COMMONWEALTH OF MASSACHUSETTS
PEACE OFFICER STANDARDS AND TRAINING COMMISSION

IN THE MATTER OF	)	Case No. 2025-010
WILLIAM CASTRO	)	(MPTC ID 9997-7633)

FINAL DECISION

In January 2024, the Mayor of the City of Lawrence appointed William Castro ("Respondent") to serve as the Provisional Chief of the Lawrence Police Department ("LPD") for a period of up to twelve months.

On March 21, 2024, the Massachusetts Peace Officer Standards and Training Commission ("Commission") voted to suspend the Respondent's law enforcement certification after finding by a preponderance of the evidence that his suspension was in the best interest of the safety and welfare of the public. See M.G.L. c. 6E, § 9(a)(4); 555 CMR 1.06(2). On March 25, 2024, the Respondent requested a hearing but did not identify in his request whether he wanted to proceed before a Single Commissioner for a stay, or the full Commission for a lifting of his suspension. The Commission attempted to contact the Respondent on numerous occasions by email and by telephone to confirm which type of hearing he was requesting.

In April 2024, one month after his certification was suspended, the Respondent attended a meeting at City Hall and addressed budgeting and staffing issues related to the LPD. And, in May 2024, the Respondent met with a Captain in the LPD at that Captain's home and discussed an internal affairs investigation. In October 2024, the Commission's Executive Director wrote a letter to the Respondent and his new attorney, reiterating that the March 2024 Order of Suspension "expressly prohibited [him] from performing any police duties or functions while [his] certification [was] suspended." On January 10, 2025, the Respondent wrote a letter to the Commission again indicating his intent to challenge his suspension, but this time the Respondent expressly stated that he wanted his suspension matter to proceed before the full Commission.

On January 24, 2025, the Division of Police Standards ("Division") ordered the Respondent to show cause why the Commission should not revoke or otherwise take action against his certification as a law enforcement officer if it finds by clear and convincing evidence that he knowingly filed a written police report containing a false statement, based on M.G.L. c. 6E, § 10(a)(viii); engaged in the intimidation of a witness, based on M.G.L. c. 6E, § 10(a)(xiv); is not fit for duty as an officer and is dangerous to the public, based on M.G.L. c. 6E, § 10(a)(xvi); has a pattern of unprofessional police conduct that may escalate, based on M.G.L. c. 6E, § 10(b)(iii); violated the Commission's March 2024 Order of Suspension, based on M.G.L. c. 6E, § 3(a) and 555 CMR 9.12(8); and/or retaliated against a witness, based on M.G.L. c. 6E, § 12. The Respondent answered the Order to Show Cause and requested a hearing to address the allegations contained therein, which would also proceed before the full Commission.

Pursuant to M.G.L. c. 6E, § 3(a) and 555 CMR 1.10(1), the Chair of the Commission, Hon. Margaret R. Hinkle (Ret.), designated Hon. Kenneth J. Fishman (Ret.) as the Hearing Officer, to hear the matter in the first instance, and provide the Commission with Findings of Fact,

Conclusions of Law, and a recommendation on the allegations contained in the Order to Show Cause. The Chair appointed the same Hearing Officer to preside over the adjudicatory proceedings concerning the Respondent's challenge of the March 2024 Order of Suspension. See M.G.L. c. 6E, § 3(a).

Pursuant to M.G.L. c. 6E, § 9(a)(5), "[a] suspension order of the [C]ommission issued pursuant to [Section 9(a)] shall continue in effect until issuance of the final decision of the [C]ommission or until revoked by the [C]ommission." See 555 CMR 1.06(3). The hearing on the March 2024 Order of Suspension was scheduled for September 5, 2025. The Respondent, however, filed a motion to stay the suspension hearing on August 7, 2025, the Division did not oppose the motion, and the Hearing Officer granted it. With the suspension hearing stayed, the hearing on the merits of the allegations in the Order to Show Cause elevated in priority.

Between April 2025 and November 2025, over five prehearing and status conferences were held. A four-day hearing on the allegations contained in the Order to Show Cause, which was held in conformance with M.G.L. c. 30A, §§ 10, 11, and 13; 801 CMR 1.00; and 555 CMR 1.10, took place on December 9, 10, 11, and 12, 2025. At the hearing, thirteen witnesses, including the Respondent, testified. A total of sixty-seven exhibits were admitted into evidence; sixty-three were filed jointly, and four were submitted by the Respondent at the hearing.

The Hearing Officer issued his Initial Decision, pursuant to M.G.L. c. 30A, § 11(7) and 11(8); and 555 CMR 1.10(4)(e)2., on April 22, 2026, finding by clear and convincing evidence that the Respondent knowingly filed a written police report containing a false statement, engaged in intimidation of a witness, and is not fit for duty as an officer and is dangerous to the public. See M.G.L. c. 6E, § 10(a)(viii), (xiv), and (xvi). The Hearing Officer also found that the Respondent violated the Commission's March 2024 Order of Suspension, see M.G.L. c. 6E, § 3(a)(18)(ii), and that, "[a]t a minimum," the Respondent has engaged in a pattern of unprofessional police conduct, and there is ample reason for the Commission to believe it may escalate, see M.G.L. c. 6E, § 10(b)(iii). The Hearing Officer recommended that the Commission revoke the Respondent's certification as a law enforcement officer, pursuant to M.G.L. c. 6E, § 10(a), and order the provision of all revocation information to the National Decertification Index ("NDI"), pursuant to M.G.L. c. 6E, § 10(g).

On May 4, 2026, the Respondent generally objected to the Initial Decision, without specifically identifying any error in the Hearing Officer's findings and recommendations. The Respondent subsequently filed a brief on May 15, 2026, pursuant to a briefing schedule established by the Commission, arguing that his due process rights were violated. He asserted that the Initial Decision should be rejected because it is based on "a biased and outcome-driven analysis; improper reliance on an incomplete investigation . . . ; and a failure to meet the clear and convincing evidence standard required by law." Respondent's Brief, p. 75.

The Division filed a response on May 28, 2026, arguing that the Initial Decision should be adopted because, among other things, the Hearing Officer's findings of fact are "fair, rational, and fully supported by the evidence[,]" and his conclusions and recommendations are "reasonable, logical and fully supported by findings of fact." Division's Response, pp. 2, 5.

After careful consideration of the evidence presented in the hearing, the findings of fact and rulings of law in the Initial Decision, and the subsequent filings submitted by the Respondent and the Division, the Commission finds by clear and convincing evidence that the Respondent knowingly filed a written police report containing a false statement, engaged in the intimidation of a witness, and is not fit for duty as an officer and is dangerous to the public. See M.G.L. c. 6E, § 10(a)(i), (xiv), (xvi). The Commission also finds by clear and convincing evidence that the Respondent engaged in a pattern of unprofessional police conduct that may escalate. See M.G.L. c. 6E, § 10(b)(iii). Finally, as the Hearing Officer properly found, the Respondent willfully violated the Commission's March 2024 Order of Suspension, and he unlawfully retaliated against a member of the LPD, see M.G.L. c. 6E, § 12. The Commission finds that these two forms of conduct warrant action under 555 CMR 9.12(8) and M.G.L. c. 6E, § 3(a). For all these reasons, the Commission has determined that the Respondent should be decertified.

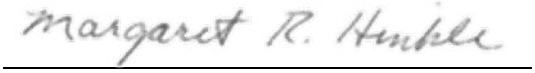
Thus, the Respondent's certification is hereby revoked.

The Executive Director shall take the necessary steps to publish the Respondent's decertification in the NDI. See M.G.L. c. 6E, §§ 10(g), 13(b).

This is the **final decision** of the Commission. M.G.L. c. 30A, § 11(8); 555 CMR 1.10(4)(e). This final decision also concludes the matter regarding the March 2024 Order of Suspension, which is now moot. See 555 CMR 1.06(3).

By vote of the Commission on June 18, 2026.

In accordance with M.G.L. c. 30A, § 14 and M.G.L. c. 6E, § 10(f), the Respondent may commence an appeal to the Superior Court within thirty (30) days to the extent allowed by law. After initiating proceedings for judicial review in Superior Court, the Respondent, or the Respondent's attorney, will be required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Commission, in the time and manner prescribed by Mass. R. Civ. P. 4(d).



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

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COMMONWEALTH OF MASSACHUSETTS
PEACE OFFICER STANDARDS AND TRAINING COMMISSION

IN THE MATTER OF WILLIAM CASTRO (MPTC ID 9997-7633)	)	Case No. 2025-010

INITIAL DECISION

Introduction

An Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth was signed into law on December 31, 2020. St. 2020, c. 253, § 102 ("the Act"). In 2021, the Massachusetts Peace Officer Standards and Training Commission ("Commission") was established to certify and decertify all police officers in Massachusetts. The Commission was also authorized to revoke or suspend an officer's certification or to order retraining for an officer. *See* M.G.L. c. 6E, § 3.

On July 1, 2021, the Respondent William Castro was automatically certified as a police officer pursuant to St. 2020, c. 253, § 102. On or about September 27, 2022, the Commission recertified the Respondent as a law enforcement officer in the Commonwealth of Massachusetts. On or about October 23, 2023, the Mayor of the City of Lawrence ("City"), Massachusetts, Brian DePeña ("Mayor DePeña" or "Mayor") appointed the Respondent as the Provisional Chief of the Lawrence Police Department ("LPD"). At the time of his appointment, the Respondent had been serving as the Mayor's Chief of Staff.

Proceedings were conducted before the Honorable Kenneth J. Fishman, retired Massachusetts Superior Court Judge, and a Hearing Officer appointed by the Commission.

Procedural Background

On March 21, 2024, the Commission voted to suspend the law enforcement certification of the Respondent after finding by a preponderance of the evidence that his suspension was in the best interest of the safety and welfare of the public. *See* M.G.L. c. 6E, § 9(a)(4); 555 CMR 1.06(2). On March 25, 2024, the Respondent requested a hearing but did not follow the procedures outlined in 555 CMR 1.09(2)-(3) and the Notice of Right to a Suspension Hearing. Specifically, the Respondent did not state whether he wanted a hearing before a Single Commissioner, pursuant to M.G.L. c. 6E, § 9(d), or the full Commission, pursuant to M.G.L. c. 6E, § 9(a)(5). The Commission's Hearings Administrator attempted to contact the Respondent on multiple occasions to confirm which type of hearing he was requesting.

On October 21, 2024, the Commission's Executive Director wrote a letter to the Respondent and his current counsel reiterating that the March 21, 2024 Order of Suspension "expressly prohibited [him] from performing any police duties or functions while [his] certification [was] suspended." On January 10, 2025, the Respondent wrote a letter to the Commission indicating his intent to challenge his suspension. On January 24, 2025, the Commission's Division of Police Standards ("Division") issued an Order to Show Cause ("OTSC"), which commenced adjudicatory proceedings before the Commission. *See* 555 CMR 1.10. On January 27, 2025, the Chair of the Commission ("Chair") appointed the undersigned as the Hearing Officer to conduct the hearing, monitor and process the documents submitted by the parties, compile and evaluate the evidence to be included in the administrative record, and write an initial decision that sets forth the findings of facts and conclusions of law regarding the allegations contained in the OTSC. *See* 555 CMR 1.10(1).

On April 4, 2025, the Chair also appointed the Hearing Officer to preside over the adjudicatory proceedings as they relate to the Respondent's challenge of the March 21, 2024

Order of Suspension. *See* M.G.L. c. 6E, § 3(a); M.G.L. c. 6E, § 9(a)(5); 555 CMR 1.06(3). Pursuant to M.G.L. c. 6E, § 9(a)(5), "[a] suspension order of the [C]ommission issued pursuant to [Section 9(a)] shall continue in effect until issuance of the final decision of the [C]ommission or until revoked by the [C]ommission." *See* 555 CMR 1.06(3). The hearing on said suspension, originally scheduled for August 2025, was stayed following a motion by the Respondent and remains stayed pending resolution of this matter in this Initial Decision, if adopted by the Commission.

The Hearing for the adjudicatory proceedings concerning the ultimate revocation of the Respondent's certification, conducted under 555 CMR 1.10, was originally scheduled for November 2025, but was continued, and ultimately took place over the course of four days, from December 9, 2025, through December 12, 2025. Thirteen witnesses testified, including the Respondent himself. A total of sixty-seven exhibits were admitted into evidence, sixty-three were filed jointly, and four were submitted by the Respondent at the Hearing.

The Division alleged that the Respondent engaged in numerous serious acts of misconduct. His misconduct was alleged to have begun on February 2, 2024, when he is claimed to have engaged in an improper motor vehicle pursuit and to have continued with numerous acts of misconduct, most of which are purported to be aimed at avoiding the consequences of his improper pursuit. His subsequent alleged misconduct included:

- making a false statement in his police report relating to the pursuit in an attempt to retroactively justify the pursuit;
- supporting the City's failure to properly investigate his misconduct, despite his obligation as the head of the LPD to ensure that all police misconduct is investigated, pursuant to 555 CMR 1.01;

- retaliating against the officer who reported his misconduct to the Commission;
- willfully violating a subsequent Order of Suspension issued by the Commission; and
- intimidating a witness to his misconduct.

The Division claims that while some of these acts by themselves mandate decertification, cumulatively they support the conclusion that the Respondent is unfit to serve in law enforcement and that it would be dangerous to allow him to serve in any law enforcement capacity. The Division maintains that, at a minimum, they show a pattern of serious misconduct that may escalate, and, accordingly, revocation of his certification is not just mandatory, but is also the only appropriate outcome in this matter. *See* M.G.L. c. 6E, § 3(a)(4), (18), and (23); § 10(a)(viii), (xiv), and (xvi); and § 10(b)(iii).

Applicable Legal Standards

The Act provides for certain individuals to be automatically certified as officers for a period of time. St. 2020, c. 253, § 102.

M.G.L. c. 6E, § 3(a):

> The [C]ommission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:
> (1) act as the primary civil enforcement agency for violations of [chapter 6E]; . . .
> (4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the [C]ommission deems reasonable; . . .
> (23) restrict, suspend or revoke certifications issued under [chapter 6E];
> (24) conduct adjudicatory proceedings in accordance with chapter 30A; . . . .

M.G.L. c. 6E, § 10(a)(viii):

> The [C]ommission shall, after a hearing, revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that . . . the officer knowingly files a written police report containing a false statement . . . .

M.G.L. c. 6E, § 10(a)(xiv):

> The [C]ommission shall, after a hearing, revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that . . . the officer engaged in the intimidation of a witness, as defined in section 13B of chapter 268.

M.G.L. c. 6E, § 10(a)(xvi):

> The [C]ommission shall, after a hearing, revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that . . . the officer is not fit for duty as an officer and the officer is dangerous to the public, as determined by the [C]ommission.

M.G.L. c. 6E, § 10(b)(iii):

> The [C]ommission may, after a hearing, suspend or revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that the officer . . . has a pattern of unprofessional police conduct that [the] [C]ommission believes may escalate.

M.G.L. c. 6E, § 10(g):

> The [C]ommission shall publish any revocation order and findings. The [C]ommission shall provide all revocation information to the national decertification index. No officer may apply for certification after that officer's certification has been revoked pursuant to this section.

M.G.L. c. 6E, § 10(h):

> An appointing agency shall complete an internal affairs investigation into officer misconduct and issue a final disposition within one year of receiving a complaint or notice from the [C]ommission of the complaint being filed . . . . The [C]ommission shall not institute a revocation or suspension hearing pursuant to this section until the officer's appointing agency has issued a final disposition or 1 year has elapsed since the incident was reported to the [C]ommission, whichever is sooner.

Clear and convincing evidence "is a greater burden than proof by a preponderance of the evidence, but less than the proof beyond a reasonable doubt required in criminal cases." *Doe v. Sex Offender Registry Bd.*, 473 Mass. 297, 309 (2015) (citations omitted); *see also Matter of Sushchyk*, 489 Mass. 330, 334 (2022) (discussing the application of the clear and convincing standard in the context of a disciplinary proceeding for the Commission on Judicial Conduct); *MacDonald v. Caruso*, 467 Mass. 382, 390 (2014) (rejecting the litigant's characterization of the clear and convincing standard as "an enormously heavy burden of proof"). "The evidence must be sufficient to convey a high degree of probability that the contested proposition is true." *Sushchyk*, 489 Mass. at 334 (citations and quotations omitted).

Findings of Fact

Based on the evidence adduced at the hearing, the Hearing Officer makes the following findings of fact.

I. Background

The Respondent served as a Deputy Sheriff at the Essex County Sheriff's Department from 1999 until 2023. From 2005 until 2023, his duties as Deputy Sheriff included working on various task forces and other law enforcement operations in conjunction with the LPD, Methuen Police Department ("MPD"), and/or the federal Drug Enforcement Administration. During this period, he also served as a "reserve intermittent" police officer for the MPD and attended the Bridge Academy.

In February 2023, the Respondent became the Chief of Staff for Mayor DePeña. Prior to taking on this role, the Respondent was a political supporter and long-time friend of Mayor DePeña. On October 20, 2023, Mayor DePeña appointed the Respondent to become the Acting Chief of the LPD. This was a ninety-day appointment after which the Respondent would return as Chief of Staff unless he became the permanent Chief of the LPD. On January 12, 2024, Mayor DePeña appointed the Respondent as the Provisional Chief of the LPD, for a period of up to twelve months, effective January 18, 2024. According to the Respondent and Mayor DePeña, there was a contract that provided that the Respondent would resume his duties as Chief of Staff if he did not become the permanent Chief of the LPD.[1]

In January 2025, the Respondent returned to his role as Mayor DePeña's Chief of Staff. Ex. 63 (William Castro's Resume).

[1] The only contract entered as an exhibit in these proceedings related to the Respondent's appointment as Acting Chief of Police, which contained such a provision. Ex.1 (Letter of Acting Chief Appointment and Contact). No contract governing his appointment as Provisional Chief is part of the record. *See* Ex. 2 (Letter of Provisional Chief Appointment).

As noted, on March 21, 2024, the Commission suspended the Respondent's law enforcement certification pursuant to M.G.L. c. 6E, § 9(a)(4) and 555 CMR 1.06(2) (authorizing suspension of an officer's certification during pendency of preliminary inquiry). Ex. 35 (Order of Suspension). His law enforcement certification remains suspended to this date. *See* M.G.L. c. 6E, § 9(a)(5) and 555 CMR 1.06(3) (suspension issued by the Commission pursuant to M.G.L. c. 6E, § 9(a) and 555 CMR 1.06 "shall continue in effect until issuance of the final decision of the [C]ommission or until the suspension is revoked by the [C]ommission.")

II. The Pursuit

On Friday, February 2, 2024, at approximately 2:16 p.m., an LPD dispatcher sent out the following transmission:

> 21, 29. A male with a green hoodie trying to pass a bad check at the credit union, 14 Amesbury Street. 21, 29, or if anybody else closer . . . . It was a fake check. He's now, he's walking down Methuen Street with a green hoodie. Anybody close to Methuen Street? . . . Dark skinned male, all green, on Methuen Street. Okay, he just took off the hoodie.

Ex. 5 (Dispatch Recordings).

At the time of this transmission, the Respondent was operating his LPD-issued police cruiser, a full-size sport utility vehicle, in the area of the NESC Credit Union located at 14 Amesbury Street in Lawrence. The Respondent heard this call over his portable radio.[2] He testified that he heard the portion of the dispatch call which stated the address, as well as references to a credit union and Methuen Street, and the description of the individual. He was aware of the address as it was his credit union. He expressly denied hearing any reference to a "bad check" or a "fake check." The reference to a "fake check" occurred nineteen seconds into

[2] The Respondent did not have a mounted radio in his vehicle.

the recording.[3] Indeed, the Respondent testified that if he had that information, he would not have got involved.

While the Respondent acknowledged in his report dated February 5, 2024, that he did not know if the suspects had been involved in a bank robbery, he claimed in that report for the first time that he "perceived" that a bank robbery might be involved. Ex. 14 (William Castro's Supplementary Report).[4] This claim was made after he first became aware of the LPD's Motor Vehicle Pursuits Policy ("Policy"), which, as discussed *infra*, was violated by the Respondent, but would not have been violated if the incident involved a bank robbery rather than the passing of a bad check. He testified that his perception was based on the fact that the incident involved a credit union, what was going on around him, and his training and experience.

It is difficult to reconcile the Respondent's testimony with the uncontroverted facts, particularly the recording of the dispatch call itself. The dispatcher's reference to the suspect wearing a green hoodie and trying to pass a bad check at the credit union immediately preceded the broadcast of the address, so it was unlikely that the Respondent had not been listening to the call when the "bad check" reference was made. Conceivably, the Respondent may have first begun listening to the call at the very moment when the address was being broadcast or simply missed the words being spoken immediately prior thereto, however, by his own admission, he did not miss the words spoken by the dispatcher immediately thereafter, *i.e.*, "Methuen Street" and "green hoodie." Indeed, he was compelled to admit receiving this information in order to explain his subsequent conduct. Between providing the address and these two words, at a point

[3] The quoted segment is recorded on the first of four dispatch recordings. The Respondent is not heard until the third recording.

[4] Interestingly, in the same report, he lists the incident as "Identity Fraud (266/37E)." This offense is a misdemeanor. He obviously knew, at least by the time that he wrote his report and had seen incident reports prepared by others, that his alleged "perception" of a bank robbery was unfounded.

when the Respondent was clearly listening to the broadcast, the dispatcher announced that "[i]t was a fake check." It is evident that, at a minimum, the Respondent learned at that moment that it was not a bank robbery when he engaged in the pursuit. However, he had a motive for stating otherwise.

The version of the Policy that was in effect on February 2, 2024, limited the use of "continued vehicular pursuits" to "situations that involve . . . [a] violent crime involving the use of force[] and/or . . . [t]he use or possession of a firearm in an unlawful manner." Ex. 31 (LPD's Pursuit Policy). The Respondent had neither read nor signed off on the Policy before the pursuit in this case. He had been Acting and then Provisional Chief for about three and one-half months prior to February 2, 2024.[5] But he did read the Policy prior to writing the report, which he was granted additional time to complete.

The Respondent was located close to the credit union when he heard the dispatch, and made a left on nearby Canal Street, where he observed an individual, who matched the dispatcher's description of the suspect, walking out of a parking lot on the opposite side of Canal Street. The Respondent observed the suspect get into a Mercedes with an occupant in the driver's seat that was parked in front of a storefront. The Respondent then drove his vehicle across the opposite lane of Canal Street and toward the suspects' vehicle, activating his

[5] There was no evidence adduced concerning any proscribed period within which the LPD policies must be read and "signed off." As discussed *infra*, the Policy also recognizes that it cannot "anticipate possible vehicular pursuit circumstances," and "[t]herefore, in *unusual* situations an officer should use common sense and consult with a supervisor whenever possible." Ex. 31 (emphasis added). The record does not reflect any unusual circumstances present in this case that would justify a pursuit here, nor that the Respondent consulted with anyone before engaging in the pursuit, although clearly there was no police personnel that held a superior position to him. The Policy also provides that "[e]ach officer must use his/her discretion along with the guidelines supplied in this policy and procedure in determining whether or not to commence a pursuit . . . ." Although the Respondent now claims that he feels that his use of discretion in light of the guidelines in the Policy was reasonable, this position is inconsistent with his own admission that he would not have commenced a pursuit if he were aware that the incident involved the passing of a bad or fake check.

emergency lights as he approached. The suspects' vehicle then drove off, briefly driving along a sidewalk before turning back onto Canal Street.

After observing the suspects' vehicle drive off and a marked unit drive off in a different direction, apparently not observing the suspects or the vehicle they were in, the Respondent, with his emergency lights and siren activated,[6] initiated a motor vehicle pursuit of the suspects' vehicle. He followed the suspects' vehicle onto the sidewalk and then back onto Canal Street. The Respondent pursued the suspects' vehicle down Canal Street and as they turned right onto the Amesbury Street/Central Bridge. The pursuit then continued along the Amesbury Street/Central Bridge where the Respondent observed the suspects' vehicle move to the opposite lane of traffic. The Respondent then followed the suspects' vehicle into that opposite lane of traffic. The pursuit ended at the intersection with South Canal Street when the suspects' vehicle crashed into a guardrail.

By all accounts, the pursuit was short both in terms of distance and time. Officer Gregory Ovalles, driving one of the three marked cruisers that followed the Respondent's vehicle in pursuit of the Mercedes on the Amesbury Street/Central Bridge, estimated that the suspects' vehicle was in view for less than three minutes. Based on his review of the audio and video tapes, Lieutenant Paul Rossi, the LPD's head of Internal Affairs ("IA"), described the pursuit as "high speed." The video tapes appear to show the police vehicles travelling at speeds in excess of other vehicles. He also testified that the entire pursuit lasted only a few minutes. Officer Ovalles estimated the police vehicles were travelling 30-40 mph.[7] He also testified that the

[6] Both in his report and during his interview with the Commission, the Respondent indicated that he turned on his emergency lights and siren *after* the suspect's vehicle drove off. However, based on the surveillance video, it appears that his emergency lights were activated as he approached the suspect's vehicle and before the suspects drove off.

[7] No evidence was presented as to the speed limits on the roads on which the pursuit occurred.

entire pursuit took less than three minutes. Using this information, the pursuit travelled only 1.3 to 1.5 miles, which is fairly consistent with Lieutenant Carlton Trombly's calculation that the pursuit covered 1 mile "rounded."

Despite the limited length and duration of the pursuit, the Hearing Officer finds by clear and convincing evidence that the Respondent's pursuit violated the LPD's Policy. As noted above, the applicable Policy limited the use of "continued vehicular pursuits" to "situations that involve . . . [a] violent crime involving the use of force[] and/or . . . [t]he use or possession of a firearm in an unlawful manner." Ex. 31. The Respondent's pursuit violated the provisions of the Policy because the situation involved an individual suspected of uttering a fake check, a non-violent crime that does not involve the use of force. The Respondent in an interview on April 29, 2024, and during his trial testimony, acknowledged that the Policy did not authorize a pursuit based on report of passing a bad check. There was no report or other indication prior to the initiation of the pursuit or during it that the suspects possessed a firearm, or any other weapon, in an unlawful manner.

Moreover, there were no unusual circumstances present that would justify the initiation of a pursuit as a matter of reasonable discretion. The exercise of discretion as to whether to commence a pursuit and how to conduct it requires an officer to consider certain delineated factors in light of "the hazards inherent in a vehicular pursuit to officers, suspects, and the public must be balanced against the need for immediate apprehension." "Once made, the decision to pursue is not irrevocable. **It is better to abandon a pursuit** where the risk of danger to the officer or the public is high . . . ." Ex. 31 (emphasis in original).

The Policy outlines "factors to be considered when determining whether to initiate, continue, or terminate a pursuit[,]" including "Nature of the Charges," "Time of Day," "Volume

of Vehicular Traffic," "Location of Pursuit," and "Volume of Pedestrian Traffic." Ex. 31.[8] When the Respondent decided to commence a pursuit, it was in the middle of the afternoon on a Friday, which Lt. Rossi described as an especially dangerous time of the day, particularly to pedestrians. It was an urban environment, described by one officer as an industrial area, and in an area where there was at least the potential for heavy vehicle and pedestrian traffic. Particularly when he had reason to know that the suspects were not being sought in connection with a violent crime or an offense involving a firearm, an exercise of reasonable discretion would have dictated that a pursuit not be initiated.

With regard to the nature of the pursuit, the Policy expressly did not prohibit him from turning on his emergency lights and sirens to get the suspects' vehicle to stop, but his observation of the driver of the Mercedes ignoring the emergency warnings should have signaled to the Respondent that the risks of danger were high. Ex. 6 (Videos of Pursuit). The Respondent's own conduct increased the hazard when he crossed the opposite lane of traffic to initiate the stop and followed the suspects' vehicle for a short distance on the sidewalk.

Other factors weighed in favor of immediately abandoning the pursuit. While there was no pedestrian traffic in the immediate area of where the pursuit began observed on the videos, the suspects' and the Respondent's vehicles appear to be travelling at high rates of speed for the area. The traffic volume was moderate during the pursuit. The suspects, followed by the Respondent, drove into the opposite lane of traffic on a busy bridge, and multiple vehicles were forced to quickly stop or swerve their vehicles to avoid the Respondent and the suspects.[9]

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[8] Given that it was a clear and dry day, factors such as weather and road conditions would not have weighed against a vehicular pursuit.

[9] The Respondent accurately notes that two other officers who drove the wrong way on one-way streets during this incident were never investigated or disciplined. The Hearing Officer concludes that this arguably disparate treatment does not impact the findings as they relate to the Respondent's conduct.

Perhaps most telling in assessing the actual danger, the pursuit ended with the suspects crashing their vehicle into a guardrail.[10]

For all these reasons, the Hearing Officer finds that the Respondent engaged in an unauthorized and needlessly dangerous motor vehicle pursuit on February 2, 2024.

III. The Respondent's Police Report

This case exemplifies the type of situation envisioned in the observation that "the cover-up is often worse than the crime." This principle reflects the notion that attempts to conceal or obscure a wrongdoing can lead to more severe consequences than the original misdeed. The incident report that the Respondent drafted and filed in connection with the above-referenced motor vehicle pursuit included a false statement. In an obvious attempt to retroactively justify his improper pursuit, the Respondent falsely wrote, "I perceived the operator and his passenger as being involved in a bank robbery." Ex. 14.

As discussed above, given the dispatch audio, the Respondent had to have known that the incident involved passing a bad check and not a robbery. *See* Ex. 5. The Respondent had his radio on, and the information about a bad/fake check was given twice and was clearly audible. If, as the Respondent suggests, he had not heard the dispatcher say, "bad check" or "fake check," that would mean that he not only had no information about a robbery, but he also had no information about *any* reported crime prior to initiating the pursuit. Nor would he have had information that the bad check sought to be cashed was in an amount that would constitute a felony. It is difficult to believe, absent his complete recklessness, that the Respondent initiated a motor vehicle pursuit without first knowing what crime had been reported.

[10] The Officer in Charge (Lt. Trombly) and the Patrol Supervisor (Sergeant Michael Simard) had the authority to call off the pursuit but neither did so. The record is not clear as to when or if either was aware of the pursuit or any of the details relating thereto during its short duration.

The Respondent's claim that he did not hear the dispatcher say, "passing a bad check," or "fake check," is also contradicted by his own report. The Respondent wrote that he "overheard dispatch relaying a call regarding an incident at the NECS Federal Credit Union." Ex. 14. However, as noted, the only time the dispatcher stated that the crime occurred at the credit union is immediately *after* stating "passing a bad check" and a few seconds *before* "fake check." Ex. 5.[11] His convenient claim that he heard the words "credit union Amesbury Street" or "14 Amesbury Street" but did not hear "passing a bad check" immediately before or "fake check" a few seconds later, is neither plausible nor believable.

The Respondent was the only officer who reported anything about a robbery. Officer Daniel Smart filed the Primary Incident Report related to the arrest of the suspects. Ex. 11. Supplementary Reports were filed by Detective Kaulin Trainor and Sergeant Michael Simard. Ex. 12; Ex. 13. None of these officers reported anything to suggest they believed the incident was a robbery. The narrative portions of their reports all consistently described the crime reported by dispatch as being a "fake check," "bad check," and/or "bank fraud." Ex. 11; Ex. 12; Ex. 13. In fact, the only reference to a robbery in the other officers' reports is a supplemental note in Sgt. Simard's report where he writes, "[a]fter review of all of the LPD reports regarding this incident, it should be noted that on scene on S. Canal St, it was never mentioned by Chief Castro that he thought the call was for a bank robbery." Ex. 13 (Sergeant Simard's Supplemental Report).

[11] At least 60 seconds *after* the Respondent claims he learned the incident was at the credit union, another officer stated over the radio, "I'll be going off [to] the credit union," but that statement alone did not indicate what the crime was or that the crime occurred at the credit union. The Respondent also never stated as much, variously claiming that he knew it was the credit union because he heard the dispatcher say, "14 Amesbury Street" and that he knew it was the credit union because he heard the dispatcher say, "credit union Amesbury Street."

The Respondent had no basis for "perceiving" a bank robbery had occurred. There was no report of a robbery. There was also no report or other indication that the suspects were armed or that they had used a weapon or force during the incident at the credit union. The Respondent based his perception on his own experience and the "totality of the circumstances." But those "circumstances" only included the fact that the incident occurred at the credit union, the physical description of the suspect, the alleged fact that there had been bank robberies in that area in the past, and the fact that suspects fled upon seeing him. Without more, these circumstances do not provide the Respondent with a specific or articulable basis for "perceiving" a bank robbery. Indeed, the Respondent contradicted himself, by testifying that, prior to initiating the pursuit, he had "no idea" what crime had occurred at the credit union.

As noted *supra*, the Respondent also had a motive for untruthfully reporting that he perceived a robbery. At the time of the pursuit, he had not read the LPD's Policy. Shortly after the suspects were arrested, Sgt. Simard began to question the Respondent about the pursuit. Ex. 13. Then Officer Luis Olivo, who was a former colleague of the Respondent's at the Essex County Sheriff's Department, and who was "more familiar" with the Policy, talked to the Respondent at the scene of the crash. Officer Olivo knew that others at the scene had asked if it was a chase, and he was concerned that Sgt. Simard realized it was not an armed robbery. Officer Olivo described to the Respondent a similar incident in which Officer Olivo had been involved and strongly advised that the Respondent write a report covering all his bases and "on how to do everything [] per our department." Thus, almost immediately after the pursuit, the Respondent had reason to be concerned that his pursuit may have violated the Policy.

The Respondent was still concerned about the policy violation at the time he was writing his report. Sergeant Salman Dar stated that the Respondent asked for his assistance in editing the

report. However, while Sgt. Dar was assisting him with editing the report, the Respondent brought up the Policy and sought Sgt. Dar's "affirmation" regarding what the Policy allowed.[12]

It may be fairly inferred that the Respondent heard the report of a bad check, mistakenly believed that a pursuit was authorized, and later conjured up a false police report once he realized that he had violated the Policy. He also wanted to be, as he put it, more "proactive" and not "sit behind a desk," attitudes that may have contributed to his decision to engage in the pursuit. But rather than simply acknowledge the impropriety of that decision when he became aware of the specific dictates of the Policy, he chose to assert his perception that the incident involved a bank robbery, which is a violent crime, and might have justified or excused his improper pursuit. This was the first step in engaging in a "cover up" that was worse than the original wrongdoing. Unfortunately, as discussed *infra*, the Respondent engaged in additional conduct that exacerbated the severity of the wrongdoing.

The Hearing Officer concludes that based on clear and convincing evidence, the Respondent's statement in his written police report, that he "perceived the operator and his passenger as being involved in a bank robbery," was false.[13] Ex. 14.

IV. The Respondent's Alleged Failure to Assure the LPD Complied with the Commission's Regulations on Internal Investigations

The Division maintains that the Respondent failed to assure that the LPD fulfilled its legal obligation to conduct a proper investigation of his misconduct. Both M.G.L. c. 6E, § 8(b) and 555 CMR 1.01 establish that law enforcement agencies have a legal responsibility to assure

[12] Although the Respondent denied asking about the Policy, Sgt. Dar's testimony is credible given the consistency of his statements and the lack of any evidence to suggest that he had any reason to fabricate their conversation.
[13] The Respondent's report also appears to include notable material omissions (dispatcher saying bad/fake check and fact that he followed the suspect onto the sidewalk and wrong side of the street), inaccuracies (suggesting he activated his "blue lights" *after* the suspects fled when the video shows he activated them *before* they fled), and misleading statements ("not knowing if the incident was a bank robbery," "followed the vehicle from a distance," "monitored the location of the vehicle from a distance").

that complaints of police misconduct are properly investigated. As to the allegations against the Respondent, the Division claims that the LPD failed to comply with those obligations, and, as the "Head of the Agency," the Respondent was personally responsible for that failure. Moreover, it is averred that the Respondent supported that failure because it directly benefited him.

On February 3, 2024, LPD Lt. Trombly prepared a "Blue Team" "Vehicle Pursuit Report" in connection with the Respondent's February 2, 2024 pursuit.[14] Ex. 8. In his report, Lt. Trombly wrote, "[a]fter reviewing the video and reading the reports I am forwarding this incident to I.A. for investigation into any policy violations by those involved." That same day, Sgt. Simard sent an email to Lt. Rossi, in which he wrote, "[a]fter my investigation, I feel that Chief Castro was in violation of LPD Policy #1.04 Motor Vehicle Pursuits." Ex. 10.[15]

On February 7, 2024, Lt. Rossi sent an email and memorandum to several city officials including Mayor DePeña and the Mayor's Senior Advisor, Octavian Spanner, notifying them of Lt. Trombly's and Sgt. Simard's allegations, outlining the incident in detail, and summarizing his initial findings. Ex. 15 (Email to Mayor DePeña); Ex.16 (Rossi Memorandum). In the memorandum, Lt. Rossi stated his support for an "investigation into the pursuit" and added his belief that there needed to be an investigation into "the truthfulness of [A]cting Chief Castro's statement in his report that he 'perceived the operator and his passenger as being involved in a bank robbery.'" Ex. 16. The Hearing Officer finds that Lt. Rossi's memorandum provided an accurate summary of the Commission's investigation and reporting regulations and correctly

[14] According to the testimony of Lt. Rossi and Lt. Trombly, LPD policy required a "Blue Team" report for every use of force including a vehicle pursuit.

[15] Sgt. Simard also accused the Respondent of retaliation and intimidation based on the fact that shortly after the pursuit, the Respondent sent Sgt. Simard an email with his denial of two unrelated union grievances. Although the Division's Order to Show Cause does not include this or any other allegations of retaliation against Sgt. Simard, these allegations may form the basis for Sgt. Simard, who did not testify at the hearing, to harbor some bias against the Respondent, but the Hearing Officer does not find that any potential bias was sufficient to discredit any of Simard's statements in his report or email relevant to these findings.

stated that the allegations "must be investigated." *Id.* Lt. Rossi also noted that he "did not have the authority to investigate these allegations or place [A]cting Chief Castro on [a]dministrative leave while it's investigated." Ex. 15; Ex. 16. Lastly, Lt. Rossi informed the city officials that, as required under the Commission's regulations, he was reporting the allegations to the Commission on behalf of the LPD. *See* 555 CMR 1.01. Although he was not copied on Lt. Rossi's correspondence, it is clear from the evidence, including his receipt of a copy of an email chain, that the Respondent received a copy, at the latest, on or before February 23, 2024. *See* Ex. 24.

On February 8, 2024, Mayor DePeña assigned Spanner to "review [Lt.] Rossi's report alleging a violation of department policy by [Chief Castro]." Ex. 22. On February 13, 2024, Spanner sent a "confidential" memorandum to Mayor DePeña in which he summarized his "review." The Respondent was copied on the memorandum.[16]

Spanner's review consisted primarily of unrecorded conversations with the Respondent and an unspecified number of other, unidentified, individuals.[17] There is no indication from the memorandum that he reviewed any of the dispatch audio or surveillance video cited by Lt. Rossi. Spanner ultimately accepted, with minimal analysis, the Respondent's explanation that he "perceived" a bank robbery, and he concluded, with no evidence cited, that the Respondent was "being unfairly targeted and discredited in order to prevent him from becoming the permanent Chief of Police." Spanner also criticized Lt. Rossi for reporting the allegations to the Commission, despite the express requirements of the Commission's regulations that he do so. *See* 555 CMR 1.01(1).[18]

[16] Interestingly, Lt. Rossi was not copied on the memorandum, and its subject line was not the Respondent or the incident but rather, "Lieutenant Paul Rossi, Lawrence Police Department." Ex. 22.
[17] Despite being listed as a witness by the Respondent, Spanner was not called to testify.
[18] The Respondent acknowledged that Lt. Rossi acted correctly when he sent the allegations to the Commission.

On February 20, 2024, Mayor DePeña wrote a letter to Lt. Rossi, a copy of which was sent to the Respondent, stating that he had "concluded there is insufficient evidence to move forward." Ex. 26 (Letter from Mayor DePeña to Lt. Rossi). In the letter, Mayor DePeña stated that he had a "conversation with Chief Castro" and that he credited his explanation of a perceived bank robbery. Mayor DePeña directed Lt. Rossi to "notify the POST Commission of my findings, which is NO investigation," Ex. 25 (emphasis in original), and Lt. Rossi did so.

As the Respondent was aware, neither the LPD nor the City complied with the Commission's regulations regarding an investigation into the allegations made against him.[19] First, Mayor DePeña, in an email copied to the Respondent, made clear that "no investigation" was authorized to take place. Ex. 25. Moreover, the limited actions that the City did take, summarized in Spanner's memorandum to Mayor DePeña, a copy of which was sent to the Respondent, did not meet the Commission's "minimum standards" for an investigation. *See* 555 CMR 1.01(2)(c) (outlining the "Minimum Standards for Internal Investigation by Agency" including considering "all relevant evidence" and recording interviews of "relevant witnesses"). As the Respondent acknowledged, Spanner was not a qualified investigator and had a conflict of interest given his relationship with Mayor DePeña and the Respondent.[20] *See* 555 CMR

[19] An independent investigation was later completed, or least attempted, by Daniel Bennett of Comprehensive Investigations and Consulting ("CIC"), but City officials rejected his report and never hired anyone to complete the investigation. *See* Ex. 44 (Bennett Report); Ex. 49 (Emails between Bennett and City Officials); Ex. 50 (Email from Bennett to City Officials); Ex. 51 (Letter from Timothy Houten to Timothy Hartnett); Ex. 53 (Letter from Timothy Houten to CIC); Ex. 54 (Cover Letter from Houten re: Bennett Report); Ex. 61 (Letter from Mayor to Commission). Mayor DePeña testified that he asked the City Attorney to have Bennett interview both the Respondent and the Mayor, but he failed to do so. The failure to interview the Respondent and obtain his explanation of the events that occurred caused the Mayor to determine that the Bennett investigation was not proper or fair. The Mayor then caused the City to hire Maverick Investigative Services to investigate, among various other tangential issues, possible "collusion" between Bennett, LPD senior officers, and the City's former Director of Personnel. *See* Ex. 57. Maverick concluded there was "no definitive evidence of collusion" and "[a]llegations of personal connections or biases influencing the investigation were unsubstantiated." *Id.*

[20] Spanner's conflict of interest, as well as Mayor DePeña's conflict, which was also acknowledged by the Respondent, arises from the following facts: Spanner was the Senior Advisor to the Mayor, and both he and Mayor DePeña were political allies, former executive staff colleagues, and personal friends of the Respondent.

1.01(2)(b) (requiring "an investigator employed by the [LPD] or an outside investigator retained by the [LPD]" who "shall be free from conflict of interest, bias, prejudice, or self-interest.").

The investigation requirements of M.G.L. c. 6E, § 8(b) and 555 CMR 1.01 outline the obligations and responsibilities of the law enforcement agency and also make clear that the "head of an agency" is the individual responsible for the agency's compliance. The Respondent disputes that he was the head of the LPD when he was serving as the Provisional Chief of Police but rather claims that Mayor DePeña served in that capacity. Both Mayor DePeña and the Respondent testified that the Mayor was the "head" of the LPD by virtue of the authority given to the Mayor by the Lawrence City Charter ("Charter"). Specifically, they relied on the fact that under the Charter, the Mayor, not the Chief of Police, has the authority to hire and fire police officers.

Lt. Rossi testified that any decision to further investigate the February 2, 2024 incident would rest with the Mayor and not the Respondent but also claimed that although the Mayor is the appointing authority, he is not the "head of the agency." The Respondent testified that his function as Acting and Provisional Chief of the LPD included, *inter alia*, day-to-day operations, budget preparation, community engagement, union issues, equipment issues, overtime issues, personnel issues such as morale, and similar responsibilities.[21] These responsibilities are consistent with those specified in the Respondent's contract. Ex. 1.

The Division argues that the Commission's regulations imply that the "Head of the Agency" is a law enforcement officer. *See* 555 CMR 2.02 (defining "Law Enforcement Officer or Officer" to include "[a]ny officer of an agency, including the *head of the agency*" (emphasis

[21] The Division's contention that the Respondent's certain references in his resume to certain city officials as "department heads" and another reference to "departments" reflect his true recognition of his role is hardly dispositive on this issue of statutory interpretation. Ex. 63.

added)). The Hearing Officer agrees with the Division's position that the fact that most chiefs of police report to their municipality's mayor or town administrator for some decisions does not establish such civilian executives are heads of law enforcement agencies, particularly as they do not maintain control over day-to-day police operations.

More significantly, the Charter does not in fact explicitly provide the authority that the Respondent maintains rests with the Mayor. Section 4.2 of the Charter states:

> The executive powers of the city shall be vested in the mayor and may be exercised by him either personally or through the several city agencies under his general supervision and control.

Ex. 65 (Lawrence City Charter).

Section 4.3 provides in pertinent part that "[t]he mayor shall appoint . . . *department heads* . . . ." (emphasis added). Section 6.3 provides:

> All city agencies under the direction and supervision of the mayor shall be headed and administered by officers appointed by the mayor as provided by the Charter, ordinance, or by law.

Id.

Under Section 6.5, among the municipal officers that the mayor is required to appoint is a chief of police. Thus, the plain language of the Charter indicates that a "department head" is a person other than the mayor.

The Lawrence Code of Ordinances, which incorporates the Charter under Sections 1 through 11, offers additional guidance for this issue. For instance, Chapter 2.32.020 of the Code provides:

> The chief of police shall be the chief administrative and executive officer of the police department of the city. He or she shall direct and supervise all activities of the police department and the work of all officials, officers and bureaus of the department, including the assignment of all officials and officers to specific platoons and duties, or routes, subject, however, to the approval and direction of the director of the department of public safety, as provided by section 40 of the Charter.
>
> . . .

> The chief of police shall be the chief law enforcement officer of the city. The chief of police shall take proper measures to enforce all laws and to suppress and prevent all disturbances and disorder within the city and to prevent the commission of crime. The chief of police shall direct the activities of the police department in the laws of the commonwealth and of the ordinances of crime and violations of law. The chief of police shall receive complaints relating to violations of the provisions of this Code, the laws of the commonwealth and of all the ordinances of the city. The chief of police shall enforce all laws and ordinances and shall initiate prosecution of all offenders against such laws and ordinances.

Furthermore, according to Chapter 2.32.050:

> The chief of police shall report all violations or infractions of rules and regulations governing the conduct of the department to the director of the department of public safety. The chief of police may recommend to the director proper disciplinary action including the suspension or removal of any police official, officer or other employee for violating the rules and regulations of the police department.

Both the Charter and Code of Ordinances, by their unambiguous language and description of the chief of police as the highest-level person who exercises day-to-day supervision and control of the law enforcement functions, support the conclusion that the Respondent as chief of the department was "head of the agency" for purposes of Chapter 6E and the Commission's regulations during the relevant the period.[22]

The evidence established that the Respondent's failure to comply with the Commission's regulations by ensuring that the serious allegations against him were properly reported and investigated was intentional. The Respondent admitted that when he heard of the allegations against him, he did nothing to make sure that there was an independent investigation. By February 20, 2024, the Respondent was aware that a proper investigation of his alleged misconduct had not taken place. As the subject of the allegations, he had an obvious motive to support Mayor DePeña's decision to have "no investigation," even though as the head of the

[22] Lt. Rossi accurately testified that although the Mayor is the appointing authority, he is not the head of the agency for the LPD. However, his testimony to the effect that any decision whether to further investigate the February 4, 2024 incident rested with Mayor DePeña and not the Respondent is incorrect for the reasons stated in this Decision.

LPD, it was his responsibility to correct this error. M.G.L. c. 6E, § 8(b); 555 CMR 1.02. To the contrary, he did nothing to caution Mayor DePeña against the obvious inadequacies and conflicts of interest. Rather, on February 23, 2024, the Respondent sent Mayor DePeña a memorandum fully endorsing the decision and attacking Lt. Rossi. Ex. 30. By his own admission, the Respondent took no action to correct the Mayor's biased decision not to investigate him because the decision benefited him.

Based on the foregoing reasons, the Hearing Officer finds that there is clear and convincing evidence to conclude that the Respondent intentionally failed to comply with his obligations as the head of the LPD, under M.G.L. c. 6E, § 8(b) and 555 CMR 1.01, to ensure that the LPD properly investigated the Respondent's misconduct.

V. The Claim of Retaliation in Violation of M.G.L. c. 6E, § 12

On March 14, 2024, the Respondent sent Lt. Rossi an email stating that he "should not be discussing ongoing IA investigations or identify any subjects of those investigations unless required to do so," and that he "should not be divulging the content of any communications between us regarding ongoing investigations with others including POST in the future." Ex. 34 (Lt. Rossi's Email to the Commission).

Pursuant to M.G.L. c. 6E, § 12, "[n]o officer or employee of the [C]ommonwealth or of any county, city, town or district shall . . . take any [] adverse action against an officer or employee or threaten to take any such action for providing information to the [C]ommission or testifying in any [C]ommission proceeding."

The Respondent appears to have harbored ill will towards Lt. Rossi stemming from the Lieutenant reporting the complaints against the Respondent as well as other unrelated disagreements between the two men. *See* Ex. 30 at 111-19. Unbeknownst to Lt. Rossi, on

February 23, 2024, the Respondent sent a memorandum to Mayor DePeña in which he began by disputing Lt. Rossi's February 7 memorandum (Ex. 16) and then proceeded to accuse Lt. Rossi of untruthfulness and other misconduct. For example, at one point, the Respondent cited an email from Lt. Rossi to Spanner as evidence that Lt. Rossi had "undermined my authority."[23] Ex. 30; *see* Ex. 23. At another point, the Respondent stated that Lt. Rossi "operates independently, makes decisions, emails, and cc [sic] outside agencies[24] without consulting my office." Ex. 30. The Respondent explicitly suggested to Mayor DePeña that Lt. Rossi was "compromised and unable to perform his duties impartially and objectively as an IA investigator."

A few weeks later, the Respondent sent his March 14 email to Lt. Rossi. Ex. 34. Lt. Rossi reasonably interpreted the demands that he "should not be discussing ongoing IA investigations or identify any subjects of those investigations unless required to do so" and that he "should not be divulging the content of any communications between [them] regarding ongoing investigations with others including POST in the future" as limiting his ability to communicate with the Commission. Ex. 34. This was particularly significant to Lt. Rossi because, in his role as head of Internal Affairs, he served as the liaison between the LPD and the Commission. By limiting Lt. Rossi's communications to only when "required," the Hearing Officer finds that the Respondent was prohibiting him from making any discretionary reporting in his role as the liaison with the Commission and was directly interfering with Lt. Rossi's right to report misconduct to the Commission for *any* reason. *See* M.G.L. c.6E, § 3(a)(5) (granting the Commission authority to "receive complaints from any source"). The March 14 email also

[23] It is unclear how or why the Respondent was provided with Lt. Rossi's February 14 email to Spanner. The Division raises an issue about the propriety of that disclosure, but resolution of that question is unnecessary to decide this case.

[24] The Respondent's reference to "outside agencies" may be inferred to include the Commission.

interfered with Lt. Rossi's ability to perform his duties by expressly prohibiting Lt. Rossi from reporting possible retaliation by the Respondent.

The Hearing Officer concludes that there is clear and convincing evidence that the Respondent took adverse actions against Lt. Rossi for providing information to the Commission, in violation of M.G.L. c. 6E, § 12.

VI. The Alleged Violation of the Commission's Order of Suspension on April 19, 2024

The Respondent was suspended by the Commission on March 21, 2024, and received notice of the suspension that same day.[25] Among other things, the Order of Suspension barred him from "execut[ing] any type of arrest . . . or otherwise perform[ing] police duties and functions."

The Respondent's police duties and functions stemmed from his role as the Provisional Chief of Police. As previously noted, among those duties was his responsibility to review the budget and staffing issues on behalf of the department and presenting the budget and staffing issues to city officials. On April 19, 2024, the Respondent's only position with the City of Lawrence was Provisional Chief of Police, albeit on suspension. However, he may well have had an ongoing professional interest in the outcome of the LPD budget and staffing issues because by virtue of his contract, he expected he would return to his position as Provisional Chief in the near future.

The Respondent attended a meeting at Lawrence City Hall on April 19, 2024, at the direction of Mayor DePeña. Not only was he under the constraints of the Order of Suspension at the time, but he also had not yet resumed his role of Chief of Staff to the Mayor. Also present at the meeting were Acting Chief of the LPD Melix Bonilla and Captain Ariel Montas. Other City

[25] The unredacted version of the Commission's cover email shows that the Order of Suspension was sent to the Respondent's personal email address.

officials participated by Zoom. Mayor DePeña told Acting Chief Bonilla and Cpt. Montas that the Respondent was at the meeting to provide information about the recommendations he had made for the budget he had created when he was Provisional Chief of Police.

While at that meeting, the Respondent did indeed address specific LPD budget and personnel issues that he had worked on while serving as the Provisional Chief of Police. According to Cpt. Montas, the Respondent also "dictated" future personnel and budget moves of the LPD. For example, he advocated against and successfully vetoed Acting Chief Bonilla's recommendation that the LPD create a new position for a Facilities Manager. The Respondent's involvement in the meeting gave the appearance to at least Cpt. Montas that the Respondent, despite being suspended and on administrative leave at the time, was the one who was managing the LPD's budget and staff. As Cpt. Montas testified, he believed that the Respondent was "running the meeting" and noted, "I don't think anybody that was sitting in that room would have mistaken who was in fact running the police department." On the other hand, the Respondent appeared in civilian clothes, as distinguished from Acting Chief Bonilla, who was in uniform, never expressly represented himself as the Chief of the LPD, and, by virtue of being on administrative leave, was still being paid by the City. Although he was not told why his presence at the meeting was ordered, he felt obligated to attend. The Mayor testified that he wanted the Respondent to be present because he had worked on the police portion of the budget and Acting Chief Bonilla (who did not testify at the adjudicatory hearing) did not know the details of the budget since the Respondent had completed it. Perhaps most significant, the Respondent was tasked with reviewing the City budget, including the LPD budget, when he was Chief of Staff before becoming Acting and Provisional Chief of Police, and renewed that responsibility when he resumed the Chief of Staff role in January 2025.

If the Respondent were simply providing information-based matters known only to him from his time as Provisional Chief of the LPD, his participation would have presented a closer question regarding the alleged violation of the Order of Suspension. However, the Hearing Officer finds that there is clear and convincing evidence that the Respondent's participation went beyond simply providing information, particularly as it related to personnel matters, and, therefore, that he was performing police functions by attending and participating at this meeting.[26] Therefore, the Hearing Officer finds that he was in violation of the Commission's Order of Suspension.

VII. Witness Intimidation

As the Respondent was aware, Captain Fabian Guerrero was the supervisor who approved the police report in which the Respondent is accused of making a false statement. Ex. 14. The two of them had also exchanged text messages regarding completion of the reports by the other officers. Ex. 9. On March 22, 2024, Cpt. Guerrero sent the Respondent a message of support in response to the Commission's suspension of the Respondent's law enforcement certification. Ex. 37. Specifically, he wrote, "Hey Chief, keep your head up. You'll be fine after everything clears. Let me know if I can do anything." The Respondent wrote back, "Thank you brother, I really appreciate you. Keep up the outstanding job you're doing. Don't let anything distract you. I'll see you soon."

Cpt. Guerrero's uncontradicted testimony was that on May 20, 2024, Mayor DePeña asked Cpt. Guerrero to come to his personal residence. Cpt. Guerrero was surprised and concerned by this request, as he and Mayor DePeña were not friendly and he was of the of the opinion that Mayor DePeña had unfairly disciplined him earlier that year. While at Mayor

[26] The Hearing Officer rejects the Respondent's suggestion that he was exercising his constitutionally protected right to free speech during the meeting.

DePeña's home, the Mayor told Cpt. Guerrero that he had ordered an investigation into Cpt. Guerrero's use of overtime. Cpt. Guerrero was informed that the investigation was happening because other officers were out to "screw" him and that the Respondent had told the Mayor that had the Respondent been the Chief of the LPD he would have "taken care of it."

On the morning of May 21, 2024, the Respondent met Mayor DePeña and Octavian Spanner for breakfast. While the Mayor did not to recall what was discussed that day, the Respondent admitted that they discussed Cpt. Guerrero during this breakfast meeting.[27] The Respondent denied discussing any sort of investigation into Cpt. Guerrero during his meeting and claimed, in both his testimony and a recorded statement, that they merely discussed Cpt. Guerrero's prior support for the Respondent and that Mayor DePeña merely told him to "thank" Cpt. Guerrero. This claim is dubious given the timing, nature, and substance of Mayor DePeña's meeting with Cpt. Guerrero the prior evening.

After his breakfast with the Mayor on May 21, 2024, the Respondent went to the home of Cpt. Guerrero. He had never been to Cpt. Guerrero's house before this and called Cpt. Guerrero to get his address. The Respondent pulled up in a van, and Cpt. Guerrero got in at the Respondent's request. The Respondent then spoke to Cpt. Guerrero while driving through the neighborhood. He testified, in closed session, that he intended to take him for coffee, but smelled a strong odor of alcohol on Cpt. Guerrero's breath and just drove around the block. The Respondent claimed that he only thanked him and talked about a trip Cpt. Guerrero had taken and his family.

Cpt. Guerrero testified that during the ride, the Respondent proceeded to reiterate what Mayor DePeña had told him the night before. Most notably, he told Cpt. Guerrero that Cpt.

[27] The mere fact that they were discussing an LPD officer is, itself, concerning given that the Respondent was suspended as Provisional Chief at the time and did not hold any other position in the City government.

Guerrero was under investigation, he (Cpt. Guerrero) had "no friends" in the LPD, other officers were trying to "screw" him, Acting Chief Bonilla was too afraid of those other officers to help him, and the Respondent would help Cpt. Guerrero with this issue when he returned as Chief of the LPD.

Cpt. Guerrero's testimony regarding this meeting was more credible than the Respondent's for several reasons. Cpt. Guerrero made multiple prior consistent statements to multiple sources, including to the Division, Bennett's investigators, and Cpt. Montas. His version of events also more logically explains the undisputed physical and emotional injury he suffered following the meeting.[28] Perhaps most compelling is the fact that Cpt. Guerrero testified that he had no problem with the Respondent during this period or at the time he was testifying. He also said that during the ten-minute car ride, the Respondent never asked him to do anything or say anything and never threatened him. Moreover, Cpt. Guerrero harbored no ill will towards the Respondent prior to May 21, 2024, and had, in fact, gone out of his way, to voice support for the Respondent.[29] It appears that Cpt. Guerrero does not blame the Respondent for this incident nor the emotional breakdown he suffered as a result. It is thus unlikely that Cpt. Guerrero would fabricate a story that is both potentially harmful to the Respondent and that includes allegations of his own alleged misconduct and then would directly report such a story to the very commission charged with investigating police misconduct.

The Hearing Officer finds that there is clear and convincing evidence that by virtue of his actions and statements on May 21, 2024, the Respondent willfully sought to intimidate Cpt.

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[28] He testified in a closed session about alcohol abuse problems that he had in the past, which other witness confirmed, but that he was sober when he met with the Mayor and the Respondent in May 2024. The meetings shocked him. He thought that he was going to have to quit the police department and was being persecuted for a frivolous matter. He had an alcohol relapse for which he needed professional treatment.

[29] The Mayor identified Cpt. Guerrero and Cpt. Montas as some of the superior officers who were the Respondent's friends and who informed him that *other* superior officers were upset with the Respondent's appointment.

Guerrero and that his conduct resulted in physical and emotional injury to Cpt. Guerrero. The fact that the Respondent chose to disclose the information which he conveyed to Cpt. Guerrero in such an unnerving and clandestine manner made the situation even more intimidating and upsetting.

At the time that he was engaging in these acts of intimidation, the Respondent was aware that the Commission was conducting a preliminary inquiry into the Respondent's alleged misconduct. He was also aware that Cpt. Guerrero was a potential witness in that preliminary inquiry, given that he knew that the Captain had approved the report in which the Respondent was accused of making a false statement. *See* Ex. 14. Given his supportive text messages in March, it is also reasonable to infer that the Respondent viewed Cpt. Guerrero as a potential ally who might serve as a supportive witness in his defense during the preliminary inquiry and any administrative proceedings.

The Hearing Officer concludes that the Respondent's meeting with Cpt. Guerrero was done with the intent to interfere with the ongoing preliminary inquiry or with the reckless disregard for the fact that his actions might do so. By telling Cpt. Guerrero that he was under investigation, that he had "no friends" in the department, and that the Respondent was the only one who could help, the Respondent was at a minimum trying to persuade or pressure Cpt. Guerrero to support his return to the role as Provisional Chief. Since at the time, the only thing preventing the Respondent from returning to his role as Provisional Chief was the Commission's preliminary inquiry and associated suspension, it may be fairly concluded that he was trying to ultimately secure Cpt. Guerrero's cooperation.[30]

[30] The Respondent testified that he thought the preliminary investigation would be quick, and remained on administrative leave, so it is likely that he was motivated to secure Cpt. Guerrero's cooperation at that time.

Based on the foregoing, the Hearing Officer finds that the Respondent willfully and knowingly attempted to intimidate Cpt. Guererro, a person he knew was a potential witness in the Division's preliminary inquiry, with the purpose of interfering with the preliminary inquiry or with reckless disregard for such interference.

VI. The Issue of the Respondent's Alleged Violation of the Commission's Order of Suspension on May 21, 2024

The Hearing Officer further finds that based on his actions towards Cpt. Guerrero, the Respondent also violated the Commission's Order of Suspension on May 21, 2024, because he engaged in the duties and/or functions of a police officer in violation of the Order of Suspension. Specifically, the meeting with Cpt. Guerrero on May 21, 2024, in which the Respondent notified Cpt. Guerrero of a possible internal affairs investigation into his overtime use that was allegedly being spearheaded by Acting Chief Bonilla and the disclosure of a possible internal affairs investigation clearly fall within the scope of police duties and functions. The Respondent himself also linked the investigation to his own personal police duties and functions when he said he could help Cpt. Guerrero, if and when he returned to his position as Provisional Chief.

Accordingly, the Hearing Officer finds that there is clear and convincing evidence that the Respondent violated the Commission's Order of Suspension on May 21, 2024.

Conclusions

Based on the above findings of fact and the applicable law, the Hearing Officer makes the following conclusions:

The Respondent Filed a False Police Report

As outlined in Section III above, the Respondent's police report related to the February 2, 2024, contains the false statement that he "perceived the operator and his passenger as being involved in a bank robbery." As such, the Respondent "knowingly file[d] a written police report

containing a false statement." *See* M.G.L. c. 6E, § 10(a)(viii) (mandating decertification for such conduct).

The Respondent Committed Unlawful Retaliation

As outlined in Section V above, the Respondent retaliated against Lt. Rossi for reporting his misconduct to the Commission. As such, he violated M.G.L. c. 6E, § 12 which states that "[n]o officer . . . shall . . . take any [] adverse action against an officer or employee or threaten to take any such action for providing information to the [C]ommission." *See* M.G.L. c. 6E, § 3(a)(18) (Commission has authority to suspend or revoke an officer's certification for "a violation of [M.G.L. c. 6E].").

The Respondent Committed Witness Intimidation

Pursuant to M.G.L. c. 268, § 13B, a person commits witness intimidation when they "willfully, either directly or indirectly: (i) threaten[], attempt[] or cause[] . . . emotional or economic injury . . . ; (ii) convey[] a gift, offer or promise of anything of value to; or mislead[], intimidate[] or harass[] another person who is a . . . witness or potential witness . . . with the intent to or with reckless disregard for the fact that it may . . . impede, obstruct, delay, prevent or otherwise interfere with . . . a criminal investigation at any stage, . . . an administrative hearing[, or] a civil proceeding of any type." As outlined in Section VII above, the Respondent willfully and knowingly intimidated Cpt. Guerrero, a person he knew was a potential witness in the Division's preliminary inquiry, with the purpose of interfering with the preliminary inquiry or with reckless disregard for such interference.

The Division's preliminary inquiry was, in and of itself, a "civil proceeding." *See* M.G.L. c. 6E, § 8(c)(2) (requiring confidentiality for all "proceedings" and records related to a preliminary inquiry); *Doe v. State Ethics Comm'n*, 444 Mass. 269, 276 (2005) (analogous

preliminary inquiry conducted by the Massachusetts State Ethics Commission was a "legal proceeding" and therefore within the scope of the Commission's subpoena power for "any proceedings" related to the commission). Moreover, the Respondent was also likely aware that the preliminary inquiry could lead to an administrative hearing. *See* Ex. 36 (Notice of Preliminary Inquiry, citing M.G.L. c. 6E, § 10(a)-(g), notifying the Respondent of possible "discipline, up to and including the revocation of your certification as a law enforcement officer").[31]

As such, the Respondent "engaged in the intimidation of a witness, as defined in section 13B of chapter 268." *See* M.G.L. c. 6E, § 10(a)(xiv) (mandating decertification for such conduct).

The Respondent Willfully Violated a Commission Order

As outlined in Section VI above, the Respondent willfully violated the Commission's Order of Suspension on April 19, 2024, by performing the specific duties and functions of the LPD's Provisional Police Chief. As outlined in Section VI above, he also willfully violated the Commission's Order of Suspension on May 21, 2024, by involving himself in matters concerning the duties and functions of a police officer and doing so in a highly improper and illegal manner. Pursuant to M.G.L. c. 6E, § 3(a), the Commission "shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to . . . limit, condition, restrict, revoke or suspend a certification . . . for any cause that the [C]ommission deems reasonable; . . . [and] gather facts and information applicable to the [C]ommission's obligation to issue, suspend or revoke certifications for . . . a willful violation of

[31] Similarly, the Respondent was aware that he was suspended and that he had a right to a hearing to challenge that suspension. *See* Ex. 35.

an order of the commission." As such, the Commission has the authority to suspend or revoke the Respondent's certification for his willful violations of the Order of Suspension.

The Respondent is Unfit for Duty in Law Enforcement and Dangerous to the Public

As outlined in Sections I through VII above, the Respondent engaged in numerous acts of misconduct from February 2, 2024, through May 21, 2024. Additionally, during the hearing, the Respondent did not acknowledge any of his misconduct or express any remorse for his actions. Given his repeated and serious misconduct, as well as his lack of insight or remorse, the Respondent is "not fit for duty as an officer and [he] is dangerous to the public. *See* M.G.L. c. 6E, § 10(a)(xvi).

The Respondent Engaged in a Pattern of Misconduct that May Escalate

At a minimum, based on his above-outlined numerous acts of misconduct and his lack of insight or remorse, the Respondent "has a pattern of unprofessional police conduct," and there is ample reason for the Commission to believe it may "may escalate." *See* M.G.L. c. 6E, § 10(b)(iii).

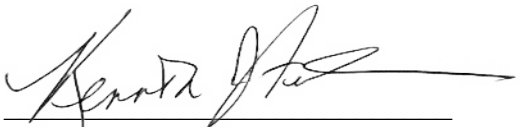
Recommendation

Based on the evidence and the applicable statutes and regulations, and particularly given the Hearing Officer's findings that the Division proved by clear and convincing evidence that the Respondent knowingly filed a written police report containing a false statement, engaged in the intimidation of a witness, is not fit for duty as an officer, and is not fit for duty as an officer, *see* M.G.L. c. 6E, § 10(a)(i), (xiv), (xvi), it is recommended that the Respondent should be decertified, and his information should be forwarded to the National Decertification Index as required by statute.

The Hearing Officer also recommends that, if the Commission finds any of the above allegations by clear and convincing evidence, they should also deem the Respondent's request for a hearing on the suspension imposed on March 21, 2024, as moot.

NOTICE OF 30-DAY RIGHT FOR REVIEW BY THE COMMISSION

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



Hon. Kenneth J. Fishman (Ret.)
Hearing Officer

Date: April 22, 2026

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Division of Police Standards
Lawrence Police Department, Law Enforcement Agency
Collective Bargaining Unit
Essex County District Attorney's Office