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Feature *Stories*

Minneapolis Police Oversight Study by Alumnus Michael K. Browne Prompts City Council Action.



Michael (Kip) Browne '99 (left), who serves as Director of Enforcement & C.O. for the City of Minneapolis' Civil Rights Department, recently completed a study of the "Policy and Process of the Minneapolis Civilian Police Review Authority." His report found that the Civilian Review Authority (CRA), which was created in 1990 to provide a forum for citizens to have a voice in allegations of police misconduct, is not working as its architects had intended.

"The citizen oversight balancing functioning is completely nullified," Browne's report found. He attributed the situation to the fact that nearly all complaints are sent to internal affairs for resolution, a process that virtually ignores any CRA decisions

previously made regarding particular allegations. The Minneapolis City Council already has acted on one of the report's finding by setting up an internal work group to review the findings in depth.

Hamline Law Professor Robin Magee whose teaches courses on the legal aspects of police practices, commented, "This report is a wonderful contribution to the literature and will no doubt inform policy discussions related to police accountability mechanisms for years. I could not hope for a better use of Michael's law training in criminal procedure and policing more particularly."

Read a summary of the report by Michael Browne at:

http://www.hamline.edu/law/library/Do_Legal_Research_Online/Criminal/brownereportssummary.html or the full text at:

http://www.hamline.edu/law/library/Do_Legal_Research_Online/Criminal/Browne_Report_CRA.pdf

Hamline Alumnus' Study Sheds Light on Minneapolis Police Oversight

by R. Watson

[An independent consultant's report](#) sheds light on politically charged issues concerning the Minneapolis Civilian Police Review Authority's administrative procedures and effectiveness. Minneapolis Department of Civil Rights Director Jayne Baccus Khalifa commissioned the study by attorney Michael K. Browne to address longstanding contentions that the Minneapolis Police Department (MPD) disregards many Civilian Police Review Authority (CRA) determinations on the ground that they are unsound.

Governed by ordinances in Title 9, Chapter 172, of the Minneapolis Fire and Police Protection Code, the CRA is a fact-finding agency which investigates citizen complaints of MPD misconduct. CRA staff investigate complaint allegations, prepare fact findings, and recommend that the CRA Board either "sustain" or "not sustain" particular complaints. A three-person CRA Board panel then renders a decision or remands a complaint for further action by CRA staff. If the CRA Board sustains a complaint, the Board forwards the file to the Chief of Police for disciplinary action.

Under the ordinance, the Chief of Police must render disciplinary decisions on the basis of the facts found by the CRA. In practice, the chief often has declined to impose discipline on that basis, due to views that CRA investigations and determinations are inadequate, conjectural or simply unsupported by evidence. A CRA Board Chair reportedly criticized the Chief of Police for failing to administer police discipline based on sustained CRA complaints. Likewise, a Chief of Police reportedly criticized the CRA for conducting deficient investigations.

Amid this controversy, Khalifa retained Browne to study the CRA's administrative work processes and policies governing them. The study's overarching goal was to ensure that independent civilian oversight of the MPD occurs as intended by the City Council in enacting the ordinance. The study's objectives were to 1) address MPD allegations that CRA investigations were deficient, 2) evaluate the governing ordinance's implementation, and 3) recommend ways to improve CRA administrative processes. The study also probes whether it is the language of the ordinance or the implementation of the ordinance which arguably precludes effective civilian oversight of MPD. To achieve study objectives, Browne incorporated a summary review of MPD Internal Affairs processes.

[Browne's February 1, 2006, report](#) concludes that the vast majority of CRA investigations which Browne audited did meet or exceed standard efficacy criteria used in the field. However, the report acknowledges that CRA investigations draw criticism for at least two reasons. First, the MPD reevaluates CRA determinations starting on a "de novo" or "start fresh" basis. Second, the CRA uses or misuses MPD policies and procedures as a basis for reaching CRA determinations.

Using modified efficacy criteria, Browne reviewed CRA Board decision-making processes and reports that Board determinations meet acceptable standards. However, Browne cites the following problems with the Board's authority to render written decisions: 1) issuance of concurring and dissenting opinions, instead of one clear decision confuses the final outcome, 2) the CRA Board often duplicates its professional investigators' work, 3) the CRA Board incorrectly applies legal standards, and 4) the CRA Board's "opinions" often are perceived as biased against police. Browne found that these problems impair the CRA's credibility.

Regarding MPD's administration of discipline, Browne uncovered the following concerns. With "alarming" frequency, MPD leaders exceed the authority granted them by the governing ordinance, by rejecting CRA Board findings and determinations; in particular, MPD leaders decline to uphold or "sustain" complaints which the CRA Board panel already has upheld or "sustained." Also, because the ordinance does not prohibit acts of misconduct specifically, the CRA has not established clear enforcement objectives. This weakness in the ordinance causes parties to view Board decisions as advisory rather than binding.

Browne recommends that CRA staff 1) set up a clear "dismissal process" for complaints not warranting further investigation, 2) create a "standardized investigator report form" stating the alleged police misconduct, the factfinding process used, the evidentiary standard applied, and the basis for the conclusion or recommendation, 3) train investigators to employ standards other than the MPD policy and procedure manual in evaluating police misconduct complaints. Browne also recommends that the CRA Board stop rendering "opinions" and begin issuing outcome-based decisions declaring a complaint "Sustained," "Not Sustained," or "Remanded." He recommends that the Chief of Police adopt a disciplinary policy based on CRA final determinations and name a senior command officer to serve as CRA liaison.

Browne further recommends that the City Council commission an audit evaluating community and police satisfaction with CRA service quality. He recommends that the Council set up an internal work group composed of City Council members, Civil Rights staff, the CRA Board Chair, MPD senior command officers, a Police Federation representative, and a City Attorney representative. The group's issues would include the following: reviewing CRA's scope of authority to determine whether investigations should focus on MPD polices and procedures; limiting Board review to complaints "sustained" by CRA staff investigations; amending the ordinance to include a CRA administrative law judge and to define police misconduct; assessing feasibility of using a CRA "early warning system" for officers who repeat misconduct; reviewing CRA and accused police officers' need for subpoena power; reviewing the police chief's duty regarding CRA process, and considering reinstatement of time limits for the chief to impose officer discipline.

Finally, Browne recommends an independent review of MPD's internal affairs Unit (IAU) to gauge statistically the IAU's efficacy in investigating officer misconduct.

Browne initiated his study by reviewing the CRA complaint process' history as well as its development and redesign. His study relied on personal interviews, review of internal documents, and analysis of CRA investigation files. He audited 17 CRA investigations to identify any deficiency or dysfunction. The MPD selected 10 of the investigations as having deficiencies, while the CRA Manager selected the other 7 investigations. In reviewing the investigations and Board decision-making process, Browne used criteria based on factors designed by University of Arizona Professor Eileen Luna and University of Nebraska Professor Samuel Walker in their 1997 studies of police internal affairs units.

As independent consultant to the Minneapolis Civil Rights Department Director, Browne completed a previous study on civil rights investigation processes. That study spurred procedural changes to increase the Department's overall effectiveness.

Browne is an attorney with a background in private practice and representation of individuals in civil and criminal matters. He worked at the non-profit law office of Centro Legal, Inc. and helped draft the first civil rights opinions from the Office of the Monitor in *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999). That case enforced a settlement in an African –American Farmers' federal class action discrimination lawsuit against the U.S. Department of Agriculture. Browne also has worked as an Assistant Public Defender, a Special Assistant Public Defender, and a judicial clerk to Judge LaJune T. Lange. He completed a Robert Bosch Foundation Fellowship study in Germany on victim rights and police misconduct. Browne graduated from Hamline University School of Law, where he was a member of the Frederick Douglas Moot Court Team, the Hamline Journal of Public Law & Policy, and the Hamline Mock Trial Team.