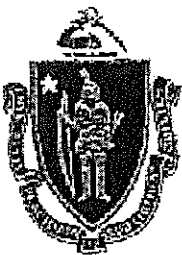


“F”



The Commonwealth of Massachusetts
Office of the Inspector General

GREGORY W. SULLIVAN
INSPECTOR GENERAL

JOHN W. MCCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1011
BOSTON, MA 02108
TEL: (617) 727-8140
FAX: (617) 728-3334

May 31, 2006

The Honorable Domenic J. F. Russo
Chairman
Public Employee Retirement Administration Commission
Five Middlesex Avenue, Third Floor
Somerville, MA 02145

Dear Judge Russo:

The Office of the Inspector General has completed its investigation pertaining to the pension received by Charles Bradshaw Lincoln upon his retirement from Plymouth County, Massachusetts in January, 2004. The investigation was predicated upon receipt of a complaint filed by a person connected with Plymouth County. Lincoln's pension, the highest in Plymouth County history, amounted to almost \$140,000 annually and \$11,648.99 per month for the rest of his life.

During the investigation, this office, pursuant to M.G.L. c. 12A, §9, issued letters to several public entities, including the Public Employee Retirement Administration Commission, the Plymouth County Retirement Association, the City of Brockton Retirement Board, the Brockton Police Department, and the Plymouth County Sheriff's Department. These letters requested production of all documents relevant to the retirement and pension of Charles Bradshaw Lincoln. In addition, the letters to the Plymouth County Sheriff and the Brockton Chief of Police requested, among other things, production of all records pertaining to Lincoln's accrual and use of sick leave, vacation time, compensatory time, and weekly time and attendance within certain specified time parameters. During the investigation, investigators conducted appropriate interviews and reviewed and analyzed hundreds of pages of documents relevant to Lincoln's retirement and his employment with the Brockton Police Department and the Plymouth County Sheriff's Department.

A review of relevant records disclosed that Charles Bradshaw Lincoln began his public service as an employee of the Town of Dedham from 10/1/69 to 5/13/72.¹ Lincoln was employed as a police officer for the City of Brockton from 5/14/72 until 1/15/04. He held the rank of Lieutenant at the time his employment with the Brockton Police Department ended. On 1/23/01, Lincoln was hired by former Plymouth County Sheriff Joseph F. McDonough to serve as Director of Security at the Plymouth County jail. This

¹ The records reflect that Lincoln worked for the City of Brockton briefly from 5/2/59 until 6/27/59.

was a full time position for the Sheriff's Department. He continued to perform that job until his retirement from Plymouth County on 1/23/04.

At the time he was hired by the Plymouth County Sheriff, Lincoln was employed full time as a Lieutenant for the Brockton Police Department. Lincoln continued his employment in Brockton and held two full time public safety positions for separate public safety agencies from January 23, 2001 until he left the Brockton Police Department on January 15, 2004. He worked for Plymouth County by day and the City of Brockton by night. Specifically, Lincoln worked the 8 am to 4 pm shift at the Plymouth County jail for three years. Simultaneously, he worked either the 12 midnight to 8 am or the 4 pm to 12 midnight shift at the Brockton Police Department during the identical time frame.

Lincoln left employment with Brockton at age 62, after over 31 years of service as a police officer on 1/15/04. He was fully vested in the Brockton retirement system but did not retire from it. Instead, he was able to transfer his accumulated retirement contributions for public service in Dedham and Brockton into the Plymouth County Retirement Association. On 1/8/04, Lincoln submitted his retirement application to the Plymouth County Retirement Association. The Plymouth County Retirement Board voted to approve Lincoln's application for retirement on 1/20/04 and by letter dated 3/2/04, requested the Public Employment Retirement Administration Commission (PERAC) to determine the amount of the pension liability. By letter dated 3/15/04, PERAC notified the Plymouth County Retirement Association that it had approved Lincoln's retirement allowance, in the amount of \$139,787.08 per year for the rest of his life.

PERAC informed this office by letter dated 5/26/05 that its actuary is statutorily authorized to approve amounts of allowances paid to members of retirement systems pursuant to M.G. L. c. 32, § 21(3). This letter stated that, "[w]hen a person who has been a member of more than one retirement system retires, his or her retirement allowance is pro-rated between the systems pursuant to M.G.L. c. 32, § 3(8)(c)." PERAC records enclosed with this letter contain another letter from PERAC to the Plymouth County Retirement Board dated 8/6/04. This letter disclosed that Dedham would be responsible for \$536.64 of Lincoln's annual pension; Brockton's annual contribution is \$76,553.81; and Plymouth County is responsible for \$62,696.63 per year. Plymouth County taxpayers are responsible for the latter amount, notwithstanding that Lincoln served the County for only three years. PERAC explained in its 8/6/04 letter to Plymouth County that "the amount of Mr. Lincoln's pension is due solely to his second full time position with Plymouth County. Consequently, the County should bear the remaining cost of his pension."

PERAC records enclosed with this letter reveal that Lincoln's pension was calculated by adding his two salaries from the Brockton Police Department and the Plymouth County Sheriff's Department for each of his last three years of employment at these agencies. His total combined salary for the three year period was \$532,709.73. The PERAC actuary determined his average salary for this three year period to be \$177,569.91 per

year. This figure became the basis upon which his annual pension of \$139,787.08 was calculated. The PERAC letter disclosed that retirement allowances are calculated pursuant to M.G.L. c. 32, § 5. PERAC officials have informed this Office that their method of calculating Lincoln's pension allowance was mandated by the Commonwealth's existing pension laws.

Commentary

Pursuant to M. G. L. c. 12A, § 7, the Massachusetts Legislature has charged the Inspector General with the duty of detecting fraud, waste and abuse in the expenditure of public funds within the Commonwealth. This investigation set out to determine whether fraud, waste and abuse were present in the circumstances surrounding the pension and public employment of Charles Bradshaw Lincoln. Based upon the facts uncovered during this investigation, it is the opinion of the Inspector General that the Lincoln pension and employment situation involves one of the most significant abuses in the expenditure of public funds and abuse of employment benefits in the history of the Commonwealth.

The fact that Lincoln was able to earn in excess of one half million dollars by working at two full-time public jobs in a three year period appears to be excessive per se. Furthermore, his ability to leave public service with a pension of almost \$140,000 annually and \$11,648.99 per month for the rest of his life, amounts to an amazing and astonishing manipulation of the current pension system. According to a Plymouth County official, prior to Lincoln, the closest pension payout was approximately \$90,000 dollars. The Massachusetts Legislature certainly never intended the Lincoln pension windfall when it enacted the current pension laws.

The taxpayers of Plymouth County should likewise find the Lincoln pension situation to be incredibly offensive. After all, Lincoln was employed by Plymouth County for only three years and his contributions to its retirement system were minimal, i.e. 5% of his annual salary. Notwithstanding his marginal participation, he will earn approximately \$63,000 annually from that system for the rest of his life. By contrast, Lincoln was required to work almost thirty two years in the Brockton retirement system to qualify for an annual pension contribution from Brockton of approximately \$76,000. Moreover, he contributed substantially more into the Brockton retirement system during 32 years than he contributed in Plymouth County in 3 years. Lincoln's pension assessment from Plymouth County is approximately 83 % of the Brockton assessment, despite his minimal involvement in the County system.

This Office interviewed former Plymouth County Sheriff Joseph McDonough concerning the Lincoln pension. Sheriff McDonough advised that he served as Plymouth County Sheriff for four years. In addition, he served as an elected Plymouth County Commissioner from 1996 to 2000. He also has served on the Plymouth County Retirement Board from 1985 to the present. During the interview, Sheriff McDonough advised that he was aware of the fact that Lincoln's pension would be large due to the combining of salaries from his two full time positions. Notwithstanding this knowledge,

Sheriff McDonough stated that he never considered the impact that Lincoln's pension would have on the County retirement system. Given his long term position on the Plymouth County Retirement Board, his other substantial elected and appointed positions with the County, and his admission that he knew that Lincoln's pension would be large, due to combining salaries from two jobs, Sheriff McDonough's claim that he never considered the impact that Lincoln's pension would have on the County retirement system rings hollow.

Lincoln's use of sick leave during his dual employment in Plymouth County and Brockton is both shocking and alarming. During the five years prior to holding dual positions, Lincoln used approximately 51 sick days in Brockton. During the three years that Lincoln held both positions, he used 222 sick days in Brockton² and approximately 29 sick days in Plymouth for a total of 251 sick days. He used approximately five times the number of sick days during his three years of dual employment than he used in the previous five years of employment in Brockton.

Specifically, with respect to his job in Brockton, Lincoln used 30 sick days in 2001, 85 in 2002, and 106.4 in 2003. On 148 of the days he took sick leave from Brockton, he worked a full shift at Plymouth County. On eight of those days, Lincoln not only worked a full shift at Plymouth County but extra hours as well. Moreover, during the three years in which he held the two positions, he worked only 314 full days and 25 partial days at the Brockton Police Department, out of a possible 722 work days.³ During 2003, Lincoln worked only 60 full days and 14 partial days at his Brockton job, out of a possible 243 work days. An examination of his Brockton work days for the months leading up to his Brockton termination in January 2004, disclosed that Lincoln worked a total of 4 full days in July, 5 full days and 1 partial day in August, 4 full days in September, 4 full days in October, 3 full days in November and 2 full days in December.

This Office also interviewed former Brockton Police Chief Paul Studenski. Chief Studenski advised that upon learning of Lincoln's decision to perform two full time jobs, he was concerned about Lincoln's ability to perform his job as a lieutenant and night supervisor at the police department. Chief Studenski expressed surprise and dismay when informed by this office that Lincoln worked at the Plymouth County Sheriff's Department on 148 of the 222 days that he took sick leave at Brockton during his last three years of employment. Lincoln's supervisor, a Deputy Supervisor at the Plymouth County Sheriff's Department, informed this office that he was aware that Lincoln used a lot of sick time from Brockton Police Department but Lincoln never appeared to be sick.

The "Agreement between City of Brockton and Police Supervisors Union," permitted police supervisors to receive at time of retirement, a payment equal to the value of 100% of unused sick days accumulated as of June 30, 1997. As of that date, Lincoln had accumulated 173 unused sick days. If Lincoln did not use the 173 earned sick days, and had actually retired from the City of Brockton, he would have been entitled at the time of his Brockton retirement to receive a payment of 100% of the value of those days from the

² One of these sick days was actually used by Lincoln in January 2004.

³ The days off included vacation time, personal days, and compensatory time in addition to sick leave.

City of Brockton. However, Lincoln chose not to retire from Brockton and instead terminated his employment there and transferred his service into the Plymouth County retirement system.

According to an official at the Brockton Police Department, when a police supervisor terminates employment in Brockton, electing not to retire, and transfers into a separate retirement system, he is no longer eligible to receive a sick leave payout. The above mentioned "Agreement between City of Brockton and Police Supervisors Union" confirms the fact that an employee must retire from the police department to be eligible to receive a sick leave payout.⁴ This Office has also been informed by an Assistant Deputy Superintendent of the Plymouth County Sheriff's Department that unused sick days earned in another jurisdiction are not transferable when a new employee terminates employment from a separate governmental entity and works for the Sheriff's Department. Thus, unused sick days earned by Lincoln in Brockton could not be cashed in by him at his termination from Brockton and could not be transferred to the Plymouth County Sheriff's Department. It is obvious that Lincoln knew that his 222 unused Brockton sick days would be of no monetary value to him upon his transfer into the Plymouth County retirement system. Being unable to cash them in, he chose to use them up instead.

As previously mentioned, Lincoln put in a full days work at the Plymouth County Sheriff's Department on 148 of the 222 days he claimed to be sick in Brockton. The monetary value of the 148 sick days to the City of Brockton is approximately \$39,000 dollars. During Lincoln's last 3 years of employment he used 29.31 days of sick leave at the Plymouth County Sheriff's Department. On 7 of those days, he put in a full shift at the Brockton Police Department. The monetary value of those 7 days is approximately \$2000 dollars. Lincoln's use of 148 sick days at Brockton while putting in a full day's work in Plymouth County and his use of 7 sick days at Plymouth County while putting in a full day's shift at Brockton, raises a significant question concerning whether any of the 222 sick days used at Brockton and 29 sick days used at Plymouth County within the last three years of his employment were true sick days. Despite an obvious pattern of abuse regarding Lincoln's use of sick leave, our investigation revealed no evidence that he ever produced the requisite medical verification for any of his claimed illnesses.

Lincoln's choice to use all of his accumulated Brockton sick days and to continually take sick leave from his job in Brockton while working at his Plymouth County job on the same day can only be characterized as a massive abuse of his Brockton sick leave benefits. This conduct can be fairly characterized as a fraudulent attempt by Lincoln to deprive the citizens of Brockton and its police department of his honest and faithful services. Lincoln clearly placed his own personal interests above those of the public that he purported to serve. He held an extremely important public safety position in Brockton. He was a lieutenant on the police force and a night supervisor as well. Lincoln's continual absence from his assignment at the Police Department surely had a negative impact on the Department's ability to serve the public. Furthermore, police officers must be held to a high standard with respect to honesty and integrity. It is our opinion that Charles Bradshaw Lincoln's conduct falls far short of the mark.

⁴ See Article 1X, Section 9.13 (A) and (C) of this Agreement.

Lincoln's manipulation of the system did not end with abuse of sick leave benefits. Lincoln earned over 69 days in vacation benefits while employed in Plymouth County for three years. Our investigation determined that a new employee hired by Plymouth County would normally earn approximately 30 vacation days in three years. Lincoln was able to earn more than double the vacation days normally earned by new employees. In fact, for the last two and a half years of his County employment, he earned the same number of days (25 per year) that were reserved for employees who had served the County for at least nineteen and a half years.

Lincoln was aided and abetted in his ability to earn a substantial number of extra vacation days because of a decision made by an Executive Assistant to the Administrator of the Plymouth County Commissioner's office. This decision ultimately cost the taxpayers of Plymouth County approximately \$11,000 dollars in additional vacation benefits. The Executive Assistant arrived at her decision to grant Lincoln increased vacation benefits by adding his prior government service in Brockton to his service in Plymouth. She explained that Plymouth County personnel regulations required this result. However, our review of this regulation, i.e. Vacation Leave Rule Number One, revealed that the rule may have been erroneously interpreted in the Lincoln matter. Specifically, the rule appears to require termination of previous government service before that prior service can be included for purposes of calculating vacation time.⁵ This Office finds it troubling that a decision that cost the county taxpayers approximately \$11,000 can be made without the express approval of the County Administrator. Once again, Lincoln was able to manipulate the system to his personal advantage.

Another example of Lincoln's manipulation of his dual employment situation for personal gain involves his decision to retire from Plymouth County rather than Brockton. Lincoln had the option to retire from either Brockton or Plymouth County. The amount of Lincoln's pension would have been the same upon his retirement from either system. Lincoln worked over 31 years for the Brockton Police Department and only 3 years for Plymouth County. The Inspector General believes that Lincoln chose to retire from Plymouth County because the health insurance costs were less. By retiring from Plymouth County, Lincoln's cost is 10% of the group rate for his selected health plan. If Lincoln had chosen to retire from Brockton, his cost of the health insurance group rate premium would have been 25%. The vast majority of government employees are never presented with this kind of choice.

In summary, Charles Bradshaw Lincoln was a master manipulator. He abused many aspects of each involved system for his personal gain at the ultimate expense of the taxpayers of the City of Brockton and Plymouth County. When it was to his personal advantage, Lincoln successfully sought to combine vacation benefits from the two systems. Likewise, for retirement purposes he was successfully able to combine income

⁵ Vacation Leave Rule Number One defines "Service -- for the purpose of vacation status only, shall also mean service in the Commonwealth or in any political subdivision thereof prior to entry into County service, provided that no break in service of three years or more occurred between such termination of employment and entrance into County service." (Emphasis added).

earned from the two systems for inclusion in his pension benefit calculation. Conversely, when it came to earning employment benefits such as sick time, vacation time, and compensatory time, Lincoln was able to earn them separately and simultaneously in both systems. He not only earned these benefits separately but was able to use them separately as well.

Lincoln's ability to achieve this result was only possible with the complicity of other public officials. For example, former Sheriff McDonough hired him for a full-time Director of Security position in Plymouth County with full knowledge that he already had a demanding full-time public safety position in Brockton. It is not difficult to foresee that public safety would suffer when Lincoln would need to work 16 hours per day at two important public safety jobs. Moreover, Sheriff McDonough admitted during an interview that he was aware of the fact that Lincoln would be able to retire with a large pension resulting from his two-full time positions. As a former Plymouth County Commissioner and current member of the Plymouth County Retirement Board, Sheriff McDonough breached his fiduciary duty to place the personal interests of Charles Bradshaw Lincoln above the interests of the Plymouth County taxpayers. During his interview, Sheriff McDonough advised that Lincoln was involved in assisting him in his 2000 campaign for Sheriff. Sheriff McDonough apparently decided to reward Lincoln for his campaign assistance at the expense of the taxpayers of the City and the County.

Charles Bradshaw Lincoln was contacted on 4/12/06 and informed that this office was conducting an investigation regarding his pension. He was asked if he would submit to an interview. Lincoln responded that he wished to seek legal counsel. On 4/13/06, Lincoln and his attorney informed this office that he (Lincoln) had no comment on this matter and declined to be interviewed.

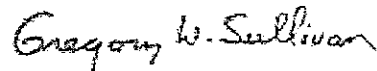
Recommendations

1. The Public Employment Retirement Administration Commission (PERAC) should recalculate and reduce Charles Bradshaw Lincoln's annual pension by subtracting from his total income for his last three years of dual employment, the total value of his fraudulent use of sick days during that period. The monetary value of the fraudulently used sick days, i.e. 148 in Brockton and 7 in Plymouth County, is approximately \$41,000.
2. The Public Employment Retirement Administration Commission (PERAC) should examine existing Massachusetts pension laws and draft appropriate amendments to preclude the future possibility of the Charles Bradshaw Lincoln pension result from happening again. The proposed amendments should be brought to the attention of the Governor and the legislature as soon as possible.
3. The City of Brockton, after consulting with legal counsel, should seek to recover \$39,000 from Charles Bradshaw Lincoln. This represents the value of

the 148 sick days used by Lincoln in Brockton while putting in a full days work in Plymouth County.

4. The Plymouth County Sheriff's Department, after consulting with legal counsel, should seek to recover \$13,000 from Charles Bradshaw Lincoln. This represents the value of the extra vacation days Lincoln earned (approximately \$11,000.00) as a result of an incorrect decision made by a county employee regarding Lincoln's vacation benefits. It also includes the value of 7 sick days (approximately \$2000.00) used by Lincoln in Plymouth County when he worked a full day at his Brockton Police job.
5. The Plymouth County Commissioners should review Vacation Rule Number One, found in its Plymouth County Personnel Board rules and regulations which define employment service for purposes of calculating employee vacation benefits to include prior service with another governmental entity. The language set forth in the rule should specifically make clear that the rule is not applicable when the county employee holds a full time simultaneous position with a separate government entity.
6. The Plymouth County Commissioners should ensure that a high level county official, such as, the County Administrator, be required to review and approve all decisions to grant county employees more vacation or other employment benefits than they would be entitled to receive based upon their length of service.

Sincerely,



Gregory W. Sullivan
Inspector General

cc: Joseph E. Connarton, Executive Director
Brockton Police Department
Brockton Retirement Board
Dedham Retirement Board
Plymouth County Commissioners
Plymouth County Retirement Association
Plymouth County Sheriff's Department