Greater Cleveland
Regional Transit Authority

CIVILIAN OVERSIGHT COMMITTEE

OPERATING PROCEDURES

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A. PURPOSE OF THE CIVILIAN OVERSIGHT COMMITTEE

1. The purpose of the Civilian Oversight Committee ("COC") is to review public complaints filed against Greater Cleveland Regional Transit Authority ("GCRTA") Transit Police Department ("TP") employees.

2. For this purpose to be achieved, the COC shall have the power to receive, review, investigate, and make recommendations for the resolution of public complaints regarding alleged misconduct by TP employees.

B. PURPOSE, SCOPE, AND IMPACT OF THESE OPERATING PROCEDURES

1. These COC Operating Procedures contain all rules, procedures, processes, and general operations of the COC.

2. All provisions of these COC Operating Procedures shall be considered in a manner consistent with GCRTA's/TP's rules, policies, and procedures; the collective bargaining agreement between GCRTA and the Fraternal Order of Police Ohio Labor Council, Inc. ("FOP"); and all federal, state, and local laws and regulations. If the rules, procedures, processes, and general operations contained in these COC Operating Procedures are found to be in conflict with GCRTA's/TP's rules, policies, and procedures; the collective bargaining agreement between GCRTA and the FOP; or federal, state, and/or local laws and regulations, the latter will control.

C. DEFINITIONS

1. **"Allegation"** – A charge or claim made by a Complainant that, if established as true, could constitute a violation of a specific provision of GCRTA/TP policies and procedures.

2. **"Civilian Oversight Committee (COC)"** - The committee made up of non-GCRTA employees, including public citizens, responsible for reviewing, investigating, and making recommendations regarding complaints concerning the conduct of TP employees.

3. **"Complainant"** – Anyone who is not a GCRTA employee formally filing a complaint against a TP employee. (Complaints by a GCRTA employee against a TP employee will be handled by the appropriate internal resolution process as outlined in Section (F)(3)).

4. **"Days"** – Business days, excluding weekends and holidays.

5. **"Preponderance of the evidence"** – A determination that, based on all of the evidence, a fact or allegation sought to be proven is more probable than not.

6. **"Relevant"** – Evidence tending to make the existence of any fact that is of consequence to the investigation of a given complaint more probable or less probable than it would be otherwise without such evidence.

7. **"Transit Police Employees" or "TP Employees"** – Any individual employed by TP, including sworn officers, security staff, dispatchers, clerical staff, administrative staff, Transit Ambassadors, and Crisis Intervention Specialists.

D. ORGANIZATION

1. **Composition of the COC**
   - **a.** The COC consists of seven (7) members who are representative of the diverse communities within Cuyahoga County, Ohio.
   - **b.** The GCRTA Board of Trustees ("GCRTA Board") shall appoint each member of the COC through the selection process outlined in subsection (3) of this section.

2. **Qualifications of COC Members**
   - **a.** COC members shall have a general understanding of GCRTA services and its TP Department.
   - **b.** Members should have the ability to remain objective and unbiased in order to represent the best interests of the public.
   - **c.** COC membership should reflect GCRTA's customer base and have diverse representation regarding age, sex, race, color, religion, national origin, disability, genetic information, sexual orientation, military status, transit dependence, and geography. All COC members should be 18 years old or older and a resident of Cuyahoga County.
   - **d.** COC members shall be outstanding members of the community and exhibit a strong moral code. All COC members should be free of any criminal history.
   - **e.** At least one (1) members of the COC shall be a resident of the City of Cleveland.
   - **f.** At least one (1) member of the COC shall be a retired police officer with Ohio Peace Officer Training Academy experience. If there are no such applicants, then one (1) member position of the COC shall remain vacant until an applicant with this qualification can be appointed.

3. **Selection Process of New COC Members**
   - **a.** All individuals interested in becoming a COC member shall submit an application.
   - **b.** An ad hoc Screening Committee consisting of the Chief of Police, the CEO/General Manager of GCRTA, two or more GCRTA staff members, and one or more GCRTA Board Member(s) shall review the applications based on the criteria set out in subsection (2) of this section and refer a slate of candidates to the GCRTA Board.
   - **c.** Candidates referred to the GCRTA Board will undergo a CJIS Background check.
   - **d.** Candidates referred to the GCRTA Board may be required to interview with an ad hoc Interview Committee comprised of GCRTA Board members and subject matter experts.
   - **e.** Appointment of COC members shall be made by the GCRTA Board in December of each year. Appointments become effective January 1 of each year. Interim appointments may be made at other times throughout the year to fill vacancies.

4. **Term of Membership**
   - **a.** Terms of membership for COC members shall be for three (3) years, with the exception of an initial appointment or vacancy appointment as outlined in subsection (e) of this section.
   - **b.** COC members shall have a maximum term limit of three (3) consecutive terms. A break in service on the COC will reset this maximum term limit.
     - i. The GCRTA Board of Trustees may waive any limitations on term limits at its discretion.
   - **c.** COC members interested in reappointment for an additional term shall notify the Board liaison in writing by October 1st of the year when their term is set to expire. A member whose reappointment is accepted by the GCRTA Board of Trustees will continue serving as a COC member with their next full term beginning immediately after the expiration of their current term.
   - **d.** Terms of membership for COC members shall be staggered so that no more than three (3) COC members' terms expire in any year.
   - **e.** To ensure that the COC member terms will be staggered, two COC members' initial appointments shall be for one (1) year, two COC members' initial appointments shall be for two (2) years, and three COC members' initial appointments shall be for the full three (3) years.
   - **f.** Initial appointments and vacancy appointments of less than three (3) years will not count against a member's maximum allowable terms.

5. **COC Officers**
   - **a.** The COC shall select one (1) member annually to serve as the Chair and one (1) member annually to serve as the Vice-Chair. The Chair and Vice-Chair shall be selected by a majority vote of all current COC members during the first meeting of each year. The terms of the Chair and Vice-Chair shall be one year and until their successors take office. The Chair and Vice-Chair shall serve no more than three (3) consecutive one (1) year terms. After serving three (3) consecutive one (1) year terms as Chair or Vice-Chair, a COC member may not be elected to the same office of Chair or Vice-Chair for at least two (2) years.

   - **b.** Duties and Powers of the Chair
     - **i.** The Chair shall preside over all meetings of the COC and shall have the right to vote on all questions.
     - **ii.** The Chair shall ensure all policies, procedures, and laws pertaining to actions by the COC are faithfully followed.
     - **iii.** The Chair shall act as the spokesperson in all matters pertaining to the COC.
     - **iv.** The Chair shall sign any documents on behalf of the COC after approval by the majority vote of a quorum.
     - **v.** The Chair shall perform such other duties and responsibilities as determined by the COC.
   - **c.** Duties and Powers of the Vice-Chair
     - **i.** The Vice-Chair shall perform the duties and have the authority of the Chair during the absence or inability of the Chair to perform such duties and during any period while the office of Chair is vacant.
     - **ii.** The Vice-Chair shall preside at all meetings of the COC when and while the Chair is vacant. When performing the duties and having the authority of the Chair, the Vice-Chair shall have all powers of the Chair.
     - **iii.** The Vice-Chair shall perform such other duties and have such authority as the COC may from time to time provide.
   - **d.** Temporary Chair
     - **i.** At any meeting at which both the Chair and the Vice-Chair are absent, the COC, by a majority vote of those present, may elect a member of the COC to serve as the temporary Chair for that meeting.
   - **e.** Removal
     - **i.** All officers of the COC shall serve at the pleasure of the GCRTA Board and shall be subject to removal by the GCRTA Board at any time.
     - **ii.** All officers of the COC may be removed from their officer position for any reason a COC member may be removed from membership as enumerated in subsection (6)(a)(ii) of this section.

6. **Vacancies of the COC**
   - **a.** Any of the following circumstances shall lead to a vacancy on the COC:
     - **i.** Death or resignation of a COC member.
     - **ii.** Removal of a COC member by the GCRTA Board. A COC member may be removed for having three, consecutive unexcused absences; for having unexcused absences from more than one-third of regular meetings of the COC over the course of the most recent twelve-month period; failing to attend and complete the training under subsection (7) of this section within six (6) months of the beginning of the COC member's term; violating any GCRTA/TP policies and/or procedures; violating any federal, state, or local criminal laws; for any other reason authorized by law; or any conduct unbecoming a representative of the public.
   - **b.** COC members may continue to serve after the expiration of their terms if not replaced, at the invitation of the GCRTA Board.
   - **c.** Vacancies that occur in the middle of a term shall be filled in the same manner as prescribed under subsection (3) of this section for the duration of the unexpired term.
   - **d.** If a COC member desires to resign, the COC member shall notify the Chair and the Board Liaison of the resignation in writing.

7. **Orientation and Training**
   - **a.** The TP Administrative Commander, in consultation with the Chief of Police, is responsible for the establishment of an orientation and training program for COC members.
   - **b.** The orientation and training program shall include familiarization with the following:
     - **i.** Federal, state, and local laws involving police-citizen encounters, including, but not limited to, laws regarding the use of force, stops, searches, seizures, and arrests;
     - **ii.** Police tactics;
     - **iii.** Investigations of police conduct;
     - **iv.** Bias-free policing;
     - **v.** Policing individuals in crisis;
     - **vi.** GCRTA/TP policies, procedures and disciplinary rules;
     - **vii.** GCRTA Code of Ethics;
     - **viii.** Community outreach;
     - **ix.** Interactions with the Media; and
     - **x.** Ohio Sunshine Laws and the Open Meetings Act.

8. **Attendance and Participation**
   - **a.** COC members have a duty to use their best efforts to attend all regularly-scheduled meetings and any special COC meetings.
   - **b.** If a COC member cannot attend a meeting or other function of the COC where official business is conducted, the COC member shall provide notice to the Chair and Executive Secretary as soon as possible. If a COC member fails to provide notice of an absence prior to the start of a COC meeting, the absence shall be considered unexcused.

9. **Transit Privileges, Compensation, and Reimbursement for Expenses**
   - **a.** Members of the COC shall receive unlimited transit privileges during their service.
   - **b.** The annual compensation for COC members shall be in the amount of one thousand, eight hundred dollars ($1,800), paid on a month-to-month basis.
     - **i.** The annual compensation for COC members shall be paid from the Board of Trustees's Departmental Budget.
     - **ii.** A COC member has the right to decline compensation.
   - **c.** Members of the COC shall be reimbursed for expenses properly incurred while undertaking their official COC duties, as approved by the GCRTA Board.

10. **COC Staff**
    - **a.** GCRTA/TP shall designate an Executive Assistant to the COC to serve as the primary point of contact between the COC and other GCRTA/TP personnel. COC members are not precluded from contacting other GCRTA/TP staff directly when appropriate.

      - **i.** The Executive Assistant shall be responsible for communications to the COC, tracking attendance, maintaining a record of meetings, channeling COC members' concerns to the Chief of Police, and all other administrative functions of the COC.
    - **b.** GCRTA/TP shall designate a GCRTA/TP Liaison to the COC to serve as an independent investigator of all complaints assigned to the COC.
      - **i.** The GCRTA/TP Liaison shall handle all TP communications and relations with the COC.
      - **ii.** The GCRTA/TP Liaison shall be responsible for organizing complaints, conducting investigations, interviewing witnesses, collecting records, and any other investigatory responsibilities as assigned by the COC.
      - **iii.** The GCRTA/TP Liaison shall present complaints to the COC and conduct further investigations as directed by the COC.
      - **iv.** The GCRTA/TP Liaison shall handle all other substantive matters involving the COC.
    - **c.** The GCRTA Board of Trustees shall designate a Board Liaison to the COC to act as the point of communication between the COC and the Board.

11. **Code of Ethics**
    - **a.** COC members and any COC staff shall execute the duties outlined herein in a manner that is consistent with GCRTA's Code of Ethics.

E. CONDUCT OF MEETINGS

1. **Quorum and Voting**
   - **a.** For meetings of the COC, a majority of the appointed members shall constitute a quorum – i.e., at least four (4) members present.
   - **b.** The affirmative vote of the majority of a quorum shall be required to carry forward any action by the COC.

2. **Meetings Generally**
   - **a.** All meetings of the COC shall be held at the GCRTA Main Office Building unless otherwise designated in the notice of the meeting.
   - **b.** The COC shall hold regular meetings on the last Tuesday of every other month. The first regular COC meeting will be in January of each year. The COC may update the regular meeting schedule at its discretion.
   - **c.** The COC shall hold special meetings as it deems necessary. The GCRTA Board and GCRTA/TP staff shall have input in setting the COC meeting agendas.
   - **d.** Notice of COC meetings shall be provided in the same manner as notice for the GCRTA Board.

3. **Public Meetings**
   - **a.** All meetings of the COC, except executive sessions held for purposes required or permitted by law, shall be open to the public, and no person shall be excluded from any meeting except for conduct which unreasonably interferes with the orderly conduct of the meeting.

4. **Rules of Procedure**
   - **a.** Until otherwise provided, meetings of the COC shall be conducted in accordance with Robert's Rules of Order, subject to subsection (5) of this section.

5. **Conduct of Meetings**
   - **a.** Meetings of the COC shall be conducted in accordance with the following procedures:
     - **i.** Vote. Actions may be taken by voice vote, except that the Chair may, and upon the request of any member shall, require any vote to be taken by roll call. Any member of the COC shall be permitted to change his or her vote until the roll call has been verified and the result declared. A motion for reconsideration on any vote may be made by any member who was in the majority on such vote. Such motion must be made not later than the close of the meeting following the one at which such vote was taken.
     - **ii.** Division of Question. If any question contains two or more divisible propositions, the Chair may, and upon request of a member shall, divide the same.
     - **iii.** Motions. Motions shall be presented, seconded and acted upon, in accordance with recognized parliamentary procedures. Upon request of any member, any motion shall be reduced to writing. Any motion may be withdrawn by the movant with the consent of the second, before it has been amended or voted upon. All motions which have been entertained by the Chair shall be entered upon the minutes of the meeting.

F. AUTHORITY, JURISDICTION, DUTIES, AND RESPONSIBILITIES

1. The COC has the power to receive, review, investigate, and make recommendations for the resolution of public complaints regarding alleged misconduct by TP employees.

2. The COC has jurisdiction over the following types of complaints of misconduct that are made against TP employees by a complainant:
   - **a.** Harassment complaints, including those alleging bias, discrimination, and profiling against members of the public;
   - **b.** Excessive force complaints;
   - **c.** Illegal search and seizure of person or vehicle, including traffic stops and other property;
   - **d.** Service complaints, including insufficient service or a complete lack of service (i.e., failure to make police report, failure to respond to call for service);
   - **e.** Property complaints, including missing property and damaged property of a public person or people; and
   - **f.** Misconduct related to the receipt of a Uniform Traffic Ticket or Parking Infraction Notice if the Parking Infraction Notice was issued by TP employees.

3. Internal GCRTA employee complaints against TP employees and those determined to be Human Resources in nature shall not be heard by the COC and will be resolved by the GCRTA's/TP's internal complaint resolution process. The Chief of Police or their designee will be responsible for determining which complaints shall be reviewed by the COC and which shall be resolved by the GCRTA's/TP's internal complaint resolution processes.

G. FILING A COMPLAINT

1. Complainants can file a complaint with the COC via mail, email, calling, or in-person at the TP Main Office. Complainants are encouraged to use the COC Public Complaint Form that can be found on the TP's website or available at the GCRTA TP Department.

2. Any complaint received by a COC member shall be documented and forwarded to the Chief of Police and the TP Administrative Commander. The TP Administrative Commander shall order a review and investigation of the complaint in accordance with General Order 06.09, the Investigation of Employee Misconduct policy.

3. The GCRTA/TP Liaison or their designee shall notify the complainant that the complaint has been received.

H. HEARING AND REVIEW PROCEDURES

1. The GCRTA/TP Liaison or their designee shall present the complaint and investigation materials to the COC within ten (10) days after completion of the internal investigation.

2. The COC shall review the complaint and investigation materials after receipt from the GCRTA/TP Liaison or their designee. The COC may conduct further investigation into the complaint and the COC may conduct hearings regarding the complaint. The COC must conclude any outstanding reviews, investigations, and hearings of a complaint within sixty (60) days of receipt of the complaint from the GCRTA/TP Liaison or their designee.

3. The COC may request the complainant(s) be present to provide their testimony of what caused them to file the complaint.

4. The COC may request the involved TP employee(s) be present to provide their testimony and explain their actions.

    a. In accordance with *Garrity v. New Jersey*, 385 U.S. 493 (1967) ("Garrity Rights"), statements made by TP employees during COC administrative investigations may not be used in any subsequent criminal proceedings against that TP employee. In addition, based on *NLRB v. Weingarten*, 420 U.S. 251 (1975) ("Weingarten Rights"), TP employees will have the right to have union representation for any COC investigatory interview, which the employee reasonably believes may result in disciplinary action.
    b. No employee of the FOP shall be compelled to make a statement, either oral or written, about a complaint until they have been advised of the complaint and the possible disciplinary action to be taken by the GCRTA if the complaint is sustained.

5. The GCRTA/TP Liaison may be called upon to provide any additional information to the COC for clarity.

6. The COC may utilize subject matter experts for the purpose of providing knowledge and expertise on a matter under review.

7. Upon the conclusion of the review and/or investigation of a complaint, the COC shall vote on a recommended disposition(s) for adjudication of the complaint.

I. STANDARDS OF PROOF – DISPOSITIONS

1. No finding with respect to an allegation of a case shall be sustained unless it is proven by a preponderance of the evidence. For purposes of applying the "preponderance of the evidence" standard of proof, TP employee performance shall be evaluated against the policy, procedure, and/or training that was in effect on the day of the incident, or during the relevant time period during which the incident occurred.

J. STANDARDS FOR RECOMMENDATION REGARDING CORRECTIVE OR OTHER REMEDIAL ACTION

1. When considering a recommendation regarding corrective or other remedial action, the COC shall apply a standard of "just cause." In determining whether there is just cause for the recommended corrective or other remedial action, the COC shall consider all of the following:
   a. Was the TP employee forewarned of the rule, policy, or procedure as well as the consequences for violating the rule, policy or procedure?
   b. Is the recommendation regarding corrective or other remedial measure reasonable based on the TP employee's conduct?
   c. Was the investigation prior to recommending corrective or remedial action complete, fair, and objective?
   d. Is there substantial evidence to support the recommendation regarding corrective or other remedial action?
   e. Is the recommendation regarding corrective or other remedial action free from bias and discrimination?
   f. Is the degree of corrective or other remedial action reasonably related to the nature of the offense?

K. ADJUDICATION OF COMPLAINTS

1. After the COC has reviewed all the evidence, facts, and circumstances from the investigation of the complaint, the COC shall vote on a recommendation using one (1) of the following findings for each allegation:
   a. **Sustained:** Preponderance of the evidence supports a finding that the alleged conduct occurred and the TP employee's actions were inconsistent with GCRTA/TP policy, procedure, and/or training or federal, state, and local laws and regulations.
   b. **Sustained in Part:** Preponderance of the evidence supports a finding of a GCRTA/TP policy, procedure, and/or training or federal, state, and local laws and regulations violation on one or more, but not all, of the complainant's allegations.
   c. **Violation not Based on Original Complaint:** Preponderance of the evidence supports a finding of misconduct that was not included in the complainant's original allegations but arose out of the incident that is the subject of the complaint.
   d. **Exonerated:** Preponderance of the evidence supports a finding that the alleged conduct occurred, but the TP employee's actions were consistent with GCRTA/TP policy, procedure and/or training or federal, state, and local laws and regulations.
   e. **Unfounded:** Preponderance of the evidence supports a finding that the alleged conduct did not occur.
   f. **Not Sustained:** The facts and circumstances fail to establish whether or not the conduct occurred.
   g. **Administratively Dismissed:** The complaint is not GCRTA/TP related, does not involve a TP employee, or is related to a service delay that is determined to be unavoidable.

L. RECOMMENDATION REGARDING CORRECTIVE OR OTHER REMEDIAL ACTIONS

1. Where the COC reaches an adjudication of "Sustained," "Sustained in Part," or "Violation not Based on Original Complaint" on one or more allegations, the COC shall deliberate on a recommendation regarding appropriate corrective or other remedial action.

2. Potential corrective and other remedial actions include re-training, coaching from a supervisor, first written reminder, second written reminder, decision making leave, termination, or other action that may be appropriate to address the violation.

3. To determine the recommended corrective and/or remedial action, the COC shall refer to the relevant GCRTA/TP policies addressing discipline, re-training, supervisory intervention, or other remedial action for misconduct or deficient performance. The COC shall make recommendations consistent with, and not materially deviating from, GCRTA's positive discipline policy, any applicable collective bargaining agreements, and/or any other relevant GCRTA policies.

M. RECOMMENDATION REGARDING COMMENDATIONS

1. During review and consideration of investigations, COC members may identify TP employee performance that is commendable, superior, noteworthy, or otherwise deserving of special and positive recognition. In such circumstances, a COC member may move that the COC recommend a commendation that is consistent with GCRTA's positive discipline policy and TP's award recognition program.

2. If a majority vote approves the recommendation, the Chair shall provide a written commendation of the identified TP employee's performance to the Chief of Police, Chief Operating Officer, and GCRTA CEO/General Manager.

N. FINAL SUMMARY

1. The Chair shall prepare a Final Summary that shall include the COC's findings and, where applicable, recommended corrective or other remedial action, and a brief outline of the evidence that the COC used to support the disposition and/or recommendation.

2. If the COC's recommended disposition departs from the COC Staff Investigator's recommended disposition, the Final Summary shall also include a written justification for the departure. The Final Summary may also include suggestions regarding GCRTA's and TP's policies, strategies, tactics, and/or training.

3. Within ten (10) days of receiving a Final Summary involving a finding of "Sustained," "Sustained in Part," or "Sustained for a Violation not Based on Original Complaint" on one or more allegations, the Chief of Police shall hold a hearing, at which time the involved TP employee(s) may present evidence and give their version of the incident.

4. Within ten (10) days of the conclusion of the hearing under subsection (c) of this section or receipt of a Final Summary that does not involve a finding of "Sustained," "Sustained in Part," or "Sustained for a Violation not Based on Original Complaint" on one or more allegations, the Chief of Police shall notify the involved TP employee(s), the complainant, and the COC of the outcome, including the disposition of the allegations and the corrective or remedial action(s) imposed, if any.

5. If the Chief of Police departs from the COC's recommendation, the Chief of Police shall provide a written explanation for the departure to the Chair of the COC.

O. RECORD REPOSITORY

1. All original records relating to the COC activities and operations shall be maintained in accordance with the current GCRTA public records policy and appropriate retention schedule. All public records requests should be directed to the DGM of Legal Affairs or their designee for appropriate action.

P. OVERSIGHT AND RESPONSIBILITY

1. These COC Operating Procedures shall be subject to review, revision, and updating by GCRTA's General Counsel in coordination with the Chief of Police and TP leadership. Amendments to these COC Operating Procedures shall be approved by the GCRTA Board.