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

SEPTEMBER 1989

DATE: September 27, 1989

TO: All Recipients of the report titled "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"

FROM: Steve Ristuben, Assistant City Clerk

Today, September 27, 1989, this office received a one page minority report to the above mentioned document. This page should be inserted after page 45 and is numbered 45a.

MINORITY REPORT SUBMITTED BY CAROL ARTHUR, SUNTHI PAUL CHOOKIATSIRICHAI, LEWIS FREEMAN, BILL GREEN, HERMAN MILLIGAN & DIANE SADRAVI

We support the final document of the Working Group with two exceptions.

1. 5 spaces on the Civilian Review Board be reserved for persons of color and/or Gay or Lesbian persons.

2. The Civilian Review Board must make recommendations concerning practices and procedures to the Police Chief. If the Police Chief fails to make corrections, an automatic appeal goes to the Mayor. A final decision is to be made by the Mayor in consultation with the Civilian Review Board and the Police Chief.

ACKNOWLEDGEMENTS

The Committee acknowledges with gratitude many individuals who made invaluable contributions to the work and successes of this Committee.

Six individuals served on the Technical Advisory Committee to this Committee. Police chief John Laux, Gary Cunningham (deputy director of the Minneapolis Department of Civil Rights), Larry J. Blackwell (director of the Affirmative Action Management Program), Rick Enga (assistant county attorney), Jerome Jallo (assistant city attorney) and Frank Reiter (director of the human resources department) were extremely helpful in providing this Committee with information and advice.

The police professionals who made presentations to the Committee during June and July were of great benefit to the Committee in understanding the components and dynamics of civilian review. Peter Ring, Wayne Kerstetter, Wesley A. Carroll-Pomeroy, Fred Rice, and Werner Petterson were very helpful.

Deputy Chief of Police Doug Smith and Inspector Roger Willow of the Minneapolis Police Department, and Hennepin County District Court Judge Isabel Gomez provided the Committee with useful information regarding the current operations of the Internal Affairs Unit and other parts and procedures of the Minneapolis Police Department and the Internal Affairs Review Panel.

Dennis Bible, Director of Labor Relations for the City of Minneapolis, and Donald Gimberling, Deputy Commissioner of the Minnesota Department of Administration provided specific and very helpful information.

The Dayton-Hudson Foundation, Northern States Power, Honeywell Foundation and the General Mills Foundation were generous in providing the Committee with funds to pay travel and accommodation expenses for the speakers.

Earl Craig, Catherine Allen and Paul Scott were invaluable in their work as the staff to this Committee.

Finally, this Committee thanks all the representatives of organizations and individual citizens who who spoke at the public hearings and offered written suggestions.

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I. EXECUTIVE SUMMARY

In April of 1989, the City Council appointed a Civilian Review Working Committee. The Committee after three months of work and deliberations developed the following recommended model for review of complaints by citizens about the behavior of police officers in Minneapolis:

1. The Committee recommends the creation of an independent civilian police review authority with a board of civilian directors. The Committee recommends a board of directors, which is comprised of six elected members who are to be elected as members of the Minneapolis Park Board currently are elected and seven appointed members, who are to be appointed by the mayor and subject to approval by the city council. From the seven appointed members, a chair of the board shall be designated by the Mayor and subject to approval by City Council. The board of directors of the civilian review authority shall be given the powers and responsibilities of creating rules, policies and procedures for the civilian authority. Such rules shall be adopted in an open hearing process, similar to the state Administrative Practices process. The civilian review authority shall have the power and responsibility to hire its staff.

2. The civilian review authority shall receive complaints that allege police misconduct and/or conduct unbecoming a police officer, including but not limited to allegations of excessive force; inappropriate attitude and/or language; harassment; theft; and failure to provide appropriate, adequate and/or timely police service by an individual police officer or police officers. Further, the Committee recommends that the civilian review authority have jurisdiction over complaints which allege discrimination by individual officers.

3. The Committee recommends that a complaint can be filed by any civilian that says that he/she was the "victim" or any other civilian, another officer or employee of the police department or board or staff of the civilian review authority or a member of the police administration. Complaints shall be received in a combination of civilian and police locations, by whichever (civilian or police) personnel are employed there, with all complaint files submitted to the civilian police review authority for processing.

4. The Committee recommends that the civilian review authority will have the authority to screen out complaints before investigation or adjudication, as long as a file is maintained which includes all information submitted and evidence gathered, and the reason for the decision not to go further. The board of the civilian police review authority will have the ultimate responsibility for the establishment of the policies and criteria for such screenings, as well as for referring cases to mediation, and for their individual applications. However, the board may delegate to the authority management and/or staff some or all of such screening tasks.

5. The Committee recommends that investigations are conducted by civilian investigators of the civilian review authority. "Civilian" means not now and never has been a sworn officer of the Minneapolis Police Department.

6. The Committee recommends that adjudication, namely finding facts and conclusions drawn from the facts, be conducted by the civilian review authority. The standard of proof shall be "a preponderance of the evidence." When the civilian review authority has decided a case is ready for adjudication, an evidentiary hearing can be called by the board of directors and/or either parties in the case.

7. The Committee recommends that the board of directors of the civilian review authority shall have subpoena power.

8. The Committee recommends that after adjudication, the board of directors of the civilian review authority shall send to the chief of police the investigative report, the report of any evidentiary hearing that might have taken place, the adjudication report and, when complaints have been sustained, recommendations for discipline. The chief shall then make a disciplinary decision.

9. The Committee recommends that when the Chief does not follow the disciplinary recommendation of the Civilian Review Board, review of the Chief's decision shall automatically be made by the Mayor. The Mayor, then, in consultation with the Chief of Police and the civilian review authority, shall make the final disciplinary decision.

10. The Committee recommends that in anticipation of cases where there is both a complaint with the civilian review authority and possible charges against the officer, the civilian review authority (understanding that it has the right and the authority to go forward with its own investigation) shall, however, attempt to establish non-interference agreements with the Police Department, the City Attorney and the County Attorney to assure there is no interference with other investigative processes. Under this agreement, the civilian review board could suspend its investigation of these cases.

11. Regarding the confidentiality of civilian review board documents and procedures, the Committee recommends: screening documents shall be confidential; complaints (except for summary data), investigative reports and the evidentiary hearings shall be confidential until the accused officer has exhausted his or her appellate rights or the complaint has been finally resolved; and adjudication reports, discipline recommendations, disciplinary decisions of the Chief of Police and appellate decisions of the Mayor shall be public.

12. The Committee recommends that the Minneapolis Police Department and its officers are required to cooperate with the civilian police review authority investigations, subject to protecting the constitutional guarantees of police officers. The civilian police review authority, Minneapolis Police Department and Chief of Police shall develop procedures to implement Miranda and Garrity warnings, to insure cooperation and the protection of constitutional rights. The Minneapolis Police Department shall be required to turn over to the civilian police review authority all relevant documents pertaining to their investigation.

13. The Committee recommends that if in the adjudicating process of a complaint or complaints the board becomes aware of any patterns or practices within the police department about which it is concerned, the board of directors shall make a recommendation to the Chief of Police concerning such patterns and practice.

The three most important components of a police misconduct review system are investigation, adjudication and discipline. As substantial segment of the community believes that these components should be exclusively controlled by a civilian agency. Others who favor some form of civilian review believe that the police department should play a major role in all three components.

The Committee decided that investigation and adjudication should conducted by a civilian agency and that in cases where is a complaint is sustained, the discipline should be decided by the police chief. The Committee believes that this system represents meaningful civilian input in the review process, without undermining the legitimate authority of the police chief.

In cases where the police chief does not follow a civilian review board recommendation for discipline, the Committee believes that the final discipline decision should be made by the mayor. This consistent with the Minneapolis City Charter which designates the mayor as the person who has final authority for police discipline. Historically, the mayor has delegated that authority to the police chief. Under the Committee's proposal it is anticipated that the mayor will make an independent discipline decision after consultation with the police chief and the civilian review board.

II. INTRODUCTION

Police are an important part of the lives of persons throughout the city. Residents of every community in the city have a stake -- a vital vested interest -- in the commitment, operational effectiveness and behavior of the Minneapolis Police Department and the conduct of its individual members. Similarly, no police department can be effective without the trust, respect and cooperation of the majority of the residents of all of the communities within which it must operate. The vast majority of the officers of the Minneapolis Police Department have earned and deserve that respect and trust. Many, however, do not.

The Civilian Review Board Working Committee's activities and deliberations and the recommendations that emanated from those deliberations must be understood within the real Minneapolis environment and the philosophical context articulated above.

The Minneapolis Police Department and Community Relations: A Short History

The idea of civilian review of the Minneapolis Police Department is not new. In 1963, a civilian review board was created in Minneapolis to receive complaints from civilians against the police department. There was a very brief mention of this in a 1964 article ("The Administration of Complaints by Civilians Against the Police") in the Harvard Law Review: "A civilian board was also appointed in Minneapolis but has never functioned, having been advised by counsel that its unofficial status was not sufficient to clothe its members with an absolute privilege in defamation actions."

In 1967, one of the responsibilities of the Minneapolis Civil Rights Department when it was created by state legislation was that of Ombudsman in complaints against city departments and agencies. The department apparently experienced a significant lack of cooperation from individual officers and the administration of the police department as it made efforts to investigate complaints against police officers.

In 1969, there was organized activity on the part of the American Indian and African American communities around the issues of police brutality and racism, especially associated with a protest demonstration which had been violently broken up by police officers. Protesting organizations and the Minneapolis Tribune in an editorial called for greater oversight of police misconduct. Mayor Charles Stenvig felt, however, that no change in procedure was needed.

In 1971 the Civil Rights Department was stripped, in practical effect, of its jurisdiction with regard to the police department. The argument used by those that did not want such investigations was that they interfered with legitimate police investigations. Consequently, the language was added to the civil rights ordinance that the department could not hear matters "when the alleged discrimination is part of or arises out of an incident or occurrence which in itself could give rise to a criminal prosecution."

In practice, no citizen complaint against a police officer will escape the net created by this restriction. This action essentially left the Civil Rights Department limited to handling cases of discrimination in hiring, promotions or other workplace treatment of individuals.

In 1979, the Committee on Individual Rights and Responsibilities of the Hennepin County Bar Association recommended the formation of a civilian review board empowered to conduct independent investigations, issue subpoenas, hold adjudicatory hearings and make binding disciplinary recommendations to the chief of police. The committee also recommended the formation of an Office of Ombudsman. Neither of these proposals passed a endorsement vote by the Hennepin County Bar Association.

In 1983 a Task Force appointed by the Hennepin County Bar Association at the request of Mayor Donald Fraser evaluated the procedures followed and actions taken by the Internal Affairs Unit (IAU) of the Minneapolis Police Department. The task force recommended the creation of an IAU Review Panel, to review the actions and procedures of the IAU. In that same year, Mayor Fraser created such a panel by Executive Order.

This three-person panel issued four reports on the Internal Affairs Unit, making several recommendations for procedural changes which were later implemented by the department. The Panel has since shrunk to consisting of one member, and essentially discontinued its prior activity because, according to Hennepin County District Court Judge and former IAU Panel member Isabel Gomez, the panel's "...practical value had been outlived."

Judge Gomez' comment, given in her testimony before this Committee, appeared to reflect mixed feelings on her part regarding the functioning of the IAU Review Panel. On the positive side of her statement about the practical value of the IAU Review Panel being "outlived", she said at one point that most of the panel's recommendations had been implemented by the Chief, and changes had been made in IAU procedure. "We felt the investigations themselves were fine (and) generally there wasn't anything more we were going to accomplish." Gomez said.

This was countered, however, by a frustration she expressed regarding her membership on the review panel. Gomez said of the relationship between the IAU Review Panel and the IAU, "it's still a situation where whatever the Panel finds doesn't make a whole lot of difference." She said that the Review Panel's power to demand a hearing or rehearing is "after the fact." Further, she said that findings, once made are unlikely to be reversed, "due to human nature."

As summarized in a 1985 paper entitled "Civilian Review of Police Conduct" by Herman Milligan of Minneapolis Commission of Civil Rights, the IAU Review Panel made several findings in its four reports. It's first report found IAU files in general deficient and disorganized, complaining that relevant information and testimony was often not in the files. Complainants were inadequately notified of their rights regarding hearings.

The second report expressed concern over "disturbing patterns" of police misconduct, especially in officers with less than six years of service.

The third report noted improvements in IAU investigations, but was critical of "occasional files where the investigating officer seems overly defensive of the officer against whom the complaint was made." The report was also critical of then-Chief Bouza's disposition of complaints.

The fourth report of the IAU Review Panel commended Chief Bouza for his response to the previous report, pointed towards certain specific cases which it felt needed further investigation, and questioned the use of the finding "not sustained", which it felt was a disservice to both parties to a complaint.

In 1985, the Minneapolis Civil Rights Commission held hearings and conducted a study of police-community relations. These hearings were commenced partly because of anger in the communities of color over the actions of police decoy teams. A 21 year old Black man was killed while being arrested by a decoy team and his death set off protests that the arrests unfairly targeted Blacks. Members of the gay community were equally vocal regarding what was felt to be entrapment of gay men by vice officers. The Commission issued a report which alleged a lack of trust in the Internal Affairs Division by the minority communities and made several policy change recommendations among which was the creation of a civilian review board. The Commission also recommended the creation of a task force to develop and recommend civilian review options. In response to these recommendations, the Mayor expanded the authority of the then-active IAU Review Panel.

Events This Year

Two highly publicized events this spring returned to public debate the topic of police-community relations, especially the relations with the communities of color.

On January 25th of this year, during a raid on what was believed to be a house used to sell drugs, Minneapolis police tossed a stun grenade into the house, inadvertently setting the house on fire and killing an elderly Black couple inside.

On February 4, 1989, police raided a hotel-room party attended primarily by Black college students, arresting five of the party attendees. The students vigorously criticized the police for using excessive force on those present. (Police Chief John Laux has publicly supported the actions of his officers while encouraging those at the party who had complaints to bring them to the Internal Affairs Division. A jury later acquitted four of the five of any wrongdoing in the incident.)

Immediately after the hotel incident, the students involved, other students, and members of several community organizations held several protest demonstrations at city hall, Mayor Fraser's office and the State Capitol citing both of these incidents particularly and other events as well.

Protesters pointed to these events as examples of brutality and racism on the part of Minneapolis police officers. Among the demands made by protesters were psychological screening and racial sensitivity training for all police officers, prosecution of the police involved in the deaths of the elderly couple and the hotel raid, and the creation of a permanent board of civilians to handle complaints against the police.

It was directly in response to these incidents, demonstrations and the public debate they engendered that this Police Civilian Review Board Working Committee was created.

Creation of the Working Committee

The impetus to this committee's creation -- community protest and/or a police-community crisis brought on by a highly publicized and controversial event -- is a common precursor to the creation of civilian review boards. In a U.S. Justice Department survey report of civilian review boards nationwide entitled Compendium of Civilian Oversight Agencies, Werner Petterson wrote "...of the 22 complaint agencies included in this compendium, all but three were instituted in the aftermath of ...police-community crises," and, "for most (civilian oversight agencies), their origins stem from police-community tensions and particularly from conflicts around incidents of police use of deadly force and the subsequent dissatisfaction with the existing avenues for redressing grievances against police officers."

While a contentious impetus for the creation of a civilian review board may not be new, it is not, some argue, the most desirable prelude to the process of creating an effective civilian review mechanism -- arguably a process in whose very existence lies a precondition of dialogue and cooperation.

A 1986 report by the New York City Police Department Civilian Complaint Review Board commented on the implications of such a beginning. The report said, "an additional, perhaps more onerous burden on the relationship between the investigating or reviewing agency and the department it monitors often lies in the climate in which the agency was created. The majority of the (review systems) discussed in this report were instituted by legislation following violent, controversial police incidents in which racial brutality was charged. ...the prevailing attitudes of Police Chiefs...and their command structures can vary greatly, and a legislative solution imposed on a defensive police department was unwelcome [by them] in the extreme."

In resolution number 89R-089 dated March 17, 1989, Minneapolis City Council members voted 12 to 1 to state the minority communities "have a lack of confidence in the Internal Affairs Unit of the Minneapolis Police department", and that, "all allegations of police impropriety must be impartially investigated in order to maintain the confidence of the citizenry". With these words as a prelude, Council created this Committee.

The Committee's purpose, the resolution said, is "to determine what type of civilian review board or other method of external review of the Police Department should be established."

Activity of the Committee

The charge which established this Committee clearly stated its task: to propose an option or options for civilian review of the Minneapolis Police Department. The charge did not instruct this committee to evaluate the performance of the current complaint process nor to evaluate the performance of Minneapolis Police officers nor to evaluate the legitimacy of individual complaints against the department. As a matter of fact, the City Council resolution does not even pose the question of whether Minneapolis is in need of a police civilian review board. For this reason, the Committee concerned itself only with the task of developing an effective civilian review model to recommend to the Mayor and the City Council.

The major activities of the Committee:

1. To acquaint itself with how complaints against Minneapolis police officers are currently handled, the committee received a briefing prepared by Committee staff on current complaint procedures at the Minneapolis Police Department. In addition, Deputy Chief of Police Douglas F. Smith, and former IAU Panel member Judge Isabel Gomez made presentations to the Committee.

2. The Committee heard testimony from Werner Petterson of the Community Relations Service of the U. S. Justice Department. Petterson is an authority on the design of civilian review boards nationwide, and he discussed the design and operation of civilian review mechanisms in various North American cities. Petterson outlined what he felt were the essential components of a police review mechanism, as is practiced in the United States and Canada.

3. Additionally, a subcommittee chose four speakers to discuss with the Committee during its third and fourth meetings various issues in the theory and practice of civilian review:

Wesley A. Carrol-Pomeroy. Pomeroy is educated as an attorney and familiar with civilian review from his exposure to it as Chief of the Berkeley, California police department, and from his past tenure as president of International Association of Civilian Oversight of Law Enforcement (IACOLE). He currently is Director of the Dade County Independent Review Panel, the civilian review mechanism for Dade County, Florida;

Wayne Kerstetter. Also educated as an attorney, he headed internal affairs for the New York Police Department, served as Superintendent of the Illinois Bureau of Investigation and currently holds a teaching position in the department of criminal justice at University of Illinois at Chicago;

Peter Ring. He is a professor in the School of Management at the University of Minnesota, an attorney and formerly employed by police departments in New York, Chicago, and Santa Fe in administrative and legal consultant positions;

Fred Rice. He is a former Superintendent of the Chicago Police Department, and was police officer there for 33 years.

4. The Committee held two public hearings on July 18th and 20th, at which 23 persons made presentations and responded to questions from the Committee.

5. The Committee solicited and received specific proposals from the public.

6. The Committee held four meetings to discuss and vote on the recommendations to the Mayor and City Council. An important factor in the Committee deliberations and decisions was a Committee rule, adopted at the first meeting of the Committee, which required all recommendations to be passed by a majority of the full committee. Since there were twenty committee members, eleven votes were required for passage even though two members never participated in those meetings.

III. COMMENTS OF SPEAKERS

From the presentations of the seven people who appeared before the Committee during its self-education phase and from the discussion between members of the Committee and the speakers, a basic core of contentious issues in civilian review emerged.

In an effort to clearly delineate the interests and concerns of the Committee as it examined issues and options and the debate around them, below is a summation of the arguments made by the speakers regarding each of major components of a civilian complaint review mechanism.

Reception of Complaints

Few police policy commentators who consider the receipt of citizen complaints (whether in a civilian or police unit) feel that the reception of complaints should be limited to police locations or police personnel. Hennepin County District Court Judge Isabel Gomez said, "a significant group of people will never make a complaint in a police station to a police officer...P.R. won't convince people with no power to go to the heart of the state, where they can lock you up, to do anything."

Wayne Kerstetter said that complaints should be received in a milieu where citizens are comfortable coming forward and making a complaint, adding "I feel complaint reception and complaint screening lends itself very nicely to a civilian agency doing that."

Werner Petterson said various civilian review bodies across the country accept complaints in locations such as the Police Department, the Office of the Mayor, the City Manager's Office, the Human Relations Commission, as well as various designated community organizations.

Screening of Complaints

While the option of screening out complaints as frivolous or too trivial to merit investigation clearly holds potential for abuse, commentators suggest such screening must be an option for a civilian review system to function effectively. Kerstetter called this option one of the basic functions of the review process, stating that frivolous complaints do exist, and that a great amount of resources can be wasted investigating these.

Pomeroy, however, strongly cautioned against screening, stating that it is difficult to determine if a complaint is frivolous or trivial and "anyone who brings a complaint certainly feels its serious enough to go to the trouble and come and complain about it."

Kerstetter said "it has a lot more credibility to have a civilian screening out a complaint than a police officer. In those cases I would suspect that there would be almost 100% correlation between a police decision to screen a complaint and a civilian decision. But it is a lot better to have a civilian doing it because they have a lot more credibility with the community."

The Minneapolis Police Department currently allows Precinct supervisors to attempt to resolve complaints which they perceive to be procedural questions, where an explanation of the legal rights of the officer or the particular procedural circumstances of the event may satisfy a complainant and resolve a misunderstanding. These may be complainants who have no dispute with an officer over what took place, but rather the correctness of the action. The Minneapolis Police Department does document these resolved contacts. According to Department representatives an enormous number of office contacts such as these are resolved with an explanation in this way.

Pomeroy drew the question as one pertaining to the general approach of the department towards complaints. "No complaint should be thought too trivial to get official attention," said Pomeroy. "A full investigation isn't always necessary, but attention must be paid to every complaint...there are other solutions like conciliation and mediation which can be agreed to at the point of complaint in some cases."

On the issue of conciliation and mediation, Kerstetter, Pomeroy, and Petterson all stated that conciliation and mediation should be part of the reception process where the civilian review board feels they do not need to go to full investigation, and the complainant is willing to see it resolved by alternative means. "Active conciliation and mediation can sometimes resolve the issue, " Kerstetter said, "...leaving the citizen feeling they have been treated with respect." In the words of Petterson, "Sometimes the complainant would be happy with at least an explanation from somebody."

This doesn't imply these commentators supported screening complaints simply because a complainant was willing to settle for some sort of informal conciliation. This just applies to complaints which appear at their outset to clearly have no basis. It is important with such situations to make sure the process is fair and to make sure the citizen believes that the process is fair.

Investigation of Complaints

The question of who should conduct investigations of civilian complaints against individual police officers elicited a great array of concerns and arguments from commentators to the Committee.

Indeed, to those who addressed the committee, the issue of investigation in many ways was the heart of the review process. The power of the investigation process is in its ability to determine the outcome of a complaint. Reception, adjudication and meting out discipline all rest on the competence and credibility of the investigation.

The current controversy about the quality of the response of the police department in Minneapolis to citizen complaints often touches on the investigations. On the one hand, in her presentation to the Committee, former IAU Review Panel Member Judge Isabel Gomez told committee members "We felt the investigations themselves were fine..." On the other hand, a recent report by WCCO TV's I - Team pointed to at least one 1989 police brutality complaint where no witnesses had been interviewed by the IAU some four months after the judge in the case of the complaint (Judge Gomez) requested that the department's investigators to look into the case, a case with at least one civilian witness besides the complainant, and several police officer witnesses.

Several possible ways to investigate complaints against the police have been created and are in operation in cities in North America:

-- Investigations conducted by sworn officers from the Police department (such as in Minneapolis, Atlanta, and Portland).

-- Investigations conducted simultaneously by police investigators and civilian investigators ("parallel investigations", such as in Cincinnati, Berkeley and New Orleans).

-- Investigations conducted by civilian/police teams of investigators (such as in Detroit and Miami).

-- Investigations conducted independently on appeal from a police investigation (such as in Dade County and Toronto).

-- Investigations conducted solely by civilian investigators. While Chicago has original citizen investigations in certain cases, its civilian review office does not investigate all cases and it is a part of the police department. Similarly, San Francisco's Office of Citizen Complaint conducts all of it's investigations with civilian investigators, but the entire office itself is under the jurisdiction of the Police Commission.

Petterson said there is very little research on what is the most effective assignment of the investigation process. As a general rule, most who spoke before the committee declined to propose a specific choice of how investigation should be conducted in Minneapolis or what general model for civilian review was best for the city. Most stated that a model for civilian review by its nature is created in response to certain political, cultural, and demographic realities. They felt that no one plan was best for all cities, and that Minneapolis had unique needs and characteristics which should lie in the heart of what form of civilian review in general and the structure of investigations in particular should be created.

1. Investigations: Training and Qualifications

While some of the speakers before the committee had more specificity to their idea of qualifications for investigators, all felt the requirements and skills of those who are to investigate complaints should not be a question that is taken lightly.

"It takes a special kind of person to take complaints against the police," Pomeroy said. "It takes a person who is able to relate to all manifestations of the community...the person must understand police departments, have a feel for the culture...have the police officers' respect." Pomeroy felt that qualified candidates could be found from those with experience in other police departments. "One could also gain the necessary experience by working as an investigator for the district attorney's office," Pomeroy said.

Peter Ring said that defining the qualifications of investigators and the scope of their powers are the most fundamental determinants of the success or failure of a civilian review mechanism. Further, he said, an investigator's success depends upon his or her ability to gain the trust of those being interviewed. The ability to find facts and separate fact from fiction are also vital to an investigator's success, Ring said.

Chicago hires civilians with Master degrees in criminal justice to serve as investigators of the police department. These individuals are given a three week training and then a caseload. This practice was begun essentially for credibility purposes. Former Chicago police superintendent Fred Rice said that in order to eliminate questions regarding the objectivity of the investigations, "...we hire no one with a police background."

Commentators did call the training of civilians with no previous investigative experience an expensive process, however, and said the outcome may indeed have produced less-than-thorough investigations.

"The [Chicago civilian] investigations in my estimation are not as thorough and as comprehensive as investigations which are done by the internal affairs division," said Fred Rice. "...they're not as familiar with department rules and regulations as police investigators are. They're not as curious. Police investigators are always looking for the angles, something that doesn't appear on the surface. Civilians have a tendency to be a little more naive until they get in the game for a length of time, and then they become better investigators."

Petterson said that training of civilians to be investigators is a great expense in Chicago, and that "there are a great number of skilled and already trained civilian investigators who would be quite competent." Pomeroy also felt that training a civilian to do these things takes a great amount of time. Some commentators used the situation in Chicago to suggest that Minneapolis, where fewer investigators would be needed and thus perhaps pay higher salaries, could find many already-trained, experienced and competent investigators.

Civilian investigators in most other agencies appear to have had previous investigation experience.

"Minneapolis is fortunate because it is dealing with a relatively small number of investigators necessary to conduct civilian review," said Kerstetter. "Minneapolis could afford to have a national search, pay the moving expenses and salaries necessary to bring in half a dozen highly qualified people with years of investigative experience already behind them...highly qualified minority investigators also could be brought in. People from the inspections division of the IRS, federal investigators, investigators from the Office of Special Investigations of the Air Force. If there was proper community involvement in their selection these people would be credible."

"I think you can find good investigators outside of the police department," Ring said. "You may have to pay more for them, but it's a question of priorities. Some of the best investigators I've ever run across are good lawyers. The military has a number of operations in which the investigation of military personnel is critical...increasingly you find in the federal government and in some state offices of the inspector general, people who investigate agency misconduct. These are all people who've developed a set of skills about cutting through unclear memory, purposefully clouded, covered trails...I think you can find very good, very objective investigators inside police departments, but the problem is convincing communities they are objective," Ring said.

2. Investigations: Weaknesses of Police Investigating Police

In the fourth and final report of the IAU Review Panel dated May 20, 1985, Panel members wrote that there had been significant opposition within the IAU to an earlier recommendation of the Panel. The Panel had recommended that IAU Investigators forward a recommendation for decision to the chief with the results of its investigation. Several commentators indicated that those who investigate a complaint hold an important perspective on the findings and could offer a great deal of insight to the adjudication process by forwarding their recommendation. The reason IAU members opposed doing this, Panel members wrote, was because "...an investigating officer does not want to make a negative recommendation concerning a fellow officer with whom he or she must later serve."

Recirculating internal affairs investigators back into the general population of the police force could not only hamper an officer's willingness to make an impartial recommendation for finding of fact, it could also affect his or her ability to conduct full investigation, some commentators and many Committee members believe.

In Chicago, according to Rice, investigator/police proximity, has proven to be a problem in the past. "You find (purposefully lax investigations) more prevalent (with) investigations that were handled by [precinct] supervisors...as opposed to members of the Internal Affairs Division. The Internal Affairs Division in Chicago is more removed, it is centralized, downtown. For the most part they don't know the accused officer out there, they can render a much more impartial investigation than the supervisor out at that particular unit can...he knows the fellow, he knows the conditions he's working under, he might sympathize with those conditions... He'll have a tendency to not sustain or "unfound" that investigation, based on his personal proximity to the situation. That's given of him. I don't know how you're going to change that."

3. Investigations: Weaknesses of Civilians Investigating Police

If members of the police force with a working relationship with those they must investigate was a concern, so was turning ordinary citizens into investigators. While this process is primarily associated with civilian review in Chicago, it has its implications for civilianization of oversight of the police department as a whole. The two major arguments against civilian investigators were the quality questions discussed above and the "Selling Out" by civilian investigators.

The "Selling Out" argument is that civilians newly initiated into investigating police have a tendency to sympathize with officers, thereby reducing their ability to push along an investigation as firmly and to recommend a decision with conviction and objectivity.

"A reality about someone who is learning about the police, is that they go right along with the police and soon become sympathetic to the police. They see how hard the police have to work and they relate to that. The same thing could happen to a civilian investigator you have to train, " said Pomeroy.

"It's been my experience over twenty years that critical but intelligent people become more sympathetic just by seeing what police go through on a day-to-day basis. That's going to happen, whether they work [in tandem] with a police officer or not," said Kerstetter.

4. Investigations: Public Perception Question

Both Ring and Rice argued that the question of who makes a better investigator is almost moot in the face of the political realities of dealing with public perceptions on the issue. Both felt that Police officers held an unequivocal advantage as investigators of police misconduct, by their virtue of familiarity with processes and personalities within police departments. Nonetheless, both felt incontestably strong investigator candidates could be found outside of police departments, candidates who could elicit more trust from the public regarding objectivity in the process.

The whole purpose of civilian investigation, according to Fred Rice, is "...because people perceive police investigations of police, as not being true investigations - whitewash, we take care of our own - and perceive civilianization of the investigation as a more balanced investigation. You're dealing in perceptions...You're servants of civilians, of citizens. And you better be cognizant of their perceptions of your actions. Otherwise you won't be successful as an agency," Rice said.

"It's a trade-off," said Ring. "You trade off a certain amount of experience (by hiring civilian investigators) for a certain comfort level."

Adjudication/Finding of Fact

There was very little discussion by the speakers about the process of adjudication of cases -- the finding of facts and the drawing of conclusions from those findings of fact.

"I don't think it takes any special skill to determine what the truth is. I think you can determine what the truth is if you have the facts before you," said Pomeroy. "If the investigation is done properly and you have the witnesses interviewed and you have the tapes available, the transcripts of those tapes, and you can call the witnesses before you and it seems that they are telling the truth, you can make a determination with a preponderance of the evidence that you believe it's either true or not true. You don't have to be specially skilled to do that."

According to Werner Petterson, most civilian review bodies which investigate complaints, adjudicate them as well.

Disposition/Discipline

Without disagreement, every commentator who addressed the Committee felt that the Chief of Police needs to retain control of the authority to discipline officers. Additionally, each of these speakers cited the disruption of the chain of command as the primary reason why they could not support putting the disciplinary decision outside of the police administration.

Peter Ring said, "If the organization views that discipline of conduct...is external to the organization, if determinations about what conduct is acceptable behavior is external to the organization, then significant peer and internal pressure is removed....If there is one area which I would be unequivocal on, no matter what else you do, it is absolutely essential that the person who runs the department decides on the issue of whether someone's conduct is inside or outside the bounds, and what the penalty ought to be. You can construct all kinds of appeals after that...(but) take that away...and to use a gender-based word, you emasculate that individual's authority when it comes to corruption. And that ultimately leads to individuals behaving by their own rules in the department."

Fred Rice said, "You violate basic management principles when you give (the Chief) that awesome responsibility for running something as complex as the police department...and not giving him commensurate authority to consummate that responsibility...Plus another thing, you have to have someone you can fix responsibility on, you're not going to divide responsibility all over the place. Who's going to be responsible? God? You have to give the person who is charged with the responsibility of running the department that responsibility. And if he's not running it properly, 'there, you, you're it. Go.' And put somebody in who'll run it right."

Kerstetter said, "The surest way to destroy the quality of police service in the city is to take the authority and responsibility for discipline away from the police chief ... If you take the discipline away from him, you take the accountability out of the system, and that destroys it."

Pomeroy said, "The Police Chief should be accountable for what happens in his or her department. He or she should be responsible for determining and handing out discipline. If you take that away from him or her, you let them off the hook. You also eliminate a good strong tool for him to use as a leader; that said, there are a number of checks you can place on the Chief's disciplinary authority." He added as a caveat, however, "...the people have a right to say what they want the police to be. The people have a right to decide who will administer the discipline. You have a right to say how your police will be governed."

Appeals, System Review

Pomeroy envisioned a process where the Chief of Police makes a decision on discipline and, "then in a certain way the ball shifts back to the civilian agency. They, then, have standing to comment, to criticize him if they find that his findings of fact don't seem consistent with the evidence that was solicited, or if the penalty was inappropriate. I think they should have standing to comment to the mayor in individual cases, and to the public as a matter of overview...I think the investigators ought to make their report to the civilian panel, which should make recommendations to the Chief about what they think the discipline ought to be, and let him decide. That puts him out in front. He may think they're wrong, but that's a dialogue the public's entitled to hear...In Florida we disagree with some regularity about the amount of discipline imposed, and we make it very clear what we think about it to the Director in a very positive way, an assertive way. It doesn't change that decision, but it does influence what discipline is imposed in the future, and brings up some discussion about it, some justification. You can ask him why he did it, and he has to tell you."

Kerstetter saw this as THE role for civilian review, "... That's why you have a civilian group with resources and standing to criticize the chief, if there's a pattern of leniency," he said.

Ring and Rice both emphasized that an appeal process should not be "dragged out." Ring said, "I think the issue again is a trade-off issue. A trade-off of trying the patience of those who are awaiting an outcome. The police officer clearly does have a lot of bites from the apple. The member of the community has whatever staying power that person as an individual typically has ... Like civil cases in law, plaintiffs never come out ahead in the end, because it's six or seven years before they get to trial. People have memories that fade. You need a process that moves with dispatch, to reach a judgment. The longer you push that process off the more likely you're going to have people with legitimate complaints walk out the door. . .While you may have a nice looking record in the agency, if the complainant withdrew, you haven't solved any problems."

Civilian Review: Issues in Practice

In addition to discussing specific components of a review process, the speakers had comments on the operations of civilian review entities.

Several of the speakers commented that they believed that there is a probable downside in the practice of training civilians as investigators as done in Chicago and a potential downside of independent investigators in general, specifically, having the police department respect and cooperate with the process.

According to Rice, civilian investigators in Chicago "...have not been totally accepted by the rank and file police officers...most police officers feel that civilians cannot sympathize, nor empathize with the problems facing policing because they are in fact civilians."

One cure to this problem, according to a 1986 study conducted by the New York City Police Department Civilian Complaint Review Board, lies in giving civilian investigators substantial power and backing. To quote the report, "...more successful relationships between civilian agency(s) and police department(s) were predicated on enabling legislation which gave the independent agency subpoena power and access to department records, coupled with strong, supportive municipal government which backed the agency up and listened to its recommendations." (Nationwide Survey of Complaint Systems, p. 29)

Pomeroy also felt a spirit of cooperation had to exist for a civilian review agency and investigation to be successful. Said Pomeroy, "No model ever works without nearly everyone wanting it to work, and having confidence that it will work."

There was a suggestion made in the discussion that there would be the problem that police will become antagonized by the process, and begin to turn down difficult calls for fear of the consequences of the review process. Both Pomeroy and Kerstetter said they knew of no case where the quality of police service had declined because of civilian review. "...It's conceivable," said Kerstetter, "but I think it's very possible to structure meaningful review without disrupting the operations of the police department. If you wanted to you could sit down and think of a system that would have that effect. But it is in no way necessary to create that kind of system to do what you need to do."

Kerstetter indicated that a more likely consequence is that civilian will be more lenient that police administration. "The Chicago review mechanism is often more lenient on officers in terms of disciplining officers than the police department would be. The idea that civilian review would be really tough on cops is unsubstantiated. Philadelphia review had this same phenomena."

Petterson also felt that officer morale is unlikely to be affected by civilian review. He indicated that there are studies that have shown that officers forced to work within civilian review systems come to prefer them to internal systems, finding them more lenient than review by their peers within the department. Petterson said some of these bodies, having been in place for a while, can become compromised. "Somehow it happens," said Petterson.

A committee member addressed this topic at this point in the discussions, saying, "for myself I see it as the police being very defensive, thinking that when the people are crying police brutality, (that means that) they don't want the police to do their jobs, and that is not true."

Both Kerstetter and Pomeroy used their last comments to discuss the importance of a review system having the cooperation of all parties. "No matter what process you come up with, it will not work unless the principal players want it to work," said Pomeroy. "The community and the police have to want it to work. Otherwise it will all go down the drain. Philadelphia had a beautiful review system in the early sixties, for example, but police opposition finally rendered it impotent."

Kerstetter added, "It has to be a system that at some level the community believes in, and on the other hand if you create a system with wonderful community credibility but the police find it intolerable and they're going to resist it in the courts or the streets or whatever, then it's going to come to naught."

IV. PUBLIC INPUT

Public Hearings

In July, this Committee held two public hearings to receive comments and proposals regarding civilian review. Those who testified recommended a wide variety of structural proposals but there was a recurring set of concerns and comments in the testimony of these speakers. Most who spoke wanted a civilian review board "with power" and "accountability to the community."

The vast majority of speakers wanted a review board with independent investigation, subpoena power and power to make binding disciplinary decisions. Most also wanted board members to represent communities traditionally affected by police misconduct, and such members to maintain contact with these communities.

On the question of board composition, speakers were primarily concerned about representativeness, a board which represented "communities plagued by the police" as homeless advocate Herb Frey said. Janice Command of the Coalition for Police Accountability said the composition of the board should be integrated racially, sexually, by sexual orientation and religion.

However, another speaker felt that a representative composition of board members could not be legislated. "I don't believe that the board needs to be comprised of people who represent certain types of people in our community, but people who are objective, rationale, and able to have some vision and look into the future," said Diane Michels of Minneapolis.

Generally, most who spoke before the Committee came as advocates of substantial change in the manner in which complaints against officers are handled. These individuals for the most part felt any change which did not involve a new and significant distribution of power would change little "out in the streets.".

Many speakers spoke to the requirement that independent investigations were necessary to maintain credibility with the community. Others said they simply did not trust a police role in the investigative process. Many felt that a review board without subpoena power would be ineffective.

Many felt that the review board should hold the power to discipline officers in sustained cases. Jim Davnie of Minneapolis said that a review board needs such power to be effective, and that such a power should be with the body which has heard the evidence, weighed the testimony and come to decision. Charlene Martin of Minneapolis echoed this, saying giving a review panel final authority on discipline "sends a clear message that nobody, including the Police Chief is above the law." She said a review board with disciplinary authority demonstrates to the public that it does not have to reach the level of rioting in the community before positive action is taken to meet the needs of the community.

Finally, some looked at the political process associated with establishing a review board. Attorney Rick McPherson urged that this Committee's recommendations be as strong as possible, saying that whatever options this Committee recommended would be subject to further compromise at the hands of City Council, and that a weak initial proposal by this Committee may become meaningless under further compromise.

Written Proposals

When the Committee publicized its public hearing dates, it also requested that those who had suggestions concerning civilian review should submit them in writing to help the Committee in its discussions. The Committee received twenty written submissions which can be found in the appendix of this report. The suggestions are a mix of opinions, precise models for civilian review and anecdotal observations about police misconduct. Again, if a generalization can be made about these submissions, it is that most supported a board with both power and accountability. Also, many writers felt the review process should be a public one.

On the question of giving a review board a substantial amount of power, Arthur Rudolph-LaRue of the Minnesota Peace and Justice Coalition wrote, "the board must have the power to compel testimony from witnesses, and to obtain evidence. Complete discovery of the facts hasn't a chance without such authority." Also on the topic of subpoena power in an independent investigative body, Professor Peter Erlinder of William Mitchell College of Law wrote, "The Board should have subpoena power to allow full investigations to exonerate officers or to impose sanctions. Without subpoena power, officers would be disadvantaged because they would be required to cooperate, but citizen-witnesses would not be required to give evidence. This might prevent the Board from hearing evidence from reluctant witnesses which would exonerate the officer."

Tim Cole of the Minneapolis Commission on Civil Rights Task Force on External Review wrote, "[t]he Task Force found that an External Review mechanism can function effectively only when it has the power of subpoena necessary to obtain the documents, records, and testimony which are crucial to an investigation or hearing."

On the topic of discipline, Erlinder wrote, "As pointed out by Councilmember Dziedzic, unless the Board has the authority to discipline officers, the integrity of the whole process will be undercut. A power to recommend is only valuable if the entire record of the Board's deliberations can be made public to support the recommendation, so that the validity of the Board's recommendation and the actions subsequently taken by the Police administration, can be evaluated. In the choice between Board authority to discipline, and full public disclosure of Board proceedings, disciplinary authority seems preferable in terms of Department morale considerations."

The Minneapolis Coalition for Police Accountability, Minnesota Rainbow Coalition, and Minnesota Coalition for Battered Women as well as several individuals felt that a review board should have disciplinary authority.

On the topic of confidentiality, several who wrote to the Committee advocated that Board proceedings should be more public than confidential. Professor Erlinder wrote, "board proceedings should be public unless objected to by the complainant or the officer in question....The results of the Board's deliberations must be public to build credibility in the process and to give the communities about police misconduct a basis to evaluate the performance of the Board over time."

Jim Remer of the Community United Against Violence also wrote on this matter, "[t]he investigative process, findings-of-fact and proceedings of the civilian review board should be open to the public view to the greatest extent possible. While we recognize that public access may cause some gay and lesbian people to hesitate to come forward, we believe that having a secret process behind closed doors diminishes accountability and results in an ineffective review process."

The Minnesota Rainbow Coalition recommended that, "all hearings shall be open to the public." The Coalition for Police Accountability also wrote in partial support of open proceedings. Their recommendation stated, "Board proceedings should be public unless objected to by the complainant or the officer in question...The results of the Board's deliberation must be public to build credibility in the process and to give the communities affected by misconduct a basis to evaluate the performance of the Board over time." Sandy Beitsch of Minneapolis wrote, "the proceedings of the Board should be open to the public. This will serve to keep the Board members honest and to foster the public's trust in its workings."

V. THE CIVILIAN REVIEW MODEL: ITS CENTRAL COMPONENTS AND A SUMMARY OF THE MAJOR POINTS OF DEBATE

The Board of Directors

The Committee recommends the creation of an independent civilian police review authority with a board of civilian directors. The Committee recommends a board of directors, which is comprised of six elected members who are to be elected as members of the Minneapolis Park Board currently are elected and seven appointed members, who are to be appointed by the mayor and subject to approval by the City Council. From the seven appointed members, a chair of the board shall be designated by the Mayor and subject to approval by City Council. The board of directors of the civilian review authority shall be given the powers and responsibilities of creating rules, policies and procedures for the civilian authority. Such rules shall be adopted in an open hearing process, similar to the state Administrative Practices process. The civilian review authority shall have the power and responsibility to hire its staff.

The Committee did not easily answer the question of how board members should be chosen. All members of the Committee shared the belief that board membership must be accountable, capable and representative of communities most affected by police misconduct. The agreement ended there however, as Committee members ultimately came to examining the strengths and weaknesses of the electoral process and the appointment process.

Those committee members who supported the election of board members made the case that credibility among those most affected by the misconduct of police officers required separation from the city government which has been blind to the behavior and unresponsive to the community concerns. An electoral process would inherently be more credible and would provide members that are not "beholden to the politicians."

Members need to be appointed, others argued, because if membership were left up to election then classes of people who are routinely the subject of police misconduct -- being electorally in the minority -- would most likely go unrepresented. One member said, "the Hispanic community could only be on this board through appointment."

Most of the arguments for appointing board members, however, focused on the problems with holding elections for this type of position. One Committee member wondered "whether anybody would really run for this position." Another called the possibility of an electoral process "chaotic at best" and "unrealistic". One Committee member said, "I'm not comfortable with electing a quasi-judicial board. People run on policy issues." His concern was echoed by another Committee member who stated, "You're going to get with elections, someone who says he's going to go in there and take aim. Running on an agenda is quite different than deciding if someone used excessive force." One member predicted an electoral process would be particularly open to the involvement of special-interest money, particularly from the police federation.

Those in favor of electing board members and against the appointment process called it a "problem of credibility", with the community. They also dismissed the alleged mechanical problem of election as minimal and solvable.

A mixed board of elected and appointed members was supported by the needed majority as a reasonable resolution to the question. One member said that "this board has a chance to educate the community, that's why we need as many types of people as possible on the board, and why I support a combination of elected and appointed members."

Finally, the size of the Board was an issue of contention for Committee members. The primary benefit of a large board was seen as allowing for greater representativeness. The benefit of a smaller board was seen to be greater efficiency of operation.

There was very little debate on other aspects of the composition and functioning of the board of directors. There was unanimous agreement with the concern of one member that policies and procedures be developed and decided in public and "are not established by fiat."

Powers and Responsibilities of the Civilian Review Authority

The civilian review authority shall receive complaints that allege police misconduct and/or conduct unbecoming a police officer, including but not limited to allegations of excessive force; inappropriate attitude and/or language; harassment; theft; and failure to provide appropriate, adequate and/or timely police service by an individual police officer or police officers. Further, the Committee recommends that the civilian review authority have jurisdiction over complaints which allege discrimination by individual officers.

What type of complaints should the civilian review board hear? The initial concern expressed by most Committee members on this question was that categories of acceptable complaints be as inclusive as possible, There was considerable debate however, on the questions of complaints which allege inadequate or untimely service, and complaints which allege discrimination.

Those in favor of the "inadequate or timely service complaint category" felt that failure to provide service can be a form of police misconduct. One committee member noted an incident where a North Minneapolis man died of an asthma attack while police officers failed to call an ambulance as an example of misconduct through inadequate service. Another Committee member said that domestic abuse situations are often cases where officers "don't like to respond."

Another side of the argument, some Committee members argued, is the sheer weight of the numbers of calls faced by the police department. "The dispatching of calls is not controlled by the Police Department, it's a problem of jurisdiction," said one member. Another said that there is often an overload in the complaint room, "at any given time dispatchers can wipe out pages of calls by prioritizing." He added, "Maybe the City can get more officers so we do have enough officers to answer all the calls."

Committee members felt its recommendation should distinguish between an individual officer's failure to act and a pattern within the department or departmental policy. Committee members felt that the specific language of the recommendation would open up the complaint system to what it felt was a real instances of police misconduct, while making allowances for unintentional failure to provide timely service due to the process of call dispatching and prioritizing.

The Committee member who proposed the recommendation that the Board hear complaints alleging discrimination, directed his comments towards the question of whether this was not a duplication of services under the jurisdiction of the Minneapolis Department of Civil Rights. The Committee member called the proposed civilian review board a disciplinary board, while characterizing the Civil Rights Commission as a redress for victims. "The two focuses are different," said the member. "The coinciding jurisdiction is appropriate."

Another member added, "the remedies (of the Civil Rights Commission and a civilian review board) are going to be different." Other Committee members spoke in favor of the recommendation. One said, "there is going to be some areas of overlapping jurisdiction between the two bodies. It is important that we assure people that discrimination is [seen as] a form of police misconduct."

One member felt the two bodies accepting the same type of complaints was unnecessary, saying, "it doesn't add or subtract anything." Another member questioned the procedural relationship between the two bodies.

The language in the recommendation is meant to assert the primary jurisdiction of the civilian review authority (vis a vis the Civil Rights Commission and Department) in responding to citizen complaints about the conduct of individual police officers.

Who May File a Complaint and Where Should They be Received

The Committee recommends that a complaint can be filed by any civilian that says that he/she was the "victim" or any other civilian, another officer or employee of the police department or board or staff of the civilian review authority or a member of the police administration. Complaints shall be received in a combination of civilian and police locations, by whichever (civilian or police) personnel are employed there, with all complaint files submitted to the civilian police review authority for processing.

There was very little debate and no disagreement in the Committee about these questions. The importance of having an environment in which all potential complainants would feel comfortable was emphasized repeatedly.

Complaints with Potential for Criminal Prosecution

The Committee recommends that in anticipation of cases where there is both a complaint with the civilian review authority and possible charges against the officer, the civilian review authority (understanding that it has the right and the authority to go forward with its own investigation) shall, however, attempt to establish non-interference agreements with the Police Department, the City Attorney and the County Attorney to assure there is no interference with other investigative processes. Under this agreement, the civilian review board could suspend its investigation of these cases.

There was considerable discussion about this question of interference by a civilian review investigation with a criminal investigation. There was unanimity among Committee members that civilian review board investigations should not damage in any way active criminal investigations.

However, some members were concerned that a mandated policy which called for routinely suspending investigations which hold criminal potential could significantly weaken the investigative powers and ultimate utility of the civilian review board. This was the effect of the 1971 amendment to the ordinance governing the Civil Rights Department. "Delay causes staleness", in the words of one member. Civilian review board investigations, like all investigations, rely on being able to interview witnesses and take testimony within a reasonably short amount of time.

On the opposition, one member repeatedly voiced a concern that this recommendation will interfere with criminal investigations. He said, "Simultaneous civil and criminal investigations could cause interference, if an investigation becomes criminal at a later point, information received by a civilian investigation will not be usable by criminal investigations." Another member's motion supported this belief by arguing to limit the board from releasing its findings of fact and recommendations for discipline until any criminal investigation and prosecution has been completed. The motion failed to gather enough support to pass.

Other members argued that the prospect of interference was not likely. One said "there are two tracks here, which need not interfere with each other." Another said, "civil and criminal investigations go on simultaneously now in other areas, why not this one?" Another member said "the functions of the two investigations are separate and should go forward independent of each other."

The majority of the Committee saw no reason to mandate automatic suspensions of board investigations. The Committee felt a general recommendation as in the language of the recommendation was more suitable than unnecessarily restricting by charter. As one member put it, "common sense says that the process must have flexibility." The Committee felt maintaining a level of flexibility to the process was important to the empowerment of a civilian review authority and its investigators, and that such investigators could operate effectively within a general non-interference agreement with other investigative agencies.

Screening

The Committee recommends that the civilian review authority will have the authority to screen out complaints before investigation or adjudication, as long as a file is maintained which includes all information submitted and evidence gathered, and the reason for the decision not to go further. The board of the civilian police review authority will have the ultimate responsibility for the establishment of the policies and criteria for such screenings, as well as for referring cases to mediation, and for their individual applications. However, the board may delegate to the authority management and/or staff some or all of such screening tasks.

The question of screening and mediation were not controversial. Committee members were swift in agreeing to this recommendation. To maintain a reasonable amount of discretionary flexibility necessary to efficiently run any organization, the Committee felt the board must be able to screen complaints from full attention at any time in the process. The one caveat in this recommendation -- that record be kept of every complaint which is filed, and the reasoning behind any screening decision -- seemed to members as a reasonable gauge of the screening process to keep any such decisions accountable and non-arbitrary.

Investigation, Adjudication and Discipline

The Committee recommends that investigations are conducted by civilian investigators of the civilian review authority. "Civilian" means not now and never has been a sworn officer of the Minneapolis Police Department. The Committee recommends that adjudication, namely finding facts and conclusions drawn from the facts, be conducted by the civilian review authority. The standard of proof shall be "a preponderance of the evidence." When the civilian review authority has decided a case is ready for adjudication, an evidentiary hearing can be called by the board of directors and/or either parties in the case. The Committee recommends that after adjudication, the board of directors of the civilian review authority shall send to the chief of police the investigative report, the report of any evidentiary hearing that might have taken place, the adjudication report and, when complaints have been sustained, recommendations for discipline. The chief shall then make a disciplinary decision.

Investigation

The Committee recommends that investigations are conducted by civilian investigators of the civilian review authority. "Civilian" means not now and never has been a sworn officer of the Minneapolis Police Department.

Although there are several options for approaching investigation, the Committee essentially limited its consideration of who should conduct the investigations to just two options. Members supported either tandem investigation (teams of civilian-police investigators) or investigations conducted entirely by civilians. This was a very difficult decision for the Committee. The question of who should conduct investigations was the subject of numerous motions that failed to achieve the required eleven votes.

Before discussing the arguments, two points about which there was little disagreement seem important: first, judging from the options which were debated, the whole Committee seemed inclined to "civilianize" to some degree investigation from the outset. The debate was about how much.

Second, "civilian" did not mean never having worked as an investigator or never having been a police officer. It meant fundamentally not now a sworn officer of the Minneapolis Police Department. "Civilian" is an aegis not a qualifications or background question. The investigators work for an entity independent of and not under the supervision of the Minneapolis Police Department. The Committee was not advocating or requiring a "Chicago" approach to civilian review, namely taking and training persons who have never been investigators or law enforcement personnel.

The arguments for civilian investigators working for the civilian review authority were essentially threefold: First, the Internal Affairs Unit has a history of not investigating or thoroughly investigating citizen complaints. Second, officers could not be expected to thoroughly investigate other officers with whom they must later serve. Third, public confidence requires that investigation of complaints not be perceived as, in the words of one member, "the foxes guarding the chicken house."

The arguments in support of tandem investigation were essentially twofold: First, a member of the Minneapolis Police officer will be more knowledgeable about the department, its procedures, what witnesses to believe and which not. All of this will afford a better investigation. One member said that the Minneapolis officer knew "tricks that would take an outsider years to figure out."

Second, credibility is a two-way street. One member challenged the assumption that police investigators are not credible. He said, "I still don't know what is wrong with Minneapolis police officers conducting investigations of other officers. Judge Gomez told our Committee the investigations themselves were fine."

However, the majority of those arguing for tandem investigations indicated that while they agreed that there needs to be credibility with citizens there also needs to be credibility with police officers. In the words of a member, "credibility cuts both ways. Police officers must trust the process for it to be successful."

Another large portion of the debate about investigation was about excluding those who have in the past served on the Minneapolis Police Department and stipulating in an employment contract that the investigators not work for the department for a period of time. The debate was centered on the amount of distance required for credibility with the community. In the words of one member, "it's illogical to presume that officers who may at one time work with officers they're investigating will investigate them harshly."

Adjudication

The Committee recommends that adjudication, namely finding facts and conclusions drawn from the facts, be conducted by the civilian review authority. The standard of proof shall be "a preponderance of the evidence." When the civilian review authority has decided a case is ready for adjudication, an evidentiary hearing can be called by the board of directors and/or either parties in the case.

There was little discussion in the Committee deliberations on the question of who should adjudicate, what should be the standard of proof and the role of an evidentiary hearing.

Discipline

The Committee recommends that after adjudication, the board of directors of the civilian review authority shall send to the chief of police the investigative report, the report of any evidentiary hearing that might have taken place, the adjudication report and, when complaints have been sustained, recommendations for discipline. The chief shall then make a disciplinary decision.

The decision to instill the initial discipline decision in the Chief of Police was agreed to as part of a package proposal which also gave power of investigation to the independent civilian agency. There was a great deal of discussion about the issue of disciplinary authority before this decision was reached.

Although there were differing opinions on many issues before the Committee, the one that evoked the most passion was that of whether the chief of police or the civilian review authority should mete out discipline.

Those who spoke in favor of civilian control of discipline and against the chief holding the power to discipline officers had one major argument: the last several chiefs of police in Minneapolis have shown a complete unwillingness to discipline officers based upon a complaint of citizens and that it is totally lacking in credibility to assume that that would change. One member said "the reality of it is that the chief has not cut it with discipline for the last 25 years." Another member agreed, saying, "the chief has always had the power to discipline and has never done it." Still another member added, "the community has no faith in the present system. The chief should have as little power as possible."

Other members spoke as strongly against removing the power of discipline from the police chief. The essential argument was that of all of the "expert" speakers, namely organizational integrity and effectiveness requires the chief to control discipline. "The chief has to have the disciplinary power, otherwise you let him off the hook," said one. Another member said, "in order for law enforcement to work, there has to be the discipline and morale within the department for that to occur. If that authority to discipline is totally removed from the chief, there is no veto that the chief can use to keep discipline and to keep morale. Ultimately it's a matter of who's in charge. As I see it, without some authority in the chief the system does not work."

Many Committee members were in the middle between the above two positions. These members accepted the position of the police chief meting out discipline but constrained by either guidelines, recommendations, or an appeal to a higher authority. One member proposed the chief be mandated to make a disciplinary decision in accordance with the recommendation from the civilian review board. One member proposed the chief hold the disciplinary decision, but that such a decision be based upon a fixed schedule of disciplinary measures in which the civilian board participates in developing and that the board should make a non-binding recommendation. None of these was supported by the Committee.

Investigation, Adjudication and Discipline: Committee Conclusion

These three components have been discussed in this report together for two reasons: one, they are the guts (operational effectiveness) and heart (credibility) of an police conduct review mechanism and, two, it was considering them together that allowed the Committee to reach resolution.

The Committee discussions on investigation and discipline involved vociferous and passionate arguments about the most effective or most credible approach to investigation or who is or is not credible or essential to mete out discipline. There were attempts to achieve compromise within each of these two discussions. To no avail.

The resolution that passed the Committee was based upon the premise of "giving" one significant part of the process to citizens (investigations) and "giving" another to the police (discipline by chief of police).

The question of who shall investigate complaints and who shall have power to discipline officers were perceived by speakers at the Committee meetings and at the public hearings and by all Committee members as the two most important issues questions in designing a review model. These two components have the most power to define the system, both in terms of the public's perception and the system's operational strengths and weaknesses.

Werner Petterson, at the second meeting of the Committee, told the Committee that municipalities often take this path in making these two decisions regarding civilian review. "There seems to be a balance placed between investigation and discipline," Petterson said.

Appeal

The Committee recommends that when the chief does not follow the disciplinary recommendation of the civilian review board, review of the chief's decision shall automatically be made by the mayor. The mayor, then, in consultation with the Chief of Police and the civilian review authority, shall make the final disciplinary decision.

Many on the Committee saw an outside appeal to the chief of police's disciplinary decision as a way to have a check on the disciplinary decision, while not undermining the initial authority of the Chief of Police. Other members considered appeal from the chief's decision as a "fair thing to do."

Committee members were split however, as to who or what would comprise an appropriate appellate body. Requesting the appointment of a panel of three members of the Hennepin County Judiciary to hear appeals would be the best way to handle the process, a member argued, because it would "minimize the political element of the appeals decision." This member was particularly opposed to appeals going to the mayor.

In responding to the argument of those who favored the appeal to the mayor because the mayor can be held accountable, he felt that it was unlikely that the mayor would be voted out of office because of a decision regarding police discipline. "Minorities, gays, and the poor don't vote the mayor out of office". For this reason, and because "it seems illogical to limit the power of a blameless chief (only recently appointed) and give power to a blameful mayor," this member argued against giving the appeal decision to the Mayor of Minneapolis.

Another member argued against the mayor and for a panel of judges receiving appeals of discipline decisions. He said, "appeal should be to an independent person -- a non-partisan, non-biased, free-thinking person -- an impartial view will not be found in the mayor." He added, "we have had several years with the mayor in ultimate control (over the chief) of the police department. We need to know that when a decision is made it will be brought to court."

Other Committee members argued for the mayor making the appellate decision. One agreed that the mayor is a political figure who may make a political decision on a complaint, but said that far from undesirable, such a process is indeed necessary. "Discipline, unlike adjudication, is a political decision," the member said. "The discipline decision has to reflect the sense of the community."

Another member argued for the mayor hearing appeals, saying "ultimately the mayor is about as accountable a person as you get in this city. Yes, he is isolated to certain extent, but our system of government has designated the mayor as the final authority in this city." He said a three member panel of judges would be politically unaccountable body and that "the best decisions come out when they go to most visible political figure."

One member proposed that appeals go to an administrative law judge upon appeal of either party in the complaint. This member felt that such an appeal would be fairly rendered because the judging party would have nothing to gain from being biased toward either party. Another member pointed out that administrative law judges, "appointed by a bureaucrat in state government," would be inappropriate because they function only to take testimony and receive evidence and make recommendations for someone else to decide.

The chairman reminded the Committee that the police officer, through provisions of the City Charter, has recourse to the Civil Service Commission if he or she is unhappy with a discipline decision. There are also grievance procedures mandated by the agreement between the City and the Police Federation.

The Committee's recommendation appears to have been based upon concurrence with the view of one member that "the creation of the civilian review board creates a new political reality [for the mayor], by making the findings of fact public. The mayor has a hand in appointing the Chief of Police and the review board - his loyalties are equal."

Subpoena Power

The Committee recommends that the board of directors of the civilian review authority shall have subpoena power.

The Committee entertained a small amount of discussion on the subject of subpoena power. One supporter of the recommendation felt the language needed to be simple because "the civilian review board should be armed with as much power going in as is possible." This should be so, she argued, as the board may face "extenuating circumstances."

Some members opposed the recommendation, feeling it was too vague for such a vital issue as that of the ability of a civilian body to subpoena testimony and appearances of witnesses, police officers, and subjects of complaints against the police.

Mandatory Police Compliance

The Committee recommends that the Minneapolis Police Department and its officers are required to cooperate with the civilian police review authority investigations, subject to protecting the constitutional guarantees of police officers. The civilian police review authority, Minneapolis Police Department and Chief of Police shall develop procedures to implement Miranda and Garrity warnings, to insure cooperation and the protection of constitutional rights. The Minneapolis Police Department shall be required to turn over to the civilian police review authority all relevant documents pertaining to their investigation.

As a general opinion, the Committee felt that any realistic civilian review model could not leave cooperation with civilian review board investigations merely as a discretionary option for the department and individual officers. Most felt the turning over of police documents to the board, and testimony of officers to civilian investigators must be mandated in order for the board to have any real power. Members spent little time on the topic of requiring department records to be turned over to the board, but many concerns were raised when discussion turned to how to fairly require officers to give testimony to civilian investigators.

Some members expressed concern over allowing a civilian investigator to invoke a Garrity warning, wondering whether this use of the warning would be valid. The Chairman responded to that concern by stating that Garrity warnings would not be given by non-police personnel in this proposal. Instead, officers would be compelled to cooperate with the investigations of the civilian review authority under orders from their superiors. The police chief and other department supervisors, having developed with the civilian review authority policies and procedures for such cooperation would require such cooperation with the civilian review board and give appropriate Garrity warnings.

The language finally agreed to by the Committee is a policy statement with an understanding that certain practical procedures must be implemented by the civilian review authority and the police department. The Committee felt that Garrity warnings were vital to maintaining cooperative police-investigator relations, but not knowing whether such warnings could be given by civilian investigators, opted to recommend the continuance of as much of the current mandatory compliance techniques as is possible in a system of civilian investigation. The Committee is comfortable with the current internal affairs procedure for mandating testimony, and recommends that such a system continue with the civilian authority.

Confidentiality

Regarding the confidentiality of civilian review board documents and procedures, the Committee recommends: screening documents shall be confidential; complaints (except for summary data), investigative reports and the evidentiary hearings shall be confidential until the accused officer has exhausted his or her appellate rights or the complaint has been finally resolved; and adjudication reports, discipline recommendations, disciplinary decisions of the Chief of Police and appellate decisions of the Mayor shall be public.

In its discussions on the question of confidentiality, the Committee bypassed the questions surrounding the specific legal restrictions on opening up the complaint process. Instead the Committee concerned itself with the general policy questions of how to keep a civilian review process open and public, while protecting the privacy rights of the officer, and possibly the complainant. (The Chairman prepared a memorandum for the committee on the specific legal barriers to a more public form of civilian review. This memorandum can be found in the appendix at the back of this report.) The Committee debate on the topic of confidentiality can best be summed up with one member's description of the question, as "an example of trying to balance interests."

On the argument for opening up the complaint process to the public, one member said, "any secrecy breeds suspicion at best, at worst, tyranny." Another member said, "Everything should be opened except for frivolous complaints. The community has a right to know what is going on."

On the other side of the argument, one member questioned the impact of the media and opening up the process. "What about the TV cameras? How public are you going to make this? This Committee needs to recognize that evidentiary hearings are sensitive matters both for the officer and the community." One member discussed the legal implications of an open process, saying, "an open hearing might damage a civil case if new evidence emerges." Two other members said the complainant in some cases may not wish the complaint to be handled in the public eye. "An open hearing may not be the wish of the complainant. I don't know that a circus needs to be made in doing the service of the public." One member predicted witnesses would be reluctant to show up at a hearing or for an interview if their statement would be public. He said it is all the police department can do now to get witnesses to come in and testify.

The final language agreed to by the Committee attempts to balance the concern of the public for openness and the officer's privacy rights.

System Review

The Committee recommends that if in the adjudicating process of a complaint or complaints the board becomes aware of any patterns or practices within the police department about which it is concerned, the board of directors shall make a recommendation to the Chief of Police concerning such patterns and practice.

The prospect of the civilian review board holding jurisdiction to survey general practices of the entire police department initially surfaced during the Wayne Kerstetter's comments to the Committee. Kerstetter called system review one of the basic functions of the review process, describing its scope as one of "how well does the review system work, and, are the overall policies and practices of the department working appropriately."

A somewhat different perspective on the need for system review emerged at the public hearings, however. Marya Hart, an advocate at Waite House battered women's shelter felt a review board "should be empowered to examine broad patterns of misconduct -- for instance, police failure to file reports on domestic abuse calls -- and to prescribe procedural changes to remedy those problems." Also a written submission to the Committee from the Minnesota Coalition for Battered Women addressed this concern, writing, "[t]he citizen's complaint committee should review individual complaints, and should also have the power to form special committees to investigate class complaints, including those alleging unfair treatment of classes of citizens." Further, the board should have the power to sue the police department on behalf of classes affected by misconduct and brutality."

Finally, another citizen who wrote the Committee argued for system review, in light of what she saw as a department-wide problem with racism. Theresa Whitely of Minneapolis wrote, "I believe the problem is far more serious than just isolated incidents of police brutality and racism. I believe that members of the Minneapolis Police Department do not take crimes perpetrated against black people as seriously as they do those against white people. I also believe that racism and cronyism present in the department has been institutionalized and that it will take a great deal of effort to affect change. My suggestion to you as you form the purposes and structure of this Review Board is that you deal not only with isolated incidents of racism, discrimination, and brutality, but also with the broader picture of how to combat these things in general."

Several Committee members had qualms about the board having authority over the entire department's practices. One member called a specific proposal which would allow the board to recommend institutional remedies and if unimplemented would be appealed to the Mayor, "too vague." This member added "you're getting into the management of the department now." Another member agreed, saying "that does get us right into the police administration."

A member who spoke in favor of the motion called it "a very important point," saying that "there are certain communities that just don't get adequate response, which can amount to a form of discrimination or abuse. Our report is just not complete unless we address the issue that if you live on the North side, if you live in certain areas that are considered gay or lesbian you just don't get the same kind of service. Women assaulted in domestic abuse, they don't get the same kind of service, and to me that is discrimination." Another member added that "with Southeast Asians it's the whole group. They complain and the police don't respond. It's the communities."

The recommendation which passed the Committee allows the board of directors of the civilian review authority comment to the police chief on patterns and practices within the police department when such problems become apparent in the course of adjudication. The Committee supported this motion, which gives the board the right to recommend institutional remedies to the Chief, over a motion which failed which called for the board having right to appeal its recommendations to the Mayor if the Chief did not implement them. Members saw this as an effective way to look into a very real concern regarding police misconduct, without inappropriately interfering with the day-to-day management decision of the police department.

The Minneapolis Civil Rights Commission and Allegations of Discrimination by Police Officers or the Police Department

This Committee is in support of the City Council reinserting the language in the Civil Rights Commission Ordinance removed in 1971 (Title 7, Chapter 141.90 of the Minneapolis Code of Ordinances, Relating to Civil Rights: Administration and Enforcement) which provided the Civil Rights Commission with the authority to investigate all allegations of discrimination regardless of whether the incident could give rise to criminal prosecution. This Committee adds, however, that nothing in this recommendation or its implementation is meant or should be taken as an alternative to, or diminution of, the recommendations of this committee for an independent civilian review authority.

Several members spoke in favor of the recommendation. One member said she "favors the spirit, but feels the Committee should not handle this question." Other members disagreed with that statement, saying they felt comfortable with this Committee making such a recommendation.

There were Committee members opposed to the proposal itself. One member opposed the granting of the jurisdiction to the Commission calling it "duplication in government."

The language finally agreed to by Committee members reflects a support of the jurisdiction for the Civil Rights Commission over discrimination in police conduct while acknowledging members' concerns about the recommendation deflecting from the main recommendation of the Committee: the civilian review authority. One member was particularly concerned that this recommendation on discrimination not be seen as an alternative to the primary recommendation. Other members supported his concern, hence the language at the end of the recommendation.

VI. MINORITY REPORT SUBMITTED BY ALLEN BERRYMAN, GREG FAILOR & TERRENCE HAYES

The City Council charged the Civilian Review Board Working Committee with the task of coming up with a system of external review of the police department that would be workable, effective and fair. The model being proposed by the majority accomplishes none of these objectives. It neither gives the citizens an effective vehicle to pursue complaints nor the officers a system that protect their legitimate rights. It creates a work climate that would inhibit officers from being pro-active at a time when we face a rising crime rate, especially drug related crime. It takes away from the Chief of Police responsibilities that are properly his. Systems similar to the one being proposed have worked virtually nowhere that they have been tried in the United States, and we have no reason to believe they would be effective here.

Those with experience in the field of external review and much of the professional literature suggest a model that would include the following:

(1) A choice of where a compliant might be filed: either with the Internal Affairs Unit or with the civilians who would take the complaint at a location other than the police department

(2) A tandem investigation conducted by the Internal Affairs Units and by two or three other civilian investigators who would be independent of the police department

(3) The Chief of Police would have disciplinary authority and responsibility

(4) Both the complainant and the officer would have the right of appeal to an independent entity

Such a model would be far less cumbersome, far more effective, and far less expensive. It would have a better chance to produce the openness and accountability that is the object of external review, without creating a vast new bureaucratic structure.

VII. MINORITY REPORT SUBMITTED BY DOROTHY FLORENCE

I dissent relative to the inappropriateness of tandem investigation of allegations of police misconduct.

Based upon the evidence presented, both oral testimony during the public hearings and written recommendations of interested parties during the Working Committee's tenure, the major focus of the public's complaints centered on the nominal instances in which the current Internal Affairs Unit sustained a complaint and the failure of the Chief of Police to impose, what the public opined would be, an appropriate level of discipline.

Disposition of complaints and imposition of discipline against the police officer represent the major component which has contributed to community opposition to the current Internal Affairs Unit. Based upon this area of alleged malfeasance of the Internal Affairs Unit, it appears to the undersigned that the tandem investigation would not generate public opposition.

For example, whenever there is a citizen's complaint of alleged police misconduct resulting in physical injury to the complainant, the police department is in a superior position relative to the having in its possession the relevant evidence that is necessary to prove or disprove the veracity and visible scars or sought medical treatment of his or her physical injuries. However, when alleged misconduct involves oral statements, unless there is another witness present who is not a police officer, the ultimate disposition of the citizen's complaint may rest or fall based upon the credibility of the complainant versus the credibility of the accused officer and/or his companion-officer if the accused patrols as a team.

In order to encourage the free flow of evidence from the police department to the Civilian Review Board, tandem investigation encourages cooperation and production of relevant evidence with the ultimate objective of determining the veracity of speciousness of an allegation of a complainant.

Finally, the police department's level of trust in the investigatory process, based upon the presence of another police officer participating and cooperating with the Civilian Review Board, also would encourage the free flow and exchange of evidence. Likewise, the public's confidence in the investigation of a complaint would not be undermined merely because a police officer, concomitantly with civilian investigators, may have participated in the investigation of a complaint. The presence of a majority of civilian investigators on a team of investigators ensures credibility and authenticity of the evidence.

Therefore, it would appear that as long as the investigation of a complaint contained a team of investigators, where civilians exceed the number of police investigators, the public would have confidence in the process.

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July 27, 1989

TO: Members, Civilian Review Board Working Committee

FROM: Mark S. Wernick, Chair

RE: Technical Advisory Committee

The City Council resolution that established our committee also established a Technical Advisory Committee "to aid the Civilian Review Board Working Committee in its efforts." The Technical Advisory Committee consisted of members of the Police Administration, Human Resources, Affirmative Action, Civil Rights, City Attorney and County Attorney's departments. I also consulted with Mr. Dennis Bible, Director of Labor Relations for the City of Minneapolis and Mr. Donald Gemberling, Deputy Commissioner, Minnesota Department of Administration. I sought advice for our Committee with respect to the following matters: 1) Minnesota Government Data Practices Act, 2) subpoena power, 3) Minneapolis City Charter, 4) Minnesota Public Employment Labor Relations Act, 5) Fifth Amendment privilege against compulsory self-incrimination and 6) Minneapolis Civil Rights Ordinance. The following is my opinion as to the applicability of these matters to the creation and operation of a Civilian Review Board.[1/]

1/ I am using the term Civilian Review Board to mean any civilian authority that reviews allegations of police misconduct.

1. Government Data Practices Act

Any brief discussion of the Government Data Practices Act should begin with a disclaimer: there may be exceptions and contrary interpretations to every provision summarized.

There are three types of police documents to which a Civilian Review Board will want access:

1. "Investigative Data." Minn.Stat. §13.39. The definition of investigative data would include documents produced by a police department for a disciplinary proceeding. While such proceedings are "active," such documents are "confidential." Confidential documents cannot be made available to the public or to the individual that is the subject of the data. Minn.Stat. §13.02, Subd. 3. Investigative data can be made public when the disciplinary proceeding becomes "inactive". This occurs when the subject's rights to appeal have been exhausted. Minn.Stat. §13.39, Subd. 3.

2. "Comprehensive Law Enforcement Data" Minn.Stat. §13.82. This kind of data includes documents produced by a police department for an investigation of potential criminal charges. While such investigations are "active", such documents are "confidential". Investigations are active until either a decision not to prosecute has been made, the statute of limitations expires, or when the appellate rights of a person charged and convicted have been exhausted. Minn.Stat. §13.82, Subd. 5.

3. "Personnel Data" Minn.Stat. §13.43. This kind of data would include any documents produced by the police department because of the police officer's employment. There may be an overlap between documents classified as personnel data and documents classified as investigative data. Unless specifically made public by statute, personnel data is "private". Private data cannot be made public but can be made available to the subject of the data. Minn. Stat. §13.02, Subd. 12. The following personnel data on police officers is public: a) the status of any complaint against a police officer, b) whether or not the complaint resulted in a disciplinary action, and c) the "final disposition" of any disciplinary action and supporting documentation. Minn.Stat. §13.43, Subd. 2. The final disposition of a disciplinary action occurs when a police officer has exhausted all of his or her appellate rights. Annandale Advocate v. City of Annandale, 435 N.W.2d 24 (Minn. 1989). Until such time, "supporting documentation" of a discipline decision is private.

The Minneapolis City Council could enact an ordinance which would give a Civilian Review Board access to private and confidential data. Minn.Stat. §13.05, Subd. 3. The same result could be accomplished by contract between the City and the Civilian Review Board. In either case, the Civilian Review Board could not disseminate the data beyond

what is authorized by statute. In other words, the data retains its private or confidential status, even when in the hands of a Civilian Review Board.

If a Civilian Review Board were to hold public hearings, such hearings would have to be closed to the public whenever private or confidential data would get discussed. Annandale Advocate v. City of Annandale, 435 N.W.2d 24 (Minn. 1989).

It is arguable that the Government Data Practices Act effectively prevents a Civilian Review Board from opening up the police disciplinary process to the public. This is true regardless of whether a public hearing could be conducted in a meaningful way.

A decision not to discipline can be made public. However, it is arguable that any supporting documentation for that decision, e.g. a Civilian Review Board recommendation, cannot be made public because it is protected as "personnel data". If the supporting documentation for a decision not to discipline were considered "investigative data" rather than "personnel data", then such documentation could be made public only after the matter is deemed to be "inactive". This may be months or years after the fact.

A decision to discipline can also be made public. However, supporting documentation for a decision to discipline can be made public only after discipline has become the "final disposition" (in the case of personnel

data) or after the proceeding has become "inactive" (in the case of investigative data). Again, this may be months or years after the fact.

The Government Data Practices Act can be amended so as to specifically allow a Minneapolis Civilian Review Board to make public certain data that would otherwise be classified as private or confidential. Many provisions in the statute apply only to specifically named government entities. It would appear that most of the proposals now before this committee would require amendments to the Government Data Practices Act.

2. Subpoena Power

In order for a Minneapolis Civilian Review Board to have subpoena power, the Minneapolis City Charter would have to be amended pursuant to Minn.Stat. §410.12 or a special law would have to be enacted pursuant to Minn.Stat. §645.021.

According to Minn.Stat. §410.12, a City Charter can be amended in the following ways: 1) by voter election of a Charter Commission proposal or city council proposal that has been reviewed by the Charter Commission (the Charter Commission must submit a proposal for voter election upon petition of a sufficient number of qualified voters); or 2) by unanimous vote of the city council which the electorate can challenge by petitioning for a referendum. The second

method has been used in Minneapolis only for housekeeping type amendments to the Charter.

According to Minn.Stat. §645.021, the legislature can pass a statute which applies specifically to only a local government unit. In order for the statute to become effective, the local government unit must approve it. The Minneapolis Civil Rights Ordinance is based in part on a special law enacted by the state legislature.

3. Minneapolis City Charter

Chapter 6 of the Minneapolis City Charter provides in pertinent part as follows:

> The mayor shall be vested with all the powers of said city connected with and incident to the establishment, maintenance, appointment, removal, discipline, control and supervision of its police force, subject to the limitations herein contained and the provisions of the civil service chapter of this Charter...
>
> * * * * * * * *
>
> The mayor shall also appoint, subject to the provisions of the civil service chapter of this Charter, all members of the police force and other employees of the department prescribing the title, rank, and duties of each... [A separate provision governs the appointment of the Chief of Police.]
>
> * * * * * * * *
>
> Each and every person so appointed shall be subject to removal by the mayor when the mayor shall deem the same necessary after proper investigation in accordance with the civil service chapter of this Chapter.

Chapter 19 of the Minneapolis City Charter establishes the Minneapolis Civil Service Commission. A police officer

has a right to appeal the following disciplinary decisions to the Civil Service Commission: 1) suspensions of over 30 days, 2) permanent demotions, and, 3) discharges. The Commission will conduct a hearing on the appeal or appoint a hearing examiner to conduct a hearing and make recommendations. The Commission and its appointees have subpoena power. The Civil Service Commission's decision is subject to review by writ of certiorari in the Minnesota Court of Appeals.

Our committee must consider the City Charter with respect to the issue of whether the Civilian Review Board can have disciplinary authority. Under the Charter, the mayor has that authority subject to the provisions of the civil service chapter (and subject to the provisions of the Public Employment Labor Relations Act). In practice, the mayor has delegated that authority to the Chief of Police. If a Civilian Review Board were to have disciplinary authority, then the City Charter would have to be amended pursuant to Minn.Stat. §410.12 or a special law would have to be enacted pursuant to Minn.Stat. §645.021. If a Civilian Review Board were to have authority to recommend discipline to the mayor or Chief of Police, then no City Charter amendment or special law would be necessary to grant a Civilian Review Board that authority. See, Harrington v. Tate, 254 A.2d 622 (Pa. 1969).

4. Public Employment Labor Relations Act (PELRA)

Minneapolis police officers have a right under Minn.Stat. §179A (PELRA) to form a collective bargaining unit. The Minneapolis Police Federation is a recognized collective bargaining unit.

Under PELRA, the Minneapolis Police Federation has a right to negotiate "terms and conditions of employment." Minn.Stat. §179A.03, Subd. 19. A grievance procedure is a term and condition of employment. Minn.Stat. §179A.20, Subd. 4. The Police Federation does not have a right to negotiate on "matters of inherent managerial policy." Minn.Stat. §179A.07, Subd. 1 "Organizational structure" and department programs and policies are matters of inherent managerial policy.

Our committee should consider PELRA and the Police Federation contract with respect to two issues: 1) whether the Civilian Review Board can have final disciplinary authority, and 2) whether police officers can be required to cooperate with Civilian Review Board investigations, subject to constitutional guarantees, as a condition of the police officer's employment.

With respect to the first issue, the creation of a Civilian Review Board that has disciplinary authority may be a matter of "organizational structure" which is not subject to negotiation. Assuming this to be the law, police officers would still have a right under PELRA to appeal the

Civilian Review Board's decision through a negotiated grievance procedure.[2/] In the alternative, when the discipline is sufficiently serious, the police officer could appeal the Civilian Review Board's decision to the Civil Service Commission unless such right to appeal was taken away from the police officer pursuant to Charter amendment or special law. Neither Charter amendment nor special law can take away a police officer's right to negotiate a grievance procedure in their contract.[3/]

With respect to the second labor issue, a rule requiring a police officer to cooperate with Civilian Review Board investigations, subject to constitutional guarantees, is probably a matter of "inherent managerial policy" and, therefore, not subject to mandatory negotiation under PELRA.

5. Fifth Amendment Privilege Against Compulsory Self-Incrimination

There is currently a work rule within the Minneapolis Police Department requiring police officers to cooperate with Internal Affair's investigations. According to what

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2/ Under the Police Federation contract now in effect, a police officer who has been disciplined may file a grievance with the Federation. The Federation can take the grievance through various steps including having the grievance heard by the Chief of Police. If the Federation disagrees with the Chief's handling of the grievance, the Federation can submit the grievance to binding arbitration.

3/ Some police officers also have appellate rights under the Veteran's Preference Act, Minn.Stat. §197.46, which cannot be taken away by Charter Amendment or law.

Deputy Chief Doug Smith told our committee, if there is a realistic possibility of a police officer being charged with a criminal offense, then the police officer can assert his Fifth Amendment privilege without fear of being disciplined for having asserted the privilege. If a prosecutor has stated that the police officer will not be prosecuted, then the police officer is told that failure to answer Internal Affair's questions will result in discipline and that answers to Internal Affair's questions will not be used in any possible criminal prosecution against the police officer. This is the so-called Garrity warning.

As was previously mentioned, the City could probably impose on police officers a work rule requiring them to cooperate with a Civilian Review Board investigation. Garrity warnings could be given where appropriate.

This is an extremely delicate area of law. Although Garrity warnings do "immunize" a police officer's statements, such warnings do not take away a police officer's constitutional right to assert a Fifth Amendment privilege. If a police officer lawfully asserts a Fifth Amendment privilege, regardless of Garrity warnings, the police officer cannot be disciplined for having asserted the privilege. See, Gardner v. Broderick, 392 U.S. 273 (1968).

6. Minneapolis Civil Rights Ordinance

The Minneapolis Civil Rights Commission has the

authority to investigate allegations of unlawful discrimination, whether in the public or private sector, and to impose remedies and/or sanctions when such discrimination has been found. Pursuant to a special law, the Commission has subpoena power. Prior to 1971, the Commission had jurisdiction over allegations of discrimination made by civilians against Minneapolis police officers. During that time, Minneapolis police officers asserted their Fifth Amendment privilege before the Commission whenever they could lawfully do so. In 1971, Section 141.90 of the Minneapolis Civil Rights Ordinance was amended so that the Commission would not have jurisdiction over any matter which could give rise to a criminal prosecution. This amendment effectively prohibited the Commission from investigating allegations of discrimination made by civilians against Minneapolis police officers.

If the 1971 amendment were to be repealed, then the Commission could again investigate allegations of discrimination made by civilians against Minneapolis police officers. The Commission's focus would have to be on the discriminatory aspect of the alleged misconduct. All other types of alleged misconduct by the police would remain outside the scope of the Minneapolis Civil Rights Ordinance.

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COMPENDIUM OF CIVILIAN OVERSIGHT AGENCIES

CIVILIAN OVERSIGHT OF POLICE

INTRODUCTION

In the 1960s and 70s, there were few issues in police-community relations which generated more emotional electricity and rhetorical exchange than the mention of "citizen review boards". Debates raged about the need for civilian review of police activities. Devotees of citizen review challenged the credibility of police department's internal disciplinary procedures: Can the police police themselves? Their answer, of course, was "No". Police apologists countered with arguments defending the administrative integrity of police supervision and suggested that such civilian review would lead to poor morale among police officers and a decline in police services. Police union representatives accused the devotees of being anti-police and charged that the civilian review process would violate officer's due process rights.

These debates produced mixed results with communities deciding for, against or avoiding the decision. Certain cities where civilian review was instituted experienced continuing challenges on political and legal fronts. New York City's, Civilian Complaint Review Board was defeated in a public referendum and then was essentially altered from being an independent agency to an in-house police agency. Flint, Michigan's citizen review agency was abolished by a court order for having violated the due process rights of police officers.

Because of organized resistence and shifts in the community politic of the late 1970s, citizen review and the debates it generated quietly expired. Police apologists and police-community relations experts memorialized the death as an end to an ineffective experiment. Whenever an inquiry was made about citizen review the experts responded with a recital of failures and a judgment: "It just didn't work!"

In 1985, however, such appraisals may be inaccurate; in fact, there are those who would say that the rumors of the death of civilian review were greatly exaggerated. Evidence for such a reassessment can be seen in the recent numerical growth of civilian oversight agencies established by governments to process citizen complaints of police abuse and misconduct.

PURPUSE

This compendium will provide: (1) an elementary definition of "civilian oversight", (2) a general overview of twenty oversight agencies, (3) a brief comparative analysis of civilian oversight agencies, (4) a chart to easily identify differences and similarities among the agencies, and (5) a resource bank of enabling legislation which provides information about an agency's mandate and standards of operation.

DEFINITION OF CIVILIAN OVERSIGHT

In the management of citizen complaints against police officers, civilians participate in processing the complaint information; the participation can occur at any time in the process, from the initial filing of a complaint through an evaluation of a police department's disciplinary decisions.

Such an elementary definition is purposefully broad in interpretation so as to establish the widest parameters for characterizing civilian oversight. This definition does not articulate substantive characteristics which would likely stimulate debate about what truly constitutes "civilian review". Some would argue that a civilian review process housed within a police department is not truly civilian review because it is not free to render independent decisions. This definition allows for the inclusion of such agencies. The definition also serves the purpose of this Compendium which is to draw together the full spectrum of civilian review for developing information and comparisons. The reader may choose to draw more restrictive parameters and then determine which agencies meet those particular standards.

OVERVIEW OF SELECTED CIVILIAN OVERSIGHT AGENCIES

The following twenty agencies represent the diversity of "civilian oversight" as defined above.

_CAGO POLICE DEPARTMENT
OFFICE OF PROFESSIONAL STANDARDS
CHICAGO, ILLINOIS

The Office of Professional Standards (OPS) was established on August 8, 1974 by an administrative directive of the Superintendent of Police; General Order 82 - 15 is the latest directive and can be found in the appendix. OPS is a civilian staffed office operating within the police department structure. Organizationally, it is within the Office of the Superintendent and derives its authority from the Superintendent to investigate complaints of excessive use of force by Chicago police officers.

The OPS budget is a line item in the Superintendent's personal staff and is submitted by the Mayor to the City Council for approval as a part of the overall police department budget. The agency operates on $2 million yearly, with sixty-three investigators and fifteen clerks. The office is centrally located at police headquarters; written complaints can be taken at all police district stations. The central office receives complaints by telephone, by walk-in complainants and by written complaints.

The Office of Professional Standards has four basic functions: (1) Receives and records all complaints against departmental personnel, both sworn and civilian. OPS is staffed 24 hours a day, every day; (2) Investigates all allegations of excessive use of force; investigates all incidents where a person has been shot by police whether or not there was a complaint filed. It reviews all deaths and injuries of persons caused by police action or while in police custody. Other complaints are referred to different units in the department. The complainant and the accused police officer are informed in writing of OPS findings. (3) Recommend disciplinary action (from written reprimand to permanent separation) to the Superintendent when investigative findings produce sufficient evidence to substantiate the complaint. (4) Collect and document evidence for presentation to the Police Board which has statutory authority to fire or suspend police officers for more than 30 days. Chicago Police Board documents are also included in the appendix with OPS materials.

The office is managed by three Administrators, one of whom is the Chief Administrator and reports directly to the Superintendent. OPS civilian investigators have access to not only all police department records but to all of its investigative technology.

Upon completion of an investigation, a report is made to an OPS Supervisor who reviews the findings. The case is submitted to the OPS Administrative Review Section for final review and approval. If the investigation results in a Not Sustained, Unfounded, or Exonerated finding, the case is permanently closed. If the investigation results in a Sustained finding, the Chief Administrator completes the review with a disciplinary recommen-

dation. At this point an additional review process is employed. Selected cases with Sustained findings are sent to the Cook County State's Attorney's Office for review. All cases with Sustained findings are sent through the accused officer's Chief of Command for review by his superior officers. When these Sustained cases are returned, the OPS Chief Administrator reviews all written comments made in the Command Channel process and makes a final disciplinary recommendation. The accused officer is then informed of the Sustained finding and recommendation. The accused officer may accept or reject the penalty and request a Complaint Review Panel hearing. Following the CRP hearing, the case is forwarded to the Superintendent for the final decision as to the finding and the disciplinary decision. If the suspension is for five days or less the Superintendent's decision is binding. If the suspension is for six to thirty days, the accused police officer may ask the Chicago Police Board to review his case. The Police Board will then make a final determination as to the finding and penalty. In a case where the recommended discipline is separation, the Chicago Police Board holds an administrative trial and makes the final determination.

DETROIT BOARD OF POLICE COMMISSIONERS
DETROIT, MICHIGAN

The most common form of administrative authority over the police has been the single civilian police commissioner. Theoretically, the civilian police commissioner has the final word on departmental policy and is the representative of the civilian population within a police department. If there is a general dissatisfaction with the department's operation, it is the responsibility of the civilian commissioner to insure that appropriate corrective actions are taken. It was envisioned that the commissioner would avoid the appearance of cronyism and political interference in police operations which often resulted when control emanated directly from a mayor or a city council.

A principal criticism of the single commissioner has been the cooptation of the position by the police. Rather than acting as the citizen's representative, the commissioner is the police department's voice in the community. Because the commissioner is generally the full-time head of the police department, and closely involved in the day-to-day police operations, it is difficult to establish the reality of, or even a perception of, independent civilian control of the police.

In Detroit, the commissioner concept of civilian authority took the form of the Board of Police Commissioners (BPC). The five member Board was instituted on July 1, 1974 and has supervisory authority over the police department which includes establishing the department's policies, rules and regulations, approving the budget, and serving as the final appellate authority for employee discipline.

In December 1978, Mayor Coleman Young issued an Executive Order directing the Board and the police chief to implement the provisions of the Board's authority and "clearly establish the civilian role regarding the management and operation of the police department".

The BPC mandate is: (1) "receive and resolve any complaint concerning the operation of the police department" and (2) "act as final authority in imposing or reviewing discipline of employees of the department".

The five members are appointed by the Mayor and approved by the City Council and each serves a five year term. The members select a chairperson from among themselves who serves a one year term. The Board members "shall be representative of the total community".

The BPC meetings are held weekly and are public; one of those meetings per month is held in the community. Board members must be city residents and cannot be appointed to the BPC if they were employed by the city or held a city appointed/ elected position three years prior to the appointment.

In 1978, when the Board of Police Commissioners assumed full authority for citizen complaints it formed its Office of the Chief Investigator (OCI). OCI staff is composed of civilian and police investigators and are appointed by the BPC; these investigators report to the Board, not to the police chief. The OCI office is in police department headquarters and operates on an 8 AM to 5 PM schedule.

OCI accepts initial complaints and conducts investigations into complaints of police excessive force, physical and verbal abuse. Citizen complaints about police service or criminal activity are referred to other investigative units. OCI can act on an appeal basis to determine if a prior investigation was adequate.

When OCI conducts its interviews the accused police officer can have legal and union representation and receives written notice of the interview and a copy of the complaint.

Once the investigation is completed, a report is made indicating one of the following recommended dispositions: proper conduct, policy failure, improper conduct, insufficient evidence, or unfounded complaint. In addition to the disposition, the report indicates whether the case should be closed without any action, or it should be closed with disciplinary action, or the case is closed until the BPC takes further action. The report goes to the Chief Investigator who summarizes the investigation and forwards it to the Board's Executive Secretary. If no improper conduct is found, the BPC closes the case at a public meeting; however, if improper conduct is found, the police chief reports to the Board recommending disciplinary action. If either party is dissatisfied an appeal can be made to the Board which will make a final decision.

OFFICE OF MUNICIPAL INVESTIGATION
CINCINNATI, OHIO

Following a tense period (1979) between the Cincinnati Police Division and the black community, which stemmed from separate shooting incidents where four black citizens and four white police officers were killed, the city council established the Office of Municipal Investigation (OMI). (As an aside, of the twenty-two complaint agencies included in this compendium all but three were instituted in the aftermath of similar police-community crises.) OMI was the city government's response to the black community's demands for police accountability as well as a counter-weight to balance the city's decision to purchase new police handguns and new ammunition. A similar scenario has occurred in Cleveland, Ohio; on November 6, 1984, a public referendum approved the establishment of a civilian oversight agency to handle complaints against Cleveland police.

Although the impetus for OMI stemmed from citizen complaints of police abuse, the Cincinnati City Council created an agency that would investigate complaints against all city employees. Complaints against police officers constitute approximately 40% of total complaints. Also, the first ordinance precluded present or former Cincinnati police officers from OMI staff appointments; this restriction was removed when the City Manager decided to appoint a black, female attorney, who had been a Cincinnati officer, as Chief Investigator. The present staff includes the Chief Investigator, a civilian investigator and a police officer who is detailed to OMI and handles only non-police complaints.

The Office of Municipal Investigation is an adjunct of and reports to the city manager's office. OMI findings and recommendations are forwarded to the City Manager. OMI is centrally located in the City Hall.

OMI receives complaints directly from complainants by telephone, letter, or walk-ins and indirectly from other city government offices: mayor, city manager, human relations commission, city council members, or police department. OMI investigates all police shots fired incidents, even without a citizen's complaint. When OMI decided to pursue an investigation of a complaint and city employees appear for an interview they can have legal and union representation at the interview. OMI does not have subpoena powers to require a citizen to appear for an interview. In cases where OMI finds probable cause warranting disciplinary action it will make a recommendation for discipline to the City Manager. When the investigation leads to possible criminal activity by a city employee, OMI may refer the case to the City Attorney, or to the Hamilton County Prosecutor, or to the U. S. Attorney for prosecution.

OMI has a five member staff: one Chief Investigator, three Investigators and one clerical person. The office's 1984-85 budget is $127,000.

From its inception, OMI has struggled to carry-out its responsibilities. There has been cooperation between OMI and the safety department regarding receipt of police records and arranging interviews with police officers. The Fraternal Order of Police has legally challenged OMI's authority to interview police prior to the resolution of criminal complaints; however, it has not been successful.

OMBUDSMAN'S OFFICE
FLINT, MICHIGAN

In November 1973, the Flint City Council passed an ordinance establishing the Civilian Complaint Review Board. The next year, four Flint police officers filed suit in the county court challenging the Constitutionality of the ordinance and, on January 7, 1975 the court found for the plaintiffs and permanently enjoined the Board from conducting any further proceedings based upon the existing ordinance. The city council took no action to re-write the ordinance.

In 1974, a new city charter and a new form of government was voted for in Flint; a part of the new government's charter was the "Office of the Ombudsman". The Flint Ombudsman meets the traditional definition of ombudsman in that it is an independent, politically neutral government office, appointed by a legislative body, and is mandated by a legal document. The Ombudsman is responsible for hearing and responding to complaints from citizens on matters of government and government-provided services. Also, the office has legal authority and power to conduct full investigations, recommend changes in established polices and procedures and publicize findings of investigations and results of recommendations.

The Flint Ombudsman is appointed by a two-thirds majority of the city council; it is a non-renewable seven year term and can only be held once. The Ombudsman may not hold elective office for two years prior to and two years after leaving office and cannot be employed by the city for two years after leaving the position. An Ombudsman may be removed from office only for cause by a vote of seven of the nine city council members.

The Ombudsman has the power to conduct a full investigation, including the power to subpoena witnesses, administer oaths, take testimony, gather evidence and enter and inspect the premises of government offices during regular working hours. The Ombudsman may require the cooperation of department heads

and officials during an investigation; however, it has no power to investigate any matter under the jurisdiction of the Civil Service Commission.

If the Ombudsman's investigation reveals a serious misuse of power, the office recommends changes to correct such abuse. If no corrective action is taken, the Ombudsman has the power and authority to publicize, through the public media, the facts of the investigation and results of the recommendations.

Police officers, as well as all city employees, are entitled to legal representation during an interview. When a complaint of abuse of police powers is substantiated the Ombudsman informs the police chief of the investigative results and recommends disciplinary action be taken. The police chief determines the specific discipline.

Prior to the present Ombudsman, the Ombudsmen had been Flint police officers who were out-spoken critics of police abuse in their department.

INDEPENDENT REVIEW PANEL
DADE COUNTY, FLORIDA

Following the fatal shooting of a black businessman by the Miami Police Department discussions began among community representatives and public officials regarding the need for civilian oversight of the police and an improvement in police-community relations. In January 1980, the Dade County Commission passed an ordinance instituting the Independent Review Panel and during the Commission debate it was decided to expand the Panel's jurisdiction to include all 19,000 county employees. It does not have jurisdiction over employees of municipalities in the county; however, municipalities have invited the Independent Review Panel to conduct investigations of their employees.

The Independent Review Panel (IRP) has six members who are appointed by the Commission. The appointees come from a list of nominees submitted by these agencies: Community Relations Board, Community Action Agency, Dade County Bar Association, Dade County League of Women Voters, Dade County Association of Police Chiefs and the sixth member is selected by the county manager from his staff.

When IRP receives a complaint it makes a preliminary investigation if it involves an employee of an agency without its own investigative capabilities. Therefore, in the case of county police, IRP would refer the complaint to the police internal affairs unit for investigation. Once completed the report would be reviewed by the Panel and, if necessary, additional investigations could be undertaken.

Following the preliminary investigation, the Panel will decide by a majority vote, whether or not the particular case warrants a major investigation; the standard used by the IRP is whether the case represents a "serious" problem to the community or to the complainant. With a majority vote for a major investigation, the County Commission will select three additional Panel members to hear the complaint. Two will be selected from the affected community population and a third from the union representing the accused County employee.

The IRP will select the investigator to conduct the major investigation; this person can be a private independent investigator, a Metro-Dade Police Department investigator, an existing County investigator, or an investigator from the State Attorney's Office. An investigator is prohibited from investigating fellow employees from his or her department.

Following the major investigation, the Panel will hold an open public hearing to consider the complaint and, following the hearing, the IRP will publish a formal report recommending to the department head, if appropriate, that disciplinary action be taken against the accused employee or that criminal proceedings be instituted by the State Attorney's Office.

The Executive Director of the Panel is appointed by Dade County's Chief Judge. The 1984-85 budget was $246,000. Of the 149 investigations reviewed by the IRP, thirteen of them were sustained or 18%.

POLICE REVIEW COMMISSION
BERKELEY, CALIFORNIA

In 1973, through California's citizen initiative process, Berkeley voters endorsed legislation creating a "Police Review Commission"; also, this means that only a public vote can terminate the agency.

The Police Review Commission (PRC) is composed of nine members each of whom is selected by a City Council member and serves a two year term. Police officers and city employees cannot be appointed as Commissioners.

PRC was granted the following powers and duties by the ordinance:

> "(a) to advise and make recommendations to the public, the City Council, and the City Manager;
>
> "(b) to review and make recommendations concerning all written and unwritten policies, practices and procedures of whatever kind and without limitation, in relation to the Berkeley Police Department...such review and recommendation to extend to...

i. treatment of rape victims
ii. police relationship with minority communities
iii. use of weapons and equipment
iv. hiring and training
v. priorities for policing and patrolling
vi. budget development
vii. other concerns as specified...by the City Council.

"c. to review complaints directed against the police department and any of its officers and employees, and fully and completely investigate said complaints and make such recommendations and give such advice relating to departmental policies and procedures to the City Council and the City Manager in connection therewith...."

The Police Review Commission is an arm of the City Manager's Office; its investigative reports and recommendations go to the City Manager, not to the Police Chief. PRC has subpoena powers to compel citizens as witnesses and police officers are compelled to tesitify by a condition of employment. Testimony is given in a public hearing where cross-examination is permitted and parties are accompanied by an attorney.

PRC has a five member staff: one attorney, a Senior Investigator, an Associate Investigator and two clerical workers with an annual budget of $150.000.

CIVILIAN COMPLAINT REVIEW BOARD
WASHINGTON, D. C.

The District of Columbia has had one of the longest histories in civilian complaint agencies. Its first Civilian Complaint Review Board (CCRB) was created in 1948; however, in the 1960s, it was disbanded due to community criticism. It was reconstituted under the District of Columbia Review Board Act of 1980.

The CCRB is authorized to hear and investigate citizen complaints concerning misconduct of District of Columbia police officers and Special Police forces employed by the District government. Misconduct is defined as "police harassment, excessive use of force or use of language likely to demean the inherent dignity of any person to whom it was directed and to trigger disrespect for law enforcement officers."

The Board holds hearings on the complaints and will make findings and recommendations; CCRB recommendations are sent to the Mayor and the Police Chief. The Board's findings are determined based upon the investigative work of their staff and hearing testimony. The administrative hearings are carried out with the taking of oaths, giving of testimony and cross examination.

The Police Chief has thirty days to act on the Board's written recommendations. If the Police Chief wants to take action other than that recommended by the Board, the matter goes to the Mayor who has thirty days to uphold the Board or the recommendations of the Police Chief, or to order a compromise. Thirty days inaction by the Mayor will result in adoption of the Chief's recommendations. Simiarly, thirty days of inaction by the Police Chief following the Board's recommendation will result in the ratification of the Board's decision. Police officers have the right to appeal personnel actions before the Office of Employee Appeals, others are entitled to Police Trial Board hearings.

The seven Board members are selected as follows: five are selected by the Mayor and City Council, one by the Police Chief and one by the police officer bargaining unit (Fraternal Order of Police). The CCRB staff is made up of six people: one Director, three investigators and two clericals; the 1985 budget is $229,000.

INVESTIGATIVE STANDARDS BOARD
CLEVELAND, OHIO

For the past two years, a civilian oversight agency has been evolving in Cleveland, Ohio. Cleveland has relied upon the internal investigative procedures of the Cleveland Police Department in processing citizen complaints. Actually, there have been two distinct offices responsible for citizen complaints; one has responsiblity for excessive use of force complaints and is considered an effective operation; whereas, the office which processes the other citizen complaints is thought to be unresponsive and unprofessional. The Police Prosecutor's Office, which is a Mayoral appointee, becomes involved in citizen complaints of excessive use of force, criminal activity, or incidents that generate strong community reaction.

Following the shooting of a black man by an off-duty, white police officer and a police department decision that the officer had acted properly and had not violated departmental policies, the Mayor asked the Police Prosecutor's Office to examine the police investigation and disciplinary decision. The Prosecutor found that the department had done a thorough investigation. Also, the Mayor established a blue-ribbon citizen committee to review police-community relations and the citizen complaint procedure and make recommendations. This committee recommended against a civilian review board and for a review procedure within the Safety Director's Office. This recommendation was implemented by establishing the Investigation Standards Board; this agency is staffed by four investigators and supervised by the Safety Director. This Board has been criticized as being ineffective because of political realities in Cleveland government; it reviewed 92 cases and found no cause for altering any complaint decision. Because this effort has been unsatisfactory, the Mayor and the City Council President proposed separate

legislation creating a civilian oversight agency. After negotiations between the Mayor and Council President, an ordinance was passed in City Council establishing a Police Review Board that consists of five members to be appointed by the Mayor and approved by the City Council. The ordinance was placed on the November 6, 1984 ballot and received public endorsement. However, the Board was successfully challenged in Ohio Common Pleas Court by the two police unions. The Court ruled that the City had violated a contract provision, which was stipulated by an Ohio statute, when it created the the Board. Cleveland was included in this review because of its use of the Safety Director's Office. Under different circumstances an agency similar to the Investigative Standards Board could be effective and an alternative to a complaint procedure that relies solely on the police department's internal affairs unit.

POLICE INTERNAL INVESTIGATIONS
AUDITING COMMITTEE
PORTLAND, OREGON

In 1980 and 1981, there were two police scandals in the Portland Police Department, one involving the narcotics detail and the other police harassment; also, the number of civil liabilitity law suits against the city and its police department had been increasing. The City Council member responsible for police services appointed a thirteen member civilian task force to examine police policies and procedures that governed the investigation of citizen's complaints.

The Task Force on Police Internal Affairs reported that "the process of investigating complaints against the police favors the police officer over the citizen" and the report recommended "regular public involvement in the citizen complaint process... through the appointment of a Citizen Advisory Committee".

Although the Police Chief and Mayor rejected the Task Force recommendation, tne City Council passed an ordinance creating a civilian advisory committee. This ordinance established a review committee composed of City Council members and eight citizens appointed by the City Council. The eight citizens were delegated the responsibility of auditing complaint investigations; these eight citizens are the "Police Internal Investigations Auditing Committee" (PIIAC).

The police union set out to defeat the ordinance through the ballot box by calling for a referendum on the issue. In spite of an expensive campaign by the police union, the auditing committee concept was accepted by a majority of voters.

In December 1982, the PIIAC was composed of the eight appointed civilians and a ninth citizen selected by the Police Chief and it began to implement its responsibilities of investigating the

police department's internal investigations system. This Committee is not a citizen complaint review board that replaces the internal disciplinary process of the Portland Police Department. The City ordinance charged the Committee with three duties: (1) monitor the police internal investigation mechanism to insure fairness, thoroughness and timeliness; (2) report on the investigation's findings, conclusions and recommendations; (3) act as an appeal agency for citizens dissatisfied with the police handling of complaints. In other words, PIIAC does not investigate the citizen's complaint; it audits the procedures used by the police department in investigating complaints against its officers and deciding questions of discipline. The Committee's tools for accomplishing these auditing tasks include power to compel people to attend and testify at hearings, administer oaths, and to order the production of records for Committee examination. PIIAC does not recommend disciplinary action, nor does it comment upon the police chief's disciplinary decisions. It examines the fairness of the police department's internal complaint process, both at the point of an individual complaint and the over-all aggregate of police discipline. The Committee's auditing reports go to the Mayor, City Council and the Police Chief.

Presently, there is one staff person assisting the twelve Committee members (3 City Council members and 9 citizens) with a yearly budget of $34,000.

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
TORONTO, ONTARIO CANADA

In December 1981, the Metropolitan Police Force Complaints Project Act was passed by the Legislative Assembly of the Province of Ontario which established the Office of the Public Complaint Commissioner (OPCC) in Metropolitan Toronto. The intent of the legislation was stated as: "to improve methods of processing complaints by members of the public against police officers on the Metropolitan Police Force." In December 1984, the agency was made permanent, with the passage of the Metropolitan Toronto Police Force Complaints Act.

OPCC funding comes equally from the Province of Ontario, the Ministry of the Attorney General and the Municipality of Metropolitan Toronto. Its 1984 budget was $800,000 which supports eighteen staff members: 8 investigators, 4 of whom are former police officers, administrators and clerical staff. OPCC handles approximately 80 complaints per month.

A citizen files complaints with a police station, with the Public Complaints Investigation Bureau (PCIB), or with OPCC; all complaints are routed to the Commissioner's Office. The initial investigation is conducted by the PCIB which is an internal

investigation unit of the Toronto Metropolitan Police Force. The PCIB is separate from the Force's Internal Affairs Unit which does not investigate public complaints. In the early phase, the Bureau investigator can attempt to settle the complaint informally; however, if this fails, the investigation is completed and the findings are reported to the Police Chief for disciplinary action. Summaries of the investigative report are sent to the complainant, Complaints Commissioner and accused officer. Also, at any time, the Commissioner may initiate a separate investigation.

Once the Police Chief has announced his decision about the complaint and whether discipline is warranted, the complainant, if dissatisfied with the decision, may ask for a review by the Public Complaint Commissioner. OPCC has the power to conduct its own review investigation into the complaint. It can demand documents, subpeona individuals for questioning and obtain search warrants from a Justice of the Peace.

Following a review, the Commissioner may order a public hearing before an independent, civilian Board of Inquiry. The hearing is conducted similar to a criminal hearing with standards of proof being beyond a reasonable doubt. One third of the 24 Board members are appointed on the joint recommendation of the Attorney General and the Solicitor General, one-third by Toronto's Metropolitan Council and one-third jointly by the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association. The Attorney General's counsel presents the case to the Board; the complainants can attend the hearing and be represented by their own attorney. The maximum penalty the Board can impose is dismissal of police officers. All of the Board's decisions may be appealed to the Divisional Court of the Supreme Court of Ontario. The unique quality of Toronto's Police Complaints Board is its power to impose discipline upon a police officer, rather than recommending discipline which is the practice in USA cities.

OFFICE OF CITIZEN COMPLAINTS
SAN FRANCISCO, CALIFORNIA

The Office of Citizen Complaints (OCC) was created through a City Charter amendment and placed under the jurisdiction of the Police Commission. Such an arrangement established an office that is within the police bureaucracy but independent of the San Francisco Police Department. OCC's Director is appointed by the five Commissioners and is exempt from civil service and cannot be a former police officer or police employee. The Office's budget is separate from the police department's. Presently, OCC is physically located in police headquarters, but there are plans to move it to a more neutral location.

OCC receives all citizen complaints of police abuse and misconduct and categorizes them into the following areas: unnecessary force, unnecessary action, racial slur, or conduct reflecting negatively on the police department. Complaints are received by telephone, letter, or in person; on the average, OCC receives 10 to 20 complaints per day.

OCC screens the incoming complaints in order to eliminate frivolous or misdirected complaints and then assess the probability of a successful investigation based upon evidence, timing, and witnesses. Those cases assessed as low probability are sent into mediation, counseling, or an exchange of conflicting information to settle the complaint; however, those cases assessed as high probability are sent to OCC's Department of Investigations where civilian investigators carry-out an investigation. When a complaint is substantiated OCC forwards its findings and recommended discipline to the Police Chief for action. OCC can conduct a hearing to facilitate fact finding, such hearings are held at the request of the complainant or the police officer.

The Charter amendment also charges the OCC with the task of making quarterly reports recommending changes in police department policies and procedures.

COMPLAINT EVALUATION BOARD
BALTIMORE, MARYLAND

The Maryland State Senate passed legislation (S.B. No. 642) instituting the Complaint Evaluation Board (CEB) for the City of Baltimore.

> The Complaint Evaluation Board of Baltimore City is created to provide a permanent, statutory agency in Baltimore City through which complaints lodged by members of the general public regarding alleged acts of discourtesy and excessive force by personnel of the police department of Baltimore City are to be processed and evaluated.

Since CEB is a State created entity for Baltimore, the members of the Board are State and local government officials: State's Attorney of Baltimore, Attorney General of Maryland, Baltimore's City Solicitor, Baltimore's Police Commissioner, Baltimore Legal Aid Bureau's Director, Maryland Human Relations Commission's Director, and Baltimore Community Relations Commission's Director. The Board's jurisdiction is limited to discourtesy and excessive use of force complaints.

A citizen's complaint may be filed at any police district station, Baltimore Community Relations Commission, Legal Aid Bureau, police department's internal investigations unit, or at the Maryland Human Relations Commission. The written complaint is signed by the complainant and notarized. Copies of the complaint go to the complainant and, within 48 hours, to the Baltimore Police Department's internal investigation unit.

The internal investigations unit has 90 days to complete the investigation and report to the CEB. The Board, in turn, has 30 days to review the investigative report and make a written report to the Police Commissioner stating its findings and recommendations. The Board may request any party to a complaint to take a voluntary polygraph test. Then, the Police Commissioner, who has final decision making authority, has 30 days to report to the Board stating what action was taken. Copies of the Board's report and the Commissioner's report are sent to the complainant and accussed police officer. The CEB also makes semi-annual statistical reports about processed complaints.

CEB can make one of four recommendations to the police commissioner: (a) sustain the complaint and approve, disapprove, or modify the proposed internal investigation division's action against the police personnel, (b) dismiss the complaint because of lack of evidence, (c) exonerate the police personnel because of the complainant's failure to prove his case by clear and convincing evidence, and (d) the Board may request the complainant, witnesses, and the police personnel involved in the particular complaint to submit voluntarily to a polygraph test or to appear voluntarily before the Board.

There is great care taken to recognize the Law Enforcement Officer's Bill of Rights in Maryland:

> Nothing contained in this article (S.B. No. 642) may abrogate any constitutional, statutory or common law right of police personnel against whom a complaint is filed, nor of the complainants, investigators or witnesses who participate in the complaint procedure.

CIVILIAN COMPLAINT REVIEW BOARD
NEW YORK, NEW YORK

The present Civilian Complaint Review Board (CCRB) in New York City is an example of institutional evolution and adaptability. The first Board was altered by a public referendum which was lead by the Patrolmen's Benevolent Association. When the CCRB was reconstituted, the Board members were to be civilian members of the New York City Police Department. The following policy statement is taken from the New York City Charter and speaks to the issue of civilian complaints:

> It is hereby declared to be the public policy of the City of New York in order to preserve the independence and integrity of police service, that civilian complaints against members of the police department of the City of New York shall be investigated and dealt with fully and fairly by the appropriate official regularly charged with the governance and discipline of the police department without interference by any person or group of persons not regularly in police service.

The jurisdiction of CCRB is three-fold: it is authorized to review citizen complaints and recommend disciplinary action to the Commissioner, it is to recommend changes in police rules and policies which have a detrimental effect on police-community relations, it is to recommend changes in police training which would improve police-community relations and help reduce citizen complaints.

The CCRB accepts, investigates* and reviews complaints alleging excessive or unnecessary use of force, abuse of authority, discourtesy and racial or ethnic derogatory language or behavior.

* In April 1985, Police Commissioner Ward transferred jurisdiction for investigating serious citizen complaints of excessive use of force or to the Department's Internal Affairs Division.

Such complaints can be made anonymously and can be made by phone, mail, or in person, 24 hours a day, seven days a week. Any police precinct station, CCRB Office and any police department office can receive the complaint.

The process begins with the complaint being forwarded to the CCRB, investigated by its staff and then given to the Executive Director who makes a recommendation based upon the investigation and sends the recommendation to the Board which makes its recommendation to the Police Commissioner. The Commissioner is the final authority on all disciplinary decisions.

Within its complaint procedure, CCRB has a conciliation mechanism which is used in less serious cases where the allegations cannot be proved and there is no way to substantiate what occurred. It is an opportunity for the parties to discuss their views of what happened with a captain from the Board who acts as a third party to resolve the complaint. The parties do not meet.

The CCRB report to the Police Commissioner will state its disposition of the complaint; (1) substantiated, (2) partially substantiated, (3) unsubstantiated, (4) exonerated, (5) unfounded, and (6) other misconduct detected beyond the original allegations in the complaint.

The CCRB has a large staff of approximately 100 uniformed and civilian members of the police department, with uniformed members responsible for investigating complaints.

OFFICE OF CITIZEN COMPLAINTS
KANSAS CITY, MISSOURI

The Office of Citizen Complaints (OCC) is an extension of the Board of Police Commissioners which was created by the Missouri Legislature. OCC's mandate is "to protect the citizen from the possibility of abuse or misconduct on the part of police officers and at the same time protect the police officer from unjust and unfair accusations...."

The following complaints are handled by OCC: unnecessary or excessive use of force, abuse of authority, discourtesy, racial or ethnic slurs, missing property, harassment, improper operational procedures, improper conduct, lack of services, and civil rights violation.

OCC receives all citizen complaints and refers them to the police department's Internal Affairs Division for investigation. OCC reviews the citizen's complaint and IAD's investigative report and then sends it written report to the Board of Police Commissioners; also, these reports go to the Police Chief.

A citizen may lodge a complaint at all police facilities and at OCC; the complaints are received in writing, in person, or by telephone and may be anonymous.

IAD has 30 working days to investigate and report on the complaint; OCC has 10 working days to review the complaint and IAD's investigation and then make a determination which is sent to the Board of Police Commissioners. The determination can be: (1) attempt to conciliate the complaint, (2) the complaint is substantiated, (3) unsubstantiated, (4) exonerated, or (5) closed.

At this time, OCC will write a memorandum summarizing the evidence, conclusions and its determination of the appropriate classification. The memorandum is sent to the Board of Police Commissioners which has 15 days to respond; if there is no response, the report is forwarded to the Police Chief. The Board may approve or disapprove the OCC's classification.

> If a Commissioner disagrees with the classification, the Commissioner will so notify the Board Attorney and the Office Director. The Office will then withhold further action pending review and consideration by the Board. The Board Attorney will promptly notify the other Commissioners and will arrange for a meeting of the dissenting Commissioner, the Office staff, Board Attorney, and any other Commissioner who may wish to attend. A determination will be made by the majority of the Commissioners.

If the Police Chief disagrees with the OCC's classification, he is to promptly notify the Board's attorney who will convene a meeting that includes the Board attorney, Police Chief, OCC Director and any Commissioners who wish to attend.

> After a classification has been agreed upon by the Board of Police Commissioners, the Office Director will forward the Office report and a copy of the complaint investigation file to the Chief of Police. Judging each case on its individual merit, the Chief of Police may, at his discretion, direct the respective chain of command to recommend disciplinary action.

The Police Chief makes the final decision on discipline.

OFFICE OF PROFESSIONAL COMPLIANCE
MIAMI, FLORIDA

Following severe tensions between Miami's Police Department and its black citizens, the City Manager appointed an advisory committee to consider civilian involvement in the investigation of alleged police misconduct. The committee consisted of community members along with representatives of the City Manager's Office and the Miami Police Department. In 1979, this committee reviewed extensive information to determine the best civilian oversight mechanism for the City of Miami; the Office of Professional Compliance (OPC) was the committee's product and it was instituted by the Miami City Commission. OPC was in full operation by June 1981. The City ordinance states: "There is hereby created as an agency and instrumentality of the City an 'Office of Professional Compliance' (OPC) which shall participate in and observe the internal investigations of alleged abuses of police personnel. The OPC shall function within the office of the Chief of Police, the Department of Police."

OPC receives complaints of excessive use of force and brutality, abusive treatment, false arrest, police shootings, and police activities during community demonstrations and disturbances. It receives complaints at nine Community Outreach Centers. OPC also responds to special investigation requests from the City Manager and makes special reports about citizen complaints.

The functions of OPC were articulated in the enabling ordinance:

> The OPC shall become involved in the investigations of alleged police abuse of citizens and in the investigations of complaints arising from Police Department shooting incidents from the inception of the complaint to the submission of findings and conclusions of the investigations as participants in said investigation on a limited basis and as obervors thereof on an unlimited basis.

If an OPC Investigator concludes that an investigation has been incomplete or biased, the Investigator is to inform the OPC Director who will immediately discuss the matter with the Police Chief. If the issue is not satisfactorily resolved, the OPC Director will bring the issue to the Assistant City Manager.

The City Manager appoints the OPC Director; the Manager's selection comes from three candidates recommended by the OPC Advisory Committee and the Police Chief. The Advisory Committee's seven members consist of four community representatives selected by the City Commissioners, one selected by the Fraternal Order of Police, one by the Police Chief and an Assistant City Manager appointed by the City Manager.

OFFICE OF MUNICIPAL INVESTIGATIONS
NEW ORLEANS, LOUISIANA

The Office of Municipal Investigations (OMI) was created by councilmanic ordinance in September 1983 and was placed within the Chief Administrative Officer's domain. This agency was constituted to investigate citizen complaints against all city employees, including police officers.

The ordinance charges OMI with investigating "any alleged misconduct of any City employee, classified or unclassified"; it also defines "misconduct": it "shall include but not be limited to bribery, theft of city property, improper discharge of firearms, coercion and/or the excessive use of physical force by an employee in the conduct of official duties, the performance of a lawful, legal action in an illegal or improper manner, or the violation of a law, rule or regulation which may be considered as reasonsible cause for reprimand, suspension or dismissal from public employment."

Citizen complaints, including anonymous ones, are received during OMI's regular working hours, Monday through Friday.

The ordinance requires a 90 day disposition of complaints and it permits parallel investigations by OMI and other City investigating agencies. The investigatory tools employed by OMI are interviews, review of records, normal surveillance activities, polygraph and granting of partial or full immunity from administrative discipline.

The conclusions of the investigative report are sent to the complainant, accussed employee, appropriate department head and the Chief Administrator's Office.

New Orlean's OMI has specific procedures for responding to shooting incidents involving City employees:

> The discharge of a firearm by a city employee occuring in Orleans Parish shall be immediately investigated by the OMI without the necessity of a prior complaint as elsewhere provided herein. In all cases of firearms discharges by city employees occuring in Orleans Parish, the Police Department shall notify OMI and OMI shall respond and proceed to the scene of the discharge of firearm incident.

An Advisory Committee is appointed by the Chief Administrative Officer and includes 3 citizens, Director of Civil Service, and 3 members of the City Council, who are appointed by the Council President. It makes recommendations about job descriptions and specifications for OMI investigators.

CITIZENS/POLICE RELATIONS BOARD
DALLAS, TEXAS

In September 1981, a City ordinance was passed creating a permanent Citizens/Police Relations Board (CPRB) for the City of Dallas. The nine member Board is appointed by the City Council.

The CPRB was given the following eight functions:

(1) following the police department's internal affairs investigation of a citizen's complaint and after the Police Chief has made his decision, the Board reviews the investigation with the Police Chief of incidents involving fatalities or serious injuries.

(2) receives complaints of police procedures, treatment of citizens, abuse, harassment, violation of civil rights, serious injury, or fatality and forwards complaint to the internal affairs unit.

(3) suggest further investigation of a complaint to the Police Chief.

(4) if dissatisfied with police investigation, CPRB can request City Council for an additional investigation through the Council's subpoena powers.

(5) receive information from witnesses.

(6) request City Council review of Police Chief's disciplinary decision.

(7) request City Council to seek grand jury review.

(8) recommend improvements in police policies and procedures.

The Board has an advisory function to the Police Chief, City Manager and City Council. Therefore, CPRB does not conduct its own investigation; the interviewing of witnesses and the use of subpoenas are prohibited. CPRB's findings go to the Police Chief, City Manager and, if appropriate, to the City Council.

CIVILIAN REVIEW BOARD
ATLANTA, GEORGIA

On August 24, 1984, through an administrative order, Mayor Andrew Young established the Civilian Review Board (CRB).

> A Civilian Review Board is hereby established for the purpose of reviewing cases involving allegations of excessive use of force, serious bodily injury, or death as a result of action by an employee of the Bureau of Police Services or the Bureau of Correctional Services.

The CRB receives reports from the Department of Public Safety outlining its investigations and dispositions of citizen complaints. Citizens can request a CRB review of their complaint if they are not satisfied with the Department of Public Safety's disposition. After completing its review, the Board makes findings and offers recommendations about the complaints and forwards them to the Mayor; the recommendations will indicate whether or not there is probable cause to bring charges against the City employee.

The Board is the largest of civilian oversight agencies with 27 members; functionally, it breaks down into five hearing panels of five members each plus two co-chairs who are appointed by the Mayor. The co-chairs meet monthly with the Mayor's staff and the Department of Public Safety to review the processed complaints.

POLICE INVESTIGATION REVIEW BOARD
HARTFORD, CONNECTICUT

The Investigative Review Board (IRB) is an administrative body established by the Chief of Police to review findings and make recommendations to the Chief of Police of citizen complaints investigated by the Internal Affairs Division of the Hartford Police Department. Prior to 1982, the IRB was composed of high ranking police officials.

On February 22, 1982, the Hartford Court of Common Council amended the ordinance creating the Hartford Commission on Human Relations to provide authority for the City Manager to appoint three Commissioners to serve on the IRB. An additional amendment has subsequently been passed to provide for the naming of a Commissioner alternate to serve as necessary.

The IRB has seven voting members: 3 high ranking police officials, (one of whom serves as Chairperson), 3 Human Relations Commissioners, and 1 City Manager representative. There are non-voting

who attend the Board meetings: 1 Police Department advocate, IAD investigators, police department legal counsel and a police secretary. Complaints are allowed to attend the meetings to provide input and answer questions, but are not allowed to stay through the entire hearing. Police officers against whom the complaints are lodged are not required to attend, nor have they done so voluntarily to date.

Complaints received by the Hartford Police Department are divided into two categories:

> Class A Complaints: abuse of authority, excessive use of force, illegal arrest, deprivation of citizen rights, verbal abuse, racial/ethnic slurs, serious violation of Police Code of Conduct.
>
> Class B Complaints: poor/slow service and/or response, complaints of less serious nature.

Class A complaints are referred to and investigated by IAD and subsequently heard by IRB. All Class B complaints are referred to the appropriate Division Commander for review with findings going to the Police Chief. The IRB's review of Class A complaints can result in the following findings: exonerated, unfounded, non-sustained, partially sustained, sustained, or withdrawn. When the Police Chief decides that there is cause for disciplinary action, the case is submitted to an internal hearing in which the IRB plays no role. The Police Chief is solely responsible for final decision and recommendation for disciplinary action; the complainant is notified of the disposition by letter.

The Human Relations Commission has been advocating a more independent role for its Commissioners by having their own investigators rather than relying upon the police investigation. The Commission has additionally recommended the right of the complainant to have full access to the process, and related information, as well as knowledge of what actual disciplinary action has been taken where cause is found. To date, the City Council and Police Department have not supported either recommendation.

CITIZENS' COMPLAINT BOARD
OAKLAND, CALIFORNIA

In April 1980, the Oakland City Council passed an ordinance establishing the Citizens' Complaint Board (CCB); the seven member Board was granted the authority "to review certain complaints regarding the conduct of police officers; and, after fact finding investigations of these complaints, make advisory reports to the City Manager regarding the facts of the complaints". The City Manager decides upon the Board's staffing.

CCB has the following responsibilities:

(1) In excessive use of force complaints, CCB conducts the initial investigation; copies of the citizen's complaints are forwarded to the Police Chief.

(2) The Police Chief can conduct parallel investigations of the excessive use of force complaints. In all other cases the Police Department conducts the initial investigation.

(3) In those cases where the complaint does not concern excessive use of force, CCB reviews a complainant's appeal of the Police Chief's disposition of the complaint.

(4) The Board's fact finding investigation will place the burden on the complainant to prove, by a preponderance of evidence, the allegations of the complaint. The Board's investigative report is sent to the City Manager. CCB has 30 days to complete its investigation and has subpoena powers to call witnesses. CCB uses an informal hearing procedure to conduct the fact finding; the Board or its staff conducts the questioning and disputants can cross-examine witnesses indirectly by submitting questions to the Chair. All police department records, except personnel records, are to be provided to the Board.

COMPARATIVE ANALYSIS

In September 1984, a conference, "Civilian Oversight of American Police" was held in Chicago, Illinois and it became the place of origin for the International Association for Civilian Oversight of Law Enforcement. As conference key-note speaker, Dr. Hubert G. Locke, Dean, University of Washington spoke of the historical and political roots of civilian oversight and quoted James Madison:

> "You must first enable the government to control the governed; and in the next place oblige it to control itself."

Dr. Locke suggested that civilian oversight agencies are examples of the implementation of Madison's second maxim, government's obligation to control itself.

This obligation has been met in different ways; therefore, there are fundamental variances in form and substance from one civilian oversight agency to another. Each local government has fashioned an agency which respects the political and administrative realities of that given community. This pragmatic fashioning makes it virtually impossible to advocate an exemplary model which can be imposed on any community.

Inspite of these differences, there are three basic forms of civilian oversight: (1) complaint auditing, (2) internal police review and (3) external police reivew. Each form is defined by when and where civilians are involved in the complaint processing. Within each of these forms, there are substantive variations in how and what these agencies can do.

Civilian oversight agencies which function as auditing mechanisms can be seen in Portland, Atlanta, Hartford, Minneapolis and Dallas. These agencies receive complaints after the police department has completed the complaint procedure. The police department's internal affairs unit would have assessed the merits of the complaint, may or may not have conducted an investigation, recommended a disposition of the complaint to departmental commanders, and the police executive would have decided the issue of discipline. In this form of civilian oversight, the civilian has no role in receiving, assessing, investigating, or adjudicating the complaint.

This type of civilian oversight involves citizens in an examination of the police department's fairness and thoroughness in handling complaints. The citizens will draw conclusions from their examination and recommend improvements in police policies and procedures which may have to do with the internal

complaint system, or with police-community relations. The primary focus on complaints is prospective, rather than retrospective.

Auditing citizen complaints has been instituted through the action of local police chiefs, such as in Minneapolis and Hartford; in these instances, the police chief's action was catalyzed by the city's political leadership. In Portland, the agency was created by the City Council and, in Atlanta, the civilian oversight agency was instituted by Mayoral decree.

The second form of civilian oversight involves civilians within the police department structure. Chicago and New York City Police Departments employ civilians to process complaints. Such forms of civilian involvement have attempted to improve the credibility of police information by involving citizens in its development. These forms of civilian oversight provide the police executive with direct information about complaints against police officers. These agencies respect the command structure, but they are directly related to the Police Superintendent or to the Police Commissioner. Since internal review mechanism are the instruments of the police executives, they are vulnerable to their discretionary powers.

The external police review form has been selected by a number of cities as their way of involving civilians in processing complaints. The cities of Cincinnati, New Orleans, Berkeley, San Francisco, Dade County, Flint and Detroit have instituted such external review agencies.

Witnin this particular form, there are variations in structure. Cincinnati and New Orleans have employed Offices of Municipal Investigations which are staffed by paid civilian employees, who investigate all government employees and who report to their respective City Managers. Flint has chosen the Ombudsman form of redressing citizen complaints. Detroit has a volunteer Board of citizens who are supported by a staff of administrators and investigators. Berkeley has chosen a Commission form of external review which is staff supported. Toronto has an external review procedure which is headed by a Commissioner who is supported by a staff of administrators and investigators.

Since the authority for an external review agency emanates from outside of the police department, it is assumed that these agencies are the strongest form of civilian oversight. This assumption is basically true; however, their independent strength has created probems of functional effectiveness due to police resistance. In the last analysis, their effectiveness is determined by the extent of support from political and administrative leadership.

A comparison of civilian oversight agencies can be made by focusing on the variations in a particular function; for instance, an examination of the conduct of a complaint investigation exposes the variety.

The role of civilians in investigating citizen complaints has four basic variations: (1) no investigative role, (2) the investigator of specific complaints, (3) an investigative role at an appelate level, or (4) a parallel investigative role with sworn police officers.

The civilian oversight agencies in Kansas City, Portland, Hartford, Atlanta, Baltimore, Minneapolis and Dallas do not have civilian investigators. These agencies serve in an advisory capacity to their respective Mayors, City Councils, or Police Commissioners. The civilian role is to review the investigative reports prepared by the police department's internal affairs unit and then submit their review to the appropriate authority.

Among these agencies, with no civilian investigators, there are differences in the purposes of the advise. In Baltimore, Hartford and Kansas City, the civilian review comes before the police executive renders a decision on the complaint; their advise, in effect, is an adjudication of the complaint. Therefore, the advise may carry the weight of recommending the appropriate disciplinary action. The word "may" must be stressed because the police executive is, in reality, the final judge of the complaint and discipline. Whereas, in Portland, Minneapolis and Dallas, the civilian's advise comes after the investigation and the disciplinary decision.

The second variation is civilian agencies that perform the investigative function. Chicago, Detroit, Cincinnati, Oakland, New Orleans, San Francisco, Washington, D. C., Berkeley and Flint have the responsibility of conducting the investigation. They have their own staff of civilian investigators; some agencies, such as Detroit, have both civilian and police investigators on the Board's staff. Their investigations result in an adjudication of complaints through a process by which the agency's administrator reviews the investigative reports and based upon the findings renders a judgment as to whether the complaint is sustained, unfounded, or the police officer is exonerated. In some cases, as in Chicago, the police department's supervisors have an opportunity to comment on the findings before the adjudication is rendered. The investigation and adjudication are forwarded to the police executive for the final disciplinary decision. If the police executive disagrees with the investigation or the adjudication, there is a means of resolving the differences which is typically an appeal to the next ranking government official: Mayor, City Manager, or Police Commissioner.

SUMMARY

These twenty civilian oversight agencies and others included in the Appendix exemplify the diversity and similiarity of these agencies. There is no one model for civilian oversight; each community has designed its agency to accomplish certain objectives within given community realities.

For most, their origins stem from police-community tensions and particularly from conflicts around incidents of police use of deadly force and the subsequent dissatisfaction with the existing avenues for redressing grievances against police officers.

Civilian oversight has been instituted by city, county and state governments; they have been enacted through changes in the government's charter, passage of legislation, or executive order. Such agencies are responsible to police chiefs, mayors, city councils, city managers, county commissions, or state/provincial commissions.

Almost all agencies have investigatory powers which are employed at the initial filing of the complaint or upon appeal of an initial investigation which is usually conducted by police department investigators. Agencies, with investigators, vary in entry employment standards for their investigative staff; some enter as recruits with little or no investigative background and other agencies require years of investigative experience. The agencies are equally divided among those who use only civilian investigators or civilian and police investigators.

Except for Toronto's Public Complaint Commissioner, civilian oversight agencies are limited to advising and/or recommending disciplinary action. In USA communities, it appears to be an accepted practice that final disciplinary decisions rest with the police executive; however, in Toronto, Ontario CANADA, the Police Complaints Board may determine the specific discipline.

Virtually all of the oversight agencies operate outside of police departments; therefore, they have met stiff resistance from the police community. From police executives to rank-and-file police officers, there have been concerted efforts to frustrate civilian oversight effectiveness through bureaucratic gamesmanship and legal challenges. Nevertheless, as time and experience have helped build legitimacy for some agencies, workable compromises have been negotiated among oversight administrators, city executives, police executives and police union representatives.

Inspite of police resistance and vacillating support from city executives, these agencies are surviving and have become an institutionalized function of government; this fact indicates that these civilian oversight agencies should have a longer history than their predecessors of the 1960s and 70s.

Some civilian oversight agencies assume the investigator role upon the appeal of the results of the police department's investigative findings. In most cases, the complainant is dissatisfied with the results of the investigation and appeals to the civilian review agency for a second opinion. This third form of civilian investigation is employed in Toronto and Dade County.

A parallel investigation conducted by civilians who accompany police department investigators is the fourth approach to citizen involvement in investigating complaints. Miami's Office of Professional Compliance is the only agency whose civilian staff joins police investigators in interviews. New Orleans permits parallel, but separate investigations by the Office of Municipal Investigations and the New Orleans Police Department.

COMPARATIVE CHART

	Chicago	Detroit	Cincinnati	Flint	Berkeley	Oak nd
Does the Board hold hearings?						
a. YES	CPB X	X			X	
b. NO	OPS X		X	X		X
Does the Board have subpeona power?						
a. YES		X		X	X	
b. NO	X		X			X
What are the Board's powers?						
a. advisory only						
b. advisory & recommendation	X	X	X	X	X	X
Can the Board implement discipline?						
a. YES						
b. NO	X	X	X	X	X	X
Who formally investigates citizen complaints?						
a. police only						
b. civilians only	X			X	X	X
c. police & civilians	X	X	X			

COMPARATIVE CHART

	Chicago	Detroit	Cincinnati	Flint	Berkeley	Oal...
How was oversight agency instituted?						
a. police order	X					
b. charter		X		X		
c. ordinance			X		X	
d. mayor's order						
e. city council						
f. police commission						
To whom does agency executive report?						
a. mayor		X				
b. police chief	X					
c. city council				X	X	X
d. commission						
e. city manager			X		X	
Who are complaints against?						
a. police only	X	X			X	X
b. police & other employees			X	X		
Is agency internal or external to police department?						
a. internal	X					
b. external		X	X	X	X	X
Who appoints Board members?						
a. mayor		X				X
b. city council	X			X	X	
c. police chief						
d. police commission						
e. county council						
f. city manager			X			
g. police union						
What is composition of agency?						
a. civilians only	X	X		X	X	X
b. civilians & police			X			

COMPARATIVE CHART

	Dade Ct	D.C.	Portland O	Miami	N.Orlean	Toront
How was oversight agency instituted?						
a. police order						
b. charter						
c. ordinance	X	X	X	X	X	X
d. mayor's order						
e. city council						
f. police commission						
To whom does agency executive report?						Solic tor Gener
a. mayor		X				
b. police chief						
c. city council	X		X			
d. commission						
e. city manager				X	X	
Who are complaints against?						
a. police only		X	X	X		X
b. police & other employees	X				X	
Is agency internal or external to police department?						
a. internal						
b. external	X	X	X	X	X	X
Who appoints Board members?						Atty. Gen.
a. mayor		X				
b. city council		X	X			X
c. police chief						
d. police commission						X
e. county council	X					
f. city manager				X	X	
g. police union						X
What is composition of agency?						
a. civilians only		X	X	X	X	X
b. civilians & police	X	X				X
						forme: polic:

COMPARATIVE CHART

	Dade Ct	D.C.	Portland O	Miami	N.Orlean	Tor
Does the Board hold hearings?						
a. YES		X				X
b. NO	X		X	X	X	
Does the Board have subpeona power?						
a. YES		X				X
b. NO	X		X	X	X	
What are the Board's powers?						
a. advisory only			X			
b. advisory & recommendation	X	X		X	X	
Can the Board implement discipline?						
a. YES						
b. NO	X	X	X	X	X	
Who formally investigates citizen complaints?						
a. police only			X			
b. civilians only		X		X	X	
c. police & civilians	X					X

Civilian Review Working Committee
Public Hearing, 7/18/89
Summary of Speakers' Statements

1. Hubert H. Humphrey III
Attorney General, State of Minnesota

The attorney general expressed support for the concept of external review of the police department. Good police-community relations must be a part of any effective police department, and part of a peaceful society. He feels that investigations must be fair and impartial, and that a review board must be strong and not undermine public safety. Humphrey said he supports the concept of dual investigation, that is, both police and civilian officers conducting investigations as teams. Humphrey feels that Minnesota has "a great tradition of peaceful and cooperative race relations", and that looking into external review of police is a positive step in carrying out that tradition. When questioned about his assertion that a board must be strong, while not undermining public safety, Humphrey responded that good civilian police cooperation is safety. When asked whether he would support a plan which allowed for the appeal to the mayor of the chief's decision, Humphrey said he wants a person held responsible for the state of the police department.

2. Rick McPherson
Attorney, Minneapolis.

McPherson cited two aspects which must be in a civilian review board. It must be accountable to members of the community, and it has to have independent authority. He clarified "independent authority" to mean the board should be able to determine guilt or innocence, and to determine a penalty, if necessary. An review of such a decision should be independent, not lying with the Chief of Police. McPherson urged that the Committee adopt as strong of an option as possible, stating that whatever proposal ultimately submitted would face some compromise in the hands of the City Council, and that a weak initial proposal would become meaningless under further compromise.

3. Arthur Rudolph-LaRue
Minnesota Peace and Justice Coalition
The Coalition for Police Accountability

Mr. Rudolph-LaRue felt that a desirable civilian review model should be accountable to the community, independent of the Police Department (including staffing), and hold final authority over discipline impositions. He supports the model presented by Professor Peter Erlander of William Mitchell College of Law, particularly its emphasis on the prevention of crime before it occurs. He feels the current system is not working and a change is necessary. A possibility for accountability in board members, with representation of protected groups, he feels, would be a blended board of 1/2 elected members (possibly wards, or smaller districts), and 1/2 appointments.

4. Herb Frey
Alliance of the Streets
He feels that poor people have been at times "fair game for police officers", and that officers often "victimize the victim". He recommends the Committee's model include independent investigative staff, independent staff, a complaint reception that is easily accessible to victims, staffed by civilians ("police are never outraged at what you tell them"), a last word that does not lie with the Chief of Police, and a board that is comprised of representatives of "communities plagued by the police"--both elected and appointed.

5. Tim Campbell
Editor, GLC Voice
Campbell believes that a civilian review board should be part of a new system of handling complaints to the police department, but not the whole of the new system. Campbell would like to see the current IAU suppressed, an Office of Police Review and Prosecution established in connection to the Public Defender's office and the City Attorney's office, and a Civilian Review Board established to oversee the work of the OPRP and to take appeals from dissatisfied complainants. (Mr. Campbell has submitted a written proposal which more fully outlines this position.) Campbell feels the Chief should handle complaints which the OPRP decides are administrative in nature, and that appropriate bodies would be referred cases which reflect a violation of law. He also felt the Committee should propose a model which could interact with City, County, and State authorities, perhaps a model which could be adapted on all levels of government. Campbell feels that decisions of the Chief should be subject to appeal to a review board, and that the boards findings could be used in a complaint to the mayor about the responsiveness of the Chief to the findings of the review board.

6. Charlene Martin.
Private Citizen
She feels that structuring of a Civilian Review Board with final authority for discipline "sends a clear message that nobody, including the Police Chief is above the law". The Committee must not fail to focus on the community which has "historically been brutalized by the Police-- Black people." A civilian review board must be comprised of elected and appointed civilians. The Board should be independent of the Police Department, have subpoena power, investigative power, and the ultimate criteria, that the board has final disciplinary authority. She said a review board with disciplinary authority demonstrates to the public that it does not have to reach the level of rioting in the community before positive action is taken to meet the needs of the community. The board's composition could be either elected or appointed and elected.

7. Edirisa Munangala
Private citizen
He felt Hennepin County should not discriminate against

hiring those with a criminal record. He felt detox should be abolished.

8. Evonne New
Private Citizen, victim of Police brutality
Police review should be a system like a grand jury system, made up of people who live in the immediate area, and covered under the civil rights act (protected classes). This way it would be funded by the people for the people. Then police will be treated as everyone else who has done something wrong. When Indian people do wrong, and make mistakes, they are doubly punished, when people are beaten on their way downtown, they are being punished before being charged. With a grand jury type of system then you can protect people's rights, anonymity, and not have a fear of retaliatory problems.

9. Robert F. Hanson
Private citizen
He feels that a lot of people are blamed by the police for misfortune and wrongdoings heaped on to the police by a few, and that police should not do this.

Civilian Review Working Committee
Public Hearing, 7/20/89
Summary of Speakers' Statements

1. Janice Command
   Co-Chair, Minneapolis Coalition for Police Accountability

The model for external review developed by the Minneapolis Coalition for Police Accountability identifies four major points (a final of this model will be submitted by July 26th): 1) an external review board must provide investigations that are independent of the police department; the staffing and the investigators must be truly civilians, not in anyway affiliated with the police department ; 2) the board must be able to subpoena testimony and evidence and have other kinds of powers in order to compel testimony; 3) the board must be able to have final authority on disciplining offending officers; and 4) institutional remedies must be prescribed for misconduct. The composition of the board should include communities most affected by police misconduct -- it should be integrated racially, sexually, by sexual orientation, religion, etc. The panel must be accountable to the community.

2. Marya Hart
   Advocate at Waite House and HIWS, a battered women's shelter in Minneapolis

In her testimony, Ms. Hart was not speaking for either agency she works for but was voicing her opinions and speaking on behalf of battered women in Minneapolis. She asked the task force to recognize the particularly susceptible position of battered women; and with that in mind, suggested the following: 1) the external review body should be mandated to deal firmly with failure to enforce the law and failure to follow procedure; 2) the external review body needs to have at least as many women as men on it, and battered women, formerly battered women, and their advocates must be among those women; 3) police don't criticize other police readily; power to discipline should be at the sole discretion of the external review body; 4) complainants should be provided with an advocate, free of charge, to steer them through the system; 5) the body should be empowered to examine broad patterns of misconduct -- for instance, police failure to file reports on domestic abuse calls and to prescribe procedural changes to remedy those problems; and 6) the body and its staff should be provided with ongoing training and information from battered women's advocates.

3. Ann Degroot
   Director, Gay & Lesbian Action Council in Minneapolis

Ms. Degroot raised three points that she felt would be useful in establishing a external review panel: 1) the investigations must be held independent of the police department; 2) the board must be made up in a way that is reflective of the affected community; and 3) the civilian review board should have authority to issue discipline when appropriate.
She hopes that there would be a way for the review board to issue some kind of recourse for actions that would occur, and there needs to be an appeals process after the chief's decision.

4. Lori Mollehoss
   Minnesota Clergy and Laity Concerned

It is real important that there be an outside civilian review board that represents the people affected. The board should be a 21-member board, both elected and appointed. There should be a election of one member from each ward and eight appointed in the way that the Community Action Agency appoints its low-income sector people -- the Mayor or City Council would appoint the agency (the affected groups would have to be clients of the agencies appointed), and the agency would in turn appoint the person. The Board should have investigative and discipline power.

5. Leigh Welper
   Minneapolis resident, lesbian and activist

She, personally, is never going to trust police, but she feels that they should be held accountable for their actions. Her recommendations for the external review board include: 1) there should be no police on the board; 2) independent investigations; 3) subpoena power; 4) private and independent investigative staff; 5) power to discipline (tap on wrist to criminal charges); and 6) a board that is representative of the communities affected most by police brutality. Prefers elections; very skeptical of the appointment process.

6. William McGee
   Executive Director, Legal Rights Center
   (Criminal Defense Attorney)

Mr. McGee's recommendations included: 1) Investigation is at the heart of anything that is going to be done. Good, qualified and credible investigators are needed. 2) Fact-finding process. Investigators will present their findings to a group who will in turn decide the facts. The board will recommend decision on discipline to the chief. 3) The board should be made up of a combination of both elected and appointed members, including a cross-section of people affected, as well as people with relevant expertise, since this will be a fact-finding body. You have more to gain with the fact-finding process being open and public than it being closed.

7. Lucia Wilkes
   Co-Director, Women Against Military Madness (WAMM)

WAMM believes in the communication and cooperation between the various communities and the police. WAMM believes that three things are imperative for progressive change: 1) Selection. The civilian review board must be understood to be unbiased and representative of those communities most affected by police misconduct, with a combination of both elected and appointed members. 2) Investigation. Members of the review board and the investigative staff should be totally independent of the police department. 3) Discipline. The review board must maintain a disciplinary role when a complaint is decided in favor of a complainant.

8. Jim Davnie
   Activist in Central American community in Minneapolis

Mr. Davnie spoke in opposition to joint investigation. It doesn't work, and it is ineffective to have two people conducting the same investigation. The context in which police perform their duties is the community, a community to which they should be accountable. If police officers are doing the job that they were hired to do, they will not be threatened by the existence of an external review panel. The purpose of the review panel should ultimately be to stop the police from abusing the trust they have with the people of Minneapolis. For a review panel to be effective, the final authority on issues of police misconduct and brutality needs to be with the panel that has heard the evidence, weighed the testimony and has come to the decision. He does not believe that it is fair to structure the process so that a recommendation for discipline go to the chief and the civilian be put in a position of having to appeal it if the chief takes no action.

9. Ed James

He related experiences he and his family have had with police misconduct. He hopes that one of the things a civilian review board could do is to get of the "thumpers." Action should be taken on the basis of repeated complaint, whether any of them are sustained or not. Independent, private agencies should be used for investigation. Composition of review board: 1/3 of the members would be selected by the police officer being charged, 1/3 of the members would be selected by the victim, and 1/3 of the members would be elected. In order for there to be any type of credibility, police officers should be on the board. Mr. James supports the idea of an ombudsman. The review board should have the power to suspend, fire and reprimand.

10. Betty James

In order to put maximum pressure on the City Council to bring about the kind of civilian review board that most of the recommendations present have covered, it is very important to broaden the participation in the Coalition for Police Accountability.

11. Louise Boute
Minneapolis homeowner beaten in own home and arrested

Ms. Boute seconded the recommendations of Janice Command -- independent review, and the board has to be representative of the people who have been the subject of police misconduct.

12. Tom McDonald
Candidate for Mayor

A civilian review board would create a greater interest for people in the voting process. No harm in a civilian review board; people themselves should be catered to, not policemen. He believes in tenure for the police department -- if a police officer has a certain amount of black marks against them in their first ten years of service, they should be let go.

13. Diane Michels
New resident to Minneapolis (three weeks)

Ms. Michels stated that she was not there to give advice or instruction on how to structure the board. The process itself hasn't failed, but people have failed -- the police chief, the mayor, the city council and some police officers. The problem will not be solved by bringing more people into the process, specifically a board that is going to challenge the police chief's authority. She doesn't feel that the board needs to be comprised of people who represent certain types of people in our community, but people who are ethical, objective, rationale, able to have some vision and look into the future, unbiased and willing to listen. She doesn't believe it is inherent in putting people on a board that builds trust into the board. There is a need for dialogue between the police officers and the community.

14. Ron Edwards
Citizen of the City of Minneapolis

This is not the first time that there has been discussion of a civilian review board. There was a civilian review board that existed in Minneapolis in 1959. When the system was tested, it fell flat on its face (1962). Mr. Edwards referenced a city council committee meeting held on February of 1989, attended by over 300 members of the community (and 75 to 80 Minneapolis police officers), where recommendations and proposals were asked for regarding the police review process. The United Black Front presented a formal proposal to this city council panel chaired by Sandra Hillary, which was drawn and drafted along the lines of the Swedish Ombudsman program in the nation of Sweden. At what point does the Committee and the city intend to deal with the proposals presented at this meeting, and how does the Committee intend to deal with those proposals. Mr. Edwards asked that the Committee ask Council Member Hillary for a copy of those proposals.

At the conclusion of the public speakers, Committee Member Batsell requested that the record state that the Committee had at that point received no such proposal from Mr. Edwards, and that this has been an open process. She reiterated that proposals were being taken by The Earl Craig Company through July 26th.

Committee Chair Wernick stated that the record should reflect that Mr. Craig's office has received many proposals, which are to go into a book to be distributed to Committee members.

Committee Member Milligan stated for the record that the following materials were forward to the Committee from the City Council: Council Member Dziedzic's proposal, Council Member Carlson's proposal and a statement from the Mayor. Mr. Craig said he would track down any other proposals which may be in the hands of the City Council from that meeting.

March 6, 1989

Statement by Mayor Don Fraser
before a Joint Meeting of the Committees on
Public Health & Safety
and
Government Operations

Statement of Support. I welcome this opportunity to make a statement on behalf of both measures pending before these committees: the proposal to create a committee to look at alternatives for external review, and the proposal to remove the exemption from the Civil Rights Ordinance which denies the Civil Rights Department jurisdiction in certain cases.

I believe both measures should be adopted by the committees and by the Council. Both offer the prospect of strengthening our ability to offer police services to our community which conform to our expectations that all citizens will be treated fairly, with respect, and without any hint or trace of racial or other bias.

Background. The charge that some police misuse their position to treat people unfairly is one that has recurred over many years. The problem presented by these charges has never been fully resolved. Since police are drawn from the citizenry, they arrive with the same basic strengths and weaknesses which we all have. Moreover, new members of our department are added each year. The challenge is to encourage a culture within the police department which emphasizes fairness and respect for all citizens. This requires a continuing effort on the part of both elected officials and the command level of the Police Department.

Record of Abuses. I have little doubt that some abuses are occurring. These abuses can range from the use of racial or other epithets to the physical abuse of persons in custody. I also believe that police who engage in this kind of abuse are in the minority, and that most members of the department do treat citizens fairly. Nonetheless it is also an indisputable fact that many law-abiding members of minority communities are apprehensive anytime they have occasion to attract the attention of police officers. Almost everyone I know among them has had a personal incident or knows of one involving a family member or friend which has reinforced this apprehension.

Steps Taken since 1980. Because this is not a new problem, I want to briefly mention some of the steps which have been taken in recent years.

The first step after I became mayor in 1980 was the aggressive recruitment by Chief Bouza of women and minorities as members of the police department. This was aided when later the Civil Service Commission agreed to expanded certification.

In 1982, I asked the Hennepin County Bar Association to study the Internal Affairs Unit. That study was headed by Attorney Russell Lindquist and resulted in a number of recommendations, including the establishment of a review panel to oversee

the investigative work of the Internal Affairs Unit. Such a panel was created and was headed by Attorney Lindquist who has continued to serve to the present time. For most of these years, we also have had Judge Isabel Gomez Edwards and black police officers as members. Initial reports from the review panel were critical of the IAU and resulted in some improvements. The information made available to complainants was improved. This included a more detailed statement of the findings and reasons used by the Chief in making his decisions. The panel also expressed concern about the low percentage of complaints being sustained.

In 1985, the Civil Rights Commission conducted a study of police-community relations. Based upon its recommendations, we expanded the review panel to four persons, and added two provisions to the Executive Order creating the panel: one gave the panel the authority to require additional investigation, the second to require the Chief of Police to hold an internal hearing on a charge.

The next step which I regard as important was to institute a "Use of Force" requirement. This was a new regulation which required all police officers to include in their arrest report a description of any use of force in connection with a police action.

The most recent step has been to create the Police Cadet program aimed at increasing recruitment of minorities.

IAU's Limitations. Despite these efforts, there are inherent limits to the ability of the IAU to provide the kind of even-handed determinations which can assure a satisfactory outcome. In many if not most of the allegations of misconduct, an investigation results in two versions of the events: the complainant's version, and the police officer's version. Unless there is independent corroboration of the complainant's version, the Police Department is almost required to come down on the side of the police officer. The IAU is an arm of the police administration, and when there is doubt about what actually happened, the department feels constrained to back up the police officer.

Civil Suits. The best forum for resolving issues raised by a citizen's complaint is obtained through a civil suit, where the claims and answers are heard by an independent jury and the burden of proof is only a preponderance of the evidence. I have encouraged complainants to file civil suits when they feel aggrieved. They are burdened, however, by the cost of a lawyer and lengthy delay.

Two Kinds of Outcomes. It is important to note here that two kinds of outcomes are possible when a police officer has abused his or her authority. One outcome is to see that the officer is disciplined, and the other is to gain monetary damages from the City. Complaints made to the IAU can only lead to discipline, not to money damages. On the other hand, a complaint made to the Civil Rights Department (assuming the prohibition is lifted) can result in money damages, but not in discipline of the officer.

Civil Rights Exclusion. I need to spend a minute on the so-called exclusion of the police from the Civil Rights Ordinance. The exclusion doesn't bar inquiry into police department issues. It bars inquiry into any action which might also constitute a crime no matter by whom committed.

If the exclusion were removed the ordinance would not authorize any outcome which interferes with the Police Chief's disciplinary authority. In most cases the respondent in a civil rights matter would be the department itself.

Removal of the exclusion would not authorize inquiry into alleged police misconduct unless a discriminatory motive based on race, sexual preference and so on was also alleged.

Removal of Exclusion Insufficient. Since 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.

Disciplinary Action/Monetary Damages. I have considered for several years the possibility of developing a two-track system when considering allegations of police misconduct. One track would be directed at possible disciplinary action, and the other track would be directed at possible monetary damages.

If we were to strengthen the review panel or recast its role so that it could hold its own hearings and come to a conclusion about an allegation, it seems to me that authorizing the panel both to make a recommendation concerning discipline and to make a monetary award payable by the City would make alot of sense.

Under this system, the Police Chief would still retain the final authority over disciplinary actions, but the monetary award would be paid by the City regardless of the decision of the Police Chief on the disciplinary issue. Under this system, the City would authorize the panel to make a monetary award which could cover any out-of-pocket expenses such as medical expense or lost wages plus compensation for pain and suffering. A modest limit would have to be placed on the size of an award which the panel could authorize, and if a later civil suit were successful the award would be deducted from the final amount owed by the City. An analogy to this process would be the use of a Conciliation Court. Of course, in the more serious cases a civil suit would be more appropriate.

I hope that the panel proposed under Council Member Sayles-Belton's resolution will look at this proposal along with Council Member Dziedzic's proposal to give a Professional Review Board the authority to directly discipline police officers.

Ombudsman. It is clear that these problems require more sustained attention. This leads me to the next suggestion which I hope will receive favorable consideration.

I believe that one of the most important steps which the City can take is to appoint an independent ombudsman to act on behalf of persons claiming to be victims of police misconduct. Such an ombudsman should have at least one civilian investigator

as part of his or her staff as well as having access to the IAU investigative files.

In a bureaucratic environment, it is important to have at least one person who wins kudos for being aggressive on behalf of citizens who believe they have been mistreated. Such an ombudsman could be counted on to point out deficiencies in investigations, procedures, or training, and would make sure that data on frequency of complaints and outcomes were maintained and monitored. Such an office would also be essential to adequately staff a review panel, existing or newly created. The appointment of the ombudsman should be made independently, without involving the Police Department administration.

A proposal for an ombudsman was made by a committee during Mayor Hofstede's last term. This was also a recommendation of a Bar Association Committee on Individual Rights and Responsibilities. I have now come to appreciate the value of this recommendation.

Cross-Cultural Training. The Chief has already begun to work on providing more effective cross-cultural training for members of the police department. This effort must eventually be integrated into the regular training programs of the department.

Police Chief's Commitment. In the end, the quality of police service and the fairness with which it is provided will rest at the doorstep of the Chief of Police. I have discussed this at length with the Chief and believe he shares my commitment to a long-term effort to bring a culture into the department which welcomes the diversity of this community and is hostile to any actions or expressions reflecting racial, ethnic or other kinds of inappropriate bias. It will be up to the Chief to find ways to build this kind of culture, but as he does so it will be important that he have the full support of the elected officials of this City.

We have had the benefit of recommendations from the Community Relations Service of the U.S. Department of Justice that include, in addition to matters I have already discussed, more attention to policies and training for special units, department accreditation, and community policing programs. These recommendations will be followed up by the Police Department.

It is my own personal goal that within the next 12 to 18 months the City of Minneapolis will have the best community-police relations of any major city in the United States.

Thank you.

OFFICE OF CITY COUNCIL
307 CITY HALL
MINNEAPOLIS, MINNESOTA 55415

PHONE 348-2201

WALT DZIEDZIC
COUNCIL MEMBER, FIRST WARD

minneapolis
city of lakes

February 17, 1989

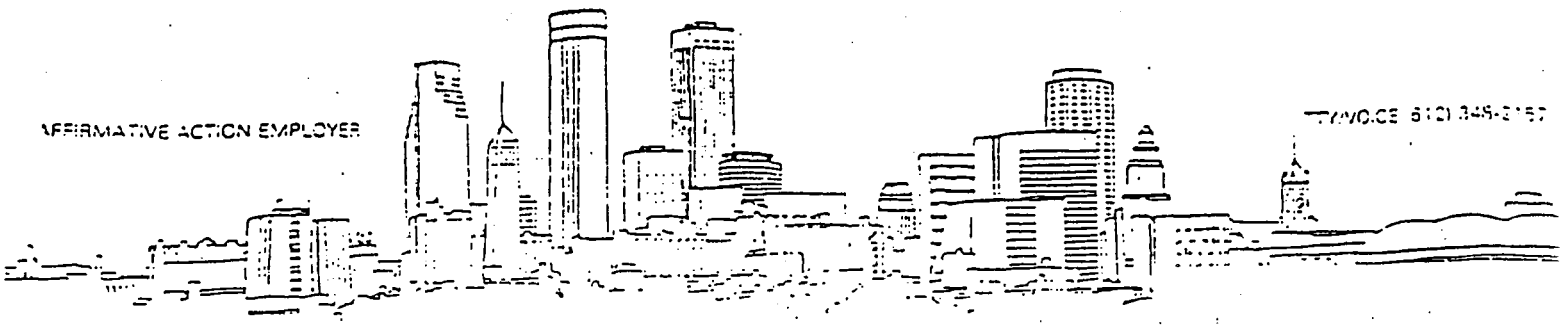
Council Member Sharon Sayles Belton
MINNEAPOLIS CITY COUNCIL
307 City Hall
Minneapolis, MN 55415

Dear Sharon:

I am writing to you because you initially proposed a resolution in an attempt to change the internal investigation process within our Minneapolis Police Department, namely, the Internal Affairs Unit, or in broader terms, police policing police. My years of experience on the Minneapolis Police Force have brought me to the conclusion that if we don't do something at this time to increase the confidence of the community in our Police Department, the problem will only increase in severity and intensity, and a different solution may make the police officer's job unbearable. The opportunity is at hand to put in place a process that I think will be acceptable by all in the community and in the Police Department.

One of the problems brought to light is that the community lacks trust in the present process of handling complaints. Police officers who are in the IAU today could be transferred in the future and work as partners or be under the supervision of those they previously investigated. This makes for a strange relationship, to say the least, and is a compromising position in which to place our officers.

My proposal would have us form a Professional Review Board that would report to the Mayor and the City Council. Members of the Board would be appointed by the Mayor and confirmed by the City Council. The Board, made up of a cross section of the community, should include police, judges, lawyers, working people, and minority community members. It should consist of 7 to 11 members to prevent burnout, which was a problem with the 3-member panel, as mentioned by Judge Gomez. This Board would have the full responsibility and authority to discipline police officers, which could include fines, suspensions and dismissals. An independent investigative unit of 5 to 7 investigators with at least 5 years of investigative experience would be the staff for the Professional Review Board. Its investigators,



headed by an Executive Director, would oversee the investigations and bring the results to the Professional Review Board. This type of independent investigative staff would solve the problem of police investigating police. Under this proposal, the investigators would work for the City of Minneapolis outside of the Police Department with offices located away from City Hall. The investigators would have all the police powers that the State confers on police and would report to the Professional Review Board and, in effect, the Mayor and the City Council.

Some may say that this proposal takes the discipline out of the hands of the Chief of Police, which it does. But a closer look at the hiring and firing process of City government places those duties under the present system with the Civil Service Commission. I look upon it as a lifting of the burden of disciplining from the Police Department and the Civil Service Commission. It assists the Police Chief rather than hinders him.

If I had my druthers, I would like to see an even larger unit than this under the Attorney General's Office for the entire metropolitan area to look at the same types of problems within the 7-county metro area. But that is something at a State level and for the future.

I write to you, Sharon, hoping that my proposal will get a fair hearing, just as I believe police officers want a fair hearing and to be treated in a just manner. This proposal will do that. My ideas are not embedded in concrete and are subject to changes and modifications by you, the Mayor, and the City Council. I do look forward to working with you on this issue, and hopefully our collective heads can solve a problem which is begging for a solution.

Sincerely,

Walt Dziedzic

Walter Dziedzic
Council Member, 1st Ward

WD:lm

cc: Mayor Don Fraser
City Council Members

ing 2-10-89
Govt Ops
PH&S. Comm

Public Hearing 3-6-89

2nd Reading & Final Passage

AN ORDINANCE
of the
CITY OF MINNEAPOLIS

Date to Mayor A-61

Date Returned

Date Resubmitted to Council

Council Member Carlson presents the following ordinance

Amending Title 7, Chapter 141
of the Minneapolis Code of Ordinances
Relating to Civil Rights:
Administration and Enforcement

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 141.90 of the above entitled ordinance be amended to read as follows:

141.90. Conflict with state action ~~or criminal statute~~. No matter shall be heard or complaint issued pursuant to the provisions of this title when the matter has been previously considered by the State of Minnesota Commissioner of Human Rights as a matter within his or her jurisdiction~~, nor when the alleged discrimination is part of or arises out of an incident or occurrence which in itself could give rise to a criminal prosecution for the violation of any state statute other than the state act against discrimination~~.

RECORD OF COUNCIL VOTE

Council Member	Aye	Nay	N.V.	Abs.	Ovrd.	Sust.	Council Member	Aye	Nay	N.V.	Abs.	Ovrd.	Sust.
Dziedzic							Scallon						
O'Brien							Niemiec						
Hilary							Cramer						
White							Schulstad						
Coyle							Johnson						
Carlson							Pres. Rainville						
Savies Belton													

X INDICATES VOTE — N.V. - Not Voting Abs. — Absent Ovrd. - Vote to Override Sust. - Vote to Sustain

PASSED _____ 19 ____

APPROVED
NOT APPROVED _____ 19 ____
VETOED

ATTEST _____
City Clerk

_____
President of Council

_____
Mayor

minneapolis
city of lakes

OFFICE OF CITY COUNCIL
307 CITY HALL
MINNEAPOLIS, MINNESOTA 55415

PHONE: 348-2211

STEVE CRAMER
COUNCIL MEMBER ELEVENTH WARD

May 5, 1989

To: Council Members, Mayor Fraser, Interested Parties

From: Steve Cramer

I heard an intriguing idea yesterday from a local criminal attorney. He argues that "externalizing" internal review of alleged police misconduct would improve the quality and credibility of investigations. The idea would be to have a state office staffed with experienced investigators who have a law enforcement background. A police chief could call on the office to complete IAU type investigations. The service would be available statewide. The office would have to be invited in to perfrom the investigation. They would not render a decision, only establish facts which would be presented to the chief who would retain all authority to discipline officers or dismiss charges.

Externalizing internal review in this way responds to the charge that police officers from the same Department can't effectively investigate themselves. This is apparently an issue statewide. It may even be more accute in a smaller department where relationships can be even more intimate than in a larger one like ours.

I thought this idea could be given to our Committee on External Review for their consideration. If it makes sense to examine further, we could pursue it with the League of Minnesota Cities, other municipal groups, state law enforcement officials and legislators. I'd be interested in any reactions.

AFFIRMATIVE ACTION EMPLOYER

TTY/VOICE (612) 348-21

A-63

COMMISSION ON CIVIL RIGHTS
239 CITY HALL
MINNEAPOLIS, MINNESOTA 55415-1371

(612) 348-7736

WILLIAM J. DAVIS
CHAIRMAN

JILL BRYANT
COMMISSION LIAISON

COMMISSIONERS
OPHELIA BALGOS
VICE CHAIR

ROBERT FINE
TREASURER

SHARON WARWICK
SECRETARY

BRENDA BELL
JAMES CANNON
BARRY CLEGG
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MARGARET IMDIEKE
GAIL KABA
WILVA MASON
ANNE MAVITY
MARCIE McINTIRE
HERMAN MILLIGAN
TY VAN PHAM
GARY RANKILA
MARLENE SENACHEL
DIANNA STALLONE
ELAINE VALADEZ
RENALDO VARGAS
DOROTHY WOOLFORK

minneapolis
city of lakes

FILED
MINNEAPOLIS, MINN.
1987 MAR -7 AM 10:45
CITY CLERK'S
DEPARTMENT

March 18, 1987

City Council Member Van White
Chair, Government Operations Committee
City of Minneapolis
307 City Hall
Minneapolis, MN 55415

Dear Council Member White:

As a member of the Minneapolis Commission on Civil Rights and Chair of its Police Community Relations Committee, I wish to express my support for the proposed amendment of Minneapolis Ord. Section 141.90 which is currently before your Committee for consideration and adoption.

As your Committee is aware, the proposed amendment will grant the Department of Civil Rights and the Commission similar powers as held by the State Human Rights Department to receive, investigate, and make determinations concerning claims of discrimination against the police.

The Assistant City Attorney, Mr. Allen Hyatt, has already informed your Committee in May 3, 1983 letter that the proposed amendment could also extend to other City departments, employees, businesses, and all citizens within the city in interaction with one another.

In my opinion, the underlying issue is the responsibility of the City of Minneapolis to afford its citizens and non-citizens the right to file civil right charges against police officers and other city employees who subject them to alleged discriminatory treatment while working as a city employee.

Since my tenure with the Commission (September 1984), I have received over 30 complaints from citizens and organizations alleging police misconduct against officers of the Minneapolis Police Department. In each instance, individuals or organizations are perplexed as to why their complaint cannot be received by the Department of Civil Rights and heard by the Commission. These same individuals and organizations have also expressed their support for granting such powers to the Department and the Commission.

I am asking that your Committee please approve the proposed amendment that would simply give the Department of Civil Rights and the Commission powers that have already been granted to the State Human Rights Department. Moreover, citizens will be granted a right that has clearly been guaranteed to them under existing federal, state, and local civil rights legislation.

The work of the Commission in the past several years has demonstrated that citizens as well as police officers have been able to meet in a public forum to discuss pertinent issues related to police-community relations within the City of Minneapolis. The public perceives the Commission as well as the Department as a viable avenue where their grievances can be addressed with impartiality and professionalism.

Lastly, as a researcher and educator, I have taught courses concerning police issues and have been certified as a Peace Officers Standards and Training Board instructor for the State of Minnesota. Through these experiences, I know that the proposed amendment would offer a much needed forum whereby the aggrieved citizen and officer can resolve their differences in a peaceful and respectful manner.

Sincerely,

Herman J. Milligan, Jr.

Herman J. Milligan, Jr., Ph.D.
Commissioner and Chair
Police Community Relations Committee

hjm,jr/

cc: Government Operations Committee
Commission on Civil Rights
Emma Hixson
Mayor Fraser

TABLE I

DISPOSITION OF EXCESSIVE USE OF

FORCE CITIZEN COMPLAINTS

TIME PERIOD	NUMBER OF COMPLAINTS	NUMBER SUSTAINED [A]
July 1983 - B August 1984 (13 months)	91	0
September 1984 - B April 15, 1984 (8 months)	27	0
1986 - C	62	0
1987 - D	47	0
TOTAL	227	0

A. The allegation is supported by sufficient evidence to indicate probable cause to believe the allegation is true.

B. Internal Affairs Unit Review Panel Quarterly Reports for time period reported.

C. Internal Affairs Unit, Sgt. Van Tassel.

D. Star Tribune, Thursday, February 9, 1989.

Table prepared by Commissioner Herman Milligan, Jr.

To: The Minneapolis City Council
From: The United Black Front/Ron Edwards, President
Re: Request for public testimony on police-review process

FILED
MINNEAPOLIS, MINN.
1992 MAR -7 AM 8:45
CITY CLERK
DEPARTMENT

The United Black Front appears before you today to offer its comments on and overview of the request for public testimony on the review process that pertains to the Minneapolis Police Department.

The United Black Front, through its research group, has examined some of the proposals put forth over the last decade (which includes, but is not limited to, the Dziedzic Proposal).

Our examination concluded the following:

1. The recommendation to re-establish authority to the Civil Rights Commission, seems to receive no support whatsoever, and, in fact, has generated a ground-swell of resentment.

2. The request for a civilian review-board seems to lack specifics, and the necessary legal window of opportunity.

3. The Dziedzic Proposal, modeled along the line of an existing model now in effect in Cincinnati Ohio, would seem to have possibilities--depending upon the necessary charter reform.

4. The creation of a Police Commission does, in fact, have possibilities, but as yet has not been fully explored.

   It, too, would require charter reform (amendment to the charter).

5. Eighteen years ago, a proposal was put forward for the creation of the office of ombudsman. That proposal has never been fully explored nor understood.

In conclusion, the United Black Front's observations and preliminary recommendations would be for the creation of an office of ombudsman along the lines of the Swedish Parliamentary Ombudsman-Act of 1809 (with its appropriate amendments, naturally).

What this calls for, ladies and gentlemen of the Council, is inovation, vision, and a committment to implement.

Failure to do so will guarantee the current crisis that faces our city and her people.

Today, we have also presented some preliminary materials which address themselves to the five recommended structures that we've advanced here today.

The United Black Front, with its research capabilities, and the Black community, stand ready to dialogue further, and to be of whatever assistance that you would deem to be appropriate.

Ronald A. Edwards,
President/United Black Front

March 6, 1989

TO: Members of the Minneapolis City Council

FROM: The United Black Front and Bethune Research Group

In reviewing specifically the five structures to be utilized, (1) the Civil Rights Commission, (2) Civilian Review Board, (3) the Dziedzic Plan (the OMI), (4) the Board of Police and Fire Commissioners (3 to 5 in number) or (5) the Office of Parliamentary Ombudsman, the United Black Front and its research arm, the Bethune Research Group, would probably recommend the latter three: OMI, Board of Police and Fire Commissioners, and their preference, the creation of the Office of Parliamentary Ombudsman.

As we have stated before, a number of these structures have been advanced over the last twenty years. There has always been an initial enthusiasm by politically elected or appointed bodies and then an attempt to "outwait" the crisis. As we have initially said, the challenge to the creative thinking of the City of Minneapolis and the Council and the Mayor's Office is just that--a significant and profound challenge. It will take significant research and vision to shape the ultimate design.

As we have indicated, the Black community has come here today to provide a preliminary thrust towards that goal. We will wait and see if the commitment and the concern is present to help us move away from the current danger and crisis which threatens race relations and jeopardizes the well-being of our city.

Ronald A. Edwards, President
United Black Front, and
The Bethune Research Group

CINCINNATI, OHIO

Although Cincinnati does not have a civilian review board, the Cincinnati Human Relations Commission, established by the City Council, has been used to fulfill certain functions of a civilian review board since the early 1970's.[39] The effectiveness of the Commission has been limited since it does not have the authority to interview police officers charged with alleged misconduct nor can it review internal division files to verify the facts of the case.[40]

In 1979, former City Manager, William Donaldson blamed the Commission "for the breakdown in police - community relations in the city."[41] Furthermore, during this same year, dissatisfaction with the Commission investigations had caused the Police Division and the Safety Director not to cooperate with the Commission's staff.[42]

Local community organizations and citizens recommended expanding the powers of the Commission or the establishment of a civilian review board, but the City did not act upon either recommendation.

During that same year, the Mayor's Community Relations panel, the president of the Black police officers' association, elected public officials, and various community organizations and individuals, concluded "that a significant proportion of the Cincinnati civilian population had lost confidence in the ability of the Internal Investigation Section (IIS) to investigate properly allegations of police misconduct."[43]

In 1980, to counter this loss of public confidence in the IIS, the City Counc established the office of Municipal Investigations (OMI) to look into citizen complaints against the police. The OMI staff consists of independent trained law enforcement investigators.[44] Additional information on the structure and operatio of the OMI is not available at this time.

OMAHA, NEBRASKA

The Mayor's Administrative Review Board was established by executive order in

OFFICE OF THE CITY ATTORNEY
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WORKER'S COMPENSATION ADMINISTRATION
MARY JO CHRISTY

November 9, 1987

Council Member Van White
307 City Hall
Minneapolis, MN 55415

Re: Civil Rights Department
20th Anniversary Celebration

Dear Council Member White:

You asked that I reduce to writing my remarks from your last meeting.

1. The decision of whether or not the City, by one of its departments, should solicit contributions from private parties is initially a policy decision and not a legal one. The City through its Grants and Special Projects Office has set a formal system for the review of these activities. The Grants and Special Projects Office reports its findings to the City Council through the Ways and Means/Budget Committee. It is intended that this review process provides a mechanism to focus on the several issues inherent in seeking and accepting grants.

2. The acceptance of a gift is regulated by legislative Act. Minnesota Statutes Section 465.03 provides:

> "Any city, county, school district or town may accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Nothing herein shall authorize such acceptance or use for religious or sectarian purposes. Every such acceptance shall be by

> resolution of the governing body adopted by a two-thirds majority of its members, expressing such terms in full."

On June 19, 1987, the Director of Grants and Special Projects forwarded his report (Petn. No. 242815) on the request of the Minneapolis Civil Rights Department for authorization to seek in-kind contributions valued at approximately $43,920 from a variety of contributors in support of the Department's planned 20th Anniversary Celebration.

A reading of the letter and attached review form indicates that approximately $40,500 of the contributions had been identified at that time. The shortfall of $3,500 was at that time expected to be subsequently secured.

The Ways & Means/Budget Committee report on this matter was adopted by the full City Council at its June 26, 1987, meeting and states:

> "Your Committee recommends that the Department of Civil Rights be authorized to seek in-kind contributions from a variety of sources in support of the Department's 20th Anniversary Celebration, as set forth in Petn. No. 242815 on file in the Office of the City Clerk."

It is my understanding that the shortfall of $3,500 was ultimately not accepted by the City but rather paid by departmental funds.

It appears that by reviewing the full public record the in-kind contributions actually received were accepted by the City in compliance with state law.

3. Minneapolis City Ordinance Section 15.60 provides:

> "15.60. Gifts to public officials. No person or association shall offer or give to a public official, a public official's spouse or any children in their custody and control and no public official shall solicit or receive anything of value, including a gift,

> favor or service or a promise of future employment, based on any understanding that such public official's vote, official actions or judgment would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of the public official's duties, or as a reward, or which would cause the total value of such things received from the same person or association to exceed twenty-five dollars ($25.00) during any single calendar year."

The definition of public official in section 15.10(c) does not include employees of the Minneapolis Department of Civil Rights (however, it does include Commission members).

Consequently this provision does not appear to have any application to the issue here.

Very truly yours,

Robert J. Alfton

ROBERT J. ALFTON
City Attorney

RJA:rb

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College of Law

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875 SUMMIT AVENUE □ ST. PAUL, MINNESOTA 55105 □ (612) 227-9171

July 7, 1989

The Earl Craig Company
430 First Avenue North Suite 260
Minneapolis, MN 55401

Dear Sir/Madam:

Enclosed is a copy of a proposal for Civilian Review of police that I submit for the working committee's consideration. This proposal is a synthesis of several models from other cities with features that are uniquely suited to the political and social realities of Minneapolis.

I do not envision that this Proposal is the final word on the issues it discusses. Rather, I anticipate that the consideration of features embodied in this Proposal will sharpen debate and foster discussion of difficult issues.

I would be pleased to discuss the Proposal and the alternative with you, or the committee.

Sincerely,

C. Peter Erlinder
Professor of Law

CPE/nn

DRAFT-DRAFT-DRAFT

CIVILIAN REVIEW OF POLICE IN MINNEAPOLIS

A Proposal for Community-based Crime Prevention as an Alternative to the Militarization of Law Enforcement

Professor Peter Erlinder
William Mitchell College of Law
875 Summit Avenue
St. Paul, Minnesota 55105

I. RATIONALE FOR COMMUNITY-BASED CRIME PREVENTION TACTICS

A. Drug-related crime problems require a new approach.

1. There is general agreement that spending more money and resources on police, prisons and courts have done little to prevent the growth of drug-related crime in most American cities.

2. Most other cities have crime problems more advanced than Minneapolis and we can learn from their experience with attempting to solve the drug-crime problem by locking up more offenders and by increasing the power and the authority of traditional police departments. In the main it has not made substantial inroads in reducing drug related crime or increasing citizen safety.

3. The approach of increasing police expenditiures at the local level, increasing the use of military-like operations and raids, has not increased the safety and security of the average citizen. Locally, the Smalley-Weiss tragedy has graphically illustrated the shortcomings of SWAT-team tactics. Massive, community-wide sweeps involving front end loaders, and numerous constitutional violations that result in no arrests, have only increased the perception of police as a para-military occupying force that cannot solve the crime problem and which exposes innocent civilians to abuse, harassment and brutality.

4. Continuing concerns about racism, homophobia and other biases among police officers, which have been given support by the acquittal of defendants in the Embassey Suites case, serve to further distance the Minneapolis Department from many of the citizens they serve and to make the task of the individual police officer much more difficult by increasing the hostility toward police in the very communities in which law enforcement and crime prevention is most needed.

5. The difficulty of the task that has been given to

individual police officers has fostered cynicism about the public, in general, and an us/them approach to law enforcement that actually prevents effective crime prevention and law enforcement. The increasing use of paramilitary tactics not only does not work, but undermines the concepts of democratic, civilian control of government upon which our nation is based. A democracy cannot long survive in a militarized society.

B. Community Based Law Enforcement and Civilian Review of Police is A Better Solution to the Drug-crime Problem.

1. If the solution to the crime problem is not likely to be found through more military-style police work and increased rates of incarceration, the answer must lie in a new approach to the crime problem that is based on new relationships between communities affected by crime and the police. Police must be responsible to the communities in which they work.

a. The emphasis must be on crime prevention and police must be accountable to the communities in which they operate to earn community trust and cooperation.

b. Crime prevention on a massive scale can only occur through community involvement and a cooperative relationship between law enforcement and the majority of the people who live in areas most affected by crime.

2.The primary activity of Police should be non-military and based upon on-going community involvement.

a. "Public Service Officers" in neighborhood offices would have the task of encouraging block clubs, citizen alert programs, helping with neighborhood clean-ups, jobs programs, youth activities, etc. A few cities have already begun experimenting with similar programs involving unarmed officers operating out of storefront offices.

b. Downtown Minneapolis merchants have already suggested using "beat officers" in commercial areas. Storefront offices in some areas are already being proposed. Community-based crime prevention this would extend this concept to neighborhoods and make it the primary task of law enforcement.

3. The current SAFE program of the Minneapolis Police Department reflects a recognition within the Minneapolis Police Department that community based law enforcement is necessary in Minneapolis. Such a program could and should become the primary focus of law enforcement resources.

4. The arrest function should be secondary to the community-service function and should be carried out by officers who, like Public Service Officers, should be subject to the jurisdiction of a community based Police Review Board.

5. A community based Police Review Board is essential to establish a relationship of trust and cooperation in any system in which police power is exercised in contacts with citizens. This is true both for the present system and for the community-based model. A community based Police Review Board is arguably even more important if the community-based crime prevention model is not adopted, since the Board will be the only ongoing source of community input into the operation of the Department.

II. ELEMENTS OF COMMUNITY-BASED CIVILIAN REVIEW OF POLICE

A. The jurisdiction of the Police Review Board should be limited to resolving complaints regarding police contacts with citizens and making recommendations regarding policy matters that effect citizens. Police administration should retain sole jurisdiction over setting policy, work rules, departmental standards and regulations, etc. which make up the majority of sustained complaints currently heard by the Internal Affairs Unit.

B. To be effective, the Board must be politically responsive to communities that are concerned with police misconduct and it must independent of the Police Department.

1. A non-partisan, elected Board can best ensure that the interests of concerned communities are reflected by the Board. An appointed Board is more likely to be subject to the influence of special interests who do not experience the police from a community perspective.

a. Appointed "experts" will not be any more accountable to communities concerned with police misconduct than the present Internal Affairs Unit or the, now defunct, Citizens Review Panel appointed by the Mayor.

b. Since we already elect a school board and a park board, an elected, non-partisan, Police Review Board is not an unusual proposal for Minneapolis, particularly in light of the seriousness and frequency of the citizen-governmental contacts within its jurisdiction.

2. The Board must be elected from a small enough geographic area to assure that minorities will be represented on the Board. The areas represented must be no larger than a ward, and preferably smaller. This would imply at least 13 members and perhaps 26 to ensure minority representation. It must not be an at-large representation system.

3. City employees and their immediate families must be excluded from consideration because of possible conflicts of attitudes or interest. Moreover, the Board must be perceived to

be independent of police influence in order to build credibility and trust in the community. A tie-in with the police will destroy any perceptions of independence or reliability in the outcome of Board investigations

4. The term of office should be no more than two years. Unlike the city council, the Police Review Board is designed to address a limited range of issues that have an immediate impact on the community and a longer term is probably not necessary to understand the issues involved. A long term of office will undermine the concept of responsiveness to the community that must be a goal of effective law enforcement.

C.Police Review Board practices must encourage citizen participation and build confidence in the impartiality of the process.

1. Reports of Police misconduct must be filed in neutral settings, preferably in the community where it allegedly occurred. Some potential sites include:

--City Council Members offices
--local precincts
--crime victims centers
--City Attorneys Office
--Civil Rights Commission
--Department of Civil Rights
--Civil Service Commission
--(others are possible)

2. Investigative Staff must be independent of the police and should report to an administrative director who is responsible to the Board. It could be staffed by former police officers, IRS agents, etc.

3. The Board should have jurisdiction over all complaints filed by citizens against police. Violations of internal regulations would be the exclusive jurisdiction of the Internal Affairs Unit. The Board would have the authority to refer less serious complaints to Internal Affairs and to require reports as to the outcome of the internal investigation.

4. The Board would sit as a quasi-judicial, administrative body to make findings with regard to alleged police misconduct involving civilians.

a. Sub-committees could conduct hearings and make recommendations to the Board for approval.

b. The Board should have subpoena power to allow full investigations to exonerate officers or to impose sanctions. Without subpoena power, officers would be disadvanaged because they would be required to cooperate, but citizen-witnesses would not be required to give evidence. This might prevent the Board from hearing evidence from reluctant witnesses which would

exonerate the officer.

c. City employees should be under a duty to cooperate with the investigations.

d. Board findings should be based upon the preponderance of the evidence standard that applies to civil court proceedings and representation should be permitted at the hearing.

e. Board proceedings should be public unless objected to by the complainant or the officer in question.

f. The results of the Board's deliberations must be public to build credibility in the process and to give the communities about police misconduct a basis to evaluate the performance of the Board over time.

D. The Board should have the final authority to discipline officers.

1. As pointed out by Councilmember Dziedzic, unless the Board has the authority to discipline officers, the integrity of the whole process will be undercut. A power to recommend is only valuable if the entire record of the Board's deliberations can be made public to support the recommendation, so that the validity of the Board's recommendation, and the actions subsequently taken by the police administration, can be evaluated. In the choice between Board authority to discipline, and full public disclosure of Board proceedings, disciplinary authority seems preferable in terms of Department morale considerations.

2. The Board should be able to apply the same range of sanctions that are currently available to the Police Chief, from exonerating the officer through retraining and termination. As noted by Councilmember Dziedzic, this would free the Chief to concentrate on adherence to internal regulations, maintenance of departmental standards and improving the effectiveness of crime prevention efforts which community-based law enforcement requires. It will make the Chief's task easier and will not put her/im at odds with members of the force upon whom s/he must ultimately depend.

3. Because of the unique power to use force upon others that is granted police officers, and the stringent protections afforded by hearing procedures before the Police Review Board that are not accorded any other governmental employees, disciplinary actions taken by the Board should not be subject to other forms of administrative review.

3. Appeals from the Board decision could be made to the Courts, just as employee disciplinary cases are presently litigated when such cases are not satisfactorily resolved through current administrative procedures.

FINAL NOTE. This proposal for civilian review of police in Minneapolis does not require that the Minneapolis Police Department, or the Working Group, or the City Council adopt its emphasis on community crime prevention as a primary law enforcement policy. Improved relations between civilian communities and the police are a necessary predicate to any serious attempt at reducing the impact of crime on our city. However, it should be noted that civilian review is only one aspect of the development of improved community-police relations

Other factors such as the recruiting of women, racial and ethnic minorities, improved training, and a pay scale that will attract the finest applicants and which will provide incentives for talented officers to remain on the force, must not be overlooked.

In the last analysis, the political leaders of City of Minneapolis must create incentives for officers to undertake the difficult task of changing behavior and must provide the leadership to help both law enforcement officials and citizens to think of their roles in a new way.

Law enforcement work is both difficult and dangerous. As Councilmember Dziedzic so trenchantly observed, should we fail to develop new ways to improve community-police relations, and prevent the problems now facing other cities, being a Police Officer in Minneapolis may become a task that is nearly impossible in a city that is far less livable.

Meaningful Civilian Review, and community based law enforcement, can put Minneapolis at the forefront of American cities and serve as yet another model for the nation. Our quality of life and our children's future hang in the balance. More of the same is simply not enough.

June 25, 1989
Mpls

To Who It Concerns
Civilian Review Bd
Mpls, Mn % Mark Wernick chair.

This does not apply to policemen in uniform and whose duty it is to be confrontational with law-breakers and or individuals they must deal with —

It would be more appropriate to say it should have input perhaps by more lawyers and/or individuals, even judges to monitor or to be as "referees" to the un-known or unseen "decoy" operators —
The individuals

that are employed
must and no doubt are
familiar to their guide
lines & means or boundaries
they operate under —
It is where they harass
and or Coerce unwitting
citizens into their "decoy"
operations — What re-
sistance to law of individuals
are put out of housing
put out of job and losing
or stolen of financial
assets how do they get
beyond the "planned"
controlling units that
seem like "Chameleon"
units switching identities
and pushing to obtain
their "NEEDED" information?
What resources or defense
has individual with this
kind of law enforcement?
where + what controls
there? Who protects the
"unwitting decoy?" — Innocent Citizen

In the Name of (God) Allāh, the Compassionate, the Merciful.
An open letter to the City of Minneapolis on behalf of the Black Community.
It is my duty as a true servant of Almighty (God) Allāh and a very concerned person for the: economic, political and social well being of Black and oppressed people in regard to the unjust murder of Mr. Lloyd Smalley and Ms. Lillian Weiss in January and the Embassy Suites incident, to speak out and address this city on their behalf. "Open your mouth for the dumb in the cause of all such as are appointed to (social) destruction; -- judge righteously, and defend the Rights of the Poor and Needy." Proverbs 31-8-9 Therefore, is speak in the name of Truth ISLAM and social Justice. Truly, the above incidents clearly shows that Black and White people have never seen eye to eye on issues involving the Black Community and the police department. Therefore i'am making a moral appeal and a humanitarian plea to this city and demanding the following concessions from the city of Minneapolis. [DEMANDS] 1.) We the Black Community want community control of the police department whereby every policeman that patrol a community must also himself live in that same community. 2.) We want REPATRATION payed in full to the families of Mr. Lloyd Smalley and Ms. Lillian Weiss who was unjustly murdered by the police department and all of their dependents sent to the colleges of their choice with all expenses payed by the city of Minneapolis. <u>Now</u>! "Now we exhort you brethren, (<u>Warn</u>) them (Amerikka) that are unruly, comfort the feebleminded, support the weak, be patient toward all men." I-Thessalonians 5-14 I command you (Minneapolis) to come down out of your moral and spiritual wickedness and do true justice to the Poor and Oppressed people because so far all of your righteousness is nothing but filthy rags in the sight of Allāh and the Black Community. Thank you'll for your time and attention to these very important matters.

Frank Wilson
(SERVANT OF ALLĀH)

P.S. "And fight them on until there is no more tumult or oppression, and there prevail justice and faith in Allāh; But if they cease, let there be no hostility except to those who practise oppression." HOLY QURAN 2-193 Truly, Allāh's servant have called to a right way therefore harden not your heart Minneapolis. "There is not a Township but We shall destroy it before the Day of Resurrection, or punish it with a severe chastisement; That is written down in the Eternal Book." HOLY QURAN 17-59

Holy Quran

But from the land that is
Bad, springs up nothing
But that which is niggardly:
Thus do we explain the Signs
By various (symbols) to those
Who are grateful.[1038]

وَالَّذِي خَبُثَ لَا يَخْرُجُ إِلَّا نَكِدًا ۚ كَذَٰلِكَ
نُصَرِّفُ الْآيَاتِ لِقَوْمٍ يَشْكُرُونَ

C. 85.—Noah's warning was rejected by his
(vii. 59-99.) Generation, and they were destroyed
In the Flood. Hūd was defied
By his own people 'Ād, but they were
Swept away by a terrible blast.
Their successors, the Thamūd, were puffed up
With pride and injustice, but behold!
An earthquake buried them for their sins
After Ṣāliḥ had warned them from God.
With a rain of brimstone and fire
Were overwhelmed the Cities of the Plain
For their unexampled lusts, against which
Lot did warn them. The people of Midian
Were given to mischief and fraud: Shu'aib
Did warn them, but they heeded not,
And perished in an earthquake.
God's punishment is sure for wickedness and sin.

SECTION 8.

59. We sent Noah to his people.[1039]
He said: "O my people!
Worship God! ye have
No other god but Him.
I fear for you the Punishment
Of a dreadful Day!

٥٩ لَقَدْ أَرْسَلْنَا نُوحًا إِلَىٰ قَوْمِهِ
فَقَالَ يَا قَوْمِ اعْبُدُوا اللَّهَ مَا لَكُم مِّنْ إِلَٰهٍ
غَيْرُهُ إِنِّي أَخَافُ عَلَيْكُمْ عَذَابَ يَوْمٍ عَظِيمٍ

60. The leaders of his people
Said: "Ah! we see thee
Evidently wandering (in mind)."

٦٠ قَالَ الْمَلَأُ مِن قَوْمِهِ إِنَّا لَنَرَاكَ فِي
ضَلَالٍ مُّبِينٍ

1038. *Those who are grateful* are those who joyfully receive God's Message, and respond to it by deeds of holiness and righteousness.

1039 The story of Noah in greater detail will be found in xi. 25-49. Here the scheme is to tell briefly the stories of some of the Prophets between Noah and Moses, and lead up thus to a lesson for the contemporaries of the Apostle Muhammad himself. When Noah attacked the wickedness of his generation, he was laughed at for a madman, for he mentioned the Great Day to come in the Hereafter. God's retribution came soon afterwards—the great Flood, in which his unbelieving people were drowned, but he and those who believed in him and came into the Ark were saved.

"So shall my (Allah) word be that go forth out of My mouth: it shall not return unto Me void, but it shall accomplish that which I please, and it shall prosper in the thing whereto I sent it." ISAIAH 55:11

(Submission of John A. James of Mpls.)

July 17, 1089

Civilian Review Board
Study Panel
430 First Avenue North
Suite 260
Minneapolis, Minnesota 55401

Dear Study Panel:

This is a submission of ideas and suggestions concerning the scope and operations of the proposed Civilian Review Board. First of all we object to the proposed composition of the Board. A legitimate civilian board designed to bring justified charges against other citizens who happen to make a living controlling other citizens cannot function properly where either police employees or persons whose interests are directly or indirectly aligned with the operations and business of the Minneapolis Police Department.

1. To determine a "democractic" way to select representative members of a civilian review committee and a sub-committee (s)elected from this people's Committee comprised of representatives of senior citizens, business community, pre-teen and teenage subcomittee members and low to moderate income community members who have no personal economic or criminal interests favoring the city employees who make their money from employment with the City of Minneapolis its County or any persons in any way associated governmentally with the State of Minnesota.

2. Note: Unless the Board is composed of people who have a societally based general complaint against the political and social function of the police, the victimized community of oppressed persons at large in the particular community bringing complaint will have no means of keeping their evidence and information flowing from their deliberations secure and secret from the opposing suspect police and or their supporters, who surreptiously pose as disinterested members of the community seeking only justice.

3. Every conceivable measure must be taken to assure and insure that conflict of interest between the most oppressed segment of society and the repressive police forces of the government shall not exist; it must be consenually resolved by the constituents electing the administrative body of the Civilian Review Board that the burden of proof reside upon the accused police since it is unlikely that the complainants knowing the illicit dominance of the hated (frequently) police , would bring a charge against such strong opposition.

4. We wish to have it resolved, in more concrete terms and words, that any so-called "civilian" police review board be comprised only of those persons and community and ethnic people who suffer at the hands of the "Protect and Serve" police.

This will require a more "democractically" elected membership in the composition of any true Board whose purpose is to review the actions of the police.

5. The kinds of complaints the people's police review board should make its business comprises all aspects of civil and criminal justice and procedural matters. Complaints should be handled in the same way as complaints against non-police criminal and civil complaints are handled. Absolutely there cannot be any preferential difference in the treatment of accusations brought against members of the police department relative to Probable Cause than there is when the police bring charges against the people.

6. All cases of complaints brought against the police must be hanlded in the same manner as cases brought by the police against the people who are assuredoof crime against other people in the community. When a charge against the protecting alleged police is brought, they may not seek discovery of the evidence and proof against them by talking it over with members of any police review board. The integrity of factual discovery must be maintained if justice is to be given a chance.

7. The current terroristic police practice of beating people up just because they allege they have some undetermined and undefined so-called "probable cause" to believe a crime has been or is being committed, must cease. And this ubiquitous abuse of police authority is cognizant by way of federal constitutional criminal statutes.

8. We would be fooling ourselves were we to pretend that the need for a civilian police review Board is something that emanates from the needs of all the people. At bottom the realization of the social needs for a group of persons authorized to check and investigate the way police treat poor people and especially protected class citizens, is a function of the people who suffer police harassment, torture and brutalization. The people who need and should control and operate a police brutality review board are the people who are subject to the intolerant racist activities of the police.

9. We must insist that the police adhere to the dictates of the Constitution of the United States no matter how exigent they pretend their personal interest is in the enforcement of the law, particularly in the matter of drugs and specifically their alleged hatred for cocaine. The possible fact that some form of cocaine or its derivatives may be suspected as extant among black African/American youth and being bartered and sold in the Black Community does not justify the brutal and terroristic, even fatal, techniques of the police in arresting alleged suspects. In the past such terroristic tactics have resulted in the deaths of innocent young African-American citizens.

10. Any real police review board must be comprised of representatives of all the people who have historically been the victims of police terro and torture. Persons who are not endangered by the potentially murderous aggressive techniques of the police should not be allowed to vote on the issues of probable cause and ought not be permitted a voice in this matt

A D D E N D U M : To Letter to the Study Panel for Civilian Review Board

11.) In the event a review of the tentative candicates as representatives of their respective communities who are more prone to suffer discrimination and brutality at the hands of the police than member of the dominant society at large reveals that there are any persons who historically have little or nothing to fear from the activities of the police, then a vote must be taken from among the qualified people present in consideration of their removal from membership on any proposed civilian board of police review.

12.) The persons who are found to be either neutral or of a bent tending to favor the exoneration of the police in any given controversy between the police and complaining residents should be given the opportunity to admit their probable bias and then thereafter permitted to serve in an advisory capacity on the authoritative and elected Civilian Review Board; this will permit the Board to utilize the superior technical and professional skills and talents of such well-meaning citizens while keeping the power of the oppressed citizenry unchallenged by the votes of those who do not have anything to lose from the continued outlawry and racism of the police.

13.) It is strongly recommended that if forces who are clearly in opposition to these suggestions should gain control of the meeting and demand to have an equal voice and vote with the repressed members or participants of the Study Panel public meeting, that the innercity and ethnic minority oppressed participants ought to caucus and form a minority opposition group condemning the establishment candidates and their professional supporters and summon a press conference where the logical reasons for their contrary views will be aired publicly with the announcement that they will organize a community based true police people's review board.

14.) That once constituted the People's police review candidates should form an Ad Hoc Committee To Oversee and Investigate the Establishment-Police Civilian Review Board and file a complaint of discrimination and racism with the State Department of Human Rights, the federal EEOC and the United States Department of Justice against the organizers and members, individually and collectively, of the Minneapolis Civilian Police Review Board, seeking a finding of probable cause and asking for an order to disband and render null and void all actions and operations of the Establishment police review board.

15.) It is also suggested that at the same time the Ad Hoc Committee To Oversee and Investigate and Disband the police and establishment controlled police review board draft a proposal seeking funding from Minnesota church bodies and additional financial support to carry on its work from various philanthropic foundations, including private contributions from the general public and local business.

CONCLUSION : Unless we organize the kind of people's representative police review board that is truly independent and composed of people ..ho represent members of the oppressed economic and minority communities, any resulting police review board will be but a farce and a sham.

July 18, 1989

A-86

TO: Civilian Review Board Working Group.

In response to the invitation to submit ideas to your board, as published in the July 18, 1989 Edition of the Star Tribune, I hereby submit the following suggestions:

1. At least two (2) Officers from the Minneapolis Police Department, with no less than ten (10) years "Street" experience.

2. Any minority member or number of minority members on the board must be in proportion to the racial percentage of the population.

3. No attorneys who are involved in criminal actons, due to potential conflict of interest.

4. Citizens of the United States and Minneapolis only.

5. No elected officials, Federal, State or Municipal.

6. No affiliation with any subversive or "Gang" elements.

7. At least eight (8) hours of experience with an active Internal Affairs Investigator.

8. Appropriate back ground check to eliminate any bias or prejudice.

9. At least thirty-two (32) hours experience as a "Ride Along" on the "Middle" & "Dog" watches, to be divided into eight (8) hours in each precinct.

Donald J. Engel

Donald J. Engel
3666 Brookdale Drive
Brooklyn Park, MN 55443

TIM CAMPBELL STATEMENT
calling to abolish the Internal Affairs Unit, to establish an Office of PoliceReview and Prosecution under the Public Defenders staff with the City Attorney, and finally to establish a Civilian Review Board

Civilian Review Board Hearings, July 18, 1989

Thank you for soliciting in put for the City of Minneapolis regarding the formation of some kind of citizens review board to deal with citizen complaints against Minneapolis Police.
I believe that a new system for taking such complaints needs to be established. And I also believe that a Citizen's Review Board should be a part of that new system.

But I do not believe that a citizens review board, as understood by some, is the total solution to the problem.

May I suggest that we consider solving the problem in three steps: first we suppress the Internal Affairs Unit within the Minneapolis Police Department; second, we establish an Office of Police Review and Prosecution connected to the Public Defenders Office under the City Attorney: and finally we establish a Citizens Review Panel to oversee the work of the OPRP and to take appeals from dissatisfied complainants.

Under this plan, all citizens complaints about police would be filed with the Office of Police Review and Prosecution in the City Attorney's office. There, instead of in the Police Department, a staff of expert para-professional legal workers could take complaints with skill and neutrality. They would be

backed up by staff of professional investigators and lawyers who could then complete and evaluate the case.

This office would then follow one of three paths: a) Decide that the complaint was insubstantial and dismiss it; b) Decide that the complaint was based on a violation of Police Department rules and policies and refer the case to the Chief for discipline under those rules; c) Decide that the complaint was in fact based on a violation of law and refer the case to the appropriate office for prosecution. (Some cases could, of course, involve both violation of Departmental rules and law. Those would be referred to the Chief and to the Prosecuting Attorneys.)

The advantage of this plan is that the work of investigating complaints would be done by paid experts in a setting very analogous to the work of the Public Defender. Budgeting the staff would come from the same money as before, only the money would be allotted to the City Attorney's office instead of to the Police Department. Certain economies might even be made. In addition, just as our Public Defenders have earned credibility with clients and police, so too, the Office of Police Review and Prosecution could earn some credibility that it has never had while part of the Police Department.

Local experience tells us that police review has to be pulled out of the police department. Look at what has happened in Minneapolis over the last ten years. Right here in Minneapolis, where we may have had the world's most benevolent Mayor and the world's most un-coplike cop as Police

Chief...right here in the Best of All Possible Worlds, the Internal Affairs Unit exonerated virtually every cop ever accused of excessive force. And that shouldn't surprise anyone. It's simply asking too much to ask cops to police other cops in a rigorous and routine way. They don't do it. Maybe it should be that way.

In addition to that, common sense leads people to dislike complaining to one cop about another cop. It's like a child trying to pit two parents against each other. In most cases, the least powerful person in the triad gets the punishment, no matter where justice lies. So too with the police.

Most folks seem to agree that the job of policing police needs to be done, and needs to be done better. This proposal simply shifts the task to a different department which already has proven a better record in accomplishing a similarly difficult task. Doesn't it make sense to let the people who defend the public also take complaints from the public?

Finally, may I note that Minneapolis is not the only place where a new system is needed. Perhaps we can work out a model that gets adopted on all levels of government.

Respectfully submitted,

Tim Campbell

Tim Campbell
Gay activist and Editor, GLC Voice newspaper
1624 Harmon Place #210
Minneapolis MN
(612)338-1411

Theresa M. Whiteley
3321 Harriet Avenue South
Minneapolis, MN 55408
phone: 825-2909

July 19, 1989

Civilian Review Board Working Group
430 1st Avenue N. Suite 260
Minneapolis, MN 55401

Dear Civilian Review Board,

I am very interested in the purpose and potential outcomes of this group. I live in the neighborhood where the young black children were attacked by a group of adult, white male skinheads. After my experience with this incident and with the Minneapolis police, I believe the problem is far more serious than just isolated incidents of police brutality and racism.

I believe that members of the Minneapolis department do not take crimes perpetrated against black people as seriously as they do those against white people. I also believe that the racism and cronyism present in the department has been institutionalized and that it will take a great deal of effort to affect change. Many members of the police department do not feel that there is a problem - and that is the biggest hurdle to overcome.

My suggestion to you as you form the purpose and structure of this Review Board is that you deal not only with isolated incidents of racism, discrimination, and brutality, but also with the broader picture of how to combat these things, in general. If you isolate incidents too much, the root causes can still flourish. Education should be a primary focus of this Civilian Review Board. Education for the public and the police.

I have enclosed an article from the Twin Cities Reader that you may find helpful. I hope you will read it. Good luck.

Sincerely,

Theresa M. Whiteley

Theresa M. Whiteley
Minneapolis Resident

A-91

BLACK & BLUE

BY GLEN ARCHOL

In a season of racial tension, black Minneapolis cops say bigotry is an occupational hazard.

AT 26, ALICIA CLEMONS IS THE IDEAL OF THE Minneapolis Police department's minority recruiting effort. She's young, aggressive, and smart. More importantly, she's black.

But after less than two years as a Minneapolis cop, Clemon is also weary and disillusioned. She says she's worn down from fighting the department's bigotry.

"The job's OK," Clemons says. "That's about all I'll give it — OK. . . . Sometimes, I feel I've been on the department for 20 years. . . . A lot of cops don't like women or don't like blacks, and here I come, a double minority. I really threaten them."

Racial tensions began intensifying in Minneapolis last winter when two police screwups enraged the local black community. Within two weeks, a botched crack raid ended in a fire that killed an elderly black couple, and a violent scuffle erupted between police and black youths at a hotel party. The incidents inspired bitter charges of brutality and racism among Minneapolis police.

This spring, more than two dozen racial incidents have occurred, including an attack on black children by racist skinheads and several apparently retaliatory assaults by blacks on whites. Several weeks ago, a coalition of community leaders placed ads in local papers calling for an end to racial bigotry. Cops and others on the street say the city is facing a long, hot summer.

In the highly charged atmosphere, black Minneapolis cops are caught in a critical position. A larger group of high-morale minority officers on the MPD could do much to improve relations between the department and the black community. But Officer Clemons's frustrations suggest that the lot of black Minneapolis cops is less than enviable.

Often held in contempt by civilian blacks for "selling out," black Minneapolis officers complain that they are also victimized within the department by deeply rooted bigotry, ranging from insensitivity toward non-white cultures to a crude brand of prejudice Minnesotans would like to believe doesn't exist north of Little Rock.

Black Minneapolis cops complain of bigotry within the department, including a crude brand of prejudice Minnesotans would like to believe doesn't exist north of Little Rock.

Perhaps most troubling of all, many black officers, including Clemons, hold out little hope for improvement. "It won't change," she says. "People here are set in their ways."

DEPUTY CHIEF DAVE DOBROTKA ADMITS THAT the Minneapolis Police Department, like every department in the country, suffers from "institutionalized racism." On a force of 750 officers, only 24 are black. The department would need 60 more black officers to reflect the city's racial makeup.

ck e h re sentative police force," Dobrotka says. "We're resolved to do something to improve that."

But black officers say much more is needed than enhanced recruitment efforts. It matter they are recruited, blacks charge, that minority and female officers confront the worst forms of prejudice. They say black recruits who complain about discrimination in training are branded by white supervisors as having a "problem with being black." They tell the story of a white female officer who is called the "gray bitch" because she rides with a black male partner. Officer Charlie Adams, the black half of the team, says he and his partner have requested a transfer to a new precinct because some officers have made it known that they will not back up the partners in a dangerous situation.

Some black officers say they avoid working on narcotics operations because they will be scapegoated as "snitches" in any botched investigations. Clemons says she was recently accused of tipping off dealers to an investigation she was working.

"I did a lot of legwork on that investigation," Clemons says. "I went into the house and put my life on the line to buy drugs. They said the deal was snitched off and it must have been Clemons."

Nothing so embitters Minneapolis's black cops as their belief that blacks are disproportionately scrutinized and investigated for potential wrongdoing by the department. Black officers say about half their number are currently the focus of internal investigations for transgressions ranging from minor disciplinary offenses to theft and drug dealing.

Black officers say the suspicions stem from cultural differences. Blacks attract suspicion for buying a Cadillac or a Mercedes, or for collecting gold jewelry. One black cop who carries a telephone pager because he works

ALISA CLEMONS COMPLAINS SHE WAS FALSELY ACCUSED OF "SNITCHING OFF" A DRUG INVESTIGATION.

several part-time jobs says he was called in to explain it (many drug dealers use pagers).

"We don't spend our money on two snowmobiles and a lake cabin like white officers," the officer complains. "That doesn't make us drug dealers."

Sgt. Roger Willow of the Internal Affairs Division (IAD) confirms that five black officers have recently been investigated in connection with potential criminal charges. He says he doesn't have figures for black officers being disciplined.

In February, two black officers and an American Indian officer were in Sunny's Bar in south Minneapolis when narcotics officers raided the saloon. The minority cops were questioned and given urine tests, but investigators haven't yet decided on charges or disciplinary action. Administrators say the black cops were caught by chance in a net being tightened around suspected drug dealing centers, including Sunny's.

The black cops involved tell a different story. "Things have been getting progressively worse in the past few years," says Officer Al Moore, a veteran black officer who is charged in Richfield with the theft of a bicycle and is also being investigated in connection with the drug raid at Sunny's. Moore says he and other black officers were investigated for months before the Sunny's raid, as part of a conspiracy to drive black officers from the department. "We do not have a big happy family in blue," Moore says.

Mundane as it sounds, the controversy over whether black officers should be able to patronize certain bars and restaurants — establishments popular with blacks but also considered suspicious centers of criminal activity — is near the heart of the current racial tension within the Minneapolis Police Department. Blacks say ordering them to avoid such places is telling them to turn their backs on their community.

"I don't think it's reasonable to expect black officers to avoid those places," says black Officer Don Harris. "The fact they go to those places doesn't mean they do drugs."

"That is the dilemma of the black officer," says Inspector William Jones, a black supervisor. "If you are not comfortable to party with white officers in their bars, where do you go? Black bars are seen as bad or full of crime." But, Jones adds, "I think however unfair it is, if an officer . . . frequents the wrong bars, people are going to wonder about his integrity."

Deputy Chief Dobrotka offers no apology for the investigation of the three minority officers who were picked up at Sunny's Bar.

"The bar was under surveillance as a possible center for drug dealing," Dobrotka says. "The logical assumption was that they were involved, or at least turning their heads to criminal activity."

Dobrotka says all police officers are held to a higher standard of conduct. "Does that impose an additional hardship on them [black officers]? It very well might, [but] they are going to have to accept that as part of the job."

Word of the racial unrest within the MPD is spreading through the local black community. In an recent anonymous letter to the editor in the black community newspaper *INSIGHT*, a black police officer wrote that black cops "are being eliminated through racist tactics by the administration. This administration has stereotyped the African American man in the community as the dopeman and the African American police officer as the dopeman."

Yet even black officers are reluctant to defend some of the officers under investigation, who have in some cases confessed to the charges against them. On June 21, a black officer, Cozell Harris, was fired for stealing a battery, a theft to which he had pleaded guilty. It's not likely to ease resentments among some black cops that Harris's white partner, who pleaded guilty to a lesser charge, has only been suspended. Another black officer, Bruce Copeland, was dismissed in February for drug use.

Some of the complaints of black Minneapolis police officers lay bare what may be an even more insidious problem within the department — twisted ethical standards.

One thing is certain: The belief is strong among black officers that the number of black cops subject to investigation is disproportionate. White cops are involved in just as much improper activity, blacks say, but they close ranks to protect each other.

Black officers say bigots on the department inform on minority officers at every opportunity, simply to harass them. And department officials admit that "dropping dimes," or informing, on a fellow officer is an effective means of racial harassment, because IAD must investigate all such tips, sometimes to the extent of surveillance and urine tests. Sgt. Willow, for his part, says that in his six months in IAD he has not seen a disproportionate number of allegations against minority officers.

EVEN APART FROM ALLEGED HARASSMENT and bigotry within the department, black cops have uniquely stressful jobs. The police uniform puts them in a netherworld between the black community and the department. They are completely accepted in neither place.

"Black citizens think I should let them go because I'm black," says Officer Riley Gilchrist. "I say, 'If you don't want me to act like a cop, don't act like a fool.'

(continued on next page)

TCR'S COVER STORY: COPS

(continued from previous page)

"There are a lot of [black] people who have chips on their shoulders in response the establishment," Officer Don Harris says. "I represent the establishment. The phrase I hear is, 'You're not real.' "

Similar pressures seem to afflict black officers who try to move up in the department and are sometimes resented by lower ranking cops, black and white alike. The highest ranking black officer on the MPD is Inspector Jones, who supervises the north side's 4th Precinct. Jones only reluctantly granted an interview on racial problems within the department. He says he can remember the days when some white officers wouldn't ride with blacks, but says he hasn't had much difficulty in advancing in the department in recent years.

"Maybe I'm just fortunate," Jones says.

Deputy Chief Dobrotka says more than luck was involved. He says outgoing Chief Tony Bouza promoted Jones early this year practically against Jones's will. Other blacks have been just as reluctant to take special posts.

But Don Harris, a rookie who has already worked as a recruiting officer, is determined to advance in the department, but he knows he will have to endure hard feelings from other officers.

"Regardless of how I get promoted, a lot of people won't like it," Harris says. "A lot of people think cops have to be the white, Irish, old style of officer. They'll think I got the promotion out of some [departmental] minority need. I know in some respects that will be true. But I'll get there and I'll show them what kind of work I do."

The future doesn't look bright for quickly increasing the number of blacks on the Minneapolis force. The last two rookie classes had no blacks, and a cadet program, initiated last month to meet minority recruitment needs, has had mixed results so far. Out of 25 cadets in the new program, which recruits from high schools and junior colleges, only nine represent minorities. Five are black.

Training Sgt. Dave Martens says he hopes to bring in more blacks during the next cadet recruiting drive. The department is considering wooing blacks from Southeastern states, he says.

But minority officers complain that even as

"They're starting a black officers association. They've got a woman officers association. . . . If we started a white male officers association, they'd call us the Ku Klux Klan."

DEPUTY CHIEF DOBROTKA SAYS THE DEPARTment recognizes its duty to act against any "peculiar treatment" of black officers by their fellow workers and supervisors. "The majority of cops are sophisticated enough to ignore their biases when they are dealing with people on a professional basis," Dobrotka says. "Those that can't do that — where we see it, we address it."

"If they [black officers] don't bring their complaints forward, how can we do something about it?" Dobrotka asks.

But Dobrotka admits that while the administration will respond quickly to any allegations

the administration promises to recruit minorities harder, it stacks the deck against them. Departmental policy requires that minorities be added to every group of officer candidates. Yet few blacks make it into the department. Many are stopped by the background check, which, blacks say, is culturally biased.

"They [blacks] don't come from the same background as the white candidates," Harris says. "It all boils down to money."

Many candidates — regardless of race — are rejected by the department at the background-check stage, administrators say. Causes for rejection include a criminal record, credit problems (which could leave an officer open to compromise), or any lies told during the application process.

But blacks say candidates from low-income backgrounds, a category that includes most minority candidates, are much more likely than middle-class candidates to have financial problems, or to have suffered some minor run-in with the law. Instead of automatically turning away a potentially good officer over such matters, blacks say, the department should interview candidates closely, determine whether the potential for a good officer is there, and work with good candidates to straighten out any problems.

"I'd rather have a partner that has street smarts because of breaking a few windows or running with a gang than someone from the suburbs who has two years of college," says Officer Gilchrist.

Another obstacle to successfully recruiting black officers is the disillusionment of blacks already on the force. "I won't help recruit," says Officer Clemons, "because I can't tell a minority person it's a good place to work. When I was in training, I was told I was taking a white man's job. That attitude hasn't changed."

of racial bias, it has not actively attempted to identify racist officers.

Dobrotka points to the ongoing minority awareness program, which started this summer in the wake of the Embassy Suites incident, as an example of the administration's commitment to improving sensitivity to minority concerns.

"This will be ongoing," he says. "We'll make it part of the basic training of police officers."

But few cops outside headquarters are impressed with the three-and-a-half-hour sensitivity program. They see it as a cynical attempt to appease the black community. Black officers say it's ridiculous to believe any seminar will change attitudes. And many white officers, who believe they don't have a bias problem, see the program as a waste of time and taxpayers' money.

"Maybe it's time for the black community to become sensitive to the rights of the blue community," says one white officer.

Blacks say it will take more than good intentions and Police Chief John Laux's pledge of "zero tolerance" for racism to eliminate prejudice in the department. Laux's efforts are swallowed up by the archaic system below him that remains unchanged as chiefs come and go, they say. Bigotry, black officers say, is like the static on their squad car radios — a permanent background hum to their work.

Clemons says a white officer who was suspended for three days more than a year ago for using biased language illustrates the difficulty of dealing with racism from the bottom up. The white officer's disciplinary hearing became a rally for like-thinking white officers, she says. Afterward, the pressure increased on minority officers who had brought the complaint.

"It got so bad no one would back me up

INSPECTOR BILL JONES, THE MPD'S HIGHEST RANKING BLACK OFFICER: "I'M NOT ON ANYBODY'S SIDE."

— if I was in a knife fight," Clemons says bitterly.

And while black officers give Chief Laux credit for trying to do something about bias in the department, they say he is surrounded by a staff that has little interest in shaking the status quo or in disciplining buddies.

"The only way you get change is to piss people off," says one officer. "The chief doesn't want to do that."

Dobrotka, who wrote his public administration master's thesis on civil rights legislation, admits the department isn't moving as fast as it could to deal with the problems. "There's obviously more things we could be doing," he says, shrugging. "We just need to be doing it."

IRONICALLY, SOME OF THE COMPLAINTS OF black Minneapolis police officers lay bare what may be an even more insidious problem within the department — twisted ethical standards. The black officers portray a department in which friends take care of friends, to the point of covering up wrongdoing — in which cops stick together against the administration and the community. And what seems to anger black officers is not so much that these practices are common, but that only white cops have the numbers and influence to pull them off.

Black officers aren't as concerned with the guilt of other black officers as they are that white officers get away with the same things.

Deputy Chief Dobrotka admits that the unwritten code not to snitch on fellow officers is still strong. "That has been very difficult to overcome and defeat," he says, adding, "The mentality of the brotherhood that protected wrongdoing [by officers] is changing. . . . We investigate a good percentage of officers that are white. We do have white officers that inform on white officers."

The buddy system in blue also extends to advancement and reward in the department. The youngest rookie cynically accepts that the department runs on cronyism rather than merit. Black officers complain not so much about the crony system itself, but that they are at a disadvantage because there are few blacks in high places.

"The department is basically run on politics," says Officer Harris. "People take care of their buddies and pay off favors. You've got to know somebody. Who do we know?"

Black officers, moreover, complain that when blacks do advance, they turn their backs on their lower ranking friends, and even take part in investigations against black officers.

"It seems like when they get a few stripes they forget their skin is black," says one officer. "They forget their roots."

Such accusations anger Inspector Jones. "I'm not on anybody's side," he says. "I'm an inspector in charge of a police station.

"Being a black officer, I understand and sympathize and feel a fellowship with black officers, but I'm not on anyone's side."

Many white officers interviewed for this article say they are unaware of any racial problems in the MPD. Others say a few bigots wear the uniform, but the department as a whole is open to the hiring and advancement of black officers, "if they meet the standards." Still others say they are fed up with charges of racism and claim reverse discrimination is at work.

"They're starting a black officers association," says one sergeant. "They've got a woman officers association and a Hispanic officers association. If we started a white male officers association, they'd call us the Ku Klux Klan."

Says Officer Don Harris, who is involved in the fledgling Minneapolis Black Police Officers Association: "They've already got a white male officers association. It's called the Minneapolis Police Department." ■

July 24, 1989

Civilian Review Board
Study Panel
430 First Avenue North, Suite 260
Minneapolis, MN 55401

Re: Recommendation Concerning the Citizen Review Board

Dear Panel Advisory Members:

Per your invitation, please find the following ideas for the Citizen Review Board.

1. The Citizen Review Board should act as an independent administrative unit, with A-level disciplinary authority when making final recommendations on police complaint investigations.

2. The operational scope of the Citizen Review Board should include (but not be limited to), complete access to Minneapolis police law enforcement administrative codes, rules, policies and procedures when undertaking a police complaint investigation.

3. The Citizen Review Board should have complete access to Minneapolis police department's internal affairs classified and/or unclassified information, which pertains to a police complaint investigation being conducted by the Citizens Review Board.

4. The Citizen Review Board should have independent authority to investigate both uniform and non-uniform police officer complaints.

5. The Citizen Review Board should have independent authority to engage the support of federal, state, local and private sector legal resources, during a police complaint investigation.

Please feel free to call me if you have any questions regarding this subject matter at 332-7281.

Sincerely,

Arther E. Gardner

Arther E. Gardner

AEG/lp

COMMUNITY UNITED AGAINST VIOLENCE

c/o GLCAC 310 East 38th Street Minneapolis Minnesota 55407

July 25, 1989

Civilian Review Board Working Committee Members:

The following are suggestions for you to consider as you form your recommendation for the Minneapolis City Council. They do not comprise a complete model, but rather are facets that we believe are essential for an effective system of civilian review of complaints against police officer.

1. The system for review of citizen complaints of police misconduct should include an intake mechanism that is not intimidating and does not further victimize the victim. This can be ensured by having civilian intake personnel and establishing intake sites at neutral locations such as community centers and public libraries.

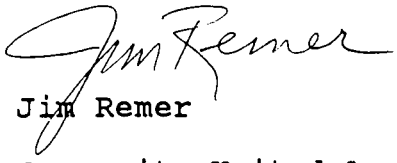
2. The Civilian Review Board should have authority over civilian complaints regarding failure to act and retaliation, in addition to complaints involving discourtesy, harassment, excessive force and the like. Gay and lesbian people frequently report that they believe police officers do not take crimes against gay and lesbian people seriously, and that such crimes are not investigated in an aggressive and professional manner.

3. The investigative process, findings-of-fact and proceedings of the Civilian Review Board should be open to public view to the greatest extent possible. While we recognize that a public process may cause some gay and lesbian people to hesitate to come forward, we believe that having a secret process behind closed doors diminishes accountability and results in an ineffective review process.

4. The scope of the Minneapolis Civil Rights Ordinance should include civilian allegations of civil rights violations by police officers, regardless of whether criminal charges against the civilian are pending. This is especially important for gay and lesbian people, because state human rights laws do not cover discrimination on the basis of sexual orientation. For all individuals, restoring civil rights protection for discrimination by Minneapolis police officers gives the individual the opportunity to recover monetary damages if discrimination can be proved.

Thank you for your consideration of these items.

On Behalf of Community United Against Violence,



Jim Remer

Community United Against Violence (CUAV) was established in 1985 to raise public awareness and outrage about a series of murders of gay men then taking place in Minneapolis. Since that time, CUAV has conducted a variety of activities to address violence against lesbians and gay men.

PRELIMINARY RECOMMENDATIONS REGARDING THE CIVILIAN REVIEW BOARD

Submitted by: Minnesota Rainbow Coalition

I. Introduction

This statement is issued in response to growing public awareness of the issues surrounding the proper role of the police in a civilized democratic society and, in particular, the issue of "who should police the police."

We believe that a professional police force is essential for the proper enforcement of laws that protect all members of our society. The vast majority of the police officers in our community are good people who carry out their duties in a very professional manner to protect the rights of the public. Unfortunately, there is a small, but very active, minority who engage in misconduct and abuse their authority. This is harmful to the effectiveness and credibility of the entire police force and the security of the general public. There should be procedures in place to protect the rights of the police, the public and the complainant.

It is important that safeguards be implemented to assure that innocent officers are not wrongly disciplined. It is also important that all relevent facts regarding matters before the Board be fully and fairly presented.

II. Jurisdiction

The Board shall hear all complaints filed with them relating to:

A. Excessive or unnecessary force.
B. Harassment.
C. Intimidation.
D. Threatened or actual violation of rights, whether constitutional, statuatory or common law.
E. Discrimination.
F. Failure to respond to protect persons and property.
G. Obstruction of Justice (e.g. "cover-ups").

III. Procedures to Protect the Police.

A. The complaint must be made in writing and under oath and must be witnessed.
B. All hearings shall be public.
C. The officer has a right to be represented by legal counsel of his or her own choosing.
D. The officer has a right to examine Complainant at the Hearing.
E. The officer has a right to review Complaint before Hearing and to have reasonable time to prepare for the Hearing.
F. The officer or his or her counsel shall have power to subpoena and examine relevant witnesses and documents, papers, reports, photographs, tape and video recordings and things.

IV. Powers of the Civilian Review Board

A. The power to subpoena witnesses, including expert witnesses.
B. The power to subpoena all relevant documents, papers, photographs, tape and video recordings, things, and reports of all kinds relevant to the proceeding.
C. The power to swear all witnesses, complainants, and officers.
D. All hearings must be public.

E. The Board shall have the right to call press conferences to publicize its findings regarding individual cases and patterns it may have discovered and to make recommendations.

F. Complainants, police officers and the Board all have the right to legal counsel.

G. The Board shall have the power to interrogate the complainant, the officer, and any other witnesses.

H. The Board shall have the right to retain their own legal counsel for on-going legal advice and representation before, during and after Hearings. Funds for this purpose shall be made available to the Board.

I. The Board shall have funds to hire a Receptionist, Secretary, Court Reporters, and a Paralegal.

J. The Paralegal shall help complainants accurately frame complaints.

K. The Board should have the power to order videotaping of upcoming public demonstrations at the written request of the leaders of the demonstration to gather and preserve the facts.

L. The Board shall file an Annual Report of its Findings, Conclusions and Recommendations. If unanimity cannot be achieved then a majority and a minority Report shall be filed.

V. Powers of the Civilian Review Board Regarding Discipline

In the event that the Board finds, by two-thirds vote of its members, that Complainant has proven the charge by a fair preponderance of the evidence, then the Board shall have power to order:

A. A public reprimand.

B. Suspension of the officer without pay for up to three months.

C. Order the officer to successfully complete sensitivity training.

D. Order psychological testing and treatment if indicated by testing.

E. Require successful completion of psychological treatment as a precondition to the officer working directly with the public, outside of a purely clerical position.

F. Recommend permanent dismissal or suspension of over six months without pay.

G. Any psychological testing and recommendations of a psychiatrist should be filed with the Board.

H. Any reasonable combination of A. through G. above.

VI. Composition and Selection and Compensation of a Civilian Review Board.

A. There shall be a total of nine Board members.

B. The Board should be representative of all minority communities, including African American, Asian, American Indian, Hispanic and the gay/lesbian communities, as well as the Police Force, Mayor, Minneapolis Civil Rights Commission and Hennepin County Bar Association.

C. Each group represented should appoint its own representative through a democratic process.

D. Each representative on the Board would be appointed for a term of four years with the option of being appointed for a second term if chosen by the group represented. No member shall serve more than two terms in succession.

E. Compensation for the services of Board members shall be set by the Minneapolis City Council.

PROPOSAL
FOR THE ESTABLISHMENT OF A
CIVILIAN COMPLAINT REVIEW PROCESS
TO INVESTIGATE ALLEGATIONS OF POLICE MISCONDUCT
IN THE CITY OF MINNEAPOLIS, MINNESOTA

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Laws, statutes, rules and agreements relevant to the Civilian Complaint Review process include, but are not limited to:

Minn. Const. art. I, secs. 2-8, 10 (1988)
Minn. Stat. secs. 44.08, 44.09, 466.07, 611 (1988)
Minn. R. 6700.2000-6700.2600 (1987)
Minn. R. Civil Procedure (1988)
Minn. R. Criminal Procedure (1988)
Labor Contract, Minneapolis Police Officers Federation (current)

CIVILIAN COMPLAINT REVIEW BOARD

-Reviews evidence gathered by investigators presented at the complaint hearing and renders appropriate decision.
-Composition of the Board:
  -One civilian from each of the city wards of Minneapolis, by direct election, serving a definite term of office.
  -One Peace Officer from each of the Minneapolis Police Department Precincts, who are of the same rank as the officer involved in the complaint, direct election by the officers in the precincts.

OFFICE OF CIVILIAN COMPLAINT INVESTIGATION

-Investigates allegations against officers and compiles evidence for presentation to the CCRB.
-Composition of the OCCI:
  -Investigators from the Minneapolis Police Department, selected on the basis of experience, training and objectivity.
  -Investigators from the Minneapolis Department of Human Rights, selected on the basis of experience, training and objectivity.

FILING THE CIVILIAN COMPLAINT

-Locations
  -Minneapolis Police Department Precincts, intake staffed by civilian employees.
  -Offices of the Minneapolis Department of Human Rights.

FORM OF THE COMPLAINT

-Complainant must provide:
  -Name, address, telephone number, date of birth.
  -Alternate means of contact.
  -Written deposition of allegation.
  -Identification of officer involved.

PROCESSING THE CIVILIAN COMPLAINT

-OCCI will commence investigation, the allegation to be catagorized as follows:
  -Abuse of Authority
  -Excessive Force
  -Ethnic and Sexual Slurs
  -Felonious Criminal Conduct
-Complainant will be contacted by certified letter, restricted delivery, return receipt requested, or if this is not possible, the complainant will be contacted in person:
  -Complainant will be provided with the statement of facts as initially deposed in order to verify allegation.
  -Complainant will be provided with a written notice of rights and CCRB procedure.
-Officer involved in the complaint will receive:
  -Written statement of the allegation.
  -Written notice of rights and CCRB procedure.
-Officer involved will file a written answer or acknowledgement of the allegation.
-Complaint Hearing by the CCRB:
  -Entire CCRB to be present.
  -OCCI Investigators to be present.
  -Complainant, counsel, witnesses to be present.
  -Officer, counsel, Police Officers Federation representative, witnesses to be present.

JUDGEMENT OF THE CIVILIAN COMPLAINT

-Unfounded
- -Allegation has no basis in fact or evidence.
- -Judgement and records of complaint are to be expunged from the personnel file of the officer, CCRB and OCCI records permanently sealed.

-Unsubstantiated
- -Allegation cannot be proven due to insufficient evidence.
- -Judgement and records of complaint are to be expunged from the personnel file of the officer.

-Substantiated
- -Allegation of improper conduct proven by presentation of evidence.
- -Judgement and records of complaint are to be included in the personnel file of the officer.

ACTIONS TO BE TAKEN UPON JUDGEMENT

-Unfounded
- -Officer will recieve written notification of decision.
- -Complainant will receive written notification of decision and right of appeal.

-Unsubstantiated

In addition to aforementioned actions:
- -Officer will be advised as to right of appeal.

-Substantiated

In addition to aforementioned actions:
- -Decision of the CCRB will be presented to the Minneapolis Police Department for appropriate disciplinary action.
- -Upon determination the complaint is of felonious criminal conduct, the Office of the District Attorney will be notified.
- -CCRB will be advised as to the disciplinary action taken by the Minneapolis Police Department.

CIVILIAN REVIEW OF POLICE IN MINNEAPOLIS

I. Scope of the Civilian Review Board

A. A Civilian Review Board should be designed to provide a swift and fair response to complaints submitted by individuals and community groups.

B. The range of misconduct investigated by the Civilian Review Board should include infractions perpetrated by individual officers as well as broad police practices and actions that negatively affect the community. The spectrum of misconduct as experienced by the community includes, but is not limited to: slurs, lack of response to whole sectors of the population, ignoring policy and procedures, instituting biased policies, brutality and deadly force.

C. The Civilian Review Board should maintain strong ties to the community. At regular intervals, board members should go back to the people they represent to keep them informed of developments and to receive input from the community on the state of police-community relations.

II. Elements of Community-based Civilian Review of Police

A. The Board must be politically responsive to communities affected by police misconduct and independent of the Police Department.

1. Considerable community discussion has been devoted to the subject of elected vs.appointed Board Members The Coalition believes that both methods should be used to determine membership of the Board. Elections can help promote direct, grassroots involvement and appointment can require (and therefore ensure) representation of communities most affected by police misconduct, including, but not limited to: people of color, gays and lesbians, battered women, homeless and low-income people, peace and justice activists, people with disabilities, and seniors.

2. City employees and their immediate families must be excluded from consideration because of possible conflicts of attitudes or interest. Moreover, the Board must be independent of police influence in order to build credibility and trust in the commununity. A tie-in with the police will destroy any perceptions of independence or reliability in the outcome of Board investigations.

3. Additional Features of Board Membership
   a) Members are limited to serving two

terms of office in order to develop community leadership.

b) Candidates must be non-partisan and adhere to limits on campaign spending.

c) Members shall serve staggered terms.

d) Members will receive per diem compensation, which they can refuse.

B. The Civilian Review Board must include practices to encourage citizen participation and build confidence in the impartiality of the process.

1. Reports of police misconduct must be filed in neutral settings, preferably in the community where it allegedly occurred. Some potential sites include, but are not limited to:
   - City Council members' offices
   - Crime Victim Centers
   - City Attorney's office
   - Civil Rights Commission
   - Department of Civil Rights
   - Hospitals
   - Libraries
   - Fire Stations
   - Community Centers such as
     - The Minneapolis Indian Center
     - Sabathani Center
     - North Commons, etc.

2. Investigative staff must be independent of the police and should report to an administrative director of the Civilian Review Board who is responsible to the Board Members. It should be staffed by trained investigators with no direct links to the police department.

3. The Board should have jurisdiction over all complaints filed by citizens against police.

4. To respond to concerns over police practices the Board could establish subcommittees to conduct hearings and make recommendations to the entire Board for approval.

5. The Board should have subpoena power to allow full investigations.

6. All city employees identified as having information would be obligated to cooperate with the investigations.

7. Board findings should be based upon the preponderance standard that applies to civil court proceedings.

8. Board proceedings should be public unless objected to by the complainant or the officer in question.

9. The results of the Board's deliberation must be public to build credibility in the process and to give the communities affected by misconduct a basis to evaluate the performance of the Board over time.

10. Resolution of the complaints should be completed within 60 days.

11. All sectors of the community should be adequately informed of the role of the Civilian Review Board and its complaint process through such public relations mechanisms as pamphlets, brochures, press releases, and in informational materials in Braille and non-English languages for special populations.

C. The Board should have the final authority to discipline officers.

1. The Board should be able to apply the same range of sanctions that are currently available to the Police Chief as well as any additional sanctions formulated by the Board.

2. Appeals from the Board decision could be made to the Courts, just as employee disciplinary cases are presently litigated if not satisfactorily resolved through administrative procedures.

To: The Civilian Review Working Group

From: Louise Bouta Louise Bouta
4003 Pillsbury Avenue
Minneapolis, MN 55409

Date: 7-24-89

On Police Accountability

Are police accountable to the people they are hired to serve or is it their role to keep the lower classes in their place?

When I was a child, we were taught that we are all equal. God loved everybody the same, no matter what their color or what country they lived in. As I grew up and got old, I learned that the same people who taught that were the ones promoting the institutionalized sexism, racism, and homophobia in this society.

When I was a farm housewife with seven kids, I was asked to teach the ninth grade catechism class which had a new, revised curriculum. I remember it well. "I am the vine; you are the branches," Christ said. "We are members one of another." The lesson explained that if you hurt another person, it is the same as if you hurt one of your hands with the other hand, since we are all one.

It does seem as though organized religions have forsaken the basic teachings of Christ. They continue to promote the idea that some of us (usually women) exist for the convenience of others, that the lives of some of us are not as worthwhile as those of others, that some of us are to be used as punching bags to relieve the frustrations of others.

I notice that a Catholic priest was belatedly added to the Civilian Review Working Group which will make recommendations to the City Council about police review. In the public hearings, he spoke up for continued police control of the review process.

It hurts me to know that many times Black and Indian persons are beaten for no reason after they are arrested. For 25 years, Minneapolis people have tried to get a citizen review board to make the police accountable for their actions. It is obvious that the police are unable to police themselves.

Let's make the review board independent of the police department.

Legal Systems Advocacy Committee
Minnesota Coalition for Battered Women
570 Asbury Street Suite 301
St. Paul, MN 55104

Minneapolis City Council
Task Force on External Review
c/o Earl Craig Company
260 Kickernick Building
430 1st Avenue North
Minneapolis, MN 55401

July 25, 1989

Dear Task Force Members:

Enclosed are the reccomendations of the Legal Systems Advocacy Committe of the Minnesota Coalition for Battered Women. The committee is composed of battered women and their advocates from throughout the state.

The committee has a police subcommittee which was formed to study police response to battered women and to create ways of achieving better law enforcement for them. We believe Minneapolis' response to the issue of external review may set a standard for the nation, and may profoundly affect the lives of battered women in the state. Our proposals do not address all the issues the task force faces, but they merit serious consideration, because they are based on the experiences of many battered women, in Minneapolis and elsewhere.

We thank you for your attention to our proposal.

The Legal Systems Advocacy Committee of the Minnesota Coalition for Battered Women makes the following reccomendations:

1. The External Review Board should include men and women, representing them in proportion to their percentage of the citv's population. It should include battered women and all classes of citizens protected under civil rights law. The community should have input into the selection of board members.

2. Board members should receive some monetary reimbursement.

3. The External Review Board should have power to enforce discipline, not just make reccomendations. If current Internal Affairs guidelines for discipline are reasonable, they should be followed.

4. The External Review Baord should be funded with public money, but should not be under the control of city, county or state government. We reccomend that it be set up as a separate corporation.

5. To build trust, board members should be required to consult regularly with their constituencies. If members represent geographical areas, they should consult with groups from their wards, for instance from six-block areas within the wards. If members are appointed as representatives of groups, they should regularly attend cultural events, meet with people at agencies that serve those populations, etc.

6. The board should form two standing subcommittees; one to take complaints, and one to review administrative matters.

The citizens' complaint subcommittee should review individual complaints, and should also have the power to form special committees to investigate class complaints, including those alleging unfair treatment of classes of citizens. Advocacy organizations with reputable methods of data collection should have access to this committee, and thier testimony about patterns of police behavior should be admittted into the committees deliberations.

The administrative committee should participate in the formulation and enforcement of internal procedures and policies, including reprimands, job descriptions and other internal matters.

Three or four people from the administrative committee should participate in hiring and firing decision, in cooperation with the chief and other personnel specialists.

The citizens' complaints committee should bring suggested procedural reforms to the administrative committee, who in turn should implement those changes.

7. The board should have the power to sue the police department on behalf of classes affected by misconduct and brutality.

8. The entire body should meet at least quarterly, and subcommittees more often, as needed.

Dear Sir or Madam:

The following are my suggestions for a Civilian Review Board:

1) I would like to see the Board made up of both voting and non-voting members. One non-voting member should be a representative of the police department. This member could be useful in explaining and clarifying police actions and procedures to the Board. He or she should have an exemplary record of interaction with the public and to minimize the potential for conflict-of-interest and police department influence should preferably be an ex-officer. The second non-voting member should be an attorney or legal scholar with a strong record as a civil liberties advocate. He or she could be quite useful in obtaining the necessary documents etc. that are essential for conducting a thorough investigation but which the accuser or complainant may be un-willing to surrender. This member can also provide insight to the Board on the legality and appropriateness of the actions of the officer under investigation.

2) The remainder of the Board should consist of voting members i.e. members who, by their votes decide whether a complaint against a particular officer is valid. Since the function of the Board is to investigate complaints rather than to make policy there would be no platforms for the various candidates for the Board to embrace and election of Board members by the general public would serve no purpose. I therefore feel that all seats on the Board be filled by appointment. Unfortunately this opens the entire process to charges of cronyism by the disenchanted. For this reason candidates for the Board should be selected from as broad a spectrum of socio-economic groups as is possible and their names and pictures published in the Star Tribune with the public invited to come forward with any relevant information they might have on any of them. In this manner it may be possible to weed out some potentially embarrassing choices. Such safeguards, though perhaps somewhat involved, cannot

help to engender the public's trust.

3) The above goal of a diverse Board not withstanding, no compromise should be made in the selection of quality individuals to fill its seats. Keeness of mind, nobleness of purpose and fairness of spirit should be the overriding criteria upon which Board positions are filled. Because the Board will no doubt be hearing a large amount of false testimony individuals with a skeptical bent should only be considered for seats.

4) Individuals who have the potential for being unduly influenced by police pressure should not be eligible for Board membership. Such persons might include those who own buisnesses that make frequent calls for police assistance (e.g. "problem" bars) or those engaged in shady but legitimate buisnesses (e.g. sauna operators, adult bookstore owners, etc.)

5) Like most things in this world you get what you pay for. Board members should be adequately compensated. Though this will not ensure a conscientious performance it will certainly encourage it.

6) No matter how well-intentioned the new Board will be it will undoubtedly make some honest mistakes in how it investigates complaints just by virtue of its newness. In order to avoid the same mistakes from being repeated and to preserve a degree on continuity I feel that no more than half the Board should be subject to replacement at any one time.

7) The proceedings of the Board should be open to the public. This will serve to keep the Board members honest and to foster the public's trust

in its workings. The Star Tribune might even be encouraged to assign a reporter to cover its proceedings.

8) Although allowed to view the proceedings the public (with the exception of those giving testimony of course) should not be allowed to take part in them lest the process get hopelessly bogged down. The two exceptions to this should be the complainant and the accused who should be allowed to submit suggestions to the Board as to witnesses to be interviewed, questions to be asked of these witnesses and documents to be procured. (I can tell you from my own experience with a complaint lodged against an officer in 1984 that given the opportunity, the police department, in interviewing witnesses, will word their questions in such a way as to elicit the response they desire).

9) Both parties should be entitled to see the final results of the Board and the reasons for its findings. They are owed that much. The present system, in which the complaintant recieves a curt result reading for example "Unfounded" or "Unsubtantiated" is totally inadequate.

10) I wish to close by saying that I think that a civilian review board is long overdue. It's not that I think that we have a particularly poor police force (I don't) but for the average citizen who has occasion to make a complaint against an officer it is probably only a once-in-a-lifetime experience and he finds himself easily confounded by the process. The police department on the other hand fields such complaints on a continuous basis, conducts the investigation themselves, and is the only party allowed to see its detailed findings. Is it any wonder that given these circumstances they almost invariably reach a decision of "Not Sustained"? Officer Zentiss in a recent letter to the Star

Tribune has expressed doubt that a body of civilians has the wherewithal to deal knowledgeably with the complex issues involved in such complaints. Do other highly specialized professions such as medicine and the law have civilian review boards to review the actions of their members, he asks. If they don't why should the police. The answer of course is that doctors and attorneys are indeed reviewed by civilian boards for their ~~misdeeds~~ alleged misdeeds, only it occurs in a courtroom and the review board is the jury. If the common folk are deemed capeable of sitting in judgement of such highly specialized professionals (and note that both doctors and attorneys require considerably more training than do police officers) should they be deemed any less capeable of doing so in the case of the police?

11) I am a white, 43 year old, bright (I think), articulate, honest, law abiding, under-employed male with much experience in thinking through complex issues. If you are at all impressed with my views as expressed herein I would appreciate being considered for a position on the review board. Thanks for letting me spout off.

Sandy Beitsch
900 Centennial Place #9
Mpls MN 55404
(339 3122)

COMMISSION ON CIVIL RIGHTS
[illegible]
MINNEAPOLIS, MINNESOTA [illegible]

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minneapolis
city of lakes

To: Mark Wernick, Chair
Civilian Review Working Committee

From: Tim Cole, Chair tc
External Review Task Force of the
Minneapolis Commission on Civil Rights

Date: July 26, 1989

Subject: External Review Structural Recommendations

Greetings! Attached you will find a brief summary of the thirteen characteristics of an External Review mechanism that were developed by our Task Force. As you may already know, the Minneapolis Commission on Civil Rights established the External Review Task Force to develop a model recommendation for an external review mechanism appropriate for the City of Minneapolis. This was an outgrowth of the Commission's earlier recommendation that an external review mechanism be established. The External Review Task Force solicited members from a broad cross section of the community and began meeting in early 1987. We heard from interested parties and invited others to address us such as representatives of the Internal Affairs Unit and the existing review panel established by Mayor Fraser. We also conducted a survey of cities with external review mechanisms.

Our final report has not yet been completed or adopted by the full Commission so we are unable to forward that to you to meet the deadline set by your Committee for submission of written materials. We did, however, feel it was important for the Task Force to pass along to you the general structural features we have prepared for the final report. These represent the lengthy study and deliberation of our Task Force on the topic of external review of police misconduct. We hope they will prove helpful to you and your Committee as you deliberate the recommendations you intend to pass on to the Minneapolis City Council.

If I may be of any further assistance, please do not hesitate to contact me through the Commission offices.

Thanks!

Enclosure

The Task Force on External Review of Police Misconduct was established by the Minneapolis Commission on Civil Rights late in 1986 to study and make recommendations for a specific model of an external review mechanism. (The Commission had previously adopted a recommendation in support of the need for external review of police misconduct.) The Task Force began meeting in January, 1987.

In addition to reinstating Civil Rights Department and Commission oversight of Civil Rights violations by law enforcement personnel, the Task Force recommends an external review mechanism which incorporates several structural features. Below is a summary of the thirteen ideal features of an external review mechanism proposed by the Task Force for use in the City of Minneapolis:

1. **An External Review Board should be established by City Ordinance rather than by Executive Order.**
   A City Ordinance demonstrates broad community support for external review of police misconduct. Furthermore, the existence of such an external review mechanism is not left to the discretion of the individual who happens to be Mayor at any point in time. Data from the Task Force survey of Selected Characteristics of External Review Mechanisms from sixteen cities in the United States with some form of external review showed that twelve (75%) were established by local ordinance or state statute; three (19%) by General Order; and only one (6%) by Executive Order (Minneapolis).

2. **A majority of the members of an External Review Board should be civilian representatives of the community at large.**
   The Task Force believes this is necessary to ensure that the external review mechanism is responsive to community needs. Board members should also be selected from local criminal justice agencies and organizations. More than half of the surveyed cities have boards where the community representatives are in the majority.

3. **External Review jurisdiction should cover all types of complaints and not be limited to certain types of police misconduct.**
   The scope of police misconduct is a broad one. The Task Force believes that an effective mechanism must have broad authority to receive, investigate, and dispose of a full range of police misconduct allegations. The Task Force survey found no consistent pattern with regard to the types of misconduct cases heard. They ranged from full authority over all types of cases to the extremely limited authority to hear complaints alleging acts of discourtesy and excessive use of force.

4. **It should be clear that the External Review Board will in no way infringe upon the basic objective of police work or the rights and duties of police officials to control procedures for reprimand, suspension, or dismissal.**
   The Task Force supports the belief that responsibility should remain with the Chief of Police to discipline officers and to formulate procedures and policies concerning the Police Department conduct on a day to day basis. An External Review Board should, however, be able to expect cooperation from the Chief of Police in carrying out recommendations for discipline when such findings are issued.

5. **The External Review Board shall have the authority to subpoena persons, records, and all documents related to a complaint investigation and hearing.**
   The Task Force found that an External Review mechanism can function effectively only when it has the power of subpoena necessary to obtain the documents, records, and testimony which are crucial to an investigation or hearing. Only four (25%) of the surveyed cities have such authority at present.

6. **The External Review Board should establish a hearing procedure that closely follows the due process protections available in a court of law.**
The Task Force supports the principle that procedural safeguards such as right to counsel, right to appeal, right to cross-examination, etc. should be afforded all parties during the hearing process. The External Review Board or it's hearing panel should conduct an impartial hearing as to the charges of alleged misconduct. A majority of the surveyed cites have due process procedures in place.

7. **The External Review Board should allow open hearings and full disclosure of Board actions following investigations and hearings. The complainant and the police officer involved should be informed of the actions taken within a reasonable period of time.**
The Task Force concludes that public hearings and full disclosure are essential to establish confidence by the public and the police in the impartial, fact-finding nature of External Review Board proceedings. It is also extremely important to reinforce confidence by releasing findings to the affected parties as expeditiously as possible. Five of the surveyed cities (31%) provide for public hearings and public access to Board or Commission findings.

8. **The External Review Board should maintain adequate records of and develop procedures for the conduct of hearings, presentation of evidence and witnesses, and deliberation of findings.**

9. **Official records of complaint proceedings should be available to the public. The Mayor or a court of competent jurisdiction may take steps to seal Board records in part or in total to prevent harmful disclosures.**

10. **The External Review Board should provide a system for the informal settlement of less serious complaints and for prompt redress of justified grievances.**
The Task Force is convinced that an external review mechanism can also mediate and resolve less serious complaints without resorting to a public hearing. Three of the surveyed cities have established mediation procedures while a fourth has the ability to send representatives to discuss investigations of allegations of misconduct with community groups.

11. **The External Review Board should allow access to its records for monitoring purposes.**
The Task Force concludes that an external review mechanism should be subject to the same degree of scrutiny experienced by other City agencies. Quarterly and annual evaluations of the Board should be conducted to ensure that it is operating in a fair, expeditious, and efficient manner.

12. **A budget adequate to support a paid director, clerical, and investigative staff members should be provided. The External Review Board should not rely upon the resources of the Police Department for its investigative functions.**

13. **The External Review Board's administrative offices, including reception center and hearing rooms, should not be located on police premises.**
Evidence reviewed by the Task Force indicates that the public does not currently trust the Internal Affairs Unit to do a competent and impartial investigation and, therefore, is reluctant to go to the IAU to file a complaint. The Task Force is convinced that the independence of an External Review mechanism must be maintained to assure public confidence in its actions. An independent location removed from Police Department facilities is essential to reinforce this and to assure that citizens will feel comfortable filing complaints without fear of intimidation.

Minnesota Peace & Justice Coalition
Undoing Racism Task Force
1929 South Fifth Street
Minneapolis, Minnesota 55454

The Civilian Review Board Working Group
c/o The Earl Craig Company

Testimony given by Arthur Rudolph-LaRue, Tuesday July 18, 1989, on behalf of the Task Force.

The Undoing Racism Task Force of the MPJC has been involved in the issue of civilian review of the police for almost one year. Some of our other activities include lobbying in support of the Hate Crimes legislation which recently was enacted in the state of Minnesota, as well as support of Native American Treaty Rights in Wisconsin and in Minnesota.

The Minnesota Peace & Justice Coalition is the longest running on-going multi-issue coalition in the U.S. Over 100 groups are members, including the American Indian Movement, Minnesota Rainbow Coalition, Catholic Charities, Women Against Military Madness, Minneapolis Coalition for the Homeless, Clergy and Laity Concerned, Wingspan Ministries — to give an idea of our diversity.

Our task force believes that the minimum requirements of an effective, credible system of dealing with police misconduct against the public are:

1. Final authority to resolve issues brought before it, including the power to enforce discipline. The procedure must include such authority to be credible.
2. Affected communities in our city must be adequately represented on any board, and steps must be taken to ensure accountability of board members to these groups.
3. The board must be independent of the police department. Its staff must be well qualified to investigate complaints, but if police employees are used ass investigators, credibility will be damaged.
4. The board must have the power to compel testimony from witnesses, and to obtain evidence. Complete discovery of the facts hasn't a chance without such authority.

Our group strongly endorses the model put forth by Mr. Peter Erlinder to the working group. With one minor exception, we fully support his proposals. We are not convinced that election of a board is the most effective way to ensure community input in the selection, or to hold board members accountable for their actions. We suggest investigation of a blended body, with some members being elected and others appointed.

The Erlinder model presents a plan that focusses on preventing crime before it occurs, so that chances for violent confrontations are lessened. A plan that emphasizes cooperation between residents and the police has great potential to reduce crime, as well as improving police/community relations. It is a our hope that a new chapter in our city's history may be begun through establishment of an effective, accountable process of civilian review.

Arthur Rudolph-LaRue

Arthur Rudolph-LaRue

7/26/89

MPJC Undoing Racism Task Force
Rudolph-LaRue

A question was asked of me regarding the fact that no other city in the country has adopted a plan as far-reaching as this proposal. My reply:

The fact that no one else has been able to do this has more to do, in my opinion, with the lack of political will which may have existed in other cities. I don't believe that the reason city councils, state legislatures, Congress etc. fail to enact bold proposals and new ideas is always that those ideas are unworthy of support. There are obviously various interests involved in any political decision. It is unfortunate that sometimes groups with more money, political clout or perceived credibility are listened to more closely at times than the people who live in the community. These individuals and groups of citizens concerned for their safety, and that of their children, deserve to be heard — and their input should be weighed carefully.

Prior to my testimony the state's Attorney General spoke of Minnesota's tradition of leadership and vision. Minneapolis has a chance to move ahead, to break fresh ground on this vital issue.

Another questioner wondered about undercutting the authority of the chief by giving someone else the authority to compel discipline.

The chiefs of police in this city have not proven that they have the will to exercise that authority over the past decades. When the US Justice Department investigated this issue over 20 years ago, did brutality and misconduct cease? We have been promised discipline, retraining, reassignment — yet these steps, if they were taken, have not stopped the problem.

THE PRESENT SYSTEM DOES NOT WORK.

The chief would retain authority over internal discipline, procedural matters, and all other areas of current authority with the exception of complaints by the public of abuse and/or misconduct. More of the same old thing will do nothing to restore public confidence in the police force, the chief, or the political leadership of the city.

We are aware that we have not presented a fully detailed blueprint for civilian review. We trust that the working group will hear our concerns, and address them within the model(s) you put forth to the City Council.

Arthur Rudolph-LaRue

Note: this document does not purport to be a word-for-word transcript of my testimony or responses to questions. I have attempted to convey the same concepts and information here as was given on 7/18.

7/26/89

To: The Civilian Review Board Working Group

Greetings:

Being greatly enriched by your reality, I write you in support of freedom and justice for all. Mpls. knows you (the group) and with your help we might all be encouraged to celebrate our rights!
First, let me suggest that the Board be fairly composed of with a balanced representation from each group or sector of the city as recommended by community organizers. These people know their communities!
Next I recommend that you consider, <u>THE U.S. Riot Commission's Report of the Nation Advisory Commission on Civil Disorders,</u> published 196? by Bantam Books - N.Y. Times Co. They recommend external review of the police (p. 311) and offer guidelines in great detail applied for the empowerment of the people of the community. Also they suggest review of all service systems so as to assure distributive justice and representation. Of the report, in a special introduction, TOM WICKER of the NY Times writes "an extraordinary document. We are not likely to get a better view of socially

directed violence... what had to be said has been said at last."

With populations changing and growing and a police state in the making, we need, more than ever, honesty and fairness applied to all our service systems to enhance our power of justice and encourage freedom. The last ten years has brought us unrealistic policies which are not in sink with our democratic principles. It is for the benefit of all the people that we realistically apply our understanding towards those higher goals and it is also for all our true security.

In reviewing police activity, the board should demand that hiring guidelines of the MPD rigorously screen applicants for bias! Once hired, they should be trained in intergroup relations and a reward system set up for those officers who demonstrate an "acute sense of justice and sympathy for the conditions of the community they work in." (And their talents used in training.) Also, the board should mandate that there be carefully drawn, written procedures with guidelines for the exercize of their clear judgment

and descretion. After the fact of assuring sound policies and guidelines for procedures, the board should be involved in both investagating individual conduct and enforcing compliance, most importantly with complaints concerning hate crimes and defacto discrimination.

As a final suggestion I would like to add that the board also encourage freedom and equality and support and protect the police by approaching the legislators to give our "peace officers" fair laws to enforce and our citizens just laws to enjoy.

The basic nature of police work, makes it among one of the most difficult jobs in society. Give them fair laws to support and the power of having "right" on their side. Our communities would support the enforcement of fair and just laws.

Four examples, first consider the right to move about and the mandatory assurance laws, and consider the welfare fraud laws, AFDC-UP should be

expanded, these laws require department store justice and many cannot afford to shop.

Also consider the dishonesty in current drug laws. (Consumer Reports, Licit and Illicit Drugs)

Finally consider the gun control laws, and weigh the greater right, "not to be shot" over the right to bear arms, illegalize automatic weapons.

As a final note, I add the following for moral support, to the group,

"Even as wise chiefs are chosen, not by political parties, not by loud talks and boasting, not by by calling other men names, but by demonstrating always their quiet love and wisdom in council and their courage in making decisions and working for the good of all, so shall the Warrior of the Rainbow teach that in the governments of the future, men will be chosen out of the ranks of quality and than will counsel together in freedom of thought and conscience. In counsel, they shall seek truth and harmony with hearts full of

wisdom and prefer their brothers to themselves...", "they will soften the hearts of the would-be killers.", "Great are the tasks ahead, terrifying are the mountains of ignorance and hate and prejudice, but the Warriors of the Rainbow shall rise as on the wings of the eagle to surmount all difficulties." by William Willoya

Thankyou, Godspeed,
Colleen Bonniwell

P.S. The work continues, the other day five patrol cars invaded a housing project to apprehend a car theif. They would never been able to stop if any kids were to run from between the buildings. This gives the message that the police priority was a stolen car. But it can be replaced! And what is the message to the children, that cars are more important than people...
If THE CHILDREN were our national priority we would settle many of the problems of our society.
ENRICH THEIR ENVIRONMENTS!

MINUTES
CIVILIAN REVIEW BOARD WORKING GROUP
MAY 22, 1989
Room 210A, Minneapolis City Hall

Committee members present: Wernick (Chair), Arthur, Batsell, Berryman, Chookiatsirichai, Failor, Fisher, Florence, Freeman, Green, Milligan, Pacheco, Sadravi, Seline, Staples, Sudduth, Viitala, Wallem.

Chair Wernick called meeting to order at 7:05 P.M.

A motion was made to approve agenda. Seconded. Adopted on a voice vote.

Councilmember Belton addressed the Committee. A statement from Mayor Fraser was distributed to Committee members.

Chair Wernick presented Proposed Committee Rules for discussion.

Batsell moved that Proposed Committee Rules, with the exception of item number two, be adopted. Seconded. Adopted on a voice vote.

Wernick presented Proposed Schedule for discussion.

Freeman moved the adoption of the General Schedule as presented by the Chair. Seconded. Adopted on a voice vote.

Freeman moved that a planning committee of three consisting of Wernick, Sudduth, and Florence be established to determine three speakers, one of whom shall be Werner Petterson, to be at the June 7, 1989 meeting. Seconded. Opened for discussion.

Fisher moved a substitute ammendment to the Freeman motion to enlarge the scope of the planning committee to all meetings. Seconded. Adopted on a voice vote.

Wernick opened up discussion of item number two on the Proposed Committee Rules.

Pacheco moved that the Planning Committee return to next meeting with a plan for public speaking at Committee meetings. Died for lack of second.

Continued discussion of item number two on the Proposed Rules of Order.

Pacheco moved that a committee of three be appointed to return to next meeting with a plan for public speaking at committee meetings. Seconded. Opened for discussion. Failed by division.

Wallem moved that a press release be issued by the Earl Craig Company to announce the scheduled public hearing before the committee on July 19, and to announce that the committee will accept written proposals from the public up until July 26. Seconded. Adopted on a voice vote.

Sadravi moved that a time be allowed at the end of each meeting for members of the public to speak before the committee. Seconded. Failed on a voice vote.

Batsell moved to approve the following language be incorporated as item number two in the Committee Rules: "Except for public hearings, only committee members, presenters and staff as appropriate, may speak at committee meetings." Seconded. Adopted on a voice vote.

Viitala moved that July 20 be set aside for a public hearing. Seconded. Adopted on a voice vote.

Sudduth moved that this Committee requests that City Council allow the Committee Chair and staff to seek private funding up to $2,000.00 to pay for travel expenses for speakers from out of state. Seconded. Adopted on a voice vote.

Freeman moved that the Chair make a request to the City Council that the City make arrangements for Committee members to receive free parking while attending Committee meetings. Seconded. Adopted on a voice vote.

Wallem moved to adjourn. Seconded. The time was 9:00 P.M.

Paul Scott, Staff.

MINUTES
CIVILIAN REVIEW BOARD WORKING GROUP
JUNE 7, 1989
Room 210A, Minneapolis City Hall

Committee members present: Wernick (Chair), Batsell, Berryman, Chookiatsirichai, Failor, Fisher, Florence, Freeman, Green, Hayes, Milligan, Sudduth, Viitala, Wallem.

Staff members present: Earl Craig, Paul Scott. Greg Richmond.

Chair Wernick called meeting to order at 7:05 P.M.

A motion was made to approve agenda. Seconded. Adopted on a voice vote.

Motion was made to approve the minutes of the 5/22 meeting. Seconded. Adopted on a voice vote.

The chair distributed the list of proposed speakers for the June 21 and July 5 meetings.

Doug Smith, Deputy Chief of Police, Patrol Division, Minneapolis Police Department, addressed the Committee.

Isabel Gomez-Edwards, Hennepin County District Court Judge and former IAD Review Panel member, addressed the Committee.

Smith, Gomez-Edwards, and IAD Commander Sgt. Roger Willow answered questions from the Committee.

Werner Petterson of the U.S. Justice Department addressed the Committee.

Petterson answered questions from the Committee.

Berryman moved to extend meeting for 1/2 hour. Seconded. Approved on a voice vote.

Batsell moved to adjourn at 9:10 P.M. Seconded. Approved with a voice vote.

MINUTES
CIVILIAN REVIEW WORKING GROUP
6/21/89
132 City Hall

Committee members present: Wernick (Chair), Arthur, Batsell, Berryman, Chookiatsirichai, Failor, Florence, Freeman, Green, Hayes, Milligan, New, Pacheco, Sadravi, Seline, Viitala, Wallem.
Staff members present: Earl Craig, Paul Scott.
Speakers present: Wayne Kerstetter, Wesley Pomeroy

Chair called meeting to order at 7:10 p.m.

Hayes moved to approve agenda. Seconded. Passed on a voice vote.

Milligan moved to accept minutes of 6/07/89 meeting. Seconded. Passed on a voice vote.

Wayne Kerstetter spoke to the committee.

Wesley Pomeroy spoke to the committee.

Kerstetter and Pomeroy answered questions from the committee.

At 9:00 P.M. Berryman moved to extend meeting for thirty minutes.

Chookiatsirichai amended Berryman motion to ten minutes. Seconded. Passed on a voice vote.

Meeting adjourned at 9:10 P.M.

Minutes
Civilian Review Board Working Group
7/05/89
210A, City Hall

Members Present: Wernick (Chair), Arthur, Berryman, Chookiatsirichai, Fisher, Florence, Green, Milligan, Pacheco, Seline, Sudduth, Viitala, Wallem
Staff Present: Paul Scott
Speakers Present: Fred Rice, Peter Ring

Chair called meeting to order at 7:00 P.M.

Florence moved to approve agenda for meeting. Seconded. Passed on a voice vote.

Chookiatsirichai moved to approve minutes of 6/21/89 meeting. Seconded. Passed on a voice vote.

Chair report on correspondence regarding the resignation of Vivian Jenkins Nelson, and Chuck Aryavong from the committee.

Chair report regarding the activity of the technical committee.

Chookiatsirichai moved to accept hearing rules. Seconded. Passed on a voice vote.

Remarks to the Committee from Peter Ring.

Remarks to the Committee from Fred Rice.

Ring and Rice answered questions from committee members.

Viitala moved to extend for 15 minutes at 9:00 P.M. Seconded. Passed on a voice vote.

Berryman moved to adjourn at 9:15 P.M.

Civilian Review Board Working Committee
8/02/89
210A, City Hall
Minutes of Meeting

Chair called meeting to order at 6:45 P.M.

Viitala moved to approve meeting agenda. Seconded. Passed on a voice vote.

Batsell moved to approve minutes of 7/05/89 meeting. Seconded. Passed on a voice vote.

Batsell moved that the staff prepare a letter of thanks to the four foundations which funded the expenses of those who came to speak to the committee this summer. Seconded. Passed on a voice vote.

Batsell moved the minutes reflect her appreciation for the efforts of the staff to raise the funds for the speakers.

Discussion of and straw polls taken on the civilian review model issues questionare in section one of the committee workbook.

Batsell moved to adjourn at 9:30 P.M.

Civilian Review Board Working Group
Minutes of Meeting
8/09/89

Members present: Wernick (chair), Arthur, Batsell, Berryman, Chookiatsirichai, Failor, Fisher, Freeman, Green, Hayes, Milligan, Pacheco, Sadravi, Seline, Sudduth, Viitala, Wallem.

Staff present: Craig, Scott.

The chair called meeting to order at 6:45 P.M.

Sudduth moved to approve meeting agenda as recommended by the chair. Seconded. Discussion. Passed on a voice vote.

Milligan moved to approve minutes of 8/02/89 meeting. Seconded. Passed on a voice vote.

Fisher moved that the committee should RECOMMEND THE CREATION OF AN INDEPENDENT CIVILIAN POLICE REVIEW AUTHORITY WITH A BOARD OF CIVILIAN DIRECTORS. Seconded. Vote on Fisher motion: 15 yes, 1 no, motion passed.

Milligan moved that the Committee RECOMMEND THAT THE MEMBERSHIP OF THE BOARD OF DIRECTORS OF THE CIVILIAN AUTHORITY BE A MIX OF ELECTED AND APPOINTED MINNEAPOLIS RESIDENTS. Seconded. Discussion. Chookiatsirichai moved to cut off debate. Died for lack of Second. Viitala moved to table motion. Seconded. 5 yes, 8 no. Motion failed.

Wallem made a substitute motion to the Milligan motion that the committee recommend THAT THE BOARD CONSIST OF TWENTY-ONE MEMBERS, THIRTEEN OF WHOM WOULD BE ELECTED FROM DISTRICTS (USING THE CITY WARD BOUNDARIES), 8 OF WHOM WOULD BE APPOINTED BY THE CITY COUNCIL. Seconded. Discussion. Batsell moved to cut off debate. Seconded. Passed on a show of hands. Vote on Wallem substitute motion: 4 yes, 12 no. Motion failed.

Batsell moved to end debate on Milligan motion. Seconded. Passed on a voice vote. Vote on Milligan motion: 9 yes, 8 no. Motion fails, because of failure to achieve a majority of the full committee, as required by the committee rules.

Berryman moved that the committee RECOMMEND THAT THE BOARD OF DIRECTORS BE COMPOSED OF UP TO NINE MEMBERS, REPRESENTING GEOGRAPHIC DISTRICTS, EACH MEMBER TO BE APPOINTED BY THE MAYOR AND CITY COUNCIL ACTING AS A COMMITTEE OF FOURTEEN. Seconded. Discussion.

Failor moves a substitute motion to the Berryman motion that the committee recommends that the nine members be appointed by the mayor and City Council FROM THE CITY AT-LARGE. Seconded. Discussion. Batsell moved to close discussion. Seconded. Passed on a voice vote. Vote on Failor substitute motion to recommend nine members to be appointed at large by the City Council and mayor: 5 yes, 9 no, 3 abstentions. Motion failed.

Friendly amendment by Milligan to Berryman motion -- TO HAVE THIRTEEN RATHER THAN NINE MEMBERS, WHO ARE TO BE APPOINTED FROM GEOGRAPHIC DISTRICTS (BOUNDARIES OF WHICH TO BE DETERMINED LATER) BY THE CITY COUNCIL AND MAYOR -- is accepted by Berryman. Discussion.

Fisher makes a substitute motion to the Berryman motion that the committee RECOMMEND THE ABOLISHMENT OF THE OFFICE OF CHIEF OF POLICE AND REPLACE THAT OFFICE WITH A POLICE COMMISSIONER, ELECTED BY THE CITY-WIDE ELECTORATE, AND THE POLICE COMMISSIONER SHALL APPOINT A CIVILIAN BOARD OF DIRECTORS TO OVERSEE THE CIVILIAN POLICE REVIEW AUTHORITY. Seconded. Discussion. Freeman moved to end debate. Seconded. Passed on a voice vote. Vote on Fisher substitute motion: 2 yes, 12 no, 3 abstentions. Motion failed. Vote on Berryman motion: 6 yes, 7 no, 3 abstentions. Motion failed.

Batsell moved that the committee RECOMMEND A BOARD OF DIRECTORS, WHICH IS COMPRISED OF SIX ELECTED MEMBERS WHO ARE TO BE ELECTED AS MEMBERS OF THE MINNEAPOLIS PARK BOARD CURRENTLY ARE ELECTED AND SEVEN APPOINTED MEMBERS, WHO ARE TO BE APPOINTED BY THE MAYOR AND SUBJECT TO APPROVAL BY THE CITY COUNCIL. FROM THE SEVEN APPOINTED MEMBERS A CHAIR OF THE BOARD OF DIRECTORS SHALL BE DESIGNATED BY THE MAYOR AND SUBJECT TO THE APPROVAL OF THE CITY COUNCIL. Seconded. Discussion. Batsell moved to call for the vote. Seconded. Passed on voice vote.
Vote on Batsell motion: 11 yes, 5 no, 1 abstention. Motion Passed.

Failor moved the Committee recommend the board be given the powers and responsibilities of creating its own rules, policies and procedures, but that such rules be adopted according to an open hearing process, similar to the APR process. Craig suggested that Failor's concern about the rules being in accordance with appropriate rules of procedure be included in the report and that the committee consider this matter when presented with the first draft of the report. Failor agrees and withdraws his motion.

Milligan moved the Committee RECOMMEND THAT THE BOARD OF DIRECTORS OF THE CIVILIAN REVIEW AUTHORITY BE GIVEN THE POWERS AND RESPONSIBILITIES OF CREATING RULES, POLICIES AND PROCEDURES FOR THE CIVILIAN AUTHORITY. Seconded. Passed on a voice vote. Batsell requested that the minutes note that there should be specific job descriptions in the final report.

Fisher moved THAT the Committee RECOMMEND THAT THE CIVILIAN AUTHORITY BE GIVEN THE POWER AND RESPONSIBILITY TO HIRE ITS STAFF. Seconded. Discussion. Batsell called for vote. Seconded. Passed on a voice vote. Vote on Fisher motion: 16 yes, 0 no, 1 abstention. Motion passes.

Wallem moved that the Committee RECOMMEND THAT A COMPLAINT MAY BE RECEIVED BY THE CIVILIAN THAT SAYS THAT HE/SHE WAS THE "VICTIM" OR "ANY OTHER CIVILIAN". Seconded. Discussion.

Freeman moved an amendment to the Wallem motion to add to the list of parties eligible to file a complaint: ANOTHER OFFICER OR EMPLOYEE OF THE POLICE DEPARTMENT, THE BOARD OR STAFF OF THE CIVILIAN POLICE REVIEW AUTHORITY OR A MEMBER OF THE POLICE ADMINISTRATION. Seconded. Discussion. Vote on Freeman amendment: 16 yes, 0 no, 1 abstention. Motion Passes. Wallem motion as amended passes on voice vote.

Milligan moved that the Committee RECOMMEND THAT THE CIVILIAN POLICE REVIEW AUTHORITY SHALL RECEIVE COMPLAINTS THAT ALLEGE POLICE MISCONDUCT AND/OR CONDUCT UNBECOMING A POLICE OFFICER, INCLUDING BUT NOT LIMITED TO ALLEGATIONS OF EXCESSIVE FORCE; INAPPROPRIATE ATTITUDE AND/OR LANGUAGE; HARASSMENT; THEFT; AND FAILURE TO PROVIDE APPROPRIATE, ADEQUATE AND/OR TIMELY POLICE SERVICE. Seconded. Discussion.

Failor moved the committee divide the Milligan motion among the separate paragraphs, that is one question concerning general misconduct complaints, and one question concerning complaints of inadequate service. Seconded. Discussion. Vote on Failor motion: 8 yes, 9 no. Motion fails.

Sudduth friendly amendment -- that Milligan motion conclude the sentence regarding failure to provide service with the words, "...BY AN INDIVIDUAL POLICE OFFICER OR POLICE OFFICERS." is accepted by Milligan. Batsell moves the previous question. Seconded. 15 yes, 2 no. Batsell motion to end debate passes. Vote on Milligan motion: 14 yes, 3 no. Motion passes.

Fisher moved that the committee RECOMMEND THAT THE CIVILIAN REVIEW AUTHORITY HAVE JURISDICTION OVER COMPLAINTS THAT ALLEGE DISCRIMINATION BY INDIVIDUAL OFFICERS. Seconded. Discussion. Batsell moved the previous question. Seconded. Passed. Vote on Fisher motion: 14 yes, 0 no, 3 abstentions. Motion passes.

Sudduth moved that the Committee NOT CONSIDER THE QUESTION OF WHETHER THIS COMMITTEE SHOULD MAKE A RECOMMENDATION TO THE CITY COUNCIL REGARDING THE RE-INSTATING OF AUTHORITY FOR THE MINNEAPOLIS CIVIL RIGHTS COMMISSION TO INVESTIGATE ALLEGATIONS OF DISCRIMINATION WHICH INVOLVE A POLICE OFFICER. Seconded. Discussion. Berryman moved the previous question. Seconded. Passed on a show of hands. Vote on Sudduth motion: 5 yes, 13 no. Motion failed.

Viitala moved that the Committee RECOMMEND THAT THE CITY COUNCIL SHOULD REINSERT THE LANGUAGE IN THE CIVIL RIGHTS COMMISSION ORDINANCE WHICH WAS REMOVED IN 1971, WHICH PROVIDED THE CIVIL RIGHTS COMMISSION WITH THE AUTHORITY TO INVESTIGATE ALL ALLEGATIONS OF DISCRIMINATION WHICH INVOLVE A POLICE OFFICER. Seconded. Discussion.

Sudduth friendly amendment to Viitala motion -- language should be added to the end of the Viitala motion, to wit: "THIS COMMITTEE IS IN SUPPORT OF THE CIVIL RIGHTS COMMISSION HAVING RETURNED ITS POWERS WHICH WERE REMOVED IN 1971, BUT NOTHING IN THIS RECOMMENDATION OR ITS IMPLEMENTATION IS MEANT OR SHOULD BE TAKEN AN ALTERNATIVE TO OR A DIMINUTION OF THE RECOMMENDATIONS OF THIS COMMITTEE FOR AN INDEPENDENT CIVILIAN REVIEW AUTHORITY" -- is accepted by Viitala. Seline moved the previous question. Seconded. Passed on a voice vote. Vote on Viitala motion as amended: 13 yes, 3 no, 1 abstention. Motion passes.

Sadravi moved that the Committee RECOMMEND THAT COMPLAINTS SHALL BE RECEIVED IN A COMBINATION OF CIVILIAN AND POLICE LOCATIONS, BY WHATEVER (CIVILIAN OR POLICE) PERSONNEL ARE EMPLOYED THERE, WITH ALL COMPLAINT FILES SUBMITTED TO THE CIVILIAN POLICE REVIEW AUTHORITY FOR PROCESSING. Seconded. Motion passed on a voice vote.

Green moved that the Committee RECOMMEND THAT CIVILIANS SHOULD CONDUCT INVESTIGATIONS, WITH THE PROVISION THAT THE TERM "CIVILIAN INVESTIGATORS" MEANS "NOT NOW A SWORN OFFICER OF THE MINNEAPOLIS POLICE DEPARTMENT." Seconded. Discussion.

Sudduth moved to amend the Green motion to add after the words "not now" the words "NEVER HAVE BEEN NOR WILL BE FOR TWO YEARS AFTER EMPLOYMENT IN THE CIVILIAN AUTHORITY." Seconded. Discussion. Wallem moved the previous question. Seconded. Passed on a voice vote. Vote on Sudduth amendment to Green motion: 6 yes, 9 no, 1 abstention. Motion failed.

Failor made a substitute motion to the Green motion that the Committee RECOMMEND TANDEM INVESTIGATIONS, WHICH MEANS INVESTIGATIONS CONDUCTED BY A TEAM OF CIVILIAN INVESTIGATORS FROM THE CIVILIAN AUTHORITY AND SWORN OFFICER INVESTIGATORS FROM THE INTERNAL AFFAIRS UNIT OF THE MINNEAPOLIS POLICE DEPARTMENT. Seconded. Discussion.

Wallem moved to adjourn. Seconded. 7 yes, 7 no. Motion failed.

At 9:30 Viitala moved to extend the meeting for 1/2 hour. Berryman friendly amendment to Viitala motion stating that the Committee meet until no later than 10:00 P. M. is accepted by Viitala. Seconded. Passed on a show of hands.

Discussion of Failor substitute motion. Freeman moved to end debate on the Failor substitute motion. Seconded. Passed on 15 yes, 1 no. Vote on Failor substitute motion: 4 yes, 10 no, 2 abstentions. Motion fails.

Batsell moved the previous previous question on the Green motion. Seconded. 12 yes, 4 no, 0 abstentions. Vote on Green motion: 9 yes, 4 no, 3 abstentions. Motion failed.

Committee chair asks for vote on the question of having the next Committee meeting on August 23rd, at 6:30 P.M. There being 11 ayes, the question is agreed to.

9:55 Sudduth moved to adjourn. Seconded. Passed on voice vote.

Civilian Review Board Working Committee
Minutes
8/23/89

Members present: Wernick (Chair), Arthur, Batsell, Berryman, Chookiatsirichai, Failor, Fisher, Florence, Freeman, Green, Hayes, Milligan, Pacheco, Sadravi, Seline, Sudduth

Staff present: Earl Craig, Paul Scott

Chair called meeting to order at 7:05 P.M.

Batsell moved to approve meeting agenda. Seconded. Passed on a voice vote.

Florence moved to approve minutes of 8/09/89 meeting. Seconded. Passed on a voice vote.

Fisher moved that the committee reconsider the unresolved motion put forward by Green at the previous meeting to RECOMMEND THAT CIVILIANS SHOULD CONDUCT INVESTIGATIONS, WITH THE PROVISION THAT THE TERM "CIVILIAN INVESTIGATORS" MEANS "NOT NOW A SWORN OFFICER OF THE MINNEAPOLIS POLICE DEPARTMENT." Seconded. Discussion.

Batsell called the question of the motion to reconsider. Votes were 9 yes, 3 no, 2 abstain on motion to reconsider, which passes. Discussion of Green motion.

Fisher moved to table Green motion. Seconded. Passed on a voice vote.

Fisher moved the Committee RECOMMEND THAT IN ANTICIPATION OF CASES WHERE THERE IS BOTH A COMPLAINT WITH THE CIVILIAN REVIEW BOARD AND POSSIBLE CRIMINAL CHARGES AGAINST THE OFFICER THE CIVILIAN REVIEW BOARD (UNDERSTANDING THAT IT HAS THE RIGHT AND AUTHORITY TO GO FORWARD WITH ITS OWN INVESTIGATION) SHALL, HOWEVER, ATTEMPT TO ESTABLISH NON-INTERFERENCE AGREEMENTS WITH THE COUNTY ATTORNEY, CITY ATTORNEY AND THE POLICE DEPARTMENT TO ASSURE THERE IS NO INTERFERENCE WITH OTHER INVESTIGATIVE PROCESSES. UNDER THIS AGREEMENT THE BOARD COULD SUSPEND ITS INVESTIGATION. Seconded. Discussion.

Sudduth moved a friendly amendment to remove "THE POLICE DEPARTMENT" from the Fisher motion. Fisher does not accept.

Batsell wished to express her support for the Fisher motion on the record.

Failor moved to amend Fisher motion to add "THE CIVILIAN REVIEW BOARD MAY NOT RELEASE ITS FINDINGS OF FACT AND RECOMMENDATIONS FOR DISCIPLINE UNTIL ANY CRIMINAL INVESTIGATION AND PROSECUTION HAS BEEN COMPLETED. Seconded. Discussion.

Freeman moved to divide the question. Seconded. 11 yes, 0 no, 2 abstentions. Motion to divide the question passes.

Sadravi called the question. Vote on Fisher motion: 10 yes, 0 no, 5 abstentions. Motion fails to achieved required 11 votes.

Berryman called the question on the Failor motion. Vote on Failor motion: 3 yes. 10 no. 2 abstentions. Motion fails.

Batsell moved a joint Failor/Fisher motion. Seconded. Discussion.

Sudduth moved to delete Failor half of the motion. Seconded. Discussion.

Sadravi moved to call the question on Sudduth motion. 10 yes, 3 no, 1 abstention, motion to delete Failor section carries.

Discussion on Fisher motion.

Batsell called the question of the Fisher motion. Vote on Fisher motion: 11 yes, 2 no, 2 abstentions. Motion passes.

Florence moved to put Green motion [that the committee RECOMMEND THAT CIVILIANS SHOULD CONDUCT INVESTIGATIONS, WITH THE PROVISION THAT THE TERM "CIVILIAN INVESTIGATORS" MEANS "NOT NOW A SWORN OFFICER OF THE MINNEAPOLIS POLICE DEPARTMENT."] back on the table. Seconded. Passed by voice vote.

Sudduth moved friendly amendment to Green's motion adding the provision that the term "civilian investigators" mean "NOT NOW, NEVER HAS BEEN A SWORN OFFICER OF THE MINNEAPOLIS POLICE DEPARTMENT" Green does not accept.

Vote on Green motion: 9 yes, 3 no, 3 abstentions. Motion fails to achieve 11 votes.

Freeman moved to reconsider Green motion, with the inclusion that investigators are "NOT NOW HAS NOT BEEN AND WILL NOT BE SWORN OFFICERS OF THE MINNEAPOLIS POLICE DEPARTMENT FOR TWO YEARS FOLLOWING THEIR EMPLOYMENT WITH THE CIVILIAN AUTHORITY." Seconded. Discussion.

Batsell moves the question on the Green motion. Seconded. Motion to cut off debate passed on a voice vote.

Vote on Green motion as re-introduced by Freeman: 9 yes, 4 no, 2 abstentions. Motion fails.

Fisher moved that the committee RECOMMEND INVESTIGATIONS WILL BE CONDUCTED BY CIVILIANS, "CIVILIANS" MEANING INDIVIDUALS SUBJECT TO A CONFLICT OF INTEREST CHECK BY THE CIVILIAN REVIEW BOARD. Seconded. Discussion.

Sadravi moved the question on Fisher motion. Died for lack of second.

Arthur moved a substitution of the Fisher motion with the Green motion. Seconded. Discussion.

Sudduth moved to amend substitute motion to state INVESTIGATORS SHALL BE CIVILIANS, "CIVILIAN" MEANING NOT NOW, NEVER HAS BEEN A MEMBER OF THE MINNEAPOLIS POLICE DEPARTMENT. Seconded. Discussion.

Berryman called the question. Seconded. Vote on the Sudduth amendment was 8 ayes, 4 no, 2 abstentions. Motion passes.

Batsell called the question on the Arthur substitute motion of the Green language for the Fisher motion, amended by Sudduth.

Vote on Arthur substitute motion, as amended: 10 yes, 4 no, 1 abstention. Motion fails to achieve 11 votes.

Discussion on Fisher's motion.

Batsell moved to table. Seconded. 10 yes, 5 no. Motion passes.

Sadravi moved the Committee RECOMMEND THAT ADJUDICATION, NAMELY FINDINGS OF FACT AND CONCLUSIONS DRAWN FROM THE FACTS BE CONDUCTED BY THE CIVILIAN REVIEW AUTHORITY. Seconded.

Freeman called the question. Vote on Sadravi motion: 13 yes, 2 abstentions. Motion Passes.

Fisher moved that the Committee RECOMMEND THAT IN ADJUDICATION OF A COMPLAINT THE STANDARD OF PROOF SHALL BE "A PREPONDERANCE OF THE EVIDENCE." Seconded. Discussion.

Batsell called the question on the Fisher motion. Vote on Fisher motion: 13 yes, 2 no, 0 abstentions. Motion passes.

Berryman moved that the Committee RECOMMEND THAT THE CIVILIAN REVIEW AUTHORITY WILL HAVE THE AUTHORITY TO SCREEN OUT COMPLAINTS BEFORE INVESTIGATION OR ADJUDICATION, AS LONG AS A FILE IS MAINTAINED WHICH INCLUDES ALL INFORMATION SUBMITTED AND EVIDENCE GATHERED AND THE REASON FOR THE DECISION NOT TO GO FURTHER. THE BOARD OF THE CIVILIAN POLICE REVIEW AUTHORITY WILL HAVE THE ULTIMATE RESPONSIBILITY FOR THE ESTABLISHMENT OF THE POLICIES AND CRITERIA FOR SUCH SCREENINGS AS WELL AS FOR REFERRING CASES TO MEDIATION, AND FOR THEIR INDIVIDUAL APPLICATIONS. HOWEVER, THE BOARD MAY DELEGATE TO THE AUTHORITY MANAGEMENT AND/OR STAFF SOME OR ALL OF SUCH SCREENING TASKS. Seconded. Discussion.

Batsell called the question. Vote on Berryman motion: 14 yes, 1 no, 0 abstentions. Motion passes.

Berryman moved that the Committee RECOMMEND THAT THE DISCIPLINE DECISION AUTHORITY RESTS WITH THE CHIEF OF POLICE AND THAT THE COMPLAINING WITNESS OR THE POLICE OFFICER HAVE A RIGHT IN SEVERE CASES TO APPEAL THE DECISION TO A REFEREE OR ADMINISTRATIVE LAW JUDGE. Seconded. Discussion. Vote on Berryman motion: 3 yes, 11 no, 0 abstentions. Motion fails.

Fisher moved that the Committee RECOMMEND THAT THE DECISION ON DISCIPLINE RESTS WITH THE CHIEF OF POLICE. THE CHIEF WILL MAKE HIS/HER DECISION BASED ON A FIXED SCHEDULE OF DISCIPLINARY MEASURES IN WHICH THE CIVILIAN REVIEW BOARD PARTICIPATES IN MAKING. THE DECISION WILL ALSO TAKE INTO ACCOUNT ANY FINDINGS OF THE BOARD REGARDING AGGRAVATING OR MITIGATING FACTORS. Seconded. Discussion.

Green moved a friendly amendment to Fisher motion, that WHATEVER AGGRAVATING AND MITIGATING FACTORS THE CHIEF IS ALLOWED TO CONSIDER IN METING OUT DISCIPLINE BE PRESCRIBED IN GUIDELINES THAT THE BOARD HAS A HAND IN CREATING. THE BOARD MAY RECOMMEND DISCIPLINE MEASURES TO THE CHIEF. Accepted by Fisher.

Discussion of Fisher motion. Berryman called the question of the Fisher motion. Vote on Fisher motion as amended by Green: 4 yes, 8 no, 5 abstentions. Motion fails.

Freeman moved the committee recommend the Fisher/Green motion, with the absence of the line "THE BOARD MAY RECOMMEND DISCIPLINARY MEASURES TO THE CHIEF." Additionally, the motion contain the words FIXED DISCIPLINARY GUIDELINES instead of FIXED SCHEDULE OF DISCIPLINARY MEASURES. Seconded. Discussion.

Pacheco moved a friendly amendment to Freeman motion, to remove the word FIXED from the language of the motion. Freeman accepts. Vote on Freeman motion: 8 yes, 5 no, 3 abstentions. Motion fails to achieve 11 votes.

Sudduth moved the Committee recommend THE CHIEF OF POLICE MAKES THE DISCIPLINARY DECISION, BUT THE CHIEF IS INSTRUCTED TO CARRY OUT THE DISCIPLINARY RECOMMENDATIONS OF THE CIVILIAN REVIEW BOARD. Seconded. Discussion.

Hayes called the question on the Sudduth motion. Vote on Sudduth motion: 3 yes, 11 no, 2 abstentions. Motion fails.

Sudduth moved the Committee RECOMMEND THAT INVESTIGATIONS ARE CONDUCTED BY CIVILIAN INVESTIGATORS OF THE CIVILIAN REVIEW AUTHORITY "CIVILIAN" MEANS "NOT NOW AND NEVER HAS BEEN A SWORN OFFICER OF THE MINNEAPOLIS POLICE DEPARTMENT". [The Committee has previously agreed by sufficient voted to recommend that adjudication is conducted by the Civilian Review Authority.] AFTER ADJUDICATION, THE BOARD OF DIRECTORS OF THE CIVILIAN REVIEW AUTHORITY SHALL SEND TO THE CHIEF OF POLICE THE INVESTIGATIVE REPORT, THE REPORT OF ANY EVIDENTIARY HEARING THAT MIGHT HAVE TAKEN PLACE, THE ADJUDICATION REPORT AND, WHEN COMPLAINTS HAVE

BEEN SUSTAINED, RECOMMENDATIONS FOR DISCIPLINE. THE CHIEF SHALL THEN MAKE A DISCIPLINARY DECISION, WHICH MAY BE APPEALED TO A CITIZEN COMMITTEE WHICH INCLUDES THE MAYOR. Seconded. Discussion.

At 9:31 Freeman moved to extend meeting for 30 minutes. Accepts a friendly amendment to change the motion to 15 minutes. Seconded. Passed on a voice vote.

Green moved to divide the language regarding appeal of the Police Chief's decision from the rest of the Sudduth motion. Seconded. Berryman called the question on the Green motion to divide the question. Seconded. Division passed on a show of hands.

Sadravi called the question on that part of the Sudduth motion without the language regarding appeal. Vote first part of Sudduth motion: 11 yes, 1 no, 2 abstention. Motion passes.

Pacheco asks a clarification on wording of Sudduth motion. Pacheco wishes for clarification that "civilian investigation" means investigators are "not now and has never been a member of the Minneapolis Police Department." Chair affirms such a definition was a part of the motion and calls for a another vote after stating the motion again. Vote results: 12 yes, 3 no. Motion again passes.

Batsell moved to adjourn at 9:45.

Next Meeting is scheduled for Wednesday August 30 at 6:30 P.M.

Civilian Review Board Working Committee
Minutes of Meeting
8/30/89

Members present: Wernick (Chair), Arthur, Batsell, Berryman, Chookiatsirichai, Failor, Fisher, Florence, Freeman, Green, Hayes, Milligan, Pacheco, Sadravi, Seline, Sudduth, Viitala, Wallem.

Staff present: Earl Craig, Paul Scott

Chair called meeting to order at 6:55 P.M.

Chookiatsirichai moved to approve minutes of 8/23 meeting. Seconded. Passed on a voice vote.

Freeman moved the committee request the staff to amended the minutes of 8/09, amending the language in the first motion on page 4 of those minutes to strike "...which involve a police officer" and replace with "...which could give rise to criminal prosecution". Seconded. Passed on a voice vote.

Arthur moved the committee RECOMMEND THERE BE AN EVIDENTIARY HEARING WHEN THE BOARD DECIDES THERE SHOULD BE AN EVIDENTIARY HEARING. Seconded. Discussion.

Freeman amends Arthur motion to add the words "...AND/OR EITHER PARTY REQUESTS AN EVIDENTIARY HEARING". Seconded.

Vote on Freeman amendment: 13 yes, 0 no, 1 abstention. Motion passes. Discussion.

Failor amends Arthur motion to add the words "...IN THOSE CASES WHICH ARE TO BE ADJUDICATED." Seconded.

Vote on Failor amendment: 13 yes, 1 no, 1 abstention. Motion passes.

Craig summarized Arthur's now twice-amended motion as such: WHEN THE CIVILIAN REVIEW AUTHORITY HAS DECIDED A CASE IS READY FOR ADJUDICATION, AN EVIDENTIARY HEARING CAN BE CALLED BY THE BOARD OF DIRECTORS AND/OR EITHER PARTIES IN THE CASE. Arthur, Freeman, and Failor accept this wording.

Vote on Arthur motion: 15 yes, 0 no, 0 abstentions, 1 pass. Motion passes.

Failor moved the Committee RECOMMEND THAT THE INVESTIGATIVE FILES OF THE CIVILIAN REVIEW BOARD ARE PRIVATE AND CONFIDENTIAL UNTIL THE INVESTIGATION IS COMPLETE AND THE OFFICER HIS EXHAUSTED HIS OR HER APPEAL RIGHTS. Seconded. Discussion.

Freeman moved to amended Failor motion, adding the words "OR THE MATTER IS BROUGHT TO ITS FINAL CONCLUSION."

Fisher moved to amended Failor motion to add the words "THE EVIDENTIARY HEARING IS A PUBLIC PROCEEDING." Seconded. Discussion.

Vote on Fisher amendment: 11 yes, 1 no, 3 abstentions.

Failor withdraws his motion as amended by Fisher.

Fisher moves the motion withdrawn by Failor. Seconded. Discussion.

Sadravi moved to amended Fisher motion to add the words "...EXCEPT IN SUCH CASES WHERE THE COMPLAINANT OR THE BOARD WISHES THE PROCEEDINGS NOT TO BE PUBLIC." Dies for lack of second.

Vote on Fisher motion: 9 yes, 7 no. Motion fails.

Chookiatsirichai moved the Committee RECOMMEND THAT THE SCREENING DOCUMENTS SHALL BE CONFIDENTIAL; COMPLAINTS (EXCEPT FOR SUMMARY DATA), INVESTIGATIVE REPORTS AND THE EVIDENTIARY HEARINGS SHALL BE CONFIDENTIAL UNTIL THE OFFICER HAS EXHAUSTED HIS OR HER APPELATE RIGHTS OR THE CASE HAS BEEN FINALLY RESOLVED; AND ADJUDICATION REPORTS, DISCIPLINE RECOMMENDATIONS, AND DISCIPLINARY DECISIONS OF THE CHIEF OF POLICE SHALL BE PUBLIC. Seconded.

Vote on Chookiatsirichai motion: 11 yes, 4 no, 1 abstention. Motion passes.

Chookiatsirichai moved the Committee RECOMMEND THE CHIEF REQUIRE ALL POLICE OFFICERS TO COOPERATE WITH THE CIVILIAN REVIEW BOARD INVESTIGATIONS, AND THAT GARRITY WARNINGS BE GIVEN TO OFFICERS BY THE POLICE AS IS CURRENTLY THE PRACTICE. Seconded. Discussion.

Sadravi moved a friendly amendment to Chookiatsirichai motion to add the words: "...IN THE SAME MANNER WITH WHICH POLICE ARE NOW REQUIRED TO COOPERATE WITH POLICE IAU INVESTIGATIONS." Amendment is accepted by Chookiatsirichai. Discussion.

Batsell moved a substitute motion that the Committee RECOMMEND THAT MINNEAPOLIS POLICE DEPARTMENT AND ITS OFFICERS ARE REQUIRED TO COOPERATE WITH THE CIVILIAN POLICE REVIEW AUTHORITY INVESTIGATIONS SUBJECT TO PROTECTING THE CONSTITUTIONAL GUARANTEES OF POLICE OFFICERS. THE CIVILIAN POLICE REVIEW AUTHORITY, MINNEAPOLIS POLICE DEPARTMENT, AND CHIEF OF POLICE WILL DEVELOP PROCEDURES TO IMPLEMENT MIRANDA AND GARRITY WARNINGS TO INSURE COOPERATION AND THE PROTECTION OF CONSTITUTIONAL RIGHTS. Seconded. Discussion.

Chookiatsirichai requested "AND THE CHIEF OF POLICE" be included in the motion's wording. Chair accepts.

Vote on Batsell substitute motion: 16 yes, 0 no, 0 abstentions, 1 voter out of the room.

Freeman moved the Committee RECOMMEND THAT THE MINNEAPOLIS POLICE DEPARTMENT SHALL BE REQUIRED TO TURN OVER TO THE CIVILIAN POLICE REVIEW AUTHORITY ALL RELEVANT DOCUMENTS PERTAINING TO THEIR INVESTIGATION. Seconded.

Vote on Freeman motion: 17 yes, 0 no, motion passes.

Freeman moved the Committee RECOMMEND THAT THE BOARD OF DIRECTORS OF THE CIVILIAN REVIEW AUTHORITY SHALL HAVE SUBPOENA POWER. Seconded. Discussion.

Vote on Freeman motion: 14 yes, 2 no, 1 abstention. Motion passes.

Failor moved the Committee RECOMMEND THAT SUBPOENA POWER BE LIMITED TO COMPELLING TESTIMONY AND EVIDENCE FOR EVIDENTIARY HEARINGS. Seconded. Discussion.

Vote on Failor motion: 3 yes, 7 no, 5 abstentions. Motion fails.

Freeman said the minutes should reflect that the Civilian Review Board, not its staff or the agency as a whole, has the right to subpoena power.

Green moved the Committee RECOMMEND THE HENNEPIN COUNTY BENCH WILL BE REQUESTED TO APPOINT A PANEL OF 3 FOR A TERM, TO HEAR APPEALS OF THE COMPLAINANT OR POLICE OFFICER WHO DISAGREES WITH AN ADJUDICATION BY THE BOARD, OR FROM THE BOARD IF IT DISAGREES WITH A DISCIPLINE DECISION BY THE CHIEF OF POLICE. ON APPEALS OF ADJUDICATION OF THE BOARD, THE PANEL SHALL ONLY REVIEW FOR PROCEDURAL FAIRNESS. ON APPEALS OF THE CHIEF'S DISCIPLINARY DECISION THE PANEL MAY SUBSTITUTE ITS JUDGMENT FOR THE CHIEF'S DECISION. Seconded. Discussion.

Vote on Green motion: 4 yes, 11 no. Motion fails.

Chookiatsirichai moved the Committee RECOMMEND THE SAME TYPE OF PANEL SUGGESTED IN GREEN'S MOTION, BUT THAT THE PANEL OF 3 BE APPOINTED BY THE MAYOR AND HOLD 1 MEMBER FROM THE CITY ATTORNEY'S OFFICE, AND 2 FROM THE CITIZENSHIP AT LARGE. Seconded. Discussion.

Vote on Chookiatsirichai motion: 1 yes, 15 no. Motion fails.

Fisher moved the Committee RECOMMEND THAT WHEN THE CHIEF DOES NOT FOLLOW THE DISCIPLINARY RECOMMENDATION OF THE CIVILIAN REVIEW BOARD, REVIEW OF THE CHIEF'S DECISION SHALL AUTOMATICALLY BE MADE BY THE MAYOR. THE MAYOR, THEN, IN CONSULTATION WITH THE CIVILIAN REVIEW AUTHORITY AND THE CHIEF OF POLICE SHALL MAKE THE FINAL DISCIPLINARY DECISION. Seconded. Discussion.

Vote on Fisher motion: 7 yes, 5 no, 4 abstentions. Motion fails.

Chair called for a revote on the Fisher motion: 10 yes, 4 no, 1 abstention. Motion fails.

Berryman moved the Committee RECOMMEND THAT AFTER DECISION HAS BEEN MADE BY THE CHIEF OF POLICE, BOTH SIDES TO THE COMPLAINT HAVE THE OPTION OF APPEAL TO AN ADMINISTRATIVE LAW JUDGE, WHO MAY ADD OR SUBTRACT TO THE PUNISHMENT GIVEN BY THE CHIEF, AND AGREE OR DISAGREE WITH THE DECISION. Dies for lack of second.

Freeman moved to reconsider the Fisher motion: Seconded. Vote on move to reconsider: 15 yes, 0 no, o abstentions. Motion passes.

Batsell moved friendly amendment to Freeman motion to add the words: "THE MAYOR'S DECISION IS PUBLIC." Freeman accepts.

Vote on Fisher motion: 12 yes, 4 no, 1 abstention. Motion passes.

Failor moved the Committee RECOMMEND THAT AS PART OF THE FINAL REPORT OF THIS COMMITTEE, THE STAFF OF THIS COMMITTEE SHALL PREPARE A STAFFING PLAN FOR THE CIVILIAN REVIEW BOARD AND AN ESTIMATE BUDGET FOR SUCH BOARD. Seconded. Discussion.

Batsell wished the record to reflect the staffing document would be for the purposes of assisting the City Council in getting the job done, and not to undo the recommendations of the report.

Vote on Failor motion: 5 yes, 10 no. Motion fails.

Arthur moved the Committee RECOMMEND THE CIVILIAN REVIEW BOARD HAS JURISDICTION OVER PATTERNS AND PRACTICE COMPLAINTS AND MAY RECOMMEND INSTITUTIONAL REMEDIES. Seconded. Discussion.

Freeman friendly amendment to Arthur motion: IN THE EVENT THE CHIEF OF POLICE FAILS TO IMPLEMENT RECOMMENDATIONS OF THE CIVILIAN REVIEW BOARD, THE CIVILIAN REVIEW BOARD HAS THE RIGHT TO APPEAL THE DECISION TO THE MAYOR. Arthur accepts. Discussion.

Failor moved to adjourn at 9:45 P.M. Fails on a show of hands.

Chookiatsirichai moved the meeting conclude at 10 P.M. Vote: 9 yes, 2 no. passes.

Wallem moved the Committee RECOMMEND THE CITY COUNCIL APPOINT ALL 13 BOARD MEMBERS PRIOR TO THE NEXT ELECTION, AND AT LEAST 6 COME FROM THE 6 PARK BOARD DISTRICTS, ONE FROM EACH. Seconded.

Vote on Wallem motion: 10 yes, 0 no, 1 abstention. Motion fails.

Fisher moved the Committee RECOMMEND THAT IN THE EVENT OF THE ADJUDICATING PROCESS OF A COMPLAINT OR COMPLAINTS THE BOARD

BECOMES AWARE OF ANY PATTERNS OR PRACTICES WITHIN THE POLICE DEPARTMENT ABOUT WHICH IT IS CONCERNED THE BOARD SHALL MAKE A RECOMMENDATION TO THE CHIEF OF POLICE CONCERNING SUCH PATTERNS AND PRACTICE. Seconded.

Vote on Fisher motion: 11 yes, 0 no. Motion passes.

Sadravi moved the Committee RECOMMEND THAT 5 SEATS ON THE CIVILIAN REVIEW BOARD BE RESERVED FOR PEOPLE OF COLOR AND/OR GAYS OR LESBIANS. Seconded. Discussion.

Vote on Sadravi motion: 10 yes, 2 no. Motion fails.

Chookiatsirichai moved that the Committee RECOMMEND THAT OF THE SEVEN PERSONS APPOINTED BY THE MAYOR, THE MAYOR MUST TAKE INTO CONSIDERATION CULTURAL DIVERSITY. Seconded.

Vote on Chookiatsirichai motion: Motion failed on a show of hands.

The next meeting is scheduled for September 13 at 6:30 P.M.

NOTE FROM THE STAFF:

The Civilian Review Working Committee has not met since the meeting of September 13th. Thus the Committee has not been able to approve the following minutes from that meeting.

Civilian Review Board Working Committee
9/13/89
Minutes of Meeting

Members present: Arthur, Batsell, Chookiatsirichai, Fisher, Florence, Freeman, Green, Hayes, Sadravi, Seline, Viitala, Wallem, Wernick.

Staff present: Earl Craig, Paul Scott.

Chair called meeting to order at 7:15 P.M.

Chair moved that alternative wording be inserted in place of the last three paragraphs of page three of the report draft.

Vote on Chairman's motion: 11 yes, 0 no, 3 abstentions. Motion passes.

Florence raised the question of whether the Committee at its last meeting when it decided that evidentiary hearings shall be confidential meant to include the complainant and the accused officer. Staff had not brought the minutes of September 30th, leaving open the question of what was agreed to. Sudduth moved that the staff be instructed to review the tape, and if the language in the report draft accurately reflected what was said it should stay, and if not it should be changed accordingly. Seconded. Vote: 13 yes, 0 no, 1 abstention.

Milligan moved that the language regarding the Civil Rights Ordinance be inserted as part of the executive summary. Seconded. Discussion. Vote on Milligan motion: 4 yes, 7 no, 2 abstentions. Motion fails.

Milligan moved the Committee insert the words, "the Commission also recommended the creation of a task force to create a model for civilian review," on page 6, paragraph 5, of the report. Seconded. Passed on a voice vote.

Florence moved to strike the words 'of the board or the convention of" and insert the word "by", on page 5, paragraph 3 of the report. Seconded. Passed on a voice vote.

Chair noted the word "accomplish" was misspelled on page 5.

Sudduth questioned the accuracy of page 28, "whichever persons either civilian or police", and page 36 "relevant documents." Chair said the wordings were accurate.

Freeman expressed concern about the language in the executive summary regarding who may file a complaint; he felt it should be more specific. Chair said that language had already been agreed upon and that the language in the executive summary was the exact language the committee had voted on.

Green moved that the word "may" in the recommendation on page 38

be changed to "shall". Craig clarified the question of "may" vs. "shall" by stating that the minutes read "shall" and the report draft is a mistake. Thus the final report shall use the word "shall".

Green moved the Committee add to the end of the recommendation on page 38 the words IN THE EVENT THE CHIEF DISAGREES WITH THE RECOMMENDATION OF THE BOARD THE ISSUE CAN BE APPEALED TO THE MAYOR. Chair ruled the motion out of order, saying it had been considered and defeated at the August 30th meeting.

Green moved for reconsideration of the motion as initiallyy made by Carol Arthur at the meeting of the 30th. Seconded. Discussion.

On the topic of reconsideration of a motion, Craig, after checking the minutes of 8/30 said that Arthur's first motion never had been voted on due to a disruption in the meeting caused by a move to adjourn.

Craig explained the parliamentary situation as one where the question of formal recommendations can be reconsidered was nevewr formalized as a Committee rule, thus anyone may move at anytime to reconsider anything if they were on the prevailing side, and that it takes a simple majority to reconsider any substantive item.

Green reconsideration of Arthur motion changed to motion to reconsider Fisher motion on August 30th which said IF IN THE ADJUDICATING PROCESS OF A COMPLAINT OR COMPLAINTS THE BOARD BECOMES AWARE OF ANY PATTERNS OR PRACTICES WITHIN THE POLICE DEPARTMENT ABOUT WHICH IT IS CONCERNED, THE BOARD OF DIRECTORS SHALL MAKE A RECOMMENDATION TO THE CHIEF OF POLICE CONCERNING SUCH PATTERNS OR PRACTICE. Vote on motion to reconsider Fisher motion of the 30th: 8 yes, 5 no, motion passes.

Green moved an ammendment to add the words IN THE EVENT THE CHIEF DOES NOT ADOPT THE RECOMMENDATION THE MATTER CAN BE APPEALED TO THE MAYOR to the Fisher motion of the 30th. Seconded. Vote on Green ammendment to Fisher motion: 8 yes, 3 no, 2 abstentions. Motion fails to get the necessary 11 votes.

Vote on Fisher motion: IF IN THE ADJUDICATING PROCESS OF A COMPLAINT OR COMPLAINTS THE BOARD BECOMES AWARE OF ANY PATTERNS AND PRACTICES WITHIN THE POLICE DEPARTMENT ABOUT WHICH IT IS CONCERNED, THE BOARD OF DIRECTORS SHALL MAKE A RECOMMENDATION TO THE CHIEF OF POLICE CONCERNING SUCH PATTERNS AND PRACTICE. 13 yes, 2 no, 0 abstentions. Motion passes.

Craig notified the Committee that the language in the executive summary regarding who may accept complaints in the civilian review model is not correct, that is, the same as the language in the minutes on the subject. The way it reads in the minutes is COMPLAINTS SHALL BE ACCEPTED IN A COMBINATION OF CIVILIAN AND POLICE LOCATIONS BY WHICHEVER (CIVILIAN OR POLICE) PERSONS

EMPLOYED THERE, WITH ALL COMPLAINT FILES... The summary will be changed, said Craig, accordingly.

Green moved that the Committee recommend THAT THE CIVILIAN REVIEW BOARD SHOULD CONSIDER DEVELOPING GUIDELINES UPON WHICH TO BASE THEIR DISCIPLINARY RECOMMENDATIONS TO THE CHIEF OF POLICE. Dies for lack of second.

Sudduth raised the question of "all" relevant documents in the recommendation regarding police department cooperation with the civilian review board. Craig stated that the staff had made a mistake in transferring the minutes to the bold-faced recommendations in the draft of the report, and that the staff will make sure that everything in bold is exactly as the minutes reflect.

Batsell moved to approve the minutes of the meeting of the 30th. Seconded. Passed on a voice vote.

Freeman moved the Committee end substantive debate of the draft report. Seconded. 11 yes, 3 no, 0 abstentions. Motion passes.

Sadravi raised a question on whether a recommendation regarding the make-up of the civilian review board (i.e., reserving a certain number of spots for minorities, gays, lesbians) would constitute a substantive matter. Chair ruled that it would.

Milligan requested the Committee number the paragraphs in the executive summary. Passed on a voice vote.

Batsell proposed the Chair write a letter complimenting the staff to be included in the report. Passed on a voice vote.

Hayes moved to adjourn at 8:30 P.M. Seconded. Passed on a voice vote.

ome misunderstandings about Civil Rights and the Minneapolis Police

n recent weeks there has been uch discussion concerning the linneapolis Civil Rights rdinance and proposed mendments to the ordinance. A proposal currently under consideration by the Minneapolis City Council would return urisdiction over matters involving alleged violations of Civil Rights by officers performing police duties to the Minneapolis Department of Civil Rights and the Minneapolis Commission on Civil Rights. (Civil Rights jurisdiction already exists with regard to employment matters in the Police Department.) The following questions and answers should clear up any confusion that may exist.

lease contact individual Civil ights Commissioners or the inneapolis Department of Civil ights at 348-7736 if you have urther questions.

Q. Is the proposed ordinance change the same as Civilian Review?

A. No. This would entail only the review of specific cases involving alleged violations of the Civil Rights of a protected class citizen. In other words, the Civil Rights Department and Commission would only look at cases involving behavior or actions that could be considered **discriminatory**: Did an officer treat an individual inappropriately because of his or her race, sex, affectional preference, disability, etc.? Civilian Review, on the other hand, is a process that involves an outside body examining complaints about police conduct, activities, policies, etc., usually after an internal investigation has been conducted by officers of the Police Department. The status of the individual making the complaint is not directly a factor. While recommendations from a Civilian Review panel might include disciplinary actions, the Commission would not have disciplinary powers.

Q. When it comes to professional conduct, lawyers oversee lawyers, doctors oversee doctors, and so forth, shouldn't police be responsible for conducting their own investigations?

A. There may be strong reasons for police taking the initiative to conduct professional review of their own ranks. This proposal would not interfere with such a process. All lawyers and doctors in Minneapolis are **also** subject to Civil Rights oversight independent of these professional review mechanisms. They cannot treat clients inappropriately based on protected class status without being subject to the Civil Rights ordinance of the City. In fact, police activity is the **only** activity cur exempted from such oversight.

Q. Isn't the Commission full of ze advocates who are out to "get" the police?

A. No. Although most of the Commissioner are appointed in part to represent com protected class, they recognize that th legitimacy of the Civil Rights process best protected by fair and impartia treatment of all cases that come befor them. Even though there may be outspoke members with strong viewpoints, th Commission is made up of twent members appointed to staggered thre terms. The Mayor appoints two-third the City Council appoints the rem All require confirmation by the Council. Both the Mayor and th Council carefully review the back and qualifications of applicants for po on the Commission. About one-third Commissioners must be attorneys. heard by the Commission are assign three-member panels that include one Commissioner attorneys and two Commissioners. The decisions of panels have essentially the same as District Court decisions. All de are appealable through the judicial system

Q. Since one role of the Civil Rights Commission is to be Civil Right advocates, what assurance is there that they will treat police officers fairly?

A. Commissioners are concerned professionalism, too. The Comm track record is second to none. O past ten years 96 Commission decisi have been appealed on their merits.

those, **only** three (about 3%) were reversed by a higher court. This compares extremely favorably with the District Court's record. According to the Hennepin County Bar Association, District Court decisions in cases involving discrimination are overturned on appeal approximately 10% of the time!

Q. We've heard about Civil Rights, what about Police Rights?

A. Police will continue to enjoy the same protection of Civil Rights laws as every other citizen. In addition, their Constitutional rights would be protected in the Civil Rights process. In cases of documented conflict of interest, the Commission hearing panel would be replaced by an independent hearing officer appointed to hear the case. As in other legal cases, the appeals process through the Court of Appeals and the Minnesota Supreme Court remains available to the parties involved.

Q. What actually happens when a case of alleged discrimination surfaces?

A. First, the **Department** of Civil Rights conducts an independent investigation to determine if there is jurisdiction in the case and whether or not there is Probable Cause to suspect that discrimination under the law may have taken place. Probable Cause determinations are found in only about 16% of the cases. About one-third of the cases are settled prior to any determination. Next, if Probable Cause is found, the case is referred to the **Commission** to conduct an impartial hearing according to the Rules of Evidence. Finally, findings are issued. In cases where the Commission finds in favor of the Complainant, it may award damages and order corrections of discriminatory practices. It is important to note that there is a clear separation between the investigation, which is conducted by the **Department**, and the hearing, which is conducted by the **Commission**.

Q. What new powers will the Department and Commission have if the ordinance is amended?

A. None. Actually the only change is a jurisdictional one. The police will now be subject to the same investigative and hearing procedures as every other citizen. In fact, the Minnesota Department of Human Rights currently has comparable jurisdiction (including subpoena power) over the police.

Q. If police can be subpoenaed by the Commission won't this undermine police authority?

A. No. As was mentioned above, the State currently has this authority and it has not resulted in a diminishing of the ability by the police to do their job. The Minneapolis Commission already has this authority over every other City department as well as other employers, landlords, and other entities dealing with the public. As in all other cases, a police officer may invoke his right against self-incrimination. The officer is further protected by the "Garrity rule" which limits the nature of testimony that could be compelled.

Q. Will the Commission be out to "make an example" of the police?

A. No. The Department and Commission recognize that the true goal of any Civil Rights law is to **prevent** discrimination, not promote prosecution. An attempt is made to settle every case that comes through the process as early as possible. The Commission's efforts are designed to promote improved awareness of Civil Rights issues and to encourage better attitudes toward protected class citizens. Furthermore, it is understood that this cannot be accomplished in a setting that is primarily confrontational.

Q. Won't Civil Rights oversight undermine the authority of the Chief of Police?

A. No. The Commission would have no disciplinary powers over police officers. Its authority would be limited to awarding damages and ordering that discriminatory practices cease. In fact, the absence of a City Civil Rights ordinance sends the wrong message about the City's concern for Civil Rights and thereby hampers the Chief's ability to insist upon appropriate behavior from the officers serving in the Department.

Q. Why should the City be concerned about this at this time?

A. In addition to recent incidents that have brought police-community relations to the forefront of public attention, the City must recognize that a poor reputation in Civil Rights matters hurts it in many ways. Quality of life issues and the business climate are directly affected. Tourism and convention business is hurt every time people learn of negative incidents involving the police and protected class citizens. Downtown commercial and corporate interests are threatened as people elect to go elsewhere to shop or to locate their businesses.