
STATUS REPORT

Minneapolis Civilian Police

Review Authority

March 2, 1992

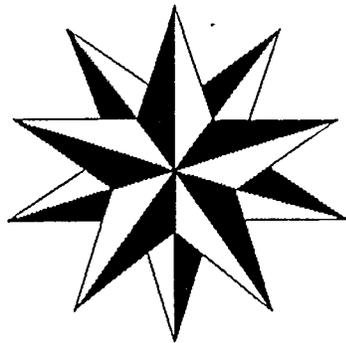


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INTRODUCTION

The Minneapolis Civilian Police Review Authority ("CRA") was established by ordinance on January 26, 1990. Its first seven members were named in the summer of 1990. Three have since resigned; one has been replaced, and two seats are now open. The CRA's Executive Director began working full-time in January of 1991. Two Investigators joined the staff in March and April of 1991, and a third was approved by the Minneapolis City Council and joined the staff in September of 1991.

The CRA has been taking complaints of police misconduct since April 15, 1991. This brief report will provide some information about the CRA's first year of operation. It presents the perspective of the Executive Director, rather than the policy of the CRA's Board.

**NUMBERS AND TYPES OF COMPLAINTS:
TWICE THE NUMBER RECEIVED IN 1990**

The Civilian Review Authority has accepted an average of 20 new complaints per month. New complaints are counted only after an Investigator interviews the complainant in detail, drafts a formal complaint and submits it to the complainant, and then the complainant signs and returns the formal complaint to the CRA Offices.

This is over twice the level of civilian complaints received by the Internal Affairs Division ("IAD") of the Minneapolis Police Department in 1990, the last full year in which IAD routinely accepted civilian complaints. IAD's average intake in 1990 was between eight and nine civilian complaints per month. See Appendix A.

Between fifty and sixty percent of those who are the alleged victims of complaints filed with the CRA are people of color. See Appendix B.

Over 60 percent of the complaints alleged the excessive use of force as their primary characteristic. The next three primary complaints, in their order of frequency, were improper language, failure to provide police service and harassment. Graphs showing the types of cases received by the Civilian Review Authority in 1991 and the types of allegations received by the Internal Affairs Division in 1990 are attached as Appendices C and D.¹

¹ These charts are not comparable in that Internal Affairs kept its statistics by reference to allegations, while Civilian Review has kept its statistics by reference to complaints. The average Internal Affairs complaint contained two allegations of misconduct.

**THE COMPLAINT PROCESS:
FROM THE COMPLAINANT'S PERSPECTIVE**

The Civilian Review process is an extremely formalized process, with many steps, required notices, and required deadlines. (See Appendices E-G.) The Rules of the CRA run to 28 pages. While the process is demanding for the staff of the CRA, to the extent possible, it has been made simple for the complainant.

To file a complaint, the complainant first contacts the CRA Office, either in person or by telephone, to make an appointment to speak with an Investigator. At the appointment, the Investigator interviews the complainant. Soon thereafter, the complainant receives a formal complaint in the mail for signature, together with a stamped envelope addressed to the CRA. When this is returned, a complaint is logged and the investigation begins.

Once the Investigator has gathered as much background information as possible about the incident (reports and tapes from the Emergency Communications Center, police reports, medical records, etc.), the complainant is asked to come in for a more detailed "question and answer" statement. This is transcribed and sent to the complainant for review and signature. From this point, the complainant needs to do little or nothing.

The Investigator attempts to locate other witnesses, secure their cooperation, and obtain "question and answer" statements from them. Other evidence may be collected; photos may be taken. The Investigator may visit the scene of the incident, if its layout is important, etc. Generally, in the last stage of the investigation, an Investigator interviews the officers involved. Based on the final report of the Investigator, the Executive Director issues a Probable Cause or a No Probable Cause determination. A Probable Cause determination sends the case into the evidentiary hearing system of the CRA.

After receiving a Probable Cause determination, the complainant next receives a notice of the membership of the hearing panel. This is the panel of the CRA's members (usually three) which will act as "judges" of the complaint. The chair of the panel schedules a pre-evidentiary hearing conference. This is a procedural conference which is designed not for presenting evidence, but for exchanging relevant information. The complainant, who is represented by the Executive Director, does not attend. At that conference, the date of the hearing is generally scheduled.

Hearings involve the presentation of testimony by witnesses and the presentation of other evidence. Because of the provisions of the Minnesota Data Practices Act, the hearing is treated as a "private" personnel hearing. This means that the officer or officers involved attend the entire hearing, but no other witnesses - including the complainant - may hear any evidence presented or the testimony of any other witnesses. The complainant is given a special right to address the Board directly, following the complainant's testimony. Hearings generally begin at 7:00 p.m. It is not unusual for them to close at 11:00 p.m. and for panel deliberations to run past midnight.

Following the hearing, the complainant waits about one month for the decision of the hearing panel. Sustained complaints are submitted to the Chief of Police for disciplinary action. Within 30 days of receiving the entire evidentiary record, the Chief makes a disciplinary decision and provides a written explanation of the reasons behind it.²

²For purposes of simplicity, many steps were left out of this description of the CRA's process. Potentially, the process can be much more complex. A chart of the CRA process is attached as Appendix E.

STATUS OF CRA'S CASELOAD

The CRA accepted 175 complaints between April 15, 1991 and January 30, 1992. Their status is reflected in the chart attached as Appendix H.

Two generalizations can be made about the complaints which have been filed with the CRA. First, a serious backlog of cases developed at the investigative stage, which appears to have been reduced to a "normal level." Although this level appears manageable, it is far from desirable. Second, the number of cases which will require hearings poses some difficult questions for the CRA.

The investigative backlog developed for several reasons. First, the CRA began with two Investigators, as compared with the four Investigators which Internal Affairs had assigned to civilian complaints. The CRA added a third Investigator in the fall of 1991. Second, investigations could not be completed until August, because Minneapolis Police Officers would not provide statements until unanticipated procedural concerns raised by the Minneapolis Police Federation were resolved. Third, the CRA took in an extremely high number of cases in July, creating a heavy burden on the Investigators. Fourth, all investigations were slowed by the fact that the entire administrative and investigative process was new.

The Investigators have largely worked through this backlog, leaving them with an active caseload of sixty. It is doubtful that the caseload can be reduced much below this. The average time to complete an investigation has been four months. See Appendix I for the steps in a typical investigation.

To date, ten cases have been presented to the CRA's Board at formal administrative hearings. Seven decisions have been issued by the CRA's Board.

After an extremely heavy load of hearings in November and December of

1991, the Board has been pressed to stay abreast of new Probable Cause determinations. It has proved time-consuming and difficult to coordinate the schedules of three Board members, the officers involved, an attorney and a representative from the Police Federation, the Executive Director, the complainant and several witnesses. This problem has been worsened by the resignation of some of the Board members. As a result, only one hearing could be scheduled in January and only two in February. Eleven cases are now awaiting hearing.

TRAINING

Most of the Board and the investigative staff of the CRA have had the opportunity to attend the 1991 IACOLE Conference. IACOLE (International Association for Civilian Oversight of Law Enforcement) is a professional association of civilian review organizations with members throughout the English-speaking world. This provided an invaluable exposure to many different systems and many people with years of experience in this area.

Board training events were held in the following areas as well: police practices and procedures; cultural sensitivity; general board training and team-building; the effect of Data Practices and the Open Meeting Law on civilian review; conducting hearings; drafting hearing decisions.

MAJOR ISSUES FOR THE FUTURE

The most critical issues facing the CRA center around one fact. The current workload and hearing load is forcing both the staff and the Board of the CRA to work at a level which may not be sustainable. Three CRA Board members have already resigned, due to issues related to their workload. With a staff about equal to that which IAD devoted to civilian complaints in 1990, the CRA staff is attempting to conduct twice as many investigations, and to operate an elaborate system of notices and hearings.

These challenges can be met through a combination of increasing the resources of the CRA and reducing the level of expectation. More Board members and more staff may be needed to meet the current demands. A larger Board would reduce the personal pressure which has led experienced Board members to resign. More staff would speed investigations; improve the quality of investigations; create the flexibility to deal with complex, high-visibility cases without giving short shrift to the more routine caseload; and relieve the Executive Director from the necessity of personally reviewing all investigations and presenting all contested cases in hearings, thus speeding the hearing process. It may also be necessary to develop a "diversion" system for complaints. Such a system would have to (a) reduce the number of hearings, (b) reduce the amount of staff time devoted to resolving cases, and (c) resolve cases without simply dismissing them because the resources did not exist to address them properly.

Two major "policy" issues also confront the Civilian Review Authority. One is the effect of the state Data Practices Act. Unless a complaint is sustained after a Board hearing, the current interpretation of Data Practices prevents most information about the investigation from being released to the complainant or to the public. This reduces the credibility of the CRA, and it reduces the CRA's ability to improve police-community relations by getting police officers and citizens to hear each others' viewpoints. However, changes in this area will

involve addressing a delicate balance between the access of the complainants to information, the access of the public to information, and the rights of police officers to privacy. The experience of other jurisdictions with civilian oversight mechanisms may prove useful in finding how to strike this balance. A second issue is subpoena power, currently unavailable to CRA. This would have to be obtained through state legislation. The CRA Board had put the issue on the City's legislative agenda, but at the Executive Director's request had it removed, because the CRA decided it could not devote the staff time needed in 1992, to successfully lobby on this issue at the state legislature. At least three cases were significantly weakened by the failure of independent witnesses to testify. More experience will enable the CRA to determine how severe a problem this continues to be.

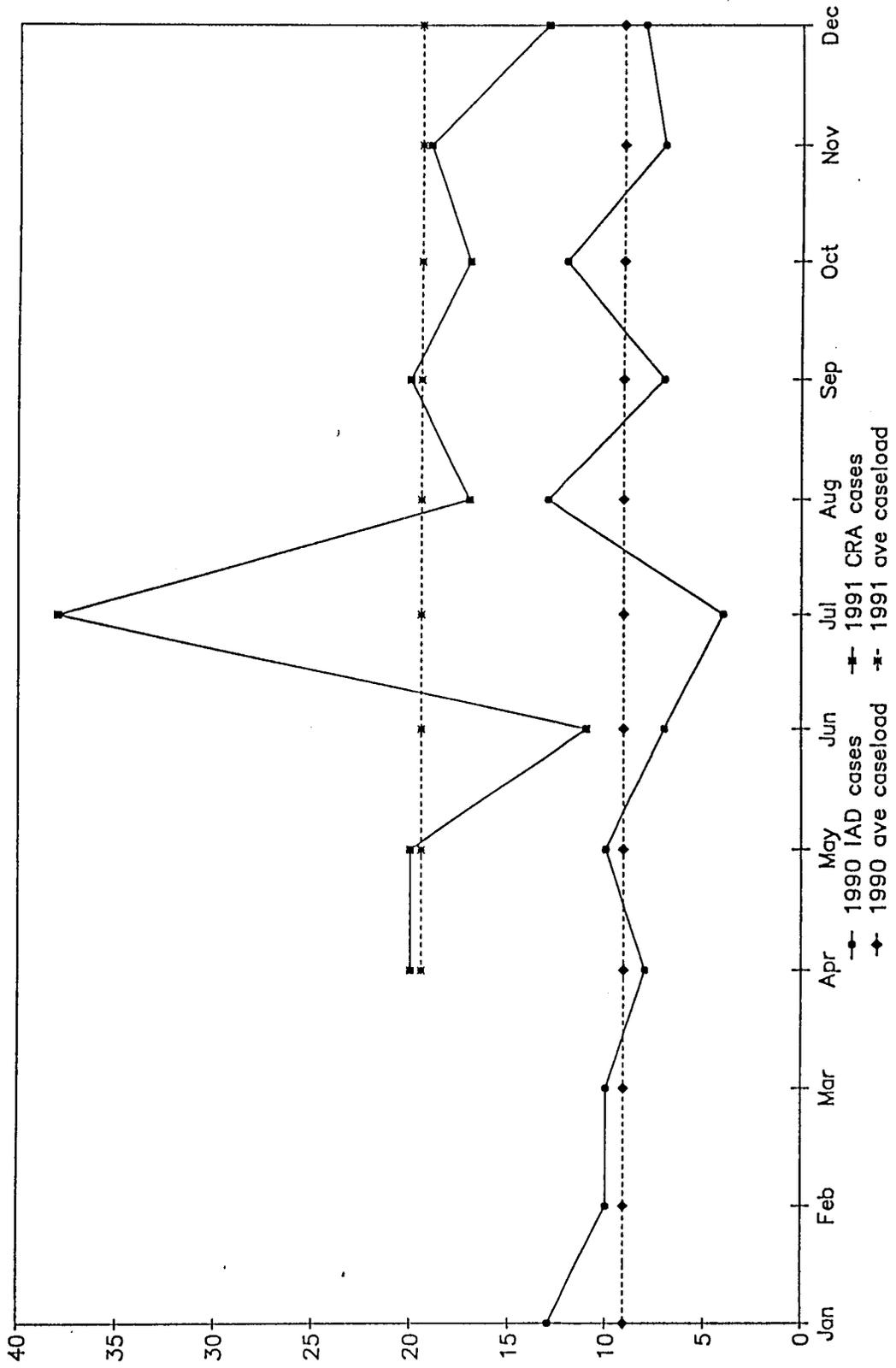
CONCLUSION

In its first year, the Civilian Review Authority has accomplished a number of critical, if undramatic, things. It has established practices and procedures for investigating complaints of police misconduct. It has set up a mediation process. It has implemented a hearing process. Although its failure was widely predicted before it even opened its doors, it has not failed. Rather, the CRA has garnered at least qualified acceptance from the police administration, interested community groups, and the Police Federation.

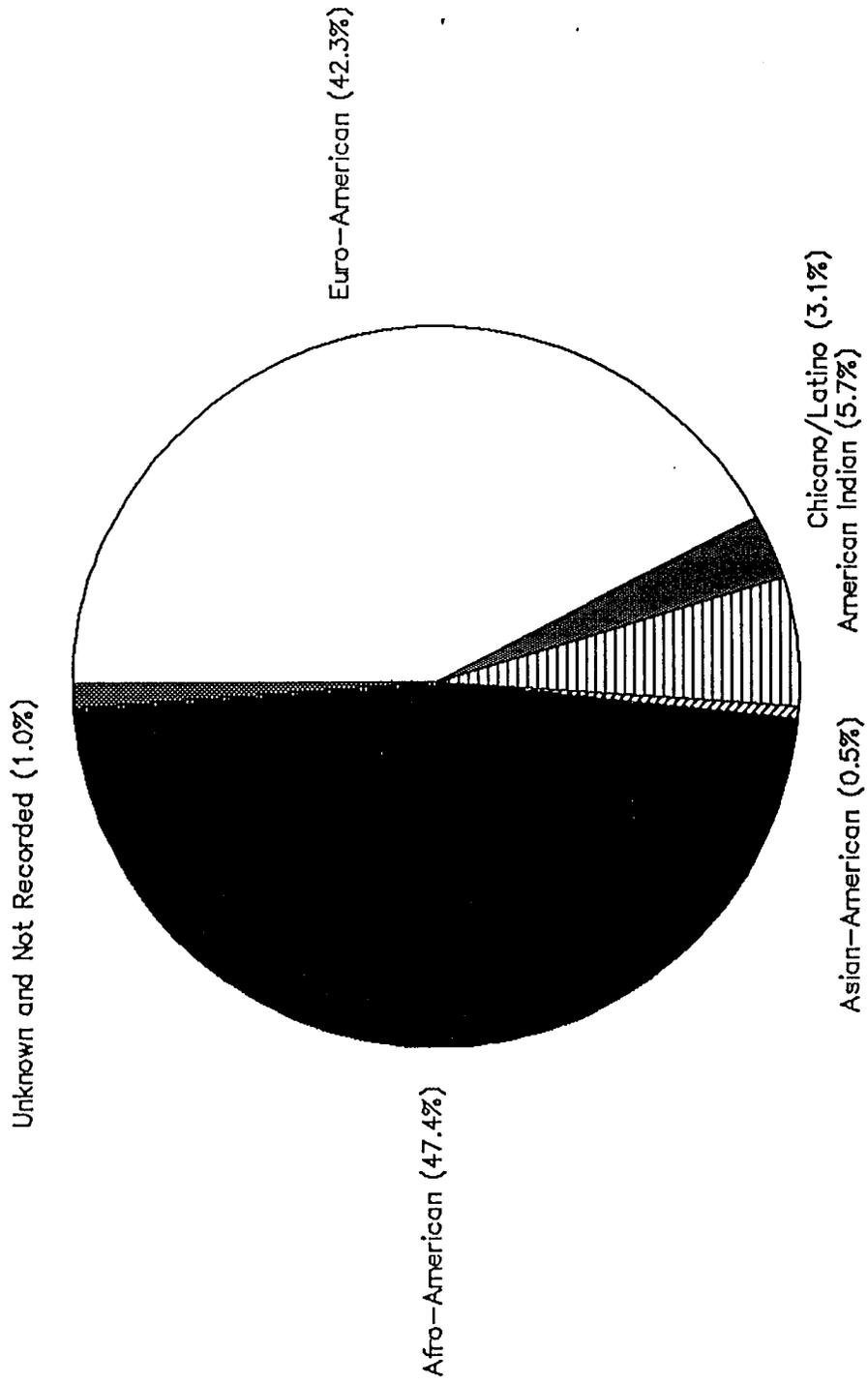
With a level of new cases more than double that which had been experienced by Internal Affairs, and with a formal hearing process to administer, the CRA may now be the victim of its own success in attracting complainants. While recognizing the financial pressures on the City, the CRA may still need to increase Board and staff. Without more resources, it cannot provide full-dress hearings for all credible allegations of misconduct; speed its investigations; or speed its hearing process. At a minimum the CRA's task for the next year will be to continue its solid work on each case.

The CRA has received strong support from the Mayor and the Minneapolis City Council, for this experiment in improving police-community relations. Despite this support and despite its successes of the past year, there are crises on the horizon. The CRA will need continued support over the next year, as it tries to strike the right balance of increased resources, changes in the process, and reduced expectations. With this support, it can meet the challenge of the coming year. /

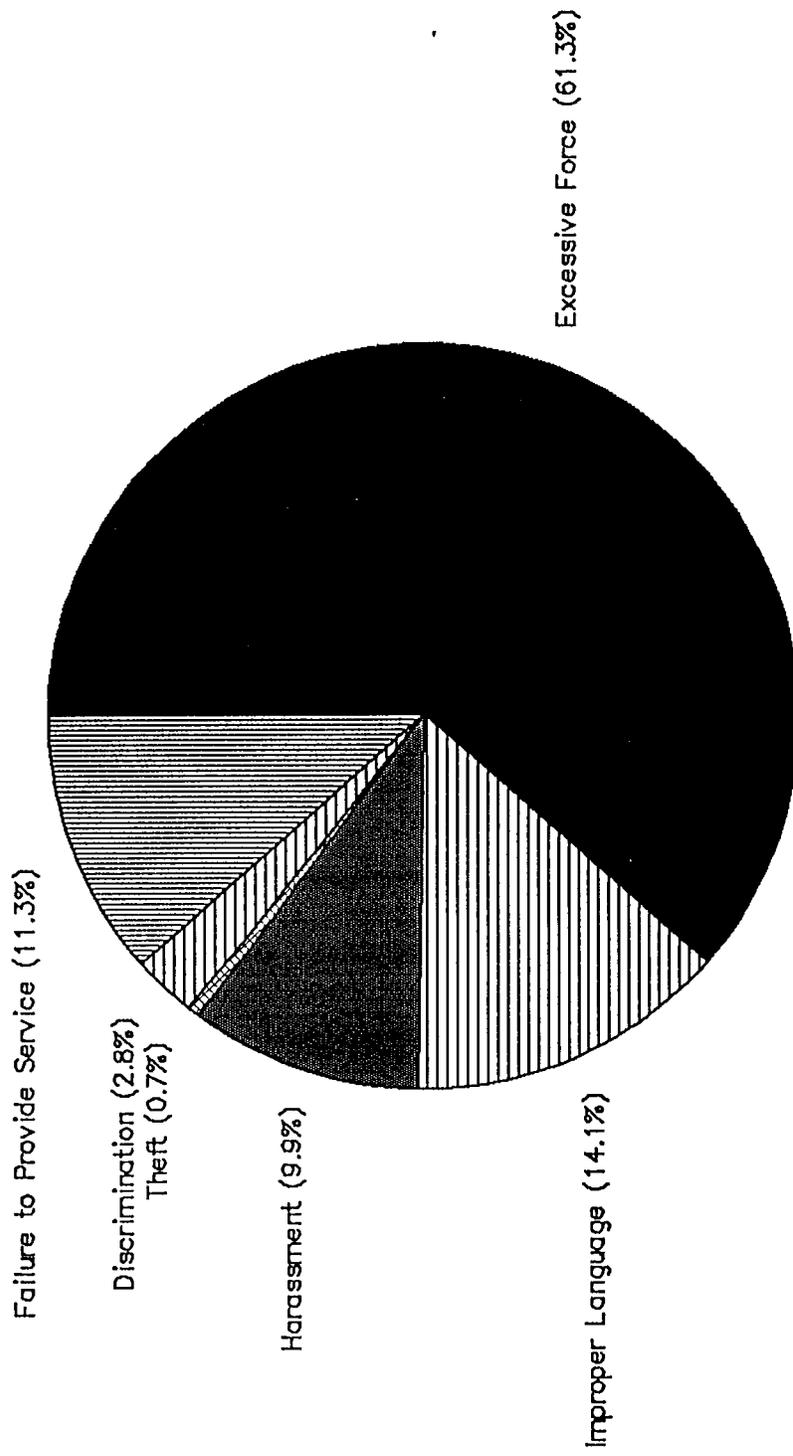
Comparison of 1991 CRA Caseload
with 1990 IAD Caseload



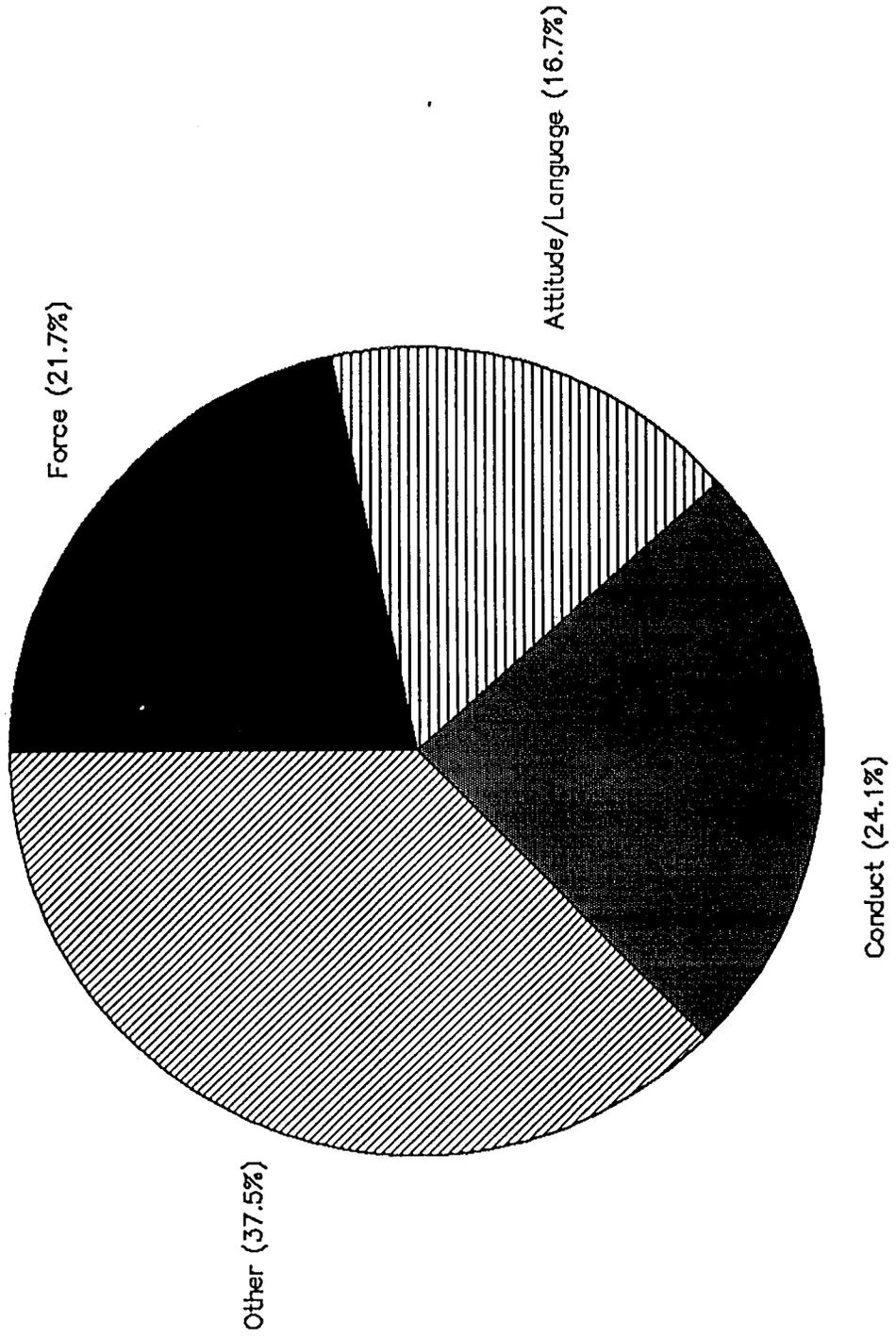
Civilian Review Authority
Alleged Victims by Race/Ethnicity



Types of Complaints
from CRA Records, April–November, 1991



Types of Allegations
from IAD Records, 1990



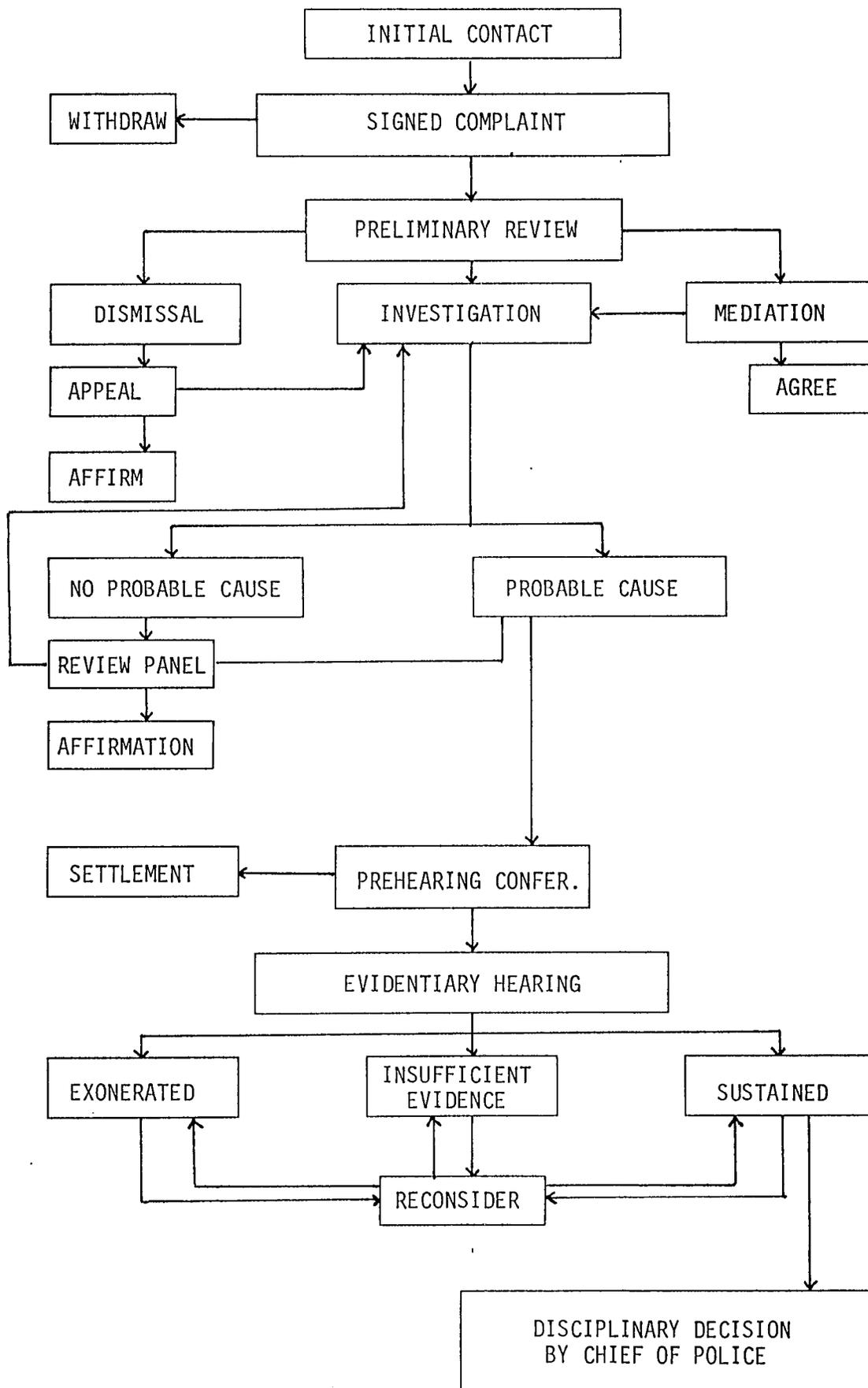


Exhibit E.

TABLE OF FORMS AND NOTICES
IN THE CIVILIAN REVIEW PROCESS

Description of forms and notices	Rule Number
Complaint	3.01
Amended Complaint	3.121
Notice of Withdrawal of Complaint by complainant	3.131
Notice by CRA of Withdrawal of Complaint (implied)	3.131
Written Notice of Receipt of Signed Complaint	3.31
Notice of Filing of Signed Complaint	3.32
Copy of the Authority Rules	3.33
Written Report stating Reason(s) for Dismissal of Complaint	4.02
Written Appeal of Dismissal	4.03
Written Notice of the Board's Decision Upon Appeal of Dismissal of Complaint	4.032
Determination that Case is appropriate for Mediation	5.15
Mediation Agreement	5.23
Notice to give Garrity Warning	6.141
Signed, sworn Witness Statements	6.161
Report of Findings of Investigation	6.171
Probable Cause Determination	6.171(a)
No Probable Cause Determination	6.171(b)
Notice of No Probable Cause Determination	6.181
Petition for Review Panel	6.182
Decision of Review Panel	6.185
Notice of Probable Cause Determination	7.01

Notice of Membership of Hearing Panel	7.014
Written Objection to One-Member Panel	7.016
Challenge for Cause to a Member of the Hearing Panel	7.151
Written Response to Challenge for Cause	7.153
Notice of Pre-Evidentiary Hearing Conference	7.201
Notice of Evidentiary Hearing	7.203(f)
Written Settlement Agreement	7.2051
Request for New Pre-Hearing Conference	7.212
Motion to Consolidate	7.41
Request to Re-schedule Evidentiary Hearing	7.563
Evidentiary Testimony in Written Form, signed and sworn by the Affiant	7.5734
Request for Continuance of Hearing	7.712
Determination of Just Cause for Continuance	7.715
Official Record of the Evidentiary Hearing	7.811
Findings of Fact and Determination of the Complaint	8.11
Notice of Findings of Fact and Determination	8.13
Request for Reconsideration	8.21
Determination upon Request for Reconsideration	8.22
Written Explanation of Reason(s) for Disciplinary Decision	9.01

TIME LIMITS AND NOTICES
IN THE CIVILIAN REVIEW PROCESS

Description and time limits	Rule Number
Receipt of signed Complaint; within fifteen (15) days after initial contact.	3.23
Amendment of Complaint; within thirty (30) days after initial filing.	3.121
Notice of Receipt of Complaint; mailed within five (5) days after receipt of signed Complaint.	3.31
Notice of Filing; mailed within five (5) days after receipt of signed Complaint.	3.32
Provision of copy of Administrative Rules to all parties; within five (5) days after receipt of signed Complaint.	3.33
Tracking of case for mediation, dismissal, or further investigation; within thirty (30) days after initial filing.	3.411
Agreement to mediation by both the complainant and the officer; within ten (10) days of receiving Notice of Referral to Mediation.	5.15
Completion of mediation; within thirty (30) days after the Authority receives notice of willingness to mediate.	5.20
Completion of investigation; within one-hundred and twenty (120) days after signed Complaint; may be extended by sixty (60) days.	6.11
Notification of No Probable Cause Determination; within five (5) days of No Probable Cause Determination.	6.18
Notification of Probable Cause Determination; within five (5) days of Probable Cause Determination.	7.01

Commencement and completion of Evidentiary Hearing; reasonable efforts to accomplish within forty-five (45) but no longer than sixty (60) days of Notice of Probable Cause Determination.	7.011
Appointment of Hearing Panel and designation of Panel Chair; within five (5) days of receipt of Probable Cause Determination by the Chair of the Authority.	7.012 and 7.013
Notice of Membership of Hearing Panel; within five (5) days of the appointment of the Panel.	7.014
Written objection to a one-member panel; within five (5) days of receipt of Notice of Appointment of Hearing Panel.	7.016
Written Challenge for Cause to a Member of the Hearing Panel; within five (5) days of receipt of the Notice of Membership of Hearing Panel.	7.151
Holding of Pre-Evidentiary Hearing Conference; within fifteen (15) days from either the Notice of Membership of the Hearing Panel or the resolution of all challenges to Members of the Hearing Panel.	7.202
Notice of the time, date and setting of the Evidentiary Hearing; at least ten (10) days before the scheduled hearing, with due regard for the work schedules of the officer and the complainant.	7.203(f)
Requests for a new Pre-Hearing Conference; within five (5) days after the scheduled conference date.	7.212
Request to re-schedule the Evidentiary Hearing after a failure to appear; within two (2) days after the previously scheduled hearing date.	7.563
Request for Continuance of Hearing; at least ten (10) days before the scheduled hearing date.	7.712
Findings of Fact and a Determination of the Complaint; within thirty (30) days of the closing of the record.	8.11
Issuing Notice of the Hearing Panel's Findings of Fact and Determination; immediately after making the Findings.	8.13

Request for Reconsideration; within five (5) days of receipt of the Findings of Fact and Determination. 8.21

Determination if a decision should be reconsidered; within ten (10) days of receipt of the Request for Reconsideration. 8.22

Written explanation by the Chief of Police to the Authority and the Mayor of the reason(s) for his/her disciplinary decision; within thirty (30) days of the receipt of the Record. 9.01

Step	Description	Est. Time (Hours)
1.	Initial contact and set up appointment	.4
2.	Initial interview	.8
3.	Draft complaint based on initial interview	.5
4.	Proofread complaint, draft cover letter, etc.	.2
5.	Establish investigative file, draft medical releases, etc.	.2
6.	Request and obtain police reports, E.C.C. records, medical reports, photographs, other documents	1.5
7.	Review police reports, E.C.C. records, medical records, photos and other documents	2.0
8.	Arrange question and answer interview with complainant	.2
9.	Prepare for question and answer statement from complainant	1.5
10.	Take question and answer statement from complainant	1.0
11.	Arrange typing of transcript	.2
12.	Locate and arrange for statements with witnesses, including uncooperative witnesses	.7
13.	Prepare for interviews with witnesses (average of two witnesses)	1.5 each
14.	Take question and answer statements from witnesses (average of two)	1.0 each
15.	Arrange transcription of interviews	.2
16.	Visits to take statements from witnesses: transportation on-site inspection	.8 2.0
17.	Arrange Garrity notices to officers	.2
18.	Prepare for interviews with officers (average of two)	1.5 each
19.	Interviews with officers	1.0 each
20.	Read, review, and highlight transcripts of statements	.8 each
21.	Evaluate entire file, including police reports and other evidence, perform additional investigation and draft investigator's reports and recommendations	7.0
22.	Discuss file with Executive Director	.5
23.	Follow up investigation, if needed	2.0
	Total Hours	36.2

Exhibit I.