



Dear Legally Liz,

I recently was ordered to a Board of Rights and my League attorney made a motion to dismiss several of the counts against me based on them being out of statute. The Department Advocate argued against us and, after hearing both sides and even consulting with a deputy city attorney, the Board ruled in our favor and found that several counts were out of statute. The Board then recommended to the Chief of Police that the Complaint be amended and the counts that were out of statute be dismissed. While this sounds like it should have been routine, the Chief chose to ignore the Board's ruling and leave the counts intact, as if the Board never found them out of statute. Is this possible? I thought the Chief was supposed to follow the Board's rulings on the evidence and was only allowed to reduce the penalty?

Signed,

Sgt. Al Mostwun

Dear Sgt. Mostwun,

You are absolutely correct in your thinking process. By the Los Angeles City Charter, Section 1070, the Chief of Police is limited in his authority to interfere with an officer's post-disciplinary appeal hearing before a Board of Rights. Pursuant to Charter Section 1070(n), the Board of Rights is vested, upon consideration of the evidence presented during the hearing, with the authority to render findings of guilty or not guilty on each charge alleged by the Department against the accused officer. If an officer is found not guilty, the Board shall order the officer restored to duty without loss of pay and without prejudice, and the order is self-executing and immediately effective without any ability for the Chief to interfere. Alternatively, if the officer is found guilty following a hearing before a Board of Rights, the Board "shall prescribe its penalty" for recommendation to the Chief of Police per Charter Section 1070. The Chief may then accept or reduce the penalty, but may not increase it (Section 1070(p)). Under no circumstances can the Chief involve himself in the Board prior to a penalty recommendation.

Because of situations such as the one described by you and additional issues related to the Department's unlawful interference with the Board of Rights process, the League has hired Silver, Hadden, Silver, Wexler & Levine to file a lawsuit on behalf of all League members enjoining the Chief and his command staff from interfering with the Board of Rights and coercing Board members to reconsider Board rulings, as well as from engaging in improper ex parte communications with Board members during the pendency of a Board hearing. If you have an individual case, it is still necessary to contact the League and obtain funding individually to overturn your discipline. If this is the case, contact Lisa Yagi at the League at (213) 251-4575. Thanks for your question.

Legally,

Liz

Names have been changed to protect privacy. Send your anonymous questions to legallyliz@lappl.org. ❖