

## CHAPTER 172. POLICE CONDUCT OVERSIGHT

**172.10. Police conduct oversight system established.** For the purposes of (1) assuring that police services are delivered in a lawful and nondiscriminatory manner, (2) providing to the public meaningful participatory oversight of the police and their interactions with the citizenry and (3) investigating complaints of misconduct on the part of officers of the Minneapolis Police Department and making recommendations regarding the merits of such complaints to the chief of police, there is hereby created an Office of Police Conduct Review and a Police Conduct Oversight Commission, with duties and authority as described in this chapter.

**172.20. Scope of authority, office of police conduct review.** The office of police conduct review shall consist of a civilian unit under the authority of the director of civil rights and an internal affairs unit under the authority of the chief of police. The office shall receive complaints that allege misconduct by an individual police officer or officers involving any of the following:

- (1) Use of excessive force.
- (2) Inappropriate language or attitude.
- (3) Harassment.
- (4) 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.
- (5) Theft.
- (6) Failure to provide adequate or timely police protection.
- (7) Retaliation.
- (8) Any violation of the Minneapolis Police Department's policy and procedure manual.
- (9) Criminal misconduct.

**172.30. Complaint filing, preliminary review and investigation.** (a) *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 office of police conduct review by submitting said complaint by means of any readily available method approved by the office. The office shall endeavor to facilitate the complaint filing process by providing multiple and accessible avenues for the filing of complaints. Absent extenuating circumstances deemed sufficient to warrant untimely filing, no person may file a complaint if more than two-hundred seventy (270) days have elapsed since the alleged misconduct.

(b) *Complaint review.* All complaints shall be jointly and collaboratively assessed and preliminarily reviewed by supervisory staff of the office from both the civilian unit and the internal affairs unit. A complaint may be declined with no further action required pursuant to the authority and discretion of the office if, on its face, it fails to allege a violation within the purview and jurisdiction of the office. A complaint

may also be referred to another more appropriate governmental agency or, in the case of allegations which rise only to a potential "A" level infraction under the police department's adopted discipline matrix, may be referred to a program of mandatory mediation instituted by the office of police conduct review or directly to the officer's supervisor for coaching. Such complaints may also, pursuant to the authority and discretion of the office, be referred for formal investigation pursuant to subsection (c).

(c) *Complaint investigation.* All other qualifying complaints shall be formally investigated by the office through assignment to an investigator or investigators from the civilian unit and/or the internal affairs unit. The office shall endeavor to complete any reviews and investigations as promptly and efficiently as possible, given the staffing and workload of the office. Any complaint alleging criminal misconduct by an officer shall be investigated by the internal affairs unit. Complaints not alleging criminal misconduct may be assigned to the civilian unit at the formal request of a complainant. The investigative report shall be in a format designated by the office and all final reports shall be reviewed and approved by supervisory staff of the office from both the civilian unit and the internal affairs unit. The investigative report shall not include any recommendation or conclusion regarding the merits of the complaint.

(d) *Procedural discretion and decision making.* Any procedural issue related to the duties and authority of the office for which supervisory staff from the civilian unit and the internal affairs unit is unable to reach agreement upon shall be referred to the director of civil rights and the chief of police, who shall jointly determine the matter. In the event the director and the chief are unable to resolve the issue, a designee of the mayor may mediate, and if necessary resolve, the issue.

(e) *Mediation.* Upon the joint direction of supervisory staff of the office of police conduct review from both the civilian unit and the internal affairs unit, a complaint may be referred to mandatory mediation upon preliminary review of the complaint or at any other time in the course of investigation when deemed to be appropriate. The mediation shall proceed according to procedures adopted and instituted by the office of police conduct review. Mediators shall be neutral trained mediators unaffiliated with the office of police conduct review, the police conduct oversight commission, the civil rights department or any other department of the City of Minneapolis.

(f) *Firewall.* Information from investigations shall be shared only with staff assigned to the Office of Police Conduct Review and Police Conduct Oversight Commission, unless otherwise specifically authorized by law.

**172.40. Review panel procedure.** All final and approved investigative reports shall be forwarded to a review panel for the purpose of making recommendations regarding the merits of the complaint to the chief of police.

- (1) Each review panel shall be comprised of four (4) panelists. Two (2) of the panelists shall be sworn officers of the police department holding the rank of lieutenant or higher assigned by the chief of police or the chief's designee and two (2) panelists shall be civilians

assigned by the director of civil rights or the director's designee.

- (2) The panels shall be scheduled on an as-needed or regular basis by the office of police conduct review. Each panel shall appoint a chair, although the office of police conduct review shall designate whether the chair of each panel shall be a civilian or officer member on a rotating and equal basis.
- (3) The panel shall review and discuss the investigative report but shall take no testimony or argument from witnesses or parties unless a request from the panel is specifically approved by the office of police conduct review.
- (4) The panel shall issue its recommendation within three (3) business days of the panel review, which shall be returned to the office of police conduct review and promptly forwarded to the chief of police. The recommendation shall be in a format approved by the office of police conduct review, shall be signed by all panelists, and shall include a recommendation as to whether each allegation is supported or not supported along with reference to the investigative evidence which supports the recommendation. Alternatively, the panel may return the investigative report with a request for additional information, which shall be identified with particularity.
- (5) The recommendation shall include the votes of each panelist, and in the event the panel is evenly divided on any recommendation, such division shall be noted.
- (6) The standard of proof necessary to recommend that an allegation be sustained is preponderance of the evidence. Preponderance of the evidence means that the greater weight of the evidence supports the decision.
- (7) The office of police conduct review shall provide written notice to the officer of the review panel's recommendation. The office shall provide written notice to the complainant of any allegation not sustained in the review panel's recommendation.

**172.50. Request for reconsideration by complainant.** (a) Within fifteen (15) days of receipt of notification of the review panel's decision recommending that a complaint not be sustained, a complainant may submit a written request for reconsideration to the office of police conduct review.

(b) Any request for reconsideration shall be jointly and collaboratively reviewed by supervisory staff of the office of police conduct review from both the civilian unit and

the internal affairs unit. If the review determines that the request for reconsideration alleges newly discovered and relevant evidence or information not previously available to the complainant, the complaint may be remanded for additional investigation by office staff and reconsideration by the designated review panel. The review panel may sustain, reject or modify its prior recommendation regarding the complaint. Alternatively, the complaint and new evidence or information may be forwarded directly to the chief of police pursuant to section 172.70.

(c) The office of police conduct review shall provide written notification to the officer of the request for reconsideration and its outcome.

**172.60. Review panel civilian appointments.** (a) *Composition.* The pool of civilian review panelists shall be comprised of a minimum of seven (7) members, four (4) of whom shall be appointed by the city council, and three (3) of whom shall be appointed by the mayor, subject to the approval of a majority of the city council. If more than seven (7) members are appointed to comprise the pool of civilian review panelists, the city council shall appoint the eighth member, the mayor the ninth member, subject to approval by a majority of the city council, and alternating thereafter. All civilian review panel members shall be appointed in conformance with the open appointments as outlined in Minneapolis Code of Ordinances Title 2, Chapter 14.180, except as provided in this section. In order to stagger the expiration of terms, the original appointments of civilian panelists shall be for terms of two (2), three (3) or four (4) years, as determined by the city clerk. Thereafter, appointments shall be for four (4) years.

(b) *Qualifications.* All members shall be residents of the city. Individuals currently or previously employed by the Minneapolis Police Department are ineligible to serve as members of the pool. The office of police conduct review may establish additional required qualifications.

(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, the Minnesota Public Employee Labor Relations Act, ethics and 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 panel pool 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, or 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.

(e) *Compensation--Limitation.* Each civilian member shall be paid fifty dollars (\$50.00) for each day when the member attends one (1) or more meetings or panel reviews, 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.

**172.70. Disciplinary decision by chief.** (a) Upon conclusion of the panel review process, the office of police conduct review shall forward the investigatory file and panel recommendation to the chief of police for the chief's determination, which shall be made within forty-five (45) days of receipt. The chief, upon making his or her determination, shall return the determination and file to the office of police conduct review. For any allegation which the review panel recommends to be supported by a majority vote for which the chief determines that no discipline shall be imposed, the chief shall notify the review panel and the office of the reasons for such determination.

**172.80. Police conduct oversight commission.** (a) *Composition.* The police conduct oversight commission shall be comprised of seven (7) members, four (4) of whom shall be appointed by the city council, and three (3) of whom shall be appointed by the mayor, subject to the approval of a majority of the city council. All commissioners shall be appointed in conformance with the open appointments as outlined in Minneapolis Code of Ordinances Title 2, Chapter 14.180. In order to stagger the expiration of terms, the original appointments of commissioners shall be for terms of one (1) or two years, as determined by the city clerk. Thereafter, appointments shall be for two (2) years. From the members, a chairperson and vice-chairperson of the commission shall be appointed by the mayor, for terms of two (2) years, subject to the approval of a majority of the city council. In order to stagger the terms of the chairperson and vice-chairperson, the initial appointment of the vice-chairperson shall be for one (1) year. 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 commission 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 commission. The office of police conduct review may establish additional required qualifications.

(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, the Minnesota Public Employee Labor Relations Act, ethics and 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 commission 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, or 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.

(e) *Compensation--Limitation.* Each member shall be paid fifty dollars (\$50.00) for each day when the member attends one (1) or more meetings, 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 and reimbursable expenses payable under this section shall not exceed the total annual budget allocation for such costs.

(f) *Authority.* The commission shall meet once every month at a regularly scheduled time and place for the purpose of conducting any business necessary to the operation of the commission. The commission may meet at such additional times and places deemed necessary by its members, or on the call of the chairperson. The commission may:

- (1) Conduct a program of research and study for the purpose of ascertaining how the objectives of this chapter may be attained and sustained.
- (2) Collect, review and audit summary data and compile aggregate statistics relating to complaints of police officer misconduct and present results of such analysis on a periodic basis to the public safety subcommittee of the city council, inclusive of identifying

any patterns which may merit further examination by the police department, commission or city council.

- (3) Review police department policies and training procedures and make recommendations for change.
- (4) Facilitate, along with the police department, appropriate cultural awareness training for sworn officers as determined by the commission.
- (5) Contribute to the performance review of the chief of police.
- (6) Create and implement a community outreach program and coordinate outreach activities with the Minneapolis Commission on Civil Rights.
- (7) Submit periodic reports to the public safety subcommittee of the city council regarding the activities of the commission.
- (8) Establish, amend and repeal rules and procedures governing its own internal organization and operations in a manner and form consistent with this Code.
- (9) Form subcommittees to assist in fulfilling its duties and responsibilities.
- (10) Request from the mayor and city council the appointment of such staff as is necessary to carry out the duties of the commission.

**172.85. Confidentiality.** The members, staff, and contractors of the office of police conduct review and the police conduct oversight commission 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, 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.

**172.90. Requirement of cooperation by the Minneapolis Police Department and all other city employees and officials.** 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 office of police conduct review and the police conduct oversight commission to carry out their 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 or access shall be deemed an act of misconduct.