

DRAFT

AMENDING TITLE 2, OF THE REVISED ORDINANCES OF THE CITY OF SPRINGFIELD, 1986, AS AMENDED HEREBY FURTHER AMENDED BY ADDING A NEW CHAPTER 2.61 THERETO:
COMMUNITY POLICE HEARING BOARD FOR THE SPRINGFIELD POLICE DEPARTMENT

Title 2, of the Revised Ordinances of the City of Springfield, 1986, as amended, hereby further amended by adding the following new Chapter 2.61 thereto:

Chapter 2.61

COMMUNITY POLICE HEARING BOARD FOR THE SPRINGFIELD POLICE DEPARTMENT

Sections:

- 2.61.010 Establishment.
- 2.61.020 Selection of Board Members.
- 2.61.030 Qualifications for Board.
- 2.61.040 Training for Board Members.
- 2.61.050 Responsibility of Board Members.
- 2.61.060 Removal from the Board.
- 2.61.070 Public Outreach and Communication.
- 2.61.080 Effective Date.

2.61.010 Establishment. A Community Police Hearing Board ("Board") for the City of Springfield is hereby established and shall operate as follows:

2.61.020 Selection of Board Members. A. 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.

B. The Board shall consist of 7 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.

C. 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.

D. 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.

2.61.030 Qualifications for Board. A. The members of the Board 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, Board members will be occasionally asked to participate in community outreach and education activities.

B. The members of the Board must agree to keep information on specific complaints or investigations confidential as is the present practice within the Springfield Police Department ("SPD") Internal investigation Unit ("IIU"). This is a fundamental responsibility and failure to keep private information confidential will be grounds for removal from the Board.

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

1. The current procedures for filing and investigating a complaint.
2. The elements of a thorough investigation including a review of a number of actual case files from closed investigations.
3. The Policies of the SPD regarding respectful treatment of civilians.
4. The Policies of the SPD regarding appropriate use of force.
5. The Role of civilian oversight boards in other jurisdictions.
6. Legal Requirements for protection and confidentiality of private governmental documents.
7. Hearing procedures and requirements under the provisions of Civil Service Laws and collective bargaining agreements for the conduct of administrative disciplinary hearings.

B. 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 ordinance. This training should be repeated annually or when new members are appointed to the Board.

2.61.050 Responsibility of Board Members. It shall be the responsibility of the Board to:

A. Accept civilian complaints otherwise filed with the 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. Review the sufficiency of internal investigations completed by the SPD, and to make recommendations to the police commissioner for further investigation or action.

C. To act individually or as a group as hearing officers, to preliminarily review complaints investigated by IIU and make a preliminary determination as to whether based on the preliminary review, make a preliminary finding and recommendation as to each such complaint. When a preliminary review is made, each complaint should be reviewed for the following criteria:

1. "Unfounded," as the investigation determined no facts to support that the incident complained of actually occurred; or

2. "Sustained," as the complainant's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper; or

3. "Insufficient facts," as there are insufficient facts to decide whether the alleged misconduct occurred; or

4. "Exonerated," as a preponderance of the evidence shows that the alleged conduct did occur, but did not violate the policies, procedures, practices, orders or training of the SPD.

D. Based on the above criteria and preliminary findings, the CPHB shall make a recommendation such that:

1. A charge letter be issued and the Commissioner dispose of without the need for a hearing at this time.

2. A charge letter be issued and a hearing be held for consideration of the charges.

3. The Commissioner dispose of the matter in the good exercise of his discretion.

E. 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 pursuant to this ordinance, taking into account the need for the training and qualifications required for a hearing officer and that 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.

F. Examples of personal bias include, but are not limited to:

1. Familial relationship or friendship with parties to the complaint;
2. Being a party to the complaint;
3. Witnessing material events relevant to the complaint;
4. Having a financial interest in the outcome of the case;
5. Holding a bias for or against a party that is sufficient to impair the examiner's impartiality.

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

1. A Hearing Officer 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, or the Open Meeting Law, and any applicable provisions of a collective bargaining agreement.

G. The Hearing Officer is also authorized pursuant to 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 in connection therewith to request the production of any evidence relating to any matter in question before the Board.

H. A Hearing Officer shall make written findings of fact and a determination of the merits of the complaint and, if the Hearing Officer determines that one or more allegations in the complaint are sustained, a recommendation for any discipline warranted, after providing the employee with an opportunity to speak

personally or through a representative and after consideration of the employee's work history. In the merits determination, the Hearing Officer shall make one of the following decisions about each allegation in the complaint:

1. "Unfounded," where the investigation determined no facts to support that the incident complained of actually occurred;

2. "Sustained," where the complainant's allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper;

3. "Insufficient facts," where there are insufficient facts to decide whether the alleged misconduct occurred;

4. "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate the policies, procedures, practices, orders or training of the SPD.

I. The Hearing Officer's findings and recommendation for discipline, if any, shall be filed with the Board and the Police Commissioner, within seven days after the filing of the report of the Board with the Police Commissioner, the Commissioner, pursuant to Civil Service law, shall give to such employee a written notice of the Police Commissioner's decision, which shall state fully and specifically the reasons therefore, and which shall be subject to the present means of review by civil service appeal or arbitration as provided by the applicable collective bargaining agreement.

J. The Board shall be authorized to attempt by voluntary non-binding mediation to resolve any complaint within its jurisdiction if it deems appropriate and the complainant and the subject officer agree to participate in such mediation.

K. The Board shall utilize staff of the Personnel, Labor Relations, CitiStat and the 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 Personnel Director shall be responsible for the administrative operation of the commission and shall perform such other tasks as the Mayor may determine upon recommendation of the Board. The Director of Labor Relations shall arrange for presentation of cases at hearing. The Law Department shall provide legal advice to the Board.

2.61.060 Removal from the Board. A. The Mayor may remove a member from the Board, before his or her term expires.

2.61.070 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 CitiStat, 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 misconduct, the name of the complainant and name of officer or officers alleged to have committed the misconduct and publicly disseminate notice of the review of any such incidents on a quarterly basis, but shall not disseminate the names of any participants or disciplinary action imposed 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.

2.61.080 Effective Date. This ordinance shall take effect _____ of _____ 2010.

Approved as to form

Michael E. Mulcahy
Assistant City Solicitor

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