



THE CITY OF SPRINGFIELD, MASSACHUSETTS

MAYOR DOMENIC J. SARNO

HOME OF THE BASKETBALL HALL OF FAME

THE CITY OF SPRINGFIELD, MASSACHUSETTS

MAYOR DOMENIC J. SARNO

EXECUTIVE ORDER

Revised October 16, 2019

Effective October 16, 2019

Community Police Hearing Board
For Springfield Police Department

I, Domenic J. Sarno, by authority vested in me as Mayor of the City of Springfield, Massachusetts, do hereby order that the Community Police Hearing Board (CPHB or "Board"), originally created by Executive Order, February 2010, and as revised March 2, 2016, further revised January 1, 2018 and is further revised and shall operate as follows under the following revised order:

1. Selection of Board Members

The Mayor shall appoint the members of the Board. In doing so he may give consideration to recommendations made from a broad array of groups across the City.

The Board shall consist of 9 members who are residents of the City. Members shall participate in all training and preparatory meetings and act without conflict of interest on the part of any member thereof.

The Board will be chaired by an Attorney with experience in administrative procedures. The chairperson will lead quarterly full Board meetings and work with the Board to determine the full Board meeting schedules and agendas and administration of the Board. However, in the event of a vacancy in opening in the chairperson, an Acting Chair need not be an Attorney so long as all other qualification and requirements are met.

The term of appointment of members shall be three-years, however, the initial appointments shall include 1 member who shall serve an initial one year appointment, and two members who shall serve two years in order to stagger the terms for future appointments.

2. Qualifications for Board

The members of the CPHB do not need to have had investigatory experience. However, they must be persons of integrity with diverse backgrounds. Potential Board members should recognize the significant commitment of time that Board membership requires and be willing to commit sufficient time to the effort. In addition to bi-weekly Board meetings to conduct reviews of reports conducted by the Internal Investigation Unit of all citizen complaints, and such internally generated complaints as determined by the Police Commissioner, Board members are required to participate in Hearings conducted pursuant to M.G.L. c. 31, and will be occasionally asked to participate in community outreach and education activities.

The members of the Board must agree to keep information on specific complaints or investigations confidential as is the present practice within the IIU. This is a fundamental responsibility and failure to keep private information confidential will be grounds for removal from the Board.

3. Training for Board Members

The Personnel Department and the Law Department shall develop a training program for all new Board members. This training shall include:

- The current procedures for filing and investigating a complaint.
- The elements of a thorough investigation including a review of a number of actual case files from closed investigations.
- The Policies of the SPD regarding respectful treatment of civilians.
- The Policies of the SPD regarding appropriate use of force.
- The Role of Civilian Oversight Boards in this and other jurisdictions.
- Legal Requirements for protection and confidentiality of private governmental documents.
- Hearing procedures and requirements under the provisions of Civil Service Laws and collective bargaining agreements for the conduct of administrative disciplinary hearings.
- The Massachusetts Open Meeting Law.

As part of this training a set of reference materials should be provided to each Board member. These materials should include copies of all relevant Massachusetts statutes, all SPD policies and procedures regarding officer misconduct and use of force, and a copy of this Executive Order. This training should be repeated annually or when new members are appointed to the Board.

4. Responsibility of Board Members

It shall be the responsibility of the Board to:

A. Authorized to Receive Complaints. Accept civilian complaints otherwise filed with the Springfield Police Department (SPD) or any other city or state agency regarding the activities of the SPD (The Police Commissioner may take appropriate actions to maintain the security of police documents, reports or files examined by the Board).

B. Perform Case Reviews to Determine Sufficiency of Investigation and Whether Reasonable Cause to Discipline. In light of the significant commitment of time that Board membership requires, completed internal investigations that have been sufficiently investigated, initial case reviews may be

conducted individually or as a group for the purpose of recommending to the Commissioner whether or not to issue a letter to an officer alleging that there is reasonable cause to believe the officer violated the Policies and Procedures of the Police Department. Where a complaint involves a minor instance of alleged misconduct by an officer, such as rude or discourteous behavior, and the complaint does not involve repeated instances of such behavior by the officer involved, or any other evidence that such rudeness involved a racial slur, any threat, or other incident that compromises an officer's effectiveness to continue employment with the SPD, the recommendation to the Commissioner may include an alternative to formal disciplinary charges.

C. Comply with Open Meeting Law while Conducting Case Reviews. A notice of any review meetings where determinations of the sufficiency of an IIU investigation or whether reasonable cause exists to believe the officer violated the Policies and Procedures of the Police Department shall be posted in compliance with the Open Meeting Law.

D. Act as Hearing Officers. The CPHB is authorized to act, individually or as a group, as Hearing Officers, designated by the Police Commissioner as the appointing authority pursuant to Chapter 31 of the General Laws, in complaints under jurisdiction of the Board, taking into account the need for the training and qualifications required for a hearing officer. Although Chapter 31 authorizes determinations by an individual Hearing Officer, where the CPHB is designated to act as the Hearing Officer on determining the merits of the disciplinary charges issued by the Police Commissioner alleging a violation, at least three members of the CPHB shall review and vote on the recommendation prior to filing with the Police Commissioner. A notice of any hearing under this paragraph shall be posted in compliance with the Open Meeting Law.

E. Until such time as the City Council shall empower the Board to issue a summons pursuant to the authority of M.G.L. c. 233, §10 and the City's Home Rule Powers, the Board may request the assistance of any state or federal agency in obtaining the attendance of a witness who refuses to voluntarily attend a hearing. Any such request shall be made through the Police Commissioner as the appointing authority, and with the advice and consent of the Law Department. As an example, the Board may request the Commissioner, as appointing authority, to request that the Massachusetts Civil Service Commission or its Administrator to investigate all or part of any complaint and utilize, pursuant to M.G.L. c. 31, § 72, power to issue any subpoena that may be necessary, such that the Civil Service Commission or Administrator may then make to the appointing authority any appropriate recommendations for consideration by the Board in any Hearing or Deliberations under this Executive Order.

F. Perform Duties Fair and Impartially. A Hearing Officer who cannot consider a case in a fair and impartial manner because of personal prejudice or bias, shall not consider a particular case and shall so inform the Board. Examples of personal bias include, but are not limited to:

- (a) Familial relationship or friendship with parties to the complaint;
- (b) Being a party to the complaint;
- (c) Witnessing material events relevant to the complaint;
- (d) Having a financial interest in the outcome of the case;
- (e) Holding a bias for or against a party that is sufficient to impair the examiner's impartiality.

G. Avoid Public Comment on Complaints. A Hearing Officer shall avoid making public comment on all pending complaints, investigations and matters, whether or not they are serving on particular cases.

H. Follow All Applicable Laws. After issuance of a letter from the Police Commissioner alleging charges against an employee for violation of Department rules, policies or procedures, and when designated by the Police Commissioner, in his capacity as the appointing authority as the designated Hearing Officer pursuant to Chapter 31 of the General Laws, the CPHB shall consider the complaint in a fair and impartial manner, ensure that facts are fully elicited, adjudicate all issues and avoid undue delay and shall be conducted in accordance with the applicable provisions of state and federal law, including but not limited to M.G.L. c. 31, pertaining to Civil Service, as well as any applicable provisions of a collective bargaining agreement.

I. Take Evidence through Sworn Testimony. Action to The Hearing Officer is also authorized, pursuant to the provisions of Chapter 31 of the General Laws, in the case of any unresolved complaint where a hearing is held, to subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and to require the production of any evidence relating to any matter in question before the Board.

J. Determine Whether Substantial Evidence of Just Cause to Discipline Exists Based on the Record of a Hearing. At the conclusion of a hearing, the CPHB shall determine whether there is substantial evidence of just cause to impose discipline.

K. Make Findings of Fact, Make a Recommendation as to Whether Discipline is Warranted, Recommend a Range of Discipline to the Police Commissioner. If the Hearing Officer determines at the conclusion of a hearing that one or more allegations in the complaint are supported by substantial evidence the Hearing Officer shall: a) make written findings of fact relating to the merits of the complaint; b) make a recommendation as to whether any discipline is warranted, c) make a recommendation as to a range of discipline to the Police Commissioner, after receiving disciplinary guidance, on a cases by case basis, from the City's Department of Labor Relations, that takes into account any mitigating or aggravating circumstances, consistency with past discipline, and the Police Department's progressive discipline policy.

L. Opportunity for Officer to be Heard. Prior to making such determinations, the CPHB shall provide the employee with an opportunity to speak personally or through a representative. In considering whether to recommend that discipline is appropriate, and any recommended range of discipline, the CPHB shall take into account the employee's work history, including but not limited to any commendations or other exemplary acts of service to the community. If discipline is recommended, the CPHB shall also take into account the officers disciplinary history.

L. Filing of Findings and Recommendations. The Hearing findings and recommendation shall be filed with the Police Commissioner in accordance with the provisions of G.L. Chapter 31, section 41. Within seven days after the filing of the report of the CPHB with the Police Commissioner, the Commissioner shall issue a written decision and provide a copy to the employee, which shall state fully and specifically the reasons therefore, and shall be subject to the present means of review by civil service appeal or arbitration as provided by the applicable collective bargaining agreement.

M. Obtain Follow Up Information on Complaints Where Hearing Recommended but Resolved Without Hearing. Whenever charges arising from a citizen's complaint are resolved prior to a hearing through mediation between the Police Department and the Union, the Police Commissioner shall advise the CPHB and keep a record of any comments received from the CPHB in response to such notice.

N. Utilize City Resources. The Board shall utilize staff of the Personnel, Labor Relations, SPD Crime Analysis Unit (in so far as authorized by the Commissioner), City Clerk and Law Department of the City, subject to appropriation, and such other staff, as are necessary to carry out its duties pursuant to this ordinance. The City Solicitor or his designee shall be responsible for the administrative operation of the Board and providing legal advice to the Board. The Director of Labor Relations shall arrange for presentation of cases at hearing.

O. After Action Review. The Law Department shall consider each matter reviewed by the CPHB to determine whether a structured after action review or de-brief process is required to analyze what happened, why it happened, and whether it recommends any proposed changes in Police Department policies or procedures and shall work with the Police Department to implement any such changes required by the Police Commissioner.

P. Obtain Follow Up Information on Outcomes. The Board shall receive notice of the final outcome of each matter it has reviewed and shall review the final outcome of each matter to determine: 1) whether the Commissioner adopted the recommendation of the Board; 2) the discipline imposed, if any, prior to or after a hearing; 3) whether retraining occurred; 4) whether the Law Department recommended any after action review of SPD policies or procedures; and 5) the outcome of any such after action review.

5. Removal from Board

The Mayor may remove a member from the Board, before their term expires in accordance with provisions of the City Charter.

6. Public Outreach and Communication

A. To help increase the open access to the complaint process the department will need to educate the public about the complaint reporting process, including information about when and how to file a complaint. Presentations to community groups, schools, community organizations and religious groups about the complaint reporting process may be necessary as part of a broader effort to help people increase trust and confidence in the complaint investigation process. This communication process should involve both members of the IIU and members of the Board. Joint presentations will help reflect the openness of the department. Such presentations should be made in the neighborhoods of Springfield and should be done in conjunction with existing community organizations whenever possible.

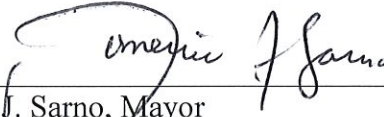
B. In addition to general education and outreach, the Board shall communicate with complainants about the status of investigations, and (where appropriate) the public. With the assistance of the Police Department, the Board shall keep track of all Citizen Complaints, hearings, and findings, and identify each with an incident number, date of incident, location of incident, the nature of the alleged misconduct, the name of the complainant and name of officer or officers alleged to have committed the misconduct. The CPHB shall disseminate notice of the review of any such incidents on a quarterly basis to the City Clerk, and the City Clerk shall post the information on the City website, but the Board shall not disseminate the

names of any participants or disciplinary action imposed on a named individual in any incident without the consent of such party.

C. The data gathered by the Board as well as any reports or recommendations voted by the Board with regard to the interaction of police officers and members of the community shall be reviewed by the Police Commissioner when considering disciplinary actions, promotions, assignments, training or adoption or amendments of the policies and procedures of the Springfield Police Department.

D. After a complaint is closed the Board shall promptly notify the complainant of the findings and may provide copies of any portions of the internal affairs file which are a public record. Any actual order of disciplinary action addressed to an officer is not a public record, and shall not be disclosed by the Board. For the complainant, correspondence shall be sent by certified mail to help ensure they receive notice of the outcome. The Board may send satisfaction surveys, similar to those used by the Cambridge Police Department, to both complainant and officers when each complaint is closed.

This Executive order, as amended, shall take effect on October 16, 2019.



Domenic J. Sarno, Mayor
City of Springfield