

**Special Legislative Commission to Study and
Examine the Civil Service Law, Personnel
Administration Rules, Hiring Procedures and
By-Laws for Municipalities not Subject to the
Civil Service Law and State Police Hiring
Practices**

Final Report

March 30, 2022

Note from the Chairs

In addition to the dedication and commitment of the Commissioners, the Chairs of the Special Legislative Commission to Study and Examine the Civil Service Law, Personnel Administration Rules, Hiring Procedures and By-Laws for Municipalities not Subject to the Civil Service Law and State Police Hiring Practices (“the Commission”) take this opportunity to thank the staff of the Joint Committee on Public Service (“the Committee”), without whom this Report could not have been timely completed. The staff noticed, recorded, and maintained records of all Commission meetings. They assembled all material shared with the Commission and retained recordings of all its members. The staff worked with witnesses that appeared before the Commission, and greatly contributed to the Final Report.

The Commission could not have met its statutory charge without the efficient, insightful, and hard work of the Committee’s Staff Director, Cody Case, Counsel, Elizabeth Donovan, Research Director, Jessica Foley, and Researcher, Fiona Bruce-Baiden, nor without the input of Senate Chief of Staff Alfred DeGirolamo and Legislative Director Donna LoConte.

The Commission would not have been able to have addressed the complexity of its investigation into issues included in its charge without the hard work of the Subcommittees formed at its first meeting. We thank Subcommittee Chairs Representative Natalie Higgins, Senator Michael Moore, Representative Patricia Haddad, and Representative Chynah Tyler for their contributions.



Rep. Kenneth I. Gordon
Co-Chair



Senator Michael D. Brady
Co-Chair

Commission Membership

- **Representative Kenneth I. Gordon**, House Chair
- **Senator Michael D. Brady**, Senate Chair
- **Marcella King**, Governor Appointment, Correctional Officers' Union
- **Michael Papagni**, Governor Appointment, Firefighters' Union
- **Tom Reddy**, Governor Appointment, Police Officers' Union
- **Sophia Hall**, Designee of the American Civil Liberties Union of Massachusetts
- **Neil Osborne**, Designee of the National Association for the Advancement of Colored People New England Area Conference
- **Lawrence Calderone**, Chair of the Massachusetts Law Enforcement Policy Group
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- **Major Stephen Gabriel**, Designee of the State Police
- **Robert Quinan**, Designee of the Civil Service Commission
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- **Ronald Renaud**, Designee of Secretary of Administration and Finance
- **Richard Sweeney**, Designee of the Massachusetts Bar Association
- **Tom Lyons**, Designee of the Massachusetts Veterans' Service Agents Association, Inc.
- **Sec. Cheryl Lussier Poppe**, Secretary of Veterans' Services
- **Jesse Flynn**, Designee of the Disabled American Veterans Department of Massachusetts
- **Jen Breaker**, Designee of the Massachusetts Municipal Association
- **Kimberly Parr**, Designee of the Attorney General Office
- **Representative Chynah Tyler**, Chair of the Black and Latino Caucus
- **Representative Maria Robinson**, Designee of the House Asian Caucus
- **Representative Natalie Higgins**, Speaker of the House Appointee
- **Representative Patricia Haddad**, Speaker of the House Appointee
- **Representative Tim Whelan**, House Minority Leader Appointee
- **Senator Michael Moore**, Senate President Appointee
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- **Senator Bruce Tarr**, Senate Minority Leader

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Introduction

This Report was drafted by the Commission created by the Act Relative to Justice Equity and Accountability in Law Enforcement in the Commonwealth, codified as Chapter 253 of the Acts of 2020 (“the Act”). The Legislature charged this Commission with reporting back to it with its recommendations and findings regarding the Commonwealth’s civil service laws. As will be set forth herein, more than 30 hearings, including sub-committee meetings, were conducted by the Commission and its sub-committees. The Commission found that criticism among municipalities of the civil service system organized to oversee, manage, and enforce the Commonwealth’s civil service laws, codified as G.L. c. 31 (“Chapter 31”), is consistent and widespread. Among the Commonwealth’s public safety workforce and potential job applicants within the jurisdiction of the civil service law, however, reliance on the fair treatment that is at the heart of civil service laws is just as closely guarded.

The Commission found, in short, that any shortcoming of Massachusetts’ civil service system may likely be overcome with: modest revisions to existing laws; a reliable, secure, and consistent source of funding, allowing for a budget empowering the Human Resource Division’s Civil Service Unit to better advertise, communicate, and market opportunities for careers in public service; a cap on reduce examination fees and expansion of fee waiver eligibility; and for the Civil Service Commission to continue to provide an independent and objective process for resolving appeals and disputes. The recommendations of this Report are designed to assist the Legislature in strengthening the civil service system, making it more attractive to municipalities that are in civil service to remain there, and providing a reason for municipalities that have left civil service to return.

Several municipal public safety departments have left civil service in recent years, and several more have filed legislation to do so. The Commission is concerned that once a municipal department falls outside the civil service system, equal opportunity protections for groups that traditionally have been disadvantaged in securing public sector employment have not been adequately enforced; and protections and intended hiring preferences for veterans and other groups as provided by Chapter 31 have not been guaranteed. This Commission found and recommends that with the adjustments set out herein, including the oversight and continued study, the Commonwealth will continue to provide a civil service framework beneficial to both public safety employers and the men and women who serve in important public safety roles.

Commission's Charge

The Special Legislative Commission to Study and Examine the Civil Service Law, Personnel Administration Rules, Hiring Procedures and By-Laws for Municipalities Not Subject to the Civil Service Law and State Police Hiring Practices (hereinafter "the Commission") was established by the Act. And is set forth as follows:

SECTION 107. (a) Notwithstanding any general or special law to the contrary, there shall be established, pursuant to section 2A of chapter 4 of the General Laws, a special legislative commission to study and examine the civil service law, personnel administration rules, hiring procedures and by-laws for municipalities not subject to the civil service law and state police hiring practices.

(b) The commission shall consist of 29 members; 3 members appointed by the governor, 1 of whom shall be a member of a police officers' union, 1 of whom shall be a member of a firefighters' union and 1 of whom shall be a member of a correctional officers' union; 1 of whom shall be the executive director of the American Civil Liberties Union of Massachusetts, Inc. or the executive director's designee; 1 of whom shall be the president of the National Association for the Advancement of Colored People New England Area Conference or the president's designee; 1 of whom shall be the chair of the Massachusetts Law Enforcement Policy Group, Inc.; 1 of whom shall be the president of the Massachusetts Chiefs of Police Association Incorporated or the president's designee; 1 of whom shall be the president of the Fire Chiefs' Association of Massachusetts, Inc. or the president's designee; 1 of whom shall be the chair of the Massachusetts Association of Minority Law Enforcement Officers, Inc. ; 1 of whom shall be the colonel of state police or the colonel's designee; 1 of whom shall be the chairman of the civil service commission or the chairman's designee; 1 of whom shall be the secretary of administration and finance or the secretary's designee; 1 of whom shall be the president of the Massachusetts Bar Association or the president's designee; 1 of whom shall be the secretary of public safety and security or the secretary's designee; 1 of whom shall be the president of the Mass. Veterans' Service Agents Association, Inc. or the president's designee; 1 of whom shall be the secretary of veterans' services or the secretary's designee; 1 of whom shall be the commander of the Disabled American Veterans, Department of Massachusetts, Inc., or the commander's designee; 1 of whom shall be the executive director of the Massachusetts Municipal Association, Inc. or the executive director's designee; 1 of whom shall be the chair of the Massachusetts Black and Latino Legislative Caucus or the chair's designee; 1 of whom shall be the chair of the Massachusetts House Asian Caucus or the chair's designee; 4 members of the house of representatives, 2 of whom shall be appointed by the

speaker of the house of representatives, 1 of whom shall be the house chair of the joint committee on public service or the chair's designee and 1 of whom shall be appointed by the minority leader of the house of representatives; 4 members of the senate, 2 of whom shall be appointed by the senate president, 1 of whom shall be the senate chair of the joint committee on public service or designee and 1 of whom shall be appointed by the minority leader of the senate; and the attorney general or the attorney general's designee. The speaker of the house of representatives shall appoint 1 co-chair from the house appointees to the commission and the senate president shall appoint 1 co-chair from the senate appointees to the commission.

(c) The commission shall study the employment, promotion, performance evaluation and disciplinary procedures for civil service employees, including, but not limited to: (i) the hiring and recruitment processes for civil service positions; (ii) the use of civil service eligible lists, the statutory merit preference status and the hiring from those eligible lists; (iii) all current civil service examinations and the use of the examinations for hiring and promotions; (iv) collective bargaining agreements by unions; (v) the disciplinary and appeal procedures as applied to civil service employees; and (vi) identifying any barriers that exist in hiring, recruiting or promoting civil service employees.

(d) The commission shall study the employment, promotion, performance evaluation and disciplinary procedures of municipalities not subject to the civil service law, including, but not limited to: (i) the hiring and recruitment procedures and by-laws for municipalities; (ii) all examinations administered by municipalities and the use of the examinations for hiring and promotions; (iii) the use of minimum eligibility guidelines and hiring qualifications or preferences; (iv) collective bargaining agreements by unions; (v) the disciplinary and appeal procedures as applied to municipal employees; and (vi) identifying any barriers that exist in hiring, recruiting or promoting municipal employees.

(e) The commission shall study employment, promotion, performance evaluation and disciplinary procedures of the department of state police, including, but not limited to: (i) hiring and recruitment laws and procedures; (ii) the requirements of chapter 22C of the General Laws; (iii) all examinations used by the state police for hiring and promotions; (iv) collective bargaining agreements by unions; (v) the disciplinary and appeal procedures as applied to officers of the Massachusetts state police; and (vi) identifying any barriers that exist in hiring, recruiting or promoting officers of the department of state police.

(f) The commission shall evaluate the feasibility of creating a statewide diversity office within the executive office of administration and finance to establish affirmative action plans and guidelines for municipalities, oversee the implementation of these plans and guidelines and monitor noncompliance. The commission shall examine the feasibility and cost of hiring or appointing a diversity officer for every city or town with a municipal police or fire department.

(g) The commission shall make recommendations for changes to the civil service law to improve diversity, transparency and representation of the community in recruitment, hiring and training of civil service employees, including, but not limited to, any changes to civil service exams, merit preference status, eligible lists and appointment from eligible lists by hiring authorities. The commission shall make recommendations to improve diversity, transparency and representation of the community in recruitment, hiring and training for municipalities not subject to the civil service law and for the department of state police.

(h) The commission shall hold its first meeting not later than 30 days after the effective date of this act and shall meet at least monthly thereafter. The commission shall submit a report of its study and any recommendations, together with any draft legislation necessary to carry those recommendations into effect, by filing the same with the governor, the speaker of the house of representatives and the president of the senate and the clerks of the house of representatives and senate on or before September 30, 2021.¹

¹ The Commission's reporting deadline was extended to March 30, 2022, by Section 19 of Chapter 76 of the Acts of 2021.

The Work of the Commission

To fulfill its obligations under Section 107, the Commission convened 13 full hearings beginning on May 5, 2021. Due to the public health emergency brought on by COVID-19, hearings were conducted via virtual meeting platforms. The agenda for each hearing of the Commission may be found on the Massachusetts Legislature’s website.² Recordings of the Commission’s hearings may be found via www.malegislature.gov or on the Joint Committee on Public Service’s YouTube Channel.³ In addition to hearing from invited witnesses, more than 30 members of the public testified on various issues pertaining to the Commission’s charge on January 30, 2022.⁴

To facilitate the Commission’s work, Commissioners voted to approve the formation of subcommittees relative to each of the four questions put before it. The subcommittees were tasked with conducting research and hearing from witnesses, identifying and soliciting input from relevant stakeholders, and developing recommendations for the Commission’s review designed to inform the Commission’s findings outlined in this report. Collectively, the Commission’s subcommittees met on some 20 occasions. The four subcommittees are as follows:

- Subcommittee on Municipalities Subject to the Civil Service Law (chaired by Senator Michael Moore)
- Subcommittee on Municipalities Not Subject to the Civil Service Law (chaired by Representative Natalie Higgins)
- Subcommittee on the State Police (chaired by Representative Patricia Haddad)
- Subcommittee on Diversity, Transparency, and Representation (chaired by Representative Chynah Tyler)

Presentations coordinated by Commissioners included representatives from relevant state and municipal departments, labor unions, veterans’ groups, civil rights organizations, and other interested stakeholders. The Commission recorded each presentation for public viewing and compiled hundreds of pages of documentation relative to the Commission’s charge. This report will lay out issues of further consideration and provide recommendations relative to the charge established by the Act.

² The agenda for each of the Commission’s meetings can be found on the Massachusetts Legislature’s website, <https://malegislature.gov/Commissions/Detail/544>.

³ The Commission’s meetings, other than the first two, which can be found on the MA Legislature website, are available on the Joint Committee on Public Service’s YouTube page, <https://www.youtube.com/channel/UCBkEVBJogMeY0aSQ6udwvw/videos>.

⁴ The Commission solicited testimony from members of the public for the 10th meeting on January 28, 2022, <https://youtu.be/tN0SPI5Z9dg>.

Overview of the Massachusetts Civil Service System

Prior to the establishment of civil service systems in the United States, elected officials and members of political parties provided public sector jobs to their supporters and family members under what was referred to as the “spoils system”.⁵ The so-called spoils system allowed for a practice in which government appointments were given to supporters and taken away from opponents following changes in administration. Critics of the spoils system claimed that because appointments were not merit based, the system was inherently corrupt. In police departments, reformers looking to replace the spoils system with a merit-based system focused on sworn police personnel, with the intent of “structurally isolat[ing] police officers from politicians”.⁶ Some municipalities “added a middle-level of management to their organizational charts; changed the geographic lines of police precincts so they would no longer be contiguous with political wards; and created special squads to perform specific duties within the departments.”⁷

Federal civil service reform began when President Chester A. Arthur signed the Pendleton Civil Service Reform Act of 1883. The Pendleton Act required the hiring of government employees through a Civil Service Commission, which would ensure that positions would be granted based upon ability and merit “without regard to politics, religion, race, or national origin.”⁸ The Commonwealth quickly followed suit by passing its own civil service law, signed by Governor Dexter Robinson, in 1884.⁹ The civil service law has been amended numerous times since its inception. Several Special Commissions have been convened by the Legislature to study the civil service law, including those in 1938, 1967, 1979, and 1996.

Chapter 31 and Civil Service Agencies

General Laws c. 31 (“Chapter 31”) provides the framework for Massachusetts’ civil service system. Chapter 31 establishes the powers and duties of the Civil Service Commission (“CSC”)¹⁰ and of the Chief Human Resources Officer (“CHRO”).¹¹ Included within its provisions are procedures relative to appointment, examinations, performance evaluations, promotions, eligible lists, and preferences for certain public employees. It is important to note here that the Civil Service Unit (“the Unit”) of the Commonwealth’s Human Resources Division (“HRD”) and the Civil Service Commission (“CSC”) are separate entities under the umbrella of

⁵ “Spoils System”, *Encyclopedia Britannica*, 2020, <https://www.britannica.com/topic/spoils-system>.

⁶ Potter Gary, “The History of Policing in the United States, Part 5”, *Eastern Kentucky University*, 2013, <https://ekuonline.eku.edu/blog/police-studies/the-history-of-policing-in-the-united-states-part-5/>.

⁷ Potter Gary, “The History of Policing in the United States, Part 5”, *Eastern Kentucky University*, 2013, <https://ekuonline.eku.edu/blog/police-studies/the-history-of-policing-in-the-united-states-part-5/>.

⁸ “The Pendleton Civil Service Act”, *Encyclopedia Britannica*, 2017, <https://www.britannica.com/topic/Pendleton-Civil-Service-Act>.

⁹ “The Massachusetts Civil Service Law: Is it necessary to Destroy the Current System in Order to Save it?”, *Hein Online*, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/newlr40&div=58&id=&page=>.

¹⁰ See Massachusetts General Laws, Chapter 31 Section 2.

¹¹ See G.L. c.31, § 5.

the Executive Office of Administration and Finance (“A&F”) with defined roles and responsibilities under Chapter 31.

The CHRO,¹² acting through the Unit, carries out the operational functions of the civil service system. The CHRO is authorized to establish Personnel Administration Rules (“PARs”), which regulate the recruitment, selection, training, and employment of certain civil service positions in the 142 municipalities with public safety agencies subject to the civil service law. In addition to those cities and towns whose police and/or fire departments are regulated by Chapter 31, other public safety-related agencies within state government appoint and promote individuals pursuant to Chapter 31, including Department of Correction (“DOC”), the Environmental Police, the Massachusetts Parole Board, and the MBTA Police Department. The State Police (“MSP”) are not subject to the provisions of Chapter 31, except in limited fashion,¹³ but may participate in the Unit’s entry level exams.¹⁴ Acting under the authority of Chapter 31 and the PARs, the Unit administers and enforces compliance with civil service laws and rules and, additionally, regulates the recruitment, selection, training, and employment of civil service positions. The Unit develops, administers, and certifies public safety examinations, creates hiring lists of candidates in accordance with statutory preferences, determines classification plans for civil service positions, approves or disapproves of specifications and qualifications submitted by an appointing authority for a civil service position, evaluates the qualifications of applicants, establishes standards for civil service positions, maintains records, establishes recruitment programs, and administers physical abilities testing for municipal police academy candidates.

Among the duties and obligations of the Unit is to manage the system that oversees employment in public safety careers such as municipal police, fire service, and similar departments. When a municipality seeks to fill a civil service vacancy, a request is provided to the Unit for a certification of names (the “certification”) drawn from the list of eligible candidates (the “eligible list”). The eligible list is made up of candidates who passed a civil service examination, as will be explained throughout this Report. The eligible list ranks candidates for employment in a particular order that takes into account not only the score of the candidate on the civil service examination, but whether the candidate is subject to certain “preferences”, or advantages, due to various enumerated statuses set forth in Section 26 of Chapter 31 (“Section 26”). Section 26 provides that the names of all persons who have passed the most recent civil service examination will be placed on the eligible list in the following order: (1) disabled veterans; (2) veterans; (3) spouses or parents of veterans who were killed in action; (4) all others. Placed even ahead of a disabled veteran is the child of a police officer, firefighter,

¹² Today the head of HRD holds the title of “Chief Human Resources Officer” but Chapter 31 still refers to this position as the “Personnel Administrator.”

¹³ Section 13 of G.L. c. 22C provides that tenured sworn state police officers who remain aggrieved after having been charged with misconduct and tried by a State Police Trial Board may appeal a final disciplinary disposition to the Civil Service Commission pursuant to G.L. c. 31, sections 41 to 45.

¹⁴ Regina Caggiano, Director of the Unit, gave a presentation on HRD’s role during the Commission’s 3rd meeting on July 12, 2021, <https://www.youtube.com/watch?v=hOF-MNaVuBY>, (18:20).

correctional officer who was injured or killed in the line of duty. When so ordered by the CSC, successful appellants whose civil service rights were abridged will also be placed atop “certifications” derived from eligible lists. In addition to the preferences affecting veterans and family members of injured or deceased firefighters and police officers, municipalities may request a list that places its own residents ahead of other applicants.

The powers and duties of the CSC include, but are not limited to, conducting investigations of alleged systemic violations of Chapter 31 and hearing and deciding appeals from those aggrieved by a decision, action, or failure to act by the CHRO or an appointing authority.¹⁵ The CSC hears and decides appeals¹⁶ relative to state and municipal employees and candidates for positions covered by the civil service law, including discipline, layoff, bypass, examination appeals, and reclassification appeals for all state employees.¹⁷ In so doing, the CSC is responsible for ensuring that personnel and employment decisions are compliant with the law, fair and impartial, and reflect basic merit principles established in G.L. c. 31 § 1.¹⁸ Final CSC decisions may be appealed to the Superior Court.

Municipalities Begin to Leave Civil Service

Over the course of decades, many cities and towns entered the civil service system in Massachusetts by accepting the provisions of Chapter 31. The optional nature of the law gives municipalities an opportunity to conditionally exit the civil service system through G.L. c. 4, § 4B. However, municipalities that joined civil service through a special act of the Legislature cannot be removed from the provisions of Chapter 31 without a corresponding act of the Legislature authorizing them to do so.¹⁹ Among the 351 municipalities in the Commonwealth, 142 public safety departments are subject to the provisions of Chapter 31, in whole or in part. In recent years, municipalities have sought to exempt public safety departments from the civil service law. According to HRD, 36 police departments²⁰ and eight fire departments²¹ that were once governed by Massachusetts’ civil service law have left. This trend continues today. Another eight municipalities have approved petitions to exempt certain departments and positions from Chapter 31 and those petitions are making their way through the legislative process.

¹⁵ See G.L. c.31, § 2.

¹⁶ An average of 250 appeals are filed with the CSC annually.

¹⁷ The official website of the Commonwealth of Massachusetts features a collection of two sets of web pages regarding the Civil Service Commission at, <https://www.mass.gov/orgs/civil-service-commission>.

¹⁸ The Commission heard that, similar to the rest of the civil service system, the CSC’s ability to fulfill its mission has been hampered by consistent underfunding.

¹⁹ See M.G. c.4 § 4B.

²⁰ See the official website of the Commonwealth of Massachusetts, webpage on Civil Service Police Departments, <https://www.mass.gov/service-details/civil-service-police-departments>.

²¹ See the official website of the Commonwealth of Massachusetts, webpage on Civil Service Fire Departments, <https://www.mass.gov/service-details/civil-service-fire-departments>.

Municipalities cite various reasons for separating from the civil service system. Among the most common are delays in the hiring process, challenges with recruitment, and unsuitable examinations. Municipalities also reported frustration with delays in exam results and release of eligible lists, sequencing of examinations and academy schedules, and a lack of funding. Municipalities seeking to separate from civil service report that the civil service hiring procedure can be burdensome and costly. Grafton Chief of Police, Normand Crepeau Jr., spoke of the civil service hiring timeline:

“Delays in hiring are potentially costly to the Town because we must backfill many vacant shifts on overtime. The police department could schedule an exam and have the results within two or three days instead of waiting six months or more under civil service.”²²

Throughout the course of its work, the Commission found that municipalities seeking to exit the civil service system claimed a desire to access a larger and more diverse candidate pool. Norwood Police Chief William Brooks III describes a system in which a limited number of candidates for existing job vacancies are provided to the municipality, requiring the municipality to choose the candidates included on that list or “bypass” them, essentially for cause:

“Civil Service uses the 2N+1 formula meaning that if there are two vacancies, the police department only receives a list of five candidates. (Now that we are out of civil service, we typically begin with a batch of at least 15 to 20 candidates.)”²³

In addition, limited access to the police training academy, both because of location and the timing of sessions, serves as an impediment to municipal employers. Chief Edward Dunne of the Falmouth Police Department, which is within civil service, spoke about his experience getting officers into police academies. Chief Dunne suggested that by the time a municipality receives an eligible list from the Unit, many of the police academies no longer have availability, forcing the municipality to send his candidates to academies that are hours away. Otherwise, officers miss the academy cycle altogether and must wait a year for the next cycle.²⁴ Both scenarios are challenging for applicants and pose a potential threat to diversity within departments because attending an academy far from one's home is time consuming and costly, and those who wait until the next academy cycle commences must delay the start of their career.

²²See Appendix A pg. 007 for Report of Subcommittee on Municipalities not Subject to the Civil Service Law

²³ See Appendix A, pg. 014 for Report of Subcommittee on Municipalities not Subject to the Civil Service Law. The $2n + 1$ rule is spelled out in PAR.09 (1). When names have been certified to an appointing authority under PAR.08 and the number of appointments or promotional appointments actually to be made is n , the appointing authority may appoint only from among the first $2n + 1$ persons named in the certification willing to accept appointment. See Recommendation C. in section III., *infra*, for a more detailed explanation of how this formula plays out in practice.

²⁴ Chief Edward Dunne of the Falmouth Police Department testified in the Commission’s 6th meeting on August 20th, 2021, <https://www.youtube.com/watch?v=rzx4pCrmJ0I>, (32:13).

Municipalities highlighted several other challenges to improving diversity, transparency, and representation of all segments of the community within the existing civil service framework. Additional challenges include: limits on hiring preferences for candidates proficient in a second language; hiring candidates with higher education, or other certifications; and restrictions on hiring transfer candidates from non-civil service departments.²⁵

Labor representatives similarly expressed frustration with the system's lack of funding, leading to challenges in recruitment and lengthy hiring timelines. Labor representatives do not attribute these challenges to the civil service system itself, but to a lack of sustainable funding. Legislative Agents from the Professional Fire Fighters of Massachusetts ("PFFM"), Paul Jacques and Craig Hardy, spoke of the issue,

*"These problems [hiring timelines] are not a result of civil service itself but from a continued lack of funding year after year. Some may even say an intentional underfunding, 'death by a thousand cuts.' This lack of funding ... has created a backlog of cases and long delays in the hiring process that frustrate communities who rely on such process"*²⁶

The PFFM points out that almost all of the activities of the Unit are funded using a retained revenue model. Under such a model, the Unit receives appropriations based on the revenue from testing fees it anticipates during the current fiscal year. In this way, the Unit's operations are essentially funded through revenues derived from fees collected from candidates sitting for examinations. Rich MacKinnon, of the PFFM, testified about the civil service examination and funding of the system,

*"Due to its [the Unit] lack of funding, both entry-level testing as well as promotional testing prices have gone through the roof making it difficult for our men and women to take the entry-level and promotional exams. I think this stems from civil service being a revenue-neutral body in the Commonwealth and to keep themselves going they are going to need to keep raising the revenues to actually have these tests funded."*²⁷

²⁵ The Commission received testimony from municipalities that the absolute preferences set out within Section 26 create an impediment to greater access to diverse applicants. The Commission received testimony from veterans groups seeking to protect the preference as it exists. The Commission also received testimony from the designee of the National Association for the Advancement of Colored People New England Area Conference that preferences should be extended to African-American candidates. The Commission believes that much more comprehensive study, involving stakeholders and others not present within the Commission must be undertaken before any recommendation may be offered and therefore this issue is left for further discussion.

²⁶ See Appendix A, pg. 008 for Report of Subcommittee on Municipalities not Subject to the Civil Service Law. Other speakers mentioned the need to fully fund the CSC to enable it to render appellate decisions or complete investigations in a timely manner.

²⁷ Rich MacKinnon from the PFFM testified at the Commission's 10th meeting on January 28, 2022, <https://www.youtube.com/watch?v=tN0SP15Z9dg>, (18:23). HRD asserts that it is expensive to develop and then

Labor representatives expressed concerns about municipalities leaving civil service and no longer operating under the civil service disciplinary process. Mark Sanders, of PFFM, offers,

*“One of the biggest problems [once municipalities leave civil service] is going to be disciplinary hearings, we believe that it will now open up [departing municipalities] to a lot more lawsuits; [the appeal process] will not be objective, you will not be appealing grievances or any labor disputes to civil service, you would now be answering to the municipality that you're being disciplined by.”*²⁸

As well, labor representatives from non-civil service communities cited similar challenges in recruiting diverse applicants. President of the Lexington Fire Fighters IAFF Local 1491, Rob Green, whose department is not in the current civil service system, explained why recruiting for a diverse candidate pool outside of the state civil service infrastructure is difficult:

*“I think a key component of that [diversity challenge] is to increase the hiring pool – the applicants that apply for these jobs. I can tell you from a Lexington perspective, we currently have four job openings, and we have six job applicants. That is not a very big pool and does not help us increase diversity.”*²⁹

President Green suggested that those towns within the civil service system have an advantage, because applicants taking the state-wide examination are more plentiful than those who may choose to sit for an exam administered by a single municipality. In response to a question about how Lexington attracts veterans, President Green responded,

*“If I am a veteran in the state, I’m going to apply to almost 100 municipalities through the civil service exam that gives me a veteran’s preference...”*³⁰

Massachusetts law also includes an option for municipalities that do not want to join civil service under Chapter 31, but still seek the protection of a uniform system of managing public safety employment. G.L. c. 31A, titled “Municipal Personnel Systems” (“Chapter 31A”), allows a municipality to establish a decentralized personnel system outside of the provisions of Chapter 31, but also requires those municipalities to adopt certain standards for hiring, promotion and

validate the civil service examinations as being predictive of success in a particular public safety position, for HRD to administer them statewide (and offer makeup examinations for those serving in the military), and also take various measures necessary to protect the integrity of examinations and guard against potential cheating by candidates.

²⁸ Mark Sanders from the PFFM testified at the Commission’s 10th meeting on January 28, 2022, <https://www.youtube.com/watch?v=tN0SP15Z9dg>, (49:25).

²⁹ President of Lexington Fire Fighters IAFF Local 1491, Rob Green, testified before the Commission during the 10th meeting, <https://www.youtube.com/watch?v=tN0SP15Z9dg>, (1:07:00).

³⁰ President of Lexington Fire Fighters IAFF Local 1491, Rob Green, testified before the Commission during the 10th meeting, <https://www.youtube.com/watch?v=tN0SP15Z9dg>, (1:08:53).

discipline. However, Chapter 31A has not been adopted by any municipality and is essentially dormant, likely due to restrictive conditions necessary for its adoption.³¹

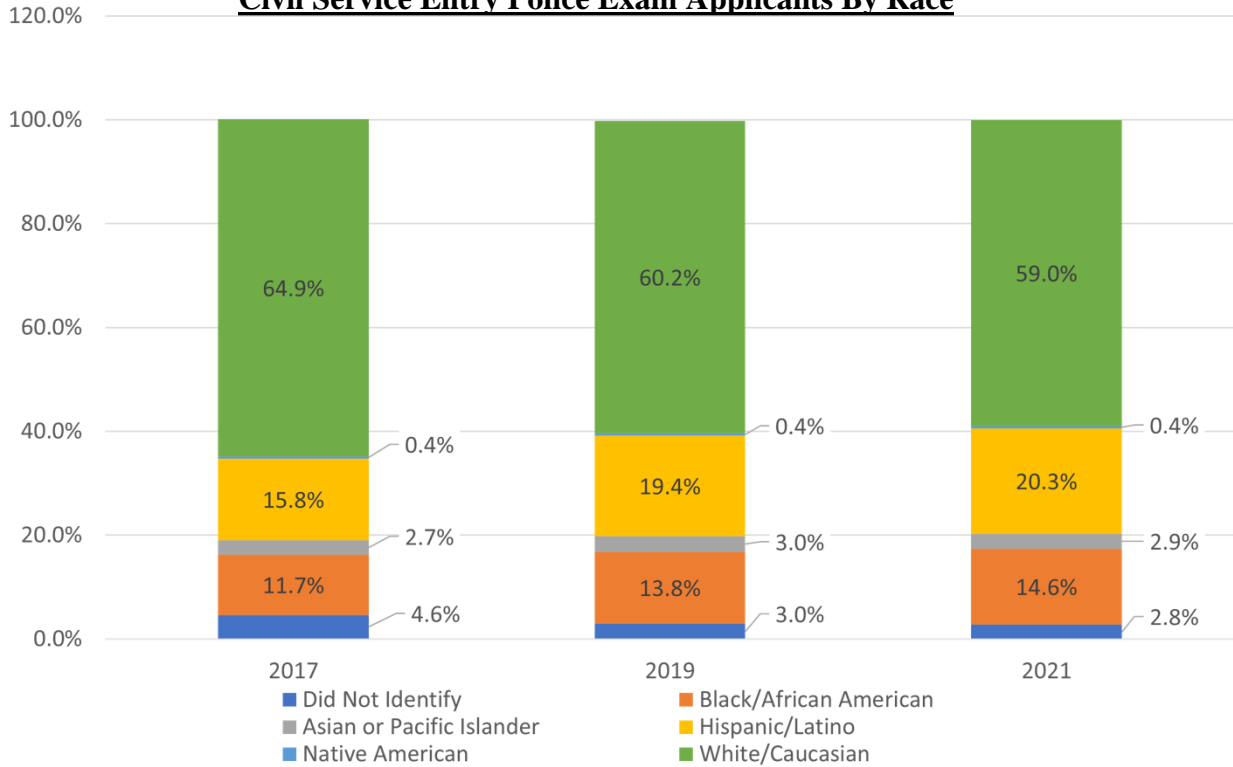
In considering its role in making recommendations to the Legislature concerning the diversity, transparency and representation of communities in civil service agencies, non-civil service agencies, and the MSP, the Commission sought information and relevant data to assess the demographic make-up of the workforce in civil service agencies and in departments that have left civil service. The Commission received testimony from several witnesses, including those currently employed in municipal public safety departments, who report from first-hand experience that municipal police and fire department personnel do not adequately represent the diverse make-up of their communities. Upon review of workforce demographics filed in U.S. District Court, among other public data, the Commission has concluded that in fact the workforces of numerous civil service departments do not proportionally represent the diversity of the communities they serve.³²

The Commission was presented with some evidence relative to the demographic makeup of candidates seeking civil service positions in the Commonwealth. According to an analysis of the civil service entry-level exam candidates compiled by the Unit associated with three police entry exams spanning from 2017 to 2021, the percentage of applicants identifying as Black/African American or Hispanic/Latino increased during that time. The percentage of applicants identifying as Asian or Pacific Islander or Native American was consistent throughout this period.

³¹ For example, G.L. c.31A, § 9 requires the municipality to submit to a semi-annual audit of its merit system the first year the municipality accepts Chapter 31A, with annual audits thereafter.

³² See *Appendix B pg. 132-133, Boston Chapter, NAACP, Inc. et al v. Nancy B. Beecher, et al.*, no.73-cv-269 (U.S.D.C. Mass)(March 23, 2021 filing) (2020 data re: Police and Fire Departments under consent decree, attached as Appendix B hereto). Moreover, communities subject to Chapter 31 are required to provide demographic data to HRD pursuant to Section 67 of Chapter 31. Such data concerning all municipalities that responded with information pursuant to Chapter 31, Section 67 was requested, but not received, by this Commission.

Civil Service Entry Police Exam Applicants By Race

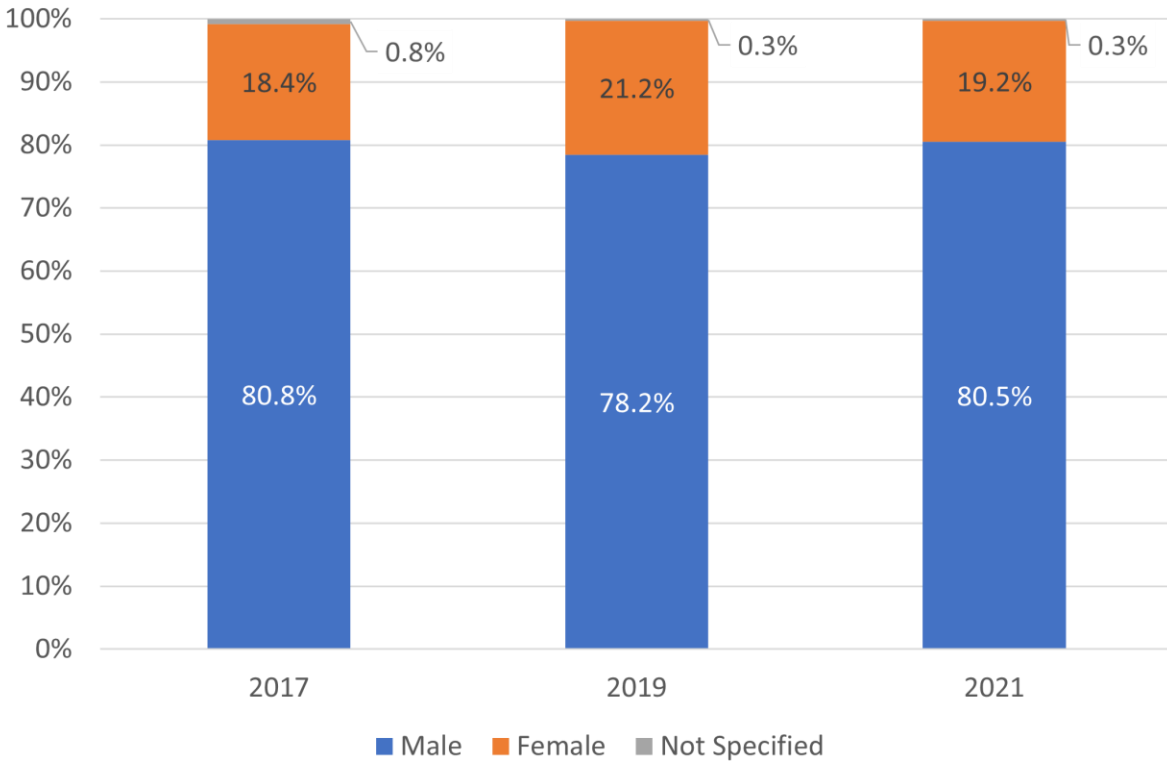


*Note Data include municipal, transit and state police in 2017 and 2021; municipal and transit only in 2015 and 2019 (state police did not elect to participate in exam in 2019).³³

HRD also presented the Commission with data regarding the gender makeup of police entry exam applicants. According to figures furnished by the Unit, the percentage of applicants identifying as female did not change significantly over these three exam periods.

³³ Data sourced from a presentation to the Commission by the Human Resources Division at the Commission’s 3rd meeting on Monday, July 12, 2021, <https://www.youtube.com/watch?v=hOF-MNaVuBY>, (38:19).

Civil Service Entry Police Exam Applicants - Gender



*Note Data includes municipal, transit and state police candidates in 2017 and 2021; but municipal and transit only in 2015 and 2019 (the MSP police did not elect to participate in the 2019 exam).³⁴

According to the most recent demographic data available on the Executive Branch Employee Diversity Dashboard, 13.7% of full-time sworn Protective Service Officers (i.e., troopers and superior officers) employed by MSP self-identified as people of color. Only 5.8% of the approximately 2,000 sworn Protective Service Officers are women.³⁵ Data presented to the Commission by the Department of Correction (“DOC”) showed that 16.7% of all Full-time employees (“FTEs”) in the DOC are self-identified people of color. The DOC has positions within civil service as well as non-civil service employees. Of DOC civil service employees, 18.1% are people of color, and 13.4% of the non-civil service FTEs are people of color.³⁶

The Commission further sought information from the municipalities that have left civil service as to the diversity make-up of their workforce at the time they left civil service and at the

³⁴ Data sourced from a presentation to the Commission by the Human Resources Division at the Commission’s 3rd meeting on Monday, July 12, 2021, <https://www.youtube.com/watch?v=hOF-MNnAVuBY>, (38:25).

³⁵ Data sourced from the official website of the Commonwealth of Massachusetts on the State Employee Diversity Dashboard page, <https://www.mass.gov/info-details/state-employee-diversity-dashboard>.

³⁶ Data presented during the Commission’s ninth meeting by The Department of Corrections, <https://www.youtube.com/watch?v=x9PvAIdZ4LU>, (17:57).

present time, but none have responded. As was announced by the Chair during the Commission’s meeting of March 4, 2022, the Commission may draw a negative inference given this lack of response to requested information concerning workforce diversity, including ethnic and gender diversity and veterans' status, in determining whether a municipality succeeded – or even attempted – in meeting the stated goals of increasing the diversity of its workforce and maintaining a preference for veteran hires.

CONCLUSIONS AND RECOMMENDATIONS

The recommendations outlined below recognize the value of merit-based personnel systems that are designed to ensure that the public sector workforce is qualified and also ensures fair and equal treatment of all public sector employees. Underpinning the Commission’s charge is the need to improve diversity, transparency, and representation of the community in recruitment, hiring, and training of public employees. After considering the data collected above, recent samplings of the municipal public safety workforce, other publicly available data, and testimony provided to the Commission, the Commission finds that people of color and women are largely underrepresented in public safety departments as compared to the communities they serve.³⁷ The Commission’s recommendations seek to strengthen public trust in Massachusetts public safety departments through amendments to the civil service law and personnel systems and in other ways.

I. TIME FRAME FOR COMMISSION WORK

The Commission has found that its work cannot effectively be addressed in one session of the Legislature, especially where its work has been limited to one calendar year. The challenges related to the administration of the civil service law are longstanding and complex. Many of the recommendations included in this report are derived from personal experience, expert opinion and hard data. But as will be detailed below, the Commission’s request for data have often been ignored or untimely provided.

Many of the recommendations propose revisions to the civil service system that have not previously been attempted and may require adjustment. Some of the recommendations require the establishment of new programs, funding and ongoing oversight. The Commission has recommended a reporting requirement for certain municipalities but systems are not yet in place to analyze and take action upon requested data. For these reasons alone, the Commission recommends that it remain active not only through the conclusion of the current legislative session but be re-formed beginning the first day of the 193rd session of the General Court. We anticipate the Commission, as it is reformed, may include different individuals because most of

³⁷ See e.g. Research: The Diversity Deficit: Municipal Employees in Metro Boston“, *MetroCommon*, 2020, <https://metrocommon.mapc.org/reports/14>.

the Commissioners have been designated in a representative capacity by the Act, but whoever is named to a newly constituted Commission should assemble and its work continue.

The Commission recommends that in the next legislative session it continue to hear from witnesses and determine whether further adjustments to the current system are necessary. Some opinions shared with the Commission have not advanced to the point of a recommendation herein, but may be worthy of further consideration in the next session. A continuation of the work of this Commission is, therefore, the first recommendation set forth.

II. INVESTING IN THE SYSTEM AND DIVERSITY ENHANCING INITIATIVES WITH NEW REVENUE

A. Correcting Underfunding of the Unit and Weaning Its Reliance on Exam Fees

Throughout the course of its work, the Commission heard that funding for the Unit is insufficient. As previously discussed in this report, projected fees serve as the basis for the Unit's appropriation at the beginning of each fiscal year. HRD receives an appropriation as a line item in the state budget consistent with its anticipated expenses in administering testing and other responsibilities. Concurrently, HRD receives fees from applicants registering for civil service examinations. The fees are accumulated by HRD and reverted to the General Fund, or deposited into the General Fund directly. The fees collected by HRD offset the appropriation, at least in major part, every year. This essential self-funding mechanism has been cited as limiting the Unit's effectiveness. Improvements to the civil service system in the Commonwealth depend on adequate and steady funding for the Unit.

To accomplish the improvements addressed in this Report, the Commission recommends an increase to the HRD budget for the work of the Unit in the amount of \$2 million. In FY22, the Unit was appropriated \$2,511,299.³⁸ Governor Baker's FY23 budget proposal considers a significant increase to the Unit's appropriation, funding the line item at \$4,611,299.³⁹ However, this increase is targeted at addressing the cost of converting HRD's civil service testing administration to a digital examination platform rather than for the expansion of programs and services. This Report recognizes that implementing many of the Commission's recommendations will require additional funding for the Unit.

The proposed budgetary increase may be ameliorated through a policy that allows HRD to retain a portion of its testing revenue, rather than serving as a mere pass-through for these fees

³⁸ This figure was sourced from the MA Legislature website on the FY22 budget page, <https://malegislature.gov/Budget/FY2022/FinalBudget>.

³⁹ This figure was also sourced from the MA Legislature website on the FY23 budget page, <https://malegislature.gov/Budget/FY2023/GovernorsBudget>.

as they are returned to the General Fund. While the effect on the state budget would be the same as an increase to the line item -- because any shortfall between the appropriation and testing revenue must be addressed within the budget -- this ready source of revenue may create an efficiency and predictability to encourage expansion of Unit's activities. Moreover, the Commission learned that the Massachusetts civil service system is unique in its funding approach. Other civil service systems in the United States typically do not rely on retained revenue from exam fees to fund their operations, as is the case, effectively, with the Unit at HRD.⁴⁰ While the Commissioners possessed insufficient information to consider the potential to decouple exam fees from the state appropriation in a way that would allow the Unit to retain a portion of generated fees for operational expenses, the Commission recommends that if the Legislature allows it to continue into the next legislative session that this topic be explored.

B. Expand Eligibility for Examination Fee Waivers and Implement a Cap on Examination Fees

The Commission has found that the high cost of examination fees is a prohibitive factor for many potential candidates and serves as an impediment to recruitment of a diverse workforce. Fees for entry police and fire exams range from \$100 to \$200.

The examination fee for those interested in policing cost \$100. As part of the process of becoming employed by a municipality, the applicant must also pass a Physical Abilities Test ("PAT"). The fee for the PAT is \$150. The Commission has learned that many municipalities cover the cost of the PAT for the conditional offeree.

The fire fighter entry exam includes both the written exam and the physical abilities exam. The cost for this test is \$200. The Commission knows of no source of financial assistance to applicants for the fire fighter exam other than a complicated and restrictive waiver process administered by HRD.⁴¹

The Secretary/Treasurer of the PFFM Billy Cabral testified:

*"Due to [the Unit's] lack of funding, both entry level testing as well as promotional testing prices have gone through the roof, making it difficult for men and women to take the entry level and promotional exams."*⁴²

⁴⁰ Regina Caggiano, Director of the Unit, gave a presentation on HRD's role during the Commission's 3rd meeting on July 12, 2021, <https://www.youtube.com/watch?v=hOF-MNaVuBY>, (17:54).

⁴¹ The Commission is advised that a large majority of exam takers do not find their name on a hiring certification and thus will not be made a conditional offer of employment.

⁴² Bill Cabral, PFFM Secretary/Treasurer, testified at the Commission's 10th meeting held on January 28th, 2022, (33:55).

While existing exam fee waivers are available to subsidize expenses for applicants on some form of public assistance, the Commission consistently heard that current exam fee waivers are ineffective, because the standard to qualify for them is too restrictive. The most common forms of public assistance accepted by the Unit include SNAP and WIC programs as well as unemployment benefits.⁴³ Many potential applicants choose not to disclose their reliance on these programs and therefore do not apply.

HRD explained that a significant reason that many applications are denied is the difficulty faced by applicants in providing supporting documentation. According to the Unit, of the 470 requested hardship fee waivers in FY19 for the entry police exam, only 160 of those requests were granted.⁴⁴ Throughout FY19, HRD administered 15 exams to 13,174 test takers. When the Commission inquired about the discrepancy in the number of requests for waivers and the number of waivers granted, HRD pointed to the lack of access to supporting documents necessary for approval.⁴⁵

The exam fee alone does not reflect the true cost of applying for a civil service position or promotion. Applicants often take multiple exams, incurring the exam fee each time. In addition, applicants may also feel the need to acquire test preparation materials, which can often cost hundreds of dollars.

The Commission recommends that HRD develop a strategy to expand access to waivers and test preparation materials, and streamline the waiver process. The Commission recommends HRD consider:

- (1) That waivers be offered in whole or in part;
- (2) Decoupling eligibility for a waiver from eligibility for public assistance; instead, eligibility could be tied, at least in the alternative, to a percentage of income above minimum wage. Any such calculation, however, should take into account the income of anyone who claims the applicant as a dependent on a tax return;
- (3) A waiver of the PAT examination fees, so that all applicants be treated equally, whether they have applied for an employment to a municipality that covers the cost of this examination or not;
- (4) A reduced fee for applicants who take an examination more than once;
- (5) A cap on total exam fees at \$100 per applicant; and
- (6) Making available test preparation materials without cost to the applicant.

⁴³ Regina Caggiano, Director of the Unit, gave a presentation on HRD's role during the Commission's 3rd meeting on July 12, 2021, <https://www.youtube.com/watch?v=hOF-MNaVuBY>, (20:01).

⁴⁴ Regina Caggiano, Director of the Unit, spoke to this issue during the Commission's 3rd meeting on July 12, 2021, <https://www.youtube.com/watch?v=hOF-MNaVuBY>, (18:29).

⁴⁵ During the Commission's 3rd meeting, Commissioner Higgins asked Regina Caggiano about the fee waivers for the civil service exams, <https://www.youtube.com/watch?v=hOF-MNaVuBY>, (45:20).

The Commission is aware that, under the Unit’s current fiscal model, any expansion of fee waivers or reductions in fees will create a shortfall between the appropriation from the General Fund and revenue generated from testing fees. However, because Unit budget shortfalls have been cited as a primary reason for delays and inefficiencies that frustrate municipalities’ abilities to efficiently fill vacancies, the Commission recommends that the Legislature consider a new strategy of fully funding civil service administration while retaining some cash flow opportunities for the Unit.

C. Extend publicly-funded Diversity Scholarship Offerings to Fire Science Programs and Create a Diversity Pipeline Initiative Linking Community Colleges to Municipal Fire Departments

As is true in most other states, the Massachusetts municipal fire service is heavily dominated by Caucasian males—in part due to complex social factors, and in part because the process for selecting firefighters has historically featured built-in elements that may tend to create greater barriers to entry for candidates from historically disadvantaged backgrounds. Due to changing expectations for the fire service, such as an expansion of the type of calls that involve fire service personnel, a lack of diversity in the fire force has become ever more problematic. Upwards of 85% of all fire department calls in recent years have sought paramedic, EMT, or other emergency assistance that does not entail deployment of fire suppression skills. Fire departments, now more than ever before, need to be as adept in communication skills as they are with fire prevention and safety measures because most of the job now centers around interaction with the public.

Women constitute only about 4.1% of all active firefighters nationwide. A detailed report on the status of female firefighters in the Boston Fire Department issued in 2018 revealed that barely 1% of the roughly 1,500 firefighters employed by the BFD are women. According to the Boston Globe, only one woman is a member of the Boston Fire Department’s current 90-member recruiting class.⁴⁶ Minorities are also vastly under-represented in most fire departments statewide. Among the 10 most racially-diverse cities in Massachusetts (most being majority-minority communities), only Springfield comes even close to rough parity between the non-Caucasian complement of firefighters and the diversity of the citizenry it serves.⁴⁷

⁴⁶ Boston Globe, March 10, 2022, “Boston Fire’s Newest Recruits Include Just One Woman in a Class of 90 ”. However, we point out that the BFD cooperated intensively with the independent investigators who authored the December 2018 report, and engaged substantively with this Commission on diversity issues over the course of multiple meetings, having planned for implementation of a fire cadet program and, among other things, employed a dedicated Diversity, Equity, and Inclusion officer.

⁴⁷ One Commissioner with first-hand information report that as examples of some cases of under-representation points to Everett Fire Department (fewer than 5% minority fire employees in a city that is more than 50% Black, Latinx, or Asian-American); Randolph (fewer than 9% minority firefighters in a city that is two-thirds minority);

In 2021, the General Court provided \$500,000 for the creation of a need-based scholarship pilot program for student officers to enroll in a full-time police academy. The purpose of these scholarships is to: “(i) promote diversity, equity and inclusion in the hiring of student officers; (ii) defray the upfront costs for qualified underrepresented and economically-disadvantaged individuals enrolled as student officers in a full-time police academy; and (iii) increase municipal police employment opportunities for underrepresented and economically-disadvantaged individuals.”⁴⁸

The Commission believes that many municipal fire departments in Massachusetts could increase the amount of diversity in their workforces as well, through the creation of diversity pipeline initiatives. Such initiatives could entail, among other things, diversity scholarships for minority youth interested in studying fire science; robust mentoring programs connecting youth from underprivileged backgrounds with incumbent firefighters; high school outreach efforts; and a program that could partner local fire municipalities with community colleges that educate thousands of diverse individuals. The outreach supported by such a program would help fire departments better reflect the communities they serve by greatly increasing the prospects of employing people who identify as minorities, as well as females—both constituting groups currently heavily underrepresented in fire departments across Massachusetts.

These efforts would not bypass the civil service infrastructure. Candidates who complete the programs or courses of study highlighted herein would be expected to sit for a civil service examination, and compete for employment with other applicants. The intent of these initiatives is to generate interest in public safety careers, focusing on members of historically underrepresented communities. In view of the investments of considerable time and effort in a proposed program elaborated below, that, for successful graduates, would entail earning a fire science degree, participating in a part-time fire cadet and mentoring program, and undertaking a rigorous physical fitness regiment, the Commission recommends establishing a defined education and training preference in civil service hiring for graduates, consistent with the recommendation in Section II D below.

1. Worcester as a Pilot Program Destination

Worcester would be an attractive choice for launching a pilot program to support such a diversity pipeline, given its size as the state’s second-largest municipality and its geographical location in central Massachusetts. The Worcester Fire Department has a demonstrated interest in advancing inclusionary hiring, including its appointment of Captain William Mosley, a superior officer of color, as its Chief Diversity Officer, some four years ago. Worcester’s municipal fire department, however, represents just one of many in Massachusetts that is still lagging in its

Lynn (13% minority firefighters in a city that is 61% minority); and Brockton (fewer than 12% minority firefighters in this majority-minority city).

⁴⁸ See St. 2021, c. 102, § 67.

diversity efforts and thus falls short of fairly reflecting the demographics of the population it serves. The 2020 census of Worcester residents counted 206,518 inhabitants, of which 51% are female and 35.2% identify as minorities.⁴⁹ However, the Worcester Fire Department, which consisted of 387 firefighters as of its last report to HRD, is only 10.8% minority and 2% female.

As part of the pilot initiative, the Worcester Fire Department would partner with Quinsigamond Community College (“QCC”). QCC is a community college in Worcester that offers both online and in-person classes for its more than 13,000 students, of whom 53% are women and 49.1% are members of diverse groups that have traditionally been disadvantaged in employment opportunities. QCC’s demographics and broad array of educational opportunities, including a fire science program, could permit it to serve as a key repository of information for a diverse population of college-bound Central Massachusetts students about the fire service as a potential career.

2. Diversity Pipeline Program

The QCC-Worcester Fire Department Diversity Pipeline program would attempt to replicate the bottom-line results of successful police mentoring programs established throughout Massachusetts. The Commission envisions a program wherein QCC would provide classes in fire science and related subjects and the Worcester Fire Department would provide hands-on experiences, mentoring, and perhaps some personnel to lead a new physical fitness regimen organized by community college personnel. The Commission also looks to programs such as the Black Fire Brigade in Chicago for inspiration. In a 12-week program, Chicago firefighters help train youth in first aid, cardio-pulmonary resuscitation (CPR), other EMT skills, and the basics of how ambulances operate, among other topics. Training program participants receive a \$24,000 stipend and the founder of the program reported in February of 2022 that he has a waiting list of 500 young people.⁵⁰

Members of this Commission hope to spark a deeper, broader, and more vigorous public conversation around the “diversity, equity, and inclusion” imperative (and other related ingrained issues) challenging many Massachusetts fire departments, especially those departments serving the largest urban centers and our state’s gateway cities. The outreach aspect of this program could eventually reach deeper into local high schools to help teenagers understand the steps that they should take so that they might one day end up on the top of the civil service entry-level firefighter hiring list.⁵¹

⁴⁹ “U.S. Census Bureau Quickfacts” for Worcester, MA., <https://www.census.gov/quickfacts/worcestercitymassachusetts>, last visited March 20, 2022.

⁵⁰ Michael Puente, “Program in Chicago attracts more minorities into the fire house,” NPR News, February 22, 2022.

⁵¹ To quote the founder of the Black Fire Brigade, Lt. Question Curtis: “I’m a Chicago firefighter today for one reason. At 12 years old, I’d seen my first Black fireman and, at that point, I decided that’s what I want[ed] to be. And, sadly, today I challenge the city to go into a Black neighborhood and find a Black fireman.” Program in Chicago attracts more minorities into the fire house, Michael Puente, NPR News, February 22, 2022.

D. To Establish a Diversity Scholarship Program For Other Civil Service Recruits

The Commission received testimony and evidence that revealed a lack of a diverse workforce among municipal police departments and correctional officers along with fire departments as previously described. While data to support this contention has not yet been provided by HRD to the Commission, the Commission expects the diversity challenges for municipal policing, the MSP, Massachusetts' correctional officers, parole, and environmental police officer to be roughly consistent with patterns found among municipal fire departments.

The Commission recommends that HRD establish and the Legislature fund a diversity scholarship program to assist students who pursue a degree or certificate in Criminal Justice or other public safety related programs at Massachusetts' community colleges or public institutions of higher education. While the appropriation for the scholarship would be up to the determination of future legislatures, the Commission recommends that it be sufficient to provide a meaningful incentive for a person seeking to enter the public safety fields. The Commission recommends that preference for this scholarship be given to women and members of traditionally disadvantaged communities. The Commission recommends that HRD establish criteria that would encourage, if not require, a student who successfully completes a degree program or certification to sit for an applicable civil service examination in pursuit of a civil service career.

The Commission heard testimony but offers no recommendation on the topic of whether a student who successfully obtains a degree or certificate in an applicable Criminal Justice or related field of study may be given a preference. Without the financial assistance to ensure such an education is within reach of all potential applicants, the Commission would not recommend such a preference. However, the Commission recommends that if it is authorized to continue its work into the next legislative session that the topic of an educational preference if coupled with scholarship availability would be appropriate to include in any future examination of the civil service system.

E. Establishment of Office of Diversity, Equity and Inclusion with Outreach Budget

1. An Office of Diversity, Equity and Inclusion Focused on Civil Service

The Commission received testimony from witnesses and has reviewed the Administration's current organizational composition to determine the feasibility of creating a statewide diversity office within the executive office of A&F. The Commission has learned that the duties and responsibilities concerning issues involving diversity, equity and inclusion currently fall within the job description of the Director of Diversity and Equal Opportunity ("Director") employed by HRD. While the Director has performed her responsibilities to the best

of her ability and with all good intent, the Commission recommends that, in order to fully and effectively satisfy the necessary duties of a diversity office focused on the civil service system, A&F create a new position at the Manager level,⁵² dedicated to expanding, maintaining, overseeing and addressing diversity in civil service employment throughout the Commonwealth.

This new Manager of Civil Service Diversity, Equity and Inclusion (“DEI Manager”) would be responsible for overseeing initiatives and addressing issues involving Diversity, Equity and Inclusion in public safety employment, with a particular focus on civil service municipalities and municipalities that have left the civil service system. The DEI Manager would also have jurisdiction over Chapter 31-related processes affecting civil service employees within the relevant state agencies. We recommend that the CHRO be charged with creating a job description for the DEI Manager that directs the DEI Manager, at a minimum, to establish affirmative action plans and guidelines for municipalities, oversee the implementation of these plans and guidelines, and monitor noncompliance.

The DEI Manager would report directly to the Director of Enterprise Staffing Support and would be compensated at approximately \$100,000 to \$110,000 per year, plus customary benefits. To assist the DEI Manager in these responsibilities the Commission recommends that A&F add a second new position to be created at the Coordinator level. This Coordinator would be expected to report to the DEI Manager, with particular focus on assisting municipalities to assure compliance with any standards A&F will establish. An employee at the Coordinator level is currently compensated at a salary of approximately \$70,000 to \$75,000, plus benefits. To the extent the CHRO or DEI Manager deems necessary, a second Coordinator position support staff level position should be created to assist in the assignments of the office. To account for these new salaries, and for office space and infrastructure, we recommend a line item in the Commonwealth’s budget in the amount of \$500,000 annually.

2. Enhance Recruitment Resources for Civil Service Communities

Many witnesses advised the Commission that one critical way the Unit can assist municipal departments that seek to attract a diverse and well qualified workforce is to help them in expanding the list of qualified candidates, including those from diverse backgrounds. The municipalities sought assistance both directly, with guidance and programs that could assist their marketing and recruiting efforts, and indirectly, by creating and maintaining a state-wide effort to introduce potential sources of recruits to employment opportunities.

The Commission recommends that the new DEI Manager be provided with a budget sufficient to engage in areas of community outreach, digital marketing, and other areas consistent

⁵² At a level established as M-VII or above.

with this report. With this additional funding, the DEI Manager may be charged with the creation and distribution of educational and promotional materials throughout the Commonwealth. Recruitment staff would oversee the expansion of recruitment locations to include schools, particularly community colleges, religious institutions, and community centers. The Commission recommends that recruitment initiatives take place year-round, and not just before exams, as is currently the case.

In addition, as part of enhanced local outreach, the Commission recommends the establishment of mentorship programs between seasoned public safety officers and potential candidates. Local radio, television, and internet ads to promote public safety service should also be sponsored from within this budget.

The Commission recommends the creation of shared tools and resources, including an interactive website, with access shared with municipalities. A shared services model would be particularly beneficial for smaller communities that do not have their own dedicated recruitment budget and/or staff. It would serve as an incentive for municipalities to remain within the civil service system, and perhaps a reason for municipalities whose departments have left civil service to return.

III. AMEND LEGISLATIVE COMMITTEE RULES

While the desire to increase workforce diversity is often cited as a prevailing factor by communities that wish to separate from the civil service system, the Commission has found that communities that have left the civil service system have oftentimes been unable to improve upon workforce diversity. While most if not all municipalities seeking to exit the civil service system express an intent to protect the preferences for veterans, disabled veterans, and other classes that receive preferences, the Commission has learned that the provisions that replace the so-called veteran's preference among the communities that have left civil service are usually inadequate.

The Commission heard, in live testimony, that “there are many glaring examples of municipalities that have gotten out of civil service, that their exit did nothing to address minority and veteran hiring, only to have patronage take over a fair and equitable system.”⁵³ When discussing one community that left civil service, the Commission learned that “during the fight to leave civil service, the main argument made by both the [Wellesley] fire chief and the police chief was their inability to diversify while under civil service, but it’s widely reported right now

⁵³ Billy Cabral, PFFM Secretary/ Treasurer, testified at the Commission’s 10th meeting held on January 28th, 2022, <https://www.youtube.com/watch?v=tN0SP15Z9dg>, (35:34).

that in 2012, there were three minority firefighters on the Wellesley fire department. Nine years after leaving civil service, that number still sits at three minority firefighters out of fifty-five.”⁵⁴

To help ensure that communities that intend to leave civil service make a good-faith effort to improve workforce diversity and participation, the Commission recommends that any petition to the Legislature be accompanied by a written Memorandum signed by the executive body of the municipality presenting the petition, and certified by the Clerk (“Municipal Report”), that includes certain minimum protections for applicants from diverse backgrounds. It should include preferences for veterans, disabled veterans, and families of fallen public service officers. It should explain a fair and impartial avenue for appeals.

The Commission recommends that the Committee incorporate within its Rules for the 193rd session and beyond the requirement that it cannot act upon a petition for any department seeking to leave public service without such a Municipal Report. This would not apply to petitions seeking to excuse particular management positions from civil service, but focus on departments, or a significant portion of departments, seeking to leave. Such a predicate for legislation to be acted upon by the Committee is not unique. The Committee currently includes a restriction on petitioners seeking group re-classification within its Section C.

The Municipal Report must include provisions establishing the structure and governing the operation of a personnel system that will replace the provisions of Chapter 31 that must address, at a minimum, basic local structural and/or operational provisions including:

- 1) The recruitment of candidates for positions that assures open competition with emphasis on attracting candidates from groups that are underrepresented in the work force;
- 2) The selection of candidates for appointment to positions in a manner that emphasizes, to the maximum extent feasible, job-related criteria;
- 3) Systematic approaches to promoting individuals to higher-level positions that embrace: (i) open competition among qualified applicants; and (ii) opportunities for upward mobility through training, education, and career-development assignments;
- 4) Training and development programs that increase proficiency for municipal employees in their present positions and prepare them for higher-level positions;
- 5) A transparent, accessible, neutral, and unit-independent disciplinary appeals process;
- 6) A centralized municipal personnel record-keeping system that is open to periodic inspection by a designee of the Commonwealth’s Chief Human Resources Officer;

⁵⁴ See statements of Commissioner Flynn during Commission’s 5th meeting held on August 6th, 2021, <https://www.youtube.com/watch?v=X2gw4Bxpndg> , (30:43).

- 7) A well-publicized, thoroughly-vetted, written standards of conduct for municipal employees, including prohibitions against unwarranted political interference in the personnel system;
- 8) The retention of a form of hiring preference for disabled veterans, veterans, widows or a single parent of veterans, a child of a public service officer killed or injured in the line of duty; and
- 9) Assuring fair treatment of all applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, age, national origin, sex, sexual orientation, gender identity, marital status, veteran status, disability or religion.

Moreover, the Commission recommends that municipalities with petitions currently before the Legislature seeking to remove departments from the provisions of Chapter 31 be required to provide such a Municipal Report before the petition may be acted upon. The Commission points out that this requirement should not be considered burdensome or onerous, because it appears to be a reasonable and necessary step in considering a departure from the protections of Chapter 31. Finally, this Commission recommends that the new DEI Manager reach out to the municipalities whose departments have left the civil service due to an Act of the legislature in recent years and encourage them to publicly report on the demographics of their workforce consistent with the requirements of the Municipal Plan, every two years. This report would be provided to the Commission, if the Legislature extends the authority of the Commission beyond the current legislative session. Were this to occur, the Commission may delegate oversight of the review and potential remediation of the shortcomings that may be revealed by Municipal Report to a third-party entity, such as the Civil Service Commission, the Chief Human Resources Officer, the Attorney General, or any panel created thereby.

IV. RECOMMENDATIONS REQUIRING LEGISLATIVE OR ADMINISTRATIVE ACTION

A. Examine Amendments to Chapter 31A

As part of the last major overhaul of the Commonwealth's civil service laws some 40 years ago, the Legislature added Chapter 31A. Chapter 31A was designed to, “[p]rovide a local option for full decentralization of the existing civil service responsibilities.”⁵⁵ Rather than requiring municipalities to remain subject to the “extremely detailed and precise” requirements of Chapter 31, Chapter 31A was intended to offer “flexibility [to] appointing authorities” in the “exercise of reasonable management judgment” regarding personnel matters.⁵⁶ At the same

⁵⁵ Kevin F. Kiley, ed., *Civil Service Reform: A Guide to Chapter 767 of the Acts of 1981* at 7 (U.Mass. Institute for Governmental Services and the Special Commission on Civil Service, May 1982).

⁵⁶ Kevin F. Kiley, ed., *Civil Service Reform: A Guide to Chapter 767 of the Acts of 1981* at 7 (U.Mass. Institute for Governmental Services and the Special Commission on Civil Service, May 1982).

time, however, what is today the Commonwealth's HRD was required to develop a robust auditing capacity to monitor compliance with the civil service laws by local appointing authorities.⁵⁷

Any city or town that, prior to 1982, had been subject to Chapter 31 could become exempt from the state's civil service laws if it adopted a local personnel ordinance or by-law, had majority support of the municipality's executive officers, first conducted a public hearing, and then followed that up with a successful public referendum adopting Chapter 31A. Certain provisions of Chapter 31 would nonetheless remain in force under a local personnel system governed by Chapter 31A. For example, all testing for municipal public safety positions would continue to be administered by HRD in accordance with Chapter 31 provisions, tenured civil service employees "and their successors" could still appeal disciplinary actions, examination disputes, and the results of performance evaluations to the CSC if dissatisfied with the option of proceeding before a local arbiter and the veteran's preference provisions of G.L. c. 31, §§ 25, 26, and 28, would remain in effect.⁵⁸ Chapter 31A also introduced some new requirements:

- (1) Local adoption of a personnel ordinance or by-law transferring a municipality from Chapter 31 to Chapter 31A first required review of the local law by the state Personnel Administrator for conformance with basic merit principles and then final acceptance by the community via majority vote in a referendum.
- (2) Each municipality accepting Chapter 31A was required to create a local merit system (that featured a three-member Local Merit Appeals Board (LMAB) to act as an appellate board in municipal employee disciplinary matters) and also appoint a local personnel director experienced in personnel management.
- (3) As noted above, Chapter 31A also mandates HRD to conduct annual performance audits of the local merit system and empowers HRD to penalize any community that violates basic merit principles.

Whether it was because of the heavy-handed audit provision in § 9, the requirement of creating an LMAB when collective bargaining agreements uniformly provide for another disciplinary dispute resolution process (typically grievance hearings followed by binding arbitration), or another requirement perceived as costly or onerous, no municipality in Massachusetts has ever permanently adopted Chapter 31A. But some of Chapter 31A's basic protections and processes remain legitimate measures of a successful decentralized personnel system.

The Commission recommends that a more in-depth examination of these features be undertaken if this Commission is authorized to continue into the next legislative session. The Commission would be tasked to examine whether the provisions of Chapter 31A could be

⁵⁷ See St. 1981, c. 767, §§ 14 and 24.

⁵⁸ See G.L. c.31A, § 3.

amended to provide a reasonable, acceptable alternative to the provisions of Chapter 31 for municipalities that seek to operate independent of the Unit in overseeing their public safety departments. The Commission should examine, in particular, whether:

- The “Basic merit principles” defined in G.L. c. 31, § 1, should become binding on all municipal departments that henceforth become exempt from Chapter 31 requirements, including all municipal departments that became exempt from Chapter 31 since 1981, or all Massachusetts cities and towns; or some subset thereof.
- Chapter 31A, § 6, should be amended to require all Massachusetts cities and towns to designate in writing to HRD the name and contact information (updated as necessary) of a senior municipal official with responsibility for personnel matters.
- All Massachusetts cities and towns, or some subset thereof, should be required, via an amendment to G.L. c. 31A, § 4, to adopt basic local structural and/or operational provisions guaranteeing:
 1. The recruitment of candidates for positions in a way that assures open competition with emphasis on attracting candidates from groups that are underrepresented in the workforce;
 2. Establishing an acceptable form of preference for the hiring of military veterans;
 3. The selection of candidates for appointment to positions in a manner that emphasizes, to the maximum extent feasible, job-related criteria;
 4. Systematic approaches to promoting individuals to higher-level positions that embrace: (i) open competition among qualified applicants, and (ii) opportunities for upward mobility through training, education, and career-development assignments;
 5. Training and development programs that increase proficiency for municipal employees in their present positions and prepare them for higher-level positions;
 6. A transparent, accessible, neutral, and unit-independent disciplinary appeals process;
 7. A centralized municipal personnel record-keeping system that is open to periodic inspection by a designee of the CHRO; and
 8. Well-publicized, thoroughly-vetted, written standards of conduct for municipal employees, including prohibitions against unwarranted political interference in the personnel system and an assurance the employees enjoy the right to exercise constitutional freedoms, including participation in the political process.

In addition, in order to fulfill the Commission’s mandate, the Commission should consider whether all Massachusetts cities and towns, or some subset thereof, should be required, via amendment to Chapter 31A, to furnish to HRD on an annual basis basic demographic data regarding the composition of their workforce, with increased detail required of its public safety

departments.⁵⁹ Municipalities should be encouraged to file with HRD a document outlining their goals for increasing diversity within their municipal work forces. The Commission might consider recommending the establishment of a state board or panel consisting of one designee of the Attorney General, one designee of the Chief Human Resources Officer, and one designee of the Chair of the Civil Service Commission to review all such annual reports, issue recommendations for further progress toward diversity goals, and coordinate technical assistance to municipalities striving to meet diversity objectives.

If almost all non-probationary state employees who are not political appointees or tenured civil service employees [i.e., “provisional” civil service employees] are guaranteed the right to an informal “name-clearing” hearing in the event of contemplated disciplinary action,⁶⁰ the Commission should consider whether similar protections should be afforded municipal employees as a matter of right in any revised version of Chapter 31A. Without this protection (to give just one example), a Caucasian male who does not fall into any category protected by G.L. c. 151B, § 4, who interviews for an entry-level police officer position, and who comes to learn that his candidacy was rejected on account of a demonstrably false assumption by the hiring authority, or who has unfairly been deemed untruthful, may find himself “blackballed” from employment⁶¹ as a police officer in Massachusetts without any effective recourse.

⁵⁹ Section 67 of Chapter 31 requires all civil service communities to submit to HRD, on or before March first of each year, a list of all civil service employees in its employ as of January second of the same year. HRD’s “Form 67” captures additional data such as the gender and racial identification of all such employees and the statute mandates that this annual report shall be made under the penalties of perjury. Furthermore, a monetary fine may be assessed against any municipal appointing officer who fails to abide by certain portions of this statute. The Superior Court is empowered to enforce this annual reporting requirement “upon petition by one or more taxable inhabitants of a city or town or upon suit by the attorney general.” G.L. c. 31, § 67.

⁶⁰ The third paragraph of G.L. c. 31, § 41, provides: “If a person employed under a provisional appointment for not less than nine months is discharged as a result of allegations relative to his personal character or work performance and if the reason for such discharge is to become part of his employment record, he shall be entitled, upon his request in writing, to an informal hearing before his appointing authority or a designee thereof within ten days of such request. If the appointing authority, after hearing, finds that the discharge was justified, the discharge shall be affirmed, and the appointing authority may direct that the reasons for such discharge become part of such person’s employment record. Otherwise, the appointing authority shall reverse such discharge, and the allegations against such person shall be stricken from such record. The decision of the appointing authority shall be final, and notification thereof shall be made in writing to such person and other parties concerned within ten days following such hearing.”

⁶¹ It is commonplace for police department hiring officials to require all applicants to disclose any prior applications with other law enforcement agencies and to follow up by requesting access to the hiring records of agencies that chose to bypass an applicant. The new statewide Peace Officers Standards and Training (POST) Commission might also come to learn of a municipal police chief’s decision to forego hiring a candidate on grounds of untruthfulness, even if further investigation reveals that the police chief’s assessment of the candidate’s character was wholly erroneous.

B. Examine Adjustments to Residency Requirements for Prospective Candidates

G.L. c. 31, § 58 (“Section 58”) provides the framework for a municipality within the civil service system that seeks to hire a new public safety officer to request from HRD a current list of eligible candidates. Section 58 addresses the manner in which residents of the requesting municipality are included on the list. This section provides an opportunity for a municipality to essentially favor its own residents for employment opportunities by requesting HRD to move its residents above all other applicants on any eligible list. Section 58 sets forth, *inter alia*, that: “upon written request of the appointing authority to the administrator, the administrator shall ... place the names of all persons who have resided in said city or town for one year immediately prior to the date of examination ahead of the name of any person who has not so resided.” This clause from Section 58, therefore, effectively allows a municipality to request a list of candidates for new employment that places the names of its residents ahead of all other applicants. For municipalities whose population is largely Caucasian/white, this provision would hinder diversification of the municipalities’ workforce.

Section 58 defines “resident” for the purpose of this preference as, “any person who has resided in a city or town for one year immediately prior to the date of examination for original appointment to the police or fire force of said city or town”. This Commission recommends the Legislature consider amending the definition of “resident” as used therein. Under the current definition, an applicant who becomes aware of openings in a particular municipality but who has never resided in that municipality may move there one year prior to take the civil service exam, remain for one year, and then be considered a resident of that municipality with the same residency protection as a lifelong member of the community. It also means that a person with a significant stake in and identification with a community may be blocked by a residency requirement, where, for example, the person moves to another location for an education or to obtain employment or because of the high cost of housing. This Commission recommends that it be allowed to continue its work, to determine the frequency in which the scenario described in this paragraph actually occurs. If the practice is widespread, the Commission may consider amending Section 58 so that individuals may be given the option of naming any one community as their “residence”, as long as they can demonstrate a long-term commitment to or involvement with the community, such as whether it is the place where they grew up or went to school.

Therefore, the Commission recommends that this Commission retain jurisdiction over the issue to determine the number of municipalities that enforce a residency requirement, and whether the municipalities contiguous to the municipality enforcing a residency preference enforce one as well. If that is the case, it is likely that no single municipality in the region would consider amending its position, out of concern it would disadvantage its residents in employment opportunities. The Commission may also consider whether any municipality in which a majority of its residents are members of a class that has historically been disadvantaged and therefore where a diverse pool of available applicants is available, should be considered to be in

a different category as municipalities that are largely white/Caucasian. Therefore, the Commission should consider any “opt-out” to any revision to the residency standard under current law.

C. To Adjust the Formula for Creating Entry-Level Hiring Certifications

Currently, civil service communities must abide by the strictures of the so-called “ $2n+1$ ” certification formula when making original or promotional appointments. When an appointing authority seeks to begin a hiring process, the hiring official furnishes the Unit of HRD with the anticipated number of vacancies it intends to fill in any given hiring cycle for a particular position. In turn, HRD certifies a list of the highest-placed candidates (the “certification”) from the roster of all hiring-eligible individuals who both passed the entry-level civil service examination and expressed interest in working for that hiring department. The number of names on the certification is set through the use of a formula commonly referred to as “ $2n+1$,” with “ n ” representing the number of vacancies the hiring department seeks to fill.⁶² For example, when filling one ($n=1$) vacancy, a civil service community is limited to selecting from the three ($2 \times 1 + 1 = 3$) highest-ranked candidates willing to accept appointment. A hiring department that wishes to fill five vacancies would receive a certification containing a sufficient number of names to generate 11 candidates willing to accept appointment ($5 \text{ vacancies} \times 2, \text{ plus } 1$). If appointing authorities wish to bypass these candidates in favor of lower-ranked candidates for sound reasons, the community, under current law, may not consider additional candidates beyond the initial 11 highest-ranked candidates who signed as willing to accept appointment. Fire and Police Chiefs have regularly identified the relatively small size of the “finalist” hiring pool as a primary reason for leaving the civil service system, while labor unions and veterans’ groups argue that a controlled formula dissuades local appointing authorities from falling prey to nepotism and prevents appointments from being influenced by personal or political biases.

Section 27 of Chapter 31 contains language that, while somewhat opaque, appears to codify the $2n+1$ formula. Many years ago, HRD promulgated a regulation that more explicitly mandates use of the $2n+1$ formula and the process described above has been standard practice for decades now, even when HRD delegates to a local appointing authority responsibility for administering the hiring process.

The Commission recommends switching from the current $2n+1$ formula to a “ $3n+1$ Plus” formula. This proposal would apply only to entry level hiring and not promotions. This modified formulation would allow for the creation of larger certifications by multiplying the number of vacancies to be filled by 3 instead of 2. In addition, under the Commission’s proposal, should an

⁶² The same formula is used for promotions but the Commission is only proposing a modification of the formula for entry-level hiring given that several commission members and various citizens offered testimony attesting to the efficacy of the current formula in the distinct process of considering internal candidates for promotion.

appointing authority bypass a candidate, for each such valid bypass the appointing authority may “pull up” onto the certification an additional candidate who signed the certification as willing to accept appointment and who currently ranks highest on the larger hiring-eligible list—so long as every bypassed candidate gets the reasons in writing for their non-selection and is advised of a right of appeal to the CSC. A second subsidiary proposal to afford communities with greater hiring flexibility that is being endorsed by the Commission would stipulate that whenever a candidate whose name appears on the original certification has been bypassed, the hiring authority would not be required to reconsider that individual’s candidacy if his or her name appears on a subsequent certification *generated from the same eligible list*. This proposal accounts for the reality that most hiring eligible lists last for two years before being replaced by a new master list following administration of a new examination and many communities end up calling for multiple certifications as part of separate hiring cycles undertaken within that two-year period. Presently, an appointing authority must file a request with HRD to remove from subsequent certifications a bypassed candidate and receive HRD’s approval. This can be a cumbersome process; one which, in the Commission’s view, could safely be eliminated because the bypassed candidate would still be afforded the same due process appeal rights as guaranteed under current law. If the bypass were to prove illegitimate, the CSC could always exercise its remedial authority to order placement of the improperly bypassed individual’s name at the top of the next certification; however, in the absence of such an order, the hiring authority would not have to reconsider the application of an individual they had so recently rejected.

Appendix C illustrates the practical impact of modification of the certification process through use of the proposed 3n+1 Plus formula, as compared to application of the existing 2n+1 formula⁶³. In short, if a civil service community undertakes two separate hiring cycles within the life of one eligible list, in which five vacancies are to be filled at the end of each cycle, and yet is compelled to bypass two candidates (for legitimate reasons) in each cycle, the new proposed formula would allow that appointing authority to consider 16 viable candidates in *both* hiring cycles. Under the current 2n+1 formula, however, the same hiring authority would only have **nine** viable candidates to consider in the first cycle and only **seven** viable candidates to pick from in order to fill five vacancies in the second hiring cycle.

By enlarging the pool of viable finalist candidates, this proposal should enhance the ability of appointing authorities to afford concerted consideration to the candidacies of individuals from groups that are underrepresented in the work force. Current law permits selection of a slightly lower ranked minority candidate in the finalist pool if the selection process employed historically has had an adverse impact on minority groups, substantial underrepresentation persists, and the minority candidate possesses unique attributes that will enhance the department’s ability to serve the local citizenry. The PAR, which have the force of law as regulations, provide in relevant part as follows: “Upon determining that any candidate on a

⁶³ See Appendix C pg. 134-136

certification is to be bypassed . . . an appointing authority shall, immediately upon making such determination, send to [HRD] in writing, a full and complete statement of the reasons or reasons for bypassing a person or persons more highly ranked, *or of the reason or reasons for selecting another person or persons, lower in score or preference category*. Such statement shall include *all positive reasons for selection* and/or negative reasons for bypass on which the appointing authority intends to rely or might, in the future, rely, to justify the bypass or selection of a candidate or candidates.” PAR .08(4) (emphasis added).

D. To Allow Flexibility in Civil Service Exam Frequency

The Commission learned of a recent decision by HRD to change the civil service exam frequency to an annual exam instead of the traditional two-year exam schedule. The Commission identified varying viewpoints pertaining to the implementation of an annual exam schedule. This new annual exam schedule appears to benefit most municipalities and applicants. However, larger urban municipalities such as Boston cited various objections to an annual examination schedule on the basis that an annual exam will be disruptive to the hiring process and negatively impact city residents of diverse backgrounds. After consultation with HRD, the Commission discerned no material objection to implementing a flexible exam option.

HRD cites statutory constraints that prevent the CSC from allowing municipalities to opt-out of annual examinations.⁶⁴ Therefore, the Commission recommends providing authority to municipalities to opt-out of the annual exam schedule, in deference to the traditional two-year schedule in order select the exam frequency best suited for their individual needs. While the Commission supports an opt-out provision, the Commission recommends that the law require municipalities to participate in the relevant examination at least once every two years. HRD also cites programmatic and technology changes associated with a flexible examination option. Therefore, the Commission recommends that statutory changes afford HRD adequate time with which to implement this option.

E. To Allow Appointing Authorities to Consider Highest Exam Score

Currently, an applicant’s examination score remains active for two years, and an applicant who re-takes an examination and does not perform as well as on a previous examination must accept the lower exam score in applications for employment. This practice is inconsistent with the way in which scores on other common standardized tests are handled, such as the SAT, and puts candidates in the position of having to decide whether they wish to “gamble” on achieving a higher score after already taking the examination. The Commission

⁶⁴ HRD informed the Commission that in order to provide the option for municipalities to “opt-out” of the annual civil service exam, for a more flexible exam cycle, there must be amendments made to Chapter 31.

recommends that applicants who take an exam more than once be allowed to carry forward their examination scores for up to three years, and that the highest score of an applicant who re-takes any civil service examination will be considered for the purpose of their position on eligible lists. This change would particularly benefit individuals who have in the past not been successful standardized test takers, or who have not been frequently exposed to standardized testing or test preparation services in the past.

F. To Amend Chapter 31 to Allow an Applicant to Take an Entrance Exam Prior to Turning the Minimum Age Necessary to Hold the Particular Civil Service Position

The Commission proposes a leading window of exam eligibility of 6 to 12 months before an applicant turns the minimum age necessary to hold the particular civil service position. This proposal would afford applicants greater certainty in their civil service job prospects by allowing them to begin the application process earlier, rather than requiring that prospective applicants wait to begin the process. Therefore, this proposal would allow hiring entities under the civil service system to better compete with non-civil service employers for qualified applicants.

G. Enhance Flexibility in Use of Selective Certifications

The Commission recommends simplifying and increasing the flexibility for selective certification lists. Under the PAR, a municipality may request a selective certification list for persons having specialized and job-related qualifications.⁶⁵ These qualifications are in addition to general qualifications covered by exams. In order to receive a selective certification list, the appointing authority must complete a questionnaire and provide HRD with certain statistical information related to its request.

For example, a selective certification for specific language skills would require that an appointing authority provide HRD with the nature and frequency of the contacts between public safety employees in the position title and non-English speaking members of the local population. This includes the number of calls that need an interpreter for the language fluency being requested and the number of incidents in the community where an interpreter is needed.

Generally, to obtain a selective certification for a foreign language skill, the appointing authority must be able to clearly document that those who hold a particular title must have the additional qualification of fluency in a language other than English in order to adequately serve the public. It is the Commission's understanding that some public safety departments have not collected the data necessary to obtain a selective hiring certification, or that they have

⁶⁵ PAR.10 dictates the criteria for a municipality to receive a special certification from civil service.

insufficient data. On that subject, the Commission considered a recent language skill request submitted by the town of Norwood, which has a large Brazilian community, to HRD.

“Norwood has a heavy Brazilian community,” said Norwood Police Chief William Brooks III to the Commission. “When I first became chief and we were still in civil service I wanted to hire bilingual officers. I wrote to civil service asking for a selective certification list of Portuguese speaking officers. As part of my justification, I cited that Norwood Hospital uses translators and tracks the number of translations they need. In the year prior to my request, Norwood Hospital had needed Portuguese translators 1,100 times. That was all in a single year. Civil service denied my request.”⁶⁶

Therefore, the Commission recommends advancing legislation aimed at simplifying the process for obtaining a selective certification list so that HRD should be authorized to accept statistics concerning demographic data with respect to language used within the particular municipality when considering approval of access to a selective certification list. The Commission will continue its discussion of simplifying the process for obtaining selective certification lists should it continue into the next legislative session. Moreover, the Commission also recommends that if it continues its work into the next legislative session, further study should focus on the potential to simplify the process for obtaining certification lists, such as lists pertaining to gender.

H. Clarify and Enhance the Authority of the Civil Service Commission

The Commission recommends a number of amendments to Chapter 31 to update and clarify the statutory authority of the CSC and facilitate successful discharge of its statutory mandate of ensuring compliance with the Commonwealth’s civil service laws. The proposed amendments include:

- Clarifying bypass appeal procedures;
- Updating CSC’s authority to award attorneys’ fees;
- Enhancing the CSC’s remedial toolbox;
- Aligning Chapter 31’s “basic merit principles” with chapter 151B’s anti-discrimination provisions;
- Affording commissioners discretion to preserve the confidentiality of acutely sensitive personal information; and

⁶⁶ See Appendix A pg. 025 for Report of Subcommittee on Municipalities not Subject to the Civil Service Law. The Unit responded in a subcommittee meeting that it never outright denies a community the benefit of a special language certification but it has on occasion required more information from a community before approving issuance of such a list. Norwood is no longer a civil service community, and the Commission learned that Norwood Police has yet to hire a Portuguese speaking officer.

- Extending the CSC Chair’s authority to appoint outside hearing officers to handle not just disciplinary appeals but all matters, including bypass cases, adjudicated by the CSC.

1. Clarifying bypass appeal procedures

The Commission recommends recognizing a right of a candidate included on a certification to initiate a direct appeal from a municipality’s bypass decision with the CSC. Bypass appeals arise when a local hiring authority does not select the higher-ranked individual when filling a particular opening. Existing law details a process where hiring authorities must first seek approval from HRD prior to bypassing a candidate for appointment. But with the routine delegation by HRD to local appointing authorities of the power to make most hiring and promotional decisions without HRD review, the Commission recommends clarifying in statute that most bypass cases are now, in fact, direct appeals from a delegated appointing authority’s action. Relatedly, the Commission recommends: (1) eliminating the outdated technical requirement that a copy of the appeal must be filed with HRD before the CSC can process any bypass appeal; and (2) removing the automatic statutory availability of a bypass letter for public inspection because many such bypass letters (no longer reviewed by HRD personnel) contain disputed and highly sensitive personal information. Instead, a Public Records Law exemptions analysis should govern access, which could lead to redactions that blunt unwarranted invasions of personal privacy.

2. Updating CSC authority to award attorneys’ fees

Because union attorneys generally are not available to assist entry-level candidates who are bypassed for illegitimate reasons, the Commission recommends amending the existing statutory provision that allows for a modest award of attorneys’ fees solely in disciplinary appeal cases to cover bypass cases as well. The Commission has learned that the CSC has adjudicated many cases over the years in which minority candidates, among others, have been bypassed for unsound reasons and often, unless they secure *pro bono* legal representation, these individuals are left to navigate unfamiliar appellate legal proceedings on their own.

The Commission learned that the statute that allows the Commission to award legal fees to a successful appellant in a disciplinary case was written many decades ago and its provisions are greatly outdated. A maximum of \$200 can be awarded to cover attorneys’ fees for work performed before the CSC. A like sum can be awarded to a tenured civil service employee facing discipline and for attorneys’ fees at a municipal-level hearing. A similar formula is used if the case goes to Superior Court. Up to \$100 can be allotted for transcripts, the subpoenaing of witnesses, and other litigation expenses. This adds up to a maximum of \$700. Successful appellants usually incur far in more costs and fees during a civil service appeal. The Commission proposes a modest revision to existing statutory text as a baseline. If an individual is successful in a CSC case, or upon appeal to court (and/or had previously retained the

assistance of counsel at a local disciplinary hearing), she should be guaranteed reimbursement of up to \$1,500 for attorneys' fees in each forum – and up to \$500 in litigation expenses. That would mean that the employer that made an unlawful or unjustified personnel decision could be responsible for no more than \$5,000—in all but extraordinary cases. If cases where a wholly egregious, *willful* violation of Chapter 31 is found, such as those that involve discrimination on the basis of race, religion, national origin, gender, sexual orientation or the like, or cases involving nepotism, the Commission proposes that there be *no* statutory cap on reasonable attorneys' fees and costs —unless special circumstances would render such an award in full unjust. The Commission's proposal is in line with the authority of the MCAD to award attorneys' fees and costs upon a finding of unlawful discrimination—and, likewise, tenured civil service employees in the federal system who prevail in a civil service appeal also can obtain an award of attorneys' fees and costs under federal law. *See, e.g., James v. Santella*, 328 F.3d 1374 (Fed. Cir. 2003) (affirming decision of the Merit Systems Protection Board awarding attorney fees to prevailing employees who were “substantially innocent” of disciplinary charges); 5 U.S.C. § 1204(m)(1) and 5 U.S.C. § 7701(g)(1).

3. Align Chapter 31's “basic merit principles” with chapter 151B's anti-discrimination provisions

The Commission further recommends several technical, amendments to Chapter 31 to clarify and align the powers and duties of the CSC with judicial interpretation since the last legislative overhaul of Chapter 31. For example, the CSC serves in practice as the primary engine to investigate all systemic violations of civil service law and yet its statutory authority to take appropriate remedial action appears limited and murky. Technical amendments are called for to clarify this oversight responsibility, accounting for the concurrent role of HRD in sections 72, 73, and 77 of Chapter 31. Likewise, in response to any determination that an appointing authority lacked just cause to take adverse disciplinary or personnel action against a tenured civil servant, the principal relief the Commission can order is reinstatement, *with* back pay. Chapter 31 should afford the Commission discretion to tailor remedial orders in both investigations and appeals, with an opportunity for input from stakeholders. The Commission should have the same remedial flexibility afforded the Commonwealth Employment Relations Board, the MCAD, the Board of Registration in Medicine, the Department of Labor, and the Commission's federal civil service counterpart (the Merit Systems Protection Board).

The Commission proposes an alignment of the anti-discrimination elements of the basic merit principles that undergird all of Chapter 31 with the cognate provisions of Chapter 151B. For example, the definition of protected characteristics under Section 1 of Chapter 31 should be updated to include sexual orientation and gender identity. And, as with our state's principal anti-discrimination law (Chapter 151B), status as a military veteran should be an explicitly protected characteristic in the application of civil service merit principles. Although this also falls under the heading of “removing outdated language from the civil service law,” the Commission

recommends updating the General Laws so that the head of the Civil Service Commission is not repeatedly referred to in Chapter 31 as the Chairman. The CSC has already taken similar action on its own, dropping the term “Chairman” from its letterhead and published decisions.

4. Affording the CSC discretion to preserve the confidentiality of acutely sensitive personal information

Chapter 31, § 43 makes certain CSC disciplinary hearings public hearings and another state law [G.L. c. 66, § 19(b)] mandates the publication of CSC decisions on a searchable website. Commissioners should have the statutory authority to take actions deemed necessary to protect the privacy of a person’s health or other acutely sensitive information. The Commission will recommend statutory language to supply this discretionary authority.

5. Extending the CSC Chair’s authority to appoint outside hearing officers to handle not just disciplinary appeals but all matters, including bypass cases, adjudicated by CSC

Section 2(b) of Chapter 31 should be amended to confer express authority on the Chair of the CSC to appoint “a disinterested person who is experienced in adjudication or well-versed in civil service law” to hear not just disciplinary appeals (as currently authorized by Section 43) but also bypass appeals and other matters adjudicated by the CSC. This would enable the CSC’s Chair to appoint retired judges or hearing officers, or other equivalently-credentialed individuals, to serve as hearing officers on occasions when current commissioners trained in adjudication are unavailable. Consistent with regulatory provisions governing tentative decisions set forth in the Commonwealth’s Standard Adjudicatory Rules of Practice and Procedure (801 Code Mass. Regs. 1.01, et seq.), any deputized hearing officer who is not an appointed commissioner would report his or her findings of fact and recommendations first to the litigants in the assigned case, consider any objections thereto, and then report a recommended final decision to the full Civil Service Commission for its action and disposition.

I. Remove and update outdated language from the civil service law

The Commission recommends that the civil service statutes be reviewed to remove outdated language. For example, Chapter 31 still uses the term “mentally retarded person” and the term “handicapped” appears in G.L. c. 31, § 47. Gendered language should also be removed from the civil service statutes. For example, the Chair of the Civil Service Commission is referred to as “Chairman” multiple times throughout Chapter 31. Additionally, Chapter 31 makes numerous references to the Personnel Administrator, a now-outdated title for the head of the state’s Human Resources Division, one that has since been superseded by the title of Chief Human Resources Officer.

Filed with the Legislature this 30th day of March, 2022,

A handwritten signature in blue ink that reads "Kenneth I. Gordon". The signature is fluid and cursive, with a long horizontal line extending to the right.

Rep. Kenneth I. Gordon
Co-Chair

A handwritten signature in black ink that reads "Michael D. Brady". The signature is cursive and somewhat compact.

Senator Michael D. Brady
Co-Chair

Appendices

Appendix A: Report of Subcommittee Not Subject to the Civil Service Law

Appendix B: Demographic Presentation in Consent Decree Communities

Appendix C: 3N+ 1 Illustration

Appendix D: Presentations before Commission

Appendix E: Public Testimony

Appendix F: Meeting Minutes

Appendix G: Votes of Commission

APPENDICES

APPENDIX A

Subcommittee on Communities NOT subject to Civil Service



Updated as of 2/25/2022

Focus of Subcommittee:

This Subcommittee was tasked with studying “the employment, promotion, performance evaluation and disciplinary procedures of municipalities not subject to the civil service law, including, but not limited to:

- a. the hiring and recruitment procedures and by-laws for municipalities;
- b. all examinations administered by municipalities and the use of the examinations for hiring and promotions;
- c. the use of minimum eligibility guidelines and hiring qualifications or preferences;
- d. collective bargaining agreements by unions;
- e. the disciplinary and appeal procedures as applied to municipal employees; and
- f. identifying any barriers that exist in hiring, recruiting or promoting municipal employees.

Communities we directly solicited testimony from:

- Acton
- Adams
- BURLINGTON
- EASTHAMPTON
- FRAMINGHAM
- Franklin
- GRAFTON
- Hopedale
- Hudson
- Lee
- Lexington
- Manchester-by-the-Sea
- Marlborough
- MAYNARD
- Milford
- Millis
- Nahant
- North Adams
- N. Attleboro
- N. Reading
- NORWOOD
- Orange
- Plainville
- Provincetown
- Reading
- ROCKPORT
- Sharon
- Sudbury
- Uxbridge
- Walpole
- Wayland
- WEBSTER
- Wellesley
- Westwood
- Williamstown

*underlined/capitalized communities are those who responded to our inquiry

Common Themes: Challenges & Opportunities

Hiring

Timelines

Recruitment

Examinations

2N+1 Rule

Bypasses

Preferences

Veterans

Diversity

Residency

Language

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Discipline

Patronage

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Hiring: Timelines

Delays in hiring are potentially costly to the Town because we must backfill many vacant shifts on overtime. The police department could schedule an exam and have the results within two or three days instead of waiting six months or more under civil service.

- Grafton Police Chief Normand Crepeau, Jr.

First, the civil service department was a very slow process. When a department requests a list from the civil service office it was regularly met with delays.

- Maynard Police Chief Michael Noble

Waiting periods for components of the hiring process that persist for months due to timelines established for the needs of larger police agencies unrelated to our needs in Rockport.

- Rockport Police Chief John Horvath

Hiring: Timelines

Exiting the civil service system also provides the Framingham Police Department with a more favorable hiring and promotional timeline. The Police Department is able to give entry level and promotional exams whenever needed, versus the 2-year cycle dictated by the civil service System.

- Framingham Mayor Dr. Yvonne Spicer

But make no mistake; these problems are not a result of Civil Service itself by from a continued lack of funding year after year. Some may even say an intentional underfunding, “death by a thousand cuts.” This lack of funding at the Civil Service Commission has created a backlog of cases and long delays in the hiring process that frustrate Communities who rely on such process.

- Paul Jacques & Craig Hardy, Legislative Agents, PFFM

Hiring: Recruitment

The issues we face now, recently, is a dwindling number of interested candidates. We averaged well over 250 candidates for our prior exams, yet this past spring we only had approximately 150 candidates apply for the positions.

- Burlington Police Chief Thomas Browne

Since leaving the Civil Service system, the Rockport Police Department has seen a significant increase in interested candidates. We were able to schedule and administer our own written entrance examination that was coordinated in less than (9) weeks. The exam attracted over forty (40) candidates, some of which we have hired and are working for us as reserve police officers.

- Rockport Police Chief John Horvath

Hiring: Recruitment

Exiting the civil service system also provides the Framingham Police Department with a more favorable hiring and promotional timeline. The Police Department is able to give entry level and promotional exams whenever needed, versus the 2-year cycle dictated by the civil service System.

- Framingham Mayor Dr. Yvonne Spicer

We completed two recruitment videos to market our department and posted them on the police department's Facebook page and website. The videos were filmed in one day, in collaboration with a local resident and are less than one minute each in duration. They have received more than five thousand views and are a source of pride for the officers who participated.

- Rockport Police Chief John Horvath

Hiring: Recruitment

Keeping the goal of this commission in mind, to increase diversity with civil service hiring, I believe that a larger candidate pool will increase the number of diverse candidates. Currently, Lexington Fire Dept has four immediate openings and only six applicants. Applicants are less likely to apply for one single community when they can take a civil service exam and apply that score to almost 100 communities.

The best way to increase the number of candidates applying for public safety careers is to advertise better and recruit properly. It is not reasonable to expect small cities and towns like Lexington to be able to allocate adequate resources to promote and recruit for their job openings.

- Rob Green, President Lexington Fire Fighters Local 1491

Hiring: Examinations

The system overemphasizes the written exam, restricts selection to a narrow pool and imposes cumbersome procedures on the Town. Candidates who have tested well may not necessarily be the most desirable candidate for the position.

- Grafton Police Chief Normand Crepeau, Jr. (GPD still utilizes written exam in hiring)

Since leaving civil service my hiring philosophy is to hire for personality, attitude, and character. What they would score on a test is somewhat irrelevant in hiring, because we can teach them the skills they need to be a good officer. However, it is much more difficult to have someone change their attitude or personality.

- Maynard Police Chief Michael Noble (MPD may utilize a written exam in hiring)

A merit system makes sense, but a multiple-choice exam is no longer a good way to select police officers.

- Norwood Chief William Brooks III (NPD still utilizes a written exam in hiring)

Hiring: Examinations

Leaving civil service affects hiring and promotional process. Promotional exams will become costly to the municipality. In Boston it costs approximately \$2,500 per candidate to process a candidate. Boston has approximately 400 promotions a year.

- Mark Sanders, PFFM Legislative Agent, Boston Fire Fighters Local 718

We have no examinations for the hiring process, we conduct interviews with a panel of Department Supervisors/ Field training Officers and the Personal Director. If you are selected, you will be placed in our in-house Field Training Program. During this training you are also subjected to a Physical Fitness assessment using Massachusetts Police Academy standards.

- Easthampton Captain William Kelly

Hiring: 2N+1 Rule

Civil service uses the 2N+1 formula meaning that if there are two vacancies, the police department only receives a list of five candidates. (Now that we are out of civil service, we typically begin with a batch of at least 15 to 20 candidates.)

- Norwood Police Chief William Brooks III

The department is then limited to hire the candidate that scored in the top three (3) of a somewhat arbitrary test.

- Maynard Police Chief Michael Noble

Once the exam has been given and the resulting list established, police departments are restricted to hiring and promoting from those candidates grouped at the top of the list.

- Grafton Police Chief Normand Crepeau, Jr.

Hiring: Bypasses

[Civil Service] is a system that rewards good test-takers, and although there is an ability to bypass candidates on the list, the standard of “sound and sufficient reasons to bypass” is too subjective and often fails at the appeal level. This leaves the department in a situation where they are forced to take the bypassed candidates the next time a promotion comes around, unless they again are able to show a sound and sufficient reason to bypass during the subsequent round of promotions. This standard is untenable.

- Burlington Police Chief Thomas Browne

2N+1, expanding that to 5 or 7 people, can be difficult to fill out the list. Could make it more difficult and more influence from the outside. 3 candidates for a promotion should work, the highest score is generally the one promoted.

- Paul Medeiros, Hyannis Fire Lieutenant

Preferences: Veterans

We did put into place some preferences, much like civil service, to allow for certain candidates to have an advantage in the hiring process. For instance, a passing score for the written exam for a veteran is 70%; where it is a 75% for a non-veteran.

- Burlington Police Chief Thomas Browne

Candidates who pass the written examination and qualify as United States Military Veterans, as defined by G.L. c. 31 § 1, who have at least 1 year of full-time continuous active duty military service, shall have one (1) point added to the candidate's written examination score.

- Framingham Mayor Dr. Yvonne Spicer

Preferences: Veterans

Our hiring policy provides that we will provide priority to applicants who are from the Town of Norwood, and who have military service, similar to what they would receive under the civil service system. The difference is that we do not use a linear list, and do not have to justify hiring a person with a lower score if we believe they are the better candidate.

- Norwood Police Chief William Brooks III

We cannot effectively recruit veterans, because civil service exists. If I'm a veteran in this state, I'm going to apply to almost 100 municipalities through a civil service exam that gives me a veterans preference then I would, applying to one department. We're a very affluent community. It's very expensive to live in the Lexington area, so your residency doesn't apply there... most applicants would be applying to civil service."

- Rob Green, President Lexington Fire Fighters Local 1491

Preferences: Veterans

Data provided by Jesse Flynn, as compiled in 2016 by Massachusetts Veteran's Edge (MVE)

	Before Leaving Civil Service	After Leaving Civil Service
Wellesley PD	5 Years: 5 veterans / 5 non-veterans	6 Years: 1 veteran / 12 non-veterans
N. Attleborough PD	5 Years: 3 veterans / 0 non-veterans	3.5 Years: 1 veteran / 7 non-veterans
Reading PD	5 Years: 2 veterans / 7 non-veterans	4 Years: 0 veterans / 9 non-veterans
Norwood PD	5 Years: 4 veterans / 5 non-veterans	1 Year: 4 veterans / 7 non-veterans
Westwood PD	5 Years: 2 veterans / 2 non-veterans	1 Year: 0 veterans / 2 non-veterans
Burlington PD	5 Years: 1 veteran / 3 unconfirmed	1 Year: 0 veterans / 7 non-veterans

Preferences: Diversity

Those that pass are then ranked, by exam score, and preference is given for invitation to the interview panel to those that are: full-time trained police officers, Burlington residents, veterans, racial/ethnic minorities, and any candidates with special skills set (foreign language, sign language, etc.) The Burlington Police Department has hired thirty (30) officers under our “non-civil service” system since coming out of civil service in 2014.

- Burlington Police Chief Thomas Browne

In previous testimonies before the commission, it has been proven that municipalities that have left civil service have not improved their diversity. There are no checks and balances or accountability to apply to these communities without civil service.

- Richard MacKinnon, Jr., President PFFM

Preferences: Diversity

City of Marlborough Fire Dept has made many new hirings over the last five years, upwards of 20 or more. We have currently in the process of hiring several more firefighters as we speak. We have not become more diverse, Mr. Chairman. We're not only not a more diverse workforce as they said we would be, they have made absolutely no effort to getting us there. There is no recruitment effort, there is nothing locally, whether it be Trade Days, School Days at the local Vocational School, or community centers or anything. There has been no effort made by the City to do that.

- William Taylor, President of Marlborough Fire Fighters Local 1714

*Note: We requested data from those municipalities and the Massachusetts Municipal Association (MMA) to show goals in leaving civil service, including increased diversity were met.

They were unable to provide that data as of today (2/25/22.) We hope to add this additional data before the report is finalized.

Preferences: Residency

Maynard: Residency Requirement

Easthampton: 20 mile requirement

Burlington: Resident preference

Norwood: Resident preference

Residence preference, which is assumed to place Grafton residents ahead of other applicants, is actually determined by where the candidate lived when he took the exam. A person living in an apartment in Grafton who lived here for one year leading up to the exam is given preference over an applicant who grew up in Grafton but moved to a nearby town prior to the exam. The police department should be able to award extra points to residents based on their length of residency in our community.

- Grafton Police Chief Normand Crepeau, Jr.

Preferences: Residency

The median home value of a single family home in the Town is close to seven hundred thousand dollars, making it very difficult for new officers to purchase a home and live in Town. It is our hope that the Town identifies a means to provide affordable housing for consideration by new officers, who want to live in the community.

- Rockport Police Chief John Horvath

Residency should also be addressed due to the fact that in some communities the members of the fire service can't afford to live in the communities that they work in or the surrounding cities and towns.

- William Cabral, Secretary/Treasurer, PFFM

Preferences: Residency

Thankfully residency was made a subject of collective bargaining for Civil Service Departments during an FY14 Supp Budget. But there is only current pending legislation, both in the House and Senate, to give this same bargaining right to non Civil Service Departments. Unfortunately this legislation goes to “study” session after session (HB2665/SB1739).

- Paul Jacques & Craig Hardy, Legislative Agents, PFFM

Preferences: Language

Norwood has a heavy Brazilian community, and when I first became chief and we were still in civil service I wanted to hire bilingual officers. I wrote to civil service asking for a selective certification list of Portuguese speaking officers. As part of my justification, I cited that Norwood Hospital uses translators and tracks the number of translations they need. In the year prior to my request, Norwood Hospital had needed Portuguese translators 1100 times. That was all in a single year! Civil service denied my request.

- Norwood Police Chief William Brooks III

(Note: After leaving civil service system, Norwood PD has yet to hire a portuguese speaking officer)

Preferences: Education

We now require that applicants have a two-year college degree, however this requirement is waived for military service. . . . We now require a bachelors degree for all promotions and rank.

- Norwood Police Chief William Brooks III

Training

“By removing the police department from civil service, the department will be able to recruit trained police officers or self-sponsored academy trained candidates, which could potentially save the town thousands of dollars in training expenses.”

- Grafton Police Chief Normand Crepeau, Jr.

“[W]hen the officers that go through the Field Training Program Graduate, they will work in a part time capacity until a full-time position opens. At that time, we will send that Officer to the full-time academy, already knowing they have a good understanding of the job before they enter the Police Academy. This system works, in my 32 years of working with this process, not one Officer has left the department after graduating from the Police Academy. These Officers have already done the job and know what to expect. In my opinion the way we hire Officers works.”

- Easthampton Captain William Kelly

Transfers

Our hiring policy also provides for lateral transfers, using a system different from civil service. Under civil service, a department can only take a transfer if the officer's chief allows it. And, the officer must come from another civil service system within Massachusetts. Under our hiring policy, I can take a lateral transfer who has two years of experience as a police officer anywhere in the United States.

- Norwood Chief William Brooks III

Promotions

As someone who has taken civil service promotional exams I can say with definitiveness, it is an awful way to measure a leader. I have worked with ranking officers who were terrible leaders/supervisors but were excellent test takers. Promotions must take into account an officer's totality of service to their community... Currently we use a committee process to hiring (see attached) and an outside reputable company to administer a test and assessment for promotions.

- Maynard Police Chief Michael Noble

As with civil service, we give a multiple-choice exam to officers seeking promotion to sergeant or lieutenant. Our reading list contains fewer textbooks than used by civil service, and we instead test on department policy, on a textbook on community policing, and a publication by the Police Foundation on the effectiveness of foot patrol.

- Norwood Chief William Brooks III

Promotions

And if an insufficient number of police officers pass a promotional exam, the Town must wait an entire year for the next examination unless assessment center testing is sought at an extreme cost to the towns.

- Grafton Police Chief Normand Crepeau, Jr.

We have several pending grievances regarding the lack of consistency regarding the promotional process. Marlborough being a non civil service community, for the size we are, has been nothing short of a nightmare. We've done four promotional processes, each one of them, even though we have language providing a path for how the way its supposed to be done, they've done it four different ways. Those are all pending arbitration.

- William Taylor, President of Marlborough Fire Fighters Local 1714

Discipline

Civil service never served to handle anything quickly. Cases that went before the commission would be drawn out and usually came out against management. Police Chiefs and hiring authorities are less apt to take adversarial actions against police officers when they feel they will lose in civil service or arbitration.

- Burlington Police Chief Thomas Browne

I believe that most officers who are disciplined do not use the civil service system to appeal their discipline. Most take their case to an arbitrator through the contractual grievance process. This process is guaranteed to an officer if the union contract has a “just cause” clause in it.

- Norwood Chief William Brooks III

Discipline

One of the biggest problems will be disciplinary hearings, it will open up to a lot more lawsuits. It will not be objective... you'd be answering to the municipality where you're being disciplined.

- Mark Sanders, PFFM Legislative Agent, Boston Fire Fighters Local 718

Note: Multiple testimonials about the protections afforded civil service departments to speak out without fear of retribution.

Patronage/Nepotism

Patronage-driven appointments are rarer than most people think, and the Town has worked closely with the GPA to guard against them by creating hiring and promotion policies for the police department.

- Grafton Police Chief Normand Crepeau, Jr.

The PFFM represents local unions that have left civil service, and every single community that has exited civil service has had problems regarding hiring, promotions, and nepotism. Recently in Wellesley, a community that has exited civil service, a fine was issued to the Fire Chief for nepotism. There have been lawsuits filed in Swampscott for the community's blatant disregard for the language agreed to for exiting civil service.

- Richard MacKinnon, Jr., President, PFFM

Patronage/Nepotism

Left civil service October 19, 2021 (both police and fire). Spend months and months negotiating replacement language to replace civil service with a hiring policy, promotional policy and a seniority, layoff, demotion, disciplinary policy. In December, the Chief has already violated the policy and eliminated the upper age limit we both had agreed to. The Town Administrator and Town Council have not accepted the language we negotiated in good faith. Going ahead with a FF Entrance Exam on Feb 5th and Feb 12th. The Chief did not put a closing deadline date on the posting for the jobs and after it was taken down, he assisted at least two people from the public with finishing their applications.

- Jim Snow, President of Swampscott Fire Fighters Local

DISCUSSION: RECOMMENDATIONS

Subcommittee on Municipalities **not Subject to Civil Service**

Last Updated February 24, 2022

Compiled by Subcommittee Chair
State Representative Natalie Higgins

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Subcommittee Focus

This Subcommittee was tasked with studying “the employment, promotion, performance evaluation and disciplinary procedures of municipalities not subject to the civil service law, including, but not limited to:

- a. the hiring and recruitment procedures and by-laws for municipalities;
- b. all examinations administered by municipalities and the use of the examinations for hiring and promotions;
- c. the use of minimum eligibility guidelines and hiring qualifications or preferences;
- d. collective bargaining agreements by unions;
- e. the disciplinary and appeal procedures as applied to municipal employees; and
- f. identifying any barriers that exist in hiring, recruiting or promoting municipal employees.”

Municipalities that Have Left Civil Service

Acton	Marlborough	Reading
Adams	Maynard	Rockport
Burlington	Milford	Sharon
Easthampton	Millis	Sudbury
Framingham	Nahant (Police Only)	Uxbridge
Franklin	North Adams	Walpole
Grafton	North Attleboro	Wayland
Hopedale (Police Only)	North Reading	Webster
Hudson	Norwood	Wellesley
Lee	Orange	Westwood
Lexington	Plainville	Williamstown
Manchester-by-the-Sea	Provincetown	

As compiled by the Civil Service Unit:

Fire Departments: <https://www.mass.gov/service-details/civil-service-fire-departments>

Police Departments: <https://www.mass.gov/service-details/civil-service-police-departments>

Full Commission Meeting Videos

Meeting #1: May 5, 2021

<https://malegislature.gov/Events/Hearings/Detail/3683>

Meeting #2: June 11, 2021

<https://malegislature.gov/Events/Hearings/Detail/3772>

Meeting #3: July 12, 2021

<https://www.youtube.com/watch?v=hOF-MNaVuBY>

Meeting #4: July 23, 2021

<https://www.youtube.com/watch?v=6QdsezWD4yw>

Meeting #5: August 6, 2021

<https://www.youtube.com/watch?v=X2gw4Bxpndg>

Meeting #6: August 20, 2021

<https://www.youtube.com/watch?v=rzx4pCrmJ0I>

Meeting #7: September 10, 2021

<https://www.youtube.com/watch?v=axjSQUAm7E>

Meeting #8: September 24, 2021

<https://www.youtube.com/watch?v=t2SQUjvp0xI&t=1s>

Meeting #9: December 3, 2021

<https://www.youtube.com/watch?v=x9PvAIdZ4LU>

Meeting #10: January 28, 2022

<https://www.youtube.com/watch?v=tN0SP15Z9dg&t=2249s>

Subcommittee Meeting Videos

May 28, 2021 Subcommittee Meeting

<https://drive.google.com/file/d/1Va6tjj8eXFV-EOuLzQWsPFfF7IhjHk5k/view?usp=sharing>

August 30, 2021 Subcommittee Meeting

<https://drive.google.com/file/d/1MwnXbj1OUdpG0arUr0D7URTD0YPk9iHM/view?usp=sharing>

Agenda:

1. Introduction
2. Review of Initial Written Testimony from Non-Civil Service Communities
3. Discussion
4. Adjournment

January 21, 2022 Subcommittee Meeting

<https://drive.google.com/file/d/14Z66u0rcHKtzTbZMo1HvqG2TST2y285u/view?usp=sharing>

1. Introductions
2. Discussion of Outreach for Public Testimony on January 28, 2022
3. Discussion of Presentation to Full Commission on Subcommittee Findings
4. Adjournment

February 18, 2022 Subcommittee Meeting

<https://drive.google.com/file/d/16IXdOsaxOEyn4QfXF7zq2YXcdVly0FOB/view?usp=sharing>

Agenda

1. Introductions
2. Discussion of Outreach for Public Testimony on January 28, 2022
3. Discussion of Presentation to Full Commission on Subcommittee Findings
4. Adjournment

Submitted Written Testimony

Note that we solicited written testimony from all 35 communities that have left civil service, as identified by the Civil Service Unit, with the following email:

Good afternoon!

I am writing to you to request written testimony for the ***Special Legislative Commission to Study and Examine the Civil Service Law***, as your community has left the Civil Service system according to the Human Resource Division's records.

I am the Chair of the ***Subcommittee on Municipalities Not Subject to Civil Service Law***, and we are studying "the employment, promotion, performance evaluation and disciplinary procedures of municipalities not subject to the civil service law, including, but not limited to:

- (a) the hiring and recruitment procedures and by-laws for municipalities;
- (b) all examinations administered by municipalities and the use of the examinations for hiring and promotions;
- (c) the use of minimum eligibility guidelines and hiring qualifications or preferences;
- (d) collective bargaining agreements by unions;
- (e) the disciplinary and appeal procedures as applied to municipal employees; and
- (f) identifying any barriers that exist in hiring, recruiting or promoting municipal employees." ([Chapter 253 of the Acts of 2020](#))

We are very interested in learning more about your reasons for leaving the Civil Service system, whether leaving the Civil Service system has enabled you to resolve any issues that led to that decision, and if there are any remaining challenges that you continue to face in your hiring and recruitment. We welcome your thoughts on the Civil Service system and any additional challenges or opportunities you hope that this Subcommittee will consider.

You can submit written testimony to the Subcommittee by replying to this email by August 13th. If you have any additional questions, please email myself (Natalie.Higgins@mahouse.gov) or my Legislative Aide (Isabelle.Alera@mahouse.gov), or call our office at 978-227-5278.

We look forward to any information you can share with our Subcommittee.

All the best,

Natalie

Burlington Police Department

Testimony of Chief of Police Thomas P. Browne

August 5, 2021

Representative Natalie Higgins

Via email to: Natalie.Higgins@mahouse.gov

Cc by email to: Isabelle.Alera@mahouse.gov

RE: *Subcommittee on Municipalities Not Subject to Civil Service Law*

Representative Higgins:

In response to your email dated July 30, 2021, please accept this as my written testimony for the ***Special Legislative Commission to Study and Examine the Civil Service Law***.

I will focus my testimony on the areas that you have requested in the email.

1. The reason for leaving civil service:

The Burlington Police Department chose to leave the civil service system because our prior Chief, Michael Kent, felt the system was archaic. He had come to Burlington from the Amherst Police Department, which was a non-civil service community. When he came to Burlington and started to make promotions and hiring decisions based on civil service, he felt the system tied his hands. I agree. I also came to Burlington from a non-civil service town in NH. The so-called "2n+1" rule ties the hands of the hiring authorities and does not necessarily put the best person in line for promotion or hiring. It is a system that rewards good test-takers, and although there is an ability to bypass candidates on the list, the standard of "sound and sufficient reasons to bypass" is too subjective and often fails at the appeal level. This leaves the department in a situation where they are forced to take the bypassed candidates the next time a promotion comes around, unless they again are able to show a sound and sufficient reason to bypass during the subsequent round of promotions. This standard is untenable. Many Chiefs and Appointing Authorities will promote or hire the candidate out of frustration with the thought of future appeals. (I do understand that civil service has corrected past wrongs- but we have had many more cases decided against us that would be obvious for any layperson to see the Department was in its right to bypass.)

One example: we had an officer that was appointed as a permanent intermittent under civil service in 2001, approximately. When he was up for a full-time appointment, we bypassed him due to an unsatisfactory background investigation. He appealed and civil service overturned our decision and reasoned that he was already a permanent intermittent and we should have caught these issues prior to this appointment. They instructed us that the probationary period would allow us to terminate if necessary. Needless to say, he survived his probationary period and then a few years later ended up falsifying insurance claims, passing false scripts in uniform and did time in the house of correction. (He is obviously no longer a police officer.) Had we been allowed to deny original, full-time, appointment to this person, this issue would not have occurred while he was an active member of the department.

2. Has removal from Civil Service allowed us to resolve any issues that led to this decision:

Yes. We now have in place a new recruitment policy that has been adopted by the Town of Burlington. We did put into place some preferences, much like civil service, to allow for certain candidates to have an advantage in the hiring process. For instance, a passing score for the written exam for a veteran is 70%; where it is a 75% for a non-veteran. Those candidates that pass the written exam are sent to the physical abilities test. Those that pass are then ranked, by exam score, and preference is given for invitation to the interview panel to those that are: full-time trained police officers, Burlington residents, veterans, racial/ethnic minorities, and any candidates with special skills set (foreign language, sign language, etc.)

3. Remaining Challenges in Recruitment:

The Burlington Police Department has no remaining challenges left over from the civil service system, and we believe that we have put in to place an excellent system of hiring our new officers. We are able to focus on hiring the best and brightest candidates. This applied to both the entry-level candidates and those veteran officers that are competing for promotion. The issues we face now, recently, is a dwindling number of interested candidates. We averaged well over 250 candidates for our prior exams, yet this past spring we only had approximately 150 candidates apply for the positions.

4. Challenges/Opportunities:

As I review the police reform legislation, I see a major challenge coming up in the future. The wording of the new legislation puts the Town's ability to hire the candidates we believe best fit the qualifications to be a police officer (or ranking officer) *in the Town of Burlington* in direct danger of being overburdened by the POST-C's ability to tell us who we should hire. The law states that no person may be hired as a police officer in MA unless they attend an in person interview with the POST-C. First off, this is a tremendous challenge. We have recruiting needs that must be met in a timely manner. We cannot, nor should we have to, wait until a in-person interview can be held. On average, from estimates I have heard from academy directors, the Commonwealth trains over 800

police officers per year. By simple calculations using our data here in Burlington, we interview almost four candidates for every position. Assuming this calculation is accurate, the POST-C will have to interview over 3,200 candidates for entry into the academy. This is untenable. Not to mention, how will the POST-C members judge the candidates on how well they will fit into a police department and/or local community with no first-hand knowledge of what it is we are looking for in our police officers? This needs to change. Local control should not be extinguished through this legislation as it is far too overreaching. What Burlington residents want and require of their police department may have nothing to do with the needs of the bigger cities or even other similar communities. This is a big deal and should not be overlooked.

The opportunities that flow from this Subcommittee's work, and the police legislation, may present some major advantages. I agree with the idea of a POST; although I do not agree with the formulation of the membership. That aside, a POST system will allow us to handle serious violations of police ethics in a quick and efficient manner. Civil service never served to handle anything quickly. Cases that went before the commission would be drawn out and usually came out against management. Police Chiefs and hiring authorities are less apt to take adversarial actions against police officers when they feel they will lose in civil service or arbitration. This, however, does not solve the problem of ridding our ranks of unfit police officers. Fortunately, there are not many officers that fit into this category, despite some narratives to the contrary. However, in full acknowledgement that there are some egregious episodes of misconduct, there must be a mechanism to clean up the ranks and do so quickly to maintain integrity and morale.

5. Best Practices:

The Burlington Police Department has hired thirty (30) officers under our "non- civil service" system since coming out of civil service in 2014. We have found that the department morale and overall reputation has improved greatly since this time. Officers know that they will be judged and selected for future assignments and promotions based upon their job performance and not merely on a test. They know they are going to be held accountable for their actions and will not be allowed to maintain a "marginal" performance level. All of these officers have the benefit of not knowing the civil service system- and therefore flourish as officers based upon their own motivation and enthusiasm, rather than a mental impression that they will be "protected" by civil service. Our union contracts require that any discipline be meted out under a just cause standard. Therefore, officers do have protection from arbitrary and capricious managers. But, they also know that their success and failures are theirs alone.

We also employ a rigorous selection process. The successful candidate will need to pass a written and physical exam; pass an oral board that is hosted by up to five members of the department of various ranks, successfully pass the medical and psychological fitness exams, pass a background investigation, interview with the Chief of Police and Town Administrator, and now, most recently, must pass a practical exam where they are put through various scenarios on our training simulator. These scenarios test the candidate's ability to speak with people; to deal with special needs populations and common-sense gauges on use of force.

Finally, I appreciate the opportunity to provide your subcommittee with this testimony. There is one final recommendation I would like to make to you. It is unnecessary to have non-civil service departments put their candidates through a state mandated PAT (according to 550 CMR 3.06) This is an unnecessary expense. We make our candidates pass a PAT that is based upon the MPTC academy guidelines (*referred to as the Cooper Standards.*) Please consider removing this regulation.

In summary, the Burlington Police Department has no negative information to report as a result of our withdrawal from Civil Service. We have taken necessary steps to ensure that we are hiring and promoting the best and brightest. We have checks and balances in place to protect both the Town (department) and the officers. There are union contract clauses that still allow for procedural due process for the officers and the lack of oversight from civil service allows us to make the best decision for the department and community, without the threat of being overturned through an archaic system that may take years to decide any recourse.

Respectfully,

Thomas P. Browne
Chief of Police

Easthampton Police Department

Testimony of Captain William Kelly

To: Natalie Higgins

From: Captain Wm Kelly

Re: Study and Examine the Civil Service Law

Date: Aug 03, 2021

The hiring starts with a posting on the City Web Sites and postings at the Police Department and City Hall.

Candidates Must Meet the Following Requirements:

1. Massachusetts Police Academy Certification for full-time police officer or equivalent or Massachusetts Reserve/Intermittent Academy for Special Police Officer.
2. Must be able to meet the standards set forth by the Massachusetts Human Resources Division for Physical Abilities Testing (PAT).
3. Valid Massachusetts Driver's License.
4. Valid Massachusetts License to Carry Firearms.
5. College degree in Criminal Justice field is preferred.
6. Must reside within 20 Miles of Easthampton.

We have no examinations for the hiring process, we conduct interviews with a panel of Department Supervisors/ Field training Officers and the Personal Director.

If you are selected, you will be placed in our in-house Field Training Program. During this training you are also subjected to a Physical Fitness assessment using Massachusetts Police Academy standards.

Management rights under Collective bargaining agreements by the Union.

The union recognizes that the operation of the Police Department of the city of Easthampton, in supervision of the officers and of their work, are rights of the employer.

Accordingly, subject to the provisions of this agreement, the union recognizes the right of the employer in making reasonable rules and regulations to assure orderly and efficient work, to maintain discipline in order, the right to require efficient standards of performance, the right to determine police standards and methods, to direct and determine assignments, to schedule work, to require overtime work, to determine the types of equipment to be used, to introduce new methods and facilities, to determine efficient staffing requirements, and to determine if officers shall or shall not perform certain functions. In conformance with the civil service laws other laws of the Commonwealth of Massachusetts, in the terms of this agreement, the union further recognizes the

right of the employer in hiring, promotion, demotion, playoff, recall, discipline, discharge or suspension of officers for just cause or rights of the employer, provided that such rights above shall not violate any provision(s) all this agreement or any applicable law.

Internal Affairs Policy:

The internal affairs function is important for the maintenance of professional conduct the law enforcement agency the integrity of the Police Department depends on the personal integrity and discipline of each employee to a large degree the public image of this department is determined by how well it responds to allegations of misconduct against the department or its officers.

The primary responsibility for the internal affairs function is to respond to allegations of misconduct against the Police Department and its employees supervise is assigned to internal and investigations will be responsible for recording registering and controlling the investigation of complaints against employees.

The Easthampton Police Department left Civil Service back in the Late 80's. I was one of the last Officers hired under Civil Service. I was hired in May of 1988. Under Civil Service you take the Exam and given your score. You are then selected by your ranking to be hired. With no knowledge of what the job entails, you are enrolled into the Police Academy. You then spend the next six months in training. This cost the city thousands of dollars for this training. Once completed you hit the streets applying all the training that you've learned. A lot of officers deal with things, that you can't teach, like the emotional side dealing with a serious accident/domestics with injuries. When some of these officers start dealing with the seriousness of this profession, they choose not to do it. Now this is learned after thousands of dollars and six months of training. That this officer chooses not to continue. That was a fault in the civil service system when hiring police officers.

Being out of civil service allows us to put people that are interested in police work through our own on the job training program. These officers will get a feel for the job and deal with every aspect of the job, some of these people see things and deal with things that could potentially change their mind about this profession. Saving the City time and money. But when the officers that go through the Field Training Program Graduate, they will work in a part time capacity until a full-time position opens. At that time, we will send that Officer to the full-time academy, already knowing they have a good understanding of the job before they enter the Police Academy. This system works, in my 32 years of working with this process, not one Officer has left the department after graduating from the Police Academy. These Officers have already done the job and know what to expect. In my opinion the way we hire Officers works.

Respectfully Submitted,
Captain William Kelly

Framingham Police Department

[Testimony of Mayor Dr. Yvonne M. Spicer](#)

August 13, 2021

Representative Natalie Higgins
Natalie.Higgins@mahouse.gov

Via Electronic Submission

Re: The City of Framingham's Experience with Exiting the Police Civil Service System – For the Consideration of the Subcommittee on Municipalities Not Subject to Civil Service Law

As requested, on behalf of the City of Framingham, I am writing to share our City's experience after our Police Department exited the civil service system to help inform your consideration and discussions around the system and potential reforms. To provide context, it took more than five years to complete this process and both unions supported the change, which was very Important.

Our objectives for exiting the civil service system included the ability to better recruit and hire for the Framingham Police Department's needs, including for increased diversity in the force. A more diverse police force can be better able to serve a community as diverse as ours. Delivering its own exam also allows for our Department to raise its exam score and also increase physical fitness standards.

Exiting the civil service system also provides the Framingham Police Department with a more favorable hiring and promotional timeline. The Police Department is able to give entry level and promotional exams whenever needed, versus the 2-year cycle dictated by the civil service system. It also enables us to receive exam scores in a matter of one week versus several months for civil service. In illustration, Framingham conducted the first Police Lieutenant promotional exam out of civil service on May 22, 2021 and was able to complete the promotions process, including final score and rank distribution and interviews, by July 6, 2021. The Framingham Police Department has its first entry level exam scheduled for August 14, 2021.

For all of the benefits we have seen and anticipate, exiting the civil service system raises some new challenges. Departments that exit the civil service system take on additional duties, such as exam administration, recruitment, and promotion, which has included social media, television advertising, and radio to reach a broad audience of diverse candidates.

Framingham is still relatively early in the process, but we are pleased to share what we have

experienced thus far and would be more than willing to provide more details should the Subcommittee members have any further questions. Thank you for your consideration of this important policy question.

Sincerely,

Dr. Yvonne M. Spicer
Mayor
City of Framingham, MA

PROMOTIONS / CIVIL SERVICE REPLACEMENT

Introduction

All advancements/promotions within the Framingham Police Department shall be made at the direction of the Chief of Police. This promotional process is designed to guide the Chief of Police in identifying and evaluating the promotional potential of the candidates and in making promotional decisions. The Framingham Police Department will use this competitive promotional process in place of current Civil Service process. This process will generate promotional lists of candidates eligible for promotion to the rank of Lieutenant based on the points awarded asset forth herein.

Eligibility for Promotion

To be eligible for promotion to the rank of Lieutenant, the candidate must have served as a Permanent Full Time Framingham Police Sergeant for at least 3 years as of the date of the written promotional examination.

Examination Announcement

The Chief of Police will announce promotional examinations at least one-hundred and twenty (120) days in advance of the written examination. The subject areas, and, as applicable, the source materials for the written examination will be specified in the announcement.

If two (2) or more vacancies exist and there is no active promotional list, at least ninety (90) days advance notice may be given for the written promotional examination.

The Selection Process

The selection process for the position of Lieutenant will consist of the following elements:

Written Examination	75 points
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Oral Interview Panel	9 points
Service as a Framingham Police Sergeant	8 points
Education	3 points
Work Performance	5 points

Written Examination

The Framingham Police Department will engage the services of an established promotional testing company to develop a written promotional examination based on specifications provided by the Chief of Police.

The written examination will assess leadership, management, and policing skills as well as knowledge derived from sources such as but not limited to: Framingham Police Department Rules, Regulations, Policies, and Procedures, City of Framingham Ordinances, Massachusetts General Laws, case law, law enforcement related publications. The Chief of Police will determine the content of the examination.

The City shall allow a member of the FPSOA to be present during initial discussions with firm selected to write the examination for the position of lieutenant. Said designated individual shall not be eligible to take the promotional examination. All examination questions will be considered strictly confidential.

Candidates must earn a minimum passing score of seventy-five 75% on the written examination to advance to the next steps in the selection process. Candidates and the Framingham Police Department will be given the result of a promotional exam in a pass/ fail format. No examination scores will be released until all other points are calculated into the final score and that score is finalized and recorded with the Police Department and released to the candidates.

Any member of the FPSOA who passes a promotional exam for the rank of Lieutenant may continue with the other elements of the selection process and be eligible for consideration for Promotion.

Candidates who pass the written examination and qualify as United States Military Veterans, as defined by G.L. c. 31 § 1, who have at least 1 year of full-time continuous active duty military service, shall have one (1) point added to the candidate's written examination score.

Interview Panel

The interview panel shall be comprised of three (3) law enforcement executives selected by the

Police Chief. One Framingham Police Department Deputy Chief and two outside executives who hold the rank of Captain or higher will comprise the panel. The panel will award a maximum of nine (9) points to candidates based on the candidate's performance in the interview component of the selection process.

The Chief of Police may be present during the interviews but he shall not serve as a member of the interview panel nor participate in the panel's deliberations.

The panel interview will be electronically (audio and video) recorded.

The panel shall score the interview based solely on each candidate's interview performance and immediately following the conclusion of each interview. Interview scores shall not be disclosed or disseminated until after all interviews for the position have been completed.

Dimensions to be evaluated, include but are not limited to: verbal communications, appearance, demeanor, job knowledge, attitude, self-development, and / or leadership and management skills, ability and potential.

Service as a Framingham Police Sergeant

A maximum of eight (8) points for experience shall be awarded based on the candidate's experience as of the date of the written examination, as follows:

3-5 years of service as a Framingham Police Sergeant	2 points
6-7 years of service as a Framingham Police Sergeant	4 points
8-9 years of service as a Framingham Police Sergeant	6 points
10 or more years of service as a Framingham Police Sergeant	8 points

Education

A maximum of three (3) points for the most advanced degree which a candidate has earned shall be awarded as follows:

Associates Degree	1 point
Bachelor's Degree	2 points
Master's, Law, or Doctorate Degree	3 points

Candidates will only receive credit for one (1) degree. There will be no "double counting."

Work Performance

A maximum of five (5) points will be awarded based work performance, as determined by the Chief of Police. Candidates will be rated in the following areas: attendance, quantity and quality of work based on work assignment and performance, commitment to policing and the Department's mission, discipline and commendations, community engagement and positive citizen contacts. Any candidate receiving zero (0) points shall have written explanation as to the scoring.

Candidate Rankings

Scoring for the promotional process shall be calculated by totaling the points earned from the written examination, oral interview, experience, education, and work performance Components.

At the conclusion the selection process each candidate will receive a scoring sheet that lists the points he or she earned for each component of the process.

The candidates will be listed based on the overall number of points earned, with the candidate who earned the highest number of points at the top of the list.

The Chief of Police will consider the lists generated by this process when he determines that it is necessary to make promotions to the position of Lieutenant.

Once an applicant has been promoted, his or her name will be removed from the promotional list.

Upon promotion, if the candidate fails to complete his/her probationary period, the vacancy created by that demoted individual must be filled utilizing the original list of candidates and will not generate additional /new candidates for that vacant position.

If there is one (1) vacancy, the Chief may select from among the top three (3) candidates.

If there are two (2) vacancies, the Chief may select from among the top four (4) candidates.

If there are three (3) vacancies, the Chief may select from among the top five (5) candidates.

If there are four (4) vacancies, the Chief may select from among the top six (6) candidates.

In the event that candidates with tied overall scores are reached for consideration, all candidates having the tied score will be allowed to participate in the selection process.

The promotional list shall remain in effect for a period of two (2) years from the date the Chief of Police calculates the final overall scores and notifies the candidates via City's e-mail system.

If no promotions are made to the rank of lieutenant, the promotional list shall be extended for one (1) additional year, for a maximum of three (3) years.

In the event two (2) or more candidates are promoted at the same time with identical scores, the candidate with the higher written score shall have seniority. If the written scores are identical, the candidates time in grade shall determine seniority. **If time in grade is identical, seniority as a patrol officer shall prevail.**

Probationary Period

As set forth below, the Chief shall have the right to return an employee to his or her former rank if the Chief determines the employee's performance is not satisfactory. Any return of an employee to his or her former rank during the employee's probationary period shall not be subject to the grievance /arbitration provision of the CBA.

Promotions to the rank of Sergeant are contingent on satisfactory performance during a six (6) month initial evaluation period.

If a newly promoted Sergeants performance is unsatisfactory within his or her initial six (6) months in the position of Sergeant, he or she may be placed on a performance improvement plan and his or her probation shall be extended for an additional 6 months, for total of twelve (12) months, during which time the Chief shall have the right to return the employee to his or her former rank if the Chief determines the employee's performance is not satisfactory. Any return of an employee to his or her former rank during the employee's probationary period shall not be subject to the grievance /arbitration provision of the CBA.

Promotions to the rank of Lieutenant are contingent upon satisfactory performance during an initial period of ninety (90) actual work shifts, where the candidate is actually performing the duties of a Lieutenant, not to include details, time off, and court time.

Any action or performance which is deemed unsatisfactory must be identified and brought to the attention of the ranking officer and his or her immediate supervisor in writing. An attempt will be made to correct the deficiency in the future with a written improvement plan. No sergeant or lieutenant will be returned to their previous rank having not been given the opportunity to correct actions that have been deemed unsatisfactory.

Nothing herein shall be construed as limiting the Chief's right to demote an employee for just cause.

Grafton Police Department

[Testimony of Chief of Police Normand A. Crepeau, Jr.](#)

September 1, 2016

Representative David Muradian
State House
Room 156
Boston, MA 02133

Representative Muradian,

The Town of Grafton adopted civil service in 2000 and is one of the smaller police departments in the system. After accepting civil service, the Department lost several officers who subsequently transferred to larger civil service agencies. The Town and the Grafton Police Alliance have recently elected to opt out of civil service during regular negotiations. By removing the police department from civil service, the department will be able to recruit trained police officers or self-sponsored academy trained candidates, which could potentially save the town thousands of dollars in training expenses. The department will also be able to more effectively promote officers who are ready for advancement.

The civil service system places the Town under state oversight in the hiring and promoting of police officers. Civil service consists of the Human Resources Division which conducts entrance and promotional examinations for police departments while the Civil Service Commission is a quasi-judicial body that hears and rules on appeals from applicants and employees who believe they have been wrongfully denied an appointment or promotion. Police officers can also appeal any discipline they receive to the Civil Service Commission.

The system overemphasizes the written exam, restricts selection to a narrow pool and imposes cumbersome procedures on the Town. Created in 1884, the Massachusetts Civil Service system was established primarily to ensure that public sector jobs were awarded based on merit rather than political patronage. Today, the testing of job applicants or of current employees seeking promotion is conducted by the Civil Service Unit of the Commonwealth's Human Resources Division (HRD). A state-wide multiple choice exam is offered to applicants who are high school graduates (or who have a GED) and have a driver's license.

The role of a multiple choice exam in the selection and promotion of police officers should be a limited one, but such is not the case in Massachusetts. Once the exam has been given and the resulting list established, police departments are restricted to hiring and promoting from those candidates grouped at the top of the list. For instance, when the police department wants to hire one officer we may only choose from among the top three names on the list; if we seek to hire

two, we are restricted to the top five ($2n+1$ formula), and so forth. If a candidate who is not in the top position is selected, the person bypassed may appeal the department's decision to civil service, creating a costly and lengthy process.

Test scores on the civil service entrance exam should determine rank on the hiring list; however this is not the case as the system has several **absolute** preferences that allow some applicants with a passing grade of 70 to move to the top of the hiring list above applicants with higher scores. These are examples of current **absolute** preferences allowed by civil service:

- Lay-off list for the entire state
- Resident children of police officers or firefighters killed in the line of duty
- Non-resident children of police officers or firefighters killed in the line of duty
- Resident disabled veterans
- Resident children of police officers or firefighters injured in the line of duty
- Non-resident children of police officers or firefighters injured in the line of duty
- Resident veterans
- Resident widows or widowed mothers of veterans killed in the line of duty or dead from service-connected disabilities incurred in wartime service
- Resident non-veterans

Massachusetts is the only state in the country to give absolute preferences to a class of candidates, as most states use a point system in awarding extra points to veterans, disabled veterans or children of slain police officers. The point system is used by the MA State Police who rarely hire anyone who has scored less than 95% on the entrance exam.

Additional rules make hiring and promotion difficult. For instance, local applicants may not be hired until every laid-off officer in the state willing to accept the open position has been considered, and lateral transfers and reinstatements are blocked whenever a layoff list exists. Residence preference, which is assumed to place Grafton residents ahead of other applicants, is actually determined by where the candidate lived when he took the exam. A person living in an apartment in Grafton who lived here for one year leading up to the exam is given preference over an applicant who grew up in Grafton but moved to a nearby town prior to the exam. The police department should be able to award extra points to residents based on their length of residency in our community.

Budget reductions and cuts in staffing have created inefficiencies that slow hiring and promotion. For instance, the eligibility list resulting from the police entrance exam of April 2015 was not established by HRD until the following November, and the results of a promotional taken by officers in October would not be available until approximately February. Delays in hiring are potentially costly to the Town because we must backfill many vacant shifts on overtime. The police department could schedule an exam and have the results within two or three days instead of waiting six months or more under civil service.

In 2000, Jonathan Walters of the Pioneer Institute for Public Policy Research wrote a paper

entitled "Fixing Civil Service in MA". His research stated, "The civil service system in MA is no longer up to the important task of helping governments recruit and hire the most talented personnel". He additionally stated that agencies within civil service have difficulty recruiting the best and brightest job candidates because of the overly bureaucratic, unresponsive, rule bound and control oriented civil service system.

There are other disadvantages to the overly regulated civil service system. Candidates who have tested well may not necessarily be the most desirable candidate for the position. And if an insufficient number of police officers pass a promotional exam, the Town must wait an entire year for the next examination unless assessment center testing is sought at an extreme cost to the towns. Additionally, there is no probationary period for promotions.

In 2014, the small town of Sterling advertised a vacancy for one police officer and received 80+ applications for the position. Two thirds of all applicants had college degrees and 20 applicants had completed the necessary Municipal Police Training Commission's 22 week police academy. Within the past few years, Northborough Police also had a vacancy for one officer and attracted 108 candidates. The most recently published civil service hiring list for the Grafton Police Department has nine (9) candidates.

There are many advantages to removing the police department from the mandates of civil service:

- Removing the town from Civil Service allows for greater flexibility within the hiring and promotional process.
- Towns would not be required to hire from an existing layoff list.
- The department can determine the expiration date of the hiring and promotional lists.
- The police can set minimum eligibility guidelines not allowed under Civil Service such as higher education levels.
- The town and the police department can determine what hiring preferences they want to acknowledge (residency, military experience, Paramedic/EMT certifications, language proficiency, prior academy training, college degree) and award points to potential candidates.
- Instead of the candidate ratio of 2n+1, the police department would have a much larger candidate pool to select from which would broaden the hiring pool exponentially, e.g., Sterling Police Department.
- Departments can diversify their workforce without jumping through the hurdles civil service presents when asking for a specialized certification.
- Departments can recruit educated candidates from colleges to take their exam.
- Flexibility to hire trained police officers from throughout the state.
- New officers without civil service status cannot transfer to a civil service department, potentially reducing turnover.
- Ability to incorporate community and department specific criteria into promotional exams such as MGL; policies & procedures; rules & regulations; town bylaws.

- Ability to offer promotional exams that more accurately gauge an officer's suitability to become a supervisor and to schedule promotional exams whenever they are needed.
- Attributes beyond test score, such as work productivity and contribution to the police department could factor into promotions.
- Ability to mandate a probationary period for promotions.
- There are many companies that provide entry level exams for police departments with little to no cost to the town.
- The exam score or rank does not have to be the determining factor for who the department interviews and hires.
- Current employees retain their civil service status, thus retaining their right to appeal discipline to the Civil Service Commission and the language that currently exists in the present collective bargaining agreement.
- Most employees that have been disciplined opt for their cases to be heard by an arbitrator rather than the commission.
- Make the exam score pass/fail or create a higher passing score of 75%, and then conduct assessment centers or interviews to select potential candidates (appeal process).
- Require college degree or other formal education.
- Job related experience;
- Performance evaluation;
- Sick leave record;
- Training and education through career development;
- Disciplinary record;
- The town/police department can decide what's important for their community, rather than being dictated to by civil service.

The Town of Grafton will benefit by withdrawing from civil service and creating its own system of hiring and promotion. Patronage-driven appointments are rarer than most people think, and the Town has worked closely with the GPA to guard against them by creating hiring and promotion policies for the police department. We could do our own testing, award preference to people with deep roots in the community, and recruit candidates with military service, language fluency, education or other skills and abilities that would benefit the Town.

Over the past five years or so, several communities have withdrawn their police departments from civil service including Northampton, Provincetown, North Attleboro, Reading, Franklin, Westwood, Wellesley, Burlington, Norwood and most recently, Uxbridge.

Police departments who have opted out of civil service have only positive feedback on the impact it had on their departments regarding the hiring process. Departments who were limited in their hiring process by cumbersome civil service procedures are now able to recruit and hire the best candidates from a much larger pool of exceptional candidates.

One question that is normally asked is who will be affected by this change? Chapter 4, § 4B, clause (e) states: *This section shall not affect any contractual or civil service rights which have*

come into existence between the city, town or municipality and any officer or employee thereof as a result of the original acceptance of any such law or the provisions thereof; provided, however, that such revocation shall apply to the successor to the incumbent officer or employee, which application shall prevent such contractual or civil service right from automatically continuing with respect to such successor officer or employee.

In other words, officers hired or promoted under the civil service system retain their civil service rights, while newly hired or promoted officers would fall outside civil service. The Civil Service Commission handles appeals from employees who have been disciplined, but most police officers who wish to appeal discipline opt for an arbitrator rather than the Commission, an option allowed due to the “just cause” clause in most police contracts. So while officers who had been hired prior to rescission would have the option of appealing discipline to either the Commission or to an arbitrator, officers hired under the new system could appeal to an arbitrator.

The Town’s withdrawal language with the Grafton Police Alliance contains the “just cause” provision as well as a detailed hiring and promotional process to include additional points for military service, education, training certifications and experience.

Removing the Grafton Police Department from civil service would permit the town to professionalize the hiring and promotion of police officers efficiently and expeditiously. Police officer’s actions are constantly under scrutiny, now more than ever, as they have the ability and authority to take away a citizen’s liberty through the use of force if necessary. The most important thing we can do is to select, train and promote the best possible candidates for the job.

Sincerely and respectfully,

Normand A. Crepeau, Jr.
Chief of Police

Maynard Police Department

[Testimony of Police Chief Michael A. Noble](#)

Natalie Higgins
State Representative
4th Worcester District

Dated August 9, 2021

Dear, Representative Higgins,

This letter is written testimony for the *Special Legislative Commission to Study and Examine the Civil Service Law*, with regards to the Maynard Police Department's departure from the civil service system under Chapter 31 of the Massachusetts General Laws.

I will start by saying that our departure from the civil service system has been beneficial to the department and the Town of Maynard. We are able to hire and promote much more efficiently and do not have the constraints outlined below that are associated with civil service.

Civil Service barriers to hiring: First, the civil service department was a very slow process. When a department requests a list from the civil service office it was regularly met with delays. The department is then limited to hire the candidate that scored in the top three (3) of a somewhat arbitrary test. Then if you bypassed the higher ranked candidate or chose not to include them on your list you had to explain why you chose the lower ranked candidate for hiring, and this was usually met with obstacles and lawsuits. Prior to officially leaving civil service we had bypassed a candidate that was terminated from another agency, it was known to us some of the reasons for termination, however civil service allowed the bypassed candidates appeal saying our process was not thorough enough. So, we endured hundreds of department hours fighting the inevitable that this candidate was not going to be a Maynard officer.

Hiring in the policing profession has always been a challenge, however the current trends are on path showing there will be a severe shortage of officers in the near future. There are several reasons for the lack of interest in undertaking or continuing in police work as a profession. The profession is constantly being villainized which is exacerbated by the media. Officers must answer for the unacceptable, illegal or criminal behavior of other officers that they have no control of. I can think of no other occupation that would have to answer for the actions of others in their profession as is in policing.

There has also been a shift in the dynamic of new officers entering the profession. Many younger officers don't want the amount of overtime that was accepted 10-20 years ago. The new generation of officers want their time off to spend with family and friends. There is nothing wrong with this concept, in fact, I think they may have the better way of handling the work/life balance. However, policing requires 24-hour coverage 7 days a week,

therefore there are repercussions from this. Therefore, there is a need for more officers to cover rotations that would have been filled with overtime, and as I said civil service is notoriously slow.

Since leaving civil service my hiring philosophy is to hire for personality, attitude, and character. What they would score on a test is somewhat irrelevant in hiring, because we can teach them the skills they need to be a good officer. However, it is much more difficult to have someone change their attitude or personality. Civil service is solely based on a score on a test which is an antiquated system to hiring and limits the agency to only three candidates.

Civil Service barriers to promotions: As someone who has taken civil service promotional exams I can say with definitiveness, it is an awful way to measure a leader. I have worked with ranking officers who were terrible leaders/supervisors but were excellent test takers. Promotions must take into account an officer's totality of service to their community. Many officers who do very well on the civil service exam do so because they study a great deal while working, where other officers are more involved in the community don't have this advantage. Also, the inconsequential knowledge tested in the civil service promotional exams is a one size fits all. Policing in smaller towns is different than policing in larger cities, and an officer's knowledge in these aspects will be quite different.

Currently we use a committee process to hiring (see attached) and an outside reputable company to administer a test and assessment for promotions. These have proven to be successful, and we will continue this process into the future making adjustments when necessary.

In Summary, civil service probably was needed at a time when there was rampant discrimination and nepotism, but it has outlasted its usefulness. At a time when policing is under a microscope hiring is more important than ever. Police Departments must not be limited in their choice of candidates nor have those candidates ranked based on an exam that arguably is useless as a measure of a good officer. Thank you for the opportunity to speak on this matter.

Respectfully Submitted,

Chief Michael A. Noble
Maynard Police Department

Attachments: Polices:
● Promotional Process,

- Applicant Selection,
- Background Investigations,
- Recruit Academy Training,
- Medical and Psychological Exam-Recruits
- Disciplinary Process

Policies: Applicant Selection

MAYNARD POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL
CHAPTER 4-1 – GENERAL ORDER – HIRING

APPLICANT SELECTION PROCESS GENERAL ORDER Chapter 4 Section 1			
ISSUE DATE: JULY 1, 2014	MODIFICATION DATE:	MPAC NO: 31.3.4 32.1.1, 32.1.4, 32.1.7	PAGES: 4

POLICY

- A. The Chief of Police of the Maynard Police Department is vested with the authority and responsibility for administering the selection process for the Department.
- B. The Maynard Police Department is responsible for its entire selection process for sworn employees, excluding final appointment. Authority for appointment is vested with the Town of Maynard’s Board of Selectmen.
- C. The hiring and selection process for non-sworn civilian employees is the responsibility of the Chief of Police with approval from the Town Administrator.
- D. The Maynard Police Department was a Massachusetts Civil Service Department until July 1, 2014. All sworn positions appointments, except for Chief of Police, prior to May 19, 2014 continue to be part of the Civil Service System except for promotions.
- E. The Town of Maynard has and will provide Equal Employment Opportunities for all applicants. Every individual, regardless of race, creed, color, nationality, religion or sex, applying for employment with the Maynard Police Department will receive equal treatment.

PROCEDURE

1. SELECTION PROCESS FOR SWORN PERSONNEL

- A. The Chief of Police will determine when there is a need to begin the selection process when there is an open sworn position.
- B. The Chief may require a written exam in determining eligibility or he/she may request resumes and a letter of interest from potential applicants be submitted.
- C. Upon applying, applicants are given written notification of the following elements involved in the selection process:

1. Required information needed in the selection process.
 2. Waivers for background investigation.
 3. Steps in the selection process.
 4. Duration of the selection process.
- D. Depending on the number of open positions, the Department will have a certain number of candidates from which to choose for interviews using their resumes and/or written exam as a basis. The final candidates for interviews will be decided by the Chief of Police with input from the command staff.
- E. A thorough background check of all candidates is conducted by background officers assigned by the Chief of Police. Background checks include but are not limited to:
1. Confirm application answers - applications will not be rejected because of minor omissions or deficiencies that can be corrected prior to the interviews.
 2. BOP (Board of Probation) check.
 3. Driver's record check.
 4. Employment history including sick time.
 5. Credit history.
 6. Military record.
 7. Physical fitness.
 8. Interviews with employers, neighbors, co-workers, references, family and others.
 9. Social media site searches.
 10. Media searches.
 11. Verification of special skills.
- F. Candidates are interviewed in front of a panel of police personnel (members of the panel may vary, but will usually consist of members of both unions, Lieutenant and the Chief of Police) and a member(s) from the Board of Selectmen as a liaison. At the conclusion of the interviews the panel discusses the interviews and opines the rankings of candidates. However, the final ranking order of the candidates is solely at the discretion of the Chief of Police. The Chief shall give written reasons for his rankings. The leading candidate is then presented to the Board of Selectmen for appointment as a full-time police officer.
- G. Once appointed, the candidate(s) are required to take a physical and psychological test.
- H. Finally, the appointed candidates are given conditional employment upon the completion of the MPTC full-time Academy.

2. SELECTION PROCESS FOR NON-SWORN CIVILIAN POSITIONS

- A. When an opening for a non-sworn civilian position occurs, a posting for employment opportunity is advertised following the guidelines of The Town of Maynard's Equal

Employment Opportunity Plan.

- B. Prospected candidates will complete the application - applications will not be rejected because of minor omissions or deficiencies that can be corrected prior to the interviews.
- C. A candidate list is compiled utilizing the resumes and applications submitted.
- D. Background checks on applicants are processed.
- E. The Chief or his designee(s) interviews the applicants - he may request assistance with interviews.
- F. The Chief or his designee appoints the applicants to the appropriate position for which they have applied.

3. SECURITY OF RECORDS

All selection materials (i.e. evaluations, ratings, reports and forms used in the selection process) are secured in a locked file in the Chief's Office. All said selection materials shall be retained pursuant to the record retention schedule of the Commonwealth of Massachusetts. When any materials are disposed of or destroyed, it is completed in a manner that prevents disclosure of the information within.

[Policies: Background Investigations](#)

MAYNARD POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL
CHAPTER 4-2 – GENERAL ORDER – HIRING

BACKGROUND INVESTIGATIONS GENERAL ORDER Chapter 4 Section 2			
ISSUE DATE: JULY 1, 2014	MODIFICATION DATE:	MPAC NO: 32.2.1 & 32.2.2, 32.2.3, 32.1.6	PAGES: 2

POLICY

It is the policy of the Maynard Police Department that after an applicant receives notice of employment and signs their intent, a thorough investigation of the candidate shall be conducted. The verification of a candidate's minimum qualifying credentials are:

- Valid Massachusetts Driver’s License.
- High School Diploma of equivalency.
- Residency compliance.
- U.S. Citizen or Naturalized Citizen.
- A criminal history records check.
- Registry of Motor Vehicles (RMV) check.
- A credit and financial history check.
- An employment history check.
- Verification of at least three (3) personal references of the candidate.
- Interviews with all (if available) current and previous employers, coworkers, and neighbors.
- Department of Mental Health (DMH) check for records of confinement or treatment of mental illness.
- Confirmation of military service and claimed awards.

- Confirmation of claimed academic status, awards and honors.

PROCEDURE

The primary purpose of the background investigation of a candidate is to assist the appointing authority in making an informed assessment of a candidate's character, reputation and suitability to perform the functions of a police officer. Under the direction of the Chief of Police, background investigators (completed a certified Background Investigation Training Course) shall be assigned to conduct the background investigations phase of the screening process. They shall be responsible for conducting background investigations and submitting written reports on all applicants. The background investigator and his/her report shall be impartial, factual and objective. The reports shall be used to aid the appointing authority in their hiring decision.

Fingerprint-based background check requests shall be submitted either as criminal justice employment checks (for all employees of the department) or as criminal justice checks (all non-employees) and can be done on the department's live-scan fingerprinting device.

If a felony conviction of any kind exists, an employee is not to be allowed access to the CJIS or to any information derived from the CJIS, and the Department is required to notify the DCJIS, in writing, as soon as practical. In the case of a non-employee, the agency must deny unescorted access to the individual.

If a misdemeanor conviction exists, the Department must notify the CDJIS and must request a waiver before the employee is allowed to access the CJIS or CJI, or before the non-employee is provided unescorted access to secure areas.

BACKGROUND PERSONNEL

- A. Personnel used to conduct background investigations shall be at the discretion of the Chief of Police.
- B. Only sworn personnel trained in investigative techniques and the collection of background information shall be utilized.

BACKGROUND RECORDS

- A. A record of each candidate's background investigation shall be maintained on file in accordance with Massachusetts State Regulations regarding records retention. The report and all related working files, notes and interviews shall be securely maintained by the Chief of Police.
- B. Once filed, only sworn law enforcement officers of bona fide law enforcement or military agencies, with a properly executed release waiver from the subject of the report, shall be granted access to the record.

C. All background investigation reports and all related working files, notes and interviews shall, at a minimum, be maintained by this agency pursuant to the Massachusetts Public Records Law.

Policies: Medical and Psychological Exam-Recruits

MAYNARD POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL
CHAPTER 4-3 – GENERAL ORDER – HIRING

MEDICAL & PSYCHOLOGICAL EXAM-RECRUITS GENERAL ORDER Chapter 4 Section 3			
ISSUE DATE: JULY 1, 2014	MODIFICATION DATE:	MPAC NO: 32.2.7, 32.2.8, 32.2.9	PAGES: 2

POLICY

- A. All physical and age qualifications for entry level sworn positions are determined by the Municipal Police Training Committee and the Massachusetts Department of Human Resources. This agency adopts these standards and a candidate must meet these standards in order to be admitted to the recruit academy. These standards meet the requirements of validity, utility and minimum adverse impact. These requirements are, but not limited to:
- Height
 - Weight
 - Visual acuity
 - Hearing
 - Color blindness
 - Physical agility
 - Physical fitness
- B. A medical examination of the candidate is conducted prior to an appointment to probationary status. The exam is done using Massachusetts Human Resources Medical Guidelines and Forms. The exam uses valid, useful and non-discriminatory procedures.
- C. The Maynard Police Department shall use only licensed physicians to certify the general health of candidates.
- D. Prior to appointment as a sworn probationary officer, all candidates shall undergo emotional and psychological fitness examination conducted by a qualified, professional psychologist or psychiatrist selected by the Chief of Police.
- E. The Chief of Police shall maintain a report of each emotional stability and psychological fitness examination to ensure that proper procedures are followed and to provide data for continuing research and legal defense.

- F. All files pertaining to this standard shall be kept in a secure file. ONLY those individuals approved by the Chief of Police will be allowed access to the information. The only exception to this restriction shall be if the subject of the record requests (in writing) and executes a proper records release waiver that the record be released to a specific person or agency for a specific purpose, and the subject promises (in writing) to hold harmless the Town, the Police Department and its agents for complying with said request.

- G. These records shall be maintained in accordance with the State Records Retention schedules for Massachusetts Municipal Police Departments.

Policies: Recruit Academy Training

MAYNARD POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL
CHAPTER 4-4 – GENERAL ORDER – HIRING

RECRUIT ACADEMY TRAINING			
GENERAL ORDER Chapter 4 Section 4			
ISSUE DATE: JULY 1, 2014	MODIFICATION DATE:	MPAC NO: 33.2.4, 33.4.1	PAGES: 1

POLICY

- A. Recruit training or basic law enforcement training is the orientation of new employees to their job and the development of basic law enforcement job skills.
- B. The Maynard Police Department requires and conforms to *Massachusetts General Law, Chapter 41, Section 96B* by sending “every person who receives an appointment to a position on a permanent full time basis in which he will exercise police powers in a municipal police department,” “shall prior to exercising any police powers,” or routine assignment in any capacity in which the officer is allowed to carry a firearm, “be assigned to and satisfactorily complete a prescribed course of study at a regional or municipal police training school, approved by the Massachusetts Criminal Justice Training Council.”
- C. The Department, at the discretion of the Chief of Police, may use employees within the Department, not yet trained in the academy, in positions not requiring law enforcement powers (i.e. communications, records or other activities).
- D. Once a recruit completes an approved Massachusetts Full-time Police Academy, he/she shall be trained in all Policies and Procedures included in this Manual. Said training shall be done by the recruit officer’s Field Training Officer (FTO). The FTO will provide the recruit with a copy of the Policies and Procedures Manual on the first day and will review and explain them periodically as part of his/her field training. The recruit will not be discharged from field training until he/she has full knowledge of the Policies and Procedures of this Department.

[Policies: Disciplinary Process](#)

MAYNARD POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL
GENERAL ORDER 11-8 DISCIPLINARY PROCESS

<h1>DISCIPLINARY PROCESS</h1>			
GENERAL ORDER Chapter 11 Section 8			
ISSUE DATE: JULY 1, 2014	MODIFICATION DATE:	MPAC NO: 26.1.5, 26.1.6, 26.1.7, 26.1.8, 52.1.2, 52.2.7	PAGES: 3

POLICY

- A. Supervisors shall mentor the personnel they oversee, therefore all supervisory personnel are responsible for the performance, conduct, appearance, counseling and adherence to Maynard Police Department policies, procedures and directives by the subordinates they have command over.
- B. Any employee, both sworn and civilian, may be relieved from duty by a supervisor of higher rank (see *Chapter 1 section 3: Chain of Command*) by temporary administrative action due to an employee's physical or psychological fitness for duty, or for an action pending disposition of an internal affairs investigation.
- C. Supervisors have the authority to remove employees from duty. A supervisor relieving an employee of duty due to physical or psychological fitness or other concerns shall immediately notify the Chief of Police, or the Deputy Chief if the Chief is unavailable, and thoroughly document the circumstances. If the circumstances are warranted, the employees, so relieved, will surrender their issued badge, ID credentials, and all Department issued firearms and license to carry firearms. The supervisor shall then instruct the employee that they are not to return to the police station until contacted by the Chief of Police or his/her representative. If the reason the employee is relieved of duty is based on concerns for alcohol or other substance abuse or if the emotional status of the employee gives rise to concerns for impaired operation, the employee will not be allowed to operate a vehicle - requiring alternate transportation arrangements. Any employee, so relieved, shall comply immediately with this directive when instructed to do so.
- D. A supervisor may also temporarily relieve a subordinate for **non-disciplinary**

reasons.

For example, an employee who was involved in or witnessed a traumatic incident and may not be psychologically ready to assume normal duties may be relieved from duty. In such cases, the supervisor will notify the Chief of Police and will also use his/her best efforts to counsel and assist the officer in contacting any outside resources that could assist him/her in dealing with the traumatic incident. An officer who is relieved for non-disciplinary reasons shall be entitled to full pay and benefits while so relieved.

E. The authority given to each level of supervision and command relative to disciplinary actions is as follows:

1. **Oral Reprimand** – A supervisor may orally reprimand an employee for actions contrary to the policies and procedures of the Maynard Police Department. An oral reprimand shall be given in a manner that will not embarrass the employee before other employees or the public.
2. **Written Reprimand** – A written reprimand may be initiated by any superior ranking official (i.e. Chief of Police, Deputy Chief, Lieutenant, Sergeant or civilian supervisor). Said reprimand may be applied to any infraction of the policies and procedures or rules and regulations. A reprimand may also be levied for repeated procedural errors or any infraction of other written directives.
3. **Suspension With or Without Pay** – In a situation where the Chief of Police feels that there exists “just cause” for suspension, the Chief may make a recommendation to the Board of Selectmen, and the Board may suspend an employee with or without pay. In addition, the Chief of Police may relieve any employee from duty by Temporary Administrative Action due to an employee’s physical or mental fitness for duty. Temporary Administrative Action may also be taken pending the disposition of an internal affairs investigation. Any supervisor may, based on his/her reasonable observations, require a Department employee to submit to a test for his/her blood alcohol level. The results of said test may be used in a subsequent disciplinary action. Refusal of the employee to submit to such test will be grounds for disciplinary action itself, and the employee may be subject to dismissal.
 - a. If any employee is believed to be under the influence of alcohol, a certified breath test operator shall administer such a test. The supervisor will witness the testing and will be required to sign the report.
 - b. If the employee has a reading of .02 or higher, or there is other competent evidence of impaired ability to perform his/her duties, the supervisor **shall immediately** relieve the employee of duty and a full, written report made to the Chief of Police or his/her designee by the supervisor in charge.

- c. If the employee refuses to submit to the testing, then the supervisor shall immediately relieve the employee from duty for failure to cooperate in an administrative investigation. A full and complete report shall be prepared prior to the end of that tour of duty. Said report shall be forwarded to the Chief of Police.
4. **Demotion** – In a case where the Chief of Police sufficiently believes that there is just cause for demotion, he / she may request the Board of Selectmen order the employee demoted. Any employee may also be demoted for failure to adequately perform their assigned duties or for a lack of sufficient work product. Any demotion must be made in accordance with current contractual rights of the employee and the General Laws of the Commonwealth of Massachusetts.
5. **Dismissal** - In a case where the Chief of Police believes that there is sufficient just cause, he/she may recommend the dismissal of any Department employee to the Board of Selectmen. The Board of Selectmen may order said dismissal after an appropriate hearing according to law and any contractual obligations. If an investigation of an employee's misconduct results in dismissal, the following shall be provided to the employee:
 - a. A written statement citing the reasons and cause for dismissal.
 - b. The effective date of the dismissal.
 - c. A written statement of the status of fringe benefits and retirement benefits after dismissal.

F. APPEALS PROCESS

Any Department employee (sworn or non-sworn) who is the recipient of disciplinary action has the right of appeal pursuant to the collective bargaining contracts, civil service guidelines and the General Laws of the Commonwealth of Massachusetts.

1. Civil Service Employees - Employees covered under Civil Service Guidelines may appeal to Civil Service **or** may elect for the appeal to be heard by a mutually agreed upon arbitrator. The Town and employee will equally divide the cost of the arbitrator.
2. Non-Civil Service employees may appeal to a mutually agreed upon arbitrator. The Town and employee will equally divide the cost of the arbitrator.

Aggrieved party shall notify the opposing party of their intent to file arbitration within fourteen (14) business days. Failure to file such notice within such time frame will result in forfeiture of the right to arbitration. The Town and employee agree that the decision of the arbitrator is binding on both parties.

- G. Written records pertaining to all internal affairs investigations against the department or an employee and/or any subsequent disciplinary action shall be maintained in a secure area in the office of the Chief of Police.
- H. A concerned supervisor may review a completed personnel investigation file, in the Office of the Chief of Police, only after presenting sufficient reason (need to know) to the Chief of Police.
- I. Personnel investigation files are confidential and shall not be released without approval of the Chief of Police or his/her designee. However, Exemption (c) of MGL c. 66 s. 10 was re-written in its entirety in Section 2 of Chapter 253 of the Acts of 2020. The new definition became effective December 31, 2020 and now applies to personnel and medical files or information and any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; provided, however, that this subclause shall not apply to records related to a law enforcement misconduct investigation.
- J. The Department shall, in accordance with Massachusetts State Record Retention Regulations, retain all files pertaining to personnel investigations and any disciplinary action taken against any employee as a result of said investigations.
- K. All employee disciplinary records including the disciplinary action taken shall be kept separate from the affected employee's personnel file however, see Section I above for release of records for misconduct.

[Policies: Promotional Process](#)

MAYNARD POLICE DEPARTMENT POLICY AND PROCEDURES MANUAL
GENERAL ORDER 2-8 PROMOTIONAL PROCESS

PROMOTIONAL PROCESS			
GENERAL ORDER Chapter 2 Section 8			
ISSUE DATE: JULY 1, 2014	MODIFICATION DATE:	MPAC NO: 16.2.2, 34.1.1, 34.1.2, 34.1.3, 34.1.5, 34.1.6	PAGES: 3

POLICY

- A. The Chief of Police, by way of contract, is vested with the authority to announce, direct and administer the promotional process for the Maynard Police Department. The process consists of:
 - 1. Written exam;
 - 2. Assessment Center;
 - 3. Submission of Letter of Qualifications; and
 - 4. Chief's Assessment;

- B. Promotions are based upon the merits of the candidates and their personal performance in the promotion process, and never on favoritism, nepotism, or seniority alone. Promotional potential of the candidates is measured using their seniority, performance evaluations, formal education, training, discipline to include sick time, work ethic and initiative, and the eligibility requirements outlined below in Section D.

- C. The Department will notify officers of any promotional opportunities. There will be at least a ninety (90) day notification prior to a promotional written examination (The usual notifications will be four (4) to six (6) months). The notifications shall be issued by the Chief of Police and shall include the following information:
 - 1. A description of the vacant position(s).
 - 2. Study materials required.
 - 3. Examination date for the vacant promotional position(s).

Notices for promotional written exams shall be sent out by email and posted in dispatch and the squad room in a conspicuous place.

D. Eligibility:

1. To be eligible for the promotion to the rank of Sergeant the candidate must be a permanent member of the Maynard Police Department as a full-time officer for at least three (3) years with at least five (5) years of total experience as a full-time police officer. The Chief of Police may lower the years needed to be eligible if there are less than three (3) viable candidates to apply for the promotion. (This includes academy time).
 2. To be eligible for the promotion to the rank of Lieutenant the candidate must have held the permanent rank of Sergeant on the Maynard Police Department for at least three (3) years, or hold the rank of Sergeant and have been allowed to work as an Officer in Charge for at least six (6) years; or a combination thereof (i.e. two (2) years of OIC time equates to one year of Sergeant's time). The Chief of Police may lower the years needed to be eligible if there are less than three (3) viable candidates to apply for the promotion.
- E. A candidate may appeal an exam question in writing to the Chief of Police within five (5) business days of the exam. The appeal should clearly outline the reason. The candidate shall be advised of the result of the appeal within ten (10) business days of the receipt of the appeal.
- F. Officers need a minimum score of 70% on the written exam to continue the promotional process. There is no limit to the number of candidates to advance. The Chief will notify candidates of their scores within seven (7) business days of the results being certified.
- G. All candidates who pass the written test will then proceed to an Assessment Center. The Assessment Center schedule will be given at least seven (7) days prior and will take into account candidates working schedules.
- H. All personnel who are scheduled to take a promotional exam may use a vacation day, personal day or an in lieu of day for purposes of taking the exam. Personnel on their days off who are scheduled to take a promotional exam will not be subject to an "order in" for any shift on the day of the exam. The scheduling of the exam will take into consideration officers who are out injured, sick, on military leave, or administrative leave, and will make reasonable accommodations should these officers apply for the promotional process.
- I. The Union and the Chief of Police will agree on a reputable company to administer the written exam and the assessment center within fourteen (14) days after the announcement of an exam. This provision does not limit the Chief and Union from agreeing to use a reputable company in advance of any announcement.

- J. After the written exam each officer continuing on with the promotional process will submit a letter of qualifications to the Chief of Police. This letter should outline the candidate's qualifications for promotion. The letter should be no more than five (5) pages double spaced. The candidates resume should be attached to the letter.
- K. The Chief of Police, at his discretion, may interview the candidates as part of the promotional process. When the Chief of Police elects to do interviews he will have uniform questions and rating scales and assess a defined set of personal attributes. The results shall be recorded on a standardized form.
- L. Candidate Selection:

Candidates shall be ranked by the Chief of Police based on his assessment of the following criteria:

1. Written Exam;
2. Assessment Center
3. Job Related Experience (including other law enforcement and military experience);
4. Formal Education;
 - 5. Training and Career Development (including related military training);
 - 6. Performance Evaluations;
 - 7. Disciplinary & Unexcused Sick Leave Records;
 - 8. Philosophical Agreement with Department Goals; and
 - 9. Work Ethic and Initiative;

******* Unlike civil service rankings the written exam score is not the major factor in the ranking.**

- M. VETERAN PREFERENCE: When all things considered two (2) or more candidates are so closely ranked (within a point) and one of the candidates is a veteran, as defined in *M.G.L. c. 4 s. 7*, then the candidate who holds the veteran's status shall be ranked above the other candidate.
- N. The Chief of Police shall make a recommendation to the Appointing Authority for promotion based on the aforementioned criteria. The rankings shall be valid for one (1) year.
- O. Candidates may review and appeal any portion of the process pursuant to policies and procedures and the current collective bargaining agreement.
- P. There will be a probationary period of one (1) year for all new promotional appointments.

If the conduct or capacity of a person serving a probationary period or the character or quality of the work performed by him is not satisfactory to the appointing authority, they may, at any time after such person has served thirty (30) days and prior to the end of such probationary period, give such person a written notice to that effect, stating in detail the particulars wherein his conduct or capacity or the character or quality of his work is not satisfactory, and said person, shall be reduced in rank to his previous position including any civil service status they previously held.

Q. All costs associated with the administration of a written exam and assessment center shall be the responsibility of the Maynard Police Department and Town of Maynard. All the costs of the study materials are the responsibility of the candidates.

R. Officers understand that all promotions after July 1, 2014 are non-civil service promotions. Officers will retain their civil service status at the lesser rank should they be reduced in rank for any reason.

S. All openings with regards to "specialized positions" (Prosecutor, Detective, Special Services Officer, and Student Resource Officer) are governed by the Agreement between the Town of Maynard and the Police Union(s). These are assignments and not considered ranking positions.

T. All documentation included in the promotional process will be kept in a secure file in the Chief's office.

Norwood Police Department

[Testimony of Police Chief William G. Brooks III](#)

I have been involved in taking police departments out of civil service twice, first, when I was the deputy chief in Wellesley in 2009, and again as the chief in Norwood in 2014. I found the civil service system itself to be ineffective on several levels. To be clear, I thought the employees of HRD we're very helpful and dedicated to their work, but it is the system that is flawed.

The Massachusetts civil service system was created in 1884. It was the second such system to be created in the United States. New York was the first, and it followed a period where people seeking jobs in New York City in police, fire and public works would pay the local politician for the position. The testing of the civil service system was designed to be a merit system, requiring that people obtaining jobs actually meet certain criteria. A merit system makes sense, but a multiple-choice exam is no longer a good way to select police officers.

I believe the current civil service system is flawed in several ways:

A limited number of candidates are on each list. Civil service uses the 2N+1 formula meaning that if there are two vacancies, the police department only receives a list of five candidates. (Now that we are out of civil service, we typically begin with a batch of at least 15 to 20 candidates.)

If a Department wants to hire anyone other than the top candidate, they must justify why in writing by writing a "bypass." The candidate can appeal the bypass to civil service.

If officers have been laid off other places in the state, we are required to consider those candidates before we consider candidates that would be on a typical list. In reality, officers who have been laid off are typically from city departments, and it has been my experience that as soon as those departments begin to rehire those officers return.

Norwood has a heavy Brazilian community, and when I first became chief and we were still in civil service I wanted to hire bilingual officers. I wrote to civil service asking for a selective certification list of Portuguese speaking officers. As part of my justification, I cited that Norwood Hospital uses translators and tracks the number of translations they need. In the year prior to my request, Norwood Hospital had needed Portuguese translators 1100 times. That was all in a single year! Civil service denied my request.

I have attached to this email the hiring and promotion policies of the Norwood Police Department.

Hiring:

We built the hiring and promotion systems prior to obtaining town meeting approval for withdrawing from civil service. We engaged both police unions in this endeavor, wanting to go to town meeting with hiring and promotion systems already designed.

We took the portions of civil service that we thought were useful. For instance, we now give an entrance exam every two years. Our hiring policy provides that we will provide priority to applicants who are from the Town of Norwood, and who have military service, similar to what they would receive under the civil service system. The difference is that we do not use a linear list, and do not have to justify hiring a person with a lower score if we believe they are the better candidate. We also consider a larger group of candidates.

We prioritize residence and military service. After our exam is given we contact all candidates who are residents of Norwood who have military service and who passed the exam and grant them all an interview. We also interview residents of the town who do not have military service, but score high on the exam. This score is determined on a case-by-case basis depending on the range of scores in a given year. Most years, we draw the line for the first round of screening at 85%. In other words, we begin by interviewing all military personnel from the town who passed the exam (score of 70% or better), and all residents who do not have military service but who scored 85 or above.

Two rounds of interviews are conducted and we begin to narrow the pool to those applicants who seem most suited to become police officers. In addition to their score, we also consider things like language capability, college education, past work experience, and performance in the interviews (see policy for list).

The testing is administered by a company selected by us. The test is multiple-choice and is given at our local high school. We recruit heavily within the community, and area colleges as well. Candidates register for the exam online with a credit card, so the testing is at no cost to the town. We typically receive the test scores within a few days of the exam and begin processing applicants the following week.

We now require that applicants have a two-year college degree, however this requirement is waived for military service. The reasoning behind this is that if a candidate graduates from high school and goes into the military, we believe he or she should not be penalized for that. And, the town's generous education incentive program incentivizes new officers to obtain college degrees if they don't already have one.

Candidates must be 21 at time of appointment, and pass a thorough background investigation.

Our hiring policy also provides for lateral transfers, using a system different from civil service. Under civil service, a department can only take a transfer if the officer's chief allows it. And, the officer must come from another civil service system within Massachusetts. Under our hiring policy, I can take a lateral transfer who has two years of experience as a police officer anywhere in the United States. As a result, I was able to take a lateral transfer of a minority officer from a university

police department who was fully academy-trained. I also took a lateral transfer of a candidate who grew up in Norwood, but was working for another non-civil service department. Another lateral was working for a non-civil service department in Massachusetts, and he is now a sergeant. And yet another officer who grew up in Norwood had been with the Florida Police Department for 10 years. I was able to hire this experienced officer, who had strong roots in the community. He wanted to move back to Norwood because his parents were aging and he wanted to return to the community where he grew up. If we were still in civil service, I would never have been able to hire this officer, and he would not have been able to get back to Massachusetts.

Promotions:

As with civil service, we give a multiple-choice exam to officers seeking promotion to sergeant or lieutenant. Our reading list contains fewer textbooks than used by civil service, and we instead test on department policy, on a textbook on community policing, and a publication by the Police Foundation on the effectiveness of foot patrol.

All officers who pass the exam are then put through an assessment center.

When a vacancy in rank occurs, officers are interviewed and the best candidate is selected. When selecting officers for promotion, we rely on the test score and performance on the evaluation, but we also consider their day-to-day performance in their current rank (see policy for full criteria list).

We now require a bachelors degree for all promotions and rank.

Collective Bargaining:

Education incentive was an issue in both Wellesley and Norwood, and we resolved those issues during bargaining over removing the departments from civil service. In Norwood, the unions also benefited slightly here and there, such as by removing some steps in the pay scales. In my view, the success in both towns stem from our open conversations with the unions about why we sought to leave civil service, and what the new hiring and promotion systems would look like.

Discipline:

I believe that most officers who are disciplined do not use the civil service system to appeal their discipline. Most take their case to an arbitrator through the contractual grievance process. This process is guaranteed to an officer if the union contract has a "just cause" clause in it.

Who is Impacted:

Remember that under state law, when a city or town rescinds a state statute, employees cannot lose civil service rights. This means that if a town leaves civil service, officers who were hired under civil

service retain their rights (essentially right to appeal discipline). The new system applies only to new hires.

In summary, I have been pleased with the outcome in both towns. Leaving civil service helped us professionalize our hiring and promotion systems. There has been no pushback from the unions, and I think they will tell you that they are happy with the new systems. The community is also happy with the Department and our officers.

I believe strongly that the legislature should allow non-civil service departments to continue to hire officers using their own internal systems without further direction from the legislature.

I am happy to clarify anything in this email or discuss this issue by telephone.

William G. Brooks III
Chief of Police
Norwood Police Department
137 Nahatan Street
Norwood, MA 02062
781-440-5150
IACP Board of Directors
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PERSONNEL SELECTION – POLICE OFFICERS

<p>POLICY & PROCEDURE NO. 4.23</p> <p>MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 22.3.1, 31.3.3, 31.3.4, 32.1.1, 32.1.2, 32.1.3, 32.1.4, 32.1.5, 32.1.6, 32.1.7, 32.2.1, 32.2.2, 32.2.7, 32.2.8, 32.2.9</p>	<p>ISSUE DATE: 01/23/15</p> <hr/> <p>EFFECTIVE DATE: 02/01/15</p> <p>REVISION DATE: 5/5/16, 1/24/19</p>
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BACKGROUND:

In 1905, Norwood’s Town Meeting placed the Norwood Police Department under the civil service system of the Commonwealth of Massachusetts. For over 100 years, all police officers hired by the Town of Norwood were taken from certified lists provided by civil service. In the fall of 2014, Town Meeting removed the Police Department from civil service. Effective February 1, 2015 the recruitment, testing, and selection of suitable candidates for appointment as police officers is the responsibility of the Chief of Police. The General Manager of the Town of Norwood is the appointing authority for new police officers and makes appointments of candidates presented to him by the Chief of Police.

The civil service system was originally designed to protect the police hiring system from manipulation and undue influence while taking into account such factors as residential and veteran’s preferences. Without such a system in place, and in the interests of attracting and selecting only the best candidates as police officers, it becomes imperative that public officials and members of the Department strictly adhere to a set of standard protocols. The Department will continue to honor such historical preferences as residency and service in the military.

APPLICABILITY:

This policy applies to candidates for the position of police officer defined in Massachusetts General Law Chapter 41 § 98.

This policy is intended to be consistent with any and all applicable laws. If any part of this policy is inconsistent with the law, that part of the policy shall be considered invalid, and the remaining provisions of the policy shall be construed so as to be consistent with the law.

POLICY:

The primary goal of the Norwood Police Department is to select only the finest candidates so as to further the Department's standards of excellence. The Department will strive to attract candidates from diverse backgrounds and cultures, and will give priority to residency in the Town of Norwood, military service, education, character, and public service in the selection of new officers.

No candidate shall be recommended by the Chief of Police for appointment, or appointed by the General Manager, unless the candidate has been processed according to this policy.

No candidate will be denied employment based upon any discriminatory criteria, including, but not limited to, their sex or sexual orientation, race, religion, nationality or union membership.

PROCEDURES:

The Norwood Police Department will select new police officers according to the procedures set out below. All members of the Department assigned to the recruitment, testing, investigation, and selection of new police officers shall commit themselves to hiring only the finest candidates, and to furthering the Department's standards of excellence. Town employees who are relatives of any candidate will not participate.

The Chief of Police is responsible for the selection of police officer candidates for recommendation to the General Manager and will designate a police officer of command rank to serve as the Selection Coordinator, who will be responsible for overseeing the entire selection process.

The elements of the selection process are listed below and it will be the responsibility of the Selection Coordinator to ensure that they are administered, scored, evaluated, and interpreted in a uniform manner. **[32.1.1, 32.1.2, 32.1.3]**

1. The Norwood Police Department will conduct a recruiting campaign prior to administering an entrance examination. Information about the exam, including its date, time, and location, along with information about how one would go about applying to take it, will be disseminated to the community via the media, social media and the News File maintained by the Massachusetts Department of Criminal Justice Information Services. The position description maintained by the Town of Norwood Human Resources Department is the official description of the duties and responsibilities of the position.
2. The Department will select a vendor to administer the entrance examination to qualified candidates. An exam will be held every two years. In order to be appointed as a police officer, the candidate must meet the following minimum criteria:
 - a. Not be a convicted felon;

- b. Be at least 21 years of age at the time of appointment;
 - c. Possess an associates degree; or have 60 credits towards a bachelors degree; or be a veteran as defined by M.G.L. ch.4, s.7, cl. 43; or be honorably discharged;
 - d. Have a Massachusetts driver's license;
 - e. Have the ability to obtain a Massachusetts License to Carry a Firearm;
3. The passing grade of the examination will be 70.
4. Candidates who pass the examination, or who fall in one of the excepted categories in g. below, will be considered for further processing based on the criteria below (not necessarily in any order of importance):
- a. Residency within the Town of Norwood
 - b. Military Service
 - c. Education
 - d. Prior law enforcement experience
 - e. Prior public service
 - f. Second language proficiency
 - g. The following are excepted categories in which the applicant is not required to take the entrance examination:
 - 1. A full-time law enforcement officer from any U.S. law enforcement agency with a minimum of two years full time experience in his/her agency may apply to join the Department as a lateral transfer.
 - 2. A former Norwood police officer, who separated from the Department in good standing, may apply to rejoin the Department as a reinstatement.
5. The top tier of desirable candidates shall be checked for Massachusetts and interstate criminal history, and a driver's history. If the checks do not reveal any issues, a minimum of fifteen candidates will move to the second step in the process and participate in a preliminary interview.
6. Preliminary interviews will be conducted to determine which candidates will move forward in the interview process. A preliminary interview panel consisting of the Chief, Selection Coordinator, a superior officer, a patrolman mutually agreed upon between the Chief and the Patrolman's Union, and any other persons as the Chief sees fit will conduct preliminary interviews.
7. When a candidate indicates he is willing to accept the position, he will be informed of the remaining elements of the selection process and the expected duration. **[32.1.4]**.
8. Candidates selected for further consideration must submit a completed background investigation packet, sign an Authorization for Release of

Information Form, and produce any required documentation (e.g. Massachusetts driver's license, high school diploma, military record, etc.).

9. Omissions or deficiencies in the submission of information may be used to disqualify a candidate. However, minor omissions or deficiencies on the form may be corrected prior to the interview process so long as there is not a finding that there was an intent to withhold information. **[31.3.4]**
10. Candidates failing to complete the application or produce the required documentation within the required time frame will be disqualified from the selection process.
11. No applicant will continue to the next step in the process until he/she has successfully completed the previous step.
12. An applicant who fails to pass at any step will be notified in writing as soon as possible. **[31.3.3, 32.1.5]** Candidates who fail a step are welcome to reapply when the next exam is given. **[32.1.4]**
13. All candidates will be required to submit to a drug and alcohol screen during the application process.
14. A thorough investigation of each candidate will be conducted. The investigation will include, at a minimum, the verification of a candidate's qualifying credentials, a criminal history records check, Registry of Motor Vehicles checks, an employment history check, verification of at least five (5) personal references of the candidate, and interviews with previous employers, coworkers, and current and past neighbors. **[32.2.1a-c]**
15. The Chief of Police will select police officers to participate in the screening process as background investigators. These officers will be responsible for conducting background investigations and submitting written reports on all applicants. Once selected, the officers will receive training on the duties and responsibilities of a background investigator. **[32.2.2]**
16. Oral interviews will be conducted with the selected candidates who successfully pass the background investigation. The interview panel will consist of the General Manager, the Chief of Police, the Selection Coordinator, two command level police officers selected by the Chief of Police, and the Town of Norwood's Human Resources Director.
17. The same general questions will be asked of each candidate and their responses will be rated and recorded on a standardized form. **[32.1.3]**
18. Candidates may also be asked specific questions based on the information that was obtained during the background investigation or the oral interview.
19. A conditional offer of employment may be offered by the General Manager if the candidate successfully passes the employment screening and interview process.

20. All candidates who accept a conditional offer of employment will undergo a psychological evaluation. The evaluation will be conducted in three (3) phases: a written test/evaluation; a small group and/or role play situation; and a clinical evaluation. **[32.2.8]**
21. A licensed psychologist or psychiatrist will conduct the psychological screening and the psychologist/psychiatrist will maintain any and all records or materials utilized or generated during the process for the Norwood Police Department. A summary recommendation will be prepared for the Department. This report will be kept separate from the candidates personnel file. **[32.2.9][22.3.1]**
22. A physical examination will be conducted by a licensed physician. Medical records will be maintained and secured in a file separate from the personnel file. **[32.2.7, 32.2.9] [22.3.1]**
23. Prior to being accepted to a basic recruit academy, candidates must successfully complete the Physical Abilities Test (PAT) administered by the Massachusetts Human Resources Division. The PAT consists of events that require candidates to perform simulations of activities that are part of a police officer's job.
24. The probationary period for a student police officer is one (1) year following successful completion of a Municipal Police Training Committee certified Academy.
25. The Selection Coordinator will be responsible for the maintenance and security of the records and selection materials of all applicants. Access to all selection records will be limited to the Chief of Police, Deputy Chief, the Selection Coordinator and the officers assigned as background investigators, and to the Town's Human Resources Department if needed. Records pertaining to applicants hired will be retained indefinitely. Records of unsuccessful candidates will be retained (in a secured area) as long as required by state law and regulations, and until all rights of appeal have been exhausted, but not less than 10 years. Records will be shredded when destroyed. **[32.1.6, 32.1.7, 32.2.3]**
27. The Selection Coordinator will ensure that the Department's selection process for sworn entry-level positions complies with all current and applicable laws, rules, and regulations. To accomplish this the Selection Coordinator will:
 - a. Keep abreast of all changes in Massachusetts General Law, and the policies, rules, and procedures of the Department.
 - b. Evaluate and review with the Chief of Police, all elements of the selection process administered by the Department for adverse impact;

- c. Offer recommendations for change or improvement to the Chief of Police; and
- d. Revise and update this policy as needed. Assistance is available from the Town of Norwood Human Resources Department and/or the Personnel Board.

PROMOTIONS

POLICY & PROCEDURE NO. 4.18 MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 34.1.1, 34.1.2, 34.1.3, 34.1.5, 34.1.6, 34.1.7	ISSUE DATE: 01/23/15
	EFFECTIVE DATE: 02/01/2015 REVISION DATE: NA07/01/2021

BACKGROUND:

This policy applies to promotions of sworn personnel to the rank of sergeant and lieutenant.

The Norwood Police Department's commitment to developing employees to take on increasing levels of authority, responsibility, and leadership is embodied in promotions. Eligible candidates have an opportunity to apply and participate in the promotion process as set forth in this policy.

Promotions are based upon the merits of the individuals and their personal performance in the promotion process, and never on favoritism or seniority alone. A promotion is an investment in the future, not only for the Department, but also for the employees who will be supervised and guided by the promoted officer.

POLICY:

It is the policy of this Department to recommend promotions based upon an employee's training, experience and merit. The General Manager of the Town of Norwood is the Appointing Authority. No candidate shall be recommended by the Chief of Police for appointment, or appointed by the General Manager, unless the candidate has been processed according to this policy.

No employees will be denied promotion based upon any discriminatory criteria, including, but not limited to, their sex or sexual orientation, race, religion, nationality or union membership.

PROCEDURES:

Promotions of sworn personnel to the rank of sergeant or lieutenant are processed under the direction of the Chief of Police. The Chief's responsibilities shall include: **[34.1.1] [34.1.2]**

1. Posting written announcements of any scheduled promotional opportunities; **[34.1.5]**

2. Coordinating with any companies or consultants contracted to participate in the promotion process;
3. Protecting the integrity of the promotional process by ensuring that all promotional materials, documents, scores, and completed evaluations remain confidential and kept in a secure location; and
4. Maintaining copies of active promotion lists.

Testing and scoring materials shall not be left unattended and materials not under the immediate and direct control of a person authorized to possess them shall be kept in a secure area approved by the Chief. **[34.1.3(h)]**

Promotional materials shall be retained for the officer's duration of employment. These include:

1. Interview questions and score sheets; and
2. Assessment center questions, exercises, evaluations and other related materials;

Notice of a Promotional Exam [34.1.5]

The Chief shall advise all eligible personnel of an upcoming promotional exam no fewer than 180 days in advance of the test date by:

1. Posting the notice in a prominent place; and
2. Forwarding the notice to supervisors to be read at roll call.

Officers out sick or injured, on administrative or other leave, or on active military duty, or otherwise not likely to receive notice shall be mailed a copy of the examination notice.

A reading list of text books will be maintained and available to all personnel. The reading list will not be changed less than 180 days prior to an exam. Questions on case law and statute law will not take into account law changes occurring fewer than 90 days prior to the exam.

Eligibility [34.1.3(a)] [34.1.6(c)] [34.1.3(g)]

To be eligible for promotion to the rank of sergeant the candidate must be a permanent member of this Department with a minimum of three years of completed service as a full-time patrolman or detective. To be eligible for promotion to the rank of lieutenant the candidate must be a permanent member of this Department and should have a minimum of one year of service as a sergeant.

For promotions taking place after January 1, 2017, an associate's degree or at least 60 credits towards a bachelor's degree will be required. A candidate without a bachelor's degree must be enrolled in a bachelor's degree program prior to promotion.

For promotions taking place after January 1, 2019, aTo be promoted in rank, an officer must have a bachelor's degree will be required.

Promotional Examination Process

All candidates shall undergo an examination process which shall be developed by a reputable testing organization with recognized experience in developing, implementing, and scoring promotional examinations for police officers in Massachusetts. The Chief will consult with the union regarding the selection of the testing organization. Tests shall be designed to identify the most qualified candidates for the tested positions. The form of the examinations shall be determined by the testing organization, in conjunction with the Chief of Police, with input from the union. The examination may include written questions, interviews, assessment center exercises, or any other means which fairly and objectively assess the skills and abilities of candidates for the promotional position.

Whatever form of examination is used, the testing organization must certify that it is a valid measure of the skills and abilities to perform the duties of the promotional position.

Promotional Examination for the Rank of Sergeant

An exam for sergeant will be given every two years. In the event that fewer than three (3) patrolmen pass the exam with a score of seventy (70) or higher, the Department may retest.

If another exam is held because fewer than three (3) patrolmen achieved a grade of seventy (70) or above, those patrolmen who passed the original exam with a score of seventy (70) or higher shall have the option of "holding" their grade and will not be required to take the next exam. Their grade shall be counted and applied to the scores of the second exam. An officer who chooses to take the second exam will be deemed to have passed the second exam regardless of his score, but his score on the second exam shall be considered the score of record. Patrolmen who choose to "hold" their grade shall make this known to the Chief of Police by way of a written notice at least 14 days prior to the date of the new exam.

The exam is pass/fail. Passing the exam will admit candidates to the next phase of the promotion process, where their scores may be considered as one of the factors in promotion.

Promotional Examination for the Rank of Lieutenant

A promotional exam for the rank of lieutenant will be given every two years. Only sergeants are eligible to test for lieutenant. In the event that fewer than two (2) sergeants, pass the exam with a score of seventy (70) or higher, the Department may retest.

If another exam is held because fewer than two (2) sergeants achieved a grade of seventy (70) or above, any sergeant who passed the original exam shall have the option of "holding" their grade and will not be required to take the next exam. Their grade shall be counted and applied to the scores of the second exam. A sergeant who chooses to take the second exam

will be deemed to have passed the second exam regardless of his score, but his score on the second exam shall be considered the score of record. Sergeants who choose to “hold” their grade shall make this known to the Chief of Police by way of a written notice at least 14 days prior to the date of the new exam.

The exam will be pass/fail. Passing the exam will admit candidates to the next phase of the promotion process.

Appeals Process [34.1.3(e)]

A candidate may appeal an exam question, or any other portion of the promotional process, in writing to the Chief of Police within five business days of the promotional process being appealed. The employee shall be advised of the results of the appeal in writing within ten business days of the receipt of the appeal.

Assessment Centers [34.1.3(c)]

Assessment centers may be used as part of the promotional process to rank each candidate.

Candidate Interviews

An oral board consisting of the General Manager, the Chief of Police and additional people as determined by the Chief will conduct candidate interviews. Interviews shall be conducted from a prepared list of questions and the members of the oral board will rate the responses.
[34.1.3(d)]

Candidate Selection [34.1.6(e)]

The Chief of Police shall make a recommendation for promotion to the General Manager from the list of eligible candidates based on the following criteria:

1. Job related experience;
2. Performance evaluation in his/her present position, including contributions to the Department;
3. Supervisory evaluation of the employee’s promotion potential;
4. Score on promotional exam;
5. Performance in the candidate interview;
6. Sick leave record;
7. Formal education;
8. Training and education through career development;
9. Disciplinary record of the employee;

10. Attitude toward the Department and police work; and
11. Work ethic and initiative.

Final Selection

The General Manager shall determine the final selection of a candidate for promotion.

There will be a probationary period of six months for all new promotions. ***[34.1.7]***

Rockport Police Department

[Testimony of Chief of Police John Horvath](#)

August 4, 2021

The Honorable Natalie Higgins
State Representative- 4th Worcester District (Leominster)
24 Beacon St.
Room 527A
Boston, MA, 02133

RE: Request for Written Testimony for the Special Legislative Commission to Study and Examine the Civil Service Law

Dear Representative Higgins,

Thank you for your request for written testimony for the Special Legislative Commission to Study and Examine the Civil Service Law. I am submitting the following written testimony on behalf of the Town of Rockport.

The Town of Rockport was removed from Civil Service Law on March 18, 2020, following a successful negotiation process with the police officers' union and town meeting approval.

- I. The reasons that motivated the Town of Rockport to leave the Civil Service system are as follows:
 - Greater flexibility within the hiring and promotional process.
 - The Town of Rockport will no longer be tied to the State of Massachusetts, Human Resource Division (HRD), Civil Service Unit's extended, rigid exam timelines. Some difficulties we experienced with the system included:
 - Waiting periods for components of the hiring process that persist for months due to timelines established for the needs of larger police agencies unrelated to our needs in Rockport;
 - Exam list expiration periods, and cumbersome administrative procedures that tie our hands to hire the officers we want in a timely and efficient manner.
 - The Town will be able to determine the expiration date of the hiring and promotional lists.
 - The Town can set minimum eligibility guidelines not allowed under Civil Service Law, such as education levels, as well as other identifiable soft skills important for today's law enforcement officer.

- The Town can determine what hiring preferences they want to prioritize (i.e. residency, military experience, paramedic/EMT certifications, language proficiency, prior academy training, etc.)
- Under Civil Service Law, the Town must hire one of the first three available candidates (2N+1), unless there are significant, derogatory reasons not to hire such individuals. This means a candidate that is just average and meets the minimum requirements must be hired. As the Chief of Police and resident, I want the best officers for the job and I do not want to settle for average because of the system that is in place to select our officers for us. Instead of the candidate ratio of (2N+1), Non-Civil Service Law Police Departments have a much larger candidate pool to select from.
- Civil Service Law to a large degree selects the police officers the Town must hire. As I stated, absent a significant derogatory reason not to hire an individual, if they passed the test and are next on the list we must hire them. The Board of Selectmen, who are our appointing authority, should be empowered to determine which police officers should serve our community.
- Recruitment opportunities are enhanced for all the reasons I have mentioned.
- We have an increased ability to hire lateral transfers.
- We have an increased ability to incorporate community and department specific criteria into promotional exams.

II. Since leaving the Civil Service system, the Rockport Police Department has seen a significant increase in interested candidates. We were able to schedule and administer our own written entrance examination that was coordinated in less than (9) weeks. The exam attracted over forty (40) candidates, some of which we have hired and are working for us as reserve police officers. We have additional candidates that were still in the hiring process, but had to be postponed due to the new police reform mandates resulting in the elimination of reserve police officer academies.

- We manage our hiring timelines on our needs, not on the predetermined schedule of the Civil Service Unit through the State's Human Resources Division (HRD), or on the needs of other municipalities.
- We now have the flexibility to administer oral interviews and an in-basket exercise in order to assess candidates, in lieu of a written entrance exam.
- We are now able to select the most qualified candidates that meet our requirements, as well as ensure the police department is a good fit for them.
- We can hire lateral police officers in a more expeditious manner, who are fully-trained and can add a level of knowledge, training and experience to our department.
- As a small municipality with limited resources, we have been able to establish a sustainable hiring process for police department employees that places us in the best position for long-term sustainable success.

III. The residual challenges of our hiring and recruitment efforts are as follows:

- High profile events involving police personnel over the past decade have lowered respect for the work of officers; reduced public confidence and has resulted in a related lessening of interest in law enforcement as a career. Our recruitment efforts speak to who we are and what is important to our community, which begins and ends with respectful service, partnerships, and problem solving.
 - The Town of Rockport is located at the tip of Cape Ann. The median home value of a single family home in the Town is close to seven hundred thousand dollars, making it very difficult for new officers to purchase a home and live in Town. It is our hope that the Town identifies a means to provide affordable housing for consideration by new officers, who want to live in the community.
- IV. The initial recruitment and retention challenges that have been created by some of the police reform measures, should be seen as opportunities to recruit individuals with a variety of skillsets important to 21st Century Policing. Individuals with a background and/or education in areas such as psychology; sociology; accounting, cyber security, and computer science would be welcome additions to today's police departments.
- V. The importance of accountability in law enforcement cannot be overstated. I would like to see the imposition of a more widely accepted performance evaluation system for police personnel that is tied to best practices and community expectations. The evaluations should result in the recognition of excellent performance through not only monetary incentives, but additional training that is of interest to the individual and of benefit to the community.
- VI. Some best practices for police recruitment and retention that we have utilized include the following:
- We completed two recruitment videos to market our department and posted them on the police department's Facebook page and website. The videos were filmed in one day, in collaboration with a local resident and are less than one minute each in duration. They have received more than five thousand views and are a source of pride for the officers who participated.
 - Today's police officers are searching for career opportunities online. PoliceApp.com has been a tremendous resource for us in attracting candidates and allowing a streamlined approach to managing the candidate process. I highly suggest police department's that are struggling with attracting candidates, give an electronic application service, such as PoliceApp.com a try in order to increase their candidate pool.
 - Police officer candidates need to be managed on a daily basis. They need continuous feedback and it is important to stay in close contact with them, or they will lose interest quickly and look elsewhere. We have a designated Recruitment and Retention Supervisor, who creates a relationship with each new candidate, in order to make them feel a part of the department during the background investigation process.
 - Hire ethical people and train them in the skills they will need to be successful. Hiring the right people is the most important job responsibility of the Police Chief and one that I take very seriously. A comprehensive background investigation process is

essential for the hiring of police department employees. We have three trained background investigators that work as a team to facilitate the application process and candidate experience.

I hope you find the information I have provided useful for the Subcommittee. Thank you for the opportunity to provide this written testimony and your support of the Commonwealth of Massachusetts' police departments.

Respectfully submitted,

John Horvath
Chief of Police
Rockport Police Department

Webster Police Department

[Testimony of Chief of Police Michael D. Shaw](#)

August 12, 2012

Natalie Higgins
State Representative
4th Worcester District

Ms. Higgins,

Thank you for reaching out and seeking my input in regards to the departure of the Webster Police Department from Civil Service. This move in particular, had been discussed in my department for quite some time, and when I became the Chief of Police in January of 2019, I sought to make it a reality.

This had been a long time coming for several reasons. The first of which was the fact that the eligibility list remained active for around two years. Civil Service only sent out a certain number of eligible applicants, based on how many vacancies were looking to be filled. As a result, we would receive the same names every time we requested a list, and it would prolong the process. Webster would usually only have 12-15 residents on the list, and then it would open to the statewide list. This would then be further complicated due to the fact that many of these individuals had no intentions of taking a position, but signed that they would, which meant they took an application and returned it, which prompted us to perform a background investigation. At one point it took us nine months to fill two positions, which at the time was crippling to our agency.

One of the more ominous reasons for leaving civil service is the stringent, almost impossible reasons for which to bypass a candidate. We have very high standards here at the Webster Police Department when it comes to hiring, as I feel all departments should. Civil Service has such a narrow criteria for which to bypass a candidate, we are unable to hire a more qualified candidate, simply because someone received a better grade on an exam.

Our new hiring process allows for a written examination, and then a physical fitness examination. The standard for moving on to the next step is simply passing the current step. This allows us to consider all candidates, regardless of where they score. If a worthy candidate is below an unworthy candidate, that person is simply bypassed, which saves the department time and money.

Promotions also allow the Chief to take into account not just the score of an assessment center, but other qualifications the officer may have, such as education, military experience, law enforcement related training, performance as an officer in charge, attendance, as well as any disciplinary issues that may exist. There is an appeal process to the appointing authority, should the applicant feel they were unfairly bypassed. I have seen officers promoted unfairly, and others bypassed for no reason. In a civil service appeal, even if the wronged officer is promoted, the officer that was unfairly promoted retains their rank.

I am happy to further discuss these reasons, should you find the need for more elaboration.

Respectfully,

Michael Shaw
Chief of Police

Oral Testimony (Public Commission Meeting January 28, 2022)

[2022.01.28 Full Commission Public Hearing Notes](#)

<https://www.youtube.com/watch?v=tN0SPI5Z9dg>

Rich MacKinnon - President of PFFM

- “The Municipalities that left civil service to make their departments diverse have not done so.” “And we need to hold those departments and municipalities accountable.” “The MMA wants to make it easier to exit civil service without accountability, follow-up, or data on diversity”
- “I represent locals that have left civil service, and every single one of them have had serious problems regarding hiring, promotions, nepotism, fines and ever increasing expenses.”
- Wellesley where a fine was recently issued to a Fire Chief for nepotism. Just this past Friday we heard of lawsuits in Swampscott where the city is blatantly disregarding the exit language regarding exiting civil service.
- Big expense for the cities and the firefighters who take on these lawsuits.
- We need the process and oversight of civil service.
- And many of these locals who have gotten out want back in.

Jesse Flynn (DAV) asks if RM can speak to the effect on veterans hiring for communities who have revoked civil service / Chapter 31

- PFFM has data, many of members are veterans, Cities and Towns that have exited Civil Service that their veteran hires have gone down drastically. “When a community pulls out of civil service that veterans preference often just goes away.”
- (in regards to 351 different hiring standards): We should create a standard that applies to all 351 municipalities in the state, if we’re going to do this right. I respect local option and local policies but there should be a set of template standards, if you will, that every community has to follow.

Billy Cabral, PFFM Secretary/Treasurer

- Concerns about patronage, due process, and veterans preference
- (one one year versus two year lists and a local option): Three months before a list comes out. They actually prohibit municipalities from calling from that list, which makes the whole hiring process even more cumbersome.
 - Note already waiting 5-6 months for a fire academy. “Adding another three months onto that it really prohibits municipalities and it prohibits fire departments from actually being able to staff their departments properly. That’s why I think a local option should be given.”

Tom Lyons, Mass Veterans Service Officers Association

- “For many, many years we’ve been fighting MMA when it comes to veterans preference.”

- Does the State Association have a preference when it comes to the cadet program? Some towns have created a FF cadet program. The City of Boston has one, although it hasn't been implemented... Cities and towns are finding a way to implement preferences to get around veterans preference."

Billy Cabral, PFFM Secretary/Treasurer

- Those cadet programs, that's a way to get patronage into a system... The veterans who have served our country, did it voluntarily and with dignity and when they come back they should have some sort of preference.

Paul Jacques: PFFM Legislative Agent, President Attleboro FF Local 848

- "To help remove nepotism and politics from public safety, to allow for a fair and merit-based hiring process, promotional process, and even termination."
- "Problems are not from Civil Service itself, but the continued lack of funding, year after year. Some may even say an intentional underfunding, with a death by a thousand cuts."
- "Exam costs have increased to become unaffordable to so many."
- "Outdated residency requirements for those trying to get on the job, and those currently on the job have not been addressed since its inception."
- Currently non-civil service communities don't allow residency as a bargaining right, (under Civil Service since 2014 Supplemental budget).
- "Let's fully fund and strengthen civil service and encourage everyone to stay in civil service."

Jesse Flynn, DAV

- In your experience, have municipalities been able to keep promises of diversity and veterans preference?

Paul Jacques response:

- "Most of the time they do not follow through with that."

Rep. Ken Gordon, House Chair -- "We have been asking this question in Public Service this session of those municipalities that have left, or those where one is in and one is out... and the information we've got is consistent with what we're hearing today. We've yet to hear from a municipality that has increased diversity or increased the number of veterans they've hired after they left.

Mark Sanders: PFFM Legislative Agent, Boston FF Local 718

- "Civil service is not a perfect system, but it does work." It was established to stop nepotism and in leaving civil service that is going to open up to a system that will provide or even encourage nepotism."
- Leaving Civil Service should be a local option.
- "Most municipalities that do not utilize civil service have demonstrated that there has been little if any increase in diversity. That is a concern. If getting out of civil service, the goal is diversity, it appears that it's really not working."
- Leaving civil service affects hiring and promotional process. Promotional exams will become costly to the municipality. In Boston it costs approximately \$2,500 per candidate to process a candidate. Boston has approximately 400 promotions a year.

- One of the biggest problems will be disciplinary hearings, it will open up to a lot more lawsuits. It will not be objective... you'd be answering to the municipality where you're being disciplined.
- Veterans preference would disappear (without civil service).

Ways to Improve the System to Incentivize Municipalities to Stay...

- Bettering relationship with Boston City Council for devising a collaborative plan for department, union, and municipality
- Hiring diverse candidates and diverse veterans

Robert Quinan -- Cites Section 31A which allows a separate process for local boards of appeals, versus state civil service commission

PFFM concerned about who is appointed to the local board

Current process with the Civil Service is well done, true neutral, both sides get to put their case on.

Somerville FF

- Note: Local discipline is still done under civil service law, if it doesn't rise to that level.
- Concerns about corruption, and lawsuits.
- Chapter 31, established laws on adjudication for conflict resolution.
- "Defunded to the point of incompetence." In the past, each city and town had an employee who worked in city hall and if you had a conflict, or a problem, or a question... you'd go right to that person" There's a handful of people left at Ashburton Place.
- Yearly testing, as opposed to biannual, should be a local option. Hiring process can take 9 months, and you're at the end of the list.

Ron Renaud -- If you could highlight the areas in which additional funding is required.

Robert Quinan -- Asking for clarification of what happens within three months of an examination.

Rob Green, President of Lexington Firefighters

- Non-civil service department, never has been civil service
- Need to increase the hiring pool, the applicants that apply for these jobs. We have 4 jobs openings with 6 applications. 6 applicants for 4 positions. That is not a very big pool and that does not help us improve diversity.
- Civil service provides an avenue for communities throughout the state to pool resources together to increase our advertising of our public safety jobs, recruitment to this profession, and it's not sustainable for 351 individual communities to advertise on their own. They don't have the funds to do that, they don't have the staff to do that. Pooled resources is the only way to effect change in that manner.
- Struggle to recruit a large pool of candidates, that pool of candidates is less diverse if its smaller, and we need to increase the pool to improve diversity.

Secretary Poppe -- Curious about your recruiting, if you reach out to Hanscom Air Force Base, you also have a National Guard Battalion on Bedford St.

Recruiting Veterans: "We cannot effectively recruit veterans, because civil service exists. If I'm a veteran in this state, I'm going to apply to almost 100 municipalities through a civil service exam that gives me a veterans preference then I would, applying to one department. We're a very affluent community. It's very expensive to live in the Lexington area, so your residency doesn't apply there... most applicants would be applying to civil service.

Robert Quinan asks about potential of creating a community college to fire department "diversity pipeline" (\$500,000 for police recruits)

- R. Green says this still requires pooled resources
- Individual communities don't have the staffing resources to implement a successful recruitment program.

Rob Green - 15% veterans. 61 total. 1 minority. 3 women.

John Soares of Boston 718 PFFM

Drew Piemonte Springfield PFFM (280 members)

- Rights to maintain employment if there are financial shortfalls, found employment elsewhere and were able to return to Springfield, their home.

William Taylor, President of Marlborough Local 1714

- 2016 City of Marlborough left Civil Service. City will become more diverse without the civil service restrictions, i.e., residency and veterans preferences.
- City of Marlborough Fire Dept has made many new hirings over the last five years, upwards of 20 or more. We have currently in the process of hiring several more firefighters as we speak. We have not become more diverse, Mr. Chairman.
- We're not only not a more diverse workforce as they said we would be, they have made absolutely no effort to getting us there. There is no recruitment effort, there is nothing locally, whether it be Trade Days, School Days at the local Vocational School, or community centers or anything. There has been no effort made by the City to do that.
- The way to fix it (Civil Service) is by funding it properly.
- When I got on the job 30 years ago, there was a person in every community who could handle basic Civil Service questions. In order to get answers on questions now, you're dealing with a handful of people at Ashburton Place. It's very difficult for locals to get information out of there.
- There is an exorbitant cost to do your own system. Not everyone is able to do what they have done in marlborough. Not everyone is financially able.
- We have several pending grievances regarding the lack of consistency regarding the promotional process. Marlborough being a non civil service community, for the size we are, has been nothing short of a nightmare. We've done four promotional processes, each one of

them, even though we have language providing a path for how the way its supposed to be done, they've done it four different ways. Those are all pending arbitration.

- Fund it properly so it can be improved upon -- more affordable to all member communities and hopefully attracting those who have left to come back.
- Ken Gordon recommends that W. Taylor speak with Natalie

Jim Snow - President of Swampscott Fire

- Left civil service October 19, 2021 (both police and fire). Spend months and months negotiating replacement language to replace civil service with a hiring policy, promotional policy and a seniority, layoff, demotion, disciplinary policy. In December, the Chief has already violated the policy and eliminated the upper age limit we both had agreed to. The Town Administrator and Town Council have not accepted the language we negotiated in good faith. Going ahead with a FF Entrance Exam on Feb 5th and Feb 12th. The Chief did not put a closing deadline date on the posting for the jobs and after it was taken down, he assisted at least two people from the public with finishing their applications.
- Been a member of the FD for 39 years. President for 15-16 last years. It's not getting any better. Frankly, we're disappointed. We thought we were going to have more open communication with the town.
- The Town was supposed to send a letter at least 120 days prior to the vote to the Administrator of Civil Service. They did not.
- As far as we know the PD hasn't had any problems and have had their first exam.
- The Town had paid for the hiring of the exam company, but the hiring of proctors to run the exam was coming out of [the Chief's] budget. There was no extra money put in our budget... There is no HR Director and hasn't been for months and months and months.
- High costs of administering exams

John Brophy, Local 925, Lieutenant Peabody FF

- Concerns about recourse with bypasses.
- Changes to promotional processes should be bargained, without Civil Service, concerns there are no protections.

Dave Keene (PFFM DVP 4 Lowell)

Brian Smith - Lieutenant Whitman Fire Department

- First three years out of CS, 14 years in CS
- Bypassed for a promotion (with another FF), CS found for them. Management left unchecked is bad for business.... Checks and balances that keep administration in line.

William Hill - Brockton Fire L-144 & PFFM E-Board

- Nearly impossible to have a person entirely focused on recruitment on staff despite the need for it

James Brown - Plymouth Fire Fighters

- In Civ Service fully. 135 FF, 84 are veterans. 4 women, multiple POC. “Reflective of community down here”

Ross Vona (in CS)

- CS needs to be fully funded. Unbiased checks and balances to the system. Without that patronage and favors come into the hiring process.
- Towns do not take advantage of CS for promotions and recruiting.

Kevin McNiff (Weymouth)

- Main issues: Staffing and Funding. Fully staffing and funding civil service will help with the exam costs. If you want larger pools and more diverse candidates, don't limit them because they cannot afford to take the exam. \$250 twice a year, doing police or fire, it's limiting people applying for these.
- Local option for the annual/biennial testing. Hiring can take a long time, and Weymouth has a robust list.
- Too easy to leave civil service (even without the approval of the members of the departments)

Dennis Mawn (Norwood FD)

- Deployed first five years of service with Norwood FD. Benefitted from the CS System. Watched the PD bargain themselves out of CS. “If the price is right, everything is on the table.”
- Norwood is a big small town. Thankful for the protection of the CS System. Independent arbitrator. CS is that great independence we have.

Jim Young (Weymouth FD)

- CS Success story. Hired off a minority list 28 years ago.
- CS protects labor advocates, or any kind of advocates, from retribution from cities or towns.
- I see now the expense of these exams. And I've given this a lot of thought. How do we make this more diverse? Going to community colleges and high schools and offering 50,000 free exams. Back 28 years ago, it was a tough decision to make (likely less than \$100).

Paul Medeiros (Hyannis Fire Lieutenant)

- 2N+1, expanding that to 5 or 7 people, can be difficult to fill out the list. Could make it more difficult and more influence from the outside. 3 candidates for a promotion should work, the highest score is generally the one promoted.

Written Testimony Submitted for Public Commission Meeting January 28, 2022

Professional Fire Fighters of Massachusetts (PFFM)

[Richard D. MacKinnon Jr., President](#)

February 23, 2022

RE: PFFM Testimony for Civil Service Commission

Chair Ken Gordon and Chair Mike Brady,

Thank you for the opportunity to testify at the virtual hearing of the Civil Service Commission. I want to thank the commission for their hard work regarding civil service.

As President of the Professional Fire Fighters of Massachusetts (PFFM), I proudly represent over 12,000 firefighters across the commonwealth. We have urged our members to listen to the commission's meetings, and we strongly agree that there is a vital need to strengthen and adequately fund civil service. The staff at civil service are the support system for hiring and promotions of firefighters and are an essential partner in public safety. Just as we advocate for safe staffing levels on fire trucks, civil service needs to be appropriately funded and staffed.

This commission was established to study how to make our public safety departments more diverse, a goal that the PFFM supports. A strong civil service department is how we reach that goal. In previous testimonies before the commission, it has been proven that municipalities that have left civil service have not improved their diversity. There are no checks and balances or accountability to apply to these communities without civil service.

The Massachusetts Municipal Association (MMA) provides education to communities on how to exit civil service and bypass workers for hiring and promotions. The MMA has been attempting to dismantle civil service for years and more recently under the guise of diversity. They want communities to be able to leave civil service and not be accountable for their hiring practices, providing no data on diversity. This commission should strengthen civil service and make the process to exit civil service robust and accountable.

The PFFM represents local unions that have left civil service, and every single community that has exited civil service has had problems regarding hiring, promotions, and nepotism. Recently in Wellesley, a community that has exited civil service, a fine was issued to the Fire Chief for

nepotism. There have been lawsuits filed in Swampscott for the community's blatant disregard for the language agreed to for exiting civil service. These are common issues that occur and usually involve expensive lawsuits for communities and the local unions we represent.

I expect many of the local unions that we represent will submit written testimony regarding civil service. The overwhelming fact is that communities that remain in civil service are more diverse. Thank you for the opportunity to testify, and you can always reach me if you have further questions.

Sincerely,

Richard D. MacKinnon Jr.
President

William Cabral, Secretary/Treasurer

Civil Service Testimony for William Cabral Secretary/ Treasurer of the professional Fire Fighters of Massachusetts

My name is Billy Cabral and I serve as the secretary treasurer of the Professional Fire Fighters of Massachusetts representing over 12000 firefighters in 231 departments in the Commonwealth.

Civil Service, is one of the cornerstones of the Fire Service in Massachusetts and I believe that every municipality in the Commonwealth should be participating in.

For far too long Civil Service has been underfunded and now this commission has a great opportunity to fix this problem and fund Civil Service to the levels that it needs to flourish in the future.

Due to its lack of funding, both Entry level Testing as well as Promotional testing prices has gone through the roof making it difficult for men and women to take the entry level and promotional exams.

Residency should also be addressed due to the fact that in some communities the members of the fire service can't afford to live in the communities that they work in or the surrounding cities and towns.

Myself and our President Rich MacKinnon were speaking with a Fire Chief from a civil service community that was thinking about getting out of civil service and when we asked him why he stated "it's too difficult to fire people" And that was his sole reasoning behind it.

Civil service is the fairest system that this Commonwealth has to make sure that Patronage is taken out of the equation when it comes to hiring and Promoting Firefighters and it also gives due process to the members who are employed in Civil Service communities. It also encourages and gives preference to Military Veterans who served our country with bravery.

There are many glaring examples of Municipalities that have gotten out of Civil service, that their exit did nothing to address minority and veteran hirings. Only to have Patronage take over a fair and equitable system.

Civil service has come out stating that they would like to have the entry level exam to be offered once a year. I strongly suggest that this commission make this a local option. This yearly exam may work for some communities but will be cumbersome to others.

In speaking with our local leaders there is not one that I have spoken to that has come out and said that getting out of civil service was a good move.

I'd like to thank this commission for their time and dedication to make Civil Service better and actually keep in check the communities that have gotten out and encourage them to come back in.

Thank you, Mr. Chairman and if you or members of the commission have any questions, I'd be happy to answer them. Thank you

[Paul W. Jacques \(Legislative Agent\) & Craig M. Hardy \(Legislative Agent\)](#)

Special Legislative Commission to Study
And Examine the Civil Service Law
State House - 24 Beacon Street
Boston, MA 02133

28 January 2022

Chair Gordon, Chair Brady, Members of the Commission,

Thank you for the opportunity to submit verbal and written testimony on how important Civil Service is for our over 12,000 Members across the Commonwealth. The fundamentals of Civil Service are to help remove nepotism and politics from Public Safety. To allow for a fair and equitably merit based hiring process, promotional process, and even termination. To put in place much needed protections that provide employee rights, progressive discipline, diversity, veteran protections, and ensure the integrity of each is upheld without exception. Something that if left up to the City's and Towns may not be followed to such a high standard.

It is no secret that, over time, there have been increased issues with Civil Service throughout it's over 100-year existence. But make no mistake; these problems are not a result of Civil Service itself by from a continued lack of funding year after year. Some may even say an intentional underfunding, "death by a thousand cuts." This lack of funding at the Civil Service Commission has created a backlog of cases and long delays in the hiring process that frustrate Communities who rely on such process.

Because of this lack of proper funding exam costs have been increased to become unaffordable for so many. Outdated residency requirements for those trying to get on the job and those currently on the job have not been addressed since its inception. Thankfully residency was made a subject of collective bargaining for Civil Service Departments during an FY14 Supp Budget. But there is only current pending legislation, both in the House and Senate, to give this same bargaining right to non Civil Service Departments. Unfortunately this legislation goes to "study" session after session (HB2665/SB1739).

Let's fully fund and strengthen Civil Service and encourage staying in Civil Service. Doing so will maintain the integrity of our Profession. Thank you again for your time, effort, and consideration on including our recommendations in your report from the Civil Service Commission.

Sincerely,

Paul W. Jacques, Legislative Agent
Professional Fire Fighters of Massachusetts
2 Center Plaza Suite 4M

Craig M. Hardy, Legislative Agent
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PFFM recommendations to hold communities accountable that are looking to exit Civil Service

- Before exiting Civil Service, the community must present a plan to diversify their workforce. This plan must be submitted as part of their Home Rule Petition or whatever process they are required to use to exit Civil Service.
- The community looking to leave Civil Service should document their need and reason for leaving Civil Service, including why accomplishing their diversity goals cannot be accomplished within the Civil Service system.
- The community looking to leave Civil Service must submit a written plan establishing a new hiring process.
- Civil Service should establish a timeframe for the community looking to exit civil service to meet their benchmarks to increase diversity.
- Civil Service should establish a consequence for communities not meeting the established diversity benchmarks and return the community to Civil Service.
- Communities looking to exit Civil Service should have to submit a mutually bargained promotional process before being able to exit Civil Service.

Lexington Fire Fighters Local 1491

January 28, 2022

Special Legislative Commission to Study and Examine the Civil Service Law
24 Beacon St
Boston, MA 02133

RE: Written Testimony for Tenth Meeting

Chair Brady and Chair Gordon,

Thank you for the opportunity to testify via Zoom at the tenth meeting of this commission. Please accept my written testimony in addition to my oral testimony.

I represent all firefighters, Lieutenants, and Captains within the Lexington Fire Department. We are not a civil service fire department, nor have we ever been in civil service. I testify from that perspective.

Keeping the goal of this commission in mind, to increase diversity with civil service hiring, I believe that a larger candidate pool will increase the number of diverse candidates. Currently, Lexington Fire Dept has four immediate openings and only six applicants. Applicants are less likely to apply for one single community when they can take a civil service exam and apply that score to almost 100 communities.

The best way to increase the number of candidates applying for public safety careers is to advertise better and recruit properly. It is not reasonable to expect small cities and towns like Lexington to be able to allocate adequate resources to promote and recruit for their job openings. Civil service is the best vehicle to recruit and advertise by using pooled resources from the state and the communities involved with civil service.

Lexington's problems with recruiting are not uncommon. A fully funded and adequately staffed civil service will help correct this trend. Civil service is not a perfect system, but with the right direction and recommendations from this commission, it could solve many problems.

Regards,

Rob W. Green
President

Francisco Maldonado (Lowell, MA)

Jessica,

I would like my state representative to be aware of this issue with promotional eligibility lists being terminated in favor of discriminating against minorities. I believe that civil service police department chiefs are circumventing civil service laws in favor of chosen individuals. This advantage has limited the diversity of their police departments to better represent their diverse communities that they police.

[I have attached a copy of the letter that I have sent to my congresswoman.](#)

I appreciate the opportunity to weigh in with my concerns and recommendations and hope that you would give due consideration to what I have outlined above. Should you have any follow up questions and/or concerns please don't hesitate to contact me in the days or hours that lay ahead. I respect that time is of the essence regarding this important issue and stand ready to assist if and when called upon.

Respectfully submitted,

Francisco Maldonado
101 W Jenness St.
Lowell, MA 01851
978-815-0114

January 21, 2022

Dear Congresswoman Lori Trahan:

My name is Francisco Maldonado. I live in the Highlands Section of Lowell. I was born in Lowell in 1969. I have lived my whole life in Lowell. I was educated in the Lowell Public School System, graduating from Lowell High School in 1988. I served four years in the United States Air Force. I continued my college education in Lowell receiving one of my Bachelor's degrees from the University of Lowell. I am currently working on my Master's degree at UMass Lowell. I have worked for the City of Lowell for over 30 years. I am a member of Mount Pleasant Golf Club. Presently, I am working for the Lowell Police Department, where I have worked since August of 1996. My present assignment is street supervisor, rank sergeant.

I received your letter about Dr. King's courage and perseverance in breaking barriers and I have been inspired by it. Thank you so much! I am looking for your help with our fight of equality for every American, especially minority officers who serve the Commonwealth. Minority officers at the Lowell Police Department continue to grapple with favoritism, nepotism, injustice, and discrimination.

The mission of the Lowell Police Department is to continue building and maintaining strong partnerships with the diverse communities of the City of Lowell. Officers that I supervise strive to work with the community to reduce the incidence and fear of crime, and to ensure public safety. These officers will do this while working to improve the quality of life for the citizens of Lowell.

I believe that it is imperative that I make you aware of a troubling issue occurring currently within the Lowell Police Department. Several attempts to remedy the issue with the Superintendent has failed. I have been told that the Superintendent has made his decision and it is final! He has stressed that his decision will not change. He has refused any input on his decision. The Superintendent's actions do not support his own words: "We are a team and every single member, sworn and non-sworn, are to be treated with respect, we depend on each other."

Recently, it was brought to my attention and to other members of the Lowell Police Department that the Superintendent was planning to end the current active eligibility promotional list at the end of two years. I am somewhat perplexed as to why the Superintendent would decide this eligibility list needs to end after a two year period knowing that the list has some of the most distinguished supervisors and officers in the police department. Based on past practice, the eligibility list for Captains, Lieutenants, and Sergeants have been extended for 3 years. This has been the case for over 10 years. I don't recall when the eligibility list has ever been not extended for a period of 3 years; especially, now during a time of a National Pandemic that has officers dealing with multi-family tragedies and emergencies. The Superintendent has no valid or justifiable reason not to continue the past practice of extending the eligibility list. The current promotional eligibility list should be extended until the year of 2024.

In keeping with Civil Service Laws, the standard practice of the Lowell Police Department has been to extend the eligible list for a period of three years. Under Civil Service Law Chapter 31, Sections 25, *persons on an eligible list shall be eligible for certification from such list for such period as the administrator shall determine, but in any event not to exceed two years, unless one of the following exceptions applies: (3) no new list is established, in which case eligibility of all persons on such list shall be extended until a new list is established for the same position for which the original list was established.*

There are several concerning and troubling issues with this sudden change in past practice by the Superintendent. This change is in contradiction to the consistence and long-standing

of a three year eligibility list within the Lowell Police Department. The issues that are concerning to me are as follows:

First Issue, the Superintendent has made the decision to go to a two year list only AFTER viewing who is on the current promotion list. It is common knowledge that the eligibility list has been extended to three years for over a decade if not more. It is also common knowledge that this has often occurred because the administration has wanted to reach down to promote certain individuals. Which brings into question, who is currently on the list that the Superintendent does not want to promote?

Second Issue, a record number of minority officers are on this current eligibility list. A change to past practice will negatively affect a large number of minority officers which includes 5 Hispanic officers, 2 female officers and 1 openly gay officer from the Lieutenant and Captain's eligibility list and even more minorities on the Sergeant's eligibility list. These demographics, included above, are already a small fraction of the whole police department especially that of the superior officers' ranks. Comparing the present command staff of superior officers with the diversity of the communities in the City of Lowell and the diversity of officers in the Police Department, the superior officers ranks are, unfortunately, not representative of the department's patrol force or the community it polices.

Third Issue, while this move affects both minority and non-minority officers alike, what has not gone unnoticed, and what may have the most damning effect on the morale of the police department, is the lack of transparency and fairness by the Superintendent. If the Superintendent was so adamant about maintaining a two year eligibility list he could have announced it prior to the promotional exams but he chose to wait to see who was on the list. There should be no doubt, if the current list presented persons favorable in the eyes of the Superintendent, the list would be extended to a third year.

The City of Lowell has made great strides to increase the diversity of the City's workforce. The City has hired a Diversity, Equity, and Inclusion Officer, signaling the importance of diversity. This action by the Superintendent serves to undermine these initiatives by the City. Presently, the Lowell Police Department has been diversified to include more minority members of the community because of a greater number of minorities passing the entry police exam. More minority members of the community have become police officers but at a critical moment when the Superintendent has the opportunity to diversify the superiors and command staff ranks, he chooses to not only squander the opportunity but to engage in blatant discrimination.

This action also comes at a time when the city leadership, as evident by the new city council makeup, has begun to reflect the diversified communities of the City of Lowell. With this

action of the Superintendent: cutting the list to two years, there seems to be a conscious and deliberate effort to reverse direction of the communities that voted our new city councils into office.

This scheme by the Superintendent not only reflects poorly on the police department to the public but it also signifies to the increasingly diverse patrol force that their leadership ranks will not reflect their own make up or be representative of them or the communities they serve. Currently, this is evident by the number of minority officers choosing to leave the Lowell Police Department for other communities.

The Superintendent and certain superior union members would argue that having a 2 year list will allow for the list to be refreshed with newer candidates. There are errors with this rationale. The superior promotional eligibility lists are not comparable to an entry level hiring list where lower scoring candidates may be lower caliber hires. The superior officers' promotional candidates, especially those of Lieutenant and Captain, have already proven themselves as supervisors and managers. Oftentimes, supervisors may score higher or lower than their peers, on a given exam with little rhyme or reason. The current scores from the recent tests have been higher overall than previous lists.

What a consistent 2 year promotion list will undoubtedly mean, especially for the higher ranks, is that more junior officers and supervisors will promote faster (every 2 years) having served only two years in their current rank. Over the long term this can have a detrimental effect on the police department's command ranks by potentially promoting officers who have not served enough time in a given rank to prepare them for the next rank. A person could potentially go from patrol officer to Captain in 6 years without the institutional knowledge to be successful. This would result in command ranks having supervisors lacking the requisite experience to be successful in their next position. This would result in the supervisor ranks losing the respect of the rank and file.

The current "rumor" is that the department wants to "kill the list" to prevent certain supervisors from being promoted. If the Superintendent does not wish to promote an individual, the department should be able to support their position by bypassing those individuals they do not want to promote instead of creating a situation where other supervisors are now being discriminated against. If the department is not able to justify bypassing a superior officer then cutting the list short, as a form of bypassing individuals, is merely a form of favoritism. The fact that this rumor bears truth creates dissention in the ranks regardless of officers' race or gender because it shows a lack of transparency and wreaks of favoritism and discrimination.

Additionally, the costs of an assessment exam should not be dismissed as trivial. The cost to the City of Lowell and the costs to the individual officers (books, classes, fees, etc.). This should not be an expense that would recur five times in a decade as opposed to three times. In addition, the loss of productivity within the department. It is well known that

promotional exam preparation by officers increases the amount of time officer's take off and also reduces their overall productivity at work. The promotional exam being cut from 3 to 2 years is not beneficial to the police department or the City of Lowell and if allowed to occur will have several unintended negative consequences.

The Lowell Police Department ranks and files are still currently not representative of the communities that they serve; especially, the captain's rank being extremely lacking. A minority has never served in the Lowell Police Department in the rank of Captain, considering that numerous minority officers have served their entire careers in the Lowell Police Department. It is unfortunate to say the least. The rank of lieutenant just only recently obtained their first minority, a Hispanic female, in 2018, and the second Hispanic lieutenant was only promoted this year in 2021. This is not a request for special consideration. It is only a request for the equal consideration that has been granted to so many in the past.

This change in past practice will adversely affect an opportunity for the Lowell Police Department to finally begin to diversify their supervisory ranks at all levels. The current makeup of the Superior Officers ranks are as follows:

- 1 Chief (white male)
- 2 Deputies (two white males)
- 9 Captains (all white males)
- 13 Lieutenant (all white males except for 1 Hispanic female promoted in 2018, & 1 Hispanic male promoted in 2021)
- 30 Sergeants (all white males expect, 2 white females, & 4 Hispanic males)

Based on the present supervisory ranks and numbers, the Lowell Police Department Superior Officers ranks are 89 % white. I would also like to add that on June 25, 2021 WCVB Channel 5 did an investigation noting that police departments in some of Massachusetts' most diverse cities are still struggling to diversify their own ranks, especially at higher levels, according to data obtained by 5 Investigates. Police ranks are still largely white in communities like the City of Lowell, their findings revealed that 75% of the Lowell Police Workforce was white.

Police departments across the country are being pressed to hire police officers that are reflective of the communities they serve. The Lowell Police Department has only recently begun to have some minimal showing of diversity within its ranks but not nearly enough to be representative of the communities they serve. Looking at the above list, there are no women or BIPOC (The acronym stands for "black, Indigenous and people of color:") above the rank of lieutenant.

In summary, the current Superintendent is planning to go against past practice and cut the superior officers' promotional eligibly lists to a term of two years only AFTER he saw who was currently eligible on the list. This decision affects many superior officers negatively; especially, several minority officers. The manner in which this action has occurred not only suggests favoritism and discrimination, it lacks any transparency and little historical precedent.

The Superintendent must be committed to diversifying the Lowell Police Department. There is nothing more important to the successful diversification of a department then having leadership that is committed to, and has a vision for diversifying their organization.

Using the Superintendent's own words, "To think you are part of the team for many years only to find out that there are individuals that think less of you, has to be very disheartening and is not the way we treat anyone."

It is unfortunate that this issue would need to be presented in this manner to you a Congresswoman but unfortunately the Superintendent has made every attempt to silence those who would request this issue be addressed through other existing channels. Allowing this change without prior notice will create dissention in the ranks and unnecessary scrutiny and negative attention from the public and the media.

I appreciate the opportunity to weigh in with my concerns and recommendations and hope that you would give due consideration to what I have outlined above.

Should you have any follow up questions and/or concerns please don't hesitate to contact me in the days or hours that lay ahead. I respect that time is of the essence regarding this important issue and stand ready to assist if and when called upon.

Respectfully submitted,

Francisco Maldonado

978-815-0114

Addendum: Additional Documentation Submitted by Commission Members

[MMA Slide Deck: Departing Civil Service](#)

June 1, 2021 (Jesse Flynn recommendations on public records requests)

Good Morning Rep Higgins and Isabella,

I have attached an example of the public records requests from 2016. [The attached PRR went to North Attleborough.](#) I am compiling the results of the 2016 round of research of approximately 12 municipalities. I will get that over to you shortly.

The commission should get this information to understand how the hiring process, applicant population and initial hires change once a municipality leaves civil service.

I would also recommend requesting the following information from MA Human Resources Dept. I believe to properly study civil service law the commission should have some basic information.

- civil service exam demographics, two most recent police and fire entrance exams (race, ethnicity, gender, veteran status, disabled veteran status, zip code, fee waiver, etc.)
- list of municipalities and corresponding departments within civil service
- list of municipalities that have revoked MGL Chapter 31, including the effective date of revocation
- personnel administrative rules requests and approvals by municipality/department for past 5 years
- list of departments utilizing reserve lists and maximum number of reserve positions allowed
- the civil service policy on cadet programs (how cadets are added to the eligible list/requisition for hire)

This information is vital for our commission to make informed recommendations on the civil service law. Basic information about which Departments are operating under MGL Chapter 31, who is taking the civil service entrance exams and which departments are utilizing personal administrative rules will help each subcommittee do their work.

Let me know if you have any questions. Thank you.

Jesse Flynn

Assistant Adjutant

Disabled American Veterans Department of Massachusetts

617-816-8055

jflynn@davma.org

State House, Room 546

24 Beacon Street

Boston, MA 02133

June 1, 2021 (Jesse Flynn, Massachusetts Veteran's Edge, MVE, compiled initial employment statistics showing the effect of revoking MGL Chapter 31 on veteran hiring in police and fire)

In 2016, Massachusetts Veteran's Edge, MVE, compiled initial employment statistics showing the effect of revoking MGL Chapter 31 on veteran hiring in police and fire. This information was collected through public records requests to both individual municipalities and the Civil Service Division of the Massachusetts Human Resources Division. MVE requested hiring statistics for the 5 years immediately preceding the municipality revoking MGL Chapter 31, the hiring statistics for the years post-revocation of chapter 31 (different for each municipality depending on how long ago chapter 31 was revoked), and the departments current hiring policy or guidelines.

The data shows that there is an across-the-board reduction in veteran hiring once a municipality revokes MGL Chapter 31 for a police department. Police departments overall hiring often increases but there is a clear reduction in veteran employment. In many circumstances the numbers show that departments were able to hire non-veterans both before and after revoking civil service, which puts into question the idea that municipalities are only able to hire veterans while under civil service rule and law. The data does not support this false narrative being told by many Mayors, town managers, personnel directors and city officials.

Please note that all 6 of these municipalities offer no veteran preference or special consideration for military service in their hiring policies or guidelines. This disproves another popular claim that post-civil service hiring policies offer preference or special consideration to veterans.

MVE was denied information from 7 municipalities that have revoked Chapter 31 Walpole, Acton, Franklin, Provincetown, Manchester By The Sea, Maynard, and Grafton.

Wellesley

Police:

- In the five-year period before revoking chapter 31, 10 officers were hired.
- 5 veterans, 5 non-veterans
- In the six-year period after revoking chapter 31, 13 officers were hired.
- 1 veteran, 12 non-veterans
- Wellesley Police hiring policy offers no veteran preference and no special consideration for military service.

North Attleborough

Police:

- In the five-year period before revoking Chapter 31, 3 officers were hired.
- 3 veterans, 0 non-veterans
- In the *three and a half year* period after revoking chapter 31, 8 officers were hired
- 1 veteran, 7 non-veterans
- North Attleborough police hiring policy offers no veteran preference and no special consideration for military service.

Reading

Police:

- In the five-year period before revoking Chapter 31, 7 officers were hired.

- 2 veterans, 7 non-veterans
- In the four-year period after revoking chapter 31, 9 officers were hired.
- 0 veterans, 9 non-veterans
- The Reading Police make no mention of military service or veteran status in their hiring policy.

Westwood

Police:

- - In the five-year period before revoking Chapter 31, 4 officers were hired.
 - 2 veterans, 2 non-veterans
- - In the *one-year period* after revoking chapter 31, 2 officers were hired.
 - 0 veterans, 2 non-veterans
 - Westwood police have yet to provide Massachusetts Veteran's Edge with their post-civil service hiring policy.

Norwood

Police:

- In the five-year period before revoking Chapter 31, 9 officers were hired.
- 4 veterans, 5 non-veterans
- In the *one-year period* after revoking chapter 31, 11 officers were hired.
- 4 veterans, 7 non-veterans
- Norwood police hiring policy offers no veteran preference and no special consideration for military service.

Burlington

Police:

- In the five-year period before revoking Chapter 31, 4 officers were hired.

- At least 1 veteran, 3 unknown (we are waiting for information from civil service on whether or not these individuals had veteran status, Burlington refuses to disclose this information)

- In the *one-year period* after revoking chapter 31, 7 officers were hired. - 0 veterans, 7 non-veterans

- Burlington police hiring policy allows a veteran with a passing grade of 70 or above on the written exam to proceed to the physical abilities test, the next step in the hiring process. This is the same passing score, 70, which a civilian must achieve to move onto the physical abilities test. The Burlington police hiring policy offers no actual benefit to a veteran candidate.

[North Attleborough PRR No. 4 \(Jesse Flynn\)](#)

April 28, 2016

Michael Gallagher
Town Administrator
Town of North Attleborough

Chief John J. Reilly
North Attleborough Police

Massachusetts Public Records Request

Dear Mr. Gallagher and Chief Reilly,

Thank you for your prompt response to this Public Records Request. I have amended question four, edits in red. I have removed the reference to MGL Chapter 31, Section 26 and instead reference Veteran designation under MGL Chapter 4, Section 7, Clause 43, which North Attleborough must recognize.

This letter is a request under the Massachusetts Public Records Law, G.L. Chapter 66, Section 10, and 950 CMR 32.00 et seq., for records in the possession of the Town of North Attleborough concerning the North Attleborough Police Department. Please direct this letter to the attention to the appropriate custodian of records, if you are not that person.

This request is submitted on behalf of Massachusetts Fallen Heroes (“MFH”), a Section 501(c)(3) public charity established in 2010 by Boston firefighters, families of veterans who died during service (also known as Gold Star families), police officers, and veterans. MFH was founded to provide Gold Star families, and local veterans and their families, with

assistance directly from individuals who have experienced the hardships of war firsthand, and who understand the enduring impact on those families whose loved one did not return from service.

Massachusetts Fallen Heroes requests a copy of the following records:

1. A complete list of police officers hired between February 1, 2008 and January 7, 2013. The list should include each officer's designation under M.G.L. Chapter 31, Section 26 as Disabled Veteran, Veterans, spouse or single parent with Gold Star status, 402A, 402B or non-veteran.
2. A complete list of police officers hired between January 7, 2013 and April 25, 2016. As above, the list should each officer's designation, under M.G.L. Chapter 31, Section 26, as Disabled Veteran, Veterans, spouse or single parent with Gold Star status, 402A, 402B or non-veteran.
3. Town of North Attleborough or North Attleborough Police Department policies and procedures for recruitment and selection for entry-level police officers.
4. A complete list of all applicants for the North Attleborough Police Department **that have Veteran status under MGL Chapter 4, Section 7, Clause 43**, that were chosen for employment and were given a conditional offer for employment, since January 7, 2013.
5. Provide the active list of candidates for police openings, including the duration of the list and Disabled Veteran and Veteran status for entry-level police officer positions.

Pursuant to M.G.L. Chapter 66, Section 10, and 950 CMR 32.00 et seq., we seek compliance within ten days following your receipt of this letter. If you do not comply with this request within ten days of receipt, we will petition to the supervisor of records.¹

Providing MFH with the requested records will benefit the public interest, because the records will be used to inform MFH and the public's understanding of veterans' access to civil service employment in Massachusetts. Therefore, in accordance with 950 CMR 32.06(5), MFH requests a waiver of any fees associated with your compliance with this request.

Please contact me at (617-816-8055) or at jflynn@massfallenheroes.org with any questions about this Massachusetts Public Records Request. Please also contact me if the request does not reasonably describe the requested records, so that MFH may provide the information necessary for you to provide the required documents and responses in a timely manner.

1

Thank you for your anticipated cooperation.

Sincerely,

Jesse Flynn
Director of Advocacy
Massachusetts Fallen Heroes/Massachusetts Veteran's Edge
100 Hallet Street
Boston, MA 02124
jflynn@massfallenheroes.org
617-816-8055

cc Patrick Bryant, Esq. Pyle Rome Labor and Employment Lawyers

Summarization of Requirements for Selective Certification for Language

(provided by Regina Caggiano, Director of Civil Service, as requested by Robert Quinan)

Personnel Administration Rule .08(6) provides that if a requisition is made calling for persons having specialized and job-related qualifications in addition to the general qualifications already tested by an examination, the Personnel Administrator may, subject to certain guidelines, issue a selective certification of names only of such specially qualified persons from the appropriate eligible list.

Such selective certifications have been authorized in instances in which an appointing authority can clearly document that individuals in a particular title must have the additional qualification of fluency in a language other than English in order to adequately serve the public.

In order to receive a certification from an eligible list of those who have indicated that they possess fluency in a language other than English, the appointing authority must complete the Bilingual Selective Certification questionnaire, a copy of which is included here. Based upon the information provided relative to the non-English speaking population served and the nature and frequency of contact with that population exercised by those in the title, a determination will be made as to whether selective certification may be issued.

It must be noted that candidates who have indicated, at the time of the examination, that they possess fluency in a language other than English have not been tested by HRD to evaluate such fluency. It is the responsibility of the appointing authority to ensure that such testing is conducted for all applicants being considered for appointment from the bilingual selective certification.

The Civil Service Unit will need the following information:

- A. Identify the number of the client population that is predominately non-English speaking and speaks the language being requested as their first language. Please note the data should be specific to language. Having a large demographic of a given client population does not necessarily correlate to those demographics not predominantly speaking English.
- B. Identify the entire client population served in the City or Town.
- C. What is the percentage of the client population that would be better served by interacting with public safety employees who speaks their first language?

D. Identify the districts/neighborhoods with the highest saturation of the client population that would be best served by public safety employees able to communicate in the requested language.

E. What is the total number of employees in the lowest rank that have this bilingual ability and interact with the community on a daily basis? Please do not include supervisory staff and higher ranking titles.

F. What is the need for public safety employees with bilingual capabilities and how would these employees be utilized to best serve the identified districts/neighborhoods?

G. Describe the nature and frequency of the contacts between public safety employees in the position title and the non-English speaking members of the population.

a. The number of calls that need an interpreter for the language being requested.

b. Number of incidents in the community where an interpreter is needed. This may include responses to emergency situations or arrest data.

H. The details of the department's recruitment efforts directed at bilingual candidates that reside in the community.

Link to form:

<https://www.mass.gov/doc/selective-certification-request-bilingual/download>

Link to all forms:

<https://www.mass.gov/lists/hiring-authority-forms>

APPENDIX B

2020 Fire Departments under Consent Decree

Chelsea	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	0	0	0
Change from previous year	NA	NA	NA	0.00%	0.00%
Black or African American	1	1	2	2	2
Change from previous year	NA	0.0%	0.9%	0.0%	0.0%
Latino or Hispanic	24	24	30	30	29
Change from previous year	NA	0.0%	3.0%	0.6%	-0.7%
Native American	—	—	0	0	0
Change from previous year	NA	NA	NA	0.0%	0.0%
White or Caucasian	64	NA	68	66	66
Change from previous year	NA	NA	NA	-0.7%	0.7%
Other *	0	64	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	0
Change from previous year	NA	NA	NA	0.0%	0.0%
Total Employed	89	89	100	98	97
Composition of "Black or African American" and "Latino or Hispanic"	28.1%	28.1%	32.0%	32.7%	32.0%

Holyoke	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	0	0	0
Change from previous year	NA	NA	NA	0.0%	0.0%
Black or African American	4	4	4	3	3
Change from previous year	NA	0.3%	-0.2%	-1.0%	-0.3%
Latino or Hispanic	12	23	21	21	28
Change from previous year	NA	16%	-3.9%	1.9%	6.8%
Native American	—	—	0	0	0
Change from previous year	NA	NA	NA	0%	0%
White or Caucasian	52	NA	51	47	45
Change from previous year	NA	NA	NA	-0.9%	-7.8%
Other *	9	46	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	1
Change from previous year	NA	NA	NA	0.0%	1.3%
Total Employed	77	73	76	71	77
Composition of "Black or African American" and "Latino or Hispanic"	20.8%	37.0%	32.9%	33.8%	40.3%

Lawrence	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	0	0	0
Change from previous year	NA	NA	NA	0.0%	0.0%
Black or African American	0	0	0	2	3
Change from previous year	NA	0.0%	0.0%	1.6%	2.4%
Latino or Hispanic	31	31	28	41	39
Change from previous year	NA	0.0%	2.4%	-4.3%	-0.8%
Native American	—	—	0	1	1
Change from previous year	NA	NA	NA	0.8%	0.8%
White or Caucasian	59	NA	35	82	80
Change from previous year	NA	NA	NA	19.0%	0.0%
Other *	0	59	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	13	0	0
Change from previous year	NA	NA	NA	-17.1%	0.0%
Total Employed	90	90	76	126	123
Composition of "Black or African American" and "Latino or Hispanic"	34.4%	34.4%	36.8%	34.1%	34.1%

Springfield	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	1	1	1
Change from previous year	NA	NA	NA	-0.1%	0.0%
Black or African American	30	30	29	29	30
Change from previous year	NA	0.0%	1.5%	-1.5%	-0.7%
Latino or Hispanic	49	49	52	60	71
Change from previous year	NA	0.0%	5.6%	2.4%	3.8%
Native American	—	—	1	1	2
Change from previous year	NA	NA	NA	-0.1%	0.5%
White or Caucasian	87	NA	65	69	68
Change from previous year	NA	NA	NA	-0.8%	-3.6%
Other *	1	87	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	0
Change from previous year	NA	NA	NA	0.0%	0.0%
Total Employed	166	166	148	160	172
Composition of "Black or African American" and "Latino or Hispanic"	47.6%	47.6%	54.7%	55.6%	58.7%

* Other was used in 2016 to include undefined classes, and in 2017 it was used to include White Caucasian.

2020 Police Departments under Consent Decree

Brockton	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	2	2	2
Change from previous year	NA	NA	1.4%	0.23%	-0.11%
Black or African American	36	36	40	37	47
Change from previous year	NA	0.4%	2.0%	2.2%	5.5%
Latino or Hispanic	15	14	11	10	10
Change from previous year	NA	-0.6%	-2.3%	0.5%	-0.5%
Native American	—	—	1	1	1
Change from previous year	NA	NA	0.7%	0.8%	0.7%
White or Caucasian	93	NA	86	74	73
Change from previous year	NA	NA	58.9%	59.2%	54.5%
Other *	0	92	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	6	1	1
Change from previous year	NA	NA	4.1%	0.8%	0.7%
Total Employed	144	142	146	125	134
Composition of "Black or African American" and "Latino or Hispanic"	35.4%	35.2%	34.9%	37.6%	42.5%

Chelsea	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	3	3	3
Change from previous year	NA	NA	3.8%	3.9%	4.0%
Black or African American	2	2	3	3	2
Change from previous year	NA	0.0%	1.9%	0.1%	-1.2%
Latino or Hispanic	25	25	32	33	33
Change from previous year	NA	0%	16.5%	2.4%	1.1%
Native American	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
White or Caucasian	48	NA	41	38	37
Change from previous year	NA	NA	51.9%	49.4%	49.3%
Other *	29	77	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
Total Employed	104	104	79	77	75
Composition of "Black or African American" and "Latino or Hispanic"	26.0%	26.0%	44.3%	46.8%	46.7%

Holyoke	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
Black or African American	1	1	1	1	1
Change from previous year	NA	0.0%	0.1%	0.1%	-0.1%
Latino or Hispanic	25	23	24	24	29
Change from previous year	NA	-2.5%	4.6%	1.5%	4.2%
Native American	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
White or Caucasian	61	NA	56	52	52
Change from previous year	NA	NA	69.1%	67.5%	63.4%
Other *	4	68	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
Total Employed	91	92	81	77	82
Composition of "Black or African American" and "Latino or Hispanic"	28.6%	26.1%	30.9%	32.5%	36.6%

Lawrence	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	1	1	1
Change from previous year	NA	NA	0.9%	0.9%	0.6%
Black or African American	4	4	3	3	5
Change from previous year	NA	-0.2%	-1.3%	0.0%	0.3%
Latino or Hispanic	24	30	44	51	80
Change from previous year	NA	4.7%	9.6%	6.7%	2.1%
Native American	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
White or Caucasian	67	NA	52	55	79
Change from previous year	NA	NA	46.8%	50.0%	47.9%
Other *	1	66	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	11	0	0
Change from previous year	NA	NA	9.9%	0.0%	0.0%
Total Employed	95	100	111	110	165
Composition of "Black or African American" and "Latino or Hispanic"	29.5%	34.0%	42.3%	49.1%	51.5%

Randolph	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	2	1	3
Change from previous year	NA	NA	0.0476	-0.0213	0.0451
Black or African American	10	10	8	8	10
Change from previous year	NA	0.0%	-0.0269	2.0%	2.8%
Latino or Hispanic	2	2	1	1	0
Change from previous year	NA	0.0%	-2.0%	0.3%	-2.6%
Native American	—	—	1	1	1
Change from previous year	NA	NA	2.4%	2.6%	2.4%
White or Caucasian	34	NA	30	27	28
Change from previous year	NA	NA	71.4%	71.1%	66.7%
Other *	0	34	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
Total Employed	46	46	42	38	42
Composition of "Black or African American" and "Latino or Hispanic"	26.1%	26.1%	21.4%	23.7%	23.8%

Springfield	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	2	3	3
Change from previous year	NA	NA	0.5%	0.7%	0.8%
Black or African American	46	57	53	57	56
Change from previous year	NA	4.0%	-0.0264	0.2%	1.4%
Latino or Hispanic	119	118	132	136	129
Change from previous year	NA	1.8%	0.3%	-0.9%	2.2%
Native American	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
White or Caucasian	206	NA	200	213	176
Change from previous year	NA	NA	51.7%	52.1%	48.4%
Other *	1	174	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
Total Employed	372	349	387	409	364
Composition of "Black or African American" and "Latino or Hispanic"	44.4%	50.1%	47.8%	47.2%	50.8%

Worcester	2016	2017	2018	2019	2020
Asian or Pacific Islander	—	—	3	3	3
Change from previous year	NA	NA	0.8%	0.9%	0.9%
Black or African American	25	25	25	21	21
Change from previous year	NA	0.2%	-0.1%	-0.8%	-0.3%
Latino or Hispanic	49	48	52	52	56
Change from previous year	NA	0.2%	1.0%	0.9%	0.5%
Native American	—	—	0	0	0
Change from previous year	NA	NA	0.0%	0.0%	0.0%
White or Caucasian	285	NA	273	256	264
Change from previous year	NA	NA	77.3%	77.1%	76.3%
Other *	3	277	—	—	—
Change from previous year	NA	NA	—	—	—
Choose not to identify	—	—	0	0	2
Change from previous year	NA	NA	0.0%	0.0%	0.0%
Total Employed	362	350	353	332	346
Composition of "Black or African American" and "Latino or Hispanic"	20.4%	20.9%	21.8%	22.0%	22.3%

* Other was used in 2016 to include undefined classes, and in 2017 it was used to include White Caucasian.



APPENDIX C

Expanding the Number of Candidates Eligible for Consideration from Entry-Level Eligible Lists in Civil Service Communities

Example: City or Town undertakes 2 hiring cycles during life of eligible list; appoints 5 Police Officers and bypasses 2 candidates each time.

CURRENT LAW ($2n+1$)	Total Candidates on Eligible List Able to Be Considered		ALTERNATIVE ($3n+1$ PLUS)	Total Candidates on Eligible List Able to Be Considered
HIRING CYCLE #1				
11 candidates initially eligible for consideration in Hiring Cycle #1 because $(2 \times 5) + 1 = 11$	11		16 candidates initially eligible for consideration in Hiring Cycle #1 because $(3 \times 5) + 1 = 16$	16
2 candidates bypassed in hiring cycle #1 still count toward $2N+1$ and remain on eligible list for the life of the list effectively leaving 9 VIABLE candidates in hiring cycle #1	11		Appointing Authority may add additional candidate from eligible list for each bypassed candidate so long as bypassed candidate gets reasons for their bypass and a right of appeal. Hence " $3N+1$ PLUS" maintains 16 viable candidates in hiring cycle #1 (but 18 considered)	18
5 candidates ultimately appointed in hiring cycle #1			5 candidates ultimately appointed in hiring cycle #1	

CURRENT LAW ($2n+1$)	Total Candidates on Eligible List Able to Be Considered	ALTERNATIVE ($3n+1$ PLUS)	Total Candidates on Eligible List Able to Be Considered
HIRING CYCLE #2			
In Hiring Cycle #2, candidates initially eligible for consideration to fill five appointments = 11 — <u>including</u> the 2 bypassed candidates from cycle #1	11	In Hiring Cycle #2, candidates initially eligible for consideration to fill five appointments follow the $3n+1$ formula	16
Assume 2 candidates are also bypassed in hiring cycle 2. There are now 4 bypassed candidates in the $2N+1$ pool, effectively leaving the number of viable candidates in hiring cycle #2 pool at only 7	11	Appointing Authority may add additional candidate from eligible list for each bypassed candidate (assume 2) <i>if</i> bypassed candidate gets reasons for their bypass and a right of appeal. Hence “ $3N+1$ PLUS” maintains 16 viable candidates in hiring cycle #2	18
		Appointing Authority make skip over the 2 <u>prior</u> bypassed candidates from hiring cycle #1 so long as they previously received reasons for bypass and a right of appeal.	20

<p style="text-align: center;">Total Candidates in Hiring Cycle #2 Pool under current law (including 4 bypassed candidates) = 11</p> <div style="text-align: center;">  </div>	<p style="text-align: center;">Total Candidates in Hiring Cycle #2 Pool under $3N+1$ PLUS formula = 20 (including 4 bypassed candidates)</p> <div style="text-align: center;">  </div>
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APPENDIX D

Massachusetts Civil Service Commission

Roles, Function, Performance & Appellate Jurisdiction

CSC's Core Mission

For the statutory definition of basic merit principles visit:

[G.L. c. 31, Section 1](#)

CSC's core mission: to hear and decide appeals concerning the rights of public employees and job applicants under the protection of the civil service law to ensure that personnel/employment decisions are –

- made in compliance with the law;
- based on the relative ability, knowledge and skills of the public employee; and
- reflective of fair and impartial treatment.

WHO MAKES UP THE CSC?

5 Commissioners (two are part-time); 2 other FTEs; contract attorneys (when funding permits); interns

For more information, visit:
[CSC Staff Directory](#)

- **Chair Chris Bowman:** former Chair of Yarmouth Select Board; 30-year state employee; former Chief of Staff at EOED and DET (now DUA).
- **Commissioner Cynthia Ittleman:** attorney, former hearing officer at Div. of Professional Licensure, legislative and judicial branch work experience.
- **Commissioner Paul Stein:** attorney, former Deputy Chief of AG's Ins. Bureau, U.S. Air Force commissioned officer.
- **Commissioner Paul Camuso (part-time):** former President of Medford City Council and School Committee; Assistant Deputy Superintendent, Middlesex Sheriff's Office.
- **Commissioner Kevin Tivnan (part-time):** elected member of Clinton Housing Authority; CSC member from 1994-2001 and 2015-present.
- **General Counsel Robert Quinan** – former Ass't Att'y General (25 years) and management-level attorney at AGO and DCF (16 years).
- **Office Manager Medes Diaz** – employed at CSC for approximately 20 years.

CSC's appellate jurisdiction

established by Chapter 31 of the General Laws and the Personnel Administration Rules (PARs)

For more information, visit:

[Types of CSC Appeals](#)

Most Common Types of Appeals Heard by CSC

Disciplinary / Layoff Appeals (G.L. c. 31, §§ 39-43): Permanent, tenured state or municipal civil service employees who are discharged, removed, suspended or laid off may contest whether there was “just cause” for this action.

Bypass Appeals (G.L. c. 31, § 2(b) and PARs 07-14): Candidates for appointment or promotion to state or municipal civil service positions who are “bypassed” (a candidate ranked below them on a civil service Certification or Roster was appointed or promoted) may appeal to the Commission.

Examination Appeals (G.L. c. 31, §§ 22-24): Civil Service exam applicants may contest whether the examination administered by the state’s Human Resources Division was a “fair test” or challenge the scoring of an essay or training and experience portion of the exam.

Reclassification Appeals (G.L. c. 30, § 49): Any state employee or manager, regardless of civil service status, may file an appeal with CSC if their request for reclassification (from one title to another) has been denied by their appointing authority and HRD.

Appeal Procedure

For more info re appeals process:

- Visit CSC's website at:
[CSC Appeals Process](#)

- Call CSC at (617) 979-1900; or

- Email Office Manager
Medes Diaz at
medes.diaz@mass.gov

4-Step Appeals Process

- Step 1: Appeal Filed
- Step 2: Pre-Hearing Conference Held
- Step 3: If needed, Full Evidentiary Hearing Held and Post Hearing Briefs Submitted
- Step 4: Commission Decision Issued

Investigations

CSC also has broad authority under G.L. c. 31, §§ 2(a) and 72 to initiate investigations when there is a violation of basic merit principles.

For more information, visit: [CSC Investigations](#)

EXAMPLES OF INVESTIGATIONS

Review and Selection of Firefighter Appointments

CSC ordered reconsideration of non-selected candidates after concluding that a member of a Fire Department's command staff tilted the scales in favor of his son's appointment.

Review of Permanent Intermittent Police Officer Appointments

CSC ordered a new hiring process after concluding that a member of a Select Board had intervened to ensure the appointment of his niece.

Fire Department Disparate Treatment Allegation

CSC ordered a Fire Department to investigate whether a firefighter should be disciplined for allegedly posting racist remarks on social media.

Review and Selection of Police Officer Appointments

Town ordered to revamp its review process to ensure that the Appointing Authority recuses him/herself from the hiring process when a family member is among the candidates being considered.

Administrative Reforms to Improve Customer Service

IMPLEMENTED

- **Expedited pre-hearings** with the goal of resolving appeals without the need for a full hearing.
- All pre-hearings now conducted **remotely** via Webex.
- In-person full hearings held **outside of Boston** in Springfield, Lowell, North Dartmouth and other locations as needed.
- Parties receive copy of hearing recording **electronically within two business days** to assist with preparation of post-hearing briefs.
- All decisions, statistics and benchmarks **posted online** to ensure transparency.

COMING SOON

- **Online portal** for electronic submission of appeals.
- Interagency Agreement with Division of Administrative Law Appeals (DALA) for **magistrates to assist CSC in hearing appeals.**

Commission Statistics & Performance Measures

For more information, visit:
[CSC Statistics](#)

Allowed v. Denied Appeals

- **CSC affirms the disciplinary decision of appointing authorities 79% of the time;** the remaining 21% of disciplinary appeals are allowed in whole or part.
- **Approximately 50% of all bypass appeals are denied;** 30% are resolved through mutual agreement after the pre-hearing; and 20% are allowed after a full hearing.

Cycle Time

- CSC receives an average of 250 appeals annually. **50% are disposed of within 17 weeks** and 79% are disposed of within 52 weeks. ~130 full decisions issue.

Customer Service Survey Results

- **93% respondents stated that the hearing officer treated them with respect and courtesy; 87% stated that the hearing officer was fair and impartial; 76% were satisfied with the overall appeals process; and about half believed they received a decision in a timely manner.**

Judicial Review of CSC decisions

Standard of Review

for disciplinary appeals: public employer must establish “just cause” through a preponderance of credible evidence proving substantial misconduct on the part of the disciplined employee

for bypass & equity appeals: employer must produce “sound and sufficient reasons” or “reasonable justification” to justify its action

Review Process

Plays out first in Superior Court and is largely governed by G.L. c. 30A, the Administrative Procedures Act. Contrasts sharply with arbitration appeals.

Affirmation Rate

- Judicial affirmance of a CSC decision occurs almost 80 % of the time
- Overall, 97% of CSC decisions since 2006 remain undisturbed

Influential or Illustrative Cases

Town of Brookline v. Alston, 487 Mass. 278 (2021)

- MCAD's largely exclusive jurisdiction over discrimination claims did not bar CSC, under civil service law, from considering workplace conduct perpetuating discrimination when reviewing whether town had just cause to terminate Black firefighter. Substantial evidence supported CSC's decision that town lacked just cause to terminate firefighter—and this determination required reinstatement.

Boston Police Dep't v. Kavaleski, 463 Mass. 680 (2012)

- Evidence supported CSC's decision rejecting BPD's assertion that BPD psychiatrist's psychological evaluation of female police officer applicant sufficed to disqualify her from hiring consideration; CSC found that psychiatrist's opinions with regard to applicant were mostly subjective determinations that were insufficiently supported by the facts, and that psychiatrist did not provide a single convincing situational example to support her conclusion that applicant's defensiveness or quirky personality would interfere with police work in an objective real-world context.

Finklea v. Civ. Serv. Comm'n, 2018 WL 1750039 (Mass. Super. 2018)

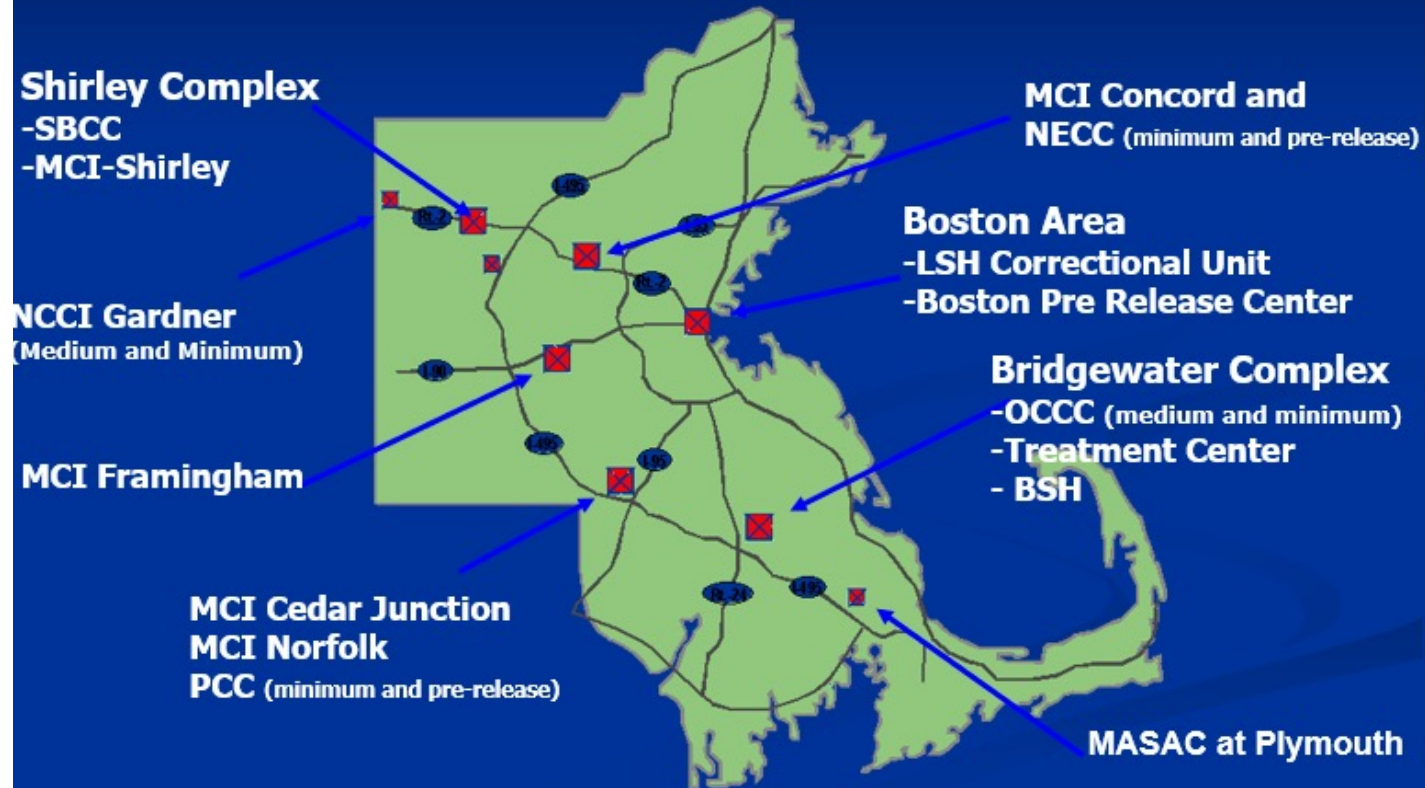
- BPD bypassed a minority police candidate principally because, in 2001, when he was 18 years old, he was charged with a felony for knowingly receiving stolen property—a tire—from a friend. But the case was continued *without* a guilty finding. The Superior Court affirmed the Commission's decision that the stale charge did not constitute reasonable justification for a bypass.

Massachusetts Department of Correction Overview

December 3, 2021



15 Correctional Facilities



Massachusetts Department of Correction Facilities



(Entry Level)
Employment
Positions via
Civil Service

- **Correction Officer (COI);**
- **Correction Officer / Head Cook;**
- **Correctional Program Officer (CPO A/B);**

The cost for these examinations are \$100.00



Duration of the Hiring Process for Civil Service Positions in the Department.



- **Once the Civil Service Unit has conducted an exam, the official eligibility list is updated within 3 months.**
- **When an academy is requested by DOC, it must be approved by Administration & Finance (ANF),**
- **Upon approval, a Certified list is established, and invitations are sent to applicants based on the Recruit Training Class (RTC) size by the Civil Service Unit.**
- **The Human Resource Division begins to contact applicants who have accepted the invitation 6-8 months prior to the start of the upcoming RTC academy.**
- **Upon confirmation, HRD begins a comprehensive screening and onboarding process until the start of the academy.**



DIVERSITY



- Director of Diversity and Equal Opportunity
- Commissioner's Diversity & Advisory Committee (CDAC)

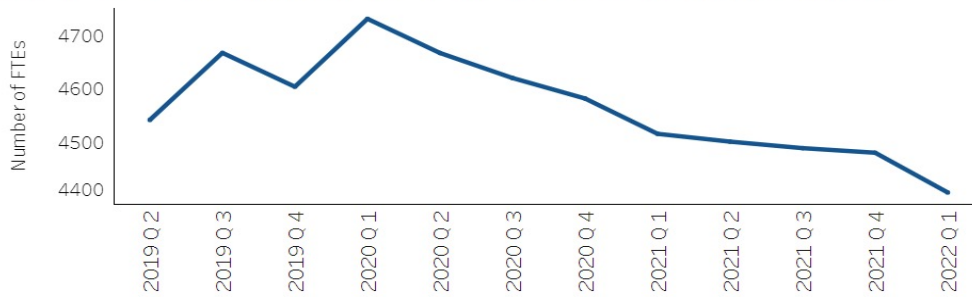


Demographics of Staff Members (Civil Service & Non-Civil Service)

Secretariat Name: (All) |
 Department Name: Department of Correction |
 Job Category: (All) |
 Full-Time/Part-Time: (All) |
 Fiscal Quarter: 2022 Q 1

What is state employment over time?

The number of selected full-time equivalent (FTE) employees has averaged 4,568.0 over the last 12 fiscal quarters, with 4,542.7 in 2019 Q 2 and 4,407.3 in 2022 Q 1.



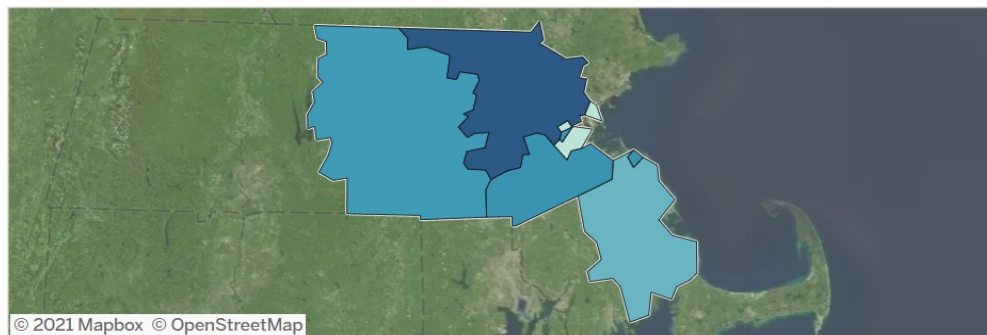
What is our employee count?

Number of selected FTEs:

4,407.3
as of FY 2022 Q 1

Where do our employees work?

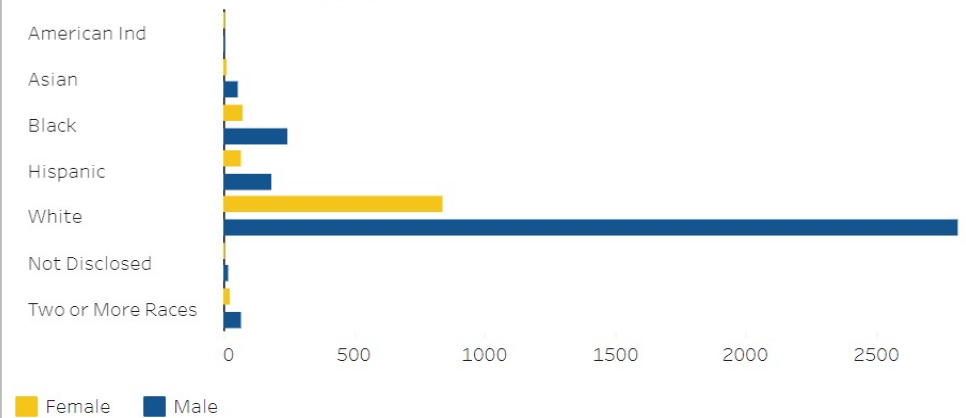
Middlesex county has the largest number of employees, representing 35.9% of selected FTEs.



*Map displays counties with more than ten employees

What is our racial diversity?

16.7% of selected FTEs are people of color.



What is our gender breakdown?

Of the selected FTEs, 23.1% are female, and 76.9% are male.



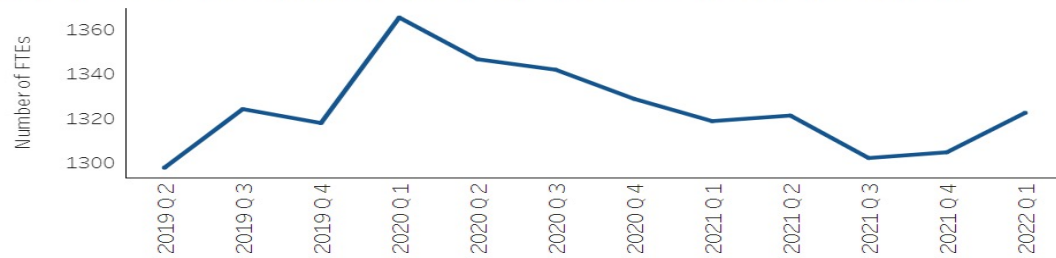
Demographics for Staff Members (Non-Civil Service Positions).

Secretariat Name: (All) | Department Name: Department of Correction | Job Category: (Multiple values) | Full-Time/Part-Time: (All) | Fiscal Quarter: 2022 Q 1

Press **Esc** to exit full screen

What is state employment over time?

The number of selected full-time equivalent (FTE) employees has averaged 1,324.6 over the last 12 fiscal quarters, with 1,298.1 in 2019 Q 2 and 1,322.7 in 2022 Q 1.



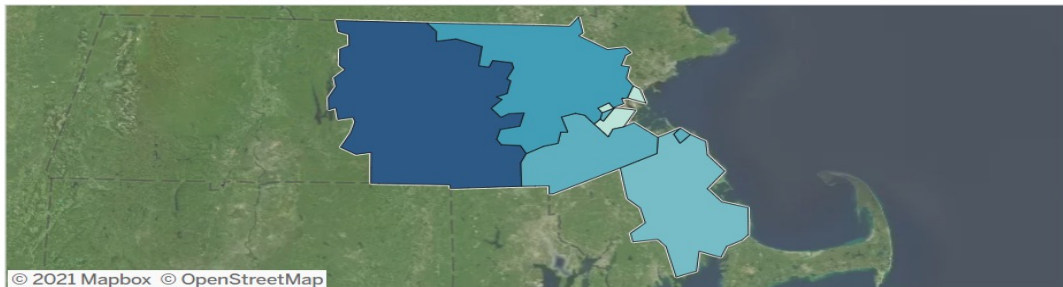
What is our employee count?

Number of selected FTEs:

1,322.7
as of FY 2022 Q 1

Where do our employees work?

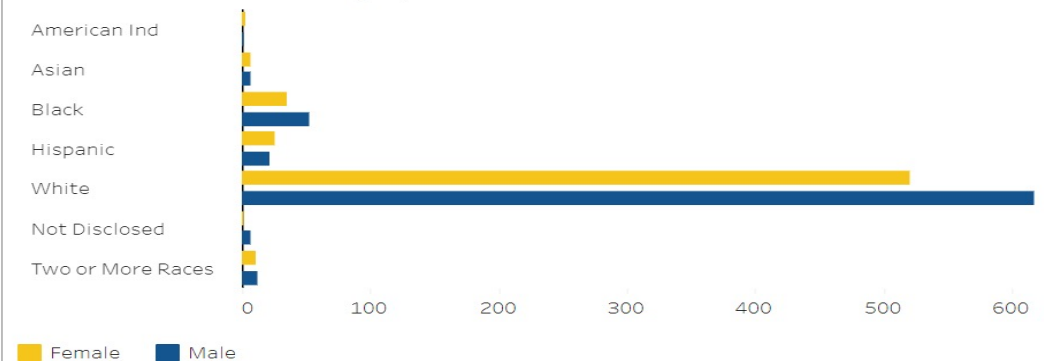
Worcester county has the largest number of employees, representing 39.0% of selected FTEs.



*Map displays counties with more than ten employees

What is our racial diversity?

13.4% of selected FTEs are people of color.



What is our gender breakdown?

Of the selected FTEs, 45.7% are female, and 54.3% are male.

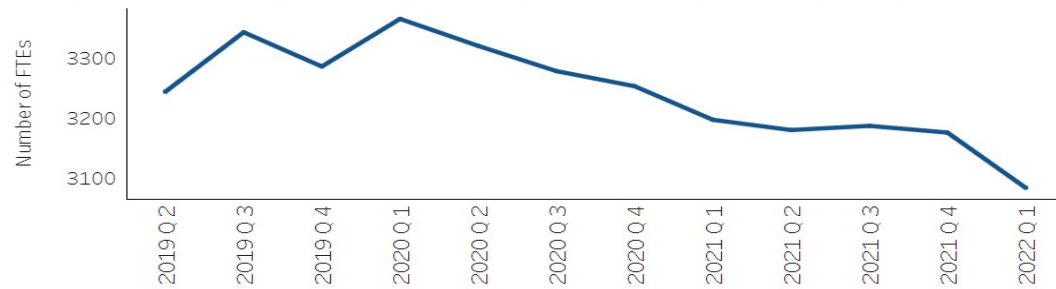


DEMOGRAPHICS OF STAFF MEMBERS FOR CIVIL SERVICE POSITIONS

Secretariat Name: (All) |
 Department Name: Department of Correction |
 Job Category: Protective Service:Sworn |
 Full-Time/Part-Time: Full-Time |
 Fiscal Quarter: 2022 Q 1

What is state employment over time?

The number of selected full-time equivalent (FTE) employees has averaged 3,243.5 over the last 12 fiscal quarters, with 3,244.6 in 2019 Q 2 and 3,084.6 in 2022 Q 1.



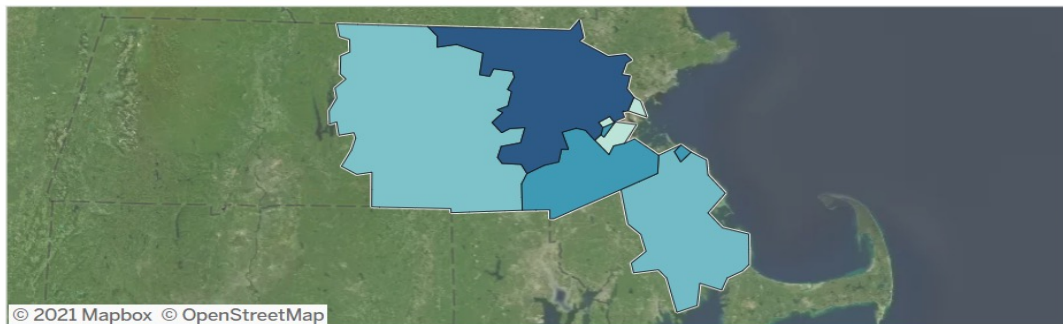
What is our employee count?

Number of selected FTEs:

3,084.6
as of FY 2022 Q 1

Where do our employees work?

Middlesex county has the largest number of employees, representing 41.5% of selected FTEs.

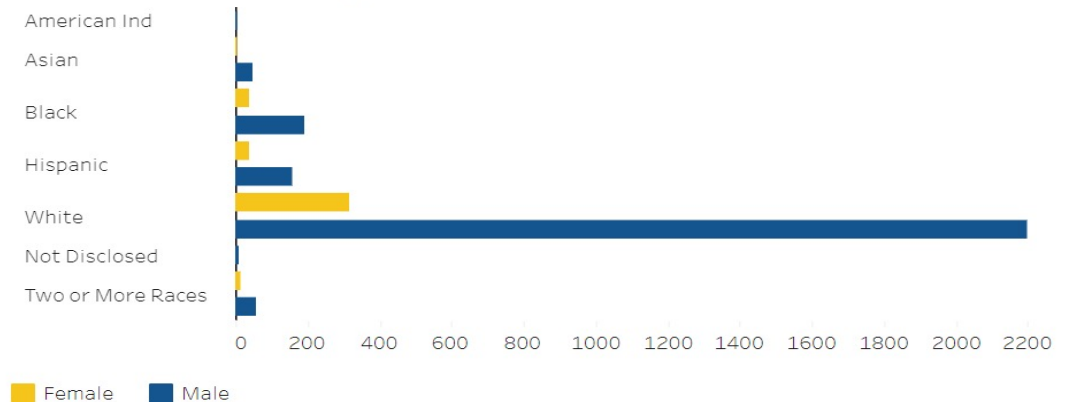


© 2021 Mapbox © OpenStreetMap

*Map displays counties with more than ten employees

What is our racial diversity?

18.1% of selected FTEs are people of color.



What is our gender breakdown?

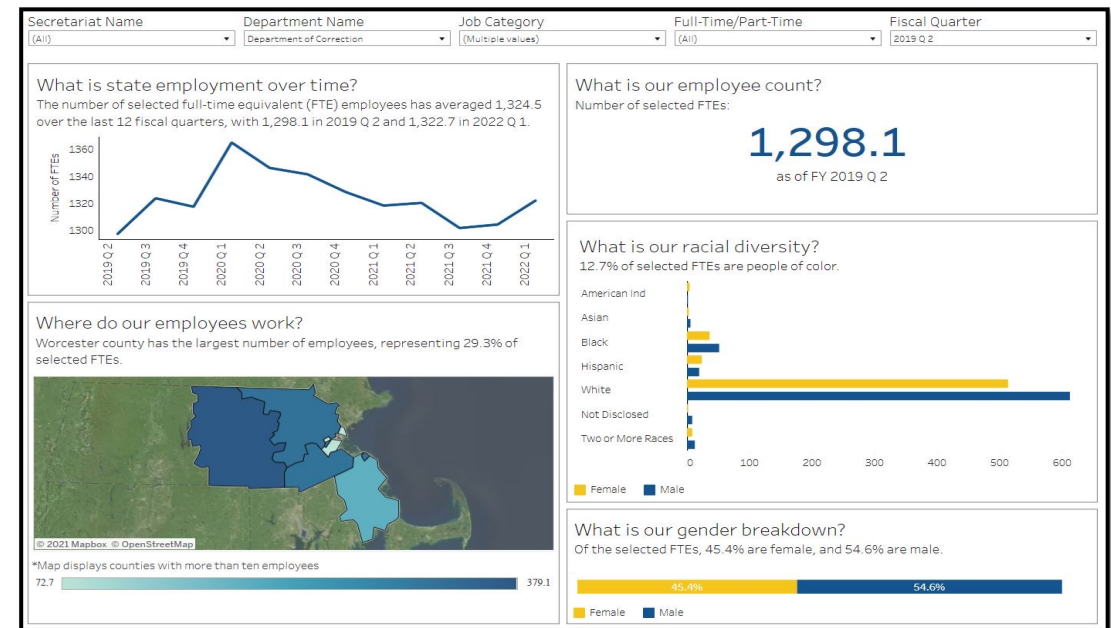
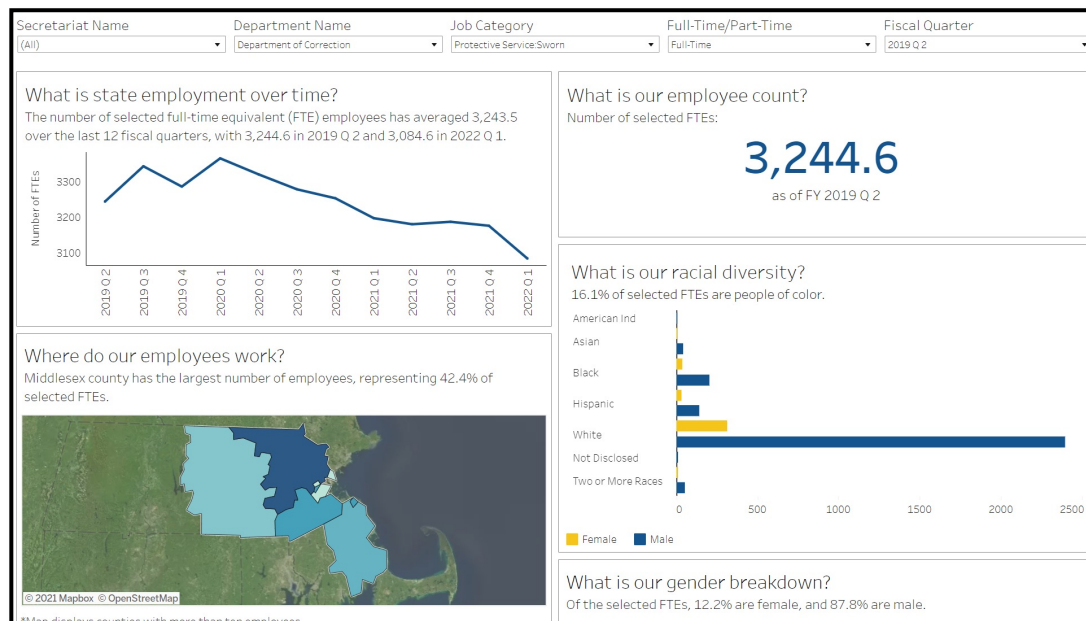
Of the selected FTEs, 13.5% are female, and 86.5% are male.



(Civil Service & Non-Civil Service) Fiscal Year 2019 – Quarter 2

16.1%

12.7%

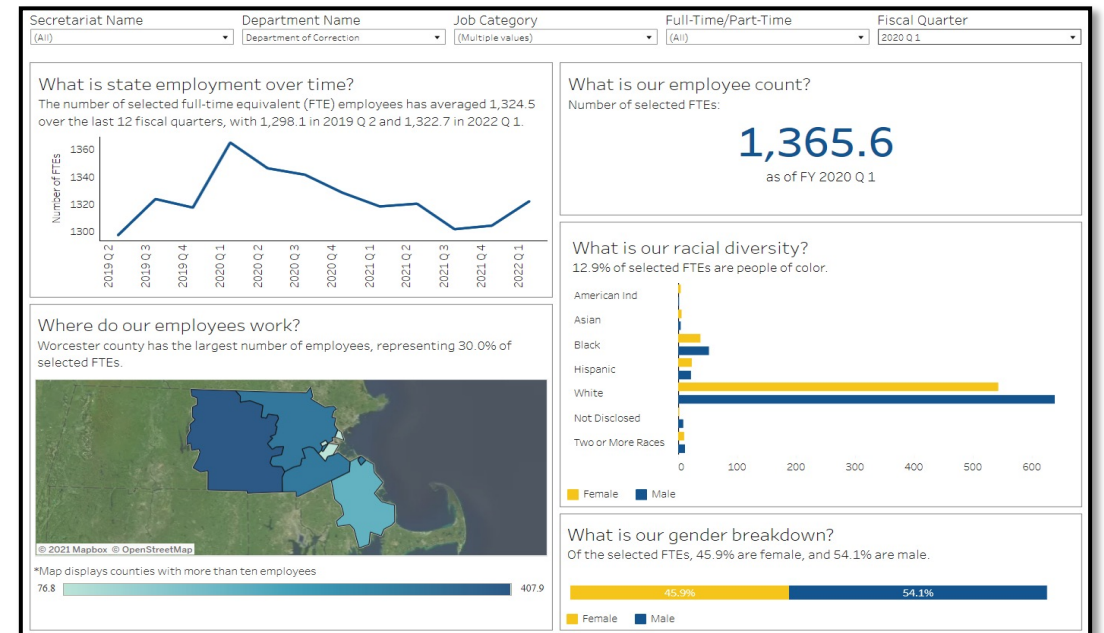
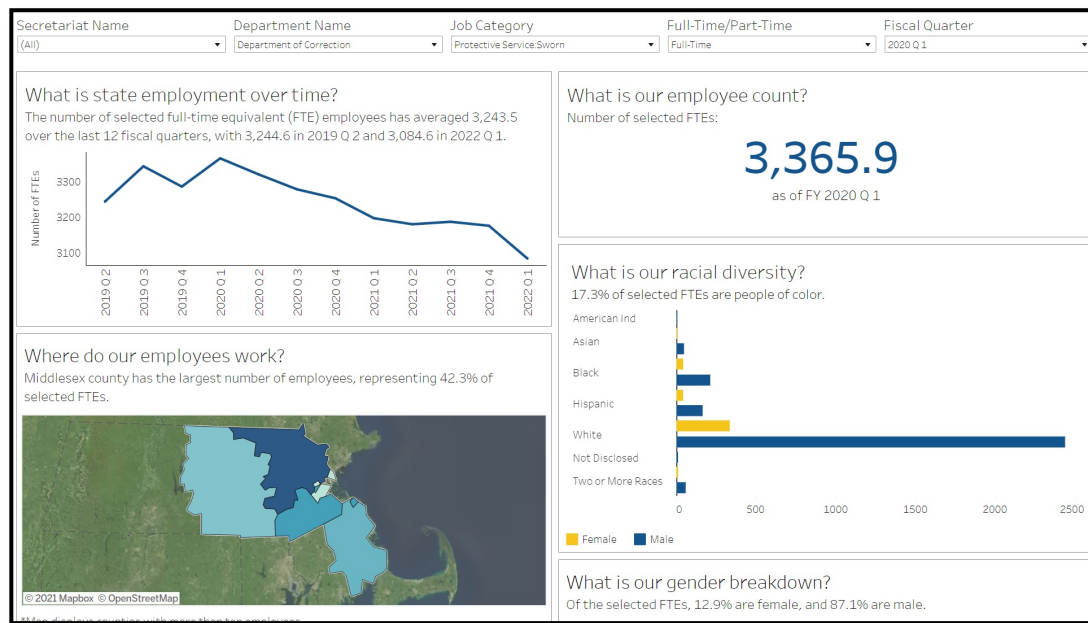




(Civil Service & Non-Civil Service) Fiscal Year 2020 - Quarter 1

17.3%

12.9%

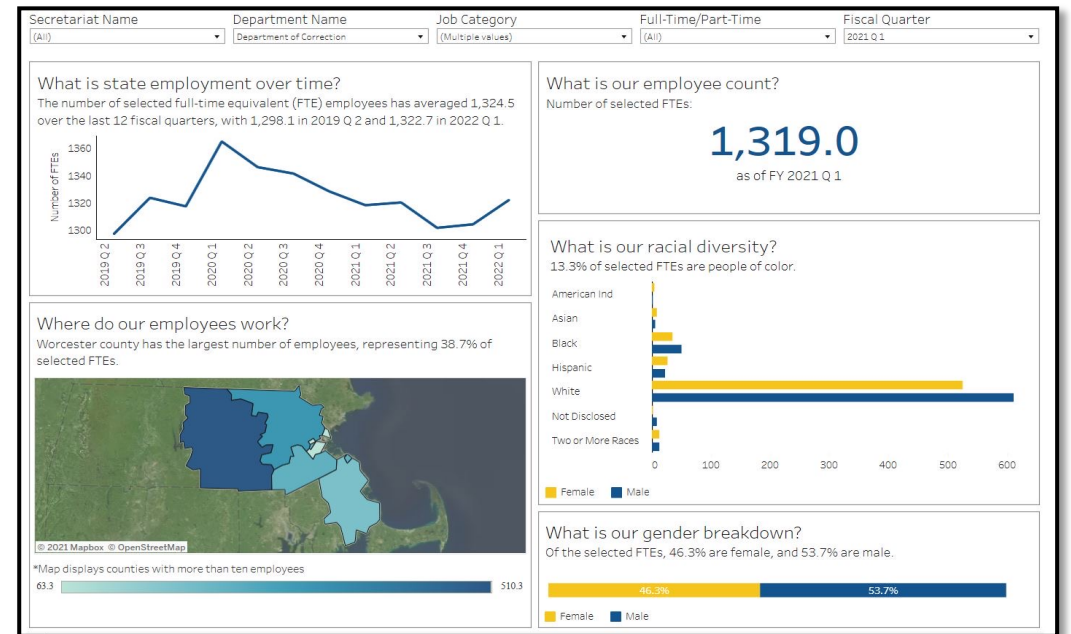
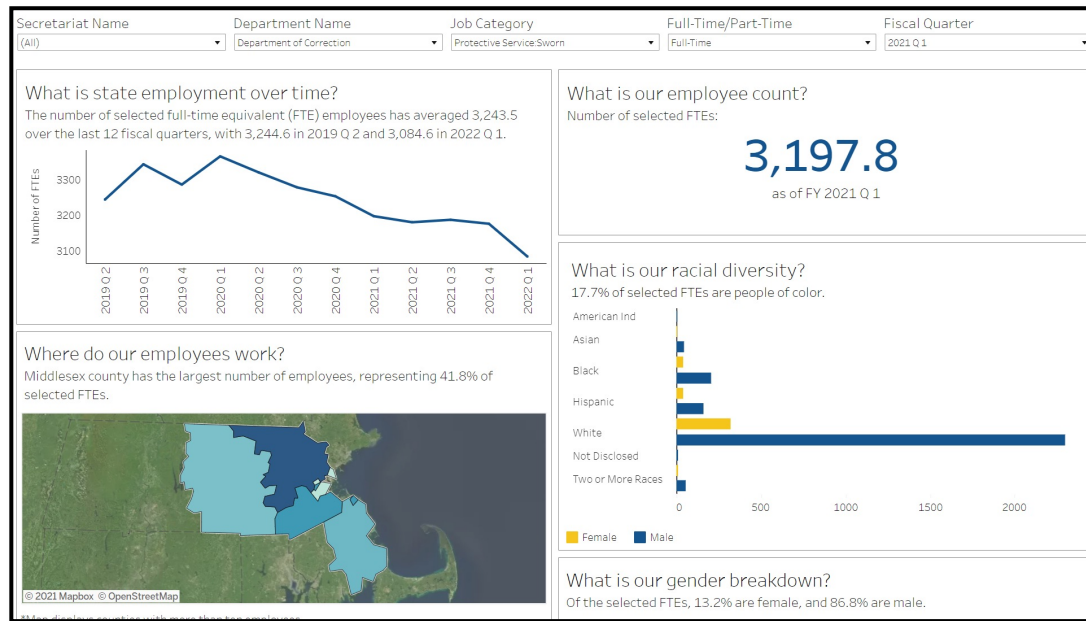




(Civil Service & Non-Civil Service) Fiscal Year 2021 - Quarter 1

17.7%

13.3%

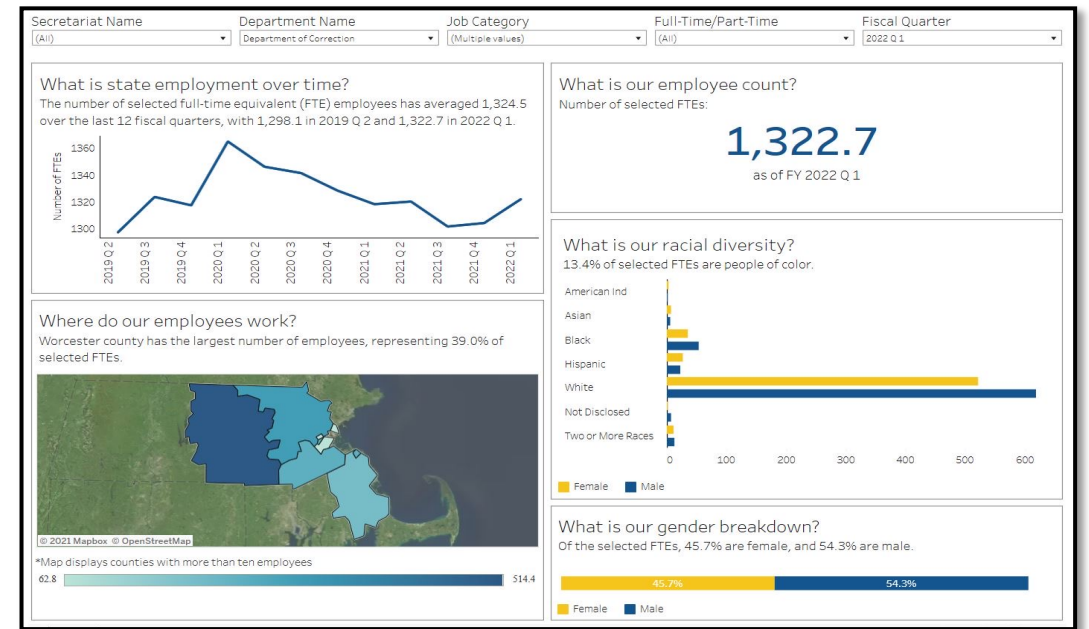
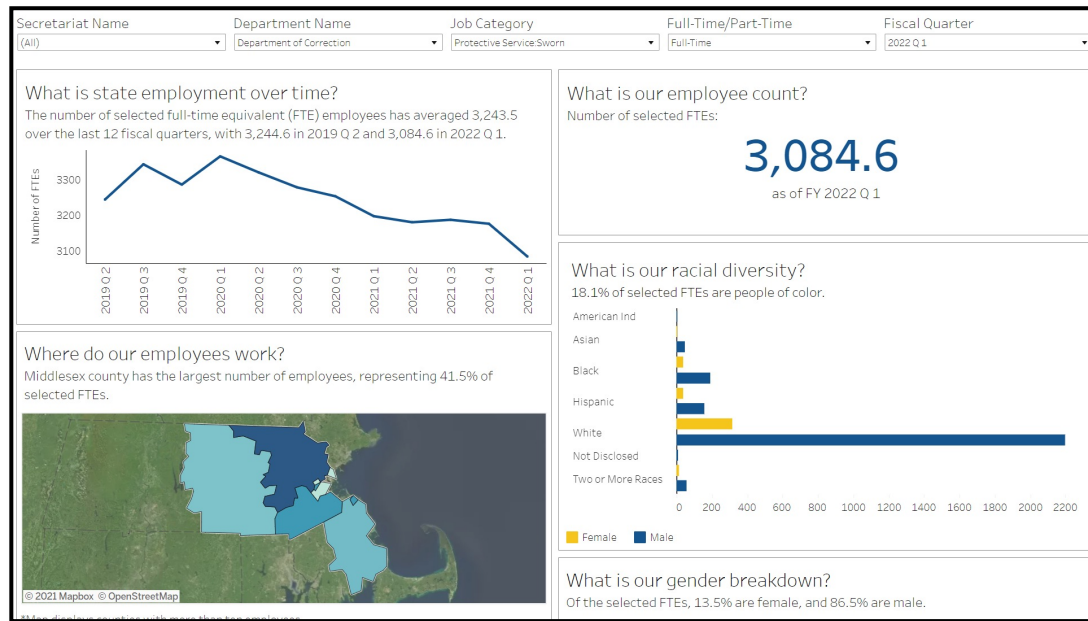




(Civil Service & Non-Civil Service) Fiscal Year 2022 - Quarter 1

18.1%

13.4%





RECRUITMENT

Jennithan Cortes Recruitment Manager

THANK YOU!!!

QUESTIONS???

Experiences of Cities & Towns

Relating to Massachusetts Civil Service

Presented by Jen Breaker

Massachusetts Municipal Association Designee

July 2021

Presentation Overview

- MMA Survey Results
 - Satisfaction with the Civil Service Process
 - Separating from Civil Service
 - Recruitment
- Discussion from the Town of Franklin
 - Exited Civil Service for Police in 2012
 - Exited Civil Service for Fire in 2020

MMA Survey Results

Respondents

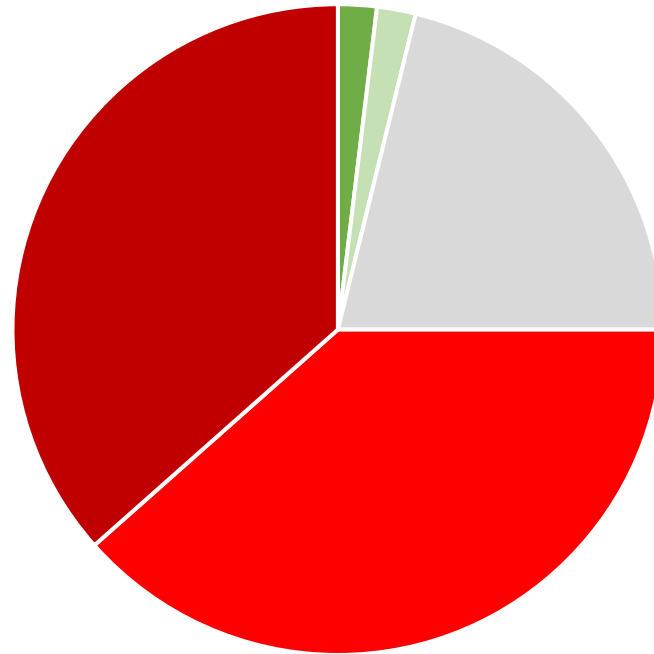
	In Civil Service	Exited Civil Service	Never in Civil Service
Less than 5,000	0	0	5
5,001 – 10,000	5	1	7
10,001 – 20,000	24	3	8
Over 20,001	24	4	1

	In Civil Service	Exited Civil Service	Never in Civil Service	Total
Number of Municipal Responses	53 28 – Police & Fire 18 – Police Only 2 – Fire Only 5 – Police, Fire & Labor	8	21	82
Total Number of Police & Fire Departments Covered by Civil Service	146 – Police* 108 – Fire*	33 - Police** 6 – Fire**		

*From the 1/24/2020 Civil Service Unit Presentation to the MMA

** From the Civil Service website, <https://www.mass.gov/service-details/civil-service-police-departments> & <https://www.mass.gov/service-details/civil-service-fire-departments>

Satisfaction with Civil Service



■ Highly Satisfied ■ Satisfied ■ Neither Satisfied nor Unsatisfied ■ Unsatisfied ■ Highly Unsatisfied

“Civil service had its place. In current times, its place is gone. There is far too much to list here but having worked in both civil service and non civil service environments, the latter is FAR superior.”

– Town that exited Civil Service

Has your municipality discussed separating from Civil Service?

	YES	NO
Respondents	46	7

For which titles/departments	
Police Department	38
Fire Department	23
Police Chief	9
Fire Chief	6

For those municipalities that have discussed separating, why?

Reasons	Number of Respondents
Greater flexibility for hiring and promotions	37
Diverse candidates/larger candidate pool	38
Ability to consider other attributes beyond exam scores	33
Ability to offer better hiring/promotional exams	29
Process took too long	25
Other	6

Communities Who Separated from Civil Service

- 8 Communities responded (8 Police, 3 Fire, 1 Labor)
- All referenced the following as factors for separation:
 - Greater flexibility for hiring and promotions
 - Diverse candidates/larger candidate pool
 - Ability to consider other attributes beyond exam scores
 - Ability to offer better hiring/promotional exams
 - Process took too long (7 out of 8)
- Other communities referenced that they are:
 - In the process of separating from Civil Service
 - Have removed specific positions from Civil Service

“Civil Service is outdated and given the challenges with recruiting public safety personnel, especially with recruiting a diverse talent pool, the current process is too slow and not agile enough to support communities needs.

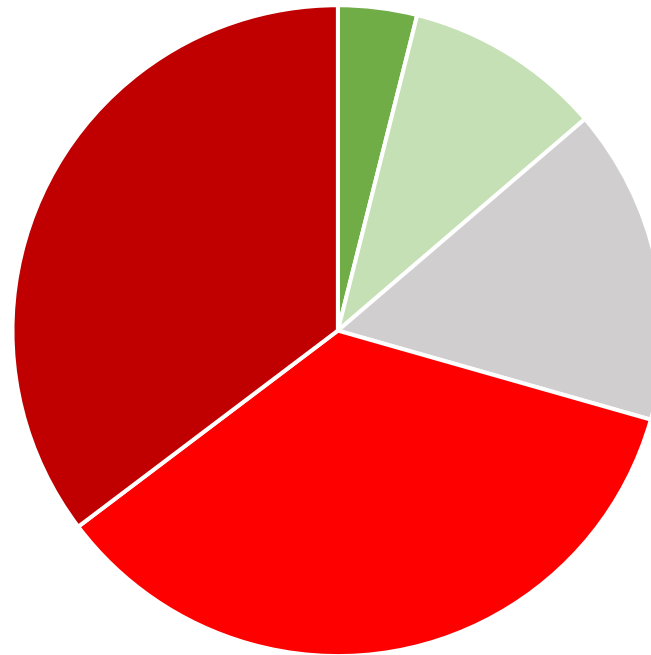
Offering a test every other year limits the ability to recruit personnel in a timely manner.

Moreover, the process does not allow an employer to recruit for a specific talent or skill set.

We either need to overhaul Civil Service and/or make it easier for communities to get out of the process and replace it with something that allows for a higher level of professionalism to recruit personnel in a timely way.”

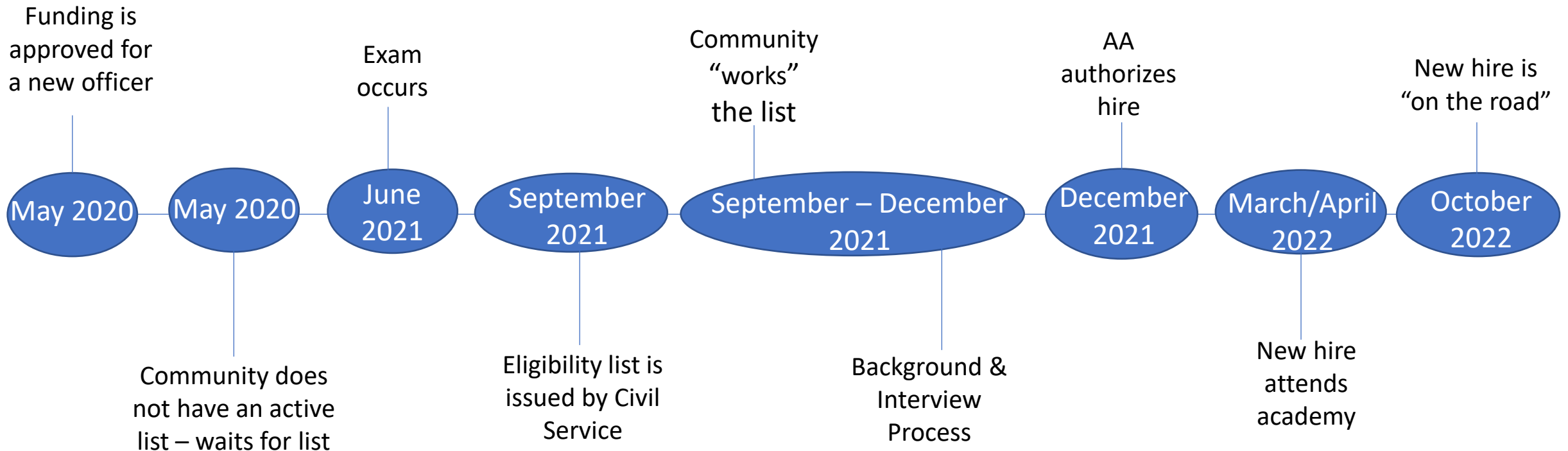
- City in Civil Service

How would you rate Civil Service's ability to conduct recruitments in a timely manner?



■ Highly Satisfied ■ Satisfied ■ Neither Satisfied nor Unsatisfied ■ Unsatisfied ■ Highly Unsatisfied

Example Hiring Timeline – Police Officer



Town of Franklin

Town Administrator – Jamie Hellen

Fire Chief – James McLaughlin

Police Chief – Thomas Lynch

D. Identify the districts/neighborhoods with the highest saturation of the client population that would be best served by public safety employees able to communicate in the requested language.

E. What is the total number of employees in the lowest rank that have this bilingual ability and interact with the community on a daily basis? Please do not include supervisory staff and higher ranking titles.

F. What is the need for public safety employees with bilingual capabilities and how would these employees be utilized to best serve the identified districts/neighborhoods?

G. Describe the nature and frequency of the contacts between public safety employees in the position title and the non-English speaking members of the population.

a. The number of calls that need an interpreter for the language being requested.

b. Number of incidents in the community where an interpreter is needed. This may include responses to emergency situations or arrest data.

H. The details of the department's recruitment efforts directed at bilingual candidates that reside in the community.

Link to form:

<https://www.mass.gov/doc/selective-certification-request-bilingual/download>

Link to all forms:

<https://www.mass.gov/lists/hiring-authority-forms>



**THE COMMONWEALTH OF MASSACHUSETTS
Human Resources Division**

HRD Civil Service Overview

July 12, 2021



Agenda



Overview

Entry Level Exams

Promotional Exams

Hiring from Eligible Lists

Shared Roles

Appendices



Focus of Presentation

Civil Service Unit within the Human Resources Division (HRD) and the Civil Service Commission are two separate entities within Administration and Finance Secretariat, with distinct roles and responsibilities

- **HRD's Civil Service Unit** recruits a qualified, diverse labor force, and evaluates current and potential public service candidates to fill jobs in agencies and municipalities across the Commonwealth
 - Led by Commonwealth's Personnel Administrator, a/k/a Chief Human Resources Officer
 - Prior to 1996, HRD was named the Department of Personnel Administration
- **Civil Service Commission** hears and decides appeals filed by certain state and municipal employees and candidates for positions covered by the civil service law, including discipline, layoff, hiring process, and examination appeals, as well as job classification appeals for all state employees

This presentation focuses solely on HRD's Civil Service Unit, with an emphasis on municipal police exams

Overview: HRD's Civil Service Unit (HRD/CS)



- Develops, administers, and certifies entry-level and promotional public safety Civil Service examinations across the Commonwealth.
- Validates police and fire new hires meet minimum medical and physical ability standards

Key facts:

- Governed by MGL c.31 (Civil Service Law) and the Personnel Administration Rules (PARs)
 - Chapter 31 authorizes the Personnel Administration Rules which regulate the recruitment, selection, training and employment of Civil Service positions.
 - PARs are proposed by HRD but must be approved by Civil Service Commission
- Primarily operates on retained revenue from exam fees
- 142 municipalities, 3 State Agencies (Department of Correction, Environmental Police and Massachusetts Parole Board) and MBTA participate in Civil Service system
 - State Police are outside of the Civil Service system but may elect to participate in entry-level exams

Overview: HRD/CS Statistics, FY19**



HRD's Civil Service Unit Statistics, FY19 **

- Administered 15 exams to 13,174 test takers
 - Smallest exam: 37 individuals (Dept. of Corrections head cook)
 - Largest exam: 10,025 individuals (entry-level municipal police)
- Exam fee range
 - Least expensive: \$100 (entry level municipal police exam)
 - Most expensive: \$250 (police and fire promotional exams)
- Hardship fee waivers granted with documentation
 - Requested for entry police exam: 470
 - Granted for entry police exam: 160
- Total cost to administer the Civil Service system: \$2,215,000
 - 13 FTEs
 - Utilize part time contractors as proctors for physical ability testing (PAT)
 - Appropriated: \$500k to support Hudson PAT facility and exam revalidations
- Physical Abilities Testing in Hudson, MA
 - 1,354 police candidates took the PAT
 - Generated \$203,000

****NOTE:** using FY19 data due to significant Covid-related disruptions in FY20 and FY21. In FY19 all exams were "paper and pencil"; in FY21, due to Covid, began administering some exams electronically

Entry Level Exams: HRD/CS Role Providing Candidates to Municipalities



- Determines frequency of test
 - Historically, every two years for entry police and fire
 - State Police have opted to participate every 4 years
 - Moving to annual administration in FY22
- Develops exam plan and test questions
- Supports individual municipality efforts to recruit diverse candidates
- Administers and scores exam; reviews and decides exam appeals
- Determines eligible list of candidates under statutory ranking preferences
- Processes municipality requests to hire candidates with specific qualifications to meet demonstrated municipality needs
 - Gender, proficiency in a language other than English, and emergency medical technicians are special qualifications that may be requested (per PAR 8)
 - Race and ethnicity are not categories that can be requested (per PAR 8)
- Administers Civil Service process for communities under Federal Consent Decrees
- Administers physical abilities test for all candidates entering municipal police academy
 - Test simulates “on the job” duties
 - Provide test to municipalities not participating in Civil Service system

Entry Level Exams: Components of Police Test



Comprised of three sections:

- Written Ability Test
 - Measures cognitive abilities identified as essential to performing job duties
- Life Experience Survey
 - Evaluates candidate's history and relevant experience
- Work Style Questionnaire
 - Assesses certain motivational, value-related, and attitudinal characteristics

Scoring:

- Must pass written ability section to have remaining sections scored
- Includes assessment of cross-cultural competency

Promotional Exams: HRD/CS Role Providing Candidates to Municipalities



- Determines frequency of test
- Develops exam plan and tests questions
- Administers and scores exam; reviews and decides appeals
- Provides municipalities with eligible promotion list

Promotional Exams: Types and Components of Police Test



HRD Civil Service plays more limited role in the promotion process as many responsibilities are delegated to municipalities

Municipalities choose promotional exam type to best meets their needs:

- Written exam
- Assessment center (AC)
- Combination of written exam and assessment center

Assessment centers utilize interviews and role playing, and score on leadership, decision making, and interpersonal skills

- Currently, 8 private vendors administer AC evaluations in Massachusetts
- HRD launched an AC for fire chief examinations in 2020

Hiring from Eligible Lists: Candidates' Ordering on Entry Level Eligible List



For each municipality, eligible list of candidates who passed an exam is rank ordered pursuant to statutorily prescribed preferences (per MGL c.31, sec.26)

1. Chapter 534 applicant
 - applicant placed at top of list due to Civil Service Commission decision
 - example: municipality had erroneously passed over candidate in previous hiring cycle
2. Resident 402A applicant
 - applicant is child of police officer or firefighter killed in line of duty, residing in appointing authority jurisdiction
3. Nonresident 402A applicant
 - Like #2 above, but not residing in appointing authority jurisdiction
4. Resident disabled veteran applicant
5. Resident 402B applicant
 - Applicant is child of police officer or firefighter permanently and totally disabled in line of duty, residing in appointing authority jurisdiction
6. Nonresident 402B applicant
 - Like #5 above, but not a residing in appointing authority jurisdiction
7. Resident veteran applicant
8. Resident civilian applicant
9. Nonresident disabled veteran applicant
10. Nonresident veteran applicant
11. Nonresident civilian applicant



Hiring from Eligible Lists: Process

- Municipality may consider twice its number of vacancies plus one. This is referred to as $2N+1$. For example:
 - 1 vacancy allows for 3 candidates to be considered
 - 10 vacancies allows for 21 candidates to be considered
- Eligible list remains in place and Civil Service-participating municipalities must hire from it until a new list is established by HRD
- Based upon their own hiring rules and protocols, most municipalities elect to hire candidates with residency preference. (MGL c.31 section 58)

Note: Under the Federal Consent Decree in NAACP v. Beecher

- Springfield, Lawrence, Chelsea and Holyoke have 1:1 certification ratios, where every other candidate is Black or Hispanic
- Brockton, Randolph and Worcester have 3:1 selection ratio, where the first and then every third candidate is Black or Hispanic

Shared Roles: Identifying Qualified and Diverse Candidate Pool



Responsibility for producing qualified and diverse candidate pool is shared between HRD Civil Service Unit and its participating municipalities

HRD/CS's role:

- Assisting municipalities in recruitment of diverse candidate pool for entry-level exams.
- Administering exams that:
 - identify skills and experience necessary to perform the job
 - are fair and non-discriminatory

Municipality's role:

- Recruiting diverse candidates within their community for entry-level exams
- Identifying candidates for promotional exams
- Requesting a selective list of candidates who have special qualifications, i.e., EMT paramedic, bilingual, gender
- Conducting applicant interviews and background checks

Shared Roles: HRD/CS Outreach to Diverse Potential Candidates



In February 2021, HRD/CS surveyed police departments to better understand their outreach strategies and how HRD/CS could best support them. Departments identified several key communication tactics:

- Social media (Twitter, Facebook)
- Open Houses
- Primary contact / diversity officer for department recruitment
- Informational flyers

For FY21 police entry exam, HRD/CS worked with all departments that requested outreach support:

- Social media: > 30 videos, informational posters and tweets were developed and distributed to municipalities
- Open houses: participated in 12 open houses
- Exam announcements translated into 9 languages

Appendix 1: Hiring from Entry Police Eligible List

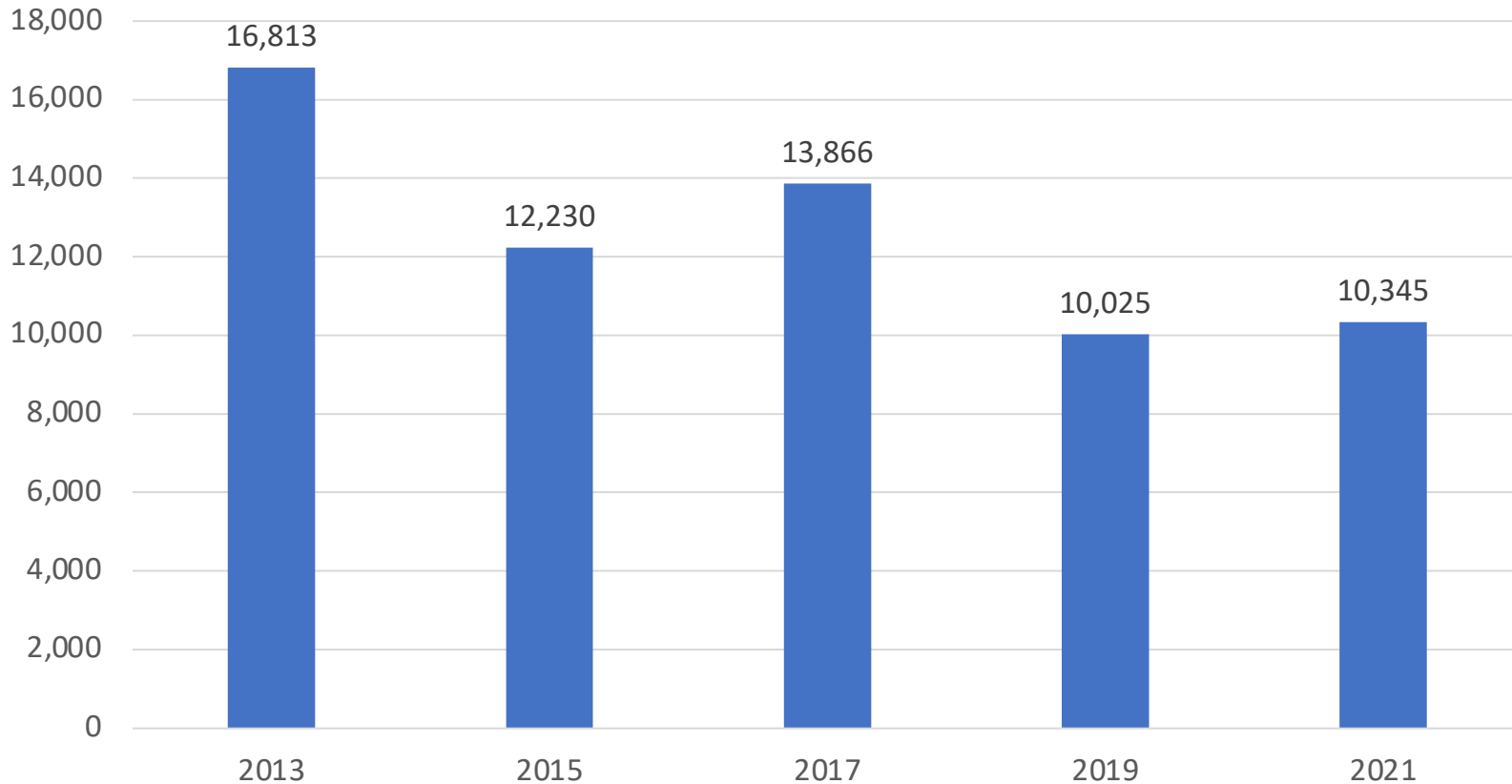


Eligible list example from fictitious Massachusetts town: factors indicating a type of preference on lists denoted with **

Candidate	Rank - Muni List	Rank - Language List	Test Score	Gender	Race / Ethnicity	Age	Language Proficiency	Veteran	Resident	Special Circumstances
Smith	1	N/A	80	M	White	22	English	No	No	Son of officer killed line of duty**
Rose	2	N/A	85	M	White	27	English	Yes**	Yes**	
Garcia	3 (tie)	1	87	M	Hispanic	24	English, Spanish**	No	Yes**	
Chan	3 (tie)	N/A	87	M	Asian	29	English	No	Yes**	
Jones	5	N/A	90	W	Black	25	English	No	No**	

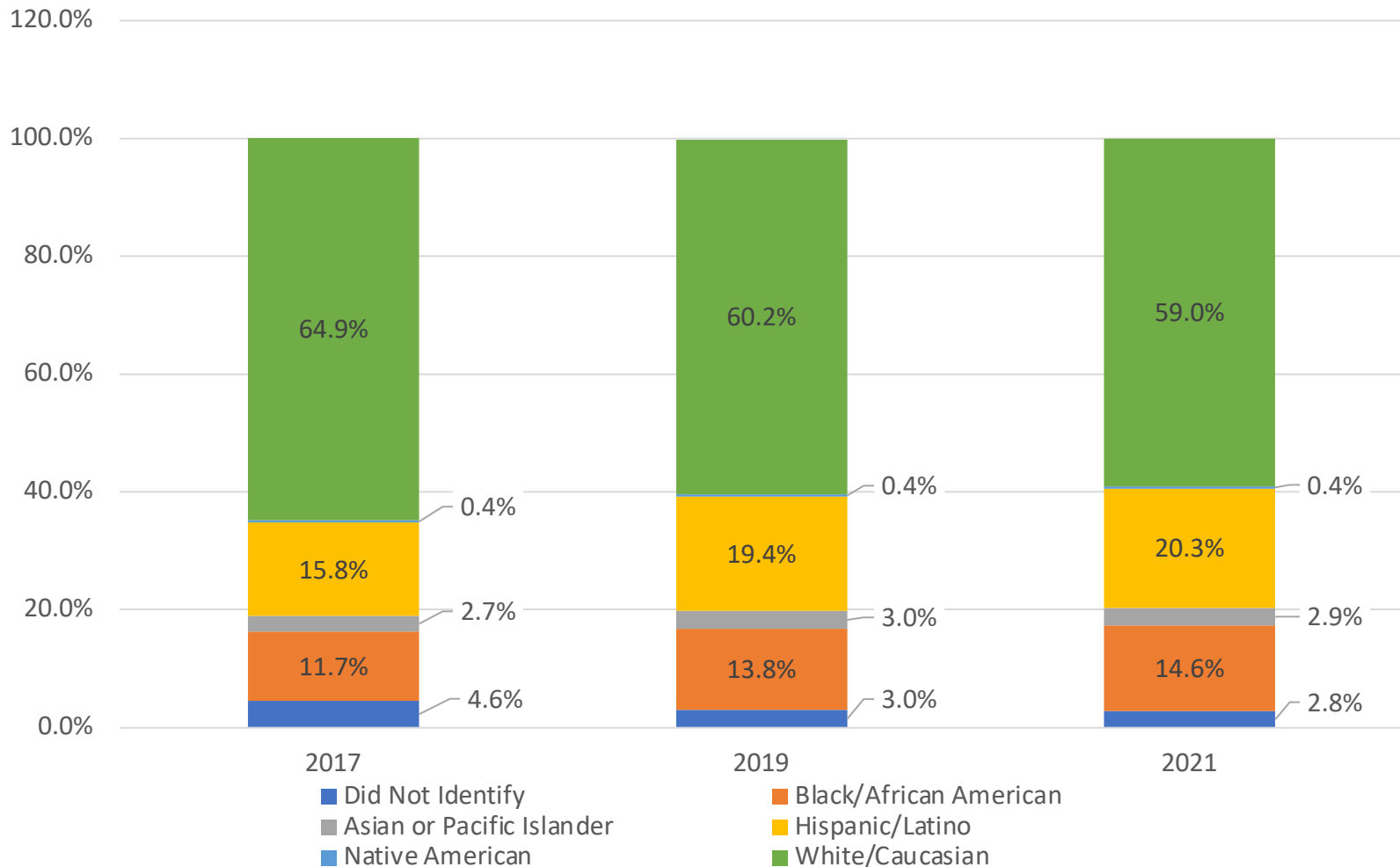
NOTE: town had demonstrated need for Spanish speaker to meet community needs, so candidate Garcia was first on language list. Town could choose to utilize language list before general municipal eligible list

Appendix 2: Entry Police Exam Applications

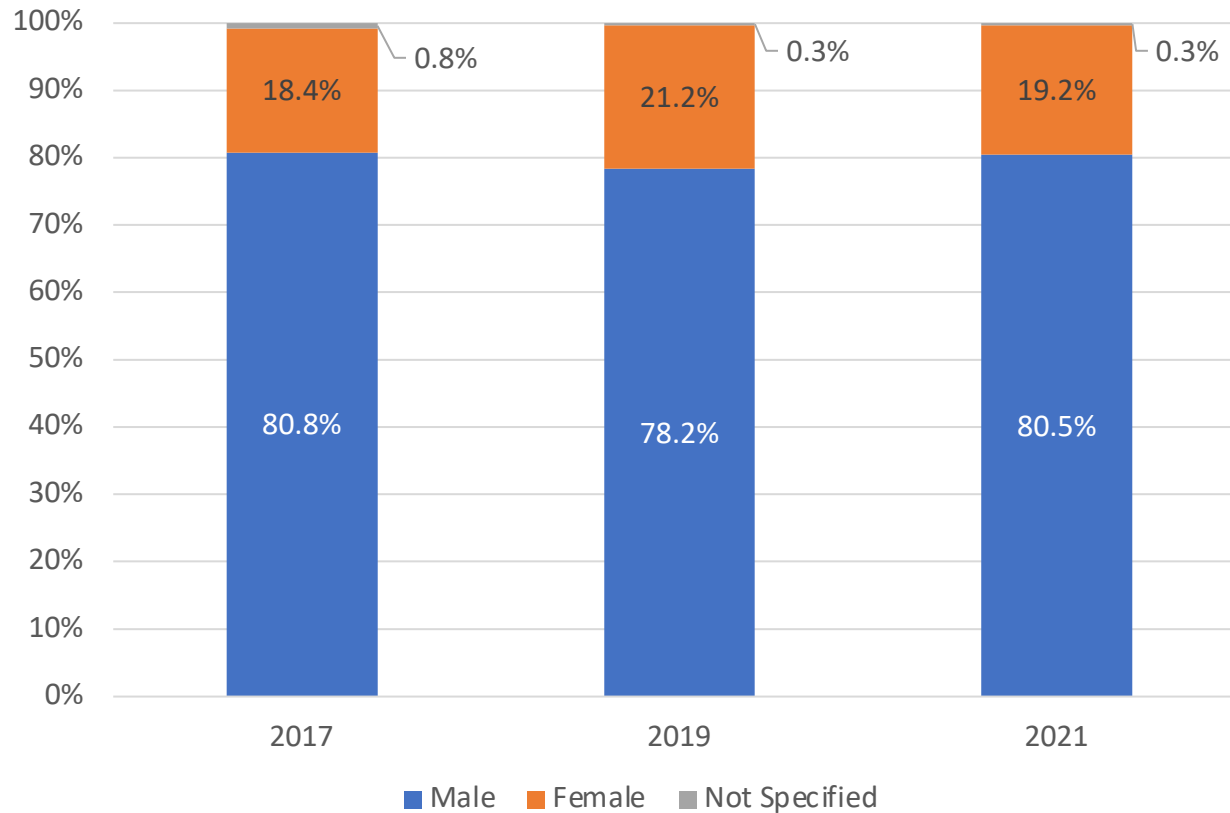


Data includes municipal, transit and state police in 2013, 2017 and 2021; municipal and transit only in 2015 and 2019 (state police did not elect to participate in exam in 2015 and 2019)

Appendix 3: Entry Police Exam Applicants - Persons of Color

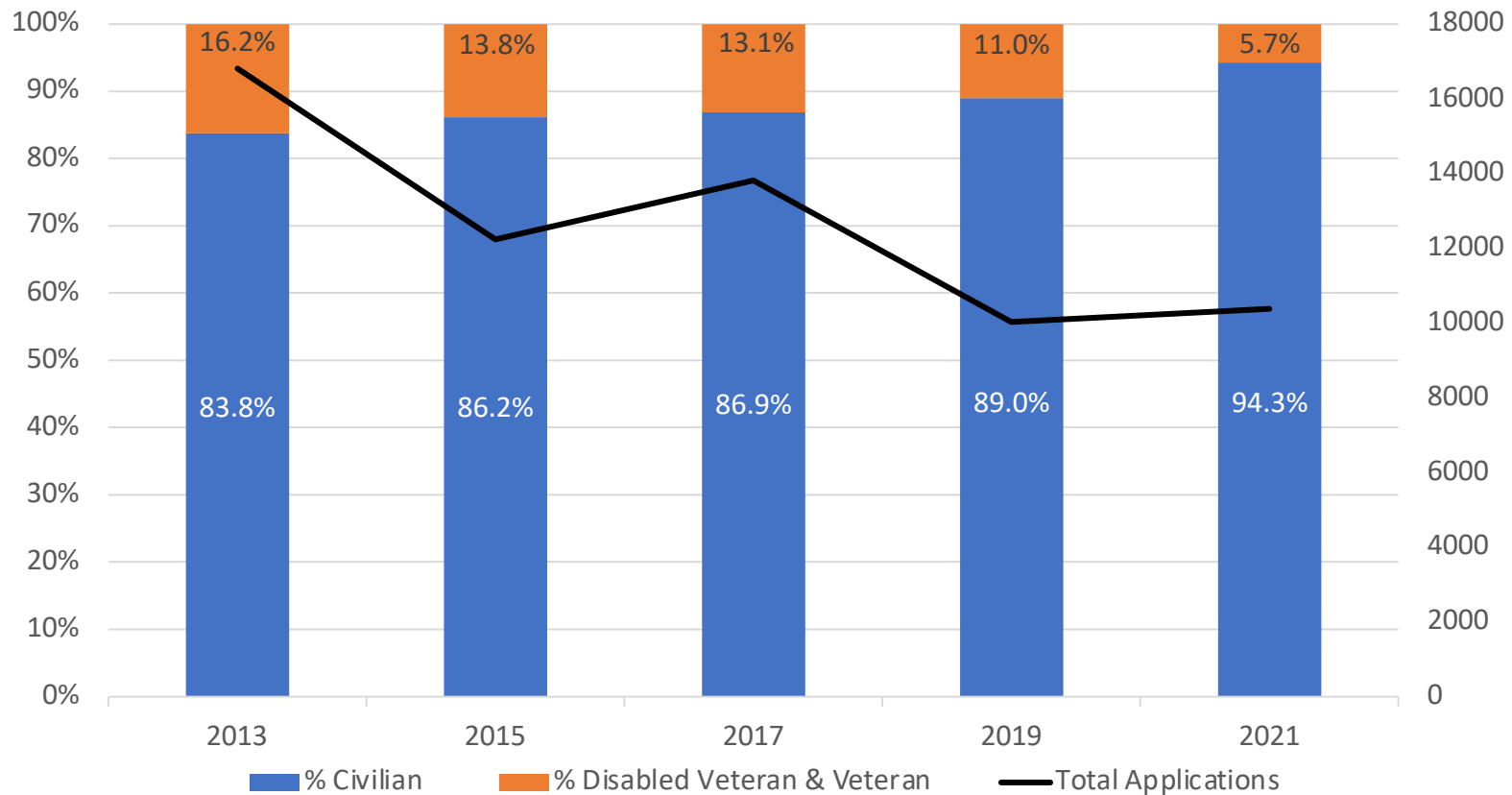


Appendix 4: Entry Police Exam Applicants - Gender



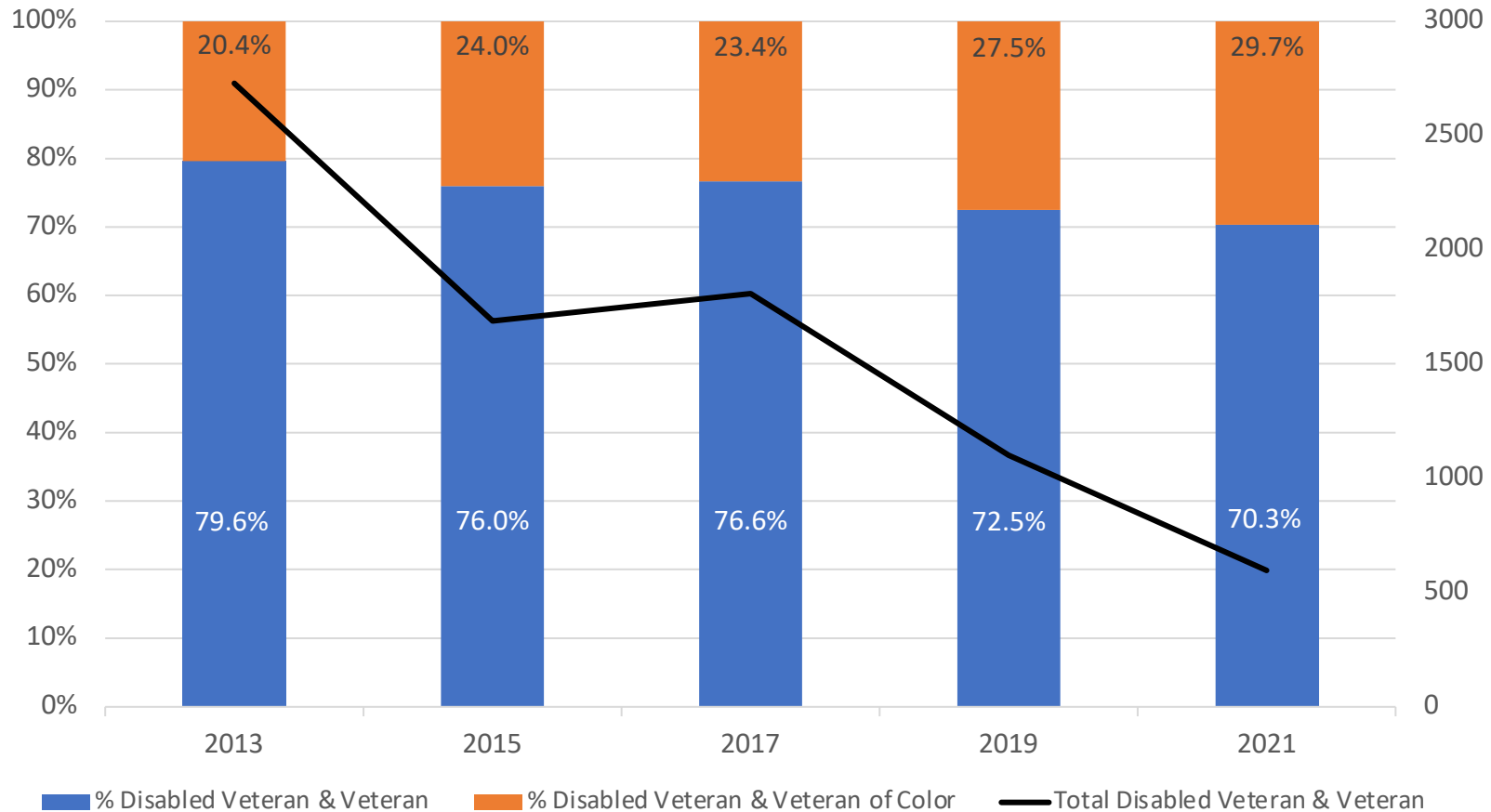
Data includes municipal, transit and state police in 2017 and 2021; municipal and transit only in 2019 (state police did not elect to participate in exam in 2019)

Appendix 5: Entry Police Exam Applicants - Veterans



Data includes municipal, transit and state police in 2013, 2017 and 2021; municipal and transit only in 2015 and 2019 (state police did not elect to participate in exam in 2015 and 2019)

Appendix 6: Entry Police Exam Applicants – Veterans of Color



Data includes municipal, transit and state police in 2013, 2017 and 2021; municipal and transit only in 2015 and 2019 (state police did not elect to participate in exam in 2015 and 2019)



Thank you!

Contact:

Regina Caggiano, Director of Civil Service

Regina.Caggiano@mass.gov



Questions?

SPECIAL LEGISLATIVE COMMISSION TO STUDY & EXAMINE THE CIVIL SERVICE LAW

A presentation by the:



Massachusetts Chiefs of Police Association

- and the -



Massachusetts Major City Chiefs of Police Association

1

Survey Overview of Basic Data

466

Total Reach

this number represents the total number of municipal and campus law enforcement agencies that this survey was sent out to

145

Total Responses

this number represents the total number of agencies that responded to the survey

79%

Completion Rate

this number represents the percentage of survey takers that completed the entire survey

5:43

Average Completion Time

this number represents the average time it took for people to complete the entire survey

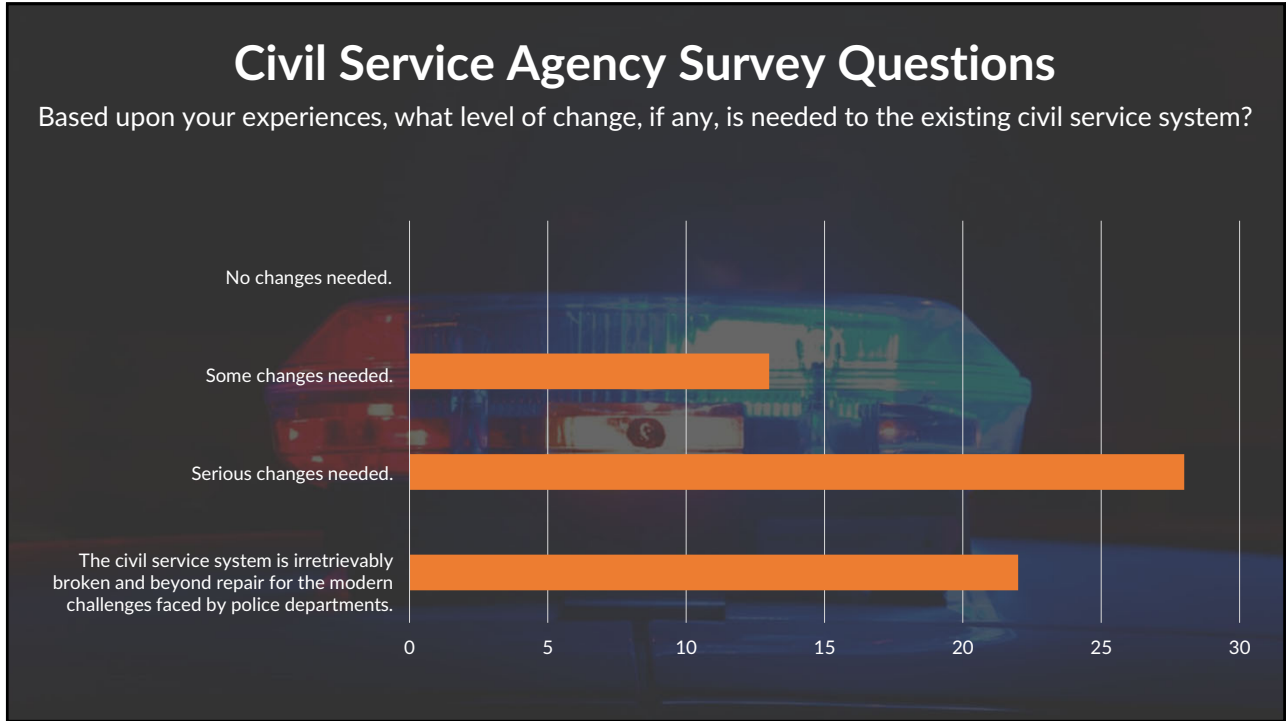
2



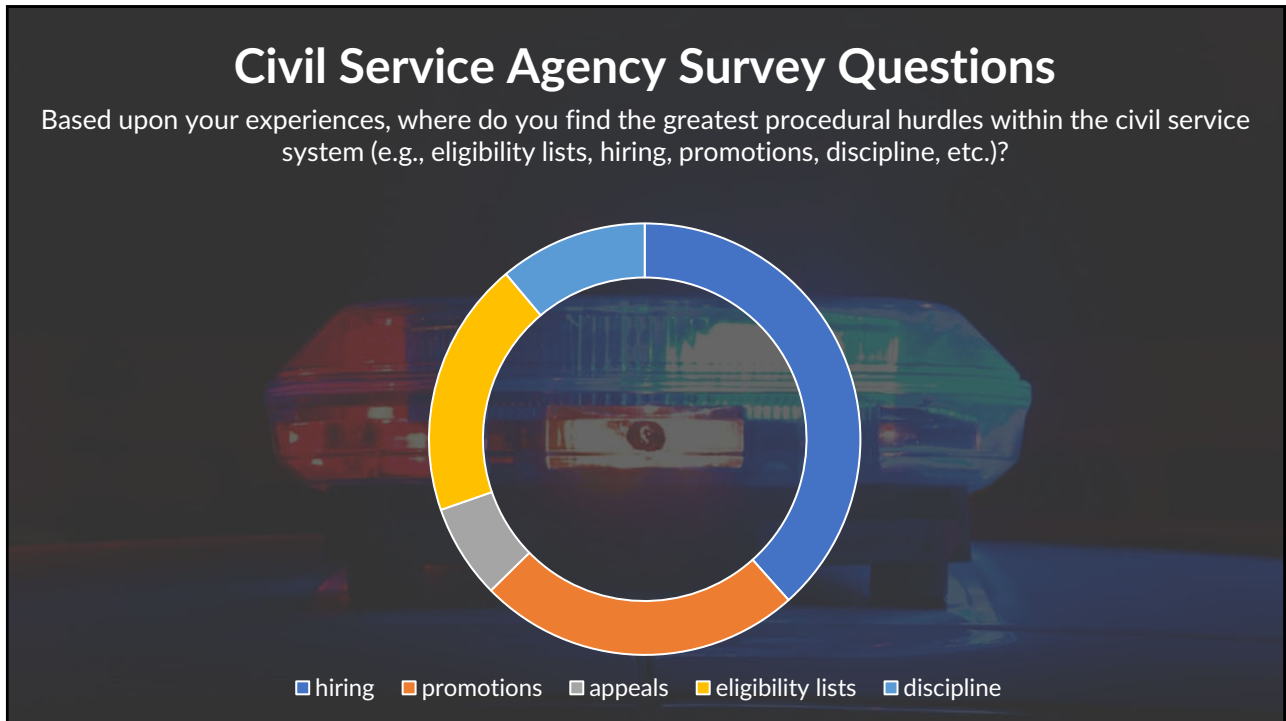
3



4



5



6

Civil Service Agency Survey Questions

Based upon your experiences, identify the top three (3) ways that the civil service system needs to be improved.

“ Tests need to be more oriented towards the needs of the community. Perhaps like the chief and DC tests the community should be allowed to have their own exams as long as they meet civil service requirements. ”

7

Civil Service Agency Survey Questions

Based upon your experiences, identify the top three (3) ways that the civil service system needs to be improved.

“ Test should be administered annually. Turnaround time for results and certifying list should be 30 days. Better job at marketing and recruiting. ”

8

Civil Service Agency Survey Questions

Based upon your experiences, identify the top three (3) ways that the civil service system needs to be improved.

- “ 1) eliminate 2n+1, it is too restrictive
2) some mechanism needed for hiring/promoting qualified people as opposed to the next on the list
3) civil service needs to be in step with MPTC standards for academy entry, passing a PAT is meaningless if they can't pass cooper ”*

9

Civil Service Agency Survey Questions

Based upon your experiences, identify the top three (3) ways that the civil service system needs to be improved.

- “ simplify steps, hiring lists and process need to be condensed, easier to understand start to finish process for each position ”*

10

Civil Service Agency Survey Questions

Based upon your experiences, identify the top three (3) ways that the civil service system needs to be improved.

“ Departments should be allowed to run their own tests and develop their own initial list. Once a candidate is hired and their probation period has ended, they can then be accepted [sic] into the Civil Service System. ”

11

Non-Civil Service Agency Survey Questions

Based upon your experiences, identify the top three (3) advantages that you experienced to being a non-civil service department.



12

Non-Civil Service Agency Survey Questions

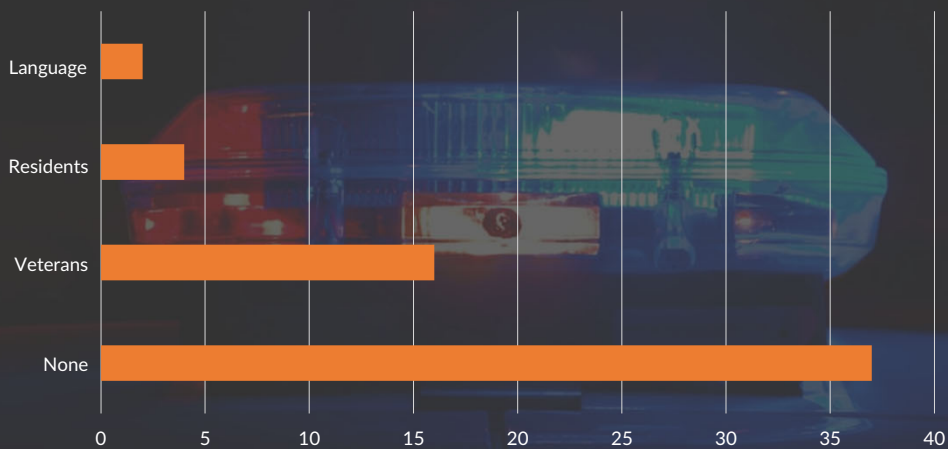
Based upon your experiences, identify the top three (3) disadvantages that you experienced to being a non-civil service department (as opposed to being a civil service department).



13

Non-Civil Service Agency Survey Questions

Does your agency offer additional points or preference in the hiring and promotional process based upon the individual's veteran status, race, color, national origin, or language skills? If so, please explain.



14

Non-Civil Service Agency Survey Questions

Describe your local procedures for hiring and promotions, and the mechanism for how they are established (e.g., collective bargaining agreement, local bylaw, etc.).



Local Procedures

some of the responses identified the local mechanism for hiring and promotions



Recruitment

some of the responses discussed recruitment efforts



Hiring

some of the responses described the local procedures for hiring



Promotions

some of the responses described the local procedures of promotions

15

Individual Perspectives



Chief Brian Kyes
 Chelsea Police Department
 President, Massachusetts Major City Chiefs of Police Association

16

Individual Perspectives



Chief Roy Vasque
Lawrence Police Department

17

Individual Perspectives



Chief Frank Frederickson
Yarmouth Police Department

18

Individual Perspectives



Chief William G. Brooks III
Norwood Police Department

19

Individual Perspectives

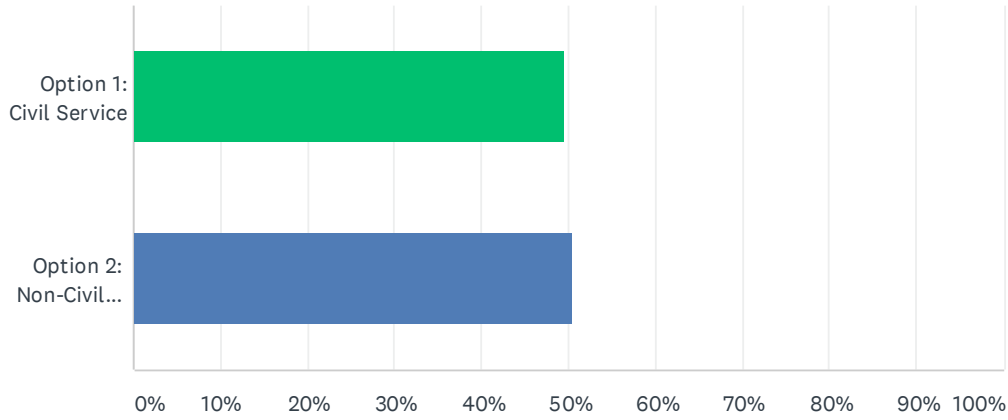


Chief Edward A. Dunne
Falmouth Police Department
President, Massachusetts Chiefs of Police Association

20

Q2 Please identify whether your department falls under civil service or not.

Answered: 145 Skipped: 0



ANSWER CHOICES	RESPONSES	
Option 1: Civil Service	49.66%	72
Option 2: Non-Civil Service	50.34%	73
TOTAL		145

Q3 Based upon your experiences, identify the top three (3) advantages that you experienced to being a civil service department.

Answered: 56 Skipped: 89

ANSWER CHOICES	RESPONSES	
Advantage 1	98.21%	55
Advantage 2	55.36%	31
Advantage 3	41.07%	23

#	ADVANTAGE 1	DATE
1	Eliminates government interference	8/16/2021 2:08 PM
2	Needing both appointing authorities sign the transfer.	8/16/2021 1:38 PM
3	Hiring, Promotion, Discipline Procedures well established	8/12/2021 3:53 PM
4	No political influence upon hiring	8/12/2021 12:21 PM
5	Structured system in place	8/11/2021 3:54 PM
6	priorities town residents for hire	8/11/2021 3:13 PM
7	I don't see any advantages.	8/11/2021 11:16 AM
8	Standardized system	8/11/2021 9:13 AM
9	None	8/11/2021 8:28 AM
10	none	8/11/2021 7:55 AM
11	No need to recruit	8/10/2021 9:00 PM
12	New officers who are familiar with the community	8/10/2021 5:20 PM
13	Little to no political influence.	8/10/2021 4:56 PM
14	None	8/10/2021 4:22 PM
15	The police department does not have the need to administer our own entrance exam	8/10/2021 3:45 PM
16	I don't know of any	8/10/2021 3:34 PM
17	a defined process	8/10/2021 2:15 PM
18	Uniformity	8/10/2021 1:46 PM
19	Not having to worry about testing	8/10/2021 1:14 PM
20	None	8/10/2021 1:13 PM
21	there is a regularly scheduled test, however too much time between tests	8/10/2021 12:50 PM
22	Protection for employees	8/10/2021 12:28 PM
23	state administered entry level exam	8/10/2021 12:27 PM
24	No advantage over non civil service	8/10/2021 12:14 PM
25	Administration of Examinations at no cost	8/10/2021 12:07 PM
26	testing for new hires at state level eliminates any local issues	8/10/2021 12:06 PM
27	a system in place for entry level and promotional hiring	8/10/2021 11:54 AM

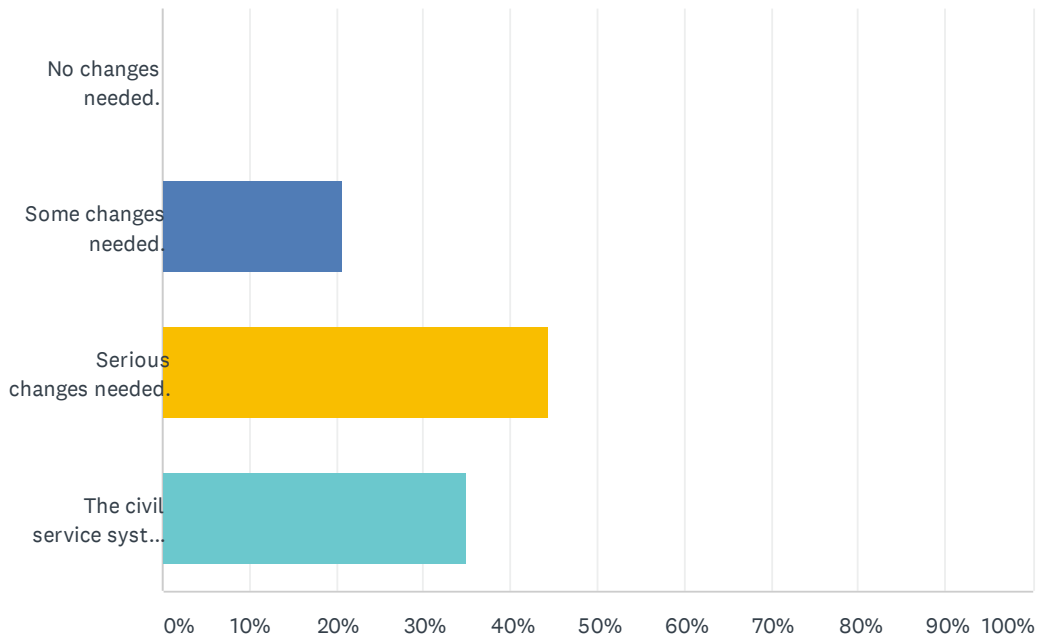
Important Survey for the Special Legislative Commission to Study Civil Service & Non-Civil Service

SurveyMonkey

28	Outsources majority of the hiring process	8/10/2021 11:54 AM
29	Reduces political influence	8/10/2021 11:47 AM
30	Protection from political interference	8/10/2021 11:46 AM
31	Structured promotional exams.	8/10/2021 11:39 AM
32	Administer exam no cost to department	8/10/2021 11:31 AM
33	Testing conducted by another agency	8/10/2021 11:21 AM
34	Organized and funded tests	8/10/2021 11:20 AM
35	NONE	8/10/2021 11:15 AM
36	Having an initial list of candidates	8/10/2021 11:11 AM
37	inexpensive for municipalities	8/10/2021 11:08 AM
38	PAT Testing	8/10/2021 11:00 AM
39	I'm not sure I can think of any advantage	8/10/2021 11:00 AM
40	None	8/10/2021 10:56 AM
41	Politics does not factor in.	8/10/2021 10:56 AM
42	Option of being heard at the Civil Service Commission	8/10/2021 10:53 AM
43	Provides an independent testing process	8/10/2021 10:52 AM
44	State run tests relieve community of cost and logistical burden	8/10/2021 10:52 AM
45	None	8/10/2021 10:45 AM
46	fair	8/10/2021 10:45 AM
47	None	8/10/2021 10:33 AM
48	Eligibility Lists	8/10/2021 10:25 AM
49	Civil Service protection for the Chief of Police	8/10/2021 10:21 AM
50	NONE	8/10/2021 10:19 AM
51	None	8/10/2021 10:18 AM
52	systematic testing	8/10/2021 10:18 AM
53	Prevents Nepotism	8/10/2021 10:17 AM
54	Prioritizes local candidates	8/10/2021 10:16 AM
55	Help with small department in promotional process	8/10/2021 10:04 AM
#	ADVANTAGE 2	DATE
1	Outside handling of hiring and promotional testing.	8/16/2021 1:38 PM
2	Residential Preference Option benefits residents	8/12/2021 3:53 PM
3	Long standing system	8/11/2021 3:54 PM
4	No cost to department	8/11/2021 9:13 AM
5	None	8/11/2021 8:28 AM
6	None	8/10/2021 9:00 PM
7	No municipal fee for initial open/competitive testing	8/10/2021 4:56 PM
8	Lack of local influence	8/10/2021 1:46 PM
9	some protections against arbitrary punishment, but also cumbersome rules	8/10/2021 12:50 PM

Q4 Based upon your experiences, what level of change, if any, is needed to the existing civil service system?

Answered: 63 Skipped: 82



ANSWER CHOICES	RESPONSES	
No changes needed.	0.00%	0
Some changes needed.	20.63%	13
Serious changes needed.	44.44%	28
The civil service system is irretrievably broken and beyond repair for the modern challenges faced by police departments.	34.92%	22
TOTAL		63

Q5 Based upon your experiences, where do you find the greatest procedural hurdles within the civil service system (e.g. eligibility lists, hiring, promotions, discipline, etc.)?

Answered: 62 Skipped: 83

#	RESPONSES	DATE
1	As a member of the Civil Service Committee, I have stated repeatedly that being forced to hire or promote 1 of the top 3 is a HUGE problem. It;s a big enough problem that if I stay in my position as Chief and choose not to retire I will be looking at honoring the Town's previous request to place a binding question on the next Town Meeting warrant to get rid of Civil Service.	8/16/2021 2:08 PM
2	Staffing shortages and inability to answer questions in a timely fashion. Lists take too long to establish after an exam. Wildly inconsistent disciplinary findings by the commission that often lead to departments having to retain employees that should not be police officers.	8/16/2021 1:38 PM
3	Discipline, mostly employee centered appeal outcomes and the non-ability to not hire candidates that our not well suited to position but don't fit bypass criteria.	8/12/2021 3:53 PM
4	No pre hire minimum standards i.e. college education.	8/12/2021 12:21 PM
5	1. Promotions 2. Eligibility Lists 3. Hiring and appeals	8/11/2021 3:54 PM
6	Hiring and promotion should be under the control of the local community, however, the union will not easily support removal from civil service. The union only supports it for oversight over discipline. Civil service does not allow for recruiting of diverse candidates.	8/11/2021 3:13 PM
7	Without question, hiring. It is very limited with how many candidates you can select. It's a terrible system. We need to be able to select the best, not the top 3 or a veteran.	8/11/2021 11:16 AM
8	Hiring.	8/11/2021 9:13 AM
9	Hiring: A wealthy community like Belmont does not provide enough candidates. We had four candidates for four vacancies this year. None of the candidates worked out. This has been our experience over the last ten years. I have had to reject two African American candidates because years ago Belmont adopted the upper age limit. The candidates we are getting are not quality candidates. The unofficial list for this year, indicates that the top three candidates are all 21 years old. Belmont had only seven or ten residents take the test. We terminated an employee last December. The employee chose to let Civil Service hear her case. It has been a nightmare for us in terms of the amount of time I have had to put into this case. Civil Service is aware that the terminated employee has been involved in criminal activity since her termination and it makes no difference to them. We are actually in the process of going to superior court because Civil Service rejected our exhibits. Last year, we attempted to remove the police and fire from Civil Service at town meeting. The fire department, without a permanent fire chief, put up a good defense and the article was removed. A representative from Civil Service was present at the meeting and was prepared to speak on behalf of the unions. My relationship with Civil Service has not been the same since.	8/11/2021 8:28 AM
10	Hiring Lists	8/11/2021 8:24 AM
11	hiring, lack of recruiting, formalized groupings to hire from, the entire by-pass process.	8/11/2021 7:55 AM
12	Hiring and promotions	8/10/2021 9:00 PM
13	Eligibility, hiring, promotions are significantly challenging	8/10/2021 5:20 PM
14	ALL of the personnel procedures are bloated and confusing. They takes months, if not years to accomplish simple tasks. It requires full time trained staff to manage a simple hire or promotion.	8/10/2021 4:56 PM
15	finding quality new hires is very difficult with the present eligibility lists and entry examinations	8/10/2021 4:22 PM

eliminate old promotional exams and conduct quality self assessment centers only

16	Negative aspect on promotional exams - you are provided with a list of supervisor candidates who may have studied hard or did well taking an exam on a Saturday morning, but you know that the person is not supervisor material or a candidate ranked lower is a much better candidate, but you are stuck taking a lesser qualified candidate.	8/10/2021 3:45 PM
17	We are very limited by promotional lists and often don't promote the best candidate. Some of the Civil Service Commission decisions on discipline appeals have been very disappointing and concerning. One recent decision we had on appeal took 2.5 years to get the decision back. Our initial entry lists have not been very fruitful and often have candidates with disabilities like PTSD that we end up owning.	8/10/2021 3:34 PM
18	candidate list is defined by a single testing day which doesn't determine the best candidate, the candidate tests once a year, results take too long, bypass reasons are limited	8/10/2021 2:15 PM
19	I think the procedures generally work if people follow the structure and guidelines.	8/10/2021 1:46 PM
20	eligibility lists, hiring, promotions, and discipline.	8/10/2021 1:38 PM
21	All the above and bypasses	8/10/2021 1:14 PM
22	Eligibility lists, number of qualified candidates, coordinating certification of list with available academy openings.	8/10/2021 1:13 PM
23	hiring most frequently, but all of them can be an issue depending on the knowledge and responsiveness of your rep.	8/10/2021 12:50 PM
24	Hiring in a timely manner and promoting the right individual not based on a test score.	8/10/2021 12:28 PM
25	complicated, little assistance, neo.gov is terrible to work with and the steps to hire and promote a person is terrible.	8/10/2021 12:27 PM
26	Civil Service HRD and Civil Service Commission operate independently of each other and often times conflict. Difficult to get list for women or minority candidates.	8/10/2021 12:14 PM
27	eligibility lists - each time a new requisition comes from the same list, the same candidates need to be issued by-passes.	8/10/2021 12:09 PM
28	Flexibility in hiring diverse staffs; frequency of exams (entrance).	8/10/2021 12:07 PM
29	candidates at top of new hire lists are often not the most qualified to be police officers.	8/10/2021 12:06 PM
30	establishing eligibility lists. Bureaucracy that is slow to change to 21st century policing. additional hiring/promotional decision making should be given to the appointing authorities.	8/10/2021 11:54 AM
31	PAT exam is redundant and disqualifies good female candidates. Disciplinary appeal process is cumbersome	8/10/2021 11:54 AM
32	Eligibility lists - not being able to get to known commodities without going through those with a "preference" of some kind	8/10/2021 11:47 AM
33	Hiring, promotions, flexibility and discipline.	8/10/2021 11:46 AM
34	Veterans preference - Discipline - eligibility lists.	8/10/2021 11:39 AM
35	Hiring and more defined is the by-passing of candidates. Discipline and appeals	8/10/2021 11:31 AM
36	Bypass restrictions for both newly hired officers as well as promotions. Inadequate eligibility lists.	8/10/2021 11:21 AM
37	Inability to hire former residents who grew up in town and are still connected, but don't live in community currently. Inability to diversify agency. The entire hiring process	8/10/2021 11:20 AM
38	The time frame for testing, the appeal process, all bog down hiring, and promotions.	8/10/2021 11:15 AM
39	Hiring and eligibility lists.	8/10/2021 11:11 AM
40	Discipline and hiring.	8/10/2021 11:08 AM
41	No real hurdles which were not able to be addressed, however, more human interaction via telephone etc would be appreciated.	8/10/2021 11:00 AM

Important Survey for the Special Legislative Commission to Study Civil Service & Non-Civil Service

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42	I've experienced challenges in hiring someone, bypassing and not hiring someone, being told that rather than not hire someone who was ineligible to be a police officer I should have first offered them a conditional offer of employment for the job they legally could never have, promotional exams that have nothing to do with identifying and assessing the best leaders in your department, overturned and reduced suspensions, an overturned termination, hiring process that is far too favorable to veterans and residents and punitive to non-residents who want to work for you	8/10/2021 11:00 AM
43	Hiring process	8/10/2021 10:56 AM
44	Lack of qualified candidates. Lack of diversity on lists.	8/10/2021 10:56 AM
45	Certainly with hiring and promotions. Having to give reasons to bypass someone. A good test taker does not always equal the best person or fit for your department.	8/10/2021 10:53 AM
46	Hiring/Promotions	8/10/2021 10:52 AM
47	1.Ability to hire/promote quality/diverse candidates, 2. Appeal process favors bad candidates, 3. Bureaucracy with rigid protocols moving at glacier speeds, 4. Tests do not measure appropriate skills and abilities. 5. The system hinders professionalism and positive organizational culture.	8/10/2021 10:52 AM
48	Cumbersome, limited pool of candidates for hiring, time consuming, no flexibility, archaic	8/10/2021 10:46 AM
49	The hiring process The quality of promotional testing Promotional Bypass appeals	8/10/2021 10:45 AM
50	veterans preference	8/10/2021 10:45 AM
51	Extremely Slow outdated process.	8/10/2021 10:33 AM
52	Discipline Hearings Hiring Process through Civil Service	8/10/2021 10:25 AM
53	Figuring out the latest protocols and speaking to a rep. is hard.	8/10/2021 10:25 AM
54	All of the above, though my understanding is discipline is no longer a Civil Service function with passage of POST.	8/10/2021 10:21 AM
55	Limitations to initial hiring and Promotions.	8/10/2021 10:21 AM
56	Eligibility lists	8/10/2021 10:19 AM
57	Hiring is brutal. We need to hire two ASAP and have to wait months for a list then hire new recruits (the entire process will take close to 10 months) A neighboring non-civil service department just hired several trained officers in a couple of months.	8/10/2021 10:19 AM
58	eligibility lists, 2n+1, bypass issues, promotional selection, too many study materials that are not tested. Change veterans preference from being on top of list.	8/10/2021 10:18 AM
59	Hiring and promotions. Rigid lists with established preferences and bonus points can limit ability to hire/promote best candidates.	8/10/2021 10:17 AM
60	bypass rules, justifying to get to more qualified candidates	8/10/2021 10:16 AM
61	hiring, promotions, discipline	8/10/2021 10:06 AM
62	hiring	8/10/2021 10:04 AM

Q6 Based upon your experiences, identify the top three (3) ways that the civil service system needs to be improved.

Answered: 57 Skipped: 88

#	RESPONSES	DATE
1	1. See above 2. Why are there appeals? You pay a company to write the exam. I see no reason why they can't simply write the exam so that there is no room for interpenetration make it simply black and white. Does the company make extra money when an appeal is triggered? It certainly looks like it. 3. Release the grades sooner if possible.	8/16/2021 2:08 PM
2	Streamline testing procedures. Allow multiple choice exams on assessment testing again. Have a commission that hears disciplinary/termination cases that has the best interests of the agency as their priority.	8/16/2021 1:38 PM
3	more discretion in who is hired from eligible lists, disciplinary appeal process needs revisions	8/12/2021 3:53 PM
4	Allow for departments to set pre hire standards similar to non civil service departments	8/12/2021 12:21 PM
5	1. Be more responsive to departments 2. Be more timely 3. Be more flexible	8/11/2021 3:54 PM
6	-bypasses and findings are inconsistent. Meaning, I read the decision on one bypass and a commissioner determines finds one way, same fact pattern and another commissioner finds another way. -Too often, civil service does not support the communities decision to discipline. Why does civil service have ANY role in discipline? Wasn't civil service developed for hiring and promotions, to reduce nepotism? -Honestly, the points given for veterans may not be fair. A candidate enlists for 2 years, part time, gets veterans preference when they did some state side deployment gassing up jets. Another candidate was working full time, supporting a family or going to school full time, but does not get considered? Flawed veterans status	8/11/2021 3:13 PM
7	Police Chiefs should be able to select any candidate from the hiring list and get language lists if so requested. I was denied Spanish speaking officers after providing the need.	8/11/2021 11:16 AM
8	Test should be administered annually. Turnaround time for results and certifying list should be 30 days. Better job at marketing and recruiting .	8/11/2021 9:13 AM
9	Eliminate residential preference. In an effort to diversify, We proposed legislation that would have allowed anyone with a HS diploma from Belmont to receive the same hiring preference as residents. We were hoping to attract former METCO or others who may have attended HS in Belmont but moved out. This legislation has been stuck in the Senate for more than five years.	8/11/2021 8:28 AM
10	It needs to be eliminated entirely and it should have been part of the police reform law.	8/11/2021 7:55 AM
11	1) eliminate 2n+1, it is too restrictive 2) some mechanism needed for hiring/promoting qualified people as opposed to the next on the list 3) civil service needs to be in step with MPTC standards for academy entry, passing a PAT is meaningless if they cant pass cooper	8/10/2021 9:00 PM
12	None. It is antiquated and no longer works	8/10/2021 5:20 PM
13	Simplified hiring, eliminate residency priority to a regional approach. Add staff to actually respond in a timely fashion. Reduce the RED TAPE on every portion of the personnel system, it is a bloated bureaucracy.	8/10/2021 4:56 PM
14	Allow individual towns/cities to hire the best and brightest and after the 1 yr probationary period allow them to be covered under civil service. Take civil service out of the business of testing and creating eligibility lists.	8/10/2021 4:22 PM
15	Candidates with a statutory preference appear on every communities eligibility list. These preferential candidates count towards the number of candidates when a list is provided. This should be changed to require candidates with a preference to select the department(s) they would accept an offer of employment from. Also, candidates that are by-passed for one reason or another still appear on a communities eligibility list, again, limiting the number of candidates that are provided.	8/10/2021 3:45 PM

Important Survey for the Special Legislative Commission to Study Civil Service & Non-Civil Service

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16	The civil service system is antiquated and in my opinion is beyond repair.	8/10/2021 3:34 PM
17	allow for a greater number of selections for each open spot, allow for defined criteria to select any name on list, has to have quicker results for testing - score results - appeals - hearings - hearing results	8/10/2021 2:15 PM
18	Make the exams more relevant in terms of required reading materials and exam questions.	8/10/2021 1:46 PM
19	The appeal process (initial hiring, promotions, etc.) needs to be completely overhauled. The municipalities should have greater control over who should be hired and promoted.	8/10/2021 1:38 PM
20	Disband and replace.	8/10/2021 1:13 PM
21	tests need to be more oriented towards the needs of the community. Perhaps like the chief and DC tests the community should be allowed to have their own exams as long as they meet civil service requirements. Some may need to have tests more frequently than others. Perhaps should be allowed to hire anyone from anywhere off the list since they have all been given the same exam. Having to document each and every reason not taking someone can be cumbersome. Maybe there should be a system for allowing non-civil service personnel to lateral into the civil service system.	8/10/2021 12:50 PM
22	Hiring Promoting Discipline	8/10/2021 12:28 PM
23	simplify steps, hiring lists and process need to be condensed, easier to understand start to finish process for each position.	8/10/2021 12:27 PM
24	Turn around time on written exams, shouldn't take several months for results.	8/10/2021 12:14 PM
25	1. Rather than using the 2n+1 formula for hiring, let police department pull the entire list and hire the most qualified candidate 2. Police departments have vast experience in hiring, yet when we by-pass someone and go to an appeal, the PD's are ripped apart by the civil service commissioner, even if the by-pass is upheld. Have a better appeal system. 3. Charge less money for promotional exams so that more officers will take the test.	8/10/2021 12:09 PM
26	Annual Entrance exams, Pass/Fail Promotion Exams: eliminate rankings and military preference	8/10/2021 12:07 PM
27	1. eliminate bypass issues for new hires. The agency should determine who is most qualified not an exam score. 2. Veteran's preference should only be 2 points (similar to MSP) and not automatic top score on new hire exam. 3. should move to banded scoring and not be limited to hiring from top 3 scorers for 1 position, etc.	8/10/2021 12:06 PM
28	eliminate Veterans preference throughout career. entry level only! conduct assessments centers. make it easier to diversify hiring by appointing authorities.	8/10/2021 11:54 AM
29	End the PAT exam if candidates can still be disqualified due to academy PT standards Arbitration should replace CS process instead of choice.	8/10/2021 11:54 AM
30	Civil service allowing for assessment center evaluations in addition to, or in replacement of, the written exam for promotion has gone a long way in helping to find the best candidate. Allowing for some sort of preference for initial applicants that have worked for the Department in a civilian capacity prior would be helpful (i.e. civilian dispatchers looking to become sworn officers).	8/10/2021 11:47 AM
31	Needs to change the hiring process to allow more flexibility in accessing candidates. The discipline process needs to be reasonable and accountable.	8/10/2021 11:46 AM
32	Veterans preference should be limited to 2 raw points. Too long for official decisions - over two years to receive termination appeal totally unacceptable. Bypass prehearing granted when candidate failed to respond notice of vacancy.	8/10/2021 11:39 AM
33	Hiring and by-passes need to be less cumbersome. The discipline of personnel is appeal and more often the appellant is victorious	8/10/2021 11:31 AM
34	Better timely responses to questions / concerns.	8/10/2021 11:21 AM
35	Ability to look at more candidates on list. The best candidates should get the job. Allow non civil service laterals, too many departments have left and at this point it may be a lost cause.	8/10/2021 11:20 AM
36	REMOVE COMPLETELY	8/10/2021 11:15 AM

Important Survey for the Special Legislative Commission to Study Civil Service & Non-Civil Service

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37	Departments should be allowed to run their own tests and develop their own initial list. Once a candidate is hired and their probation period has ended, they can then be excepted into the Civil Service System.	8/10/2021 11:11 AM
38	Disciplinary appeal reviews take to long and favor the employee's rights over common sense discipline. Candidate lists should be expanded past the 2-for-1+1.	8/10/2021 11:08 AM
39	Local input for exam preparation. Department liaison program Speed of discipline process	8/10/2021 11:00 AM
40	1. Eliminate all absolute preferences, and also allow non-residents to pick towns so we don't have to weed through hundreds of people from the other side of the state who would never work here. 2. Increase choices from 2N+1, that's too restrictive 3. If it remains, CS should only be involved in initial hiring, not in promotions, and in my opinion it should be eliminated for all departments with less than 50 full-time officers.	8/10/2021 11:00 AM
41	Hiring process is very slow	8/10/2021 10:56 AM
42	Test more frequently. Allow departments to create own tests. Eliminate residency rules	8/10/2021 10:56 AM
43	1. Need a greater pool of candidates to choose from with no appeal from those candidates that are bypassed- the best person and qualified person should obtain the position. 2. The website is not user friendly and the forms that need to be completed to hire someone should be reformatted.	8/10/2021 10:53 AM
44	Testing process is outdated. Promoting someone simply because of a multiple choice exam is foolish. CS should require an assessment process. Must improve recruitment efforts if they are going to test for new hires. There should be a probationary period for promotional hires. Modify the 'rule of three' to allow for more options/choice.	8/10/2021 10:52 AM
45	1. Ability to hire and promote best candidates, not simply those who tested well. 2. Appeals need to support legitimate management rights, not bad employees. 3. Streamlined processes.	8/10/2021 10:52 AM
46	veteran preference should be applied after test score and not just moved to the top of the list, leaves highly qualified college educated candidates below all veterans regardless of score.	8/10/2021 10:46 AM
47	Being a smaller agency in a labor strong state, CS should be limited to larger agencies where there can be more of a chance of favoritism, and nepotism. Hiring and promotional processes can be negotiated in to labor contracts in smaller agencies.	8/10/2021 10:45 AM
48	Veterans should not be automatically put to the top of the list. We should do what MSP does, give them a few points.	8/10/2021 10:45 AM
49	Hire more people. Become more efficient. Quicker testing and results.	8/10/2021 10:33 AM
50	Discipline Hearing Process Process of hiring off the Eligibility List Promotion Process through Assessment Centers	8/10/2021 10:25 AM
51	Less restrictions for by-passes more human assistance more meetings and informative updates.	8/10/2021 10:25 AM
52	Expand eligibility of hires Expand the X2+1 rule Allow more flexibility for hiring authority	8/10/2021 10:21 AM
53	Give points to veterans not move them to the top of the list, similar to what the State Police gets. Remove themselves from disciplinary appeals	8/10/2021 10:19 AM
54	Hearings are so far out of the way and drawn out. Promoting is confusing and difficult to navigate. It is tough to get an answer at certain times.	8/10/2021 10:19 AM
55	1. Enlarge 2n+1 rule to get best candidate 2. Exams should focus more on policy within departments 3. Eliminate bypass justification	8/10/2021 10:18 AM
56	1 - I value veteran service, but absolute preference for veteran/disabled veteran is a problem. 2 - Need more discretion hiring/promoting.	8/10/2021 10:17 AM
57	More flexibility for Chiefs to make best fit selection Takes too long to get scores back from promotional exams Not enough weight to Chiefs decision on disciplinary measures	8/10/2021 10:16 AM

Q7 Based upon your experiences, identify the top three (3) advantages that you experienced to being a non-civil service department.

Answered: 64 Skipped: 81

#	RESPONSES	DATE
1	Recruiting officers that live in the area without going through 100 names on a list. Being able to promote the right person based on job performance and not on how well they take an exam	8/17/2021 8:27 AM
2	1. Increased hiring options - Test, transfers (Civil Service, Non-Civil Service, out of state). 2. Diversification of personnel 3. Promotional process - Creation of exam / assessment center specific to our agency	8/17/2021 7:58 AM
3	Less than a year, still a work in progress	8/16/2021 11:40 AM
4	Ability to better vet applicants Be able to post hiring when and as needed. Larger pool of candidates when hiring laterals.	8/16/2021 8:49 AM
5	I can hire, and promote whenever there is an opening. I do not need to wait to have a list establish and or certified by the State HRD and limitations set by the civil service process and procedures.	8/13/2021 2:14 PM
6	1. Test for recruits and promotion much swifter and efficient. 2. Wider ability to attract candidates 3. Unions participate in promotion process	8/13/2021 12:38 PM
7	1. Pool of candidates not restricted to list of testing score 2. Promotional criteria is less stringent 3. Disciplinary proceedings can not be appealed past arbitration	8/13/2021 10:45 AM
8	1. Hiring based off overall quality of the candidate and not just a score. 2. Promotions based on policy criteria and not a single score. 3. Discipline I believe is streamlined.	8/12/2021 8:39 AM
9	1. better ability to hire; choosing what fits Burlington; 2. ability to promote the best candidates not based on 2n+1; 3. ability to fill vacancies quickly without having to wait for certifications and appeals	8/11/2021 11:23 PM
10	Flexibility in hiring Flexibility with discipline	8/11/2021 4:25 PM
11	1 Local control of the recruitment process. 2. Ability to recruit from out of state 3. Ability to select best candidate for the job	8/11/2021 2:39 PM
12	1. Employee Recruitment 2. Ability to set Hiring standards 3. Employee Advancement	8/11/2021 12:13 PM
13	Local control of Recruitment Promotions Bargaining	8/11/2021 10:20 AM
14	1. Speedy hiring process 2. Freedom to hire the strongest candidates 3. Not reliant on outside agency (CS) to hire	8/11/2021 9:48 AM
15	Hiring is easier and we get more qualified candidates. Improved relations with the unions. Improved promotion process.	8/11/2021 9:20 AM
16	Ability to choose candidates outside of a test through a departmental process. Application, interview, writing assignment. Probationary training.	8/11/2021 8:48 AM
17	Hiring Process, and Timeline. Promotional Process. Discipline Process.	8/11/2021 7:59 AM
18	Hiring flexibility Quicker hiring process Discipline process	8/10/2021 8:12 PM
19	1.No state bureaucracy 2. Ability to hire well qualified, well rounded candidates, more stringent hiring standards. 3. Ability to promote based on performance, knowledge and skills.	8/10/2021 4:50 PM
20	H	8/10/2021 4:23 PM
21	Hiring not bogged down by obtaining lists.	8/10/2021 3:03 PM
22	Ease in hiring, larger pool of candidates, flexibility with background and by-pass	8/10/2021 2:33 PM

Important Survey for the Special Legislative Commission to Study Civil Service & Non-Civil Service

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23	ease of hiring ease of firing ease of promoting	8/10/2021 2:17 PM
24	When we were in civil service, they administered the exam. Can't think of any others.	8/10/2021 1:52 PM
25	No need for testing No "list" to choose from	8/10/2021 1:51 PM
26	1. Entry-level selection process drafted to accommodate to our department's needs. 2. Promotional process drafted to accommodate our department needs. 3. Discipline process drafted to accommodate our department's needs.	8/10/2021 12:59 PM
27	1. Ability to select candidates based on the selection process. 2. Termination & Discipline process seems more streamlined.	8/10/2021 12:55 PM
28	hiring practices greater pool of candidates less restrictions	8/10/2021 12:33 PM
29	While in Maynard we removed the PD from civil service. Much easier to hire and promote. People stayed in the position longer and did not lateral back to a community they were from.	8/10/2021 12:30 PM
30	Ability to hire quickly Ability to select best candidate(s)	8/10/2021 12:09 PM
31	N/A	8/10/2021 12:07 PM
32	1. Autonomy in setting qualifications and selection of new hires. 2. Autonomy in setting qualifications and selection for promotion. 3. Streamlined discipline process	8/10/2021 11:58 AM
33	More latitude in selecting candidates. Can use own selection system. Can use own selection committee & protocols.	8/10/2021 11:55 AM
34	N/A	8/10/2021 11:46 AM
35	Candidate selection and prescreening Promotional screening and process Discipline	8/10/2021 11:29 AM
36	Not dependent on Civil Service to run an exam process for new hires or promotions. Being able to create a hiring and promotional process that fits my department, not use a cookie cutter approach as with Civil Service. Not being forced to open up the promotional process to lower ranks to take a promotional exam, i.e. having a sergeant take a Captain's exam because not enough lieutenants signed up.	8/10/2021 11:26 AM
37	n/a	8/10/2021 11:21 AM
38	I previously worked for a non-civil service agency: 1. Applicant pool is much larger for people interested in specifically your agency 2. Hiring is not contingent on a list that last (2) years 3. Does not encourage untruthfulness specifically in regard to residency residency,	8/10/2021 11:18 AM
39	picking the best candidate, knowing you have to deal with one appeal instead of numerous, allowing us to chose/promote what is best for us.	8/10/2021 11:11 AM
40	Rockport PD was removed from CS in March 2020. The advantages are as follows: • Greater flexibility within the hiring and promotional process. • The Town of Rockport will no longer be tied to the State of Massachusetts, Human Resources Division (HRD), Civil Service Unit's extended, rigid exam timelines. Some difficulties we experienced with the system included: o Waiting periods for components of the hiring process that persist for months due to timelines established for the needs of larger police agencies unrelated to our needs in Rockport; o Exam list expiration periods, and cumbersome administrative procedures that tie our hands to hire the officers we want in a timely and efficient manner. • The Town can set minimum eligibility guidelines not allowed under Civil Service Law, such as education levels, as well as other identifiable soft skills important for today's law enforcement officer and the Town can determine what hiring preferences they want to prioritize (i.e. residency, military experience, paramedic/EMT certifications, language proficiency, prior academy training, etc.)	8/10/2021 11:10 AM
41	N/A	8/10/2021 11:09 AM
42	1. Independent hiring process 2. Not just a test score to determine eligibility 3. Time tested that the best candidates are chosen	8/10/2021 11:08 AM
43	More control over the hiring process Less litigation More control over the disciplinary process	8/10/2021 10:59 AM
44	Ability to increase hiring pool. Ability to tailor promotional processes to the agency Discipline and bypass appeals are a long bureaucratic process	8/10/2021 10:59 AM
45	1 - More flexibility and local control in hiring and promotions 2 - Lower risk of losing employees	8/10/2021 10:57 AM

to transfers

46	Recruiting is not an issue and you don't have to wait for Civil Service to get a seat in the academy. Just because you are a good test taker doesn't make you a good cop or a good boss. Promote and hire the right people, not the top scorer.	8/10/2021 10:48 AM
47	When done the correct way with proper oversight and processes in place: Hiring Promotion Discipline	8/10/2021 10:42 AM
48	Choice of applicants. Promote from within. There is no added layer of protection for bad officers	8/10/2021 10:38 AM
49	Hiring Promotions Discipline	8/10/2021 10:38 AM
50	Hiring-L	8/10/2021 10:37 AM
51	Wider variety of applicants Quicker hire Ease of employment	8/10/2021 10:37 AM
52	Ability to create various preferences and higher qualifications on an as needed basis. Hiring process time greatly reduced. Disciplinary process streamlined.. Greatly reducing the time to reach a final disposition.	8/10/2021 10:36 AM
53	Hosting of testing	8/10/2021 10:24 AM
54	1. For a small department, it gives me a larger candidate pool to choose from. 2. Able to select the candidate that I feel is the best fit for the town and the department.	8/10/2021 10:24 AM
55	Recruiting. Exam options and scoring turnaround time. Transfer options; ability to take both civil and non-civil service officers.	8/10/2021 10:23 AM
56	We left Civil Service in 2017. Quicker test times and results. More latitude in hiring...no absolute preferences. Ability to hire academy trained officers not in Civil Service.	8/10/2021 10:22 AM
57	Streamline hiring, Streamline promotions. Private agencies can preform the entry exams as needed instead of waiting a year or so.	8/10/2021 10:19 AM
58	More options for recruits Not limited to a "list" Ability to hire at any time, not just after at test	8/10/2021 10:18 AM
59	More individualized hiring criteria More local input Ability to hire part time officers first	8/10/2021 10:17 AM
60	Recruitment is easier Discipline if needed is less complicated and more consistent. Promotions are easier and more fair.	8/10/2021 10:15 AM
61	1. Freedom to hire qualified candidates 2. Less work and regulation during hiring process 3. Less interference from outside agency with regard to discipline and promotion	8/10/2021 10:09 AM
62	Less bureaucracy, quicker hiring process, better knowledge of candidates.	8/10/2021 10:09 AM
63	flexibility and discretion in hiring, promotions and discipline.	8/10/2021 10:06 AM
64	Recruitment Hiring process Promotional Process	8/10/2021 10:06 AM

Q8 Based upon your experiences, identify the top three (3) disadvantages that you experienced to being a non-civil service department (as opposed to being a civil service department).

Answered: 53 Skipped: 92

ANSWER CHOICES	RESPONSES	
Disadvantage 1	100.00%	53
Disadvantage 2	43.40%	23
Disadvantage 3	30.19%	16

#	DISADVANTAGE 1	DATE
1	none	8/17/2021 8:27 AM
2	None	8/17/2021 7:58 AM
3	N/A	8/16/2021 11:40 AM
4	Losing officers, and not being able to retain them.	8/13/2021 2:14 PM
5	Depending on the state for hiring	8/13/2021 12:38 PM
6	Need to actively recruit candidates	8/13/2021 10:45 AM
7	None to note	8/12/2021 8:39 AM
8	NONE!	8/11/2021 11:23 PM
9	None	8/11/2021 4:25 PM
10	none	8/11/2021 2:39 PM
11	none	8/11/2021 12:13 PM
12	none	8/11/2021 10:20 AM
13	Limited options when hiring	8/11/2021 9:48 AM
14	n/a	8/11/2021 9:20 AM
15	candidate list	8/11/2021 8:48 AM
16	None	8/11/2021 7:59 AM
17	Cost for testing	8/10/2021 8:12 PM
18	NONE	8/10/2021 4:50 PM
19	None	8/10/2021 2:33 PM
20	possibility of cronyism	8/10/2021 2:17 PM
21	Not stuck with a small applicant pool (2N+1)	8/10/2021 1:52 PM
22	Lack of a standardized testing process to create lists of candidates	8/10/2021 12:55 PM
23	none	8/10/2021 12:30 PM
24	Recruitment	8/10/2021 12:09 PM
25	N/A	8/10/2021 12:07 PM
26	More time consuming and expensive recruitment process	8/10/2021 11:58 AM

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27	Smaller candidate pool	8/10/2021 11:55 AM
28	Forced to develop own hiring and promotion process	8/10/2021 11:29 AM
29	N/A	8/10/2021 11:26 AM
30	n/a	8/10/2021 11:21 AM
31	NONE	8/10/2021 11:18 AM
32	none	8/10/2021 11:11 AM
33	N/A	8/10/2021 11:10 AM
34	Perception that there are no protections for employees	8/10/2021 11:08 AM
35	N/A	8/10/2021 10:59 AM
36	None	8/10/2021 10:59 AM
37	Lack of permanent appointment option	8/10/2021 10:57 AM
38	Arbitration vs Civil Service Commission...maybe?	8/10/2021 10:48 AM
39	Smaller pool of candidates/recruitment issues.	8/10/2021 10:42 AM
40	Lack of candidates	8/10/2021 10:38 AM
41	None	8/10/2021 10:38 AM
42	N/A	8/10/2021 10:37 AM
43	Need to create the various polices needed to replace Civil Service process	8/10/2021 10:36 AM
44	Limits to who can be initially hired	8/10/2021 10:24 AM
45	none	8/10/2021 10:24 AM
46	Civil Service does reach a broader audience for test posting	8/10/2021 10:22 AM
47	none	8/10/2021 10:19 AM
48	None	8/10/2021 10:18 AM
49	more cost with recruitment	8/10/2021 10:15 AM
50	a little more leg work required to actually find the right candidate	8/10/2021 10:09 AM
51	None.	8/10/2021 10:09 AM
52	none	8/10/2021 10:06 AM
53	0	8/10/2021 10:06 AM
#	DISADVANTAGE 2	DATE
1	N/A	8/16/2021 11:40 AM
2	Promote mediocrity	8/13/2021 12:38 PM
3	Candidate pools seem smaller	8/13/2021 10:45 AM
4	None	8/11/2021 10:20 AM
5	Slow hiring process	8/11/2021 9:48 AM
6	Gaining applicant pool	8/10/2021 8:12 PM
7	NONE	8/10/2021 4:50 PM
8	Don't have to wait for CS to respond to a requisition.	8/10/2021 1:52 PM
9	Smaller pool of applicants	8/10/2021 12:09 PM
10	N/A	8/10/2021 12:07 PM

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11	n/a	8/10/2021 11:21 AM
12	SEE ABOVE	8/10/2021 11:18 AM
13	Lack of trust between non and civil service departments	8/10/2021 11:08 AM
14	N/A	8/10/2021 10:59 AM
15	Can't think of any...	8/10/2021 10:48 AM
16	Past lack of oversight has allowed for faulty entry-level hiring and promotional processes.	8/10/2021 10:42 AM
17	No list of candidates	8/10/2021 10:38 AM
18	limits to who can be promoted	8/10/2021 10:24 AM
19	Costs for promotional assessment center	8/10/2021 10:22 AM
20	None	8/10/2021 10:18 AM
21	none	8/10/2021 10:15 AM
22	none	8/10/2021 10:06 AM
23	0	8/10/2021 10:06 AM
#	DISADVANTAGE 3	DATE
1	N/A	8/16/2021 11:40 AM
2	Does not meet timely demand for hiring and promotions.	8/13/2021 12:38 PM
3	None	8/11/2021 10:20 AM
4	Reliance on state agency	8/11/2021 9:48 AM
5	NONE	8/10/2021 4:50 PM
6	Easier to credit day-to-day performance when promoting.	8/10/2021 1:52 PM
7	N/A	8/10/2021 12:07 PM
8	n/a	8/10/2021 11:21 AM
9	Inconsistencies in training requirements and the use of reserve officers	8/10/2021 11:08 AM
10	N/A	8/10/2021 10:59 AM
11	Has opened the door for nepotism issues.	8/10/2021 10:42 AM
12	Time to get lists and/or certifications	8/10/2021 10:24 AM
13	None	8/10/2021 10:18 AM
14	none	8/10/2021 10:15 AM
15	none	8/10/2021 10:06 AM
16	0	8/10/2021 10:06 AM

Q9 Does your agency offer additional points or preference in the hiring and promotional process based upon the individual's veteran status, race, color, national origin, or language skills? If so, please explain.

Answered: 59 Skipped: 86

#	RESPONSES	DATE
1	We look at town residents and veterans before going out of town	8/17/2021 8:27 AM
2	No points / preference on entry exam or promotional exam.	8/17/2021 7:58 AM
3	Veterans Points Only	8/16/2021 11:40 AM
4	We strongly consider their background as a whole	8/16/2021 8:49 AM
5	No	8/13/2021 2:14 PM
6	1. 2 entry exam points for veterans 2. 2 promotion points for veterans	8/13/2021 12:38 PM
7	No	8/13/2021 10:45 AM
8	No	8/12/2021 8:39 AM
9	Yes. Veterans need a 70% on written; non-vets a 70%. We then rank the candidates after the PAT based on preferences for Burlington residents; ethnic/racial minorities; full-time police officers and special skills (foreign languages, etc.)	8/11/2021 11:23 PM
10	We don't operate on a points process	8/11/2021 4:25 PM
11	All aspects of the candidate are considered	8/11/2021 2:39 PM
12	Not specifically but all considered base don totality of the circumstances	8/11/2021 12:13 PM
13	Not specifically, all qualifications and experiences are part of the consideration	8/11/2021 10:20 AM
14	No, although a person's ability to speak multiple language would be a favorable attribute when considering candidates.	8/11/2021 9:48 AM
15	No	8/11/2021 9:20 AM
16	no	8/11/2021 8:48 AM
17	No preference given.	8/11/2021 7:59 AM
18	No	8/10/2021 8:12 PM
19	Not currently	8/10/2021 4:50 PM
20	n/a	8/10/2021 3:03 PM
21	No	8/10/2021 2:33 PM
22	no	8/10/2021 2:17 PM
23	We give priority to veterans and residents. Following an exam, we interview ALL veterans from town who passed our exam, and non-veterans who score above a rough mean, e.g. 85% or so.	8/10/2021 1:52 PM
24	No	8/10/2021 1:51 PM
25	Hiring. Points for residency, police experience, EMT, education, military, and disabled veterans. Test and interview. Promotional. Minimum associate degree and certain number of years of service to be eligible. Test and interview.	8/10/2021 12:59 PM
26	No	8/10/2021 12:55 PM
27	no points, but preferences may apply	8/10/2021 12:33 PM

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28	veterans preference was included in the hiring process. There should not be any additional preference for promotions and I am a veteran. Makes no sense for promotions - the advantage was for the initial hire	8/10/2021 12:30 PM
29	No	8/10/2021 12:09 PM
30	N/A	8/10/2021 12:07 PM
31	Yes, veterans receive a waiver from the requirement that all new hires must have earned a minimum of 60 college credits. No preference for any of the above for promotion.	8/10/2021 11:58 AM
32	No extra points, but preference and consideration is given for language and veteran status	8/10/2021 11:29 AM
33	No	8/10/2021 11:26 AM
34	n/a	8/10/2021 11:21 AM
35	It did not	8/10/2021 11:18 AM
36	no	8/10/2021 11:11 AM
37	No, but we take these factors into consideration as part of the overall hiring of the employee.	8/10/2021 11:10 AM
38	No	8/10/2021 11:08 AM
39	No	8/10/2021 10:59 AM
40	Yes, veterans points. Veteran not only get points towards initial hiring but every promotional process veteran status allows additional points.	8/10/2021 10:59 AM
41	No formal preference	8/10/2021 10:57 AM
42	No.	8/10/2021 10:48 AM
43	Our agency only offers points for seniority, education and military.	8/10/2021 10:42 AM
44	No.	8/10/2021 10:38 AM
45	No	8/10/2021 10:38 AM
46	No	8/10/2021 10:37 AM
47	Experience only	8/10/2021 10:37 AM
48	We offer residency points, military service points, educational points and previous experience points. When we are specifically targeting minority candidates we ensure our posting highlights our encouragement for minorities to apply.	8/10/2021 10:36 AM
49	Veterans get preference from Civil Service	8/10/2021 10:24 AM
50	No	8/10/2021 10:24 AM
51	Preference for academy trained candidates. Points for veterans and language skills are a plus.	8/10/2021 10:22 AM
52	none	8/10/2021 10:19 AM
53	No	8/10/2021 10:18 AM
54	No	8/10/2021 10:17 AM
55	Preference is given to college and Vets in hiring. Promotion are based on a written exam and assessment center but no extra points for anything.	8/10/2021 10:15 AM
56	generally for veterans we equate that to having a degree	8/10/2021 10:09 AM
57	No.	8/10/2021 10:09 AM
58	veteran status during promotional process.	8/10/2021 10:06 AM
59	Military Service Education Years of Service	8/10/2021 10:06 AM

Q10 Describe your local procedures for hiring and promotions, and the mechanism for how they are established (e.g., collective bargaining agreement, local bylaw, etc.).

Answered: 59 Skipped: 86

#	RESPONSES	DATE
1	We are behind in establishing procedures. All new hires are selected from an interview committee comprised of Lieutenant, Sergeant, and FTO, and an out of town Chief	8/17/2021 8:27 AM
2	CBA with patrol officers and superior officers contains entry and promotional process	8/17/2021 7:58 AM
3	CBA	8/16/2021 11:40 AM
4	We have written policy and procedures in place.	8/16/2021 8:49 AM
5	Hiring is based on the need and or current opening. Requirements are at least a college degree, and full-time academy. Promotions are based on CBA Language, posting an exam, promotional exams, etc.	8/13/2021 2:14 PM
6	Entry level is determined by the town. There are two processes: 1: Exam/Interview 2: Academy trained lateral Promotions are per collective bargaining agreement and work very well!	8/13/2021 12:38 PM
7	We recruit through Social Media and PoliceApp.com. Hiring and promotions are outlined in CBA and Policy	8/13/2021 10:45 AM
8	Panel interview, chiefs interview for initial hire. Assessment center and written test for promotions.	8/12/2021 8:39 AM
9	We advertise our exams for hiring through a local vendor. We then run the candidates through a written, PAT, interview panel, medical, psych and background. Final candidates are then selected after a final interview with the chief of police. Promotions to sergeant are done by written exam and then interviews. Promotions to LT/CAPT are done through assessment centers and interviews.	8/11/2021 11:23 PM
10	Interview, job offer, medical exam. Town HR policy proceeds guidance. Promotions are different. Those are done by contract which involve different process for different positions. Sergeant and Lieutenant are the only two promotional opportunities. All other positions are assignments.	8/11/2021 4:25 PM
11	CBA, Town Charter	8/11/2021 2:39 PM
12	Procedures for authorization of a hire are Town by-laws. Mechanism for hire is based on Department Policy and procedures established by the Chief of Police	8/11/2021 12:13 PM
13	Internal policies	8/11/2021 10:20 AM
14	We established the hiring process through collective bargaining. We have an Associate's Degree as a minimum hiring requirement. We interview candidates based on their resumes, cover letters, and experience. The union and management work together to select applicants, interview them, and make recommendations for hire.	8/11/2021 9:48 AM
15	Hiring is done by giving a test. Then picking candidates from there. Promotions by test, interviews, assessment center. Policies were established to outline procedures.	8/11/2021 9:20 AM
16	Chiefs discretion past practice Assessment center process.	8/11/2021 8:48 AM
17	Our hiring process is based on a panel interview. The panel is selected by the Lieutenant, and the questions are a given a point value. Top candidates are then interviewed by the Chief and Lieutenant. Promotions are based on policy, and are conducted in a similar fashion.	8/11/2021 7:59 AM
18	Collective bargaining Department policy	8/10/2021 8:12 PM

Important Survey for the Special Legislative Commission to Study Civil Service & Non-Civil Service

SurveyMonkey

19	Hiring and promotional processes are establish by policy & procedures that meet accreditation standards (best practices). 1. Entry level starts with resume submission. Entry level education requires a bachelor's degree. 2. Resume screening. 3. Initial interview panel. 4. candidates selected at initial interview move to second interview panel. 5. remaining candidates interviewed by Chief, Lieutenant and Chair of the Board of Selectmen. 6. Pre-offer. 6. Background investigation	8/10/2021 4:50 PM
20	Policies approved through Collective bargaining agreements.	8/10/2021 3:03 PM
21	Local regulations and department rules approved through the Board of Selectmen	8/10/2021 2:33 PM
22	no, governed by policy	8/10/2021 2:17 PM
23	Negotiated hiring and promotion policies with unions prior to leaving CS.	8/10/2021 1:52 PM
24	Hiring - Advertising in local newspaper and department social media Promotion - Test and Assessment Center Mechanism - Policy and Collective Bargaining Agreement	8/10/2021 1:51 PM
25	Entry Level. We will likely need to reevaluate in light of police reform. However, following an entry level exam, we conduct interviews and appoint persons to serve as a auxiliary officers. They are required to successfully complete a field training program. Upon completion, they are appointed as part-time reserve officers. As full-time opportunities become available, we test (promotional type exam) and interview candidates the reserve officer pool. Promotional. Promotions were made pursuant to an established policy that gave points for years of service, etc. The policy was negotiated with the union.	8/10/2021 12:59 PM
26	Chief works with the Union to establish hiring mechanisms. Our process is being reviewed currently and is likely to change due to lack of interest in posted positions.	8/10/2021 12:55 PM
27	advertise position, application, interviews, test appointment	8/10/2021 12:33 PM
28	Policy and procedures clearly define a process and all ranks were included in the policy	8/10/2021 12:30 PM
29	We accept resumes that meet a minimum qualification standard. Several are selected, and interview before a board of officers and residents. Final interview with Chief.	8/10/2021 12:09 PM
30	N/A	8/10/2021 12:07 PM
31	Hiring is based upon department policy as established by the Chief of Police with the approval of the local appointing authority.	8/10/2021 11:58 AM
32	Hiring process formulated by policy, approved by Select Board. Based on application, preliminary records check, oral interview, final background check. Promotions are based upon policy, but agreed to by CBA/union.	8/10/2021 11:55 AM
33	Hiring and promotions are based with language established in the collective bargaining agreement.	8/10/2021 11:29 AM
34	New Hires: Advertise position/written exam/Oral Boards/weighted professional profile. Promotions: Post announcement/weighted professional profile/assessment center	8/10/2021 11:26 AM
35	n/a	8/10/2021 11:21 AM
36	It was stipulates through the CBA, and town policy	8/10/2021 11:18 AM
37	collective bargaining	8/10/2021 11:11 AM
38	Collective bargaining agreement.	8/10/2021 11:10 AM
39	Equal Opportunity posting for all eligible to apply Recruitment Policy Standardized Testing/Oral Board Physical Fitness Requirement	8/10/2021 11:08 AM
40	Promotions are tested Base score and interview governed by the CBA. Local bylaw controls hiring procedure.	8/10/2021 10:59 AM
41	Hiring through civil service, promotion through assessment center after a delegation agreement. Established through a local by-law	8/10/2021 10:59 AM
42	Hiring and promotions are conducted based on past practice. Nothing formal exists regarding hiring/promotional procedures.	8/10/2021 10:57 AM
43	Collective bargaining. All of the supervisors evaluate the candidates, then those are submitted	8/10/2021 10:48 AM

to HR before the Chief sees them, HR forms a list and sends to the Chief. Chief then makes the final appointment.

44	I am a new Chief of Police having started on May 1st. We just used Police Exam Solutions/Police App.com for an entry-level hiring process and were very happy. The written test was standardized/validated. We conducted our own PT and Oral Boards. We will be doing a written exam and oral boards for our next promotional process as well.	8/10/2021 10:42 AM
45	Dictated by our policy and procedures and then our town employee handbook.	8/10/2021 10:38 AM
46	We have a policy for promotional process We post any openings. Applicants are reviewed for minimum qualifications and then interviewed by a panel.	8/10/2021 10:38 AM
47	Local By-law- Hiring Board and promotion board	8/10/2021 10:37 AM
48	Application, interviews, selection by police and submitted to the Selectboard for appointment	8/10/2021 10:37 AM
49	Done through policies developed with union participation. Involves resume review with union. Those who we have interest in are then assessed a score based on our points system. Union participates in the scoring as well. We then conduct oral panel interviews in which the panel has several union members. Those who remain in contention are given conditional offers of employment pending successful completion of our in-house physical agility test, medical screening, psychological screen and background investigation.	8/10/2021 10:36 AM
50	Hiring process is screening cover letter resume, interviews, background	8/10/2021 10:24 AM
51	We utilize a testing company for new hires and promotions with preference towards academy trained candidates. Oral interviews and work experience is considered. We use assessment center for promotions. This was negotiated in mid-term bargaining with union.	8/10/2021 10:22 AM
52	civil service	8/10/2021 10:19 AM
53	Post job Accept applications References/background Interview Open position available	8/10/2021 10:18 AM
54	Receive applications, give written test, give physical test, group interview, chiefs interview	8/10/2021 10:17 AM
55	Hiring is based on town by law. A panel of Officers from with in the Department interviews and ranks based candidates based on resume and interview. Appointing authority hires from the top 3. Promotions are impact bargained before each promotion, but we have been using the written exam and assessment center method for the past 7 years.	8/10/2021 10:15 AM
56	advertise, form a local committee, test, interview panel and or assessment center . Then Hire/Promote	8/10/2021 10:09 AM
57	Contractual promotion, hire from an existing pool of Reserve Officers.	8/10/2021 10:09 AM
58	Department Policy and procedure and Bylaw establishes residency requirement	8/10/2021 10:06 AM
59	Lateral Transfer Process for hiring currently Promotional Process per Policy & Procedure I can promote from the top three. No reason for by-pass & I am appointing Authority as Chief of Police	8/10/2021 10:06 AM

Special Legislative Commission to Study and Examine the Civil Service Law

May 5, 2021

Co-Chairs

Senator Michael D. Brady, Co-Chair

Representative Kenneth I. Gordon, Co-Chair

Meeting Agenda

- I. Introduction
- II. Opening Remarks from Co-Chairs
- III. Review of the Commission's Statutory Charge
- IV. Discussion
- V. Schedule for Future Meetings
- VI. Adjournment

Commission Statutory Charge

An Act Relative to Justice, Equity, and Accountability in Law Enforcement in the Commonwealth

Chapter 253

Approved by the Governor, December 31 2020

SECTION 107. (a) Notwithstanding any general or special law to the contrary, there shall be established, pursuant to section 2A of Chapter 4 of the General Laws, a special legislative commission to study and examine the civil service law, personnel administration rules, hiring procedures and by-laws for municipalities not subject to the civil service law and state police hiring practices.

Commission Statutory Charge

(b) *[enumerates the members of the Commission. Full text in handout and on malegislature.gov]*

Commission Statutory Charge

(c) The commission shall study the employment, promotion, performance evaluation and disciplinary procedures for civil service employees, including, but not limited to: (i) the hiring and recruitment processes for civil service positions; (ii) the use of civil service eligible lists, the statutory merit preference status and the hiring from those eligible lists; (iii) all current civil service examinations and the use of the examinations for hiring and promotions; (iv) collective bargaining agreements by unions; (v) the disciplinary and appeal procedures as applied to civil service employees; and (vi) identifying any barriers that exist in hiring, recruiting or promoting civil service employees.

Commission Statutory Charge

(d) The commission shall study the employment, promotion, performance evaluation and disciplinary procedures of municipalities not subject to the civil service law, including, but not limited to: (i) the hiring and recruitment procedures and by-laws for municipalities; (ii) all examinations administered by municipalities and the use of the examinations for hiring and promotions; (iii) the use of minimum eligibility guidelines and hiring qualifications or preferences; (iv) collective bargaining agreements by unions; (v) the disciplinary and appeal procedures as applied to municipal employees; and (vi) identifying any barriers that exist in hiring, recruiting or promoting municipal employees.

Commission Statutory Charge

(e) The commission shall study the employment, promotion, performance evaluation and disciplinary procedures of the department of state police, including, but not limited to: (i) hiring and recruitment laws and procedures; (ii) the requirements of chapter 22C of the General Laws; (iii) all examinations used by the state police for hiring and promotions; (iv) collective bargaining agreements by unions; (v) the disciplinary and appeal procedures as applied to officers of the Massachusetts state police; and (vi) identifying any barriers that exist in hiring, recruiting or promoting officers of the department of state police.

Commission Statutory Charge

(f) The commission shall evaluate the feasibility of creating a statewide diversity office within the executive office of administration and finance to establish affirmative action plans and guidelines for municipalities, oversee the implementation of these plans and guidelines and monitor noncompliance. The commission shall examine the feasibility and cost of hiring or appointing a diversity officer for every city or town with a municipal police or fire department.

Commission Statutory Charge

(g) The commission shall make recommendations for changes to the civil service law to improve diversity, transparency and representation of the community in recruitment, hiring and training of civil service employees, including, but not limited to, any changes to civil service exams, merit preference status, eligible lists and appointment from eligible lists by hiring authorities. The commission shall make recommendations to improve diversity, transparency and representation of the community in recruitment, hiring and training for municipalities not subject to the civil service law and for the department of state police.

Commission Statutory Charge

(h) The commission shall hold its first meeting not later than 30 days after the effective date of this act and shall meet at least monthly thereafter. The commission shall submit a report of its study and any recommendations, together with any draft legislation necessary to carry those recommendations into effect, by filing the same with the governor, the speaker of the house of representatives and the president of the senate and the clerks of the house of representatives and senate on or before September 30, 2021.

Specific Tasks

1. We will study the employment, promotion, performance evaluation, and disciplinary procedures for civil service employees.
2. We will study the employment, promotion, performance evaluation, and disciplinary procedures for municipalities not subject to the civil service law.
3. We will study the employment, promotion, performance evaluation, and disciplinary procedures of the state police.
4. We will evaluate the feasibility of, and oversee the implementation of and compliance with, creating a statewide diversity office within the executive office of administration and finance to establish affirmative action plans and guidelines for municipalities, as well as the feasibility/cost of hiring/appointing a diversity officer for every city or town with a municipal police or fire department.
5. We will make recommendations for changes in the civil service law based on the goals outlined in the statute.



AGO Role in Civil Service System

July 12, 2021



Overview

- AGO represents the Human Resources Division and Civil Service Commission when their final decisions or actions are challenged in court.
 - AG “shall appear for the commonwealth and for state departments, officers and commissions in all suits and other civil proceedings in which the commonwealth is a party or interested, or in which the official acts and doings of said departments, officers and commissions are called in question.” **G.L. c. 12, § 3.**



Statutory Duty to Defend

- Duty typically arises in two circumstances:
 - Party is upset with an agency's final decision and appeals that decision to Superior Court. *See* G.L. c. 30A, § 14.
 - Party challenges and seeks some change to a policy, practice, or procedure used by an agency.



Actions for Judicial Review

- Subject to special rules of procedure
 - Court reviews the record that was before the agency.
- Court applies deferential standard of review.
 - Looks through record to see whether the agency decision is supported by substantial evidence and free of legal error.
 - May only reverse/modify if an error exists (in evidence, legal analysis, procedure, etc.) and the error prejudiced “the substantial rights” of a party.
- Filing does not stay enforcement of agency decision.
 - Agency decision continues in full force through the litigation (unless the agency or court orders otherwise).



Actions for Judicial Review

- *Thompson v. Civ. Serv. Comm'n*, 90 Mass. App. Ct. 462 (2016): CSC appropriately upheld termination of 4 police officers, and reinstated 6 officers, after all 10 officers submitted hair samples that tested positive for cocaine. Court focused on evidence before CSC; and found that civil service law applied over conflicting provision of CBA.
- *Malloch v. Town of Hanover*, 472 Mass. 783 (2015): HRD could lawfully delegate its administrative function to receive statement of reasons for bypassing candidate for promotion. Court remanded to Superior Court to evaluate evidence supporting CSC's conclusion that there was reasonable justification to bypass female candidate for promotion to police sergeant.



Other Types of Actions

- Typically unrelated to a single agency decision; focused instead on agency policies, practices, or procedures.
- May allege statutory or constitutional violation.
- Filed in state or federal court, depending on alleged violation(s).
- Looks like what you expect of civil litigation – discovery, witnesses, trials, etc.



Other Types of Actions

Beecher/Castro Consent Decrees

- Challenged entrance exams administered by HRD in '60s and '70s for firefighters (*Beecher*) and police officers (*Castro*).
- Federal district court found that exams had racially discriminatory effect and imposed ratios for hiring Black and Hispanic candidates in most participating cities as a remedy.
- First Circuit has affirmed decrees and held that cities will not be released from decrees until “rough parity” is achieved.



Other Types of Actions

Beecher/Castro Consent Decrees

- At present, consent decrees remain binding on:
 - Police hiring (7): Brockton, Chelsea, Holyoke, Lawrence, Randolph, Springfield, Worcester
 - Fire hiring (4): Chelsea, Holyoke, Lawrence, Springfield
- Springfield, Lawrence, Chelsea, and Holyoke have 1:1 selection ratios; Brockton, Randolph, and Worcester have 3:1.
 - In 2016, parties discovered that ratios artificially and unintentionally “capped” minority representation in consent-decree communities with growing population of Black and Hispanic residents.
 - Court allowed HRD to suspend the application of the ratios when it would reduce the number of qualified minority candidates or otherwise lower rank of Black or Hispanic candidates.

Civil Service

Disciplinary Appeals

G.L. c. 31, Ss. 41-45

Tenured civil service employees may contest whether there was “just cause” for their discharge or discipline through Civil Service.

G.L. c. 31, Ss. 41-45

Due notice that is written that “fully and specifically [states] the reasons therefore.”

&

A hearing which must occur prior to discipline other than a suspension from the payroll for five days or less

The Commission is guided by the “principle of uniformity and the ‘equitable treatment of similarly situated individuals’ [both within and across different appointing authorities]” as well as the “underlying purpose of the civil service system to guard against political considerations, favoritism and bias in governmental employment decisions.”

Swartz v. Bourne Fire Dept, D1-18-155 (2021) and cases cited.

Reinstatement of 6 officers after testing positive for cocaine because hair drug testing is not reliable to be used as the sole ground to terminate

Boston Police Dept Drug Testing Appeals

G.L. c. 31, Ss.2(a) and 72

CSC has broad authority under G.L. c. 31, S.2(a) and 72 to initiate investigations when there is a violation of basic merit principles

- Fire Dept Disparate Treatment Allegation: CSC ordered a Fire Dept to investigate whether a FF disciplined for allegedly posting racist remarks on social media

Alleged in an appeal that another Boston firefighter, currently employed by BFD, posted racist language on social media

Rowe v. Boston Fire Department, D1-18-074 (2019)

According to prior presentations:

- in 15 year period between 1/1/06 and 12/31/20: 606 disciplinary appeals (79% of the total) were denied; and 166 (21%) were allowed in whole or in part
- 93% respondents stated that the hearing officer treated them with respect and courtesy; 87% stated hearing officer was fair and impartial and satisfied with the overall process



Veterans in Massachusetts

*Presentation to the Civil Service Commission
August 6, 2021*

Cheryl Lussier Poppe
*Secretary
Massachusetts
Department of Veterans'
Services*



Mission Statement

The mission of the Department of Veterans' Services is to advocate on behalf of all the Commonwealth's veterans and provide them with quality support services and to direct an emergency financial assistance program for those veterans and their dependents who are in need.



Veterans and Civil Service

Veterans have a proven skillset which makes them ideally suited for civil service work:

- Sense of service and commitment
- Discipline
- Integrity
- Responsibility
- Ability to work effectively in teams or individually
- Experience dealing with difficult situations
- Ability to problem solve
- Attention to detail

Legislative History of Veterans Preference in Massachusetts



Veterans Bill of Rights

M.G.L. ch. 115 and 108 CMR (Code of Massachusetts Regulations)

You have a right to:

- File a written application for veterans' benefits at any time. You can insist upon this right, even if told that you are not eligible. 108 CMR 4:02 (1)
- Receive assistance from your local veterans' agent in completing your application (M.G.L. ch. 115, s. 3)
- Receive a full explanation of the services and benefits available under M.G.L. ch. 115, as well as other available benefits
- Receive a written notice and explanation of the approval or denial of your application for benefits (108 CMR 8.02)



Veterans Bill of Rights cont.

- Be treated with dignity and respect and to receive accurate, courteous, and timely service
- Appeal and request a hearing if you disagree with any action taken in your case [108 CMR 8.07(1)]
- Expect confidentiality; personal information will not be collected or used except for the purpose of determining your eligibility for benefits (M.G.L. ch. 40, s.51)
- Receive fair and equal treatment without regard to sex, race, religion, handicap, ethnicity, or national origin (M.G.L. ch. 151B, s.3)
- *Preference in public employment (M.G.L. ch.31, s.12, 26, 28 and ch. 41, s.112.)*



Veterans and Civil Service

- In accordance with General Law Chapter 31, section 26, veterans are given preference on the eligibility list of civil service positions in the following order:
 - Disabled Veterans
 - Veterans
 - Spouses or single parents of veterans who were killing in action or who died from a service-connected disability incurred during wartime service, provided that the spouse or parent has not remarried



Legislative History

- Preference was justified in recognition that military service imbues veterans with certain qualities (for example, discipline, loyalty, courage, steadfastness) which recommend them as civil servants. See, e.g., [Cook v. Mason, 103 Cal. App. 6, 11, 283 Pac. 891, 893 \(1929\)](#); [Opinion of the Justices, 166 Mass. 589, 595, 44 N.E. 625, 626-27 \(1896\)](#).
- Some courts have also spoken of the gratitude owed by the state to its veterans, see, e.g., [Goodrich v. Mitchell, 68 Kan. 765, 774-75, 75 Pac. 1034, 1037 \(1904\)](#)
- Civil Service Preference compensates for the years in uniform, during which experience in civil service might otherwise have been acquired. Cf., e.g., CONN. REV. GEN. STAT. § 339 (1949)

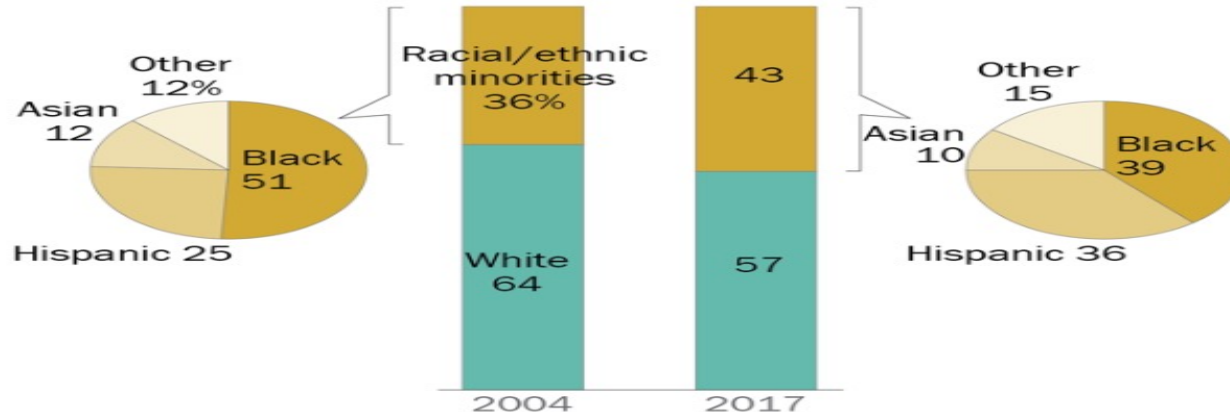
Veteran Demographics



Veteran Demographics

Demographic shifts in today's military show growing representation of racial and ethnic minorities

% of active duty forces that are ...



Note: Includes only the four military branches of the Department of Defense. "Other" includes American Indian, Native Hawaiian or Pacific Islander, multiracial, and other/unknown. The army does not report "multiracial." White, black, Asian and "other" include those who are non-Hispanic. Hispanics are of any race.

Source: U.S. Department of Defense 2004 and 2017 annual Demographics Reports.

PEW RESEARCH CENTER

[A look at the changing profile of the U.S. military | Pew Research Center](#)



Veteran Demographics in MA

There are approximately 305,707 Veterans in the Commonwealth according to the VA:

- Age 21-39 38,012
- Males 32,013
- Females 5,999



Veteran Demographics in MA

While the number of total veterans is projected to significantly decline in the next 20 years, the population of white non-Hispanic veterans will drop precipitously, while the population of minority veterans will increase, eventually making up a much large percentage of the veteran population.

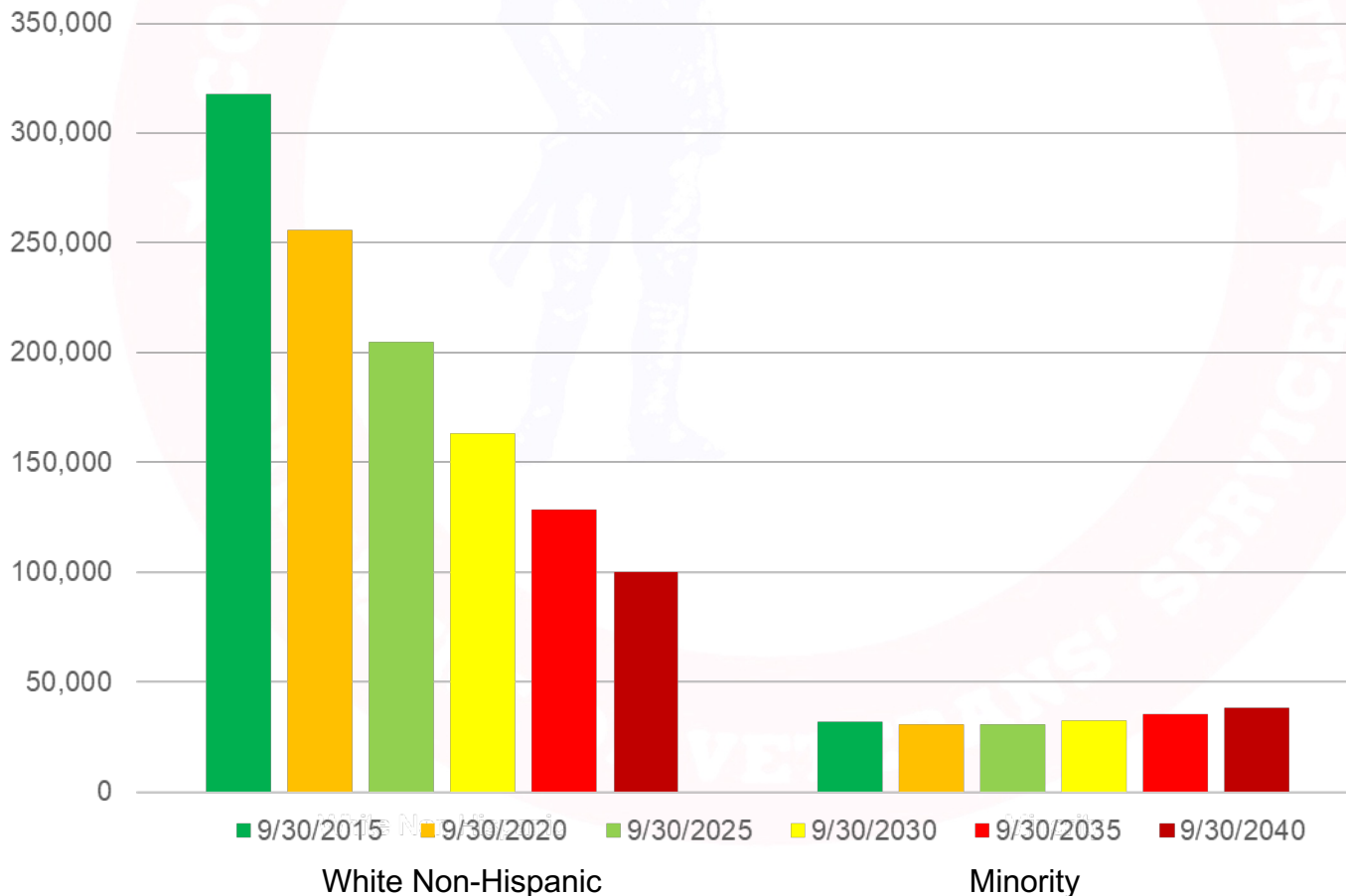
	9/30/2015	9/30/2020	9/30/2025	9/30/2030	9/30/2035	9/30/2040	9/30/2045			
White Non Hispanic	317,812	255,999	205,042	163,076	128,407	100,347	78,569			
Minority	31,874	30,876	30,949	32,631	35,261	38,318	41,541			



Veteran Demographics in MA

While the number of total veterans is projected to significantly decline in the next 20 years, the population of white non-Hispanic veterans will drop precipitously, while the population of minority veterans will increase, eventually making up a much large percentage of the veteran population.

Veteran Population Change





Veteran Demographics in MA

Males (Total 280,622)

• White	255,923
• African American	13,309
• Native American	1,196
• Asian	2,775
• Latino	11,386
• Pacific Islander	43
• Two or More Races	4,229



Veteran Demographics in MA

Females (Total 25,085)

• White	20,950
• African American	1,997
• Native American	85
• Asian	760
• Latino	3,131
• Pacific Islander	7
• Two or More Races	879



Women Veterans

- Approximately 25,000 women veterans reside in Massachusetts
- Women are now roughly 15% to 17% of the Active-Duty population
- 20% of new recruits are female
- Women comprise 7.5% of the Veteran Population Nationwide

Future of Veterans and Civil Service in Massachusetts



Future Plans

- Identify potential diverse public safety candidates at enlistment
- Identify number of students in Criminal Justice Systems
- Promote the required education to combine with experience
- Measure results



New England States and Civil Service

	Civil Service for Police and Firefighters	Does your state have a Veterans' preference in that hiring?	If your state has moved away from civil service, has it had an impact on hiring veterans, minorities and women?
Vermont	No	For State jobs, veterans do get a five point preference when scoring and access to jobs that are coded for "Internal Applicants Only" – only for existing State employees.	N/A
Connecticut	Yes	Yes. And most CT municipalities have Veterans' preference in their Civil Service process.	No
Rhode Island	N/A	Rhode Island has a Veterans' hiring preference from their 2017 legislature.	N/A
New Hampshire	N/A	New Hampshire offers state and local employment hiring preference to Veterans, their unremarried Surviving Spouses and Spouses of disabled Veterans.	N/A



Veterans' Preference in MA

The Department supports all efforts to improve outcomes for Veterans in any competitive employment opportunities. Veterans represent all protected classes.



Online

www.mass.gov/veterans

www.twitter.com/massdvs

www.Facebook.com/massdvs

Central administrative offices

(617) 210-5480

Commonwealth of Massachusetts

Department of Veterans' Services

600 Washington Street, 7th Floor

Boston, MA 02111

S.A.V.E. team

(888) 844-2838 Option #2

In your community

Your local veterans' services officer

APPENDIX E



LEXINGTON FIRE FIGHTERS LOCAL 1491

ROB GREEN
PRESIDENT

CHRIS LIVELY
VICE PRESIDENT

WILL EDMONDS
TREASURER

CHRIS BURNHAM
SECRETARY

January 28, 2022

Special Legislative Commission to Study and Examine the Civil Service Law
24 Beacon St
Boston, MA 02133

RE: Written Testimony for Tenth Meeting

Chair Brady and Chair Gordon,

Thank you for the opportunity to testify via Zoom at the tenth meeting of this commission. Please accept my written testimony in addition to my oral testimony.

I represent all firefighters, Lieutenants, and Captains within the Lexington Fire Department. We are not a civil service fire department, nor have we ever been in civil service. I testify from that perspective.

Keeping the goal of this commission in mind, to increase diversity with civil service hiring, I believe that a larger candidate pool will increase the number of diverse candidates. Currently, Lexington Fire Dept has four immediate openings and only six applicants. Applicants are less likely to apply for one single community when they can take a civil service exam and apply that score to almost 100 communities.

The best way to increase the number of candidates applying for public safety careers is to advertise better and recruit properly. It is not reasonable to expect small cities and towns like Lexington to be able to allocate adequate resources to promote and recruit for their job openings. Civil service is the best vehicle to recruit and advertise by using pooled resources from the state and the communities involved with civil service.

Lexington's problems with recruiting are not uncommon. A fully funded and adequately staffed civil service will help correct this trend. Civil service is not a perfect system, but with the right direction and recommendations from this commission, it could solve many problems.

Regards,

A handwritten signature in black ink, appearing to read "Rob W. Green".

Rob W. Green
President





Professional Fire Fighters of Massachusetts

Affiliated with the International Association of Fire Fighters AFL-CIO CLC

PFFM recommendations to hold communities accountable that are looking to exit Civil Service

- Before exiting Civil Service, the community must present a plan to diversify their workforce. This plan must be submitted as part of their Home Rule Petition or whatever process they are required to use to exit Civil Service.
- The community looking to leave Civil Service should document their need and reason for leaving Civil Service, including why accomplishing their diversity goals cannot be accomplished within the Civil Service system.
- The community looking to leave Civil Service must submit a written plan establishing a new hiring process.
- Civil Service should establish a timeframe for the community looking to exit civil service to meet their benchmarks to increase diversity.
- Civil Service should establish a consequence for communities not meeting the established diversity benchmarks and return the community to Civil Service.
- Communities looking to exit Civil Service should have to submit a mutually bargained promotional process before being able to exit Civil Service.



Richard MacKinnon Jr.
President

Billy Cabral
Secretary-Treasurer

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Boston, MA 02108

☎ 617.523.4506

☎ 877.470.7336

PFFM.ORG



Professional Fire Fighters of Massachusetts

Affiliated with the International Association of Fire Fighters AFL-CIO CLC

February 23, 2022

RE: PFFM Testimony for Civil Service Commission

Chair Ken Gordon and Chair Mike Brady,

Thank you for the opportunity to testify at the virtual hearing of the Civil Service Commission. I want to thank the commission for their hard work regarding civil service.

As President of the Professional Fire Fighters of Massachusetts (PFFM), I proudly represent over 12,000 firefighters across the commonwealth. We have urged our members to listen to the commission's meetings, and we strongly agree that there is a vital need to strengthen and adequately fund civil service. The staff at civil service are the support system for hiring and promotions of firefighters and are an essential partner in public safety. Just as we advocate for safe staffing levels on fire trucks, civil service needs to be appropriately funded and staffed.

This commission was established to study how to make our public safety departments more diverse, a goal that the PFFM supports. A strong civil service department is how we reach that goal. In previous testimonies before the commission, it has been proven that municipalities that have left civil service have not improved their diversity. There are no checks and balances or accountability to apply to these communities without civil service.

The Massachusetts Municipal Association (MMA) provides education to communities on how to exit civil service and bypass workers for hiring and promotions. The MMA has been attempting to dismantle civil service for years and more recently under the guise of diversity. They want communities to be able to leave civil service and not be accountable for their hiring practices, providing no data on diversity. This commission should strengthen civil service and make the process to exit civil service robust and accountable.

The PFFM represents local unions that have left civil service, and every single community that has exited civil service has had problems regarding hiring, promotions, and nepotism. Recently in Wellesley, a community that has exited civil service, a fine was issued to the Fire Chief for nepotism. There have been lawsuits filed in Swampscott for the community's blatant disregard for the language agreed to for exiting civil service. These are common issues that occur and usually involve expensive lawsuits for communities and the local unions we represent.

I expect many of the local unions that we represent will submit written testimony regarding civil service. The overwhelming fact is that communities that remain in civil service are more diverse. Thank you for the opportunity to testify, and you can always reach me if you have further questions.

Sincerely,

Richard D. MacKinnon Jr.
President

2 Center Plaza

Suite 4M

Boston, MA 02108

☎ 617.523.4506

☎ 877.470.7336

PFFM.ORG

Special Commission to Study and Examine the Civil Service Law

This is my written testimony to express my desire to change some of Civil Service's residency requirements. I am a Fall River firefighter and we are part of Civil Service. I am not particularly well versed in the rules and regulations of Civil Service so some of what I am about to suggest may be a local issue and not a state issue.

Issue 1: Increased Distance


In Fall River we are limited to residing up to 15 miles outside of the city limits. I believe this should be changed to allow us to live further away. I can think of a number of reasons why this can have a negative effect on Civil Service families. If one of my relatives passes away and leaves me the family homestead that is 16 miles outside of the city limits, I am not allowed to live there. It also limits the opportunities of the spouse as far as potential jobs are concerned. Taking on a job that is 40 miles away for instance is more lucrative if the family lived somewhere in the middle of both places. Families can be forced to make tough decisions regarding time and money based on strict adherence to this requirement.

Issue 2: Living Out of State

As a Civil Service employee I am also required to reside within the Commonwealth and I believe this should be changed as well. I live and work in Fall River, but I couldn't move into Tiverton, RI. Tiverton is directly south of Fall River and I spent a lot of time there growing up. Many of my friends and relatives live there. A number of situations could arise that once again force families to make tough decisions regarding where they are going to live. If the distance requirements are met, why aren't we allowed to live out of state? Can this be changed?

I am available to discuss these issues more if you have any questions. Thank you for your time!

Joshua Hetzler





Professional Fire Fighters of Massachusetts

Affiliated with the International Association of Fire Fighters AFL-CIO CLC

Special Legislative Commission to Study
And Examine the Civil Service Law
State House - 24 Beacon Street
Boston, MA 02133

28 January 2022

Chair Gordon, Chair Brady, Members of the Commission,

Thank you for the opportunity to submit verbal and written testimony on how important Civil Service is for our over 12,000 Members across the Commonwealth. The fundamentals of Civil Service are to help remove nepotism and politics from Public Safety. To allow for a fair and equitable merit based hiring process, promotional process, and even termination. To put in place much needed protections that provide employee rights, progressive discipline, diversity, veteran protections, and ensure the integrity of each is upheld without exception. Something that if left up to the City's and Towns may not be followed to such a high standard.

It is no secret that, over time, there have been increased issues with Civil Service throughout it's over 100-year existence. But make no mistake; these problems are not a result of Civil Service itself but from a continued lack of funding year after year. Some may even say an intentional underfunding, "death by a thousand cuts." This lack of funding at the Civil Service Commission has created a backlog of cases and long delays in the hiring process that frustrate Communities who rely on such a process.

Because of this lack of proper funding exam costs have been increased to become unaffordable for so many. Outdated residency requirements for those trying to get on the job and those currently on the job have not been addressed since its inception. Thankfully residency was made a subject of collective bargaining for Civil Service Departments during an FY14 Supp Budget. But there is only current pending legislation, both in the House and Senate, to give this same bargaining right to non Civil Service Departments. Unfortunately this legislation goes to "study" session after session (HB2665/SB1739).

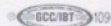
Let's fully fund and strengthen Civil Service and encourage staying in Civil Service. Doing so will maintain the integrity of our Profession. Thank you again for your time, effort, and consideration on including our recommendations in your report from the Civil Service Commission.

Sincerely,

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Civil Service testimony

ROSS VONA [REDACTED]
[REDACTED]
[REDACTED].gov>

You don't often get email from [REDACTED]omcast.net. [Learn why this is important](#)

Chair Gordon and Chair Brady,

My name is Ross Vona and I am President of L1637 Belmont Firefighters Union. I started my 22nd year as a firefighter last August and I am writing to given written testimony after giving verbal testimony a couple of weeks ago during the public hearing. I thank you and all the commissioners involved for taking so much of your time into Civil Service issue.

I write to give you some thoughts of why I feel it is paramount to not only keep Civil Service, but to enhance its abilities to help all parties involved. In my eyes Civil Service helps both the employees and municipality equally. For the candidates that want to become firefighters and police officer and those that are currently employed as firefighters and police officers, Civil Service gives us the ability to take an exam and know that we are all on a level playing field that Civil Service is a unbiased entity in which we will be scored by. There is no worry of any outside influence putting any pressure on those that are doing the hiring and firing of potential employees and existing employees.

We all know of what happened in Wellesley with the State Ethics commission serving the Fire Chief and Assistant Fire Chief with civil penalties for violating the Conflict of Interest laws. Corrupting the hiring process for the Chiefs son is the nightmare we all dread could happen if we did not have Civil Service. Frankly I am surprised that both gentlemen still have jobs. Wellesley was considered the " Gold Standard" by towns wishing to leave Civil Service, My guess is that is not the case anymore. I would assume the Wellesley town manager and select board would have liked to have been under the guidance of Civil Service to protect them for instances such as this. It would have protected them from costly lawsuits resulting from the egregious behavior shown by the chiefs. I was asked by the Belmont police chief " Ross what has Civil Service ever done for you?" This was done in a zoom discussion of over 100 town meeting members as well as the police chief and fire chief. I responded that it has not had to do anything for me specifically other than give me a fair system to get a job as a firefighter. I told him that Civil Service was akin to having house and car insurance. I have had both for over 35 years but never had to use it, but feel really good about having it in case I need it! That is the way I feel.

I have watched live or the recording of all the Civil Service hearings on Youtube. I have taken extensive notes and have a couple of observations of statements made by representatives of the MMA and those that are in favor of being out of Civil Service or wish to do so. They seem to blame Civil Service for all their woes. I think what made me the most frustrated by their comments was that their arguments kept changing. It was that they want to get more diversity in hiring, then it was a timing issue costing them more money in staffing shortages with over time. Civil Service is not perfect but they are working out issues presented to them the best they can. I personally took a Lieutenants promotional exam in fall of 2020. It was taken on computers and we got results back in half the time of the previous test (43 days as opposed to 87) That was with appeals. Any restrictions in hiring are put by the municipality, not Civil Service. Whether it's a age restriction, residency, paramedic license etc... those are what limit the pool of candidates for a town or city not Civil Service. I believe it was the Franklin Police Chief that stated in his testimony that he had no problem taking officers from surrounding

towns, which if I was a police chief would incense me that i spent a great deal of time and money hiring and training a officer only to have another chief poach them. What the chiefs wont say about the timing is the true slow down in the process is the police and fire academies. There are substantial waits for both PD and FD academies. DFS has expanded to making academies in different parts of the state but there is still over a 200 person waitlist for an academy slot. You cant work as a new police officer or firefighter with out graduating from a Massachusetts academy. So the MMA and Chiefs should stop blaming Civil Service. It feels more like a power grab by the municipalities and those that want to hire whom ever they feel like with no accountability. Those are just a small amount of my observations and experiences. I apologize for the lengthy email testimony, but this is a subject I feel quite strongly about. Again thank you for all your time and consideration in this matter.

Respectfully,

Firefighter Ross Vona

Civil Service Testimony for William Cabral Secretary/ Treasurer of the professional Fire Fighters of Massachusetts

My name is Billy Cabral and I serve as the secretary treasurer of the Professional Fire Fighters of Massachusetts representing over 12000 firefighters in 231 departments in the Commonwealth.

Civil Service, is one of the cornerstones of the Fire Service in Massachusetts and I believe that every municipality in the Commonwealth should be participating in.

For far too long Civil Service has been underfunded and now this commission has a great opportunity to fix this problem and fund Civil Service to the levels that it needs to flourish in the future.

Due to its lack of funding, both Entry level Testing as well as Promotional testing prices has gone through

Mr. Chairman, Committee Members for the record my name is Tom Lyons and I was selected to represent the MVSOA

Special Commission on Civil Service

Knowing they were off to fight in a war, they still say “yes” to undertaking the duty of service to our country.

Such is the truth that gave birth to Veteran’s Preference. It was the promise made to men and women who took time out of their lives to serve in the Armed Forces during a time of War or Conflict.

When people say “thank you for your service,” to a veteran, the words are always appreciated. But those same words carry with it a promise....a promise that the “Thank You” will not ring hollow, but rather will reflect a genuine respect for their service, backed up by more than words.

Veterans returning from active duty face many issues as they try to assimilate back into the civilian communities they left behind.

Frankly, I can’t quite understand how elected officials and town managers can say Welcome Home, or “Thanks For Your Service” on Memorial Day, or Veterans’ Day... then proceed to cut programs and services these men and women have earned.

I am privileged to join you today and speak not as a combat veteran of Vietnam, but rather as someone who had the good fortune of spending more than 40 years working for both the City of Boston and the Commonwealth of Massachusetts in service of veterans...seeking to re-enter civilian life.

I can say quite honestly that my service changed the course of my life...but that's only because officials at both the city and state were willing to recognize the value of my service.

Be it helping veterans in need as the Deputy Commissioner for Veterans in the city of Boston or offering them a safe place, counselling and job training as Executive Director of the New England Shelter for Homeless Veterans, or assisting in their journey to be able to afford their own home through MassHousing Finance Agency. I do know something about the challenges our veterans face upon their re-entry to civilian life. I also know there are many state and local officials who see their service as a plus rather than a minus.

It's been half a century since I boarded a train out of South Station bound for Parris Island. Several boyhood friends made that journey with me – 3 friends were killed in Vietnam.

Not a day passes when I do not think of them, or their sacrifice, but when I got on that train many years ago, I was certain the benefits my father and his friends fought for after WWII would always be there.

I would very much like to believe that is still true...that stepping out of civilian life to wear the uniform of this country amounts to something more than simply a hollow "Thank you for your service."

Unfortunately, For far too many people, their idea of Veterans Preference is.....they prefer others serve.

Thank You



Departing Civil Service

Presentation by:

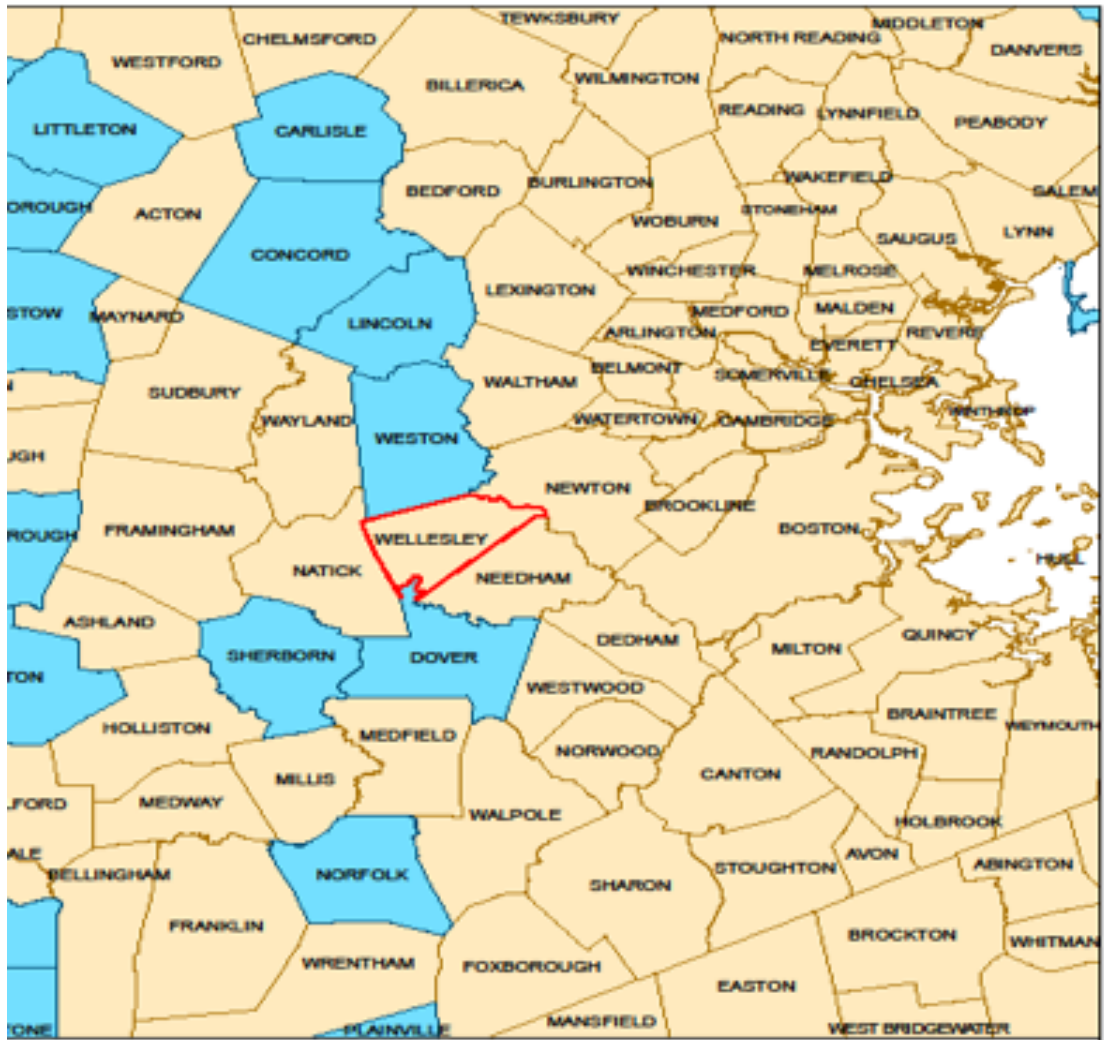
Chief Terrence M. Cunningham
Wellesley Police Department

Chief William G. Brooks III
Norwood Police Department



Massachusetts Civil Service is a unit within the states Human Resources Division (HRD)

- The testing of job applicants, or of current employees seeking promotion, is conducted by the Civil Service Unit of the commonwealth's Human Resources Division (HRD).
- The state's Civil Service Commission handles appeals from employees who have been disciplined or bypassed for promotion, and from applicants who have been bypassed for employment.



Departments Civil Service System

ivil Service System
if Civil Service System

March 17, 2010





Civil Service Is Outdated

- The primary purpose of civil service when the Massachusetts legislature enacted the civil service, “Merit System”, in 1884 was to protect hiring and discipline from patronage and political interference.
- Today we have comprehensive policies and collective bargaining that afford these protections.

“The civil service system in Massachusetts is no longer up to the important task of helping government recruit and hire the most talented Personnel.”



Outdated Continued

- Civil Service is no longer certifying appointments or promotions.
- Their minimal entrance and promotional standards are a high school education or GED, Mass drivers license.
- Absolute preferences are given to disabled veterans, veterans and children of deceased or severely injured officers.



Two Questions

Do we even need civil service laws to stop patronage hiring, or to ensure that police and fire hire the most qualified people?

Are we actually enjoying the worst of both worlds: patronage *and* the negative consequences of a cumbersome merit system?



Potential Concerns

- Police officers might make judgment decisions based on political pressure.
- Morale problems might result from having some officers under Civil Service with others not.
- Risk of non-reappointment if contract lapses without a successor agreement in place.
- Policies and practices of the department and Town require and support the professionalism of police officers.
- Non-Civil Service officers have adequate protections through the union contract.
- Discipline, including termination, must be based on just cause.



Benefits to the Town

- Removing the town from Civil Service allows for greater flexibility within the hiring and promotional process.
- Towns would not be required to hire from an existing lay off list.
- The department can determine the expiration date of the hiring and promotional lists.



Benefits Continued

- The police/fire department can set minimum eligibility guidelines not allowed under Civil Service such as higher education levels.
- The town and the department can determine what hiring preferences they want to acknowledge (residency, military experience, Paramedic/EMT certifications, language proficiency, prior academy training).



Benefits Continued

- Instead of the candidate ratio of $(2N+1)$ departments would have a much larger candidate pool to select from.
- Departments can diversify their workforce without jumping through the hurdles civil service presents when asking for a specialized certification.



Benefits Continued

- Departments can recruit educated candidates from colleges to take their exam.
- Flexibility to hire lateral transfers or reinstatements.
- New officers without civil service status cannot transfer to a civil service department potentially reducing turnover.



Benefits Continued

- Ability to incorporate community and department specific criteria into promotional exams.
- Ability to offer promotional exams that more accurately gauge an officer's suitability to become a supervisor.



Benefits Continued

- Attributes beyond test score, such as work product, contribution to the community and performance evaluations would factor into promotions.
- Ability to mandate a probationary period for promotions.



Benefits Continued

- There are many companies that provide entry level exams for police/fire departments with little to no cost to the town.
- The exam score or rank does not have to be the determining factor for who the department interviews and hires.



Benefits Continued

- Current employees retain their civil service status, thus retaining their right to appeal discipline to the Civil Service Commission.
- Most employees that have been disciplined opt for their cases to be heard by an arbitrator rather than the commission.
- Under most contracts discipline, including termination, must be based on just cause.



Process

- Talk to the unions openly and often.
- Yes, it may be worth something.
- Careful not to insult anyone.
- Involve unions in policy development.
- Hold an “information session”



Process (cont.)

- You come out the way you went in. (MGL Ch 4 s. 4B)
- Existing civil service promotional list?
- Have a new system before you jettison the old one.
- Go to Town Meeting with the bugs worked out.



Hiring

- Give your own exam
- Make it pass/fail (don't create a new civil service)
- The Recruit Candidate Information Form.
- Online assessment of semi-finalists.
- Your screening team.

Promotions

- Test on Policies, Town By-Laws, Regulations
- Specify MGL's
- Passing Score: 75% (Appeal Process)
- Assessment Center & Interview
- Require college degree?

Promotion Criteria

- Job related experience;
- Performance evaluation;
- Supervisory evaluation of the employee's potential;
- Score on promotional exam;
- Sick leave record;
- Formal education;
- Training and education through career development;
- Disciplinary record;
- Attitude toward the department and police work; and
- Work ethic and initiative.



Word of Caution

- *Had the Town sought to remove the Police Department from Civil Service previously?*
- Yes, Town Meeting voted to approve the removal of both police and fire departments from Civil Service in 1996. However, the vote was overturned at a special election after Town Meeting. At the time the unions did not support the proposed removal.



Breaking the Mold of Mediocrity

- You broaden your hiring lens exponentially (400 applicants as compared to $2N+1$)
- The appointing authority can decide what's important for their community, rather than being dictated to
- You raise the level and competitiveness of the entire promotional process, as a result, your personnel raise the level of “their game”



Contact Information

Chief Terry Cunningham

Wellesley Police

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Chief Bill Brooks

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APPENDIX F

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 05.05.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon called the meeting to order
- Chair Brady and Chair Gordon welcomed the Commissioners, thanked them for their time
- Chair Gordon introduced his staff: Cody Case, Staff Director for the Office of Representative Gordon, and Elizabeth Donovan, Counsel for the Joint Committee on Civil Service
- Chair Brady introduced his staff: Al Degirolamo, Chief of Staff, Donna Loconte, and Michael Munchbach

II. Meeting Format

- Meetings will be recorded and posted on the Commission's website a malegislature.gov
- If you would like to be recognized during our meetings, please use the Raise Hand feature at the top of your Microsoft Teams window
- Everyone should have received an informational packet for today's meeting, including the day's agenda and brief bios submitted by Commissioners

III. Roll Call

- Chair Michael Brady is Present
- Chair Kenneth Gordon is Present
- Senator Michael Moore is Present
- Senator Edward Kennedy is Present
- Senator Bruce Tarr is Not Present
- Representative Patricia Haddad is Present
- Representative Natalie Higgins is Present
- Representative Maria Robinson is Present
- Representative Tim Whelan is Present
- Marcella King is Present
- Michael Papagni is Present

- Tom Reddy is Present
- Sophia Hall is Present
- Neil Osborne is Present
- Lawrence Calderone is Present
- Chief Christopher Delmonte is Present
- Chief James Vuona is Present
- Jeffrey Lopes is Present
- Eric Atstupenas is Present
- Brian Anderson is Present, representing Stephen Gabriel
- Robert Quinan is Present
- Ronald Renaud is Present
- Richard Sweeney is Present
- Secretary Cheryl Lussier Poppe is Present
- Michael Sweeney is Present, representing Tom Lyons
- Jesse Flynn is Present
- Jen Breaker is Present
- Kimberly Parr is Present

IV. Review of the Commission's Statutory Charge

- Elizabeth Donovan read the Commission's Statutory Charge into the record, excluding subsection (b), which enumerates the members of the Commission
- Cody Case presented the text of the charge on the screen, excluding subsection (b)
- Chair Gordon outlined the five tasks of the Commission as given in the charge:
 - We will study the employment, promotion, performance evaluation, and disciplinary procedures for civil service employees
 - We will study the employment, promotion, performance evaluation, and disciplinary procedures for municipalities not subject to the civil service law
 - We will study the employment, promotion, performance evaluation, and disciplinary procedures for the state police
 - We will evaluate the feasibility of, and oversee the implementation and compliance of, creating a statewide diversity office within the executive office of administration and finance to establish affirmative action plans and guidelines for municipalities, as well as the feasibility and cost of hiring/appointing a diversity officer for every city or town with a municipal police or fire department

- We will make recommendations for changes in the civil service law based on the goals outlined in the statute.

V. Formation of Subcommittees

- Chair Gordon proposes forming four subcommittees
- First subcommittee will be formed to study the employment, promotion, performance evaluation, and disciplinary procedures for civil service employees. This subcommittee will be chaired by **Senator Michael Moore**.
- Second subcommittee will be formed to study the employment, promotion, performance evaluation, and disciplinary procedures for municipalities not subject to the civil service law. This subcommittee will be chaired by **Representative Natalie Higgins**.
- Third subcommittee will be formed to study the employment, promotion, performance evaluation, and disciplinary procedures for the state police. This subcommittee will be chaired by **Representative Patricia Haddad**.
- Fourth subcommittee will be formed to evaluate the feasibility of, and oversee the implementation and compliance of, creating a statewide diversity office within the executive office of administration and finance to establish affirmative action plans and guidelines for municipalities, as well as the feasibility and cost of hiring/appointing a diversity officer. This subcommittee will be chaired by **Representative Chynah Tyler**.
- The fifth task of the Committee as outlined in the statutory charge will be done by the Committee as a whole after the four subcommittees have written their recommendations.
- Chair Gordon asks that each Commissioner thinks about which Subcommittee(s) they would prefer to be on, and to the Chairs' staff know before the next meeting. Commissioners are welcome to be on more than one subcommittee.

VI. Review of Legislative Commission Parameters and Adoption of Protocols

- Chair Gordon: The Commission directly and through its subcommittees has the authority, in pursuit of its charge, to request documentation, presentations, and demonstrations from a variety of sources. We can bring in witnesses and solicit expert opinion from sources this Commission deems helpful. Unsolicited materials received by the Chairs will be reviewed by staff and shared with members of the Commission.

- Chair Gordon: Our statutory charge has established a reporting deadline of September 30, 2021. To that end we propose meeting monthly, and more frequent meetings may be required as we approach our reporting deadline.
- Next meeting will be June 7, 2021.

VII. Discussion

- Chair Gordon opens the floor for discussion
- Rep. Whelan states that in 2018, there was another special commission tasked with researching state police practices, and that this subcommittee should reference that report as needed; Rep. Whelan provided a link to that report in the Teams chat
- Chief Delmonte stated that it would be helpful for Commissioners to be able to see prior commission reports
- Neil Osborne expresses his interest in joining the fourth subcommittee
- Senator Kennedy asks if anyone knows the balance between civil service and non-civil service departments in Massachusetts
- Rob Quinan stated that he believes there are between 120-150 communities in Massachusetts that fall under the civil service law, but that approximately 2/3 to 3/4 of all Massachusetts residents live in municipalities that use civil service, because the civil service cities and towns tend to be the more populated ones
- Sophia Hall asked if commissioners could see reports from prior special commissions before making a decision as to which subcommittee they would like to be on
- Chair Gordon asked if there were any more questions; there were not.
- Chair Gordon thanks everyone for the time and effort they will put into this commission over the coming months.
- Motion to adjourn made and seconded; meeting adjourned at 10:48 a.m.

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 06.11.2021

Senator Michael Brady, co-chair
Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the meeting
- Chair Brady welcomes the Commissioners
- Elizabeth Donovan, Public Service Committee Counsel is present, as is Cody Case, Chair Gordon's staff director, and Al DeGiralomo and Donna LoConte from Senator Brady's staff

II. Roll call

- Marcella King - present
- Michael Papagni - no response
- Tom Reddy - present
- Sophia Hall - present
- Neil Osborne - present
- Lawrence Calderone - present
- Christopher Delmonte - present
- James Vuona - no response
- Jeffrey Lopes - no response
- Stephen Gabriel - present
- Robert Quinan - present
- Thomas Turco - Eric Atstupenas present for Thomas Turco as designee
- Michael Heffernan - Ronald Renaud present as designee
- Richard Sweeney - present
- Matthew Deacon for Cheryl Poppe - no response
- Tom Lyons - not present
- Jesse Flynn - Present
- Jen Breaker - Present
- Kimberly Parr - present
- Rep. Chynah Tyler - present
- Rep. Maria Robinson - present
- Rep. Natalie Higgins - present

- Rep. Patricia Haddad - present
- Rep. Tim Whelan - present
- Senator Michael Moore - present
- Senator Edward Kennedy - present
- Senator Bruce Tarr - no response

III. Approval of Minutes

- Minutes from the last meeting on May 5th, 2021 were sent to the Commissioners
- Motion to accept the minutes made and seconded; all votes in favor; minutes accepted

IV. Discussion of subcommittee procedures

- Subcommittees were formed so that through the committee process, they can obtain documents, call witnesses, and determine the most relevant information that they would need to eventually create a report that would advise us as to how our civil service laws affect our municipalities, negatively and positively and what recommendations they may have to improve our civil service laws.
- Authority to call witnesses and to bring in documents would come through subcommittees
- If any commissioner wants to request documentation, they would bring that up through their subcommittee chair; that way the Commission would avoid having multiple members requesting the same information from the same place
- Chair Gordon asks if there are any questions or concerns
- Senator Moore says that he had a subcommittee meeting last week, and one concern brought up was that there may be a lot of redundancy between different subgroups
- Chair Gordon agrees; we will discuss this more later in the meeting
- Commissioner Quinan agrees, specifically regarding document requests to government entities; Senator Moore's subcommittee has a Google document that should be expanded so all commissioners can be familiar with information requests and speaker nominations for different groups
- Chair Gordon suggests subcommittee chairs work with each other to communicate specific requests they're sending out to avoid overlap
- Chair Gordon suggests that within our commission, we have many people who work with/represent agencies that deal with civil service laws, so we should first hear from those within our commission as to how civil service laws work/could be improved; suggests that next meetings should consist of substantive discussions on particular topics generated from within the Commission's members

- Chair Gordon recommends that one topic group could be those representing the union/labor organizations; another panel could be ACLU and NAACP, representing civil rights organizations; another panel could be chiefs of police and fire departments; another panel could be comprised of Commissioners who represent veterans organizations; another panel could be focused on civil service from the point of the law, including the Commissioners from the AG's office, Civil Service Commission; these could comprise of the next five meetings
- Chair Gordon asks if there are any thoughts; Rep. Haddad says that she thinks this is a great idea
- Rep. Tyler suggests that Commissioner Sophia Hall should be added to the civil rights panel
- Commissioner Quinan suggests that hearing from someone from the Human Resources Division would be beneficial
- Commissioner Calderone volunteers to spearhead his panel
- Chair Gordon states that regarding meetings of the subcommittees, when the full Commission meets there is a quorum, and it is an open meeting; the subcommittees do not constitute a quorum, so they do not have to be recorded on the legislative website. Chair Gordon states that he brings this up because the reality is that it's very difficult to schedule these meetings to be recorded. On that note, he is currently not able to announce dates for the next meetings, because of the difficulty in scheduling.
- Also on that note, the deadline may need to be extended in the future, because when the deadline was set, no one anticipated that we would be given so few opportunities to meet, due to the fact that all meetings must be virtual
- Senator Brady agrees and appreciates everyone's patience, agrees that we will need an extension
- Commissioner Delmonte agrees that an extension would be welcome and helpful; also agrees in the concept of having panels based on subject matter to speak to the commission
- Anne Landry is recognized. She is from the Attorney General's office and states her belief that subcommittees are subject to the Open Meeting Law; Chair Gordon indicates the Committee Counsel will discuss that potential issue.

V. Reports of Subcommittees

- Senator Moore reports that his subcommittee met last week; most of their discussion revolved around speakers

- He will be further dividing his subcommittee into smaller sub-groups; potentially having someone come in and speak on veterans' issues; potentially having someone from the Human Resources Division come in
- Their meeting included a discussion on document requests and the procedure surrounding that
- Commissioner Calderone, who is on Senator Moore's subcommittee, reached out to several organizations, specifically one civil service law enforcement group and one non civil service law enforcement group, for presentations within the subcommittee
- Rep. Higgins reports that they had their first meeting as a subcommittee; are hoping to get on a regular schedule and working with the Commission's staff to avoid conflicts with other subcommittee meetings
- She will be reaching out to non-civil service communities for testimonies regarding why they left; anticipates working closely with Senator Moore's subcommittee to share information
- Rep. Haddad reports that her subcommittee had her first meeting with a Colonel from the State Police, who spoke about policies they have already changed from the study done in 2018. Their speaker suggested doing the national test, which has a rolling class setup. They also talked about diversity. Rep. Haddad asked how many recruits come in with education
- Senator Brady says that he's heard that communities are having fewer people going into the police force. He asked if we could find numerical data to support that
- Commissioner Delmonte suggests that Senator Brady's question may be answered by someone at the Human Resources Department
- Rep. Tyler reports on her subcommittee. They spent the majority of their meeting assessing their members and feel confident they have a group that will be able to handle the topic at hand. She was also under the impression they were not able to discuss the issue topic due to the open meeting law. She will be finalizing a regular schedule for their future meetings

VI. Discussion of Future Meetings

- Chair Gordon addresses that this topic was already partially discussed earlier in the meeting
- Chair Gordon asks if anyone else has suggestions for future speakers at meetings
- Commissioner Flynn requests a member from the National Guard as a speaker
- Chair Gordon asks if there are any comments about that suggestion; there are none
- Rep. Whelan requests Ret. Major Jim Jones from the State Police as a speaker, who is also a combat veteran with the Massachusetts National Guard

- Chair Gordon suggests that the discussion panel including the State Police could bring Major Jones as a guest speaker
- Rep. Tyler states that she hopes the Commission will make an extra effort when it comes to diversity and making sure that diverse voices are heard
- Senator Moore suggests hearing from those active in the armed services; also voices a concern that the cost of the civil service exams might be a barrier to having a diverse police force
- Commissioner Calderone requested that a group contact list be sent out
- Commissioner Parr encourages everyone to think about diversity inclusion as they are building and preparing their discussion panels
- Chair Gordon notes that he did not intend to suggest that we limit diversity issues to one particular panel
- Commissioner Delmonte addresses the issue of examination fees; the police exam is solely an exam, whereas the firefighter exam also includes a physical exam
- Senator Moore asks if the subcommittees will be given instructions as to what they are required to do under the public meeting law
- Chair Gordon answers Senator Moore's question by stating that instructions will be coming before the next meeting
- Chair Gordon reiterates that they cannot schedule future meetings until they have LIS to give us a time slot; an email about future meetings will be sent, with the goal of meeting every three weeks, but scheduling these meetings is getting competitive
- Chair Gordon asks if there are any other comments
- Senator Brady asks if we can get statistical data as to whether civil service participation has increased or decreased among communities; Chair Brady suggests that his office's intern could work on that
- Commissioner Calderone asks if a link on the open meeting law could be sent to the full Commission for those who are unsure about it; Anne Landry states that she can send guidance regarding the law
- Commissioner Quinan states that he was looking at the report of the Newton police reform task force, published in March of this year, and one of the recommendations is to leave the civil service system, but they don't explain in the report why other than that they believe remaining in civil service is hampering their ability to attract a diverse police force
- Commissioner Breaker is working with the Massachusetts Municipal Association to have a survey sent out to all communities including questions regarding civil service, suggests sharing that information with Chair Gordon's intern for research purposes. That survey will be going out next week to all communities

- Senator Moore asks if there is a benefit to having the large city chiefs come in separately to give their point of view, and whether they have their own unique issues with civil service
- Commissioner Delmonte says he will reach out to the president of the major city chiefs to request a representative or two to speak to the Commission

VII. Adjournment

- Chair Gordon will send a schedule of the next meetings as soon as there is one
- Motion to adjourn made and seconded

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 07.12.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the meeting; explains that we needed to move to Zoom from Microsoft Teams due to congestion in the Teams system
- Jessica Foley is logged in under Chair Gordon's other account. Elizabeth Donovan, Public Service Committee Counsel is also present
- Chair Brady enters the meeting
- Today we will have substantive presentations from commissions and departments that are a part of the Special Commission. Today's presentations are from the Human Resources Division, Civil Service Commission, the Attorney General's Office, and the Massachusetts Municipal Association

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - no response
- Neil Osborne - present
- Lawrence Calderone - present
- Christopher Delmonte - present
- James Vuona - present
- Jeffrey Lopes - Luis Anjos present for Jeffrey Lopes
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - present
- Sec. Cheryl Poppe - Matthew Deacon present for Sec. Poppe
- Tom Lyons - no response
- Jesse Flynn - Present
- Jen Breaker - Present

- Kimberly Parr - present
- Rep. Chynah Tyler - not present
- Rep. Maria Robinson - present
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present
- Rep. Tim Whelan - not present
- Senator Michael Moore - present
- Senator Edward Kennedy - present
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

III. Approval of Minutes

- Minutes from the last meeting on June 11, 2021 were sent to the Commissioners
- Motion to accept the minutes made and seconded; all votes in favor; minutes accepted

IV. Presentations

- Human Resources Division will be first
- Presentations are expected to last approx. 30 minutes, with questions after each presentation

V. Human Resources Division Presentation

- Ron Renaud is Assistant Secretary of Administration and is Sec. Heffernan's Designee to the Commission.
- Agencies we will hear from today fall under the Executive Office of Administration and Finance
- Entire team is committed to providing the Commission with any information and resources they are able to
- Commissioner Renaud introduces HRD's speaker, Regina Caggiano, Director of Civil Service. Also present are Michelle Heffernan, General Counsel, Brianna Ward, Deputy Director of Civil Service, and Melissa Polan, the Deputy Chief Human Resource Officer
- Regina Caggiano starts the presentation; screen sharing is disabled but the technical issue is resolved
- Presentation is titled "HRD Civil Service Overview," and is available upon request
- Following presentation, Chair Gordon opens up the floor to questions from Commissioners, and Chair Brady thanks Regina Caggiano for her presentation
- Chair Brady asks about consent decrees; Ms. Caggiano uses the city of Lawrence as an example, explaining how that city applies the formula and ratios

- Commissioner Parr adds that she is not sure whether Senator Brady’s question was “what is the consent decree” or “how it’s applied;” she states that back in the 1970s, the NAACP and other organizations sued HRD alleging that the entrance exams used over three years in the 1960s and 1970s had a racially discriminatory effect; the federal district court agreed, and as a remedy it imposed these ratios for hiring Black and Hispanic candidates in cities. The ratios are meant to apply until there is a rough parity in each community. To date, the majority of communities have been released from decrees, but there are still seven subject to them.
- Chair Gordon asks what HRD has done or has seen being done to support municipalities in bringing in a diverse candidate pool; Ms. Caggiano said that they’ve done research on marketing campaigns and have partnered with municipalities/police departments to get the word out; acknowledges that there are areas for improvement.
- Chair Gordon states that the HRD presentation can be emailed to the Commission
- Chair Gordon asks if there are further questions; Commissioner Higgins has a question; one of the slides states that 470 applicants requested waivers but only 160 were granted; why were the others not eligible for waivers? Ms. Caggiano answers that they have criteria for what constitutes waiver eligibility. She says that many people don’t provide supporting documentation that they need to receive a waiver after initially requesting one.
- Commissioner Papagni asks about statistics for firefighters, as the HRD presentation focused on police; Ms. Caggiano can provide that. He also asks whether HRD would like to do more recruiting if they had greater funding; she says that municipalities know their communities the best regarding how to outreach potential candidates, so they mostly leave the recruitment to municipalities
- Luis Anjos asks if HRD has ever considered lowering the age from 25 years to 20 years of service to obtain the two points toward a promotional exam; Ms. Caggiano says that they have not considered that but would be willing to. Commissioner Quinan suggests that the 25 years of service requirement may be set by statute; Ms. Caggiano isn’t sure, and Chair Gordon suggests that the Commission may advise on that issue.
- Commissioner Gabriel thanks Ms. Caggiano for her office’s flexibility during testing month, and asks if HRD, in its effort to eliminate barriers, reaches out to people who signed up for the exam but did not ultimately take the exam; she says they do not but they can consider that, and that the percentage of people who sign up for the exam but do not take it has gone down.
- Commissioner Parr asks for clarification on Ms. Caggiano’s earlier statement that the “application was long” when discussing waivers; did she mean that the

application itself was long or just the application for a waiver was long? Ms. Caggiano responds that the application itself is fairly long, as much as they try to streamline it. Commissioner Parr asks whether the upcoming testing schedule change (fall and spring exams) will come with a more consistent recruiting push and whether HRD would need additional staff for that; Ms. Caggiano states that this change will lead to an enhanced recruitment effort,

- Commissioner Delmonte asks about the 2 plus 1 promotional method and how many communities utilize the promotional exam through civil service; Ms. Caggiano says that if a community wants to appoint two individuals off of their eligible list, the first promotion needs to be among the first three, and that the second promotion can be the fourth or the fifth person on the eligible list. Regarding how many communities use the promotional centers; as of January 21, 64 delegation agreements have been signed for municipalities to hold assessment centers. Commissioner Delmonte asks if Ms. Caggiano has a sense as to how many will take part in the regular promotion exam, and Ms. Caggiano says she can pull that data.
- Commissioner Flynn asks if Ms. Caggiano can speak about the military makeup exam, and if she believes that civil service is sufficiently funded and staffed right now; Ms. Caggiano states that, regarding military makeups, that candidates identify if they're on current active military duty when they sign up for the exam; they hold military makeups on a regular basis, especially around holidays. Regarding Commissioner Flynn's second question, she states that HRD needs to look at their current needs and create a strategy to fill any holes.
- Senator Moore asks if exams require study guides, and what the average cost would be for them. Ms. Caggiano says that study guides are available for free on HRD's website, and that for the promotional exam, they list the books that they are pulling information from, so the test takers would have to purchase those books themselves. Senator Moore asks how much the books for the promotional exam cost; Ms. Caggiano does not know the cost of the books.
- Chair Gordon asks if those books are the type that would be available at the public library; Commissioner Papagni states that these books are textbooks and not the type one would typically find in a public library and that they run in excess of \$500 for the promotional exam.
- Chair Gordon asks if applicants are paying both \$100 for the exam and \$150 for the physical exam; Ms. Caggiano states that the entry level exam for police is \$100 and the entry level exam for fire is \$200, and that the reason is that the fire exam includes written and physical abilities test. She says that if you're on the eligibility list and a municipality wants to hire you, statutorily you have to pass the physical

abilities test, and that is \$150. Sometimes a municipality will pay that fee, and sometimes the candidate will.

- Senator Moore asks if that applies to police; Ms. Caggiano answers that once police are given a conditional offer of employment, they would then take the physical abilities test to be hired under civil service.
- Commissioner Quinan states that the Civil Service Commission recently received an inquiry about the state police makeup examination and how one could be eligible for that; asks if HRD is currently involved in arranging makeup exams for state police; she says they are.
- Chair Gordon thanks Ms. Caggiano for her presentation.

VI. Massachusetts Municipal Association Presentation

- Chair Gordon introduces the next presentation,
- Chair Gordon thanks Ms. Caggiano for her presentation.
- Commissioner Jen Breaker starts the Massachusetts Municipal Organization's presentation, the subject matter of which is Experiences of Cities and Towns as it relates to civil service. Her presentation is available as a separate handout.
- Following her presentation, Commissioner Breaker introduces her guest speaker, Jamie Hellen, town administrator for the town of Franklin
- Mr. Hellen gives a brief overview of Franklin's experience leaving civil service for police officers in 2012 and for the fire department in 2020; states it has been a success
- Franklin Chief of Police TJ Lynch is next to speak on behalf of Commissioner Breaker; he tells the Commission about the police department's experience transitioning from civil service to non civil service; believes it has created a more diverse police force and that it is a better financial decision for the department; they can recruit based on specific needs, rather than utilize state qualifications; they can hire on their own schedule, and faster than they would be able to if they relied on the civil service yearly schedule. He notes that he is not condemning the civil service system, but rather pointing out that it is not the best system for the town of Franklin's specific needs.
- Administrator Heller introduces Franklin Fire Chief McLaughlin to speak next. He speaks about the fire department's recent withdrawal from civil service in 2020. He states he is not condemning civil service, but rather pointing out that it is not ideal for Franklin's needs. They were able to hire new firefighters quickly to meet their current needs.
- Chair Gordon asks the Commission if there are any questions on the MMA's presentation and starts with a question of his own: how many towns and cities

received the survey referenced in Commissioner Breaker's presentation.

Commissioner Breaker responds that approximately 300 towns and cities were sent the survey, and 53 responses came back. Chair Gordon also asks whether a city or town, with recent approval to hire a new officer, can request scores from the most recent civil service exam, rather than waiting for a new test to be given;

Commissioner Breaker says that if the city/town had not already received an existing candidate list, then they would need to wait for the next exam given/next list of candidates.

- Chair Gordon has a question for Administrator Hellen: whether there is a policy in Franklin for hiring veterans, disabled veterans, and children of fallen officers; Administrator Hellen replies that in the collective bargaining agreement itself, most cities and towns do have such a policy, and that they do have one in Franklin. Chair Gordon also asks whether the town's exam is given on a scheduled basis or as-needed; Chief Lynch replies that for the police, the exam is given no less than once every two years. Chair Gordon also asks about the number of Black and Latino hires; Chief Lynch replies that they have hired three Latino officers but have not hired any Black officers at this time due to the candidate pool. Chief McLaughlin says that no recent hires have included Black or Latino candidates.
- Chair Gordon recognizes Commissioner Quinan for a question; Commissioner Quinan asks whether the final presentation should be postponed due to the time of day. Chair Gordon asks if anyone would object to the meeting going past 4:00; there are no objections.
- Commissioner Quinan asks whether Franklin negotiated an agreement that its police and fire staff members would continue to have the same type of due process protections afforded under the civil service statute. He also asks, in reference to Administrator Hellen's statement that diverse candidates are discouraged from applying under the civil service system, what specifically disadvantages minorities. Administrator Heller replies that they did honor the civil service status of every employee when they exited, and that in terms of prohibitiveness, he cites the length of time it takes for a candidate to be hired by departments under the civil service schedule.
- Senator Moore asks if the educational prerequisites cited by both Franklin chiefs have resulted in an increase or decrease in candidates. Chief Lynch replies that they have had no problem being able to fill open positions but is unable to say whether the educational prerequisites have resulted in a decrease in minority candidates. Chief McLaughlin responds that new hires for the fire department have five years to complete the required associate's degree.

- Chair Gordon recognizes Commissioner Papagni, who asks Chief McLaughlin if the lack of recent diversification has resulted in any appeals, lawsuits, etc; Chief McLaughlin answers that there have not been. Commissioner Papagni also asks Administrator Hellen about residency requirements; Administrator Hellen replies that they still have a 15 mile residency requirement for the police department and a 30 mile residency requirement for the fire department. Commissioner Papagni also asks whether the civil service system's shift to annual tests would solve the issue in timeliness of new hires for Franklin; Administrator Hellen replies that the civil service schedule wouldn't be faster than their current hiring schedule. Commissioner Papagni asks Commissioner Breaker if the MMA's survey received any responses that indicated towns and cities would prefer to adjust civil service rather than abolish it; Commissioner Breaker replied that their survey did not ask about abolishing civil service specifically, but asked questions about satisfaction and had space for open ended comments. Commissioner Papagni asks if any responses to the survey indicated change in diversity for the cities and towns who responded; Commissioner Breaker replied that they did not ask that question in the survey.
- Chair Gordon recognizes Commissioner Flynn, who asks who the survey went out to, and who it was filled out by, within the municipalities; Commissioner Breaker says that it went out to the chief municipal officials in cities/towns, but that they were able to send it to others within the municipalities if they wanted to. Commissioner Flynn states that he believes the civil service system affects more than just the town officials, and that this type of survey should be sent out to others affected by civil service as well. He then asks if the MMA has ever supported any additional oversight of hiring, promotions, or disciplinary actions by any state agency; Commissioner Breaker replies that she cannot answer that question as the MMA designee. Commissioner Flynn asks the Franklin chiefs about the veterans' preference; Chief Lynch replies that veterans with at least two years of service/an honorable discharge, but who don't meet the educational requirements, are given the opportunity to complete the educational requirement in five years, but no other preference exists. Commissioner Flynn asks about the procedure for a veteran who wishes to appeal a hiring decision; Chief Lynch replies that it would likely go through the Human Resources department, but that he has not personally experienced this. Commissioner Flynn asks if Franklin police ever applied for a personal administrator's rules list before pulling out of civil service for gender/language; Chief Lynch replies that that would have been before his time as chief, and Chief McLaughlin replies that as far he knew, they do not. Commissioner Flynn asks the Franklin chiefs for more detailed information about new hires from before

and after their withdrawal from civil service; Chair Gordon clarifies that for the purposes of this meeting, identifying names of individuals should be avoided; Commissioner Flynn replies that he was seeking demographical data, not names of specific hires; Chair Gordon points out that the Chiefs have already answered the question about diversity.

- Chair Gordon recognizes Commissioner DelMonte, who first states that as a civil service community, the time line presented by Commissioner Breaker is very realistic. He then asks Chief Lynch if, after exhausting a list of candidates and still needing a new hire, they go through the same list again (of candidates previously passed over) or go through a different/new list. Chief Lynch replies that once a candidate has been passed over, they're not going to consider them again.
- Chair Gordon states that in the interest of time, Senator Moore's question will be the last one before moving on to the next presentation. Senator Moore asks what the recruitment process is that the Franklin department uses for advertising positions; Chief Lynch replies that the Human Resources department handles that.
- Chair Gordon thanks the MMA and their guests for their presentations.
- Chair Gordon introduces the presentation by the Civil Service Commission and the Attorney General's office.
- Commissioner Quinan gives his presentation, which is available as a separate document. Chris Bowman, Chair of the Civil Service Commission, assists with the presentation.
- Commissioner Parr gives her presentation on behalf of the Attorney General's office, which is available as a separate document.
- Chair Gordon thanks the presenters for their presentations, as does Chair Brady.
- Chair Gordon asks whether, in the interest of time, anyone would object to postponing the meeting's subcommittee reports for the next meeting; no objections.
- Chair Gordon schedules the chiefs' presentations for the 23rd; all agree.
- Motion to adjourn made and seconded; all in favor.

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 07.23.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the meeting, welcomes Chair Brady

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - present
- Neil Osborne - present
- Lawrence Calderone - no response
- Christopher Delmonte - not present
- James Vuona - present
- Jeffrey Lopes - present
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - no response
- Sec. Cheryl Poppe - present
- Tom Lyons - present
- Jesse Flynn - no response
- Jen Breaker - present
- Kimberly Parr - present
- Rep. Chynah Tyler - no response
- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present
- Rep. Tim Whelan - no response
- Senator Michael Moore - present
- Senator Edward Kennedy - present

- Senator Bruce Tarr - no response

III. Approval of Minutes

- Minutes from the last meeting of 07/12 are not yet ready; will be available at the next meeting

IV. Reports of Subcommittees

- Senator Moore gives an update on the civil service subcommittee. The subcommittee met and also met with the director of the Civil Service Unit at Human Resources Department; submitted a document request for information, waiting for that to come back. Tentatively waiting to hear from the Massachusetts Association of Minority Law Enforcement Officers Local 718, likely in early August
- Chair Gordon states that he is looking for the subcommittees to assist with information required to put together the Committee's report. He also states that the deadline is still Sept. 30th, but the Commission will hopefully get an extended deadline.
- Senator Moore states that he is trying to work with the main Commission to coordinate speakers so that there isn't overlap between subgroups/the full Commission
- Chair Gordon states that the Commission can cover general topics of discussion through Commissioner presentations, and that the subcommittees exist to do a deeper dive into their specific topics
- Representative Higgins states that the non civil service subcommittee has three meetings planned from mid-August to early September to go over the data that they are hoping to collect from the thirty-five communities that have left civil service according to HRD
- Commissioner Quinan asks if Representative Higgins can send contact information for the staff member who is arranging the subcommittee's presentations so that other commissioners can join those meetings; Chair Gordon reminds everyone that subcommittee meetings are open to all commissioners, not just those assigned to that subcommittee
- Representative Haddad states that the state police subcommittee had a meeting with a colonel in the State Police. Now they are putting together a meeting for next week to define where the subcommittee is going to go from here
- No Commissioners are present to report on the diversity subcommittee; Chair Gordon will circle back with that subcommittee for a report. Commissioner Vuona states that the subcommittee did have an initial meeting and that they are planning another meeting shortly; Commissioner Papagni agrees with this

V. Topics for future Commission meetings

- Chair Gordon moves onto the next item on the agenda
- The next presentation will be from Commissioners representing veterans/veterans agencies on August 6th at 10:00 am
- The commissioners representing police and fire will present on August 20th; Commissioners Vuona, DelMonte, Gabriel, and Atstupenas
- The commissioners representing labor and union organizations will present on September 10th; Commissioners Papagni, Reddy, Calderone, and King
- The commissioners representing civil rights organizations will present on September 24th; Commissioners Osborne, Hall, Lopes, and Sweeney

VI. Questions and comments

- Representative Haddad asks for an email with the dates for future Commission meetings
- Chair Gordon repeats the list of future meeting dates
- Commissioner Vuona asks for a schedule to be posted somewhere online
- Commissioner Quinan suggests the use of Microsoft SharePoint. Chair Gordon explains that we are using Zoom instead of Teams due to scheduling issues with the legislature; Representative Higgins volunteers to help setting up a web platform for the Commission for information sharing
- Chair Gordon asks for a motion to adjourn; motion made and seconded, all in favor.

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 08.06.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the meeting
- Chair Gordon says that today we are going to continue with Commissioner presentations
- Today's presentations: Department of Veterans Services

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - no response
- Neil Osborne - present
- Lawrence Calderone - present
- Christopher Delmonte - present
- James Vuona - present
- Jeffrey Lopes - no response
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - present
- Sec. Cheryl Poppe - present
- Tom Lyons - present
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - present
- Rep. Chynah Tyler - no response
- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present

- Rep. Tim Whelan - present
- Senator Michael Moore - present
- Senator Edward Kennedy - present
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

III. Approval of Minutes

- Minutes from the last two meetings have been sent out (7/12 and 7/23)
- Motion made by Senator Kennedy to approve the minutes, seconded by Rep. Haddad; all in favor of approval

IV. Department of Veterans Services Presentation

- Sec. Cheryl Lussier Poppe of the Department of Veterans Services presents to the Commission; her presentation is available as a separate document
- Matthew Deacon, Counsel for the Department of Veterans Services, is joining Sec. Poppe for the presentation
- Questions will be held until all presentations are given

V. Massachusetts Veterans' Services Agents Association Presentation

- Commissioner Tom Lyons will be presenting along with guest Ted Mulverhill, Veterans Service Officer for Town of Norwood
- Mr. Mulverhill reads a statement from President of Massachusetts Veterans Service Officers Association (available as a separate document)
- Commissioner Lyons reads a statement (available as a separate document)

VI. Disabled American Veterans Presentation

- Commissioner Jesse Flynn will be presenting (presentation is available as a separate document)
- Coleman Nee, National Third Junior Vice Commander of the Disabled American Veterans and former Secretary of Veterans Services, will be joining the presentation

VII. Questions and comments

- Questions and comments from all three presentations are taken together
- Chair Gordon asks: do we know the statistics on minority veterans with respect to Massachusetts? Mr. Nee clarifies that one of his slides outlining demographics was a Massachusetts-specific slide, and that from 2015 to 2045, there is projected to be a 10,000 veteran increase in terms of total numbers of veterans of color

- Chair Gordon asks the presenters how the dwindling total number of veterans entering the workforce will affect the questions that this Commission is tasked to answer. Mr. Nee answers that there will be more opportunities for non-veterans to get jobs that give veteran preferences.
- Chair Gordon points out that the Commission has a set of priorities to balance in answering its statutory question; it has a responsibility to keep communities safe, a responsibility to veterans, a responsibility to citizens seeking employment, and a responsibility to the need of continuing the diversification of the police force. Commissioner Flynn responds that there hasn't been any data presented to show that veterans are taking so many civil service jobs that communities are left unable to diversify. He states that he has done research on that question and has seen that when communities leave civil service, diversity doesn't change but veteran hiring goes down.
- Sec. Poppe states that she wants to make sure that veterans are still encouraged to apply for these positions and is concerned that they may not feel welcome in applying to civil service positions. She also points out that, in the last twenty years, the most recent conflicts have not created many more new veterans due to multiple deployments.
- Commissioner Lyons states that being police officer is more than a tough job in the current climate, and that may be discouraging to veterans who are thinking about applying to civil service.
- Chair Gordon asks about the promotional exam and veterans' preferences for that. Sec. Poppe states that that preference is one of the incentives for joining the military. Commissioner Flynn states that veterans receive extra points on the exam to help make up for time spent away from civil service positions in deployment, etc.
- Ted Mulvehill states that many veterans want to join the public safety sector when they leave service.
- Chair Brady asks what the presenters' opinions are on civil service preferences for veterans; Commissioner Flynn states that a ranked, public eligibility list is necessary to create a veterans' preference, and that when cities and towns remove themselves from that eligibility list, it is impossible to prove that veterans are getting a preference
- Commissioner Quinan asks all of the presenters whether anyone knows whether any jurisdiction in the United States calibrates veterans preferences in the civil service realm, either at the hiring stage or the promotion stage, according to the candidate's length of military service. He also asks if that criteria would be appropriate to consider, and if not, why not. Commissioner Flynn answers that he does not know of any states that offer any preference based on time, and that he

would shy away from that, because time in service does not always equal time deployed. Sec. Poppe adds that they can look into it, and at the federal level, there are certain ranks that don't qualify anymore. Ted Mulvehill adds that the character of service, not necessarily the length of time of service, is important to consider.

- Chair Gordon thanks the presenters, states that it is important to ask questions and to be able to consider everything without an agenda

VIII. Reports of Subcommittees

- Senator Moore chairs Subcommittee 1; reports that they have a meeting on Monday, August 9. Guests from The Massachusetts Association of Minority Law Enforcement Officers, the Boston Firefighters Local 718, and the Town of Burlington will be speaking. They also did a request for information to HRD and are awaiting the results.
- Rep. Haddad reports that Subcommittee 3 had a subcommittee the previous week; they discussed how the Quinn bill, or lack thereof, has affected how many people are applying. She also reported that they discussed how, when people are applying for civil service, they are often not checking off the box to be considered by the state police, because the municipalities in some instances have continued some form of the Quinn bill, making it more appealing for applicants. They also discussed education, and how you encourage people to continue education.

IX. Future Commission meetings

- Next meeting of the full Commission will be Friday, August 20 at 10am; Commissioners Delmonte, Vuona, Atstupenas, and Gabriel will be presenting
- The next meeting after that will be Friday, September 10 a 10am; Commissioners Papagni, Reddy, Calderone, and King will be presenting on that date
- The following meeting will be on September 24; Commissioners Osborne, Hall, Lopes, and Sweeney will be presenting on that date

X. Adjournment

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 08.20.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the meeting
- Chair Gordon says that today we are going to continue with Commissioner presentations
- Today's presentations: Chiefs of Police Association, Fire Chiefs' Association, Massachusetts State Police

II. Roll call

- Marcella King - no response
- Michael Papagni - present
- Tom Reddy - no response
- Sophia Hall - present
- Neil Osborne - present
- Lawrence Calderone - present
- Christopher Delmonte - not present
- James Vuona -
- Jeffrey Lopes - present
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - no response
- Sec. Cheryl Poppe - no response
- Tom Lyons - no response
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - present
- Rep. Chynah Tyler - present
- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present

- Rep. Patricia Haddad - not present
- Rep. Tim Whelan - present
- Senator Michael Moore - present
- Senator Edward Kennedy - designee present for Senator Kennedy
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

III. Approval of Minutes

- Minutes from the last meeting has been sent out (08/06/21).
- Motion made to approve the minutes and seconded.

IV. Reports of Subcommittees

- Senator Moore, Subcommittee #1: completed presentations, now they are awaiting informational requests from HRD.
- Rep. Higgins, Subcommittee #2: solicited testimony from 35 communities that have left civil service, have received testimony from 8, will be following up with the others; all information gathered will be on a Google Drive account.
- Rep. Tyler, Subcommittee #4: Meeting later today at 3, will hear from a retired police officer.

V. Chiefs of Police Association Presentation

- Commissioner Atstupenas hosts and introduces this presentation, his portion of which is available as a separate document.
- Chief Brian Kyes, Chief of the Chelsea Police Department and President of the Massachusetts Major City Chiefs of Police Association speaks. Chelsea is a civil service department, and he gives his perspective on being Chief of a civil service department. He says he has had a positive experience with HRD. Chelsea does have residency preference and many applicants who take the civil service exam there are residents and of diverse backgrounds. However, other communities with less diverse populations are struggling to increase diversity - he gives Beverly as an example. He speaks further about towns looking to increase diversity.
- Chief William Brooks III of Norwood speaks next, giving his perspective as Chief of both a civil service and a non civil service department. He was deputy chief of Wellesley Police in 2009 when they left civil service. When he became chief of Norwood in 2012, he began the process of taking Norwood out of civil service. An example of civil service is that he needed Portuguese speaking candidates but was not given any through the civil service hiring list. After leaving civil service he says he was able to seek out Portuguese speaking officers. They are able to sift through more candidates to hire. He gives an example of a local shop owner who plans on

taking the exam who he wouldn't be able to hire under civil service. He gives another example of an officer who grew up in Norwood but lived and worked as a police officer in Florida for twenty years, but who wanted to return to Norwood. He was able to laterally transfer to the Norwood Police and has been a great hire. Other transfers have been brought in as well. He hired a lateral transfer from UMASS Boston with Spanish speaking skills, which he would not have been able to do under civil service. He acknowledges concerns from veterans about veteran hiring preferences, but he says that the number of veterans on their force has gone up since they've left civil service. He says he has also been able to hire more women. While the departmental diversity is not where he would like it to be yet, he is better able to navigate hires. He supports leaving civil service and says its become a bureaucracy that makes hiring more difficult.

- Chief Edward A. Dunne of the Falmouth Police Department, and President of the Massachusetts Chiefs of Police Association speaks next. Falmouth is a civil service department, and their biggest concern is the lengthy hiring process under civil service. They are currently down ten officers and nearby Barnstable is down eleven. They received a hiring list in 2019 and exhausted that list in 2020. They were only able to hire 3 officers off of the statewide list in 2020 before exhausting it, and they are having to wait for the new list before being able to fill their open positions. Neighboring non civil service communities are able to hire faster. Falmouth has been a civil service department since 1936, but Chief Dunne and the Falmouth town manager are bringing an article to the town meeting this November to remove Falmouth from civil service, due to these problems in hiring quickly. He says they are in a staffing crisis and can't wait any longer.
- Chair Gordon notes that in the survey presented by Commissioner Atstupenas, the 1/3 response rate could just be due to the fact that those most motivated for change are the ones who are also most motivated to respond to the survey. He appreciates that Commissioner Atstupenas made that clear in his presentation.
- Chair Gordon asks Chief Kyes about current rules and regulations that the Commission can target to refine and reform civil service.
- Commissioner Osborne asks Chief Dunne about the definition of "exhausting" his list; Chief Dunne replies that he hired the candidates that were hireable.
- Chair Brady asks whether it's true that fewer people are applying to become police officers due to police reform. Chief Kyes replies that he doesn't believe there's a way to pinpoint a drop in candidates to police reform. Chair Brady acknowledges the volatility surrounding police reform around the country.
- Commissioner Papagni asks Chief Brooks asks how many Portuguese speaking officers he's hired since coming out of civil service. Chief Brooks replies that he has

hired one and is looking to hire more. Commissioner Papagni asks Chief Brooks what he has done to protect against nepotism, political favoritism, etc. in Norwood. Chief Brooks replies that in his department there are safeguards in place to avoid those issues.

- Commissioner Flynn asks Commissioner Atstupenas what standards were used to establish a preference for veterans in non civil service communities. Commissioner Atstupenas replies that they asked open ended questions about the hiring preference. Commissioner Flynn asks all chiefs if they have hired a relative in their department. Chiefs Kyes and Dunne have not, Chief Brooks' son is in the police academy.

VI. Fire Chiefs' Association Association Presentation

- Commissioner Vuona gives his presentation and speaks about why some communities have left civil service on the fire side. Usually it was a decision of the towns after their police departments had left. His town of Shrewsbury has a hard time diversifying their department to reflect the community. He was fortunate to hire three diverse candidates of Hispanic backgrounds in the most recent hiring period, but had zero applications from the Indian/Asian community. He says that the diversity of the hiring list through civil service is not reflective of the diversity of his community.
- Commissioner Vuona says that other communities with residential preference often have a very small minority demographic to begin with, so they have a difficult hiring diverse candidates.
- Commissioner Vuona says that civil service works well in bigger cities, but the smaller/less diverse a community is, the more difficult it is to hire a diverse department.
- Commissioner Vuona says that 20% of his firefighters are veterans, a number that has gone down in the last ten years from about 25%. He believes it is due to the decrease in eligible military veterans.
- Commissioner Vuona says that civil service works very well for some towns and not well for others. The Shrewsbury police department is currently considering leaving civil service because they cannot hire people in a timely fashion.
- Commissioner Vuona says that one of the other difficulties he sees with some communities is that some of the members of a community come from a lower-income socioeconomic background, and the civil service exams are several hundred dollars with no guarantee of even getting an interview - that discourages many people from spending the money to take the test.

- Commissioner Vuona says that he has had success with civil service, but it's not perfect, and that there are ways it can be made better.
- Chair Gordon asks whether communities are engaged in sufficient marketing for civil service positions. Commissioner Vuona describes some ways that his community recruits.
- Chair Gordon asks if there is a way to reduce test fees upon a showing of need. Commissioner Vuona says there is, but it takes time and applicants need to meet certain requirements.
- Chair Brady asks if there are any ways to get a waiver for the test fee if test takers can't afford it. Commissioner Vuona says that there are waivers available but there are many rules surrounding them, so they might not be available to everyone who needs one. Chair Brady also asks how word of upcoming exams gets around to potential applicants and whether recruitment occurs in local colleges. Commissioner Vuona says that it doesn't happen in Shrewsbury because there aren't any colleges in Shrewsbury and they have a residential preference.
- Commissioner Papagni asks about the standard for the waiver; is receiving government assistance the standard? He would like to confirm that through HRD. He also asks Commissioner Vuona if it would be beneficial for Shrewsbury to eliminate residency requirements instead of removing themselves from civil service in order to diversify their candidate pool. Commissioner Vuona says he believes it would help.
- Commissioner Flynn states that it seems as though civil service isn't the issue when it comes to lack of diversity in local police/fire departments, but that the local preference is the issue. He also states that cost of the test is prohibitive right now and believes our exam is the most expensive one in the country.

VII. Massachusetts State Police Presentation

- Commissioner Stephen Gabriel and State Police Colonel Chris Mason will be giving the State Police presentation.
- Colonel Mason's presentation is available as a separate document.
- Chair Gordon says that he appreciates the recruitment and marking explanation/efforts outlined in today's presentation.
- Chair Brady thanks Colonel Mason for his presentation. He asks how outreach works for candidates with specific and highly sought after language skills. Colonel Mason says that they try to do outreach to all underrepresented communities.

IX. Future Commission meetings

- Chair Gordon reminds everyone that the next meeting is September 10, with presentations from Commissioners who represent unions. Commissioners Papagni, Reddy, Calderone, and King will be presenting.
- The following meeting will be September 24. Commissioners Osborne, Hall, Lopes, and Sweeney will be presenting on that date.

X. Adjournment

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 09.10.2021

Senator Michael Brady, co-chair
Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the meeting
- Chair Brady welcomes everyone
- Chair Gordon recognizes the 20th anniversary of September 11th, 2001, and thanks our first responders

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - present
- Neil Osborne - present
- Lawrence Calderone - present
- Christopher Delmonte - present
- James Vuona - present
- Jeffrey Lopes - present
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - non response
- Ronald Renaud - present
- Richard Sweeney - not present
- Sec. Cheryl Poppe - present
- Tom Lyons - present
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - Anne Landry present for Kimberly Parr
- Rep. Chynah Tyler - no response
- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present
- Rep. Tim Whelan - present

- Senator Michael Moore - present
- Senator Edward Kennedy - present
- Senator Bruce Tarr - Theodore Thomas present for Senator Tarr

III. Approval of Minutes

- Minutes from the last meeting has been sent out (08/20/21).
- Motion made to approve the minutes and seconded.

IV. Firefighters' Union Presentation

- Commissioner Papagni leads the presentation
- Has heard a number of recurring themes; residency requirements, cost of civil service, recruitment
- Captain William Moseley from Worcester Fire Department, and William Taylor from Marlboro Fire Department will be guest speakers; Marlboro has come out from civil service
- Captain Moseley speaks about various ways that his department has recruited from the department's community. They are a civil service community. Issues they have faced include increasing diversity, recruiting in their community, getting local people with lower incomes involved when fees for civil service are high.
- Chair Brady asks Captain Moseley if he is against civil service; Captain Moseley says he is not and believes it is valuable. Chair Brady asks him about collective bargaining and residency requirements; Captain Moseley replies that that is a question better suited for Commissioner Papagni. Commissioner Papagni says that their contract does not require residency. Chair Brady, Commissioner Papagni, and Captain Moseley discuss pros and cons to residency requirements.
- Commissioner Whelan agrees that access to the civil service exam should be a priority, and that the high fee for taking the exam is prohibitive.
- Chair Gordon asks Captain Moseley if there were any instances in which he has benefited or been frustrated by the civil service rules that are in place; Captain Moseley replies that outside of the costs, it seems reasonably fair, and that greater equity in access would help.
- Sec. Poppe asks how many on Captain Moseley's department are veterans and women; he does not have the number of veterans but has 8 women out of 386 firefighters in Worcester.
- Commissioner Quinan asks how much of an impact making the exam free or lower-cost would have, and whether the Worcester Fire Department has any strong working relationship with local educational institutions to serve as potential pipelines to the department. Captain Moseley agrees that making the exam free won't solve the whole problem and that you have to dedicate resources to

community recruitment. His department does have members who recruit in schools and they have a mentorship program at Quinsigamond Community College.

- Commissioner Quinan asks if Captain Moseley thinks the community colleges are doing all they can do to attract students to fire science degree programs, and if they have the support to recruit on their end. Captain Moseley is not sure but does all he can to keep in touch with local schools. They are considering having a public school access day with the department.
- Rep. Haddad asks Captain Moseley if there are incentives in his department for firefighters getting more college credits; Captain Moseley answers that to his knowledge civil service does not allow for that right. Now.
- Commissioner Hall asks if there are any systemic or structural barriers that might exist that result in disparities during the background check step of the hiring process; Captain Moseley says that there are, and that his department has addressed this issue, but that the investigating body should be as reflective as the candidate pool in order to alleviate that issue. He wonders how many applicants have been bypassed due to the investigative body not being more reflective of the candidate pool. Commissioner Hall asks if he has any thoughts as to how the civil service system works in terms of appeals for candidates who have been bypassed; Captain Moseley does not have any personal anecdotes to offer here.
- Chair Brady asks if Captain Moseley's department has money in its budget for local recruitment; he answers that they do.
- Chair Gordon says that we are mindful of the time, and understands that people may need to leave if the meeting runs past two hours, but also does not want to cut off any important discussions.
- Commissioner Papagni thanks Captain Moseley for his time. William Taylor from Marlboro Fire Department will be speaking next; they were in civil service and now are not.
- William Taylor is a 35 year member of the Marlboro Fire Department and also serves as president of their local union 1714. Several years ago their mayor convinced the city council that they should leave civil service; they negotiated the best deal they could in their collective bargaining agreements. One thing they did not tell his union is the increased cost that would result from leaving civil service. Since leaving civil service they have hired nearly 20 new firefighters, many of whom came with experience from neighboring departments. The cost of accomplishing this was significant. The hiring process was previously provided by civil service at no cost to the city. He estimates that the hiring and promotional processes have cost the city in excess of \$200,000 since leaving civil service. For all its faults, civil service is a fair system and he says his city does not currently enjoy

the same level of fairness. Not all cities and towns have the resources that Marlboro has to make up for this increased cost. Finally, his department is not diverse, and says that once you leave civil service, the responsibility of diversification lies solely with the city. After several discussions with the fire chief, at this point there have been no efforts to increase diversity in recruitment. They have had discussions on using SAFE Grant money to reach out to candidates but that has not happened. He suggests that if you're going to be out of civil service, you need to do a better job than Marlboro in ensuring that your department reflects the diversity of your community.

- Chair Gordon asks where one would go with an appeal of a hiring decision; Mr. Taylor says that there currently is no framework for that.
- Chair Gordon asks, of the twenty new firefighters hired since leaving civil service, how many are Black or Latino hires; Mr. Taylor answers possibly two.
- Chair Gordon asks who wrote the test given by the municipality to candidates; Mr. Taylor answers that it's a test written by a private company, and that the city pays the company to give the test. His understanding is that it's very similar to the entry level test given by civil service. The cost to take it the first time it was administered was \$25, and they raised the price to \$100 after that. There have been discussions on lowering the price back down. He believes there is a waiver process but does not believe everyone will be comfortable asking for a waiver.
- Chair Gordon asks, from a general perspective, what the attitude/mood of the department is since they left civil service; Mr. Taylor answers that it doesn't affect the average employee in many aspects; they only used civil service for hiring and promotions.
- Sec. Poppe asks how many veterans and women they have on their force; Mr. Taylor answers that they have between 70-80 full time firefighters, including four women. Of the last twenty hires, roughly half were veterans; he is not sure of overall numbers.
- Commissioner Flynn wonders if one of the reasons for Marlboro leaving civil service was that the veterans' preference was hurting diversity; Mr. Taylor says that they are hiring as many veterans as they were previously under civil service but have not diversified more to reflect their community.
- Commissioner Quinan says that he gathers from Mr. Taylor's remarks that the last few rounds of promotions were controversial and that people may feel they haven't been treated fairly; he also believes that most often when a community leaves civil service, they grandfather in incumbent officers so they continue to have the right to bring an appeal to the Civil Service Commission - is that the case in Marlboro? Mr. Taylor answers that it is. Commissioner Quinan asks if there is a perception that the Commission is not an appropriately neutral forum to air those disputes. Mr.

Taylor answers that most of their problems would not be solved in that arena, specifically problems with assessment centers. Commissioner Quinan says that the Commission has some authority to undertake investigations if there are systemic violations of basic merit principles; he asks is there may be any benefit to be gained by given the Commission additional authority to deal with problems of this nature, instead of having these issues to go arbitration. Mr. Taylor does not know.

- Commissioner Papagni wraps up his presentation.

V. Police Union Presentation

- Commissioner Tom Reddy leads the presentation.
- He offers a statement on behalf of the police unions. They believe civil service is a vital, necessary, fair, and neutral third party established for the resolution of issues arising in employment. They believe the goal of the committee should seek to advance the civil service's system ability to continue its work by fixing its problems, not dismantling it and relying on many different systems across the state. The current system allows candidates to believe there is a set standard of laws, rules, procedures and practices to provide them with a level playing field, enforced by a neutral party. We have through our commission and subcommittee meetings heard testimony from many people, but have not heard much testimony to suggest the civil service system does not work; just that there are issues that need to be fixed. He cites recent examples given of it taking up to two years to get a new hire ready for duty under civil service; this issue is being helped by the civil service exam being offered more often. It still takes time for a new candidate to be ready for duty (with training, etc) so there's only so much time that can be saved in the hiring process. Other issues include processing time for lists and appeals on bypasses and discipline, the cost of exams, the ability to diversify and the formula limiting the number of candidates a municipality is supplied when a list comes down. All of these issues could be addressed with recommendations by this committee. Civil service already has a process for requesting selective lists for qualifications, such as for EMT lists, gender-based lists and language-based skills lists. We have the ability to make suggestions for corrections if this isn't working as it should. The system allows for veterans preference for their service to our country, and for certain circumstances for selective lists for certain minority groups when there's a showing of a lack of diversity. We should offer recommendations to make the current system better. Civil service allows due process at all levels. Civil service is predominantly funded by fees; we have heard statements about excessive costs being a deterrent to taking civil service exams; the most effective recommendations we can make surround locating a source of funding outside of fees. It is their opinion civil service works, and is designed to be fair and inclusive.

- Chair Gordon asks what the funding mechanism looks like in other states; Commissioner Reddy does not know. Commissioner Quinan says he will look into that. Commissioner Quinan estimates that the Civil Service Unit within HRD requires approximately \$750,000 annually, and the appropriation for the Civil Service Commission annually is less than that. He says that he believes we're talking about state appropriations of less than \$1.5 million annually for both together.
- Senator Kennedy asks if there are any preparation courses/tutorials that exist right now, and if there are, who runs those. Commissioner Reddy replies that at the promotional level there are a number of private agencies/companies that run seminars, provide materials, etc. at a cost to the candidate. He is not aware of any at the entrance examination level, but knows that his own police department has in-house preparatory courses.
- Chair Brady agrees that we should get information on what other states are doing surrounding preparation for the civil service exam.
- Commissioner Quinan raises his hand to correct an earlier statement; he says that the total cost to administer the civil service system is \$2.2 million. They generated \$200,000 of the Physical Abilities Test, but were appropriated \$500,000 to run that. It is unknown what they bring in for exam fees, but Commissioner Quinan believes it is about \$500,000.
- Commissioner Osborne asks Commissioner Reddy whether he or union presidents feel that police departments are sufficiently diverse and whether he supports reducing/eliminating the requirement that police departments must admit past discrimination in order to get selective lists for diversity. Commissioner Reddy replies that he and his union would not oppose easier access to selective lists.
- Chair Gordon asks to clarify whether Commissioner Reddy would support lessening the standard of proof of past discrimination in order to obtain selective lists; Commissioner Reddy says he would.
- Senator Kennedy asks if Commissioner Reddy thinks it would be a good idea for here to be a preference for language skills. Commissioner Reddy speaks about the selective language lists and how the process exists to do that through civil service. Commissioner Quinan says that he has recently spoken with the general counsel of HRD and they do go through a very thorough process of evaluating evidence that would establish that there is a need within a particular community to hire somebody with that specific language skill. He thinks they want there to be a solid basis for the need in order to avoid a lawsuit. He then goes on to speak about the Constitutional considerations surrounding this issue.

VI. Massachusetts Law Enforcement Policy Group Presentation

- Commissioner Calderone leads this presentation, which is available as a separate download.
- After his presentation, Chair Gordon asks if Commissioner Calderone thinks that municipalities are in a position to provide or to replicate the type of objectivity in handling one of the Civil Service Commission appeals that he spoke about in his presentation. Commissioner Calderone answers that he is concerned about the ability of municipalities to provide the same level of objectivity.
- Chair Brady asks if everyone can get a copy of the presentation. He asks Commissioner Calderone if he's heard of many cases in which an officer is terminated and is not told why. Commissioner Calderone answers that he does not know of too many cases like that, because under Massachusetts law they have the right to be informed.
- Commissioner Quinan congratulates Commissioner Calderone on a very accurate presentation. He adds that the day before he argued a case in the state appeals court where one of the issues was whether a terminated employee had been properly advised of any charges against her. Her termination was overturned by the Commission. One of the advantages to the civil service commission process is that it contributes to an ongoing and developing body of law in the state. The public should have a high degree of confidence that the just and legally correct decision is reached.
- Commissioner Flynn states that he and the DAV agree that the powers of the Civil Service Commission should be increased.
- Commissioner Quinan states that he recently argued a case in front of the Supreme Judicial Court regarding the termination of a Brookline firefighter. The justice that wrote the decision was troubled by the fact that the CSC only has effectively a "hammer" - it does not have an array of tools that it can use to solve more nuanced problems. All it can do is order reinstatement, period, and there are situations where it would make sense for the Commission to order sensitivity training, antidiscrimination training, etc.

VII. Future Meetings and Adjournment

- Chair Gordon acknowledges that we are coming up on the two hour mark. He asks the commission if anyone needs to leave soon. Several commissioners raise their hand that they do. Commissioner King is scheduled to present next, so he asks her if she would rather reschedule for another day. Commissioner King replies that she would rather reschedule.
- September 24th will be our next meeting, and we will hear reports from subcommittees at that time.

- Chair Gordon says that we should schedule a future meeting to hear from members of the public, as well as a meeting later on in the fall led by subcommittee chairs.
- Chair Gordon has requested an extension of the Commission's deadline to March 2022.
- On September 24, we are scheduled to hear from Commissioners Osborne, Lopes, and Sweeney.

Motion to adjourn made and seconded.

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 09.24.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the eighth meeting of the Commission
- Chair Brady welcomes everyone
- Chair Gordon discusses the future schedule of meetings

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - Ariel Sharma present for Sophia Hall
- Neil Osborne - present
- Lawrence Calderone - no response
- Christopher Delmonte - present
- James Vuona - present
- Jeffrey Lopes - present
- Stephen Gabriel - Mark Wheeler present for Stephen Gabriel
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - present
- Sec. Cheryl Poppe - present
- Tom Lyons - no response
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - present
- Rep. Chynah Tyler - present
- Rep. Maria Robinson - present
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - not present
- Rep. Tim Whelan - present

- Senator Michael Moore - present
- Senator Edward Kennedy - no response
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

III. Approval of Minutes

- Minutes from the last meeting has been sent out (09/10/21).
- Motion made to approve the minutes and seconded.

IV. NAACP Representatives Presentation

- Commissioner Osborne opens up the presentation with a disclaimer that his words and presentation are on behalf of himself and NAACP, not the City of Medford
- Juan Cofield, president of the New England Area Conference of the NAACP presents
- Commissioner Osborne shares his screen and begins his survey titled NEAC NAACP Survey on Civil Service Attitudes
- Commissioner Osborne opens up his presentation to questions
- Chair Gordon asks how many surveys (referenced in Commissioner Osborne's presentation) went out and how many received a response. Commissioner Osborne explains the process he used for sending out the survey.
- Chair Gordon asks if Commissioner Osborne has a sense, from the work that he's done for the NAACP, about feelings on civil service that go beyond the responses to the surveys. Commissioner Osborne says that he would suspect that there are diverse thoughts and other creative ideas that would be shared if they could get a larger sampling on the survey, and that the general view is that something is not right with the current system and aim to see more diversity in police forces.
- Chair Gordon brings up that partnerships with educational institutions might bring great benefits to the civil service system and increase diversity. Commissioner Osborne states that NAACP branches would want to partner with institutions in outreach and increasing diversity.
- Chair Brady asks if the Brockton NAACP branch provided a response to the survey, Commissioner Osborne said that they did
- President Cofield adds that a coalition was formed several years ago to address the issue of apparent discrimination of People of Color in admissions in vocational schools; there is a problem there and it was recognized, and work on this issue is still ongoing with the potential of a lawsuit. Recruitment is only part of the solution; we must recruit people who are otherwise qualified and give them a preferential status.

- Commissioner Quinan asks Commissioner Osborne and President Cofield whether in their estimation gaps in outreach and recruitment efforts are more acute at the state level or the local community level. Commissioner Osborne says we should focus on communities with denser diversity and that the state should make sure this happens.
- Representative Whelan adds that there are police training options outside of civil service. Fitchburg State has such a training program.
- Commissioner Flynn states that he agrees that outreach in recruitment is important and cites the Boston fire department as an example of a department that focuses on diversity in outreach and diversity while remaining in civil service. He also asks if the NAACP would support legislation that would require all departments that are filing home rule petitions to revoke civil service to enter into a voluntary consent decree with the attorney general's office to ensure that, if they are leaving civil service to diversify, they are indeed diversifying after leaving. Commissioner Osborne replies that an issue like that could be presented to benches and debated.
- Secretary Poppe asks for clarification on the presenters' statements that they support a specific preference in reparative justice; is that in addition to a veterans preference or in lieu of veterans preference? President Cofield replies that it would be in addition to a veterans preference and that they still believe a veterans preference is appropriate.
- Commissioner Delmonte asks if it would be advantageous if we looked at expanding the candidate pool from $2n + 1$ in order to increase the number of potential candidates. Commissioner Osborne replies that they are in favor of removing barriers to hiring more diverse candidates, which includes this idea. President Cofield adds that NAACP branches in local communities are a resource that very few municipalities have contacted to address the issue of diversity in police.
- Commissioner Renaud states that the administration has in the past used the program Access and Opportunity for outreach and that groups like this would be a viable option for increasing outreach in diverse communities.
- Commissioner Flynn states that in the 2021 civil service exam there was only one veteran in Medford who took the exam and that no veterans were on the civil service eligibility list in Medford. Given that, he asks if Commissioner Osborne feels as though it's an outreach problem or an educational problem that is causing this. Commissioner Osborne replies that part of it is perception that the civil service process creates barriers and that if you want to invest in a career you don't

invest effort into a career that contains an extra hurdle. He also states that he goes to events in the community to reach out to potential candidates.

- Commissioner Quinan asks about residency preferences; does Commissioner Osborne think that this is something that should be entirely at the discretion of local officials or does the state have a role in determining whether residency preference should continue in its existing form? Commissioner Osborne replies that he does not have a good answer for this, but acknowledges that when you grow up in a city or town, that's generally the community that you want to work in.

V. ACLU Presentation

- Ariel Sharma of Lawyers for Civil Rights presents on behalf of the ACLU
- Chair Gordon emphasizes the need for education and training in increasing diversity
- Chair Brady offers remarks about residency; most communities adhere to collective bargaining and they did have a residency rule in Brockton, which was up for debate during the last collective bargaining process in Brockton. Several issues with the residency requirement were brought up during this process. Other smaller communities don't have a residency requirement because their populations are too small to fully recruit from.
- Commissioner Flynn reiterates that veterans preference is an affirmative action program for a marginalized, economically disadvantaged population that includes minorities, women, LGBTQ people, etc. He states that equating the veterans preference with upholding racism is inappropriate. He asks if any data exists to suggest that the veterans preference is being used to uphold racism. Chair Gordon states that Attorney Sharma was saying that, when someone is given a list that includes veterans from different backgrounds, her position is that white veterans are often preferred over veterans of color, not that the act of supporting veterans in general is racist. Attorney Sharma reiterates that it is important to recognize and support our veterans, but that they see that veterans preferences has been used to hire white veterans over veterans of color.
- Commissioner Quinan asks Attorney Sharma if, in her view, where there are ought to be any greater incentive or support for bypassed individuals challenging hiring decisions. Attorney Sharma agrees that this is an important consideration.
- Secretary Poppe states that she would be interested in seeing data that white veterans are hired before veterans of color due to the fact that the veterans community is very diverse, and this should be an issue we work on.
- Commissioner Delmonte asks Attorney Sharma if this issue with bypassing is a widespread problem among the community of people looking to enter civil service

positions. Attorney Sharma replies that the number of people who come to them saying they've been improperly bypassed doesn't necessarily reflect the number of people who actually are improperly bypassed, as not everyone comes forward after experiencing an improper bypass.

- Chair Gordon asks what type of diversity training exists for our public officers. Commissioner Delmonte replies that diversity training programs have been a the core of policing for many years now.
- Commissioner Papagni states that firefighters have also had diversity training for many years now.
- Commissioner Lopes asks if Attorney Sharma knows how departments are measuring the success of diversity trading. Attorney Sharma replies that it's very much left up to individual departments to gauge the effectiveness.

VI. Massachusetts Association of Minority Law Enforcement Officers Presentation

- Commissioner Lopes gives the presentation on behalf of MAMLEO, which is available as a separate document.
- Two past presidents of MAMLEO, Ed Crispin and Larry Ellison are present as well as counsel Jim Gildon.
- Attorney Gildon speaks briefly about his experiences with the civil service system following Commissioner Lopes' presentation.
- Chair Gordon requests a copy of the slideshow given by Commissioner Lopes.
- Chair Gordon asks Attorney Gildon to send any empirical data that he might have that supports the statements he gave in his brief presentation. He also asks Attorney Gildon what his opinion would be on giving more frequent exams. Attorney Gildon states that he thinks it would be helpful, and acknowledges that the financial aspect of taking the exams is also a barrier and should be addressed. He also states that having more frequent tests might not make a major difference for larger communities, but might for smaller communities.
- Chair Brady also requests a copy of the presentations given today.
- Commissioner Flynn states that bypasses are conducted by municipalities, not civil service, so that if inappropriate bypasses are occurring, that is the responsibility of the municipalities. He also reiterates his earlier statement that Attorney Sharma said that the veterans preference is being used to uphold racism, and states that if that is true he will be asking for an investigation.
- Former President of MAMLEO Larry Ellison asks what are we going to do to increase diversity in communities. Chair Gordon replies that that is indeed a major part of the Commission's task.

VII. Schedule for future meetings

- Chair Gordon discusses the schedule for future meetings, tentatively scheduled at that time for October 15.

VIII. Adjournment

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 12.03.2021

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the ninth meeting of the Commission

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - not present
- Neil Osborne - present
- Lawrence Calderone - no response
- Christopher Delmonte - no response
- James Vuona - present
- Jeffrey Lopes - present
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - no response
- Ronald Renaud - present
- Richard Sweeney - present
- Sec. Cheryl Poppe - present
- Tom Lyons - no response
- Jesse Flynn - no response
- Jen Breaker - present
- Kimberly Parr - present
- Rep. Chynah Tyler - no response
- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - no response
- Rep. Tim Whelan - no response
- Senator Michael Moore - present
- Senator Edward Kennedy - present

- Senator Bruce Tarr - no response

III. Approval of Minutes

- Minutes from the last meeting has been sent out (09/24/21).
- Motion made to approve the minutes and seconded.

IV. Schedule and topic of future meetings

- Chair Gordon suggests that the next meeting will be open to the public for public testimony
- Committee agrees that this is a good idea
- January 28 is the tentative date for the public meeting

V. Correctional Officers Union Presentation

- Commissioner Marcella King leads the presentation on behalf of the Correctional Officers' Union
- Commissioner King's presentation is available as a separate document
- Presentation is opened up for questions and comments from the Commissioners
- Commissioner Vuona asks if the Correctional Officers' Union has a specific budget and people whose job is to recruit in the community; the answer is they do. Commissioner Vuona states that he admires their recruitment efforts.
- Chair Gordon points out that Commissioner Parr has joined the meeting.
- Chair Brady asks Commissioner King if they have reached out to organizations such as NAACP, Cape Verdean Association as a part of their outreach, and offers to help if they have not done so already; Correctional Officers' Union states they would welcome the help with this outreach.
- Sec. Poppe thanks the Union for their presentation and their efforts at recruiting veterans; asks if the uptick in veteran applications mentioned in the presentation includes women veterans; they reply that they are actively reaching out to women, including veterans.
- Commissioner Quinan asks, if the Union was able to fulfill their top three priorities on their recruitment wishlist, what those priorities would be, and what they estimate it might cost to do that. Correctional Officers' Union replies that tutorials/trainings/course preps is a top priority.
- Chair Gordon encourages Commission members to communicate employment opportunities in this field to one another.
- Senator Kennedy asks for clarification on outreach specifically in the Lowell region.
- Chair Gordon points out that Commissioner Osborne has joined the meeting.
- Chair Gordon clarifies that the next meeting will be January 28 at 10:00 AM.

VI. Update from Subcommittee I

- Senator Moore gives the Commission an update on the work of his subcommittee.
- Their subcommittee has met six times and has heard from various speakers at each meeting.
- So far, the subcommittee has identified the following recommendations: reducing examination fees, enhancing recruitment, empowering the civil service commission to award appropriate fees and costs, providing the option of an annual exam as opposed to a mandatory annual exam, allowing applicants to take the civil service exam before they are of the minimum age.
- The subcommittee has another meeting coming up Dec. 13; topics of discussion will include the expansion of cadet programs, creating partnerships with the state community colleges, allowing the distribution of scores to other cities and towns, and establishing a requirement for a diversity plan before a municipality is allowed to leave civil service.
- Chair Gordon states that he would like to see a written memo from each subcommittee to be used during the compilation of the Commission's final report.
- Chair Gordon asks how Senator Moore foresees the annual exam option working. Senator Moore replies that he envisions having an opt-in or an opt-out scenario.
- Chair Gordon asks if Senator Moore has heard from anyone other than Boston/ large municipalities on this issue; Senator Moore says he has. Commissioner Papagni adds that Worcester annual entrance exam has been causing some difficulties and elaborates how the opt-in system would function.
- Chair Gordon asks Senator Moore to clarify what he means by "covering fees and costs," and Senator Moore states that it means covering costs of exams, etc.

VII. Adjournment

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 01.28.2022

Senator Michael Brady, co-chair
Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the tenth meeting of the Commission
- Chair Brady welcomes everyone

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy - present
- Sophia Hall - not present
- Neil Osborne - present
- Lawrence Calderone - not present
- Christopher Delmonte - present
- James Vuona - present
- Jeffrey Lopes - no response
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - present
- Sec. Cheryl Poppe - present
- Tom Lyons - present
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - not present
- Rep. Chynah Tyler - present

- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present
- Rep. Tim Whelan - present
- Senator Michael Moore - present
- Senator Edward Kennedy - present
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

III. Motion to accept the minutes

- Motion made and seconded to accept the minutes from our last meeting

IV. Testimony from members of the public

- Chair Gordon says that 31 people have signed up to testify; most are firefighters/involved with Professional Fire Fighters of Massachusetts (PFFM).
- Chair Gordon will be taking testimony first from people who he does not believe are associated with firefighters/PFFM.
- Chair Gordon informs speakers that they each have three minutes to speak before the Commission.
- Chair Gordon informs speakers and viewers that the Commission will be accepting written testimony as well.
- Francisco Maldonado is a Lowell police officer and offers his testimony.
- Chair Gordon, Chair Brady, and Senator Kennedy thank Officer Maldonado for his testimony.
- Rich MacKinnon President of the Professional Fire Fighters of Massachusetts (PFFM) offers his testimony in favor of civil service, and urges his members to submit written testimony to the Commission.
- Commissioner Whelan states that he supports President MacKinnon's testimony.
- Sec. Poppe asks President MacKinnon to clarify a statement; did he state that PFFM offers classes to help candidates get through the civil service system? President MacKinnon says that they do offer "playbooks" to candidates.
- Chair Gordon asks for clarification; are these playbooks guides those communities who have already decided that they want to leave civil service, or do they actively encourage communities to leave civil service? President MacKinnon replies that it contains the steps one needs to take to leave civil service.

- Commissioner Papagni asks President MacKinnon if civil service is a system that can work for everybody, regardless of the size of the community in question. President MacKinnon replies that he believes the civil service system can work for everyone.
- Commissioner Quinan states that he believes many of the commissioners would welcome specific suggestions re: accountability measures, and suggests that the PFFM can give the Commission specific recommendations. Chair Gordon agrees, and President MacKinnon replies that he would welcome the opportunity to send in recommendations.
- Commissioner Flynn asks President MacKinnon to expand on the affect that revoking civil service has had on veteran hiring in municipalities that have left civil service, and whether President MacKinnon believes that having different hiring practices in each municipality in the Commonwealth would improve fairness. President MacKinnon answers that he's seen veteran hiring go down drastically in towns that have left civil service in most cases. He also states that we should create a standard that applies to all municipalities in the state.
- Chief Delmonte asks President MacKinnon if his organization has recommendations where improvements could be made within the existing civil service system. President MacKinnon replies that timing/the length of the process is a frequent complaint, which directly correlates to staffing levels.
- Chair Brady asks if President MacKinnon thinks we need legislation passed to ensure that adequate staffing is provided; President MacKinnon says that he would be in favor of that.
- There are no other questions from Commissioners for President MacKinnon; Chair Gordon allows President MacKinnon to call on his own members for their testimony.
- Secretary/Treasurer Billy Cabral of PFFM testifies next in favor of civil service, specifically highlighting the need for additional funding and the local option for yearly exams.
- Chair Gordon asks re: local option for annual exams; is it not true, for larger municipalities, that by the time they get through the list for hiring with an annual exam it would be time for a new list, making it difficult for many people on that list to have a chance to interview and be hired; Secretary Cabral agrees that this would be a problem.
- Commissioner Lyons states that he represents the Mass Veterans Service Offices Association; every city and town in the commonwealth has a veterans services officer, and for many years they've been fighting the Massachusetts Municipal Association (MMA) when it comes to veterans preference. His question for Secretary Cabral if his organization has a preference when it comes to cadet programs and if these programs

have a veterans preference. Secretary Cabral replies that he believes the cadet programs are local issues but supports anything that brings patronage into the system, and sometimes these cadet programs do that. He also agrees that veterans should have a preference.

- Legislative Agent Paul Jacques of PFFM testifies next in support of civil service.
- Commissioner Flynn asks if Mr. Jacques, in his experience, has seen municipalities leaving civil service keeping their promise to give preference to veterans. Mr. Jacques replies that mostly, communities have not followed through.
- Chair Gordon adds that the information the Joint Committee on Public Service has heard re: communities leaving civil service is consistent with the testimony being heard today; that we have yet to hear from a municipality who has increased diversity or the number of veterans hired after leaving civil service. Vice Chair Higgins is looking into that topic in her subcommittee.
- Mark Sanders, a legislative agent for Boston Fire Fighters Local 718 is up next to offer testimony in support of civil service.
- Chair Gordon asks Mr. Sanders what would make civil service better in Boston; Mr. Sanders replies that a greater relationship with the Boston city council/city government would be helpful.
- Commissioner Quinan points out that there is a section of Chapter 31A, section 7, that allows for municipalities to create a local merit appeals board to hear disciplinary appeals. He asks if it would be the position of the PFFM that the better course would be for disciplinary matters to be heard by the state civil service commission. Mr. Sanders replies that he cannot speak on behalf of PFFM but that his local organization would want any disciplinary board to remain as objective as possible. Chair Gordon asks President MacKinnon if he has any thoughts on the issue; President MacKinnon says he would be hesitant about local disciplinary boards.
- Tom Ross from Somerville Fire Department testifies next. He points out that discipline is normally done locally until such a point arrives in which it is necessary to be escalated to the civil service system. He testifies in support of civil service.
- Commissioner Renaud asks Mr. Ross if he could highlight the areas in which he thinks further funding is necessary; Mr. Ross says he would in written testimony.
- Commissioner Quinan asks for clarification on comments regarding “things happening three months within an examination,” when he was not aware of any state statute, regulation, or rule that sets such a deadline; is this due to a collective bargaining agreement that sets an expiration date for candidate lists? Mr. Ross replies that this would apply to annual testing, as you cannot call for a new list if it’s within three months of a new exam being held.

- Commissioner Quinan asks if a community can choose to not participate in an upcoming examination; Mr. Ross replies that he believes that would be covered under the collective bargaining agreements of each community.
- Rob Green, President of Lexington Fire Fighters, testifies next. Lexington Fire is not a civil service department and never has been. He argues that civil service provides an avenue to pool resources to increase diversity; Lexington currently has four open positions with six applicants; that is not a very large pool to draw from. Being a non civil service community, they struggle to attract diverse candidates.
- Sec. Poppe asks if Mr. Green reaches out to Hanscom AFB for recruitment or local military battalions; Mr. Green replies that he cannot effectively recruit veterans because civil service attracts veterans to civil service communities due to the veterans preference.
- Commissioner Quinan states that the legislature enacted a special appropriation as part of a larger COVID relief bill that appropriated half a million dollars for diversity scholarships for police recruits; he is not aware of anything similar in the works yet for the fire service, but asks whether the idea of diversity scholarships would be attractive, and whether he perceives the need to create a network between the state's hiring centers, community colleges, and the civil service system with municipal fire departments to create a diversity pipeline. Mr. Green replies that he supports any programs that increase applicants looking to get into public safety positions, and that is best done with pooled resources.
- Commissioner Lyons asks if Lexington is a residency-requirement community and if the town has a full time veterans service officer; Mr. Green replies that they do not have a residency requirement due to cost of living in the town and that they share a veterans service officer with Bedford.
- Chair Brady asks if Lexington has ever been involved in civil service; Mr. Green replies that Lexington has never been involved in civil service. He asks if Mr. Green knows the percentage of minorities and women involved in the fire department; veterans are around 15%, which is lower than other communities, and they currently have one minority and three women out of 61 firefighters.
- President John Soares of Boston Local 718 testifies next.
- Springfield Fire Department member Drew Delmonte testifies next in favor of civil service, highlighting the downfalls of the residency requirement in particular.
- William Taylor, President of Marlborough Fire Fighters Local 1714 testifies next. He states that his department has not become more diverse since leaving civil service and argues that the civil service system needs more funding.

- Rep. Higgins encouraged Mr. Taylor to send her any data he has for her subcommittee.
- Sec. Poppe asks if we could receive information on the number of veterans, minorities, and women in departments that have left civil service. Chair Brady also makes that request.
- Jim Snow, President of the Swampscott Fire Fighters Union Local 1459 testifies next. His community recently left civil service. He states that it has not gone well for his department.
- John Brophy, President of Peabody Fire Fighters Local 925 testifies next in favor of civil service.
- Brian Smith, Fire Lieutenant of Whitman Fire Department, testifies next but has connectivity issues.
- David Keane, of the Lowell Fire Department, testifies next in favor of civil service.
- Brian Smith testifies again in favor of civil service.
- William Hill of Brockton Fire Fighters Local 144 testifies next in support of civil service.
- Commissioner Quinan adds that he has data that the Brockton Police Department has done a good job of increasing diversity in recent years. He says that the does not have any comparable data for the fire department and asks if Mr. Hill has such information; Mr. Hill does not have any hard data, only anecdotal information.
- James Brown of the Plymouth Fire Department and Vice President of the PFFM will submit written testimony in support of civil service.
- Sec. Poppe asks Mr. Brown how many minorities and women are in his department; Mr. Brown states they have four women and multiple minorities on his department but will obtain that information for the commission.
- Ross Vuona testifies next in support of fully funding civil service.
- Chairs Gordon and Brady comment on the accuracy of Mr. Vuona's comparison of being in civil service to having home and auto insurance.
- Kevin McNiff of Weymouth testifies next in support of fully funding civil service.
- Dennis Munn of the Norwood Fire Department testifies next in support of civil service.
- Jim Young of the Weymouth Fire Department testifies next.
- Paul Medeiros, fire lieutenant at the Hyannis Fire Department, testifies in support of the civil service system.

- Chair Gordon announces that that concludes the portion of the meeting with public testimony.

V. Future Meetings

- Chair Gordon discusses the schedule of future meetings, with each subcommittee set to present their own findings to the full Commission.
- The subcommittee on State Police will tentatively present on the 11th.
- Commissioner Quinan adds that Rep. Higgins has a meeting scheduled on February 18th for her subcommittee.

VI. Adjournment

- Motion to adjourn made and seconded.

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 02.25.2022

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the eleventh meeting of the Commission
- This week and next week we will be hearing from the four subcommittees. Today's presentations will be made by Representative Natalie Higgins and Representative Patricia Haddad.
- Chair Gordon outlines the next month. Ultimately, the Commission will take a vote on the recommendations to be included in the final report. The Committee as a whole may not be unanimous with every recommendation. A majority vote is necessary.
- Chair Brady welcomes everyone

II. Roll call

- Marcella King - present
- Michael Papagni - present
- Tom Reddy – no response
- Sophia Hall - present
- Neil Osborne - present
- Lawrence Calderone - not present
- Christopher Delmonte - present
- James Vuona – present
- Jeffrey Lopes - no response
- Stephen Gabriel - present
- Robert Quinan - present
- Eric Atstupenas – no response
- Ronald Renaud –present
- Richard Sweeney – not present

- Sec. Cheryl Poppe - present
- Tom Lyons - present
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - present
- Rep. Chynah Tyler – Corey Jordan is present for Rep. Tyler
- Rep. Maria Robinson - no response
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present
- Rep. Tim Whelan - present
- Senator Michael Moore - present
- Senator Edward Kennedy - present
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

II. Clarification from last meeting and approval of minutes

- Sec. Poppe clarifies a topic that was discussed in the last meeting; she states that Lexington, Bedford, and Carlisle have an approved veterans services district: a full time veterans service officer, a part time veterans service officer, and there is a recommendation that they have an administrative staffer as well.
- Senator Kennedy makes a motion to approve the minutes from the last meeting; motion is seconded and all vote in favor.

III. Presentation by Representative Natalie Higgins

- Representative Natalie Higgins, Chair of the Subcommittee on Communities Not in Civil Service, gives her presentation, which is available as a separate download.
- Chair Gordon states that a recurring theme he heard from Rep. Higgins' presentation that he also heard throughout this commission's meetings is access to labor; the concern is that there aren't as many candidates out there as there once were. Another recurring theme is communities citing access to diversity as a reason to leave civil service with no evidence of increased diversity after leaving civil service.
- Commissioner Quinan notes that the appellate tribunal is district from the Civil Service Unit within Human Resources Division. He also states that last year only 11% of bypass appeals were allowed by the Commission, a clear majority were denied, and about a third were resolved by agreement. Overall, only about 20-25% of all appeals at the Commission are allowed. Regarding the residency issue, he notes that residency

requirements pre-employment are different than the civil service requirements to live within a certain number of miles a city or town; he agrees that there should be more flexibility here but states that it does need to be overseen by the state so that there is uniformity. Another often-cited reason by municipalities for leaving civil service is the inability to accept lateral transfers from non-civil service communities; as more communities choose to opt out of civil service, there is a risk of creating a greater imbalance. We may want to recommend a change in rules that would permit civil service communities to accept lateral transfers from non civil service communities under controlled circumstances. He also states that there is an existing chapter of MGL that was established by the legislature, Ch. 31A, which allows for decentralized personnel policies, but does require some minimum conditions of all communities. He suggests that the Commission look at this chapter further.

- Chair Gordon agrees that it's difficult when different municipalities have differing rules for things regarding residency requirements, as it puts applicants at a disadvantage.
- Sec. Poppe reiterates her desire for data on diversity in communities that have left civil service. She also notes that veterans are a very diverse community.
- Commissioner Lyons thanks Commissioner Flynn for the data included in Rep. Higgins' presentation that he provided. He asks Rep. Higgins to expand upon veterans' preferences that she made in her presentation; she says that some communities outside of civil service that she had collected data from said that they took veteran status into account, but how they took it into account was unclear and different across communities. Her recommendation would be that there be a best practice adopted across communities for veterans preference.
- Chair Gordon states that, if municipalities outside civil service are saying that fewer veterans are applying for positions, that argument should be supported in data. Currently we are not getting any data that this is the case.
- Senator Moore states that, when communities leave civil service, they will negotiate with their current officers that they will stay in civil service, and that any new officers would not be subject to the civil service requirements; he states that, if a department is saying civil service is bad, then the officers already in the department should want to leave civil service, not stay grandfathered in. He asked if this type of negotiation is a consistent theme. Rep. Higgins turns the floor over to other commission members who can speak on this issue. Commissioner Papagni answers that, under the rules of civil service, if you started in a civil service department, as long as you maintain your status/rank, you remain subject to the provisions of civil service, even if your department leaves civil service. Senator Moore asks if these officers can relinquish their right to the civil service protections; Commissioner Papagni answers that they

can via a collective bargaining agreement. Commissioner Quinan adds that his understanding is that the individuals who are grandfathered in to civil service are only allowed disciplinary appeal rights, so the grandfathering is limited.

- Commissioner Flynn talks about preferences in general. He states they are very difficult to establish in a transparent way across municipalities without the public's ability to track the hiring process.
- Commissioner Calderone suggests that we should be asking the municipalities that have left civil service for information on who is grandfathered into civil service protections.
- Chair Brady states that we need more facts and data. He also states that every community has collective bargaining and we must adhere to it. Chair Gordon adds that we have to issue our report even if data is not given to us.
- Chief Delmonte states that communities have to go out of civil service the same way they came in; via town meeting, town council, etc. He notes that the majority of towns in Massachusetts are not in civil service, but that does not mean the majority of first responders are not in civil service. Within communities that have left, there was a high level of frustration with the structure of civil service, for a variety of reasons. The fact that most appeals are denied suggests that most communities are not conducting themselves in an unjust way. He does not believe that the majority of communities that have left civil service have done it to bypass a veterans preference or to hamper some other valuable social goal, but leave due to frustrations with the structure itself.
- Chair Gordon states that we should recognize the fact that Rep. Higgins requested data from communities that have left civil service and that we did not receive responses from most. The argument has been made that the Commission needs more data from the communities that have left civil service in order to finalize its report, but these communities had the opportunity to present us with that data and did not. Chair Gordon states that the Commission has a deadline, and will meet that deadline, with or without the cooperation of non-civil service communities whose data has been requested.
- Chair Brady agrees that we need the data and the facts to support opinions. He also states that he believes we are all in agreement that we must do a better job marketing civil service employment opportunities. We also need to figure out how to properly allocate funding for this.

IV. Presentation from Representative Patricia Haddad

- She notes that her job in her subcommittee was different than that of Rep. Higgins. The State Police is one entity, and their policies and procedures are well defined. The

difference with the State Police is that they are very much governed by their own collective bargaining agreement, Civil Service, the administration, and, unlike many others, the legislature has a role in their policy as well. In her presentation she's going to ask several of her subcommittee's members to share what they have learned before they get into recommendations. She states that for a while there has been a perception around the state police that things were not good; that has changed dramatically. She commends the changes that have been made to the department in recent years.

- Rep. Whelan gives an overview of what the subcommittee has learned during its meetings. One of the problems that the State Police has in trying to diversify their workforce is that many of the departments in urban areas in the state provide educational incentives and better pay, making it difficult for the State Police to compete. He also states that he and Rep. Haddad had discussions regarding maternity/paternity leave.
- Rep. Haddad asks Commissioner Gabriel to speak to how the disciplinary process works. He states that the MSP is doing the best they can to recruit diverse candidates. They have been using technology to do so. They are also pushing physical fitness for potential candidates. Regarding the disciplinary process, if the department receives a complaint on behavior externally, it is turned over to the Office of Professional Integrity and Accountability. From there, it is investigated. If the complaint is internal, a supervisor would hear the complaint. If it was investigated by the supervisor it would be moved up the chain of command. If it is an egregious offense, then that would be turned over to Internal Affairs, who then conducts an investigation. If the conduct in question is serious enough to cause the trooper to be potentially unfit for duty, a duty status hearing is held. The results of the hearing are turned over to the colonel, and from there if that person is deemed to be in violation, that person would be suspended. The investigation could continue from there if needed.
- Rep. Higgins asked Commissioner Gabriel to give an overview of the cadet program. Commissioner Gabriel states that in 2018 a special commission on the state police was formed, and several recommendations were given. One recommendation was that an annual maintenance class be given. Another recommendation was to change the existing tattoo policy. Yet another recommendation is providing credit for language skills. Other recommendations from the 2018 commission are outlined. Regarding the cadet program, the State Police is pushing to have the cadet program this year. Right now, to qualify, it would be the same as enlistment applications for a trooper; however, the testing would be different. They're in the process of creating

their own pass/fail test. Once that is done, the candidate would still have to pass all other requirements, and candidates are selected for the cadet program.

- Rep. Haddad reminds everyone that some of the issues with the state police are due to funding.
- Commissioner Quinan states that some recent judicial decisions have sought to reconcile the unique statutory relationship between the broad disciplinary authority of the colonel over state troopers with the relatively narrow appellate rights granted to state troopers under the civil service law. The appointment of state troopers is explicitly exempt from chapter 31 processes, so the department contends that the troopers are not civil service employees at all, but troopers do have the right to appeal certain discipline imposed on them. Commissioner Quinan goes into more detail regarding the appellate process for state troopers.
- Rep. Haddad then discusses recommendations. Her opinion is that this should not be a one off. It is a complicated situation with the state police because of the fact that more than one entity takes care of their policy issues and a CBA and civil service are also involved. Secondly, allowing the state police to do a test every year and create a list within that will help them to not only become more diverse, but will get candidates into the process more quickly. Giving the test at military bases will help improve diversity. Also being able to have classes regularly will help. We should give incentives to people who speak another language to become troopers. We should also expand and overhaul maternity/paternity leave policies within the state police. The state police could use another look due to the complexity of the system. In the short run, education, speeding up opportunities for the test, looking differently at promotions, changing funding for the test are things that should be part of the Commission's recommendations.
- Senator Moore states that his concern is that having an education requirement could cause an issue where minorities often have less of an opportunity to go to college. Rep. Haddad agrees and says this is a problem and notes the cadet program could help with this issue.
- Rep. Whelan notes that when he first went into the state police, he had not yet gone to college, but did once he began working for the state police. When he was on the state police, the pay was generally better than other policing positions in the state.
- Rep. Haddad notes that within the state they have a program for early college, which is another way to attract a diverse population.
- Commissioner Gabriel adds that, if we were allowed to have the ability to pull diverse candidates from the list, that would be helpful. Also helpful would be the flexibility of testing.

- Chair Gordon asks if the paid family and medical leave law applies to state police regarding maternity leave; Rep. Haddad says that it does, but it is more difficult to get paid family leave than to have maternity benefits enshrined in a collective bargaining agreement.
- Commissioner Quinan cites an article stating that written exams have historically been a significant obstacle for persons of color; perhaps the greatest obstacle.

V. Future meetings and adjournment

- Chair Gordon outlines that next week we will hear from the other two subcommittees, and that after that, the Commission will review a draft of the final report before voting on it.
- Motion to adjourn made and seconded.

Special Legislative Commission to Study and Examine the Civil Service Law

Meeting Minutes 03.04.2022

Senator Michael Brady, co-chair

Representative Kenneth Gordon, co-chair

I. Initial Introductions

- Chair Gordon opens the twelfth meeting of the Commission
- Chair Brady welcomes everyone

II. Roll call

- Marcella King - present
- Michael Papagni - Billy Cabral present for Michael Papagni
- Tom Reddy - present
- Sophia Hall - present
- Neil Osborne - present
- Lawrence Calderone - present
- Christopher Delmonte - present
- James Vuona - present
- Jeffrey Lopes - no response
- Stephen Gabriel - no response
- Robert Quinan - present
- Eric Atstupenas - present
- Ronald Renaud - present
- Richard Sweeney - no response
- Sec. Cheryl Poppe - present
- Tom Lyons - present
- Jesse Flynn - present
- Jen Breaker - present
- Kimberly Parr - not present
- Rep. Chynah Tyler - present
- Rep. Maria Robinson - present
- Rep. Natalie Higgins - present
- Rep. Patricia Haddad - present
- Rep. Tim Whelan - present
- Senator Michael Moore - present

- Senator Edward Kennedy - present
- Senator Bruce Tarr - Hiram Shah present for Senator Tarr

III. Approval of Minutes

- Minutes from the last meeting has been sent out (02/25/22).
- Motion made to approve the minutes and seconded.
- Chair Brady calls for a moment of silence in memory of Trooper Tamar Bucci.

IV. Schedule

- Chair Gordon discusses the Commission's future schedule. The report is due on 3/31, three weeks from this meeting. Chairs assisted by Committee staff will begin drafting the report after this hearing, which will review the history of Chapter 31 and vase its findings on the testimony collected via the Commission's meetings and recommendations of the subcommittees.
- The report will be circulated to the Commission members and a vote will be taken on each recommendation.
- Chair Gordon expects that the report will be provided by Friday the 25th or the following Monday.
- Each Commissioner's vote will be recorded and published.
- Chair Gordon believes it would be a good idea to recommend that the Commission continue after the filing of his report.

V. Report of Subcommittee on Communities in Civil Service

- Senator Michael Moore gives his presentation, which is available as a separate download upon request.
- Commissioner Quinan also participates in the presentation, also available as a separate download upon request.
- Chief Delmonte delivers the final recommendations from the subcommittee, which are that we modify the universal age of eligibility for cadets from the current 18 years old to 28 years old, with max age to serve as a police cadet at 30 years old, and that we include a minimum year of service from 1 year to a maximum of 3 years of service to be considered for appointment under M.G.L. Ch. 31. This would increase eligibility for veterans who are still on active duty at the current age caps. This would also be a benefit for communities looking to diversify, as well as to people who are enrolled in higher education but wish to pursue a civil service position after completing their degree.
- Chair Gordon notes that in Senator Moore's presentation, he pointed out that Massachusetts is one of the only states to rely on fees from civil service applicants

to fund the system, and that in order to get away from that, we would need to fund the system via the general fund. Chair Gordon asks Senator Moore if anyone has looked into what that investment might be. Senator Moore has not looked into the investment. Chair Gordon also agrees with Senator Moore's comment that Chapter 31A is essentially dormant, and is interested into looking into amending it to make it useful.

- Chair Brady asks if Senator Moore's subcommittee had gotten a rough estimate as to what the cost of reducing/eliminating exam fees would be; Senator Moore replies that they had not. Chair Brady asks if Springfield is meeting the quotas on hiring minorities and women. Commissioner Quinan replies that they are, and that Springfield and Brockton are two "consent decree communities," where hiring is overseen by the federal court as a result of decades-long litigation.
- Senator Moore highlights that they were focused on looking at communities within civil service while understanding that each community has its own unique needs.
- Commissioner Renaud volunteers to get the Commission some financial information on the civil service system regarding fees and funding.
- Commissioner Parr has a question for the Commission but due to technical difficulties is unable to ask.

VI. Report of Subcommittee on the Feasibility of a Statewide Diversity Officer

- Rep. Chynah Tyler opens her presentation, which is available as a separate download upon request.
- Chair Gordon asks about Rep. Tyler's mention of mandates in her presentation: was there a vote taken, or is there a majority of commissioners on her subcommittee who recommend using mandates in the way that she described in her presentation? Rep. Tyler replies that the desire to increase diversity is nothing without accountability, and that that was the center of her subcommittee's discussion on mandates. She said that her subcommittee will be taking a formal vote on this question.
- Chair Gordon reiterates that the charge of Rep. Tyler's subcommittee was to evaluate the feasibility of creating a statewide diversity officer within the Office of Administration and Finance, and that he believes Rep. Tyler has addressed that main question in her presentation with her recommendation that such an office be created. Chair Gordon then goes on to note that the charge also asks whether the Office of Administration and Finance should establish affirmative action plans and guidelines for municipalities, oversee the implementation of these plans, and monitor noncompliance. It seems to Chair Gordon that monitoring noncompliance would be the enforcement mechanism for this new office, and Rep. Tyler agrees

with that assessment. Chair Gordon suggests that if this Commission were to continue on, it could oversee the establishment of this new office, and Rep. Tyler agrees that there is value in continuing on as a Commission.

- Chair Gordon clarifies the language surrounding the statewide diversity officer, stating that his interpretation is that it means one person who has the authority to oversee every city or town, as opposed to each city or town having their own diversity officer.
- Chair Gordon asks Rep. Tyler how large they envision the statewide diversity office to be. She replies that this officer would need at least several staffers in order to meet the demand of overseeing the entire state.
- Commissioner Renaud states that in addition to providing financial data for the civil service system, he could provide an org chart detailing how this office would fit within the Office of Administration and Finance.
- Commissioner Quinan suggests that we consider creating incentives for cities and towns to cooperate in both the gathering of information and whatever other initiatives might be implemented by this new statewide diversity office. He believes it is important that this new office have the budget to do so.
- Chair Brady asks if there are any recommendations as to what these incentives might be and how we are going to hold these cities and towns accountable. Rep. Tyler replies that these recommendations will be forthcoming from her subcommittee, but that ultimately that would be up to the statewide diversity officer.
- Commissioner Renaud addresses Chair Gordon's earlier suggestion that the Commission should continue on after the report is filed, and states that he agrees that it should. The Commission could offer support and information for the new statewide diversity office as it gets started. The Commission should also oversee the many changes it recommends as they take shape.
- Commissioner Quinan states that he believes that reporting compliance to HRD should be the key to unlock the funding that might be made available to communities in the future.
- Rep. Tyler adds that she believes that accountability should be municipality-facing and not candidate-facing, in that a candidate should not be penalized for a municipality's lack of accountability.
- Senator Moore adds that up until this Commission, he had always assumed that most communities are part of the civil service system, and only learned that it was in fact the opposite when this Commission began. He believes that the Commission should provide recommendations that aren't going to be punitive to communities

that look to leave civil service, but that we should focus on keeping communities within the system.

VII. Adjournment

APPENDIX G
VOTES OF COMMISSIONERS

RECOMMENDATION No. 1:

To extend the Commission's charge through the 193rd Session of the General Court.

VOTED: Passed (28/0/1)

Yeas:

Commissioner Brady	Commissioner Moore
Commissioner Gordon	Commissioner Osborne
Commissioner Atstupenas	Commissioner Papagni
Commissioner Breaker	Commissioner Parr
Commissioner Calderone	Commissioner Poppe
Commissioner Delmonte	Commissioner Quinan
Commissioner Flynn	Commissioner Reddy
Commissioner Gabriel	Commissioner Renaud
Commissioner Haddad	Commissioner Robinson
Commissioner Hall	Commissioner Sweeney
Commissioner Higgins	Commissioner Tyler
Commissioner Kennedy	Commissioner Vuona
Commissioner King	Commissioner Whelan
Commissioner Lopes	
Commissioner Lyons	

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 2:

To increase appropriation for the unit and consider revisions to the budget structure.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady

Commissioner Gordon	Commissioner Moore
Commissioner Atstupenas	Commissioner Osborne
Commissioner Breaker	Commissioner Papagni
Commissioner Calderone	Commissioner Parr
Commissioner Delmonte	Commissioner Poppe
Commissioner Flynn	Commissioner Quinan
Commissioner Gabriel	Commissioner Reddy
Commissioner Haddad	Commissioner Renaud
Commissioner Hall	Commissioner Robinson
Commissioner Higgins	Commissioner Sweeney
Commissioner Kennedy	Commissioner Tyler
Commissioner King	Commissioner Vuona
Commissioner Lopes	Commissioner Whelan
Commissioner Lyons	

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 3:

To enhance access to examination fee waivers and implement a cap on exam fees.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady

Commissioner Gordon	Commissioner Moore
Commissioner Atstupenas	Commissioner Osborne
Commissioner Breaker	Commissioner Papagni
Commissioner Calderone	Commissioner Parr
Commissioner Delmonte	Commissioner Poppe
Commissioner Flynn	Commissioner Quinan
Commissioner Gabriel	Commissioner Reddy
Commissioner Haddad	Commissioner Renaud
Commissioner Hall	Commissioner Robinson
Commissioner Higgins	Commissioner Sweeney
Commissioner Kennedy	Commissioner Tyler
Commissioner King	Commissioner Vuona
Commissioner Lopes	Commissioner Whelan
Commissioner Lyons	

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 4:

To extend the diversity scholarship model to community college Fire Science Programs and create a diversity pipeline pilot initiative in Worcester County.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 5:

To establish a diversity scholarship program to assist students seeking a degree or certificate in Criminal Justice or other public safety related course of studies.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 6:

To establish the Office of Civil Service Diversity, Equity and Inclusion within the Executive Office of Administration and Finance.

VOTED: Passed (26/1/2)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays: Commissioner Lyons

Present: Commissioners Tarr

Commissioner Flynn

RECOMMENDATION No. 7

To provide the new DEI Manager with a budget from the general fund sufficient to engage in the advertising, marketing and outreach effort as set forth in this report.

VOTED: Passed (27/0/2)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

Commissioner Flynn

RECOMMENDATION No. 8:

To Amend the Rules of the Joint Committee on Public Service to require a Report in the form set forth in this section before the Committee may consider a petition to depart from the provisions of Chapter 31.

VOTED: Passed (26/0/3)

Yeas: Commissioner Brady

Commissioner Gordon

Commissioner Atstupenas

Commissioner Calderone

Commissioner Flynn

Commissioner Gabriel

Commissioner Haddad

Commissioner Hall

Commissioner Higgins

Commissioner Kennedy

Commissioner King

Commissioner Lopes

Commissioner Lyons

Commissioner Moore

Commissioner Osborne

Commissioner Papagni

Commissioner Parr

Commissioner Poppe

Commissioner Quinan

Commissioner Reddy

Commissioner Renaud

Commissioner Robinson

Commissioner Sweeney

Commissioner Tyler

Commissioner Vuona

Commissioner Whelan

Nays:

Present: Commissioner Breaker

Commissioner Delmonte

Commissioner Tarr

RECOMMENDATION No. 9:

To examine amendments to Chapter 31A consistent with this Report.

VOTED: Passed (26/2/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Calderone
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays: Commissioner Breaker

Commissioner Delmonte

Present: Commissioner Tarr

RECOMMENDATION No. 10:

To examine adjustments to residency requirements for prospective candidates to define the term “resident” and adjust any available employment restriction.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 11:

To adjust the formula for creating entry-level hiring certifications.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 12:

To allow flexibility in civil service exam frequency

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 13:

To allow appointing authorities to consider highest exam score.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 14:

To amend Chapter 31 to allow an applicant to take an entrance exam prior to turning the minimum age necessary to hold the particular civil service position

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays:

Present: Commissioner Tarr

RECOMMENDATION No. 15:

To enhance flexibility in use of selective certifications.

VOTED: Passed (27/1/1)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Breaker
Commissioner Calderone
Commissioner Delmonte
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Parr
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays: Commissioner Flynn

Present: Commissioner Tarr

RECOMMENDATION No. 16:

To clarify and enhance the authority of the Civil Service Commission in the manner recommended by this Report.

VOTED: Passed (25/1/3)

Yeas: Commissioner Brady
Commissioner Gordon
Commissioner Atstupenas
Commissioner Calderone
Commissioner Flynn
Commissioner Gabriel
Commissioner Haddad
Commissioner Hall
Commissioner Higgins
Commissioner Kennedy
Commissioner King
Commissioner Lopes
Commissioner Lyons

Commissioner Moore
Commissioner Osborne
Commissioner Papagni
Commissioner Poppe
Commissioner Quinan
Commissioner Reddy
Commissioner Renaud
Commissioner Robinson
Commissioner Sweeney
Commissioner Tyler
Commissioner Vuona
Commissioner Whelan

Nays: Commissioner Breaker

Present: Commissioner Delmonte

Commissioner Parr

Commissioner Tarr

RECOMMENDATION No. 17:

To remove and update outdated language from the civil service statute.

VOTED: Passed (28/0/1)

Yeas: Commissioner Brady

Commissioner Gordon

Commissioner Atstupenas

Commissioner Breaker

Commissioner Calderone

Commissioner Delmonte

Commissioner Flynn

Commissioner Gabriel

Commissioner Haddad

Commissioner Hall

Commissioner Higgins

Commissioner Kennedy

Commissioner King

Commissioner Lopes

Commissioner Lyons

Commissioner Moore

Commissioner Osborne

Commissioner Papagni

Commissioner Parr

Commissioner Poppe

Commissioner Quinan

Commissioner Reddy

Commissioner Renaud

Commissioner Robinson

Commissioner Sweeney

Commissioner Tyler

Commissioner Vuona

Commissioner Whelan

Nays:

Present: Commissioner Tarr