

was inside the vehicle, the Respondent admitted in his interview with the Division that he violated the Norwood Police Department's and the Commission's policies as they relate to the use of deadly force. More specifically, the Respondent admitted that he was not justified in the discharge of his firearm based on the totality of the circumstances.

5. Pursuant to a settlement agreement with the Town of Norwood, the Respondent was suspended for 60 days without pay, with 30 days held in abeyance, on March 10, 2023. In addition to the suspension, he was required to complete retraining that consisted of live fire exercises, scenario-based decision-making exercises, and instruction on the Norwood Police Department's use of force policies, which are based on the Commission's policies. As of April 24, 2023, Officer Callahan had completed his suspension and all retraining requirements, including passing an examination on the applicable use of force policies.

6. On April 13, 2023, the Commission, pursuant to 555 C.M.R. §§ 1.02(2) and (4), authorized the Division to conduct a preliminary inquiry into allegations of misconduct against the Respondent regarding the January 22, 2023, incident. On September 1, 2023, the Division submitted its report of preliminary inquiry to the Commission. Subsequently, on September 14, 2023, the Commission authorized the initiation of disciplinary proceedings against the Respondent.

7. According to information received during the Division's investigation, the Respondent had never been formally disciplined prior to the above-described events. The Norwood Police Department Chief and the Norwood General Manager noted that the Respondent immediately took responsibility for his error in judgment and was forthright and honest during all investigations of the incident. Additionally, they informed the Commission that they would not want to lose the Respondent as an officer.

Applicable Law

8. Pursuant to M.G.L. c. 6E § 3(a):

The [C]ommission shall have all powers necessary or convenient to carry out and effectuate its purposes, including, but not limited to, the power to:

- (1) act as the primary civil enforcement agency for violations of [chapter 6E]; . . .
- (4) deny an application or limit, condition, restrict, revoke or suspend a certification, or fine a person certified for any cause that the commission deems reasonable; . . .
- (23) restrict, suspend or revoke certifications issued under [chapter 6E];
- (24) conduct adjudicatory proceedings in accordance with chapter 30A; . . .

9. Pursuant to M.G.L. c. 6E § 10(a)(x), "[t]he [C]ommission shall [...] revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that [...] the

officer used force in violation of section 14.”

10. M.G.L. c. 6E § 14(b) provides that, “[a] law enforcement officer shall not use deadly force upon a person unless de-escalation tactics have been attempted and failed or are not feasible based on the totality of the circumstances and such force is necessary to prevent imminent harm to a person and the amount of force used is proportionate to the threat of imminent harm.”

11. Furthermore, M.G.L. c. 6E § 14(d) provides that, “[a] law enforcement officer shall not discharge any firearm into or at a fleeing motor vehicle unless, based on the totality of the circumstances, such discharge is necessary to prevent imminent harm to a person and the discharge is proportionate to the threat of imminent harm to a person.”

12. In addition, pursuant to M.G.L. c. 6E § 10(b)(iv), “[t]he [C]ommission may [...] suspend or revoke an officer's certification if the [C]ommission finds by clear and convincing evidence that the officer was suspended or terminated by their appointing agency for disciplinary reasons, and any appeal of said suspension or termination is completed.”

13. Pursuant to M.G.L. c. 6E § 10(h), the Commission may institute a disciplinary hearing after an officer’s appointing agency has issued a final disposition on the alleged misconduct.

14. “Unless otherwise provided by law, agencies may . . . make informal disposition of any adjudicatory proceeding by stipulation, agreed settlement, consent order or default.” M.G.L. c. 30A § 10.

Resolution

In view of the foregoing, the Commission has determined that the public interest would best be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions which have been agreed to by the Respondent:

15. The Respondent agrees to the suspension of his law enforcement officer certification in the Commonwealth of Massachusetts, pursuant to M.G.L. c. 6E §§ 3(a) and 10(b)(iv), for a period of thirty days, beginning on the date this agreement is executed by the Commission. This thirty-day period will be in addition to the suspension that the Respondent already served in relation to the January 22, 2023, incident.

16. During the thirty-day suspension period, the Respondent shall not work in a law enforcement capacity. The Respondent shall also refrain from all conduct prohibited by the Commission during the period of suspension.

17. In addition to the thirty-day suspension, the Respondent shall abide by all retraining recommendations as prescribed by the Municipal Police Training Committee.

18. The Respondent agrees that, if he should fail to abide by any of the terms and conditions of this agreement during his suspension, this agreement shall become void, and the Division may, without prior notice to the Respondent, take the following steps:

- a. initiate adjudicatory proceedings against the Respondent;
- b. seek discipline against the Respondent based on any ground supported by the evidence in its preliminary inquiry, including grounds beyond those covered by this agreement; and
- c. seek any level of discipline supported by the evidence, up to and including the revocation of the Respondent's certification and the entry of his information onto the National Decertification Index.

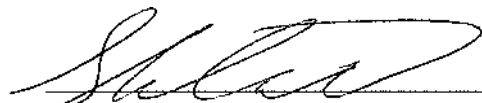
19. This Voluntary Suspension Agreement is limited to the alleged discharge of the Respondent's firearm without justification during the January 22, 2023, incident. Should it later be determined that any individual was injured by the discharge of the Respondent's firearm, the Division reserves the right to re-open the investigation to determine whether additional discipline is warranted.

20. The Respondent waives all rights to contest the factual findings, conclusions of law, terms and conditions, or other provisions contained in this agreement in any administrative or judicial forum to which the Commission is or may be a party.

21. The Respondent acknowledges that, once this Agreement and any Order of Suspension issued by the Commission are executed, they will be public documents and will be published on the Commission's website pursuant to M.G.L. c. 6E, § 10(g). Furthermore, the status of the Respondent's certification will be publicly available on certain lists and databases published by the Commission.

22. This Agreement shall be effective as of the date it is approved by the Commission.

December 20th, 2023
Date


Respondent

December 20, 2023
Date

Margaret R. Hinkle
Margaret R. Hinkle, Chair