



Police Conduct Oversight Commission

Operating Rules

October 2018

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Rule 1: Establishment

- A. **Source of authority.** The Minneapolis Police Conduct Oversight Commission, hereinafter referred to as the “Commission,” was established by Ordinance of the City of Minneapolis Chapter 172.80, adopted September 21, 2012.
- B. **Effective Date.** The effective date of the following rules is October 8, 2013.
- C. **Purpose.** The purpose of the following Rules of Procedure is to facilitate and guide the Commission in its goals of assuring that police services are delivered in a lawful and nondiscriminatory manner and providing the public with meaningful participatory oversight of police policy & procedure.
- D. **Interpretation.** These Rules shall be liberally construed to achieve the objectives of the Commission.
- E. **Application.** These Rules shall be employed by the Commission to govern the objectives outlined in the Police Conduct Oversight Ordinance § 172.80(f).
- F. **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 affect 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

- A. **Meetings.** The Commission shall meet on the second Tuesday of each month at 6:00 PM in room 241 of Minneapolis City Hall – 350 S. 5th Street. Meetings will be 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 on the call of the chair for a special meeting.
- B. **Duties.** The Commission shall complete the objectives outlined in the Police Conduct Oversight Ordinance § 172.20(f), including, but not limited to:
- i. Conduct programs of research and study, in conjunction with office of police conduct review staff appointed by the director of the office of police conduct review. Research and study includes programs that analyze Minneapolis Police Department practices, internal controls, compliance with applicable law and regulation relating to police policy and procedure and other related matters, to ensure that police services are delivered in a lawful, effective, and nondiscriminatory manner for the purpose of ascertaining how the objectives of this chapter may be attained and sustained.
 - ii. Collect, review and audit summary data and compile aggregate statistics relating to programs of research and study such as patterns of behavior related 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, mayor, and/or chief of police.
 - iii. Make recommendations to the city council, mayor, and/or chief of police relating to Minneapolis Police Department practices, internal controls, compliance with applicable law and regulation relating to police policy and procedure and other related matters contained within a program of research and study.
 - iv. Facilitate outreach and training as a result of the research and study process.
 - v. Contribute to the performance review of the chief of police.
 - vi. Create and implement a community outreach program and coordinate outreach activities with the Minneapolis Commission on Civil Rights.
 - vii. Submit periodic reports to the public safety subcommittee of the city council regarding the activities of the commission.
 - viii. Establish, amend and repeal rules and procedures governing its own internal organization and operations in a manner and form consistent with this Code.
 - ix. Form subcommittees to assist in fulfilling its duties and responsibilities.
 - x. Request from the mayor and city council the appointment of such staff as is necessary to carry out the duties of the commission

Rule 3: Definitions

A. **Application.** Unless plainly evident from the context that a different meaning is intended, the following terms are defined for Commission business:

- **Acting-Chair.** A chair appointed by the Commission to temporarily fill vacancies by the chair and vice-chair.
- **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.
- **Administrative Investigation.** Investigation of a complaint that involves a formal statement by the focus officer.
- **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.
- **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.
- **Chair.** A Commission member elected by a majority of the Commission.
- **Chemical Mace Incident.** An incident where the primary complaint is the officer's use of a chemical agent (Mace).
- **Chief.** The Chief of Police for the City of Minneapolis.
- **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.
- **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) or additional training.
- **Commission.** The Police Conduct Oversight Commission.
- **Commission Website.** The Commission website is maintained by Office of Police Conduct Review staff and located at:
 - <http://www.minneapolismn.gov/civilrights/conductcomm/index.htm>
- **Committee Clerk.** A staff member of the Office of Police Conduct Review assigned to perform administrative functions for the Commission.
- **Complainant.** The person(s) alleging misconduct by a sworn officer.
- **Complaint.** Allegation(s) of misconduct by a sworn officer, signed by a complainant.
- **Confidential Data.** Data which cannot be made public and is inaccessible to the individual subject of the data.
- **Crime Incident.** An incident where the primary complaint stems from police response to a crime.
- **Day.** Monday through Sunday.
- **Desk Service Incident.** An incident where the primary complaint stems from police service via telephone or at a precinct.
- **Director.** The director of the Minneapolis Department of Civil Rights.
- **Director, Office of Police Conduct Review.** The civilian joint supervisor of the Office.
- **Discrimination.** Disparate treatment of persons because of their race, color, creed, religion, ancestry, national origin, sex, gender identity, marital status, status with regard to public assistance, disability, age, or sexual orientation.
- **Dismissal – Cleared by Exception.** A joint supervisor dismissal of a complaint due to employee resignation, death, or other similar circumstances.
- **Dismissal for Failing to State a Claim.** A joint supervisor dismissal of a complaint that does not contain allegations of misconduct.

- **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.
- **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.
- **Dismissal for No Basis.** A joint supervisor dismissal of an allegation without sufficient evidence to either prove or disprove the complaint.
- **Dismissal for Reckoning Period Expiration.** A joint supervisor dismissal of a complaint when the period of time in which the officer can be disciplined has expired.
- **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.
- **Dog Shooting Incident.** An incident where the primary complaint stems from police shooting of a dog.
- **Excessive Force.** Force used by an officer that is not objectively reasonable in light of the facts and circumstances confronting the officer without regard to the officer's underlying intent or motivation as outlined in *Graham v. Connor*, 490 US 386 (1989).
- **Focus Officer.** The officer that is the subject of the complaint.
- **Harassment.** Inappropriate words, gestures, and other actions which are intended to annoy, alarm, or abuse another person.
- **Inappropriate Attitude.** Demeanor that is disrespectful, hostile, or dismissive.
- **Inappropriate Language.** Language that is unnecessarily confrontational or otherwise inappropriate. This may include both slurs based on a protected class and profanity.
- **Joint Supervisors.** The director of the Office of Police Conduct Review and the commander of the Internal Affairs.
- **Legal Analyst.** A staff member from the Office of Police Conduct Review that assists the Commission by providing and reviewing summary data, performance audits, and programs of research and study.
- **Mediation.** A session where the complainant and focus officer(s) attempt to resolve the complaint through discussion with a trained, neutral mediator.
- **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.
- **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.
- **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.
- **Officer.** A sworn officer of the Minneapolis Police Department.
- **Onsite Incident.** An incident where the primary complaint stems from a spontaneous interaction between a complainant and officer.
- **OPCR Civilian Unit.** The OPCR unit comprised of civilians employed by the Minneapolis Department of Civil rights.
- **OPCR Sworn Unit.** The OPCR unit staffed by sworn members of the Minneapolis Police Department and administrative support staff.
- **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.
- **Police Protection.** Services that are required to be performed by sworn officers by both the Minneapolis Police Department Policy and Procedure Manual and law.

- **Policy and Procedure Manual.** The manual created by the Minneapolis Police Department governing its operation.
- **Preliminary Investigation.** Investigation of a complaint to determine if the complaint constitutes misconduct where the investigation does not involve an interview with the focus officer. Preliminary investigations may be converted to administrative investigations when necessary.
- **Primary Complaint.** The incident that caused the complainant to file a complaint with the Office of Police Conduct Review. If this cannot be determined, the Primary Complaint shall be the highest level allegation in a complaint.
- **Private Data.** Data that is not public and is accessible to the individual subject of that data in accordance with Minnesota Statutes 13.02.
- **Public Data.** Data which is accessible to the public in accordance with Minnesota Statutes 13.02.
- **Stop and Frisk.** A brief investigatory search conducted by a sworn officer that involves an over-the-clothes pat down to detect concealed weapons or contraband. An officer must be able to articulate specific facts that would indicate to a reasonable person that a crime is or has been committed and the suspect is in possession of an item that is of danger to the officer or others.
- **Stop and Frisk Incident.** An incident where the primary complaint stems from a stop and frisk of the complainant.
- **Summary Data.** Data made available for audit by the Commission. The data shall contain a description of the incident that is the subject of the complaint with all non-public information removed. The data shall contain the corresponding Policy and Procedure Manual violations when applicable and contain information for all relevant stages of the complaint's lifecycle.
- **Taser Use Incident.** An incident where the primary complaint stems from the officer's use of a Conducted Energy Device (Taser).
- **Towing Incident.** An incident where the primary complaint stems from the towing of a vehicle.
- **Traffic Stop Incident.** An incident where the primary complaint stems from a traffic stop.
- **Vice-Chair.** A Commission member elected by a majority of the Commission.

Rule 4: Administration

- A. **Composition.** The Commission shall be composed 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.
- B. **Acting Chair.** In the absence of an elected chair or vice-chair, the Commission shall, on a monthly basis, appoint an acting chair with a majority vote until the next election.
- C. **Liability of Board Members.** No member of the Commission 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 Commission, if the action taken was within the scope of the functions of the Commission and the Commission member was not in violation of the law and the commission 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.
- D. **Amendment of Rules.** Amendments or additions to Commission rules may be proposed in a manner and form consistent with the Police Conduct Oversight Ordinance at any regular or special meeting of the Commission. Amendments or additions to operational rules shall provide for notice and comment proceedings in accordance with law. Amendments or additions must be adopted by a majority vote.
- E. **Training.** Commission members shall complete all minimum training requirements outlined in the Police Conduct Oversight Ordinance § 172.80(c).

Rule 5: Election Procedure

- A. **Date.** The election of officers shall take place at a regular Committee meeting when necessary.
- B. **Presiding Officer.** The current chair shall preside through the entire election process. The election of each office shall be completed before proceeding to elect the next officer.
- C. **Order of Elections.** The order of election shall be chair followed by vice chair. All positions are two-year terms unless agreed to by a majority of the Commission.
- D. **Nominations.** Nominations for an officer may be made by any Commission member present at the meeting, including Commission members nominating themselves. Nominations do not require a second. After nominations are closed, each candidate will be allowed time for a speech if desired. After all candidates have completed their speeches, a question and answer period may follow. The question and answer period shall involve all candidates.
- E. **Elections.** Election shall be by written ballot. Ballots shall be read by the Commission clerk. Written ballots will be kept on file for a period of three months. The new officers shall take their positions immediately after all offices have been elected. Election shall be by simple majority of the Commission members present and voting. There shall be no absentee ballots or proxy voting.
- F. **Vacancy.** Any vacancy in a Commission office shall be filled by a special election at the next regular Commission meeting after the vacancy occurs.

Rule 6: Duties of the Chair

- A. **Agenda.** The chair or the chair's designee from the Office of Police Conduct Review shall create the agenda prior to the meeting and provide it to the Office of Police Conduct Review for notice purposes. Committee members shall individually communicate with the chair to request items be added to the agenda. The agenda shall be submitted to the Office of Police Conduct Review for distribution. The agenda shall be approved as the first item of business at each regular meeting.
- B. **Special Meetings.** The chair shall call for special meetings when necessary.
- C. **Communication.** The chair shall communicate with all members of the Commission and staff from the Office of Police Conduct Review. The Chair shall meet monthly with the Director of the Office of Police Conduct Review to discuss the activities of the Commission.
- D. **Absences.** In the absence of the chair, the vice chair shall assume the duties of the chair. In the absence of both the chair and vice chair, the acting chair shall assume the duties of the chair.

Rule 7: Schedule and Notice of Meetings

- A. **Regular Meeting.** The Commission shall meet the second Tuesday of each month at 6:15 PM in Minneapolis City Hall – Room 241 or another agreed upon time and location. The meeting shall be for the purposes of fulfilling the duties outlined in Rule 2(B).
- B. **Notice of regular meetings.** A schedule of the regular meetings shall be made available to the public on the Commission’s website.
- C. **Special Meetings.** Special meetings may occur provided the Commission can provide the public with at least three days of notice of the meeting time and location.
- D. **Notice of Special Meetings.** Notice of the special meeting shall be posted on the Commission website. If the Commission receives a written request of notice of special meetings from a member of the public, the request shall expire in six (6) months. A refilling notice shall be sent before the expiration of the request.

Rule 8: Compliance with the Minnesota Open Meeting Law

- A. **Application.** Any gathering of a quorum of members of the Commission at which the members discuss, decide, or receive information as a group related to the official business of the Commission is subject to the Minnesota Open Meeting Law, Minnesota Statute § 13(D).
- B. **Quorum.** A quorum of the Commission shall be a majority of appointed commissioners but no less than four (4) members.
- C. **Discussion by a Quorum.** No discussion of Commission business by a quorum of Commission members shall occur outside of scheduled meetings. An email series that includes responses by a quorum of members may constitute discussion for the purposes of this rule. Phone calls or text messages between a quorum of members of the Commission may constitute discussion for the purposes of this rule.
- D. **Closed meetings.** If the Commission discusses private data as defined by Minnesota law, the meeting must be closed. The chair shall state on the record the specific statutory grounds permitting the meeting to be closed and describe the subject to be discussed. During the closed portion of the meeting, only the subject matter that caused the meeting to be closed shall be discussed. The closed meeting shall be recorded, transcribed, and maintained for two (2) years.
- E. **Public Access.** At 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 Office of Police Conduct Review or its employees and which are distributed at the meeting to all members of the Commission or available in the meeting room to all members.
- F. **Vote Recording.** Votes of all members of the Authority on any action taken in an open meeting must be recorded in the meeting minutes, and the minutes shall be made public on the Commission website.
- G. **Minutes.** Minutes shall be kept for all Commission meetings. Minutes shall be kept in accord with Robert's Rules of Order. The Office of Police Conduct Review shall designate an employee to keep minutes of the meetings. The minutes shall be approved at the next regular meeting and posted on the Commission's website.

Rule 9: Committees

- A. **Purpose.** The Commission may form standing and temporary committees to assist in fulfilling the duties of the Commission.
- B. **Composition.** Committees shall be composed of no more than three (3) members.
- C. **Creation.** The creation of a committee may be proposed by a Commission member during a regular meeting. The Commission member must define the duties and role of the subcommittee in writing to be presented to the Commission. The Commission shall be created upon a majority vote of the Commission.
- D. **Scope.** Committees shall not have decision-making powers but may make recommendations to the Commission for action. Committees may not take actions without approval of the Commission.
- E. **Dissolution.** If a standing committee has completed its duties or is no longer necessary, a member of the committee may propose its dissolution at a regular meeting. The Commission must approve its dissolution. Temporary committees may dissolve when the assigned task is completed.

Rule 10: Audit and Policy Recommendation Procedures

- A. **Summary Data Selection.** At each regular meeting, the Office of Police Conduct Review shall make available a set of complaints for audit. The Commission shall select three (3) items from the set for review.
- B. **Summary Data Review.** Summary data shall be prepared for inspection by staff from the Office of Police Conduct Review. That case summary data shall be published on the Commission's website for review.
- C. **Summary Data Discussion.** At each meeting, Commission members shall discuss the summary data from cases selected for audit to identify any patterns or subjects which may merit further examination by the police department, Commission or city council. The Commission may request from the Office of Police Conduct Review the submission of additional data for review but shall not undertake research itself.
- D. **Policy and Procedure Discussion.** Commission members may request review and discussion of specific sections of the MPD Policy and Procedure Manual as a result of discussion of data. The Office of Police Conduct Review shall provide copies of the sections of the Manual to the Commission and any appropriate research.
- E. **Training Procedures Discussion.** The Commission may request specific training materials from the MPD for discussion as a result of discussion of data.
- F. **Program of Research.** The Commission, after identifying issues from summary data, MPD policies and procedures, MPD trainings, and discussion, shall request research from the Office of Police Conduct Review on the issue which may include performance audits. The Commission shall define what should be researched and shall cooperate with OPCR staff to complete the program of research. The Commission shall receive in full the results of the program of research when completed.
- G. **Policy Recommendations.** After conducting case audits, reviewing summary data or performance audits and reviewing the program of research conducted by the Office of Police Conduct Review, the Commission shall make recommendations regarding the improvement of policies, procedures, and training to the Minneapolis Police Department.

Rule 11: Community Outreach Program

- A. **Liaison to the Minneapolis Commission on Civil Rights.** The Commission shall appoint at least one (1) and no more than three (3) members as liaisons to the Minneapolis Commission on Civil Rights by a majority vote. Liaisons shall not have decision-making powers but make recommendations to the Commission for action. Liaisons may not take actions without approval of the Commission.
- B. **Development of the Coordinated Outreach Program.** The appointed member(s) shall communicate with an appointee from the Minneapolis Commission on Civil Rights to develop a coordinated outreach program.
- C. **Adoption of Coordinated Outreach Plan.** The Commission member(s) shall create a summary of the program to present to the Commission. The Commission shall adopt the program by a majority vote or recommend that the appointed member(s) revise the program with the appointee from the Minneapolis Commission on Civil Rights.
- D. **Additional Outreach Activities.** Commission members may propose additional outreach activities at meetings. Proposals shall be adopted by a majority vote of the Commission.

Rule 12: Reporting to the Public Safety Subcommittee of the City Council

- A. **Reporting to the Public Safety Subcommittee of the City Council.** The Commission shall provide the Office of Police Conduct Review with an updated list of activities each quarter or upon request from OPCR staff. This list shall be used by the chair or the chair's designee from the Office of Police Conduct Review to draft the report to the Public Safety Subcommittee.

Rule 13: Requests to the City Attorney's Office

- A. **Submitting Requests.** Requests for legal opinions from the City Attorney's Office shall be made through motion or the Chair.

Rule 14: Public Invitation

- A. **Public Invitation.** A public invitation for comments will occur at each regular, special, and committee meeting of the PCOC.

- B. **Limitations.** Public comment time limitations shall be determined by the chair of the meeting.