

SPRINGFIELD, MA

# BOARD OF POLICE COMMISSIONERS MANUAL

SPRINGFIELD BOARD OF POLICE COMMISSIONERS  
OPERATING MANUAL

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## **I. Purpose of the Springfield Board of Police Commissioners**

Effective disciplinary oversight of the Springfield Police Department (“SPD”) is essential to building trust between SPD and the communities it serves and ensuring that SPD’s enforcement activities reflect community values and are consistent with the Massachusetts and federal Constitutions, as well as federal, state, and local laws and regulations.

The Board of Police Commissioners (“Board” or “BPC”) is the body created by the City of Springfield whose public purpose includes oversight of the discipline of the members and employees of the Police Department, as it deems wise and proper, and to conduct disciplinary hearings and determine conditions of discipline, termination, and reappointment where warranted. See *City Code Chapter 16, Officers and Employees, Article XIX. Board of Police Commissioners (2018)*.

The Board makes final determinations on the following disciplinary matters:

1. Cases where the IIU Attorney *cannot* recommend that an allegation of misconduct is Unfounded, Exonerated, or Sustained with a maximum of five (5) days suspension without pay;
2. Any other case the SPD Superintendent designates for the Board’s review; and
3. Any allegation of misconduct in which the Board requires a hearing, notwithstanding the recommendations of the Superintendent or the Internal Investigations Unit (“IIU”) Attorney.

The Board will ensure SPD’s civilian complaint process does not inhibit the ability of the Springfield community to obtain accountability for misconduct. The BPC will also identify needed improvements to the Board and SPD complaint process. It is the duty of the Board to foster good communications with the Springfield community, apprise of the status of individual complaints (subject to limitations imposed by law or collective bargaining agreements), and ensure the community has sufficient access to information about the Board’s organization, duties and responsibilities, authority, activities, and disciplinary recommendation processes.

## **II. Purpose, Scope, and Force of this Operating Manual**

The purpose of these procedures is to facilitate the operation of the BPC, including the review and dispositions of complaints filed against sworn police officers and non-sworn employees employed by SPD.

This manual outlines the Board’s administrative processes, including, but not limited to: the prevention of bias in decision-making; confidentiality requirements; how to conduct thorough reviews and evaluations of complaints; how to obtain documents and/or any additional evidence required to conduct an effective review of a civilian complaints; how to conduct effective reviews and hearings that lead to supportable dispositions of decisions; and how to make a disposition and impose discipline.

In addition to the Springfield City Code Chapter 16, this Operating Manual contains the rules, procedures, processes, and general operations of the BPC. If rules, procedures, processes, functionally operational elsewhere and potentially, apparently, and/or actually conflict with the provisions of this Manual, the provisions of this Manual control, subject to limitations imposed by law.

All provisions of this Operating Manual should be considered in a manner consistent with the City of Springfield's Charter, City Code Chapter 16, collective bargaining agreements, and other applicable laws.

### **III. Engagement with the City and Police Department**

The Board is the body established to make disciplinary decisions, as outlined in this manual, and this decision-making authority is to be exercised without interference from other City or Police Department entities or leadership.

The City will ensure that the Board has the resources, cooperation, access, and capacity required to perform its function. The City Law Department is responsible for providing legal guidance to the Board.

To protect against potential conflicts of interest, the City Law Department will designate a point of contact from the Law Department whose responsibility will be to serve as the Board's legal counsel. The Law Department will not be participating in the prosecution of cases that may conflict with providing objective legal advice to the Board and its members as they perform their disciplinary function.

### **IV. Selection and Organization of the Board**

The BPC consists of five members, selected exclusively by the Mayor, who are representative of the diverse communities within Springfield. Members must be residents of the City of Springfield and maintain such residency while serving as a member of the Board. Members must be persons of integrity. Members must be willing to commit sufficient time to serve on the Board, including attending regular monthly meetings as well as additional meetings and hearings which may take place during the day or evening.

No more than two BPC members shall be former members of SPD at any given time. Former SPD members must be separated from SPD service for at least two years before being eligible to serve as a member of the Board.

#### **a. Terms of Membership**

The first and second appointees to the Board shall serve three-year terms. The third and fourth appointees to the Board shall serve two-year terms, and the fifth appointee to the Board shall serve a one-year term. Annually thereafter, appointees to the Board shall serve three-year terms. Each term shall expire on the first Monday in April in the year the term expires.

Members serve at the pleasure of the Mayor and may serve on the Board of Police Commissioners beyond the expiration of the member's term until a successor is appointed.

b. Removal

Board members can be removed at the discretion of the Mayor. Upon the removal of a member, the Mayor will file a public statement about the decision with the City Clerk. See MGL c. 43, sec. 54. This does not apply to situations where a member's term has expired and is not reappointed to serve on the Board.

c. Vacancies of the Board

Vacancies of the Board are to be filled by Mayor within 30 days of occurrence. The City will post the terms and expiration dates of the members publicly on its website. The City will also post on its website information about when vacancies occur on the Board, allowing for the opportunity for members of the community to submit letters of interest.

**V. Duties and Responsibilities of the Board**

a. Ethical Obligations

Members of the BPC have a unique role as public servants to oversee the discipline of SPD law enforcement members, and civilian employees. The community, City, and law enforcement have entrusted members of the Board to conduct their work in a professional, fair, and impartial manner. This trust is earned through a firm commitment to the public good, the purpose of the BPC, and to the ethical and professional standards described in this Manual.

At all times, Board members shall uphold the law and the duties and responsibilities of the Board, above personal self-interest.

BPC members will seek to acquire the necessary knowledge and understanding of the policies, training, procedures, and practices of the SPD and keep informed of current legal, professional, and social issues that affect the Springfield community, the SPD, IIU, and the BPC.

Board members must act in a manner consistent with principles enunciated in the U.S. Constitution and the Massachusetts Constitution, and applicable laws and regulations. BPC members will treat all individuals with dignity and respect, and without preference or discrimination, including but not limited to the following protected classes: age, ethnicity, culture, race, disability, gender, gender identity, religion, sexual orientation, socioeconomic status, or political beliefs.

BPC members are expected to conduct all disciplinary evaluations, case reviews and hearings with diligence, an open and questioning mind, integrity, objectivity, fairness, and in a timely manner. Board members are expected to rigorously evaluate the accuracy and reliability of information from all sources and consider and determine facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.

BPC members are expected to conduct their activities openly and transparently (as permitted by applicable policy and law), to include providing explanation of Board procedures and practices to as wide an audience as possible, with the understanding that some matters are confidential. Board members must maintain the confidentiality of information that cannot be disclosed by law and policy and protect the security of confidential records.

The Board will seek continuous improvement in the effectiveness of its oversight of law enforcement discipline in Springfield.

These standards are intended to be of general application. The spirit of these ethical and professional standards should guide Board members in adapting to individual circumstances, and in promoting public trust, integrity, legitimacy, and transparency. Board members will demonstrate the highest standards of personal integrity, commitment, truthfulness, and strength of character.

#### b. BPC Chair and Vice Chair and Special Committees Duties

The Board shall select annually one member of the Board to serve as its Chair and another member of the Board to serve as its Vice-Chair. The Chair and Vice Chair will be voted in by majority vote (*see* “Motion and Voting” section) to perform the following:

1. The Chair shall preside over all meetings of the Board and shall have the right to vote on all questions.
2. The Chair shall act as the spokesperson in all matters pertaining to the Board.
3. The Chair shall sign all official documents on behalf of the Board after approval by the Board.
4. The Chair shall appoint a member of the Board, and an alternate, to serve on SPD’s Use of Force Committee, and SPD’s Force Training Review Committee.
  - a. Any Board members who would like to serve on such Committees will advise the Chair in advance.
  - b. These selected members will be responsible for participating in the work of these committees and are the liaison between the Board and the Committees.

If at any time the Chair is absent from a meeting for any reason or is temporarily unable to perform their duties, whether within a meeting or outside a meeting, the Vice Chair shall perform all the duties of the Chair with the same force and effect as if performed by the Chair.

#### c. Participation and Attendance

Board members will use best efforts to attend all regularly scheduled Board meetings and hearings. Board members will use all reasonable efforts to attend any special, emergency, or other similar meetings that are not regularly scheduled.

If a Board member cannot attend a meeting or other function of the Board where official business will be conducted, the Board member will provide notice to the Board Chair as soon as possible.

Board members have a duty to be responsive to communications from the Board Chair and support staff. However, unless at a posted Board meeting, Board members may not discuss Board business with other members in violation of the Open Meeting Law. Thus, three (3) or more members cannot discuss Board business outside of a Board meeting. This includes group telephone, in-person communication, emails, and email/message chains.

#### d. Duty of Impartiality and Conflicts of Interest

As public officials, Board members are bound by the City and State ethics laws. Board members are expected to conduct themselves in a fair and impartial manner. Board members must recuse themselves when significant conflicts of interest arise. Examples of conflicts of interest include, but are not limited to:

- Familial relationship or friendship with any party to the case;
- Witnessing material events relevant to the case;
- Having a financial interest in the outcome of the case; and
- Holding a bias for or against a party that is sufficient to impair the members' impartiality.

If a member needs to recuse themselves from a particular matter due to a conflict of interest, the member will raise the conflict with the Board Chair (or Vice Chair, if the member needing to recuse themselves is the Chair). Notice of the recusal will be announced at the meeting prior to any discussion of the matter, and the member will leave the meeting during the discussion of the matter.

It is improper for a Board member to recuse themselves from a particular matter because the topic to be discussed is one the member would rather not participate in.

Board members will not accept gifts, gratuities, or favors that could compromise their impartiality or independence or that have a substantial and improper influence upon the performance of their duties.

## **VI. Orientation and Training**

The City and the SPD are responsible for the establishment of an orientation and training program for Board members. The City and SPD will provide comprehensive training to Board members within the first month of their appointment and ensure that members receive refresher trainings annually.

The City will ensure the Board is provided with a dedicated office space and supplies as deemed reasonably necessary by members to accomplish the training goals of this section. Training and orientation shall be provided by sources both inside and outside of the SPD.

The orientation and training program shall, at a minimum, include the following topics:

- Introduction to SPD Command Staff, including IIU Staff
- Board of Police Commissioners Operating Manual
- Citizen Complaint Process
- Data Associated with Citizen Complaints
- State Ethics Laws
- Investigations: How to Review and Conduct Investigations; Obtaining Documents and Other Evidence; Making Credibility Determinations; Prevention of Bias in Decisions
- Discipline: Types of Discipline; How to Make Dispositions and Impose Discipline
- Conducting Analysis and Evaluations of Data
- SPD Policies, Procedure, and Disciplinary Rules
- Police Tactics
- IIU Policies and Procedures/ Investigations of Police Conduct
- Impartial Policing
- Policing Individuals in Crisis
- Community Outreach Obligations
- Constitutional and other relevant laws on Police-Citizen Encounters, including law on the Use of Force and Stops, Searches, and Arrests
- Settlement Agreement between the Department of Justice, the Police Department, and the City
- Police Department's History
- Site visits to various SPD facilities
- Internal Affairs training
- Annual Training Refresher

The Board will also meet with representatives of the City Law and Labor Relations Departments to receive training on the following:

- Massachusetts Open Meeting Law
- Appropriate sections of City Code Chapter 16, Officers and Employees, Article XVII
- Appropriate sections of the Massachusetts Civil Service law (G.L. c. 31)
- Appropriate provisions of the collective bargaining contracts between the City and both the Police Supervisors and IBPO unions
- Training on methods of conducting disciplinary hearings by the Law Department
- Robert's Rules of Order

## **VII. Resources**

The City will ensure that the Board of Police Commissioners has the resources to fulfill its responsibilities, including but not limited to budget, staffing, compensation, training, and



capacity. The City will ensure the Board is provided with a dedicated office space and supplies as deemed necessary by members to accomplish the Board's function.

The Board will be provided official emails needed to conduct official BPC business. Official business, including downloading and reviewing complaint/case files shall be conducted in accordance with the Open Meeting Law and should not be conducted on personal devices.

If the Board identifies the need for additional resources, the Board Chair will make a request to the Mayor, who will arrange for the Board to receive the resources they require to perform their functions as outlined in the manual.

a. Budget

Resources needed by the Board to fulfill its obligations will be included as a line item in the Springfield Police Department's fiscal budget.

The BPC will timely submit an annual budget request to their assigned SPD Financial Analyst. This budget request is to be provided to the SPD and included in the overall SPD annual budget request submitted to the Mayor. The overall City budget submitted by the Mayor requires City Council approval.

b. Independent Legal Advisor

In the event a conflict of interest arises that precludes the City Law Department from providing legal advice to the Board on certain matters, the City Solicitor shall designate an independent Legal Advisor to provide legal guidance to the Board. Such conflicts of interest shall include, but not be limited to, a personal relationship or experience with anyone involved in a complaint that might materially impact the City Law Department's neutrality in handling the matter.

c. Additional Staff Identified

If the Board, by majority vote, identifies the need for additional staff support, it will raise this need the Mayor who will review the request and facilitate providing the Board with the additional staff requested.

### **VIII. Transmittal of Cases (When the Board Gets Notified)**

The IIU Attorney has authority to recommend that an allegation of misconduct be labeled: Unfounded or Exonerated, or Sustained and the discipline matrix shows that discipline would be 5 days suspension without pay or less for the affected employee. Cases where the IIU Attorney can recommend one of the above findings, the case file will be forwarded to the SPD Superintendent for final review.

If the IIU Attorney cannot recommend that an allegation of misconduct is Unfounded, Exonerated, or Sustained with discipline of 5 days suspension without pay or less, the IIU will forward the case file to the Board, without a recommended disposition, for further review. The Board may ask questions of IIU and/or send the file back to IIU for additional investigation.

Regardless of the recommendations of the IIU Attorney or the Superintendent, the Board may request to review any case file not automatically presented to the Board. The Board has the authority to hold a hearing and make a final determination on any allegation of misconduct by SPD employees.

a. Access to Investigative Files

IIU shall provide each member of BPC access to the full investigative files of cases to review no less than fifteen (15) calendar days before the Board meets to decide whether to hold a hearing on the particular matter.

IIU shall make the full investigative files available electronically and in-person to facilitate maximum access to the files. IIU will also ensure that IIU files remain secure from inappropriate dissemination or disclosure. IIU will develop appropriate protocols with the Board to ensure the necessary security for IIU files.

The full investigative file that the BPC members will review will include:

- A cover letter summarizing the complaint, investigation, and a list of the documents in the file;
- The complaint;
- The allegations (or “charges”) that were (1) suggested by the face of the original complaint alone, and (2) any additional allegations or charges that surfaced during the course of the investigation of the complaint;
- IIU’s reports, including the IIU Attorney’s recommended disposition (if applicable);
- Reports, including but not limited to incident reports, duty reports, and field reports;
- Audio, visual, or transcripts of interviews of witnesses or parties to the incident;
- Body-worn camera or in-car video and other physical evidence associated with the investigation.

In addition to reviewing Investigative Files of complaints automatically forwarded to the Board for review (cases where the IIU Attorney cannot recommend that an allegation of misconduct is Unfounded, Exonerated, or Sustained with 5 days suspension without pay or less suspension), the Board can vote to review the Investigative File (including IIU recommendations, if they were made) of any complaint investigation and will notify the Superintendent and the IIU commanding officer or their designee of such a request. The IIU commanding officer or their designee will then make arrangements for the Board members to individually review the Investigative Files.

To facilitate this, Board members will receive a comprehensive summary of all complaints filed with IIU on a bi-weekly basis, including PIEs and SOs, with details of allegations using case numbers but not names, so that the Board has a sense of the overall number of complaints filed, the types of complaints filed, and the status of those complaint investigations.

The Board Chair will also be copied on the Superintendent’s decisions on disposition and

discipline of complaint investigations, not handled by the Board, as they are rendered. These copies shall be treated as confidential information.

b. Notices to Complainants and Employees

Within five (5) days receipt of an Investigative File, the Board shall notify the complainant and the SPD employee who is the subject of the complaint that the complaint will be considered by the Board. The notice will contain an explanation of the Board's process and next steps.

If the Board subsequently votes to hold a hearing on the complaint, the Board shall notify the employee and the complainant of the date, time, and location of the hearing. The notice to the SPD employee must comply with MGL c. 31, sec. 41.

The Board shall use best efforts to contact the complainant and the SPD employee who is the subject of the complaint, including:

1. Sending a letter via United States Postal Service to the last known address of the complainant.
2. Providing written notice to the subject employee or their attorney by mail or by hand delivery in compliance with applicable laws and collective bargaining agreement requirements.

The Board shall keep record of all notices sent.

c. Review and Evaluations of Complaints

Board members will individually review the entire Investigative File, including watching and listening to all relevant video and audio recordings, and reviewing the IIU attorney memo summarizing the investigation, to help make a determination whether to hold a hearing on the complaint.

During the complaint review process, Board members should ensure that they understand the burden of proof needed to render a decision on each allegation. The review and analysis of evidence will assist Board members in determining whether they need additional documents, evidence, or witness statements to assist them in determining whether to hold a hearing.

Except for their legal counsel or IIU, individual Board members are not permitted to discuss their review of Investigative Files with other Board members, or anyone outside of the Board, other than at a meeting.

d. Obtaining Documents and other Evidence

While reviewing the Investigative File, but before the decision on whether to hold a hearing is made, individual Board members may make written inquiries to the IIU investigator to obtain additional information, documents, or evidence. Such written inquiries will become part of the IIU Investigative File. Individual Board members shall send any questions or requests to the IIU

investigator as soon as possible, but at least 72 hours before the Board's meeting date to discuss whether to hold a hearing on the complaint. Board members cannot discuss Investigative Files by group emails or email chains.

e. Subpoena Power

The Board has access to all documentation, evidence, or other information necessary to fully assess the complaints.

During a disciplinary hearing, by a majority vote, the Board has the power to subpoena and require the attendance of witnesses, the production of documents, and/or the production of other papers pertinent to its disciplinary oversight obligations. The Board shall also have the power to administer oaths.

The Board's legal counsel will assist the Board in formally issuing subpoenas. A subpoena shall be served in the same manner as subpoenas issued under the Rules of Civil Procedure to compel appearance of a deponent. Prior to issuing any subpoena, the Board shall notify the Superintendent.

A subpoena issued shall identify the person to whom it is directed, and the documents or other items sought, if any, and the date, time, and place for the appearance of the witness and the production of documents or other items described in the subpoena. In no event shall the date for examination or production be less than seven days after service of the subpoena unless the need was not known seven (7) days in advance.

f. Determination of Whether to Hold Hearing on Complaints

The Board may discuss and vote during the public portion of the meeting that based on their review of the IIU Investigative file they can make a finding without holding a hearing when either (i) there is clear and convincing evidence that the complaint is unfounded; (ii) they find by a preponderance of the evidence that there is just cause for discipline of five (5) days suspension or less; or (iii) they will refer the case back to the Superintendent for disposition.

If the Board determines, by a majority vote, that there is a possibility of a sustained finding that may result in discipline of more than a five (5) day suspension, the Board must hold a hearing.

If the Board determines, by a majority vote, that a hearing is warranted, a hearing will be held within the time constraints provided by law and the applicable collective bargaining agreement. If possible, the Board should attempt to consolidate hearings and meeting dates.

**IX. Conducting Board Meetings**

a. Public Sessions

i. Public Notice of Meetings/Hearings

All Board meetings will begin in an open, public session. The Board shall establish a regular meeting schedule and shall give public notice through posted meeting agendas of the time and place of all public meetings, and whether an executive session will be held. If there is a disciplinary hearing scheduled it will be indicated on the meeting agenda.

The Board shall give public notice of each meeting by posting the agenda at least 48 hours ahead of time, not including weekends and holidays. At a minimum, the meeting agenda shall be listed on the Board's webpage and the City's municipal calendar.

A public meeting may not begin earlier or later or be held on any other day than the time and day indicated in the publicly posted agenda without reissuing a new agenda that includes the changes at least 48 hours in advance of the public meeting.

## ii. Structure of Meetings

The meetings and business of the Board shall be conducted in accordance with the following:

- The agenda for each meeting will be provided to Board members for review at least one week prior to a regularly scheduled Board meeting unless time sensitive agenda items come up less than one week before the meeting.
- Any Board member may request that the Chair put an item on the agenda for discussion; this request should be submitted in advance of the agenda deadline.
- The agenda for each meeting will be posted on the SPD and the City's websites at least two (2) business days prior to the meeting, per the Open Meeting Law, MGL c. 30A, sec. 20.
- The Board shall keep written minutes of all meetings, in accordance with the Open Meeting Law and this manual, and a copy of approved minutes shall be maintained as official records.
- Whenever possible, the minutes of each meeting shall be reviewed for approval at the next regularly scheduled meeting.
- Approved meeting minutes shall be posted on the SPD and City websites.
- Board meetings shall be audio-recorded. Audio recordings and meeting minutes shall be maintained by the Board and shall be kept as official Board files.

## iii. Meeting Agenda and Format

The agenda template for Board meetings shall be as follows:

- Call to order
- Pledge of Allegiance
- Roll call
- Approval of minutes from prior meeting
- Public Comment
- Special order of business (new and old), announcements, communications
- If there is a disciplinary hearing on the agenda:

- An employee can request that their hearing be held in open session and if so, it must be held in open session. see MGL c.31, sec. 41
- Motion to go into executive session for purposes of a disciplinary hearing or other allowable reasons applicable by law using case numbers and not employee names
- Announce whether the meeting will resume in Open Session (if so, a roll call vote is required) after the executive session
- Hearing conducted in Executive session
- Return to Open Session by roll call vote
- Adjourn

#### b. Quorum and Voting Requirements

There is a strong preference for all five (5) Board members to attend each meeting/hearing. The Board shall ensure all members' participation when possible. If necessary, meetings/hearings may be held when a quorum of the Board is present. A quorum is a minimum of three (3) members in attendance.

In situations where less than the full Board is present at a meeting, the Board may vote to reschedule an item on the Agenda to another date in order to have more Board members present.

In situations where less than the full Board is present at a meeting, and there is a disciplinary hearing on the agenda, the Board must abide by applicable laws and collective bargaining agreements in order to postpone a hearing.

#### c. Motion and Voting

All formal decisions made by the Board must be voted on by first making a motion. A motion raised must be seconded to proceed to a Board vote. Decisions are made by majority vote of three (3) or more member votes in the affirmative.

The Board has adopted the Law Department's opinion that at least three (3) affirmative votes are needed to approve a motion, by majority vote, in any given situation, whether the full Board is present or not. Therefore, decisions of the Board shall be made by a majority vote if more than three (3) members of the Board are present. If only three (3) Board members are in attendance, then the votes must be unanimous.

In the case where a quorum of three (3) present members are unable to vote unanimously, and if a quorum of the Board members vote to reconsider the vote at a subsequent meeting, the matter may be taken up at a subsequent meeting. This does not apply to a disciplinary hearing where absent members did not hear the evidence presented in the case.

#### d. Resolving Disagreements

When situations develop that are new or deficiencies in the BPC processes are identified that require a system or rule not yet in place, the Board should consult its legal counsel and Robert's Rules, before making a decision on how to move forward.

A member may recommend new protocols and procedures, or improvements to current BPC protocols and procedures, by raising it as a motion. If the motion is seconded and approved by a majority vote, then the recommendation will be implemented.

e. Public Comment

At its public/open sessions, the Board will designate a process and time for public comment.

The Board will adopt rules for public comments at its meetings, to possibly include a set time limit for comments, and a set time limit per speaker. Members of the public shall be allowed to participate in Board meetings in instances when the Board expressly invites public testimony, questions, comments, or other forms of participation, within the parameters of the Board's rules.

f. Timekeeping, Video, Audio, and Notes of Official Hearings

All Board meetings and hearings will be audio recorded and meetings minutes will be prepared. Meeting minutes from previous meetings and hearings will be reviewed by the Board at the beginning of each following meeting or when available.

These recordings and any meeting minutes shall be maintained by the Board and shall be kept in a secure location.

g. Confidential Information and Public Information Obligations

Some information must be maintained in confidentiality by the Board, while other information must be publicly disclosed. If individual Board members have questions about these obligations, they should consult the Board's legal counsel in advance or during the meeting.

h. Executive Sessions

The Open Meeting Law, MGL c. 30A, section 21, sets out the purposes of which a public body may meet in Executive Session. The most common purpose for the Board is Section 21(a).

Section 21(a)(1): To discuss the discipline or dismissal of, or complaints brought against, a public officer, employee, staff member or individual. This includes disciplinary hearings.

The individual to be discussed in executive session shall be notified in writing at least 48 hours prior to the proposed executive session, but the notice may be waived by agreement of the parties. The Board shall hold an open session if the individual involved requests that the discussion be held in open session.

If an executive session is held, the individual to be discussed has the following rights:

1. To be present at such executive session during deliberations that involve them;
2. To have counsel or a representative of their own choosing present and attending to advise them and not for the purpose of active participation in the executive session;
3. To speak on their own behalf; and
4. To cause an independent record to be created of the executive session by audio-recording or transcription, at the individual's expense.

Other purposes may include:

Section 21(a)(2) and (3): To conduct strategy sessions in preparation for negotiations with union or nonunion personnel.

Section 21(a)(4): To discuss the deployment of security personnel or devices, or strategies with respect thereto.

Section 21(a)(5): To investigate charges of criminal misconduct or to consider the filing of criminal complaints.

The Board should consult with Open Meeting Law, MGL c. 30A, section 21, and consult with its legal counsel to determine if purposes not discussed above can be appropriately held in executive session.

#### i. Process for Meeting in Executive Session

For the Board to meet in Executive Session, the meeting agenda must note that there will be a potential Executive Session held, and the purpose for the Executive Session.

The Board must first convene in Open Session before a vote to go into Executive Session can take place. A majority of the Board (at least 3 members) must vote to go into Executive Session and the vote of each member is recorded by roll call and entered into the minutes.

The Chair shall state, while in Open Session, the purpose of the Executive Session, including, the subjects that may be revealed without compromising the purpose of which the session is being held. (For disciplinary hearings to be held in Executive Session, the Motion to go into Executive Session should reference the case number of the matter, not the names of the Employee who is the subject of the complaint.) The Chair will publicly announce whether the open session will reconvene at the end of the executive session.

While in Executive Session, Board members may only discuss matters for which the executive session was called. If the Board intends to discuss a matter which does not come under the purposes for Executive Session, such discussion should take place in Open Session.

Accurate records of the executive session must be maintained pursuant to MGL. c.20A, sec. 23. All votes in Executive Session are required to be roll call votes and entered into the minutes. Documents and other exhibits used at an executive session shall be part of the official record of the session, along with the minutes.



Approved Minutes of Board meetings, and draft minutes if not yet approved, are subject to public record requests. Executive session minutes are not public until the reason for the executive session is completed.

j. Conducting a Disciplinary Hearing

The purpose of the hearing is to receive evidence, evaluate the evidence, determine if the charges against the SPD employee are proven by a preponderance of the evidence, to reach a disposition on each charge, and determine if there is just cause for discipline, based on the procedures set forth in this Manual, and applicable laws.

i. Structure of Hearing

Introductions. The Chair shall ask all parties to state for the record their name and role in the disciplinary hearing.

Opening Statements. Each party shall be given the opportunity to make an opening statement to the Board, which opening statement shall consist only of facts that is reasonably expected to be supported by evidence introduced by that party in its case in chief. The SPD, by and through either its Labor Relations counsel or outside counsel, as applicable, shall give its opening statement first followed by the party subject to discipline or their counsel.

Presentation of Evidence: The Department has the burden of proof and will present its case first. The Employee will present its case after the Department has completed its case. Each party shall be given the opportunity to present evidence, through testimony, video or audio recordings, documentary evidence, or any other appropriate form of evidence. Then the other party may cross examine the witness, followed by redirect and recross if necessary. At the close of the Case in Chief, the Board shall ask any follow up questions from any witnesses. If needed, the Board may vote to request additional documents or witnesses where necessary.

Closing Statements. Each party shall be given the opportunity to make a closing statement to the Board.

Deliberations. After closing arguments, the Board shall deliberate on the evidence presented, and make and vote on motions.

ii. Evidence and Witnesses Presented

The SPD, by and through either its Labor Relations counsel or outside counsel, as applicable, (hereinafter “Prosecution”) shall present its case to the Board by (1) soliciting testimony from parties, witnesses and investigators (hereinafter “Witness”) and (2) introducing documentary evidence as appropriate. After each Witness has testified, the SPD employee or their counsel (hereinafter “Defense”), shall be given the opportunity to cross-examine the Witness. After cross-examination, the Prosecution may then be given the opportunity to question the Witness regarding only topics discussed during the cross-examination. After the Prosecution and

Defense have finished soliciting testimony from a Witness, the Board may ask follow-up questions to clarify any testimony presented to the Board.

All audio, video, and documentary evidence introduced into the record shall be marked as an exhibit by the Board or its secretary.

### iii. Review of Evidence at Disciplinary Hearings

At disciplinary hearings, Board members will review all evidence to try to identify any contradictions, and/or inconsistencies, and/or omissions. In evaluating evidence, the Board should not consider statements by either counsel as evidence in the case. In cases where a witness declines to testify because of the possibility of self-incrimination, the Board may, but is not required to, draw an adverse inference that if the witness had testified that the testimony would have been incriminating to the witness.

Board members will carefully evaluate statements made by involved parties and witnesses and the testimony of witnesses, for relevance and credibility. Board members may ask follow-up questions of any witness or person who has testified in the case. If the Board determines that it is necessary to review other documents or call other witnesses after hearing the evidence presented, they may continue the hearing to another date for that purpose, by majority vote, subject to applicable laws and collective bargaining agreements. If a hearing is continued, Board members shall not discuss anything that occurred during the hearing until the hearing has reconvened.

Board members will not give any greater or lesser weight to an individual's testimony because of that person's position, race, ethnicity, gender identity, economic status, sexual orientation, housing status, or membership in any other protected class. Only objective criteria relating to the truthfulness or credibility of the person should be used in deciding the weight given to their testimony.

## X. Determining Discipline and Other Remedial Action After Hearing

### a. Findings Determinations

After discussion of the evidence presented in the case, the Board shall move into the voting process. The Board shall consider the following dispositions for each allegation:

1. **Sustained:** Preponderance of the evidence supports a finding that the alleged misconduct did occur and did violate the law or SPD policy.
2. **Not Sustained:** The Board is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred.
3. **Exonerated:** Preponderance of the evidence supports a finding that the alleged conduct occurred but did not violate the law or SPD policy.
4. **Unfounded:** Clear and convincing evidence supports a finding that the alleged misconduct did not occur or did not involve the alleged employee.

If a motion is made and seconded to make a finding of one of the above-referenced dispositions, the Board shall take a roll call vote on the motion.

Standard of Proof: The Board shall apply the “clear and convincing evidence” standard to allegations it determines are “Unfounded”, and the “preponderance of evidence” standard of proof to all other allegations.

Decisions of the Board shall be made by majority vote if more than three (3) members of the Board are present. If only three (3) Board members are in attendance, then the votes must be unanimous.

b. Discipline or Other Remedial Action for Sustained Allegations

After a hearing, where the Board finds a charge is “Sustained,” the Board will deliberate and determine the appropriate discipline or other remedial action. For tenured Civil Service employees, there must be a finding of “just cause” for discipline, and the employee must be given written notice of the disciplinary decision, stating fully and specifically the reasons therefore, within 2 days after the hearing is concluded. See MGL. c. 31, sec. 41.

Potential discipline and other remedial actions include, but are not limited to, re-training, a letter of reinstruction, counseling from a supervisor, suspension, and termination, and any other action that may be appropriate to address the violation.

To determine the appropriate disciplinary action, the Board shall refer to the Disciplinary Matrix and/or relevant General Police Orders addressing discipline, suspension, re-training, supervisory intervention, or other remedial action for misconduct or deficient performance. The Board shall make recommendations consistent with, and from, the Discipline Matrix and/or relevant General Police Orders. In order to ensure consistency in the imposition of discipline, if the Board deviates from the Discipline Matrix and/or relevant General Police Orders, they shall state the reasons for the deviation in writing. The statement shall include, at a minimum, all mitigating and aggravating factors.

The Board is prohibited from considering the employee’s race, religion, gender, gender identity, sexual orientation, national origin, age, ethnicity, familial relationships, or the high (or low) profile nature of the incident in making decisions regarding the imposition of discipline.

i. Recommendation Regarding Training/Policy Changes

In addition to determining discipline or other remedial action for SPD officers and employees, the Board shall also consider whether a complaint suggests that SPD should revise its policies, strategies, tactics, or training. If so, the Decision Form shall so indicate.

ii. Recommendation Regarding Commendations

During review and consideration of investigations, Board members may identify officer or employee performance that is commendable, superior, noteworthy, or otherwise deserving of special and positive recognition. In such circumstances, a Board member may move that the Board issue a commendation.

c. Presentation of Findings

The Board shall complete the Decision Form (Attachment \_\_\_ ) and record both the Board's vote for every charge and an explanation of the facts and evidence supporting its vote. If the Board deviated from Discipline Matrix and/or relevant General Police Orders as set out above, the Board shall also record the written statement of reasons for the deviation.

**XI. Post Hearing Procedures**

a. Post Hearing Notice to Complainant and SPD Employee

The Board will issue a decision notice letter to the SPD Employee who was the subject of the complaint and to the Complainant. BPC shall make record of all notices sent to employees and to complainants and shall retain them in official BPC files.

The notice to the SPD Employee shall include:

1. The date, time, and location of the hearing; and
2. The Board's decision on each charge (Sustained, Not Sustained, Unfounded, Exonerated) with a brief explanation of the evidence supporting the decision on each charge
3. If discipline is imposed, fully and specifically explain the reason for the decision. The notice must contain the required language and attachments per MGL. c. 31, sec. 41

The notice to the Complainant:

The BPC shall use best efforts to notify the complainant via letter that their complaint was considered by the Board, the date of the hearing, a brief explanation of the evidence presented at the hearing, and whether the subject employee was disciplined.

b. Forwarding Decision to Police Superintendent

Upon completion of each disciplinary hearing and disciplinary determination which results in a "Sustained" finding, the BPC shall send a copy of the Decision Letter that was issued to the SPD employee to the Police Superintendent within fourteen (14) calendar days. Police leadership will then send a copy of the notice to the state personnel administrator.

c. Appeal Process for Rendered Disciplinary Decisions

i. Appeals from BPC with Hearing

Once the BPC has issued a “Sustained” finding on disciplinary charges and has imposed discipline of more than five (5) days’ suspension, the subject employee may appeal the decision to the Massachusetts Civil Service Commission if they are a tenured civil service employee, or the employee may request arbitration through their respective Union.

ii. Appeals for Discipline Rendered without a BPC Hearing

In cases where the Superintendent or the Board imposes discipline of a suspension of five (5) days or less (without a prior hearing), the subject employee can request a hearing to determine whether there was just cause for the discipline. The BPC, or a hearing officer appointed by the BPC (can be one rotating Board member and need not be the full Board), will be the body that hears the disciplinary appeals of the SPD employees. In this situation, the Board is to follow the same procedures for conducting hearings as outlined in the above sections, and in compliance with applicable laws and collective bargaining requirements.

The Board will need to hold the hearing within five (5) business days from the request for appeal.

## **XII. Communicating with the Public**

a. General Communication

The Board will have a dedicated website. The website will contain general information about the Board and its members, terms, and vacancies. Additionally, agendas, quarterly reports, publicly released reports, and the process and link for making civilian complaints should also be made available on the BPC website.

All Board meetings will begin in open session which is open to the public and the press in accordance with the requirements of law. All meetings shall be audio recorded and meeting minutes of open sessions shall be available on the BPC website (once finalized) and maintained in official records.

All Board member’s official phone numbers and emails should be listed in all government phone publications.

b. Annual Public Meeting

The BPC will hold a public meeting annually, at an accessible time and welcoming location, so that the public can learn more about the Board’s functions and work. The Board will widely publicize the meeting, including on its website, at least two weeks before it is scheduled to happen.

The meeting should at minimum provide the public with an opportunity to give public comment on the overall functioning of the Board, and suggestions for improvements. The meeting should also include information on disciplinary trends, complaint and hearing processes, where to find quarterly summaries on the City's website, and any upcoming meetings scheduled.

c. Quarterly Public Summaries

On a quarterly basis, the Board will post quarterly summaries of meetings and hearings on the BPC website. The summaries will maintain the confidentiality of the identities of the officer and complainant, and include, at minimum, the following:

- the subject matter of the complaint,
- the date of the incident underlying the complaint,
- the evidence that the Board evaluated,
- the Board's disposition of each charge, and
- a summary of the reasons for the Board's dispositions (e.g., body worn camera footage exonerated officer).

The Board will leave quarterly summaries posted to the BPC site up for at least twelve (12) months and maintain the quarterly summaries in official records.

d. Annual Public Report

The City shall publish an annual report that describes the Board's work in fulfilling its purpose, duties, and responsibilities. The BPC will work cooperatively with the City to produce the annual report.

The annual report will include, but is not limited to, the following statistics and information:

- Complaint trends;
- The number and types of complaints received;
- The number and percent of all cases by classification and nature of allegation received by Board  
The disposition of complaints by complaint type and source;
- The number and percent of all cases and allegations that were sustained;
- The Board's discipline decisions;
- An assessment of the Board's public outreach functions; and
- The accessibility, transparency, timeliness, thoroughness, responsiveness, and effectiveness of the Board's performance.

e. Oversight and Improvement Report

At or before April 2024, the Board, and the Superintendent, will draft an oversight and improvement report and present it to the City. The report and its recommendations will be posted publicly on the BPC's website.

The report will assess and make recommendations on:

- Whether there are impediments to SPD's civilian complaint processes that inhibit the ability of the Springfield community to obtain accountability for misconduct;
- Whether changes should be made to the administration and/or functions of the Board to improve its efficacy, including, but not limited to, investigations, hearings, resources, and coordination with and independence from SPD;
- How existing civilian-police communication and accountability structures can be improved, or whether additional or different civilian or community oversight entities are necessary to provide guidance on community perspectives on SPD policies and practices and SPD's civilian complaint processes;
- The Board's communications with the community, and whether the community has sufficient access to information about the Board's organization, complaint investigation activities, and discipline recommendation processes; and
- the Board's communications with complainants to ensure that they are apprised of the status of their individual complaints.

Within three months of the issuance of final report, the Mayor will determine which of BPC's recommendations to adopt with a public explanation for adopting or not adopting each recommendation.

### **XIII. Internal Documentation and Reporting Obligations**

All documentation reviewed, created, or generated by the BPC in the process of evaluating complaints and conducting hearings shall be maintained in official BPC records.

Documents the BPC must generate and maintain in official files must include, but are not limited to:

- Voting Sheets
- Hearing Transcripts
- A list of names of present witnesses, SPD members, and attorneys for SPD members at hearings recorded in minutes
- Minutes, and audio recordings for all BPC meetings
- Quarterly and Annual Reports and the information used to generate the reports

When appropriate, publicly accessible information generated by the BPC, the SPD, or the City, and related to the Board's official business should be posted on the BPC's website. The Website should be maintained and used with the intention of keeping the public informed on the BPC and its work.

Note BPC files will include information that is public and information that must remain confidential. BPC members must know their obligations to public disclosure and confidentiality of all generated information. Records are to be thoroughly maintained and secured from unintended disclosure and dissemination. All information not confidential under relevant law may be susceptible to a public records request.