

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 and vice-chairperson of the review authority shall be appointed by the mayor, for staggered terms of two (2) years, subject to the approval of a majority of the city council. The vice-chairperson shall only have chairperson duties in the absence of the chairperson. In the absence of a chairperson or vice-chairperson, the chairperson or vice-chairperson may designate an acting chairperson to serve until the next board meeting or until a chairperson is duly appointed. If the chairperson or vice-chairperson are unable for any reason to designate an acting chairperson, the board shall appoint an acting chairperson to serve until the next board meeting or until a chairperson is duly appointed. The acting chairperson shall have full authority to conduct actions of the chairperson. 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; 2009-Or-029, § 1, 3-27-09)

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) 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, § 2, 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) days of the date that the complaint was filed. The review authority manager may once extend this deadline by an additional thirty (30) 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 the 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)

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)

172.120. Request for reconsideration by complainant. (a) Within thirty (30) days of receipt of the hearing panel's decision to not sustain a complaint, a complainant may submit a written request for reconsideration to the review authority.

(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)

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, § 3, 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, § 4, 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)