



City of Springfield, Massachusetts
*Community Police Hearing Board
Annual Report for 2011*

CHAIR

Attorney Cynthia Tucker

MEMBERS

Rev. Amos Baily, Vice Chair
Joanne Morales-Harrison
Robert C. Jackson
Albert Trangese

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
CBHB OBSERVATIONS	6
CPHB RECOMMENDATIONS	8
TABLE A Complaints by Source	11
TABLE B Complaints by Race	12
TABLE C Allegations filed by Citizens (By Type)	13
TABLE D Allegations filed by Police Department	14
TABLE E CPHB Findings (By Type)	15
Appendix 1 CPHB Data summary	
Appendix 2 Lawsuits involving excessive force	

COMMUNITY POLICE HEARING BOARD ANNUAL REPORT for 2011

EXECUTIVE SUMMARY

The annual report for the Community Police Hearing Board (CPHB) provides an overview of the history and purpose of the Board, including the relevant aspects of Mayor Sarno's Executive Order which created the Board.

History and Purpose of Board.

The CPHB was created by an Executive Order of Mayor Sarno in February 2010. The CPHB was an evolution from the earlier Citizen Complaint Review Board (CCRB) established by former Mayor Ryan in response to a study conducted by criminal justice experts Professor Jack McDevitt of Northeastern University and his Associate, Dr. Amy Farrell, following the filing of a complaint by the Pastor's Council with the Massachusetts Commission Against Discrimination (MCAD) and a settlement which resulted in the study.

The current chair of the CPHB is Attorney Cynthia Tucker, who formerly served as MCAD Commissioner, and oversaw the investigation of the complaint filed by the Pastor's Council. Vice Chair of the CPHB is Reverend Amos Baily, who is a member of the Pastor's Council; the complainant in the MCAD process which was settled. Other members include: Robert C. Jackson, Joanne Morales-Harrison, and Albert P. Tranghese. Over the past year, Terry Aberdale and Ronald Krupke also served as members of the Board.

The CPHB Process.

The CPHB sits as an independent and non-police mayoral agency. It is empowered to receive, hear, make findings and recommend action on complaints against Springfield police officers which allege the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language. Investigations of complaints are conducted by the Springfield Police Department Internal Investigating Unit staff (IIU) under the direction of the Captain of Professional Standards.

Complaints may be made by any person whether or not that person is a victim of, or witness to, an incident. In addition, the Captain of Professional Standards reviews all reports of injury to prisoners for the purpose of whether or not the department should investigate the potential for an IIU investigation and possible disciplinary charges. Dispositions by the board on complaints are forwarded to the police commissioner. As determined by the CPHB, dispositions may be accompanied by recommendations regarding disciplinary measures. The Commissioner then determines whether or not to issue a charge letter, leading to a full hearing in front of the CPHB acting as hearing officer under the civil service law; Chapter 31 of the Massachusetts General Laws.

If a hearing is held on the charges, findings of fact are made and a recommendation for disposition is included with the CPHB hearing results sent to the Police Commissioner.

The findings as to each allegation in the complaint may include:

- (a) “Unfounded,” where the investigation determined no facts to support that the incident complained of actually occurred;
- (b) “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;
- (c) “Not sustained,” where there are insufficient facts to decide whether the alleged misconduct occurred;
- (d) “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.

Overview of Data Concerning Complaints Reviewed.

The report provides an overview and analysis of Internal Investigating Unit (IIU) data for 2011. Charts and graphs reveal trends in regard to the number type and resolution of complaints against Springfield Police Department personnel. The data is broken down according to whether the complaint was initiated by a citizen or by a member of the Springfield Police Department.

To place the data in perspective, the Police Department received a total of 183,839 calls for service through the “911” emergency call system from 1/1/2011 – 12/31/2011.

In 2011 the total number of arrests (not including juveniles) by the Springfield Police was 5627.

Tables break down the number of complaints in various categories and charts and diagrams included with this report provide a visual review.

Table A shows a breakdown of statistics in various tables. It shows there were a total of 160 Complaints reviewed by the CPHB during 2011.

There were a total of 109 Citizen’s Complaints filed in 2011 and a total of 51 generated internally by the Department itself.

Table B breaks down the complaints by the race of the complainant. Of 160 complaints, there were 94 where the race of the complainant was provided. Of those, 36 were filed by complainants who identified themselves as Black; 31

complainants who identified themselves as Hispanics and 27 complainants who identified themselves as white.

Table C breaks down the Citizen Complaints by Type. As indicated, there were a total of 43 complaints alleging misconduct involving either physical/hands or physical/equipment. There were 38 complaints which alleged “rudeness”.

Table D shows that of the 51 internally generated complaints, 28 involved complaints alleging misconduct involving either physical/hands or physical/equipment.

Table E shows that 5 of the 160 complaints are still pending, and breaks down the disposition of the different findings made. As to the 155 cases disposed of, a total of 20 were “sustained” ,” meaning the complainant’s allegation were supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper.

Appendix 1 contains all data for all 160 complaints. By reviewing the data, a geographic location for the complaint, as well as a comparison of the recommended discipline by the CPHB can be compared side by side. The data indicates the Police Commissioner accepted the findings and imposed the recommended disposition or exceeded the disciplinary recommendation by the CPHB.

Appendix 2 provides a summary of all police misconduct litigation over the past five years. The table indicates that the City has been involved in 23 lawsuits alleging a deprivation of civil rights through excessive force. As to those 23 cases, 8 have been dismissed by the court or resulted in a verdict in favor of the City or its officers; 8 cases remain open, and 7 were settled. As such, there have been no verdicts in favor of a plaintiff against the City or its officers over the past five years.

CPHB OBSERVATIONS

The following are some of the observations of the Board:

- Several complaints reviewed by the CPHB this year involved the issue of videotaping of police officers. A recent case from the First Circuit Court of Appeals provides guidance to Massachusetts Police Officers on this issue. In *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011) plaintiff brought suit under 42 U.S.C.S. § 1983, claiming that his arrest for filming defendant officers with his cell phone constituted a violation of his rights under the First and Fourth Amendments.
- The opinion discusses the proliferation of the technology and the blurring of the line between press and private citizen:

“changes in technology and society have made the lines between private citizen and journalist exceedingly difficult to draw. The proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders with a ready cell phone or digital camera rather than a traditional film crew, and news stories are now just as likely to be broken by a blogger at her computer as a reporter at a major newspaper. Such developments make clear why the news-gathering protections of the First Amendment cannot turn on professional credentials or status.”

In our society, police officers are expected to endure significant burdens caused by citizens' exercise of their First Amendment rights. See *City of Houston v. Hill*, 482 U.S. 451, 461 (1987) (“[T]he First Amendment protects a significant amount of verbal criticism and challenge directed at police officers.”). Indeed, “[t]he freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.” *Id.* at 462-63. The same restraint demanded of law enforcement officers in the face of “provocative and challenging” speech, *id.* at 461 (quoting *Terminiello v. Chicago*, 337 U.S. 1, 4 (1949)), must be expected when they are merely the subject of videotaping that memorializes, without impairing, their work in public spaces.

- There are a large number of complaints which are unfounded or where police officers are exonerated. By and large, the majority of those cases which are not sustained result from the non-cooperation of witnesses. While the board can only speculate as to the reasons for non-cooperation, there is a general concern by the CPHB that complainants and witnesses may fear retribution or have a sense that “nothing will be done” as a result of their complaints. The data indicates that, where the CPHB held hearings and did have cooperation of witnesses, findings against officers were sustained and discipline was appropriate, without any retribution against the witnesses.
- Many complaints reviewed involved complaints of “rudeness” by officers. Such incidents have the potential to escalate into a potentially volatile situation. In addition, such complaints tend to discourage participation in the citizen complaint process and erode the community trust of the police department.
- There is a need for more outreach and public education as to the role and duties of the CPHB to dispel any perceptions about coming forward and voicing complaints and participating in the citizen complaint process. Attendance at public meetings has been sparse and a greater understanding and increased public participation would increase public confidence in the Springfield Police Department.
- The Citizen’s Police Academy provides a useful bridge to help understand the workings of the police department and has helpful education materials.
- The IIU has been very professional in their dealings with the Board and very accommodating in their schedule to provide information to the Board. The Labor Relations Director and City Solicitor were also noted to be very helpful in their provision of legal services for Board activities.

CPHB RECOMMENDATIONS

The following are some of the recommendations of the board in regard to the policies and practices of the IIU as well as police conduct and training, and the structure of the CPHB:

- Board members believe that the City should consider the feasibility of additional training to prevent incidents where there are complaints of “rudeness” from escalating to potentially violent situations or which tend to discourage participation in the citizen complaint process and erode the community trust of the police department. Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers, violates the Fourth Amendment. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation. This issue is clearly a “two way street,” and the City should consider the availability or avenues to provide its police officers with additional tools to deal with its interactions with persons in crisis. It is hard to imagine any violent incident (other than a random act of violence) that did not begin with some form of harsh words either immediately before or sometime in the past. As such, the CPHB recommends that the Springfield Police Department consider the feasibility of additional training in this area.
- Topics of study could include: recognition of persons in crisis and crisis de-escalation skills. The Houston Police Department has instituted such a Crisis Intervention Team (CIT) program. Officers receive training as outlined, then return to patrol. When a call is coded as a CIT call, it is dispatched to a CIT officer. CIT officers respond to routine calls when not responding to CIT calls. An important aspect of the training is the involvement of community partner agencies. These agencies include mental health professionals from area mental health facilities who are involved in the training. The training in Houston includes aspects of the inclusion of role-plays whereby officers put the theory of the classroom into practice. The CPHB acknowledges the financial limits and time constraints placed on training programs, and also recommends that the Springfield Police Department investigate the potential for grant funding from the U.S. Department of Justice, as well as the co-operation of state criminal justice training authorities for this type of program.
- The Springfield Police Department and CPHB should schedule more public meetings in each area of the City, coupled with

increased circulation to inform the general public of the time and place of the meetings. In addition to posting of meetings pursuant to the Open Meeting Law, the meetings should be publicized through dissemination to local media outlets.

- Meetings of the CPHB should be held in conjunction with neighborhood and community groups to work together in increased outreach and education activities. Social media such as “facebook” may be useful in education and outreach activities. Another suggestion is to assign members of the CPHB to be responsible for contacting various community groups. For example, the Sheriff’s Department has regular contact with a wide cross section of Springfield Community Organizations, the Pastor’s Council has regular meetings, and each Pastor could be asked to notify his or her members.
- The Citizen’s Police Academy should be more widely publicized and its materials more widely distributed. While the ten week commitment to complete the program can be daunting, the Citizen Police Academy should consider the presentation of some shorter programs to be held in conjunction with CPHB outreach efforts.
- The CPHB Board members should all attend one of the Police Academy classes to be introduced to new recruits and explain their role.
- The CPHB understands that Springfield Police Officers continue to receive training in the area of videotaping of police officers, and recommends that all members of the Department continue to receive some form of refresher training on this issue.
- In addition, the CPHB recommends that the Police Department consider whether there are examples of suggested model policies or procedures that may be adopted with regard to officers facing this situation.
- In addition, the CPHB recommends that the Police Department expand the use of video cameras in cruisers.

The CPHB contends the cameras would assist the City in protecting the patrol officers from assaults and unfounded allegations of police misconduct. The video cameras may also provide protection to civilians from police misconduct.

According to a report of The International Association of Chiefs of Police (IACP) studying the use of in-car cameras, 97 percent of the

citizens polled across the U.S. support the use of in-car cameras for law enforcement. While law enforcement views the acquisition of camera technology as a means to demonstrate their professionalism and increase officer safety, the public views cameras as a means to guard against abuse. Despite the difference in opinions, both the public and the police have shown support to use the technology, making the acquisition and implementation of an in-car camera program a win/win proposition for all.

According to the IACP report, in 93% of the time a complaint is filed regarding police conduct and there is video evidence available, the officer is exonerated. See IACP's *Report on In-Car Cameras*, 2004.

- The above observations and recommendations will be shared with the Lieutenant of the IIU as well as the Police Commissioner for discussion, potential revision and feasibility of implementation. In addition, the Board is planning a public hearing to review the data and observations and seek public input.

TABLE A

<u>Complaints by Source</u>	
Internal	51
Citizen	109
<i>Total</i>	160

CPHB Complaints by Source

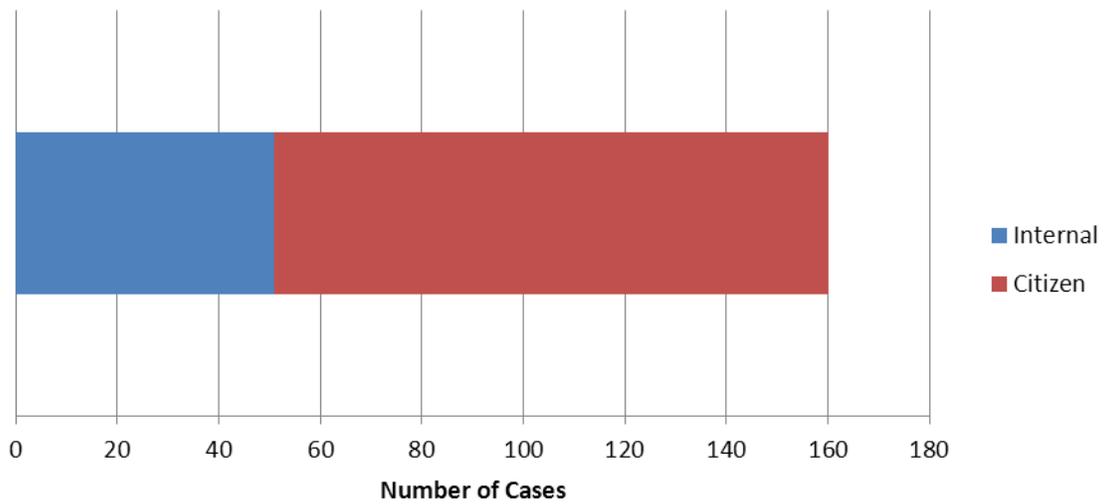


TABLE B

<u>Complaints by Race</u>	<u>Number</u>
Unknown	66
Asian	0
Black	36
Hispanic	31
White	27
<i>TOTAL</i>	160

Complainant Race

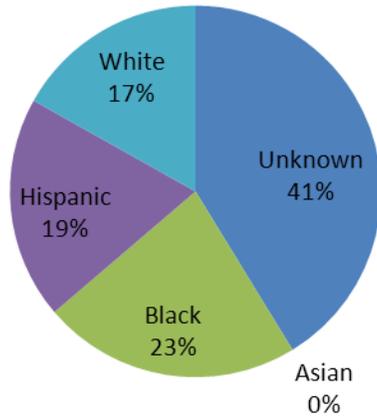


TABLE C

<u>Allegations Filed by Citizens</u>	Number
Rudeness	38
Rules and Regs	28
Physical/Hands	35
Physical/Equipment	6
Criminal	2
<i>TOTAL</i>	109

Top Allegations Filed by Citizens in 2011

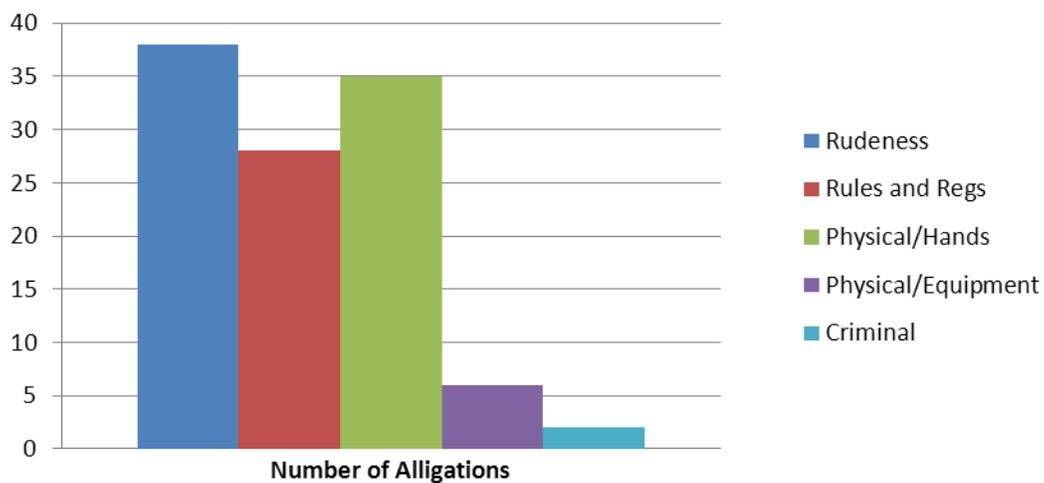


TABLE D

<u>Allegations Filed by SPD personnel</u>	<u>Number</u>
Rudeness	1
Rules and Regs	19
Physical/Hands	21
Physical/Equipment	7
Criminal	3
<i>Total</i>	<u>51</u>

**Top Allegations Filed by SPD Personnel
in 2011**

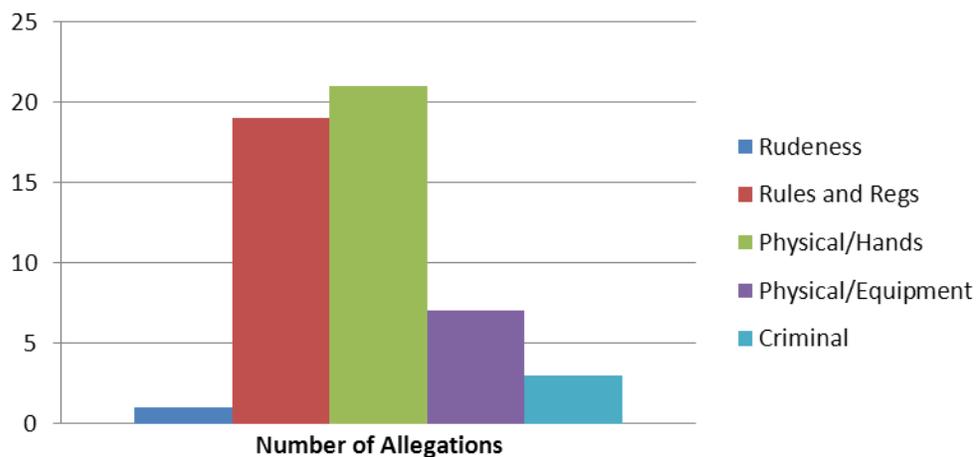


TABLE E

<u>CPHB Findings by Type</u>	Internal	Citizen
Returned	0	0
Charged Letter	0	0
Not Sustained	19	61
Sustained	15	5
Unfounded	2	13
Exonerated	11	24
Retraining	1	4
Pending	3	2
Total	51	109

