

**Minutes
Minneapolis Civilian Police Review Authority
Regular Monthly Board Meeting
Wednesday, February 4, 2009
333 City Hall
6:30 p.m.**

Board Members Present: Bellfield, Benson, Bicking, Franklin, Hall, Kvidera, Terrell, Turner, Zuege

Also Present:

CRA Manager Samuel L. Reid, II
Assistant City Attorney Lisa Needham
Sergeant Troy Schoenberger
Sherman Patterson, Mayor's Office
Michelle Gross, Communities United Against Police Brutality
Michael Salchert, Police Officer Federation of Minneapolis attorney

I. Call to Order

Chair Bellfield called the meeting to order at 6:30 p.m.

II. Approval of Agenda

Terrell **moved** the agenda be adopted as amended. Benson seconded.

Bicking asked that the agenda be amended to increase the amount of time allotted to speakers during Item VI. Public Invitation from two minutes to three minutes.

The Agenda as amended was adopted.

III. Acceptance of the minutes of the regular board meeting of January 7, 2009

Franklin **moved** the January 7, 2009 minutes be accepted. Terrell seconded.

Motion passed unanimously.

IV. Michael Friedman, former CRA Board Chair

Friedman was CRA Board chair from September 2003 through 2005 and a board member through 2006. He is here because he still feels very strongly about CRA's mission and purpose and he wants to put ideas and concepts out there for the board's consideration.

- When is civilian oversight created and when does it get shut down?
The Minneapolis Civilian Police Review Authority was created in Minneapolis in response to a series of racially-charged public incidents in the late '80s. Civilian oversight is a response by government to public pressure. The board isn't there because government thought it was a good idea – someone demanded it. Friedman was at the first redesign meeting where then-board chair Daryl Lynn spoke, defending the work of the CRA. It was not received well by the public members of the committee. After Friedman was appointed to the CRA he began to understand the CRA of Lynn's era and became more sympathetic than he was at that meeting. The investigative staff were operating under an ordinance where the evidence standard to prove misconduct was higher than it is under the current ordinance. That proved to be an obstacle to complainant satisfaction; too few complaints led to a response by CRA, but CRA did the duty that it was assigned according to law. If you're doing a great job and no one knows it, or feels it, you can be shut down.
- CRA has a mission to foster a good relationship between the police and the community. Are the options the board is choosing concerning public data issues conducive to that mission or are they working against that mission?

- How does the board reflect the public interest compared to other stakeholders? The board's mission is their response to public demand, fostering good police-community relations and to be absolutely fair in their personnel process. Complainants' and officers' interest is in their personal situations. The union's interest is to see the CRA board, CRA and the police department management as an adversarial party in a labor process. The CRA represents something the public demanded because it didn't have full faith in the MPD, so the CRA itself represents something beyond the control of MPD management. The City Attorney's mission is the best legal interest of the City. Sometimes the CRA's mission can conflict with the City Attorney's mission.

Data Issues

Friedman believes requesting the IPAD opinion was a good thing because the CRA needed clarity. The IPAD decision presents an opportunity for the board to figure out what needs to happen next, given that this is the status of law, to achieve its mission and purpose as a representative of the public in civilian oversight. Friedman presented the following ideas for consideration and board discussion:

- **Make a push for mayoral discipline on sustained complaints in order to allow the complaint to be public.**

The City Charter does not allow the CRA to impose discipline on its own. If a complaint is sustained by the board but no discipline is issued, the public will not know what the board decided.

If the mayor believes in the value and mission of a civilian oversight function, it is the mayor's obligation to support it according to the ordinance, which is that the board makes the determination of misconduct. If the chief does not discipline, the mayor does have the authority to issue discipline. Mayoral discipline would give officers the right to grieve, which they do not have when the board sustains a complaint but the chief does not discipline.

This makes the chief's right to request a reconsideration by the CRA hearing panel relevant. If the chief knows the mayor will discipline if the chief does not, it gives rationale for the chief to ask for a reconsideration. The City Attorney's recommended ordinance change did not even reference the chief's right of reconsideration, because no one assumes the chief would ever bother. There is no force to a CRA hearing panel decision to sustain. At this point, the board is just making a suggestion to the chief. Right now the chief determines if there is misconduct, because it is the discipline that determines what happens. The only way to give relevance to the process is if discipline is issued. If discipline is not warranted, it will go to grievance and get overturned. The MPD should not have veto power over the CRA board determinations.

- **The board should consider its placement in the process of personnel review generally.**

Right now, the board's review is of the CRA staff's work. The board's only practical function is to make the chief get fewer complaints than they would if the staff gave them to the chief directly. Most often the board has a lot of confidence in and agreement with what the staff recommends. The few times Friedman saw the staff recommend not sustaining and the hearing panel sustained, the officer was not disciplined. If the staff is recommending sustained and the hearing panel does not sustain, then the only board function is allowing fewer complaints to go for discipline consideration, which is actually

the opposite of the public's vision of a CRA board. Another thing to consider is whether the board wants to recommend a structure where the board is not overseeing the CRA staff, but is overseeing the discipline itself.

- **CRA board involvement in the personnel process may be just too much of an obstacle to achieving effective police-community relations.** The board can be review police complaints without the central purpose of moving toward discipline. If the board is not part of a personnel process, the officer wouldn't have to talk to the board unless the board has subpoena power. The board could investigate the complaint and make public the issues and their recommendations. If the MPD wanted to launch a personnel investigation, they could. The board's transparency would not be inhibited.
- **To what extent can the CRA be more proactive in investigating big public incidents without being prompted by an individual complainant?** That is another way that the public sees the CRA's relevance. The most obvious issue is the taser policy. The CRA board had a role in the initial taser policy development. The board could look at those documents of a MPD investigation of a recent tragic event involving the use of a taser which have nothing to do with the personnel consequence to the officer, to determine whether a taser would have been fired if the original taser policy, written in February 2006, had been adhered to.

Having the CRA known to be looking into a situation of great public import, even with the other data policy problems on individual complaints, goes a long way to prevent a public governmental body de-funding the CRA, because the CRA is relevant to the public and the public would put up a fight.

Questions

- How can the board engage with the public in a sustaining fashion?
It sometimes can appear to be a conflict to actively engage with the public and be and appear neutral. Friedman dealt with that issue by trying to talk to everyone. It is the board's role to seek out conversations.

Friedman served with board members who were perceived as advocates and it was his experience that no matter what people said in meetings or in public, when in a hearing panel, he did not see anyone acting like an advocate and not looking at the facts in front of them fairly. It is the role of board members to advocate for the CRA operation and for the their own role.

- How should board members build relationships with council members and city administrators?
The board can engage the council in the public's interest, even if there are other city departments who have other interests and also have the ear of the council. While Friedman was on the CRA board, they had a committee who worked specifically on council relationships. It is a very important part of the board's work. Council members hear from constituents on individual situations and they want to be able to tell them to go to the CRA if they have a complaint about a Minneapolis police officer.
- Why not just ask the officers to release their private information?
Friedman was in conversation with union attorneys about that at some point, and it was not treated like a serious suggestion. It's not something they were willing to

do. The board may wish to re-open that conversation with the appropriate parties and make the same argument.

- Should the mayor oversee and second guess all his department heads on their decision-making?
By design, the CRA takes some normally ascribed department head power out of the MPD and puts it in the Civil Rights Department. If the mayor doesn't act, the mayor is choosing one department head's view and negating the other.

Bellfield thanked Friedman for his time and his comments.

V. Reports

Chair

- Bellfield announced that Chief Dolan will address the board at the March 4 regular board meeting.
- Bellfield reminded board members to submit their decision on the pending reconsideration. He asked board members to email him their decision.
- Bellfield responded to a letter from Michelle Gross questioning Sherman Patterson's role at the board meetings. Bellfield stated that Patterson is present at the board meetings as a representative of the Mayor's Office, as AC Lubinski attends the meetings as a representative of the MPD. These individuals provide advice and comment at the direction of the chair. They are not attending as members of the public, but rather city staff.
- If members have scheduling problems concerning the February hearings, they should contact Bellfield.

Manager

- Reid reviewed the [CRA Workload Report](#) for January 2009.
- Bicking asked for a public explanation of why there were no hearings held in January. Reid replied that they didn't have any because he was out of town and to allow board members time to complete their outstanding panel determinations.
- Franklin asked for hearing panel determination training. Reid and the board agreed to hold this training Wednesday, February 11 at 6:30 p.m. at the CRA office.
- Zuege asked about the status of discussion with AC Lubinski about discipline determinations. Reid advised that there will be discussion at the March meeting.

Committee Reports

- Outreach Committee – Terrell
 - Terrell and Hall went to a CUAPB meeting. There was healthy and open dialog.
 - Terrell is thinking about holding a community forum at Sabathani. There will be a small cost. Board members should contact their council members once a date is set for the forum. He wants to inform the community about the CRA process and issues and listen to the community and their concerns. The board should look into the CRA board recommendations about taser use so it can have some answers for the community. Kvidera suggested a CRA forum be held at Eastside Neighborhood Services. There would probably be no charge.
 - Turner added that it is important that CRA board members go to the two community meetings hosted by Mayor Rybak where residents can learn more about the budget revisions and share their ideas, to put up a strong showing for the work the board is doing.

- Terrell has done some outreach with officers and was encouraged to do ride-alongs and spend time with officers.
- Policy Committee – Bicking
 - The committee met last evening. They discussed the need of the board to know what MPD policy is because that is the standard to which they hold officers at hearing panels. There has been ongoing concern about some of that policy being moved to the training manuals. They have taken an inventory of the training manuals in the CRA office. While there is helpful information, it is far from complete and the committee has no idea which documents are up to date and which are not. Bicking believes the board should get a complete set of training manuals; everything that contains policies that are referred to in the MPD policy and procedure manual. When the manual refers to “in accordance with [police officers] training,” they have to know what that training is. The committee is proposing board action to formally request all of those training manuals and related materials so they can use them in determinations. Bicking has a draft of a letter that the board can send to the MPD requesting the materials. The policy committee would like to review the materials before their next meeting. The letter would go out under Bellfield’s signature on behalf of the entire board. The committee is requesting the materials be provided within two weeks for review, due to the level of importance in making hearing panel determinations. The quality of the determinations depends on having this information.
 - At the January board meeting, AC Lubinski had indicated that the MPD compiles taser statistics on a quarterly basis. She advised the board she would check to see what information was public and what she could provide. The committee requests Bellfield follow up with Lubinski on that.

VI. Public Invitation

James Cannon

He has filed a complaint with the CRA. He feels the IPAD decision on data practices is a travesty of justice. It effectively takes away the rights of all complainants to have notice following a CRA determination of whether their complaint was sustained or not sustained or sustained in part and denied in part. Also, the IPAD decision effectively takes away a complainant’s right of reconsideration. The complainant does not know whether the complaint was sustained or what portion of the complaint was sustained. How will a complainant know what to request a reconsideration for? In effect, the IPAD decision, in Cannon’s opinion, has rendered the CRA, as far as complainants are concerned, virtually meaningless. The CUAPB plans to file a lawsuit to overturn the IPAD decision and as a current complainant, he will support the suit in any way he can. As a current complainant, he wants to bring it to the board’s attention that back in February 2008 he did receive his CRA determination. At that time, before the IPAD decision came out, at least there were some minimal rights complainants were given, and that is he was given the right to know that his complaint was determined to be not sustained in whole or in part. He knew then, from what the City Attorney’s position was at that time, that it was a “split decision.” He knew he had at least prevailed against one or both of the officers in some of his complaint, but did not know which portion of the complaint. To this day, he does not know where he stands on that. He knows that since he prevailed on some part of the complaint, the case had to have been turned over to the chief of police. Whether the chief of police has decided to impose discipline or not

impose discipline, he is still left in what the CUAPB says is a “black hole.” He wants to do anything in his power to restore the CRA’s authority on behalf of complainants. If the CUAPB is not successful in their lawsuit, he wants to know where we go from here. His understanding, in talking with Council Member Benson and Council President Johnson, is there has to be a public hearing for the ordinance to be changed to be in compliance with the IPAD decision. Cannon would be given an opportunity, as a member of the public, to come forward and argue to give at least some minimal rights to complainants in spite of the IPAD decision. He asked when the board anticipates the public hearing will be held on the IPAD decision.

VII. Business

- It was brought to Bellfield’s attention today that the Health, Energy and Environment (HEE) Committee is thinking about holding a hearing on February 23 regarding changes to the CRA ordinance flowing from the IPAD decision. Bellfield sent out copies of the [Ordinance changes](#) and [Administrative Rules](#) to everyone and asked for response on that.

Reid addressed changes to 172.90 Investigations. It has been proposed that the deadline for investigation completion be changed from 60 days to 120 days. Reid wants to make clear that that change does not address citizen and officer concerns about the length of time that it takes to complete an investigation. It just makes it look better as far as being closer to compliance. It doesn’t address why the investigations are taking so long: that is a staffing issue. The PERF report suggested IAU complete investigations within 45 days. They have the staff to do it. This is something the board needs to think about or perhaps not propose changing the deadline, but continue to press for resources when the economy improves.

Bicking said that the board has recommended changes to the ordinance to be in compliance with the IPAD opinion. The reconsiderations are removed as they currently exist. If the IPAD decision is overturned, there would have to be an ordinance change saying that status data is to be released, but the change would not necessarily put the reconsideration piece back in the ordinance. Bicking recommended the board urge the City Council to put changes to the ordinance on hold until more is learned about the CUAPB lawsuit. If the suit is successful, the ordinance will have to be changed again. Bicking believes however, that the board should urge council to take action on the chair, vice chair situation.

Zuege does not believe anything would be learned about the CUAPB lawsuit anytime soon. The greatest burden falls on CRA staff with the conflict between the current ordinance and the IPAD opinion. He recommends the board move forward with their recommendations to the council that have been developed at previous meetings.

At Bicking’s request, Bellfield agreed to hear from Michelle Gross about the lawsuit. She stated the lawsuit was filed with the City on February 3. She added that the expected timeline on the outcome of this lawsuit is six months. Their attorney, Mark Anfinson, is an expert at data practices matters.

Bicking **moved** the following:
Regarding CRA Ordinance Changes:

- 1) Be it resolved that the CRA Board recommends that the City Council proceed with consideration of a change to the CRA ordinance regarding the positions of chairperson, vice chairperson, and acting chairperson; that the Board recommends Council adoption of the wording passed by the CRA Board at its December, 2008 meeting; and that Chair Bellfield and Manager Reid convey this recommendation to the City Council through the appropriate channels.
- 2) Be it further resolved that the CRA Board opposes making any of those changes to the CRA Ordinance that are prompted by the IPAD decision at this time, until such time as there is more information about the progress of the recently filed lawsuit, or until such time as that lawsuit is resolved; and that Chair Bellfield and Manager Reid convey this recommendation to the City Council through the appropriate channels.
- 3) Be it further resolved that, if the City Council should decide to proceed at this time with consideration of ordinance changes to comply with the IPAD decision, despite the CRA Board recommendation to wait, that the CRA Board work, through email correspondence, to finalize and document its recommended language for those changes, and document its reasoning in support of those changes, in accordance with decisions made at the December, 2008 Board meeting; that all CRA board members are invited to comment until Monday, February 16; and that the position of the CRA Board be finalized at that time and conveyed to the City Council through the appropriate channels.

Kvidera seconded.

Motion passed

Yes – Bellfield, Bicking, Franklin, Kvidera, Turner

No – Benson, Hall

Abstain – Terrell, Zuege

Bellfield and Reid will be responsible for getting the necessary information to the Council.

Board members agreed to the following:

- That if HEE schedules a public hearing for February 23, the board should act rapidly through email to reach agreement on Bellfield's written explanation of board recommendation.
 - That the rationale for the change to chair/vice-chair/acting chair recommendation be submitted to HEE and that the board work via email to review what Bellfield has written, so that it agrees with the board's decision and with any further comments members have. If HEE decides to go forward with the hearing, that the board have that prepared by February 16.
 - That all members weigh in by then and that Bellfield and whoever else wants to will work on the rationale. Bellfield will make sure the will of the board and the board's rationale is reflected in the recommendation to the City Council.
- The mayor has identified two new potential board members. Reid hopes that there will be a full board by mid March.

- Bicking **moved** the letter he prepared addressed to AC Lubinski regarding MPD training materials be approved by the board and sent by Bellfield. Zuege seconded.
Motion passed unanimously.

VIII. Announcements

There were no announcements.

IX. Adjournment

Kvidera **moved** the meeting be adjourned. Turner seconded.
Motion passed unanimously.

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY
301 4th Avenue South, Suite 670
Minneapolis MN 55415
(612) 673-5500

TO: CRA Board

FROM: Samuel L. Reid, II
Manager

DATE: February 4, 2009

SUBJ: Monthly Report – **JANUARY 2009**

1. Intake – 35
2. Signed Complaints – 6
 - By Ward
 - Ward 2 – 1
 - Ward 3 – 1
 - Ward 5 – 1
 - Ward 7 – 1
 - Ward 9 – 2
 - By Police Precinct
 - Precinct 1 – 2
 - Precinct 2 – 1
 - Precinct 3 – 2
 - Precinct 4 – 2
 - Repeat Officers – 5
 - New Officers – 3

Allegations

- Excessive Force – 7
 - Inappropriate Language – 4
 - Failure to Provide Adequate or Timely Police Protection – 1
 - Inappropriate Conduct – 3
3. Completed Investigations – 1
 - Complaints in Investigation
 - 2006 – 1
 - 2007 – 21
 - 2008 – 36
 - 2009 – 6
 - 64
 4. Mediations Scheduled – 4
 - Mediations Held – 4
 - Successful Mediations – 4
 5. Manager Dismissal – 1
 6. Complaints awaiting Hearing as of 1/30/09 – 21

7. Hearing Panels
 - Complaints heard – None
 - Determinations Completed – 3
 - Sustained or Partially Sustained – None
 - Not Sustained – 3
 - Dismissed – None

 - Determinations Pending – 24
 - Hearings held in 2006 – 1
 - Hearings held in 2007 – 2
 - Hearings held in 2008 – 20
 - Reconsideration hearing – 1

8. Discipline Decisions Received From Chief of Police – 2
 - Discipline issued – 1
 - No Discipline issued – 1

9. Complaints Awaiting Discipline Decision – 5

CHAPTER 172. CIVILIAN POLICE REVIEW AUTHORITY

172.10. Civilian police review authority established. There is hereby created a Minneapolis Civilian Police Review Authority for the purpose of investigating allegations of misconduct on the part of officers of the Minneapolis Police Department and making findings of fact and conclusions based upon those findings of fact. (90-Or-043, § 1, 1-26-90; 90-Or-188, § 1, 7-27-90; 2003-Or-028, § 1, 3-21-03)

172.20. Scope of authority. The review authority shall receive complaints that allege misconduct by an individual police officer or officers, including, but not limited to, the following:

- (a) Use of excessive force.
- (b) Inappropriate language or attitude.
- (c) Harassment.
- (d) Discrimination in the provision of police services or other discriminatory conduct on the basis of race, color, creed, religion, ancestry, national origin, sex, disability or age or sexual orientation.
- (e) Theft.
- (f) Failure to provide adequate or timely police protection.
- (g) Retaliation for filing a complaint with the review authority.
- (h) Any violation of the Minneapolis Police Department's policy and procedure manual. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 2, 3-21-03; 2006-Or-064, § 1, 6-16-06; 2006-Or-114, § 1, 10-20-06)

172.30. Review authority membership. (a) *Composition.* The review authority shall be comprised of eleven (11) members, six (6) of whom shall be appointed by the city council, and five (5) of whom shall be appointed by the mayor, subject to the approval of a majority of the city council. The members shall serve for terms of four (4) years. From the members, a chairperson of the review authority shall be appointed by the mayor, for a term of two (2) years, subject to the approval of a majority of the city council. All members shall continue to serve until their successors have been appointed. A majority of the members shall constitute a quorum.

(b) *Qualifications.* All members shall be residents of the city. Residents currently or previously employed by the Minneapolis Police Department are ineligible to serve as members of the authority.

(c) *Minimum training requirements.*

(1) All members must participate in an annual training session as arranged by the Minneapolis Department of Civil Rights.

(2) All new members must complete training in the following subject areas as arranged by the Minneapolis Department of Civil Rights: police use of force, Minnesota Government Data Practices Act, Open Meeting law and Minnesota Public Employee Labor Relations Act, conflict of interest.

(3) Within two (2) years of appointment, all new members must complete the portions of the Citizen's Academy as determined by the Minneapolis Department of Civil Rights. Members will be compensated fifty dollars (\$50.00) for each Citizen's Academy session attended.

(d) *Removal.* Any member of the review authority may be removed, by vote of a majority of the city council and approval of the mayor, for incompetence, neglect of duty, misconduct or malfeasance, failure to participate in and complete minimum training requirements. Any vacancy occasioned by resignation, death, or removal of a member shall be filled for the balance of the unexpired term by appointment by the mayor subject to approval of the city council. A member who has three (3) absences from meetings or complaint hearings in a calendar year shall automatically cease to be a member of the authority.

(e) *Compensation--Limitation.* Each member shall be paid fifty dollars (\$50.00) for each day when the member attends one (1) or more meetings or hearings, and shall be reimbursed for expenses incurred in the performance of duties in the same manner and amount as other city boards and commission members. The total amount of per diem, payment for file review, and reimbursable expenses payable under this section shall not exceed the total annual budget allocation for such costs. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 3, 3-21-03; 2003-Or-112, § 1, 9-12-03; 2004-Or-068, § 1, 6-18-04)

172.35. Reserved.

Editor's note: Ord. No. 2003-Or-028, § 4, adopted March 21, 2003, repealed § 172.35, which pertained to compensation--Limitation. See the Code Comparative Table.

172.40. Review authority--Administrative duties. (a) *Rulemaking notice and hearing.* The review authority shall adopt rules governing its operation. All rules, and any amendments thereto shall be enacted after a public hearing, at which interested persons may present written and oral evidence. The review authority shall, at least thirty (30) days prior to the date set for the hearing, give notice of its intention to adopt rules by publishing notice of the proposed rule, the date and location of the hearing. The notice shall also be provided to the mayor, city council and chief of police.

(b) *Rulemaking hearing procedure.* Rulemaking hearings shall be presided over by the chairperson of the review authority. The chairperson shall ensure that all persons involved in the hearing are treated fairly and impartially. After hearing and considering evidence, the review authority may choose to enact the proposed rule, enact an amended rule, or to not enact a rule. If the review authority chooses to enact a rule, the review authority shall enter into the record any written exhibits in support of the rule, along with a brief statement explaining why the review authority has adopted the rule and shall submit such rule for approval by the city council. Rules adopted by the review authority shall not be effective until approved by the city council.

(c) The review authority shall cooperate with the chief of police in developing procedures pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967) and Gardner v. Broderick Police Commissioner NY, 392 U.S. 273 (1968). (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 5, 3-21-03)

172.50. Meetings.(a) The review authority shall meet once every month at a regularly scheduled time and place for the purpose of hearing requests for reconsideration, establishing the next month's hearing panel(s) and/or to conduct any other business necessary to the operation of the review authority. The review authority may meet at such additional times and places deemed necessary by its members, or on the call of the chairperson.

(b) Each month the chairperson of the review authority shall appoint panel(s) of three (3) members to conduct hearings related to complaints as necessary during the subsequent month. The chairperson of the review authority shall designate a chairperson of each panel. The panels of three review authority members shall meet at scheduled times and places for the purpose of conducting hearings related to complaints. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 6, 3-21-03)

172.60. Review authority--Substantive duties and powers.(a) Receive complaints alleging misconduct on the part of a Minneapolis police officer and conduct such investigations and inquiries as may reasonably appear necessary to find the facts with respect to the complaints.

(b) Conduct hearings related to complaints as provided in this chapter.

(c) Forward all investigatory findings and case recommendations to the chief of police.

(d) Conduct a program of research and study for the purpose of ascertaining how the objectives of this title may be attained and sustained.

(e) Compile statistics relating to complaints of police officer misconduct and present results of such analysis on a quarterly basis to the Public Safety and Regulatory Services Committee.

(f) Review Minneapolis Police Department policies and training procedures and make recommendations for change.

(g) Facilitate, along with Minneapolis Police Department, appropriate cultural awareness training for sworn officers as determined by the review authority.

(h) Participate in the performance review of the chief of police.

(i) Create and implement a community outreach program. Coordinate outreach activities with the Minneapolis Commission on Civil Rights.

(j) Submit quarterly reports to the public safety and regulatory services committee as to the activities of the review authority. (90-Or-043, § 1, 1-26-90; 2003-Or-028, §§ 7, 8, 3-21-03)

172.70. Complaint filing. Any person who has personal knowledge of alleged misconduct on the part of a Minneapolis police officer may file a complaint with the review authority by submitting said complaint at locations to be determined by the review authority. The review

authority shall select at least one location for the receipt of complaints that is not affiliated with the Minneapolis Police Department, nor staffed by Minneapolis Police Department employees. (90-Or-043, § 1, 1-26-90)

172.80. Preliminary review. Within ~~seven (7)~~ thirty (30) days of the date that a complaint was filed, review authority staff shall make a preliminary review of each complaint and determine whether an investigation of the alleged misconduct is warranted, whether mediation is appropriate or whether no further action is necessary. All complaints shall be kept on file regardless of whether an investigation is initiated. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 9, 3-21-03)

172.85. Dismissal after the Preliminary Review.(a) If after the preliminary review, the manager determines that further investigation is not warranted, the manager may request a dismissal from the chair of the board. The dismissal request must state the basis for the dismissal. The chair shall schedule a hearing for the dismissal.

(b) The manager may administratively dismiss complaints against misidentified officers, officers out-of-jurisdiction, and officers no longer with the Minneapolis Police Department. The manager shall notify the civilian review authority board of the administrative dismissal. (2006-Or-114, § 1, 10-20-06)

172.90. Investigations. If review authority staff determines that further investigation is warranted, the complaint shall be investigated by a review authority investigator. The investigator shall prepare recommended findings of fact and a recommendation of sustained or not sustained in a written summary. Such investigation shall be completed within ~~sixty (60)~~ one hundred and twenty (120) days of the date that the complaint was filed. The review authority manager may once extend this deadline by an additional ~~thirty (30)~~ sixty (60) days, with a written explanation of the reason(s) for the extension. The application of this deadline may be held in abeyance during such time as the complainant and officer are participating in mediation or the review authority staff determine that an investigation might impede or harm a criminal investigation. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 10, 3-21-03)

172.95. Investigation review. Within seven (7) days of the date the written summary is submitted, the review authority manager shall review the investigative file and written summary. The review authority manager may recommend further investigation that shall be completed within thirty (30) days. In all cases in which no further investigation is recommended, the review authority manager shall present the case at the next meeting of a hearing panel of the review authority allowing for proper notice to the complainant and the police officer. (2003-Or-028, § 11, 3-21-03; 2004-Or-068, § 2, 6-18-04)

172.100. Hearings related to complaints. (a) Upon the completion of the investigation of a complaint, a three (3) member panel of the review authority shall weigh and consider all reliable and credible evidence presented. The review authority shall make reasonable efforts to conduct hearings related to complaints within thirty (30) days of the completion of the investigation.

(b) Prior to the hearing, a review authority investigator or the manager shall present the investigatory findings of fact and recommendations to the panel. No person other than a

review authority investigator or the manager and the panel members shall be present during the presentation and discussion of the case.

(c) At the hearing, the complainant and the police officer, or their representatives, shall each be permitted ten (10) minutes to address the review authority, in the presence of each other, regarding the complaint. Other paid or volunteer review authority staff may attend with and assist the complainant, but will not otherwise participate in the hearing.

(d) Within thirty (30) days of the completion of a hearing, the hearing panel shall either remand the complaint to review authority staff for further investigation or issue a written report containing findings of fact and a determination of whether the complaint is sustained. This report shall be made public when permitted by the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes.

(e) Notice.

(1) At least ten (10) days prior to the scheduled hearing, the review authority shall provide written notification to the complainant and the police officer of the date, time and place of the hearing.

2) The review authority shall provide written notification of the hearing panel's decision to ~~complainant and officer.~~ (90-Or-043, § 1, 1-26-90; 2003-Or-028, §§ 12, 13, 3-21-03; 2004-Or-068, § 3, 6-18-04)

(3) At the conclusion of the CRA hearing, the review authority shall provide written notification of the review authority's completion of the CRA process to the complainant. This notification shall provide an advisement that the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes, governs the release of public employee private data.

172.110. Standard of proof. The standard of proof necessary to sustain a complaint is preponderance of the evidence. Preponderance of the evidence means that the greater weight of the evidence supports the decision. (90-Or-043, § 1, 1-26-90; 2003-Or-028, §§ 14, 15, 3-21-03)

172.115. Officer Grievance Negotiating Authority. The manager of the review authority has the sole authority on behalf of the City of Minneapolis to negotiate and enter into a final and binding grievance settlement agreement of CRA findings and determinations.

172.120. Request for reconsideration by complainant and officer. (a) Within thirty (30) days of receipt of the hearing panel's notification letter of completion of the review authority process, a complainant may submit a written request for reconsideration to the review authority, which shall state that new evidence has been uncovered and explicitly states the nature of the new evidence ~~decision to not sustain a complaint, a complainant may submit a written request for reconsideration to the review authority.~~ Within thirty (30) days of receipt of the hearing panel's determination letter, an officer may submit a written request for reconsideration to the review authority, which shall state that new evidence has been uncovered and explicitly states the nature of the new evidence.

(b) The chairperson shall review the new evidence to determine whether the evidence is new to the file. If the chairperson determines that the evidence is new, the request for reconsideration shall be forwarded to the review authority board. If chairperson determines

that the evidence is not new evidence, the complainant or officer shall receive a notice of denial of request for reconsideration.

(b) The review authority shall reconsider the complaint at its next regularly scheduled meeting that is not less than ten (10) days after the filing of the request. If the review authority determines that the request for reconsideration alleges newly discovered evidence, the complaint should be remanded to authority staff to investigate and resubmit findings within thirty (30) days. The review authority may sustain or reject the prior hearing panel decision regarding the complaint.

(c) The complainant and the police officer, or their representatives, shall be permitted ten (10) minutes each in the presence of each other to address the review authority regarding the request for reconsideration.

(d) Notice.

(1) The review authority staff shall provide written notification to the officer of the request for reconsideration.

(2) At least ten (10) days prior to the reconsideration hearing, the review authority shall provide written notification to the complainant and the police officer of the date, time and place of the reconsideration hearing.

(3) The review authority shall provide written notification of its reconsideration decision to ~~the complainant and officer.~~ (90-Or-043, § 1, 1-26-90; 2003-Or-028, §§ 16, 17, 3-21-03; 2004-Or-068, § 4, 6-18-04)

(4) At the conclusion of the reconsideration, the review authority shall provide written notification of the review authority's completion of the CRA process to the complainant. This notification shall provide an advisement that the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes, governs the release of public employee private data.

172.130. Disciplinary Decision.(a) Upon conclusion of the hearing and request for reconsideration process, the review authority shall forward the investigatory file, the findings of fact and the panel determination to the chief of police. The chief's disciplinary decision shall be based on the adjudicated facts as determined by the civilian review authority board, and shall not include a de novo review of the facts by the Minneapolis Police Department's internal affairs unit or any other police officer, unit, or division.

In cases where the civilian review authority board has determined that specific facts constitute a violation of the Minneapolis Police Department policy and procedure manual, under no circumstances should the Minneapolis Police Department internal affairs unit or any other police officer, unit, or division be allowed to alter, augment, or revise the designation.

(b) In all cases where the review authority sustained the complaint, the chief of police shall do one of the following within thirty (30) days (except where noted) of receipt of the case from the review authority:

(1) Impose discipline and notify the review authority in writing that discipline has been imposed; or

(2) Determine that no discipline will be imposed and notify the review authority in writing of such determination and the reasons for such determination; or

(3) Make a one time written request that the review authority reconsider the sustained finding; or

(4) Submit in writing to the review authority a request for an extension of time, not to exceed an additional thirty (30) days, to take one of the actions in subparagraphs (1) through (3) with a statement of the reason for the extension and a proposed date by which one of such actions will be taken.

If the chief has determined that no discipline will be imposed pursuant to subparagraph (2), the review authority may require the chief (or his/her designee) to appear at a meeting of the full board, which shall be closed to the public pursuant to Minnesota Statutes Section 13D.05, subdivision 2, to discuss the basis for the determination.

If the chief has requested that the review authority reconsider a sustained finding, the chief or his/her designee shall appear before the entire review authority board to present the factual and legal basis on which the chief asserts that the complaint(s) should be not sustained. After the review authority has reconsidered the matter, the decision of the review authority shall be provided to the chief in writing. If the review authority again determines that the complaint(s) should be sustained, the chief may then take one of the actions specified in subparagraphs (1), (2) or (4), above.

(c) The review authority shall provide notice to the complainant of the final disciplinary decision.

(d) The level of compliance with this section shall be included as an element of the chief's annual performance evaluation, pursuant to section 172.60(h) of this section. The civilian police review authority chairperson shall notify the executive committee of the chief's failure to comply with the requirements of this section, and such failure may subject the chief to disciplinary action. (90-Or-043, § 1, 1-26-90; 2003-Or-028, §§ 18, 19, 3-21-03; 2006-Or-114, § 1, 10-20-06)

172.140. Confidentiality. The members, staff, and contractors of the review authority shall comply with all of the provisions of the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes. All members and contractors, paid and volunteer, of the review authority shall sign a contract agreeing to comply with the provisions of the Minnesota Government Data Practices Act, currently Chapter 13 of Minnesota Statutes. In return, the city will afford to such member or contractor the same legal protection that any other agent or employee of the city receives who performs duties within the scope of employment. (90-Or-043, § 1, 1-26-90; 2003-Or-028, § 20, 3-21-03; 2004-Or-068, § 5, 6-18-04)

172.150. Mediation.(a) The review authority manager shall refer complaints to mediation subject to the terms of this section. Referral to mediation may be made upon preliminary review of the complaint or at any other time in the course of investigation when the manager deems mediation to be appropriate. Referral to mediation shall be in the discretion of the review authority manager, and shall not be appealable.

(b) The complainant and the subject police officer(s) shall be required to participate in good faith in the mediation process. The mediation process shall continue for as long as the

mediator believes it may result in the resolution of the complaint, except that it shall not extend beyond thirty (30) days from the date of the initial mediation session without approval of the review authority manager.

- (c) The complainant and the subject police officer(s) shall attend the mediation session.
- (d) If mediation is successful, the mediator and the parties shall sign a mediation agreement.
- (e) If mediation is unsuccessful, the complaint shall be referred back to the review authority for further investigation, hearing and review pursuant to this chapter.
- (f) If, after referral to mediation, the complainant fails or refuses to participate in mediation in good faith and without a valid excuse, the review authority manager shall dismiss the complaint.
- (g) If, after referral to mediation, a subject police officer fails or refuses to participate in mediation in good faith, such failure or refusal shall constitute misconduct and grounds for disciplinary action. If warranted by the evidence, the chief of police shall cause appropriate disciplinary action to be initiated against the officer and shall notify the review authority manager of the outcome of such action. If a police officer fails or refuses to participate in mediation in good faith, the review authority manager shall refer the complaint for further investigation, hearing, and review under this chapter.
- (h) The review authority manager shall inform the chief of police of a decision to proceed to mediation.
- (i) Mediation tolls the timelines established for the review authority investigation and hearing processes.
- (j) No record will be made of the mediation proceedings, and no information discussed will be used in subsequent proceedings.
- (k) All complaints shall be referred to mediation with the following exceptions and limitations:
 - (1) Where there are multiple allegations against the same officer, all allegations must qualify for mediation.
 - (2) Where the complaint contains allegations against multiple officers, all officers must qualify for mediation.
 - (3) Mediation is not appropriate if the officer has a prior sustained complaint involving the same or similar allegations arising from an incident which occurred within one (1) year prior to the date of the incident from which the current complaint arises.
 - (4) Excessive force complaints are eligible only if physical injuries are de minimus and medical treatment is not required.

(5) Wrongful search or seizure complaints involving custodial arrest or other interference with liberty of significant duration are not eligible.

(6) Theft and intentional damage to property complaints are not eligible.

(7) The review authority manager may depart from the above guidelines for good cause.

(l) The mediators shall be neutral trained mediators unaffiliated with the review authority, the civil rights department or any other department of the City of Minneapolis.

(m) This section shall apply to complaints filed on and after the effective date of this section. (90-Or-043, § 1, 1-26-90; 2003-Or-028, §§ 21, 22, 3-21-03; 2005-Or-091, § 1, 9-23-05)

172.160. Period of limitation. No person may file a complaint with the review authority if one year has elapsed since the alleged misconduct. (90-Or-043, § 1, 1-26-90)

172.170. Staff.(a) The Minneapolis Department of Civil Rights shall provide staff to support the objectives of this chapter. Review authority staff shall consist of a manager and a community outreach advocate and other positions as necessary. The manager may employ unpaid volunteers to perform the duties of the community outreach advocate on a temporary basis.

(b) *General duties of the manager.* The manager of the review authority shall be an attorney and shall report to the director of the department of civil rights. The manager shall administer the day-to-day operation of the review authority and aid the review authority in carrying out its purpose, including the implementation of a community outreach program.

(c) *General duties of the review authority community outreach advocate.* The community outreach advocate shall report to the manager of the authority and shall perform administrative duties as assigned including:

(1) Timely and regular communications with complainant from complaint intake through final determination of case.

(2) Consultation with the manager regarding case review process prior to the manager's recommendation of sustained or not sustained.

(3) Implementation of community outreach program.

(4) Attendance at hearings when requested by the manager of the authority.

(5) Other duties as assigned by the manager of the authority.

(d) *Firewall .* Department of civil rights staff with access to review authority files shall not have access to civil rights investigation files. Department of civil rights staff with access to civil rights investigation files shall not have access to the review authority files. Information from civil rights investigations shall not be shared with staff assigned to the review authority. Information from review authority investigations shall be shared only with staff assigned to the review authority. The director of the department of civil rights shall have an

administrative role with regards to the review authority. The director shall have access to review authority investigative files for administrative purposes consistent with establishing management goals and objectives, evaluating employee performance, providing case management support, and making budgetary decisions, but shall not participate in the decision-making process regarding individual complaint files. (2003-Or-028, § 23, 3-21-03; 2004-Or-068, § 6, 6-18-04; 2005-Or-053, § 1, 7-1-05)

172.180. Requirement of cooperation by the Minneapolis Police Department and all other city employees and officials with the review authority. The Minneapolis Police Department and all other City of Minneapolis employees and officials shall, except as expressly prohibited by law, respond promptly to any and all reasonable requests for information, for participation in hearings and mediations, and for access to data and records for the purpose of enabling the review authority to carry out its responsibilities under this chapter. The failure by any official or employee of the Minneapolis Police Department or by any other City of Minneapolis employee or official to comply with such requests for information, participation, or access shall be deemed an act of misconduct. The police officer identified in the complaint may, but shall not be required to, attend the public portion of the scheduled hearing. (2003-Or-028, § 25, 3-21-03; 2005-Or-053, § 2, 7-1-05; 2005-Or-091, § 2, 9-23-05)

172.185. Notification of officer's reinstatement. In the event that a dismissed officer has been reinstated to the Minneapolis Police Department, the chief of police shall provide notification to the civilian review authority of the officer's return to the department within thirty (30) days of the officer's reinstatement. (2006-Or-114, § 1, 10-20-06)

172.190. Complainant's choice. A complainant shall be offered the choice to proceed under this title or go to the Minneapolis Police Department internal affairs division. (2003-Or-028, § 25, 3-21-03)

**Minneapolis Civilian Police Review Authority
Administrative Rules**

Rule 1.

A. Source of Authority. The Minneapolis Civilian Police Review Authority, hereinafter referred to as the "Authority," was established by Ordinance of the City of Minneapolis March 21, 2003. The Authority includes a Board of ~~seven~~-eleven members and an administrative staff consisting of a Manager, a Community Outreach Advocate, investigators, and other support staff as necessary. (Minneapolis Code of Ordinances. Title 9 Chapter 172.)

B. Effective Date. The effective date of the following Rules is November 21, 2003.

C. Purpose. The purpose of the following Rules of Procedure is to facilitate and guide the independent civilian police review process in Minneapolis, Minnesota. This process shall be based on due regard for the Constitutional and Legal Rights of all persons, and shall promote the highest possible degree of mutual respect between the Minneapolis Police Department and the Community.

To achieve the purpose, the Authority shall receive, consider, investigate and make a determination regarding complaints or grievances brought by the Public against any Minneapolis Police Officer. These Rules provide for the impartial, independent and prompt investigation, and disposition of complaints and grievances in a manner which protects the Public and individual Officers of the Minneapolis Police Department who may become involved in such complaints.

The Authority shall encourage members of the Public to bring forward legitimate complaints concerning abuse and improper conduct. The desired result of the Authority and of these rules is to strengthen public confidence and to assure that the highest standards of professionalism are observed in the handling and disposition of allegations of abuse of authority.

The procedures of these Rules shall be liberally construed to achieve these objectives:

D. Application. The following Rules shall be employed by the Authority to govern the receipt and processing of Complaints. The Authority shall provide information concerning its findings of fact, determinations and other relevant information, subject to the provisions and limitations of the law.

E. Severability. If any provision of this set of Rules or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not effect other provisions of the rule or application of any other part of this regulation

which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections, or subdivisions herein and the various applications thereof are declared to be severable.

Rule 2. Scope of Authority. The authority shall receive complaints that allege misconduct by an individual police officer or officers acting in their own discretion, including, but not limited to the following:

- a. Use of excessive force.
- b. Inappropriate language or attitude.
- c. Harassment.
- d. Discrimination in the provision of police services or other discriminatory conduct on the basis of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age or sexual orientation.
- e. Theft.
- f. Failure to provide adequate or timely police protection.
- g. Retaliation for filing a complaint with the review authority.
(Ord. §172.20)
- h. Any violation of the Minneapolis Police Department's policy and procedure manual.

Rule 3. Definitions. Whenever used in these Rules, unless plainly evident from the context that a different meaning is intended, the following terms mean:

Adequate and timely. Such length of time as may fairly, properly, and reasonably be allowed or required, having regard to the nature of the act or duty, or of the subject matter, and to the attending circumstances.

Authority. The Minneapolis Civilian Police Review Authority. The Authority includes a Board of ~~seven~~eleven members, a Manager, Community Outreach Advocate, Investigators and Administrative Staff (Minneapolis Code of Ordinances, Title 9, Chapter 172.)

Board. The Board of Directors of the Minneapolis Civilian Police Review Authority, which consists of ~~seven~~eleven members.

Chief. The Chief of Police in the City of Minneapolis.

Preponderance of the Evidence. The greater weight of the evidence supports the decision. **(Moved to proper place in alphabetical order)**

Complainant. The person filing a complaint with the Minneapolis Civilian Police Review Authority who alleges that he/she has been aggrieved by the conduct of sworn Officer or Officers of the Minneapolis Police Department.

Complaint. ~~The allegation, signed and sworn, by a complainant regarding an Officer or Officers of the Minneapolis Police Department.~~ The form generated by the Authority containing the allegations regarding an officer or officers of the Minneapolis Police Department, signed and sworn by the Complainant.

Confidential Data. The Minnesota Government Data Practices Act defines "confidential data on individuals" as data which cannot be made public and is inaccessible to the individual subject of that data.

Day. Monday through Friday, except holidays recognized by the City of Minneapolis during regular business hours.

Department. The Minneapolis Police Department.

Deputy Chief. The appropriate deputy chief ~~assigned to the division of the accused officer,~~ as designated by the Chief.

Discrimination. Disparate treatment of persons because of their race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, or sexual orientation.

Excessive Force. The officer's particular use of force was not "objectively reasonable" in light of the facts and circumstances confronting the Officer without regard to the officer's underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Factors to be considered include the following: 1) the severity of the crime at issue; 2) whether the subject posed an immediate threat to the safety of officers or others, and 3) whether the subject was actively resisting arrest or attempting to evade arrest by flight. (Graham v. Connor. 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989)).

Family Member. For the purposes of these rules, family members shall include domestic partners as defined by Minneapolis Code Chapter 142.

Final Disposition. A final disposition occurs when the Chief makes a final disciplinary decision, regardless of the possibility of any later proceedings or court proceedings. In the case of proceedings before the Minneapolis Civil Service Commission or arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the Civil Service Commission or arbitration proceedings.

Garrity Warning. Under *Garrity v. New Jersey*, U.S. 493 (1967), and *Gardner v. Broderick*, Police Commissioner of New York, 392 U.S. 283 (1968), a police officer can be ordered to give a statement regarding actions taken by him/her while employed with the Minneapolis Police Department. The failure to answer such questions pertaining only to the scope of their duty may form the basis of an officer's dismissal or result in disciplinary proceedings against that officer. The rights of an officer in regard to this warning are that any statements given under this warning, or the fruits thereof, compelled as a condition of employment,

cannot then be used in any subsequent criminal proceeding against the employee except in cases of alleged perjury by the employee giving the statements where the criminal charge is based upon the falsity of the statement given.

Harassment. Inappropriate words, gestures, and other actions which are intended to annoy, alarm or abuse another person.

Hearing Panel. The hearing panel consists of three (3) ~~persons~~ board members appointed by the Authority Chairperson to weigh and consider all reliable and credible evidence presented and file a report containing findings of fact and a determination of whether the complaint is sustained.

Inappropriate language, attitude or conduct. That language or action, which under the circumstances may be rendered unnecessarily confrontational or otherwise inappropriate. This may include, but is not limited to such conduct as racial, sexual or ethnic slurs (i.e. the use of any common or slang terms, which are generally perceived to be derogatory in nature to refer to any member of a racial, ethnic, religious group, or to refer to any person's nationality, sex, sexual orientation, or affectional preference, or which may constitute sexual harassment).

Investigator. A person, hired by the Authority, who is a civilian with prior experience or training as an investigator, to conduct the Authority's complaint investigations. A civilian, for purposes of this provision, is a person who is not now, nor has ever been a sworn officer of the Minneapolis Police Department.

Manager. A person hired by the Director of the Minneapolis Civil Rights Department, required to be an Attorney at Law, to manage the ongoing operation of the Authority and to execute functions to aid the Authority in carrying out its purpose.

Mediation. An informal dispute resolution process, facilitated by a neutral third party, attended by the Complainant and the Officer for the purpose of fully, thoroughly, and frankly discussing the alleged misconduct and attempting to arrive at a mutually agreeable resolution of the Complaint.

Mediator. A neutral third party in contract with the Authority to mediate disputes between Complainants and Officers.

Misidentified Officer. A misidentified officer is an officer whose identity was misidentified by the complainant, and where staff has verified by documentation and other means that the misidentified officer was not involved in the events of the complaint.

New Evidence. Evidence found after the hearing panel determination that the Complainant or Officer did not have access to, control of, or knowledge of during the staff investigation.

Order to Cooperate. The Minneapolis Police Department and all other City of Minneapolis employees and officials, by ordinance shall, except as expressly prohibited by any other law, respond promptly to any and all reasonable requests for information, for participation in hearings, and for access to data and records for the purposes of enabling the Authority to carry out its responsibilities. The failure by any official or employee of the Minneapolis Police Department or by

any other City of Minneapolis employee or official to comply with such requests for information, participation, or access shall be deemed an act of misconduct.

Officer. A sworn Officer or Officers of the Minneapolis Police Department against whom an allegation of misconduct has been made in a Complaint.

Perjury. The willful assertion as to a matter of fact, opinion, belief or knowledge, made by a witness in an Authority proceeding as part of his/her evidence, either upon oath or in any form allowed by law to be substituted for an oath, whether such evidence is or in an affidavit, or otherwise, such assertion being material to the issue or point of inquiry and known to such witness to be false.

A person is guilty of perjury if in any official proceedings s/he makes a false statement under oath or equivalent affirmation, or swears or affirms the truth of a statement previously made, when the statement is material and s/he does not believe it to be true.

Preponderance of the Evidence. The greater weight of the evidence supports the decision.

Personal Knowledge. Direct knowledge of the allegations or incident from which the allegations arose, namely the victim of the alleged misconduct by an Officer or a witness to that alleged misconduct.

Private Data. The Minnesota Government Data Practices Act defines "private data on individuals" as data that is not public and is accessible to the individual subject of that data.

Public Data. The Minnesota Government Data Practices Act defines "public data not on individuals" and "public data on individuals" as data which is accessible to the public.

Representative. A person selected by the officer and a person selected by the Complainant, familiar with the facts of the complaint, who may attend with and/or represent their respective parties at the hearing.

Representative. A person selected by the officer and a person selected by the Complainant, familiar with the facts of the complaint, who may attend with and/or represent their respective parties at the hearing.

Tennessee Warning. The title given to the notice which the Minnesota Government Data Practices Act requires the Civilian Review Authority staff and/or the Board to give to an individual when the Civilian Review Authority staff and/or the Board asks the individual to provide private or confidential data about him/herself. The Authority and the Department must take appropriate steps to ensure that the data is only used and only disseminated consistent with what has been stated in the "Warning." In this "Warning", individuals must be informed of the following:

- a. Why the data is being collected and how it will be used within the Authority and the Department collecting it;
- b. Whether the individual is legally required to provide the data or may refuse to do so;
- c. What the consequences are to the individual of either providing or not providing the data; and
- d. The identities of other persons and agencies who have a legal right to have access to the data being provided.

Tolled. When time limitations established within these rules are suspended or temporarily stopped because of other procedures.

Vulnerable person. Vulnerable person means:

- a. A person who is a resident or inpatient of a facility (a hospital or other entity required to be licensed pursuant to Minn. Stat. §§ 144.50 to 144.58.); a nursing home required to be licensed to serve adults pursuant to Minn. Stat § 144A.02; an agency, day care facility or residential facility licensed to serve adults pursuant to Minn. Stat. §§ 245.781 to 245.812; or a home care provider licensed under section Minn. Stat. § 144A.46;
- b. A person who received services at or from a facility required to be licensed under Minn. Stat. §§ 245.781 to 245.812, except a person receiving outpatient services for treatment of chemical dependency or mental illness;
- c. A person who receives services from a home care provider licensed under Minn. Stat. § 144A.46; or
- d. A person who, regardless of residence or type of service received, is unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status. (Minn. Stat. § 626.557.)

Rule 4. Administration

A. Interpreters

- a. The Manager shall have discretionary authority to provisionally qualify, utilize and compensate interpreters. Each party in need of an interpreter shall give notice to the Manager within seven (7) days of receipt of the Notice of Hearing so that appropriate arrangements may be made.
- b. The Rules of confidentiality shall apply to an interpreter utilized in any stage of the review process including, but not limited to a mediation session, interview, panel hearing or reconsideration hearing. The interpreter shall not have had any personal or professional involvement with any of the issues of the particular case prior to the hearing.

B. Liability of Board Members. No member of the Board of the Authority shall be liable to any person for damages or equitable relief by reason of any action taken or recommendation made by a Board member or by the Authority, if the action taken was within the scope of the functions of the Authority and if the Board member was not in violation of the law and the board member acted in the reasonable belief that such member's action was warranted by the facts known to such member after reasonable effort to obtain the facts of the matter.

C. Amendment of Rules. These Rules may be altered or amended at any regular or special meeting of the Authority by vote of the Board according to the procedures set forth in Minneapolis Code, Section 172.40, and subject to approval by the Minneapolis City Council.

D. Assistance and Information From Authority. If any party desires assistance or information, which can legally be made public, he or she may request such from the Authority. This may include, but is not limited to: assistance in filling out forms; having rules read, explained and/or interpreted; distributing of public information; and keeping the parties to a Complaint regularly informed on the progress of their particular case, in accordance with the provision of the Minnesota Government Data Practices Act and § 1 (C) of these Rules.

Rule 5. Conduct of Monthly Meetings.

A. Regular Meeting. The Board shall meet once every month at a regularly scheduled time and place. The meeting shall be for the purposes of discussing, deciding or receiving information as a group on issues relating to the official business of the Authority.

B. Notice. A schedule of the regular meetings shall be on file in the City Clerk's office and available to City staff and the public. If there is a deviation in the meeting time or place, notice must be provided as required for a special meeting.

C. Quorum. A quorum of the Board shall be ~~four (4) members~~ a majority of the members actually holding office. A quorum may not, as a group, discuss or receive information on official business in any setting under the guise of a private social gathering.

D. Public Access. In any open meeting, the public must have access to at least one copy of any printed materials, excluding data classified as not public, relating to the agenda items of the meeting. This includes information prepared or distributed by or at the direction of the governing body or its employees and which are:

- distributed at the meeting to all members of the governing body
- distributed before the meeting to all members
- available in the meeting room to all members

E. Closed Meetings. Before closing a Board meeting, the chair shall state on the record the specific statutory grounds permitting the meeting to be closed and describe the subject to be discussed.

F. Vote Recording. Votes of the members of the Authority on any action taken in an open meeting must be recorded in a journal kept for that purpose and that such journal be open to the public during normal business hours.

FG. Robert's Rules. Robert's Rules of Order Newly Revised shall be the parliamentary authority for all matters not specifically set forth in these rules

Rule 6. Collection and Dissemination of Data

A. Responsible Authority. The City's designated Responsible Authority shall be the Civilian Review Authority's "Responsible Authority". The Manager shall be responsible for working with the Responsible Authority and assuring that the Authority complies with the Minnesota Government Data Practices Act, other Minnesota statutes, applicable Ordinances of the City of Minneapolis and applicable provisions of these Rules.

B. Types of Data.

1. Generally.

- a. All data collected by the Authority shall be considered personnel data and, as such, is private data, as defined by Minnesota Government Data Practices, §13.43, except for that data described in the following sections of Rule 6: §B.1.b., §B.1.c., §B.2, and §B.3.
- b. Some personnel and, therefore, private data shall become public upon final disposition of a disciplinary case, as defined by the Minnesota Government Data Practices Act, §13,43 Subd. 2(b).
- c. Investigative data and certain criminal data shall be considered confidential in accordance with these rules, and as defined by Minnesota Government Data Practices Act.

d. Information from review authority investigations shall be shared only with staff assigned to the review authority (Ordn 172.170). The City Attorney's Office shall have access to authority files as needed to fulfill its legitimate legal and ethical obligations to provide legal services to the City, its officers, and employees, except that the criminal division shall have access only as provided by court order, the rules of criminal procedure, or clearly established constitutional or statutory law.

2. **Investigative Data.** Data created or collected by the Authority which is part of an active investigation is confidential data until the Board makes a final decision, as described in these Rules below (Rule 11.K and Rule 12.E), at which point the data collected in the investigation and the summary thereof shall become private or nonpublic data. Nothing in this subsection shall be construed to make nonpublic that data that is already designated as public by law and these Rules.

3. **Criminal Data which is Confidential.** The Manager may, in consultation with the Chief and the City Attorney and/or County Attorney classify as confidential certain data created and collected by the Authority in the course of the investigation of a complaint and which the Manager determines are or probably will be material in a criminal case.

4. **Public Data.** The following data created and collected by the Authority shall be public:

- a. The name and address of the Complainant;
- b. The name, badge number, rank and job description of the Officer;
- c. The fact that a complaint has been filed against the Officer;
- d. The status of a Complaint. The following shall be considered status information:
 - 1. The fact that a complaint has been withdrawn by the Complainant.
 - 2. The fact that a Complaint has been dismissed.
 - 3. The fact that a Complaint is in mediation.
 - 4. The fact that a mediation agreement has been reached.
 - 5. The fact that a Complaint is being investigated.
 - 6. The fact that a Complaint has been referred to a panel of the board for hearing;
 - 7. ~~The fact that a Request for Reconsideration to the full board is~~
 - 8. ~~The fact that a complaint was not sustained, or that a complaint was sustained.~~
 - 9. ~~The fact that a Complaint has been referred to the Chief.~~
- e. The final disposition of any disciplinary action, together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the City of Minneapolis.

C. Request for Access to Data. Upon request to the Manager, a person shall be permitted to inspect and/or copy public data at reasonable times and places. Upon request, a person shall be informed of the data's meaning.

D. Denial of Access to Data. If the Manager determines that the requested data is classified so as to deny the requesting person access, the Manager or his or her designee shall inform the requesting person of the determination either orally at the time of the request, or in writing as soon after that time as possible, and shall cite the specific statutory section, temporary classification, or specific provision of law on which the determination is based. Upon the request of any person denied access to data, the responsible authority or designee shall certify in writing that the request has been denied and cite the specific statutory section, temporary classification, or specific provision of law upon which denial was based.

E. Charge for Providing Requested Data. If a person requests data for the purpose of inspection, the responsible authority may not assess a charge or require the requesting party to pay a fee to inspect the data. However, if a person requests copies, or electronic transmittal of the data to the person, the Authority may require the requesting person to pay the actual costs of searching for and retrieving government data, but may not charge for separating public from not public data. If the Authority is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible.

Rule 7. Filing a Complaint.

A. Standing to File. Any person, including a minor, who has personal knowledge of alleged misconduct on the part of an officer may file a complaint with the Authority by submitting a complaint either by telephone, in writing, or in person at the Authority, except that:

1. A parent or legal guardian may file on behalf of a minor.
2. A family member, conservator, or legal guardian may file on behalf of a vulnerable person.
3. In a case involving death or incapacitation of a person, a family member may file a complaint on behalf of the deceased.

B. Period of Limitation. A complaint must be filed with the Authority within one (1) year of the time of the alleged misconduct. (Ord. §172.160)

C. Writing and Signature Required. No complaint will be deemed filed with the Authority until it has been reduced to writing and signed by the Complainant and received by the Authority. Until a complaint is reduced to writing and signed by the complainant, the Complaint shall be treated as a tentative complaint and held in a "pending" file until a formal complaint is made.

D. Penalty of Perjury. Complaint forms will conclude with the following words: "I hereby certify that to the best of my knowledge, and under penalty of perjury, the statements made herein are true."

~~F~~-E. Information Required. The complainant must provide at a minimum, the following information:

1. Name, address, telephone number, date of birth; if a complaint is filed on behalf of someone else, this information concerning the minor, deceased person or the vulnerable adult must also be filed.
2. Alternate means of contact; if a complaint has been filed on behalf of someone else, this information concerning the minor or the vulnerable adult must also be filled;
3. Written statement setting forth the allegation(s), including: date, time and location of the alleged misconduct and any other pertinent details;
4. Identification of police officer (badge and/or name and/or description). The assigned investigator will assist the complainant with identification in the event that a complainant is unable to produce a badge number or name.

~~G~~-F. Amendment of Complaint. A signed complaint may be amended throughout the course of the investigation. Circumstances under which a complainant may amend his/her Complaint include, but are not limited to, new evidence having been obtained such as a new witness coming forward or the

recollection of pertinent information. This amendment must also be in written form and signed under penalty of perjury.

H.G. Withdrawal of Complaint. A Complainant may withdraw from the review process at any point in the proceedings by submitting a written, date and signed notice to the Authority of the complainant's intention to withdraw. The signed withdrawal statement must include an affirmation that the Complainant has not been coerced or intimidated into withdrawing the complaint.

In the case of such withdrawal, The Manager may give the case file to the Chief, if:

- a. The Manager determines that the file contents could be material in a criminal case; or
- b. The Chief makes a request for the file.

H.H. Refiling of the Complaint. The stopping of the complaint process does not prevent the Complainant from filing another complaint within the prescribed limitations period of the Minneapolis Code of Ordinances, Title 9, Chapter 172, §172.60, and these Rules.

I. Complaint Dismissal

1. Dismissal After Preliminary Review.

- a. If the Manager finds that further investigation is not warranted at any time after the preliminary review stage or that a complainant has failed to provide the information identified in Rule 7(E), the Manager may request a dismissal of the complaint.
- b. When the Manager requests a dismissal, the request must include the basis of the dismissal and any supporting documentation, the Manager shall present the request for dismissal to a three-member hearing panel for final disposition.
- c. When a complaint is dismissed, the complainant may request a Reconsideration Hearing to reactivate the complaint.
- d. Upon dismissal of a complaint under this section, a notice of dismissal setting forth the basis for the dismissal will be sent to the Chief of Police.

2. Administrative Dismissal

- a. If the Manager finds that the complainant has filed a complaint against a misidentified officer, an officer outside of the Review Authority's jurisdiction, or an officer no longer with the Minneapolis Police Department, the Manager may dismiss the complaint.
- b. The Manager shall forward an administrative dismissal form to the Director of Civil Rights for signature.

- c. When a complaint has been dismissed by administrative dismissal, the Manager shall present a copy of the administrative dismissal form to the entire Board.
- d. In the event that an officer has been reinstated to the Minneapolis Police Department, the Manager shall have the authority to reactivate the complaint. The Minneapolis Police Department shall provide the Review Authority with notification of all officers who have been reinstated pursuant to Section 172.185. This notification shall include the officer's date of reinstatement.
- e. Nothing above shall prohibit the generation of a complaint in the name of the correctly identified officer's name.

Rule 8. Complaint Investigation.

A. File Creation. A file will be opened for each complainant as of the date the signed complaint is received in the office of the Authority.

B. Notice of Receipt of Signed Complaint

1. The Complainant shall receive written notice of receipt of their signed complaint. This Notice shall be mailed no later than five (5) business days from the date of the receipt of the signed complaint in the Office of the Authority.
2. Notice of the filing of a signed complaint and of the specific allegations contained therein will be forwarded to the Officer, the Deputy Chief, and the Chief of Police, within five (5) days of the filing of a signed complaint.
3. A copy of the Authority Rules delineating the procedures will be forwarded to all parties along with the Notice of Receipt of the Complaint.
4. Information regarding the possibility of mediation will be forwarded to all parties along with the Notice of Receipt of the Complaint.

C. Notice.

1. Before beginning the investigation, and at such times during an investigation as may be necessary, the Manager will notify the Chief, or the Chief's designee, to determine if there is a pending or possible criminal investigation of the conduct which is the subject of the complaint.

2. The Manager has the discretion to hold its process in abeyance, if such investigation might impede or harm a criminal investigation. If the Authority's investigation is held in abeyance, the Authority time constraints shall be tolled. (Ord. § 172.90)

During such time as the Authority may hold its proceedings in abeyance, the Authority shall request the Chief to take appropriate steps to assure preservation of the following items of evidence:

- a. The original Emergency Communications Center ("ECC") tapes relevant to the complaint.
- b. All police reports, records, evidence and any other documentation relevant to the case.
- c. Names, addresses, telephone numbers, and any statements of other information from Witnesses.

D. Garrity Notice to Chief of Police. A "Notice to Give Garrity Warning" shall be sent by the Manager to the chief requesting him/her to order the Officer(s) to cooperate with the investigation. With this order to cooperate, the chief shall give a Garrity Warning.

E. Requirement of Cooperation in Investigation. The Minneapolis Police Department and all other City of Minneapolis employees and officials shall, except as expressly prohibited by law, respond promptly to any and all reasonable requests for information, and for access to data and records for the purpose of enabling the Authority to carry out its responsibilities under this chapter. The failure by an official or employee of the Minneapolis Police Department or by any other City of Minneapolis employee or official to comply with such requests for information, participation, or access shall be deemed an act of misconduct, unless such failure to comply is pursuant to the Officer's or employee's statutory or constitutional rights. (Ord. §172.180)

If the chief fails to cooperate with the Authority in giving the order to cooperate and the Garrity Warning, the Chief shall, in writing state his/her reasons for doing so and submit said reasons to the Authority and the Mayor. The Mayor shall either sustain the Chief's decision, or order the Chief to cooperate.

F. Copies of Sworn Statements. The Officer, complainant and any witnesses, shall, upon their request, be given a true and correct copy of their own signed, sworn statement(s) without unnecessary delay.

G. Conclusion of Investigation. At the conclusion of the investigation, the investigator shall forward the file with a report of findings to the Manager.

H. Time Limit for Investigation. The investigation shall be completed within sixty (60) days of the date a signed complaint was filed. The Authority may once extend this deadline by an additional thirty (30) days with written explanation of the reason(s) for the extension. (Ord. § 172.90)

Rule 9. Investigation Review. Within seven (7) days of the date the written summary is submitted, the review authority manager shall review the investigative file and written summary. In conducting the review of the investigation, the review authority manager shall seek input from the community outreach advocate. The review authority manager may recommend further investigation that shall be completed within thirty (30) days. In all cases in which no further investigation is recommended, the review authority manager shall present the case at the next meeting of a hearing panel of the review authority allowing for proper notice to the complainant and the police officer.

Rule 10. Mediation.

~~**A. Availability.** The Authority shall inform all complainants and Officers of the possibility of mediation as an alternative to the Authority's processes. Such information shall be included with the notice of the receipt of the signed complaint pursuant to Rule 8.B.4.~~

~~**A. Notice.** Minneapolis Code of Ordinances, Section 172.150 establishes a program of mediation of cases meeting the guidelines in Section 172.150, in which participation in mediation in good faith is mandatory. The program applies to complaints filed on and after 9-23-05. The Authority shall inform all complainants and officers of the possibility that the complaint may be referred to mediation, and if so, that participation in the mediation process in good faith is mandatory. Such information shall be included with the notice of receipt of the signed complaint pursuant to Rule 8.B.4.~~

~~**B. Agreement Required.** Both the Complainant and the Officer must agree to mediation for mediation to proceed. If at any point during the investigation or while a complaint is pending before the Board, a party requests mediation, the Authority shall inform the other party of the request for mediation and shall inquire as to the other party's interest in mediation.~~

~~**B. Manager Review.** Upon receipt of a signed complaint, and at such other times in the course of an investigation as the Manager deems appropriate, the Manager shall determine whether a complaint qualifies for mandatory mediation under Minneapolis Code of Ordinances, Section 172.150.~~

~~**C. Scheduling.** If the Complainant and Officer agree, the Authority shall schedule a mediation session at the earliest convenient time. Written notice of the time, date and location of the first mediation session shall be provided each party and the Chief of Police.~~

~~**C. Notice and Scheduling.** If the Manager determines that a complaint meets the standards for mediation in Minneapolis Code of Ordinances, Section 172.150, the Authority shall notify the complainant and officer. The parties shall be notified in writing that participation in mediation in good faith is required, and of the consequences of failure or refusal to~~

participate in good faith. The Authority shall schedule a mediation session at the earliest convenient time. Written notice of the time, date and location of the mediation session shall be provided to each party and the Chief of Police.

D. Procedure.

1. The mediation session(s) will consist of the Complainant, the Officer, and the Mediator. In the case of a minor, a parent or legal guardian may be present. In the case of a vulnerable person, a family member, conservator or legal guardian must be present. If an interpreter is requested, arrangements will be made to have one present upon request by either party. No other person may be present. No record of the proceeding will be taken.

2. Procedures and guideline for mediation will be established at the beginning of the mediation process through agreement of all participants.

3. The mediation session(s) will continue as long as the mediator and the parties feel progress is being made in the resolution of the issues. The mediation process shall terminate when either party announces its unwillingness to continue mediation or when the parties sign an agreement setting forth the resolution of the disputed issue(s).

4. No record will made of the mediation proceedings, and no information discussed will be used in subsequent proceedings. (Minn. Stat. 595.02. Subd. 1(k) (1989).

5. A notice shall be sent the Chief informing the Chief either that the mediation was successful and the Complaint was dismissed or that mediation was unsuccessful and the matter has been reactivated before the Authority.

6. A copy of the mediation agreement will not be sent to the Chief.

~~7. The Authority shall monitor the mediation process and the implementation of a mediation agreement.~~

~~8. If one party fails to abide by the mediation agreement, the aggrieved party may contact the Authority within 15 days of violation of the agreement to reactivate the matter before the Authority.~~

~~E. Tolling of Time. In no case shall the time for mediation extend beyond thirty (30) days from the date the Authority has received notice of willingness to participate in mediation from both the complainant and the Officer. The Authority shall schedule mediation as soon as possible after the complaint has been referred to mediation. In order to facilitate and encourage mediation, the Authority time limitations and deadlines will be tolled during mediation.~~

Rule 11. Hearings by Board.

A. Hearing Panels. At each month's regularly scheduled Board meeting, the Chairperson shall appoint Hearing Panel(s) to conduct hearings during the subsequent month. Each Hearing Panel shall consist of three (3) members of the review authority. The Authority Chairperson shall designate a Chairperson for each Panel. When appointing Hearing Panels, the Chairperson shall make reasonable efforts to ensure that hearings are held within thirty (30) days of the completion of investigations.

B. Notice of Hearing. Authority staff shall give notice of the date and time of the hearing and the membership of the Hearing Panel, within two (2) days of the appointment of the Panel, to the complainant and the Officer.

C. Duties of Hearing Panel. It shall be the duty of each Hearing Panel member to conduct a fair and impartial hearing, to assure that the facts are fully elicited, and to adjudicate all issues and avoid undue delay.

D. Personal Bias or Prejudice. A Hearing Panel Member shall be disqualified from sitting on that Hearing Panel if he/she has a demonstrated personal bias or prejudice, or the appearance thereof, in the outcome of the complaint. This does not include holding or manifesting any political or social attitude or belief which does not preclude objective consideration of a case on its merits.

Examples of personal bias or prejudice include, but are not limited to:

- a. Familial relationship, close friendship or close working relationship with parties material to the Complaint;
- b. Witnessing events material to the inquiry;
- c. Being a party to the Complaint;
- d. Holding a bias for or against a particular party that is sufficient to impair the Panel member's impartiality;
- e. Having a financial interest in the outcome of the Hearing.

E. Discretionary Withdrawal by Hearing Panel Member. A member of a Hearing Panel may withdraw from that panel whenever that member deems himself or herself to be disqualified.

F. Request for Withdrawal by a Party to the Case.

1. Within five (5) days of receipt of the notice of membership of the Hearing Panel, either the Manager, the Complainant or the Officer may file with the Chairperson of the Authority, a written challenge, for cause, to remove a member of the Hearing Panel.

2. Cause is limited to those definitions of personal bias or prejudice delineated in Rule 11.D. above. When a challenge for cause is filed, the Chairperson shall contact the challenged Hearing Panel Member as soon as possible. If the Authority Chairperson and the challenged Hearing Panel Member agree that the challenge is for good cause, then the member shall withdraw and the Chairperson of the Authority shall appoint another board member as a replacement.

3. If the challenged Panel Member does not agree that the challenge is for good cause, the Chairperson shall decide the merits of the challenge and replace the Member or not. If a challenge to a Panel Member is rejected, the written challenge and the Chairperson's written response shall be incorporated into the record.

G. Burden and Standard of Proof. The burden shall be on the Manager to prove that the misconduct alleged in the Complaint did occur. The standard of proof shall be “preponderance of the evidence”.

H. Affirmative Defense. It shall be an affirmative defense for the Officer that he/she acted in accordance with the rules, regulations and training of the department.

I. Complainant's and Officer's Role in the Hearing.

1. Neither the Complainant nor the Officer will be present when the Manager presents the investigatory findings of fact and recommendations to the Hearing Panel.

2. **Order of Speaking.** The Complainant shall address the panel first. The Complainant and the Officer shall have the opportunity to reserve up to five minutes in order to respond to comments made by the other. Should the officer not address the panel, the time reserved by the complainant is waived.

The officer and his/her representative shall be permitted to remain in the room when the Complainant or his/her representative presents to the panel. The Complainant and his/her representative shall be permitted to remain in the room when the Officer or his/her representative presents to the panel.

K.J. Findings of Fact and Determination.

1. **Findings of Fact.** The Hearing Panel shall determine each and every material fact raised in the Complaint and reduce these findings to writing.

2. **Determination.** For the Determination, the Hearing Panel shall make one of the following decisions:

- a. Complaint sustained; or
- b. Complaint not sustained.

3. **Time Limit.** Within thirty (30) days of the hearing, the Hearing Panel shall make Findings of Fact and a Determination of the complaint.

4. **Notice.** The Authority shall immediately send notice of the Hearing Panel's Determination to the Complainant and the Officer.

5. **Reconsideration.** If the complainant disagrees with the dismissal, he/she may submit a written Request for Reconsideration to the board for review of the Hearing Panel's decision as provided in Rule 12.

L-K. Submission to Chief for Disciplinary Action.

When a complaint is sustained, a copy of the investigative case file, the Findings of Fact and Determination shall be submitted to the Chief, who shall make a disciplinary decision based upon this information. The Chief, within thirty (30) days of the receipt of the record, shall provide the Authority and the Mayor with a written explanation of the reasons(s) for his/her disciplinary decision.

The review authority shall provide notice to the complainant of the final disciplinary decision.

Rule 12. Reconsideration Hearings

A. Time. Within ~~five (5)~~ thirty (30) days of receipt of the Hearing Panel's Findings of Fact and ~~Disposition~~ Determination, the Complainant may submit a written request for Reconsideration to the Board.

B. Content. The Request for Reconsideration must state ~~the reasons for reconsideration and any other special circumstances, including but not limited to the~~ availability of new evidence that was not known to the Complainant or could not have been discovered by that Complainant by the exercise of due diligence and must provide the nature of the new evidence.

C. Procedure.

1. Acceptance of a Request for Reconsideration. Upon receipt of a Request for Reconsideration the Board Chair shall determine whether the request contains new evidence. If the request contains new evidence, the Board Chair shall schedule a Reconsideration Hearing. If the request does not contain new evidence, the Board Chair shall notify the party requesting the Reconsideration with a denial of request.

1.2. Scheduling the Reconsideration Hearing. The Board shall reconsider the complaint at its next regularly scheduled meeting that is not less than ten (10) days after the filing of the request.

2.3. Disqualification of Board Member. A Board member shall be disqualified from sitting on that Hearing Panel if he/she has a demonstrated personal bias or prejudice, or the appearance thereof, in the outcome of the complaint as described in Rule 11. A Board member may withdraw from hearing the case as provided in Rule 11 or a party may request withdrawal as provided in Rule 11.

3.4. Time. The Complainant, the officer, or their respective representatives, shall each have 10 minutes to address the Board regarding the case before the panel.

4.5. Order of Speaking. The Complainant shall address the panel first. The complainant shall have the opportunity to reserve up to five minutes in order to respond to comments made by the officer. Should the officer not address the panel, the time reserved by the complainant is waived.

The officer and his/her representative shall be permitted to remain in the room when the Complainant or his/her representative presents to the panel. The Complainant and his/her representative shall be permitted to remain in the room when the Officer or and his/her representative to the panel.

D. Notice.

1. Notice of Appeal. The review authority staff shall provide written notification to the officer of the request for reconsideration.

2. Notice of Reconsideration Hearing. At least ten (10) days prior to the reconsideration hearing, the review authority shall provide written notification to the complainant and the police officer of the date, time and place of the reconsideration hearing.

3. Notice of Reconsideration Decision. The review authority shall provide written notification of its reconsideration decision to the ~~complainant and officer.~~

E. Reconsideration Decision. For the Reconsideration Decision, the Board shall make one of the following decisions:

1. The Board may sustain the prior hearing panel decision regarding the complaint.
2. The Board rejects the prior hearing panel decision regarding the complaint and forward the matter to the Chief for discipline as provided in Rule 11.L.
3. If the review authority determines that the request for reconsideration alleges newly discovered evidence, the complaint should be remanded to authority staff to investigate and resubmit findings within thirty (30) days. The Board may sustain or reject the prior hearing panel decision based upon the resubmitted findings.
4. If the Reconsideration Hearing concerns dismissal of a complaint, the Board may:
 - (a) reactivate the complaint; or
 - (b) sustain the dismissal

F. Time Limit. Within thirty (30) days of the Reconsideration Hearing the Board shall issue the Reconsideration Decision except where a case has been remanded, the Board shall issue the Reconsideration Decision within 30 days of the receipt of the resubmitted findings.

Rule 13. Case Record

A. Maintaining the Record. The Hearing Panel Chairperson shall designate a member of the hearing panel to maintain the official record of the case file until the issuance of the Findings of Fact and Determination. Hearing panel members may enter a concurring or dissenting comment to the panel's findings into the official record for the case file. Upon issuance of the Findings of Fact and Determination, the Manager shall maintain the official record of the case file. The manager shall retain the case file according to the Responsible Authority's record retention schedule.

B. Content. The Record shall contain:

- a. The complaint.
- b. Any and all notices or other procedural matters that have been reduced to writing.

- c. All investigatory data collected.
- d. The findings of fact and the determination, including any concurring or dissenting opinions.

Rule 14. Repeat Officers

- 1) The Review Authority may provide research and study into officers who have received multiple complaints filed at the Review Authority when any of the following criteria has been met:
 - a) 2 sustained Complaints within a four year period
 - b) 1 sustained Complaint and 2 not sustained Complaints within a three year period
 - c) 3 not sustained Complaints within a two year period

The date for which the above period is calculated will be the date of the incident giving rise to the filed Complaint. But no study will commence until each Complaint has received a Board determination.

- 2) The Review Authority Manager may review the multiple Complaints and prepare a draft Study that outlines issues of concern appropriate for an MPD Professional Standards review (if any).
- 3) The Review Authority Manager may submit the draft Study, along with the original Findings of Facts and Determinations to the subject officer with notice that they (or their representative) may submit a written Response for the record within 30 days.
- 4) At a scheduled Board Meeting, the full Board may review the Manager's Recommendation, the officer's Response, and the findings of facts and determinations of the complaints used for the Study, and either:
 - a) adopt the Study
 - b) request changes pending future adoption
 - c) table the Study
 - d) or take other action as voted by the majority of the Board
- 5) The Chairperson of the Review Authority may designate a Board member to supplement the Study by writing an Introduction that states the action of the Board.
- 6) All documents pertaining to this Study will be kept in all the original complaint files at the Review Authority, and in a separate file specific to this program. All documents will be private data unless discipline has been finalized in the original complaints as per the MGDPA.
- 7) The Study and all relevant documentation may be forwarded to the Chief of Police. The Review Authority requests that the Chief of Police notify the Review Authority regarding

the status and results of any Professional Standards review that has been undertaken pursuant to this program.