

CIVILIAN REVIEW REDESIGN PLAN

Adopted: _____

The newly designed Civilian Review Authority expects the accountability of all Minneapolis Police Department members, of every rank and assignment, to the people comprising the communities of Minneapolis. The Civilian Review Authority investigates complaints against the police with regard for the rights and interests of both the civilians and the police involved. The Civilian Review Authority is committed to promoting trust between the citizens of Minneapolis and law enforcement to assure accountability to the public it serves. By providing citizens with a means to bring complaints against police officers before a neutral Board, the CRA anticipates that it will reduce public reluctance to file complaints, reduce procedural barriers in filing claims, and increase police accountability, thus promoting trust between the citizens of Minneapolis and the City's police officers.

The City Council has empowered the Department of Civil Rights to incorporate the Civilian Review Authority under its management. The CRA will remain independent, with firewalls erected between the offices, to maintain the integrity of the operation. The CRA will make the review process as transparent as possible under existing data practices statutes, provide services that are timely and effective, as well as accessible and visible. To that end, the CRA will incorporate community outreach as a means of keeping the public informed. Additionally, the Civilian Review Authority is authorized to review Police Department policies and training procedures, and to make recommendations for changes.

In developing the plan, we were guided by the Outcomes/Recommendations developed by the CRA Task Force as well as the original CRA Design/Plan from 1989 and the report of 1997.

OBJECTIVES:

1. Implement timely and effective civilian review of allegations of police misconduct by Minneapolis Police Officers.
2. Empower the Civilian Review Authority to review Police Department policies and training and make recommendations for changes.
3. Make the Civilian Review process as open or “transparent” as possible under controlling Minnesota State law. Provide as much information as possible about the complaint, investigation, and resolution process.
4. Create a process that permits the Complainant access to the Civilian Review Authority for voicing his/her views on a pending matter.
5. Institutionalize an outreach component of Civilian Review to maximize community awareness and involvement.

PLAN:

With the above-stated objectives in mind, the following work plan is offered as a suggested means of accomplishing the objectives:

Operating assumptions:

1. Civilian Review has been hampered by the lack of subpoena power.
2. The standard of proof should be “preponderance” of the evidence.
3. Barring amendment to the City Charter disciplinary decision-making resides in the Mayor and Police Chief.
4. Effective civilian review must be completed in a timely fashion.
5. The Complainant should have an opportunity to be heard.

6. Improving and expanding the reporting of and communication about the process and the outcomes is critical to building trust and credibility.

7. The offices of the Civilian Review should be located outside of City Hall.

8. A “fire wall” should be “erected” between Civilian Review and Civil Rights.

PLAN OVERVIEW

To accomplish the foregoing objectives, staff identified impediments in the existing Civilian Review Authority and sought to develop a redesign that would remove or reduce these impediments. For several reasons, the use of an evidentiary hearing at the Civilian Review Authority was seen as an impediment to effective Civilian Review. The use of an evidentiary hearing at the Civilian Review stage of the disciplinary process created an unnecessary barrier to timely and appropriate determination of matters before the Civilian Review Authority. The evidentiary hearing component of the existing ordinance gave Minneapolis police officers an administrative trial where failure of proof would result in dismissal of the complaint against them. Staff can identify no other set of public employees in the State of Minnesota who are entitled to a contested case hearing at this point in the disciplinary process. When coupled with the existing higher burden of proof and the lack of subpoena power, the evidentiary hearing requirement resulted in the dismissal of cases that might have otherwise moved forward to Chief of Police for potential discipline. The evidentiary hearing requirement also resulted in scheduling conflicts that slowed the Civilian Review process down.

Staff is proposing a streamlined Civilian Review process that eliminates unnecessary administrative burdens. Staff has proposed that a Civilian Review investigative staff be hired. Staff will be under the direction and control of an Ombudsman. The Ombudsman will report to the director of Civil Rights, but will be the final staff decision-maker with reference to specific

complaints or charges against police officers. The Civilian Review staff will investigate allegations and the Ombudsman will make a proposed determination based on the staff investigation. The matter will be referred to the Civilian Review Board for consideration on the record. The complainant and the police officer will be invited to address the Board prior to the Board making a decision in the matter. The Board will then forward its findings to the Chief of Police. The Chief of Police will be responsible for making disciplinary decisions in cases where the Board has recommended that the complaint be sustained. The Chief will report back to the Board both his determination in the case and the ultimate outcome.

In addition to the foregoing responsibilities, the Civilian Review Board will be responsible for reviewing Police Department training and policies and will make recommendations for change as they deem appropriate. The Civilian Review Board will be invited to comment on the Police Chief's annual performance. The Civilian Review Board will be expected to coordinate community outreach efforts with the Commission on Civil Rights and staff envisions periodic meetings between the two entities to coordinate their efforts in this regard.

In order to streamline the Civilian Review process, staff is recommending that a new Board of five members be appointed by the City Council under the Open Appointments process. Staff finds that a five-member board is sufficiently large to reflect diverse interests of the community, but small enough to efficiently schedule meetings and complete review of cases.

Plan Elements/Justification

1. Change the standard of review

REASON: Consistent with generally accepted employment practices.

2. Eliminate evidentiary hearings as a part of Civilian Review.

REASON: The current system requires proof, at a hearing, before discipline can be considered by the Chief. This extra layer of process creates the very real possibility that meritorious complains will be dismissed for failure of proof, particularly where the review authority lacks the subpoena power necessary to sustain its burden of proof. The evidentiary hearing requirement gives accused officers an additional tactical advantage. The officers tend to be represented by the same attorney at both the Civilian Review hearing and any subsequent Civil Service hearing or arbitration in the matter, while the complainant/City have different attorneys at the different stages of the proceeding. As a result, the officer gets free discovery to use in the disciplinary hearing.

3. The Civilian Review Authority may consider reliable hearsay.

REASON: In the absence of subpoena power, the Authority should be entitled to rely upon reliable hearsay. If investigators speak to a witness, that witness' testimony should be evaluated in light of all of the other evidence in the case.

4. The Civilian Review Authority should allow the Complainant to make an oral presentation.

REASON: Complainants need to have an opportunity to tell their story.

5. Create an outreach plan to maximize community awareness and involvement.

REASON: Current community view is that the Civilian Review Authority does not have a visible presence in the community.

6. Develop an intake process that is streamlined and can be utilized out in the community.

REASON: Current process is unduly burdensome to Complainants.

7. The staff should minimally consist of an Ombudsman/Manager, two investigators, a program assistant, and a clerk typist.

REASON: The proposed staffing is absolute bare minimum level required to meet the desired outcomes. If complaints of police misconduct increase, the Civilian Review would require additional investigators and support staff to maintain timeliness. The cost for additional staff should be borne by the Department responsible for the increase and thus correlated to the budget of the Minneapolis Police Department. This could provide an additional incentive for the Minneapolis Police Department to monitor and reduce allegations of police misconduct.

8. The Civilian Review should be involved in the training (eg. cultural awareness, CODEFOR) program of officers and should submit an evaluation of the Police Chief as part of his/her Annual Performance Review.

REASON: Involvement of the civilian Review in the training programs assists with the formation of police conduct standards consistent with community expectations and with the development of a police force that is appreciative of the cultures of the people of the City.

The City Charter vests in the Mayor the sole authority to appoint, remove and control Minneapolis Police Officers. By City Ordinance, §171.20, the Mayor's disciplinary authority has been delegated to the Chief of Police under the direction and discretion of the Mayor. The Civilian Review evaluation of the Chief provides a job performance indicator and accountability in the area of civil rights

9. The Civilian Review should advise the Mayor, the City Council and Departments with respect to matters relating to the Civilian Review's purposes.

REASON: The City Charter vests in the Mayor the sole authority to appoint, remove and control Minneapolis Police Officers. By City Ordinance, §171.20, the Mayor's disciplinary authority has been delegated to the Chief of Police under the direction and discretion of the Mayor. Regular communication with the Council and the Mayor is a tool for making changes when necessary and the accountability of the Minneapolis Police is anticipated when elected officials are regularly informed.

10. The Civilian Review should conduct a program of research and study for the purpose of ascertaining how the objectives of this title may best be attained and sustained. The results should be reported to the Mayor, City Council, the Board of Civilian Review, and the community.

REASON: Regular communication with the Council and the Mayor is a tool for making changes when necessary and the accountability of the Minneapolis Police is anticipated when elected officials are regularly informed.

11. The Civilian Review should have a governing board of not less than 5 persons who favor the objectives of Civilian Review and are able to fulfill the obligations of service on the Board. Members should be appointed by the City Council with approval of the Mayor.

REASON: A five-person board permits board action with a quorum of three yet provides for a diversity of membership.

12. The Civilian Review should report to the Mayor and the Public Safety and Regulatory Services Committee

REASON: This reporting structure maintains the 'firewall' between Civil Rights and Civilian Review.

IMPLEMENTATION PLAN

TASK	PROJECTED TIMELINE	DEPARTMENT RESPONSIBLE
Appoint Interim Staff	November 27, 2002	Civil Rights Department Human Resources Department
Rename CRA	January 3, 2003	Civil Rights Department
Modify MDCR Mission to incorporate CRA	January 3, 2003	Civil Rights Department
Lease Office Space	January 2003	Civil Rights Department City Coordinator, MBC
Hire staff Secure Budget Draft job descriptions Post notices Accept applications Review Applications Hold interviews Make job offers Staff begins employment	March 21, 2003 November 27, 2002 December 31, 2002 January 3, 2002 January 15, 2003 January 22, 2003 March 4, 2003 March 7, 2003 March 21, 2003	Civil Rights Department Human Resources Department
Draft an ordinance	January 6, 2003	Civil Rights Department and City Attorney's Office
Introduce subject matter Draft language Hold public hearing	November 8, 2002 November 27, 2002 December 18, 2002	City Council City Attorney's Office Joint Meeting of HHS and PSRS
Draft proposed board rules	March 21, 2003	Civil Rights Department and City Attorney's Office
Draft rules	January 31, 2003	City Attorney's Office
Present proposed rules to new Board	March 21, 2003	Civil Rights Department
Implement community intake plan Create Plan Publicize plan to community Begin Community Intake	February 28, 2003 January 15, 2003 February 28, 2003 February 28, 2003	Civil Rights Department

TASK	PROJECTED TIMELINE	DEPARTMENT RESPONSIBLE
<p>Implement community education plan</p> <p>Create community education plan</p> <p>Hold community meetings on new CRA process</p> <p>Begin reporting public data to community</p>	<p>February 28, 2003</p> <p>January 15, 2003</p> <p>February 28, 2003</p> <p>February 28, 2003</p>	<p>Civil Rights Department</p>
<p>Appoint a board</p> <p>Send a written notice to the city clerk containing all of the information required in M.C.O. §14.180 (a)</p> <p>Close application process 3 weeks required - M.C.O. § 14.180(e)</p> <p>Hold Public Hearing</p> <p>Swear in Board Members</p>	<p>March 21, 2003</p> <p>January 3, 2003</p> <p>January 31, 2003</p> <p>February 28, 2003</p> <p>March 21, 2003</p>	<p>Civil Rights Department</p> <p>City Clerk's Office</p> <p>City Council</p> <p>City Clerk's Office</p>

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