

**MINNEAPOLIS CIVILIAN POLICE
REVIEW AUTHORITY**

Redesign Team Report

November, 1997

OFFICE OF THE CITY COORDINATOR
350 South 5th Street - Room 301M
Minneapolis MN 55415-1393

Office (612) 673-2032
Fax 673-3250
TTY 673-2157

Kathleen O'Brien
City Coordinator



November 18, 1997

The Honorable Sharon Sayles Belton, Mayor
The Honorable Jackie Cherryhomes, President, City Council
City Council Members

Dear Mayor and Council Members:

In June, you appointed a redesign team to:

conduct an analysis of the Minneapolis Police Civilian Review Authority (CRA) to determine whether the CRA provides the appropriate service required (based on current expectations), in the most cost-effective manner, and whether the CRA has the structure and staffing to provide this service.

Attached to this letter of transmittal are the findings and recommendations of the Redesign Team.

The Team Process

The Redesign Team met throughout the summer and fall collecting information, identifying issues and developing this report. In total, the Team met 15 times and spent over 30 hours on this project. It focused on three main tasks:

1. information and data gathering
2. issue identification
3. development of recommendations

The information and data gathering phase included:

- three focus groups focusing on concerns from the police and the community, and a historical perspective
- literature review
- interviews with national experts
- survey to police officers, CRA complainants, and neighborhood leaders

Issue identification and the development of the recommendations was a developmental process. The Team worked within the parameters set forth in the charge to the committee. It also reviewed past issues and national trends and then sorted through them to determine relevancy to today's situation. Many issues were raised, however,

only those that were reinforced by a number of sources were recognized. As well, some issues were symptomatic of larger systemic concerns.

Findings and Recommendations

Once the initial identification and sorting of issues occurred, they were categorized into six areas:

- CRA Services
- Evaluating whether the CRA is Fulfilling Expectations
- Is the CRA cost efficient
- Structure
- Staffing
- Civil Rights Department Oversight

Consensus among team members was reached on all recommendations. It is the expectation of the Team that the recommendations will be discussed, adopted and implemented. All Redesign Team members participated fully in our effort and deserve recognition for the contribution of their perspectives, time and expertise. The Redesign Team was staffed by Trudy Gayer Moloney, Director, Finance - Management Analysis, and Sally Westby, consultant. Their research, drafting and timely follow through were essential to the completion of our task.

It is the hope of the Team that this report will inform and enhance the public discussion on the Minneapolis Police Civilian Review Authority. On behalf of the Redesign Team, thank you for the opportunity to participate in this critical task and to contribute to our community.

Sincerely,



Kathleen O'Brien, City Coordinator
Chair, Redesign Team

Redesign Team:

Inspector David Indrehus, Minneapolis Police Department
Daryl Lynn, Chair, The Civilian Police Review Board
Jim Michels, Attorney for the Police Federation, Best and Flanagan
Michael Norton, Deputy City Attorney, Civil Division
Kenneth White, Executive Director, Minneapolis Department of Civil Rights

Addendum A contains a letter from two Redesign Team members regarding the structure issue.

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY

REDESIGN TEAM REPORT

November, 1997

Submitted by the Redesign Team:

Kathleen O'Brien, *City Coordinator and Chair of the Team*

Inspector David Indrehus, *Minneapolis Police Department*

Daryl Lynn, *Chair, the Civilian Police Review Board*

Jim Michels, *Attorney representing the Police Federation, Best and Flanagan*

Michael Norton, *Deputy City Attorney, Civil Division*

Kenneth White, *Executive Director, Minneapolis Department of Civil Rights*

TABLE OF CONTENTS

I. Background	- - - - -	<i>Page 1</i>
II. History and Overview of the Minneapolis Civilian Review Authority	- - - - -	<i>Page 2</i>
III. Review of Information Gathered	- - - - -	<i>Page 3</i>
The Literature Search		
Interviews with National Experts		
The Focus Groups		
The Survey		
IV. The Issues and Recommendations	- - - - -	<i>Page 12</i>
I. CRA Services -- “whether the CRA provides the appropriate service required		
II. Evaluating whether the CRA is Fulfilling Expectations -- “Does the CRA provide the appropriate service...based on current expectations”		
III. Is the CRA cost efficient -- “whether the CRA provides the appropriate service required (based on current expectations), in the most cost effective manner”		
IV. Structure -- “and whether the CRA has the structure...to provide service”		
V. Staffing -- “the right staffing to provide...service”		
VI. Civil Rights Commission Oversight		
V. Appendices		
Appendix A: Agendas from the Focus Groups		
Appendix B: The Complaint Process Flow Chart The CRA’s Annual Report for 1996		
Appendix C: Bibliography		
Appendix D: Copy of the Survey		
VI. Addendum A: Letter from two Redesign Team members regarding the structure issue		
Addendum B: Memo from City Attorney		

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY REDESIGN TEAM REPORT

I. Background

At the June 27, 1997 City Council meeting, the City Council voted to create a redesign team to:

"Conduct an analysis of the Minneapolis Police Civilian Review Authority (CRA) to determine whether the CRA provides the appropriate service required (based on current expectations), in the most cost-effective manner, and whether the CRA has the structure and staffing to provide this service."

Members of the Redesign Team are:

Kathleen O'Brien, City Coordinator and Chair of the Redesign Team

Inspector David Indrehus, *Minneapolis Police Department*

Daryl Lynn, *Chair, the Civilian Police Review Board*

Jim Michels, *Attorney representing the Police Federation, Best and Flanagan*

Michael Norton, *Deputy City Attorney, Civil Division*

Kenneth White, Executive Director, *Minneapolis Department of Civil Rights*

The Redesign team met throughout the summer and fall collecting information, identifying issues and developing this report. In total, the team spent over 32 hours in meetings. Staff to the team, Sally Westby, consultant, and Trudy Gayer Moloney, Director of Management Analysis, Finance Department, worked with the Municipal Information Library, and other staff (including Bill Barnhart, Elise Ebhardt, Monica Hennessy-Mohan, and Laura Jensen) to gather information and analysis materials for the team.

The information and data gathering phase included:

- three focus groups focusing on concerns from the police and the community, and a historical perspective (See Appendix A);
- literature search;
- interviews with national experts; and
- survey to police officers, CRA complainants, and neighborhood leaders.

The literature search was first conducted, followed by the focus groups and interviews with the national experts. The survey findings were presented in late September. Approximately 85 survey respondents requested a personal follow-up. Phone calls were made by team members to these respondents in October.

From the information gathered, the team identified the major issues that are currently facing the Authority. These issues are outlined in Section IV. of this report. They address the concerns expressed in the charge to the Redesign team. Recommendations for addressing these issues are also included.

II. History and Overview of the Minneapolis Civilian Review Authority

The CRA was created by ordinance on January 26, 1990 for the "purpose of investigating allegations of misconduct on the part of officers of the Minneapolis Police Department and making findings of fact and conclusions based upon those findings of fact."

The Scope of Authority outlined in the CRA's administrative rules stated that the Review Authority shall receive complaints that allege misconduct by an individual police officer or officers, including, but not limited to the following:

- a. use of excessive force
- b. inappropriate language or attitude
- c. harassment
- d. discrimination in the provision of police services or other discriminatory conduct on the basis of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability or age
- e. theft
- f. failure to provide adequate or timely police protection.

The Authority was created as a result of growing concern on the part of community leaders who called for a greater civilian role in reviewing complaints of police misconduct. While the concern for civilian oversight was present in Minneapolis for many years, there were a few highly controversial police actions in the late '80's that resulted in the appointment of a working committee that ultimately recommended the CRA's creation to the City Council and Mayor.

As stated in the CRA's annual reports, the "key components of the Authority are civilian investigators, and civilian community members who review the evidence and make Findings of Fact on the complaint." A flow chart is found in Appendix B as well as the CRA's annual report which details the complaint process.

The CRA began accepting complaints from citizens in April, 1991. It has received a total of 885 complaints as of 12/31/96. See Appendix B, the CRA's 1996 annual report, for more specific information about the numbers and types of complaints. According to its director, a majority of cases do not enter the formal complaint stage. The cases are referred to other sources, resolved informally, or are not followed

through with a formal complaint by the complainant. Mediation is a growing referral source and one service that respondents to the survey strongly supported¹.

III. Review of information gathered

The redesign team spent three months gathering data and information to help it identify the issues facing the CRA today, to get a better understanding of citizen oversight of police nationwide, and to explore resolutions to concerns. Data and information gathering was done by a literature search, interviews with national experts, three focus groups, and a survey.

The Literature Search

The literature search provided a frame of reference and working vocabulary. Appendix C is a bibliography of the articles the redesign team found most useful. Overall, evaluation of citizen review boards is lacking, however, the tracking of boards is underway at several universities and professional associations. Comparisons of review systems is especially difficult because no two are alike. Each have been created to address specific community needs resulting in a variety of structures and processes. While no two police review systems are alike, they do fall into three major categories: internal review, civilian review and the civilian monitor model.

Internal Review Process

Internal review processes do not have civilian oversight and employ sworn police officers as intake personnel, investigators and decision makers. Almost all police departments have an internal review function.

Civilian or Citizen Review Boards

Civilian or citizen review boards are administered by citizens instead of police officers and are independent of police organizations. Citizens do intake, investigation and decision-making. The Minneapolis CRA falls into this category.

Civilian Monitor Model (also referred to as the 'auditor' or 'hybrid' model)

Finally, the civilian monitor model is also known as the 'auditor' or 'hybrid' system. In these systems, citizens handle intake, police conduct the investigations, and then

¹ 63.3% of all the respondents supported the CRA providing mediation services. By self-identified categories: 57.9% of the police officers, 71.8% complainants, and 74% of the neighborhood association members support this service.

citizens review them and act as advisors to the police chief. This model can be found in St. Paul.

Interviews with National Experts

The literature search also identified leading experts in the field who were called for interviews. The people interviewed were: John Ferman, Director of Research for the International Chiefs of Police; Dr. Samuel Walker from the University of Nebraska; and Dr. David Ward from the University of Minnesota.

Conversations with these experts helped the redesign team organize its approach to issues, and better understand what makes a citizen oversight board effective.

John Ferman, Director of Research for the International Chiefs of Police

John Ferman identified seven factors that contribute to effectiveness. They are: the authority given to the board; adequate funding; appropriate staffing; timeliness of handling complaints; citizen satisfaction; police department satisfaction; and 'co-option' or in other words, the perception of or real influence of a relationship between police and civilians reviewing police conduct.

He also cautioned against trying to find a national model from which to base a cost comparison or to copy a structural design. Each community needs to determine what structure works best for its situation and how much it can commit to funding. He recommended to City:

- "take a good look at police culture and ethics" to address police conduct issues;
- "look at alternatives and enlighten people" about the opportunities to address police conduct;
- study the strengths and weaknesses of the current CRA;
- survey the community to get a better understanding of its issues;
- recognize that police leadership plays a key role in addressing police conduct; and
- do not design a system based on some other city's model - "stay true to Minneapolis".

Samuel Walker, Professor of Criminal Justice at the University of Nebraska at Omaha. Author of eight books including Nonsense About Crime (1994), and the Citizen Review Resource Manual (1994).

Samuel Walker stressed the need for evaluating civilian review boards but pointed out that nobody, including the law enforcement and the civilian review communities, has defined the criteria or established standards. Cities need to develop a vision and ways of achieving it, and then assess the progress.

He cautioned against using the number of complaints as a valid criteria. There are too many interpretations when looking at the number of complaints filed. A high number of complaints could be a positive sign in terms of the community trusting the civilian review board. It could also be viewed as a negative comment on police conduct. As well, a low number of complaints could indicate the review process is not functioning well as opposed to an interpretation of fewer cases of police misconduct.

Walker also addressed the importance of qualified people serving on civilian review boards. "Screening is essential," he said, "not having that will sink it (civilian review board)."

He also pointed out that the timeliness of handling complaints has been the biggest challenge to civilian review boards nationwide. He cited the civilian review board in Washington, DC which collapsed because some investigations were taking three years to complete. "They didn't have a process for prioritizing and screening complaints," he explained.

Nationally, Walker sees a tremendous growth in citizen review. The auditor or hybrid model is growing in popularity especially on the west coast. Ferman and Ward also concurred with this finding.

David Ward, Professor at the University of Minnesota who was involved in the creation of the Minneapolis Civilian Review Authority and has served on its board. His current research is in "Citizen Review of Police Misconduct" and the "Effects of Long-Term Confinement in Maximum Custody" for the National Institute of Justice.

David Ward met with the Redesign Team in late September and was accompanied by a student of his, Bridgette Cleary, who is currently surveying Minneapolis Police Officers assessing attitudes, culture and related issues. Ward agreed with Walker that few evaluations of civilian review boards have occurred. He mentioned a new project at Sam Houston University under the direction of Kenneth Adams and funded by the National Institute of Justice. Over the next year, six civilian review authorities in cities including Minneapolis, Boston, Portland, Baltimore, Richmond, and Jacksonville, will be evaluated. Contract negotiations with these cities are currently underway to begin the project.

Ward encouraged the Team to listen to the community in assessing the CRA's effectiveness. He suggested that "fear is in the process, not the staff". Data practices has resulted in a closed hearing and this situation seriously disadvantages the CRA. There is no way for the community to see how the process operates and, consequently, the public becomes frustrated and dismayed, he explained.

The Focus Groups

The focus groups provided an opportunity to gather information from leaders in the community, the legal world, and in police enforcement about the Minneapolis CRA. The agendas from the meetings including a list of participants is included in Appendix A. Conversations focused on the elements of success and areas in need of improvement for the Minneapolis CRA. Structure, visibility and data privacy concerns were among the issues that surfaced. The groups also talked about whether the expectations of the CRA are being met and whether these expectations are realistic.

FOCUS GROUP I: Civilian Review - Then and Now

This group provided the Team with a historical perspective and highlighted the need for a more open process, and more education about the system, and for the civilian oversight function to be perceived as fair by the police and the community.

The group also discussed the challenges and complexities of establishing the CRA. Most reaffirmed the need for the CRA.

FOCUS GROUP II: Minneapolis Civilian Review Authority - The Community Perspective

The need to educate the community on the CRA's existence, services and effectiveness was strongly recommended by this group. According to one focus group member the "current CRA system is not working. Lack of trust, hopelessness and powerlessness are major factors." adding, (there is a) "lack of information on CRA and what they are supposed to do or be doing."

This group also encouraged the City to take the time to evaluate the CRA in a thoughtful, thorough manner, and to continue a community dialogue about police/community relations and citizen oversight.

FOCUS GROUP III: Minneapolis Civilian Review Authority - The Police Enforcement Perspective

The issue of board bias surfaced most directly in this focus group discussion. As one focus group member commented, "...the CRA board can not continue to exist in this form. It is unfair to the officer and is far too political and biased."

Discussion focused on structural ways of preventing perceived or real bias, as well as the need for mandatory training of board members in the areas of police procedures, ride-a-longs, and basic civil prudence. One group member pointed out the difference between a policy-making and a quasi-judicial board. The quasi-judicial board performs a fact-finding function as opposed to a policy-making body which also includes subjective factors in its deliberations. The Redesign Team was encouraged to examine the structure, selection, and decision-making processes of the CRA Board for clarity on this issue.

Group members from police administration also pointed out that if the CRA did not exist, additional personnel would need to be added to Internal Affairs to handle the increase in cases. Discussion also pointed out that the City Attorney's office would need to add personnel to handle the increase in IAD cases.

Finally, the interrelationship of citizen oversight and police operations was highlighted. "Civilian review and community policing go hand in hand," commented one member, adding, "citizens and officers must work together on behalf of the community." "The CRA is a body which has survived despite its controversial nature", noted another focus group member.

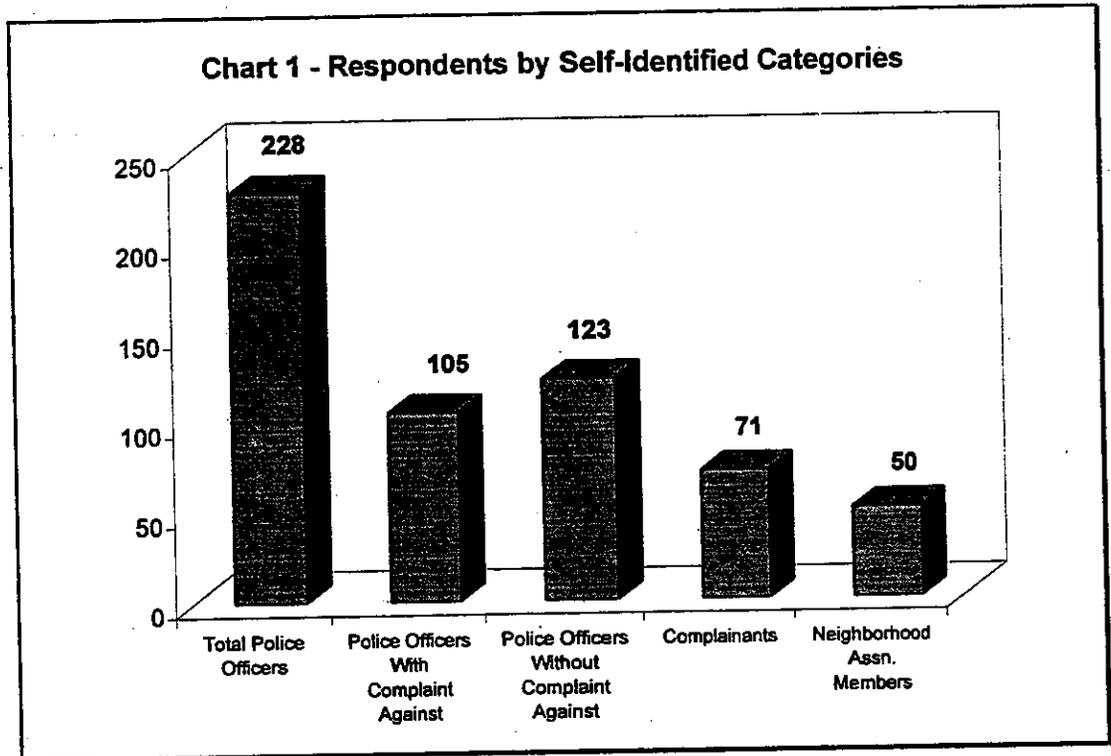
The Survey

Finally, to gather direct input from people who are familiar with the Minneapolis CRA , a survey was sent to 1910 individuals. The mailing included all sworn police officers, people who have filed complaints with the CRA, and representatives of the neighborhood associations identified by the City's Public Affairs Office.

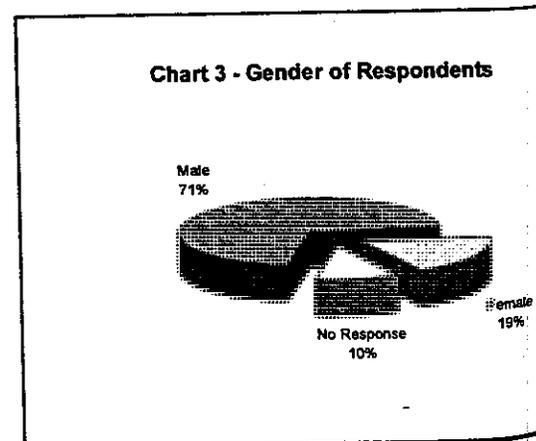
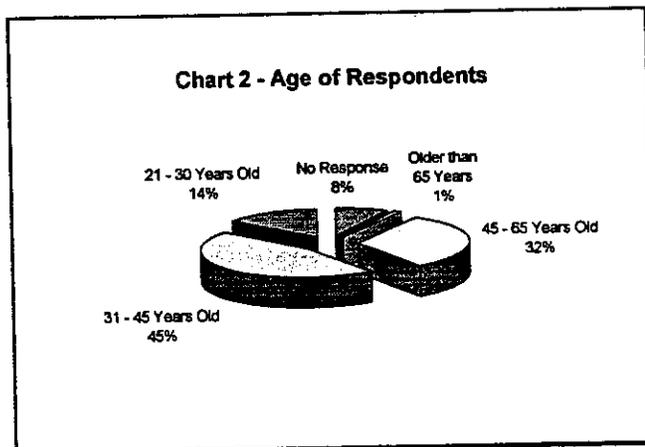
The survey was designed to complement the literature search and focus group process in helping the team define and address issues. The questionnaire was also available to anyone who wished to complete it and be heard by the team. This self-selection, along with the mailing described above, reached those people who are informed and care about citizen oversight of the police department. The survey sought constructive comments and was not intended to be used as a popularity poll or a scientifically-sound evaluation tool. Appendix D is a copy of the survey.

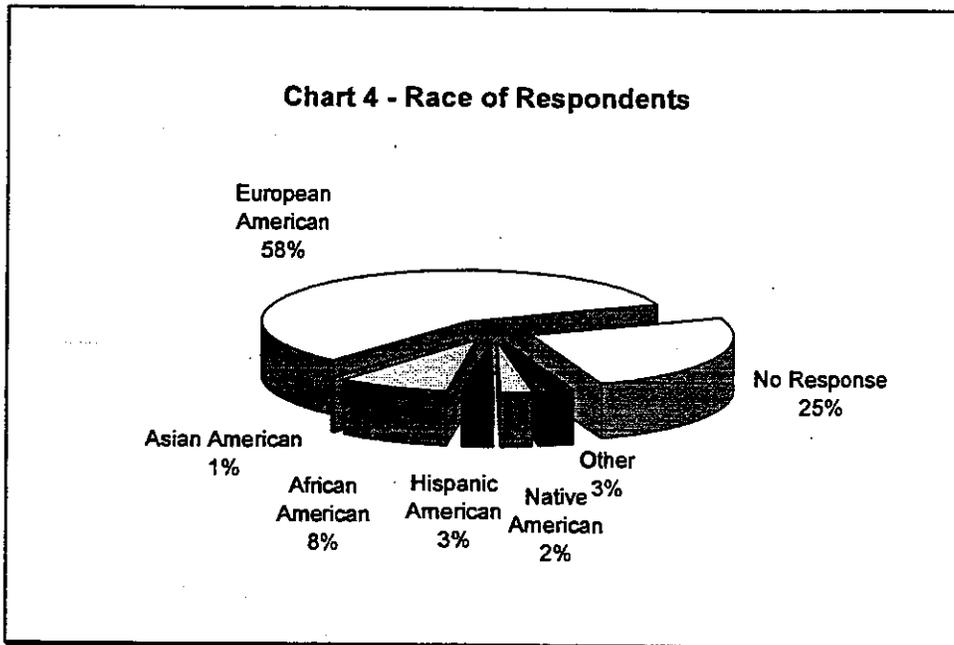
Among the 1910 total surveys sent, 833 surveys were sent to police officers, 910 were sent to people who have filed complaints with the CRA, and 167 were sent to neighborhood association members.

A total of 371 (19.4%) of the surveys were returned and a majority included written comments. Approximately 85 of the 371 returned requested that a Team member call them to talk further. Team members divided up the requests and attempted to contact each person except for those who were identified to currently be involved in litigation with the City. Charts 1-4 below show how the respondents identified themselves.



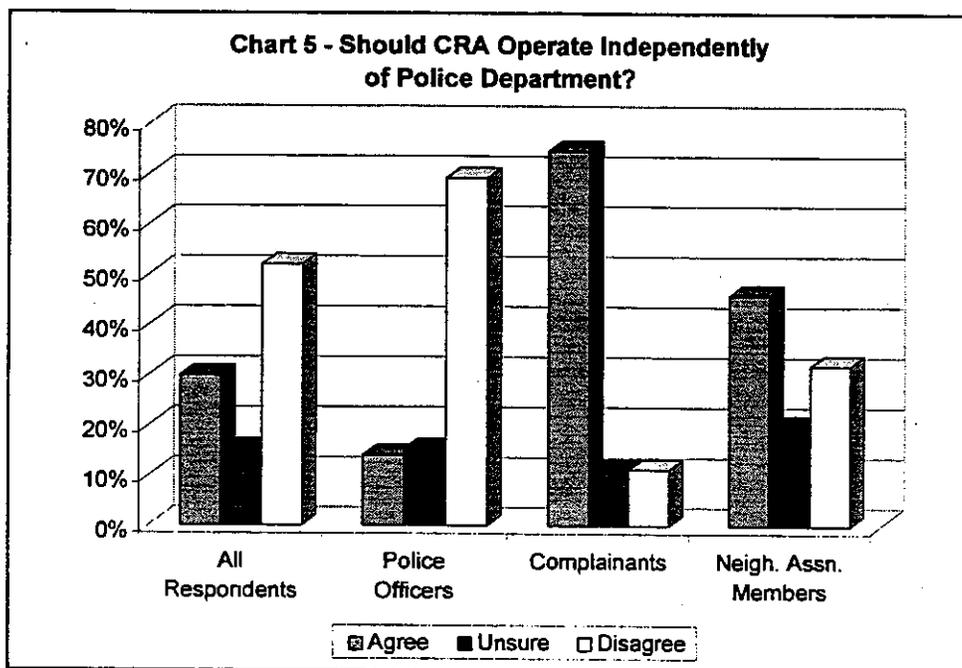
Forty-nine respondents did not identify themselves in any of the primary categories shown above and 26 respondents left the entire identification section blank.



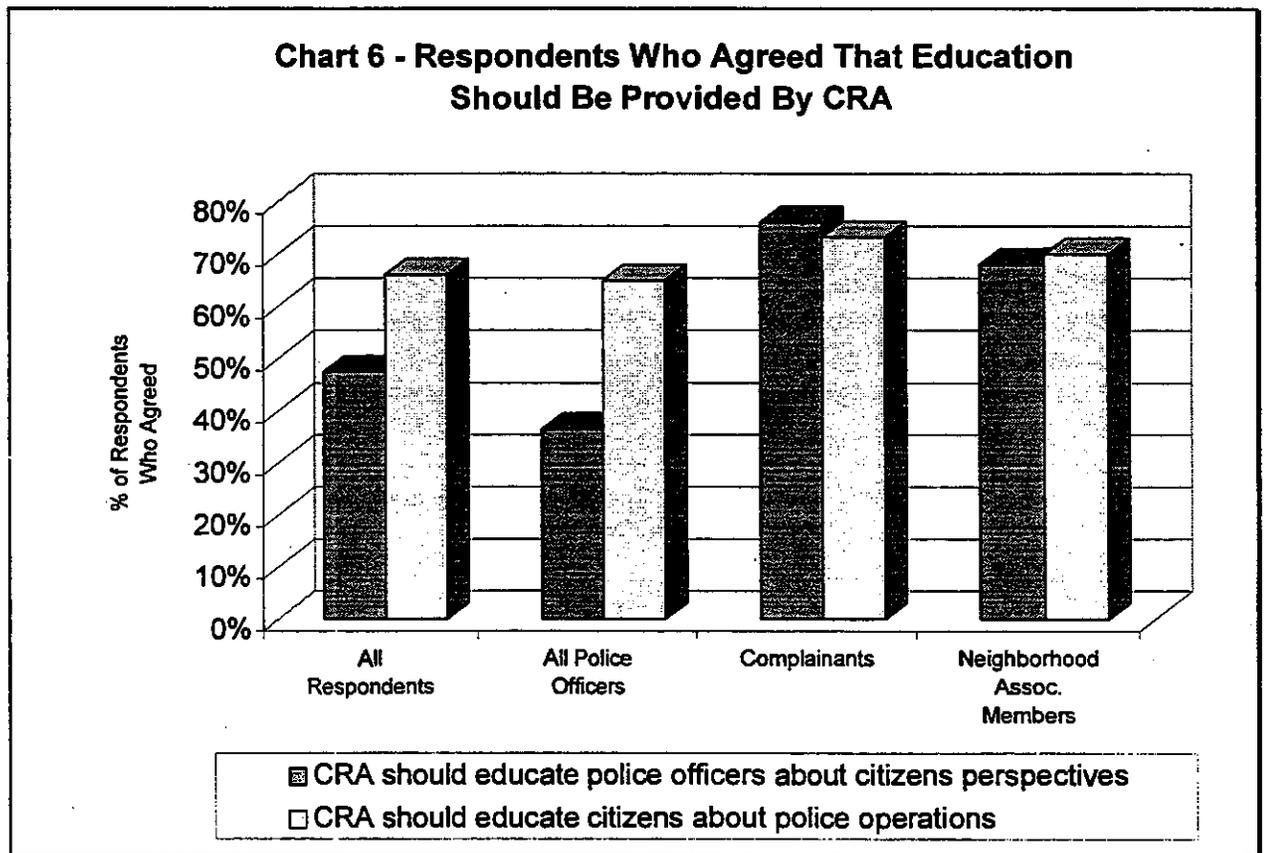


It should be pointed out that analyzing the responses in aggregate skews the results because a majority of the responses (228 of the 371 survey responses) are from police officers. Therefore, it is important to look at the breakdowns by self-identified categories in the following charts.

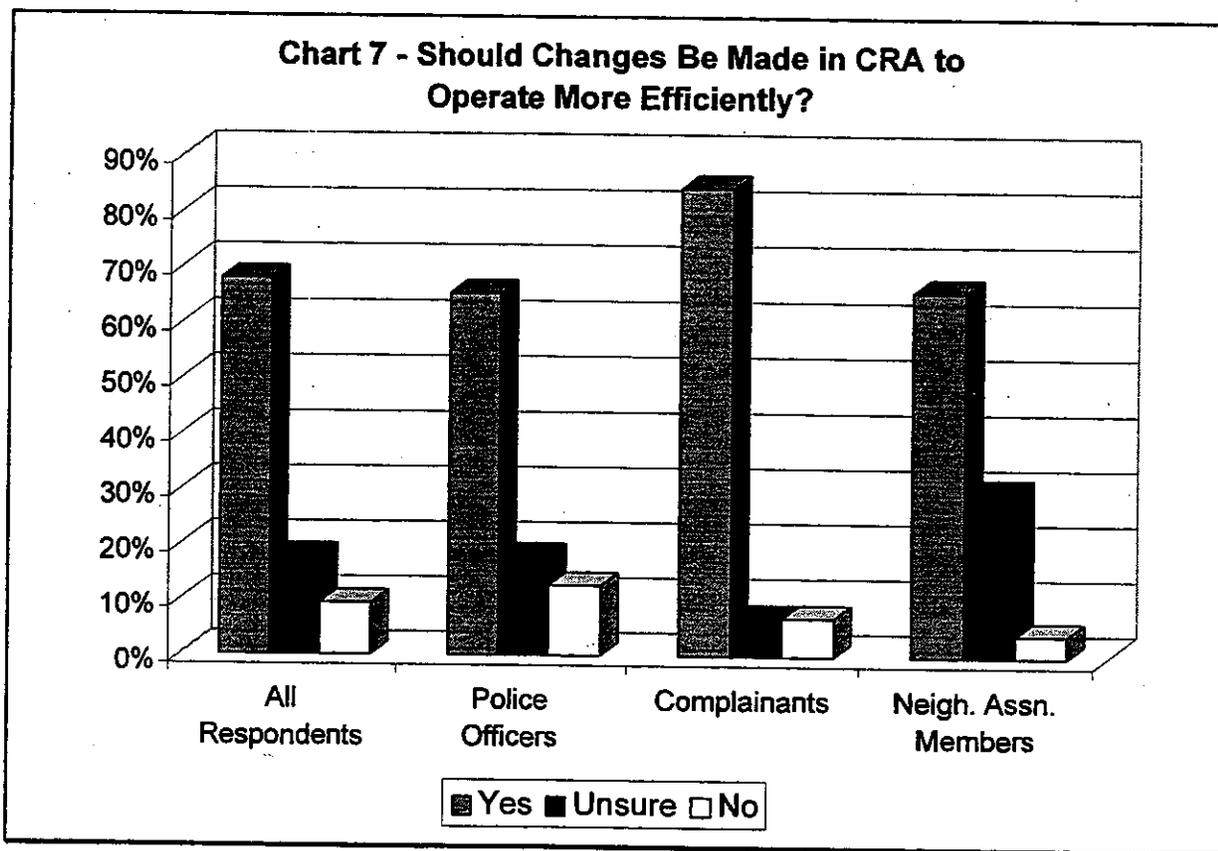
While all of the respondents supported by varying margins the services currently provided by the CRA, one exception was whether the CRA should operate independently of the police department. The responding police officers disagreed by a wide margin with the responding complainants and neighborhood leaders. Chart 5 below shows the variances of the responses by the type of respondent.



Another variation in responses to the question of what services should be provided by the CRA was in the education section. While the majority of police officers, complainants and neighborhood association members agreed that the CRA should provide education to citizens about police operations, support varied among the groups regarding education of police officers about the perspectives of citizens. Chart 6 below compares the responses.



Among the 371 respondents, 67.9% indicated that changes should be made to the CRA to make it operate more efficiently. Chart 7 below illustrates the support for changes.



A majority of the surveys completed contained written comments. The written comments addressed proposed changes and the reasons behind the respondents' feelings. These comments were extremely useful in sorting through the issues and identifying those of greatest frustration. They also expressed the satisfaction and successes of the CRA which helped put the issues into context.

IV. The Issues and Recommendations

Issue identification was a developmental process. The team worked within the parameters set forth in the charge to the team from the Mayor and Council. It also reviewed past issues and national trends, and then sorted through them to determine relevancy to today's situation. Many issues were raised, however, only those that were reinforced by a number of sources were recognized. As well, some issues were symptomatic of larger systemic concerns. Once the initial identification and sorting of issues occurred, they were categorized into six areas: appropriate services, expectations, cost effectiveness, structure, staffing, and Civil Rights Commission oversight.

The team then addressed each issue systematically and candidly. Following are the summaries of each issue and proposed recommendation.

I. ISSUE AREA: CRA Services -- "whether the CRA provides the appropriate service required"

A. Education and Customer service

From discussion with focus group members and others, it became clear that many people in the community do not understand what the CRA does. They have not heard much about it and as a result, often assume it is ineffective. Highly visible police misconduct cases, that have been resolved in the courts and are outside the purview of the CRA, may add to the perception that the CRA is ineffective.

The CRA can only be successful if it is perceived by the community as accessible and effective. One way to achieve this is for the CRA to be known in the community and have a presence. The CRA needs to market its services. However, an aggressive marketing campaign is not the answer.

While the CRA needs to increase its visibility, it cannot be perceived as trying to increase its caseload at the expense of police officers or good police/community relationships. Improving the CRA's visibility and accessibility relies on developing positive relationships with the public and this usually means more interaction on a daily basis with citizens and officers.

The CRA also needs to make its services more user friendly. While the CRA office is outside City Hall to guarantee its independence, many customers do not know where to find it. Individuals coming to City Hall, the police precincts, or neighborhood centers to file complaints cannot do so.

Recommendation:

The CRA should explore mechanisms for interacting with the public more frequently and making service delivery seamless. Among the suggestions are:

- setting up branch offices throughout the city and/or establishing office hours in community centers, police precincts, public libraries, parks, etc.;
- exploring the use of technology;
- increasing community presentations including joint appearances with police representatives;
- requesting all departments and agencies that take complaints, work together to coordinate the civilian review complaint process so that options are explained in a uniform manner, and complainants receive information about the various venues.

B. Opening up the Process and Addressing Data Privacy

Respondents to the survey and participants in the focus groups process identified a significant issue relating to the lack of openness in the CRA hearing process. The CRA hearing process is an aspect of a disciplinary process within the meaning of the Minnesota Government Data Practices Act, Minn. Stat. Chap. 13. Pursuant to this statute, most personnel data on individuals is private until there is final disposition. The final disposition of a disciplinary action and the specific reasons for the action along with supporting documentation is public information.

With respect to CRA hearings of police conduct, a final disposition does not occur until a final decision is made by the City and any subsequent appeal of an arbitration award is completed. As a result, existing state law precludes CRA hearings from being open to the general public because these proceedings are part of a personnel disciplinary process which is not yet final.

While existing statutory and case law authority would preclude opening up the CRA process in the short term, the CRA can explore options to better communicate its operations and decisions in a timely manner consistent with the limitations of data practices requirements. The letters CRA currently sends at the conclusion of an investigation or case are legally accurate but difficult to understand for the layperson.

Recommendations:

Although it might be preferable to have open hearings, little can be done in this regard because of the current state law. However, post - hearing communication by the CRA should be improved to bring a better understanding of what happened and why.

- a. When a complaint is sustained, a letter should be sent explaining what will happen next (i.e. the Police Chief will determine discipline). It should also outline how and when a complainant can follow up to find out additional information.
- b. In cases where the complaint is not sustained, the CRA should do a better job of explaining why that decision was reached and the options available to the complainant.
- c. All letters should be written in conversational English. If possible, personal follow up should also take place to help address the complainants' and officers' questions and concerns.

C. Types of Complaints Handled

One criticism of the CRA has been that it handles only trivial cases of alleged police misconduct and therefore is unimportant as a City service. Clearly, some complainants do bypass the CRA and utilize the courts. Cases involving potential criminal conduct on the part of officers are not handled by the CRA but referred instead to the City Attorney's office and subsequently to the Police Internal Affairs Department (IAD). The CRA is thus precluded from handling most severe excessive force cases but does handle many non-criminal excessive force cases (44% of its 1996 caseload).

While the vast majority of complaints that the CRA handles are not likely to result in severe discipline for officers, it is inappropriate to classify these complaints as trivial. A pattern of minor complaints about an officer (i.e. language, rudeness) might indicate behavioral or attitudinal problems that could escalate into a more severe problem in the future. Because a vast majority of citizen contacts with the police come over things that would not be classified as major issues, it is important to address all concerns effectively to build better rapport with the public. The types of complaints received by the CRA are categorized in Appendix B.

D. Timeliness

Some survey respondents indicated frustration with the time it took it took CRA to handle their complaints. For the most part, however, complaints brought to the CRA seem to be taken care of in a timely manner with little backlog.

Recommendations:

- a. The CRA should consider giving customers clear expectations about the length of time an investigation will take (e.g. "You can expect to hear back from us within 60 days") and then follow up if problems occur. For example, a brochure could be

developed that outlines the guidelines and steps a complaint can take to track progress.

- b. The CRA should set up an internal tracking system to determine how long complaint processing takes and devise ways to improve it if necessary.

E. Dispute resolution

Over the last several years, the CRA has been able to substantially decrease the number of evidentiary hearings that it conducts. This is because more and more complaints are being resolved through mediation or through stipulation of facts.²

There are many advantages to non-adversarial dispute resolution. Not only does it save time and money but it enhances understanding, raises awareness of other perspectives and increases customer satisfaction.

A major reason that mediation and stipulation have increased is the enhanced level of trust that exists between the Executive Director and the Police Federation. The CRA deserves a great deal of credit for building a positive relationship that has clearly improved its effectiveness.

Concern was raised about a limited number of instances in which mediation was agreed to by a complainant who later decided not to comply with the agreement.

Recommendation:

- a. The CRA should continue to utilize its contract with the Minneapolis Mediation Services and look for ways to seek more mediated solutions.
- b. Once a mediated settlement is agreed to by both parties, the CRA should make sure its rules regarding the finality of settlement agreements are enforced.

II. ISSUE AREA: Evaluating whether the CRA is Satisfying Expectations -- “Does the CRA provide the appropriate servicebased on current expectations”

The CRA was set up to provide an independent venue in which citizens could bring complaints about police conduct. Ultimately it was hoped that the CRA would increase

² A stipulation of facts is an agreement between the parties as to what happened. If the Executive Director believes the facts constitute misconduct by the officer, the stipulation is then sent to the Police Chief who determines discipline. There is no hearing before the CRA board.

citizen satisfaction with the way complaints are handled and improve police/community relationships.

Feedback from the CRA's stakeholders suggest that there is only moderate satisfaction with the CRA's services. Complainants often felt their concerns had not been adequately addressed particularly if an investigation did not substantiate their charges of misconduct . Police officers expressed concerns about being judged by persons who did not have a thorough understanding of police procedures. Some Council Members had concerns about specific actions of the CRA staff and many wished for more information regarding the CRA's activities and effectiveness.

In general, there was a lack of confidence in the effectiveness of the agency although for the most part, this stems from poor communication and lack of understanding of what CRA does and does not do. Some community members, for example, want the CRA to ensure the dismissal of police officers' alleged to have used excessive force. However, the imposition of discipline is clearly beyond the scope of the CRA's authority.

Measuring CRA Performance

Measuring the performance of an agency such as the CRA is no easy task. While civilian review authorities are a growing national phenomenon, they are too new to have a body of standard evaluative measures associated with them. There are no agreed upon standards for what makes an effective or successful civilian police review authority nor agreed upon ways to measure performance once standards are determined.

Nevertheless, efforts to measure performance should be undertaken. In fact, the Redesign Team felt measurement was imperative if CRA were to continue to improve.

In general, there are three types of performance measures:

1. Efficiency (quantitative) measures - i.e. the number of cases each employee handles.
2. Effectiveness (qualitative) measures – i.e. customer satisfaction with services
3. Outcome (success) measures – i.e. community or policy maker satisfaction.

Recommendation:

- a. The first step in measuring performance is to determine desired outcomes. The Review Team suggests the following outcomes for the CRA:
 1. Police conduct reflects the community's needs and expectations for a safe city.
 2. A trusting relationship exists between the police and the community.

3. There is mutual understanding between the police and the community of each other's needs and perceptions.
4. There is a belief on the part of police and citizens that the CRA provides a valuable service in a timely and effective manner.

Once determined, the role and responsibility of the CRA in achieving these outcomes will need to be defined. Other factors are likely to be important including: community values, city goals and policies, economic and social factors, and police training.

- b. The CRA's effectiveness should be measured through regular attitude and opinion surveys of stakeholders. Regular surveys of complainants, police officers, crime prevention specialists, community organizers, business groups and ordinary citizens are the best way to ascertain if customers are satisfied with service the CRA is providing and to help the CRA strengthen its relationships with its stakeholders.

Other potential measures such as a decrease in the number complaints or lawsuits filed against the police are not likely to be a good measures of effectiveness. As several of the national experts indicated, receiving fewer complaints could actually indicate an ineffective agency while receiving a large number could mean community acceptance as a place to go for assistance.

Likewise, the number of lawsuits against the City in police matters is probably a poor measure of CRA effectiveness. Because of the kind of actions police must take lawsuits are not uncommon and do not necessarily indicate police misconduct. As the City moves to zero tolerance for certain crimes (in response to citizen and elected official request), the number of confrontational police contacts and, therefore the potential for lawsuits, may actually increase.

- c. The service efficiency of the CRA should continue to be measured by the timely handling of cases as is currently done by the CRA executive director. Investigations must not take longer than 120 days and the executive director expects them to take no longer than 90 days.

III. ISSUE AREA: Is the CRA cost efficient -- "whether the CRA provides the appropriate service required (based on current expectations), in the most cost-effective manner"

A. Cost Data Overview

Comments in the survey and members of the City Council suggested that the City could save money by eliminating the CRA, and questioned the cost effectiveness. The cost data presented in this section focuses on a review of cost efficiency rather than cost

effectiveness. The effectiveness of the CRA is addressed in the other issue areas. This review analyzes the total cost and productivity, defined by the number of cases investigated for comparative purposes.³

The cost efficiency of the Civilian Review Authority was assessed by comparing its caseload and budget to the Internal Affairs Division (IAD) and to other cities, some with similar civilian review processes, and some with other types of civilian review. These cities are categorized as either:

- "Category I" form of civilian review (similar to the Minneapolis process and referenced above as the 'independent', 'civilian' or 'citizen' review board model), or
- "Category II" form where the police conduct the investigations and the review board reviews a limited number of cases (referenced above as the 'civilian monitor', 'auditor', or 'hybrid' model).

Since each city and IAD have different procedures and different manners in defining and counting cases, the comparative data does not provide a definitive answer to which agency is most cost effective.

The comparison of the CRA to IAD is shown in Table 1. Using 1997 budget data and 1996 actual caseloads, the cost per case investigated is \$3,649 for the CRA and \$6,278 for IAD.

	1997 Budget	
	CRA	IAD
Total Personnel		
Investigators	7	7
	3	5
Salary/Fringe	\$ 375,101	\$ 465,983
Non-personnel costs	\$ 95,560	\$ 80,171
Total	\$ 470,661	\$ 546,154
Investigator salary range	\$ 35,966 - 48,207	\$ 48,312 - 51,519
Complaints received- 1996	711	87
Cases Investigated- 1996	129	87
Sustained/probable cause	12	38
Sustained rate	9%	44%
Cases per Investigator	43	17
Cost per case investigated	\$ 3,649	\$ 6,278

³ It should be pointed out that the CRA executive director, Patricia Hughes, uses a different performance measure. She expects her investigators to complete their work within 90 days of the complaint, 30 days short of the 120 maximum allowed. Rarely do her investigators exceed that time and when they do, they

A better measure of the cost efficiency of the CRA is to estimate what the cost impact would be to the city if the CRA were eliminated. Three different scenarios are presented in Table 2. The savings shown are what savings would be accrued from the \$470,000. The first scenario assumes that 85% of the CRA's current number of cases would be reported to IAD instead of the CRA, and that the current caseload per investigator would be continued (17 cases per year per investigator). This scenario has basically no cost impact on the city (since the savings in the CRA budget would be offset by a cost increase in the Police budget).

The second scenario assumes that 100% of the CRA's current cases would be reported to IAD. At the current IAD caseload per investigator, this results in a net annual cost increase of \$77,000. The third scenario assumes 100% of the CRA caseload, but assumes that the IAD caseload per investigator from 1990 (33) could be achieved. This results in a net annual cost decrease of \$185,000.

	Additional Sgts	Additional cost to IAD	Net Cost Increase or (Decrease)
1. Assume 85% of CRA cases; IAD current cases per investigator (17)	6.4	\$ 470,837	\$ 176
2. Assume 100% of CRA cases; IAD current cases per investigator (17)	7.4	\$ 547,485	\$ 76,824
3. Assume 100% of CRA cases; IAD 1990 # of cases per investigator (33)	3.9	\$ 285,216	\$ (185,445)

Two factors should be noted in the comparison of the CRA to IAD. First, these agencies currently deal with different types of cases. IAD handles primarily internal complaints and citizen complaints that may result in criminal charge(s) against an officer. This one factor is why the caseload per investigator may be different, and is also why the 1990 IAD caseload was included in the assumptions (in 1990, IAD dealt with both types of complaints). The second factor to note is that these cost scenarios do not attempt to measure other intangible benefits to the City.

must demonstrate the unusual circumstances that caused the delay. This measure could not be used in this analysis because this information is not collected similarly in other jurisdictions.

number of investigators in IAD was reduced by three and three CRA investigator positions were funded. However, since then, the police administration has increased the number of IAD investigators back to the number pre-CRA.

B. Cost Comparison with Other Cities

A survey of other cities with some type of civilian review was not conclusive on cost efficiency due to differences in how these cities budget and how they count cases. Fifteen cities were contacted, and cost data was received from six of them. These cities were selected based on the type of civilian review, the population of the city and the size of the police department.

More information was received on cities that were in the Category II (four cities) than in Category I (two cities). Some of the cities identified in other surveys as being "Category I" were determined to better fit as a Category II.

The survey results are presented in Table 3. The data collected includes the total budget for the civilian review or IAD process, the number of cases investigated, the city's population, and number of sworn officers. As the national experts cautioned, it is difficult to do cost comparisons with other cities because each citizen oversight agency differs and many are undergoing dramatic structural changes.

Table 3 - City Survey Summary

City	Cases per Investigator	Cost per case investigated *	Population	Total Sworn Officers
<u>Type I cities (Independent)</u>				
Mpls CRA	43	\$ 3,255	368,000	922
Berkeley, CA	23	\$ 8,571	100,000	200
Pittsburgh	78	\$ 872	370,000	1,200
<u>Type II Cities (Monitors cases)</u>				
Indianapolis	42	\$ 2,811	752,000	997
Spokane	59	\$ 2,156	177,000	286
St. Paul	68	\$ 1,525	272,000	577
Lincoln	46	\$ 1,142	203,000	290
Cincinnati	93	\$ 1,100	358,000	953
Toledo			333,000	712
Kansas City, MO			472,000	1,221
Milwaukee			628,000	

* Note: The factors in the cost per case include the number of cases per investigator, the salary and benefits, and how non-personnel costs are tracked. The costs shown do not factor out the salary differences or how non-personnel is budgeted.

Recommendation:

If the CRA were eliminated, the Police Department would need to add investigators in IAD, resulting in a net cost savings to the City of less than the current cost of the CRA. These cost savings could be offset by the valued added to the community of a citizen-run police oversight function. Therefore, cost savings to the City should not be used as the prevailing reason to change the future of the CRA.

IV. ISSUE AREA: Structure -- "and whether the CRA has the structure.... to provide service?"

Both the focus groups and the Redesign Team spent a great deal of time discussing the structure of the CRA and how it relates to effective service. The discussion can be divided into the following areas:

- the authority of the CRA board
- independence of the CRA
- co-option
- process issues
- the role of the Police Chief

The Civilian Review Authority is an independent body with a board of civilian directors that is appointed by the Mayor (three appointments) and the City Council (four appointments). The CRA was established as an independent board to meet perceived community needs and build trust between the Minneapolis Police Department and the community.

To understand the Redesign Team's recommendations regarding CRA structure, knowledge of the current CRA process is important. An outline and flow chart of the process are contained in Appendix B.

A. The Authority of the CRA

When the CRA was created, its' Board was vested with the following functions:

- administrative
- policy
- quasi-judicial

The CRA board has handled its administrative and policy functions well as evidenced by the decline in the number of evidentiary hearings and increase in cases that are

mediated. Concern was raised, however, about the capacity of the Board, or any citizen board, to make quasi-judicial judgments.

Since the creation of the CRA, issues have been raised about actions of the CRA board during the quasi-judicial hearing process. The term "quasi-judicial" is applied to actions of public officers who are required to investigate or determine the existence of facts and draw conclusions from those facts as part of their official actions. A quasi-judicial authority involved the exercise of discretion of a judicial nature. These include: errors of law and procedure, lack of professionalism, and perceived bias on the part of board members. The frequency of these problems has lessened in recent years, but could occur again. While few cases actually go to hearing, those that do are important to the individuals involved. National experts, community representatives and past participants in the CRA process, all agreed that fair disposition of cases in evidentiary hearings is crucial for ensuring CRA legitimacy and trust.

Whether or not the CRA board should perform quasi-judicial functions was the Redesign Teams' most debated issue. Some members felt the CRA board should become a policy board only. They proposed changing the structure of the CRA to the monitor model or leaving the structure as is but having administrative law judges handle the quasi-judicial activities.

Others felt the independent structure of the CRA should be maintained along with its quasi-judicial functions, but that training for board members in how to perform those functions should be enhanced to ensure Board members thoroughly understood fundamental legal principals and procedural rules for conducting evidentiary hearings.

A variant on this was the suggestion that the CRA board retain its quasi-judicial authority but delegate the business of evidentiary hearings and determinations of findings of fact to administrative law judges.

Recommendations:

- a. The training of CRA Board members should be strengthened to reflect the responsibility of their role.
- b. The Redesign Team does not recommend a structural change in the CRA at this time.
- c. If the City determines to make a structural change in the future, there should be thorough research and assessment of community needs prior to change.

B. Independence

The CRA investigates civilian allegations of police misconduct, but is completely independent of the Minneapolis Police Department. CRA investigators can be former police officers, but they cannot be former members of the Minneapolis Police Department. Current Minneapolis Police officers cannot serve on the CRA board. Former Minneapolis officers can and have served on the Board as does a Park Police agent.

While there was discussion by the Redesign Team about structural changes in the CRA, the independence of the body from the police department was not seriously questioned.

Prior to the Redesign Team's creation there was discussion among policy makers about having the CRA report to a City department. This change would neither save money nor enhance service and could damage the CRA's credibility in the community.

Recommendation:

The CRA should remain an independent agency.

C. Co-option

Co-option is the tendency of persons to become sympathetic to the viewpoints of those with whom they work. In a civilian model, such as the one in Minneapolis, staff may be perceived as being more on the side of citizens than on the side of the police. However, because those involved with CRA need to be familiar with police procedures to render fair judgments, as time goes on they may be seen as more and more sympathetic to the police.

A few survey respondents suggested that the CRA investigators were too sympathetic to the police, but in general, co-option does not seem to be an issue in Minneapolis. Co-option has, though, been an issue in other cities and national experts suggest it should be assessed periodically. While no system that must weigh two potentially different points of view will ever be perfect, it is important that there be balance between ensuring trust in the community and being seen as legitimate by police officers.

Recommendation:

Periodic monitoring should be done to ensure co-option does not become an issue.

D. Process Issues

1. The role of the Executive Director

Concern was raised, by a former CRA board member and by representatives of police officers, about whether the CRA's Executive Director should both determine probable cause and then present evidence for the complainant when a case goes to hearing. They questioned whether the board could make a fair determination of facts when the evidence for the complainant is presented by its own employee, its executive director. Also at issue was whether an executive director's decisions regarding probable cause might be affected by desire to please the Board.

One former Board Member suggested that the executive director and staff be separated from the CRA Board's supervision and control to eliminate the potential for bias that occurs when the executive director tries cases before her employer. However, the national experts interviewed by the Redesign Team did not think the executive director's relationship with the Board presented particular problems.

Recommendation:

The current relationship between the executive director and the CRA Board could create the potential for bias and should be monitored regularly.

2. Subpoena Power

While issues of subpoena power were discussed at great length during the first few years of the CRA, few concerns about subpoena power were raised during this review. Since police officers must provide statements in CRA cases as a condition of employment, subpoena power is not needed to ensure police cooperation. The review team concluded that the only use for subpoena power might be in the rare instances when a witness, from outside the police department, refused to or could not testify unless subpoenaed.

Subpoena power can also be useful for securing documents but it is unlikely to be needed for CRA cases since the CRA already has the right to all documents in possession of the police department. Documents outside police possession would rarely need to be subpoenaed in order to be obtained.

It is unclear the extent to which subpoena power is needed by the CRA. Lack of subpoena power does not appear to be a hindrance to its operations. The importance of subpoena power seems to be more a matter of perception for people in the community.

Recommendation:

If a decision is made to ask the Minnesota legislature for subpoena power for CRA hearings, the power should be afforded to representatives of police officers as well.

D. The Role of Police Chief

When the CRA was created in 1990, there was much discussion and disagreement about the police chief's role in disciplining officers. Ultimately it was agreed that the CRA would handle investigation and evidentiary hearings and that the police chief would retain control of disciplining officers.

During the Redesign Team's review this year, little disagreement surfaced over the chief's role in discipline. Current Minneapolis Police Chief Robert Olson, and former Chief John Laux, both spoke to the importance of the retaining authority over the discipline dispensed in CRA police misconduct cases. Focus groups participants and national experts agreed with their view.

While the City Attorney has determined that the police chief cannot overturn CRA findings, the chief retains managerial authority to determine the level of discipline imposed, in any. As a result, some concern was raised in focus groups and in Redesign Team discussion that even though the chief may disagree with a Board decision, light discipline (for example, a letter of reprimand) is imposed in order to avoid a confrontation with the Board.

While some may question the wisdom of letting the Police Chief have the final say in discipline, ultimately his reappointment depends on satisfaction with his performance which includes how he handles sustained CRA complaints.

Recommendations:

- a. The disciplinary authority of the police chief should continue to be supported.
- b. The police chief should document and communicate his reasons for not disciplining an officer when a complaint is sustained by the CRA. If the Chief's own investigation leads him to believe the CRA was wrong in sustaining a complaint, he should state his difference of opinion with the CRA board, determine the discipline he feels is appropriate, and carefully document the reasons for his actions.

This is not unlike what judges do when they document departure from sentencing guidelines. Honesty and careful documentation will keep lines of communication

open, enhance public and police understanding and ultimately strengthen the CRA credibility. It will also protect the interests of the City in any subsequent forum where disciplinary actions are examined.

V. ISSUE AREA: Staffing – (Does the CRA have) “the right staffing to provide....service?”

The CRA and its board are completely independent of the police department and any other city department. While the board is appointed by the Mayor and City Council, the CRA board hires its own Executive Director who in turn hires the staff. The Executive Director reports to the CRA Board. She is not a City department head and reports to neither the City Council nor Mayor.

A. The Executive Director

In discussion with focus group and Redesign Team members, little concern was raised about the role of the Executive Director (other than concern discussed previously about her role in evidentiary hearings). In fact, there was almost universal praise for the job the current Executive Director has done in changing what had been a negative, non-productive relationship between the CRA and the police department into one of mutual respect.

It is clear from focus group discussions that the executive director plays a vital role in the organization's functioning. S/he must demonstrate good judgment in determining probable cause, be an effective communicator and a good manager.

Recommendations:

- a. To the extent there is concern about the performance of the Executive Director or the staff, these concerns should be brought to the attention of the CRA Board.
- b. To strengthen trust with the City Council and Mayor, the Board could invite them to comment and contribute to its annual review of CRA staff and operations.

B. Investigators

Investigations of alleged police misconduct are done by CRA staff all of whom are civilians. Investigators are employees of the CRA Board, but subject to the Civil Service Commission rules and represented by public employee bargaining units. Qualifications for investigators are set by Civil Service. Investigators are hired by the Executive Director from the Civil Service eligibility list.

While some survey respondents took issue with the backgrounds of the current investigators (two of the three are former police officers from other municipalities) for the most part investigators were seen as competent and fair.

When police investigators are assigned to IAD, their standard investigative training is augmented by training in the investigation of police conduct. This type of training would also enhance the skills of CRA's investigators who must do similar police conduct investigations.

Recommendations:

The CRA Board should require (and provide sufficient funding for) its investigators to take regular training in the field of investigating police conduct. Investigators could attend courses put on by the Bureau of Criminal Apprehension (BCA), the FBI or other recognized experts in the field. Requiring training of this sort to enhance and maintain the skills of investigators will help the CRA build trust with its stakeholders.

C. The CRA Board

The way a citizen review board operates, and the training its members receive, is important for the quality of the decisions it makes and its acceptance in the communities it serves.

Much discussion was held about the kind of background and experience necessary to be an effective member of quasi-judicial board such as the CRA. Many Redesign Team members came to believe that a quasi-judicial board needs a different type of appointee than does a board whose role is strictly one of policy setting. In the latter, political ideology and/or community affiliation might be important while in the former, analytical abilities and an understanding of the law were paramount.

Concern was also raised about Board training. While training is available to the current CRA board, it is not mandatory. The committee felt the board members should be familiar with police operations and that this familiarity need not compromise their sensitivities to citizen perspectives.

Recommendations:

- a. All applicants for the Board should go through the Citizen's Police Academy before being considered for appointment.

This procedure is followed in St. Paul. Its goal is to ensure board members have a basic understanding of police procedures before beginning to serve. There is precedent in Minneapolis for requiring this kind of prior commitment and/or training

for board appointment. Boards with comparable levels of responsibility such as the Planning Commission require members to demonstrate prior experience.

- b. The Council and Mayor should recognize the importance of the Board and show respect for its service by actively recruit highly qualified members.
- c. A balanced panel should be created to evaluate and recommend board candidates ensure diverse, qualified candidates for these important positions. The panel might be composed of representatives from organizations such as the Urban League, the Bar Association and the Police Federation. The panel would recommend qualified candidates to the Mayor and Council from which they would choose new board members.

VI. ISSUE AREA: Civil Rights Department Oversight

A recently adopted amendment to the Minneapolis City Charter demonstrated voters' approval of Civil Rights Department oversight of the Police Department.. This change does not directly affect the Redesign Team's charge but it was discussed both in focus groups and during Redesign Team deliberations. In essence there were two differing viewpoints :

- Some felt that the Civil Rights Department should have jurisdiction over discrimination complaints against all City employees, including the police.
- Others countered that police conduct was already subject to scrutiny by two oversight functions: the Police Internal Affairs Division and the Civilian Review Authority and that a third was unnecessary and unfair.

Most members of the Redesign Team did not believe the charter amendment would have a dramatic impact on the CRA's caseload or on the number of police related discrimination cases coming to the Civil Rights Department. According to Kenneth White, the Civil Rights Department Executive Director, and member of the Redesign Team, only 2% of the cases that currently go to the CRA are potential civil rights violations. In addition, the State Human Rights Department receives about 5 cases per year alleging discrimination by a Minneapolis police officer. The Civil Rights Department already has exercised jurisdiction over employment related discrimination complaints within the Police Department.

Initially, however, Civil Rights might see an increase in cases simply because of publicity surrounding the charter amendment and the possibility of financial awards in the civil rights venue. Finally, it should be noted that while the Civil Rights Department can impose economic sanctions if a violation is found, it cannot impose discipline.

Recommendations:

a. With the passage of the Charter amendment, a number of issues will need to be resolved:

- how to prevent complainants from agency shopping, that is, going from one complaint venue to another trying to find an outcome to their liking.
- a means will need to be developed to track increased caseloads to ensure that resources are available to address the changing needs.
- a systematic approach to communicating among the CRA, Civil Rights Department and IAD will need to be developed so that unnecessary investigations are not undertaken.

APPENDIX A

Agendas from the Focus Groups

**MINNEAPOLIS CIVILIAN REVIEW BOARD REDESIGN TEAM
FOCUS GROUP: The Police Enforcement Perspective**

**Tuesday, September 9, 1997
6:00 PM - 7:30 PM
Room 333 City Hall**

AGENDA

Welcome and Introductions

Facilitator for the Session: Kathleen O'Brien, City Coordinator

Purpose of the Session Kathleen O'Brien, City Coordinator

Opening Statements by Guests

Discussion Questions:

1. Does the Civilian Review Authority assist the police department in achieving the City's goal of livable neighborhoods that are safe?
2. Does the Civilian Review Authority assist the City in meeting the goal of providing a police department that is effective, efficient, and responsive to citizens, and ensures quality services?
3. When CRA was established, what were your expectations? Were your expectations met? Are the needs and expectations the same today?
4. Based on your knowledge and experience of the CRA, is there something you would change?

Concluding Comments by Guests

Session evaluation

Adjourn

Guests:

Ann Walther
Will Morris
Chief Robert Olson
Lt. Robert Skomra

Robert Alfton
Gail Baez
Dr. James Shelton

**MINNEAPOLIS CIVILIAN REVIEW BOARD REDESIGN TEAM
FOCUS GROUP: The Community Perspective**

**Tuesday, September 9, 1997
3:00 PM - 4:45 PM
Room 333 City Hall**

AGENDA

Welcome and Introductions

Facilitator for the Session: Kathleen O'Brien, City Coordinator

Purpose of the Session Kathleen O'Brien, City Coordinator

Opening Statements by Guests

Discussion Questions:

1. As a leader in the community, what do you think the purpose or mission should be for a civilian review or oversight function that addresses complaints against the police?
2. When the Minneapolis Civilian Review Authority was established, what were your expectations? Were your expectations met? Are the needs and expectations the same today?
3. What opportunities do you see for the CRA to serve the community? Do you see any obstacles to enhancing its service to the community?

Concluding Comments by Guests

Session evaluation

Adjourn

Guests:

LaRue Fields

Judge Isabel Gomez (*invited*)

Herman Milligan, Jr., Ph.D.

Shirley Stone (*invited*)

Ann Viitala (*invited*)

Bob Sykora

Valerie Sheehan

**MINNEAPOLIS CIVILIAN REVIEW BOARD REDESIGN TEAM
FOCUS GROUP: Minneapolis Civilian Review Board: Then and Now**

**Tuesday, August 5, 1997
3:00 PM - 4:45 PM
Room 333 City Hall**

A G E N D A

Welcome and Introductions

Facilitator for the Session: Kathleen O'Brien, City Coordinator

Purpose of the Session Kathleen O'Brien, City Coordinator

Opening Statements by Guests

Discussion Questions:

- 1) When the CRA was established, what were your expectations? Were your expectations met? Are the needs and expectations the same today?
- 2) What is your vision for a citizen oversight function like the CRA? Is it achievable?
- 3) Based on your knowledge and experience of the CRA, is there something you would change? If so, what and how?

Concluding Comments by Guests

Session evaluation

Adjourn

Guests Invited:

Bob Boughton
Don Fraser
Patricia Hughes

John Laux
Mark Wernick
David Ward*

Russ Lindquist*

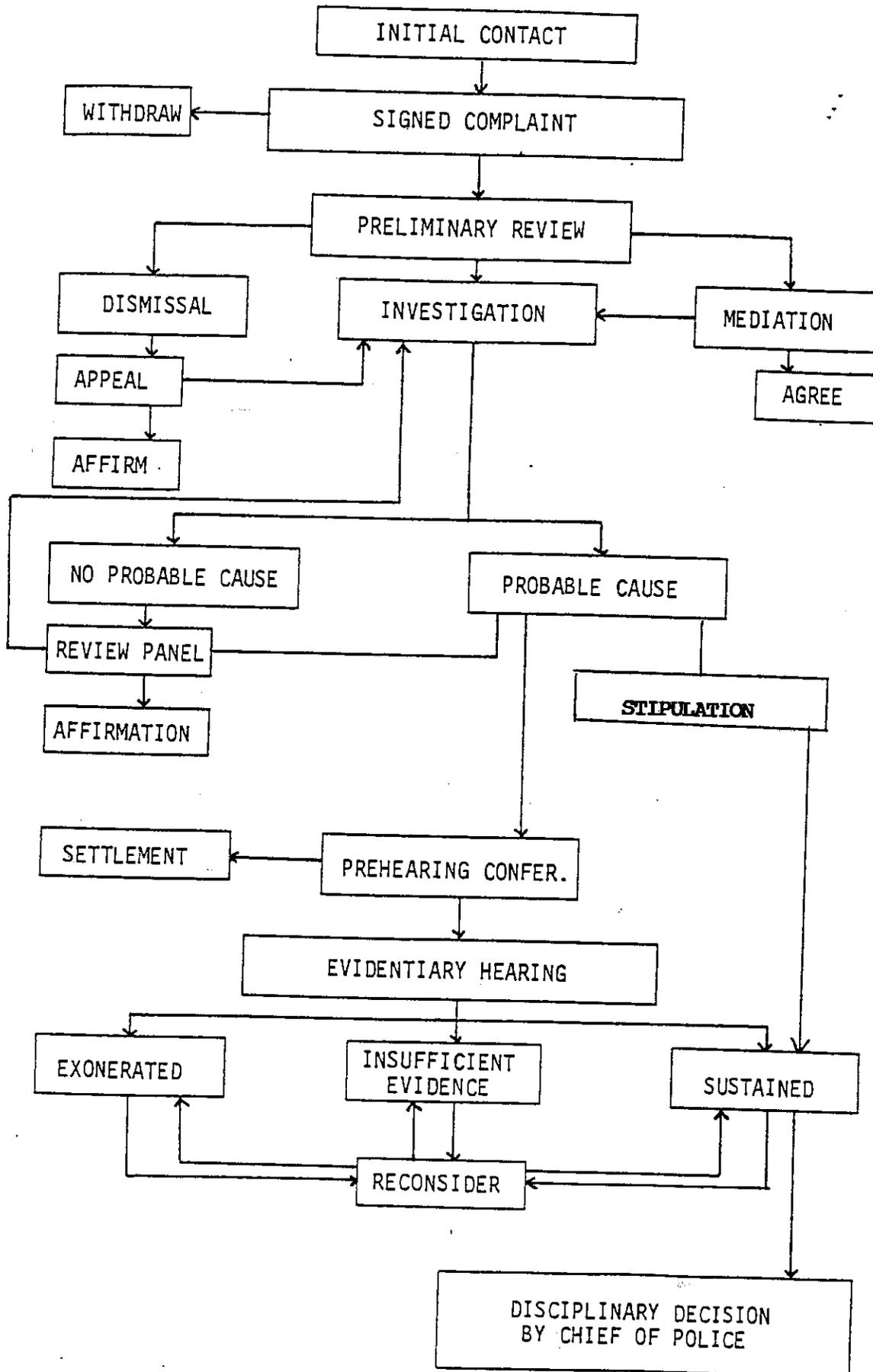
**unable to attend*

APPENDIX B

The Complaint Process Flow Chart

The CRA's Annual Report for 1996

CRA COMPLAINT PROCESS FLOW CHART



1996 ANNUAL REPORT

*MINNEAPOLIS CIVILIAN POLICE
REVIEW AUTHORITY*

*Minneapolis Civilian Police Review Authority
1111 Third Avenue South
Suite 452 Century Plaza
Minneapolis, Minnesota 55404-1008
(612)370-3800*

MISSION STATEMENT

Adopted May 4, 1994

The Minneapolis Civilian Police Review Authority was established by the City of Minneapolis to provide a fair and impartial process for review of citizen complaints of misconduct by Minneapolis Police Officers.

The Authority exists to promote the highest attainable standards of integrity and professionalism in our City's Police Department.

Public confidence is strengthened by assuring that citizen complaints about police conduct are taken seriously, are carefully investigated, and are reviewed by panels made up of citizens of our City.

The best interests of the people of the City of Minneapolis are promoted by the fair and thorough examination of the conduct of Minneapolis Police Officers.

The goal of civilian involvement in review and disposition of citizen complaints is the improvement of the quality of police service in Minneapolis.

This can only be achieved by treating all parties - complainants, witnesses, and charged officers - fairly and with respect.



Table of Contents

Mission Statement	Front Piece
Director's Forward	1
History	4
Numbers and Types of Complaints	6
Status of CRA's Caseload	7

Appendices

- Exhibit A -- Public Contact with CRA Regarding Potential Complaints
- Exhibit B -- The Complaint Process
- Exhibit C -- Victims by Race/Gender and Age/Disability/Affectional Preference
- Exhibit D -- Types of Complaints
- Exhibit E -- Complaints Against Officers by Age and Experience
- Exhibit F -- Complaints by Precinct
- Exhibit G -- Complaints Generated Through Off-Duty Employment
- Exhibit H -- Complaints Referred to Mediation
- Exhibit I -- Disciplinary Actions by the Chief

DIRECTOR'S FORWARD

The Minneapolis Civilian Police Review Authority was established by Ordinance of the City of Minneapolis January 26, 1990 to receive, consider, investigate and make determinations regarding complaints brought by the public against any Minneapolis Police Officer. The Authority includes a Board of seven members, an Executive Director, three Investigators, and three Administrative Staff.

The CRA was created by the City of Minneapolis as an independent city agency separate from the police department which provides a civilian police review process which is prompt, fair and impartial, with due regard for the constitutional and legal rights of all persons. The CRA was created as a result of the lack of public confidence in the ability of the police to fairly investigate and evaluate citizen complaints of police conduct.

I am pleased to submit the Minneapolis Civilian Police Review Authority's (hereinafter referred to as the "CRA") Annual Report for 1996. The CRA had another very busy and challenging year receiving, considering, investigating and making determinations regarding complaints. The CRA received 129 formal complaints and resolved another 100 complaints informally. In 1996, 192 officers were involved in formal complaints, compared to 258 officers involved in complaints in 1995.

The nature of complaints with the CRA has remained constant since its inception. Excessive force continued to be the largest complaint category with 44 percent of the complaints in 1996 alleging excessive force. However, over the last two years there has been a dramatic drop in excessive force complaints. In 1994 58 percent of the complaints alleged excessive force and in 1995 only 49 percent of the complaints alleged excessive force, a 14 percent decrease in the number of excessive force complaints.

Even though people of color make up just one-quarter of the city's population, 61 percent of the alleged victims of complaints filed with the CRA were people of color, a seven percent increase from 1995.

Since 1993, of all cases where probable cause was found and decisions rendered, more than 75% of the complaints have been sustained. If you take into account probable cause cases mediated, along with sustained cases, the success rate is 83%. However, the Authority is not only about sustaining cases. The Authority is a

resource available for citizens who would not ordinarily trust the police to provide them with information concerning misconduct allegations and proper procedure. The Authority provides the citizens with information to help them understand the perspective of the police officer. Police officers also need to understand the perspective of the citizens. Part of the Authority's focus is to bring citizens and the police in contact with one another. More complainants and police officers successfully mediated complaints in 1996 than in prior years.

For the first time in the history of the CRA a board meeting was held in the community. In November of 1996 the CRA's monthly board meeting was held at the Urban League, 2000 Plymouth Avenue North in Minneapolis. The intent of the Board is to become more visible and accessible to the various communities by holding meetings three or four times a year outside the CRA offices.

In 1996 the issue of consolidating the CRA and the Department of Civil Rights was raised. As I raised my arguments as to why the departments should not be combined, I was more convinced than ever before that with the existence of the CRA the City of Minneapolis has a firm and fair structure in place which will ensure accountability of the police department well into the future.

There are two types of outcomes possible when a police officer has abused his/her authority. One outcome is to see the officer is disciplined and the other is to gain monetary damages from the City. Complaints made to the Civilian Review Authority can only lead to discipline, not money damages. On the other hand, a complaint made to the Civil Rights Department (assuming the prohibition of filing complaints against police officers is lifted) can result in money damages, but not in discipline of the officer.

At present the police are excluded from the Civil Rights Ordinance. Removal of this exclusion would not authorize inquiry into alleged police misconduct unless a discriminatory motive based on race, sexual preference, affectional preference, disability, etc. was also alleged. Allegations of police misconduct cover a much wider span than those which would be encompassed by claims of discriminatory conduct. Lifting of the exclusion is not sufficient to provide a forum for hearing the full range of possible allegations of misconduct.

The Civilian Review Authority is unique because it is an independent entity which protects the public and individual officers of the Minneapolis Police Department who become involved in complaints. The goal of civilian involvement in review and disposition of citizen complaints is the improvement of the quality of police service.

in Minneapolis. The fact that the Authority exists demonstrates that the City is not blatantly indifferent to police misconduct. It has been demonstrated through civilian oversight that the vast majority of police officers are responsible and professional, thereby saving enormous amounts of taxpayers' money that might otherwise be spent on lawsuits in police misconduct cases.

The goal of civilian involvement in review and disposition of citizen complaints is the improvement of the quality of police service in Minneapolis. This is achieved by treating all parties — complainants, witnesses and charged officers — fairly and with respect. The numbers and types of complaints received demonstrate that the Authority is sensitive to diversity, that citizen complaints are taken seriously and that the public is confident in the process. A citizen's voice through civilian oversight is a necessary part of the process of monitoring the department to make certain power is used the way citizens intend it to be used.

The Authority influences police management by providing the Department with information to help screen potential problem officers, as well as to identify deficiencies in practices, policies and procedures. The citizen is heard when the police department reviews the Authority's files when making decisions about discipline, promotions and when doing performance evaluations. Allowing a citizen to have input helps build trust and confidence in the police department.

The City of Minneapolis must continue to strive for police professionalism. Our city is entitled to a police force not only competent to enforce the law, but a force skilled to accommodate community needs, respect individual rights and work in partnership with other municipal agencies to ensure that law and order do not come at the expense of civil liberties or public trust.

Respectfully submitted,



Patricia J. Hughes
Executive Director

HISTORY

For nearly three decades before the Minneapolis Civilian Police Review Authority was created, community leaders had been calling for a greater civilian reviewing complaints of police misconduct. In early 1989, events occurred which sparked community organizing which ultimately led to creation of the Authority by the elected City officials.

Two elderly African American citizens were killed in a police raid. Thereafter, some African American college students alleged that they were arrested by police officers who arrested them at a party at a Minneapolis hotel for a disorderly conduct. None of the seven college students was convicted, except one individual who was convicted of resisting arrest. African American community leaders led protests directed at City Hall. The City Council established a working group to determine what type of civilian oversight of the police was needed. From the very outset of its work, the working group recognized that it had not been charged to determine whether or not civilian oversight was necessary, but rather that the City Council had determined that civilian oversight was necessary and that the working group should recommend the form such oversight should take.

The working group met for a period of months, and heard from people from all over the country who were experienced with civilian oversight of police, and from citizens who had experienced police abuse. After careful study, the working group made recommendations to the City Council. Community leaders and local activists kept the issue in the public eye, which generated discussion in all quarters of the City about improper police conduct.

After the working group made its recommendations to the City, the City Council then began its own process of reviewing the recommendations and ultimately adopting some of them and rejecting some of them.

The City Council by City Ordinance established the Minneapolis Civilian Police Review Authority. Key components of the Authority are civilian investigators, and community members who review the evidence and make Findings of Fact on each complaint. Briefly, the Minneapolis process is as follows. An individual comes to the office of the Authority and is assigned an investigator. The investigator conducts a thorough investigation and makes a recommendation to the Executive Director of the Authority as to whether or not there is probable cause that police misconduct occurred. The Executive Director then makes the probable

determination. If probable cause is found, then the matter is sent to the board for a hearing. The Minneapolis board currently consists of seven members. A typical hearing panel on a complaint consists of three members. After the matter is referred to the board for a hearing, a panel is assigned and one of the panel members is designated to be the chair of the panel. The chair holds a pre-hearing conference with the Executive Director, and the officer(s) attorney. After probable cause is found, the Executive Director of the Authority is the person who carries the complaint forward and argues on behalf of the complainant. At the pre-hearing the participants attempt to resolve matters about evidence and the scope of the hearing.

Then the evidentiary hearing is held. The Executive Director presents witnesses for the complainant and the officer has an attorney who represents the officer's defense on the complaint. After the hearing is held, then the panel deliberates privately. The panel makes findings on the fact (i.e. conclusions about what actually occurred) and makes a finding as to whether the complaint is sustained or not. The matter then is referred to the Chief of Police who makes the decision as to what disciplinary action should be taken, if any. When the Chief has made his decision, he must provide his reasons in writing to the Mayor and to the Authority.

The Minneapolis Police Civilian Review Authority was created in 1990, and began accepting complaints from citizens in 1991.

NUMBERS AND TYPES OF COMPLAINTS

During 1996 the Civilian Review Authority received 129 signed complaints. A citizen's allegations are counted as a "complaint" 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. The CRA had 711 contacts with the public on possible complaints in 1996 (Exhibit A) and disposition occurred on 622 of those intake calls, plus 67 calls remaining from 1995.

People often call the CRA with questions about proper police procedure. An investigator will spend time clarifying issues and providing the caller with helpful information. The majority of cases never get to the formal complaint stage. Some cases are referred to other sources. About 100 cases a year are resolved informally through direct contact by the investigator with members of the police department. In other cases the complainant does not follow through with a formal complaint. Oftentimes, the complainant finds that there is actually no basis for a complaint after conferring with the investigator who advises them on proper police procedure.

Sixty-one percent of those who are the alleged victims of complaints filed with the CRA are people of color. Fifty-nine percent of the alleged victims are under age 35. See Exhibit C.

Forty-four percent of the complaints alleged the excessive use of force as the primary characteristic. The next three primary complaints, in their order of frequency, were inappropriate conduct, failure to provide adequate or timely police service, and inappropriate language. A graph showing the types of cases received by the Civilian Review Authority each year since 1993 is attached to Exhibit D.

Thirty-six percent of the officers with complaints whose ages are known are between 31 and 35 years of age. Seventy-four percent of the officers have been on the force for less than six years. See Exhibit E.

STATUS OF CRA'S CASELOAD
AS OF 1/03/97
REPORTING FROM 03/20/91 TO 12/31/96

SIGNED COMPLAINTS	885
COMPLETED CASES	
Successful Mediations	30
Dismissals	164
No Probable Cause	528
Probable Cause	93
Withdrawal	11
PENDING CASES	
On Hold	0
In Mediation	1
In Investigation	56
Completed Investigations Awaiting Review	0
NUMBER OF CASES EVER SENT TO MEDIATION	123
STATUS OF PROBABLE CAUSE DETERMINATION	
Hearings to be Scheduled	8
Hearings Scheduled	1
Hearings Held	84
STATUS OF CASES HEARD BY BOARD	
Decisions Pending	2
Not Sustained	5
Not Sustained, Insufficient Evidence	7
Not Sustained, Officer Exonerated	10
Dismissed	9
Mediated (after Probable Cause found)	3
Sustained (14 by Stipulation)	48

In 1996, probable cause was found in 16 cases.

Since 1993 83% of the cases closed where probable cause had been found were either sustained or mediated.

This Caseload Report shows the total number of signed complaints received since April 15, 1991, when the CRA started to take complaints. It then breaks that number down into Completed Cases and Pending Cases.

The COMPLETED CASES fall into five categories: Successful Mediations, Dismissals, No Probable Cause, Probable Cause, or Withdrawal.

The Successful Mediations are cases where the complainant and officer(s) arrived at a mutually agreeable resolution of the complaint through a thorough and frank discussion of the alleged misconduct held before a neutral third party.

The Dismissals are cases that were dismissed for one of several reasons, including but not limited to that there was no dispute as to the material facts and no reasonable person could sustain a complaint based upon such facts; even if all of the complainant's alleged statements are true, no act of misconduct exists; the alleged facts are so unbelievable that no reasonable person could sustain the complaint based on such facts; and failure of the complainant to cooperate.

A complainant has the right to withdraw from the process at any time, before, during or after an investigation is conducted. The number of such cases are shown under Withdrawal.

Cases that aren't successfully mediated, dismissed or withdrawn are sent to an investigator who conducts a full investigation of the allegations.

No Probable Cause are cases where, after a full investigation, there was No Probable Cause to believe that a violation of city ordinance occurred and the complaint was dismissed as:

1. Officer exonerated, for one of two reasons:
 - a. The facts alleged in the complaint are true but do not constitute misconduct; or
 - b. The facts alleged in the complaint are not true; or
2. Insufficient evidence to sustain the complaint.

Probable Cause are cases where, after a full investigation, there was Probable Cause to believe that a violation of city ordinance had occurred and therefore the matter shall proceed to an evidentiary hearing. The results of those evidentiary hearings are shown in the latter half of the Caseload Report.

The PENDING CASES fall into four categories: On Hold, In Mediation, In Investigation, and Completed Investigation Awaiting Review.

A case is placed On Hold if there is a criminal investigation and/or charges or some other reason that the case cannot be investigated at the current time. This is a temporary status and the case will ultimately be taken off hold and investigated or withdrawn.

Cases In Mediation are those that are currently being mediated or where the complainant and officer(s) are considering whether or not they wish to participate in mediation. If the parties decide not to participate, or if mediation was tried but was not successful, the case returns to the investigator for full investigation. If the mediation is successful, the case is closed.

Cases In Investigation are those that are being actively investigated. The investigation must be completed within 120 days from the date the complaint is officially filed.

Completed Investigation Awaiting Review are those cases where the investigator has completed the investigation and written a report for consideration by the Executive Director, who makes the probable cause determinations.

The NUMBER OF CASES EVER SENT TO MEDIATION shows how many of the total signed complaints were sent to mediation. Mediation was not attempted on all of these cases since the officer(s) and complainant must agree to mediate. Mediation is not mandated; it is voluntary.

The STATUS OF PROBABLE CAUSE DETERMINATIONS identifies the status of cases identified as Probable Cause cases under Completed Cases earlier in the Caseload Report. Those cases are broken down into three categories: Hearings to be Scheduled, Hearings Scheduled and Hearings Held.

The STATUS OF CASES HEARD BY BOARD indicates how many of the cases where probable cause was found were Sustained, Mediated, Stipulated To, Not Sustained, Dismissed, or where the Decision is Pending. In a given case there might be more than one charge against an officer or one or more charges against several officers. In recording the findings, if any charge against any officer is sustained, that case is recorded as Sustained. If no charge against any officer is sustained, it is recorded as Not Sustained.

CONTACTS REGARDING POTENTIAL COMPLAINTS

<u>Month</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
January	62	88	89	60
February	44	48	82	56
March	94	84	87	49
April	91	90	74	59
May	80	81	70	65
June	77	100	87	59
July	86	108	89	50
August	104	102	108	70
September	79	82	77	70
October	81	85	74	68
November	80	102	61	49
December	<u>80</u>	<u>90</u>	<u>58</u>	<u>47</u>
	958	1,062	956	711

Contacts with the CRA include telephone calls as well as in person contact made by the public requesting to file a complaint or inquiring as to whether there are grounds to file a complaint.

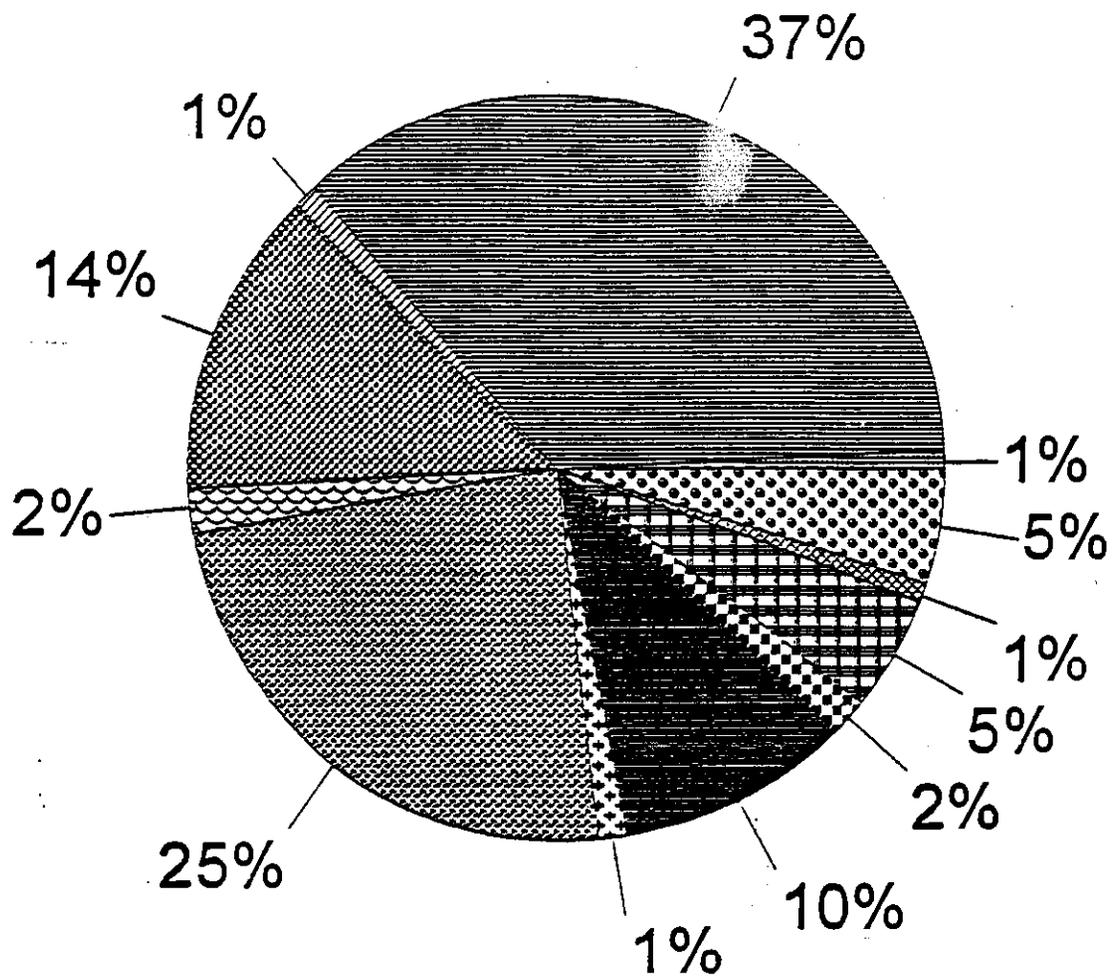
EXHIBIT A

THE COMPLAINT PROCESS

To file a complaint an individual contacts the office of the Authority and is assigned an investigator. Any person who has personal knowledge of alleged misconduct on the part of an officer may file a complaint with the Authority. No complaint will be deemed filed with the Authority until it has been reduced to writing and signed by the complainant. Within thirty days of the date the signed complaint is filed, the Executive Director makes one of three decisions: 1) recommend the case for mediation; 2) dismiss; or 3) forward the case to investigation. If the case reaches the third stage, the investigator conducts a thorough investigation and makes a recommendation to the Executive Director of the Authority as to whether or not there is probable cause that misconduct occurred. The investigator is allowed 120 days from the date a complaint is signed to complete the investigation. The Executive Director then makes a determination on whether or not there is probable cause.

If probable cause is found, the Executive Director informs the Chairperson who appoints a Hearing Panel which usually consists of three Board members, with one member designated as chair of the panel. The panel chair holds a pre-hearing conference with the Executive Director, the officer, and the officer's attorney. At the pre-hearing the participants attempt to resolve matters about evidence and the scope of the hearing. The matter is then scheduled for an Evidentiary Hearing. The Executive Director of the Authority is the person who carries the complaint forward and argues on behalf of the complainant.

At the evidentiary hearing the Executive Director presents witnesses for the complainant and the officer has an attorney who represents the officer's defense on the complaint. After the hearing is concluded the panel deliberates privately. The panel makes findings on the facts (conclusions about what actually occurred) and makes a finding as to whether the complaint is sustained or not. The matter is referred to the Chief of Police who makes the decision as to what disciplinary action will be taken, if any. When the Chief has made his decision, he must provide his reasons in writing to the Mayor and to the Authority.



Alleged Victim by Race/Gender - 1996

	Indian Female - 1%		Black Male - 37%
	Asian Male - 1%		Black Female - 14%
	Hispanic Male - 2%		White Male - 25%
	Asian Female - 1%		White Female - 10%
	Indian Male - 2%		Other Male - 5%
	Unknown Female - 1%		Unknown Male - 5%
	Total Males - 74%		Total Females - 26%

**ALLEGED VICTIMS BY AGE/DISABILITY/
AFFECTIONAL PREFERENCE**

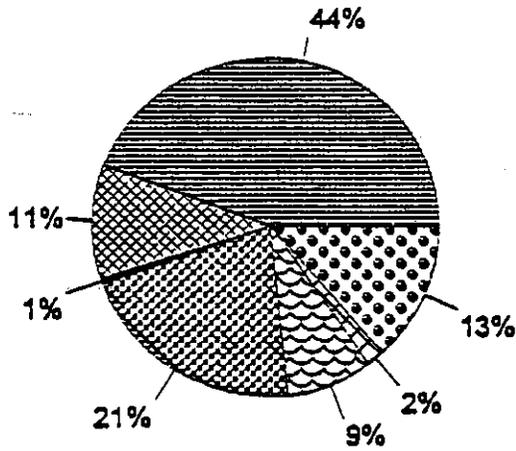
<u>AGE</u>	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>
16 or Under	14	15	12	20
17 to 20	15	22	15	13
21 to 25	21	25	25	23
26 to 34	36	57	51	57
35 to 45	42	29	41	44
46 and Over	14	19	15	21
Unknown	<u>5</u>	<u>6</u>	<u>5</u>	<u>2</u>
	147	173	164	180

In 1994 there was one case where a person's disability was an issue. In one case a person's affectional preference was an issue.

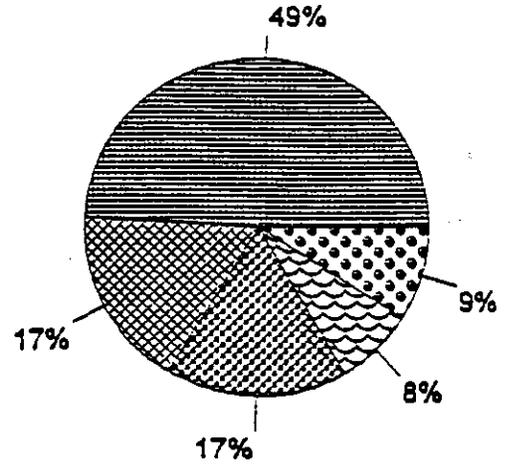
In 1995 there was one case where a person's disability was an issue. In five cases a person's affectional preference was an issue.

In 1996 there were four cases where a person's disability was an issue. In six cases a person's affectional preference was an issue.

TYPES OF COMPLAINTS



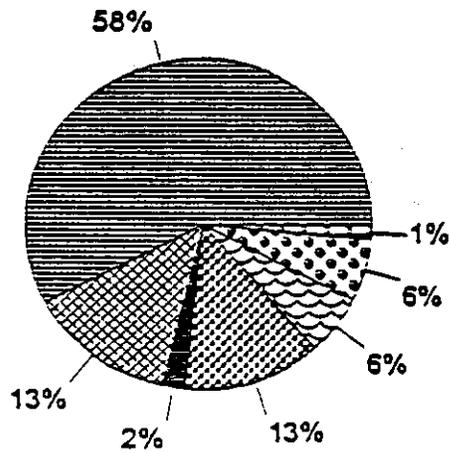
1996



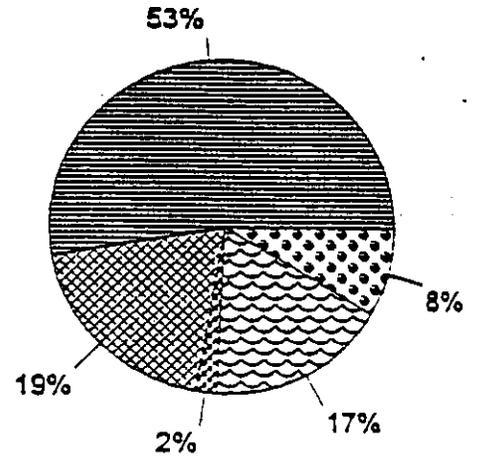
1995

-  Excessive Force
-  Theft
-  Harassment
-  Failure to Provide Service

-  Inappropriate Language
-  Inappropriate Conduct
-  Discrimination
-  Inappropriate Use of Force



1994



1993

COMPLAINTS AGAINST OFFICERS BY AGE AND EXPERIENCE

Age of Officer at the Time of the Incident

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
21 and Younger	0	0	0	0
22-25 Years Old	8	17	2	6
26-30 Years Old	92	94	50	27
31-35 Years Old	66	60	63	46
36-45 Years Old	25	33	48	31
46+ Years Old	<u>11</u>	<u>10</u>	10	17
Unknown			<u>85</u>	<u>65</u>
	202	214	258	192

Officers' Years on Minneapolis Police Department at Time of Incident*

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>
Less Than 2 Years	18	45	18	22
2-5 Years	127	106	104	79
6-10 Years	40	43	61	44
11+ Years	<u>17</u>	<u>20</u>	20	16
Unknown			<u>55</u>	<u>31</u>
	202	214	258	192

* Some officers have served on other police departments prior to coming to Minneapolis.

COMPLAINTS BY PRECINCT - 1993-1995

<u>Precinct</u>	<u>1993</u> <u>Complaints</u>	<u>1994</u> <u>Complaints</u>	<u>1995</u> <u>Complaints</u>
2	13	15	15
3	46	52	45
4	55	56	64
5	39	24	21
Unknown	<u>1</u>	<u>3</u>	<u>1</u>
	154	150	146

PRIMARY ALLEGATIONS BY PRECINCT* - 1996

<u>Primary Allegation</u>	<u>DTC</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>OC**</u>	<u>Total</u>
Excessive Force	11	1	20	14	11	0	57
Language	2	2	3	3	3	1	14
Harassment	2	0	3	1	5	0	11
Theft	0	0	1	0	0	0	1
Discrimination	2	0	0	0	0	0	2
Lack of Service	1	3	6	3	4	0	17
Inappropriate Conduct	<u>8</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>1</u>	<u>27</u>
	26	9	37	26	29	2	129

* Location of Incident

** Outside City

The precincts vary by size and number of officers assigned. Following is information on each precinct:

	<u>DTC</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Fifth</u>
Population Served	21,158	62,560	117,760	63,482	103,040
No. of Officers Assigned	110	92	144	130	122

EXHIBIT F

COMPLAINTS GENERATED THROUGH OFF-DUTY EMPLOYMENT

From April of 1993 through the end of 1994, 290 cases were filed with the CRA, 27 (9 percent) of which involved officers working in off-duty capacities. Approximately two-thirds of those complaints alleged use of excessive force. Others involved language, harassment, failure to provide service or inappropriate conduct.

In 1995, of 146 complaints, 7 (5 percent) involved officers working in off-duty capacities at 7 different locations. Six of those complaints (86 percent) alleged use of excessive force; one alleged inappropriate conduct.

Of 129 complaints filed in 1996, 11 (9 percent) involved officers working in off-duty capacities at 11 different locations. Six of those complaints (55 percent) alleged use of excessive force, four inappropriate conduct, and one inappropriate language.

EXHIBIT G

COMPLAINTS REFERRED TO MEDIATION

	Sent to Mediation	Successful Mediation	Unsuccessful Mediation	Mediation Refused by			Total	Investigation	Determinations/ Cases Returned
				Comp.	Officer	Both			
1991	14	1	1	2	8	2	12	1 PC (Not Sustained) 3 Dismissal 6 NPC 2 Withdrawal	
1992	27	6	1	5	10	5	20	2 PC (1 Sustained; 1 Not Sustained) 5 Dismissals 13 NPC 1 Dismissal 8 NPC 2 PC (Sustained) 5 NPC 1 Dismissal 7 NPC 1 Dismissal 1 PC 15 NPC 6 PC (4 Sustained; 1 Not Sustained; 1 Dismissal)	
1993	11	2	0	5	3	1	9		
1994	17	8	1	5	3		8		
1995	14	4	1	4	3	1	9		
1996	40	10	6	17	5	1	24		
Totals	123	31	10*	38	32	10	82	2 Dismissals 1 Open	

* In these 10 cases the ultimate determination was 6 No Probable Causes, 3 Probable Causes, and 1 pending.

**DISCIPLINARY ACTIONS
RESULTING FROM CRA SUSTAINED COMPLAINTS
as of February 6, 1997**

Of 28 sustained cases sent to the Chief of Police John Laux or Acting Chief Richard Schultz from January of 1992 through March 16, 1995, the Chief made disciplinary decisions as follows:

On ten cases that involved a sustained charge of excessive force, the discipline on four cases was letters of reprimand, on one case a 10-day suspension without pay, and on another case a one-day suspension without pay. No discipline was imposed in four cases.

On one case that involved sustained charges of excessive force and harassment, the discipline was Use of Force Training.

On three cases that involved sustained charges of excessive force and language, a letter of reprimand was imposed in one case, no discipline was imposed on another, and an 18-day suspension without pay (5 hard; 15 soft) was imposed on the third.

On eight cases that involved a sustained charge of language, the discipline in six cases was a letter of reprimand, in another case a three-day suspension without pay and additional training, in another a one-day suspension without pay, and in the remaining case no discipline was imposed.

On one case that involved sustained charges of language and harassment, the discipline on the language charge was a letter of reprimand. No discipline was given on the harassment charge.

On four cases that involved a sustained charge of harassment, the discipline in one case was a letter of reprimand and in the other three no discipline was imposed.

On one case that involved a sustained charge of inappropriate conduct, the discipline was an 18-day suspension without pay (3 hard; 15 soft).

Since becoming Chief of Police on March 17, 1995, Chief Robert Olson has made the following disciplinary decisions on 18 sustained cases:

On one case that involved excessive force, the discipline was a one-day suspension without pay.

On one case that involved excessive force, language and harassment, the discipline was a five-day suspension without pay.

On two cases that involved failure to provide adequate or timely police protection the discipline was one verbal warning and one counseling/training.

On five cases that involved language charges, the discipline was two verbal warnings, one one-day suspension without pay and three letters of reprimand. A total of six officers were involved in these cases.

On nine cases that involved inappropriate conduct, the discipline was one verbal reprimand, three letters of reprimand and five one-day suspensions without pay.

Two cases are pending at the time of this report.

EXHIBIT I

**BOARD MEMBERS
SERVING DURING 1996**

Lucille Anderson	4/94 to Present
Kenneth Beck	9/94 to Present
Robert Boughton, Vice Chair	6/90 to Present
Brian Gorecki	5/94 to Present
Helen Marie Lewis	10/91 to Present
Daryl E. Lynn, Chair	3/95 to Present
Amy YellowThunder	3/96 to Present

STAFF

Patricia J. Hughes	Executive Director
Robin Lolar	Investigator
Roger Danielski	Investigator
Gerald Dexter	Investigator
Jackie Hillestad	Program Assistant
Sharon Pelka	Clerk Typist II
Marsha Rode	Clerk Typist II

Prepared by the Civilian Police Review Authority, March 1997

Patricia Hughes
Jackie Hillestad
Sharon Pelka

APPENDIX C

Bibliography

APPENDIX C

Bibliography

- "A Model for Civilian Review of Police Conduct in Minneapolis: A Report to the Mayor and City Council from the Police Civilian Review Working Committee". 1989.
- Andrews, James H.. "Civilian-Review Boards Gain Public Support". *The Christian Science Monitor*, Monday, November 22, 1993.
- Craig, William J.. "A Study of the Minneapolis Civilian Review Authority: Comparing Its First Two Years with the Last Two Years of the Minneapolis Police Department's Internal Affairs Unit". Center for Urban and Regional Affairs, University of Minnesota, July 21, 1993.
- Jones, Alice, M.S.W., M.P.A.. Blueprint for Partnership: A Practical Guide to Assessing Police-Community Relations. Washington, DC: National League of Cities. 1995.
- Milligan, Herman J. Jr., Ph.D.. "Civilian Review of Police Misconduct". Working paper prepared for the Minneapolis Commission on Civil Rights, Task Force on the Police Treatment of Minorities, Women, Gays, Lesbians and Disabled Person, April 26, 1985.
- Perez, Douglas W.. "Police Review Systems". *ICMA MIS Report, Volume 24/Number 8*, August 1992.
- Perez, Douglas W.. Common Sense About Police Review. Philadelphia: Temple University Press, 1994.
- Snow, Robert. "Civilian Oversight: Plus or Minus". *Law and Order*, December 1992.
- Vogel, Jennifer. "The Pro-Police Review Board". *The Nation*, January 6/13, 1992.
- Walker, Samuel and Betsy Wright. Citizen Review Resource Manual. Washington, DC: Police Executive Research Forum, 1995.
- Walker, Samuel and Vic W. Bumphus. "The Effectiveness of Civilian Review: Observations on Recent Trends and New Issues Regarding the Civilian Review of the Police". *American Journal of Police Vol. XI, No. 4*. 1992
- Walker, Samuel, and Vic. W. Bumphus. "Civilian Review of the Police: A National Survey of the 50 Largest Cities, 1991". Omaha, NE: Department of Criminal Justice, University of Nebraska at Omaha. April 1991.
- Walker, Samuel. "Revitalizing the New York CCRA: A Proposal for Change." Department of Criminal Justice, University of Nebraska at Omaha, September, 1997.
- Ward, David. "Abolish the Civilian Review Authority". *Star-Tribune*, Minneapolis-St. Paul, July 30, 1995.

APPENDIX D

Copy of the Survey



TO: *Persons Interested In, or Persons Who have Interacted with the Minneapolis Civilian Review Authority*

FROM: *Kathleen O' Brien, City Coordinator and Chair of the Civilian Review Authority Redesign Team*

DATE: *September 10, 1997*

RE: *The Redesign Team is Seeking Your Comments*

This summer, the Mayor and City Council appointed a committee to:

"to conduct an analysis of the Minneapolis Police Civilian Review Authority (CRA) to determine whether the CRA provides the appropriate service, based on current expectations, in the most cost-effective manner and whether the CRA has the right structure and staffing to provide this service."

We would like your opinion about the Minneapolis Police Civilian Review Authority and its functions. You have been selected from a list of those who have been involved with the CRA (police officers and complainants) or are involved in neighborhood or community activities.

The Minneapolis Civilian Police Review Authority was established by City Ordinance in January, 1990. The Authority includes a Board of seven members, an Executive Director, investigators and administrative staff. The CRA receives, considers, investigates and makes a determination regarding complaints or grievances brought by the public against any Minneapolis Police Officer. Its purpose is to strengthen public confidence and to assure that the highest standards of professionalism are observed in the handling and disposition of allegations of abuse of authority.

Please complete and return this survey **no later than Monday, September 22**. Your responses will be kept confidential. No one will be able to connect your name to your answers. When you are finished, please fold and tape this survey (adhesive material is enclosed for your use) and return it with the Minneapolis City Hall address showing. Please **DO NOT** staple. The survey is stamped. You do not need an envelope.

Your comments are very important to us. THANK YOU!

NOTE: IF YOU WOULD LIKE THIS SURVEY TRANSLATED INTO ANOTHER LANGUAGE OR IN ANOTHER FORMAT, PLEASE CONTACT SALLY WESTBY AT 373-2011 OR TRUDY MOLONEY AT 673-3478.
Please allow reasonable time to accommodate your request.

1. For each of the activities listed below, indicate how strongly you agree or disagree that the activity listed should be undertaken by the Minneapolis Civilian Review Authority:

	Strongly Agree	Agree	Unsure	Disagree	Strongly Disagree
a) Investigate complaints from individuals regarding the conduct of Minneapolis Police Officers	<input type="checkbox"/>				
b) Make a judgment about police conduct	<input type="checkbox"/>				
c) Refer findings regarding police misconduct to the Chief of Police for discipline	<input type="checkbox"/>				
d) Provide the police department with a tracking system so it can identify patterns of reported police behavior over time	<input type="checkbox"/>				
e) Educate police officers about the perspectives of civilians	<input type="checkbox"/>				
f) Educate citizens about police operations	<input type="checkbox"/>				
g) Provide mediation services, when appropriate, to help resolve differences between police and members of the public	<input type="checkbox"/>				
h) Operate independently of the police department with all work done by civilians	<input type="checkbox"/>				
i) Other:					

2. Are you familiar with the way the Minneapolis Civilian Review Authority operates?

- YES NO UNSURE

3. Do you believe changes should be made in the Minneapolis Civilian Review Authority to help it operate more effectively?

- YES NO UNSURE

4. If yes, briefly explain what changes you think should be made and how they will make the Civilian Review Authority more effective:

The following Questions 5 – 8 are important for our analysis but the data requested is OPTIONAL. It is not required for your views to be considered. The information below may be public under the Minnesota Data Privacy Act.

5. Please check all categories that apply to you:

- | | |
|--|--|
| <input type="checkbox"/> Police Officer | <input type="checkbox"/> Have had a complaint filed against you with the CRA |
| <input type="checkbox"/> Complainant (have filed a complaint with the CRA) | <input type="checkbox"/> Neighborhood Association Member |
| <input type="checkbox"/> Minneapolis resident | <input type="checkbox"/> Live in the Twin Cities Metro Area |
| <input type="checkbox"/> Work in Minneapolis | |

6. Your age: *check one*

- 15 - 20 years old 21 - 30 years old 31 - 45 years old
 45 - 65 years old older than 66 years

7. Race or Ethnic Background _____

8. Sex: Male Female

9. Are there comments you would like to make regarding citizen review of police conduct and/or about your own experience with the Minneapolis Civilian Review Authority? Please include them here. (Use additional paper if necessary.)

If you are interested in talking with a member of the Redesign Team to share your views further on civilian review of the police department or the Minneapolis Police Civilian Review Authority, please provide your name and phone number. (NOTE: All information in this questionnaire may be public information under the Minnesota Data Privacy Act. If you do not wish your name connected with your responses, but wish to talk further with a member of the Redesign Team, call Sally Westby at 373-2011.)

Name _____

Phone number: _____

THANK YOU!

Reminder: Fold and tape this survey where indicated (adhesive material is enclosed for your use) and return it with the Minneapolis City Hall address showing. DO NOT staple. The survey is stamped. You do not need an envelope.

The Minneapolis City Council and Mayor appointed a Redesign Team to look at civilian review of police conduct and the Minneapolis Police Civilian Review Authority. The Redesign Team members are:

Kathleen O'Brien, City Coordinator, and Chair, Redesign Team

Inspector Dave Indrehus, Minneapolis Police Department

Daryl Lynn, Chair, Civilian Review Authority Board

Jim Michels, Attorney, Police Federation

Michael Norton, Deputy City Attorney

Kenneth White, Executive Director, Minneapolis Department of Civil Rights

[Tape Here]

[Tape Here]

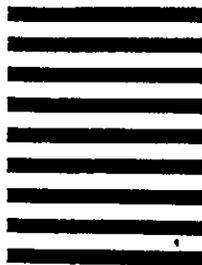


MINNEAPOLIS MN 55415-9949
350 S 5TH ST ROOM 325M
MGMT ANALYSIS DIVISION
CITY OF MINNEAPOLIS

POSTAGE WILL BE PAID BY ADDRESSEE

FIRST-CLASS MAIL PERMIT NO. 13042 MINNEAPOLIS MN

BUSINESS REPLY MAIL



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



ADDENDUM A

**Letter from two Redesign Team members
regarding the structure issue**

BEST & FLANAGAN

Professional Limited Liability Partnership

4000 FIRST BANK PLACE
601 SECOND AVENUE SOUTH
MINNEAPOLIS, MINNESOTA

55402-4331

[HTTP://WWW.BESTLAW.COM](http://www.bestlaw.com)

(612) 339-7121

FAX (612) 339-5897

KEVIN J. DUNLEVY
JILL B. LAORR
SARAH CRIPPEN MADISON
ROBERT D. MAHER
DAVID H. JOHNSON
ANN E. WALTHER
WILLIAM J. MORRIS
MICHAEL H. PINK
DANIEL A. KAPLAN
AMY J. SWEDBERG

OF COUNSEL
WARD E. LEWIS
ARCHIBALD SPENCER
ROBERT M. SKARE
JOHN R. CARROLL
JAMES D. OLSON

JAMES I. BEST
1902-1960
ROBERT J. FLANAGAN
1896-1974

ROBERT L. CROSBY
LEONARD M. ADDINGTON
ROBERT R. BARTH
N. WALTER GRAFF
ALLEN D. BARNARD
RICHARD A. PETERSON
ROBERT J. CHRISTIANSON, JR.
FRANK J. WALZ
FRANK VOGL
MARINUS W. VAN PUTTEN, JR.
DAVID B. MORSE
JOHN A. BURTON, JR.
JAMES C. DIRACLES
ROBERT L. MELLER, JR.
MORRIS E. KNOPP
JUDITH A. ROGOSHESKY
SCOTT D. ELLER
CHARLES C. BERQUIST
E. JOSEPH LAFAYE

GREGORY D. SOULE
CATHY E. GORLIN
PATRICK B. HENNESSY
TIMOTHY A. SULLIVAN
BRIAN F. RICE
DANIEL R. W. NELSON
TRACY J. VAN STEENBURGH
DAVID J. ZUBEKE
STEVEN R. KRUGER
JAMES P. MICHELS
PAUL E. KAMINSKI
JOHN P. BOYLE
ROSS C. FORMELL
CARYN S. GLOYER
MARY E. SHEAREN
BARBARA M. ROSS
CATHERINE J. COURTNEY
JEANNICE M. REDING

Direct Dial (612) 341-9706

November 18, 1997

Ms. Kathleen O'Brien
Chair, CRA Redesign Team
350 South Fifth Street, Rm. 301M
Minneapolis, MN 55414

Re: Civilian Review Redesign Team Report

Dear Kathy:

As you know, the most debated issue undertaken by the Redesign Team was the authority of the CRA. The Team quickly agreed that the Board has performed its administrative and policy making roles well. Our discussion focused on the quasi-judicial role of the Board (that is the process of gathering evidence by conducting an evidentiary hearing and then making findings of fact and conclusions based on those findings). While all members of the Team agreed that the quasi-judicial function must be improved, the Team could not reach a consensus as to the severity of the problems. Inspector Indrehus and I strongly feel that our report should more clearly identify the choices for the Mayor and City Council regarding the options to address this serious problem. Therefore, with all due respect to our colleagues on the Committee, we cannot support the present language of the report with regard to the Authority of the CRA.

The process of conducting evidentiary hearings and making well-reasoned, impartial decisions is perhaps the most critical function of the CRA. All persons with whom we spoke agreed that it is critical to the success of the CRA for the complainants and officers to believe that, win or lose, the process was fair and the decision impartial. This confidence does not presently exist. This should not be considered a personal on any past or present CRA Board members. It is difficult, if not impossible, to expect persons not trained and experienced in this process, no matter how intelligent or well-meaning, to adequately perform this task.

After listening to the experts, focus group members and reading the materials we gathered, we have reached the conclusion that the most effective and cost efficient method of correcting the problems relating to the Board's quasi-judicial function is for hearings to be conducted by Administrative Law Judges from the State Office of Administrative Hearings or by distinguished retired judges from the District and Appellate Courts. In the context of discussing the role and authority of the Board, we identified a number of issues. As detailed below, all of these issues are eliminated by assigning the quasi-judicial function to persons with the necessary training and experience.

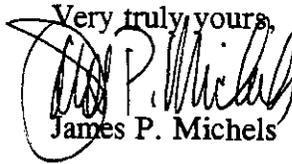
1. Training Costs - there would be no need to dedicate scarce resources to train Board members.
2. Recruiting and Selection - the need for recruiting people with the necessary special skills would be eliminated. Further, the need for a review panel would also be eliminated. Boards having policy making and administrative roles are expected to act as representatives for certain constituencies and based their decisions accordingly.
3. Bias - No matter how much procedural training a person receives, his/her decision-making will not be improved if the person is biased. Assigning the function eliminates the perceived biases of Board members as an issue.
4. Co-option - co-option is really an issue of a perceived pro-police bias. This type of bias would also be eliminated as an issue confronting the Board.
5. Independence - the independence of the Board would be maintained as the assignment of the hearing function would not constitute a structural change to any one of the other models.
6. Procedural Problems - many of the procedural issues such as quality of evidentiary decisions, comprehension of burden of proof, appropriateness of language in written opinions would be resolved.
7. Conflict of Interest for Director - assignment would also eliminate the issue of a potential conflict of interest by having the Executive Director try cases before the body which employs him/her.
8. Cost - because the number of hearings has declined to less than one per month, there would be little cost impact of transferring the hearing function to administrative law judges.

Ms. Kathleen O'Brien
November 18, 1997
Page 3

Only by assigning these duties can we be certain that the problems we have identified will be corrected. Training and recruitment at best *may* improve the quality of the process. However, issues such as bias, co-option and conflicts of interest will remain.

Ultimately, the decision of whether to correct the existing problems with the quasi-judicial function of the CRA by training and improvement recruitment and selection or by assigning the duties to persons having the necessary training and experience is one for the Mayor and Council to make. However, Inspector Indrehus and I believe that we must provide them with sufficient information to make a well-educated decision on this important issue. Therefore, we are requesting that you attach this letter to our report. We would be happy to discuss in greater detail our concerns with you, any member of the Team or with the Mayor or Council Members.

Thank you for your consideration. It has been a pleasure and a privilege to have served on this Team with you and each of the other Members.

Very truly yours,

James P. Michels


David Indrehus

JPM:ama
Enclosure

ADDENDUM B

Memo from City Attorney

OFFICE OF THE CITY ATTORNEY
333 South 7th Street - Room 300
Minneapolis, MN 55402-2453

Jay M. Heffern
City Attorney

Michael T. Norton
Deputy, Civil Division

C. Lynne Fundingland
Acting Deputy, Criminal Division

Frank J. Chiodi, Jr.
Manager, Administration

Office	(612) 673-2010
Civil Division Fax	673-3362
Criminal Division Fax	673-2189
MCDA Fax	673-5112
Workers Compensation Fax	673-2775
TTY	673-2157



TO: COUNCIL MEMBER JOE BIERNAT, CHAIR
PUBLIC SAFETY & REGULATORY SERVICES COMMITTEE
AND COMMITTEE MEMBERS

COUNCIL MEMBER JOAN CAMPBELL, CHAIR
WAYS & MEANS/BUDGET COMMITTEE
AND COMMITTEE MEMBERS

FROM: CRA REDESIGN TEAM

DATE: DECEMBER 15, 1997

RE: ADDENDUM TO CRA REDESIGN TEAM REPORT

INTEROFFICE MEMORANDUM

At the joint Public Safety and Regulatory Services and Ways and Means/Budget Committee of November 18, 1997, the Committee members raised two issues for further review by the CRA Redesign Team. The issues related to 1) the "independent" status of CRA employees, and 2) the feasibility of contracting out to a private law firm the services provided by the CRA Executive Director and the investigators hired by Director. Attached is an addendum to your report which addresses these two questions.

MTN:rb

Enclosure

ADDENDUM TO CRA REDESIGN TEAM REPORT

ISSUE AREA: Are CRA employees "independent"?

When the CRA began operations, the Executive Director was an "independent contractor", and the Investigators were permit employees pending classification study which ultimately resulted in the position being classified. The Executive Director was hired by the CRA Board pursuant to an employment contract, and the Executive Director hired the Investigators. Subsequently, the City Attorney's Office was asked to clarify the employment status of not only the CRA's Executive Director, but other "independent contractors" throughout the City that have been hired by the City on contract, but were, for all intents and purposes, acting as full time employees.

An "independent contractor" has a special status in the law with respect to an employer. An independent contractor exercises independent judgment, typically performs the identified work outside of the employer's control, produces a product based on the independent contractor's expertise, and is normally compensated by a fixed amount of money. An independent contractor is typically responsible for the contractor's own negligence, insurance, and tax consequences arising out of the compensation provided in the contract under which the contractor worked. An employee, on the other hand, is hired to perform regular and ongoing duties for a stated wage or salary with the employee being responsible to the supervisory hierarchy under which the employee works. Additionally, the employer is normally responsible for liability created by an employee's actions, as well as generally providing for insurance, and payment of the employer share, and withholding of the employee's share, of federal and state taxes. Our investigation disclosed that the Investigators and the Executive Director of the CRA would be defined by a court as "employees" based on the Internal Revenue Services (IRS) 20 point checklist, which addresses various indicators of employment status for purposes of federal and state tax withholding requirements.

Our conclusion that the CRA's Executive Director is an "employee" for federal and state tax withholding purposes, does not change the "independent" status of the CRA Board as the appointing authority for its employees pursuant to its rules and §172.10 of the Code of Ordinances. As a result, the Executive Director, the Investigators, and administrative personnel of the CRA, are employees of the CRA, an independent board of the City, and are not under the direct jurisdiction of the City Council. The appointing authority, the CRA Board or Executive Director, make all hiring, firing, compensation and other employment related decisions. Absent an ordinance change, the City has no director personnel authority over employees of the CRA. Some confusion may have arisen because the City provides many services to the CRA, as well as to other independent boards and agencies of the City, including personnel services, legal services, and financial services. The CRA Board does have an obligation to insure that it and its employees comply with the ordinances and policies governing

these areas. However, merely because a CRA employee receives a paycheck signed by the City Finance Officer does not change their status as employees of the CRA. Moreover, the fact that the CRA governs itself in light of City policies and ordinances does not change the fact that the CRA performs its core functions under Chapter 172 independent of the Mayor or City Council.

RECOMMENDATION: The CRA Board should consult with the City Attorney's Office and the City's Human Resources Department to address issues arising out of a decision to establish an employer-employee relationship with its Executive Director.

ISSUE AREA: Should the City consider staffing the CRA Executive Director and Investigator functions by means of a contract with a law firm experienced in providing municipal law services?

We contacted seven law firms actively practicing municipal law in the seven county metro area to determine their hourly rates for the types of services that the CRA is required to provide pursuant to Minneapolis Code of Ordinances Chapter 172 and the administrative rules of the CRA developed thereunder. All of the firms contacted indicated that they provide services at the rate of \$125 per billable hour for attorney services and a range of \$50 to \$75 per hour for paralegal services. An attorney is required pursuant to Chapter 172 to perform the duties of Executive Director. None of the firms contacted specifically hired trained investigators, but would instead likely rely on the services of paralegals who do not typically receive the same type of training as an investigator. Assuming that an attorney and three investigators/paralegals were hired at the stated rates to perform 2,080 hours of work on behalf of the CRA, the costs under this scenario would appear to be as follows:

Attorney @ \$125 an hour x 2,080 = \$260,000

Investigator/Paralegal @ \$60 an
hour x 2,080 = \$124,800 x 3 = \$374,400

Total \$634,400

The firms did not indicate a separate charge for administrative services such as reception, typing, phones, and the like. We used the full time hours of a typical City employee (2,080) since the CRA is a service provider. We assumed that equivalent services, including regular office hours, would be required to provide the current level of service under a contract model. Some of the firms indicated a willingness to consider a flat fee arrangement based on the providing of additional information and negotiation over the service level. We did not address the issue of a downtown office and expenses related thereto. Several of the law firms that were contacted do not have a downtown office.

An important issue that impacts the costs described above relates to use of

paralegals instead of investigators. The CRA Redesign Team recognized that additional training in the nuances of internal police investigations was highly desirable. Policy makers should consider that paralegals do not typically receive extensive training in investigative techniques, much less the training peculiar to internal police investigations.

In light of the information discussed above, the Redesign Team did not spend additional time investigating other important issues which merit additional investigation if the contracting out model is pursued. An important issue identified during the Redesign Study was the issue of access to CRA staff by the community. Implicated in this discussion was where the CRA Office should be located, hours of operation, and the like. The survey found that several of the likely potential contractors are suburban law firms which do not have a downtown Minneapolis presence. As a result, the issue of costs relating to a downtown or other location such as in a city neighborhood and the related issue of costs should be addressed. For example, it might be possible to receive a competitive flat fee rate from a suburban law firm to provide the current service level, but any decrease in service costs would likely be offset by increased costs for office space and the like. Moreover, costs associated with administrative support services would also have to be addressed and would likely be a significant cost item. The review should also address how a contractor model would address community concerns identified in the main report. Policy makers would also have to consider whether the possibility of considering a suburban law firm, or even a downtown Minneapolis law firm, would impact the City's residency requirement.

RECOMMENDATION: The CRA Redesign Team does not recommend that the City or the CRA Board pursue the option of contracting out for CRA services at this time. Any further discussion of contracting out of these services should be preceded by a comprehensive study of delivery of CRA services in light of the findings in the CRA Redesign Team regarding CRA visibility, confidence in its ability to provide the required services, access and other related issues.