



METRO NASHVILLE  
COMMUNITY OVERSIGHT



**Draft Report**

**Policy Advisory Report:  
Metro Nashville Police Department  
Sexual Misconduct and  
Trauma-Informed Victim Services**

Draft Report Issued to the Community Oversight  
Board on October 23rd, 2023

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## Executive Summary

Police sexual misconduct has been identified as a common problem in the United States, ranging from rape to sexual harassment. After multiple legal challenges pertaining to sexual misconduct within MNPd, community uproar, and reports of inadequate responses to trauma victims, MNCO research staff initiated a comprehensive review of MNPd's policies and practices to prevent, address, and discipline sexual misconduct within the department. To begin, we analyzed the structure and policies of the Office of Professional Accountability (OPA), which serves as MNPd's internal affairs division, and found a lack of specific policy guidelines classifying sexual misconduct and undeveloped trend-tracking and auditing system. Next, we interviewed leaders at Background and Recruitment about their screening process which contained oversights in the identification and disqualification of potential perpetrators of sexual misconduct. We then spoke with command staff at the Training Division to understand both the trainings provided to recruits and responses to sexual misconduct that arise within the training academy. We next spoke with leadership in the Behavioral Health Services Division and identified an underutilization of their services. We also requested and reviewed training materials on Sexual Harassment, Domestic Violence, Community Oriented Policing and Problem Solving, Diversity and Inclusion, Fair and Impartial Policing, Victims of Crime, and Professional Ethical Conduct to assess the level of sexual misconduct prevention and trauma-informed response training for both recruits and officers.

To understand MNPd's role in responding to sexual misconduct, we interviewed victims of sexual harassment within MNPd in addition to a victim advocate, which helped provide context about the practical implementation of the policies that we had reviewed as well as the challenges in reporting sexual misconduct. Finally, we used the International Association of Chiefs of Police's (IACP's) Gender-Based Violence Agency Self-Assessment tool to compare MNPd's existing policies with the gold standard. There were many areas of improvement identified through this process.

Altogether, review of MNPd's sexual misconduct policies and procedures illuminates multiple gaps regarding the prevention, intervention, and resolution of sexual misconduct. From a lack of disqualifying factors around sexual violence to a dearth of training materials on sexual misconduct to an internal affairs structure not equipped to provide victim-centric investigations, MNPd is not adequately protecting employees from harassment and misconduct. Across the department, sweeping reforms are necessary to improve safety of both officers and the community they serve.

It is important to note that MNPd has not reviewed this draft report. Their feedback will be solicited and incorporated in the next draft of this report.



## Policy Advisory Report on Sexual Misconduct and Trauma-Informed Victim Services

*A Policy Advisory Report on the absence of Metro Nashville Police Department (MNPD) policy specific to Sexual Harassment and Misconduct, lack of training on trauma-informed services, the potential impact of such omissions, and policy resolutions. This draft has not yet been reviewed by any members of MNPD.*

### Introduction

Sexual misconduct is a prevalent issue within the field of law enforcement, both within and outside departments. Previous research has identified many different types of police sexual misconduct, ranging from sexual contact with crime victims to sexual harassment of peers<sup>1</sup>. The terms “sexual misconduct” and “police sexual misconduct” will be used interchangeably in this report, and will focus on the behavior of officers with fellow MNPD employees as well as those in the general public. The term “officer” will be used broadly to describe any level of sworn personnel with MNPD, from a patrol officer to the Chief. For the purposes of this report, police sexual misconduct will be as defined by Maher, who describes it as “any behaviour by a police officer whereby an officer takes advantage of [their] unique position in law enforcement to misuse [their] authority and power to commit a sexually violent act, or to initiate or respond to some sexually motivated cue for the purpose of personal gratification”<sup>2</sup>.

MNPD does not have a specific policy on sexual misconduct. Section 4.50 of MNPD’s Manual outlines the Department’s broad harassment and discrimination policy, which explicitly states that the department “will not tolerate, condone, or allow harassment or discrimination by employees or of employees”. While this broad policy is important, adopting a policy *specific to* sexual misconduct would adhere more closely to the recommendations of organizations such as End Violence Against Women International (EVAWI) and the International Association of Chiefs of Police (IACP). To this point, EVAWI’s model policy on sexual misconduct reads:

“This agency acknowledges the responsibility of law enforcement to proactively develop policies, procedures, training, and supervision to prevent and effectively address any sexual misconduct committed by agency personnel, whether sworn or civilian. By developing and implementing this policy, our agency is taking a leadership position to address the serious problem of law enforcement sexual misconduct, and to model best practices and accountability for the law enforcement profession.”<sup>3</sup>

The federal government has also recognized the important of specific sexual misconduct policy. In its consent decree with the Chicago Police Department (CPD), one stipulation was for the CPD to:

“[D]evelop and implement a policy that prohibits sexual misconduct by CPD members. The policy will be consistent with best practices and applicable law and will provide definitions of various types of sexual offenses, including those that are not criminal in nature.”<sup>4</sup>

<sup>1</sup> Sweeting, Fay, Peter Arabaci-Hills, and Terri Cole. “Outcomes of police sexual misconduct in the UK.” *Policing: A Journal of Policy and Practice* 15.2 (2021): 1339-1351.

<sup>2</sup> Maher, Timothy M. “Police sexual misconduct: Officers’ perceptions of its extent and causality.” *Criminal Justice Review* 28.2 (2003): 355-381.

<sup>3</sup> [https://evawintl.org/wp-content/uploads/2020-02\\_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf](https://evawintl.org/wp-content/uploads/2020-02_TB-Model-Policy-Resource-LESM-Prevention-and-Accountability.pdf)

<sup>4</sup> State of Illinois v. City of Chicago. “Consent Decree”. US District Court for the Northern District of Illinois Eastern Division. <https://chicagopoliceconsentdecree.org/wp-content/uploads/2019/02/FINAL-CONSENT-DECREE-SIGNED-BY-JUDGE-DOW.pdf>

As part of this consent decree, the CPD released a full draft<sup>5</sup> of their sexual misconduct policy in May 2023 for public review and feedback. The policy is clearly influenced by the IACP and EVAWI policies. It emphasizes CPD's zero tolerance policy for sexual misconduct, and outlines specific prohibitions and definitions to provide comprehensive and explicit departmental standards. It includes clear guidelines around prevention, early warning signs, and intervention, and describes how complaints of sexual misconduct can be received and documented. Having provided examples of what sexual misconduct is and how it should be addressed, the policy closes by addressing retaliation, the need for victim services, data tracking around sexual misconduct, and the importance of ongoing training. CPD's sexual misconduct offers a model on how sexual misconduct can be addressed through departmental policy.

The Department of Justice (DOJ) also found evidence of sexual misconduct in its review of the Louisville Police Department<sup>6</sup>, and its consent decree with the Baltimore Police Department led to the creation of a new policy on member-involved sexual misconduct<sup>7</sup>. Police sexual misconduct thus potentially represents a national problem that demands systematic review and specific policy to combat it.

Complaints of sexual misconduct within MNPD have been raised before; in 2020, Mayor John Cooper received information from Silent No Longer<sup>8</sup> regarding more than two dozen current and former MNPD employees who alleged sexual assault, harassment, or discrimination during their tenure with the Department. Mayor Cooper forwarded the allegations, which described a "trend of complaints being filed and nothing being done about them" to the District Attorney and to Metro Human Resources<sup>9</sup>. Because some women who filed allegations wished to remain anonymous in fear of retaliation, details had to be omitted from incident descriptions, and investigations stalled due to lack of information. In other cases where evidence was sufficient to prove assault, the statute of limitations had expired<sup>10</sup>. Separately, in 2023, a former MNPD officer won \$300,000 in a harassment lawsuit against the department, where she alleged that she was retaliated against for reporting her harassment<sup>11</sup>. Documents from this lawsuit, which will be reviewed later in this report, indicate a similar pattern of not addressing harassment and misconduct when reported.

Within MNPD, the Office of Professional Accountability (OPA) serves as the internal affairs structure and is charged with investigating misconduct and enforcing MNPD policy. OPA is responsible for classifying and reviewing all complaints made to the office, directing those investigations, making recommendations regarding the disposition of cases, and ensuring consistency for proposed discipline<sup>12</sup>. As such, if there are complaints of sexual misconduct or of improper treatment of an assault victim made to OPA, it is their duty to determine if and how such complaints should be investigated.

MNPD employees also have a variety of channels beyond just OPA to report harassment or assault: MNPD's Harassment and Discrimination policy indicates that employees can file such complaints with their supervisor, the Human Resources Division Commander, the OPA, the Chief of Police, or the Metro Government Equal Employment Opportunity Coordinator. OPA is thus responsible for investigating any complaint alleging harassment and/or discrimination **that is reported to OPA**. Given the volume of channels through which victims could report harassment and/or discrimination, it is likely that there are many complaints regarding sexual misconduct that are investigated outside of OPA.

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<sup>5</sup> [https://home.chicagopolice.org/draft\\_policy/prohibitions-of-sexual-misconduct/](https://home.chicagopolice.org/draft_policy/prohibitions-of-sexual-misconduct/)

<sup>6</sup> <https://www.justice.gov/opa/pr/justice-department-finds-civil-rights-violations-louisville-metro-police-department-and>

<sup>7</sup> <https://int.nyt.com/data/documenttools/baltimore-pd-consent-decree-report/a006850c5b5879c1/full.pdf>

<sup>8</sup> See next section for further information on Silent No Longer.

<sup>9</sup> "Mayor Cooper calls for investigations into sexual misconduct within MNPD". (August 11, 2020). News Channel 5. [tinyurl.com/2782rftth](https://www.tinyurl.com/2782rftth)

<sup>10</sup> Max, Samantha. "Nashville Prosecutor Won't Press Charges Against Police Captain Accused Of Groping. Here's Why." (September 17, 2021).

<sup>11</sup> Pflieger, Paige. "A Nashville police officer endured sexual harassment. Successful lawsuit shines a light inside the department". (Aug 7, 2023).

<https://wpln.org/post/a-sexual-harassment-lawsuit-from-a-former-nashville-police-officer-reveals-a-glimpse-into-the-departments-culture/>

<sup>12</sup> <https://www.nashville.gov/departments/police/chief-police/professional-standards-division>

Given the reported prevalence of this issue, MNCO decided to conduct a comprehensive review of MNPDP's prevention and response efforts related to sexual misconduct.

## Background and Broader Impact

### Community Calls for COB Intervention

On November 21<sup>st</sup>, 2022, the Nashville Community Oversight Board (COB) hosted Greta McClain, the Director of Silent No Longer Tennessee, at its monthly Board Meeting. Silent No Longer describes itself as “a grassroots organization of sexual assault victims, survivors and allies dedicated to helping those in our [communities] who have also been affected by sexual violence by offering unique opportunities for empowerment, and involving the entire community in the effort to end sexual violence.”<sup>13</sup>

At that November meeting, Director McClain described being in communication with over 70 current and former MNPDP employees who had complaints of sexual harassment, sexual assault, gender discrimination, racial discrimination, and retaliation. Director McClain called on the COB, Mayor Cooper, and members of Metro Council to institutionalize policies to protect MNPDP employees from these issues. Specifically, she sought MNPDP policies that:

- Create a Zero Tolerance policy around sexual assault and sexual harassment,
- Handle harassment or hostile workplace complaints and expeditiously communicate their resolution to the parties,
- Consult with the Sexual Assault Center, the YWCA, and other related community organizations to conduct a blind review of complaints and policy,
- Adopt the IACP and DOJ's recommendations for how to conduct sexual assault/harassment complaints within MNPDP,
- Create a blind review team consisting of an MNPDP OPA supervisor, Metro HR supervisor, sexual assault advocate, and a DV advocate to conduct a random review of completed and in-process investigations at least once per calendar year,
- Create an investigative board staffed with an OPA investigator, senior sexual assault and/or domestic violence detective or supervisor, COB investigator, and Assistant DA or DA investigator to investigate officer-involved sexual violence, DV, or retaliation, and
- Have specific policies on mandatory reporting, retaliation, and screening.

Reporting by WPLN also found longstanding issues within MNPDP: Drawing on interviews with former MNPDP employees, lawsuits, internal complaints of discrimination, and demographic/disciplinary data—WPLN found that minority employees, particularly Black women, faced higher rates of severe discipline than their white colleagues within MNPDP. The report describes a culture of harassment, abuse, and discrimination behind the Department's so-called “blue wall,” alleging that “a toxic culture of misconduct and retaliation had scared many into silence.”<sup>14</sup>

### National Police Sexual Misconduct Trends and Solutions

According to research done by Lonsway and colleagues, upwards of 94% of female employees in law enforcement in the United States have experienced some form of workplace sexual harassment, most often in the form of unwanted verbal harassment<sup>15</sup>. While women are broadly more likely to experience sexual harassment, their risk is compounded in male-dominated fields such as law enforcement.

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<sup>13</sup> See <https://silentnolongertn.org/who-we-are>

<sup>14</sup> Max, Samantha. “Behind the Blue Wall: Officers Describe a ‘Toxic’ Culture within Metro Police. September 29, 2021. <https://wpln.org/post/behind-the-blue-wall-officers-describe-a-toxic-culture-within-metro-police/>

<sup>15</sup> This figure comes from a study with the highest reported rate of harassment in the literature. Most other studies fall in the 50-75% range.



A considerable body of research demonstrates that sexual harassment is more common in professions that are nontraditional for women (i.e., where the majority of employees are male...) as compared to fields where women are traditionally employed.

– Kimberly Lonsway, Rebecca Paynich, and Jennifer Hall<sup>16</sup>

Qualitative research has also found police sexual misconduct to be a ubiquitous occurrence for female officers, although usually not the more severe varieties (rape, sexual assault, sex with a juvenile). 75% of the interviewed officers reported being sexually harassed by male officers, though only 12% had reported it to a supervisor. This type of misconduct, these officers suggested, was almost exclusively perpetrated by male officers in a male-dominated environment that left female officers feeling powerless to stop the behavior. One female officer was quoted as saying<sup>17</sup>:

“Women see [police sexual misconduct] happening and do little to stop it. Women are fearful for their jobs. They just want to fit in, so they try not to make trouble. I don’t know any woman who wants to go on that crusade.”

While it is tempting to write off sexual misconduct as the behavior of a few rogue officers or bad apples, low-level sexual misconduct such as sexual harassment is so ubiquitous<sup>15</sup> that the likelier explanation is a culture that is, at best, permissive of sexual misconduct. Previous research has described the culture of policing as embodying “stereotypic displays of masculinity” that are expected and encouraged both by the public and by police officers<sup>18</sup>. The majority of these female officers pointed to the male-dominated police culture as being permissive of sexual misconduct, and did not believe that culture would change unless strictly enforced rules and zero tolerance policies were supplemented with widespread organizational and cultural change<sup>17</sup>.

Despite the staggeringly high rate of sexual misconduct, only about 15-20% of victims formally complain, citing fear of retaliation, perceived non-seriousness of the behavior, and the belief that nothing would be done as major reasons for not reporting the misconduct. These concerns operate within the context of the “blue wall of silence,” which has been linked to lower levels of misconduct reporting among fellow officers<sup>18</sup>. Unsurprisingly, the experience of sexual misconduct often negatively affects personal and professional outcomes, such as life satisfaction, depression, anxiety, somatization, work withdrawal, work satisfaction, coworker/supervisor satisfaction, and job stress<sup>16</sup>.

To combat police sexual misconduct, several organizations, both law enforcement and more advocacy-focused, have recognized the importance of policy safeguards specifically pertaining to sexual assault and harassment. EVAWI, a nonprofit dedicated to improving criminal justice responses to sexual assault, released a model policy aimed at Law Enforcement Sexual Misconduct Prevention and Accountability. They write that “[e]fforts to address law enforcement sexual misconduct do not take place in a vacuum. Rather they reflect the growing national and international demand to improve responses to all forms of sexual harassment and assault, including in criminal justice settings.”<sup>3</sup>

Additionally, the International Association of Chiefs of Police (IACP), a nonprofit aimed at advancing policing via advocacy, research, outreach, and education, also released policies on Sexual Harassment and Sexual Misconduct<sup>19</sup>. They suggest that by “developing comprehensive policies [that clearly define

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<sup>16</sup> Lonsway, Kimberly A., Rebecca Paynich, and Jennifer N. Hall. "Sexual harassment in law enforcement: incidence, impact, and perception." *Police Quarterly* 16.2 (2013): 177-210.

<sup>17</sup> Maher, Timothy M. "Police Sexual Misconduct: Female Police Officers' Views regarding Its Nature and Extent." *Women and Criminal Justice*, vol. 20, no. 3, 2010, 263-282.

<sup>18</sup> Miller, J. Mitchell, J. Andrew Hansen, and Kristina M. Lopez. "Exploring police sexual misconduct: an examination of a decade of incidents in a metropolitan agency." *Policing: An International Journal* 45.6 (2022): 1098-1113.

<sup>19</sup> <https://www.theiacp.org/resources/policy-center-resource/sexual-harassment-and-misconduct>

and prohibit sexual harassment and sexual misconduct], law enforcement executives take a critical step in displaying the necessary leadership and holding the agency and its employees accountable.”

Finally, the Department of Justice (DOJ) has released guidance for law enforcement agencies on identifying and preventing gender bias via sexual assault and domestic violence<sup>20</sup>. One principle of that guidance is to “implement policies to prevent officer-perpetrated sexual assault and domestic violence and hold officers who commit these offenses accountable.” Law enforcement agencies are advised to “develop policies and practices aimed at preventing and addressing on-duty and off-duty misconduct (which includes sexual harassment, sexual assault and abuse, domestic violence, and related misconduct perpetrated by LEOs).”

### Community Experiences with Victim-Centered, Trauma-Informed Training

Ending gender-based violence in policing requires internal protections for employees in addition to strong external protections for civilians that feature a comprehensive, victim-centered approach. At its December 12<sup>th</sup>, 2022, board meeting, the COB discussed an incident that highlighted potential deficiencies in MNPd training with respect to a trauma-informed, victim-centered response. The complaint summary reads in part<sup>21</sup>:

*The Complainant saw a woman who reported to her that she had been the victim of a sexual assault. The woman had already called 911 when the Complainant made initial contact, but the woman was having difficulty describing her location to the person on the phone. The Complainant provided that info to the 911 operator and waited for officers to arrive.*

*The Complainant said that when she restated a question [to a responding officer] about whether the victim would receive support from an advocate at the hospital, Officer-1 cut her off and said, "We need to get a statement, and she's not being very cooperative." The Complainant reported saying, "She has been raped; she is in shock." The Complainant alleged that Officer-1 gave her an angry look and said, "She might be, or she might be on some type of intoxicant." When she responded, "Both can happen at the same time," Officer-1 responded, "I know my job, ma'am."*

*The Complainant said when she asked again about an advocate or crisis counselor, Officer-1 said angrily "We're going to follow [the victim] there, try to get better information. We will get our investigators out there and get her any type of counseling she wants." The Complainant then replied, "In my experience, she will give a better statement if there is someone there who is trained in rape crisis who is there with her to help you do your job."*

While this type of treatment is not unique to law enforcement, it is particularly troubling here because law enforcement officers are often victims' first point of contact with the criminal legal system. Survivors of sexual assault are often met with skepticism or mistreatment when reporting their experience to law enforcement<sup>22</sup>, which can cause secondary trauma as the survivor is revictimized<sup>23</sup>. The experience of secondary trauma unsurprisingly reduces future engagement with the criminal legal system<sup>24</sup>, which is the strongest predictor of arrest in sexual assault cases<sup>25</sup>. This revictimization is often due in part to poor training of law enforcement officers, who have been shown to rely on rape myths, stereotyped beliefs about sexual assault and victim behavior, and a misunderstanding of the

<sup>20</sup> See: <https://www.justice.gov/ovw/page/file/1509451/download>

<sup>21</sup> For the full report, see: [http://dataimages.nashville.gov/cob/CC2021-016\\_PRR\\_Redacted.pdf](http://dataimages.nashville.gov/cob/CC2021-016_PRR_Redacted.pdf)

<sup>22</sup> Murphy-Oikonen, Jodie, et al. "Unfounded sexual assault: Women's experiences of not being believed by the police." *Journal of Interpersonal Violence* 37.11-12 (2022): NP8916-NP8940.

<sup>23</sup> Campbell, Bradley A., David S. Lapsley, and William Wells. "An evaluation of Kentucky's sexual assault investigator training: Results from a randomized three-group experiment." *Journal of Experimental Criminology* 16.4 (2020): 625-647.

<sup>24</sup> Lorenz, Katherine, Stacy Dewald, and Rachel Venema. "'I Was Worried I Wouldn't Be Believed': Sexual Assault Victims' Perceptions of the Police in the Decision to Not Report." *Violence and Victims* 36.3 (2021): 455-476.

<sup>25</sup> Lapsley Jr, David S., Bradley A. Campbell, and Bryant T. Plumlee. "Focal concerns and police decision making in sexual assault cases: A systematic review and meta-analysis." *Trauma, Violence, & Abuse* 23.4 (2022): 1220-1234.



neurobiology of trauma<sup>23</sup>. Non-conformity with stereotypes of what a survivor “should” look like can thus impact how law enforcement evaluates and investigates their case.

Moreover, there is research showing disparate impact of police sexual violence against community members, which has been shown to disproportionately impact women of color, especially those who live in lower socioeconomic areas<sup>26</sup>. To this end, a growing body of research has demonstrated that Black women in particular are most likely to endure police sexual violence, perhaps due to conceptions of victimhood that uniquely exclude Black women<sup>27</sup>. There is also research showing that income is associated with police response to emergency calls for sexual assault, such that as income decreases, so too do levels of police reporting rape and sexual assault<sup>28</sup>. Collectively, this research serves to highlight the potential bias to see those in lower income areas and people of color as less likely to be victims.

These factors may create compounding vulnerabilities that both women of color and low-income women face; describing a case of police sexual misconduct, Purvis and Blanco write that an officer who committed sexual misconduct almost solely targeted low-income women of color who had criminal histories, which made the victims uniquely vulnerable to this type of assault. To this point, they write that the “vulnerability and power derived from the presumptive legitimacy of police conduct, the invisibility of sexual assault as a form of police violence, [and] the historical sexual inviolability of Black women”<sup>26</sup> all contributed to unique victimology of police sexual misconduct for women of color.

Experiences such as those described above have furthered calls for police officers to receive training in victim-centered, trauma-informed techniques that are attentive to the specific needs and circumstances of those who have just been assaulted. These calls have come from a range of organizations, again both from EVAWI and the IACP, and have led to the development of multiple trainings and toolkits that are making their way into the field.

It has been hypothesized that some police departments may contain a “culture of disbelief” regarding victims of sexual assault, which may be underlaid by suspicion of assault victims, a lack of sensitivity to the assault victims’ experience, and a de-centering of assault victims<sup>29</sup>. It is not difficult to understand how a culture of disbelief in victims of sexual assault might interact with a culture that permits sexual misconduct and discourages reporting of such behavior. It is precisely this nexus of behavior that is the focus of this report.

## Goals of the Current Study

The study at hand aims to provide an in-depth analysis of MNPd’s sexual misconduct policy, the mechanisms in place to hold officers accountable for their behavior, background and recruitment, training, mental health services, and the misconduct of current and former officers. Further, it will evaluate the training that officers receive regarding sexual misconduct and responses to gender-based violence more broadly. An important consideration for any training, as established in a 2015 Department of Justice report<sup>30</sup>, is that supervisory protocols and accompanying accountability systems are a key consideration in ensuring that officers are not engaging in gender biased policing. A department can have the best training program around, but if there is not appropriate buy-in and

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<sup>26</sup> Purvis, Dara E., and Melissa Blanco. “Police sexual violence: Police brutality, # MeToo, and masculinities.” *California Law Review*. 108 (2020).

<sup>27</sup> Johnson, James, et al. “Empathy for a Black woman victim of police sexual violence: the roles of crime-related stress and stereotype attributions.” *Journal of interpersonal violence* 38.5-6 (2023): 4640-4661.

<sup>28</sup> Varano, Sean P., et al. “Constructing crime: Neighborhood characteristics and police recording behavior.” *Journal of Criminal Justice* 37.6 (2009): 553-563.

<sup>29</sup> White, Deborah, and Lesley McMillan. “[de]-centering the victim: police perceptions of victims of sexual violence through a comparative lens of evidence collection and processing.” *Feminist Criminology* 16.5 (2021): 680-700.

<sup>30</sup> See: <https://www.justice.gov/opa/pr/justice-department-issues-guidance-identifying-and-preventing-gender-bias-law-enforcement>

structure at the supervisory level, it may still fall short. As such, this study will evaluate what supervisory structures currently exist, and will make recommendations to enhance and build out such structures.

## Research Questions

1. What policies does MNPD currently have in place to screen, train, and hold officers accountable for sexual misconduct that occurred prior to or during their employment with MNPD?
2. How are complaints of sexual misconduct assigned and investigated by the various oversight methods within MNPD, including but not limited to OPA and precinct investigations?
  - a. What are the outcomes through these various channels? Is there differential impact based on where a complaint is investigated?
3. Is the policy that MNPD currently has in place regarding sexual misconduct sufficient?
  - a. How do these policies compare to national best standards and other peer agencies?
4. Has MNPD's investigation and imposed discipline regarding complaints of sexual misconduct been appropriate?
5. What has the experience been for MNPD officers who have been sexually harassed or assaulted by other members of MNPD?
6. How are "minor misconduct" and "serious misconduct" defined by OPA?
  - a. How prevalent are these types of misconduct?
  - b. What is the oversight of such complaints, either within MNPD or OPA?
7. What type of victim-centered, trauma-informed training do officers currently receive? Is it sufficient?
8. What supervision protocols and accountability systems currently exist to ensure officers follow existent policy on sexual misconduct? Is this system sufficient?

## Methodology

MNCO researchers pulled data and information from multiple sources to gather a comprehensive understanding of MNPD's sexual misconduct policies and the manifestations of sexual misconduct issues within the department.

### Review of MNPD Materials and Interviews

MNCO chose initially to research OPA's current structure, approach to investigations, and trends within their investigative findings. MNCO reviewed standard operating procedures (SOPs), documentation about OPA workflow, and details within the broader MNPD manual, then interviewed the director of OPA and an OPA lieutenant to fill in additional details about the office.

MNCO has requested complete case files for all OPA complaints pertaining to sexual misconduct and is awaiting the Public Records Department to fulfil this request. Once that is complete, we will request further data on all cases of sexual misconduct from MNPD's Human Resources Division, Metro HR, and from each precinct. Specifically, we will request the case file (including the Incident Report and Form 312s<sup>31</sup> as available) for each complaint; data on the misconduct that precipitated each complaint; the case outcome status (sustained, not sustained, etc.); and the discipline imposed, if any.<sup>32</sup>

Next, MNCO requested data from OPA that they collect as outlined in their SOP. Specifically, MNCO requested data relating to the "annual statistical summary based on records of employee investigations, to be made available to the public", the "regular audit of complaints to determine the need for changes

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<sup>31</sup> MNPD Form 312 is a Complaint Report and is defined as an: Official departmental form used to document all complaints. The MNPD Form 312 requires that a control number be assigned for internal tracking purposes prior to submission through the appropriate chain of command.

<sup>32</sup> MNCO staff submitted a public records request to obtain this data. MNPD Records staff requested an extension to this request, and provided an estimated delivery date of 10/6. Further information will be added to this report as available.

in training or policy”, and the “statistical and related information to identify trends involving all complaints of excessive force and abuse of authority”. Commander Carlos Lara provided MNCO staff with some but not all of these documents, and OPA supplemented these with additional reports. Reviewing these documents informed us as to the robustness of these accountability mechanisms.

Then, training materials, standard operating procedures (SOPs), and policies were requested and reviewed from multiple additional MNPDP divisions and sections to determine both proactive and reactive measures taken by MNPDP to address issues of sexual misconduct. MNCO reviewed materials from the Background and Recruitment unit to determine what sort of screening mechanisms MNPDP employs to evaluate past sexual misconduct of applicants, from Training to understand how MNPDP officers are prepared to address issues of sexual misconduct, and from Behavioral Health Services to examine what interventions are available to officers who have been involved in incidents of sexual misconduct. Research into the training department’s approach to sexual misconduct also included a thorough review of MNPDP’s training modules related to sexual misconduct and trauma-informed response more broadly. MNPDP’s manual and its existent harassment and discrimination policy were also reviewed and evaluated. Part of this evaluation addressed what supervision protocols and accountability systems currently exist to ensure officers follow existent policy on sexual misconduct.

Next, interviews were conducted with high-ranking individuals within MNPDP’s Background and Recruitment, Training, and Behavioral Health Services sections/divisions to understand their protocols for categorizing and assigning sexual misconduct complaints, and to understand the process for determining which complaints are investigated by which entities, including but not limited to the officer’s chain of command and the OPA<sup>33</sup>. These interviews were also conducted to understand existing mechanisms in place to guard against sexual misconduct within MNPDP, including but not limited to training, policies, and SOPs. Further, the interviews aimed to assess the availability of victim-centered, trauma-informed training that currently exists within MNPDP.

Collectively, this phase of the data collection process attempted to provide MNCO with an understanding of the policy landscape that currently exists within MNPDP regarding sexual misconduct. An evaluation of policy then transpired, guided in part by documents such as the IACP’s ‘Agency Self-Assessment’ and ‘Community Assessment’ tools within their guide on ‘Proactive Approaches to Sexual Violence’<sup>34</sup>. Throughout the review of these tools, MNCO cross-referenced both the MNPDP manual and the documents provided by various divisions to compare the standards set by the IACP to current MNPDP policy and practices. A detailed description of this comparison is provided at the end of the report.

### Community and Stakeholder Input

Additionally, community feedback was solicited via a multi-pronged engagement process. MNCO researchers began by interviewing Greta McClain from Silent No Longer Tennessee to gain more clarity on policy and organizational failings that have arisen for victims with whom she works. MNCO then attempted to set up interviews with individuals referred by Silent No Longer, but many individuals were hesitant to come forward either because they feared for their safety or because retelling their story was retraumatizing. Having read about former Officer Citlaly Gomez’ recent trial on sexual harassment within MNPDP, MNCO reached out and interviewed her about her experience at the department.

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<sup>33</sup> All precinct commanders were contacted to schedule an interview. Several reached back out, but MNCO was informed they had to “pump the brakes on our meeting”. Commander Carlos Lara then attempted to coordinate schedules for MNCO staff to meet with Commanders over two blocks of time. Nearly two months after the initial request, these meetings have not been conducted. This report will be updated if additional information is provided.

<sup>34</sup> See here: <https://www.theiacp.org/sites/default/files/2020-11/7585/Printer-Friendly%20Agency%20Self-Assessment.pdf> and here: <https://www.theiacp.org/sites/default/files/2020-11/7585/Community%20Assessment.pdf>

The second method of feedback, which has not yet occurred, will be to organize a working group to review MNCO’s recommendations to MNPD and to identify any gaps in this analysis. The working group will consist of organizations such as Silent No Longer Tennessee, End Violence Against Women International, the Tennessee Coalition to End Domestic and Sexual Violence, and former Burlington Police Chief Tom Tremblay<sup>35</sup>. Simultaneously, we will host a public forum, as laid out in the COB’s Policy Advisory Report process, to garner community feedback on the report. Simultaneous to these initial meetings of the working group and the forum, perspective from MNPD will be incorporated.

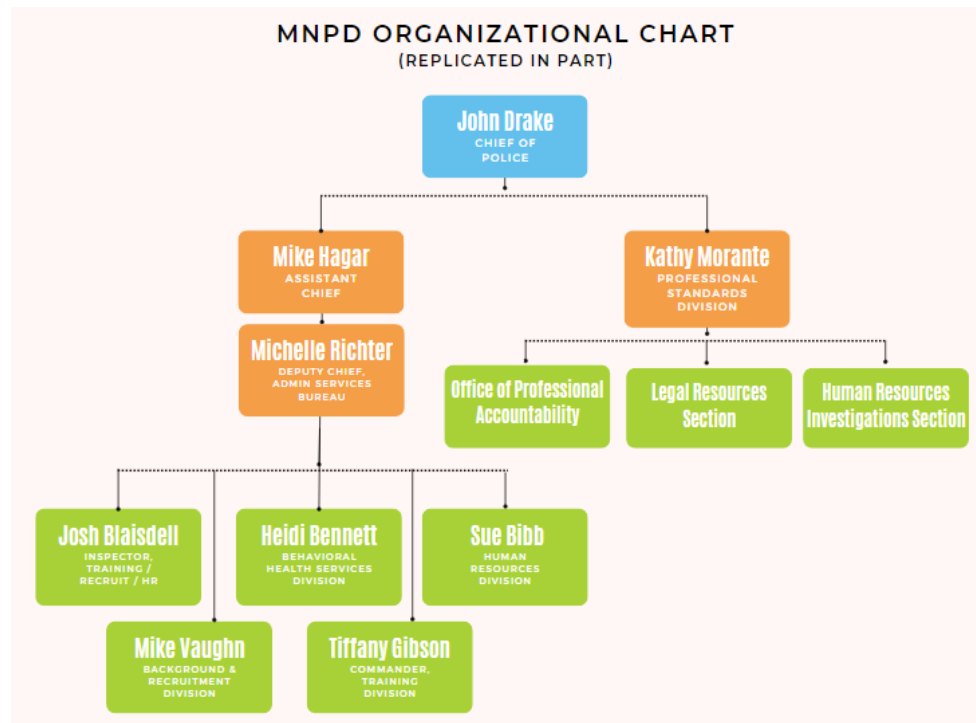
## Findings

### Review of OPA’s Structure and Disciplinary Trends

As mentioned previously, OPA is responsible for classifying and reviewing all complaints made to OPA, directing investigations, making recommendations regarding the disposition of cases, and ensuring consistency for proposed discipline. As such, if there are complaints of sexual misconduct or of improper treatment of an assault victim made to OPA, it is their charge to determine if and how such complaints should be investigated.

MNCO staff talked with Kathy Morante, the director of the Office of Professional Standards (OPS), to clarify how sexual misconduct allegations are processed within MNPD. The Office of Professional Standards is a division within MNPD that oversees the Office of Professional Accountability, Human Resource Investigations (HRI) unit, and Legal Resources sections. The OPS section houses both an OPA unit and the HRI unit, both comprised of investigators. Figure One replicates the MNPD organizational chart including these sections and the others discussed in this report.

Figure One. Current MNPD Organizational Chart<sup>36</sup>



<sup>35</sup> Chief Tremblay is currently working with the Chicago Police to implement a new sexual misconduct policy within the department.

<sup>36</sup> There is conflicting information between MNPD’s Manual and their Org Chart as to the location of the HRI Section. This visual depicts the org chart as found at: <https://www.nashville.gov/sites/default/files/2023-08/MNPD-Organizational-Chart-August-11-2023.pdf?ct=1692017503>

In addition to speaking with Director Morante, we also interviewed Lieutenant Alfredo Arevalo who oversees the HRI unit. He was able to provide more context about the investigation process and confirmed many comments made by Morante. If not cited elsewhere, the following section is drawing on information from these two interviews.

#### Determination of Investigative Authority

As mentioned above, there are many avenues through which sexual misconduct can be reported within MNP. Some officers report complaints to their direct supervisor, who, depending on the severity of the case, either will investigate “in-house” at the precinct level or will send the complaint to the OPA section for further review. When OPA receives a complaint either directly or from a precinct, the lieutenant on duty reviews it, determines whether it is a complaint that the OPA section should review, and, if so, directs it to the appropriate investigators—either OPA or HRI. Currently, there is no official screening process that is used and no standards to assist the lieutenant in deciding where cases are sent. Complaints are addressed on a case-by-case basis, and there is a great degree of discretion around not only who investigates a case but also whether it is investigated altogether.

Per the OPA SOP, the OPA section is charged with investigating “complaints or allegations of serious misconduct against employees of the department”, however, nowhere is “serious misconduct” defined within the document. The OPA SOP also provides some insight into the handling of less serious complaints that they receive directly: “allegations regarding minor misconduct such as rudeness will be documented, and forwarded to a ranking officer in the employee’s chain of command for investigation”. Again, there is no clear boundary drawn to delineate a “serious” complaint from a “minor” complaint. Additionally, it is unclear from the SOP whether, if the same minor complaint was reported at a precinct level, it would be forwarded to OPA for documentation within department-wide disciplinary records. Serious complaints reported at the precinct level also may not be reported to OPA if precinct staff believe these complaints are within their capability to resolve. The lack of a clear classification system creates ambiguity within the complaint investigation process.

Later, the same SOP mentions that “the Chief of Police shall be informed about major complaints as soon as possible”; there is no indication whether a serious complaint and major complaint are synonymous or whether this is a separate distinction. Lieutenant Arevalo emphasized that all complaints of sexual misconduct are to be sent directly to the Chief of Police, however, it is unclear whether complaints of sexual misconduct that are raised at the precinct level are escalated up the chain of command at all, let alone to the chief. His claim that all sexual misconduct complaints are to be forwarded to the HRI unit contradicts the statements from other MNP officials. In a deposition, Deputy Chief Dwayne Greene stated that MNP’s goal is to “deal with [alleged misconduct] at the lowest level possible”<sup>37</sup>. It is unclear whether this implies that investigations are conducted at the lowest level possible (i.e., at the precinct level rather than at OPA), whether this implies that MNP tries to give officers the lowest level of discipline possible, or both. In another deposition from the same case, then-Captain David Leavitt confirms that MNP staff “are taught to recommend the least amount of discipline necessary to correct the behavior.”

Lt. Arevalo also expressed some skepticism about whether precinct-level supervisory staff were consistently notifying the Chief and suggested that some may be trying to address these issues “in-house” rather than involving OPA. He re-iterated later in the interview this fear that the OPA section was not being appropriately notified and expressed frustration with the current de facto standards for reporting. Without an explicit written policy that complaints are to be forwarded to the OPA section, it is no surprise that precinct supervisory staff are not adhering to this expectation.

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<sup>37</sup> Citlaly Gomez v. Metropolitan Government of Nashville and Davidson County (September 8, 2022). Chancery Court for Davidson County, TN.

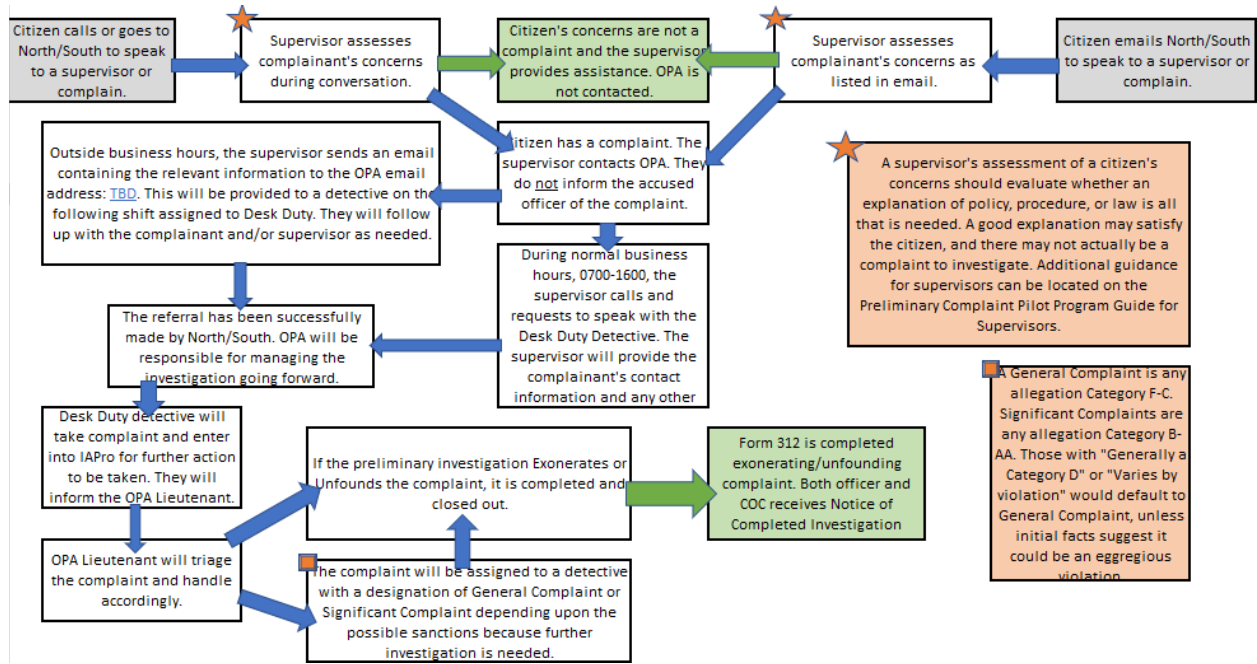
For complaints investigated above the precinct level, until recently, complaints of sexual harassment were generally investigated either by direct supervisors within the precinct or by the Human Resources Division which is located outside of OPS. Within the past few years, MNPD created the Human Resources Investigations section to investigate claims that had previously been investigated by Metro Human Resources, such as complaints of harassment, discrimination, and hostile work environment. Now, the Human Resources Division focuses only on tasks like payroll, benefits, etc. Given this change, complaints of sexual harassment should be investigated either at the precinct level or by the HRI unit. The OPA unit also conducts investigations but not of HR related issues. Instead, they are charged with conducting investigations regarding officer misconduct and violations of MNPD policy. An important point of confusion is that sexual harassment, too, is within the scope of MNPD policy and officer conduct. If MNPD is to expand their policies around sexual misconduct and gender-based violence, clarity around who investigates violations of these policies will be necessary.

**Recommendation 1**

MNPD should modify OPA’s Standard Operating Procedures to include a clear outline of which cases are investigated by the OPA and HRI units. This should include a description of how sexual misconduct cases are routed.

To rectify some of the discrepancies in reporting, increase standardization across the department, and ensure more thorough investigations, OPA recently established a pilot program where all complaints made at a precinct level are forwarded to and investigated by OPA. Figure Two provides an overview of the pre-investigative routing process for a complaint in the pilot program (see below). At the time of writing, the program is currently in place at the North and South precincts and with the Entertainment District Unit (EDU) within Central precinct. Throughout our interview process, various current and former MNPD staff members described some of the benefits and drawbacks of the program. The program is designed to standardize discipline across the department and to reduce bias in the issuance of disciplinary measures—both great improvements to MNPD’s current process.

*Figure Two. OPA Pilot Program Flow Chart*





Director Morante provided MNCO staff with a flowchart that detailed the complaint process under the pilot program. Within this program, any complaints that supervisors receive are to be forwarded to the OPA section. There, the lieutenant on duty reviews the complaint and determines whether to classify it as “significant” or “general”. Unlike the “serious” and “minor” complaint types described above, “significant” and “general” complaints are defined within the document. A “significant” complaint is considered a Category B-AA offense, while a “general” complaint is a Category F-C offense. MNCO is assuming that the significant and general complaint categories will be replacing the serious and minor complaint categories, but, since the pilot program is not fully implemented, having both definitions introduces potential confusion regarding their usage.

Providing a clear standard for complaint classification within the pilot program already demonstrates a great improvement within the investigations process. Currently, however, sexual misconduct is not explicitly listed anywhere in the categorical personal behavior offenses within the MNPD manual. Reviewing the types of offenses listed, MNCO speculates that sexual harassment and misconduct violations would likely fall under “Adherence to Policy & Rules of the Metropolitan Government” which is “generally classified as Category D”. With MNPD investigating sexual misconduct at various levels throughout the department and with no consistent disciplinary standards, it seems that MNPD is not delivering comprehensive, standardized investigations of sexual misconduct.

#### Recommendation 2

MNPD should clearly define in the MNPD Manual the offense category for sexual harassment, sexual assault, intimidation, and retaliation.

Lt. Arevalo stated that the pilot seemed like a promising solution to multiple problems that he has noticed within MNPD’s current complaint structure. Since any complaint filed at a precinct level is supposed to be forwarded immediately to the OPA section, Lt. Arevalo believes that this program will eliminate underreporting issues. Additionally, he hoped that the program will provide great improvements in the standardization of discipline. He described that, currently, precinct supervisors have a wide latitude to determine whether officers are disciplined at all, and, if they are, what standards to apply. Some infractions could be classified in different ways; for example, showing up late to a shift could fall under multiple categories of offenses or could be swept under the rug by a supervisor. If these types of infractions are universally reported to and investigated by the OPA section, Lt. Arevalo emphasized that the same standards will be applied across the board. He also noted that this will hopefully start to erode the culture that “my supervisor will cover for me”. He mentioned that, currently, some complaints that are settled in one precinct may not follow an officer to another precinct. This comment is somewhat alarming as it implies that some precinct level investigations may not be documented in any way, including in an officer’s personnel file.

While the pilot program has the potential to rectify many issues with the current complaint process, there are still some areas that could be improved. First, within the new pilot program, precinct supervisors retain the duty of receiving complaints submitted to them and vetting whether they qualify as a complaint worthy of investigation. OPA staff mentioned that many precinct personnel seemed hesitant about the program as they are more fearful of OPA than supervisor-initiated disciplinary measures. If supervisors are also hesitant about the program and do not want their officers to be disciplined by OPA, they may choose not to report some complaints altogether. Similarly, they may continue to discipline officers on the precinct level with no tracking or oversight in how this is administered. As a result, some complaints may still be lost at the precinct level, which highlights a potential flaw in the pilot program as this is one of the major problems it is designed to remedy.

Additionally, bias can still be introduced into the process. If OPA investigators, many of whom are former precinct staff, are familiar with either party implicated in complainants, they could still issue findings that are biased in one direction or another. When asked about behavioral changes and disciplinary enforcement, both Director Morante and Lt. Arevalo stated that they expected to observe better behavior across the force and more individuals willing to admit guilt when they have committed a policy violation as a result of the pilot program. An admission of guilt implies accepting mediation or a pre-investigative settlement, which will be discussed later in the report.

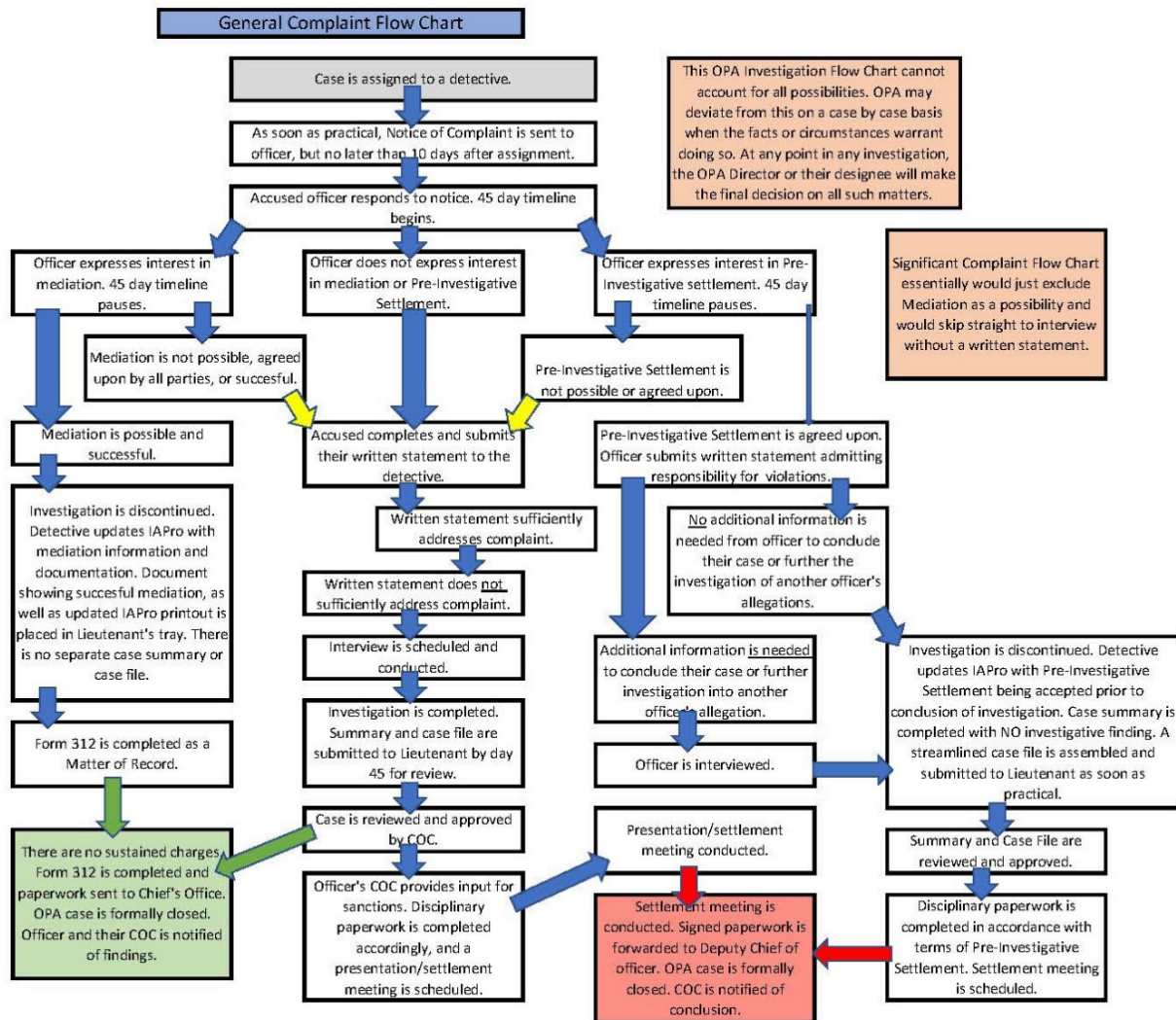
Though the program is in an early phase, OPA is reportedly seeing more officers admitting to offenses like discourtesy as they want to avoid going to OPA for a more comprehensive investigation. It is unclear whether the pattern of avoiding OPA investigations is due to concern that OPA would find a pattern of misconduct beyond just the behavior in question, or whether it is indicative of a larger institutional reticence around OPA. This may reflect a larger concern in which officers do not trust that OPA has their best interests in mind.

This OPA pilot program has the potential to fundamentally shift how complaints are perceived and processed by MNP. MNCO is looking forward to monitoring the progress of this program and to determine what changes, if any, this program causes in disciplinary action within the department.

### Investigative Process

Importantly, OPA can reject any cases it determines are not worthy of investigation. There is no policy-driven standard by which the OPA section assesses cases to determine whether there is in fact a credible complaint, which allows for an entirely subjective determination by an individual officer. As a result, some cases may be thrown out based on biases or other insubstantial beliefs held by OPA staff. There seems to be little attention to complaints that do not meet the threshold for investigation, and no OPA-initiated investigations or audits of the units within which offending officers work. These types of complaints are not tracked, and it is therefore nearly impossible to determine whether there are patterns in the types of complaints rejected by OPA. Once OPA decides to open an investigation into a complaint, the process unfolds through the OPA complaint workflow as demonstrated in Figure Three:

Figure Three. OPA Investigative Complaint Workflow (provided by OPA)



While this provides a great overview of the procedures involved in investigating a complaint, this lacks information about how sensitive internal issues like sexual misconduct should be handled and how all parties in the process should be addressed. Lt. Arevalo confirmed that, as revealed in other interviews, there is generally a lack of procedure on conducting a sexual misconduct investigation specifically. For example, while an investigation is ongoing, there is no set procedure to dictate whether the alleged offender should be moved if they work in close proximity to the complainant.

The OPA SOP states that once OPA has launched an investigation into a claim of serious misconduct, they make every effort to finish the investigation even if witnesses and victims no longer wish to be a part of the process and withdraw the complaint. Director Morante emphasized the importance of completing investigations to ensure that officers are held accountable for wrongdoing, and further reasoning is provided in the OPA SOP:

“[I]nvestigations will proceed to ascertain the truthfulness of the allegations, to protect citizens from continuing misconduct, to protect the employee(s) from later allegations of misconduct concerning the withdrawn complaint, and to protect the department from an accusation of a failure to investigate”.

While committing to quality, thorough investigations is important, this fails to account for victims' safety concerns. Sometimes victims decide to withdraw from an investigation due to concerns about their confidentiality being breached and, thus, their safety being compromised. When victims participate throughout the entirety of their investigation, OPA aims to notify them if, and when, they believe their confidentiality will be compromised as some cases necessarily will reveal the identity of the complainant due to the nature of the allegation. In cases where OPA continues to investigate without the input of the victim, it is unclear whether they make this same effort to notify the victim. In these cases, OPA could be breaching victim confidentiality and putting the victim's safety at risk without the victim's knowledge.

Additionally, there are no procedures to dictate how or whether services are offered to the complainant such as counseling through the Behavioral Health Services division or safety planning through the Family Safety Center. There seems to be a lack of resources, generally, for both MNPB employees and community members who have been victims of sexual misconduct by an MNPB officer.

### Recommendation 3

MNPB should modify their current complaint investigation system to include the following provisions to promote victim safety:

- For all cases in which there is an identifiable victim of police misconduct, a non-MNPB affiliated victim advocate should be present to accompany and inform the victim throughout the investigative process
- Offer victims counseling either through Behavioral Health Services (MNPB personnel) or the Family Intervention Division (non-MNPB personnel)
- Make every attempt to notify all victims—regardless of whether they are still participating in the investigative process—when/if their confidentiality is going to be breached

Many complaints forwarded to OPA result in a full investigation of the allegations made against the officer, but, in some cases, if the officer does not contest the allegations and admits guilt, their case can be sent to a pre-investigation settlement. In these instances, officers usually receive a lesser disciplinary sentence and do not have to participate in a drawn-out investigation. According to Lt. Arevalo, all pre-investigative settlements must be approved by the Chief of Police, and, if the case is suspected to be larger than is presented and warrants more investigation, a pre-investigation settlement can be denied. Pre-investigation settlements are only briefly covered in any MNPB policy documents provided to MNCO, so this statement could not be confirmed or denied. Additionally, MNCO could not determine how pre-investigative settlements are tracked either in larger trend analysis or in the files of individual officers. The unknown and inconsistent nature of pre-investigative settlements, as well as the lack of documentation, leaves many unanswered questions about how issues of misconduct are handled within the department.

### Investigative Resolution Outcomes

While there seems to be a lack of procedure about many important victim-facing elements of an investigation, mediation has more guidelines around its usage. As seen in Figure 3, when the officer under investigation responds to the initial complaint letter, they can express interest in mediation with the complainant. OPA's SOPs say mediation is available for "minor complaints," but as discussed, does not define what is "minor." However, according to the flowchart, mediation cannot be used for a "significant complaint" which is defined as any Category B-AA offenses. From this, MNCO has reasoned that mediation can be applied to any Category F-C offenses, which, assuming most sexual misconduct would fall under a Category D offense, implies that sexual misconduct would be eligible for mediation. In addition to the offense type requirement, mediation proceeds with the following conditions:

- “Participation in the mediation process is strictly voluntary for both the officer and the complainant.
- Both the citizen and the employee must agree to participate, and for a successful mediation to occur, both parties must participate in good faith, as determined by the mediator.
- The employee will be directed to attend any scheduled meeting in plain clothes, with their firearm covered.
- Mediation will be considered to be successful when both parties participate in good faith, as reported to the department from the mediator. When this occurs, the complaint will be documented in accordance with departmental policy with a finding of matter of record, and no further investigation will occur.
- In the event mediation is considered to be unsuccessful based on the employee not acting in good faith as reported to the department by the mediator, a full investigation will occur.”

Mediation is an incredibly important channel for any police department to have, as it is one of the few outlets for those who perceive that the police have wronged them to have their voice heard. Mediation is also a dense topic with multiple theoretical considerations underpinning its success. While too broad a topic for this report, a brief overview of restorative justice and procedural justice is warranted, as these concepts underpin successful mediation.

Restorative justice understands harm as a violation of relationships and focuses on centering those impacted by the harm while emphasizing mutual accountability.<sup>38</sup> Restorative justice practices are often mediational in structure and aim to provide an environment first for the person who caused the harm to take responsibility and then for both participants to co-develop a plan to repair that harm<sup>39</sup>. Further, restorative justice has a strong focus on community restoration and reparation, as does the traditional approach to victim-offender mediation<sup>40</sup>. The very concept of mediating police complaints was born from a desire to achieve alternative dispute resolution and was part of a broader trend towards integrating restorative justice tenets into policing<sup>41</sup>. Mediation and restorative justice thus have clear overlap and an obvious nexus for integration.

There is also a relationship between procedural justice and mediation. Research on procedural justice in a mediation setting shows that people value a) the opportunity to present their story, b) neutrality of process, c) trust from authority figures, and d) being treated with respect and dignity<sup>42</sup>. Many police departments highlight the importance of procedural justice within the context of the police-civilian interaction (such as a traffic stop), but this is not often extended to the complaint process. This is a missed opportunity – research shows that adherence to procedural justice principles by an internal affairs unit is linked with confidence in the complaint process, allowing complainants to engage in a process that emphasizes an opportunity to be heard, impartiality, justice, and trust<sup>41</sup>.

Recognizing this, the city of Chicago just completed a pilot program focused on mediating certain police misconduct complaints filed with the city’s oversight board. This pilot program, brought on by the city’s

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<sup>38</sup> Todic, Jelena, M. Candace Christensen, and Sheila M. McMahon. "Restorative and transformative justice responses to sexual violence." *Social Science Protocols* 4 (2021): 1-9.

<sup>39</sup> Pavlacic, Jeffrey M. et al. "Advocating for the Use of Restorative Justice Practices: Examining the Overlap between Restorative Justice and Behavior Analysis." *Behavior Analysis in Practice* 15.4 (2021): 1237-1246.

<sup>40</sup> Walker, Samuel. "Mediating citizen complaints against police officers: A guide for police and community leaders". US Department of Justice, Office of Community Oriented Policing Services, 2002.

<sup>41</sup> Schaible, Lonnie M., et al. "Denver's citizen/police complaint mediation program: Officer and complainant satisfaction." *Criminal Justice Policy Review* 24.5 (2013): 626-650.

<sup>42</sup> Douglas, Kathy, and Jennifer Hurley. "The potential of procedural justice in mediation: A study into mediators understandings." *Bond Law Review* 29.1 (2017): 69-86.



consent decree, was “conducted with specific outcomes in mind, including efficiency, transparency, procedural justice, and restorative justice.”<sup>43</sup>

Mediation of civilian complaints against the police has been shown to be beneficial for both the officer and civilians – done properly and with careful attention to restorative justice principles, mediation provides a bias-free, informal, low-cost environment to strengthen the relationship between police and citizens<sup>41,41</sup>. While mediation is a beneficial and victim-centric policy on paper, commentary from Lt. Arevalo and Director Morante cast some doubt on the implementation of the program within MNP. First, Lt. Arevalo noted that mediation is not considered for cases in which there is a clear policy violation, which contradicts the documentation provided by OPA. This also runs counter to one of the fundamental principles of victim-sensitive mediation: successful mediation requires an acknowledgement of who was harmed, how the harm can be addressed, and who is held accountable<sup>44</sup>.

Lt. Arevalo further emphasized that there is no need for an officer to “justify to a citizen why he did something wrong”. Lt. Arevalo explained that mediation is typically used for resolving incidents in which there was a misunderstanding between the officer and the complainant. For example, if an officer approached an elderly woman with his hand on his gun at a traffic stop because her car matched the description of a stolen vehicle, mediation could be used for the officer to explain his actions to the victim. This approach is not how mediation is outlined in any MNP documents made available to MNCO, nor is it a restoratively or procedurally just approach to mediation. One of the core theories of procedural justice is that the act of being able to tell one’s story in full while being treated with respect by a third party can be more important to people than the ultimate outcome of their complaint<sup>42</sup>. It also violates a restorative approach to mediation, which emphasizes accountability of both parties<sup>38</sup>. Mediation should not be about an officer (or citizen) justifying their actions, but rather about an aggrieved citizen being given the opportunity to air their concerns and for both parties to be fully heard.

Currently, the Memorandum of Understanding (MOU) between MNP and Nashville Conflict Resolution Center (NCRC) states that “cases of harassment that are more a matter of perception than substance are appropriate for referral” to Nashville Conflict Resolution Center for mediation. While policy within the OPA SOP is much clearer and more specific, this statement from the MOU is important to highlight as it amplifies the contradictions between the description of the mediation process from OPA’s internal documents and the commentary provided by the two staff members of OPA. Additionally, this commentary reinforces MNCO’s findings that MNP’s current mediation process lacks a necessary commitment to values of procedural and restorative justice.

Other police departments across the country are beginning to take heed of a procedurally and restoratively just approach to mediation. Research out of Los Angeles and New York City found that an external mediation system for police complaints provided complainants with a transparent, impartial, and restorative way to resolve complaints<sup>45</sup>. Among those who participated in the Denver Police complaint process that emphasized restorative justice, there were more positive views of the process, higher levels of belief that officers would change their behavior, and had higher satisfaction overall compared to those who filed more traditional complaints.<sup>41</sup> The effect of mediation is much broader than satisfaction, however. Longstanding research on mediation shows that, when done effectively, it

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<sup>43</sup> For the city’s press release on the pilot, see: <https://tinyurl.com/586fhzva>

<sup>44</sup> For a guide to victim-sensitive mediation from the DOJ’s Office of Victims of Crime, see: [https://www.ncjrs.gov/ovc\\_archives/reports/96517-gdlines\\_victims-sens/ncj176346.pdf](https://www.ncjrs.gov/ovc_archives/reports/96517-gdlines_victims-sens/ncj176346.pdf)

<sup>45</sup> Riley, Mary, Timothy Prenzler, and Susan Douglas. "Mediation of complaints against police: a review of programs in Los Angeles and New York City." *Contemporary Justice Review* 24.3 (2021): 312-335.



not only meets the goals of complainants and has high levels of satisfaction for both parties, but it can potentially be effective in building trust between the community and police<sup>46</sup>.

#### Recommendation 4

OPA should work with NCRC to modify their MOU to incorporate elements of restorative justice and procedural justice into their mediation process.

In MNCO's interview with Director Morante, she mentioned that mediation would not be considered for cases of biased-based policing. It is not clear why OPA doesn't mediate complaints of biased policing. Other cities, such as Los Angeles, Washington DC, and Ferguson, MO, have implemented such programs. Los Angeles in particular has shown great success with a mediation program tailored towards complaints of biased policing. In a pilot program that ran through 2016, 84% of participants reported being satisfied with the process, 91% felt it was fair, 87% would recommend the mediation process to others, and the department saved over \$1,000 per complaint<sup>47</sup>. MNPD has the opportunity to join a growing trend and to offer mediation that is specifically tailored to complaints of biased policing.

#### Recommendation 5

MNPD should begin offering mediation for all types of complaints including biased-based policing. Victims should dictate whether the complaint should be mediated and should be offered first right of refusal on mediation when the complaint is filed.

Additionally, PERF research states that "Working group participants suggested that investigations of serious claims of harassment and discrimination need to be handled outside the agency where the complaint was made. Even with the best of intentions, human beings cannot be totally objective toward people they know and work with. Moving these investigations to an outside entity not only can provide a better and fairer process for the complaining party. It also sends the message that the agency's culture does not tolerate discrimination and harassment and its leadership takes these complaints seriously."

Such a function would normally be conducted by an oversight board with investigative authority. However, beginning October 27<sup>th</sup>, Nashville's COB will lose that function. Accordingly, we recommend:

#### Recommendation 6

Mayor Freddie O'Connell and Metro Council should create an external investigatory entity to investigate complaints of sexual misconduct and bias-based policing. MNPD should reassign investigatory staff currently within OPS and send all complaints to this external body. MNPD should affirm and enforce the findings and related disciplinary recommendations of that body.

If a complaint is not resolved through mediation or a pre-investigation settlement, a full investigation proceeds, and one of the following investigative findings is issued:

- Exonerated— an incident did occur, but the action was consistent with established policy, rules, or procedure;
- Sustained— the allegation is true. The action was inconsistent with established policy, procedure, or rules;
- Policy/training failure—although the action was consistent with departmental policy or training, the need to review, revise or develop departmental policy, procedure or training was identified,
- Not sustained— there is not sufficient evidence to sustain or refute the allegation;
- Unfounded— the allegation was proven false;

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<sup>46</sup> Walker, Samuel, and Carol Archbold. "Mediating citizen complaints against the police: An exploratory study." J. Disp. Resol. (2000): 231.

<sup>47</sup> See below for an evaluation of the pilot program: [http://www.lapdpolicecom.lacity.org/021417/BPC\\_17-0046.pdf](http://www.lapdpolicecom.lacity.org/021417/BPC_17-0046.pdf)

- **Matter of record**—cases may be administratively closed and maintained as a matter of record that the complaint was made, when the investigation cannot conclusively disprove complaint allegations or establish that the alleged events occurred. This designation may also be used when investigations are closed or suspended due to the remoteness of subject events, unavailability of necessary witnesses or unavailability of the subject. (e.g., military leave, incapacitating illness). The summary will report all investigative efforts and acknowledge that the investigation may be revisited at a later date, if additional information becomes available.

When a complaint is sustained, officers are disciplined for their actions based on the disciplinary grid shown in Figure Four:

Figure Four. Disciplinary/Corrective Action Grid Chart

<b>Offense Category</b>	<b>Retention Period of Offense</b>	<b>1st Offense</b>	<b>2nd Offense</b>	<b>3rd Offense</b>
<b>AA</b>		<b>Dismissal</b>		
<b>Category A</b>	<b>60 Months</b>	<b>20 Day Suspension to Dismissal and /or Demotion</b>	<b>30 Working Day Suspension to Dismissal and/or Demotion</b>	<b>Demotion or Dismissal</b>
<b>Category B</b>	<b>60 Months</b>	<b>8-13 Day Suspension</b>	<b>14-19 Day Suspension and/or Demotion</b>	<b>20 Day Suspension and/or Demotion or Dismissal</b>
<b>Category C</b>	<b>48 Months</b>	<b>2-6 Day Suspension</b>	<b>5-10 Day Suspension</b>	<b>9-15 Day Suspension</b>
<b>Category D</b>	<b>36 Months</b>	<b>1-4 Day Suspension</b>	<b>3-7 Day Suspension</b>	<b>5-10 Day Suspension</b>
<b>Category E</b>	<b>24 Months</b>	<b>Written Reprimand to 2 Day Suspension</b>	<b>1 to 3 Day Suspension</b>	<b>2-5 Day Suspension</b>
<b>Category F</b>	<b>24 Months</b>	<b>Formal Counseling or Oral Reprimand</b>	<b>Written Reprimand to 2 Day Suspension</b>	<b>1-3 Day Suspension</b>

If sexual misconduct is in fact a failure in “Adherence to Policy & Rules of the Metropolitan Government”, a Category D offense, this would result in a 1-4 day suspension on the officer’s first offense. From MNP’s publicly available policy and procedures, sexual misconduct would have to have multiple aggregating factors or would have to rise to the level of a misdemeanor for demotion or dismissal to be considered.

#### Review of OPA’s Trend Analyses

Once a complaint is resolved and an officer has completed their disciplinary sentence, there is no follow-up by OPA to determine whether the officer has corrected their behavior, per Director Morante. OPA does not complete any audits, follow-ups with supervisors, or check-ins with the officer to determine whether they are continuing to follow policy. When asked generally about their auditing process, Director Morante said that this tool was currently underutilized throughout MNP. Morante cited one example of a recent undercover operation set up to catch an officer who had been stealing money

found at crime scenes, but there were no other examples of audits provided. Overall, OPA seems to focus specifically on investigating complaints that come into the office rather than initiating their own investigations and following up on trends observed throughout the force.

#### Recommendation 7

OPA should conduct follow-up on all sustained complaints of misconduct to ensure an officer is not continuing to exhibit a similar pattern of misconduct. Such follow-up should include contacting the employee's supervisor, reviewing random BWC footage, and other practices as appropriate.

The lack of OPA initiated investigations into ongoing problems throughout MNPd may be due to their undeveloped trend identification system. Having reviewed recent trends in OPA complaints and results of these investigations, MNCO staff asked Director Morante to explain some recent trends in the data. For instance, over the past few years, OPA has seen an increase in overall complaints while complaints of biased-based policing have remained the same. Accompanying this was a drop in citizen-initiated complaints and an increase in supervisor complaints. The director noted that the decrease in citizen-initiated complaints could be due to many individuals reporting police misconduct to the COB instead of to the police department. Additionally, she noted that, among internal affairs professionals, the number of internal complaints filed is often the standard of success. While Director Morante anecdotally noted that this is a commonly discussed standard in internal affairs community, MNCO staff could not find research to confirm or deny this. Besides these cursory overviews of the types of complaints received and the investigative outcomes of these cases, OPA does little to uncover broader trends and patterns of behavior within MNPd.

#### Recommendation 8

OPA should conduct systematic trend analyses no less than annually. The results of these analyses should be shared with the Mayor's Office, Metro Council, the Community Review Board, and the public. Such reports should include a year-by-year analysis of which complaints were investigated by the office, rates of sustained misconduct by complaint type, and actions the office will take on those complaints.

Within their SOP, OPA has the stated objective to "determine if the conduct was the result of an organizational failure". As noted both by Director Morante and Lt. Arevalo, there are insufficient and ineffective tracking methods to determine the point of failure within a complaint, whether that be individual-, unit-, or precinct-specific. There is no "defined method" to determine whether incidents are isolated or repetitive, and beyond obvious examples such as an officer not receiving the proper equipment, there seem to be few cases that are attributed to issues above the level of an individual officer. When asked how OPA determines whether complaints filed against officers are an isolated incident or indicative of a larger trend within the department, Director Morante reported that they simply look at the investigations being conducted to see if there are repeated incidents. Since everyone in the office knows, generally, knows what cases others are working on, they identify patterns simply by noticing if they happen to be working on the same type of case at the same time.

This system is wholly inadequate. Given that investigations are also completely confidential and kept internal to OPA, it is nearly impossible for external entities to ascertain what trends exist and how frequently certain complaints, such as sexual misconduct, are reported. Additionally, since complaints received and investigated at the precinct level are not reported to OPA, these violations are not included in the already insufficient MNPd-wide trend tracking system. Trends of sexual harassment and misconduct as perpetrated by one officer or by an entire unit could be completely unknown to the OPA section given the current complaint tracking structure. Additionally, even if one officer is reported to

OPA for sexual harassment, for example, the lack of sufficient follow-up could allow this officer and others in his unit to continue this type of behavior without consequence after the investigation has closed.

#### Recommendation 9

Every time an OPA investigation determines that officer conduct was the result of an organizational failure, OPA should notify the Community Review Board. This is to include the identification of broad cultural issues like sexual misconduct that could not be corrected by disciplining individual officers.

One concerning example and trend mentioned by the lieutenant and with little large-scale recourse is the purported “joke culture” within MNPd. The lieutenant described the difficulty in assigning reprimands and provided an example: sometimes, a complainant is a female officer who is treated as “one of the guys”. They all joke with the female officer, but, one day, one of the guys “takes it too far” and asks the female officer to send a nude picture to him or sends a nude of himself to her. The officer who is asking for and/or sending pictures is reprimanded as that behavior is a clear violation of policy, but how does OPA address the other members of the unit that were joking with the female officer and creating a culture in which behavior such as sending a nude picture seems acceptable? This joke-culture and OPA’s failure to address it seems to be an important component of MNPd’s sexual misconduct issues. When finishing this story about joke-culture, the lieutenant mentioned that OPA would look into moving officers to other units, creating a roll call training to address sexual misconduct, or identifying a specific policy change that could help prevent this issue in the future. While all these solutions attempt to redirect the negative behavior of officers, they do not address the widespread cultural issues that permit this behavior. Further, unless institutionalized, they reflect only half-solutions to the problem.

When asked about preventative measures currently implemented by the OPA section, neither Director Morante nor Lt. Arevalo offered many promising solutions. Lt. Arevalo mentioned that the department has recently been releasing videos and hanging up signs with promotional slogans to encourage officers to report. Director Morante recently met with a group of female officers and encouraged them to come forward with any problems, even if time had passed, and informed them that they would not be penalized for not reporting immediately<sup>48</sup>. While information and encouragements can help bring awareness to the prevalence of these issues, videos and slogans are certainly not enough to dismantle the current cultural issues at MNPd. A report<sup>49</sup> from the Equal Opportunity Commission found that much of the effort put in over the last 30 years to curb sexual harassment was focused on avoiding legal liability rather than addressing the core issues that permit the behavior. MNPd should strive to avoid this trap and focus instead on deconstructing the root issues that permit sexual misconduct.

#### MNCO Trend Analysis of OPA Complaints

Through 6/30/23, OPA provided the COB with data on all complaints to its office<sup>50</sup>. The data extends back to 2005, but 2007 is the first full year of data that the COB has access to. While far from the most frequent complaint received, OPA receives and investigates complaints relating to harassment and

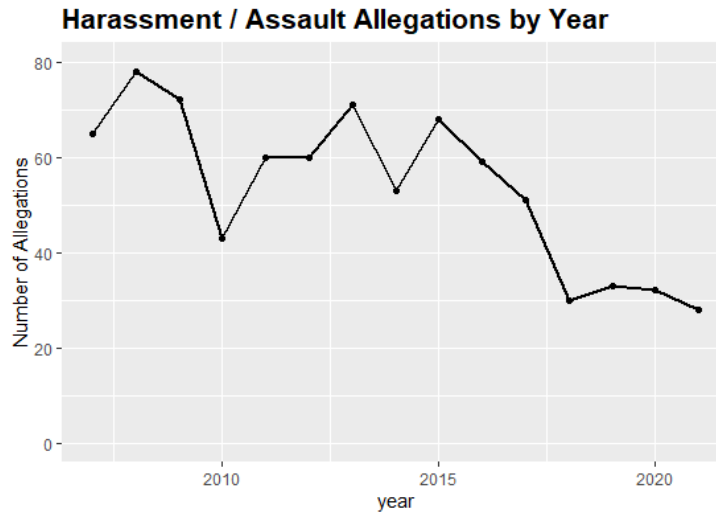
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<sup>48</sup> Morante is highlighting the fact that every officer is required to immediately report misconduct of any kind, and that these officers would not be penalized for not doing so.

<sup>49</sup> Feldblum, Chai R., and Victoria A. Lipnic. "Select task force on the study of harassment in the workplace." Washington: US Equal Employment Opportunity Commission (2016).

<sup>50</sup> While OPA continued to provide new files through this date, the most recent ‘Incident Date’ in the database is from October 2021. It is unclear why new data was not populated after this point. MNPd was contacted on 9/1/23 but has yet to respond. This report will be updated if they provide further context.

assault regularly via its Human Resources Investigations Unit. When allegations are grouped by type of misconduct, the number of complaints that are related to assault or misconduct can be seen below<sup>51</sup>:



These raw numbers are important to analyze in isolation, though they are very likely an undercount of all sexual misconduct within the Department. Interestingly, the vast majority (87.7%) of harassment or assault allegations that OPA receives are citizen-initiated; this contrasts with a much smaller proportion of overall OPA complaints (42.9%) that are citizen-initiated. While this could indicate that harassment and assaults are occurring to or being reported more frequently by citizens, another explanation is that internal complaints of harassment or assault are being resolved elsewhere within MNPd.

This is a distinct possibility, given that MNPd employees have a variety of channels to report harassment or assault, as previously discussed. Given the volume of channels through which victims could report harassment and/or discrimination, it is likely that there are many complaints regarding sexual misconduct to which the COB does not have access. Further, as outlined previously, neither “minor misconduct” or “serious misconduct” are defined within the SOP, nor is either defined in MNPd’s manual. This makes it challenging, if not impossible, to understand which cases are being referred to an officer’s supervisor and why, including whether sexual misconduct is considered serious, minor, or criminal. Such an opaque process introduces many potential avenues for biased or otherwise improper behavior to be introduced, and could provide an avenue for the diminishment of such complaints.

Charlotte Guerra of the Seattle University School of Law succinctly defines the problem, writing<sup>52</sup> “If [a] complaint is only classified under ‘requiring supervisor action’<sup>53</sup>, the complaint might effectively disappear into a black hole wherein a supervisor merely has a conversation with the officer against whom the complaint was raised.” Further, Professor Mary Fan of the University of Washington School of Law writes that<sup>54</sup> “[W]hat constitutes a minor policy violation can be very much in the eye of the beholder. For example, being quick to resort to rude treatment, cussing at community members, and

<sup>51</sup> OPA does not group allegations prior to sending data to the COB; these groupings are internally generated by COB staff. Allegations categorized as ‘Harassment/Assault’ include discrimination, harassment, domestic violence, abusive conduct, intimidation, racial profiling, biased policing, and assault. It is possible, perhaps likely, that these estimates are an under-count, as allegations were not coded when they contained only vague allegations such as ‘Adherence to Law’. While sexual assault could certainly be coded as Adherence to Law, which is defined as the prohibition of “engaging in conduct, on or off-duty, which constitutes an offense under the laws or ordinances of the US or any subdivision,” other offenses could fall under this umbrella term. To maintain specificity of the category, codes such as this were excluded.

<sup>52</sup> Guerra, Charlotte. “Living under the boot: Militarization and peaceful protest.” *Seattle Journal for Social Justice* 14.2 (2016): 231-288.

<sup>53</sup> ‘Supervisor action’ is the equivalent of a chain of command investigation in MNPd.

<sup>54</sup> Fan, Mary D. “Body Cameras, Big Data, and Police Accountability.” *Law & Social Inquiry*, vol. 43, no. 4, 2018, pp. 1236–1256., doi:10.1111/lsi.12354.

otherwise escalating rather than de-escalating encounters to raise the risk of use of force can be a serious problem from a harm prevention perspective, even if it is perceived as a minor transgression by the officer in a specific incident, viewed in isolation.”

As previously established, survivors of sexual assault often have their experience misunderstood by law enforcement; this in combination with Departmental discretion to direct complaint investigation causes COB staff great concern. Complaints such as those outlined in CC2021-016 might not receive the rigorous investigation and oversight that they deserve.

### Review of Additional MNPB Divisions Involved in Prevention and Response

MNPB’s Standard Operating Procedures (SOPs) provide information, in great detail, about how each department functions. After reviewing SOPs from the various divisions, MNCO researchers developed a list of questions to pose to division leaders to clarify elements of the SOP pertaining to sexual misconduct and responses to these incidents. Meetings with various departmental leaders across MNPB provided important insight into the department’s attempts to curtail sexual misconduct.

### Background and Recruitment

The Background and Recruitment Division provided MNCO with their SOP as well as a copy of the Sworn Personal History Statement that all recruits are required to complete prior to hiring. MNCO researchers identified many areas of the SOP that lacked clarity around process and procedure that will be explored throughout this section. Throughout the SOP, there was consistently vague language around standards for hiring. Below are a few of these phrases, followed by brief commentary on the issues with each:

- *“[E]xaminations are designed to measure the knowledge, skills, abilities, and other characteristics shown to be required for successful performance of the work”*

It is unclear what the knowledge, skills, abilities, and other characteristics are. Spelling these out would provide greater clarity for all involved in the application and hiring process.

- *“The Metropolitan Nashville Police Department has identified certain traits, characteristics, or patterns of behavior that would be contradictory to the standards of this department... applicant files may be removed from the hiring process without a panel review due to ineligibility”*

Again, it is unclear what the knowledge, skills, abilities, and other characteristics are. Further, the phrase “may be removed” provides too much ambiguity without clarifying further the conditions that would / would not lead to one’s removal from the hiring process.

- *“The investigator may include any personal observations, positive and/or negative, made of the applicant during the hiring process and include it in the report”*
- *“List any concerns or issues that are relevant to the character (especially integrity) of the applicant but are not specific disqualifying factors”, etc.*

Personal observations such as these offer the opportunity for biases to enter the hiring process. Consistency in hiring standards demands all applicants be judged on the same set of criteria. If one applicant is going to be judged on personal observations and integrity concerns, so too should the next.

Policy sections like these introduce a great deal of discretion to the hiring process. While these guidelines are not directly related to sexual misconduct, patterns like these reveal potential gaps in the overall process that could allow individuals with a propensity towards sexual violence to slip through the cracks. These discrepancies among others provided material for MNCO conversations with high-ranking Background and Recruitment personnel.

Beginning with an officer’s first point of contact with the department, MNCO research staff interviewed Lieutenant Michael Vaughn over the Background and Recruitment Division, accompanied by the MNPB



liaison to the COB, Commander Carlos Lara, to understand the extent to which MNPB screened for officer tendencies to participate in sexual misconduct. Currently, MNPB's "Sworn Personal History Statement" serves as one of the primary methods by which MNPB screens their potential new hires. This survey includes nearly 100 questions about the applicant's arrest, personal, and employment history. Some of these questions ask directly about propensity towards sexual violence:

- "Have you ever been involved in or been accused of any type of forced sexual act?"
- "Have you ever forced anyone to kiss, touch, or to have any other type of sexual contact with you?"
- "Has your spouse, ex-spouse, children, relatives, girl/boyfriend or parents ever accused you of battery in a report or discussion with anyone else?"

When asked about how these questions were used in the screening process, MNPB staff emphasized that answering "yes" to these questions alone was not sufficient ground for disqualification of an applicant. Multiple times throughout the interview, they repeated that each issue on the screening tool would be evaluated on a case-by-case basis. Even in cases where an applicant had law enforcement involvement in a domestic issue, if the charges were dismissed or expunged, MNPB reiterated that this person would be asked to provide context for the incident in the interview, and, from there, a determination would be made.

Within the Sworn Personal History Statement, MNPB has recruits provide contact information for "all current or former domestic partners, girlfriends, or boyfriends within the last 10 years". Background and Recruitment investigators reach out to these individuals and conduct interviews to learn more about applicants and corroborate the information provided in their Personal History Statement. MNPB stated that they were unable to release the questions that are asked in that interview process, so it is unknown whether they ask these partners directly about domestic and sexual violence.

Another important element included in MNPB's recruitment process is a pre-employment psychological assessment that attempts to assess a candidate's "stability and suitability as a police officer"<sup>55</sup>. Background and Recruitment works with the Professional Wellness Section to schedule these evaluations after a conditional offer has been made. When asked the types of assessments covered, Lt. Vaughn reported that questions were designed to uncover information about officers that may not have been revealed in the background check including, for example, past trauma that may impact an individual's ability to perform as an officer. He went on to mention that people often try to "hide their crazy" but that the psychological assessment should bring these types of issues to light.

Background and Recruitment also uses a Computer Voice Stress Analysis (CVSA) and asks a series of questions that could not be released to MNCO. MNPB confirmed, however, that there were no explicit questions about sexual misconduct on this assessment. They do ask a question to assess the truthfulness of the Sworn Personnel History Statement, but that does not ensure that a history of inappropriate or violent behavior will be uncovered or addressed.

While MNPB performs a comprehensive investigation of individual's backgrounds, there are very few issues that rise to the level of disqualification. MNPB lists seventeen disqualifying factors within the Background and Recruitment Standard Operating Procedure, most of which are related to failures or deficiencies that occur during hiring and onboarding. Besides provisions about applicants with arrest records, only one pertains to the applicant's conduct:

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<sup>55</sup> MNCO staff contacted the psychologists who conduct these screenings to get a better understanding of their process on 8/25. They responded to initial emails, but have yet to answer the questions posed. This report will be updated upon their response.

“Applicants demonstrating overt and obvious racist, sexist, discriminatory conduct and/or behavior on social media towards any protected class of people. Refer to sections 4.50 and 4.70 of the department manual for examples of types of conduct, behaviors, and speech.”

Besides this sweeping provision about discriminatory behavior, there are no explicit disqualifying factors related to history of or propensity towards gender-based violence. If a recruit has a history of sexual assault, domestic violence without a conviction, stalking, etc., MNPDP has total discretion about whether to hire this person into the force. The lack of clear standards around disqualifying applicants who have a history of sexual violence casts some doubts on MNPDP’s ability to assess accurately and adequately whether an applicant is at risk for being involved in sexual misconduct as an officer. Multiple police departments<sup>56</sup> across the United States include sustained findings of sexual harassment as immediate disqualifiers for potential applicants to the department. We thus encourage:

#### Recommendation 10

MNPDP should consider sustained findings of sexual misconduct to be an immediate disqualifier on an application to the Department.

For lateral transfer officers, MNPDP reported that they make every effort to obtain a copy of the applicant’s personnel file. Some agencies have strict policies around releasing these files—files must be viewed in person, sent by certified mail, picked up by the officer or a representative of MNPDP, etc.—and, in some of these cases, MNPDP does not expend resources to obtain these records. Beyond the questions listed above and the review of a personnel file, if possible, there seem to be no additional attempts to assess whether these officers were engaged in misconduct at their previous place of employment. MNCO staff appreciate MNPDP’s concern for resource expenditure in that they simply cannot travel to every applicant’s previous place of employment, particularly if those locations are remote or far from Nashville. However, we do not believe distance and difficulty in obtaining files should prevent careful review of each applicant’s previous law enforcement history. Thus, we recommend:

#### Recommendation 11

In instances in which MNPDP is unable to obtain the previous disciplinary history for an applicant who has previously worked in law enforcement, MNPDP shall make every reasonable effort to contact and interview the applicant’s supervisor at their previous agency. This interview shall be conducted to obtain information on the applicant’s previous disciplinary history and the supervisor’s perception as to whether the applicant is fit to continue working in law enforcement.

Lastly, when asked about strategies for sexual misconduct prevention, MNPDP did not have many Background and Recruitment specific ideas. There is some research<sup>57</sup> that shows that large class sizes and more annual graduates may lead to higher rates of police sexual misconduct. This may be because officer recruitment strategies or training may be of lower quality when a department is intensely focused on hiring. When asked about smaller recruit classes, Background and Recruitment staff stated that this was not a viable strategy given their personnel shortages while offering the reassurance that any complaints of sexual misconduct within the academy are sent directly to OPA for investigation.

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<sup>56</sup> For several examples, see below: <https://static.spokanecity.org/documents/jobs/civilservice/PoliceHiringStandards20200520.pdf>  
<https://www.cityofpaloalto.org/files/assets/public/police-department/recruitment/papd-disqualification-policy-6-25-2020.pdf>  
<https://www.joinhonorlulupd.org/disqualifiers.html>

<sup>57</sup> Reingle Gonzalez, Jennifer M., Stephen A. Bishopp, and Katelyn K. Jetelina. "Rethinking police training policies: large class sizes increase risk of police sexual misconduct." *Journal of Public Health* 38.3 (2016): 614-620.

## Training Division

MNCO researchers next met with Commander Tiffany Gibson over the Training Division to hear more about how sexual misconduct is discussed from the beginning of an officer's tenure with MNPd and to clarify elements of the Training Division SOP and training curriculum. Commander Lara was also present at this meeting.

When asked for all training materials related to sexual misconduct and trauma-informed victim services, MNPd provided the COB three slideshow presentations about domestic violence and pointed us towards a Sexual Harassment online training provided to all Metro employees by Metro HR. Throughout the interview with the Training Division, they mentioned robust sexual misconduct prevention efforts and repeated multiple times that they provided extensive training about sexual harassment. However, a review of MNPd's 2022 training curriculum 89<sup>58</sup> reveals that only one hour was dedicated to sexual harassment training. A more in-depth audit of these training materials can be found later in the Training Review section of this report.

MNPd compiles their training materials from a variety of sources. Primarily, MNPd must adhere to training standards set by the state's Peace Officer Standards and Trainings (POST) Commission. MNPd supplements the required 480 hours of POST Commission training with an additional 583.5 hours of training across all subjects in the academy. A training committee of supervisory staff meets monthly to identify issues arising within the ranks and to develop training to rectify these issues. While they try to document trends emerging within officer behavior, they admitted that their trend analysis system could use some improvement and that they currently perform very few training-related audits. In addition to observing officer trends, Training Division staff also look to add new techniques and policies from organizations like the International Association of Chiefs of Police (IACP).

MNPd's Training Academy is a "Phased Training Model"<sup>59</sup>. In the Training Division's SOP, they outline that the reason for using this model is that "new police recruits entering the field are being perceived as rigid and awkward in their communication with both police personnel and community members." The phased model aims to improve those issues. The phased model is split into Phases I, II, and III.

Phase I aims to "instill the values of attention to detail, sense of urgency, and team cohesiveness through team building" via exercises that aim to get trainees to focus on how their actions affect MNPd as a whole. Trainees have limited interaction with the rest of MNPd staff (and are required to fill out information forms when they do interact with other MNPd staff), and complete Performance Accountability Tasking (PAT) during this phase. The class will move on to Phase II only when they demonstrate "attention to detail, sense of urgency, and cohesiveness as a group."

During Phase II, the class will "demonstrate that they are beginning to manage their own affairs, getting to locations as needed with required material while being on time". Trainees still have limited interaction with other MNPd staff, and adherence to rules is monitored via individual PATs and writing assignments. The class will move on to Phase III when they "demonstrate attention to detail, sense of urgency, and cohesiveness as a group and have demonstrated that the class can consistently manage their own affairs while continuing to meet expectations." The class will remain in Phase II until rules infractions are "mostly gone".

In Phase III, trainees relax the formality of their interactions, interact more with their future peers within the department, and are given increased autonomy. In their final three weeks, rules infractions are no

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<sup>58</sup> Available here: <https://www.nashville.gov/sites/default/files/2022-06/2022-Police-Training-Basic-Curriculum.pdf?ct=1654803045>

<sup>59</sup> The following information is based on the Training Division's SOP, which was provided to MNCO staff.

longer met with PATs or written assignments, but with sit-down conversations and the completion of Form 311s or 313As as they would at the precinct. Lateral classes come to the Academy in Phase III.

While MNPD staff highlighted in both the Background and Recruitment and Training Division interviews that all allegations of sexual misconduct would immediately be reported to OPA, the current tracking system for general behavior violations in the academy casts some doubt on this assertion. Within the Training Division SOP, three types of behavioral reprimands are noted: Performance Accountability Tasking (PAT), writing assignments, and formal corrective action. PATs are a type of reprimand that MNPD uses in the training academy to address “minor issues”. Provided examples of minor issues include rolling eyes, arriving late to class, and failing a test, while PATs can include running hills, push-ups, and air squats. Both writing assignments and formal corrective actions through departmental forms are documented in a trainee’s file, whereas PATs are not reliably tracked.

#### Recommendation 12

Every time there is discipline or a reprimand, regardless of the seriousness of the conduct, MNPD should document it and report it to the officer’s supervisor. Reprimands such as PATs should be standardized in a fashion similar to MNPD’s Disciplinary/Corrective Action Grid, with clearly outlined consequences for specific actions.

When asked to elaborate on the types of disciplinary measures used in the academy, MNPD staff categorized their evaluations as “formal” and “informal”. They went on to classify an informal evaluation as a “correction” of a “minor issue” usually done through a verbal reprimand (including PATs), whereas a formal evaluation is “on paper”. Writing assignments were noted as a more serious infraction and likely fall into this “formal” category. When asked how training officers determine what type of reprimand to use, MNPD staff assured that trainers chose punishments that they believe will get their point across best and noted that there were no official guidelines about how specific infractions should be addressed. They emphasized that there is a lot of discretion within the training academy and that the line between a writing assignment or PAT and a formal complaint to OPA depends on the situation and is determined on a case-by-case basis. This is especially concerning given the discrepancies in tracking between informal and formal reprimands. A different section of the Training Division SOP provides guidelines for a different infraction and provides an entirely new disciplinary measure:

“Trainees who are disruptive in class, refuse to participate or demonstrate inappropriate behavior, shall be sent to the Trainee Operations office by the instructor as soon as practical.”

When asked what constituted inappropriate behavior, MNPD insisted that this was a rare occurrence, but inappropriate behavior might include a range of behaviors such as making inappropriate comments. They went on to note that, from this intervention, trainees could be assigned a writing assignment or a PAT.

PATs and this style of discipline embodies the traditional model of police academies, which are often paramilitary in structure<sup>60</sup>. In the paramilitary model, recruits are held to a highly regimented standard and training staff approximate drill sergeants who utilize physical punishment. While there is some bonding associated with this style of training, it leads to a high dropout rate and fails to attend to individual differences among recruits related to learning style, personality, and interpersonal skills. Moreover, there is critique that paramilitary training does not appropriately prepare officers to enter the field and engage in community-oriented policing, as they teach recruits to engage in autocratic,

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<sup>60</sup> The US Bureau of Justice found that just under half of the 664 state and local law enforcement academies they reviewed used a quasi-military approach; another third used a mix of quasi-military and lower stress strategies. For further information: Reaves, B.A. “State and Local Law Enforcement Training Academies”. 2013 (NCJ249784); U.S. Department of Justice: Washington, DC, USA.

prescriptive, and discipline-focused behaviors<sup>61</sup>. Research has shown that when departments move away from this paramilitary structure,

“[R]ecruits are confronted through scenarios associated with various learning domains with a requirement to be more flexible, to think on their feet, and to demonstrate conscientious work behavior. Punishment is replaced with logical consequences. For example, being late or forgetting a piece of equipment is not met with extra pushups or having to write a report. Instead, these behaviors will result in the same outcomes a recruit will experience when such behavior happens on the job (i.e., progressive discipline). In other words, the traditional academy model does not teach recruits the importance of dependability and flexibility; it just reinforces compliance”.<sup>61</sup>

To avoid this, MNPD should aim to strive to provide a training academy that enhances a recruit’s cognitive, emotional, social, and moral skillsets<sup>62</sup>. Cognitive training should strive to develop a recruit’s decision-making, judgment, impulse control, attention to safety, dependability, adaptability, and flexibility. Recruits should not be micromanaged, decisions should be explained and analyzed, punishment should be met with logical consequences, and scenario-based training should prepare recruits to think on their feet. Emotional training should strive to enhance a recruit’s emotional regulation, stress tolerance, and emotional intelligence. The academy should institute a wellness culture and should focus on performance enhancement techniques including anxiety management as well as physical and emotional fitness. Social training should focus on developing social competence, teamwork, assertiveness, and persuasiveness. The academy should provide mental health resources, training for social and familial distress, direct engagement with spouses/family, and peer interventions. Finally, moral training should include information on integrity, ethics, and spirituality (religious or not), and should include moral dilemmas and debriefings. These suggestions are grounded in the Peace Officer Psychological Screening Manual, a document created by California’s POST Commission<sup>63</sup>. Accordingly,

#### Recommendation 13

MNPD should modify its training academy to emphasize the development of cognitive, emotional, social, and moral skillsets.

Still another intervention that MNPD uses when trainees demonstrate behavioral issues is a counseling referral. When asked what this type of counseling entails, MNPD staff noted that this was not formal mental health counseling provided by the Wellness Division but, instead, is informal counseling with a trainer or supervisor and aims to help the trainee develop an improvement plan and correct behavioral issues. They provided an example of a trainee failing a test and talking with a trainer about how to improve their skills in that area. The training director also emphasized the importance of the mentor program as a means by which trainees can discuss and solve problems they are facing in the academy.

Based on how MNPD presented these disciplinary interventions, it seems feasible that two trainees could commit the same infraction but be disciplined differently and therefore have different disciplinary records. For example, a trainee could arrive late to class and could be given multiple different disciplinary measures: do the long-gate run before every class session, write an essay on the importance of timeliness in the profession of policing, discuss with a supervisor why being late is unacceptable, receive a written reprimand for a rules infraction, or speak with a peer mentor about how to improve behavioral issues. This highlights a pattern of inconsistent disciplinary measures, which could result in officers having significantly different disciplinary records despite committing similar offenses.

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<sup>61</sup> Blumberg, Daniel M., et al. "New directions in police academy training: A call to action." *International Journal of Environmental Research and Public Health* 16.24 (2019): 4941-55.

<sup>62</sup> See Blumberg et al. for further information

<sup>63</sup> [https://post.ca.gov/portals/0/post\\_docs/publications/psychological-screening-manual/Peace\\_Officer\\_Psychological\\_Screening\\_Manual.pdf](https://post.ca.gov/portals/0/post_docs/publications/psychological-screening-manual/Peace_Officer_Psychological_Screening_Manual.pdf)

Research on other law enforcement agencies found that issues of sexual misconduct were at times handled without going to internal affairs, a concern that was particularly pronounced in training academies. In many of these instances, sexual misconduct was often simply handled by a supervisor, or by shuffling officers to another unit<sup>64</sup>. When asked whether this occurs in MNPd, staff reconfirmed previous statements and outlined that everything related to sexual misconduct is pushed straight to the OPA section for review. Given the breadth of previously described disciplinary interventions available for recruits, however, it is unclear under which circumstances cases are referred to OPA versus the many other options for correcting behavior within the academy. This calls into question the frequency with which cases are being referred to OPA. MNCO strongly believes that certain behaviors such as sexual misconduct demand clear, codified standards that dictate when a case is sent to OPA versus handled in the training academy.

#### Recommendation 14

While recruits are in training, MNPd should record all interpersonal issues that arise between fellow recruits and staff, regardless of the punishment type applied. If the issue pertains to sexual misconduct, it should immediately be referred to OPA to appropriately route the complaint.

Lastly, MNCO staff also asked the Training Division to elaborate on trainee retention efforts throughout the academy. MNPd discussed their mentorship program which pairs trainees with an officer to whom they can direct questions. How these mentors were matched was not mentioned in the interview. MNPd also conducts exit interviews with trainees who decide to leave the academy, but they emphasized how people are often reticent to reveal their true reasons for leaving. They currently do not audit or track trends within reasons for leaving the department.

#### Behavioral Health Services Division

Next, MNCO researchers spoke with the director of the Behavioral Health Services (BHS) division, Heidi Bennett, to determine what role their office played in mitigating sexual misconduct and helping officers process issues of sexual misconduct.

Behavioral Health Services plays a role in the screening of MNPd recruits by coordinating and interpreting the third-party psychological evaluations given to all recruits. Because they do not directly conduct these evaluations or review recruits' specific responses, there is little information that BHS could provide about the content of the interviews besides that they contain several tests and metrics by which they assess characteristics like integrity, bias, emotional regulation and stress tolerance, excitability, judgment and decision making, substance abuse, and general propensity of risk. BHS will occasionally be asked to follow up on a case in which new information has been revealed following the completion of the pre-employment psychiatric evaluation, but, for most recruits their involvement in the process is minimal.<sup>55</sup>

BHS indirectly interacts with trainees through their peer mentor. A newer initiative within MNPd, the peer mentor program matches each recruit with a trained peer mentor who can advise them on anything from where to live to how to navigate being an officer. Currently, the peer mentors receive a short training and are matched somewhat at random with officers. These mentors are not mandatory reporters and are protected from having to disclose information revealed to them through the 2021 Confidentiality Opportunities for Peer Support (COPS) Counseling Act. Though this law has yet to be tested in the courts, according to Bennett, the COPS Act should protect any peer mentor who is told information about a crime, including sexual assault, from having to report it.

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<sup>64</sup> Sweeting, Fay, and Terri Cole. "Sexual misconduct in police recruits as identified by police trainers." *The Police Journal* 96.2 (2023): 245-266.



MNPD has an opportunity to provide officers with a more tailored support system by matching recruits to officers with shared experiences. By providing more robust peer support and matching recruits with officers who share certain identities, MNPD may help bolster the support that this program can provide. Especially for female recruits, having a female mentor may be invaluable in learning how to navigate working in a male-dominated environment and contending with harassment they may face.

#### Recommendation 15

MNPD should attempt to match female recruits with female mentors. Additionally, MNPD should establish, through BHS, a peer support group for female officers that is open to recruits.

Currently, MNPD does not seem to mandate counseling for officers accused of making inappropriate comments or perpetrating sexual misconduct. While therapy should not be a punishment for harmful behavior, working through implicit bias and trauma responses with a behavioral health provider may help officers identify root causes for their behaviors and begin to address them. Such approaches are common in Mindful Cognitive Behavioral Therapy models<sup>65</sup> and should be explored by MNPD. From our interview with the director of the BHS, it appears that the division is currently underutilized in situations of interpersonal issues among the force. Instead, BHS is primarily used when officers have been involved in traumatic incidents in the line of duty. While it is important for MNPD to have this function, providing more ‘upstream’ resources may assist officers before issues are exacerbated. A strong organization not only has swift, serious reactionary measures when extreme misconduct is uncovered, but also has more proactive resources that prevent problems from worsening. To this end, in a DOJ report on best practices to address officer wellness, the authors identified opportunities for early intervention as a key factor for departments to consider. Specifically, they recommend that departments consider using early interventions systems to “potentially identify opportunities to help personnel proactively address mental health challenges and consider appropriate methods to utilize peer support and [qualified mental health professionals] to help personnel with those issues.”<sup>66</sup>

#### Recommendation 16

MNPD should modify Section 2.30.050 of the Manual to incorporate mental health challenges into their Early Intervention System. This should be done in an effort to help personnel proactively address mental health challenges and to consider appropriate methods to utilize peer support and qualified mental health professionals to help personnel with those issues.

Throughout our conversation with BHS, MNCO researchers asked Director Bennett multiple questions about how sexual misconduct presented itself in the work of BHS, and most of her responses were framed around how BHS would work with perpetrators of sexual misconduct. While counseling individuals who are engaging in these harmful behaviors could help mitigate some of these issues, there was much less emphasis on how BHS could be a vital resource for officers who have been victims of sexual misconduct within the department.

This could be for many reasons; for instance, BHS may not be focusing on providing services for victims of sexual misconduct or advertising that their services can be beneficial in these cases. Victims of sexual misconduct may not be aware that the services BHS provides could be helpful to them as they process trauma resulting from an incident of sexual misconduct. Underreporting of sexual misconduct throughout MNPD may also create a culture in which victims feel like they must handle the situation on their own. Victims may not realize that their conversations with BHS counselors are confidential and

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<sup>65</sup> Cole, Galen. "The trans-theoretical model for mindful cognitive behavioral therapy a paradigm for systematically advancing evidence-based practice and research." *Cogent Psychology* 9.1 (2022): 1-14.

<sup>66</sup> Department of Justice. (2023). Department of Justice Report on Best Practices to Address Law Enforcement Officer Wellness. [https://www.justice.gov/d9/202305/Sec.%204%28a%29%20Report%20on%20Best%20Practices%20to%20Advance%20Officer%20Wellness\\_FI%20NAL.pdf](https://www.justice.gov/d9/202305/Sec.%204%28a%29%20Report%20on%20Best%20Practices%20to%20Advance%20Officer%20Wellness_FI%20NAL.pdf)

that talking to someone does not necessarily mean reporting harassment to their chain of command. Relatedly, victims may not feel safe turning to an internal MNPd resource if their issues of harassment have been ignored or downplayed by other members of the department. BHS could provide an excellent resource to employees who have been victims of sexual misconduct with some particular changes to their outreach and approach.

#### Recommendation 17

BHS should consider modify their protocols to include:

- Creating and implementing an outreach plan to describe how their services can be helpful to victims of sexual misconduct,
- Creating educational materials that encourage prevention of and early intervention in incidents of sexual misconduct,
- Implementing elements of restorative justice approaches into their counseling paradigms to improve outcomes for both victims and perpetrators of sexual misconduct<sup>67</sup>, and
- Providing counseling services to employees at the first instance of sexual misconduct, both for victims and offenders. This should be done in consultation with the officer's supervisor.

#### Family Intervention Division

While not in the original list of divisions to review and interview, through the course of reviewing MNPd's training materials, MNCO came to understand the important role that the Family Intervention Division plays in assisting with victim-services throughout the department. The Family Intervention Division, unlike the other divisions mentioned thus far, interacts mostly with community members to provide services for victims of crime and their families. MNCO did not get a chance to interview any MNPd staff from the division but will provide an overview of the information about the division available from other MNPd documents. Future research will provide a more in-depth evaluation of MNPd's trauma-informed victim services, and a more comprehensive review of the Family Intervention Division will be conducted at that time.

The Family Intervention Division (FID) is housed within the Interpersonal Crimes Branch of MNPd's Investigative Services Bureau. The division is comprised of three units: Victim Counseling, Advocacy and Special Populations, and Youth Support Services. Although a more understated division in the department, each of these units are positioned to provide valuable services to the community. The Victim Counseling Unit offers counseling to any victims of a crime or individuals whose lives are impacted by violent crime. They provide 24-hour crisis intervention, individual and group counseling, support groups, and other forms of community assistance. The Advocacy and Special Populations Unit houses bilingual advocates and aims to provide outreach to individuals and communities who do not speak English as their first language. The Youth Support Services Unit provides a variety of services to youth who are victims of or witnesses to crime among other duties. Each of these units aims to provide some sort of outreach to and support of victims of crime which includes instances of gender-based violence. The Family Intervention Division provides trainings to recruits to provide an overview of trauma-informed response and to educate them about the existence of the division. MNCO is interested, in future reports, to understand more about the extent to which FID services are accessed and their resources shared with community members by responding officers.

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<sup>67</sup> Both the Department of Justice and End Violence Against Women International recommend implementing restorative justice approaches for victims of sexual misconduct. Sample recommendations from the DOJ can be found here: [https://www.justice.gov/d9/chicago\\_police\\_department\\_findings.pdf](https://www.justice.gov/d9/chicago_police_department_findings.pdf)

## Supervisory Structure

MNPD has clear policy regarding the reporting of misconduct. Section 4.10.C/D of the manual reads:

Any department employee who observes or becomes aware of any act of misconduct by another member of the government shall immediately report the incident to their immediate supervisor or the most appropriate MNPD supervisor. Failure to report such activity is considered misconduct and subject to administrative investigation and sanctions... all appropriate supervisory personnel should monitor the progress of any disciplinary issue within their concern and take all necessary action to ensure the matter is concluded without undue delay.

When a complaint is supervisor-initiated, Section 4.10.020 outlines that:

The primary responsibility for completion of the initial investigation, including any recommendation for disciplinary action or a request for additional investigation, rests with the immediate supervisor of the involved employee.

This puts significant weight on the supervisor's judgment regarding the severity and legitimacy of the complaint. Supervisors can determine whether OPA should conduct a full investigation, whether the complaint should be mediated, or whether the initial investigation they conducted was sufficient. In a deposition, Deputy Chief Dwayne Greene stated that MNPD's goal is to "deal with [alleged misconduct] at the lowest level possible". This may create added pressure to handle complaints without having to go through higher-level channels such as OPA.

Multiple instances shed light on the fact that this supervisory structure is insufficient for certain types of complaints, such as sexual misconduct. In one such case, which led to a \$300,000 settlement from her experience of sexual harassment from fellow MNPD employees, the plaintiff, Ms. Gomez, testified that she was<sup>37</sup>:

[A]dvised by supervisors, managers, and FTO's throughout her career at [MNPD] that she should not report sexual harassment she experienced at [MNPD] because her career would be impacted and nothing would be done about the sexual harassment... during her training from her Metro police supervisor FTO, [he] told the Plaintiff that she should not report sexual harassment because it would impact her career. Further, he told her that she should just "deal with it" instead of reporting sexual harassment because it would be bad for her career and she needed to be smart about it... Plaintiff's supervisor told the Plaintiff that she should not report sexual harassment because it was just part of her job as a woman working in a male-dominated industry. He also informed Plaintiff that this was going to happen to her at [MNPD].

She further testified that a different sergeant instructed her not to report her sexual harassment as sexual harassment, but rather to report it as merely feeling uncomfortable to avoid termination for the offending officer<sup>37</sup>.

That same case included depositions from multiple MNPD staff discussing an officer who asked "just about every female officer he worked with for inappropriate pictures". None of the 20-22 female officers ever came forward to complain about the officer<sup>37</sup>. A complaint was eventually made by a supervisor, and the offending officer retired prior to receiving discipline from OPA<sup>68</sup>. All MNPD staff who were deposed and had knowledge of this officer agreed that this indicated a culture in which women may be wary to report instances of sexual misconduct.

All the officers deposed in that lawsuit believed that under former Chief Anderson, there was a culture of policing that was more permissive regarding sexual misconduct, which made it difficult for

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<sup>68</sup>According to OPA records, they recommended termination for the officer but he resigned before receiving this discipline.

female officers to report such behavior. Multiple people stated in their depositions that Chief Drake and Metro at large had made specific changes that would make sexual misconduct less likely, including:

- A commitment to staff MNPD with 30% women by 2030
- Having an open-door policy to report misconduct
- Identifying gaps and restructuring HR
- Emphasizing the culture shift around sexual harassment

However, in an interview with MNCO (detailed in the next section of this report) Ms. Gomez highlighted that some of the retaliatory behavior that she faced sexual misconduct started under then-Chief Anderson, but continued under the leadership of Chief Drake. While it is unreasonable to expect instantaneous culture changes for a topic as serious as sexual misconduct, it is incumbent upon the Chief to continue working towards and beyond these goals. A culture that is permissive of sexual misconduct is dangerous to all MNPD employees.

### Victim Interviews

In order to develop a more comprehensive understanding of victims' perspectives of MNPD's sexual misconduct policies and procedures, MNCO staff met first with Greta McClain of Silent No Longer Tennessee. Director McClain provided many suggestions to improve MNPD's reporting and investigative structures around sexual misconduct based on her work with victims of MNPD misconduct.

Beginning before a complaint is even filed, Director McClain asserted that MNPD needs more robust education around issues of sexual misconduct and harassment and bias. According to McClain, the current sexual misconduct curriculum amounts to little more than posters on the wall. Director McClain emphasized that sexual harassment training should be law-enforcement specific and scenario-based<sup>69</sup>. MNCO researchers reviewed training curriculum currently provided to officers in the following section. Additionally, Director McClain called for an increase in both explicit and implicit bias training within the department. To contextualize the importance of these trainings, McClain recounted a story in which an unnamed detective in MNPD's sexual assault unit commented on the validity of a victim's claim because of her appearance and her occupation as a sex worker. Previous research has shown that nearly half of surveyed police officers were unlikely to believe a sex worker who claimed they had been raped<sup>70</sup>, demonstrating that certain myths regarding sexual misconduct are still alive and well in policing.

Director McClain also emphasized her concern for the safety of officers who choose to report. Many current and former officers who McClain has worked with at Silent No Longer Tennessee have expressed a lack of safety and trust in reporting issues to OPA. McClain suggested that MNPD allow officers to report to an external entity, independent of MNPD. Having external agencies or individuals involved in the process of investigating officer misconduct would demand more accountability and transparency from OPA. Such a concept is beginning to be seen in other cities – the city of Chicago's Civilian Office of Police Accountability (COPA, the city's oversight board) recently modified its enabling ordinance to include sexual misconduct investigations within its jurisdiction.

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<sup>69</sup> Scenario-based training has become increasingly popular in policing and is described as "at an optimal position of the continuum whereby ecologically-valid levels of stress are induced and result in measurable improvements in performance." See: Di Nota, Paula M., and Juha-Matti Huhta. "Complex motor learning and police training: Applied, cognitive, and clinical perspectives." *Frontiers in Psychology* 10.1797 (2019): 1-20.

<sup>70</sup> Dellinger Page, Amy. "True colors: Police officers and rape myth acceptance." *Feminist Criminology* 5.4 (2010): 315-334.

This enables the body to investigate sexual misconduct complaints that otherwise would have been investigated by the Chicago Police Department's Bureau of Internal Affairs<sup>71</sup>.

Director McClain also raised questions about how investigations proceed through OPA. According to McClain, there is no standardized investigative policy, which allows for a wide degree of investigative latitude. Review of OPA's SOP reveals that this is not necessarily the case; there is a chapter of the SOP on investigative procedures that contains subsections on logging complaints, investigative timelines, and specific investigative elements to be contained in the report, among other relevant stipulations. There are, however, flaws in OPA's SOP as outlined above that we believe MNPD should rectify.

Given that investigators are often former officers themselves, this can introduce a great deal of bias into the investigative process if, for example, the OPA investigators are familiar with either the complainants or alleged perpetrators. McClain believes that requiring investigators who know either party in the issue to recuse themselves from the process would begin to address some of these biases present in OPA. This idea is grounded in the policies of other internal affairs units; investigators from the state of New Jersey's Attorney general "must recuse from cases where they have a conflict of interest that may prevent them from being impartial in the investigation of a subject officer."<sup>72</sup>

According to McClain, perceived favoritism within OPA and protection of certain officers is a huge issue currently facing the section and that confronting this bias is crucial to addressing underreporting throughout MNPD. As such, we recommend:

#### Recommendation 18

OPA investigators must recuse themselves from cases where they have a conflict of interest that may prevent them from being impartial in the investigation of a subject officer. This should include familial relationships, friendships, being in the same recruit class, witnessing the incident in question, or holding a bias for or against a party in the investigation.

Underreporting may also stem from the lack of trauma-informed care strategies, according to McClain. She offered that MNPD could greatly improve in their investigations of gender-based violence, both internal and external, by training officers in the practice of empathy and trauma-informed care techniques. To help combat some of these issues, Director McClain suggested that a detective from the Sexual Assault Unit assist OPA investigators throughout the course of sexual misconduct investigations. Additionally, she suggested that OPA partner with external agencies to provide victim advocates for cases of sexual misconduct who help throughout the course of the investigations.

Following our interview with Director McClain, MNCO staff contacted former MNPD officer Citlaly Gomez, who recently successfully sued MNPD for \$300,000 in damages (the maximum payment available under state law) after her complaints of sexual harassment from fellow officers when she was an MNPD employee were mishandled. Ms. Gomez's story provides rich context and acts as a case study regarding MNPD's responses to sexual misconduct at various levels throughout the department. Below is her account of her tenure with MNPD, which she has agreed to review and edit. Her account is intended to provide context on how cases of sexual misconduct are processed within MNPD.

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<sup>71</sup> City of Chicago Office of Inspector General. "Report on Investigations of Sexual Misconduct Allegations Against Chicago Police Department Members, 2022". (May 31, 2023). <https://igchicago.org/wp-content/uploads/2023/05/Report-on-Investigations-of-Sexual-Misconduct-Allegations-Against-CPD-Members-2022.pdf>

<sup>72</sup> [https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2022-14\\_Transparency-in-Internal-Affairs-Investigations.pdf](https://www.nj.gov/oag/dcj/agguide/directives/ag-Directive-2022-14_Transparency-in-Internal-Affairs-Investigations.pdf)

MNCO staff have attempted to verify as many of Ms. Gomez' allegations as possible via court filings, OPA investigations, and other documents. Ms. Gomez mentioned that many additional instances of misconduct occurred throughout her tenure that are not recorded in her trial exhibits, as there was insufficient evidence to support these claims from a legal perspective. She shared her frustration about not being able to describe all of the abuses that were happening to her due to the burden of proof. Citations have been provided where appropriate and available. In instances where Ms. Gomez's statements are the only evidence, we have chosen to include her allegations to amplify the voice of a victim of sexual harassment so severe that a jury awarded her the maximum settlement allowable by law. It is important to note that most of Ms. Gomez' tenure at MNPd occurred while Chief Anderson was in command of the department, and that departmental responses to issues of sexual misconduct may have shifted under Chief Drake's leadership. Ms. Gomez, however, alleges misconduct across both leaders and is explained further below.

#### *Citlaly Gomez' Account of her MNPd Tenure*

Ms. Gomez began her career at MNPd in the summer of 2015 when she was in her early 20's. Beginning in her early days of the academy, she was harassed by multiple instructors while other firearm instructors, training staff, and supervisors "turned a blind eye"<sup>37</sup>. One instructor would ask her to go on dates to bars and is now a sergeant within the department<sup>37</sup>. Another firearm instructor, who was much more aggressive with his harassment, sent nude pictures<sup>37</sup> of himself to Ms. Gomez, was engaging in multiple sexual relationships with various female trainees while married, and would set up special "training sessions" where he and Ms. Gomez were the only individuals on the shooting range<sup>37</sup>. Although this officer is no longer employed with the department, he currently is serving as an officer in nearby Berry Hill. The structure of the academy created an environment in which Ms. Gomez lacked the confidence to report and, even if she considered it, had nowhere to turn. She was not provided with a mentor, presumably because the program was not yet in place.

After finishing the training academy, Ms. Gomez continued to endure harassment from the firearm instructor and began being harassed by her new supervisory staff. While completing her field training, her sergeant, who is directly above both her and her field training officer (FTO), began harassing her<sup>37</sup>. As a sworn officer, she felt slightly more comfortable revealing this to friends, her boyfriend at the time (who was an officer as well), her FTO, and a sergeant who was not in her chain of command. At first, her boyfriend and some others encouraged her to document the abuses and report them. Because complaints are to be sent to your direct supervisor, who in this instance was the individual implicated in the complaint, Ms. Gomez hesitated to file her complaint at this time. Ultimately, a complaint against the sergeant was opened following pressure from Ms. Gomez' boyfriend and FTO.

Ms. Gomez' sergeant, the subject of the complaint, sent the complaint up the chain of command, but it was rejected with a note that Ms. Gomez should alter her narrative to include language about "discomfort" rather than harassment and then to resubmit<sup>37</sup>. Both her FTO and other supervisors encouraged her to edit her statement or to drop the case, and, since she did not want to dilute her complaint, she did not resubmit at that time. During this time, many MNPd personnel dissuaded her from reporting. A few years passed in which she continued to be harassed but had no avenue for recourse. She cited frustration with the command structure because her lack of access to her lieutenant, the officer to whom her sergeant reported, restricted her ability to file a complaint. Because she did not have a relationship with the lieutenant, she did not feel comfortable going to this person with her complaint.

Ms. Gomez continued her career, enduring harassment throughout, and was promoted to an FTO position. In that position, she was assigned a male trainee who began displaying inappropriate



behavior towards her. He repeatedly discussed how he and other trainees would share pictures of “hot” female officers, commented on Ms. Gomez’s body, and mentioned how he would “stalk” her social media<sup>37</sup>. Out of personal discomfort and fear that he would continue this behavior as an officer, she began exploring options to report her trainee. At first she asked another female officer, Sergeant Poole, about the process. Poole told Ms. Gomez to wait for Poole to discuss with another sergeant first. When Sergeant Poole returned, she encouraged Ms. Gomez not to report, in what Ms. Gomez perceived as an attempt to protect the reputation of the trainee. When Ms. Gomez resisted, the sergeant warned her about reporting and the repercussions of doing so. She next talked to an MNPD sergeant within the Fraternal Order of Police (FOP) to report this incident, but he urged her to report it to her sergeant<sup>37</sup>. Ms. Gomez then returned to Sergeant Poole and asked again for the complaint to be investigated and requested that the sergeant note in the report that she had tried to report through other avenues as well. The lieutenant at the time insisted that they could address this issue “in-house” and refused to send it to OPA.

Ms. Gomez ultimately filed a formal complaint with OPA, and the trainee responded by filing a devotion to duty complaint against Ms. Gomez after consulting with his father-in-law, a higher-ranking officer with the department. The devotion to duty complaint lodged against Ms. Gomez stated that she failed to devote her entire time on her shift to her performance as an officer<sup>37</sup>, including that she failed to respond to multiple Code 3 calls because she was running personal errands. Ms. Gomez stated that OPA investigators followed her for many weeks to determine if she was, in fact, running errands on the clock. When she discussed this complaint with her coworkers at the Midtown Hills Precinct, many reportedly admitted to running errands on the clock and said this was common—in their depositions, many MNPD staff stated that officers run brief personal errands regularly<sup>37</sup>. Ms. Gomez testified in court proceedings that her FTO often ate meals with his wife while on the clock and that she was instructed that this type of behavior was acceptable<sup>37</sup>. Usually, officers would not report one another for such an infraction, and the devotion to duty complaint, to Ms. Gomez, seemed purely retaliatory after her filing of a sexual harassment complaint.

Both complaints were investigated by OPA, and both parties were interviewed. The officers implicated in the sexual harassment case were interviewed, according to Ms. Gomez, for about 20-30 minutes, while she was interviewed for upwards of four hours for her devotion to duty complaint. Within the interviews regarding sexual misconduct, Ms. Gomez stated that officers lied about the sexual harassment and misconduct, denying everything despite evidence including pictures and call logs. Although lying is a fireable offense, no reprimands were issued. During her interview for devotion to duty, Ms. Gomez stated that she was asked to recall sexual partners and was questioned about a series of photographs captured by OPA investigators who had been following her since the initial complaint was made. At the end of the investigation, harassment complaints made against the trainee were sustained, and he was given a one-day suspension. The devotion to duty complaint that the trainee made against Gomez was also sustained, and she was given a four-day suspension<sup>37</sup>. No other officers were disciplined in this matter.

Since she perceived that OPA failed to comprehensively address the harassment that she endured throughout her tenure as an MNPD employee, Ms. Gomez decided to pursue a lawsuit against the department. After the lawsuit was filed on February 24, 2020, she allegedly endured multiple forms of retaliation that eventually led to her resignation from the department. First, Ms. Gomez noticed that her fellow officers stopped responding to calls in her assigned zone. Even on calls that required multiple officers, like domestic violence calls, no one would come back her up in the field, leading to her being in multiple dangerous situations without any assistance. Next, she was referred for a psychological Fitness for Duty evaluation in October 2020 following a domestic violence incident. She

ultimately did not complete the Fitness for Duty Evaluation at that time, as she took short-term disability leave to address an unrelated medical issue<sup>37</sup>. When officers take medical leave, they are decommissioned temporarily for the duration of their time away.

When she returned, although she asked repeatedly, she was not recommissioned. Instead, she was referred for another Fitness for Duty evaluation in February 2021, which she failed<sup>37</sup>. She was then assigned to light duty<sup>37</sup> in a special community outreach unit comprised of multiple officers who were implicated as assailants in her sexual harassment complaint. Ms. Gomez believes this was in retaliation to her lawsuit. She emphasized the psychological trauma of being forced to sit in a room with three armed, male officers with a history of sexual harassment all while she was unarmed.

Following this assignment, she requested medical leave for post-traumatic stress disorder (PTSD) related to these incidents. Repeatedly, MNPD command staff, including Deputy Chief Greene, called Gomez to tell her that she had run out of time on her short-term disability claim and needed to resign or she would be terminated<sup>37</sup>. They continued this until and while she was charged with shoplifting from Walmart and public intoxication in June 2021. These charges were ultimately dropped, but before they were, Ms. Gomez alleged that representatives from the District Attorney's office approached her, offering to dismiss her shoplifting charges if she dropped her lawsuit against MNPD. Eventually, Ms. Gomez resigned from the department in July 2021.

Ms. Gomez's experience is not an isolated incident. While retelling her story, she mentioned that her female friends in the academy were experiencing similar issues throughout that time. In developing her case against MNPD, she heard stories from across the department about officers committing other acts of sexual misconduct— some with civilians that they are sworn to protect— and receiving little reprimand. The documents in Gomez's court files cite a recent case in which upwards of 22 female officers were asked by a fellow MNPD employee to send nude pictures, and none of them came forward to report this harassment<sup>37</sup>.

When asked about the implementation of a sexual misconduct policy, Ms. Gomez was optimistic about the report but also emphasized that, unless there are serious changes within the Office of Professional Accountability, sexual misconduct and harassment issues within MNPD will persist. Many of Ms. Gomez's complaints about her process were directed at Kathy Morante, the director of the Office of Professional Standards, over OPA. According to Ms. Gomez, Morante had negative feelings towards her and did not believe her complaint from the outset. She believes that because of the power Director Morante held in the office, she was able to direct the investigations against Ms. Gomez and her trainee, and achieve her desired outcome in the case. She also emphasized the need for policy that includes consequences for those who fail to investigate these claims sufficiently. She also suggested that having investigators outside of OPA work the case alongside OPA would greatly improve transparency and would reduce bias.

One consistent comment that we have heard is that, while sexual misconduct may have been worse under Chief Anderson, since Chief Drake assumed the position on November 30, 2020, many cultural issues within the department have been corrected. In our conversation with Gomez, however, she highlighted that, while her OPA complaint process took place under Anderson, the retaliatory assignment following the filing of her lawsuit occurred in February 2021, after Drake had become chief. While it is unreasonable to expect the chief to overhaul longstanding cultural issues in his first 90 days, command staff approved this rather extreme reassignment under Drake.

## Training Review

While developing appropriate responses to sexual misconduct is crucial, it is equally important that MNPD implement a robust training curriculum around issues of sexual violence, harassment, and

misconduct to help prevent these problems from the outset. MNCO researchers requested training materials related to sexual misconduct and harassment to understand how MNPD is currently training recruits on sexual harassment and misconduct and to identify whether there are any gaps in their approach. The majority of the training materials were requested from Commander Tiffany Gibson over the Training Division. She provided MNCO with all requested materials in May 2023, and redirected a follow-up request in September to public records, at which point MNCO staff submitted a public records request and received the documents several weeks thereafter.

First, MNCO requested training academy materials on sexual harassment prevention, domestic violence, and any others “related to sexual misconduct and/or trauma-informed behavior”. MNCO received and reviewed materials from three blocks of domestic violence training, a domestic violence in law enforcement training, a domestic violence reality-based training, and a sexual harassment prevention lesson plan. No additional trainings on sexual misconduct or trauma-informed response were provided at that time. A review of these training materials shows a concerning lack of information about both sexual misconduct and trauma-informed victim response strategies.

MNPD’s domestic violence blocks provide a comprehensive overview of legal statutes and MNPD procedure on domestic violence. Block one focuses on defining domestic violence, explaining the cycle of violence, describing the crimes that fall under the domestic violence umbrella, and providing an overview of initial response, evidence collection, and investigation. Block two covers the primary aggressor law, how to write up a domestic violence report, victim assistance that is legally required<sup>73</sup>, the lethality assessment program, elder and vulnerable adult abuse, and a cursory overview of community victim services. Block three walks recruits through the process of a domestic violence call and has them write down how they would respond to the situation in each stage of the process. Additionally, MNPD provides training on how officers must respond if they are called to a domestic involving a public safety employee and on the mandatory reporting policy around officer-involved domestic violence. Lastly, recruits undergo four hours of reality-based training to practice their responses to domestic violence incidents.

MNPD’s domestic violence training provides recruits with comprehensive knowledge of the procedural aspects of responding to and reporting a domestic violence incident. However, MNPD’s training does little to prepare officers to use trauma-informed techniques in interviewing and assisting a domestic violence victim after an incident has occurred. The IACP has worked with the DOJ’s Office on Violence Against Women to create trainings on conducting trauma-informed sexual assault investigations<sup>74</sup>, which we encourage MNPD to consider.

More broadly, MNCO found that MNPD’s training lacked sufficient information on how to conduct victim-centered, trauma-informed interviews and interactions. IACP recommends that all officers receive comprehensive, law-enforcement targeted trainings that focus on responding to victims of traumatic incidents and provides a training that departments can implement. The goal of the IACP’s training is to “provide officers with information about the neurobiology of trauma (natural biological responses to trauma), rape myth acceptance, and investigative techniques that can reduce secondary trauma, facilitate victim well-being, and increase victim engagement with investigators.”<sup>74</sup> Across the country, these types of trainings are infrequently taken up by departments, including MNPD.

The Civil Rights Division of the Department of Justice has opened several civil pattern or practice investigations centered around gender-biased policing and sexual assault investigations in police

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<sup>73</sup> MNPD must ask all victims whether they are interested in counseling, an order of protection, prosecution, and shelter, and document this interaction.

<sup>74</sup> <https://www.theiacp.org/resources/policy-center-resource/sexual-harassment-and-misconduct>

departments. Take, for example, the investigation into the New York Police Department's Special Victims Division. Assistant Attorney General Kristen Clarke, speaking on the investigation, said

"Survivors of sexual assault should expect effective, trauma-informed and victim-centered investigations by police departments... Based on information provided to the DOJ, we find significant justification to investigate whether the NYPD's Special Victims Division engages in a pattern or practice of gender-biased policing. Investigations into sexual assault that comply with the Constitution promote accountability, enhance public safety and foster community trust."<sup>75</sup>

This suggests an area of improvement and a potential avenue for the Department to be on the cutting edge of training. Consent decrees or pattern and practice investigations often provide departments with resources that are representative of the best practices across the country and should be treated as such.

MNPD's sexual harassment lesson plan describes that MNPD recruits watch the interactive "Sexual Harassment Prevention" course required for all Metro Government employees through an online learning platform. This course provides a rudimentary overview of sexual harassment and legal protections in the workplace. Additionally, officers receive annual sexual harassment training in their in-service training developed by Metro HR. These trainings, which focus on legal requirements and provide some examples (none of which are law-enforcement specific), are wholly inadequate to address sexual misconduct issues in law enforcement. EVAWI recommends specific training sections that law enforcement agencies should address in sexual misconduct training, recognizing that as a specialized profession, law enforcement should have specialized training. They recommend that training requires covering the following<sup>3</sup>:

- Law enforcement authority, oath, ethics, and civil rights.
- Defining law enforcement sexual misconduct and color of law, including case examples for on-duty and off-duty violations.
- Predatory behavior and common conduct of sexual offenders such as targeting, testing, grooming, isolation, and other "power and control" behaviors.
- Early warning signs and bystander intervention strategies for sexual misconduct.
- Mandatory reporting responsibilities and reporting mechanisms.
- Responsibilities of supervisors.
- Confidentiality protections for reporting parties and witnesses.
- Prohibited retaliation against reporting parties and witnesses.
- Potential disciplinary outcomes and criminal prosecution.
- Special considerations regarding frisks and searches of persons.

#### Recommendation 19

MNPD should conduct sexual harassment training that is specific to law-enforcement, such as that recommended by EVAWI. Additional training should be required for supervisors.

Having received and reviewed these trainings limited in both number and scope, MNCO reviewed the basic training curriculum and identified any additional trainings related to sexual misconduct. MNCO then requested another six trainings: Community Oriented Policing and Problem Solving, Diversity and Inclusion, Fair and Impartial Policing, Victims of Crime, Adult Sex Crimes, and Professional Ethical Conduct. MNCO received all but the Adult Sex Crimes training materials and reviewed the remaining

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<sup>75</sup> <https://www.justice.gov/opa/pr/justice-department-announces-investigation-new-york-city-police-department-s-special-victims>

five to determine whether some of the gaps in MNPD's trainings around gender-based violence were fulfilled in these sections.

The Community Oriented Policing and Problem Solving (COPPS) training provided a basic overview of the concept of community policing but did little to emphasize how to interact with the community, particularly in a trauma-informed manner. Community-oriented policing is presented as an alternative to problem-oriented policing in which certain people and places are targeted to reduce crime. Community-oriented policing instead focuses on collaborative efforts between community and police to identify problems of crime and to develop solutions to these problems. While MNCO believes that a strong community orientation is an important step in improving community-police relations, the framework presented in the COPPS training doesn't address issues of sexual misconduct or failure to respond in a trauma-informed way.

Officers also receive Diversity and Inclusion training both as trainees and at in-service training which MNCO reviewed. Both trainings were taught by Metro Central HR and were almost identical—with only a few slides changed between the two slideshows. The training included a solid overview of protected identity classes and described various ways in which bias and discrimination can manifest within the workforce and in interactions with the public. Topics include explicit and implicit bias, stereotyping, and diversity across Davidson County. The slideshows conclude by encouraging officers to seek understanding, be willing to engage in conversation, step out of their comfort zone, and treat others with respect. While this training provided great introductory material on diversity and inclusion, this does not adequately prepare officers to address and deconstruct bias when interacting with the public, especially with victims of gender-based violence.

MNPD supplements their Diversity and Inclusion training with instruction in Fair and Impartial Policing. This training encourages participation from recruits and is taught in the academy as a seminar-style lecture with the primary goal of helping recruits understand implicit bias and how it manifests in their role as officers. The training also includes a few slides on procedural justice and multiple scenario-based questions. While much more applied than the Diversity and Inclusion training, there is no specific information about bias in cases of gender-based violence and relating to victims.

#### Recommendation 20

MNPD should modify their Diversity and Inclusion and/or Fair and Impartial Policing trainings to include specific information on sexual misconduct and gender-based violence. Additional training should be required for supervisors.

The Professional Ethical Standards materials provided to MNCO had no mention of how officers are to interact with community members. Instead, this slideshow focused more personally on how officers should prepare themselves individually—mentally, physically, emotionally, spiritually—to engage in law enforcement work.

The Victims of Crime training provided to the recruits and lateral training class is presented by the Family Intervention Division. This training provided much more insight into how officers should interact with traumatized victims. First, the training reviewed the various units outlined in the Family Intervention Division section of this report that can serve as referrals for victims who need additional resources. They also have trainees watch a YouTube video about trauma-informed law enforcement response then discuss physical, cognitive, emotional, and behavioral reactions to trauma seen in adults. Next, they covered information about how to approach trauma victims who are children, adolescents, people with disabilities, older adults, immigrants, and members of the LGBTQ community. Lastly, they reviewed how to respond to victims and co-victims of specific crimes like

domestic violence, sexual assault, and homicide. Throughout the presentation, they gave advice and insights of how to interact with crime victims and emphasized officers' roles in providing safety, emotional validation, and next steps. The Victims of Crime training, although not specifically focused on gender-based violence, is a crucial training for MNPDP officers.

Of all trainings related to victim interactions, the Victims of Crime training had the most relevant information about how to provide trauma-informed care to victims. However, this training still did not cover essential IACP recommendations related to the neurobiology of trauma and the possibility of revictimization that will be reviewed in the following section.

### IACP Self-Assessment Review and Recommendations

To assess MNPDP's preparedness for handling cases of sexual misconduct, MNCO researchers used the International Association of Chiefs of Police's (IACP) "Agency Self-Assessment" tool that is designed to help law enforcement agencies assess the quality of their proactive approaches to address gender-based violence, particularly domestic and sexual violence. A product of the DOJ's Office of Violence Against Women's Enhancing Community Trust: Proactive Approaches to Domestic & Sexual Violence initiative, this resource provides a thorough list of policies and procedures that law enforcement agencies can enact to improve outcomes for domestic and sexual violence victims. Because this assessment is designed to be conducted internally, there was some information that MNCO was unsure about, but, overall, this tool was very helpful in framing what is possible for agencies to implement and where MNPDP is currently falling short.

First, IACP emphasizes that effective interventions originate from strong, standalone policies about gender-based violence. To IACP, standalone policies regarding gender-based violence are key indicators of a department's commitment to rectifying these issues within the force. IACP recommends standalone policies on responding to sexual assault, responding to domestic violence, hate crimes, sexual assault kits, language access plans, response to agency member-perpetrated sexual assault and misconduct, response to agency member-perpetrated domestic/intimate partner violence, response to stalking, witness intimidation, and responding to members of the LGBTQ+ community. Of all of these topics, MNPDP includes standalone sections within the manual about only two: investigative response to domestic violence and language access through interpreter services and the language line. While most of the other topics are mentioned at some point throughout the manual, there is often little substantive information about how MNPDP handles these issues. Information about responses to law agency member-perpetrated sexual misconduct and domestic violence is especially lacking.

Within standalone policies, IACP recommends multiple specific guidelines and materials to improve agency response. IACP emphasized the importance of having crime-specific investigative forms and crime-specific checklists for each offense listed above. While MNPDP has more comprehensive and extensive protocol and materials for domestic violence, MNCO could not find this same level of rigor of procedure for sexual violence, strangulation, stalking, or witness intimidation. Specific investigative forms and checklists may help improve officer response to instances of gender-based violence by providing more structure and accountability mechanisms to these investigations.

Additionally, IACP recommends a host of guidelines around trauma-informed responses to victims of sexual assault and domestic violence. Within the self-assessment specifically, IACP provides many examples of interventions that can be implemented to improve victim safety and access to resources. These resources include offering referrals to victim services, contacting a victim advocate during any part of an investigative process, advising victims of their rights, submitting forensic evidence to a crime lab, etc. MNPDP includes many of these elements within their domestic violence policy but does



not have similar policy for addressing sexual assault or stalking as advised by IACP. Training officers on how to approach cases of gender-based violence is a necessary component to ensure that these interventions are being enacted.

IACP also urges agencies to develop specific plans in the case that one or more of the parties is a member of the law enforcement agency. While MNPd has some cursory guidelines about how to respond to an agency-member involved domestic violence situation, there are no policies to dictate how gender-based violence should be handled when agency members are involved.

Another important element of these policies is to delineate clear role expectations for everyone involved in investigating a case from dispatch to command staff to victim services personnel. Training for new recruits indicates certain roles that officers and detectives from the Domestic Violence Division would serve in the course of responding to and investigating a domestic violence call, but no such procedures seem to be established for other instances of sexual violence. Additionally, roles are not defined for individuals involved beyond officers and detectives in domestic violence situations.

#### Recommendation 21

MNPd should develop policy to dictate how each of the following parties are to respond in situations of gender-based violence: dispatch, responding officers, field supervisors, investigators, investigative supervisors, victim services personnel, and command staff.

Next, IACP emphasizes the importance of documenting important accessibility information about individuals involved in the incident including English proficiency, hearing status, whether an interpreter is used, etc. MNPd does include training information about each of these topics, but it is unclear whether they track each of these metrics for every incident. Lastly, IACP also recommends having bias-free and impartial policing policies. MNPd does have policies to address bias in policing, but none of these policies are directly addressing bias that can arise as a part of the investigation of gender-based violence.

#### Recommendation 22

MNPd should supplement their existing bias-free and impartial policing policies to include specific and detailed language prohibiting gender-based bias that can arise through the course of an investigation of gender-based violence.

Another important element of the self-assessment focuses on hiring and promotion practices within the law enforcement agency. MNPd performs both criminal and civil background checks as well as psychological evaluations as suggested by IACP. IACP additionally recommends that all recruit screening, performance reviews, and promotion evaluations should look for a history of gender-based violence including issues like sexual assault and harassment, domestic violence, stalking, and strangulation. While Background and Recruitment's Personal History Statement requires recruits to answer questions about whether they have engaged in these types of behavior, it is unclear whether questions like these are revisited after an individual has been hired.

To gauge proficiency for placement and promotion, IACP recommends that officers complete scenario-based questions on how to respond to sexual assault, domestic violence, stalking and strangulation. While walking through scenarios is an important part of the training process, these types of questions and exams do not seem to be part of the placement and promotion process. In fact, it is unclear whether MNPd requires officers to perform any type of examination or to undergo any type of evaluation prior to promotion. IACP recommends that officers are evaluated based on their response to scenario-based questions and that promotions are determined by a diverse panel of decision makers including nonsworn staff and community partners.

### Recommendation 23

MNPD should require that officers being considered for a promotion complete an exam including scenario-based questions on how to respond to sexual assault, domestic violence, stalking and strangulation, and any other relevant topics related to their new role. This exam should be administered and reviewed by a diverse panel of decision makers including nonsworn staff and community partners.

Along with robust systems for hiring and promotion, IACP also recommends that agencies monitor overall trends in retention to understand whether promotions and compensation are being distributed equitably among officers with different backgrounds. Comparing position levels, salary grades, and retention rates across demographics can provide insights into how opportunity and compensation are being distributed. Additionally, IACP encourages agencies to conduct exit interviews with employees to determine their reasons for leaving. These interviews could be especially important to uncover issues of sexual harassment, gender bias, or a lack of equal opportunity.

### Recommendation 24

MNPD should monitor retention trends to analyze whether promotions, compensation, and retention are equitably distributed across different demographic classes (such as gender, race, and other classes as deemed relevant). Such information should be compiled in a publicly available report or dashboard and should be updated at least annually.

### Recommendation 25

MNPD should conduct an exit interview with each employee leaving the department.

IACP provides a thorough list of training recommendations to prepare officers to respond to gender-based violence and to warn officers against participating in sexual misconduct. Listed in the self-assessment are a host of topics that IACP encourages departments to include in both in-service and roll call trainings and to update frequently. Some of these topics such as response to domestic violence, primary aggressor determination, and lethality assessment are covered in basic recruit training, although MNCO is unsure of the frequency at which these topics are covered in roll call and in service trainings. Other topics like understanding impacts of trauma and victimization, trauma-informed interviewing, and vicarious trauma are not included in basic recruit training, so it seems unlikely that these topics are covered in later trainings.

IACP encourages agencies to include training materials that discuss the interconnected nature of gender-based violence (such as sexual assault and domestic violence) and the impact that these crimes have on victims, families, communities, and agency personnel. IACP also recommends direct trainings about how to write effective, fact-based reports and how to interact with recent victims of gender-based violence. Comprehensive training on trauma must include “research-based education on physiological, emotional, and behavioral effects of trauma and revictimization” as well as trauma-informed approaches to “reduce the impact of trauma on victims and avoid revictimization”.

Currently, MNPD offers no trainings on trauma for recruits and likely does not provide this content for current officers either. IACP also recommends that trainings should be provided to both sworn and nonsworn personnel and that specialty officers handling gender-based violence crimes should have additional trainings to assist them in their investigations. Lastly, IACP encourages agencies to conduct trainings to warn officers about how prejudicial and biased language and behaviors can be damaging to personnel morale and can negatively influence agency response and investigation. Although MNPD currently provides some very limited sexual harassment training, this content does not emphasize the negative impacts that sexual misconduct can have on individuals’ morale or on

the agency's ability to perform comprehensive and effective policing. Because of these gaps in MNPD's current training, MNCO makes the following recommendation, modeled after IACP's language:

#### Recommendation 26

MNPD should create training on the interconnected nature of gender-based violence like sexual assault and domestic violence and the impact that these crimes have on victims, families, communities, and agency personnel. This training should include effective, fact-based reports and how to interact with recent victims of gender-based violence. It should also include education on the physiological, emotional, and behavioral effects of trauma and revictimization and trauma-informed approaches to reduce the impact of trauma on victims and avoid revictimization. These trainings should be provided to both sworn and nonsworn personnel, with specialty officers handling gender-based violence crimes receiving additional trainings to assist them in their investigations. Lastly, the training should include information about how prejudicial and biased language and behaviors can be damaging to personnel morale and can negatively influence agency response and investigation.

IACP's self-assessment tool also recommends a host of data tracking practices to help agencies make more informed and strategic decisions about policies, practices, and staffing. First, IACP lists 24 different types of crime types, statuses, and characteristics that they encourage departments to track, ideally in a searchable database. These qualifications include but are not limited to crime classification (type), victim demographics, number of domestic violence crimes involving firearms, and sexual assault kit processing. MNPD tracks a number of these crime types, some of which they publish on their public data dashboard. IACP emphasizes the importance of intentionally tracking gender-based violence crimes—domestic violence, sexual assault, strangulation, stalking—and of monitoring co-occurring crimes, including homicide. In addition to maintaining a database about crimes that the agency is involved in solving, IACP also encourages departments to track and publish case files for civilian complaints about sworn and nonsworn personnel and internal affairs investigations including information about the agency members involved, the nature of the complaint, and the case type from which the complaint originated. From the review of OPA's current trend tracking system, it is apparent that MNPD is not currently providing this degree of transparency.

#### Recommendation 27

MNPD should create and update semi-annually a database with information on officers who have had sustained findings of misconduct any time. The database should contain the officer's name, rank, gender, type of misconduct, and a brief summary of the misconduct. Such a database should draw from reference models such as the Massachusetts POST Commission<sup>76</sup>.

To determine the quality of investigations being conducted for cases of gender-based violence, IACP also provides metrics about collecting, tracking, and auditing case information such as closure types, the number of cases referred to prosecution, and proportion of crimes with connections to homicides. While these types of cases are not the focus of this report, determining whether MNPD is providing adequate victim-centered, trauma-informed care will require an investigation into MNPD's use of these types of metrics and will be the subject of a future report.

IACP also includes a section of the self-assessment tool that attempts to address "Culture and Accountability" within law enforcement agencies. IACP's defined "focus" of this section is to have the agency consider how well they "foster a climate that is supportive of victims of crime (including

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<sup>76</sup> <https://www.mass.gov/info-details/officer-disciplinary-records-database>

victims employed by the agency)” and hold agency members accountable to these values. IACP encourages police departments to have dedicated victim services personnel and to make available specialized resources to victims of gender-based violence. MNPD offers some of these services via the Family Intervention Division, but primarily relies on their partnership with the Family Safety Center (which operates as a separate office within Metro Government) to provide services to victims of gender-based violence. Another important indicator of accountability is to have avenues for reporting officer misconduct and commendation which MNPD does have. Consequentially, IACP encourages departments to create policy to address and prevent retaliation against officers who file a complaint and recommends the establishment of anonymous climate surveys that gauge the degree of comfort that officers have with reporting “prejudicial, harassing, or biased language and behaviors”. Because MNPD has had cases in which reports of sexual harassment are not filed, MNCO recommends:

#### Recommendation 28

MNPD should conduct a climate survey bi-annually. This survey, in addition to other questions as appropriate, will contain questions on whether officers feel safe reporting issues of sexual misconduct.

IACP also emphasizes the importance of supervisors ensuring that issues of gender-based violence are being adequately addressed throughout the agency. First, they establish whether a supervisor reviews the following report types for both investigative thoroughness and adherence to agency policies/standards of practice: sexual assault, domestic violence, strangulation, and stalking (including agency member-perpetrated violations in each of these categories). MNPD sergeants currently review all case reports submitted by patrol officers, but the standards by which they are judging these reports are unclear as well as the process around correcting reports that do not meet these standards. IACP recommends that supervisors remand for revision or follow-up on any case reports that “contain biased or discriminatory language”, “indicate gaps in compliance with agency policies”, and “indicates that there are investigative steps that were not conducted (without valid reason for deviation provided)”. From there, IACP also encourages departments to track the number of times that officers are asked to correct reports and to mandate remedial training at a certain threshold. While it seems that MNPD is reviewing reports, MNCO could find no evidence that supervisors are tracking the number of times that reports are returned to officers or the reasons that these reports are returned. Although not specifically mentioned by IACP, it is reasonable to assume that there are policy violations uncovered by supervisors reviewing and tracking errors in reports. MNCO could not uncover how such a policy violation would be handled, but a robust reviewing system provides a great approach to monitor officers for misconduct.

#### Recommendation 29

MNPD should require supervisors to track the number of times that officers are asked to correct reports and mandate remedial training at a certain threshold. Additionally, they should track any policy violations that become apparent in the review of these reports. These errors should be addressed through disciplinary measures.

In addition to reviewing individual reports as they are submitted, IACP also recommends that supervisors include, as part of an officer’s annual performance evaluation, how each officer handles cases of gender-based violence including domestic violence, sexual assault, stalking, and strangulation.

### Recommendation 30

MNPD should incorporate a review of each officer's performance in cases of gender-based violence to their annual performance evaluation to ensure that officers are meeting the standards for investigatory practices on these cases.

The final accountability mechanisms recommended by IACP are designed to prevent issues of sexual misconduct by flagging potential offenders before they commit harm as a member of the agency. First, they recommend adopting an early intervention warning system that flags certain officer behaviors. These systems are designed to highlight officers with a propensity towards committing policy violations before these incidents occur. MNPD currently uses an early intervention system, but the types of behavior flagged through this assessment is unknown to MNCO. Second, IACP also encourages agencies to conduct annual background checks on both sworn and nonsworn personnel to determine if officers have been involved in any criminal activity unreported to the agency.

### Recommendation 31

MNPD should conduct annual background checks of all sworn personnel and biennial checks of nonsworn personnel.

Lastly, IACP recommends that law enforcement agencies collaborate with external agencies such as victim services, healthcare providers, cultural organizations, investigators with adult/child protective services, etc. throughout the process of an investigation. Since MNCO does not have access to internal procedure, it was not possible to determine the extent to which partnerships with external agencies were enacted within MNPD.

MNCO found the IACP Agency Self-Assessment to be an extremely valuable tool in assessing MNPD's current approach to addressing gender-based violence. However, since some information about MNPD's policies and practices was not publicly available, MNCO could not adequately and accurately assess MNPD's efforts in these areas.

### Recommendation 32

MNPD should complete the IACP Agency Self-Assessment tool and publish the results on their public data dashboard. For elements of the self-assessment tool that MNPD addresses within policy, MNPD should provide references to their policies, procedures, and databases for the sake of transparency. For elements that MNPD is not currently addressing, MNPD should outline a plan to rectify these discrepancies or provide an explanation of why these actions are not being taken at this time.

## Conclusion

A review of MNPD's sexual misconduct policies and procedures illuminates many gaps regarding prevention, intervention, and resolution of sexual misconduct. From a lack of disqualifying factors around sexual violence to a dearth of training materials on sexual misconduct to an internal affairs structure not equipped to provide victim-centric investigations, MNPD is not adequately protecting employees from harassment and misconduct. Across the department, sweeping reforms are necessary to improve safety of both officers and the community they serve. The first step for any department considering culture change is to have a comprehensive policy addressing the issue. MNCO therefore makes the following and final recommendation:

### Recommendation 33

MNPD should institute a standalone policy on sexual misconduct. The policy should follow the recommendations from EVAWI and DOJ, as outlined in the Appendix. MNPD personnel

should be audited at random to assess their knowledge and retention on the sexual misconduct policy. The Training Division should ensure that all personnel have received the appropriate level of training on the sexual misconduct policy, at least annually.

## Future Research

MNCO researchers began this report with the intention of including a comprehensive review of both the sexual misconduct policies and trauma-informed training practices within MNPd. Although both goals were achieved, MNCO hopes to build upon the trauma-informed training elements of this report in the future and to supplement these preliminary findings with stories from individuals who have experiences with MNPd's response to gender-based violence. The lack of trauma-informed training has certainly taken a toll on community members who have been victims of violence, and we hope to gather these narratives in a future study.

Additionally, we would like to include more narrative of individuals who have experienced sexual misconduct at the hands of the police to understand what changes that they believe are necessary to department policy. The IACP self-assessment tool provides ample examples of data tracking mechanisms that departments could enact to better assess their response to gender-based violence. With the new auditing functions of the Community Review Board, researchers could monitor some of these trends to increase transparency and accountability around these issues. Additionally, the new auditing function could provide a great opportunity for the CRB to perform trend tracking within OPA's investigative findings and to initiate larger-scale audits in response to incidents that could implicate more than one individual officer.

While reviewing the many materials from MNPd to construct this report, MNCO researchers identified many other potential areas of interest for future research. We would like to further explore the background and recruitment process, MNPd's training academy model, racial bias and discrimination training, the elements of MNPd's early identification system, further exploration of alternative response models for offenses such as sexual misconduct, and conducting a thorough evaluation of the pilot program redirecting complaints to OPA.

While the COB will cease to exist after October 26<sup>th</sup>, our hope is that the new CRB will continue to hold MNPd accountable via robust research, policy review, and auditing.



## Appendix

1. MNPD should create a standalone policy on sexual misconduct. The policy shall:
  - i. Include list of examples and accordant definitions of sexual misconduct, including a blanket prohibition on any sexual misconduct.
  - ii. Commit to conducting a thorough investigation of *every reported allegation of sexual misconduct*.
  - iii. Provide resources for complainants that are unaffiliated with MNPD, such as the Sexual Assault Network of Middle Tennessee. Complainants will be provided information that they can report sexual misconduct to an entity other than MNPD, including advocacy organizations, the Community Oversight Board, or the DA's office.
  - iv. Utilize a victim-centered approach (making decisions in support of the victim) and trauma-informed assistance (consideration is given to how trauma could interfere with the victims reporting of the incident) to intake complaints of sexual misconduct. Collaboration with advocacy organizations shall be leveraged to the extent necessary.
  - v. Commit to the creation of a setting/environment in which a victim can feel safe reporting the misconduct. This shall include considerations regarding physical as well as psychological safety.
  - vi. Outline the methods by which complainants and the accused officer will receive periodic updates on the status of their case.
  - vii. Define that consent is not an affirmative defense when engaging in sexual misconduct while acting under the color of law, and that while on duty, no sex acts are considered consensual.
  - viii. Stipulate that the Chief of Police or their designee should be provided with an annual summary of complaints related to sexual misconduct. This summary should be reviewed to determine if any changes are necessary to agency policy, procedures, and/or training.
  - ix. Outline the steps that the department shall take to ensure due process for those accused of misconduct. Such resources should include resources for health and safety, including crisis intervention, if necessary, as well as counseling and mental health services, family counseling, human resources/employee assistance, peer support programs, addiction treatment, or police union/associations, among others.
  - x. Include in a supervisor's responsibilities that they shall conduct or designate the completion of random checks of officer cell phones, laptops, and other department-issued electronic devices to ensure that there are no objectionable materials on them.
  - xi. Commit to conducting an after-incident review at the conclusion of every investigation into a report of law enforcement sexual misconduct, including those that are unfounded. These reviews will seek to will evaluate whether any changes are needed to agency policies or practices to better prevent, detect, or respond to law enforcement sexual misconduct.
  - xii. Assign various types of sexual misconduct as defined in 1(a) to various forms of discipline as outlined in MNPD's Discipline Grid.
  - xiii. Designate that certain types of sexual misconduct, such as rape, carry termination as the only acceptable form of discipline.
  - xiv. Clearly designate that any sustained complaints of policy violations pertaining to sexual misconduct, and any administrative or criminal actions taken as a result, will be documented in an employee's personnel file.

- xv. Modify Section 12.30.060(E)(6) to include the prohibition of the use of communication methods or devices to engage in sexual misconduct within or outside the workplace.
  - xvi. Modify Section 1.8 of the Background and Recruitment Section's SOP to include:
    - i. Questions about whether candidates have engaged in, or ever been investigated for, sexual harassment, sexual assault, domestic violence, elder abuse, or child molestation.
    - ii. An investigation in to whether the candidate has any past arrests, convictions, suspended or deferred sentences, involvement in any diversion programs, and any protection orders related to sexual assault, domestic violence, elder abuse, child abuse, or stalking.
    - iii. An explicit stipulation that any candidate found through these processes to have a history of sexual misconduct or unacceptable sexual activities should be deemed ineligible for employment.
  - xvii. Modify Section 1.81 of the Background and Recruitment Section's SOP to include that when considering experienced personnel for hire from other agencies, MNPD should require candidates to sign a full-disclosure waiver that enables previous places of employment to provide in-depth references and copies of the officer's complete internal affairs file and all employment files, including details contained in any non-disclosure agreement and circumstances surrounding separations from service. Further, MNPD should contact the state licensing boards or POSTs in the states where the officers previously worked to determine whether the officer had been disciplined.
  - xviii. Modify Section 2.30 of the MNPD Manual to include sexual misconduct as an element of MNPD's Early Intervention System.
  - xix. Modify Section 2.80.050(B)(2) of the MNPD Manual to include that when an officer demonstrates any inappropriate or suspicious behavior of a sexual nature, a psychological fitness-for-duty examination should be required and arranged promptly.
2. MNPD's training on sexual misconduct shall be modified to include:
- i. Specific training on indicators of sexual misconduct and strategies for effective oversight of officer conduct should be provided to supervisors
  - ii. Each FTO must receive in-depth training on:
    - i. Law enforcement authority, oath, ethics, and civil rights.
    - ii. Defining law enforcement sexual misconduct and color of law, including case examples for on-duty and off-duty violations.
    - iii. Predatory behavior and common conduct of sexual offenders such as targeting, testing, grooming, isolation, and other "power and control" behaviors.
    - iv. Early warning signs and bystander intervention strategies for sexual misconduct.
    - v. Mandatory reporting responsibilities and reporting mechanisms.
    - vi. Responsibilities of supervisors.
    - vii. Confidentiality protections for reporting parties and witnesses.
    - viii. Prohibited retaliation against reporting parties and witnesses.
    - ix. Potential disciplinary outcomes and criminal prosecution.
    - x. Special considerations regarding frisks and searches of persons.
    - xi. Special considerations regarding vulnerable populations.
3. Following the implementation of MNPD's new sexual misconduct policy, MNPD leadership shall:

- i. Reach out to prosecutors and victim assistance personnel to inform them of the agency's position of zero tolerance and plan for responding to reported incidents and complaints.
  - ii. Support continuous dialogue and working relationships with victim service agencies in order to promote an understanding of the department's zero-tolerance position.
4. MNPD shall modify section 15.50.060 of their manual and any corresponding training to include a section on trauma-informed response to domestic violence victims. Such language shall address:
  - i. The acknowledgement of biases, assumptions, and stereotypes about victims, as well as specific actions to combat them.
  - ii. The use of interviewing strategies that are trauma-informed and support the victim's disclosure of facts about the incident.
  - iii. Such training shall address SAMHSA's 'Four Rs', namely:
    - i. Realize the prevalence and effects of trauma
    - ii. Recognize the signs and symptoms of trauma
    - iii. Respond by practicing a trauma-informed approach, interacting with victims in a way to
    - iv. Resist Retraumatization
  - iv. A mandatory component of training shall focus on trauma-informed sexual assault investigations, to be co-led by a victim advocate.
  - v. A mandatory component of training shall focus on training all sworn officers on how to identify common reactions to trauma and the neurobiology of sexual assault.
  - vi. Mandate that all sexual assault kits (SAKs) must be submitted for testing.