

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

In the Matter of)	Case No. 2024-003-S
Cara Rossi)	(PI-2023-02-16-002)
MPTC User ID #9997-8062)	

FINAL DECISION

On February 16, 2023, the Commission, in accordance with 555 CMR 1.02(4), directed its Division of Police Standards (“Division”) to open a preliminary inquiry to investigate Cara Rossi (“Respondent”) for failure to take sufficient action to investigate an incident reported to her while she was a lieutenant at the Natick Police Department. During the pendency of the preliminary inquiry, the Respondent was involved in a verbal argument with a former colleague. The Respondent was ordered by the Division to show cause why the Commission should not find that the above-mentioned incidents constitute a “pattern of unprofessional police conduct that . . . may escalate.” See M.G.L. c. 6E, § 10(b)(iii).

On March 22, 2024, a public hearing was conducted according to the adjudicatory rules of practice and procedure outlined in M.G.L. c. 30A, §§ 10, 11, and 13; 801 CMR 1.00; and 555 CMR 1.10 before the Hon. Judith A. Cowin (ret.) as the Presiding Officer. On May 3, 2024, the Presiding Officer issued the Initial Decision. There are no objections. The Commission has reviewed papers related to this matter at the executive session on May 22, 2024. The Commission adopts the Initial Decision, including all Findings of Fact and Conclusions of Law, credibility determinations, and discussion contained therein, as the Commission’s Final Decision. The Commission concludes there is not 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). The Commission also does not find substantial evidence that the Respondent “would benefit in [her] job performance if retrained.” See M.G.L. c. 6E, § 10(d)(ix). Accordingly, the Commission has decided to terminate the matter without any imposition of discipline.

This is the **final decision** of the Commission. This concludes all disciplinary matters before the Commission. See 555 CMR 1.10(4)(e)(2)(d).

By vote of the Commission on May 22, 2024.

Notice to: Leah M. Barrault, Esq., Respondent Counsel
Shaun Martinez, Esq., Enforcement Counsel
Michael Herbert, Ashland Town Manager

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

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

I. Introduction

In 2021, the Massachusetts Peace Officer Standards and Training Commission (“Commission”) was established to certify and decertify all police officers in Massachusetts. See St. 2020, c. 253. 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.

In April 2020, Cara Rossi (“Rossi”) was a lieutenant in the Natick Police Department. On April 12, 2020, a Natick Police Officer (“J.Q.”) committed multiple acts of indecent assault and battery against a civilian employee of the Natick Police Department (“the incident”). At some point, Rossi, as a supervising officer, was informed of the incident. She failed to investigate the incident or report it to her superiors as was required by the General Orders of the Natick Police Department.¹

On February 16, 2023, the Commission directed its Division of Police Standards (“Division”) to open a preliminary inquiry to investigate Rossi for her inaction related to the April, 2020 incident. While the investigation was ongoing, a confrontation occurred on June 2, 2023, between Rossi and Lieutenant Allan Graham (“Graham”) at the Natick Police Department. Graham contacted the Commission regarding this confrontation. On June 15, 2023, the Commission directed the Division to expand its original preliminary inquiry to investigate the June 2, 2023, incident as well.

¹ As a result of the incident, J.Q. was convicted of three counts of indecent assault and battery.

Proceedings regarding Rossi were conducted before the Honorable Judith A. Cowin, a retired Massachusetts Supreme Judicial Court Justice, who was appointed the hearing officer for this matter by the Commission. A remote pre-hearing conference was held on March 18, 2024, and an in-person hearing was held on the merits on March 22, 2024. At the hearing on the merits, four witnesses testified, all called by the Commission: Tracy Rourke, Dispatcher at the Natick Police Department; James Hicks, Chief of the Natick Police Department; the Respondent, Cara Rossi, a Lieutenant in the Natick Police Department at the time of the incident and later the Chief of the Ashland Police Department; and Lt. Allan Graham of the Natick Police Department. (Graham had been a Sergeant at the time of the incident.) Joint exhibits A through X were admitted in evidence at the hearing and are appended hereto. Each party, at its request, submitted a post-hearing memorandum in lieu of closing argument. At the request of the hearing officer, the Division submitted an additional memorandum regarding its recommended sanction.² All proceedings were recorded and open to the public.

After consideration of all the material detailed in the following paragraph, the hearing officer recommends that no sanction be imposed.

The hearing officer takes administrative notice of all pleadings filed in the case as well as pertinent rules, statutes, regulations, and policies. Based on the admitted exhibits, the witnesses' testimony, the matters of which the hearing officer has taken administrative notice, and drawing reasonable inferences from the credible evidence, the hearing officer makes the following findings of fact.

² The Respondent included her recommendation regarding sanctions in her memorandum in lieu of closing argument.

II. Findings of Fact

Background

Most of the facts in this matter are undisputed. To the extent any were disputed, I include my findings on these facts, having found them established by clear and convincing evidence.

1. Rossi has been a police officer in Massachusetts since 1994. From 1994 until 2022, she was an officer in the Natick Police Department, starting as a patrol officer and rising ultimately to the rank of Lieutenant. On January 28, 2021, following an investigation of the incident by a town-hired independent firm, Chief Hicks suspended Rossi for two days for her failure to investigate the incident. He also ordered her to attend two sexual harassment training sessions. Rossi complied with these orders. See Joint Pre-Hearing Memorandum.

2. On July 1, 2021, Rossi was automatically certified as a police officer in Massachusetts pursuant to St. 2020, c. 253, § 102, an Act Relative to Justice, Equity and Accountability in Law Enforcement in the Commonwealth. (Ex. K) In 2022, she was a finalist for the position of Deputy Chief in Natick but withdrew from consideration from that process. (Ex. F) She attended and graduated from the FBI National Academy in March of 2022, where she received training in sexual harassment and internal affairs investigation. (Ex. E) In July 2022, she was appointed Chief of the Ashland Police Department.³

The Incident and Its Aftermath

On April 12, 2020, J.Q. committed a number of acts of indecent assault and battery against a female civilian employee of the Natick Police Department (victim) while the two were off-duty and socializing with other off-duty officers after midnight. (Ex. A; Ex. B; Rourke T.) Later that day, the victim told her friend, Tracy Rourke (Rourke), a Natick dispatcher, that J.Q.

³ Prior to her hiring by Ashland, Rossi disclosed to the Ashland Town Manager the fact that she had been disciplined by the Natick Police Department for her failure to investigate the incident. (Ex. E)

had put his hand down her pants. Rourke told the victim to contact Human Resources, but the victim refused to do so and asked Rourke to keep the matter confidential and not divulge anything about it. About one week later, on April 20, 2020, Rourke informed (by text message) her supervisor, then-Sergeant Graham, that J.Q. had put his hand down the victim's pants and kept texting the victim, but that the victim wanted no one (including the Human Resources Department) to know about it. Graham responded to Rourke: "She needs to report it! He [J.Q.] is scheduled to be a sergeant. She's obligated to protect other females." (Ex. B; Rourke T.; Graham T.) Rourke stressed the victim's desire to keep the matter confidential. Rourke never reported her conversation with the victim to anyone other than Graham, nor did she file a Natick Police Department Citizens Complaint form. (Rourke T.) The victim never filed any type of written complaint.

The day after Graham received the text messages from the dispatcher about the incident, he informed Rossi, his supervisor, of the substance of them. (Ex. M; Graham T.) Rossi asked Graham to encourage the dispatcher to file a complaint or to put something in writing himself, i.e., a Supervisor's First Report. (Ex. B; Ex. E) At least one more time, Rossi asked Graham to urge the dispatcher to file a complaint. (Ex. E; Rossi T.) Throughout this time, Rossi did not believe she could act on third-party reports, particularly when the victim did not want the matter reported. (Ex. D; Rossi T.).

By June 22, 2020, Chief Hicks learned of rumors about the incident. He ordered Rossi to investigate, to start with where she received information and work backwards. (Ex. R; Hicks T.) The Chief expected Rossi to interview anyone who had given her information about the incident, although Rossi believes that he only told her to interview the victim. (Ex. R; Hicks T.; Rossi T.)

The next day Rossi attempted to interview the victim. The victim was obviously uncomfortable and provided no information. To Rossi's questions, she only nodded her head "no." She did not speak to Rossi. Rossi told the victim that she (Rossi) had been in similar situations, that the victim may not feel comfortable, but that she (Rossi) was available any time. The victim became angry and asked if she could leave. She did so. Rossi did not interview anyone other than the victim about the incident. Shortly after the meeting with the victim, Rossi gave Chief Hicks typed notes of the interview. (Rossi T.)

At all relevant times, the Natick Police Department had a "General Order" regarding "Professional Standards" (General Order). Rossi was aware of these provisions. (Ex. B; Rossi T.) The General Order provides as follows:

All alleged or suspected violations of laws, ordinances, by laws, departmental rules, regulations, policies, procedures, and orders (verbal or written) must be investigated according to the procedures outlines for each. These include: alleged violations reported to the department's superior officers by other employees of the department, either orally or in writing; alleged violations, observed or suspected by department superior officers; citizens' complaints of alleged police misconduct which are made in person, by letter, by telephone, or anonymously.

...

Whenever a citizen reports misconduct by an employee of the police department, the supervisor receiving the complaint will complete NPD Form 1049, Supervisors First Report of Complaint, which will be forwarded by the end of each shift to the Officer-in-Charge of Professional Standards. This will be done regardless if the complainant has completed a Citizens' Complaint Form or has taken a form home to fill out and file later. The OIC/PSS will confirm that the complainant has received a Citizen Complaint Form NPD #1050 or will ensure that a complaint form is mailed to the complainant. ...

Internal Complaints of Misconduct against another employee shall be initiated by preparation of a standard citizens complaint report form which may be submitted to the Shift Commander for the OIC/PSS. (Id.)

The General Order requires that all "alleged or suspected violations of laws...must be investigated." Specifically included are "alleged violations reported to the department's superior officers by other employees of the department, either orally or in writing." Dispatcher Rourke's texts to Graham in April, 2020 clearly constituted "alleged...violations reported to the

department's superior officers by other employees of the department, either orally or in writing.”

At that point, Graham should have ordered the dispatcher to complete a complaint form and submitted it to the appropriate office. Although Graham did not do so, he did immediately report the incident to his supervisor, Rossi. Graham continued to report to Rossi additional information as he received it from Rourke.

Pursuant to the General Order, when Rossi first received Graham's oral report of the incident, Rossi should have completed a complaint form or had one completed by either Rourke or Graham himself and she should have instituted an investigation. Although Rossi's decision not to follow policy and investigate the incident was influenced by her concern that the victim wished the matter to be kept confidential, the General Order makes no exception for confidential information. There is no question that Rossi erred, and she has admitted such. (Ex. C; Rossi T.)

In July, 2020, the Town of Natick hired an outside party to investigate the incident and the Department's failure to investigate the same. (Ex. B) Rossi was no longer expected to investigate the incident. (Hicks T.) The investigator found that Rossi violated the Natick Police Department's General Order which required that all suspected violations of law must be investigated.

Rossi learned that Chief Hicks intended to discipline her and wrote him a letter in which she “accepted responsibility for [the] situation,” stated that she “ha[d] learned from her mistake...was wrong...[and] admit[s] it.”) She also explained that her “intentions with this situation were to protect the alleged victim and not to put her in a situation that she very clearly did not want...and that this was not a mistake of the mind, but rather of the heart.” (Ex. D)

Chief Hicks determined that Rossi had failed to follow standard investigatory practices and that her conduct had violated the General Order. (Ex. C) ⁴ He believed that Rossi's actions would warrant five shifts of suspension without pay. However, he considered that Rossi was an "exemplary" officer during his tenure in Natick (twelve years); that her actions were not intentional or willful inaction; that she had no past disciplinary history with the department while he was there; that she accepted responsibility for her mistakes; and that her failure to investigate was due to her concern for other employees. For these reasons, he imposed only two shifts of suspension without pay and two sessions of sexual harassment training. (Ex. C; Ex. R; Rossi T.; Hicks T.) Rossi complied with the discipline. (Rossi T.; Hicks T. Chief Hicks did not seek additional discipline against her from the Commission. (Ex. R)

On February 16, 2023, pursuant to 555 CMR § 102(4), the Commission directed its Division of Police Standards to open a preliminary inquiry to investigate the respondent's failure to investigate the allegations of sexual harassment.

June 2, 2023, Incident

On June 2, 2023, Rossi went to the Natick Police Department to see a friend who worked there. Rossi, wearing street clothes, was on a vacation day from the Ashland Police Department and planned to have her friend notarize some papers. Upon her arrival at the Natick Department, Rossi unexpectedly encountered Graham. The meeting rapidly turned unpleasant. Rossi mentioned the Commission investigation and expressed anger that she was the only person subject to said investigation. The discussion lasted approximately thirty minutes and was

⁴ Chief Hicks also concluded that Rossi had violated the Town of Natick's Sexual Harassment and Workplace Violence Policy ("Policy"). (Ex. C) That Policy, however, does not provide a reporting process for a situation such as the instant one in which the employee does not "file a complaint." (Ex. B) In addition, there is no evidence before this hearing officer that this Policy was violated in any other way. Accordingly, I do not find that the respondent violated the Policy.

captured on the station's video equipment (although there is no audio recording). After the encounter, Rossi went upstairs, in tears, to see her friend. (Ex. I; Ex. X; Graham T.; Rossi T.)

Graham emailed Chief Hicks to report the verbal altercation and express concern that this conversation "could be twisted" because the video captured Rossi in tears. He, therefore, intended to report it to the POST Commission. (Ex. H; Graham T.) Graham's reports of this incident were an attempt to protect himself lest Rossi report his behavior as so intimidating that he left her in tears.

On June 8, 2023, in response to an inquiry from the Commission, Rossi's then-counsel emailed the Commission that Rossi denied the allegations against her, but admitted to having had an unintended heated discussion with Graham at the Natick Police Department. (Ex. J) She admitted referring to her feelings that although he, too, had failed to report the incident, he had not been disciplined for his failure to do so. She also admitted to mentioning the POST preliminary inquiry. (Ex. J; Rossi T.)

On June 15, 2023, pursuant to 555 C.M.R. § 1.02 (4), the Commission directed the Division to expand its original preliminary inquiry and investigate the June 2, 2023, incident at the Natick Police Department as well. (Ex. K)

The Town of Natick hired external investigators to investigate Graham's report of the verbal attack by Rossi, in which he alleged harassment by Rossi (and other issues). On September 12, 2023, the firm issued a report concluding that there was insufficient evidence (after adopting a preponderance of the evidence standard) that Rossi had harassed Graham. (Ex. M) The investigators found that there was insufficient evidence to find that Rossi was physically intimidating, threatening, or yelling so loudly in the June 2, 2023 encounter that Graham could have feared any physical harm. (Ex. M) Applying a standard of clear and convincing evidence, I

adopt these findings. In addition, I find that there is not clear and convincing evidence as to the exact words spoken during this altercation. Regardless of what was said, the confrontation should not have occurred.

III. Legal Standard and Hearing Officer's Conclusions

The Act Relative to Justice, Equity and Accountability 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(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(b)(iv):

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 [. . .] was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed.

M.G.L. c. 6E, § 10(d)(ix):

The [C]ommission may, after a hearing, order retraining for any officer if the [C]ommission finds substantial evidence that the officer [. . .] would benefit in their job performance if retrained.

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.

The evidence presented does not establish “clear and convincing evidence” that Rossi engaged in a pattern of professional misconduct that may escalate; nor is there substantial evidence that she would benefit in her job performance if retrained. As to her failure to investigate or report (or order anyone else to report) the incident, she has been sufficiently sanctioned for this violation of policy. In addition to being sanctioned by the Natick Police Department, she has expressed remorse for her behavior, admits she did not follow proper procedures and learned from her mistake. Nothing more could be achieved by additional sanctions.

The altercation with Graham at the Natick Police station on June 2, 2023, was inappropriate and unprofessional. Rossi should have restrained herself from any unpleasant or hostile conversation with Graham. However, this behavior does not constitute misconduct. Even if it did rise to the level of misconduct, it does not establish a pattern of unprofessional misconduct that may escalate if discipline is not imposed. There is no substantial evidence that Rossi would benefit in her job performance if retrained.

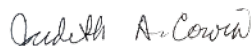
IV. Hearing Officer’s Recommendations

Based on the evidence and the applicable statutes and regulations, the hearing officer recommends that the Commission impose no additional sanctions or retraining. As to Rossi’s failure to investigate or report the incident, Rossi erred. She was sanctioned and ordered to attend retraining; she complied with the sanction, and she attended retraining. In addition, she admitted the errors she had made. The inference from the evidence is that the complaint against Rossi for the June 2, 2023, confrontation with Graham was motivated by Graham’s desire to

protect himself. Rossi's behavior on both occasions, though not professional, was not of the nature that the statute, see M.G.L. c. 6E, was intended to address.

NOTICE OF 30-DAY RIGHT FOR REVIEW BY THE COMMISSION

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



Hon. Judith A. Cowin (ret.)
Hearing Officer

Date: May 3, 2024

Notice to: Leah M. Barrault, Esq., Respondent Counsel
Shaun Martinez, Esq. Enforcement Counsel