

for the Mayor

MANUAL

for

CITIZEN COMPLAINT INVESTIGATIONS

OFFICE OF THE CHIEF INVESTIGATOR (OCI)

DETROIT BOARD OF POLICE COMMISSIONERS

INTRODUCTION

This Manual has been prepared by the Chief Investigator under the guidance of the Chairperson of the Board of Police Commissioners and the Chairperson of the Board's Personnel Subcommittee, Commissioner Susan Mills-Peek. It comprises altogether over 140 pages.

Its purpose is to serve as a professional guide to all OCI staff personnel in the performance of their duties under the professional supervision of the Chief Investigator.

It is to be borne in mind that Manuals (or SOP's or Handbooks) are evolving documents from the first day that the very first pages or few pages are prepared. Thus they are subject to modifications, deletions and/or additions on a need or recognized improvement basis. This Manual provides for such changes.

OCI staff personnel should seek the professional guidance of the Chief Investigator in any and all matters not covered by this Manual. The Chief Investigator, in his professional discretion, will in turn seek the guidance of the Board.

It is intended that certain Board approved portions of this Manual be appropriately digested for distribution to the public at large whereby the total community may become better informed of the existence of a highly professional investigative agency created by the New Charter as

independent and impartial third party fact-finders with a Charter mandate
to better serve the needs of Detroit as it moves forward under the leadership
of our able Mayor, Coleman Young.

Charles William Butler
Chairperson
Detroit Board of Police
Commissioners
June 1976

TABLE OF CONTENTS

Introduction i
Table of Contents..... iii

CHAPTER

PAGE

I MANDATE OF THE NEW
CITY CHARTER OF DETROIT

A The Origin, Organization,
Duties and Authority of the
Board of Police Commissioners 1

B The Citizen Complaint and
Discipline Responsibility and
Authority of the Board 5

C The Difficulty of
Translating De Jure Authority
into De Facto Authority in
Order to Discharge Responsibilities ... 9

D Why the Need for a Civilian
Investigative Agency for Citizen
Complaints 13

CHAPTER

PAGE

II	ORGANIZATION AND FUNCTIONS	
	A Proposed Organization and Functions for the Immediate or Long Range Future	
	1. Death or Injury Through Police Action	19
	General Implementation Process ...	21
	Specific Administrative Process ..	25
	Special Staffing Requirement	27
	Preliminary Field Investigative Process	28
	2. Warrantless Arrests	31
	3. Analysis of Policy Failure Dispositions of Citizens Complaints	34
	Implementation Procedure	37

CHAPTER

PAGE

II (Cont'd)

4. Specific Proposed Organization
Staffing Recommended for the
Immediate or Long Range Future ... 39

B The Organization and Functions
(Present) 42

C Staffing Presently Authorized for
FY 1976-77 56

D Proposed Organization for FY 1976-77 . 57

III MANAGEMENT SERVICES SECTION

A Personnel Matters III A

1. Recruitment III A. 1-1

2. Personnel Evaluation System III A. 2-1

3. Pay and Benefits III A. 3-1

CHAPTER

III (Cont'd)

4. Housing Needs III A. 4-1

5. Training III A. 5-1

B Administrative Matters

1. Central Recordkeeping Procedure .. III B1-1

2. Community Relations, Scheduling,
Correspondence III B1-9

C Operations Matters

1. Standard Operating Procedures
for Investigations III C-1

IV FIELD OPERATIONS SECTION

A Assignments of Investigators IV A.-1

CHAPTER

PAGE

IV (Cont'd)

B	Evaluation of Investigators	IV A.-3
C	Corrective and Disciplinary Measures .	IV A.-3
D	Public Information	IV A.-4

CHAPTER I

THE MANDATE OF THE NEW
CITY CHARTER OF DETROIT

THE ORIGIN, ORGANIZATION,
DUTIES AND AUTHORITY OF THE
BOARD OF POLICE COMMISSIONERS

On August 4, 1970, the people of the City of Detroit voted to create a commission to prepare a new City Charter. On November 3, 1970, a 9-member Charter Revision Commission was elected. The Commission drafted Detroit's new Charter and it was presented to the voters of the City of Detroit as Proposal "A" at the City General Election held on November 6, 1973. Proposal "A" was subsequently approved by a majority of the voters and became effective on July 1, 1974.

The new Charter replaced an old Charter adopted by the voters of Detroit on June 25, 1918. In the intervening 55 years, there had been more than 200 amendments to the old 1918 Charter.

THE NEW BOARD OF POLICE COMMISSIONERS

The new Charter organized the Board of Police Commissioners and, as approved by the Mayor as the chief law enforcer of the City, vested it with plenary authority over the Police Department. This authority is apparent from a reading and plain meaning interpretation of pertinent portions of the new Charter as follows:

PREAMBLE AND DECLARATION OF RIGHTS

Declaration of Rights. . .

5. The police forces of the City are in all cases and at all times in strict subordination to the civil power. . .

Chapter 11

POLICE

. . .7-1102

Board of Police Commissioners

The police department is headed by a 5-member board of police commissioners. The members of the board shall be appointed by the mayor, subject to the approval of the city council. . .The term of membership is 5 years and not more than 1 member's term expires each year. The Mayor may remove members of the board without cause. All members of the board must be residents of the city. As nearly as possible, the board shall be representative of the total community. The board shall elect a chairman annually. A member of the board may not serve consecutive terms as chairman, nor may a person serve more than 5 years consecutively as a member of the board. The board shall meet at the call of its chairman, but shall meet at least once each week. . .

COMMENTARY

. . .One of the major issues which emerged during the Charter Revision Commission's deliberations on the police department was how to (1) structure the police department so that the diversity of interests, opinions and values of the community could have their proper influence upon the policies and performance of the police function in our City and, at the same time, (2) assure that sufficient supervisory control over the department and its employees is vested in the mayor and in his appointees so that the responsibility and accountability of the mayor's office for an effectively and equitably functioning police department are clearly established and recognized.

The Charter Revision Commission believes these 2 objectives can best be achieved by the structure provided in this chapter: a police department headed by a board of 5 civilians appointed by the mayor with council approval and serving at the mayor's pleasure, and administered by a chief of police appointed by and serving at the mayor's pleasure who reports to the board. Appointment of members to the board of police commissioners has been made subject to council approval to provide a public forum to assure that persons nominated will constitute a board representative of the total community and possess board-based community acceptability.

7-1103 Duties of the Board of Police Commissioners

The board shall:

1. In consultation with the chief of police, and with the approval of the mayor, establish policies, rules and regulations;

2. Review and approve the departmental budget before its submission to the mayor;
3. Receive and resolve, as provided in this chapter, any complaint concerning the operation of the police department;
4. Act as final authority in imposing or reviewing discipline of employees of the department;
5. Make an annual report to the mayor, the city council, and the public of the department's activities during the previous year, including the handling of crime and complaints, and of future plans.

The board may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the board shall apply to the appropriate court. The board may delegate in writing to a member of its staff the powers to administer oaths and take testimony. A delegation is revocable at the will of the board and does not prevent exercise of any power by the board.

COMMENTARY

This section vests the board of police commissioners with its supervisory authority over the functions of the police department.

7-1104 Staff

1. Secretary to the board. The board shall appoint a board secretary. . .
2. Investigative staff. The board shall also appoint a chief investigator and such additional staff of investigators as it deems necessary. . .
3. Other staff. The board may hire. . .such additional staff as is necessary to carry out its duties. All members of the staff are under the direction of the board, and the chief of police has no authority over any member of the staff.

COMMENTARY

. . . The functions of the staff of the board of police commissioners will be that of handling complaints under the board's supervision and such other duties as the board directs.

7-1110 Division of Police Personnel

The division of police personnel is headed by a director of police personnel appointed by the board. . .

7-1106 Duties of the Chief of Police

The chief of police is the chief executive officer of the police department and shall administer the department under the policies, rules, and regulations established by the board and shall:

1. Organize the department with the approval of the board;
2. Recommend rules, regulations, and procedures to the board for its approval;
3. Prepare the annual budget for the police department;
4. Hire, promote, commend, transfer, and discipline employees of the department; have authority to suspend and discharge employees of the department under section 7-1107; file complaints against employees with the board secretary; and direct employees in the performance of their duties;
5. Except as otherwise provided by the board, keep and control all property and equipment belonging to the department or held by the department as evidence;
6. Submit to the board an annual report of the operations of the department for forwarding to the mayor, the city council, and the public;
7. Present annually to the board, the mayor, the city council, and the public, a police department operations improvement plan;
8. Exercise such other powers as conferred by the board.

The chief, with the consent of the board, may appoint necessary deputy chiefs, including a deputy chief for the women's division who shall be a woman.

The chief may attend all meetings of the board and speak on any issue but may not vote.

COMMENTARY

. . . Changes made by this section reflect the fact that the chief of police will administer the department subject to the general supervision of the board of police commissioners. . .

- B -

THE CITIZEN COMPLAINT AND DISCIPLINE
RESPONSIBILITY AND AUTHORITY OF THE BOARD

As shown above, Section 7-1103(3) of the new Charter has vested in the Board of Police Commissioners responsibility, control and ultimate authority for the (citizen) complaint function. Sections 7-1108 and 7-1109 of the Charter detail the basic procedure to be observed by the Board in the discharge of this function.

Also, Section 7-1103(4) of the new Charter has vested in the Board of Police Commissioners ultimate authority in matters of discipline, although a trial/review board may be convened to hear and try a matter in the first instance. Sections 7-1107 and 7-1109 of the Charter set forth the basic procedure to be followed in the discharge of this function.

Further, Section 7-1104 of the new Charter establishes the Board's Office of the Chief Investigator for the specific purpose of handling complaints for the Board of Commissioners under the Board's

direct supervision and for performing such other duties as the Board directs. The commentary to Section 1104 of the Charter directs that that particular section be read together with Sections 7-1108 and 7-1109 as part of understanding the functional use of the Board's staff. Sections 7-1107, 7-1108 and 7-1109 with commentaries are as follows:

7-1107 Discipline

1. Manual. The board, in consultation with the chief of police, shall adopt a manual of rules, regulations and procedures. The manual shall define categories of major and minor offenses and shall set forth the maximum and minimum penalties for each offense.
2. Summary Discipline. . . A disciplined employee may request the board of police commissioners to set aside the summary discipline and reinstate any loss of pay.
3. General Discipline. . . The decision of a trial board may be appealed to the board of police commissioners.

Instead of hearing an appeal itself, the board of police commissioners may appoint a fact finder. . . The fact finder shall conduct a hearing and report findings to the board.

The board's disposition of the matter following such a hearing shall be final.

An employee charged with a major offense is presumed innocent and shall not forfeit any pay or seniority rights pending final action by the board of police commissioners except with the concurrence of 4 members of the board of police commissioners.

COMMENTARY

This is a revision of section 10 of title 4, chapter 21 of the present (i.e., the old) charter. It makes several changes. First, under the present (i.e., the old) charter, the ultimate authority in matters of discipline is the trial board; under this (new) charter, such authority is vested in the board of police commissioners, although a trial board may be convened to hear and try a matter in

the first instance. Second, it authorizes the board, in appropriate cases to be determined by it, to refer a matter for hearing by an independent outside fact-finder, who it is intended would be a qualified, professional arbitrator. Third, it seeks to assure that a department employee will not lose any pay or seniority rights unless guilt on any major charge is finally established in accordance with due process of law.

7-1108 Complaints

Complaints concerning the police department filed anywhere in the department shall be forwarded immediately to the board secretary. Copies of the complaint shall be made available to each member of the board, the chief investigator, and the chief of police. The chief shall investigate a complaint immediately and file a report of findings with the board within 45 days. However, the board may, in its discretion, at any time order an investigation by its own investigative staff instead of, or subsequent to, that of the chief.

The board secretary shall keep a public docket of complaints and the disposition of each complaint after investigation.

7-1109 Resolution of complaints

If a complaint is not resolved as a result of investigation to the satisfaction of the complainant, the respondent employee, or a member of the board of police commissioners, either the complainant, the respondent employee, or the board member may request the board to hear or review the matter. The board may, at its option, when it determines that a hearing or review is warranted by the evidence, hear or review the matter itself or refer the matter to a fact finder.

When a matter is referred to fact finding, the secretary to the board and the respondent employee shall attempt to agree upon a person to act as a fact finder. The fact finder must be an attorney. If the parties fail to agree on a fact finder, they shall request a recognized arbitration association as designated by ordinance, to propose the names of 5 attorneys who could act independently and impartially as fact finder in the matter. In the presence of a person authorized to take oaths, each side, acting in turn with the employee beginning, shall indicate a name to be struck from those proposed until both sides have struck 2 names. The person whose name then remains is the fact finder. The fact

finder, in the conduct of the hearing, may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. To enforce a subpoena or order for production of evidence or to impose any penalty prescribed for failure to obey a subpoena or order, the fact finder shall apply to the appropriate court. The costs of the fact finder shall be borne by the city.

After a hearing, the fact finder shall, within 30 days, submit findings of fact to the board. The board, upon receipt of the report of the fact finder shall, within 30 days, determine any discipline to be imposed. It shall then make the report and its action public. The decision of the board is final.

Any employee against whom a complaint is filed is presumed innocent and shall not forfeit any pay or seniority rights pending final action by the board, except with the concurrence of 4 members of the board. All pleadings filed and all hearings before the board and the fact finder shall be public. The parties to any hearing are the complainant and the respondent employee. Each has a right to counsel. The complainant's case may be presented by the complainant or complainant's counsel. Any probative evidence may be admitted.

COMMENTARY

These sections are a revision of section 35 of title 4, chapter 21 of the present (i.e., the old) charter and represent significant change.

Another major issue at this period in the life of our community is the handling of the police department's complaint function. By contrast, the 1918 charter dealt with the entire subject in 30 words. (See section 35 of title 4, chapter 21.) In the first new charter proposal prepared by the Commission, the Commission sought to assure independence and impartiality in the conduct of this function by vesting it in a separate department. This approach was criticized by many in the City, principally on the grounds that there would be a lack of continuity and consistency in the disposition of cases.

It subsequently became clear that the Commission could assure the independence and impartiality that are absolutely indispensable to the proper discharge of the complaint function and, at the same time, respond to the valid

criticisms which had been made to the "separate department" approach by placing control and ultimate authority for the complaint function in the board of police commissioners, thereby providing continuity and independence and impartiality.

In this charter, the complaint function is vested in the board of police commissioners by section 7-1103(3). Sections 7-1108 and 7-1109 detail the basic procedure to be observed by the board in the discharge of this function.

- C -

THE DIFFICULTY OF TRANSLATING DE JURE AUTHORITY INTO DE FACTO AUTHORITY IN ORDER TO DISCHARGE RESPONSIBILITIES

It may be correctly stated that there are two general tasks which the Mayor and his Board of Police Commissioners have to perform with the Police Department: (1) to use the police authority and the force of arms which supports that authority to suppress crime and maintain order; and (2) to control and restrain the police force so that it does not function in a brutal and oppressive manner so as to pose a threat to the community, which is perhaps as devastating as the crime it is supposed to prevent.

While both of the above functions are under the civilian control and supervision of the Mayor and the Board, it is this latter function -- the control and restraint of police authority -- which the Charter entrusts almost exclusively to the civilian Board of Police Commissioners to administer rather than to the Police Department. This control and restraint is of such paramount importance that it is probably one of the primary reasons that the Charter explicitly requires that the "police forces of the City are in all cases and at

all times in strict subordination" to civilian control. Yet we must recognize the tension which necessarily exists between the responsibility for daily law enforcement and the duty to restrain police excesses. Because of this very real conflict, it is unrealistic to expect that de facto civilian control can be maintained merely by moral persuasion. While the Board has the authority, it must have the organizational tools also to carry out its functions without relying on the Police Department to voluntarily accord to it due respect, obedience, loyalty and candor. -

The Board of Police Commissioners has to insure that it has under its direct control the personnel, resources and functions needed to control and restrain police excesses, to develop, promulgate and enforce its policies, rules and regulations designed to improve the overall law enforcement effort in making it more relevant to community requirements and to respond to citizens' concerns in the area of citizen-police contacts.

The task of managing the Police Department under the new Charter is, of course, extremely delicate. Although the Charter makes the Chief of Police and the Department clearly subordinate to the Board, the Board must have the organizational tools and staff functions whereby it can effectively exercise control and restraint over the Department and the Chief. The Board should never be in the position of relying on the Chief to carry out its policy, because the Chief could effectively disregard Board policy. The Board has a duty under the

Charter of restraining the police, including the Chief of Police, but it cannot exercise the required restraint simply by giving orders. The Board's staff is its agent for accomplishing this task.

While the Board's staff is dependent upon the Board for authority, the strength of the Board is directly related to the strength of its staff. Thus, the Board must have a loyal and competent staff. However, the staff's loyalty and competence are of no great value to the Board unless the staff has the confidence and support of the Board and the facilities and authority needed to assist the Board in controlling the Police Department. It is especially important that the Board's staff be absolutely independent of the Chief of Police. The Board simply cannot tolerate a situation in which its staff must rely on the Chief to provide the facilities it needs to do its work. Because the Board meets only once a week, it has to explicitly delegate to its senior staff members the authority to make certain decisions necessary for day-to-day operations.

The Charter provides for three top-level staff members appointed by the Board: the Chief Investigator, the Personnel Director and the Executive Secretary. Each staff member should be assigned those functions which the Board must directly control in order to fulfill its Charter-mandated responsibilities. However, this manual will concentrate on the organization, responsibilities, duties, functions and required authority of the Office of the Chief Investigator as an agent of the Board.

The differing relationships which the Board has with its staff and with the Chief of Police can be viewed also as creating a flow of information in the Police Department. The Board communicates its policies, rules and regulations to the Chief of Police and other members of the Department. However, it cannot depend on any Chief and his subordinates to provide the objective feedback needed to evaluate policy and determine whether it is being complied with. The Board therefore relies on its staff, particularly the investigative staff, to gather and analyze the needed information and pass it on to the Board. The investigative staff must have access to all sources and stores of information in the Department so that the Board can be confident that it obtains a complete, candid and unbiased account of the implementation of its policy.

The Chief Investigator must be able to investigate any official act of any section within the Police Department which aggrieves any person. He must have access to all information needed in order to conduct thorough and proper investigations and to develop policy proposals for the Board in the area of police-citizen relations.

The Chief Investigator also compiles and analyzes the broad information needed to formulate Board policy. He conducts investigations of citizen complaints when ordered to by the Board, and studies disciplinary cases which are appealed to the Board in order to advise the Board in the exercise of its discretion. This manual addresses itself to the wherewithal required in order to accomplish this task.

WHY THE NEED FOR A CIVILIAN PROFESSIONAL
INVESTIGATIVE AGENCY FOR CITIZEN COMPLAINTS

The reason for the desire for a civilian professional investigative agency independent of the Police Department and under the direction and authority of the Board of Police Commissioners only is succinctly set forth in the commentary to Section 7-1108 of the new Charter. Independence, impartiality and continuity are the concepts that are emphasized for the Board of Police Commissioners in exercising its responsibility and authority for the citizen complaint function.

It is a well-known phenomenon that within military and para-military type organizations engaged in hazardous duties, a certain camaraderie and esprit de corps develop amongst the membership that results in strong institutional pressures being generated to "look after, help and protect one another." While this is not only good, but very necessary for such an organization to perform effectively, at the same time, because of this fact alone, an aura of suspicion will forever linger in the civilian community that in those instances of police-civilian dispute, it is at best difficult for a member of the Police Department to investigate the incident with the same impartiality as that of an independent third party unrestrained by institutional alliances -- good faith and intentions notwithstanding.

If such an independent third party is able to investigate in those instances where complaints against police cannot be substantiated because they are unfounded or there is insufficient evidence, the

aura of suspicion is overcome that the Police Department was acting in bad faith, underhanded, prejudiced and untrustworthy in the investigation of one of its own members. Thus, as a corollary thereof, it follows that there will be an increase in trust and appreciation for the police by the civilian community. Their (i.e., the police) stature, support and prestige is enhanced thereby. On the other hand, the community can rest assured that the independent civilian professional investigator can call the shots as they are without fear or pressure in those instances when complaints against police are substantiated. The consequence again is the enhancement of good police-community relations and civilian community trust and support of the Department. It is to be recognized also that the esprit de corps and camaraderie discussed above may be perceived by the community as existing because of racism.

The community's perception is not entirely without justification. Many citizens are able to recall incidents of police impropriety which they feel were generated by racism. It is no accident that the 1967 Detroit civil rebellion had been triggered by an incident with the police. When a series of police raids on "blind pigs" located in a predominantly black neighborhood were being conducted, citizens in the area were still seething over two incidents which touched the community: a black "prostitute" had been slain by a vice officer, according to the community, and by a "pimp," according to police; and a young black army veteran had been killed in sight of his wife by a gang of white youths and the community felt the police failed to take the necessary action.

The situation is further exacerbated by the fact that while the city is equally divided ethnically between black and white citizens, at least, and where white citizens may now be in the minority, the community's police department is viewed as a white-dominated organization known for its cohesiveness in virtually all matters. Of an approximate 5,418 member police force, only 17.05 percent, or 923 members, are black police persons. The fact that police officers tend to band together when complaints or criticisms are made against one of their members is also a rather normal reaction that is not surprising in the light of the factors stated above.

Statistical documentation of citizens' complaints preferred against members of the Detroit Police Department indicates that police misconduct is of vital concern to members of the community and should be regarded as a serious problem within the Department. Incidents of improper police activity have the deleterious effect of generating an atmosphere of hostility, suspicion and mistrust between the police and the community, that is, the citizenry question the ability of the police to impartially enforce the law and to serve the public. When the police and the public are at enmity, efficient and effective law enforcement is impaired.

In the Task Force Report: "The Police (1967)", the President's Commission on Law Enforcement and Administration of Justice described the effect of police-community relations on police operations and touched upon the causes of public hostility as follows:

"Public hostility can and does influence police field operations. For example, it may make officers reluctant to act; it may also induce the use of unnecessary force, verbal abuse, or other improper practices. The danger under which the policeman must work may make him less judicious, indeed less discreet, in the exercise of his authority. When unfriendly crowds begin to gather, officers will necessarily have to call for reinforcements and use greater force to secure the offender and control the onlookers. Even if not excessive, such force will often lead to increased police-public tensions. On the other hand, the cooperation of the public diminishes, proportionately, the necessity of the use of physical force and compulsion for achieving police objectives. Hostility by racial minorities or others may also provoke police officers and therefore increase the likelihood that they will discriminate in exercising their discretion. Consequently, poor police-community relations tend to perpetuate themselves." At p. 444-445.

The critical question which faces most leaders of the community is how best to keep instances of police misconduct at a minimum and at the same time, re-establish public confidence in the police to impartially enforce the law and serve the public. Those leaders have to pay heed to critics of the system in order to reduce the fragmentation between the police department and the community before the larger society irreversibly polarizes into factions.

"We pay little attention to critics who are soft-spoken, logical, reasonable, and moderate; it is only when they begin to snarl, scream and strike out that we hasten to make changes long overdue. It is only because our response to reason is so negligible that critics take recourse in extremism. What we fail tragically to recognize is that extremism is ALWAYS a symptom of failure in the feedback process of an institution, and not a cause of anything in itself. It is like blaming the fire for our lack of sensing-devices in the alarm equipment. To be effective, responsibility in criticism must be assured of a quick and fair response." Detroit Free Press, "History's Lesson About Criticism" by Sydney J. Harris (11/26/71).

It is well known that at various times in the history of society, people have challenged the existing social order through open criticism and violence in order to bring about fundamental and necessary changes in the quality of their lives.

Local governments have been a focal point for much of the criticism and conflict by reason of those institutions' responsibility to deliver human services and just treatment to the local populace. When the citizens of a community protest the inadequacy of the services or the unfairness of treatment, those who have been selected to administer those services and to insure just treatment must provide prompt and fair responses.

In this connection, the framers of the Detroit City Charter, in an effort to restore public confidence in the Police Department, vested the complaint function in the civilian Board of Police Commissioners. This was necessary in order to reassure the public that the police were subject to civilian control, that is, the community's representatives within and over the Department would maintain control over the investigatory and dispositional processes of the complaint function. The public must feel that their complaints of police misconduct are being objectively investigated and that the interests of the citizens of the City and the members of the Police Department are being protected.

It is to be recognized also that there is an instructive benefit to be derived by the Police Department from the example to be set by a group of highly qualified civilian investigators (i.e., people

possessing many years of investigative experience coupled with advanced degrees in police administration and law).

Moreover, such professional and nonunionized expertise is obtained much more economically in terms of overall salary costs and particularly in light of the fact that they receive compensatory time rather than money for required overtime work.

Further, there are the latitude and freedom to start from the get-go with a balanced staff representative of the composition of the community served. Thus, affirmative action is not merely something that is idealistically sought as a possible reach, for it is already grasped from the outset.

CHAPTER II

ORGANIZATION AND FUNCTIONS

A. PROPOSED LONG RANGE OR IMMEDIATE FUTURE ORGANIZATION AND FUNCTIONS OF OCI

1. Death or Injury through Police Action

According to the last PSS statistics viewed by OCI, an average of over 200 complaints are received by the Detroit Police Department monthly from citizens. Also, over 75% of these complaints are investigated by the precincts to include allegations involving death and serious injury, as well as warrantless arrests.

It is hoped that eventually all excessive force complaints will be investigated only by OCI or OCI and PSS in a joint effort rather than being initially investigated by the affected precincts/units/sections of the Department with a review/reinvestigation by PSS and OCI for the following reasons:

Through conversations with various precinct commanders and staff and through the experience of inter-relating with the DPD in general, OCI has been able to make an assessment of attitudes toward citizen complaint investigations. Also, the extent to which objectivity can be achieved by one policeman investigating another policeman (both well known to each other and working in the same environs) about a complaint made by a stranger (i. e., the citizen), knowing full well that the investigator today may be the investigator^{cc} tomorrow or vice versa.

Thomas Eder, OCI Investigator, has further articulated the reason why precinct investigations should be eliminated, as follows:

Objectivity: Police officers investigating other officers make objectivity extremely difficult. No matter how good the intentions of the investigator, he cannot be completely objective because of the close camaraderie among police officers.

It makes it that much more difficult when police officers are investigating other officers in the same precinct. It places a great deal of strain on a police officer to conclude misconduct on a fellow officer in close proximity of working conditions.

Objectivity in the investigation of a complaint is of primary importance in establishing credibility within the community. The community, recognizing this need, passed the new Charter establishing a Civilian Board of Police Commissioners and an investigative staff.

Attitude: The attitude of investigating citizens complaints, particularly at the precinct level, is very poor. Through conversations with various precinct commanders and staff, they view citizens complaints as

an unnecessary burden. As a result, investigations are conducted on a haphazard basis. Work is done on the complaint when it can be fitted in "when the other things get slow". This, of course, is not the proper approach to treat a serious matter.

By eliminating precinct investigations, one unnecessary step in the overall complaint process could be eliminated. This would in most cases lessen the amount of time between a complaint being filed and investigated.

The quicker a complaint is investigated and answered, the more viable will be the facts and testimony pertinent to the case, the more credible the department will be with the community.

a. General Implementation Process

The Board's investigative staff would have the wherewithal to compile and analyze data on all instances of serious physical injury or death inflicted by or upon Detroit police officers. The purpose of such investigations would not be so much to determine whether particular persons were at fault in each incident as to determine whether changes in policy, planning or training could have avoided the killing or injury without sacrificing essential police objectives.

In conducting its investigation, OCI would study the facts of each particular case and of similar cases which had occurred in the past. It would refer to the literature of police administration and the behavioral sciences and obtain whatever help is available from experts in the community.

The work load imposed on the Board's investigative staff by this responsibility would be substantial. The number of prisoners conveyed to medical facilities for treatment of injuries inflicted by police officers is over eight hundred each year, and the annual number of police officers treated for injuries inflicted by prisoners or persons being arrested exceeds six hundred. (See letter from Chief Tannian to Commissioner Ritchie, December 20, 1974). However, since the purpose of the investigation would be to develop policy rather than to make particular adjudications, it would not be necessary to conduct a thorough, detailed investigation of each case. Taking into account the investigative resources available and the size of the task, it would be up to the Chief Investigator to make judgments concerning the intensity of the investigation of each incident.

The investigative staff's work load would be lightened considerably by the fact that data on non-fatal injuries inflicted by or upon police officers are already compiled and analyzed by the Professional Standards Section. To the extent that the Chief Investigator finds the Professional Standards Section's work reliable, he could simply accept it as the Board's agent and use it to prepare proposals for Board action.

The Board's investigative staff would have access to all departmental records and require the cooperation of all department members in the conduct of the investigations required by this responsibility. Obviously, the investigators could seriously hamper department operations by making unreasonable demands. However, the initial assumption should be that the investigators will be reasonable -- abuse of discretion would not be assumed until actual instances of abuse occur. The discretion would be necessary if the Board is to make policy on the basis of complete information.

Attention would be given to the effect, if any, that findings and recommendations emanating from these investigations might have on the City's exposure to liability for police misconduct. The Chief Investigator's or the Board's conclusion that Police Department rules, regulations, policies, procedures, organization or training

are faulty and have contributed to injury or death could be used to support an argument for the City's liability, even though respondeat superior would be inapplicable.

Some protection from liability is afforded by the general law rule that evidence of subsequent repairs is inadmissible to prove negligence. Denolf v Jursiak Co., 54 Mich. App. 584, 221 N. W. 2d 458 (1974).

In order to accomplish this function, OCI would have to collect and analyze facts concerning:

- (1) all shootings by members of the Police Department;
- (2) all cases in which prisoners are conveyed to medical facilities for treatment of injuries inflicted by members of the Police Department;
- (3) all cases in which members of the Police Department are treated for injuries inflicted by prisoners, persons being arrested or detained, or fugitives;
- (4) all cases in which members of the Department are killed in the line of duty;
- (5) the number of persons (other than Department members) who died as a result of police action;
- (6) the number of Department members killed in the line of duty;
- (7) what actions, if any, have been taken by the Chief of Police or other Department executives to reduce the incidence or seriousness of injuries inflicted by or upon department members; and

- (8) what action, if any, the Chief Investigator recommends to be taken by the Board of Police Commissioners to reduce the incidence or seriousness of injuries inflicted by or upon Department members.

Again, the purpose of the compilation and analysis would be to determine what changes or refinements, if any, could be made in Department rules, regulations, policies, procedures, organization or training to reduce the incidence and/or seriousness of injuries inflicted by or upon Department members.

To the extent that appropriate action to reduce the incidence and/or seriousness of injuries inflicted by or upon police officers could be taken by the Chief of Police or other Department executives without action by the Board of Police Commissioners, the Chief Investigator would attempt to obtain the proper action before reporting to the Board.

a. Specific Administrative Process

- (1) All citizens' complaints would be received and registered at the Office of the Chief Investigator.
- (2) The Office of the Chief Investigator would investigate all excessive or undue force complaints, that is, any complaint indicating an illegal touching of an individual by a member of the Department.

- (3) When an investigation is completed, the case would be reviewed by the investigator's supervisor who would reject (return for additional work) or endorse (forward to the Operations Subsection of OCI Management Services Section) the investigation report.
- (4) The Analysis and Research Section would review the endorsed investigation report, and if the report is accepted, would submit a final report with a recommendation to the Chief Investigator.
- (5) The Chief Investigator would evaluate the investigation and final reports and would proceed with the recommendations or reject (return for additional information or alter findings and/or recommendation) the reports.
- (6) The Chief Investigator would forward all cases which are not sustained to OCI Management Services Section for notification to complainant and to the accused member and for final processing and closing.
- (7) The Chief Investigator would forward all sustained cases to the Board of Police Commissioners and the Chief of Police simultaneously for review. If the Chief of Police disagrees with the findings or recommendations, the Chief Investigator would attempt to make appropriate adjustments prior to formal submission to the Board.

- (8) The Board of Police Commissioners would accept or reject the findings and/or recommendations of a case. If the Board of Police Commissioners rejects the findings and/or recommendations of a case, the Chief Investigator would discuss the case with the Board of Police Commissioners and implement the Board's decision. If the Board of Police Commissioners accepts the findings and recommendations of a case, the Chief Investigator would forward a copy of the complete file to the Chief of Police for appropriate disciplinary action.
- (9) The Chief of Police would notify the Office of the Chief Investigator of the disciplinary action taken.
- (10) The OCI Management Serv. Section would notify the complainant and would process and close the case.

b. Special Staffing Requirement

The Professional Standards Section, in its statistical report of citizen complaints for the period January, 1975 through July, 1975, recorded 578 undue force allegations against members of the Department, which averaged 82.5 allegations per month. The Office of the Chief Investigator estimates that a special staff of 14 investigators would be able to conduct 6 investigations of an average undue force allegation per month.

The special additional 14 OCI investigators would work in 7 teams of 2 with individual handling of undue or excessive force complaints. Each investigator would be responsible for conducting objective and impartial field investigations of all cases assigned and for assembling the evidence gathered into presentable form. An investigator would submit an investigation report of each case, along with findings and recommendations.

Two supervisors would be responsible for office and field supervision and evaluation of their assigned investigators; review of each completed case file submitted by their assigned investigators; and the assignment of cases.

c. Preliminary Field Investigative Process

The Office of the Chief Investigator would be immediately notified of any situation involving the use of deadly force by police personnel resulting in injury or death. An OCI investigator would be sent to the area or place where the use of deadly force was being investigated by police personnel of the Department. The OCI investigator would only observe the actions of the police personnel conducting the investigation.

The OCI investigator would make a report of observations and would submit the report to his/her immediate supervisor. A general form for this report would be as follows:

FATAL/NON-FATAL SHOOTING OF:

(name)

(address) (race/sex/age)

1. Date/Time Assigned: _____
By _____

2. Location/Initial Incident: _____

3. Location/Shooting: _____

Date/Time: _____

4. Incident Type: Felony/Disturbance/Field Stop (In view/Radio)

5. Officer(s) Involved:

a. _____
(name) (rank/badge no.) (unit/race)

(weapon used) (Registration No.)

b. _____
(name) (rank/badge no.) (unit/race)

(weapon used) (Registration No.)

c. Officer(s) Injured?: _____

6. Victim(s) _____ taken to
_____ by _____
(hospital)
Diagnosis: _____ by Dr. _____
(condition)

7. Arrest(s) made: _____
(name/address/telephone)

(age/DOB/race/sex)

Charged with _____

8. Supervisory Personnel Assigned/Present:

a. _____
(Name/rank/badge no.) (Unit)

b. _____
(Name/rank/badge no.) (Unit)

c. _____
(Name/rank/badge no.) (Unit)

9. Evidence Recovered (description):

The Special Assignment Squad of the Homicide Unit shall submit the complete report of the entire investigation of the incident to the Office of the Chief Investigator. The report of the investigation shall be reviewed by an investigator of the Investigative Section in conjunction with the investigator's report.

The OCI investigator would submit a final summary report of the use of deadly force investigation to his/her immediate supervisor. The investigator would make one of two findings:

1. Justified: That there was proper cause for use of deadly force.
2. Converted: That there should be a complaint report made for possible misconduct involving the use of deadly force.

The OCI investigator's final summary report would generally include the following information:

FATAL/NON-FATAL SHOOTING OF: _____

Officer Involved: _____

(Badge No.)

(Unit)

Date of Incident: _____

Time: _____

Location of Shooting: _____

Attachment:

Summary of Incident:

Finding:

The supervisor would review the complete file of the incident and would either reject or endorse the investigator's final summary report. The complaint process set forth in the SOP at Chapter III, B 1 would be followed.

2. Warrantless Arrests

It is also hoped that eventually all warrantless arrests will be handled by PSS and/or OCI for reasons as are set forth below.

Among the many types of discretionary decisions made by police officers, the decision whether to arrest may well have the greatest impact on large numbers of people. The total number of arrests made by Detroit police officers is tremendous -- in the neighborhood of 100,000 per year. The compilation and analysis of data concerning all of these arrests for policy analysis would be a mammoth undertaking. However, a preliminary ad hoc review of the arrest decision is provided by the warrant process as a screening device which filters out non-problematic arrests and reduces the number to be reviewed for policy study to about 20% of the total. (See letter from Chief Tannian to Commissioner Ritchie, December 20, 1974.)

The establishment of procedures would be required which would assure that whenever a person is arrested and no warrant for that arrest is issued either before or after the arrest, a legible copy of the preliminary complaint record and of the warrant request, if any, dealing with that arrest would be delivered to the Board's investigative staff. That staff would then assimilate, evaluate and analyze the data contained in these documents and extract the policy issues for Board consideration. This process would encompass a determination of the following:

- (a) whether each such arrest was lawful;
- (b) whether each such arrest was consistent with the policy of the Board of Police Commissioners;
- (c) whether any such arrest raises questions of policy which have not yet been resolved by the Board of Police Commissioners; and
- (d) whether there exist statistically significant patterns of arrests for which no warrant is issued; e. g., whether such arrests are especially numerous for certain types of offenses or in certain areas of the city; whether certain members or certain units of

the Department make such arrests with exceptional frequency; whether members of certain groups in the community (defined in terms of race, sex, age, ethnic origin, etc.) are arrested without either prior or subsequent warrant with exceptional frequency.

OCI would have access to all Department records and reports, and all members of the Department would be required to cooperate in every manner possible with OCI to provide all information which, in the judgment of the Chief Investigator, would be useful in making the determination required to accomplish this function.

The Chief Investigator would submit to the Board of Police Commissioners written reports summarizing OCI findings as to all arrests without prior or subsequent warrant during the previous year, stating unresolved issues of policy which are raised by such arrests, and making recommendations, if any are appropriate, of changes or refinements in Departmental rules, regulations, policies, procedures, organization or training on the basis of OCI's findings.

3. Analysis of Policy Failure Dispositions of
Citizens Complaints

In general, the analysis and research functions of the Chief Investigator and his staff would ultimately be: To gather the facts which are needed to discover the citizen complaint policy issues actually faced by the operative members of the Department; to analyze those facts in order to draw out and generalize the policy issues; and to recommend methods of resolving the issues. Some of this work might seem to duplicate the functions of the Analysis and Planning Division of the Management Services Bureau. However, with close cooperation and exchange of data between the Chief Investigator and the DPD's Analysis and Planning Division, no duplication of effort need result. Moreover, since the responsibility for policy formulation lies with the Board, it may sometimes be desired that the research and analysis which are necessary parts of policy development be performed by persons who are answerable directly to the Board (i. e., Executive Secretary, Chief Investigator and Personnel Director.)

The General Order on Citizen Complaint Processing provides for a possible finding of policy failure whenever it is determined that "The allegation (of the Complaint) is substantiated, and although the action of the Department or its member was not inconsistent with Department policy, the complainant suffered harm without justification."

The responsibility for correcting policy failures lies with the Board. Thus, there should be an orderly, systematic process by which the Board can fulfill that responsibility.

The process would provide that each policy failure would come to the Board's attention within about three months of the date it is discovered. During that three months the Board's investigative staff would verify the policy failure, determine whether it could be corrected without Board action, and, if necessary, develop proposals for Board action to correct the failure. Thus, when the failure comes to the Board's attention, it would have been thoroughly analyzed and would be presented in a manner which makes it ripe for Board action.

Of course, there could be cases when a particularly glaring policy failure needed prompt Board attention. It would then be the responsibility of the Chief Investigator to bring that matter before the Board immediately. The process would give him the flexibility to do so.

The process would provide that a copy of the Chief Investigator's report be delivered to the Chief of Police at least two weeks before it is discussed by the Board. In general, communication between the Chief Investigator and the Chief of Police would or should be close enough so that the Chief Investigator's findings and recommendations would be discussed with the Chief of Police before the report is prepared. Nonetheless, the Chief of Police would be given ample opportunity to review the report and to prepare his response to any recommendation he does not agree with.

It should be noted that the number of citizen complaints reviewed to uncover policy questions could be much greater than appears suggested. There may be many cases in which a finding of improper conduct (rather than policy failure) is mitigated by unclear or poorly communicated Department policy, inadequate training or lack of effective supervision. In other cases, the Department executives who prepare citizen complaint disposition reports may simply overlook or

fail to report policy failures that do exist. Eventually, the Board would expand its staff's policy review of citizen complaints to include most or all complaints. However, until more experience is gained with this relatively limited review, the Board would defer expanding the process and would begin by screening out all complaints which are not reported as policy failures.

a. Implementation Procedure

Whenever the Executive Secretary of the Board of Police Commissioners receives a citizen complaint disposition report which states a conclusion of "policy failure" as to any allegation, that disposition report and the citizen complaint report to which it relates would be forwarded to the Chief Investigator. OCI would study the reports and conduct any additional research, investigation and consultation which would be necessary to formulate recommendations as to what changes or refinements, if any, in Department rules, regulations, policies, procedures, organization or training would be appropriate to prevent similar failures in the future.

To the extent that appropriate action to prevent future failures could be taken by the Chief of Police or other Department executives without action by the Board of Police Commissioners, OCI would attempt to obtain the proper action before the Chief Investigator would report to the Board.

Within 90 days of the receipt of each disposition report by the Chief Investigator, he would submit a written report to the Board of Police Commissioners indicating:

- (1) what shortcomings, if any, in Departmental rules, regulations, policies, procedures or training are revealed by the facts concerning the complaint and what issues of policy are raised;
- (2) what action, if any, has been taken by the Chief of Police or other Department executives to correct any shortcomings; and
- (3) what action, if any, the Chief Investigator recommends to be taken by the Board to correct shortcomings or to resolve issues of policy.

4. Specific Proposed Organization Staffing Recommended
for the Immediate or Long Range Future

According to the latest information received by OCI, citizen complaints are averaging approximately 190 per month. On the premise that a competent and well trained investigator should be able to handle 6 investigations per month rather than 2.5, 3 or 4, approximately 32 active investigators should be able to handle all citizen complaints lodged against the Department. In the future, it is recommended that OCI and PSS be organized in one of the following manners to accomplish the citizen complaint investigative function:

FIRST ALTERNATIVE

Assign at least 22 DPD members to PSS as active field investigators for citizen complaint investigations (they would be expected to have the capacity of handling 132 citizen complaint investigations per month.) Augment these 22 field investigators with sufficient supervisory and clerical/administrative support personnel.

Employ at least 10 civilian professionals as active OCI field investigators for citizen complaint investigations (they would be expected to have the capacity of handling 60 citizen complaint investigations per month.) Augment these 10 OCI field investigators with sufficient

supervisory, reinvestigative/review and clerical administrative support personnel as follows: Chief Investigator, 2 Senior Investigators, 3 analyst/monitor investigators to conduct reinvestigations and 3 clerical administrative support personnel. Further, assign 2 DPD members to OCI to work as assistants to the Senior Investigator in charge of monitoring and reinvestigating all Department investigations necessitating such and the Senior Investigator in charge of field investigations.

The new Charter never intended that the DPD be taken out of the citizen complaint investigative area as is evidenced by a reading of the first paragraph of Section 7-1108, which reads as follows:

Complaints concerning the Police Department filed anywhere in the Department shall be forwarded immediately to the Board Secretary. Copies of the complaint shall be made available to each member of the Board, the Chief Investigator, and the Chief of Police. The Chief (of Police) shall investigate a complaint immediately and file a report of findings with the Board within 45 days. However, the Board may, in its discretion, at any time order an investigation by its own investigative staff instead of, or subsequent to, that of the Chief.

Please note that the above Charter provision that reads "However, the Board may, in its discretion, at any time order an investigation by its own investigative staff instead of, or subsequent to, that of the Chief." (emphasis added).

The provision for the Board to have its own investigative staff conduct investigations subsequent to Department investigations, creates the reinvestigative function of OCI. In order to perform this function, OCI must be able to determine what DPD investigations should be reinvestigated. Thus, there is a corollary requirement that OCI monitor/review all DPD investigations in order to make this determination.

SECOND ALTERNATIVE

Combine the investigative operations of OCI and PSS with a separate section of OCI (i. e., the Analyst/Monitor Investigative Section) serving as the first step appellate agency for receiving and attempting to satisfactorily resolve dissatisfactions with either DPD or OCI investigations by a citizen complaint or a member of the Department.

If this alternative were selected, consideration could then be given to locating a citizen complaint investigator in each of the 12 Neighborhood City Halls.

their str
factors.
loyalty

B. THE ORGANIZATION AND FUNCTIONS (PRESENT)

On January 2, 1975, the Board of Police Commissioners appointed a Chief Investigator, culminating a search and selection process that necessarily covered a period of approximately 5-1/2 months (i.e., from mid July, 1974 through December, 1974). The Chief Investigator began his duties on February 3, 1975 and, working in conjunction with the Personnel Sub-Committee of the Board, completed in approximately 2-3/4 months (i.e., by the latter part of April, 1975) the search and selection process for appointment of an initially budgeted staff of three Investigators and a Senior Stenographer.

It should be noted that the current 1975-76 budget for the Board of Police Commissioners was prepared by the Police Department in the fall of 1974. It had been subsequently approved by a new Board that understandably could not have been as aware as now of its responsibilities, needs and authority. It must be recognized also that the creation of the Board of Police Commissioners by the new Charter represented a shift of authority from the Chief of Police (formerly the sole Commissioner and commander of the Department) to the new 5-member lay citizen Board. However, the very fact that the 5 lay citizens of the Board would not likely be police professionals and would have to voluntarily make public service sacrifices from their main occupations of livelihood to function on only a part-time basis in their respective roles of Police Commissioners, meant that

their strength and success would depend heavily upon two vital factors. Those factors are (1) the adequacy, competency and loyalty of its own professional full-time staff, and (2) the good faith, support, candor, respect and obedience accorded to it by the Chief of Police.

Thus, in the formulation of the Board's initial staff, enthusiastic rather than reserved or reluctant support would be required from the Chief of Police, who would at that time be in control and knowledgeable of all the resources. However, it would be normally expected that any Chief of Police, under such circumstances of power shift, would conceivably be under strong institutional pressures to emphasize those needs that could be perceived as being primarily in his best interest (i.e., enforcing the law and maintaining order), rather than in providing an effective "inspector general type" apparatus for the Board that would act as constraints upon him and the Police Department to prevent the exercise of the awesome powers of the police in an oppressive, repressive or self-serving manner not in the best interests of the people of the community served. Thus, it is not surprising that the Board of Police Commissioners has been inadequately provided for in the current budget. Consequently, it is imperative and urgent that this problem be corrected in the upcoming 1976-77 fiscal year budget.

By the first week of May, 1975, the Office of the Chief Investigator had been provided with basic office facilities and with a nucleus of staff as described above to enable it to begin to receive complaints

reinvesti:
further u

and to begin to function as an organized investigatory office on a limited basis. However, citizen complaints did not begin to come into OCI directly until around the beginning of June, 1975, because of citizens being uninformed or misinformed about OCI's existence.

It was recognized also that insofar as citizen complaint investigations are concerned, there would always be unavoidable duplication of work under the framework of the existing organizational structures, for while OCI was newly created and required by the Charter as of July 1, 1974, the Police Department's present Professional Standards Section (PSS) was established thereafter by Police Department General Order 74-88 dated December 27, 1974, with effective date of January 1, 1975, to perform essentially the same function as that of OCI and to replace the Department's old and much maligned Citizen Complaint Section. It was also recognized that OCI's small staff gave to it the wherewithal to handle investigations on a limited scale only and thus the Police Department would have to continue to conduct the bulk of all citizen complaint investigations.

At a meeting between the Board of Commissioners and staff, the Police Chief, the Deputy Chief of the Internal Controls Bureau and his second in command and the Commanding Officer of the Professional Standards Section and staff held during the first week of April, 1975, it was agreed that most citizen complaints would continue to be investigated initially by the Police Department and that the Office of the Chief Investigator would conduct reviews and independent

reinvestigations as required. This agreement was made with the further understanding that OCI would also conduct certain sensitive investigations initially rather than the Department.

From the time of the above mentioned meeting and from the time that OCI acquired the basic wherewithal to begin to function as an office, it has endeavored to accomplish the following functions:

1. To conduct all investigations ordered by the Board of Police Commissioners, including investigations of citizens' complaints, either initially or subsequent to investigations conducted by the Professional Standards Section or other units of the Department;
2. To conduct investigative activities with the approval of the Board of Police Commissioners to uncover instances or patterns of police misconduct;
3. To review citizen complaint investigations and dispositions made by the Professional Standards Section and other units of the Department, for completeness, accuracy and appropriateness of actions taken;
4. To prepare reports and make recommendations for Board action when an appeal is requested involving a citizen's complaint disposition;
5. To accept and record complaints from citizens and to maintain for the Board a public docket of all complaints and their dispositions;

6. To carefully review initially each and every complaint received from a citizen in order to determine which complaints are believed preferable for investigation solely by the Board's Investigations Office rather than the Police Department's Professional Standards Section or by police precincts or sections;
7. As directed by the Board, to gather data and other facts which are needed to discover the policy issues actually faced by the Board and the operative members of the Police Department, to analyze those facts in order to draw out and generalize the policy issues, and to recommend methods of resolving the issues;
8. To perform such other tasks as may be assigned by the Board of Police Commissioners.

Since June 15, 1975, OCI has had to provide one of its Investigators to serve as the Acting Executive Secretary to the Board. Also, in accomplishing the function of maintaining a docket of all citizen complaints and dispositions for the Board as required by the new Charter and in order to accomplish its other functions, OCI was provided with the services of one additional Stenographer as provided for in the current 1975-76 fiscal year budget. Thus, until one additional OCI investigator was appointed a few days ago, OCI has had to function with the following staff, organized as indicated:

- 1 - Investigator Administrator (Chief Investigator)
- 1 - Investigator (Field Investigations)
- * 1 - Investigator (Analysis/Research/Special Project Investigations)
- 2 - Clerical/Administrative Secretaries

* NOTE: For more than 50% of the time, OCI has been without the services of the Research/Analyst and Special Project Investigator. Thus, the Chief Investigator has had to personally perform these functions.

According to OCI records, PSS carried over from 1975, 443 citizen complaint investigations with overdue dispositions as of January 12, 1976. PSS had successfully reduced the aforementioned number to 354 overdue citizen complaint investigations as of June 1, 1976.

According to statistical data received from PSS last year covering the period January 1, 1975 through July 31, 1975, approximately 24.7% of all citizen complaint allegations are concerned with citizen complaints

As stated
act gener
riate

of improper police demeanor (i.e., offensive or improper police bearing, gestures, language, conflict of interest, misuse of influence or lack of jurisdiction or authority). Also, approximately 21.5% involve allegations of improper use or threatened use of force against a citizen. Further, approximately 15.6% involve allegations of improper "other procedures" (i.e., complaints regarding other alleged actions in violation of department rules, regulations, procedures or policies, or the Law Enforcement Code of Ethics).

Thus, it is apparent that the major problem areas are Demeanor, Force and Other Procedures, and they account for approximately 62% of all allegations made.

The other 6 categories of allegations account for only 38.2% of the citizen complaint allegations made (i.e., Improper Arrest: 5.9%; Improper Entry onto Premises: 3.6%; Improper Search of Person or Property: 4.8%; Harassment due to race, attire, sex, age, etc.: 6.1%; the lack, tardiness or inadequacy of police services: 11.1%; and complaints regarding property lost or damaged while in police custody or confiscated through police action: 6.8%).

NOTE: Statistical data regarding the Police Department set forth hereinabove and hereinbelow have been obtained from documents provided by the Department and from personal interviews with the Commanding Officer of PSS.

Work experience and study over a 6-month period have revealed that the current authorized staffing of OCI is extremely inadequate for accomplishing the investigative mission of the office as well as the analysis and research needs of the Board.

As stated previously, OCI's current investigative function is to act generally as a quality control over all DPD investigations initiated by a citizen complaint, as well as to conduct certain selected investigations and research and analysis as required by the Commission.

In fulfilling its mission, the investigative staff must carefully review each and every investigation conducted by the DPD in order to ascertain the existence of any deficiencies requiring correction. When a careful examination by OCI discloses flaws, OCI then has to reinvestigate the particular case and render its own independent report to the Commission. The sheer volume of complaints received, processed, investigated, reviewed, reinvestigated, recorded and reported upon requires an investigative staff for the Board that would more than quadruple the current authorization.

As previously indicated, under optimum conditions, the completion of six investigations per month is the maximum load that can be adequately handled by one investigator. It is absolutely impossible for OCI to review/reinvestigate all of the DPD citizen complaint investigations with a present authorized staff of only three investigators and a supervisor.

In view of
inherent d
the preser

Of significance also (according to the above referenced statistics) is the ranking of police precincts throughout the city in terms of the precincts that successfully have a low percentage of citizen complaints lodged against them in comparison with precincts that are least successful in this regard. The precincts with the least and greatest number of citizen complaints registered against them are as follows (PSS statistics covering January 1, 1975 through July 31, 1975 -- a seven-month period):

Precinct	6	-	64	complaints	=	5.3%
"	2	-	71	"	=	5.9%
"	16	-	74	"	=	6.2%
"	1	-	76	"	=	6.3%
"	4	-	81	"	=	6.8%
"	11	-	86	"	=	7.2%
"	10	-	89	"	=	7.3%
"	7	-	92	"	=	7.4%
"	12	-	94	"	=	7.9%
"	14	-	96	"	=	8.0%
"	13	-	111	"	=	9.3%
"	15	-	115	"	=	9.6%
"	5	-	154	"	=	12.9%

In view of the close parallel of OCI and PSS functions and the inherent duplication of work caused by reinvestigative necessities, the present duties of PSS, as enumerated in General Order 74-88, dated December 27, 1974, with effective date of January 1, 1975, are set forth below:

. . . Professional Standards Section. The Professional Standards Section shall be responsible for:

1. Conducting and/or reviewing all investigations of incidents or circumstances relevant to citizen's complaints, including complaints alleging misconduct, mistreatment, or inadequate or improper police service or action;
2. Maintaining records of citizen's complaints and of injuries suffered by citizens and members through departmental action;
3. Controlling the distribution and use of the Citizen Complaint Report, D.P.D. 512;
4. Actively seeking out instances of misconduct, mistreatment of citizens, inadequate or improper police service, and similar problems which cause injury to citizens or adversely affect the quality of police service provided to citizens; and
5. Developing and recommending innovations in department organization, policy and procedure which will serve to minimize the incidence of injury to citizens resulting from police action or inaction.

The term "injury" as used in this paragraph includes not only personal injury, but any harm which occurs without justification.

The hours of operation of the Professional Standards Section shall be Monday through Friday between the hours of 8:00 A.M. and 6:00 P.M., for those who wish to appear in person and/or telephone. If there is an urgent need for a member of the department to contact the duty officer of the Professional Standards Section during other than the normal office hours designated above, the department member shall contact the officer in charge of the Communications Operations Section for instructions.

2. When that

The present general organization and staffing of PSS (as of June 1, 1976) are as follows:

- 1 - Deputy Chief (Senior Commander in charge)
- 1 - Inspector (Immediate Commander in charge)
- 17 - Sergeants (Investigators)
- 4 - Police Officers (Investigators)
- 23 - Total Professional Police Personnel
- 3 - Secretaries (Clerical/Administrative Support)
- 26 - Grand Total

As stated previously, it is normal procedure to assign the majority of citizens' complaints for investigations to the units, precincts or sections of the police personnel against whom the complaints are made. Again, according to the Commanding Officer of PSS, this amounts to approximately 75% of all citizen complaints being investigated by the precincts, units or sections of the police personnel against whom the complaints are made, with the approximate remaining 25% being investigated by PSS. Thus, of an average total of 190 citizen complaints received per month, PSS would investigate approximately 48 complaints, while the concerned precincts/units/sections throughout the Police Department would investigate the remaining approximate average of 142 complaints.

PSS normally retains the following types of citizens' complaints:

1. When the complaint involves members from unknown or multiple commands.

2. When the complaint is presented by an attorney or it appears that civil litigation is intended.
3. When, because of the sensitivity or seriousness of the complaint or for other reasons, the top command determines that the investigation should be conducted by PSS.

Guidelines for assignment of "sensitive or serious" type complaints are set forth in General Order 73-89, Part II, Section A, to wit: the complaint involves a public official, private or governmental organization, a large assemblage of citizens or it is likely to command the attention of the news media.

The thrust of the present criteria as set forth in General Order 74-89 is largely defensive from the viewpoint of protecting the Department. While this is not only necessary and good, OCI contends that the criteria should be even-handedly balanced to fairly protect the citizenry also. This is best accomplished by putting into the hands of the most skilled independent and objective investigative agencies, those cases that subject the citizenry to the loss of life, serious injuries, great property losses or damages or that pose a threat to the exercise and protection of their fundamental constitutional rights. Thus, OCI would recommend inclusion of the following type allegations in this criteria:

1. Allegations regarding commissions or omissions resulting in fatalities or bodily harm other than that of an obviously minor nature. (concern here would focus on the areas of excessive force and lack of service)
2. Allegations regarding conduct or procedure resulting in substantial property damage or loss to particular citizen or citizen group. (concern here would focus on the areas involving property, service, demeanor and other procedure)
3. Allegations regarding conduct or procedure resulting in serious, flagrant and gross violations of the constitutional rights of the citizenry to include members of the Department in their individual citizenship capacity.
(concern here would focus on the areas involving improper use of force, illegal entries, searches, arrests, as well as harassment and demeanor, to include allegations of police brutality, shootings, racism, etc.)

In a memorandum dated October 3, 1975 to Commissioner Littlejohn and the Chief Investigator, Assistant Corporation Counsel Haiki Hirata (former legal advisor to PSS and former OCI Investigator) reported as follows:

It has been contended by citizens that undue force allegations resulting in serious injuries (i.e., hospitalization and the use of deadly force), are being assigned to the precincts for investigation when those complaints should have been retained by PSS. It is this writer's belief that this does happen but it is not known how often this occurs.

It should be noted that PSS receives all prisoner injury reports. It is not known by this writer whether investigations are initiated by PSS to ascertain the factual circumstances of serious prisoner injuries.

When a complaint is assigned to the precinct, it has been the contention that the complaint is sometimes investigated by a supervisory officer who is the member accused or who is involved in the incident. This writer acknowledges the occurrence of such bad judgment. If the investigator is the member accused, Part III, Section B, is being violated, that is, "the lowest ranking member assigned to the investigation of the complaint shall be superior in rank to the highest ranking member against whom an allegation of misconduct is made."

However, there are instances where the investigator is the supervisory officer who advised the member accused to take action which resulted in the citizen's complaint. The investigator is compelled to defend the accused member's action making an impartial investigation impossible. It is not known whether PSS has taken action against members responsible for the erroneous assignment of investigations within a command.

Investigators are expected to complete an investigation within a twenty (20) day period. Final disciplinary and/or administrative proceedings should be completed within a forty-five (45) day period as mandated by the City Charter.

The above excerpts from the analysis/research/special project report of former OCI Investigator Hirata have been cited merely as one source of investigative information received that may reflect some additional light on the problems faced by PSS.

C. STAFFING PRESENTLY AUTHORIZED FOR FY 1976-77

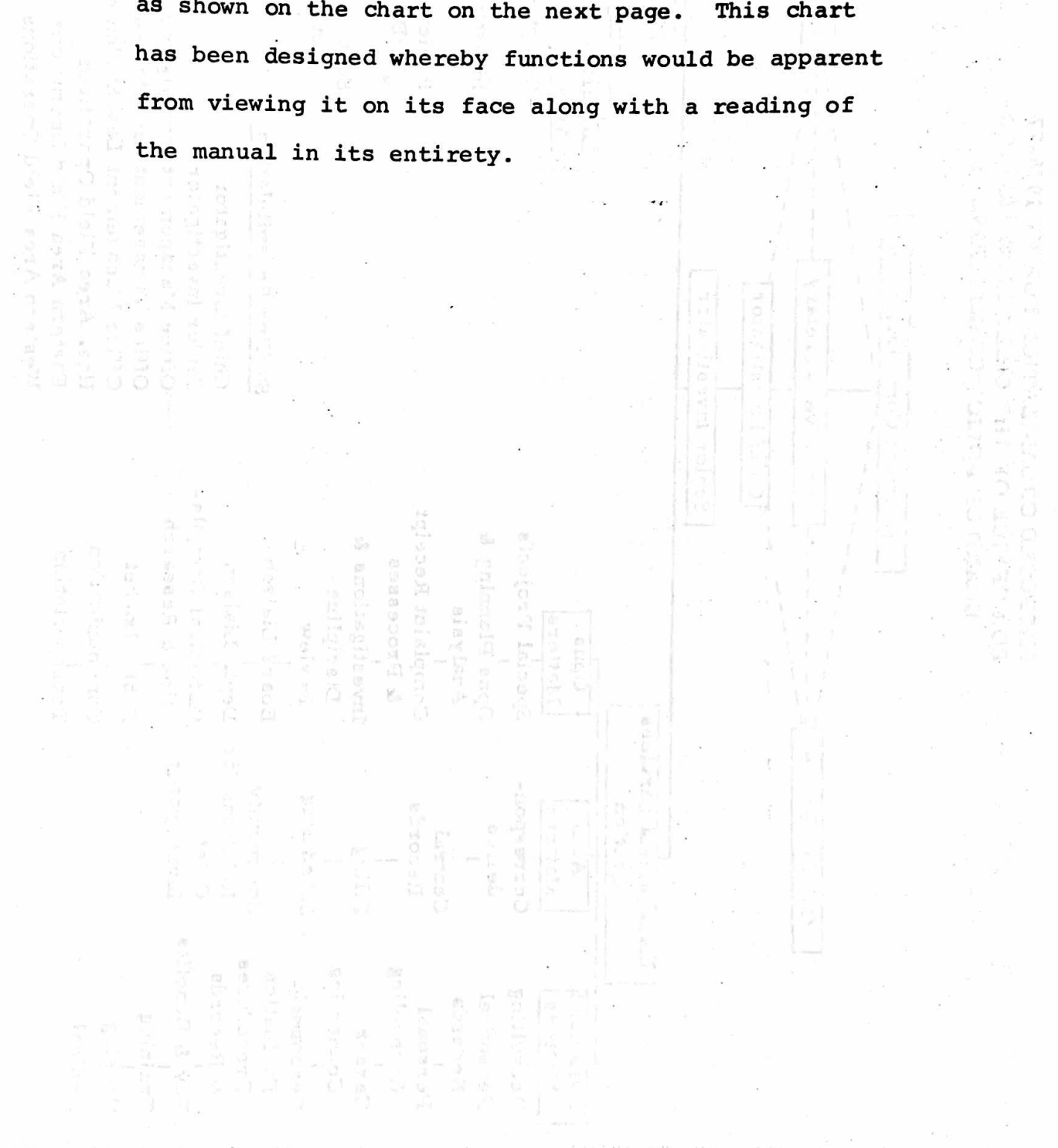
The Mayor has approved the following staffing for OCI for the 1976-77 Fiscal Year:

<u>Title</u>	<u>Number</u>
Chief Investigator	1
Senior Investigator	1
<u>Investigators</u>	<u>6</u>
Total Civilian Professional Investigative Personnel	8
<u>Secretaries</u>	<u>2</u>
Total Authorized Staff	10

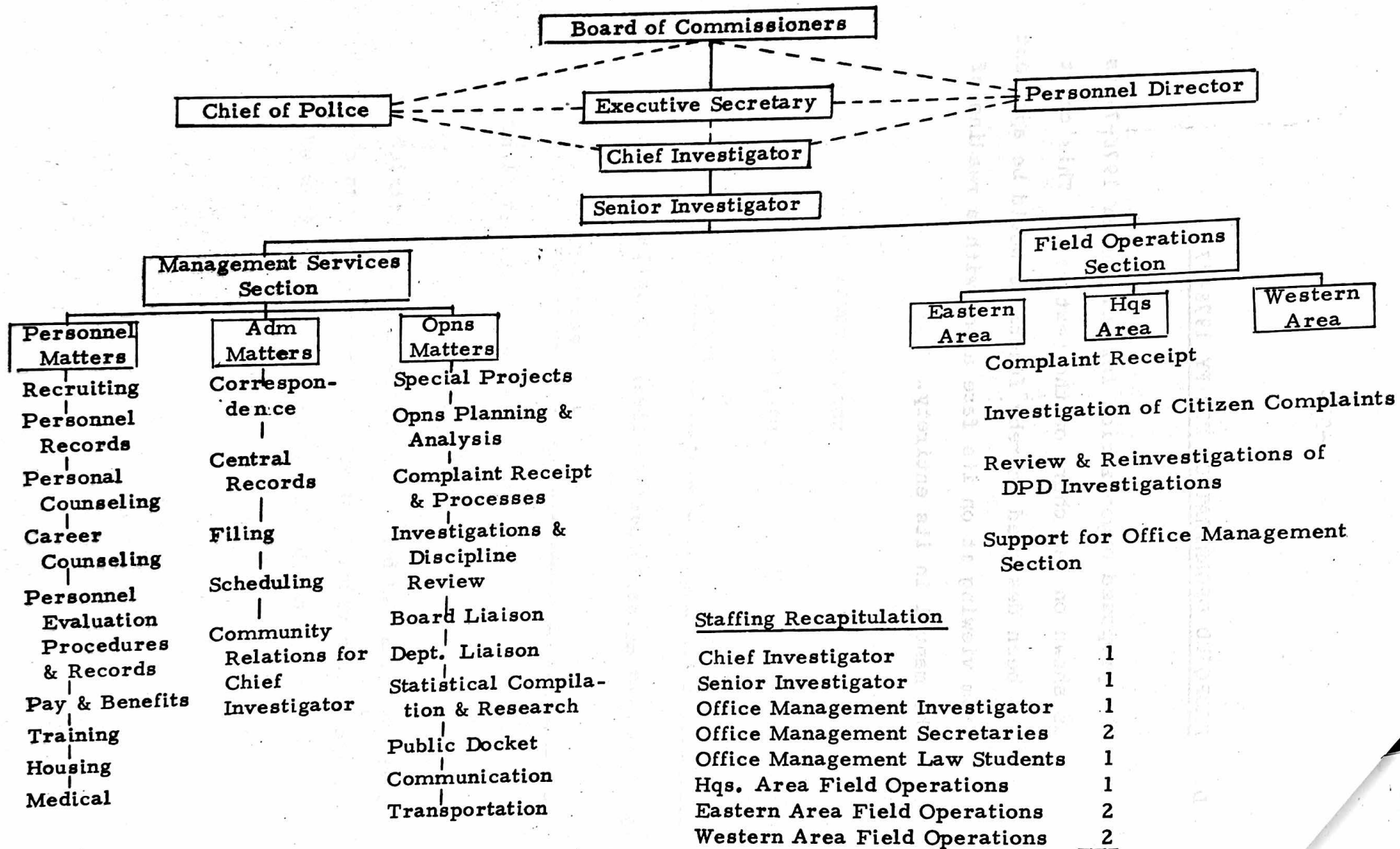
Additionally, OCI arranged for and has assigned to it one student lawyer from the University of Detroit under the work-studies program of the Urban Corps.

D. PROPOSED ORGANIZATION FOR FY 1976-77

The proposed organization for OCI for FY 1976-77 is as shown on the chart on the next page. This chart has been designed whereby functions would be apparent from viewing it on its face along with a reading of the manual in its entirety.



**PROPOSED ORGANIZATION FOR FY 1976-77
FOR OFFICE OF THE CHIEF INVESTIGATOR
BOARD OF POLICE COMMISSIONERS**



Total Staff 11

THE TRAINING OF OCI INVESTIGATORS

Newly hired OCI investigators will ordinarily need at least 60 to 90 days before they achieve a level of acceptable proficiency in citizen complaint investigation. However, the aforementioned time period will vary substantially with individuals depending primarily on the degree of experience and training in law enforcement, criminal investigation, management and law a new investigator has in his background.

For the least experienced new investigator, the 8 weeks' training course prescribed (as is set forth on the attached training schedule) will most likely have to be followed in detail with additions or deletions made on an as-required basis.

The most valuable part of the training for the new investigator is the on-the-job (OJT) training he will receive in working closely as an assistant to an experienced investigator under the guidance of the Chief Investigator.

A brief explanation follows of the purpose of some of the courses on the training schedule that may not be apparent from a reading of the subject titles.

1. Orientation: The knowledge of rights, obligations, and privileges. A necessary step to get forms signed, pictures taken, equipment issued. Introduction to the job, supervisors, OCI staff, key department heads.
2. Policies, Rules, Regulations, Orders: Necessary to make the

in th

OCI investigator aware of departmental responsibilities, their code of ethics and book of rules. Familiarization with the rules that must be dealt with in investigations.

3. Law and Evidence: The why and how of those laws. Background information relative to what caused the enactment of certain laws is necessary to understand the underlying reason for enactment; that they are most often caused by the actions or inactions of others.

4. Disciplinary Procedures: What the police officer faces when an investigation is sustained against him.

5. Information Sources: Where, how, when, and under what circumstances to obtain reports, tests, documents, and other information needed to work investigations. The more sources of information an investigator has, the easier and better the job. An information source can be as simple as the telephone book or as complex as the Federal Government.

6. The Standard Operating Procedure of OCI: A step-by-step walk-through of procedures for the internal operations of OCI.

7. The Ride-Along: The new investigator, already a civilian, should be given the opportunity to learn a little of what it is like to be a field officer. They should have the chance to see first-hand the "other side of the coin" and interact with working police officers on their own "turf." The one-to-one contact can be beneficial to both the officer and the civilian investigator. It should be an opportunity for the officer to find out a little about OCI and the people who staff it. The new OCI

investigators should be exposed to all types of experiences by sending them to very active and not-so-active districts on all three shifts. By the time the new OCI investigators go out for the ride-alongs, they should have been given some basic information about what their job is all about so they can intelligently answer questions relative to it. The ride-along would not be complete if there were not a companion critique of the rides. This is a most important step and cannot be separated from the ride. The new OCI investigator must be debriefed and the various experiences should be shared. The methods employed by the various officers must be compared and evaluated. Care must be taken to keep the discussions relevant and not allow them to get out of hand.

8. Investigation, Report Writing, Interviews: As much time as possible should be given to these important areas but they should be kept together as much as possible. The highlights of each should be given to the new investigators, and they should be instructed by recognized experts in the field. The methods that they are taught should be as modern as possible, and they should be made to understand the difference between a good investigation and a poor investigation. They should also be taught how to evaluate one of their own investigations. One cannot possibly teach any group of investigators without including these subjects.

9. What the police officer is taught: The new investigators should know what basic information is given to a police officer in the training school. There will not be time to let them attend actual CJI classes, so

the persons who teach the subjects decided on should cover what the police officer is expected to know when he leaves the academy. The reason for this is so the investigator cannot be hoodwinked by an officer who states they were or were not taught to do certain things in a particular way.

10. Polygraph: Very few things in investigative work are more controversial than the use of the polygraph. The new investigators should be briefed on what it can and cannot do, when it should and when it should not be used, how it works, why it works, how to read the result reports sent by the laboratory, how to frame the test questions, and what the law says about use of polygraph results. They should further be instructed in what the Department's official position is on the use of the polygraph. Any orientation in this area should be made by a qualified examiner with a practical demonstration arranged.

11. Photography: The new investigators will not be expected to take photos that will stand up as evidence in a court of law, but it is important for them to be familiar with the camera and what the camera can do to aid their investigations. They should know what to look for in various types of photos and should know enough not to be misled by the various types of distortions present in some photos. The new investigators should be taught to use the camera so that they can include some simple explanatory photos in their cases when the need arises, without calling for very busy evidence technicians. This section is important, but not vital to the investigators' success. It could be eliminated to make room

1 for
police

for more important course material.

12. Safety on the Road: This subject area is very important. A good course in traffic safety and defensive driving cannot only save a life, but, more selfishly, it can prevent the unnecessary loss of manpower while some investigator has to recover from a needless accident. The OCI is at minimal strength. Thus a crackup could seriously hamper output. OCI vehicle allocation does not provide "spare" vehicles always to replace one in the shop for accident repair. Thus the time OCI investigators spend in training and on the driving range should pay dividends. There are also specific things that must be done in a precise manner whenever a Department vehicle is involved in an accident. The new investigator must be taught what these things are and how to get the service required. If any of this section must be cut, it should be the practical, not the theory and required knowledge.

13. Role Playing: One of the finest training methods available. Invaluable for learning "how to do." Here we can test the new investigator's knowledge of the subjects presented and can gain some insight into how they will operate under actual conditions. We can also spot training deficiencies using this method. This area, along with the critique, can aid in designing the in-service program to correct deficiencies. The cases should be actual and the leader should be an expert in the area of role playing. If done well, this could be the most valuable time spent in the training.

D

In the training of new investigators, they are to be instructed of the percentage of time that they and the senior instructor must devote generally to assigned duties. This is to be done in the interest of increasing a better understanding and appreciation of the nature of OCI investigative work. This information is as follows:

Civilian Investigators - OCI

Duties:

- 60% Make thorough field investigations into cases assigned, by using any and all accepted investigative and interview techniques.
- 30% Assemble the evidence gathered into presentable form. Research the law as well as the rules, regulations and orders of the Department. Write reports of activity relative to each case assigned. Cross check with goals and standards. Make an objective finding and recommendation in each case assigned.
- 7% Consult with supervisor whenever the need for clarification or guidance arises and when called by supervisor.
- 2% Communicating laterally with other investigators regarding problems, new methods, new information sources, etc., that are of common interest.
- 1% Communicating with the public in response to questions that fall outside the area of specifically assigned cases.

OCI Senior Investigator

Duties:

- 10% Assisting the Chief Investigator in the central office and field supervision and evaluation of investigators.
- 50% Critical review of each progress report and completed case file submitted by subordinates. Make decision whether the reports and/or case is adequate and objective. Return those reports and/or cases found not to be up to standard for additional work. Re-review the rejected documents when they are returned.
- 5% Assisting the Chief Investigator in the training of investigators (a continuing process).
- 15% Preparing recommendations for OCI administration in each completed case found to be adequate. The recommendations should be reflective of an objective evaluation of the evidence presented.
- 1% Preparing period reports of field activity for Chief Investigator.
- 10% Consulting in detail with Chief Investigator about cases and/or problems (included is regular staff meeting time).
- 5% Lateral consultation with peers (included is regular staff meeting time).
- 4% Communicating with public telephonically and personally.

B. ADMINISTRATIVE MATTERS.

1. Central Recordkeeping Procedure.

Though each of the major OCI sections and subsections has its own unique function, all sections' functions are in fact interrelated.

Administrative recordkeeping begins with receipt of any complaint or Board directive for investigation or analysis and continues throughout the duration of the case to conclusion. The Administrative Subsection will compile and control all records of the Office of the Chief Investigator. The step-by-step procedures set forth below are needed for record control and statistical reporting. Statistical records will give investigators insight into why specific information is required.

Note: Not included is each and every file/record kept by the Administrative Subsection.

Presentation adhered to only those necessary to the complaint procedure. Administrative Subsection responsibilities include monthly reports, personnel files, general file, etc. Clerical duties of this section are expected to increase and vary as the operation of the new OCI sections progresses.

Upon receipt of complaint or Board directive for investigation or analysis, a case number will be immediately requested from the Management Services Operations Subsection and initial information recorded in complaint book and alphabetical book of complainants.

Complaints received by OCI investigators are then recorded on an unofficial office BPC Citizen Complaint Form. This form and a BPC Citizen Complaint Cover form are then submitted to the secretary. (See attached III C forms.)

Complete information obtained from the above two forms is entered in the complaint book. Information entered includes: file/referral numbers, date of entry in book, how received (BPC, Mayor, telephone, letter to OCI, etc.), name of complainant, precinct involved, officer's name if known, allegations (listed numerically as they appear on the complaint form and cover form), notation if complaint is sent to PSS, and OCI assigned investigator. (DPD CCR numbers are recorded in OCI complaint book as they are received and copies of these CCR's given to appropriate OCI investigator and filed in pertinent BPC primary case file. Date of disposition reports for these CCR's is also entered in complaint book and copies distributed as indicated above.)

The information on the unofficial office complaint form will be typed by a secretary on the official BPC printed, pre-numbered form.

Two file jackets with appropriate stamps and notations (investigator's name, date of initial letter to complainant, date case sent to Chief of Police and Professional Standards Section) are prepared, one for the OCI primary open case file, which will contain all original copies, and the other jacket for the case investigator. (As additional information is accumulated, originals will be placed in the primary case file with copies to the investigator for his file.) Primary file information may not be removed from the Office of the Chief Investigator. If it is necessary to remove a file from the primary case file or reports from the OCI General File, a marker indicating date and name of member removing file for use within OCI premises shall be placed in file. Case files shall be replaced by the end of the working day. Files removed shall be placed in file basket for return to proper location by secretaries. Reports shall not be removed from files.

In accordance with established procedure, many complaints will be forwarded to the Detroit Police Department

Professional Standards Section for investigation in accordance with Department rules and regulations governing citizen complaints. In most cases PSS will forward the complaint to the precinct or section where incident occurred for investigation. The investigation will be monitored and reviewed/reinvestigated by the OCI. The cover form must indicate investigator's desire to forward complaint to the Police Department, whereupon the secretary will initiate the following procedure:

- A form letter will be addressed to the Chief of Police enclosing a machine copy of the typed complaint.
- Machine copies of the letter and complaint will also be sent to the Executive Secretary of the Board of Police Commissioners and the Deputy Chief of the Internal Controls Bureau.
- Machine copy of letter and original of official complaint form will be sent to the Detroit Police Department Professional Standards Section.
- Copies of all letters and reports are also added to the Historical File.
- A letter to the complainant enclosing his copy of the official BPC complaint form is also prepared for signature of the Chief Investigator.

After signature by the Chief Investigator and forwarding of all correspondence, the file will be indexed by a secretary. The cards will be placed in the OCI current card file along with a cover card listing all names indexed to facilitate removal of all concerned cards to add disposition at the time of closure. (See attached forms.)

Investigators' supplemental reports, if any, will be typed by secretary. After signature, distribution will be made by secretary. If additional witnesses, etc., are included in these reports, additional cards will be typed for filing in the OCI current card file. The names will also be added to the case cover card so these cards also may be removed at time of case closure for addition of disposition information.

After investigator has completed his review and/or reinvestigation, he will submit his final summary and recommendations in draft form to the Chief Investigator. The Chief Investigator will review the investigative summary and dictate the final report for public docket indicating his concurrence and adding his comments and/or recommendations. The Chief Investigator's report will be directed to the Board of Police Commissioners and upon

Board approval will become a matter of public record. Copies of the investigative summary and the Chief Investigator's final report for public docket will be listed for the Executive Secretary, Chief of Police, and OCI investigators. Twelve copies are submitted to the Office of the Board of Police Commissioners; these include the copies for the Executive Secretary and the Chief of Police. The original is filed in the primary case file, a copy is added to the Historical File, and a copy placed in the Chief Investigator's book of information for presentation at the following Board meeting.

On acceptance of the OCI findings by the Board of Police Commissioners, a letter is prepared for the signature of the Chief Investigator informing the citizen of OCI findings in his case or of the fact that his case will be presented to the Board of Police Commissioners at a public meeting. The date, time and location of the meeting are included in the letter.

Proper entries are also made on the case cover sheet indicating disposition of each allegation and listing improper conduct citations, policy failure information, recommendations, etc. This information is entered in

complaint book. Acceptance of the Chief Investigator's report by the Board of Police Commissioners will close the case; therefore, the date of acceptance will be entered in the complaint book and used in the OCI statistical report as cases closed entry. Dates of Board presentations are also entered. Appropriate information is also entered in the space provided on file jacket.

At this time index cards are pulled from the OCI current card file along with the cover card. Disposition information is added to the cards along with any other pertinent information such as disciplinary citations, etc. Date of closure is entered on the index cards and cover card. The index cards are then filed in the OCI primary card file as a permanent record. Cards are also typed for disciplinary citations and OCI recommendations. These are placed in the open files in each case until disciplinary action has been taken or recommendations have been met. They are then transferred to the closed section of those files. (See attached forms.)

It should be noted that it is expected that should it become evident that a policy failure or procedural omission is wholly or partly responsible for the

complaint, the case investigator will request a study and recommendations by the OCI Management Services Operations Subsection. This should be noted in the investigator's investigative summary, and the Administrative Subsection alerted to make proper entries in the complaint book.

Field Investigative Section

Basic clerical standard operating procedure would conform to that of the Administrative Subsection recordkeeping procedure indicated above with additions and variations as required as operation of this section progresses.

Management Services Section

Clerical standard operating procedure would conform to that of the recordkeeping procedure indicated above with additions and variations as required as operation of this section progresses. A separate book will list special analyses as they are begun, whether or not the result of a complaint.

Information should include subject, date of request, name of person or unit requesting analysis, case number, investigator assigned to analysis, date closed, and recommendations.

2. Community Relations, Scheduling, Correspondence.

a. Community Relations.

All members of the OCI staff are representatives of the Chief Investigator, the Board of Police Commissioners and the Mayor in their dealings with the public. Thus, they must adhere to the highest standards of courtesy in interacting with the DPD, individuals connected with other governmental agencies, and the community at large in particular.

The Chief Investigator, in keeping with past practice, will receive and accept many invitations by civic groups as guest speaker. The content of the addresses given by the Chief Investigator, in keeping with past practice, will continue to be noncontroversial dealing only with the mission and functions of OCI within the construct of its interactions with the DPD and the community at large.

b. Scheduling.

The Administrative Subsection of the OCI Management Services Section will maintain the following key schedules:

- (1) Speaking engagements for Chief Investigator.
- (2) Vacation schedules.
- (3) Time records.

c. Correspondence.

All correspondence emanating from OCI will be over the signature of the Chief Investigator and with his approval.

d. Office Morale.

Special letters of appreciation and commendation will be awarded for outstanding performance of extremely difficult tasks.

Verbal appreciations and/or commendations will be expressed for the achievement of excellency in the performance of tasks.

Fair and objective evaluations only will be made of investigators.

Several social events will be held for the staff each year as arranged by the Chief Investigator.

OPERATIONS MATTERS

III C

OPERATIONS MATTERS

OPERATIONS MATTERS

STANDARD OPERATING PROCEDURES
FOR
INVESTIGATIONS

OPERATIONS MATTERS

Office of the Chief Investigator
Board of Police Commissioners

STANDARD OPERATING PROCEDURES

INVESTIGATING PROCESS

I. INITIAL COMPLAINT.

When a citizen contacts the Office of the Chief Investigator by any means and states a complaint or desire to make a complaint against the Department or member of the Department, the investigator assigned as duty officer of the day shall determine whether the citizen's complaint can be resolved forthwith to the citizen's satisfaction without preparing a Board of Police Commissioners' Citizen Complaint Report. Otherwise, the investigator shall prepare a citizen complaint report (see Attachment A), log the complaint by name and by number in the appropriate record books, and submit the report to his/her supervisor for processing and assignment.

II. ASSIGNMENT OF INVESTIGATION.

The Chief Investigator shall make assignment of all cases. Assignment shall be made in an equitable manner which, under ordinary conditions, shall be by rotation. An assignment chart should be kept by the Chief Investigator indicating the work assignments of each investigator under his supervision.

III. INVESTIGATION.

Investigators shall follow the investigator's checklist (see Attachment B). Reports, interviews, photographs, correspondence, and other material gathered during an investigation shall be properly placed in the office file. The investigator shall make a copy of the submitted material for his/her working file. Only a working file shall be maintained by the investigator.

The investigator shall submit progress reports on the 30th of each month or the next working day on the status of cases in progress to the Chief Investigator (see Attachment C).

STANDARD OPERATING PROCEDURES
INVESTIGATING PROCESS

2.

IV. CONCLUDING INVESTIGATION.

When an investigation is completed, the investigator shall submit an investigation report (see Attachment D) and the total case file to the Chief Investigator for review. The report shall contain the manner of receipt of complaint; a synopsis of the complainant's allegation; a review/reinvestigative or investigative paragraph that thoroughly reports all facts, analyzes same, reports upon corrective actions taken or contemplated, and makes findings and recommendations in accordance with the investigator's checklist (Attachment B).

V. REVIEW BY CHIEF INVESTIGATOR.

When the Chief Investigator receives a completed case from an investigator, he shall read the entire case file. The completed file shall be evaluated on the basis of thoroughness, objectivity, and timeliness. If the Chief Investigator is not satisfied with the case file or if questions arise relative to any facets of it, he shall consult with the investigator.

When the Chief Investigator is satisfied with the completed file, he shall approve the investigation file and prepare his own final report for the public docket as shown at Attachment E. Where applicable, the disciplinary history of the Department member will be obtained from the Disciplinary Administration Unit in substantiated cases. The Chief Investigator shall then submit his final report to the Board of Police Commissioners for approval.

BOARD OF POLICE COMMISSIONERS
CITIZEN COMPLAINT

Attachment A

BPC NO. 0000

MODE OF COMPLAINT ENTRY		PERSON PREPARING REPORT	
PHONE	LETTER	WALK-IN	OTHER
COMPLAINANT'S NAME		(LAST)	(FIRST)
ADDRESS		(CITY)	(STATE)
		(STREET)	(ZIP)
DATE OF BIRTH	SEX	PHONE (RESIDENCE)	PHONE (BUSINESS)
AGENT REPRESENTING COMPLAINANT		RELATIONSHIP	PHONE
DATE OF INCIDENT	TIME OF INCIDENT	LOCATION OF INCIDENT	
		____ BUSINESS ____ RESIDENCE	
PRECINCT INVOLVED	NO. OF OFFICERS INVOLVED		NO. OF WITNESSES (IF ANY)
COMPLAINT ENTERED ELSEWHERE?	LOCATION AND DATE OF COMPLAINT ENTRY		

DETAILS OF INCIDENT

I HAVE RECEIVED A COPY OF THE ABOVE COMPLAINT AND ATTEST THAT THE INFORMATION THEREON IS CORRECT TO THE BEST OF MY KNOWLEDGE.

SIGNED _____
COMPLAINANT

- AREAS OF CONCERN:
1. _____
 2. _____
 3. _____
 4. _____
- DATE FORWARDED TO PROFESSIONAL STANDARDS SECTION: _____

ATTACHMENT B

OCI INVESTIGATOR'S CHECKLIST

- A. Contact complainant and arrange time/date/place for interview and recording of statement. In every new case assigned, the complainant must be contacted without delay. This lets the complainant know that interest has been taken in his/her complaint. This also precludes the complainant and his/her witnesses from later formulating a joint accounting of events other than what was observed. When possible and applicable, OCI investigators will:
1. Obtain color photographs of victim's injury as soon as possible.
 2. Obtain medical records release.
 3. Obtain names/addresses/telephone numbers of witnesses known by complainant.
 4. View photos of police officers for identification purposes, if necessary, or have corporeal show-up.
 5. Obtain Police Department records pertaining to incident as follows:
 - a. Arrest reports (PCR).
 - b. Breathalyzer report.
 - c. Injury on duty reports.
 - d. Accident report.
 - e. Vehicle damage report.
 - f. Firearms use report.
 - g. Activity log sheet.
 - h. Inventoried evidence report.
 6. Obtain medical records of complainant and of accused member. Whenever a hospital or doctor's report is obtained, a second report will be included explaining the hospital or doctor's report, which is usually in technical language.

ATTACHMENT B
OCI INVESTIGATOR'S CHECKLIST

2.

7. Interview and record statements of all civilian witnesses.
8. Interview and record statements of all police witnesses. Be sure to have the police witness execute the Certificate of Notification of Constitutional Rights - Departmental Investigation, DPD 593 (Rev. 8-73), prior to the interview. Observe collective bargaining agreements.
9. Contact the accused member through channels and give the member at least 48 hours' notice of interview time/date/place. Be sure to have the accused member execute the Certificate of Notification of Constitutional Rights - Departmental Investigation, DPD 593 (Rev. 8-73), prior to interview. (Form is enclosed as attachment.) When the possibility of criminal charges exists, the investigator must give the accused member his/her Miranda rights. Observe collective bargaining agreements.
 - a. Obtain the names/addresses/telephone numbers of witnesses from the accused member.
 - b. Secure documentation of injury the accused member received, if any.
10. Determine feasibility of polygraph examination. If a polygraph examination is feasible, administer examination to complainant (if cooperative) and to the accused member if the complainant takes the examination and passes and if the officer is willing.
11. State the facts in the body of the investigation report in paragraph form explaining what took place in a logical order. Each paragraph must stand on its own and be a true synopsis of the facet of the investigation that it covers. Never slant your synopsis of each facet in one way or another, just state the facts as you found them or as they were told to you.
12. Weigh the accumulated evidence and attempt to reason what the truth is and where the preponderance of evidence (more likely than not) lies. You should tell how and why you came to the conclusion that you did.

B. The Thrust of OCI Investigations.

OCI investigators will endeavor to conduct a balanced, impartial, objective, professionally thorough and sophisticated investigation or review/reinvestigation of every allegation of every citizen complaint to ascertain:

1. Firstly, has the citizen complainant been made "unwhole" to any extent by the policies (or lack of them) of the Department or the actions of its members and, if so, what should the Board do in a good faith attempt to make that citizen "whole" notwithstanding the fact that the Department and its members may be without fault in many given factual circumstances. OCI, as appropriate, will usually recommend that the Board make some manifestation of its regrets when an aggrieved citizen clearly deserves such.
2. Secondly, and of course of equal importance, has the Department or its members been falsely or improperly accused and to what extent does the Board have a clear and solemn obligation to defend and protect their rights and reputation. Also, are disciplinary processes administered fairly and properly.
3. Lastly, to what extent does the Board have a solemn obligation to protect the City from the possibility of pernicious and debilitating lawsuits for monetary damages from aggrieved citizens.

C. Areas of Concern and Procedural Categories for Reaching Findings.

1. Familiarization: OCI investigators will thoroughly familiarize themselves with the following departmental publications pertaining to citizen complaint investigations in order that we may whenever possible achieve the greatest degree of commonality of procedure and terminology.

General Order 74-87 dated December 27, 1974;
General Order 74-88 dated December 27, 1974;
General Order 74-89 dated December 27, 1974;
General Order 74-90 dated December 27, 1974;
General Order 74-91 dated December 27, 1974;
General Order 75- 7 dated February 21, 1975.

ATTACHMENT B
OCI INVESTIGATOR'S CHECKLIST

4.

2. Areas of concern: OCI investigators will specifically adhere to the categories of areas of concern (i.e., force, arrest, entry, search, harassment, demeanor, other procedure, service and property) as set forth on pages 2 and 3 of General Order 74-91 dated December 27, 1974, as well as the procedural categories for reaching findings/conclusions (i.e., proper conduct, policy failure, improper conduct, insufficient evidence and unfounded complaint) as set forth on pages 6 and 7 of General Order 74-89, also dated December 27, 1974, except as otherwise noted hereon.

OCI of necessity must go a step beyond the procedures set forth in the above listed reference by following its own procedure of giving to the citizen complainant a candid, direct and simple answer of "yes" or "no" as to whether it has been able to confirm the validity of any allegations made by that particular citizen or citizen group.

OCI made a deliberate study of the language that would be most appropriate in conveying this simple "yes" or "no" answer to the citizen complainant as to whether or not an allegation could be confirmed. Language terms considered were "accurate or inaccurate," "true or false," "confirmed or unconfirmed," "validated or not validated," "correct or incorrect," "in error or not in error," "proved or unproved," "evidenced or not evidenced," "mistaken or unmistaken," "sustained or not sustained," "corroborated or not corroborated," "substantiated or unsubstantiated," etc.

In view of the fact that the terms "substantiated or unsubstantiated" are the ones customarily used by the DPD as set forth in General Order 74-89 on pages 6 and 7, OCI chose these terms in the interest of achieving a commonality of language to the maximum extent possible.

3. Procedures for reaching investigative findings/conclusions: As regards the five different categories of reaching findings/conclusions on investigative reports as set forth on pages 6 and 7 of General Order 74-89, OCI follows the following procedure as to each of the five categories:

ATTACHMENT B
OCI INVESTIGATOR'S CHECKLIST

5.

- a. If a citizen complainant's allegation can be substantiated but there were no improprieties on the part of the Department or any of its members and the complainant suffered no harm without justification, OCI's finding/conclusion falls in Category 1 of General Order 74-89 (i.e., proper conduct).
- b. If a citizen complainant's allegation can be substantiated and the complainant suffered harm without justification, although the Department's member(s) adhered to its own policy but the Department was delinquent in that it had an unclear policy on the matter or no policy at all when it would be to the best interest of everyone to have such a clearly stated policy, OCI's findings/conclusions fall into Category 2 of General Order 74-89 (i.e., policy failure).
- c. If a citizen complainant's allegation can be substantiated and it is evidenced that the Department or its members failed to adhere to its own policy regarding the matter, OCI's findings/conclusions fall into Category 3 of General Order 74-89 (i.e., improper conduct).
- d. If a citizen complainant's allegation cannot be substantiated because there is simply insufficient evidence to sustain it and particularly when there is cause to believe the complainant, OCI's findings/conclusions fall into Category 4 of General Order 74-89 (i.e., insufficient evidence).
- e. If a citizen complainant's allegation cannot be substantiated and moreover it is clearly evident on the face of it that the allegation is not true, OCI's findings/conclusions fall into Category 5 of General Order 74-89 (i.e., unfounded). The allegation is then unsubstantiated because it is demonstrably untrue and thus unfounded as proved by credible evidence. OCI, however, does not agree with the additional provision of this category that a citizen complainant's allegation should be summarily classified as "unfounded" simply because departmental or OCI investigators could not come up with sufficient credible evidence to substantiate it.

5.

ATTACHMENT B
OCI INVESTIGATOR'S CHECKLIST

6.

This is the crucial category where it is estimated that more than 80 per cent of citizen complaint investigative findings/conclusions fall or should fall because of a "standoff." In other words, the citizen "accuses" but the police officer "denies" and no other independent and impartial witnesses can be located to either corroborate one or the other. While the departmental investigators, in adherence to their own general order on citizen complaint investigative findings/conclusions, summarily place this type of situation in Category 5 (i.e., unfounded), OCI more appropriately places such findings/conclusions in Category 4 (i.e., "unsubstantiated because of a lack of sufficient evidence") and deletes the added provision that "there is cause to believe the allegation" except when such a conclusion is clearly applicable.

The unsubstantiated because of a lack of sufficient evidence category is the category that gives to OCI most of its reinvestigative field work that is inherently a part, to some extent, of every review that it makes of a departmental investigation.

For example, OCI investigators must go into the field to ascertain to their own satisfaction and professional good conscience that indeed an adequate and thorough canvass has been made to locate "independent and impartial" witnesses to an incident. Further, in the many instances where statements taken from witnesses to an incident are incomplete or unclear, OCI investigators must go into the field and reinterview those witnesses. If, in spite of all such efforts, we can still not locate independent and impartial witnesses who are willing to become "involved," the citizen's allegation should then be classified as "unsubstantiated because of a lack of sufficient evidence" rather than to be summarily classified as an allegation that is "unfounded," as is presently done by the Department.

DETROIT POLICE DEPARTMENT

CERTIFICATE OF NOTIFICATION OF CONSTITUTIONAL RIGHTS-
DEPARTMENTAL INVESTIGATION

I understand that:

1. I am being questioned as part of an official investigation of the police department.
2. I will be asked questions specifically directed and narrowly related to the performance of my official duties.
3. I am entitled to all rights and privileges guaranteed by laws of the State of Michigan, the Constitution of the State and the Constitution of the United States, including the right to have legal counsel present at each and every stage of this investigation.
4. If I refuse to testify or to answer questions relating to, (a) my duties as a member of the department, (b) investigations of violations of state and federal laws and/or ordinances of the City of Detroit, and/or (c) my fitness for office or the fitness for office of another member of the department, I will be subject to departmental charges which could result in my dismissal from the police department.
5. If I do answer, and immunity, federal, state, or other has not been given, neither my statements nor any information or evidence which is gained by reason of such statements can be used against me in any subsequent criminal proceeding.
6. Statements I make may be used against me in relation to subsequent departmental charges.

I understand that these are my rights in a departmental investigation. I have not been threatened or promised anything, and I now desire and agree to answer any questions put to me or to make a statement.

In the presence of:

WITNESS

SIGNATURE

WITNESS

DATE

TIME

This certificate of notification was read to the subject, and he/she had an opportunity to read it. Further, the subject was given an opportunity to ask any questions that he/she might have concerning this certificate and his/her rights.

(OVER)

REMARKS: _____

DATE

TIME

OFFICER

D.P.D. UNIT

PLACE

OFFICER

D.P.D. UNIT

INSTRUCTIONS FOR USE OF CERTIFICATE OF NOTIFICATION

The instructions listed below shall be followed in order to make proper use of the Certificate of Notification:

1. The interrogating officer shall read the certificate to the person interrogated.
2. The person interrogated shall be requested to sign the certificate. Any witnesses who might be present during this process, such as an attorney, member of family of person interrogated, and other officers, also shall be requested to sign the certificate.
3. The officer(s) shall complete the remainder of the certificate as indicated.
4. In the event the person interrogated refuses to sign the certificate, a brief summary of the reasons for refusal, as given by the person interrogated, shall be noted on the certificate. The interrogating officer(s) shall then complete the certificate and identify it by placing the name of person interrogated directly under the title.
5. If the person interrogated refuses to sign the certificate, but is willing to answer questions or make a statement, the interrogating officer(s) shall proceed as usual with the questioning.

INTER-OFFICE MEMORANDUM

Office of the Chief Investigator

Date

February 19, 1976

Chief Investigator Lloyd E. Powell
Board of Police Commissioners

Attachment D

Subject:

COMPLAINT OF MR. JOHN DOE
BPC COMPLAINT NO. 0000

Opening paragraph concerning receipt of complaint, how complaint was handled (forwarded and reviewed or investigated by OCI), and other information investigator feels is pertinent.

I. GENERAL SYNOPSIS OF COMPLAINANT'S ALLEGATION

(As alleged by the complainant)

II. OCI REVIEW

A. Initial Investigation

B. Review/Reinvestigation

C. Corrective Actions Taken or Contemplated, if known

III. FINDINGS

Allegation #1 of improper entry is unsubstantiated for lack of sufficient evidence.

Allegation #2 of excessive use of force is substantiated. The conduct of the officer was improper.

Allegation #3 of improper arrest is substantiated, but the conduct of the officers was proper. Policy failure.

Allegation #4 of improper use of force is substantiated, but the conduct of the officer was proper.

IV. RECOMMENDATIONS

A. That the General Order be reviewed.

B. That OCI be informed of corrective actions taken in this case.

C. That this case be closed.

JAMES SMITH
Investigator
Office of the Chief Investigator

DETROIT
POLICE DEPARTMENT

FORM 561 (Rev. 12/72)
G. of D. 77-01

INTER-OFFICE MEMORANDUM
Office of the Chief Investigator

Date
April 5, 1976

DETROIT
POLICE DEPARTMENT

To: Board of Police Commissioners

Attachment E

Subject: FINAL REPORT FOR PUBLIC DOCKET OF BPC COMPLAINT NO. 0000
ALLEGATIONS REGARDING SERVICE AND DEMEANOR

- I. MANNER OF COMPLAINT RECEIPT.
- II. GENERAL SYNOPSIS OF COMPLAINANT'S ALLEGATIONS.
- III. FINDINGS.
- IV. CORRECTIVE ACTION.
- V. RECOMMENDATIONS.

LLOYD E. POWELL
Chief Investigator
Board of Police Commissioners

LEP:jj

cc: Executive Secretary
cc: Chief of Police
cc: OCI Investigators

INDEX CARD FOR COMPLAINANT

SMITH, Jane

DATE: 00-00-00

0000 South Street
Detroit, Michigan 48200

000-0000

BPC 0001

6-1-75

Complainant

- (Leave space blank until conclusion of case. At that time list officers involved, areas of concern and dispositions. Date case closed should follow.)

Sample:

Areas of concern and disposition:

- | | |
|---|-----------------|
| 1. Procedure (humiliation): | Proper conduct. |
| 2. Procedure (improper arrest): | Proper conduct. |
| 3. Demeanor (disrespect): | Unfounded. |
| 4. Procedure (forced to walk to destination): | Policy failure. |

Initial complaint concerned *POLICE OFFICER JOHN DOE, Badge 0000 of the Eighth Precinct Narcotic Unit.

Case closed 7-18-75.

*"Officers of the _____ Precinct" and "See cover sheet for information" may be substituted if list of names is lengthy. Additional information such as case recommendations, etc. may be added at the discretion of the secretary.

(Card should also be typed for agent of complainant.)

INDEX CARD FOR ACCUSED OFFICER AND/OR OTHER

OFFICERS MENTIONED IN CASE AS WITNESSES, PARTNER, ETC.

DOE, John

Police Officer, Badge 0000

Eighth Precinct

Appointed: 00-00-00

1111 Main Street
Detroit, Michigan 48200

221-1111

BPC 0001

6-1-75

- (Leave space blank until conclusion of case. At that time list numerically areas of concern and dispositions for each. Also list complainant in case.)

Sample:

Complainant in this case is JANE SMITH.

Areas of concern and their dispositions:

- | | |
|---|-----------------|
| 1. Procedure (humiliation): | Proper conduct. |
| 2. Procedure (improper arrest): | Proper conduct. |
| 3. Demeanor (disrespect): | Unfounded. |
| 4. Procedure (forced to walk to destination): | Policy failure. |

Case closed 7-18-75.

(If disposition indicates improper conduct, an improper conduct card will be typed and placed in open file until notification of action taken (reinstruction, discipline, etc.). This information shall be added to the improper conduct card, which will then be placed in the closed file. Officer's primary card should contain indication of improper conduct cited and disposition. Other information may be added at discretion of secretary.)

INDEX CARD FOR LOCATION OF INCIDENT (See note below.)

III C

SMITH'S BAR

Owner: 1114 South Street 111-2224
JANE SMITH, complainant Detroit, Michigan 48200

BPC 0001 - See file for information
6-1-75

This card on a location is used when location is significant and more likely to be recalled than the name of complainant or officer.

INDEX CARD FOR CIVILIAN WITNESSES

JONES, Jack

M/DOB:00-00-00 1112 South Street 111-2114
Detroit, Michigan 48200

BPC 0001 - See file for information
6-1-75
Witness

Witness cards will only be typed when witness plays a significant part in case.

2224

III

OFFICE OF
DETROIT

PUBLIC OFFICIAL INDEX CARDS
(See note below.)

III C

Yellow or buff cards will be made for complaints forwarded by City officials, etc., for easy reference.

BPC COVER CARD

BPC COMPLAINT 0001:

OCI Investigator:

John Doe

(6-1-75)

- DOE, John (Police Officer)
- JONES, Jack (Witness)
- SMITH, Jane (Complainant)
- SMITH'S BAR (Location of Incident)

This COVER CARD lists all cards made initially on new complaint. Additional names may be added if additional index cards are made as case progresses. This card is necessary to facilitate pulling all pertinent case cards at the time of closure of case so that disposition may be added and cards filed in primary file.

CARD FOR INVESTIGATOR'S FILE
SMITH, Jane

0000 South Street
Detroit 48200
000-0004

BPC 0001 - Complainant

(Card should also be typed for agent of complainant.)

This card is typed for investigators' personal files.

CARD FOR CITATION OF MISCONDUCT
DOE, John

III C

BPC Complaint No. 0001

Police Officer, Badge 0000
Ninth Precinct
Department: 00-00-00

OCI Investigator:
Mr. James Smith

- 7-27-75 - OCI summary cites OFFICER DOE as follows:
(1) K-1 (neglect of duty) in that...
(2) K-49 (failure to report known misconduct by a Department member) in that...
- 8-2-75 Memo from Chief of Police indicates OFFICER DOE has been scheduled for Chief's Hearing on 9-2-75.
- 9-18-75 Memo from Chief of Police indicates Chief's Hearing has been rescheduled for 10-2-75.
- 10-7-75 Memo from Chief of Police indicates OFFICER DOE was found guilty of Charge 1 above at Chief's Hearing of 10-2-75. Charge 2 was dismissed. OFFICER DOE was sentenced to...

White index card used for disciplinary file to distinguish card from blue primary file card.

Officer's name should be added to Misconduct Citations Summary Card (either DPD card or OCI as indicated in report--either acceptance of DPD or new

RECOMMENDATIONS

BPC 0000

- *4-22-76 - Complainant: MR. JOHN DOE.
1. That ...
2. That ...
3. That case be closed.

*Date of acceptance by BPC.

This information is added also to Recommendations Summary Card, and subject card may also be typed as required.

As information is received indicating compliance w/recommendation, this information and date of same is added to Case Recommendation Card and to Recommendations Summary Card, closing recommendation.

Letters of apology recommendations are added also to summary card (Apology,

RECOMMENDATIONS SUMMARY CARD

- 4-22-76 - BPC 0000 - Complainant: MR. JOHN DOE.
1. That ... Closed 5-7-76.
2. That ...
3. That case be closed. Closed 4-22-76.

SUBJECT OF RECOMMENDATION/SUGGESTION

BPC Co. No. 0000

OCI Inv. No. 0000
Mr. J. Smith

basis and will take the form of:

- a. 1. Special Conduct and Performance Evaluations, and/or
- b. Counseling
- c. Reinstruction
- d. Retraining
- e. Admonishments
- f. Verbal or Written Reprimands
- g. Probations
- h. Dismissals

2. All disciplinary actions may be appealed to the Chief

Investigator and the Board, in that Order.

PUBLIC INFORMATION

Information, other than those documents classified as public documents, will not be given to media or public at large unless expressly authorized by the Chief Investigator under the guidance of the Board.