



Do Not Call List

Protocols

- NOTE: These protocols are subject to ongoing re-evaluation and enhancement. -

I. Purpose

To standardize the internal review process ensuring appropriate fairness and due process of procedure yielding inclusion on the Do Not Call List ("DNC"). To provide uniform guidance to trial prosecutors on those officers deemed to have engaged in conduct that renders any potential testimony they might give unreliable or non-credible.

II. Overview

Generally, an officer qualifies for inclusion on the DNC if:

- The officer has been convicted of perjury, false statement, crimen falsi (any crime involving deceitfulness, untruthfulness, falsification or related element bearing on propensity to testify truthfully) or the officer is charged with any of the these offenses, pending adjudication of same; or
- If proven by clear and convincing evidence that an officer abused his/her authority by:
 - a. Engaging in criminal activity;
 - b. Making false statements that do not result in charges; or
 - c. Intentionally engages in repeated 4th Amendment violations.

III. Reviewing Committee

Recommendation for inclusion on the DNC will be the result of a majority vote of the reviewing committee consisting of the Chief Deputy State's Attorney, Deputy for Major Crimes, Deputy for Criminal Intelligence, Deputy for Operations, Director of Policy, and Chief Legal Counsel ("Reviewing Committee"). Following a review of all relevant material related to the incident generating possible inclusion on the list, the Reviewing Committee will make a recommendation to the State's Attorney for inclusion.

IV. Temporary Inclusion

In general, if there are credible allegations that an officer has engaged in conduct described in section II and/or the officer has pending criminal cases, subject to approval by the Chief Deputy, the officer will temporarily be placed on the DNC until the investigation into the officer's conduct by the originating agency is complete. Once the investigation is complete, the Reviewing Committee will re-evaluate whether the officer should remain on the list.

V. Ongoing Review

In general, the Reviewing Committee will hold a status meeting every ninety (90) days, to determine if a removal recommendation should be made to the State's Attorney. A majority vote from the Reviewing Committee is required in order to be recommended for removal from the list. The standard to remove an officer from the list is whether there is a material change in the officer's conduct or circumstance which generated inclusion on the DNC. A review for removal from the DNC may include, but is not limited to:

- a. The PTPIU will forward updated material that it may have on the individual officer's conduct or circumstance within thirty (30) days of a request made by the Reviewing Committee;
- b. The Reviewing Committee will obtain any relevant material from BPD Legal that it determines may reflect a material change in the officer's conduct or circumstance;
- c. At any time, PTPIU can request a review for removal from the DNC should evidence exist that reflects a material change in the officer's conduct or circumstance;
- d. An officer or an officer's representative may submit material to the Reviewing Committee for review if said material supports that there has been a material change in the officer's conduct or circumstance; and
- e. As part of the review process, once an officer is placed on the DNC, ERU will be notified and will provide any relevant material to PTPIU. PTPIU will review any material provided by ERU and will provide a summary to the Reviewing Committee of any relevant information in consideration of whether to remove or otherwise re-evaluate inclusion on the DNC. The summary will be provided to the Reviewing Committee no later than thirty (30) days prior to the review date.

VI. Decay Factor

In general, the Reviewing Committee will not consider conduct that occurred more than ten (10) years ago; however, this is subject to exception depending on the specific circumstances surrounding the conduct. As an example, but not limited to, if an officer's recent conduct demonstrates a continuing pattern of conduct as



described in Section II, or if such conduct is particularly egregious, the Reviewing Committee may consider conduct outside of the 10 year time period.

VII. Notification

If an officer is placed on the DNC, a member of the Reviewing Committee will notify the officer and will inform the BPD Legal Division, or legal department of the agency employing the officer. Once notified, the officer or their representative or BPD Legal Division may request a review as indicated in Section V. In its notification, the Reviewing Committee will request that the relevant officer be removed from performing any work which may generate a need for testimony or otherwise impact criminal cases.

