

ORDINANCE

By Jenkins

Amending Title 9, Chapter 172 of the Minneapolis Code of Ordinances relating to Fire and Police Protection: Police Conduct Oversight.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That the Minneapolis Code of Ordinances, Chapter 172 Police Conduct Oversight, be amended in the form of a complete revision to read as follows:

CHAPTER 172. POLICE CONDUCT OVERSIGHT

172.10. - Police conduct oversight system established. The civil rights department, police department, and city auditor each have responsibilities with respect to police conduct oversight. They shall each carry out their respective duties and functions described in this chapter for the purposes of:

- (1) Assuring that police services are delivered in a lawful and nondiscriminatory manner.
- (2) Providing civil rights department recommendations on police department policies and procedures.
- (3) Investigating complaints of misconduct by Minneapolis Police Department officers.
- (4) Providing meaningful public oversight of the police and their interactions with the community.
- (5) Administering civilian participation in a deliberative review process to make recommendations regarding the merits of officer misconduct complaints to the police department.

172.20. - Duties. (a) The civil rights department and police department shall receive and investigate or refer for investigation complaints made under this chapter that allege misconduct by an individual police officer or officers involving violations of city policy or the police department's policies and procedures.

(b) Civil rights department and police department personnel engaged in investigations of police misconduct shall have free, full, and unrestricted access, to the extent authorized by law, to all information possessed by the city necessary to perform authorized investigations of complaints, which shall include but not be limited to any data, files, records, books, and other materials from all city officials, departments, and employees.

(c) Civil rights department personnel carrying out duties under this chapter shall have full, free, and unrestricted access, to the extent authorized by law, to all police department information in order to:

- (1) Facilitate research and study projects at the request of the community commission on police oversight.
- (2) Conduct special reviews and programmatic reviews regarding activities or operations of city law enforcement services.

(d) The civil rights department shall, at minimum, track, report, and publicly publish the following information, updated at least monthly:

- (1) The existence and status of all complaints, including where permitted by law, date of incident, date complaint is submitted, date complainant was interviewed, and date subject officer was interviewed;
- (2) The aggregate total number of complaints filed;
- (3) The total number of officers who are the subject of complaints;
- (4) The aggregate total number of investigatory files forwarded to the police department for disciplinary decision; and

(5) Aggregate data on time from filing of complaint to closing of complaint by civil rights department or police department regardless of the possibility of later proceedings.

(e) All city officials, departments, and employees are required to cooperate with lawful requests from personnel engaged in the activities described in this section. The failure by any official, department, or employee to comply with lawful requests for information or access shall be deemed an act of misconduct.

172.30. - Complaint filing and resolution. (a) *Complaint filing.* Any person who has knowledge of alleged misconduct by a Minneapolis police officer may file a complaint with the City by means of any readily available method approved by the civil rights department or police department. The civil rights department and the police department shall endeavor to facilitate the complaint filing process by providing multiple and accessible avenues for the filing of complaints.

(b) Policies and procedures consistent with these ordinances and Minnesota law shall be adopted governing:

(1) Allocation of complaints for investigation between the civil rights department and police department.

(2) Reasons and methods for disposition of complaints prior to completion of a final and approved investigative report.

(3) Procedures and timelines for expedited discipline, investigation of complaints and the creation of investigative reports.

(4) Procedures and timelines for review and approval by supervisory personnel of investigative reports prior to panel submission.

(5) Procedures and timelines for panel review under Section 172.40.

(6) Prohibition of retaliation 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.

(7) Other matters as appropriate to provide thorough, efficient, and just processing and disposition of complaints of police officer misconduct.

(c) *Data Sharing.* Information gathered as part of a complaint investigation shall be shared only with appropriate staff assigned to the civil rights department, police department, city auditor's office, or city attorney's office, and with members of review panels under Section 172.40, unless otherwise authorized by law. Complaint, investigation, and discipline records anonymized sufficiently to be provided consistent with Minnesota Statutes, Section 13.43, and other applicable law, shall be shared with the members of the community commission on police oversight.

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

(a) Each review panel shall be composed of five (5) panelists. Two (2) of the panelists shall be sworn officers of the police department holding the rank of lieutenant or higher, drawn from a pool assigned by the chief of police or the chief's designee, and three (3) panelists shall be civilians assigned by the director of civil rights or the director's designee from the pool of members of the community commission on police oversight.

(b) A review panel shall convene when scheduled by the civil rights department and be provided investigative case files.

(c) A review panel shall issue its recommendation within three (3) business days of the adjournment of its meeting, and the civil rights department shall promptly forward the review panel's recommendation to the police department. The recommendation shall be in a format approved by the civil rights department.

(d) Alternatively, a panel may return the investigative report with a request for additional information, which shall be identified with particularity. A panel shall take no testimony or argument from witnesses or parties unless a request from the panel is specifically approved by the civil rights director or designee.

(e) The standard of proof necessary for a panel to recommend that an allegation has merit is preponderance of the evidence. Preponderance of the evidence means that the greater weight of the evidence supports the decision.

(f) Each civilian review panelist shall be paid a stipend of fifty dollars (\$50.00) for each day when the panelist attends one (1) or more sessions of the panel, and may be reimbursed for public transit or parking expenses incurred in the performance of panel review duties.

(g) When a panel recommends a finding of merit for allegations of misconduct, the panel must recommend an appropriate range of corrective actions. Any recommendations for discipline must be consistent with the civil service rules, unless the rules are in conflict with the applicable collective bargaining agreement, and must be consistent with applicable law.

172.50. - Disciplinary decision. (a) Upon conclusion of the panel review process, the civil rights department shall forward the investigatory file and panel recommendation to the police department for disciplinary determination.

(b) The chief of police or designee may return the investigatory file for additional investigation within fifteen (15) days of receipt of the panel recommendation. If the chief of police or designee does not return the investigatory file for additional investigation, the police department's determination shall be made within thirty (30) days of receipt of the panel recommendation, unless an employee that could be subject to discipline requiring a pre-discipline hearing is on statutorily-protected leave for any period during the thirty (30) days following receipt of the panel recommendation. In that case, the deadline may be tolled during the time that the employee is on statutorily-protected leave. Once the statutorily-protected leave ends, the police department must make a disciplinary decision within thirty (30) days of the end of the statutorily-protected leave. Any discipline must be consistent with the civil service rules, unless the rules are in conflict with the collective bargaining agreement, and must be consistent with applicable law.

(c) To the extent permitted by Minnesota Statutes, Section 13.43, and other applicable law, the police department shall make disciplinary decisions promptly available to the public upon conclusion of any applicable grievance or appeals proceedings or upon the failure of the employee to timely appeal the decision.

172.60. - Community commission on police oversight. (a) *Creation and Purpose.* There is hereby created a community commission on police oversight. The commission shall provide a forum for the public to have meaningful engagement in police oversight and shall serve as part of the deliberative review process, as set forth in Section 172.40.

(b) *Composition.* The community commission on police oversight shall be composed of fifteen (15) members, thirteen (13) of whom shall be appointed by the city council, one per ward, and two (2) of whom shall be appointed by the mayor. All commissioners shall be appointed to specific seats and terms, in conformance with the open appointments process, including residency requirement, as set forth in Title 2 of this code. In order to stagger the expiration of terms, the original appointments of commissioners shall be for terms of one (1) or two (2) years, as determined by the city clerk. Thereafter, appointments shall be for three (3) years.

(c) *Qualifications.* To be eligible for service, all members:

(1) Shall be 18 years of age or older;

(2) Must take and pass any background check necessary to obtain access to data from the U.S. Federal Bureau of Investigation's criminal justice information system, except that if a member does not take and pass such a background check they may still qualify to serve on the commission but shall not be eligible to serve on the review panels, under Section 172.40, that involve access to data for which a background check is required. There must be at all times at least ten (10) members of the commission who have passed the required background check;

(3) May not be a current employee of the city;

(4) May not be a current licensed peace officer as defined by Minnesota Statutes, Section 626.89, subdivision 1(c);

(5) Must satisfy any other qualifications required under Title 2 of this code; and

(6) The civil rights department shall implement procedures to ensure that all persons appointed:

a. Have a demonstrated commitment to equitable, non-discriminatory policing.

b. Do not have a record of taking actions which would undermine public trust in the individual's ability to conduct civilian oversight of law enforcement in an equitable and non-discriminatory manner.

(d) *Mandatory training requirements.* All members shall complete an annual training session that covers the following subjects:

(1) Police use of force.

(2) Minnesota Government Data Practices Act.

(3) Minnesota Open Meeting Law.

(4) Minnesota Public Employment Labor Relations Act.

(5) Ethics and conflicts of interest.

(6) Any other subject or material recommended by an organization with expertise in civilian oversight of law enforcement, such as the National Association for Civilian Oversight of Law Enforcement.

(7) Race, Equity, Inclusion, and Belonging Anti-Racist training as developed by the City of Minneapolis.

(8) Any other relevant training as determined by the civil rights department.

To the extent training is not conducted during regular meetings of the commission, members will be compensated fifty dollars (\$50.00) for each mandatory training session attended.

(e) *Removal.* Except as otherwise established by law or city charter, all members of the community commission on police oversight shall serve at the pleasure of the appointing authority.

(f) *Vacancies.* Any vacancy occasioned by resignation, death, or removal of a member shall be filled for the balance of the unexpired term by the appointing authority.

(g) *Stipend—Limitation.* Each member shall be paid a stipend of fifty dollars (\$50.00) for each day when the member attends one (1) or more meetings of the commission, and may be reimbursed for public transit or parking expenses incurred in the attendance at those meetings.

(h) *Organization.*

(1) The commission shall select from its members a chair and a vice-chair to serve in the absence of the designated chair. All members of the commission shall serve until their successors have been appointed. A majority of the total number of authorized seats on the commission shall constitute its quorum for the purpose of meeting and conduct of business, regardless of any vacancies.

(2) The commission shall meet at least eight (8) times per year at a regularly scheduled time and place for the purpose of conducting any business necessary to the operation of the commission. When necessary, the chair or the commission by a vote under part (h)(3) of this section may call additional meetings at dates and times provided in the notice of special meetings. All meetings of the commission (but not sessions of the review panels) shall be conducted in compliance with the requirements of the Minnesota Open Meeting Law (Minnesota Statutes, Chapter 13D). The commission shall operate according to bylaws and rules approved by the city council.

(3) The commission shall take formal action only by the affirmative vote of at least a majority of those members present and participating in a meeting, and shall be restricted to matters within its powers as described in this Section 172.60(i).

(i) *Powers.* The commission may:

(1) Request programs of research and study to be conducted with the civil rights department, including requesting complaint, investigation, and discipline records anonymized sufficiently to be provided consistent with Minnesota Statutes, Section 13.43, and other applicable law, 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. This research and study may include analysis of the programs, policies, and practices, including but not limited to discipline practice, of the police department as well as analysis by the city attorney regarding applicable laws and regulations.

(2) Collect, review, and audit summary data and compile aggregate statistics relating to programs of research and study, such as patterns related to complaints of police officer misconduct, and present results of such analysis on a periodic basis to the city council, mayor, and chief of police.

(3) Make recommendations to the city council, mayor, and/or chief of police relating to police department practices, internal controls, collective bargaining agreements, and other related matters contained within a program of research and study. The commission may refer to the city attorney for consideration and recommendation any matter related to compliance with applicable law or regulation with respect to police policies and procedures.

(4) Recommend training as a result of the research and study process.

(5) Create and implement a community outreach program and coordinate outreach activities with the commission on civil rights.

(6) Contribute to the annual performance review of the chief of police.

(7) Recommend clear, detailed, processes for complaint investigations and other necessary policies that build in safeguards against community members who are vulnerable to retaliation.

(8) Recommend policies that protect against retaliation for police officers who may fall under the category of “whistle-blowers” or are vulnerable to retaliation.

(j) The civil rights department may facilitate or assist the commission’s programs of research and study by:

(1) Organizing, conducting, and administering programs of research and study on topics requested by the commission.

(2) Establishing a follow-up process to inform the commission of corrective actions taken or the reasons for not having taken action regarding results of programs of research and study.

(3) Submitting reports to the commission, mayor, and city council indicating research and study projects completed, major findings, and corrective actions taken, as well as significant findings which have not been fully addressed.

(k) All members of the commission must serve as review panelists pursuant to Section 172.40, as assigned by the director of civil rights or the director's designee.

(l) The commission shall conduct a public hearing at least once per year addressing police department policies, rules, practices, and Special Orders. The commission shall determine which police department policies, rules, practices, or Special Orders shall be the subject(s) of the hearing.

(m) The commission shall review and provide the public with its analysis and recommendation within one hundred and twenty (120) days of proposed changes to all policies, procedures, and Special Orders of the police department which govern use of force or other subject matters addressed in federal or state court orders or federal or state court settlements which pertain to the police department.

(n) *Confidentiality.* All members of the commission shall comply with the Minnesota Government Data Practices Act, Chapter 13 of Minnesota Statutes.

172.70. - Effective date; implementation. This Chapter shall be effective one hundred twenty (120) days following publication, except that Section 172.80 is immediately repealed and staff may take steps as appropriate to facilitate recruitment, appointment, and training of members of the commission prior to the effective date.