

MEMORANDUM

To: Milwaukee Fire and Police Commission

From: Michael O'Hear, Research Committee Chair

Date: August 27, 2015

Re: Citizen Complaint Process

The Research Committee has been studying the citizen complaint process since April. We are working toward the development of recommendations for the Fire and Police Commission and the Police Department. In so doing, we have benefitted tremendously from the input of Commission staff, Police Department personnel, and members of the public who have attended our monthly meetings.

Thus far, we have discussed several objectives for the complaint process, which are set forth below. We understand that a number of these objectives may present difficult implementation issues that we have not yet addressed. We seek approval of these objectives in a general way by the full Commission before we dig more deeply into the implementation issues.

To be clear, then, these objectives are presented only for *preliminary* approval, subject to modification based on our further consideration of various practical constraints. In effect, we are asking the Commission's approval of further research and discussion by the Research Committee in order to translate the objectives below into more specific recommendations. These more specific recommendations would then be presented to the Commission for approval at a later time.

In order to avoid confusion, a few additional introductory points should be emphasized:

- Nothing here is intended to be a criticism of the current efforts made by Commission or Department personnel in handling citizen complaints. Similarly, by identifying something as an "objective," we do not necessarily mean to indicate there are currently problems in that area.
- Thus far, we have focused exclusively on citizen complaints regarding policing. This focus results from the Research Committee's original purpose, which was to explore issues raised by the Commission's 2014

survey of citizen attitudes toward the police. We recognize, though, that the Fire Department has its own system for dealing with citizen complaints. It may be that some of the work we do on citizen complaints in the policing area will also have relevance to the Fire Department.

- The Fire and Police Commission and the Police Department maintain separate processes for investigating citizen complaints. Although both processes are covered in this memo, we do not mean to suggest that the two processes are equivalent and interchangeable. Members of the public who have attended our meetings have made clear that they value the independent oversight that can be provided by the civilian Fire and Police Commission.

General Objective 1: Initiating a complaint should be made as easy and convenient as possible.

Specific Objectives

- 1) There should be a prominent “complaints” link on the home pages of both the FPC and the MPD; the link should take site visitors to a complaints webpage that describes the complaints process in clear, simple language and provides copies of all forms, brochures, and policies regarding complaints. All documents should be available in Spanish and Hmong.
- 2) Citizens should be able to initiate the complaint process electronically through the submission of a web form. It should also be possible to initiate the complaint process by telephone, regular mail, or an in-person visit to either the FPC, MPD internal affairs, or an MPD district station.
- 3) Citizen complaint brochures should be placed in an easily visible location in the public-access areas of all police district stations.
- 4) The MPD should provide periodic reminders to district personnel (officers and front-line supervisors) of their responsibilities relating to citizen complaints under SOP 450.
- 5) FPC staff should continue to work with the FPC’s community partners to ensure that they are able to provide forms and other assistance to citizens who are interested in filing a complaint. Additionally, consideration should be given to inviting other appropriate agencies to become community partners.
- 6) New opportunities should be identified for disseminating information about the citizen-complaint process, such as at monthly police district meetings.

General Objective 2: There should be a transparent, uniform screening process to determine the most appropriate investigation and resolution process for each complaint.

There is a spectrum of seriousness to citizen complaints. At one extreme, there are the complaints whose allegations clearly do not add up to the violation of any rule, even assuming that the allegations are entirely truthful, or that are patently absurd or unbelievable. Any further investigation of such a complaint would unduly burden limited investigative resources. Even in such cases, however, the complainant should be treated with courtesy and given an explanation as to why no further action can be taken on the complaint. On the other end of the spectrum, there are the complaints whose allegations, if proven, would likely merit serious discipline (suspension without pay, demotion, or termination). In such cases, a thorough investigation should be initiated promptly after receipt of the complaint. In between, there are the complaints that at least arguably establish a rule violation, but one of lesser severity (e.g., lack of courtesy). In such cases, there should be flexibility to permit informal resolution or mediation as an alternative to the formal disciplinary process.

Specific Objectives

- 1) The FPC and MPD should have clear, uniform screening criteria. These criteria should be set forth on the FPC and MPD citizen complaint web pages and in their brochures.
- 2) All complaints should be logged into a central database for tracking purposes, regardless of whether the complaint is deemed inappropriate for further investigation.
- 3) In applying the criteria, due allowance should be made for the difficulties some citizens may have in communicating their complaints (educational deficits, language barriers, mental illness, etc.).
- 4) For complaints filed with the MPD, screening decisions should be made by internal affairs, not district-level personnel.
- 5) For some "mid-range" complaints, the complainant may be satisfied by a call from a supervisor and reassurance that there will be some follow-up with the officer involved in the complaint. If so, formal discipline will not normally be appropriate, but the complaint should nonetheless be retained as part of the officer's record for purposes of identifying patterns of repeated alleged misconduct and holding supervisors accountable for appropriate follow-up.
- 6) Further consideration should be given to whether mediation is a helpful alternative in some types of cases. If so, then research

should be conducted to determine whether there are fair, effective ways to induce more complainants and officers to utilize mediation.

General Objective 3: The Commission should provide a fair, expeditious hearing to all complainants who wish to have one and whose allegations, if proven, would establish a rule violation.

If a complaint's allegations would establish a rule violation, and informal resolution is inappropriate or unsatisfactory, then a thorough investigation of the allegations should be conducted by FPC and/or MPD staff, with appropriate due-process safeguards for the person who is the subject of the complaint. The MPD should have an opportunity to impose discipline through its internal processes. If a complainant is dissatisfied with the outcome of the MPD's disciplinary process, then the complainant should normally be given an opportunity to prove his or her allegations in a trial before a panel of Commissioners.

Specific Objectives

- 1) Once the MPD has made its decision regarding discipline, the complainant should be informed of that decision and of the opportunity to seek a trial before the Commission.
- 2) A system should be developed to provide representation or other assistance to citizens at their trials. This might include, for instance, the creation of a panel of volunteer lawyers.

General Objective 4: The Commission, the public, and interested stakeholder groups should be given regular updates on the complaints process.

Specific Objectives

- 1) The Commission should receive detailed annual reports on the number of complaints filed with the FPC and the MPD, the nature of the allegations, and how the complaints were resolved. The reports should be comparable in their depth to the current use-of-force annual reports. As with the use-of-force reports, the complaints reports should be presented at a public Commission meeting and made available on the Commission website. There should also be shorter quarterly updates.
- 2) The MPD should consult with the Commission regarding the data that it collects on complaints.

General Objective 5: The MPD should continue to refine its early intervention program and keep the Commission and the public informed of its progress.

Specific Objectives

- 1) The MPD should conduct a thorough review of its EIP to determine, among other things, whether the program is successful in reducing patterns of rules violations. The results of the review should be presented at a regular meeting of the FPC.
- 2) In cases in which a department member is suspended, terminated, convicted of a crime, or found civilly liable for job-related misconduct, the MPD should determine whether the member had triggered any EIP warnings and whether there are any lessons that might be drawn from the case regarding the way that the EIP is administered.
- 3) The MPD should provide an annual report on the EIP to the Commission, along with shorter quarterly updates. The annual report should include the results of any analyses undertaken pursuant to specific objective 2 above.