

## POLICE MISCONDUCT COMPLAINT PROCESS MANUAL

### 1. Introduction

1.1. This Complaint Process Manual (Manual) describes the process and procedures that the Office of Police Conduct Review (OPCR) and Internal Affairs Division (IAD) use to address complaints of misconduct by employees of the Minneapolis Police Department (MPD).

#### 1.2. About OPCR

OPCR is a division of the Minneapolis Civil Rights Department that generally investigates police officer misconduct allegations received from outside the City.

#### 1.3. About IAD

IAD is a division of the Minneapolis Police Department that generally investigates allegations of non-sworn employee misconduct and internal allegations of police officer misconduct.

#### 1.4. Unit supervision

1.4.1. Any references in this Manual to actions that shall or may be taken by the OPCR Director or IAD Commander may also be taken by any superior staff member in their supervisory chain or designee.

1.4.2. When this Manual refers to a “Unit Head,” that means either the OPCR Director or IAD Commander, acting individually.

#### 1.5. Mission statement

OPCR and IAD promote adherence to the highest standard of police conduct and foster mutual respect between the MPD and the community it serves by fairly, objectively, and neutrally investigating complaints that allege misconduct by Minneapolis police officers.

1.6. Any procedural issue related to the duties and authority of these offices not covered here or by other manuals or directives will be left to the discretion of those offices, in consultation with other City agencies or staff members as appropriate.

1.7. All data received, created, and maintained will be handled in accordance with the Minnesota Government Data Practices Act (MGDPA) and other applicable law.

1.8. A Community Commission on Police Oversight (CCPO) review panel (Review Panel) is empowered to review investigative files and provide recommendations as to merit and appropriate range of discipline to the MPD Chief (Chief)

#### 1.9. Jurisdiction

1.9.1. OPCR and IAD have jurisdiction to receive and resolve complaints against sworn officers of the MPD to the full extent permitted under Minneapolis City Ordinance § 172.20.

1.9.2. IAD has jurisdiction to receive and resolve complaints against civilian employees of the MPD.

1.9.3. Complaints alleging violations of the City's Anti-Discrimination Harassment and Retaliation Policy (ADH&R) will be referred to the Human Resources Department for investigation, then returned to the MPD Chief for resolution.

1.10. Information technology:

1.10.1. Complaint information will be processed and tracked through the designated records management system. Investigation files should be exclusively maintained in the designated records management system unless other storage is required to prevent access to restricted files.

1.10.2. A separate manual will address technical aspects of the operation of document management.

2. Receiving Complaints

2.1. OPCR shall maintain a process for individuals to submit police misconduct complaints through an online form, by telephone, or in-person.

2.1.1. Complaints received by OPCR from City employees shall be promptly forwarded to IAD for processing.

2.1.2. Anonymous complaints shall be accepted for review.

2.1.3. MPD shall either maintain an online reporting form or prominently provide a link to the OPCR online form on the MPD website.

2.2. The City will maintain a website or online portal for MPD and City employees to submit a complaint regarding alleged police misconduct.

2.2.1. MPD and City staff who review body-worn camera (BWC) footage shall be required to report concerns to this portal about conduct that may violate MPD policy or law, consistent with legal and ethical duties for attorneys and other staff supporting attorneys in representing clients.

2.2.2. Anonymous complaints shall be accepted for review. Making an anonymous complaint of alleged misconduct does not relieve MPD officers of their duty to report specific misconduct under MPD policy.

2.3. Any MPD, OPCR, or Human Resources employee who becomes aware of an individual who expresses interest in filing a complaint regarding sworn officer conduct must promptly provide that individual with information about how to file a complaint.

2.3.1. Allegations that any City or MPD employee responsible for receiving, processing, or investigating police misconduct complaints refused to accept, discouraged the filing of, or provided false or misleading information about filing a police misconduct complaint shall be accepted and promptly investigated by the appropriate unit or department, and may result in discipline.

2.3.2. No OPCR or IAD employee may retaliate, or take any action they know or reasonably should know may lead to retaliation, unless required to comply with applicable law or

policy, against community members or City employees, including police officers, who submit complaints, provide information relating to police officer misconduct, or assist or otherwise participate in complaint investigations.

2.4. Signed complaints required to take statement from focus officer.

- 2.4.1. Under Minnesota Statutes § 626.89, subd. 5, an officer's formal statement may not be taken unless there is filed with the employing or investigating agency a written complaint signed by the complainant stating the complainant's knowledge.
- 2.4.2. In addition to wet-ink signatures, complaints received through the online complaint form or submitted by email that contain the complainant's name will be considered signed complaints.
- 2.4.3. If objective verifiable evidence supports investigation but no signed complaint has been received, a Unit Head shall act as signatory.
- 2.4.4. An officer shall be identified as a focus officer for purposes of that officer's complaint records when a signed complaint identifying that officer is received or generated by a Unit Head.

2.5. Anonymous and unsigned complaints

- 2.5.1. For unsigned external complaints that include contact information for the complainant, investigative staff will make reasonable attempts to secure a signed complaint within 30 days of receipt.
  - 2.5.1.1. Efforts to obtain and opportunity to provide signatures will reasonably accommodate complainants' disability status, language proficiency, and incarceration status.
- 2.5.2. If a complaint is anonymous or investigative staff are unable to obtain a signed complaint despite reasonable attempts, investigators will independently assess whether evidence collected in intake investigation, including BWC footage if available, is sufficient to continue the investigation.
  - 2.5.2.1. Unless received through an email as described in Section 2.4.2, complaints received through the 311 system will be treated as unsigned complaints unless and until a signed complaint can be obtained.
  - 2.5.2.2. If objective verifiable evidence supports continued investigation, a Unit Head shall act as signatory for a complaint.

2.6. Civil lawsuits and claims

- 2.6.1. Civil lawsuits, claims or demand letters, and administrative charges of discrimination alleging police misconduct received from members of the public will be promptly forwarded to OPCR, IAD, and/or Human Resources as appropriate, and the complaint, letter, or charge shall be considered a signed complaint.
- 2.6.2. Except to the extent specified below, all ordinary investigation procedures should be followed regarding potential misconduct raised by lawsuits.

- 2.6.3. Because internal investigations assist the City in making determinations regarding defense and indemnification of employees, these matters should be treated as a high priority for assignment and completion unless determined to be otherwise following consultation with the City Attorney's Office.
- 2.6.4. If OPCR or IAD determines that a matter raised in a lawsuit should be dismissed prior to completion of an administrative investigation, they will consult the City Attorney or their designee prior to dismissal.
- 2.6.5. The assigned investigator will attempt to contact the plaintiff(s) listed in the lawsuit. This should be done in writing and under normal circumstances if the plaintiff is represented by an attorney, should be sent via email or mail to the attorney representing the plaintiff.
- 2.6.6. If the plaintiff refuses to participate in the investigation, the matter will proceed unless the investigator, in consultation with the Unit Head and City Attorney or their designee, determines that it cannot move forward without the interview.
  - 2.6.6.1. In that event, the matter may be closed pending further developments in the lawsuit, including deposition or discovery obtained by the City. If a matter is closed pending further developments for this reason, the investigator shall contact the City Attorney's Office at a minimum every two months until either information is available or the lawsuit is resolved, at which point one final request for participation will be made.
- 2.7. All complaints received shall be made accessible to both OPCR and IAD.
3. Intake Process
  - 3.1. Complaint allocation
    - 3.1.1. Complaints filed by members of the public, including anonymous or unsigned complaints, shall be received by or promptly referred to OPCR for processing.
    - 3.1.2. Complaints filed by City or MPD employees (internal complaints) shall be received by or promptly referred to IAD for processing.
    - 3.1.3. OPCR and IAD are authorized to retain external investigators to conduct investigations due to apparent conflicts of interest, workload, or for other appropriate reasons. External investigators shall follow the investigation requirements in Section 4 below.
    - 3.1.4. Complaints alleging potential violations of City ADH&R policies shall initially be referred to Human Resources for investigation before being returned to MPD for further processing, including all steps necessary to maintain current and accurate complaint records.
    - 3.1.5. Other than potential violations of ADH&R policies, if the complaint involves potential violations of non-MPD City policies, then the relevant Unit Head and Human Resources will together determine which of those entities will investigate the potential violations of the other non-MPD City policies.

- 3.1.6. Where there is an apparent or actual conflict of interest that affects or could be perceived as affecting a unit as a whole, complaints may be referred from one unit to another or for external investigation.
  - 3.1.6.1. Potential conflicts of interest may be referred to the City Attorney's Office for an opinion as to whether the conflict requires handling by the other unit or an external investigator.
- 3.1.7. At any time following receipt of a complaint, OPCR, IAD, or Human Resources may notify the MPD early intervention program of the substance of the complaint and any other related complaint data justifying the referral for early intervention.
- 3.1.8. A complaint relating to the same incident as a previous complaint will be opened and responded to as required in this Manual, then forwarded to the unit addressing the earlier-received complaint.
  - 3.1.8.1. When it is not clear from the face of the later-received complaint, the Unit Head, in consultation with the other Unit Head and City Attorney or designee, shall consider the nature of the incident, actions described in the complaints, allegations arising from the previous complaint, and any other relevant information to determine whether a subsequent complaint should be considered a duplicate or a new matter.

### 3.2. On receipt of complaint

- 3.2.1. Complaints will be documented and formally filed within three business days of receipt.
- 3.2.2. A unique tracking or processing number will be promptly assigned to every complaint, whether signed, unsigned, or anonymous.
  - 3.2.2.1. To the extent permitted by the MGDPA and other applicable law, these tracking numbers shall permit complainants to track the status of their complaints online from the intake process through final disposition.
- 3.2.3. When opening a complaint, intake personnel shall first check to see whether the complaint is a duplicate.
  - 3.2.3.1. Complaints regarding existing matters will be assigned unique tracking or processing numbers on receipt unless the complaint is an exact duplicate (i.e., the same sheet sent via different methods or a second complaint resulting from multiple presses of the website submit button) from the same complainant. Additional complainants shall be provided information to the extent required under Section 3.2.2.1.
- 3.2.4. When contact information is available, complainants will be notified in writing of receipt of the complaint within seven business days of receipt.
  - 3.2.4.1. The notice will include the tracking number assigned to the complaint, as well as the investigator if one has been assigned.
  - 3.2.4.2. The notice will not contain any language that could reasonably be construed as discouraging participation in the investigation, but complainants may be required to agree that what they share is truthful and accurate to the best of their ability.

3.2.4.3. If a complaint involves allegations of discrimination on the basis of a protected class, the investigating entity will inform the complainant that they may contact the Minneapolis Department of Civil Rights and the Minnesota Department of Human Rights, which will determine if a charge of discrimination can be filed. Civil rights may also offer a dual-filing option with consent of the complainant.

### 3.3. Intake investigation

3.3.1. Each unit shall be responsible for conducting appropriate intake investigation regarding any complaint within its purview, including anonymous complaints.

3.3.1.1. This shall include taking all reasonable steps to discover relevant facts related to the complaint by identifying, reviewing, and analyzing all necessary available evidence. This may include, but is not limited to: time-sensitive evidence, audio and video evidence, physical evidence, arrest reports, photographic evidence, GPS records, computer data, and witness interviews.

3.3.1.2. All reasonable steps will be taken to preserve relevant evidence identified during preliminary investigation.

3.3.1.3. Intake investigations shall also take all reasonable steps to identify the focus and witness MPD officer(s) if the complainant was unable to do so, or if additional focus and witness MPD officers are identified in the intake investigation.

3.3.1.4. Investigators will identify relevant policies implicated by the alleged conduct in the underlying incident, including any potential policies implicated that were not identified by the complainant.

3.3.1.5. Investigators will take all reasonable steps so that all alleged conduct that potentially violates policy is fully and fairly identified and documented.

3.3.1.6. When multiple separate potential policy violations are implicated, intake investigators will identify all appropriate non-duplicative violations for Unit Head consideration.

3.3.1.7. Intake investigators should identify for the Unit Head's consideration any previous or open matters involving the same or similar policy violations alleged to have been made by the same officer.

3.3.2. Within thirty days of complaint receipt, the Unit Head shall assess and review a complaint, assign potentially implicated policies, and determine whether the matter should be designated for dismissal or non-disciplinary corrective action, set for expedited disposition, or assigned for preliminary or administrative investigation.

### 3.4. Dismissal

3.4.1. When a matter is set for dismissal under this section, the Unit Head shall document the basis and evidence supporting dismissal in detail.

3.4.2. A matter set for dismissal by OPCR shall be referred to the MPD Chief or designee for final determination.

- 3.4.2.1. The MPD Chief or designee may either confirm dismissal or return the complaint to OPCR for further action, which may include referral for non-disciplinary corrective action or investigation.
    - 3.4.2.2. The decision whether to confirm or return the complaint shall be made within seven calendar days of receipt.
  - 3.4.3. A matter may be dismissed for lack of jurisdiction when the complaint alleges acts taken by members of other law enforcement agencies, City employees who are not MPD employees, or when no MPD officer can be identified as having been involved in the incident described in the complaint. Where possible, these should be referred to appropriate authorities to address the incident.
  - 3.4.4. A matter may be dismissed for failure to state a claim when, on its face, the complaint fails to indicate a potential policy violation.
  - 3.4.5. A matter may be dismissed as no basis if the complaint is contradicted by irrefutable evidence, that evidence is described in detail in the complaint file, and the investigator's supervisor has reviewed the evidence and confirmed that the evidence is irrefutable.
  - 3.4.6. A matter may be dismissed as policy failure when an officer's alleged conduct does not fall into any specified area covered by MPD policy but the Unit Head believes this is due to a policy gap. These must be referred to the Deputy Chief of Professional Standards and Chief of Police for further action, and an anonymized summary describing the policy gap provided to the CCPO.
  - 3.4.7. A matter may be dismissed as closed due to employee separation at any point in the investigation process when the officer is no longer employed by the MPD. Dismissal is not mandatory under this category, and investigations should be continued when feasible.
    - 3.4.7.1. Matters may not be dismissed on this basis when the policy violation alleged involves any use of deadly force, such as firearm discharge, any use of an impact weapon to strike a person's head or neck, any weaponless strike to the head or neck if the person's head is near a hard surface, or any force that either causes a person's death or causes injury resulting in admission to a hospital.
    - 3.4.7.2. When focus officer interviews have been completed, the investigation should be continued to completion rather than dismissed on this basis.
    - 3.4.7.3. Other factors that should be considered when determining whether to continue investigations when officers are no longer employed by the MPD include but are not limited to the level of potential discipline, the apparent likelihood of the officer seeking further law enforcement employment, the existence or prospect of civil litigation, the likelihood that the officer will be called to testify in a criminal matter, and investigator availability and workload.
    - 3.4.7.4. When a matter is dismissed on this basis, the memorandum should describe the stage of investigation at dismissal, the investigatory steps taken, and the anticipated remaining investigatory steps.

- 3.4.8. A matter may not be dismissed solely due to a complainant's failure to cooperate or expressed intent to withdraw a complaint. In these circumstances, the Unit Head's determination must be based on the available evidence.
- 3.4.9. A duplicate matter may be dismissed once any new evidence provided by the duplicate complaint has been made available for investigation of the original matter, and steps have been taken to ensure the complainant is apprised of the existence and status of the complaint as required under these policies to the extent permitted under the MGDPA.

### 3.5. Non-disciplinary corrective action

- 3.5.1. Non-disciplinary corrective action may include mediation, coaching, training, or any combination of the three. A complaint referred for non-disciplinary corrective action is considered closed with no discipline upon MPD approval of the referral.
- 3.5.2. Referral for non-disciplinary corrective action is only appropriate when:
  - 3.5.2.1. The actions alleged to violate policy are subject at most to a category of "A" in the MPD discipline matrix;
  - 3.5.2.2. No policy alleged to be violated addresses non-discriminatory and impartial policing, use of force, stops, searches, citations, arrests, or duty to intervene;
  - 3.5.2.3. The action is an isolated incident, defined by the officer having had no same or similar policy violation in the past year; and
  - 3.5.2.4. The action had or may have only a negligible impact on community trust of MPD or its operations. Examples include improper attire/appearance, loss or damage of equipment except firearms, less-lethal weapons, radios, or automobiles, failure to properly inspect vehicles, or first failure to appear in court.
- 3.5.3. When OPCR determines that a complaint should be referred for non-disciplinary corrective action, it shall send a proposed coaching, training, or mediation file to the MPD Chief or designee for confirmation
  - 3.5.3.1. If the Chief or designee believe that the actions alleged to violate policy may be subject to a category higher than "A" in the disciplinary matrix, the complaint shall be returned to OPCR for investigation and submission to a panel.
  - 3.5.3.2. Otherwise, the complaint shall move forward according to the appropriate process below.
  - 3.5.3.3. The decision regarding whether to confirm or return the complaint shall be made and communicated to OPCR within seven calendar days of receipt of the referral.
- 3.5.4. Mediation process
  - 3.5.4.1. OPCR may designate a complaint for mediation between complainants and focus officers to work with a qualified neutral mediator to resolve allegations in a complaint. On approval by the MPD, the focus officers will be ordered to participate in the mandatory mediation in good faith.



3.5.4.1.1. When approved by the MPD Chief, the MPD may also provide coaching or training to the officer regarding the officer's actions in the complaint referred for mediation.

3.5.4.2. OPCR will be notified of the outcome of the mediation and the mediator's assessment regarding good-faith participation of the parties, but communications during mediation are confidential to the extent required and permitted by law.

3.5.4.3. An officer's failure to appear for mediation or a mediator assessment that the officer failed to mediate in good faith will cause this matter to be returned to the MPD Chief for referral for coaching. The OPCR Director will also be notified for consideration of a new complaint resulting from the failure to comply with orders regarding mediation attendance and participation.

### 3.5.5. Coaching process

3.5.5.1. On designation for coaching, IAD or OPCR shall prepare a coaching file that includes all identified witness contact information and a complete summary of the complaint and allegations, as well as a draft coaching document.

3.5.5.2. On approval by the Chief or designee, the coaching file and draft document shall be sent by the Deputy Chief of Professional Standards or designee to the highest-ranking supervisor in the focus officer's precinct, unit, or division.

3.5.5.3. On completion, the coaching document will be returned to the Deputy Chief of Professional Standards. If initially designated for coaching by OPCR, it will also be sent to the OPCR Director.

3.5.5.4. The coaching document may be returned by the Deputy Chief of Professional Standards or OPCR Director for further action if not accurate or complete.

### 3.5.6. Training process

3.5.6.1. When referred for training as non-disciplinary corrective action, a complaint should be clearly designated so it will not be confused with complaints referred for training review as described in section 3.9.

3.5.6.2. On designation for training, the Unit Head shall prepare a training file that, at a minimum, briefly summarizes the allegations and describes in detail the recommended training subject(s).

3.5.6.3. On completion, the training summary and/or any completed certification will be returned to the Deputy Chief of Professional Standards. If initially designated for training by OPCR, it will also be sent to the OPCR Director.

3.5.6.4. If deemed insufficient, further training may be required by the Deputy Chief of Professional Standards or OPCR Director.

## 3.6. Expedited disposition

- 3.6.1. Expedited disposition may only be used for self-reports or internally generated complaints involving incidents with clear, objective factual support and low likelihood of factual dispute as to the alleged actions taken by the involved officer(s). The following categories of alleged policy violations are not eligible for expedited disposition:
    - 3.6.1.1. Truthfulness violations, including requirements for truthful answers in MPD PPM § 1-403 and 2-104(II)(G)(b) and Code of Conduct requirements in MPD PPM § 5-102(III)(B).
    - 3.6.1.2. Use of force in MPD PPM Chapter 5-300.
    - 3.6.1.3. Bias and discrimination, including the ADH&R requirements in MPD PPM 2-105, Code of Conduct requirements in MPD PPM § 5-102(III)(C), and other anti-discrimination requirements such as MPD PPM 7-3001.
    - 3.6.1.4. Failure to report potential misconduct or intervene, including requirements of MPD PPM § 2-101 and 2-102.
  - 3.6.2. A matter may be flagged as potentially suitable for expedited disposition during complaint intake review.
  - 3.6.3. If designated by the IAD Commander for expedited disposition, IAD will draft a preliminary investigation report based on body-worn camera or other video evidence, complainant or witness statements if relevant, and other available evidence. IAD will then draft and approve a summary of the alleged conduct suitable for inclusion in an expedited discipline agreement.
  - 3.6.4. Following receipt of the preliminary investigation report, the Chief will determine appropriate discipline, taking into account mitigating or aggravating circumstances, if any, including the presumed cooperation by the officer in the expedited disciplinary process.
  - 3.6.5. The Chief or designee will then contact the officer and Police Federation to present a proposed expedited disposition agreement with the determined discipline.
    - 3.6.5.1. The summary of alleged conduct provided by the IAD Commander may be shared, but not the preliminary investigation report.
    - 3.6.5.2. There will be no negotiation regarding allegations or discipline, but the officer may submit in writing to the Chief any mitigating circumstances that the officer requests to be taken into account in finalizing the discipline decision. The Chief may revise the final discipline downwards following receipt of this document.
  - 3.6.6. If agreement is reached, the process will move forward and conclude with an expedited disposition agreement in the form approved by the MPD and City Attorney's Office.
- 3.7. Preliminary investigations
    - 3.7.1. A preliminary investigation is appropriate when, at the conclusion of an intake investigation, involved officers were not able to be identified or the Unit Head has articulable reason to believe that further investigation is required to determine whether to

open an administrative investigation or what policy violations may be implicated by available evidence.

3.7.2. A preliminary investigation may involve collection and review of evidence, formal interviews with the complainant or other witnesses, any other investigatory step except taking the formal statement of the focus officer, and the drafting of a preliminary investigative report.

3.7.3. At the conclusion of the preliminary investigation, the Unit Head shall determine whether dismissal, referral, or administrative investigation is the appropriate next step.

### 3.8. Administrative investigations

3.8.1. The procedure involved in administrative investigations is described below in Section 4.

3.8.2. Administrative investigations will generally be assigned to an investigator in the unit to which the initial complaint was allocated or to a firm retained by the appropriate department.

3.8.3. If an actual or apparent conflict of interest exists or arises at any point during an administrative investigation, the investigation may be referred to the other investigatory unit or for outside investigation as appropriate.

3.8.4. When an investigation is referred externally due to actual or apparent conflicts of interest, the appropriate unit shall retain an external investigator and take steps as necessary to ensure that the documentation required in this policy is generated and maintained in the records management system.

3.9. At any point during a preliminary or administrative investigation, a request may be made for training review to the police officer in command of the MPD training division. This is not a referral and does not result in closure of the matter, and should be used when an investigator, with approval of the Unit Head, has determined that training unit review will assist the investigation.

## 4. Administrative investigation procedure

4.1. Administrative investigations must be completed, with a final investigative summary report, within 180 days of the receipt of a complaint.

4.1.1. Requests for extension must include a short explanation and may be granted or denied through written approval of the Unit Head, who must include the basis for granting or denying the request.

4.2. The City Attorney's Office Brady designee shall be informed of the opening of an administrative investigation.

4.3. An investigator assigned to conduct an investigation should follow these guidelines:

4.3.1. Investigators must remain neutral throughout the investigation.

- 4.3.2. The investigation should be planned to proactively move forward with each case effectively and efficiently based on the facts of each case;
- 4.3.3. Investigators should take all reasonable steps to promptly identify, collect, and consider direct and circumstantial evidence necessary to determine the relevant facts.
  - 4.3.3.1. This may include but is not limited to officer-recorded audio or video taken with body worn cameras or other recording devices, and includes relevant evidence gathered in parallel criminal investigations or criminal or civil litigation to the extent not covered by attorney client, work product or other privileges.
- 4.3.4. If a complainant refuses to cooperate or seeks to withdraw the complaint, the investigator must continue to the extent justified based on the available evidence
- 4.3.5. Investigators will take all reasonable steps to locate and interview all relevant witnesses, including non-MPD officer witnesses, and attempt to interview any complainant or witness in-person at a time and place that is convenient and accessible for the complainant or witness, when feasible.
  - 4.3.5.1. Investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the MPD officer or because the witness or complainant has a criminal history.
  - 4.3.5.2. Investigators will record interviews and document requests to reschedule;
  - 4.3.5.3. Investigators may require complainants or witnesses to agree that what they share is truthful and accurate to the best of their ability, and may provide a reasonable amount of time to contact the investigator and complete an interview.
  - 4.3.5.4. Investigators will ask open-ended questions and avoid leading questions.
  - 4.3.5.5. Investigators will ask interviewees what, if any, documents, audio, or video footage, media coverage of the incident if relevant, or other evidence they have reviewed in preparation for the interview, and if so, the date, time, and place the information was reviewed.
  - 4.3.5.6. Investigators will ask interviewees whom they have spoken to about the investigation and if they have done so, the date, time, place, and content of such communication, subject to any privilege recognized under Minnesota or federal law.
  - 4.3.5.7. Investigators will document responses to their inquiries regarding which documents the interviewees reviewed and what persons interviewees spoke to and include a summary of the responses in the Investigative Summary Report.
- 4.3.6. Investigators will take all reasonable steps to identify the focus officer and witness officer(s) if the complainant was unable to do so, or if additional subject and witness MPD officers are identified in the course of conducting the investigation.
  - 4.3.6.1. When notifying the focus officer of an interview, the investigator will notify the supervisor and commander of the interview and investigation.

- 4.3.6.2. At the conclusion of the focus or witness officer interview, the investigator will order the officer not to speak to anyone else, including potential witnesses or the complainant, about the complaint.
- 4.3.7. Investigators will identify training previously provided to the focus officer relevant to the alleged misconduct.
- 4.3.8. Investigators will identify inconsistencies, including descriptions of the evidence reviewed, where material inconsistencies exist between the complainant, MPD officer(s), and witness statements; and
- 4.3.9. Investigators will identify relevant policies implicated by the alleged conduct in the underlying incident, including any potential policies implicated that were not identified during the intake investigation, and will promptly bring these potential policy violations to the attention of the Unit Head.
- 4.4. An investigation must not be closed solely because of findings in related criminal proceedings, but those findings may be used to inform the conduct of the investigation and may be included in a final investigative report.
- 4.5. Investigation files
  - 4.5.1. Investigation files must be contemporaneously updated during the course of the investigations.
  - 4.5.2. The files must identify each allegation and documentation of all relevant evidence that was gathered, including names, phone numbers, and addresses of witnesses.
    - 4.5.2.1. The file will specifically state when there are no known witnesses.
    - 4.5.2.2. Where circumstances prevented the investigator from collecting information from witnesses who were present, the file will include the reasons.
    - 4.5.2.3. The file will include all available identifying information for anyone who refuses to provide a statement.
  - 4.5.3. The file will include a recording and transcript of each interview.
    - 4.5.3.1. Transcripts obtained from automated sources should be corrected to the extent necessary to accurately reflect interview before being provided to witnesses for review.
  - 4.5.4. The file will include the names of all MPD officers identified as witnesses.
  - 4.5.5. The file will include all MPD officer original written statements, as well as amendments, clarifications, and subsequent statements.
  - 4.5.6. The file will include any facts or circumstances relevant to the focus officer's, complainant's, or any witness's credibility.
- 4.6. Unit Head role

- 4.6.1. Unit Heads will communicate regularly with investigators.
- 4.6.2. Unit Heads will complete supervisory review of investigative files and investigative summary reports within fifteen days of completion, unless additional investigation is needed.
  - 4.6.2.1. Review will include the report, key relevant evidence that may include audio and video footage, and when necessary the full investigative file. Unit Heads will confirm accuracy, completeness, and compliance with City and MPD policy.
  - 4.6.2.2. Unit Heads will order additional investigation where additional relevant evidence may assist the investigation, including to resolve inconsistencies or improve the reliability or credibility of the report. The Unit Head will document the need and basis for additional investigation and provide a deadline for completion of revised report.
- 4.7. Investigative Summary Report
  - 4.7.1. The report will be promptly finalized after the investigation and include the elements of the investigation file described in Section 4.5.
  - 4.7.2. Unit Heads will complete review of reports within fifteen days of receipt. On approval, the IAD Commander will promptly forward approved reports to the OPCR Director for Review Panel scheduling.
5. Community Commission on Police Oversight Review Panels
  - 5.1. Review Panels shall consist of three civilian members of the CCPO and two sworn employees of the MPD.
  - 5.2. Review Panel sessions shall be scheduled by the OPCR Director, and must take place within thirty days of Unit Head approval of any Investigative Summary Report being addressed.
    - 5.2.1. If this deadline cannot be met, the OPCR Director shall document in detail the reasons why and specifically track the number of times and number of days exceeded.
  - 5.3. Review Panels will make recommendations of merit or no-merit on all presented allegations. The standard of review they shall apply is preponderance of the evidence, which means that they shall consider whether it is more likely than not that an allegation has merit.
  - 5.4. Where a Review Panel makes a recommendation of merit on an allegation, the Review Panel shall also make a recommendation for an appropriate range of corrective actions, which may consist of identifying what they believe to be the appropriate classification under the MPD Discipline Matrix for the allegation.
  - 5.5. On receipt of a Review Panel's recommendation, the OPCR Director will promptly forward them to the Chief or Chief's designee for further action.
6. MPD Chief determination

- 6.1. Within fifteen days of receiving a Review Panel's recommendation, the Chief may return the file for further review or investigation.
- 6.2. Otherwise, within thirty days of receiving a Review Panel's recommendation, the Chief shall issue a determination on the allegations, which may include:
  - 6.2.1. Sustained, a finding that the alleged conduct occurred and that the conduct violated MPD or City policy.
  - 6.2.2. Not sustained, a finding that there is insufficient evidence that the alleged conduct occurred.
  - 6.2.3. Unfounded, a finding that the alleged conduct did not occur.
  - 6.2.4. Exonerated, a finding that the alleged conduct occurred but that it did not violate MPD or City policy.
  - 6.2.5. Policy failure, a finding of "Exonerated" but for which the Chief believes the policy should be examined for possible revision.
- 6.3. When the Chief sustains any finding, the City Attorney's Office Brady designee must be promptly notified.
7. City Attorney's Office embedded attorney
  - 7.1. The City Attorney may designate an attorney to be embedded ("Embedded Attorney") in OPCR and IAD.
  - 7.2. The role of the Embedded Attorney is mixed oversight, advice, and support. The Embedded Attorney is not in the line of command and may make suggestions, but not issue binding instructions, to any personnel in OPCR or IAD.
  - 7.3. The Embedded Attorney shall have full access to all complaints, investigation files, and documents prepared or received by IAD and OPCR unless the Embedded Attorney, or the Unit Head and City Attorney in consultation, determines that there is an apparent conflict of interest with respect to a specific complaint.
  - 7.4. The Embedded Attorney shall be generally available to advise OPCR and IAD employees regarding investigation plans, interviews of witnesses or focus officers, issues acquiring evidence or testimony, or any other aspect of the investigative process.
  - 7.5. The Embedded Attorney shall be notified of pending interviews of focus officers and provided a copy or notified regarding file updates when non-disciplinary corrective actions are completed.
  - 7.6. A Unit Head shall consult the Embedded Attorney before taking any of the actions below.
    - 7.6.1. Setting a matter for dismissal or non-disciplinary corrective action.
    - 7.6.2. Determining or changing allegations of policy violations to be investigated.
    - 7.6.3. Approving final investigation reports for submission to a Review Panel.

7.7. If, after consultation, the Embedded Attorney does not concur with the proposed action, the attorney may request reconsideration for IAD determinations by the MPD Chief and if not resolved the Commissioner of Community Safety, or for OPCR determinations by the Director of Civil Rights and if not resolved the City Operations Officer. If not resolved at those levels, the Embedded Attorney may request resolution by the Mayor's Office.

8. In general

8.1. Potential criminal conduct

8.1.1. If there is the potential of criminal conduct identified at any time during the complaint process, the Unit Head must be informed. If the Unit Head agrees that potential criminal conduct has been identified, the Unit Head must forward the evidence to the appropriate law enforcement entity. The Unit Head must document this decision and its basis.

8.2. Allegations of misconduct by Police Department leadership

8.2.1. Complaints regarding the conduct of the Chief of Police shall be closed and referred to the Office of the Commissioner of Community Safety. All relevant policies relating to investigations, timelines, and document preparation and retention, shall apply to the handling of these complaints, with access to investigation documents limited as required to ensure confidentiality from the subject of the investigation.

8.2.1.1. Complainants alleging discrimination on the basis of a protected class shall also be provided referral options as described in Section 3.2.4.3.

8.2.2. Internal complaints regarding the conduct of the Commander of Internal Affairs, a Deputy Chief, or Assistant Chief shall be referred initially to the MPD Chief, who shall take one of the steps described in Section 3.3.2 within 30 calendar days of receipt. If designated for investigation, MPD shall specially assign an investigator of appropriate rank, refer the matter for investigation by the City Attorney's Office, or retain an external investigator to avoid conflicts of interest. All relevant policies relating to investigations, timelines, and document preparation and retention shall apply to the handling of these complaints, with access to investigation documents limited as required to ensure confidentiality from the subject of the investigation.

8.3. Referrals from accident or pursuit review committees.

8.3.1. Unless a prior external complaint was received, these referrals will typically be addressed by the IAD as internal referrals.

8.3.2. Where the accident or pursuit review committee indicates that certain officers' conduct resulted in likely policy violations, the referral must be treated as a signed complaint regarding those officers.

8.4. Board of Peace Officer Standards and Trainings (POST Board) mandatory reporting

8.4.1. Because POST Board reports must be made by law enforcement agencies, the MPD will make all required notifications to the POST Board.



- 8.4.1.1. IAD and OPCR are each independently responsible for identifying matters within their purview that require reporting to the POST Board.
- 8.4.1.2. When OPCR has identified a matter that may require POST Board reporting, it should immediately notify the IAD Commander for review and notification.
- 8.4.1.3. Final determination regarding whether POST Board reporting is required shall be made by the MPD.
- 8.4.1.4. Detailed procedures for identifying and notification will be in the designated records management system technical manual.
- 8.4.2. Both units have independent obligations to maintain a copy of the most current requirements, which may be at this link or otherwise available:  
<https://dps.mn.gov/entity/post/Documents/requirements-law-enforcement-agency-reporting-post-misconduct-database.pdf>

## 9. Transitional Period

- 9.1. The time between adoption of this Manual and 120 days following the effective date of the settlement agreement between the City and the Minnesota Department of Human Rights shall be considered a transitional period. The transitional period shall end automatically upon expiration of that period, at which point this Section 9 shall no longer be in effect.
- 9.2. During the transitional period, allocation of intake and investigation of internal and external complaints may vary as necessary to assist timely intake and completion of investigations. Matters referred shall be completed through the unit handling the intake and/or investigation.