

Recommendation # XX: MPD and the independent auditor should continue to review the MPD disciplinary decisions on significant discipline to determine to what degree the PFC post-disciplinary process is impacting those decisions. [OIR 143]

The PFC hearing process imposes a significant burden in disciplinary cases. If the Chief notifies an officer of his intent to implement a suspension, demotion, or termination, the officer can request a full hearing before the PFC, where the Chief (as complainant) must prove his case through presentation of evidence, after which the PFC can affirm, modify, or undo the disciplinary decision. This burdensome process provides a strong potential incentive for MPD to compromise serious discipline. One indication that this might be occurring is that no MPD-imposed disciplinary cases have been heard before the PFC in at least six years. Moreover, OIR notes a potential pattern of disciplinary leniency on the part of MPD, and finds that when MPD does impose a sanction of suspension, in the majority of cases all or most of the suspension days are held “in abeyance,” such that the officer is not actually suspended so long as they do not commit future transgressions.

OIR notes that *“In our experience in working with numerous police agencies, we have yet to encounter one like MPD where years have passed and no officer has challenged a disciplinary determination. It would be akin to a criminal justice system in which every defendant pleaded guilty. In policing it is difficult enough to remain firm in disciplining officers; if there is also strong reticence in participating in the post-disciplinary processes, the likely result is reduced accountability for officers.”*

MPD disagrees with OIR’s contention that it “settles” suspension cases (reaching agreements with officers) or that discipline has been compromised by the burdensome PFC post-disciplinary process. Nonetheless, the Committee adopted this OIR recommendation (#143) as drafted by OIR because we agree with OIR’s position that the *“structural incentives and their potential influence merit ongoing attention.... [I]t will be noteworthy and important to gain the auditor’s perspective on this issue after his or her having had an opportunity to dig into individual cases and evaluate trend lines.”* This is an empirical question on which the auditor would be best placed to make a determination.