

GUIDING PRINCIPLES FOR POLICE OVERSIGHT REFORM (draft)

By Michael Friedman

1) Police are accountable to the residents they serve.

To demand that police be held accountable to the law does not make one “anti-police”. Rather, it stems from a democratic understanding that all government workers are employees of all the people, and that no one is above the law.

Opponents of police oversight often emphasize the special dangers of police work. Though other professions, in fact, are statistically more dangerous than that of a police officer (e.g. meatpacker), one cannot deny the intuitive understanding that police work can be very risky, and that some will even confront situations where their lives are put at risk. However, that is not a valid argument against strong police oversight as the laws that govern what police may or may not do are written by a legislature fully aware of the risks and dangers inherent in the job.

Many police officers carry the perception that their foremost obligation is to defend each other (even if defending illegal conduct in the process) rather than to serve the residents they are assigned to protect or the laws they are sworn to uphold. It is imperative that a new system of police oversight provides incentive for individual officers themselves to help weed out those who do not consider police accountable to the community and to the law.

2) When police break the law, one cannot call 911; the need for strong, effective, oversight is more critical than for other professions.

Society does not tolerate ineffective or corrupt work when public safety is at stake. It would be inconsistent and irresponsible for government to be less stringent about police, given their rights to carry and use not only hurtful weapons (mace, batons, etc.), but lethal ones as well.

Just as police cannot be called on to arrest police, city attorneys cannot be depended on to prosecute police misconduct. The close working relationship is one reason; another might be that the same attorney who prosecutes a police officer could be needed to defend him against a civil suit, an obvious conflict. There is no precedent anywhere in the country of police illegalities being routinely handled by a city or county prosecutor’s office.

Physicians are another profession in which public safety demands strict oversight. To a large degree, that oversight is provided by the insurance industry. If a physician has proven him or herself a danger to public safety, insurers won’t provide liability coverage, effectively terminating his or her career. Short of that, insurers might financially penalize those whose past practice has proven they represent a greater risk in the future. Likewise, the city needs to develop a systematic means for penalizing police officers whose behavior risks a future city liability, up to the point of firing them.

3) Tensions relating to Minneapolis police partly derive from the perception that many officers have antipathy towards city life and city dwellers, reflected by their own choices of where to live (i.e. in suburban areas with a substantially different ethnic and racial mix).

A frequent complaint is that police don’t live in the community in which they operate, which creates perceptions of racial and anti-immigrant bias that wouldn’t otherwise occur. If it is not legally feasible, nor immediately practical, to impose residency requirements on police, the best

alternative would be to require those responsible for police oversight to live in the same precincts they are watching over, accountable to all the citizens of their precinct by way of direct election. (Oversight would also be provided by city dwellers who represent other precincts as detailed later in this document.) Issues (and types of complaints) vary by precinct so community control must on some level reduce to the precinct boundaries.

If the city council instead chooses to contract with an outside entity, they will not successfully address community concerns that police oversight (if not policing itself) should be conducted by those familiar with the realities of city life. Additionally, if perceptions develop about the effectiveness of an outside entity similar to what has made the current C.R.A. unpalatable, there would not exist the same built in remedy as a system in which police review commissioners are subject to elections.

4) The issue of police acting without accountability to the communities they serve has been considered a major problem in Minneapolis for many years. *The single most important concern for the city is not to provide a venting place for those wronged by police misconduct but to create an oversight system which deters future misconduct.*

What hasn't worked:

C.R.A. -- Besides having little, if any, credibility in the community, there is little evidence the existence of this oversight body has in any way deterred or reduced police misconduct.

Internal Review and Police Management -- Inspires no more confidence in the community than the discredited C.R.A. While some individual police managers may have quietly made attempts at curbing issues of misconduct, they have not proven themselves able to make a substantial change.

Political Oversight -- The mayor and city council have not proven able to influence police practices in general. County, state and federal authorities have played no discernible role.

Civil Lawsuits -- Victims of police misconduct, when they do not merely suffer quietly, have sued the city. Aside from the burden this places on city taxpayers, the fact that the city has made occasional payouts has failed to deter future police misconduct.

What will work (a proposal):

Community Accountability but no Fiefdoms -- Two commissioners elected in every police precinct to two year terms coinciding with council. Complaints heard by a panel of five commissioners; the two elected representatives of the police precinct the officer is assigned to plus one (alternating) from each of the other three precincts.

Independence from Police Management -- Disciplinary power in the hands of the commissioners through the assigning of points, a certain sum total requiring termination. Police management and the police union to negotiate consequences of points accumulated beneath the mandatory termination limit (e.g. suspensions.)

No Impediments to Investigation -- Sufficient staffing, access to translators, *subpoena power*, and the right to assign points to officers who refuse to cooperate with an investigation or who do not testify truthfully.

Open Process – Full rights of public access to hearings, dispositions, and complaint history against individual police officers

Incentives, Not Just More Effective Punishments – 75% of city budget currently devoted to settlements or judicial verdicts for police misconduct reallocated to a civilian review fund. Commissioners authorized to provide compensation to victims when points are the result of a hearing (in exchange for complainant, in advance of any hearing, signing away their right to sue). The balance unpaid in any year to be distributed to police as a bonus, with sharply accelerating deductions based on points. For example, those with one point have their share reduced by 30%, those with two points by 70%, etc. This serves to appropriately consider liability risk in police officer compensation. (Just as mandatory termination would reflect unacceptable risk.)

Encouragement of Non-Adversarial Resolutions – Civilian Review should have the equivalent of a “restorative justice” program, in which complainant and police officer can agree to resolve the dispute through mediation or a peace circle. Financial compensation (subject to the conciliation court limit) can be a part of the resolution as long as it is approved by the commissioners. Successful mediations would not result in points assigned to the police officer.

Full Protection for Whistleblowers -- It is imperative that no internal intimidation within the police department serves to cover up abuse.

Elected Commissioners to Coordinate Citizen Input Into Police Practices and Policies – In a better position to understand and mediate police and citizen concerns than city council members, they will initiate public meetings, develop advisory boards, and take the lead in promoting needed changes.

Meet Budgetary Priorities – The implementation of this proposal would allow the city to eliminate funding for the current C.R. A. as well as substantially de-fund the Internal Affairs unit. (Complaints initiated by police management can be referred to civilian review oversight.) If necessary, it would be appropriate to use funds allocated for “neighborhood” concerns, such as NRP. Though budgeting for civilian lawsuits at 25% of current levels would be a necessary initial precaution, a successful reformation of the police force would save money over time by reducing future liability, which would in turn enable further savings in the City Attorney’s Office.