



## CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9011

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

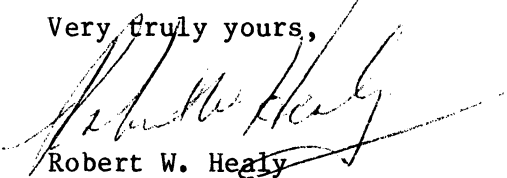
June 13, 1988

To the Honorable, the City Council:

Enclosed please find a copy of the opinion of Russell B. Higley, City Solicitor, and a proposed amendment to Ordinance 1018 of the Code of the City of Cambridge, as it relates to the Police Review and Advisory Board. This amendment would add a new section 12 directing the Board to stop investigating a complaint when criminal or civil proceedings arising out of the same incident are brought against the police officer who is the subject of the complaint.

This amendment has been recommended by the Police Review and Advisory Board.

Very truly yours,

  
Robert W. Healy  
City Manager

RWH/mbf  
Enc.



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9020

## LAW DEPARTMENT

RUSSELL B. HIGLEY  
CITY SOLICITOR

DONALD A. DRISDELL  
DEPUTY CITY SOLICITOR

MICHAEL C. COSTELLO  
ASSISTANT CITY SOLICITOR

SEVERLIN B. SINGLETON, III  
BIRGE ALBRIGHT  
GAIL S. GABRIEL  
LEGAL COUNSEL

June 2, 1988

Mr. Robert W. Healy  
City Manager  
City Hall  
Cambridge, MA 02139

Re: Police Review and Advisory Board

Dear Mr. Healy:

The Police Review and Advisory Board has requested my opinion as to whether the attached proposed amendment to its ordinance (No. 1018), which would add a new section 12 to the Ordinance, should be adopted.

The gist of the proposed amendment is that the Board would stop investigating a complaint when criminal or civil proceedings arising out of the same incident are brought against the police officer who is the subject of the complaint.

In my opinion, there is no legal impediment to the City Council's amending Ordinance No. 1018 in the manner proposed. Furthermore, as a matter of policy, I think the proposed amendment would be desirable for the following reasons:

Mr. Robert W. Healy  
June 2, 1988  
Page 2

The proposed amendment addresses several difficult issues raised by the Board proceeding with an investigation in the event that criminal or civil actions have been filed.

Once a criminal action has been filed the Fifth Amendment rights of the police department employees involved in the complaint will prevent effective investigation by the Board. Postponing the Board's investigation until the criminal action is finally adjudicated should not affect the general purpose of Ordinance No. 1018. Prosecution of a criminal action will provide the "...prompt, impartial and fair investigation of complaints..." which is the stated purpose of the ordinance. Once the criminal action is adjudicated the Board could proceed with its investigation and procedures.

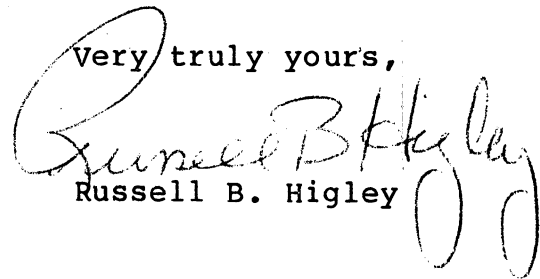
If a civil action is filed, the Board's investigation would compete with the parties efforts to control discovery in the civil suit. Several boards or commissions with similar investigatory functions avoid this conflict by prohibiting the complainant from filing a civil law suit until the commission has had a reasonable period to investigate.

The City Council does not have the authority to prohibit the filing of court actions. The proposed amendment, insofar as it would halt the Board's investigation when a civil suit has been filed, would enable the Board to inform a complainant that filing a law suit would stop the Board's investigation. The complainant could choose to allow the Board to complete its investigation

Mr. Robert W. Healy  
June 2, 1988  
Page 3

before filing suit. This procedure would accomplish the goal of preventing any conflicts between the Board's investigation and the civil law suit. As in the case of a criminal action the Board would be able to complete its investigation and procedures once the civil suit is adjudicated.

Very truly yours,

  
Russell B. Higley

RBH/jml

Enclosure



# City of Cambridge

## POLICE REVIEW AND ADVISORY BOARD

CITY HALL  
795 MASSACHUSETTS AVE.  
CAMBRIDGE, MA 02139

WILLIAM GOLON  
EXECUTIVE DIRECTOR  
(617) 498-9000  
x 9489

### PROPOSED AMENDMENT

The following is a proposed amendment to Ordinance #1018 of the "Code of the City of Cambridge".

### SECTION 12. CRIMINAL PROCEEDINGS OR CIVIL LITIGATION

In the event that criminal proceedings relating to the matter of the complaint are known to be commenced against the officer who is the subject of a complaint, or litigation relating to the matter of the complaint is known to be commenced against any party to a complaint, no investigation shall be undertaken beyond the filing, lodging, and docketing of the complaint. The Police Review Board shall undertake no investigation until the criminal or civil matter has been adjudicated, or the authorities have rendered a final decision not to commence any such proceedings. During the pendency of any such contemplated or commenced proceedings, all time limits applicable to the processing of board complaints shall be tolled. Whenever a board investigation is tolled as provided here, the Chief of Police shall take appropriate steps to assure preservation of the following items of evidence:

1. The original communication center tapes relevant to the complaint.
2. All police reports, tapes, records, and documentation of the evidence relevant to the complaint.
3. Names, addresses and telephone numbers, and statements of all witnesses relevant to the complaint.



## CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139  
TEL. 498-9011

EXECUTIVE DEPARTMENT  
ROBERT W. HEALY  
City Manager

RICHARD C. ROSSI  
Deputy City Manager

June 13, 1988

To the Honorable, the City Council:

With respect to Awaiting Report Item No. 24 relative to drafting of an ordinance prohibiting the granting of the police power of arrest within the City limits to any person or entity with the exception of the Cambridge Police Department without prior review and approval of the City Council, enclosed please find a copy of the opinion of Russell B. Higley, City Solicitor.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mbf  
Enc.



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9020

## LAW DEPARTMENT

RUSSELL B. HIGLEY  
CITY SOLICITOR

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DEPUTY CITY SOLICITOR

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ASSISTANT CITY SOLICITOR

SEVERLIN B. SINGLETON, III  
BIRGE ALBRIGHT  
GAIL S. GABRIEL  
LEGAL COUNSEL

June 6, 1988

Mr. Robert W. Healy  
City Manager  
City Hall  
Cambridge, MA 02139

RE: Power to arrest within the City

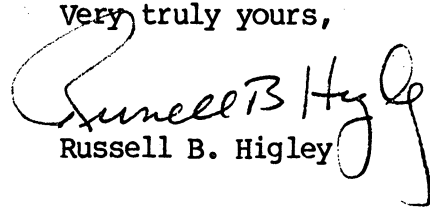
Dear Mr. Healy:

In response to the attached Council Order of May 2, you have requested my opinion as to the power of the City Council to provide that nobody shall exercise the power of arrest in Cambridge except members of the Cambridge Police Department.

While it might be possible for the Council to direct the City Manager not to appoint any more constables, I wish to point out that, pursuant to G.L. c. 147, s. 10G, the Commissioner of Public Safety may appoint employees of colleges, universities, other educational institutions and hospitals as special police officers, with the power of arrest "for any criminal offense committed in or upon lands or structures owned, used or occupied by such college, university, other institution or hospital."

Also, the Middlesex County Sheriff has the power to appoint Deputy Sheriffs with the power of arrest.

Very truly yours,

A handwritten signature in cursive script that reads "Russell B. Higley". The signature is written in dark ink and is positioned above the printed name.

Russell B. Higley



# City of Cambridge

## POLICE REVIEW AND ADVISORY BOARD

CITY HALL  
795 MASSACHUSETTS AVE.  
CAMBRIDGE, MA 02139

WILLIAM GOLON  
EXECUTIVE DIRECTOR  
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RECEIVED  
88 MAY 33 AM 8:31  
OFFICE OF THE CITY MANAGER



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June 2, 1988

Mr. Robert W. Healy  
City Manager  
City Hall  
Cambridge, MA 02139

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June 2, 1988  
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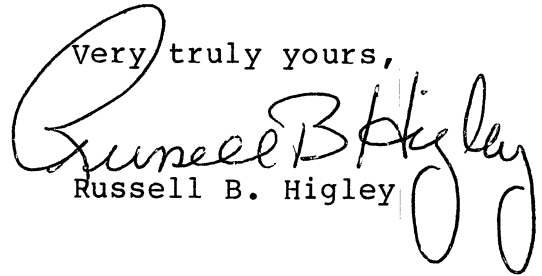
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June 2, 1988  
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Very truly yours,

  
Russell B. Higley

RBH/jml

Enclosure



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This amendment has been recommended by the Police Review and Advisory Board.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mbf  
Enc.

Calendar #17  
0-58

Re: enclosed opinion of the City Solicitor & a proposed amendment to Ordinance 1018 as recommended by the Police Review & Advisory Board.

In City Council,

June 13, 1988

6-13-88

Charter Right exercised by  
C. Walsh

6-20-88

No Action Taken. Placed  
on file under Rule  
Nineteen.