

Complaint Process

2016

Office of Police Conduct Review

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I. Introduction

A. Process Manual

- i. This manual describes the process the Office of Police Conduct Review (OPCR) uses to resolve complaints of police misconduct.

B. About the OPCR

- ii. The OPCR is a neutral agency that investigates allegations of police misconduct by sworn officers of the Minneapolis Police Department (MPD).
- iii. The OPCR is a joint office comprised of personnel from the Minneapolis Department of Civil Rights and the MPD Internal Affairs Unit. There are two OPCR units, the civilian unit and sworn unit.

C. Mission Statement

- i. The Office of Police Conduct Review promotes adherence to the highest standard of police conduct and fosters mutual respect between the Minneapolis Police Department and the community it serves by fairly, objectively, and neutrally investigating complaints that allege misconduct by Minneapolis Police officers.
- ii. The OPCR and MPD will work together to promote public safety, preserve the public trust, and maintain employee engagement and morale.

D. Procedural Discretion and Decision making:

- i. Any procedural issue related to the duties and authority of the office not covered by this manual will be left to the discretion of the joint supervisors. When supervisory staff from the civilian unit and the internal affairs unit are unable to reach agreement upon such issues, they will be referred to the director of civil rights and the chief of police, who will 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. Compliance with the Minnesota Government Data Practices Act

- i. All data received, created, and maintained will be handled in accordance with the Minnesota Government Data Practices Act.

F. Jurisdiction

- i. OPCR receives and resolves all complaints against sworn members of the MPD alleging a violation of the Police Conduct Oversight Ordinance § 172.20.

- ii. All complaints or allegations of misconduct are reviewed by OPCR to determine jurisdiction regardless of their source. The OPCR will refer complaints against civilian employees of the Minneapolis Police Department, complaints involving human resources issues, and allegations that require a criminal investigation to the Internal Affairs Unit.

II. Complaints

A. Complaints

- i. A complaint is a document signed by the Complainant, either in writing or filed electronically.
- i. Complaints may be filed in person by filling out the Police Misconduct Complaint Form, online using the form located on both the Department of Civil Rights webpage and the MPD webpage, by email sent to the OPCR or MPD, or by mail.
- ii. Inquiries may be filed through the 311 system. They will not be considered complaints until a signed copy of the inquiry, complaint form, or email is received.
- iii. The joint supervisors may initiate a complaint of police misconduct. When a potential violation is discovered by the civilian unit, the intake investigator will locate all relevant evidence and bring the matter to the next joint supervisor meeting. The joint supervisors will discuss the complaint, determine the allegations (if any), and decide on the proper technique for resolution. A 3401 will be drafted for signatures after discussion. If the sworn unit discovers a potential violation, a sergeant will locate all relevant evidence and bring it to the next joint supervisor meeting for the same review process.

B. Date Opened

- i. Complaints will not be considered opened and filed until a signed complaint is received by the office.
- ii. The date opened for written complaints is the date the complaint was submitted to the office.
- iii. The date opened for email complaints is the date the email was submitted to Policereview@minneapolismn.gov or other recognized City of Minneapolis email.

III. Joint Supervisor Review

A. Intake Investigation

- i. The intake investigator will locate all readily accessible evidence during the initial investigation and prepare the complaint for review by the joint supervisor.

B. Initial Case Assessment Process

- i. After a briefing by the intake investigator, the supervisors will discuss the case and come to a mutual decision on how the complaint should be resolved:
 - a. dismissal,
 - b. coaching,
 - c. mediation,
 - d. investigation,
 - e. or remand for additional intake investigation.

C. Enhancement

- i. The supervisors will consider past policy violations against each officer involved in a complaint to determine the case process track. This differs from the reckoning period in which a complaint may be enhanced due to same or similar policy violations.

IV. Complaints Designated for Dismissal

A. Dismissing Complaints

- i. Complaints may be dismissed by the joint supervisors after intake, a failed mediation, or at the completion of a preliminary investigation.

B. No Basis Dismissals

- i. Complaints may be determined to be no basis when, regardless of any subsequent possible investigation, there is insufficient evidence to evaluate the merits of an allegation.
- ii. Complaints may be determined to be no basis when evidence directly contradicts the allegations in the complaint.

C. No Jurisdiction Dismissals

- i. Cases may be dismissed for no jurisdiction when the officer involved cannot be ascertained by any reasonable means.
- ii. Cases may be dismissed for no jurisdiction when the date opened is more than 270 days from the date of the incident absent extenuating circumstances deemed sufficient to warrant untimely filing.
- iii. Cases may be dismissed for no jurisdiction when the complaint is against a civilian employee of the MPD or an officer not affiliated with the MPD.

D. Failure to State a Claim Dismissals

- i. Cases may be dismissed for failing to state a claim when the complainant does not allege that any misconduct occurred and no misconduct can be inferred by the intake investigator or joint supervisors.

E. Duplicate Dismissals

- i. A case may be dismissed as a duplicate when two separate complaints provide the same allegations. Complaints are not considered duplicates when the complaints involve the same incident but contain different allegations.
- ii. Duplicate complaints are all complaints received after the initial complaint. If complaints are received simultaneously, the joint supervisors will determine which complaints are considered duplicates.
- iii. Duplicate complaints will be added to the original complaint which follows the normal case processing procedure.

F. Withdrawal Dismissals

- i. Complaints may be dismissed when a complainant expresses the desire to withdraw a complaint. The complainant will sign a withdrawal form indicating this when possible. However, the case may proceed without the complainant's input.

G. Failure to Cooperate Dismissals

- i. Complaints may be dismissed when Complainant fails to cooperate with a necessary part of any stage of the investigation.
- ii. Complainants will be given reasonable time and notice when feasible to comply with requests before the complaint is dismissed.

H. Cleared by Exception Dismissals

- i. Complaints may be cleared by exception when the focus officer no longer works for the MPD.

I. Pending Further Information Dismissals

- i. Complaints may be dismissed, pending further information, when the joint supervisors conclude that there is not enough evidence to continue the investigation but additional evidence could arise.

J. Referring to Outside Agencies

- i. Complaints may be simultaneously dismissed for any of the above reasons and referred to the appropriate governmental agency.

K. Policy Failures

- i. Complaints may be dismissed because no policy covers the alleged misconduct. The joint supervisors may recognize that a policy gap exists that led to the dismissal, and therefore, further action is needed. This is considered a policy failure.
- ii. When a policy failure is discovered, a summary of the case and policy failure will be written and presented to the Police Conduct Oversight Commission – Policy and Procedure Committee to explore revision or creation of policy to address the alleged misconduct. The policy failure will also be provided to the MPD administration, Deputy Chief of Professional Standards, and the Chief of Police.

V. Complaints Designated for Mediation

A. Mediation Generally

- i. When a case is assigned to mediation, complainants and focus officers have an opportunity to work with a qualified, neutral mediator to resolve the allegations in a complaint.
- ii. The contents of the mediation are confidential. The OPCR is notified of the outcome.

B. Mandatory mediation

- i. In cases assigned to mediation, parties must mediate in good faith.

C. Failure to appear for mediation

- i. Mediation services will notify the committee clerk if officers fail to appear for mediation.
- ii. If complainants fail to appear for mediation and have no valid excuse for absence, the case will be dismissed for complainant's failure to cooperate.
- iii. If an officer fails to appear for mediation and has no valid excuse for absence, the case will be referred to the joint supervisors for reconsideration of the method of resolution and additional allegations.

D. Mediation with no agreement

- i. If the involved parties are unable to reach an agreement but mediate in good faith, the case will be returned to the joint supervisors for consideration.
- ii. If a complainant fails to mediate in good faith, the case will be dismissed for failure to cooperate.
- iii. If an officer fails to mediate in good faith, the case will be referred to the joint supervisors for additional action.

VI. Complaints Designated for Coaching

A. Submitting Cases for Coaching

- i. The OPCR will send the coaching document to the highest ranking supervisor in the focus officer's precinct/unit/division via email.
- ii. The coaching document will contain all relevant contact information and focus officer information. It will provide a brief summary of the complaint and allegations.

B. Completing Coaching Documents

- i. Generally, coaching documents will be returned to the OPCR for review.
- ii. The OPCR supervisors check coaching documents to make sure they are complete and comprehensive. If the coaching documents are not, they may be returned to the precinct for completion.
- iii. The complainant will be notified via letter that the complaint has been closed. Additional information is limited by the Minnesota Government Data Practices Act.

VII. Cases Designated for Investigation

A. Initial Assignment to Investigation

- i. The joint supervisors may assign cases to either a civilian or sworn investigator. This decision is based on the complainant's preference as well as the nature of the complaint.
- ii. The same investigative process occurs regardless of whether a sworn or civilian is assigned to investigate the complaint.

B. Timeline

- i. Cases will be completed within a timeline established by the joint supervisors.
- ii. Extenuating circumstances may prevent compliance with established timelines.

C. The Preliminary Investigation

- i. Preliminary investigations may consist of formal interviews with the Complainant and all parties as well as gathering all relevant evidence associated with the case.
- ii. In cases where the investigator believes dismissal, mediation, or coaching should occur after the preliminary investigation, the investigator will prepare the case for discussion with the joint supervisors. A written report may be submitted when necessary.

D. The Administrative Investigation

- i. Administrative investigations include all work done in preliminary investigations as well as interviews with the focus officer(s)
- ii. At the conclusion of the administrative investigation, the investigator will draft the investigative report.

VIII. Review Panel

A. Panelist manual (See manual online)

- i. Panelists will follow the latest version of the [Police Conduct Review Panel manual \(PDF\)](#) published on the Police Conduct Review Panel website.

B. Cases with No Merit Recommendations on Allegations

- i. Notification will be sent to Complainant for all no merit recommendations on allegations. The letter will be sent via certified mail.
- ii. Complainants are not notified of the allegations with merit recommendations per the Minnesota Government Data Practices Act.

C. Request for Reconsideration

- i. Complainants may request reconsideration of any no merit allegation recommendations.
- ii. The request for reconsideration must be received by the Office no longer than 15 days after receipt of the no merit notification.
- iii. Reconsideration will be granted when a complainant provides newly discovered and relevant evidence or information not previously available.
- iv. The joint supervisors will collaboratively review the request and determine if the reconsideration standard is met.
- v. If the reconsideration standard is met:
 - a. the panel may be recalled, the new evidence will be presented to the panel, and the review panel may modify or sustain its prior recommendation regarding the complaint; or
 - b. the new evidence may be forwarded directly to the office of the chief to be included in a final determination.
 - c. The case may be returned to an investigator to address any remaining issues.

IX. Post-Review Panel Process

A. MPD Process

- i. After the Review Panel issues a recommendation, the case will follow the discipline process outlined in the MPD discipline process manual.

X. Cases Completed by the Chief

A. Return of case files to OPCR

- i. The office of the chief will return completed case files to the Internal Affairs Unit upon final determination.

B. Chief Disagreement with the Review Panel Merit Recommendation

- i. If the chief determines that no discipline is warranted because the allegation found to have merit by the panel actually lacks merit, s/he shall issue an explanation for this decision.

C. Notification to Complainant

- i. When discipline is final and all grievance procedures are complete, the Complainant will be notified of the outcome of the case.

XI. Glossary of Terms

A. Terms

- i. **A-level Violation.** A violation of the MPD Policy and Procedure Manual that can only result in a training or coaching if the officer is found to have committed the violation.
- ii. **B-Level Violation.** A violation of the MPD Policy and Procedure Manual that could result in oral or written reprimand or up to 40 hours of suspension.
- iii. **C-Level Violation.** A violation of the MPD Policy and Procedure Manual that could result in written reprimand, up to 80 hours of suspension, or demotion.
- iv. **D-Level Violation.** A violation of the MPD Policy and Procedure Manual that could result in up to 720 hours of suspension, demotion, or termination
- v. **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.
- vi. **Administrative Investigation.** Investigation of a complaint that involves a formal statement by the focus officer.
- vii. **Chief.** The Chief of Police for the City of Minneapolis.
- viii. **Coaching Investigation.** An investigation of an A-level complaint conducted by the focus officer's supervisor that may lead to an oral reprimand (coaching session), policy violation, or additional training.
- ix. **Commission.** The Police Conduct Oversight Commission.
- x. **Complainant.** The person(s) submitting a signed complaint form.
- xi. **Complaint.** A signed, completed complaint form.
- xii. **Confidential Data.** Data which cannot be made public and is inaccessible to the individual subject of the data.
- xiii. **Day.** Monday through Sunday.
- xiv. **Director.** The director of the Minneapolis Department of Civil Rights.
- xv. **Director, Office of Police Conduct Review.** The civilian joint supervisor of the Office.

- xvi. **Dismissal – Cleared by Exception.** A joint supervisor dismissal of a complaint due to employee resignation, death, or other similar circumstances.
- xvii. **Dismissal – Duplicate.** – A dismissal that occurs when two complainants file complaints containing the same allegations.
- xviii. **Dismissal – Pending Further Investigation.** A dismissal that occurs when insufficient evidence currently exists to pursue a complaint but there is a likelihood that evidence may arise at a later date.
- xix. **Dismissal for Failing to State a Claim.** A joint supervisor dismissal of a complaint that does not contain allegations of misconduct.
- xx. **Dismissal for Failure to Cooperate.** A joint supervisor dismissal of a complaint when the complainant is unreachable, will not provide necessary evidence, or will not appear for formal interviews.
- xxi. **Dismissal for Lack of Jurisdiction.** A joint supervisor dismissal of a complaint that is not about a Minneapolis police officer, is against an unidentifiable officer, or a complaint that was filed over 270 days after the incident.
- xxii. **Dismissal for No Basis.** A joint supervisor dismissal of an allegation without sufficient evidence to either prove or disprove the complaint.
- xxiii. **Focus Officer.** The officer that is the subject of the complaint.
- xxiv. **Joint Supervisors.** The director of the Office of Police Conduct Review and the commander of the Internal Affairs Unit.
- xxv. **Mediation.** A session where the complainant(s) and focus officer(s) attempt to resolve the complaint through discussion with a trained, neutral mediator.
- xxvi. **Merit.** A recommendation to the Chief by the Police Conduct Review Panel indicating that a preponderance of the evidence supports an allegation in a complaint.
- xxvii. **No Merit.** A recommendation to the Chief by the Police Conduct Review Panel that a preponderance of the evidence does not support an allegation in a complaint.
- xxviii. **Office of Police Conduct Review (OPCR).** A joint office comprised of civilian staff from the Department of Civil Rights and sworn staff from the Internal Affairs Unit of the Minneapolis Police Department charged with receiving and resolving complaints of police misconduct.
- xxix. **Officer.** A sworn peace officer.

- xxx. **OPCR Civilian Unit**. The OPCR unit comprised of civilians employed by the Minneapolis Department of Civil rights.
- xxxi. **OPCR Sworn Unit**. The OPCR unit staffed by employees of the Minneapolis Police Department and administrative support staff.
- xxxii. **OPCR Website**. The OPCR website is located at:
 - a. <http://www.minneapolismn.gov/civilrights/policereview/index.htm>
- xxxiii. **Police Conduct Review Panel**. A panel comprised of appointed civilian representatives and sworn members of the Minneapolis Police Department (rank of lieutenant or higher) that reviews cases and issues recommendations to the Chief on the merits of allegations.
- xxxiv. **Policy and Procedure Manual**. The manual created for governing the operation of the Minneapolis Police Department.
- xxxv. **Preliminary Investigation**. Investigation of a complaint to determine if the complaint constitutes misconduct that does not involve participation by the focus officer.
- xxxvi. **Private Data**. Data that is not public and is accessible to the individual subject of that data.
- xxxvii. **Public Data**. Data which is accessible to the public.
- xxxviii. **Summary Data**. Data made available for audit by the Commission. The data will contain a description of the incident that is the subject of the complaint with all non-public information removed. The data will contain the corresponding Policy and Procedure Manual violations when applicable and contain information for all relevant stages of the complaint's lifecycle.