

AMENDING CHAPTER 67, OF THE REVISED ORDINANCES OF THE CITY OF SPRINGFIELD, AS AMENDED, HEREBY FURTHER AMENDED BY DELETING ARTICLE XVII AND REPLACING IT WITH THE FOLLOWING TO ADD THERETO: THE ESTABLISHMENT OF THE POSITION OF POLICE COMMISSIONER AS WELL AS A CIVILIAN POLICE BOARD FOR THE SPRINGFIELD POLICE DEPARTMENT

Chapter 67. OFFICERS AND EMPLOYEES

Article XVII. Police Commissioner and Civilian Review Board

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§ 67-84. Position of Police Commissioner established; appointment.

The position of Police Commissioner is hereby established. The Mayor shall appoint a single Police Commissioner for the City of Springfield.

§ 67-85. Term of office of Police Commissioner; vacancies; removal.

The Police Commissioner shall be appointed for a term of not less than three years, and the term of said Commissioner shall not be coterminous with the Mayor. The Police Commissioner shall hold office until a successor is appointed and qualified, and any vacancy occurring shall be filled by the Mayor. Said Police Commissioner may be removed from office by the Mayor for cause.

§ 67-86. Qualifications for Police Commissioner.

At the time of appointment, such Police Commissioner shall have had at least seven years' experience as a captain, or equivalent rank, in a federal, state or local police force or law enforcement agency, or in any combination thereof. Such Police Commissioner shall not engage in any other business and shall be sworn to the faithful performance of the office before entering upon the same. At the time of appointment, the Police Commissioner shall possess a master's degree in a field related to his or her duties from an accredited institution of higher learning or an equivalent degree.

§ 67-87. Authority of Police Commissioner.

The Police Commissioner shall have the authority to appoint, establish and organize the Police Department of the City. The Police Commissioner shall have control of the government, administration, disposition and discipline of the Police Department, and of the police force of the Department and shall make all rules and regulations as are proper for the efficiency of the Department and its force. Except as otherwise provided herein, all the powers and duties of the Police Commission of the City of Springfield now or previously conferred or imposed by law or otherwise reflected in City ordinances are hereafter conferred and imposed upon said Police Commissioner, including but not limited to those otherwise vested in the Mayor and City Council by Chapter 244 of the Acts of 1909.

§ 67-88. Acting Police Commissioner.

In case of absence, disability or vacancy of office by the Police Commissioner, then the next highest-ranking officer in the Department shall serve as Acting Police Commissioner. If there are two such.

§ 67-89. Civilian Review Board Establishment.

The Civilian Review Board ("Board") for the City of Springfield Police Department is hereby established and shall operate as set forth in this Ordinance.

§ 67-90. Selection of Board Members.

- A. The Mayor shall appoint the members of the Board. 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.
- B. The Board will be chaired by an attorney with experience in trials or administrative procedures. The chairperson will lead quarterly full Board meetings and work with the Board and the Police Commissioner to determine the full Board meeting schedules and agendas and administration of the Board.

- C. 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. Members shall serve until replaced.

§ 67-91. Qualifications for Board.

- A. The members of the Board do not need to have had investigatory experience. 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 with in 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.
 - a. Internal investigations should be closed to the subject officer and the public while they are pending. Nonetheless, the Police Commissioner should be fully informed of the progress of internal investigations and should regularly communicate the status of an investigation to the press and the general public to the full extent permitted by law while pending review or hearing before the Board.
 - b. In order for the disciplinary process to work effectively and efficiently in conjunction with the Boar, Witnesses and witness officers interviewed in an internal affairs investigation should be informed that the investigation is confidential in nature, and that they must not discuss the content of the investigation or interview with others. Witness officers should be required to sign a form agreeing to maintain confidentiality during the investigation. In addition, accused officers should be required to sign a confidentiality agreement to ensure they do not discuss the case with witness officers, ask witnesses about their statements to IIU, or contact any other individuals involved in the investigation.

§ 67-92. Training for Board Members.

- A. The Personnel, Police, and Law Departments 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.

§ 67-93. Submission of Complaints to the Board for Review.

- A. At the completion of the IIU investigation and prior to an initial review by the Board, the IIU, in conjunction with attorneys from the Labor Relations Department, shall prepare a cover memo on each complaint detailing the applicable charges based on the allegations and the investigation.
- B. The applicable charges and the investigative file should then be provided to the accused officer's command chain for review. The officer's chain of command should then make a preliminary determination and provide a written analysis in support of that determination. The investigative file, cover memo, and chain of command preliminary determination and analysis should then be provided to the Board for the initial review.

§ 67-94. Responsibility of Board Members.

It shall be the responsibility of the Board to:

- A. Accept and review civilian complaints 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 preliminarily review complaints investigated by IIU and make a preliminary determination as to whether, based on the preliminary review to make a recommendation such that:
1. A charge letter be issued, and the Police Commissioner dispose of the complaint 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 Police Commissioner dispose of the matter in the good exercise of his discretion.
- D. To act as hearing officers, designated by the Police Commissioner as the appointing authority pursuant to the Civil Service Law (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. 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.
- E. Each member 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 laws pertaining to Civil Service, or the Open Meeting Law, and provisions of a collective bargaining agreement applicable to the employment of a member of the Police Department.

§ 67-95. Subpoena Authority.

The Board is authorized in the case of any unresolved complaint submitted to them for the purpose of acting as a hearing officer, which would be aided thereby, to subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production of any evidence relating to any matter in question before the Board for hearing. Any witness is expressly granted the right to be advised and represented by counsel present during any hearing.

§ 67-96. Standards for adjudication.

- A. The Open Meeting Law shall apply to the activities of the Board.
- B. The investigative file sent to the Board shall include specific charges listing the policy violations for consideration at hearing. As to the minimum standards for adjudicating disciplinary cases, the following shall apply:
 - 1. The burden of proof is on the department.
 - 2. The standard of proof is a preponderance of the evidence.
 - 3. The standards of evidence are those of administrative law, not criminal law.
 - 4. No presumptions of truth are made regarding facts in dispute.
 - 5. No presumptions are made regarding witness credibility: all persons are equally credible unless an objective, fact-based evaluation of the witness's capacities, testimonial coherence, and other relevant and demonstrable factors justify otherwise.
 - 6. Conclusions are logically deduced from the evidence.
- C. The services of the Labor Relations departments shall be available to provide legal services to the Police Commissioner before the Board and the services of the Law Department shall be available to provide legal services to the Board.

§ 67-97. Conduct of Hearing.

- A. The Board is required to adopt rules of procedure for the conduct of its hearings. The rules must ensure the due process rights of all persons involved in the hearings. Each person who appears before the Board and avails himself of constitutional guarantees shall not be punished in any way therefor.
- B. The board should sit in panels of at least three designated members, one of whom is a retired law enforcement officer, when reviewing the investigative file to consider whether to recommend disciplinary charges in the preliminary determination, or when sitting as hearing officers on applicable charges.
- C. The three-member panel should make a recommendation to the Commissioner regarding a determination for each applicable charge utilizing the same case dispositions as defined in this Ordinance. A formal charge letter should be provided to the accused officer after the Commissioner makes a final determination as to what charges will be included in the letter. If, after the charge letter has been issued to the accused officer, the officer does not dispute the charges, there is no reason to proceed with the full hearing. If the officer does not dispute the charges, the Board should make a recommendation regarding discipline, and then the case should go directly to the Commissioner to make a final decision regarding discipline.

§ 67-98. Determination of the merits of complaints.

- A. The Board shall make written findings of fact and a determination of the merits of the complaint considered in their capacity as Hearing Officers based on the relevant legal standards.
- B. If the Board 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 and guided by the Director of Human Relations as to appropriate discipline and penalties in similar circumstances in accord with the requirements of Civil Service and Labor Laws.
- C. After Hearing, the Board's determination along with the findings and recommendation for discipline, if any, shall be filed in a report to the Police Commissioner within 7 days of the end of the Hearing.
- D. In the merits determination, the Board in its hearing recommendation, and Police Commissioner, in the determination of the charges, shall make one of the following decisions about each allegation in the complaint, consistent with definitions in department policy and training:
 - 1. sustained or founded;
 - 2. not sustained or not resolved or unresolved;
 - 3. exonerated; or
 - 4. unfounded.
- E. The Police Commissioner, pursuant to Civil Service law, shall give to such employee a written notice of the decision, which shall state fully and specifically the reasons therefore, including the reason for any deviation from the recommendation of the Board, which shall be subject to the present means of review by civil service appeal or arbitration as provided by the applicable collective bargaining agreement.
- F. After a complaint is closed the complainant shall be promptly notified 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. For the complainant, correspondence shall be sent by certified mail to help ensure they receive notice of the outcome.
- G. The Board may send satisfaction surveys, similar to those used by the other Police Departments, to both complainant and officers when each complaint is closed.

- H. The Police Commissioner or the Board shall be authorized to attempt by voluntary non-binding mediation to resolve any complaint if deemed appropriate and the complainant and the subject officer agree to participate in such mediation. Mediation shall be conducted by a neutral facilitator, in lieu of investigation and adjudication, to permit resolution of minor complaints that are usually not easily resolved through investigation.

§ 67-99. Penalty Assessment

In order to ensure that discipline is fair, consistent, and predictable, the Labor Relations Department shall develop guideline in the form of a penalty matrix that lists penalties or ranges of discipline for various types of misconduct. The matrix should not be applied inflexibly, and the discipline should be based on the totality of the circumstances, including aggravating and mitigating factors.

§ 67-100. Removal from the Board.

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

§ 67-101. 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, with the Assistance of the Law Department, 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 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 with regard to the Board’s activities, 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.

§ 67-102. Miscellaneous.

A. The Mayor shall designate a Civilian Oversight Coordinator (COC) who would be responsible for the day-to-day administration of the Board, such as scheduling board meetings, posting notices of meetings and hearings, and following up on board requests. The COC would serve as the liaison between the board and other officials, including the Mayor, the Law Department, and representatives from SPD. The Coordinator also would participate in the initial Board review.

B. A three-member panel of board members, as well as the Civilian Oversight Coordinator should meet every two weeks to review new cases. Each of these panels should have at least one member with prior law enforcement experience.

C. On a yearly basis, all members of the Board should meet to review SPD policy and procedures that may contribute to police misconduct and recommendations for improvement. The Board should be empowered to recommend changes in policy or training to reduce officer misconduct.

D. The city of Springfield, with the Board, shall develop a clear mission statement for the Board and procedures to follow, and SPD should provide in-depth training for the Board on these protocols.

§ 67-103. Conflict with other laws; severability.

Nothing in this ordinance shall be interpreted to contravene the General Laws of this Commonwealth or the Charter of the City of Springfield. Any provision of this article that conflicts with applicable law or the City Charter shall be interpreted in such a manner and to such an extent as to be effective and valid under applicable law. If any provision of this article is prohibited by or invalid under applicable law or the City Charter, such provision shall be ineffective only to the extent of such prohibition or invalidity, thereby leaving the remainder of this article effective.

§ 67-104. Effective Date.

This ordinance shall take effect of 2019.

Approved as to form

Associate City Solicitor