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Processing Complaints Against Police: The Civilian Complaint Review Board

EXECUTIVE SUMMARY

by

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Twenty-five years ago formal mechanisms for the receipt, investigation and disposition of citizen complaints about police behavior were virtually non-existent. Today it is hard to imagine how a department of any appreciable size could justify not having one. Nevertheless, it still takes dedication to the principles of responsible policing and a certain amount of political courage for a police director to look carefully at the operations and results of such a mechanism in his department. Commissioner Benjamin Ward evinced those qualities when he asked the Vera Institute to conduct this study of the New York City Police Department's Civilian Complaint Review Board (CCRB).

Deputy Chief James Trainor was the commanding officer of the Department's Office of Management Analysis and Planning when we began our work. He and his successor in that position, Deputy Chief Raymond Kelly, were consistently supportive of the research and facilitated our access to people and information whenever we needed such assistance. Philip McGuire, the Director of the Crime Analysis and Program Planning Section, helped us in getting access to the computerized data bases used in the study and, as a member of the Review Board, provided us with information about its procedures and insight into its deliberations. Jeremy Travis, serving at the time as Special Assistant to the Police Commissioner, helped us frame the research questions, reacted to the initial design proposals and introduced us to staff members at the CCRB who could be helpful. Susan Herman, also an Assistant to the Commissioner, offered helpful commentary on our proposal and on our findings at various points in time, while showing particular interest in the implications of our research for the training of police officers in the future.

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EXECUTIVE SUMMARY

A. Introduction

The New York City Civilian Complaint Review Board (CCRB) has been the object of controversy since its inception. Established in 1966 under authority granted in the City Charter, the agency was created to receive, investigate and hear complaints filed by civilians against police officers and to recommend disciplinary action to the Police Commissioner in cases judged appropriate for such a response. The agency has primary responsibility for the resolution of complaints involving police misuse of force, abuse of authority, discourtesy and/or ethnic slurs (known by the acronym FADE at the CCRB.)

The immediate controversy surrounding the agency had little to do with the operations of the CCRB. It centered instead on the structure of the Board designated to make final determinations concerning complaints reviewed and investigated by agency staff. As originally established under Mayor Lindsay, the Board was comprised of a mix of civilians and police department personnel. Following a highly politicized campaign, the structure of the Board was revised by referendum to be composed of police department personnel only.

The debate polarized the constituencies concerned with the review of civilian grievances against the police. Civil liberties groups argued that a Board controlled by police department personnel would inevitably "whitewash" complaints against the police. The Patrolman's Benevolent Association (PBA) countered that only police professionals had the expertise to determine what constituted proper and improper police behavior.

The issues raised in that debate have never disappeared. For the past twenty years, the CCRB has remained the center of repeated controversy, generally involving the composition of the Board itself -- entirely composed, from the late 60's through January 1987, of high-ranking civilian employees of the police department. The Board's composition has repeatedly been cited as evidence of inherent unfairness in the processing of civilian complaints by the agency's critics.

For several years, police department officials have been concerned about the apparently low credibility of the CCRB among segments of the civilian population. That concern was intensified by a series of events -- the 1983 Congressional hearing about alleged police brutality against minority residents of New York City; several well publicized incidents alleging unnecessary or excessive use of force by police; and repeated media focus on the issues of alleged police brutality, alleged race/ethnic bias within the police department, and the plight of victims of alleged police brutality who seek redress of their grievances through the courts.

All of these events brought issues related to the CCRB -- the composition of the Board, the small likelihood that allegations would be substantiated, alleged bias against complainants -- back to public awareness. This was so, despite the fact that the incidents which were the focus of media attention often fell within the jurisdiction of the city's criminal courts, rather than within the province of the CCRB.

Given the renewed and recurring interest in the CCRB, Department officials felt a growing need to take a dispassionate look at CCRB functions and operations. Department officials recognized that a review of the performance of the CCRB would have little credibility if it were conducted internally. Therefore, in early 1985 the Department began exploring the possibility of having the Vera Institute of Justice carry out some research on the operations of the CCRB to determine whether it was fair, consistent and objective in the processing of civilian complaints. This report summarizes the findings of the first two components of that research.

1. Research Strategy and Objectives

Vera's research mandate was to study the CCRB process to assess its fairness and consistency and to identify ways in which it might realize the Department's objectives more effectively. The Department was primarily concerned with aspects of the dispositional process -- whether it might be biased against particular groups of complainants or officers, why such a large proportion of investigated cases were disposed as unsubstantiated, whether the dispositional alternatives available to the agency were used appropriately. The Department also asked Vera for an assessment of the agency's general ability to meet the broader goals of civilian complaint review.

The civilian complaint review process can be seen as having three general goals: to provide an accessible and credible grievance resolution mechanism; to strengthen the relationship between the police and the community, by showing a determination to respond fairly to civilian complaints and by satisfying those who file complaints; and to reduce the extent of police misconduct towards citizens, by exposing and sanctioning improper behavior.

Vera proposed a three-part research strategy to address issues related to the fairness and consistency of the complaint review process and to explore the ability of the CCRB to meet the above goals. The first piece of the research entailed a quantitative review of the dispositions of complaints filed in 1984 at the CCRB and the factors that influenced those dispositions. The second piece of the research consisted of a qualitative analysis of a subsample of complaints (approximately 150) which would permit a more detailed description of the kinds of complaints filed and the manner in which they were handled. The final piece of the research involved a survey of complainants and officers against whom complaints were filed (subject officers) concerning their perceptions of and satisfaction with the CCRB process.

This report presents the findings of the first two components of Vera's research, the quantitative and qualitative analyses of the disposition of 1984 complaints. To conduct these analyses, Vera secured a copy of the CCRB data tape for that year. The tape provides information on the characteristics of complainants, victims and subject officers;

the nature of allegations and underlying situations; and the dispositional outcomes reached regarding the allegations contained in CCRB complaints. Drawn from cases identified on the 1984 CCRB tape, the qualitative subsample was selected to permit a deeper look at various types of complaints reaching the various possible dispositions. The complete files of subsample cases were reviewed in detail.

To supplement the quantitative and qualitative analyses of 1984 cases, researchers also interviewed members of the CCRB staff to learn more about the nature of complaint processing; conducted a supplementary analysis, using the Police Department's computerized management information system, of the characteristics of officers likely to receive civilian complaints; and undertook an extensive review of the research and theoretical literature concerning complaint review processes in police agencies.

Together these various efforts permit a detailed description of the caseload of the CCRB, of complainant characteristics, of the characteristics of subject officers and of how subject officers differed from officers who were not the subject of civilian complaints in 1984. They also permit a full description of the dispositional process at the CCRB, examination of the thoroughness of that process and analysis of the factors that influence dispositional outcomes. Along with the review of relevant literature, Vera's empirical research allows us to address both narrow questions about how the CCRB functions and broader questions about the agency's ability to meet its general objectives.

2. Civilian Complaint Review: What the Literature Tells Us

The literature review also served to identify central issues concerning the complaint review process which might be addressed by Vera's research. Much of the literature on civilian complaint review presents findings which contrast sharply with the argument presented in the public debate. The public debate centers primarily on the fairness and consistency of the review process when conducted by "internal" complaint review boards. The research literature, in contrast, generally acknowledges the fairness and consistency of "internal" review proceedings, but points to the inherent limitations of the process in satisfying complainants, in establishing its credibility with the general public and in controlling police behavior (Curran, 1987; Gelhorn, 1966; Zuccotti, 1987.) One recent report, in fact, demonstrates that "internal" review procedures are more likely to substantiate civilian complaints than review procedures that are controlled "externally" (Kerstetter, 1985.)

The literature also suggests that "internal" complaint review generally lacks credibility with the public in spite of its greater efficacy. The reason cited for the failure of review mechanisms to satisfy complainants include: infrequency of case outcomes that clearly vindicate complainants; failure to communicate sufficiently with complainants during case processing and following case disposition; and a tendency to treat complainants as the accused, rather than the accuser (Black, 1976; Chevigny, 1969; Curran, 1987; Goldstein, 1967; Kerstetter, 1985.)

The literature also suggests that many civilian complaints can not be definitively disposed through adversarial proceedings and that, therefore, little behavioral control ensues from the process. Bittner (1983) contends that complaint review procedures are

hampered in their efforts to control police misconduct by an excessive focus on 'legality' rather than 'workmanship'. Many civilian complaints give rise to questions about the appropriate use of police discretion -- questions which can not be successfully resolved by complaint review. The literature generally recommends the expansion of informal complaint resolution procedures, as more appropriate to the nature of filed complaints than adversarial proceedings and potentially more satisfying to complainants (Black, 1976; Gelhorn, 1966; Goldstein, 1967, 1986; Kerstetter, 1985.)

In recognition of the limitations of complaint review procedures as a means of controlling police behavior, the literature also calls for improved "line accountability" for police behavior toward citizens (Bittner, 1983; Broadway, 1974; Curran, 1987; Gelhorn, 1966; Goldstein, 1986.) Commentators argue that superior officers must not tolerate offensive conduct toward civilians. Unless such behavior is condemned by supervisors, they contend, case-by-case review of complaints can have little influence on how officers behave on the streets.

3. The Structure and Process of the CCRB

Although the public debate about the CCRB has focused on the role of the Board, the Board itself does not have primary responsibility for the processing and investigation of complaints at the CCRB. In 1984, those functions -- intake, investigation, and dispositional recommendations -- were performed by the CCRB staff, comprised of a mix of civilian and uniform employees of the NYPD. The Board was responsible for reviewing the investigations conducted and the dispositional recommendations made by the CCRB staff, determining final dispositions and making disciplinary recommendations to the Police Commissioner for substantiated complaints.

Figure 1 depicts the process whereby the CCRB accepted complaints for processing in 1984 and determined how accepted cases would be disposed. Complaints come to the CCRB either directly (filed by phone or in person) or by referral from local precincts or various public agencies. The CCRB intake unit determines which cases fall within the agency's jurisdiction. To do so, a complaint must contain an allegation of either force, abuse, discourtesy or ethnic slur (FADE) against a member of the NYPD. Complaints which fall within the CCRB's jurisdiction, but which also contain allegations of corruption, are passed on to the Internal Affairs Division (IAD.) Complaints about other types of police misconduct (i.e., neither FADE nor corruption) are referred to the Chief of the Department.

Some CCRB complaints are serious enough to be passed on to the District Attorney for preliminary review. If the District Attorney declines prosecution, the case is returned to the CCRB for processing. If the District Attorney holds on to the case, the CCRB suspends its processing until prosecutorial review is finished. The CCRB can resume processing if the case is returned within 18 months of the original filing date.

The intake unit assigns cases that are accepted within the jurisdiction of the CCRB to the captain of the appropriate borough investigative team for review at the close of

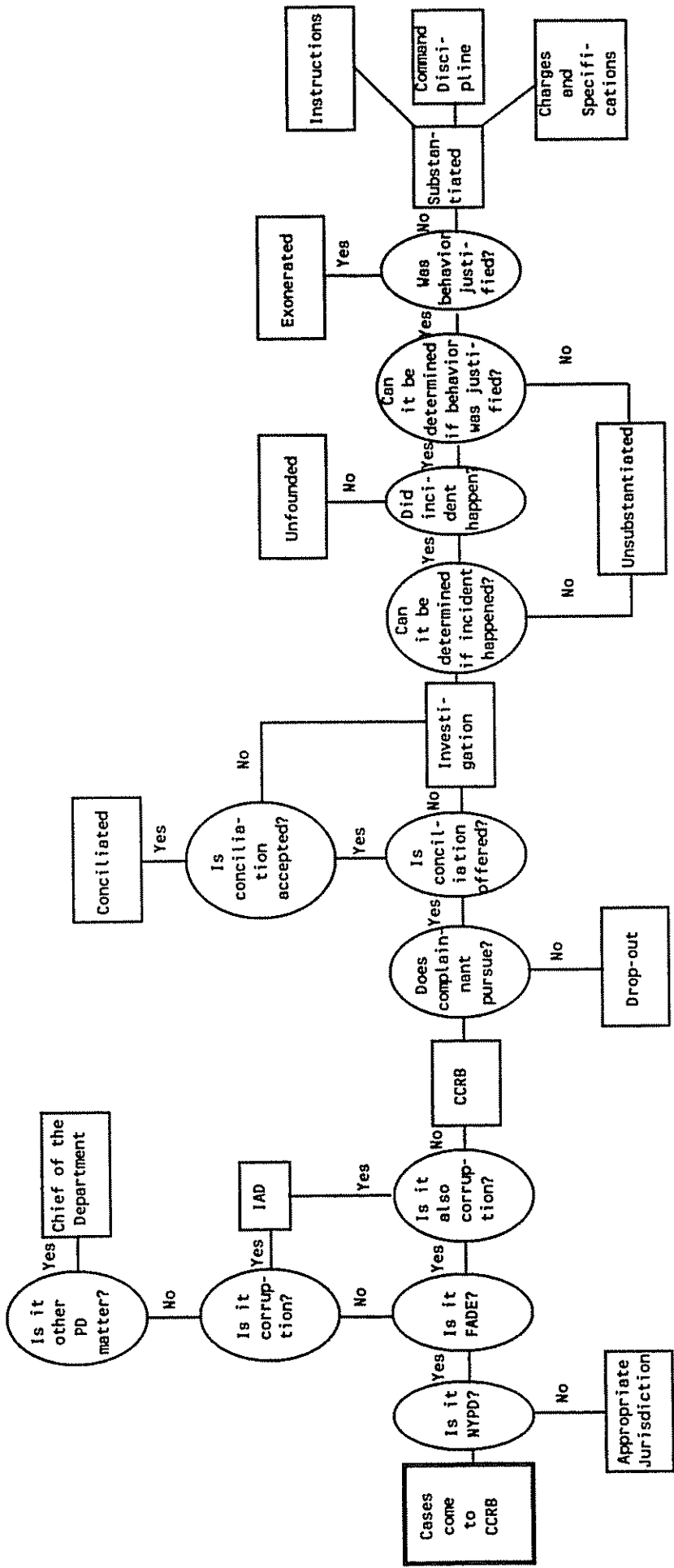


FIGURE 1
CCRB CASE PROCESSING FLOW

each day. Early in 1984, all cases remained within the jurisdiction of the borough teams. After the development of the separate Conciliation Unit (as well as a separate Major Case Team, responsible for the most serious and/or complex cases), borough captains determined which cases would be referred to special processing units.

The processing of complaints at the CCRB permits both informal and formal complaint resolution. Cases may be disposed without formal investigation through conciliation or, may be disposed after a full investigation. However, many complaints are not resolved by either of these methods, but are closed by the

CCRB administratively, without investigation or dispute resolution, because complainants or victims do not participate or because complaints are formally withdrawn. Thus, the complaint resolution process at the CCRB may be characterized as having three general outcomes -- "drop out" (investigations closed without resolution), resolution by conciliation, and resolution following full investigation.

The CCRB's major effort in cases closed without formal disposition ("drop-outs") consists of the attempts to contact complainants by either case investigators or members of the Conciliation Unit. The CCRB staff send both registered and unregistered letters to the complainant, asking the complainant to contact an identified CCRB staff member. They also make direct phone calls to complainants at home or at work. In many instances the complainant cannot be reached or, if reached, decides to withdraw or not to participate further.

The second general outcome is conciliation. Complaints are judged appropriate for conciliation if they meet all of the following criteria: there appears to be insufficient evidence in the case to permit definitive disposition (particularly if there are no witnesses); the complaint is not particularly serious; and the subject officer does not have a lengthy history of prior complaints.

If these criteria are met, a conciliation offer can be made to the complainant. The complainant is told that there does not appear to be enough evidence to substantiate his complaint, but that the complaint can be resolved informally. If the complainant agrees to conciliation, he is told, the subject officer will be called into the CCRB to discuss the incident and to be instructed on proper procedure. If the complainant does not agree to conciliation, the complaint will be investigated and formally disposed.

Complaints reach full investigation if there is a participating complainant, if they are judged inappropriate for conciliation, or if conciliation is offered and refused. Investigated complaints are divided into discrete allegations, each of which is separately disposed.

There are four possible dispositional outcomes in investigated cases -- allegations may be disposed as substantiated, unfounded, exonerated and unsubstantiated. Substantiated allegations are disposed in favor of the complainant; the disposition indicates that the alleged incident occurred and was improper. Unfounded and exonerated allegations favor the subject officer: an allegation is disposed as unfounded, if it is ruled that the alleged incident did not occur; an allegation is disposed as exonerated, if it is ruled that

the alleged incident occurred, but was justified and proper. An allegation is disposed as unsubstantiated (a disposition favoring neither the complainant nor the subject officer) if it is found that there is not enough evidence to determine either whether the alleged incident occurred or, if it did, whether it was proper or improper. In addition to these dispositional categories, investigation may reveal that the incident involved other misconduct on the part of the subject officer, which had not been alleged by the complainant and may not fall within the CCRB's jurisdiction.

In investigated cases, the standard of proof employed by the CCRB is one appropriate to an administrative procedure -- the "preponderance of evidence" -- rather than the "beyond a reasonable doubt" standard used in criminal proceedings. Before making a dispositional recommendation, investigators prepare a separate review of evidence bearing on each allegation in the complaint.

The CCRB does not itself impose punishments on subject officers. If any allegation is substantiated, or if other misconduct is noted, the investigator recommends an appropriate disciplinary referral as part of the recommended disposition.

Disciplinary referrals include "instructions," "command discipline," or the lodging of "charges and specifications." If the officer is referred to "instructions," his commanding officer instructs the officer on appropriate police procedures. If he is referred to "command discipline," his commanding officer imposes a sanction no more severe than the loss of five vacation days. If "charges and specifications" are lodged, the officer goes to departmental trial, subject to the approval of the Police Commissioner. If the officer is convicted at departmental trial, he/she is subject to sanctions ranging from the loss of a few vacation days up to dismissal.

No case is finally disposed, and no disciplinary referral takes effect, until a complaint has passed through a series of separate CCRB review procedures. The case file must be reviewed first by the unit or team supervisor; then by the Complaint Supervisor; then by the Deputy Director of the CCRB; and, finally, by the Board itself.

After a final disposition is determined by the Board, complainants are routinely informed of the disposition of their case by means of a standardized letter. They are not told of the specific dispositions accorded each particular allegation, but instead are told of the highest level disposition reached. Subject officers are informed by letter of the outcomes of investigated complaints.

Interviews with CCRB staff provided information on the way in which the structure and operations of the CCRB had changed in recent years. Some of the issues raised in the literature are directly related to efforts taken to improve the CCRB in 1984 and thereafter -- specifically, the "internality" of complaint review procedures, the role of informal complaint resolution procedures, and the need for developing "line accountability" for police conduct towards citizens. Below, we briefly review some recent procedural changes:

- o In early 1984, in response to citizen concern about the processing of complaints by police intake staff, the intake office was re-staffed by civilians.

- o In early 1984, the caseload of the CCRB was expanded to include relatively minor discourtesy complaints, which had previously been handled by the Chief of the Department. This led to a major increase in the number of complaints accepted and processed by the agency. In 1985, this jurisdictional change was partially reversed.
- o At the end of 1984, a special Conciliation Unit was established to conduct systematic informal case resolution. The unit, staffed by high-ranking civilian employees of the CCRB, took responsibility for a conciliation function that had previously been performed by a combination of police intake personnel (now replaced by civilians) and staff investigative teams, comprised of sworn police officers of various ranks.
- o In July 1985, following a scandal concerning police use of a "stun gun" against suspected drug traffickers in Queens, the Police Commissioner ruled that all force complaints entering the CCRB would be referred initially to the Internal Affairs Division (IAD) for review and possible investigation. Currently, IAD retains only the most serious force complaints for investigation and disposition; the rest are reviewed by IAD and returned to the CCRB for processing. IAD reviews completed investigations of force complaints.
- o In February 1986, the CCRB began reporting to precinct commanders both the number of complaints per month within a particular command, the substance of particular complaints filed in that month against specific officers within the command and the complaint histories of those officers. Line commanders became responsible for any increase in the number of annual complaints within their command and are required to meet with each officer against whom a complaint has been filed. This departmental effort to use CCRB complaints to increase "line accountability" was hotly contested by the Patrolman's Benevolent Association (PBA).
- o A 1986 amendment of the City Charter provides that the Board of the CCRB will be composed of an equal number of public members, appointed by the Mayor with the advice and consent of the City Council, and members appointed by the Police Commissioner.

Most of the changes described above were designed to increase the credibility of the CCRB with the public and to improve its capacity to perform thorough, unbiased investigations. Some had an influence on the CCRB caseload -- the types of complaints that the CCRB keeps within its jurisdiction and the types of complaints that are referred out for handling elsewhere. Others -- the civilianization of the intake and conciliation units -- affected the way in which complaints were processed.

4. Additional Research Questions

Together, the literature and the review of CCRB operations served to define additional questions which could be addressed by the Vera research. The theoretical literature provides a context through which the CCRB's ability to meet the general goals of civilian complaint review -- fair and thorough review, improved community relations, control of misconduct towards citizens -- can be explored.

Vera's empirical research also permits us to reflect on recent changes in CCRB operations -- the function and performance of the newly developed Conciliation Unit; the appropriateness of the expansion of the CCRB's jurisdiction over relatively minor complaints; the decision to make commanding officers aware of the complaint histories of officers in their commands.

One specific additional issue arose when we examined the effect of the newly developed Conciliation Unit by comparing dispositional outcomes in 1984, before the Unit was fully operative, with those in 1985, when it operated for an entire year. We discovered that the proportion of conciliated cases had dropped dramatically (from 42% to 14% of all complaints) and that the proportion of cases disposed either as "drop-outs" or as unsubstantiated had risen accordingly.

The effect of establishing the Conciliation Unit -- the reduced use of conciliation -- runs counter to the recommendation of the research literature for increased reliance on non-adversarial resolution of civilian complaints. In spite of the fact that the Conciliation Unit was designed to be more complainant-oriented than previous procedures, the resulting reduction in the extent of conciliation serves to increase the proportion of complaints that are unsubstantiated or drop out before investigation -- outcomes which appear to be intrinsically unsatisfactory to complainants.

This research sheds some light on the way in which conciliation was used by the CCRB in 1984 -- the extent to which it served as triage, to provide some resolution in cases which could not be definitively disposed; the extent to which conciliation offers appeared to be appropriate, based on considerations of complaint seriousness and evidentiary strength. The survey of complainants in the third stage of Vera's research will provide further information about another issue -- that is, the extent to which complainants may have felt pressured into accepting conciliation, even after the Conciliation Unit was established, and the extent to which the conciliation process, as performed by the CCRB, proves satisfactory to complainants.

Vera's research is not centrally concerned with the relative strengths of "internal" and "external" complaint review structures, the issue which dominates the public debate. Instead, it is designed to illuminate what the CCRB does -- the kinds of cases it deals with and how it deals with them. It provides extensive information on the kinds of complaints filed with the CCRB and the type of police behavior about which citizens complain. It also permits analysis of what officer characteristics are associated with the likelihood of having complaints filed, the relationship between officer characteristics and the type of complaints filed, and the relationship between complainant characteristics and the type of complaint filed. Finally, it affords a detailed description of the CCRB dispositional process and an analysis of the factors that influence the extent and outcomes of investigation.

B. Findings of the Quantitative Analysis

1. Types of Complaints Filed

In 1984, 6,698 civilian complaints, containing over 10,000 separate allegations of force, abuse, discourtesy and ethnic slur were registered with the CCRB. Because in many cases data on complaint disposition and/or complaint type were either missing or internally inconsistent, we excluded a number of complaints from the 1984 tape. For purposes of analysis, we defined a CCRB complaint as one in which there was complete information on complaint type and complaint disposition. This left us with 5,641 complaints (84% of complaints filed in 1984) in the Vera data set.

For purposes of analysis, we categorized a complaint by the most serious FADE allegation contained in that complaint. Based on this method of categorization, our sample contains 3,044 force complaints (54%), 1,559 abuse of authority complaints (28%) and 1,014 discourtesy complaints (18%) and 24 ethnic slur complaints.

Our review of the CCRB process points to a gap between the “horror stories” that the public perceives as constituting the bulk of the CCRB caseload and the more mundane complaints of minor force, abuse and discourtesy which actually constituted a large proportion of CCRB complaints in 1984.

Although over half (54%) of the complaints filed with the CCRB in 1984 contained allegations of unnecessary force, a large proportion of force allegations were relatively minor (push, shove or “other” minor force constituted 50% of force allegations). The majority of force allegations (68%) did not involve any injury to alleged victims. Relatively few of the alleged injuries (11%) required medical treatment.

Frequently, abuse allegations involved alleged improper enforcement (wrongful arrest or summons, 42%.) Allegations of wrongful search constituted the second most frequent type of alleged abuse (16%). Other complaints (15%) alleged abuse of property (damage or wrongful seizure) and improper threats of arrest and force. In over a third of the abuse of authority allegations (37%), the nature of the abuse was not specified, but characterized as ‘other’.

Almost half of the complaints in our data set (44%) were associated with some form of enforcement activity. Force complaints were more likely to be associated with enforcement (48%) than either abuse complaints (44%) or discourtesy/ethnic slur complaints (34%)

In over half of the complaints in which there was some form of enforcement, the enforcement activity involved was relatively minor -- summonsable traffic violations (43%) or other, non-penal law summonsable violations (10%). Among complaints in which some enforcement activity occurred, traffic summonses were far more frequently associated with discourtesy complaints (86%) and abuse complaints (69%) than with force complaints (20%). Force complaints in which enforcement occurred were disproportionately associated both with actual criminal charges (36%) and with a distinct

group of penal law offenses (disorderly conduct, harassment, resisting arrest: 34%) which some police critics interpret as typical "cover charges" for police abuse of citizens (Chevigny, 1969).

A large proportion of CCRB complaints arose in traffic situations (29%). Other situation types that gave rise to a large number of complaints were crime reports (19%), disputes (18%) and patrol situations (16%). Complaints also arose in a variety of situations (demonstrations, calls for service, arrest/det., aiding emotionally disturbed persons, aiding citizens who were not emotionally disturbed, station house incidents) no one of which accounted for a large number of complaints (all others, 17%).

Traffic-related complaints were far less likely to generate force allegations (36%) than any other situation type (from 55% in "other" situations to 68% in crime report situations). Traffic situations, in contrast to all other complaint-generating situations, gave rise to a disproportionate amount of the abuse and discourtesy complaints that entered the CCRB. The distributions of complaints arising in other situations did not differ greatly from each other.

Quantitative analysis showed that crime report complaints differed from complaints arising in other situation types in two respects -- the greater seriousness of force allegations and the greater likelihood of allegations of wrongful search. These differences point to the relative seriousness of complaints arising in crime report situations, and provide a marked contrast to traffic complaints.

2. Victims, Complainants and Subject Officers

a. Complainants and Victims

The 1984 data tape provided information on a variety of victim characteristics, but in many instances there was too much missing information to report distributions. Among complaints in which there was information on the alleged victim's ethnicity (N=5241), 38 percent of the victims were white, 39 percent were black, 20 percent were Hispanic and three percent were of other ethnic identities.¹

Information on the gender of the alleged victim was recorded in most cases. Nearly three-quarters (73%) of the victims of alleged misconduct were male; a quarter (27%) were female. Complainants who were not themselves the victim of the alleged incident (N=1010) were considerably less likely to be male than the identified victims of alleged incidents (male, 54%; female, 46%).²

¹ According to the 1980 census, the ethnic distribution of New York City in 1980 was 52 percent white, 24 percent black, 20 percent Hispanic and four percent other (New York City Department of City Planning, Demographic Profile.) This suggests that blacks were over-represented, Hispanics were proportionately represented and whites were under-represented in the group of alleged victims of police misconduct reported to the CCRB in 1984.

² The 1984 data base does not permit us to make systematic and reliable distinctions between victim and non-victim complainants, except in relation to gender. Therefore, most analyses were based on victim characteristics. The data suggest that the overwhelming majority of alleged victims (84%) filed their own complaints.

Complaints involving minority victims were, as a group, more serious than those filed by white victims -- that is, more likely to involve force, more likely to involve serious types of force, and more likely to involve relatively serious allegations of abuse of authority. The situations in which these complaints arose (disproportionately "crime report" and "patrol" situations) also differed substantially from the situations which gave rise to complaints involving white victims. Indeed, the disproportionate prevalence of crime report situations may explain the relatively high frequency of 'improper use of service revolver' allegations (e.g., improper drawing of weapon) and improper search allegations among cases involving minority victims.

The over-representation of white victims in both enforcement abuse complaints and in traffic situations points to a distinctive pattern among complaints involving white victims. Such complaints were less likely to involve force, and more likely to involve only discourtesy, than the complaints of minority victims. Many complaints appear to stem from traffic encounters between the police and white drivers; such complaints frequently allege no more than discourtesy in traffic or the wrongful issuing of a traffic summons.

b. Officers who Receive Civilian Complaints

Separate analysis of differences between officers who received civilian complaints in 1984 and those who did not revealed that the likelihood of receiving civilian complaints was related to gender, years of experience on the force, and assignment, but not to ethnicity. Male officers and those with less than five years on the job were disproportionately likely to receive civilian complaints, as were the relatively small group of officers assigned to the Traffic and Highway Division. Female officers were far less likely to receive complaints than male officers. For male officers, both assignment and years of experience were independently related to complaint frequency.

Among officers who did receive civilian complaints in 1984, female officers and experienced officers were less likely to receive force complaints than others. Officer ethnicity was not related to the type of complaint filed. Our research also showed that a higher proportion of minority officers than of white officers received complaints filed by minority complainants.

Our quantitative analysis revealed no evidence of racial differences among officers in the aggregate patterns of alleged misconduct -- that is, in the frequency and type of civilian complaints. Furthermore, complaints against white officers were not disproportionately filed by minority complainants. This finding does not support the accusation that police misconduct toward citizens is largely a function of racist attitudes within the predominantly white police force.

Our research suggests that male officers with less than five years on the job are not only more likely to receive civilian complaints than other officer groups, but also more likely to receive relatively serious complaints. However, it is not clear whether this fact reflects greater wisdom and skill among female and experienced officers in handling potential confrontational encounters, or a greater likelihood that younger male officers will be involved in such encounters.

Finally, assignment to traffic details also appears to increase the likelihood of having civilian complaints filed. This was evident both in the analysis of which officers received complaints and in the analysis of the types of situations in which filed complaints arose.

3. The Disposition of Civilian Complaints

a. Dispositional Stage Reached

The CCRB dispositional process can be described as having three general stages -- “drop out”, conciliation and investigation. In the 1984 CCRB data set, a large proportion of complaints in which outcomes were reported (42%) were closed without investigation, or “dropped out” of the investigative process. Another large group of complaints (39%) were conciliated and, therefore, not subjected to full investigation. Fewer than one out of five (19%) of disposed CCRB cases reached the third stage of the dispositional process, full investigation.

i. “Drop-out”

Complaints that drop out do so largely because complainants withdraw, cannot be reached or will not co-operate in the dispositional process.³ The likelihood of “drop out” may be related to complainant characteristics and/or the availability of information that makes it possible to contact the complainant (e.g., a summons or arrest report providing additional complainant/victim identification.)

The extent to which complaints “dropped out” of the dispositional process varied significantly by complaint type, situation type, complainant-victim ethnicity, and, to a lesser extent, officer ethnicity. Force complaints were considerably more likely to drop out of the CCRB process (48%) than other complaints (abuse, 38%; discourtesy/ethnic slur, 32%) in spite of the fact that they were more serious.

To some extent, the disproportionate “dropping out” of force complaints may be related to differences in the types of situation in which these complaints arise and/or the characteristics of those who file these complaints. Force complaints were more likely to have arisen in “crime report” situations than abuse or discourtesy complaints, which were, in turn, more likely to arise in traffic situations. It is probable that a larger proportion of complainants in traffic cases were of a stable, middle-class background than were complainants in crime report cases. This may have made them more accessible after complaints had been filed and less likely to drop out of the CCRB process. Furthermore, traffic complaints were frequently associated with traffic summonses, which provided additional identifying information to investigators.

³ For analytic purposes, we collapsed the various categories of “drop-out” into a single variable. We do, however, have disaggregated data on various types of drop-out for the total number of allegations filed. Analysis showed that 41% of allegations closed as ‘drop outs’ involved complainants who were unavailable; 27% involved complaints that were formally withdrawn; 27% involved complainants who were uncooperative (e.g., would not give evidence when contacted); and 5% involved cases in which subject officers could not be identified.

In fact, traffic complaints were far less likely to drop out of the dispositional process (26%) than complaints that arose in other situations (crime report, 44%; dispute, 44%; patrol, 56%; and "other", 52%.) Complaints arising in patrol situations appeared to be particularly likely to drop out of the dispositional process -- more than twice as likely as complaints arising in traffic situations.

Ethnic differences in the extent of "dropping out" appear to be partially related to differences in complaint type and situation. Complaints filed by minority victim complainants, who were overrepresented in force complaints, patrol complaints and crime report complaints, "dropped out" of the dispositional process more frequently than complaints filed by white complainants (Hispanics, 43%; blacks, 38%; whites, 36%), who were overrepresented in traffic and discourtesy complaints. Yet, analysis shows that victim ethnicity remained significantly related to the extent of drop-out even after controlling for differences in complaint type and situation type. White victim-complainants dropped out less frequently than minority victim-complainants, no matter what type of complaint was filed. Yet the type of complaint filed and the situation in which complaints arose were also independently related to the dispositional stage reached.

Complaints filed against black officers dropped out of the dispositional process somewhat less frequently than complaints filed against other officers, yet the difference was relatively small. This small difference did not appear to be related to differences in complaint type, situation type or victim ethnicity.

ii. Conciliation

Whether or not a complaint is conciliated depends upon the characteristics of both the complainant and the complaint. In theory at least, a conciliation offer will not be made if allegations are relatively serious, if there is enough evidence potentially available to reach a definitive disposition, or if the subject officer has an extensive history of prior CCRB complaints. All these factors affect the likelihood that the CCRB will offer to conciliate the case. Yet complainants also have the right to refuse to conciliate, and to insist that their complaint be investigated. Therefore, both complaint and complainant characteristics may be related to the extent of conciliation.

To explore the relative likelihood of conciliation it is necessary to remove "drop out" cases from the base and examine the outcomes of those cases which remain. This strategy permits us to study the manner in which conciliation is used by examining those cases where conciliation offers are possible (i.e., those in which there is an involved complainant.)

Analysis showed that the likelihood of conciliation was independently related to complaint type and situation type and, to a lesser extent, to victim ethnicity. Complaint seriousness, as represented by FADE categories, was inversely related to the likelihood of being conciliated. After removing drop-out cases, discourtesy complaints were far more likely to be conciliated (88%) than were abuse complaints (73%) or force complaints (55%.) If complaints did not drop out of the CCRB process, conciliation was offered and accepted far more frequently in less serious complaints.

The influence of complaint seriousness was also apparent in separate analyses which examined the types of force complaint filed. Force complaints containing injury allegations were far less likely to be conciliated than force complaints not alleging injury. The proportion of accepted conciliation offers in force complaints that did not drop out showed a strong inverse relationship to the fact and type of injury allegation as well. If no injury was reported at intake, 66 percent of remaining complaints were conciliated; if an injury was reported, the extent of conciliation in remaining complaints declined markedly, according to the seriousness of the alleged injury (unspecified injury, 43%; other, 38%; bruise, 37%; minor laceration, 28%; serious injury, 3%.)

The influence of complaint seriousness on the CCRB dispositional process is also apparent in the relationship between the type of force allegation and the dispositional stage reached. Less serious complaints were more likely to be conciliated (other, 65%; push/shove, 66%) than more serious complaints (gun allegations, 54%; push/shove/stick/club, 39%.)

There were also apparent differences in the extent of conciliation according to the situations in which alleged incidents arose. After subtracting complaints that dropped out, traffic complaints were somewhat more likely to be conciliated (75%) than other complaints. Remaining patrol and dispute complaints also had a relatively high likelihood of being conciliated (72% and 69%.) Complaints that arose in crime report situations, on the other hand, had a markedly lower likelihood of conciliation than other complaints (53%) if they did not drop-out.

White complainant-victims were more likely to have their cases conciliated after complaints that dropped-out of the dispositional process were subtracted (70%) than were other groups (blacks, 61%; Hispanics, 64%.) Yet these differences in the extent of conciliation might well be related to differences in the kinds of complaints filed by various groups. Minorities were disproportionately involved in force complaints, which were characterized by high drop-out and low conciliation patterns; whites, on the other hand, were disproportionately involved in discourtesy complaints, a complaint type that was frequently conciliated. Separate analyses that controlled for complaint type showed little difference between ethnic groups in the extent of conciliation.

There was little apparent relationship between officer characteristics and the likelihood of conciliation.

Our quantitative analyses suggested that complaint seriousness was consistently related to the extent of conciliation. This was evident in the decreased likelihood of conciliation in force complaints, complaints alleging relatively serious force, complaints alleging injury, and complaints alleging relatively serious injury. The influence of complaint seriousness might also be apparent in the greater likelihood of conciliation in traffic complaints compared to crime report complaints.

iii. Investigation

In theory, the likelihood of investigation at the CCRB is determined by the interaction of several factors -- complainant cooperation, complaint seriousness, evidentiary

strength, and the subject officers record of prior complaints. If complainants do not cooperate (i.e., if they drop out or are consistently unavailable to investigators), the possibility of investigation is reduced accordingly. However, for some complaint types, complainant cooperation is high, but so is the likelihood of conciliation. For less serious complaints, the frequency of conciliation offsets relatively high complainant cooperation. As a result, the proportion of such cases going to full investigation is low.

When complaints were classified according to the most serious allegation within the complaint (force/abuse/discourtesy-ethnic slur), complaint seriousness appeared to be directly related to the likelihood of investigation. Force complaints were far more likely to be investigated (23%) than discourtesy/ethnic slur complaints (8%); abuse complaints occupied an intermediate position (17% investigated). The greater likelihood of investigation for more serious complaints was not a product of greater complainant involvement in serious cases. The fact that more serious complaints were more likely to be investigated than others seems to have resulted from the CCRB's decision to withhold the offer of conciliation rather than from the way in which complainants behaved.

The influence of complaint seriousness on the extent of investigation is also apparent if we look at whether or not injury was alleged, the type of injury alleged, and the type of alleged force. Force complaints containing injury allegations were far more likely to be investigated (34%) than other force complaints (17%). Among force complaints alleging injury, those in which injuries were classified as unspecified or "other" were less likely to be investigated (26% and 29% respectively) than those alleging bruises or minor lacerations (37% each) or more serious injuries (stitches, internal injuries, fractures, gun shot wounds: 54%.) The most serious types of force allegations (gun allegations; punch/kick/club/stick allegations) were more likely to be investigated (26% and 29% respectively) than the less serious types of force allegation (push/shove and "other", 18% each.) Again, the likelihood of investigation appeared to be a product of differences in the extent of conciliation offers.

Situation also appears to have an independent influence on the extent of investigation. Complaints arising in crime report situations had a relatively high likelihood of being investigated for all complaint types (force, 29%; abuse, 25%; discourtesy, 10%), in contrast to complaints arising in patrol situations, which had a relatively low likelihood of being investigated for all complaint types (force, 14%; abuse, 13%; discourtesy, 2%.) Even if the most serious allegation was discourtesy, crime report complaints were considerably more likely to be investigated than patrol complaints.

Neither complainant characteristics nor subject officer characteristics were significantly related to the likelihood of investigation.

Aspects of the complaints themselves -- relative seriousness and the type of situation in which the alleged incident arose -- appeared to be primary determinants of how the complaint would be handled by the CCRB. Complaint seriousness was consistently related to the likelihood of investigation, a fact which points to proportionality in the CCRB dispositional process.

b. The Outcomes of Investigated Complaints

In more than half of the complaints which reached full investigation, no allegations were definitively disposed (unsubstantiated: 62%.) Substantiation of any allegation in investigated complaints was relatively infrequent (14%.) In another quarter of investigated complaints, dispositions favored the subject officer (exonerated; 16%; unfounded; 8%.)

In theory at least, the outcomes of investigated complaints -- substantiated, unsubstantiated, unfounded and exonerated -- should be more strongly related to the evidentiary strength of the case and the nature of the alleged incidents than to the characteristics of involved parties. Our research suggests that investigative outcomes were in fact significantly related to complaint characteristics and characteristics of underlying situations, but not to characteristics of the complainants or subject officers.

Discourtesy complaints were somewhat more likely to be fully resolved than force or abuse complaints (substantiated, 20%, 14% and 12%, respectively; unfounded, 21%, 7% and 8% respectively.) But they were considerably less likely to be exonerated than other complaints (6%, compared to 14% of force and 25% of abuse.) Exoneration is also a definitive disposition, but the qualitative research revealed that discourtesy allegations could rarely be exonerated, because discourtesy was never seen as an appropriate response to a police/citizen encounter.

The fact that discourtesy complaints had a greater likelihood of being disposed as substantiated or unfounded than other complaints may be related to the fact that non-serious allegations are less likely to go to full investigation unless the evidence seems sufficient to permit a definitive disposition. It is likely that many discourtesy complaints would have been conciliated if they did not provide sufficient evidence to permit definitive determination. The decision to investigate may have been influenced by the fact that such evidence was available.

There were also marked differences in the extent to which investigated abuse complaints were exonerated (25%) compared to force complaints (14%.) Both force and abuse allegations are subject to exoneration: force may be deemed necessary to achieve control in a police/citizen encounter; alleged abuse (search, the issuing of a summons, a disorderly conduct arrest) may represent a legal and permissible police response to a particular situation. However, while exonerating an abuse allegation requires a determination that the action taken by the officer was appropriate, reaching such a disposition in a force allegation requires not only a finding that force was necessary, but also a finding that the force used was not excessive. Clear evidence of the latter is hard to come by.

The type of force alleged was significantly related to the outcome of investigated force allegations. There was little difference in the extent to which force allegations of various types were substantiated. The difference in outcomes rested largely on the greater likelihood of exoneration in allegations of misuse of service revolvers (30%) compared to other types of force (push/shove, 11%; punch/kick/club/stick, 10%; "other", 14%.) It should be remembered that many allegations of misuse of service

revolvers alleged pointed guns or guns out of holsters -- incidents which clearly may terrify and/or anger citizens, but which may also be procedurally justified in particular situations.

There is also a significant relationship between the situations in which complaints arose and the outcomes of investigated complaints. Complaints that arose in traffic and crime report situations were less likely to be disposed as unfounded (4% and 6%, respectively) than complaints that arose in other situations (dispute, 10%; patrol, 10%; other, 16%).

Furthermore, crime report complaints also appear to be somewhat more likely to be exonerated (20%) than complaints arising in other situations, particularly disputes or patrol (13% each.) It is possible that the fact of a reported crime may increase the documentation available in the case and may make certain kinds of police behavior (e.g., drawn weapon) justifiable.

Overall, there was little difference according to situation in the total proportion of investigated complaints that had outcomes which favored the subject officer (the sum of unfounded and exonerated dispositions.) When these categories are collapsed, the relationship between situation and investigative outcomes is no longer significant.

4. Conclusions of the Quantitative Analysis

Analysis showed statistically significant relationships between the dispositional stage reached and a variety of factors -- complaint characteristics, the situation in which complaints arose, victim ethnicity, and the ethnicity of the subject officer. Yet the reasons behind these various significant relationships differ.

Some differences in the dispositional stage reached resulted primarily from differences in the extent to which various groups of victims remained involved in the CCRB's dispositional process. Some groups of victim-complainants (those involved in abuse and discourtesy complaints, those whose complaints arose in traffic situations, white victim-complainants, those who filed complaints against black subject officers) did not drop out of the CCRB process as frequently as others.

Other differences in the dispositional stage reached by various groups of complaints reflected the fact that serious complaints were relatively unlikely to be conciliated and, therefore, relatively likely to be investigated. The influence of complaint seriousness on the extent of investigation was most apparent in the way in which various complaint characteristics (complaint type, injury allegations, type of alleged force) were related to the dispositional stage reached. Complaint seriousness also appeared to explain, at least in part, the relationship between dispositional stage and the underlying complaint situation -- crime report complaints were investigated more often than complaints arising in other situations.

Only a few factors were significantly related to the dispositional outcomes of investigated complaints -- the type of complaint, as defined by FADE categories; the type

of force alleged in force complaints; and the type of situation in which the complaint arose (a relationship which remained significant after controlling for differences in complaint type.) In all cases, differences in investigative outcomes appeared to be related to the content of the allegations and the extent to which those allegations were fit for exoneration. Some allegations -- discourtesy, ethnic slurs -- were inherently difficult to exonerate. Other allegations -- that guns were drawn unnecessarily, that summonses were wrongfully issued, that other forms of enforcement were improper -- appeared to be exonerated more easily, possibly because conditions under which such behaviors are appropriate have been procedurally defined, while Department rules do not identify conditions under which ethnic slurs or discourteous remarks are tolerated.

There were relatively few differences between groups of complaints in the extent of substantiation. Differences in the proportion of complaints substantiated, when they did occur, were relatively small.

Generally, these differences appeared to be the result of greater preliminary screening before investigation. For example, investigated discourtesy complaints were somewhat more likely to be substantiated than force or abuse complaints. This seemed to be because discourtesy complaints generally would not have been investigated (i.e., conciliation would probably have been offered) unless there was sufficient evidence to suggest that investigation might produce a definitive disposition. More serious complaints were often investigated because of the seriousness of specific allegations, rather than the evidentiary strength of the case; therefore, these cases were somewhat less likely to reach definitive disposition.

The quantitative analysis as a whole did not reveal any evidence that the CCRB dispositional process was biased either for or against particular groups of victim-complainants or subject-officers. Differences in the dispositional outcomes of investigated complaints appeared to be related primarily to complaint characteristics, rather than to characteristics of complainants and/or officers.

C. Findings of the Qualitative Research

Analysis of the qualitative sample provided detailed information about the content of filed complaints of various types and about the nature of the investigative process. It also provided further insight into the factors which affect dispositional outcomes by permitting a close look at how investigators conduct an investigation, how much evidence is needed to reach a definitive determination, how investigators weigh and assess conflicting evidence, and how the Board responds to dispositional recommendations.

The qualitative research presented here is based solely on a review of CCRB case files. That approach permits an examination of the appropriateness of outcomes based on evidence contained in those files. It also permits some assessment of whether obvious leads (named witnesses) were not followed or relevant evidence (issued summonses) not gathered. It does not, however, allow an assessment of the possible impact of evidence not gathered or investigative efforts not taken, nor does it permit evaluation of the quality of investigation actions (contacts with complainants, canvasses). The qualitative review takes case files at their face value. It does not audit the described investigative process in specific cases.

1. Types of Civilian Complaints

The qualitative review of case files served to illustrate the wide variety of complaints that enter the CCRB, ranging from the mildest of discourtesy allegations to alleged severe beating at the hands of the police.

a. Force Complaints

The qualitative review of force complaints revealed very few incidents in which officers were alleged to have assaulted criminal suspects and a minority of complaints in which so-called “cover charges” (resisting arrest, disorderly conduct, harassment) appeared to have been invoked primarily to justify police use of force. In a number of cases in which such charges had been filed, complainants did not question the charges themselves, but rather the extent of force used to effect arrests.

Force allegations were more likely to stem from enforcement efforts against relatively minor infractions or to involve bystanders who attempted to intervene in an ongoing police-citizen encounter. Many force allegations were associated with summonsable offenses and arrests for minor criminal offenses. In several cases, traffic summonses were issued, words were exchanged and the confrontation escalated to the point of force. In such cases, citizens may question an officer’s judgment in giving them a traffic ticket, rather than ticketing other drivers perceived to be guilty of the same offense. Police officers may be discourteous in serving a summons. Or the citizen may respond discourteously. Police officers may add disorderly conduct charges as citizens grow increasingly loud and hostile. Citizens may threaten to lodge complaints against the officer. The outcome of such interactions may produce allegations of police abuse of force.

Several complaints alleged unnecessary force in response to civilians who challenged how officers handled or interpreted a situation. Some other complaints alleged excessive force in response to unruly civilian behavior (resisting arrest, disorderly conduct).

A number of the most serious alleged incidents involved a failure of communication between officers and citizens. Citizens who attempted to provide information about situations to which the police responded occasionally became overwrought and antagonistic when their assistance was rejected. Police officers allegedly failed to calm these overwrought citizens, gather information and weigh its relevance. Some did not try to. A few allegedly resorted to force very quickly.

Several other complaints alleged relatively minimal force. A few complaints alleged that police officers pulled guns in situations which complainants felt did not require so strong a demonstration of police authority (e.g., car stops involving suspected stolen vehicles). In other cases, complainants alleged that they were pushed during a search for drugs, a “stop and frisk”, or an interpersonal dispute. These relatively minor complaints were generally not associated with an arrest. Many appeared to be the outcries of innocent citizens, resentful that police suspicion had been leveled against them or angered at improprieties they perceived in the police-citizen encounter.

b. Abuse of Authority Complaints

The category of abuse complaints is something of a catch-all at the CCRB. A wide variety of allegations, not entailing force, discourtesy, ethnic slur or corruption, are classified as abuse of authority. In the 1984 qualitative sample, three specific types of alleged abuse were most frequent: wrongful enforcement (arrest, detention, summons, DAT); unwarranted search (persons, premises, vehicles); and improper seizure of property. Yet many of the abuse allegations reviewed did not fit easily into these categories.

As we saw in the quantitative section, over a third of abuse complaints are classified as “other”. The qualitative sample reveals the wide range of allegations that fall into the “other” category: threats of arrest; threats of force; failure to take complaints; discriminatory enforcement; harassment; refusal to give shield numbers; broken doors; and, in one case, flirting while writing a summons.

Many abuse complaints alleged that undeserved traffic tickets or other summonses had been issued, matters that might more properly be resolved through the courts, were they not accompanied by additional allegations of discourtesy or ethnic slur. Some complaints alleged discriminatory enforcement or unequal treatment. Few complaints of wrongful enforcement in the qualitative sample involved charges thought to be potential “covers” for police misconduct.

Search complaints ranged from a vague allegation that the complainant was “searched for no reason” to detailed descriptions of encounters with specific officers. Several allegations of wrongful search involved drugs.

Allegations of wrongful search in the qualitative sample fell into two groups -- (1) those in which the complainant saw "no reason" for the initial search and (2) those in which grounds for the initial search were established (search for a prowler, report of a man with a gun), but aspects of the search were seen as exceeding authorized limits. Complainants objected if they were searched without being informed of the reasonable grounds for the search. Some were sensitive to civil liberty issues. Others sought to protect themselves from arrest charges stemming from search incidents.

A number of other abuse complaints involved damage to property (three allegedly broken doors; an injured transmission in a car, driven to the stationhouse by police) or improperly confiscated property (license plates, a tire iron used as a weapon.) Although some allegations of damage to property claimed intentional malicious behavior (the allegedly deliberate slashing of a suspect's sheepskin coat,) most allegations involved damage to property that occurred without apparent malicious intent.

Threats of arrest were more likely to be related to police strategy or efforts to control situations than were threats of force. In many described incidents, arrest threats appear to be used in dispute situations as a strategy that permits officers to assert control. Disputants, who may have summoned the police in the first place, resent the fact that officers appear to take the "other side." Such situations appear to be fertile ground for CCRB complaints.

Other abuse complaints are difficult to categorize. A few complaints alleged dangerous or improper operation of RMPs. One complainant alleged that an officer mistakenly ordered him to change his seat in traffic court, although there was no section reserved for Police Officers. Another alleged that an officer failed to cooperate when a security guard called for assistance with a suspected teen-aged shoplifter at a super-market.

The wide variety of abuse complaints makes generalization difficult. There were few serious allegations of false arrest and imprisonment. Many complaints involved minor enforcement activity for violations which complainants themselves admitted. There were several allegations of threats -- both of arrest and of force. Several complaints were filed by individuals who were clearly delusional. Allegations of wrongful search pointed to the potentially most serious abusive behavior.

c. Discourtesy and Ethnic Slur Complaints

As was apparent in force and abuse complaints, discourtesy is endemic in police-citizen encounters that generate complaints, particularly in traffic situations. Sometimes discourtesy ignites a situation, leading to further abusive action, which might have been avoided, but for the exchange of epithets between officers and civilians.

In the qualitative review of how the CCRB handled discourtesy complaints, we have limited ourselves to complaints in which discourtesy was the most serious allegation -- discourtesy complaints that do not involve allegations of either force or abuse. Some CCRB personnel feel that, contrary to CCRB policy in 1984, this set of complaints does

not belong within the agency's jurisdiction. They claim that the CCRB was created to deal with serious allegations of force and abuse and that there is no mandate for including minor allegations of discourtesy, which could be dealt with at the command level.

Discourtesy complaints range in specificity from allegations that officers were rude and abusive in traffic stops to detailed descriptions of specific events and particular language. Some allegations involved rudeness without obscenity. Others alleged obscene gestures or gratuitous obscenity. Others alleged that officers used personal, threatening language and, at times, derogatory ethnic references.

Only a few complaints alleged racial or minority epithets -- nigger, Jewboy, faggot. The infrequency of complaints alleging the use of such epithets may suggest either that police have been sensitized to the offensiveness of such terms or that the public does not complain about such misconduct, when it does occur.

Although ethnic slurs themselves were relatively few, racial issues were implicit in complaints of other types -- a racial brawl in which police appeared to favor whites; conflict between off-duty white policemen and black citizens, who had been discussing an inter-racial police shooting incident. The underlying content of such complaints pointed to problematic police-minority relationships as a factor involved in alleged incidents.

d. Characteristics of Situations

In general, most frequent situation types proved to be exactly what they sounded like. Traffic complaints generally involved complaints about traffic stops and traffic tickets or rudeness emanating from a traffic encounter.

Dispute complaints generally arose when police intervened in disputes between landlords and tenants, neighbors, family members, lovers, shopkeepers and customers and barroom patrons. Not surprisingly, several dispute complaints in the qualitative sample alleged that officers threatened arrest or, in some instances, force. Disputants often resented the fact that police did not immediately support their side of the argument.

Complaints arising from an officer's general patrol activities also corresponded to expectations. Officers on patrol can encounter a wide range of situations as they move about, either on foot or in an RMP. The distinctive characteristic of such situations is that they do not arise in response to a particular call. Patrol encounters with citizens are either proactive and self-initiated (order maintenance activities, for example,) often a response to something observed in passing. Several patrol complaints involved incidents of minor enforcement (peddlers, drug dealers). Allegations frequently involved rudeness, harassment, improper enforcement, and, less frequently, unnecessary search.

Crime report complaints, on the other hand, did not correspond to expectations. Only a few involved alleged abuse of criminal suspects. A number of allegations of unreasonable search stemmed from situations in which police were responding to a reported offense -- drug sales, gun possession, robbery and rape. In such situations, officers may have stopped citizens who matched the described perpetrator or who were in the vicinity

of the reported crime. They may have failed to inform complainants of the reason for the search, been rude or rough during the search, or used the crime report as a pretext for an unsupported search for drugs.

In several instances, allegations of unnecessary or excessive force were filed after police responded to a specific crime report and found a situation that did not match their expectations -- a reported robbery that was really a dispute; a reported auto stripping operation, in which they challenged an individual repairing a relative's car. In such instances, the police response to the situation seemed to be shaped by the expectations created by the crime report, rather than the actual situation at hand.

e. Other Complaint Types

Several other types of complaints failed to correspond to the public image of typical CCRB complaints. A number of complaints did not involve police behavior as such, but arose in interpersonal situations between police and citizens (often off-duty traffic encounters.) Others stemmed from private interpersonal disputes (family quarrels, hostile divorces.)

Other complaints appeared to have been filed as a retaliatory act against a specific officer. Supportive letters from citizens and officers in case files documented the retaliatory motives of the complainant.

Still other complaints were filed by complainants who were clearly delusional, paranoid or emotionally disturbed; several of them had been classified as "chronic complainers". One, in fact, had filed over forty complaints over the past few years.

Such cases demonstrated a variety of unexpected reasons why citizens filed complaints with the CCRB. Some used the CCRB in a personal dispute against a police officer. Some tried to retaliate against officers who had acted against them. Others sought protection against retaliation by officers. Some used the CCRB in efforts to help them in civil or criminal cases. Some used the CCRB in their own personal psychodramas.

Other complaints revealed still other reasons for turning to the CCRB. Some complainants were unhappy with the way that their call for police assistance was handled and used the CCRB in an effort to change police response. Others were annoyed by perceived preferential treatment of police officers or high-ranking citizens. Still others complained about rudeness when they were not granted preferential treatment (doctors, relatives of police officers, persons with phony PBA cards, former officers, auxiliary officers).

Yet most complainants filed complaints with the CCRB because they seriously believed that they (or others) had been abused by police. They objected to rudeness, violation of their rights and abuse of their person.

As a group, allegations in the qualitative sample were neither as serious nor as substantive as incidents prominent in the media would lead us to expect. Yet most

allegations described behavior by police that genuinely angers citizens. It is the job of the CCRB to determine whether or not this behavior could be shown to represent a genuine abuse of professional standards.

2. Dispositional Stage Reached

In 1984, the first two dispositional stages at the CCRB provided a fairly effective screening device, channeling less serious and less substantive complaints away from full investigation. Most complaints that dropped out of the CCRB process showed little likelihood of producing a definitive disposition following investigation. Complainants frequently could not be contacted or would not cooperate in investigation. Few witnesses were identified at intake.

Often, complaints that dropped out did not appear serious enough to be sent directly to investigation. If complainants had cooperated in such complaints, it is likely that conciliation would have been offered.

Qualitative analysis revealed various reasons why so many complaints filed at the CCRB were not completely investigated. Some complainants dropped out at the advice of their attorneys. Many complainants were impossible to re-contact (anonymous complaints, no contact information.) In other cases, investigators determined that there was little hope of substantiation and complainants were offered a limited time to respond before cases were closed.

The qualitative analysis also showed that, within each of the FADE categories, cases that dropped out appeared to be less serious and weaker in evidentiary terms than other cases. Many cases that were closed as incomplete suffered from a lack of specificity in the original complaint. Some complainants were of low credibility.

It should also be noted that most cases reviewed did not involve subject officers with extensive prior complaints -- complaints which would have been fully investigated, had there been a cooperative complainant.

In most instances the decision to close a case without full investigation appeared eminently reasonable. Yet the criteria by which CCRB staff classified a case as "unavailable, complainant/victim", "uncooperative complainant/victim" and "unidentified police officer" categories were at times inconsistently applied. Many cases that dropped out or were dropped by the CCRB staff reached that status for more than one specific reason.

For all categories of complaints, cases which resulted in early closure usually presented less serious allegations and/or weaker evidence than cases which penetrated further into the dispositional process. In the few "drop-out" cases that did appear to be relatively serious, investigators appeared to make more of an effort to locate and retain complainants than in other cases. But the difference was small. In fact, in most cases, investigators appeared to exhaust all leads (addresses, home telephone numbers, business telephone numbers, information from summonses or arrest papers, calls to witnesses or identified victims) before closing investigations.

The qualitative review of conciliated complaints also helps explain why force complaints were disproportionately represented among the “drop-out” cases. The fact that less serious cases (discourtesy, abuse) reached conciliation rapidly appeared to reduce the frequency of drop-out by attrition among them.

In force complaints, on the other hand, a decision to offer conciliation was generally not taken quickly because of the apparent seriousness of the complaint. Such cases tended to be kept in the process longer and be moved toward full investigation. However, more extended investigation sometimes exposed the evidentiary weakness of the case, so that, in 1984 at least, conciliation was sometimes offered as a disposition of last resort in cases which would not otherwise result in a definitive disposition.

Although there were a few conciliated complaints in which dispositions could be questioned, given the seriousness of the allegations or the complaint record of the subject officer, inappropriate conciliations were infrequent. Our review suggests that decisions to offer conciliation in 1984 generally appeared appropriate.⁴

Cases with identifiable witnesses were less likely to be selected for conciliation than others, because of the evidentiary strength of the case. Even so, there were a few conciliated complaints in the qualitative sample in which witnesses were identified. Most of these cases involved allegations of discourtesy only. None of the witnesses were thoroughly independent; they were generally relatives or friends of the complainant. In the few conciliated cases in which witnesses were identified, the relative lack of seriousness of the allegations apparently provided grounds for accepting the case for conciliation.

Qualitative analysis suggests that the factors that influenced the decision to offer conciliation varied according to the type of complaint. In cases that were relatively serious, evidentiary concerns seemed to carry more weight than in other, less serious complaints. In addition, the decision to offer conciliation appeared to take longer to reach in more serious cases.

On the whole, the qualitative review revealed an apparent effort to retain relatively serious complaints for investigation. There was some evidence that investigators tried to keep complainants who had filed substantive, serious complaints involved in the CCRB process. They appeared to use the dispositional alternatives of “drop out” and conciliation as triage, to reduce the number of investigated complaints that could not be definitively disposed in any event.

The qualitative review confirms the quantitative finding of proportionality in the CCRB dispositional process. Investigated complaints were generally more serious,

⁴ This research, however, provides no information about the contention that some complainants may have been pressured into accepting conciliation or about complainant satisfaction with the way in which conciliation is performed at the CCRB. Vera’s survey of complainants will address these issues.

stronger in evidentiary terms and more fully delineated than complaints that “dropped out” or were conciliated.

3. The Outcomes of Investigated Complaints

Qualitative review took a deeper look than quantitative analysis at the types of complaints that reached various investigative outcomes. The examination of the content of investigated case files allowed an assessment of the appropriateness of particular dispositional outcomes. It also addressed the allegation that the high proportion of unsubstantiated outcomes resulted from an inherent bias against complainants.

a. Dispositions Favoring Subject Officers

The qualitative review revealed four types of unfounded allegations -- those in which a complaint had been filed by mistake (e.g., by hospital or police personnel against the wishes of the complainant,) those in which no member of the NYPD was involved, those involving delusional or untrustworthy complainants, and those in which investigation showed that the alleged action did not happen.

Only a few unfounded allegations in the small qualitative sample were subject to extensive investigations. Many were disposed as unfounded rather quickly, because allegations were clearly specious, not within the CCRB’s province or had been mistakenly filed. Several “unfounded” complaints resembled cases that had been closed without investigation, as either “withdrawn” or “no police officer identified”.

The application of the policy by which unfounded complaints could be expunged from officers’ files (if the encounter had not happened, if the complainant was notably untrustworthy and classified as “chronic”) was not always consistent. Several complaints did lead to expunged records, but in some instances there had clearly been an encounter and the complaint had not been filed by a chronic complainer. In other instances, complaints met the criteria for expungement, but had not been expunged.

Exonerated complaints generally were more extensively investigated than unfounded complaints and more likely to involve legitimate complainants, real police-citizen encounters and identified police officers. The determination that alleged police actions are “lawful and proper” generally required independent evidentiary support. In several exonerated abuse complaints, however, it was apparent on the face of the complaint (or through review of administrative statute) that enforcement activity had indeed been “lawful and proper”.

Exonerated force complaints required more thorough examination. Generally, force allegations were exonerated when the officer admitted the use of force, and the evidence demonstrated that force was necessary to achieve control. Most of the exonerated force findings involved the justification of force in the line of duty. The CCRB ruled that there was adequate evidence (independent witnesses, injury to officers) to demonstrate that force was necessary. One atypical exonerated complaint sprang from a complex interpersonal situation; the complainant’s lack of credibility and clear retaliatory intent may have contributed to the finding of exoneration.

In one or two exonerated complaints, there appeared to be some supportive evidence for accompanying lesser allegations (for example, witnesses may have corroborated the officer's discourtesy.) In these few instances, it was not clear why accompanying discourtesy allegations had not been substantiated. The justification of more serious allegations may have affected the disposition of less serious allegations.

Most cases containing exonerated allegations contained accompanying unsubstantiated allegations. Few were fully exonerated.

b. Unsubstantiated Dispositions

CCRB complaints are disposed as unsubstantiated when the evidence is insufficient to determine either that the alleged incident actually occurred or that the event that took place was, in fact, unprofessional, unjustified and/or improper. To some extent, the term "unsubstantiated" appeared to misrepresent this group of cases. The term suggests that complaints might have been substantiated but for an inherent evidentiary weakness. But in several complaints, the evidence appeared to favor the police officer somewhat more than the complainant. These cases might be better conceptualized as "unexonerated", rather than "unsubstantiated".

Within the qualitative sample, there were more cases that seemed to favor the officer's account of the incident than appeared to favor the complainant's. What these cases generally had in common was an insufficiency of independent evidence supporting a definitive determination in either direction.

In fact, very few unsubstantiated complaints of any type provided much evidentiary support for the complainant. In some cases, all the conditions for informal resolution were met and conciliation had been offered and refused. Our analysis suggests that unsubstantiated force complaints were more likely than other complaints to lean toward exoneration, while unsubstantiated discourtesy complaints were more likely than other complaint types to represent rejected offers of conciliation.

As a group, unsubstantiated complaints reflect evidentiary weakness and the ambiguities inherent in a dispositional system in which the burden of proof applies to both the complainant and the subject officer. Definitive dispositions were difficult to reach at the CCRB for understandable reasons. There had to be enough evidence to determine first whether the alleged incident occurred as described and, second, if it did, whether it was clearly proper or improper. The fact that many police actions may be justified, depending upon situational exigencies, makes the second determination difficult. A substantial body of evidence is needed to determine whether or not a particular situation justifies an alleged response. A distinct group of unsubstantiated complaints represented decisions in cases which provided no discernible support for complainants, but almost enough evidence to exonerate the subject officer.

c. Dispositions Favoring the Complainant: Substantiated Complaints

When an allegation is substantiated, the finding indicates that the subject officer did act as the complainant alleged and that such behavior was unprofessional and improper. If any single allegation within a complaint is substantiated, the police officer against whom substantiation is found is subject to a disciplinary referral -- even if all other allegations in that complaint are disposed as "exonerated" or "unfounded".

In the qualitative sample, substantiated force complaints included some of the most serious force allegations reviewed. Many of the complaints themselves were relatively complex and detailed, forcing investigators to weigh evidence against multiple officers, examine physical evidence, and review the testimony of multiple witnesses. As a group, force complaints that were substantiated were more likely to involve injury than were force complaints that reached other dispositions.

Complaints resulting in substantiated force allegations appeared to cluster into four distinct types. Several complaints contained serious allegations of police brutality arising in crime-report and non-traffic enforcement situations. Other complaints, arising in patrol and dispute situations, appeared to involve a sub-text of racial conflict between police and citizens. Another group of complaints arose in traffic situations, which escalated from routine discourtesy into force. The final group of complaints began as interpersonal, off-duty events between officers and citizens, some of whom were relatives or neighbors of the officer.

There were three distinct types of substantiated abuse complaints in the qualitative sample. Some complaints depicted clear abuse of authority in an enforcement context. Other complaints alleged abuse in a situation in which the officer was not acting in an official capacity (off-duty incidents in which police authority was invoked.) Other complaints were substantiated predominantly because they alleged technical violations, which were readily subject to definitive determination, along with other (generally more serious) allegations which could not be substantiated. Complaints arising in an enforcement context included the most serious abuse allegations in the group.

Yet, as a group, substantiated abuse complaints were less serious than expected. None of them involved citizens protesting false arrest for disorderly conduct, resisting arrest or other "cover charges." Few substantiated abuse complaints involved alleged serious violations of the civil liberties of citizens.

On the other hand, substantiated abuse complaints were more serious than typical conciliated abuse complaints; there were few substantiated complaints about improper issuing of traffic summonses, complaints that appear to have been routinely channeled toward conciliation or disposed as exonerated.

Very few discourtesy complaints (i.e., cases in which discourtesy is the most serious allegation) were substantiated. We reviewed all of them. Some of the discourtesy cases identified on the computer tape as substantiated had been miscoded; complainants had not cooperated and the investigations were closed.

Substantiated discourtesy complaints were generally no more serious than other discourtesy complaints reviewed. Most would have been appropriate for conciliation but for the extensiveness of the officer's prior complaint record or the presence of a cooperative witness. In each of the substantiated discourtesy complaints, there were discernible reasons why the complaint merited both investigation and substantiation.

Within the groups of substantiated complaints, proportionality was apparent in the recommendation of disciplinary referrals. Force complaints were far more likely to lead to departmental trial than complaints that did not allege force.

4. Conclusions of the Qualitative Analysis

The qualitative analysis reviewed individual cases to examine the ways in which various dispositional alternatives were actually employed at CCRB and to explore why such a small proportion of complaints were substantiated. In most cases, there were no grounds for substantiating cases which reached other dispositions. In a few cases, questions arose about the disposition of secondary allegations in cases in which the primary allegation was exonerated or unfounded. It appeared that, in some of these cases, the investigator's overall impression of a complaint may have influenced the dispositional recommendations of lesser allegations. Yet, the number of cases in which this may have happened was small.

On the whole, the qualitative review of investigated complaints supports the quantitative finding of rationality and proportionality in the CCRB dispositional process, by demonstrating that investigated cases were generally more serious and offered more evidence than cases which dropped out or were conciliated. In addition, it provides no support for the contention that a significant number of unsubstantiated complaints were disposed in a manner that was unfair to complainants.

The issue of the relative "independence" of witnesses arose in a number of investigated complaints in the qualitative sample. The CCRB presumes that any connection between a witness and one of the parties to the complaint is enough to challenge that witness's independence and render his or her testimony biased, if it supports the testimony of the party to whom the witness is connected. Although the testimony of witnesses who are not deemed "independent" usually does not add to the body of evidence because of this presumption, there were a few substantiated complaints in the qualitative sample in which this presumption did not hold, despite the fact that witnesses were not genuinely independent. Yet most complaints that lacked independent witness testimony were disposed as unsubstantiated unless there was some other independent evidence supporting the position of one of the parties.

The presumption that the testimony of "non-independent" witnesses is suspect is a reasonable one for investigators to make, although reasonable people can disagree on whether various types of connections are sufficient to deprive a witness of his "independent" status. The problem with this presumption in the CCRB context, however, is that it tends to become a "rule of evidence" when there are no viable opportunities to rebut it. If such opportunities could be created in selected cases, a more definitive disposition

might be reached in some cases which are disposed as unsubstantiated under present procedures.

Yet the qualitative analysis showed that the high proportion of investigated complaints that are “unsubstantiated” is primarily a function of either “insufficient evidence” to prove the complainant’s allegations or to exonerate the officers. It became evident that the variety of dispositional alternatives permitted by the CCRB gives rise to a “dual burden of proof.” Evidence must support either the complainant or the subject officer if a definitive disposition is to be reached. In several unsubstantiated complaints, the “insufficiency of evidence” lay in the case supporting the subject officer, rather than the complainant.

In general, complaints that involved relatively technical issues were more likely to reach definitive determination (either exoneration or substantiation) than complaints that involved the appropriate use of police discretion. It appears easier to decide whether or not a particular statute or regulation was applied correctly than to resolve questions involving the necessity of force or the threat of arrest.

There was considerable evidence of the thoroughness of the dispositional process at the CCRB. All contact efforts were fully documented. In more serious, fully-investigated cases, canvasses were conducted, medical records gathered, photographs taken and multiple witnesses interviewed.

There was clear evidence of the Board’s involvement in investigated cases. Some cases were sent back for more investigation, some recommended dispositions were revised, and several recommended disciplinary referrals were upgraded. In these instances, the Board’s action invariably favored the interests of the complainant.

In short, the qualitative analysis did not support allegations that the CCRB dispositional process lacked thoroughness of investigative effort or demonstrated bias against complainants in dispositional outcomes. Instead, the process appeared rational and consistent in its effort to reach determinate dispositions and to permit informal resolution in less serious cases. Furthermore, the qualitative analysis suggested that most dispositions in investigated complaints “made sense” within the parameters of the existing set of dispositional alternatives for investigated complaints.

D. Summary of Findings, Observations and Recommendations

Vera's empirical research provided detailed information on the kinds of complaints filed with the CCRB and the manner in which they were disposed. The analyses revealed a gap between the public image of the CCRB -- as an agency which handles a caseload composed primarily of complaints alleging serious police misconduct and which favors police officers in its disposition of that caseload -- and the reality of the agency's caseload and performance.

Taken together, the quantitative and qualitative analyses, the review of relevant literature, and the interviews with CCRB staff about the structure and operations of the agency permit some assessment of the CCRB's ability to meet the various goals of complaint review procedures. This section summarizes research findings concerning the CCRB's ability to meet the central objectives of fair and accurate review, improved police-community relations, and enhanced control of officer misbehavior.

1. The Operations, Fairness and Accuracy of the Complaint Review Process

In summary, the empirical research found the CCRB dispositional process to be fair, rational, proportionate to the seriousness of charges and reasonably thorough in its efforts to reach some resolution (formal or informal) of filed complaints.

The relatively low proportion of substantiated complaints (3% of all complaints and 14% of all investigated complaints) appeared to result from the nature of the cases themselves. Many complaints cannot be investigated because they are in some sense incomplete (no participating complainant or victim, no identified subject officer). In addition, many complaints are inherently inappropriate for substantiation because even a thorough investigation does not surface sufficient evidentiary support for the allegations (an independent witness or other form of corroboration). Other complaints proved to be difficult to substantiate because the type of conduct alleged could be justified by situational exigencies.

Another obstacle to substantiation was the almost uniform denial of allegations by subject officers. Not only did officers accused of wrong-doing automatically deny the allegations, but, in addition, they were usually supported in these denials by their partners and other officer witnesses.

In the face of the formidable obstacles to substantiation, the CCRB appeared to perform rationally and consistently, as a complaint resolution mechanism governed by rules of evidence. The relative seriousness of complaints affected outcomes at all stages of the dispositional process. Vera's review of the investigative and dispositional process provided no evidence that the process as a whole was unfair to complainants in general or to specific subgroups of complainants. Quantitative and qualitative analyses revealed that investigative outcomes were determined primarily by characteristics of the complaints themselves, rather than the characteristics of complainants or the officers against whom they complained.

Many of those who are not satisfied with the dispositional patterns that have emerged from the CCRB have suggested that the proportion of cases definitively disposed might be changed by changing the composition of the Board itself. This is probably not so. Dispositional outcomes appear so strongly related to the underlying characteristics of filed complaints that they are unlikely to be much influenced by changes that do not affect the caseload itself. Moreover, the bulk of the dispositional processing performed at the CCRB is carried out by agency staff, with the Board reacting to dispositional recommendations made by the staff. In the majority of the 1984 cases, these dispositional recommendations were accepted by the Board. In the relatively few cases affected by the Board's actions, those actions invariably favored the complainant. The Board did not play the primary investigative role envisioned by CCRB critics, but instead provided a final level of review to ensure the fairness of the disposition in each case.

2. Improving Police-Community Relations

The research described in this report does not provide direct information on the extent to which existing complaint review procedures satisfied individuals who filed complaints with the CCRB. (The third piece of Vera's research is designed to explore these issues.) Yet it can provide some general insight into ways in which the CCRB, as constituted in 1984, might -- or might not -- have contributed to improving police-community relations.

The CCRB did serve to provide a forum for the filing of citizen complaints against police -- nearly 7,000 of them in 1984. And, as we have seen, those complaints were subjected to a rational, proportionate and consistent dispositional process.

Yet, for several reasons, it would not be surprising if that process lacked credibility with complainants or with the community as a whole: the relatively small proportion of complaints that were disposed as substantiated; the relatively large number of complaints that were not definitively disposed either way; the fact that the Board did not include civilian representatives, not otherwise affiliated with the Police Department, at the time of our study; and the continuing media focus on incidents, often handled by agencies other than the CCRB, in which violent police abuse of citizens was alleged and not resolved to the satisfaction of all segments of the community.

In addition, the credibility of the CCRB among complainants may be impaired by the rather complicated set of dispositional alternatives permitted by the agency and the relatively obscure dispositional letters sent to complainants, informing them of the outcomes of their complaints. For all these reasons, this study suggests that the CCRB in 1984 made no more than a modest contribution to improving police-community relations.

On the other hand, in 1984, the CCRB made an effort to be more responsive to the concerns of complainants, by establishing the Conciliation Unit. Members of the Conciliation Unit, who were themselves civilian employees of the Police Department, were trained to provide complainants with a detailed explanation of the various dispositional alternatives at the CCRB, including the decision to accept conciliation. The unit was established to reduce a suspected "high pressure sales pitch" for conciliation on the part of investigators.

As discussed earlier, the apparent effect of the Conciliation Unit was to reduce dramatically the proportion of conciliated complaints and to increase the proportions of cases that dropped out or were disposed as unsubstantiated. Thus, the operation of the Conciliation Unit apparently increased the number of complaints disposed in ways that were least likely to satisfy complainants. Although fewer complainants may have been pressured into agreeing to the conciliation process without fully understanding what it entailed, it also appears that fewer complaints reached potentially satisfying outcomes.⁵

Although information about the extent of complainant satisfaction is not yet available, it is clearly possible that any gains made by the Conciliation Unit in that regard were offset by the increased proportion of inherently unsatisfactory outcomes. The effect of the development of the Conciliation Unit in reducing the proportion of conciliated cases, in fact, appears to conflict with a central recommendation of the research literature -- that complaint review boards become less "adversarial" by increasing the extent of conciliation and mediation, processes and outcomes which, some argue, are more in keeping with the type of complaints typically filed.

Another recent action which may have affected the CCRB's ability to influence police-community relations was the decision to add civilian members to the Board. Whether or not the addition of civilians to the CCRB Board affects dispositional outcomes, it may prove an effective means of increasing public trust in the dispositional process, by reducing the extent to which that process is seen as serving and protecting the interests of the Department.

3. Controlling Police Behavior

Civilian complaint review processes appear to be a necessary part of departmental efforts to control misconduct toward citizens. Yet, the potential of civilian complaint adjudication to control officer behavior seems quite limited. Complaint review mechanisms are essentially reactive. They respond to filed complaints only. They can do nothing about unreported misconduct. In addition, because so few complaints filed at the CCRB in 1984 were disposed as substantiated, or had other misconduct noted (e.g., failure to make memo book entries), only a small proportion of officers against whom complaints were filed were sanctioned by the Department. Given the infrequency of sanctions following involvement in the CCRB process, the ability of the CCRB adjudication process to deter misconduct by police towards citizens seems very limited.

Moreover, most complaints, even if they were to be substantiated, do not seem likely to call for severe sanctions. The caseload at the CCRB in 1984 was heavily weighted with relatively non-serious complaints of minor force, abuse or discourtesy. Thus, many complaints, if they had been substantiated, would not have been deemed appropriate for the more serious sanctions which the CCRB could recommend (charges and specifications, followed by departmental trial).

⁵ It should be noted that development of the Conciliation Unit did not affect the nature of the conciliation process at the CCRB. That process does not actually resolve differences between the complainant and the subject officer. Instead, it serves as a form of tacit apology to the complainant and provides a general review of appropriate behavior in specified types of situation for the subject officer.

In short, the CCRB adjudication process is inherently lacking in the two qualities which effective deterrence is thought to require -- the certainty and the severity of punishment. For the majority of complaints filed at the CCRB, the probability of substantiation is small and the likelihood of a severe sanction is remote.

Recent measures to employ CCRB data in departmental efforts to enhance line accountability and, thereby, increase control over officer misconduct show some potential. Yet, PBA officials, concerned with possible negative effects upon the careers of police officers, objected to the proposed means of promoting "line accountability". They contended that it was unfair to report information concerning unsubstantiated complaints to commanders, who might use such information in evaluation and in delegating assignments. The PBA objections presented in court initially restrained the Department from establishing a list of officers who had received an unusually large number of complaints.

In part, the PBA argument hinged on the nature of unsubstantiated complaints. They argued that in many unsubstantiated complaints "a complete exoneration might be the appropriate resolution" (Brief for Petitioner-Respondents in *Caruso vs. Ward*, N.Y. App. Div.: p. 17). In contrast, the Department's argument depicted unsubstantiated complaints as neutral: "...at some point, the mere fact that a number of complaints, including those that cannot be proven but cannot be disproven, have been made becomes crucial information for the proper supervision and training of the officer." (Appellants' Brief in *Caruso vs. Ward*, N.Y. App. Div.: p. 15).

Our review provided some information on this point. We found that unsubstantiated complaints included a number of complaints that seemed potentially appropriate for exoneration, if there were just a bit more evidence, and relatively few complaints that seemed potentially appropriate for substantiation, given a bit more evidence. These findings lend partial support to the claims of the PBA.

The PBA's concern with protecting the interests of individual officers, however, was not the only issue involved. The debate pitted these concerns against the broader management objectives of the Department as a whole. In appealing the restraining order, the Department won the right to inform commanders of civilian complaints registered against officers in their command. The court ruled that such action lay within the administrative authority of the Department and was not subject to collective bargaining. As a result, commanding officers are notified of each civilian complaint against a subordinate officer and are held accountable for any aggregate increase in the number of complaints filed annually against officers in their command.

Yet, while pursuing greater management accountability for abusive behavior, it is important that the Department be reasonably sensitive to the general concerns of police officers regarding civilian complaints. In recent interviews with police officers of varying ranks, conducted in the course of other research, it has become apparent that the goals, objectives and performance of the CCRB are not well understood. Commanding officers have voiced concern about the potentially negative and unfair impacts on officers' careers of bare complaint records, carrying no detail of the underlying incidents. They were particularly concerned about the possible reliance on arbitrary measures of "high rate" offending, based on the total number of complaints received by an officer.

The recent introduction of procedures to use CCRB data to promote line accountability may become an effective part of the Department's efforts to discourage police misconduct. They should be seen, however, as an adjunct to, rather than a substitute for, the CCRB's careful review of individual complaints and sensitivity to the due process protections of subject officers.

It has also been suggested that CCRB data might facilitate the Department's ability to identify emerging patterns of misbehavior and identify individual officers who might require some form of non-disciplinary intervention. The Curran Commission (1987), for example, recommended "early warning" systems as a means of identifying officers who might have problems in interactions with civilians. It suggests that civilian complaints might be valuable in identifying the small proportion of "problem" officers, as well as in discovering patterns of abusive behavior.

The Vera study suggests that using civilian complaints to identify "problem" officers is fraught with difficulties. Using the number of complaints received to distinguish between problem and non-problem officers requires the somewhat arbitrary selection of a cut-off point, without controlling for variations in officer assignments or characteristics of the communities in which officers work. The number of "problem" officers identified will depend entirely on the cut-off point used, yet no cut-off point is demonstrably related to the proclivity of police officers to abuse the power they possess. Finally, such a procedure cannot take into account the exigencies of the situations that produced each complaint against an officer. Alternatively, commanding officers, supplied with information on the nature and frequency of civilian complaints against specific officers in their command, should be in a good position to determine when referrals to "early warning" services are called for.

The research did suggest that many complaints arose in particular situational patterns, evident in many complaints arising in traffic and crime report incidents. Such situations appear to be inherently susceptible to particular kinds of alleged misconduct. It is possible that training, focused specifically on the proper handling of certain situational patterns that generate large numbers of civilian complaints, might be effective in helping the Department reduce the extent of alleged police misconduct.

This research also supports those who contend that complaint review procedures are designed to focus more on the legality of the officer's actions, than on the quality of his or her workmanship (Bittner, 1986; Curran, 1987.) It showed that CCRB complaints involving specific questions of rule violation were more likely to reach definitive determination than complaints involving misconduct in areas subject to officer discretion. The CCRB's ability to respond to issues of "workmanship" (the relative professionalism of an officer's response to a particular situation, rather than the legality of that response) appeared limited.

4. The Nature of CCRB Complaints

Civilian complaint review procedures are frequently linked in the public mind with issues of police brutality and racial bias within police departments. Analysis of filed civilian complaints does not permit any estimate to be made of the extent and frequency of these phenomena. This is in part because not all incidents involving brutality, abuse, and bigotry on the part of police officers are reported to complaint review boards. Furthermore, some civilian complaints are inaccurate, and the capacity of complaint review mechanisms to distinguish between accurate and inaccurate allegations, given the nature of the available evidence, is weak. It is, therefore, impossible to determine what proportion of actual police misconduct is represented by reported complaints.

Our review of the CCRB process pointed to a gap between the public's perception of the CCRB caseload, as a substantial volume of major complaints about very ugly and brutal police misconduct, and the fact that the vast bulk of that caseload consists of much more mundane complaints of minor force, abuse and discourtesy.

Although the data pointed to a gap between typical CCRB complaints and the ugly incidents featured in the media, it should be recognized that the kinds of incidents with which the CCRB routinely deals often contain the central elements of the more serious forms of abusive police behavior -- an apparent insensitivity to civilian concerns, an "us-them" response to challenges to police authority, a failure to respond dispassionately to civilian provocation.

5. Recommendations

Vera's research on the CCRB gave rise to a number of recommendations about ways in which the agency's ability to meet the general objectives of civilian complaint review might be enhanced.

Recent literature suggests that many complaints about perceived police misconduct are not filed and that many citizens were unaware of civilian complaint review procedures (Winick, 1987.) This finding points to a need for greater outreach to improve public knowledge of the process. A public information campaign, designed to increase citizen awareness of the existence and purpose of the CCRB, seems appropriate.

Improved communication with complainants about the nature of the CCRB process and the meaning of dispositional outcomes also seems called for. Vera's research on the extent of complainants' satisfaction with the CCRB process will, as one of its objectives, examine more closely the possible link between complainants' desires for more information -- about the status of their complaints and the meaning of and reasons for dispositional outcomes -- and their overall satisfaction with the process. Complainants might be more satisfied with the complaint review process if they better understood the reasons for the disposition of their complaints.

The research reviewed here suggests that efforts could usefully be made to reduce the gap between the public image of the CCRB and the actual caseload and performance

of the agency. There appears to be a need for the public to be made aware that formal civilian complaint review mechanisms exist, that these mechanisms have some degree of independence from the NYPD and that several outside reviewers have found the mechanisms to be equitable.

It also seems appropriate that the CCRB employ some form of informal complaint resolution as a means of caseload management and case disposition and that such a mechanism be used at least to the extent that it was used in 1984. This would require a review of the changes that resulted in fewer cases being conciliated and more complaints resulting in non-definitive, probably unsatisfying dispositions. This would probably result in a loosening of the criteria used to identify cases for conciliation. The CCRB might also consider other ways to make this dispositional alternative more satisfactory to complainants. In some cases, this would entail a more fully developed form of mediation. In other cases, it would require fuller communication with complainants to explain the steps taken by the CCRB and by the Department in handling and resolving the complaint. Complainants may need assurance that the CCRB did, in fact, discuss the incident with the subject officer and that it does, in fact, maintain records about the officer's history of complaints.

Because unsubstantiated complaints are likely to satisfy neither the complainant nor the subject officer, a reduction in the proportion of complaints that are so disposed would be desirable. But this research did not suggest any specific strategies for achieving that end, other than continued reliance on informal resolution as "triage". In this regard, a larger number of unsubstantiated discourtesy complaints might well have been conciliated; but for more serious complaints that remain unsubstantiated, there appears to be little possibility of definitive investigative outcomes given the nature of the evidence typically available and the "preponderance of evidence" standard to which it is subjected. In addition, the Board might want to consider the possibility of expanding opportunities in selected cases to rebut the presumption that the testimony of non-independent witnesses can not add to the weight of the evidence.

The recent decision of the City Council to add civilian members to the Board is directly responsive to the criticism of the Confers committee, as well as to the long-standing public criticism of the CCRB. As noted, Kerstetter (1985) argues that external civilian complaint review boards have far more credibility with the public than internal boards, even though the latter seem more successful in substantiating complaints. Whether or not the addition of civilian members to the CCRB Board affects dispositional outcomes, it may prove an effective means of increasing public trust in the dispositional process. This study, therefore, supports the action of the City Council and the Mayor -- not on the grounds that civilian membership on the Board is likely to increase substantially the proportion of cases that are definitively disposed, given the current evidentiary presumptions of the process, but because it might increase the credibility of the CCRB with the public.

In general, civilian complaint review procedures appear to be a necessary but insufficient component of the Department's approach to controlling officer misconduct.

This study suggests that complaint procedures need to be supplemented with measures that increase line accountability, with training that focuses on the types of incidents which frequently engender civilian complaints, and with training that is designed to enhance the quality of "workmanship" on the part of police officers.

Recent Departmental steps to use information about civilian complaints to increase "line accountability" may be a useful starting point for such measures. But because there is merit in the argument that bare information on an officer's volume of civilian complaints may have an undue influence on that officer's career, the Department should take care to see that the use of such data is balanced and informed by the nature of assignments and other local circumstances. Commanding officers are in a good position to make these judgments.

In the command and supervisory levels closest to the accused officer, a commanding officer may be able to determine that an officer's complaint history is best explained by the extent of his or her activity or the quality of his or her overall performance. In other cases, information about complaint histories may confirm the suspicion that an individual officer is having particular difficulty handling certain types of situations or assignments. This, in turn, might call for training or re-assignment.

In recognition of the possibility that information about civilian complaint records will influence officers' careers, the CCRB should more consistently determine which complaints are to be expunged and which complaints will remain on the permanent record of filed complaints. Our research pointed to some inconsistency in these decisions.

Furthermore, an enhanced Departmental ability to communicate to officers the importance of relatively non-serious forms of police misconduct, particularly discourtesy -- behavior that erodes public trust and can lead to more serious misconduct -- is likely to have a useful influence on officers' conduct towards citizens.

One step in that direction would be to keep less serious complaints within the CCRB's jurisdiction. The CCRB administrative staff currently exercise some discretion over the kinds of complaints included in the CCRB caseload. Over the past few years, relatively minor discourtesy complaints have been shifted from the jurisdiction of the Chief of the Department to that of the CCRB and, in some cases, back to the jurisdiction of the Chief of the Department. There are no specific guidelines governing which of these cases appropriately belong in the CCRB and which do not. Although some CCRB staff argue that less serious complaints do not belong within their jurisdiction, and contend that they are excessively burdened by having to review such complaints, an affirmation that discourtesy and ethnic slur complaints will remain within the purview of the CCRB might prove to be a useful signal of the Department's determination to treat all allegations of police misbehavior seriously.

6. Conclusion

There is a widespread belief, particularly in New York City's minority communities, that police treat citizens too harshly and that the NYPD is insensitive to such behavior. This belief is deep-rooted and is not likely to be shaken by research data that reveal integrity, thoroughness and fairness in the civilian complaint review process.

Some critics appear to believe that substantial improvements in the structure and process of the CCRB can have dramatic effects on the way in which the police interact with citizens and on police-community relations. Our research leads us to suspect that such improvements can lead to only marginal gains in these areas. This is because the data revealed no major flaw in the investigative process of the CCRB, although it did point to inherent limitations on the agency's ability to control police misconduct or improve police-community relations.

Much of the function of the CCRB is symbolic. When first conceived, the agency was intended to represent the city's resolve to take allegations of police misconduct seriously. It was designed to be a message to both police officers and the community about the strength of that resolve. Yet, because of the ensuing controversy about the structure of the CCRB, the agency has limited credibility with complainants and citizen groups. At the same time, to rank-and-file officers, it appears to represent a Departmental willingness to take a complainant's word over an officer's word. It has become the local embodiment of unresolved police-civilian conflict.

The data gathered for this study show that the current public image of the CCRB does not correspond to the reality -- both the caseload and the dispositional process of the CCRB differ substantially from the image presented by the agency's critics. In order for the agency to become a more meaningful symbol of the Department's stand against misconduct toward citizens, that image must be transformed.

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