
Police Conduct Review Panel - Panelist Instructions

Police Conduct Review Panel Deliberation

- 1) You must apply the policy and procedure sections related to the allegations in the case file in determining whether there is merit or no merit on a case. You should only rely on evidence contained in the case file, which may include information on SharePoint and in a physical file.
- 2) You must apply the policy and procedure sections as they are listed even if you believe that policy and procedure sections applied to the allegations listed are or should be different.
- 3) It is up to you to make decisions of fact in determining whether or not what was alleged actually took place. In doing so, you must consider all the evidence contained in the case file. You may make reasonable inferences from the evidence presented.
- 4) You should not discuss the case with anyone, including your fellow panelists, prior to your deliberation.
- 5) During deliberation, you should discuss the case with one another and make sure each participant has an opportunity to voice his or her individual viewpoint.
- 6) You should decide the case for yourself, but only after you have discussed the case with your fellow panelists and carefully considered each of their viewpoints.
- 7) You should not hesitate to reexamine your views and change your opinion if you become convinced they are erroneous. But you should not surrender your honest opinion simply because the other panelists disagree or merely to reach a unanimous decision.
- 8) You will determine the credibility of witnesses and individuals involved in the matter. Do not form preconceived notions about witnesses. Any prior knowledge of any individual involved in a case shall not be used in this decision-making process. Please discuss discrepancies and issues regarding credibility with your fellow panelists before forming an opinion.
- 9) The standard for making decisions is preponderance of the evidence. Preponderance of the evidence means that it is more likely than not that a violation occurred. In numbers, this means as a panel, you feel that there is at least a 51% chance that the violation(s) occurred.
 - a. This is a lower standard than both clear and convincing and beyond a reasonable doubt. Please do not use either of these standards in making your determination and only apply the preponderance of the evidence standard.
- 10) If you have a question during deliberation, please notify the OPCR staff member assigned to your panel. They will receive the question and seek out the appropriate person to provide an appropriate answer to your inquiry.

Completing the Police Conduct Review Panel Recommendation Form

You are tasked with reaching a decision about whether there is merit or no merit the listed allegations. Here is a guide for each outcome:

MERIT

- For a merit recommendation, there needs to be a preponderance of the evidence.
- A preponderance of the evidence means that it is more likely than not that a violation occurred.
- When recommending merit, you must include the evidence or lack of evidence that supports the recommendation.
- In the form, include the field to list the applicable evidence you used to make your decision. City ordinance requires the review panel to submit a recommendation and include “reference to the investigative evidence which supports the investigation.” M.C.O. § 172.40(4). For that reason, identification of the supportive evidence better reflects the requirement than a narrative field. This is also more facially consistent with state law than a supportive findings field because that law restricts the authority of civilian review boards “to make a finding of fact or determination regarding a complaint against an officer.” Minn. Stat. § 626.89, subd. 17. So please include only a list of evidence that you used as prompted by the field.
 - Please use the table of contents to find the correct name for the evidence you are referring to.
 - **Example of items to list:** Investigative summary, BWC video (can include timestamps), Statement of Officer John Doe, Statement of Complainant Jane Doe

NO MERIT

- For a no merit recommendation, you must find that there is not a preponderance of the evidence.
- This means that it is more likely than not that the allegations did not occur or there is insufficient evidence to support the allegations.
- When recommending no merit, you must include the evidence or lack of evidence that supports the recommendation.
- In the form, list the applicable evidence you used to make your decision in the same manner described under the merit section.

REMAND

- A case may be remanded when there is an unexplained absence of necessary evidence in the file.
- The panel may ask questions during the panel session by writing and submitting their question to the Office of Police Conduct Review (OPCR) staff member. When possible, the question will be answered by the investigator who wrote the report in the file and the Director of OPCR.