJECT MATTER
DIGESTS

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Cumulative Subject Matter Digests

Appointments and Promotions

Bypass Appeals

—Absenteeism

A candidate for appointment as a Holyoke Reserve Police Officer and employed there as a dispatcher since 2001 was not wrongfully bypassed given his appalling credit history, a work record tainted by frequent absenteeism, and a history of negative evaluations and disciplinary action for untruthfulness. *Burns v. City of Holyoke (Decision)*, 25 MCSR 364 (2012).

Taking over a case heard by departed Commissioner Daniel Henderson, Chairman Christopher C. Bowman found that the Boston Police Department was fully justified in bypassing a female candidate for original appointment as a police officer whose record included a domestic dispute that led to a felony charge with a continuance without a finding. The candidate was also found to have dissembled to the police about the incident. *Cruceta v. Boston Police Department (Decision)*, 25 MCSR 111 (2012).

Although the Commission was not persuaded that the Appellant merited a bypass for original appointment to the Boston Police Department for a lack of truthfulness, it did sustain the bypass on other evidence of her absenteeism while employed by JetBlue. *Gendrolis v. Boston Police Department (Decision)*, 24 MCSR 596 (2011).

A former police officer with the Boston Municipal Police Department seeking a transfer to the Boston Police Department was properly bypassed by the Department because of his “horrendous” attendance record with the Municipal Police Department and sick-leave abuse. *McKeown v. Boston Police Department (Decision)*, 21 MCSR 51 (2008).

The Appellant’s well documented record of absenteeism as a motor-equipment operator for the city and clumsiness in the operation of heavy machinery fully warranted his bypass for promotion to the supervisory position of Working Foreman in the Cemetery Department. *Adorno v. City of New Bedford (Decision)*, 19 MCSR 155 (2006).

—ADA

The Commission rejected a bypassed veteran’s argument that his bypass was in violation of the Americans with Disabilities Act where his PTSD prevented him from performing essential functions of a firefighter’s job. *Salazar v. Dedham Fire Department (Decision)*, 29 MCSR 309 (2016).

A 317-pound special police officer for the City of Boston could be lawfully bypassed for original appointment as a Correction Officer at DOC based on his Type 2 diabetes not being under control and the danger his metabolic instability could pose to himself and others in the event of his sudden incapacity while on duty. The Appellant’s claim that his bypass violated ADA was brushed aside by the Recommended Decision of DALA Magistrate James P. Rooney, who found that DOC had established its willingness to hire people with diabetes, even those requiring injections, but reviews each applicant’s condition in light of his prospective job duties. *Craven v. Department of Correction (Decision)*, 22 MCSR 454 (2009).

The rejection of a candidate for original appointment to the Boston Police Department on psychological grounds may have violated the ADA because the Department failed to make any effort to reach a reasonable accommodation that might have allowed this candidate to serve with accommodation. *Coutts v. Boston Police Department (Decision)*, 22 MCSR 301 (2009).

—Affirmative Action

An appeal by three non-minority candidates for original appointment to the Brockton Police Department, who argued they had been bypassed under a modification of a federal consent decree intended to promote minority candi-

dates, was dismissed as moot after the City informed the Commission that the three Appellants had been given conditional offers of employment. *Micliche v. City of Brockton (Decision)*, 30 MCSR 461 (2017).

In a case of first impression, the Commission found it to be logical that where one of two tied minority candidates, in preferred positions due to a Federal affirmative-action consent decree, withdraws from consideration, then the other tied candidate must be considered and appointed before consideration of regular candidates. *Etienne v. City of Chelsea (Decision on Respondent’s Motion to Dismiss)*, 26 MCSR 465 (2013).

In a case of first impression involving the application of the rules for tied minority Police Officer candidates in Chelsea whose appointments are governed by the Federal consent decree in *Castro v. Beecher*, a unanimous Commission reversed the bypass of an African-American veteran who argued that he should have been appointed once the other first-ranked minority candidate withdrew from consideration. Chelsea had argued the Commission lacked jurisdiction over the appeal since in normal circumstances there could not be a bypass of tied candidates. *Etienne v. City of Chelsea (Decision on Respondent’s Motion to Dismiss)*, 26 MCSR 465 (2013).

The Department of Revenue was fully justified in refusing to award a provisional promotion to a Tax Examiner II after a background check revealed longstanding misrepresentations of his educational qualifications, specifically lies about attendance at Harvard Extension, Bentley College, and Boston University. The case was complicated by the fact that the Appellant is blind, and raised the implausible defense that the inaccuracies revealed by Internal Affairs were the responsibility of his daughter and a DOR affirmative-action officer. *Gale v. Department of Revenue (Decision)*, 23 MCSR 534 (2010).

The MBTA erred in promoting its police officers to sergeants by favoring their Haitian national origin and language skills because the Authority failed to present any evidence that such language skills would be useful in the positions and did not obtain a special certification from HRD allowing national-origin preferences. The Commission also found the testing procedures completely flawed because lieutenants were asked to rank all the candidates in order of preference for promotion, making it impossible to compare the relative merits of individual candidates. *Maynard v. Massachusetts Bay Transportation Authority Police Department (Decision)*, 20 MCSR 190 (2007).

—Age Requirements

HRD rule applying the written examination date rather than the ELPAT date for determining the firefighter age limit of 32 years was arbitrary and capricious. Chairman Christopher C. Bowman concluded that since the test has two components of equal weight, the first date upon which the ELPAT is given should be used to determine age eligibility. *Rodriguez v. Human Resources Division (Decision on Cross-Motions for Summary Decision)*, 31 MCSR 230 (2018).

The appeal of a candidate for original appointment as a Boston firefighter was dismissed because he was ranked last on the certification list and because he exceed the firefighter age limit of 32 years. *Bonet v. Boston Fire Department (Order of Dismissal)*, 31 MCSR 168 (2018).

The Commission declined to award Joint Chapter 310 Relief to a disabled veteran who had been bypassed for original appointment as a firefighter based on a failed drug test that the Town later tried to recast as a medical test, allowing him to be placed at the top of the eligibility list. Pre-employment drug testing is perfectly lawful and the mere administration of a test would not provide grounds for an appeal. *Ingraham v. Town of Danvers (Decision)*, 30 MCSR 80 (2017).

CUMULATIVE SUBJECT MATTER DIGESTS

Although a bypass technically had not occurred because Malden did not appoint any candidates ranked below the Appellant, the City was correct when informing this candidate that she was ineligible for appointment since she was older than 32 at the time of the filing of her application. Malden is not among those cities that have adopted statutory provisions allowing for the appointment of older applicants. *Myrthil v. City of Malden (Order of Dismissal)*, 29 MCSR 494 (2016).

The Commission dismissed for lack of jurisdiction an appeal from a candidate for appointment to the Boston Police Department who HRD had not placed on the eligibility list because he was 43 and exceeded the 40-year-age limit. This candidate had actually convinced his state representative to file special legislation exempting him, and only him, from the BPD's age limits. While the bill passed and was signed by the Governor, it had a technical flaw because it failed to also waive the statutory requirement that a candidate be on the active eligibility list in order to appear on the certification. Since HRD had not placed this candidate on the list, this appeal could be dismissed notwithstanding the special legislation. *Butts v. Human Resources Division (Order of Dismissal)*, 29 MCSR 316 (2016).

The Commission ordered the dismissal of a Section 2(b) appeal filed by a 51-year old candidate for original appointment as a Boston police officer seeking to be placed at the top of the next certification list. The Appellant's name had originally been placed on an eligible list of candidates on October 15, 2013, but special legislation allowing him to be appointed irrespective of the City's maximum age requirement did not become effective until January 8, 2015. *Grace v. Human Resources Division (Order of Dismissal)*, 28 MCSR 181 (2015).

The Commission granted the Boston Police Department's motion to dismiss a claim filed by a 41-year old former police cadet seeking to challenge his non-appointment to a permanent position as a police officer in 1997. While the Appellant had received a probationary appointment after passing the civil service examination in 1994, he had been appointed as a result of his police cadet status and his name had never appeared on a certification. The Appellant's age at the time of the appeal also exceeded the revised age limit (40 years old) for appointment as a Boston police officer. *Mulligan v. Boston Police Department (Decision on Motion to Dismiss)*, 28 MCSR 57 (2015).

Although the Commission declined to afford Chapter 310 relief to a high-scoring and physically fit candidate for a firefighter position who was 36 years and ten months when he took the examination, it admonished the City and HRD to use the exact language from the statute to make clear that qualified veterans may apply up to the date of their 36th birthday and not thereafter. *Arty v. Human Resources Division (Order of Dismissal)*, 24 MCSR 329 (2011).

On remand from the Superior Court, the Commission reaffirmed that the bypass of a candidate for original appointment to the Boston Police Department based on his age was inconsequential because the Appellant would not have been appointed in any event. A memorandum from the state's Human Resources Division responding to the Court's request for further findings in light of a recent Federal District Court decision showed that only candidates with a score of 100 would have been reachable. The Appellant had a score of 99. *Verderico v. Boston Police Department (Additional Findings and Decision Addressing Superior Court's Order of Remand)*, 20 MCSR 34 (2007).

A former New York City police detective could not challenge the manner in which the City of Boston implemented age-based restrictions on original appointments to the Police Department, since his examination score was not high enough to have secured him an appointment anyway. *Verderico v. Boston Police Department (Decision)*, 18 MCSR 241 (2005).

A 31-year-old applicant for appointment to the MBTA Police Department was unlawfully bypassed by the Appointing Authority because of his age and the Department was ordered to place the Appellant's name at the top of

the certification list. *Carney v. Massachusetts Bay Transportation Authority Police Department (Decision)*, 15 MCSR 55 (2002).

A 50-plus-year-old applicant for appointment to the Bridgewater Police Department was found to have been bypassed because of a poor interview and lack of knowledge of police procedures, rather than age discrimination. *Chouinard v. Town of Bridgewater (Decision)*, 15 MCSR 20 (2002).

The Commission vacated the appointment of four firefighters to the Beverly Fire Department after finding evidence of impermissible age discrimination and noting a process that was fatally flawed by ad hoc questions and extremely limited selection criteria. *Sihpol v. Beverly Fire Department (Decision)*, 12 MCSR 72 (1999).

Commission ordered name of 36-year-old candidate for Worcester firefighter position to be placed at the top of the list after testimony showed that he was removed from the certification list without justification, apparently in anticipation of a new policy disallowing those in excess of 32 years of age from applying for certain public-safety positions. *McTigue v. City of Worcester (Decision)*, 10 MCSR 270 (1997).

—Anger Management

The Appellant's conduct toward the Town's attorney at a pre-hearing conference regarding the Town's earlier attempt to remove him from the certification list provided additional justification for the bypass of a candidate for permanent appointment as a police officer who had been discharged from the police academy for lying. The Appellant had called the Town's attorney a vulgar name under his breath and later angrily confronted him in the elevator upon leaving the conference. *Carroll v. Town of Stoneham (Decision)*, 27 MCSR 511 (2014).

The Town of Scituate's concerns in bypassing a 49-year-old candidate whose career had been spent in the military were well justified after a background investigation revealed multiple incidents of anger-management lapses and difficulty working with female superiors. *Brigham v. Town of Scituate (Decision)*, 26 MCSR 45 (2013).

The Town of South Hadley had no obligation to backfill a sergeant vacancy that arose while there was a short list of candidates that included an overly aggressive detective seeking promotion after serving on the force since 1986. While this matter did not formally qualify as a bypass appeal, the Commission took Chapter 310 jurisdiction and concluded that South Hadley's refusal to promote the Appellant was based on his own shortcomings and did not reflect bias or politics. *Mailhot v. Town of Hadley (Decision)*, 25 MCSR 40 (2012).

Although the MPD was not justified in bypassing a candidate for original appointment to the Medford Police Department solely based on his interview performance and stale criminal and driving records that were largely indistinguishable from those of other selected candidates, Medford did justify its bypass on the grounds that the Appellant was not shown to have put behind him his past pattern of aggressive behavior in confrontational situations, as evidenced by a fight in July 2006, and his lack of candor in how he responded to the police at the scene and in his testimony. *Monagle v. Medford Police Department (Decision)*, 23 MCSR 267 (2010).

The City of Boston correctly bypassed an applicant with the highest test scores on the certification list because he had a one-year restraining order against him in 1994 for threatening a former girlfriend and was thought to have anger-management issues. *Croteau v. Boston Police Department (Decision)*, 20 MCSR 243 (2007).

The City of Methuen showed adequate reasons for having bypassed a candidate for original appointment as a Permanent Reserve Police Officer based on a prior criminal proceeding arising from his attacking a defendant in court (subsequently dismissed) and other actions showing fundamental anger-management issues. *Henrick v. City of Methuen (Decision)*, 20 MCSR 215 (2007).

CUMULATIVE SUBJECT MATTER DIGESTS

—Application

A candidate for appointment to the Boston Fire Department injured at the Fire Academy was bypassed for failing to include a very recent part-time landscaping job in his job history on the application. The Appellant, who was otherwise extremely qualified, justified this omission because he was “working off the books” and he deemed the information irrelevant. Boston officials were flummoxed by this omission since both the District Chief and the Commissioner had observed him working as a landscaper. The Commission rejected as an alternate reason for bypass Boston’s contention that the Appellant had lied about medical notes he had obtained following his discharge from Faulkner Hospital after treatment for a weight lifting injury. *Gravalese v. Boston Fire Department (Decision)*, 31 MCSR 377 (2018).

Although noting that Quincy’s hiring process was far from perfect, Hearing Commissioner Paul M. Stein affirmed the bypass of a candidate for appointment to the Fire Department based on his evasiveness about his gambling habit during the application process and because of his previous rejection for employment by no less than six law-enforcement agencies. *Man v. City of Quincy (Decision)*, 31 MCSR 37 (2018).

Chairman Christopher C. Bowman’s decision upholding the bypass of a candidate for original appointment to the Boston Police Department was unanimously adopted by a Commission that shared Boston’s concerns with this candidate’s history of cruel and violent bullying. The Commission did not find that the Appellant’s bypass could be based on his purported efforts to minimize these incidents on his application since the questions on the application were quite vague and imprecise. Boston’s bypass letter also wrongly alleged that the applicant had failed to disclose two arrests. *Owens v. Boston Police Department (Decision)*, 31 MCSR 14 (2018).

The bypass of a candidate for original appointment to the Saugus Fire Department was confirmed by the Commission in light of overwhelming evidence that the candidate had lied about his background, failed to complete important parts of the application, and had been issued a domestic violence restraining order while serving in the military in Oklahoma. *Tutila v. Town of Saugus (Decision)*, 30 MCSR 248 (2017).

Affirming and adopting the decision of a DALA Magistrate, the Commission found that the DOC had reasonable justification for bypassing a candidate for original appointment as a correction officer based upon conduct that had led to his termination as a correction officer with the Plymouth County Sheriff’s Department and his failure to be fully candid about his prior employment in his application. *McDade v. Department of Correction (Decision)*, 28 MCSR 275 (2015).

The Commission adopted and affirmed the decision of a DALA Magistrate which found that Somerville had reasonable justification to bypass the Appellant on the basis of his negative credit history, poor driving record, his inattention to detail regarding the application process, and his responses to the interview panel’s questions. The Appellant had failed to answer many application questions completely, despite being informed on multiple occasions the necessity of doing so. *Desrochers v. City of Somerville (Decision)*, 28 MCSR 33 (2015).

The Commission upheld the bypass of a candidate for original appointment as a Brockton firefighter where the Appellant had listed the names of neighboring retail businesses when asked on the application to include the names of present or past neighbors who could vouch for his character. The candidate had avoided listing his neighbors at his past address due to a dispute with them. The Commission also upheld the bypass on the basis of a driving record which included multiple moving violations within the past five years and the failure to follow instructions with respect to bringing documents to verify residency status to his interview. *Jenkins v. City of Brockton (Decision)*, 27 MCSR 390 (2014).

The Commission upheld the bypass and removal from the eligibility list of a candidate for appointment as a Cambridge police officer who had omitted information regarding his prior employment and education on his application and had failed to provide a complete and accurate history when given the opportunity. The Appellant’s poor job evaluation in a short-term position with the same appointing authority (Cambridge Emergency Control Center) also provided reasonable justification for the bypass. *Fopiano v. City of Cambridge (Decision)*, 27 MCSR 383 (2014).

The Commission affirmed the decision of a DALA Magistrate upholding the bypass of a Salem police officer candidate on the basis of his poor employment history, despite positive recommendations from his most recent employers. The Appellant had been let go from three jobs within a few years of his application and two of the terminations had involved mishandling cash. The bypass was also supported by the Appellant’s failure to be fully candid about the circumstances of his terminations on his application, particularly one which involved him refusing to sign termination paperwork and writing expletives on the form instead. *Trainor v. Salem Police Department (Decision)*, 27 MCSR 235 (2014).

The Commission adopted and affirmed the decision of DALA Magistrate Maria A. Imperato which found that the Boston Police Department had reasonable justification for bypass where Appellant had failed to reveal a prior address and a landlord’s judgment against him for unpaid rent in his application. The Magistrate also relied on police reports detailing two incidents where Appellant had engaged in violent behavior towards his twin brother, including one where his mother commented that Appellant was “extremely violent.” *Corsetti v. Boston Police Department (Decision)*, 27 MCSR 13 (2014).

An appeal from an applicant for appointment to the Springfield Fire Department was dismissed after he failed to meet the deadline for filing the application because he had neglected to notify Springfield of his change of address. *Pereira v. Springfield Fire Department (Order of Dismissal)*, 25 MCSR 148 (2012).

The Town of Wakefield did not unreasonably bypass a candidate for original appointment to its police force based on his filing an application with numerous omissions, the most serious being an omitted credit report. *Moga v. Town of Wakefield (Decision)*, 24 MCSR 156 (2011).

Citing impermissible parochialism and local bias, a 3-2 majority of the Commission granted the Appellant’s petition to overturn his bypass for original appointment to the Quincy Police Department where the Appointing Authority claimed it was disturbed by his citing of the “rush” of responding to police calls as a reason for wishing to become a police officer in a personal essay. The majority found the City’s rejection of this very qualified candidate based on one phrase in his personal statement highly suggestive of bias, particularly given its failure to investigate the many inconsistencies in the dossiers of successful candidates. *Connolly v. City of Quincy (Decision)*, 22 MCSR 381 (2009).

By a 2-2 vote, the Commission declined to reverse the decision of the Personnel Administrator affirming the second bypass of a candidate for original appointment to the Lynn Police Department for failing to disclose on his application a brief employment at an auto-parts store that ended with a charge of larceny, dismissed for lack of probable cause. Two Commissioners, Henderson and Taylor, found the City’s investigation marked by a profound lack of curiosity, if not willful disregard for truth, haste, negligence, and a reckless indifference to the Appellant’s corroborated version of events. *George v. City of Lynn (Decision)*, 21 MCSR 652 (2008).

By a 3-2 vote, the Commission adopted the recommended decision of Administrative Magistrate Sarah H. Luick affirming the bypass of a candidate for original appointment as an intermittent Dartmouth police officer where the Appellant had failed to disclose to the Appointing Authority an incident during which the State Police, following up on a drug investigation, raided a convenience store operated by the Appellant and placed him briefly in

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handcuffs after finding a handgun on his person—a handgun the Appellant was licensed to carry but which he showed poor judgment in bringing to the convenience store when he knew the State Police were on the scene. *Khalife v. Dartmouth Police Department (Decision)*, 21 MCSR 556 (2008).

The Civil Service Commission by unanimous vote reversed the bypass of a highly qualified candidate for original appointment as a Boston police officer based on failure to disclose his termination from a part-time job at Gold's Gym where the gym had failed to produce a termination notice, the Appellant reasonably believed he had resigned, and the BPD should have investigated the matter more carefully given the Appellant's outstanding and unblemished record in both the civilian and military sectors. *Connelly v. Boston Police Department (Decision)*, 21 MCSR 111 (2008).

The City of Worcester was reasonably justified in bypassing this Appellant for appointment to the Police Department where a background investigation revealed a poor employment history, an apparent bias against immigrants, and also a checkered driving record. The Appellant was also found to have lied on his application about never having applied to other police departments for appointment. *Modig v. Worcester Police Department (Decision)*, 21 MCSR 78 (2008).

The Boston Fire Department did not err in bypassing for original appointment a former civilian employee of the Boston Police Department who had been terminated from his position for tipping off a friend that he was under State Police surveillance. The Appellant also failed to acknowledge his termination from the Boston Police Department in his application for appointment to the Fire Department. *Cuellar v. Boston Fire Department (Decision)*, 20 MCSR 349 (2007).

—Appointing Authority

Although the Police Commissioner as Appointing Authority was apparently unaware of the practice not to consider applicants for appointment as Police Officers who have a CWOFF related to a felony charge on their record, departmental screening committees may have improperly adopted this practice without his approval or knowledge. *Ortiz v. Boston Police Department (Decision)*, 25 MCSR 496 (2012).

—Appointment Dates

A Boston police officer won a retroactive date of appointment to the time he would have been hired by the City of Boston had he not been involuntarily recalled to active naval duty. *McGrath v. Boston Police Department (Decision)*, 19 MCSR 316 (2006).

Where the Appellant had been first on eligibility list and had been appointed, the Commission rejected an Appellant's claim that his appointment as a firefighter should be made retroactive to the date of the establishment of the eligibility list because there was an individual holding a provisional appointment to the position pending the issuance by HRD of an eligibility list. *Butt v. City of Haverhill (Decision)*, 19 MCSR 87 (2006).

The Appeals Court refused to disturb a ruling of the Commission, affirmed by the Superior Court, declining to make retroactive an MBTA police officer's ultimate promotion to sergeant after he had been bypassed by other candidates. *Mulhern v. Civil Service Commission (Decision)*, 16 MCSR 63 (2003).

Bypass of candidate for full-time police officer with the Avon Police Department voided by the Commission which found that the town had improperly shuffled the technical appointment dates for candidates in order to alter the order in which intermittents would be considered for advancement to permanent status and that the Selectmen had displayed favoritism and nepotism in the selection of the final candidate. *LeGrice v. Town of Avon (Decision)*, 8 MCSR 77 (1995).

—Assessment Center

The Commission upheld the Springfield Fire Department's decision to bypass a candidate for original appointment as a firefighter based upon his interview performance. To support its decision, the department had relied on an assessment provided by an outside review panel that was subsequently confirmed by the Fire Commissioner upon review of the recorded interviews. The Commission had previously ordered Springfield to use an outside review panel in its next hiring cycle and reconsider candidates, including the Appellant, who had been previously bypassed in a process that had been compromised by nepotism. *Shelton v. Springfield Fire Department (Decision)*, 28 MCSR 76 (2015).

The Commission upheld the Springfield Fire Department's decision to bypass a candidate for original appointment as a firefighter based upon her interview performance. To support its decision, the department had relied on an assessment provided by an outside review panel that was subsequently confirmed by the Fire Commissioner upon review of the recorded interviews. The Commission had previously ordered Springfield to use an outside review panel in its next hiring cycle and reconsider candidates, including the Appellant, who had been previously bypassed in a process that had been compromised by nepotism. *Reyes v. Springfield Fire Department (Decision)*, 28 MCSR 65 (2015).

The Commission upheld a bypass of a candidate for original appointment as a Springfield firefighter on the basis of his poor performance during the interview process as assessed by an outside review panel and confirmed by the Fire Commissioner upon review of the recorded interviews. The Commission had previously ordered Springfield to use an assessment center managed by a consultant in its next hiring cycle and reconsider candidates, including the Appellant, who had been previously bypassed in a process that had been compromised by nepotism. *Benevento v. Springfield Fire Department (Decision)*, 28 MCSR 2 (2015).

Writing for the Commission, Chairman Christopher Bowman allowed the bypass appeal of a candidate for promotion to Chicopee police chief. Where the Appellant had ranked first in the Assessment Center process and first by the interview panel, the Commission found that the reason he was bypassed was due to the personal and political bias of the mayor who blamed the Appellant for dissemination of his criminal record in an earlier campaign. The Commission vacated the promotion of the second-ranked candidate and designated him as temporary police chief until the certification used to make the promotion could be revived and the newly elected mayor can make a promotional appointment in compliance with civil service law. *Jebb v. City of Chicopee (Decision)*, 27 MCSR 208 (2014).

Candidate for promotion to sergeant in the Swampscott Police Department won a bypass appeal after she failed to be promoted based solely on her scores at the assessment center after the civil-service examination had identified the nine leading candidates. *Butler v. Town of Swampscott (Decision)*, 8 MCSR 144 (1995).

—Association With Criminals

A 3-2 majority of the Commission voted to reverse the bypass of a candidate for appointment to the Mansfield Police Department who was shown to have a troubled personal history and criminal associations. The majority rejected Mansfield's concerns that the Appellant's association with known criminals made her unqualified. *Strano v. Mansfield Police Department (Decision)*, 30 MCSR 419 (2017).

The Commission generally upheld the bypass of a qualified candidate for appointment as a Correction Officer on the grounds that she continued to associate with the father of her two children, an inmate at MCI Shirley, despite her agreement not to do so. The Commission did exercise its Chapter 310 powers on behalf of the Appellant to order the Department of Correction to place her on the top of the then current list for appointment following the release from custody of the father of her children. *Cuff v. Department of Correction (Decision)*, 23 MCSR 762 (2010).

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—Back Pay

Although awarding retroactive “time in grade,” the Commission declined to award back pay to an environmental police officer whose appointment was delayed due to the unlawful selection of a candidate outside the selection formula because Chapter 31 authorizes damages for back pay only when a civil-service employee has been subjected to wrongful disciplinary action. *Hanlon v. Department of Fisheries, Wildlife, and Environmental Law Enforcement (Decision)*, 6 MCSR 120 (1993).

—Background Check

The Commission unanimously voided the bypass by the Department of Correction of a documented Iranian refugee, passed over because of police incident reports that were filed after Quincy police came to his home at the request of his wife. DOC could not bypass him for the information in the police reports after having made him a conditional offer of employment given that these reports had already been considered and not found problematic. *Matoofi v. Department of Correction (Decision)*, 32 MCSR 285 (2019).

A unanimous Commission adopted the decision of Commissioner Cynthia A. Ittleman reversing the bypass of a candidate for original appointment to the Lawrence Police Department on the grounds of bias and a flawed background investigation. The Detective/Sergeant who conducted the investigation should not have because he had history with the Appellant’s father, a former Lawrence police officer, and thus gave the appearance of bias. With regard to the background investigation, it was flawed by inaccuracies, improper questions about criminal and medical records, and was simply not very thorough. *Maldonado v. City of Lawrence (Decision)*, 31 MCSR 212 (2018).

A unanimous Commission reversed the bypass of a candidate for original appointment to the Somerville Police Department after finding that she was singled out for harsher treatment than other successful candidates when evaluating her work history, credit reports, isolated drug use, and completeness of her employment application. The decision takes note of a “woefully inadequate” background investigation. *Duval v. City of Somerville (Decision)*, 30 MCSR 447 (2017).

Sloppy background investigations by the Boston Police Department led to the reversal by the Commission of the bypass of a stellar candidate for original appointment as a police officer. The candidate’s background included criminal charges arising from fighting and vandalism as a teenager and a motor vehicle homicide for which he was not found criminally responsible or even charged. The sloppiness involved the reliance of the Department on synopses of police reports without taking the time to consult highly relevant witness statements and the complete police reports showing that the Appellant was a minor participant in these dated incidents and not at fault in the homicide. *Zaiter v. Boston Police Department (Decision)*, 29 MCSR 410 (2016).

While denouncing the City of Lawrence’s background check of the Appellant as “shockingly deficient” and purely dependent on information gleaned from newspaper articles, the Commission nevertheless affirmed the bypass of the Appellant based on his participation in medical insurance fraud while a Tewksbury police officer and a School Committee member. *Sitar v. City of Lawrence (Decision)*, 28 MCSR 558 (2015).

Adopting the recommendation of DALA Magistrate Sarah H. Luick, the Commission declined to disturb the bypass of a candidate for original appointment as a Waltham police officer where multiple background checks had revealed an individual with a tendency toward untruthfulness, implausible excuses, a difficulty getting along with others, and negative reviews from former employers. Weighing against the bypass was the Appellant’s positive military record, lack of criminal history or any drug and alcohol issues, and one positive employer review. *Deveau v. Waltham Police Department (Decision)*, 28 MCSR 428 (2015).

The Commission overturned a DALA Magistrate’s recommended decision and affirmed the Department of Correction’s bypass of a candidate whose background investigation revealed that he had assaulted a fellow student while in high school less than five years prior to his application and had acknowledged “freezing up” when he was called upon to place restraints on an offender as part of his job as a group care worker at a DYS facility. *Bertone v. Department of Correction (Decision)*, 27 MCSR 548 (2014).

The City of Gloucester was reasonably justified in bypassing the Appellant for original appointment as a firefighter where his background check revealed that he had failed to include in his application all of the incidents of military discipline he had been subject to and had incorrectly characterized the seriousness of an earlier criminal conviction. The absence of any opportunity for a “second bite of the apple” to respond to the results of the background check did not invalidate the hiring process. *Butler v. City of Gloucester (Decision)*, 27 MCSR 240 (2014).

The Department of Correction had reasonable justification for its decision to bypass Appellant for original appointment as a correction officer given Appellant’s history of criminal arraignments and restraining orders. The Commission found that Appellant’s record of three arrests for assault and battery, one for disorderly conduct and three restraining orders taken out against him by three different women were legitimate reasons to disqualify him. *Louis v. Department of Correction (Decision)*, 27 MCSR 31 (2014).

The City of Marlborough was justified in bypassing Appellant for original appointment as a firefighter after a background check revealed eleven incidents of police involvement including two road rage episodes as well as four additional incidents reflecting a lack of self-control. Commission also found that bypass was supported by Appellant’s failure to respond truthfully when asked whether he had ever been under investigation by a law enforcement agency. *Lazazzero v. City of Marlborough (Decision)*, 27 MCSR 23 (2014).

The Town of Scituate’s concerns in bypassing a 49-year-old candidate whose career had been spent in the military were well justified after a background investigation revealed multiple incidents of anger-management lapses and difficulty working with female superiors. *Brigham v. Town of Scituate (Decision)*, 26 MCSR 45 (2013).

A unanimous Commission reversed the bypass of a candidate for original appointment to the Boston Police Department after testimony revealed the roundtable relied on incorrect information indicating two, not one, felonies continued without a finding despite clear evidence in the Appellant’s file that one of the charges had been dismissed. Worse, the roundtable relied on a woefully incomplete background investigation that failed, among other things, to consider the fact that the Appellant took great personal risk in testifying against a murder suspect. *Ortiz v. Boston Police Department (Decision)*, 25 MCSR 496 (2012).

The Department of Correction was fully justified in bypassing the Appellant for original appointment as a Correction Officer after a background check revealed a discharge for misappropriating company cash, mediocre work performance, and a general lack of maturity, truthfulness, and attention to detail. *Donohue v. Department of Correction (Decision)*, 25 MCSR 284 (2012).

In a decision by departed Commissioner Daniel Henderson, the Commission voted 3-0 to revoke the bypass of a candidate for original appointment as a Boston police officer on the grounds that her employment background investigation had been conducted in a sloppy fashion. Commissioner Henderson noted that the few incidents and reports that the Boston Police Department relied on to justify the bypass were highly anomalous in the context of the Appellant’s overall employment history and should have been further investigated to determine their accuracy. *Palmer v. Boston Police Department (Decision)*, 25 MCSR 9 (2012).

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The Department of Revenue was fully justified in refusing to award a provisional promotion to a Tax Examiner II after a background check revealed longstanding misrepresentations of his educational qualifications, specifically lies about attendance at Harvard Extension, Bentley College, and Boston University. The case was complicated by the fact that the Appellant is blind, and raised the implausible defense that the inaccuracies revealed by Internal Affairs were the responsibility of his daughter and a DOR affirmative-action officer. *Gale v. Department of Revenue (Decision)*, 23 MCSR 534 (2010).

A majority of the Commission adopted the Recommended Decision of Commissioner Daniel M. Henderson in finding that a Boston Municipal Police Department officer, placed first on the Marshfield certification list as a reemployment hire, was unlawfully bypassed due to bias in favor of local candidates and a very unprofessional background investigation. The Full Commission declined to adopt Commissioner Henderson's recommendation that the Town of Marshfield be barred from considering psychological testing in connection with future promotions or appointments. *McGrail v. Town of Marshfield (Decision)*, 23 MCSR 390 (2010).

The City of Holyoke had valid reasons for bypassing a candidate for original appointment as a reserve police officer but the Commission was still troubled by the appointments of the successful candidates, many of whom had personal ties to city officials and/or blemishes on their background checks. *Burns v. City of Holyoke (Decision)*, 23 MCSR 162 (2010).

The Commission reversed the bypass of a candidate for original appointment to the Leominster Police Department because of a strikingly inept, superficial, sloppy, and flawed background investigation by a Detective for the Leominster Police Department, untrained in making such investigations, and which was marked by the failure of the Detective to make any effort to secure the Appellant's side of the story for the negative information that he discovered. *Gallagher v. City of Leominster (Decision)*, 22 MCSR 118 (2009).

By a 3-2 vote, the Commission adopted the recommended decision of Administrative Magistrate Sarah H. Luick affirming the bypass of a candidate for original appointment as an intermittent Dartmouth police officer where the Appellant had failed to disclose to the Appointing Authority an incident during which the State Police, following up on a drug investigation, raided a convenience store operated by the Appellant and placed him briefly in handcuffs after finding a handgun on his person—a handgun the Appellant was licensed to carry but which he showed poor judgment in bringing to the convenience store when he knew the State Police were on the scene. *Khalife v. Dartmouth Police Department (Decision)*, 21 MCSR 556 (2008).

The Department of Correction failed to show that Appellant's bypass was reasonably justified since he was bypassed solely based on an unsatisfactory background check that resulted from the investigator's inclusion of an incorrect and negative employer report. *Sulham v. Department of Correction (Decision)*, 21 MCSR 471 (2008).

An applicant for original appointment to the Quincy Police Department was lawfully bypassed after background checks established a pattern of sick-leave abuse during the Appellant's employment by the Department of Correction, an incomplete employment application that omitted references to less than successful employment stints, and a pattern of behavior that indicated a person willing to evade the truth and disinclined to take responsibility for his mistakes. *Burgess v. Quincy Police Department (Decision)*, 20 MCSR 418 (2007).

In an unusual ruling, the Full Commission refused to grant the 310 relief requested by both parties because the candidate for appointment as a permanent reserve officer for the Salem Police Department had poor or non-existent references, four surchargeable motor-vehicle accidents in five years, and a record of poor associations arising out of his ownership of a bar. The

Appellant's bypass appeal was dismissed. *Geary v. Salem Police Department (Decision)*, 19 MCSR 435 (2006).

A bypass of a candidate for appointment to the Worcester Police Department was sustained by the Commission after the record established that the candidate was less than candid about previous and current applications to other law enforcement agencies and possessed an employment history suggesting issues of judgment, self-control, and credibility. *Dulcine v. City of Worcester (Decision)*, 19 MCSR 432 (2006).

The City of Attleboro had more than met its burden of proof in rejecting the candidacy of the Appellant for appointment to the Police Department after a background investigation revealed his suspended license, failure to pay child support, poor credit report, and bad judgment as evinced by his leaving a handgun unattended on the front seat of his car and menacing his pregnant girlfriend. *Hall v. Attleboro Police Department (Decision)*, 19 MCSR 122 (2006).

A bypassed candidate for appointment to the Holden Police Department was not entitled to Civil Service Commission relief since the Department acted reasonably in light of the negative reports of former employers that the candidate had been an unreliable employee. *Thorpe v. Holden Police Department (Decision)*, 18 MCSR 396 (2005).

A review of the Appellant's entire law-enforcement and public-service career overwhelmingly showed him to be the more qualified candidate than the appointed candidate, who had no law-enforcement experience and who benefited from a flawed background investigation of the Appellant and a process biased against the Appellant. *Gaudette v. Town of Oxford (Decision)*, 18 MCSR 273 (2005).

The bypass of a longtime intermittent police officer for appointment to the Oxford Police Department was annulled by the Commission given the Appellant's excellent educational credentials, the Appointing Authority's failure even to conduct a background check, and the failure to set forth coherent reasons for the selection of other candidates. *Brooks v. Oxford Police Department (Decision)*, 12 MCSR 178 (1999).

In a strongly worded decision, the Commission reversed the bypass of a police-officer candidate by the Worcester Police Department, characterizing its reasoning as "absolutely inadequate and inaccurate" and noting that the Appellant had never been convicted of a felony, nor had he been dismissed from the Marine Corps. *Beriau v. Worcester Police Department (Decision)*, 12 MCSR 33 (1999).

The Commission upheld the bypass for appointment to the Boston Police Department of a young woman who had borne a child by a Boston gang member and later married a convicted murderer with a long and significant criminal history. *Williams v. Boston Police Department (Decision)*, 11 MCSR 368 (1998).

Commission upheld the bypass of a candidate for appointment to the Norwood Police Department that was based on a ranking of candidates by interview points derived from considerations such as hygiene, punctuality, educational achievement, and background checks. *Mawn v. Norwood Police Department (Decision)*, 11 MCSR 74 (1998).

The Commission reversed the bypass of a U.S. Marine Corps veteran for appointment as a police officer after testimony revealed the department had relied on a vague memorandum from one of Appellant's military superiors regarding an investigation of the Appellant for fraternization but that Appellant had a distinguished service record and had received an honorable discharge. *Hamilton v. Boston Police Department (Decision)*, 11 MCSR 16 (1998).

Springfield Police Department was not reasonably justified in bypassing a police-officer candidate on the grounds that he failed to disclose motor-vehicle violations but could lawfully bypass the Appellant for his failure to disclose his arrest for assault and battery of a police officer and for being

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disorderly. *Ramirez v. Springfield Police Department (Decision)*, 10 MCSR 256 (1997).

Commission upheld the bypass by the Brookline Police Department of a police-officer candidate after noting that the “youthful exuberances not entirely of Appellant’s making” formed sound and sufficient reasons for the bypass and urging the Appointing Authority not to consider these a total bar to employment in the future. *Joseph v. Brookline Police Department (Decision)*, 10 MCSR 243 (1997).

City of Boston reasonably bypassed a police-officer candidate whose record included 21 motor-vehicle citations and six cases of being charged with driving with a suspended license, where police officers can be expected to spend 85% of their time driving a motor vehicle and enforcing motor-vehicle laws. *Poufong v. Boston Police Department (Decision)*, 10 MCSR 236 (1997).

Bypass of Lynn man seeking appointment as a police officer was upheld where a background check showed a poor credit history, an unexplained premature discharge from the Marines, and a poor employment history. *Wright v. Lynn Police Department (Decision)*, 8 MCSR 198 (1995).

Candidate for a position as a Sandwich police officer lost bypass appeal where it was disclosed from a background check that the Appellant had been arraigned for larceny, had an atrocious credit history, and had no positive recommendation from his previous employer. *Santos v. Town of Sandwich (Decision)*, 8 MCSR 142 (1995).

Commission would not disturb a Boston Police Department bypass of a police-officer candidate whose record included a criminal conviction for assault and battery on a Brookline police officer, where the Appellant did not dispute the facts of the case and the incident was not a “youthful indiscretion in the distant past.” *Furtado v. Boston Police Department (Decision)*, 8 MCSR 141 (1995).

New Bedford Police Department properly bypassed police-officer candidate when a background check revealed that he had been dishonorably discharged from military service and then lied about his military history on his job application. *Pauline v. New Bedford Police Department (Decision)*, 8 MCSR 140 (1995).

Commission upheld bypass of Boston police-officer candidate where a background check revealed he had been terminated from a sales position and a state police investigation had revealed numerous Police Department incident reports, albeit no convictions. *Frangie v. Boston Police Department (Decision)*, 7 MCSR 252 (1994).

Results of a background check of Everett police-officer candidate justified his bypass although he appeared on the certification list, where they revealed multiple driving offenses, three criminal arraignments, and domestic disputes involving violence. *Godin v. City of Everett (Decision)*, 7 MCSR 126 (1994).

—Bankruptcy

The City of Brockton had reasonable justification to bypass the Appellant for an original appointment to the Brockton Police Department given his poor employment history with the Lebanon, New Hampshire, Police Department, criminal record for stealing, and personal bankruptcy. *Sylvia v. Brockton Police Department (Decision)*, 19 MCSR 237 (2006).

The 1995 bankruptcy of a Lynn police-officer candidate was not a factor in the Police Department’s decision to bypass him for appointment, where the evidence showed the candidate had completed all payments contemplated by the bankruptcy agreement. *Goodyear v. City of Lynn (Decision)*, 18 MCSR 46 (2005).

—Bias

The Commission reversed the bypass of a qualified candidate for appointment as a permanent reserve Beverly police officer after finding the hiring and interview process tainted by nepotism, bias, flawed procedures, and in-

accurate characterizations of candidates’ backgrounds. Three of the four successful candidates had close connections to police officers working for the Beverly Police Department. Moreover, a police captain who served as a reference for one of the candidates participated in the hiring process. *Menard v. City of Beverly (Decision)*, 32 MCSR 243 (2019).

The Commission allowed the bypass appeal from an African-American candidate for original appointment as a reserve police officer, finding that the process was corrupted by bias as a captain on the interview panel had negative history with the candidate’s father who had served as a detective with the Medford Police Department. In addition, the Department was especially solicitous of another “connected” candidate who had submitted his application late without consequences. *Braxton v. City of Medford (Decision)*, 32 MCSR 201 (2019).

Absent any evidence adduced to prove bias, Commissioner Paul M. Stein rejected the Appellant’s claim that the Taunton Fire Department was slanted against him because his ex father-in-law was a Taunton Deputy Fire Chief. *Pilling v. City of Taunton (Decision)*, 32 MCSR 69 (2019).

Reasons cited by the Mayor of Woburn for bypassing this very qualified young candidate for appointment to Intermittent Reserve Police Officer simply did not add up to Commissioner Paul M. Stein, who found traces of political influence in the decision-making process and the reasons for selecting other candidates unconvincing. Although the appeal was allowed, the Appellant could not prove a case of any bias against him based solely on his grandfather’s advocacy for an enhanced pension for a wounded officer or his uncle’s failure to obtain a promotion from lieutenant in the Woburn Police Department. *Gibbons v. City of Woburn (Decision)*, 32 MCSR 14 (2019).

The Commission voted unanimously to overturn the bypass of a candidate for appointment to the Boston Fire Department, finding that officials were biased against him by a personal animus arising from his having accused the Director of Human Resources of discriminating against him because he was a disabled veteran. *Kelley v. Boston Fire Department (Decision)*, 31 MCSR 382 (2018).

A unanimous Commission adopted the decision of Commissioner Cynthia A. Ittleman reversing the bypass of a candidate for original appointment to the Lawrence Police Department on the grounds of bias and a flawed background investigation. The Detective/Sergeant who conducted the investigation should not have because he had history with the Appellant’s father, a former Lawrence police officer, and thus gave the appearance of bias. *Maldonado v. City of Lawrence (Decision)*, 31 MCSR 212 (2018).

In a decision by Commissioner Cynthia A. Ittleman, the Commission affirmed the bypass of the first ranked candidate for promotion to the position of sergeant in the Athol Police Department and found unpersuasive the Appellant’s claims to have been victimized by personal bias in favor of the other candidates or that he had been retaliated against for his work as union president. *Dubrulle v. Town of Athol (Decision)*, 30 MCSR 412 (2017).

The Commission dismissed the appeal from a rejected candidate for promotion to Everett Deputy Fire Chief since no bypass had occurred where the finalists all had equal scores. In a decision by Commissioner Cynthia A. Ittleman, the Commission also declined to launch an investigation into the Appellant’s nonselection, finding that his claims of bias and favoritism were unproven and that the successful candidate had a more diverse and varied background while having assumed greater professional responsibilities. The charges of bias arose from the fact that the successful candidate had contributed to the Mayor’s campaign and was one of his friends. *Nigro v. City of Everett (Decision on Appellant’s Motions for Summary Decision)*, 30 MCSR 277 (2017).

The Commission affirmed the Appellant’s bypass for promotion to Pittsfield Police Lieutenant where it was based on the selected candidate having a stronger educational and supervisory background. The decision

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rejects the Appellant's contention that the Mayor and Police Chief were biased against him and already predisposed to appoint the other candidate before the process began. *Kirchner v. City of Pittsfield (Decision)*, 29 MCSR 605 (2016).

In reversing the bypass of this African-American candidate in his mid-40s for original appointment to the New Bedford Police Department, the Commission found that the interview panel's repeated attention to his age irreversibly tainted this matter. *Conley v. New Bedford Police Department (Decision)*, 29 MCSR 477 (2016).

Expressing much skepticism about the City of Methuen's hiring practices, Commissioner Cynthia Ittleman nevertheless affirmed the bypass of a candidate for original appointment as a reserve police officer based on disciplinary infractions while serving as a correction officer and a poor driving record. The Commissioner rejected the reasons cited for bypass relating to a child custody dispute and the charge that the Appellant had contacted numerous individuals at City Hall to advance his candidacy. Commissioner Ittleman was also troubled by the Methuen's appointment of individuals with even worse driving records than the Appellant and less than stellar employment records in law enforcement. *Dorgan v. City of Methuen (Decision)*, 28 MCSR 473 (2015).

In a case that began as a bypass appeal, the Commission declined to initiate an investigation in response to the Appellant's assertion that the Town of Hull did not make an additional promotion to sergeant from a short list that expired in April 2015 and allowed the Appellant to "die on the vine" in retaliation for whistle blowing and union activity. Where the Appellant had pursued arbitration and had filed civil rights and unfair labor practice claims in other forums, he had waived the right to redress under the civil service law. *Saunders v. Town of Hull (Order of Dismissal & Response to Request for Investigation)*, 28 MCSR 250 (2015).

Chairman Bowman dismissed an appeal filed by a Benefit Eligibility and Referral Social Worker (BERS) A/B who had not received an appointment to one of 10 provisional BERS C vacancies at the Department of Transitional Assistance. The Appellant had not been among the 10 highest ranked candidates and was not recommended for appointment by the interview panel. The Commission also declined to initiate an investigation where the Appellant's allegations, that one of the successful candidates was related to the former Regional Director of Mass Health and that she had overheard him bragging at a social gathering that he intended to use his political connections, were contradicted by sworn affidavits presented at the status conference. The affidavits established that despite having the same last name, the successful candidate was no relation to the Regional Director and the Appellant had not been a guest at the party where she had claimed to have overheard the damaging remarks. *Poudrier v. Department of Transitional Assistance (Order of Dismissal)*, 28 MCSR 246 (2015).

The Commission dismissed a challenge filed by a DOR Tax Examiner III contesting his non-selection for a Tax Examiner V position. Although the Appellant had permanent status as a Tax Examiner I, the posting of the vacancy as a provisional appointment rather than a provisional promotion, allowed the DOR to appoint without regard to applicants' civil service status. "While troubled that DOR deviated from its normal selection process," the Commission found no allegations of bias to warrant the initiation of an investigation. *Palluccio v. Department of Revenue (Order of Dismissal)*, 28 MCSR 118 (2015).

The Commission dismissed a challenge filed by a DOR Tax Examiner III contesting his non-selection for a Tax Examiner V position. Although the Appellant had permanent status as a Tax Examiner I, the posting of the vacancy as a provisional appointment rather than a provisional promotion, allowed the DOR to appoint without regard to applicants' civil service status. "While troubled that DOR deviated from its normal selection process," the Commission found no allegations of bias to warrant the initiation of an in-

vestigation. *Dalrymple v. Department of Revenue (Order of Dismissal)*, 28 MCSR 31 (2015).

Noting that the facts gave rise to the appearance of bias based upon Appellant's age and race, the Commission overturned the bypass of a 40-year old African-American candidate for original appointment as a Braintree police officer where the department maintained that he had performed poorly in the interview process and displayed weak interpersonal skills, but the videotaped interview proved otherwise. The Commission also found that the department had failed to give appropriate weight to the Appellant's 12-year unblemished history in armed law enforcement. *Morris v. Braintree Police Department (Decision)*, 27 MCSR 656 (2014).

Writing for the Commission, Chairman Christopher Bowman allowed the bypass appeal of a candidate for promotion to Chicopee police chief. Where the Appellant had ranked first in the Assessment Center process and first by the interview panel, the Commission found that the reason he was bypassed was due to the personal and political bias of the mayor who blamed the Appellant for dissemination of his criminal record in an earlier campaign. The Commission vacated the promotion of the second-ranked candidate and designated him as temporary police chief until the certification used to make the promotion could be revived and the newly elected mayor can make a promotional appointment in compliance with civil service law. *Jebb v. City of Chicopee (Decision)*, 27 MCSR 208 (2014).

In the case of a bypassed candidate for original appointment to the Marlborough Fire Department, the Commission found that although some of the candidates Appellant was bypassed in favor of had relatives working for the department, there was no evidence of bias where none of the candidates who were selected had as lengthy a list of police involvement as Appellant. *Lazazzero v. City of Marlborough (Decision)*, 27 MCSR 23 (2014).

The Town of Framingham had reasonable justification to bypass the Appellant for promotion to Temporary Deputy Fire Chief given his disciplinary record that included two relatively recent suspensions and the successful candidate's superior qualifications as a Certified Fire Training Instructor. However, the decision notes the evident dislike of the Fire Chief for the Appellant which "was palpable in his tone, demeanor, and body language." Also serving to confirm the perception of bias was the Chief's startling admission at hearing to having never even read the files of the three candidates for the promotion! *Barlow v. Town of Framingham (Decision)*, 26 MCSR 354 (2013).

A 2-1 Commission majority agreed with Administrative Magistrate James P. Rooney that the promotion of a Bridgewater detective to Police Sergeant was unbiased and was the result of the skills and impressive background of the successful candidate rather than a tainted process. The Commission did note that it would have been preferable not to have included in the interview panel a Lieutenant from a neighboring police department with a previous professional relationship with two of the candidates. *Lynch v. Town of Bridgewater (Decision)*, 26 MCSR 120 (2013).

There was no question of any bias or favoritism in the bypass of the Appellant for promotion to Burlington police sergeant given that the Police Chief was new to the department and was unfamiliar with its police officers. *Carlson v. Town of Burlington (Decision)*, 25 MCSR 129 (2012).

The Commission set aside the bypass of a highly qualified candidate for appointment to Quincy Fire Chief after finding the interview process and panel to have been biased and the reasons for advancing the successful candidate to have been insufficient. As a remedy, the Commission ordered the reactivation of the former eligibility list and the selection of an interview panel by an independent outside firm. Clearly underlying this decision, was the supposition that the Appellant had been bypassed for political reasons due to his support of the Mayor's opponent in the prior election. *Smyth v. City of Quincy (Decision)*, 24 MCSR 497 (2011).

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2020 COMMENTARY BY:
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