

On February 9, 2001, Assistant WC Prosecutor Robert Donaldson recommended that a warrant be issued against Officer Scola charging him with Misconduct in Office. On this same date, Magistrate Thomas R. Shannon of the 36th District Court issued felony warrant #36-01-56785 charging Officer Scola with the above offense.

Officer Scola was arraigned before Judge Robert Costello, of the 36th District Court. He stood mute to the charge and a plea of not guilty was entered on his behalf. Officer Scola was released on a \$10,000.00 personal bond, ordered not to engage in any criminal activity, and to be present on his court date. His Preliminary Exam is scheduled for February 22, 2001.

Based upon the above facts, it is recommended that Officer Scola be charged with, but not limited to, the following violation of the Department's Rules and Regulations:

CHARGE: CONDUCT UNBECOMING AN OFFICER

Atty. Zulch read a letter written by Officer Scola requesting that the Board contravene the Chief's suspension without pay.

Nancy Nanowski spoke on behalf of the department.

The Board took the matter under advisement.

On February 10, 2001, Police Officer Clifton Whatley, badge 1458, assigned to the Thirteenth Precinct was suspended without pay by Chief of Police Benny N. Napoleon.

On January 6, 2001, the Notification and Control Unit notified Sergeant Alicia L. Smith, badge S-10, of the IAU, regarding an allegation of Felonious Assault involving Officer Clifton Whatley. The Alert Team, Sgt. Smith and Investigator Charles Weaver, I-168, also of the IAU, responded to 10232 Cardoni, and interviewed the complainant, Ms. Melody Looney, B/F/32. According to Ms. Looney, on this same date, at approximately 9:00 p.m., Officer Whatley confronted her about an incident that occurred earlier in the evening between her and Officer Whatley's mother, Ms. Ramona Whatley, B/F/52. Ms. Looney stated that she and Officer Whatley became engaged in an argument and that when she turned to walk away, Officer Whatley pulled his department-issued Glock from his right hip and pointed it at her.

On February 9, 2001, Assistant WC Prosecutor Robert Donaldson recommended that a warrant be issued against Officer Whatley charging him with Felonious Assault. Also on this date, Magistrate Thomas R. Shannon, of the 36th District Court, issued felony warrant #36-01-567584 charging Officer

Whatley with the above offense. On this same date, Officer Whatley was arraigned before Judge Robert Costello, of the 36th District Court. He stood mute to the charge and a plea of not guilty was entered on his behalf. Officer

Whatley was released on a \$10,000.00 personal bond, ordered not to engage in any criminal activity, be present for his court date, not to have contact with Ms. Looney, and not to be armed with a firearm between now and his next court date. His Preliminary Exam is scheduled for February 22, 2001.

Based upon the above facts, it is recommended that Officer Whatley be charged with, but not limited to, the following violation of the Department's Rules and Regulations:

CHARGE: CONDUCT UNBECOMING AN OFFICER

Unless contravened by this Commission, the above suspensions without pay will stand.

There was no contravention to the above suspension.

CITIZEN COMPLAINTS RECEIVED

	<u>2001</u>	<u>2000</u>
During the past week:	12	During the past week: 20
Year to Date:	101	Year to Date: 114

5. REPORT FROM THE CHIEF BY DC BOGAN

I. NARCOTICS CONSPIRACY INTELLIGENCE SECTION

The Narcotics Conspiracy Intelligence Section, during the period of February 7, 2001 through February 13, 2001, made the following arrest and confiscations. These totals reflect two (2) enforcement actions.

- 1 felony arrest
- \$166,900.00 in U.S. currency

DC Bogan stated as fast as they can write the check.

Comm. Richard asked if they had to go to court first?

DC Bogan stated no, we have a "one-stop shop."

Comm. Marx asked if city employees are impounded?

DC Bogan stated in the Eight Mile corridor and our borderlines are we get most of our nibbles.

Comm. Richard how long has Officer Scola been on the force.

Ex. Sec. McDonald stated she would have that information later.

6. PRESENTATION – RISK ASSESSMENT-2ND DC URSULA HENRY

2nd DC Ursula Henry stated she is the commanding executive of the Risk Assessment Section. She also stated she will be providing the Commissioners with an update of its activities with a Power Point presentation.

The Risk Assessment Section is responsible for the department's overall Risk Management efforts. Risk Management is identifying areas that create the greatest degree of exposure to liability and loss of resources and implementing strategies to reduce and minimize litigation and loss of resources. Success of our Risk Management program requires that the Risk Assessment Section constantly evaluate the Detroit Police Department in five areas: **(1)** policies versus its practices, **(2)** training, **(3)** recruiting procedures, **(4)** accountability, **(5)** discipline and corrective action.

Under policies versus practices, the section conducted an extensive review of in-custody deaths of detaining that occurred from 1992-1999. That review prompted an examination of the department's detention policies versus its detention practices. As a result of that examination, the following enhancements were approved and are now being implemented into the Detroit Police Department. The Section developed an intake form and in conjunction with Planning and Inspection we also developed a Special Order pertaining to its' use. We also unified the investigative procedures in detainee deaths. All detainee deaths are now referred to a Board of Review. We have spearheaded the installation of video surveillance cameras in the cells at each detention facility. It is my understanding that two precincts have installation done. She is not sure of which precincts.

She then showed a sample of the detainee intake form. It notes that the information provided is on a voluntary basis. There is also a section where an intake officer has to note his/her observations with respect to the appearance and behavior of the detainee. One of the important things about the intake form is that the intake officer and the officer in charge have to sign the form, date it and put the time that it was filled out. The purpose of this form serves as a method accountability for detention officers and officers in charge. It alerts detention personnel to an individual who requires medical intervention, and it may serve as documentation's in civil procedures against the department.

Additional policies versus procedures evaluations conducted by Risk Assessment include a manual case by case review of several lawsuits to determine policy violations. We have discovered after reviewing disciplinary files that we have some fourth amendment violations that need to be dealt with. As a result of that we will be making recommendations to the Chief that a group of police officers receive retraining in Constitutional Law.

In fiscal year, 1999-2000 the city of Detroit paid approximately 8 million dollars in litigation involving false arrest, in-custody deaths, excessive force, wrongful raids, illegal search and failure to provide medical treatment, among others. We plan to reduce those losses by concentrating the Risk Management efforts in those areas. Under policy development, Risk Assessment developed in conjunction with Planning and Inspection a concealed weapons and intermediate force devices policy for civilians. Civilians now have to go through the same rigor as a police officer would undergo. We also evaluated the Magnum-Spiked Tiger tire deflation device for use by the Tactical Services Section and we drafted policy on the use of this device as well as other tire devices. Currently, our Use of Force policy is under review by the section.

Risk Assessment is formulating and conducting the training for precinct detention officers and three detention facility officers on the use of the detainee intake form. We are also facilitating the training on managing diabetic detainees. The South-east Michigan Diabetes Outreach Network designed a training that is geared to enhance the intake officer observational skills while monitoring insulin dose administration by detainee's. This training will consist of dealing with debilitated detainee's and common assessing, monitoring dose administration at mealtime, insulin types, peak actual times, behavior and dose interpretation.

Risk Assessment also selected a vendor to provide the Department Diversity and Customer Service Training. This training will be department wide training, it will begin with the Chief of Police, it will include all members of the Detroit Police Department and all civilians. The focus of the training will be determined after a comprehensive assessment of department personnel and community. It is our hope that this training will become a tool for more effective department relations as well as community interaction.

Risk Assessment recruitment procedures include assisting the Chief of Police in an assessment of former police officers who have been involved in corruptive activity, to establish the correlation between their backgrounds and corruptive activities. Once we conclude the study we hope to garner information to assist in establishing early warning signals regarding a candidate's pre-disposition to corruptive activity.

Risk Assessment has modified detention policies to include accountability element for intake officers and supervisors. We currently are collaborating with the Law Department and commanding officers of the police department to improve decision making strategies. We also have developed the Firearms Qualification Notification form which informs commanding officers that a member of his/her command that a member of his or her command has failed to meet the department's minimum qualification requirements.

We have recommended additional administrative charges against three Senior Detention Facility Officers for policy violation. We are also ensuring that appropriate disciplinary or corrective action is implemented when necessary.

In terms of our ongoing activities we still have the subrogation where we collect for the damage to the police department vehicles when a third party is at fault. As of today we have collected approximately over \$10,000.00. We continuously respond to City Council requests and citizen inquiries. We also assist other department personnel on their Risk Management issues. As an ongoing activity, we are trying to ensure that the department's current policies are being adhered to.

Comm. Marx asked how are detainees that take medication other than diabetic insulin managed?

2nd DC Henry stated there is a portion on the form that asks the detainee are they taking any medications, what kind of medication and how frequently it must be taken.

Comm. Marx asked is the Chief the only one you report to when making recommendations for police officers?

2nd DC Henry stated she reports to the Chief.

Comm. Marx asked do you report to the Chief on everything you do?

2nd DC Henry stated he made it very clear that he appointed me and he could unappoint me.

Comm. Marx asked how does the Board get information from you? What kind of a process do we go through?

2nd DC Henry stated the Board can request it from the Chief and he will submit the paperwork which goes through the command chains back to your office.

Comm. Dewaelsche asked if the Board could have a copy of the Power Point presentation?

2nd DC Henry stated yes.

Comm. Dewaelsche asked do the intake officers have special training to become intake officers? What is their background?

2nd DC Henry stated they receive training initially when they become intake officers and there is no additional training, which we are trying to insure. We want to enhance their training by providing training for special needs such as diabetic detainees.

Comm. Dewaelsche asked what is the recommendation for the tire deflation device or how does it work?

Sgt. Brown stated they are used in vehicular pursuit situations. We are trying to come up with a solution that will stop the vehicle or slow them down. Members of the Tactical Service Section have come up with the Magnum-spike deflation device, which causes the air to gradually come out of the tires. We are working on a department policy to accompany it prior to approval of this device.

Comm. Dewaelsche asked are they experimenting with this device? Is it part of our procedure? Are they just investigating it?

Sgt. Brown stated no it is not part of the procedure yet.

Comm. Dewaelsche asked could you give us an idea of what strategies have been recommended for minimizing litigation and loss.

2nd DC Henry stated we are recommending additional training. We are also trying to develop a department wide accountability system.

Comm. Dewaelsche asked are there any policies or procedures that we would want to adopt from other departments? Are you still evaluating other departments?

2nd DC Henry stated we are still evaluating other departments. She also stated the reason why Risk Assessment is having problems is because we don't have

policies that address certain things. We are trying to provide a policy with everything in Risk.

Comm. Head asked are there additional medical surveys for those that need to be done in order to catch those individuals who are being detained that have a drug problem?

2nd DC Henry stated that is part of the form. It asks the question of whether or not the person has consumed alcohol or a controlled substance within 48 hours. The officers observation part needs to be filled out, even if the detainee does not provide you with that information.

Comm. Head asked who part is it voluntary on?

2nd DC Henry stated it is voluntary on the detainee's part.

Comm. Head asked what if the detainee does not give you any information, does the officer only make an observation?

2nd DC Henry stated yes. Only if the person refuses.

Comm. Head stated they could be lying to you and you might not make a good observation and something could slip by.

2nd DC Henry stated that could very well happen. She hopes that does not happen. She also stated in her study that she does not believe anyone would lie when they need some medical intervention.

Comm. Marx asked what if they lie about needing to go to the hospital?

2nd DC Henry stated ...

Comm. Head asked is the department up and running? Is there something we could do to enhance what Risk Assessment is supposed to be doing? Do you have everything you need?

2nd DC Henry stated we are definitely up and running. We are not at the place where we would like to end up. She also stated that she needs about 3 million dollars in order to complete the program.

Comm. Head asked what will the 3 million dollars cover?

2nd DC Henry stated for the technological development.

Comm. Head asked is cooperation forthcoming from other department's that you need the cooperation from?

2nd DC Henry stated no.

Comm. Head asked is there something we can do to help that along?

2nd DC Henry stated yes.

Comm. Head asked will the Board be exposed to your recommendations and research?

2nd DC Henry stated that all policy developments have to be approved by the Board.

Comm. Head asked do you have any exposure to the new civilian group looking at non-lethal force or weapons?

2nd DC Henry stated she met with them yesterday, but she has not had any contact with them before that.

Comm. Head asked will she becoming back anytime soon in the future?

2nd DC Henry stated she hopes so.

Comm. Richard asked what system is currently in place to identify officers, policy and procedures that might be a liability risk.

2nd DC Henry we have done a manual search of the lawsuits...

Comm. Dewaelsche stated she is interested in knowing who was selected because this Board has been concerned about cultural diversity and sensitive training in customer service. The next time when you provide us with documentation at a presentation can you give us an outline or overview of what your office looks like, what everyone does, who everybody is. She also suggested that they give a flowchart showing the activity of what goes on in the department. She also stated last time you came before us, you had two people, but today the room is full.

2nd DC Henry stated she has two additional people in her office.

Comm. Dewaelsche asked how many are there?

2nd DC Henry at that time I had 1 lieutenant, 2 sergeants, 1 police officer and 1 civilian. She also stated that she now has an additional sergeant who is assigned out.

Comm. Dewaelsche stated it was just you, Lisa and one other person. She also stated she would like a flowchart.

Comm. Richard stated a chain of command.

Comm. Marx stated in your collection of data, who decides what information is passed through the Chief or the Board. How is the decision made as to what kind of data is going to be available to the Board?

2nd DC Henry stated she could give them the information at a later date.

Comm. Marx stated the computer program has been under development for several years and he asked if the software is finished?

2nd DC Henry stated the computer program has not been under development for seven years. No development began on the program until I accepted the position, which was in the summer of 1999.

Comm. Marx there might have been...

2nd DC Henry there is currently one person who is dedicated to working full-time on this project. Without adequate resources, we are not able to move as quick as we like. She also stated that at this point she does not have an estimated time that the whole system should be complete. The Los Angeles County Sheriff Department spent between 8-11 million dollars, 4 years and a team of people to develop the system. She stated she does not know when the project will be finished.

Comm. Marx asked what part of 1999 did they start developing the project?

2nd DC Henry stated we started meeting in the summer of 1999, the development began in October of 1999.

Comm. Marx stated that is not a long time for this type of project.

2nd DC Henry stated okay.

Comm. Richard stated we are going into "gloom and doom", because we never seem to have any money.

2nd DC Henry stated she doesn't think it is "gloom and doom".

Comm. Richard stated sounds like it.

2nd DC Henry stated the development is continuing and she just doesn't know when it will be finished.

Comm. Dewaelsche asked what are we doing in the mean time if it takes anywhere from 3 to 5 years to complete? Are we not doing anything until we develop the system? She also stated that she does not hear anything in place to identify a problem officer so that we can deal with it.

2nd DC Henry stated we are reviewing lawsuits and disciplinary records on a manual basis.

Comm. Richard asked what happens after you review them?

2nd DC Henry stated we recommend training and discipline. We try to come up with a system so that everyone is held accountable.

Comm. Richard asked **2nd DC Henry** if it takes money to do that?

2nd DC Henry stated the department already has systems in place to follow through in the disciplinary process.

Comm. Richard asked is there a timeline when you will be able to recommend some of these officers in who may be in need of retraining? How soon will you get into that?

2nd DC Henry stated she has identified a group of officers who require some retraining in constitutional law. We are continuing to look for others that fit into that category, so when we do the training most of them can go at the same time.

Comm. Dewaelsche asked would that be something that is mandatory? Will you run into contract problems?

2nd DC Henry stated she has already spoken to Cmdr. Falvo about that and it is my understanding that we can mandate that they be retrained.

Comm. Head asked is that what you meant when you said you requested three senior...

2nd DC Henry stated ...detention facility officers.

Comm. Head asked if there was any discipline...

2nd DC Henry stated she has recommended departmental charges against them.

Comm. Head asked if that was over and above charges that might have been against them before?

2nd DC Henry stated yes.

Comm. Head asked is there a problem with that in terms of the Union contract?

2nd DC Henry stated no.

Ex. Sec. McDonald asked what happens to the people that let it slip in the first place? Is there any responsibility on their part for not having identified these problems or referring for discipline in the first instance?

2nd DC Henry stated we are working at that as well. The three detention facility officers that she recommended additional charges against, basically, they had people working for them that did not do what they were supposed to do. The seniors did not do what they were supposed to do and we recommended the charges against the seniors since they were the most senior officers.

Comm. Head asked regarding recommendations, policies, changes and practices will this commission be kept in the loop?

2nd DC Henry stated yes.

Comm. Head asked in terms of those kinds of changes?

2nd DC Henry stated yes.

Comm. Head asked if she was aware of the federal investigation?

2nd DC Henry stated yes.

Comm. Head asked would your office be exposed to this?

2nd DC Henry stated yes.

Comm. Head asked in your opinion are you satisfied that the two police departments (Miami-Dade and California that you looked at)? Are you satisfied with the kind of money they spent and the system they have in place that reduces citizen complaints and lawsuits? Is there is a pattern of practice of problems with these police departments?

2nd DC Henry stated based on the information she has, she is satisfied.

Comm. Richard asked regarding the detention officers at what point would you be able to apprise the Board of Police Commissioners? Does the Commission wait until those people appeal?

2nd DC Henry asked DC Bogan if he had an answer to the question?

DC Bogan stated as far as the procedure the Chief makes the final ruling based upon recommendations. The commanding officer of each entity is responsible for the discipline within their organization and that particular recommendation or request will go through the Chief back down to the commanding officer to conduct the investigation and to mete out the discipline. The Risk Assessment person would not want to go outside of the chain as to who she reports to because it would be up through the chain.

Comm. Marx asked what about the Los Angeles and Miami-Dade you mentioned?

2nd DC Henry stated she was in Los Angeles, but she attended a seminar that was close to Miami-Dade.

Comm. Marx asked if they have computer programs already developed, is it possible to use, copy or buy their program, so we don't have to reinvent the wheel ourselves?

2nd DC Henry stated Los Angeles County is in the process of patenting their program, but it is not for sale at this time. She also stated that the department does not need a program that extensive.

Comm. Marx stated you don't have to use all of it, but we will at least have it.

2nd DC Henry stated Risk Assessment is patterning our development after a package that was provided by the I.A.C.P. She also stated she did not know if there was a way to avoid reinventing the wheel.

Comm. Marx asked if Miami-Dade has a software program?

2nd DC Henry stated yes. It also is not for sale.

Comm. Marx asked have you attempted to buy it or lease it?

2nd DC Henry stated no.

Comm. Marx asked do you think we should?

2nd DC Henry stated she could try Miami-Dade, because the Los Angeles program is not for sale.

Comm. Head stated is part of the problem because some of this has to be stand-alone type project and the program has to be done from scratch due to the nature of the department?

2nd DC Henry stated yes.

Comm. Head asked if that is a steady or heavy cause?

2nd DC Henry stated she was not sure. She also stated the best source for the technical information is I.T.S.

Comm. Head asked **2nd DC Henry** to give the Board a breakdown of the kind of stuff that you need and require for the Risk Assessment Section?

2nd DC Henry stated yes.

Comm. Richard asked has she extended her budget?

2nd DC Henry stated she has extended her budget to some extent and it needs to be revised. She also stated that she did not realize that the budget needs to be revised until she received the quotes from other cities that already have programs in place.

Comm. Richard asked do you think you will have it revised in order for it to go before City Council?

Comm. Head stated it seems that City Council will be interested in this because of the number of lawsuits that are coming before them.

2nd DC Henry stated she hopes so.

PO Crawford asked if it is a timetable on the training in terms of the officer's getting the training, making proper assessment and evaluations? He also asked who is responsible for filling out intake forms of prisoners?

2nd DC Henry stated the first training session is scheduled of March 19, 2001 and we are asking each of the detention facilities to provide us with a list of their intake officers so that we can make sure everyone goes through the training process. If someone can not make the first session we will schedule it for a later date.

Ex. Sec. McDonald asked who is responsible for filling out the form?

2nd DC Henry stated the intake officer and the supervisor.

Comm. Richard asked after you find out a person has Tuberculosis, do you go back to those people who were in contact with that person?

2nd DC Henry stated she believes Management Services has a system in place.

Comm. Richard asked for exposure?

2nd DC Henry stated yes.

PO Crawford stated that was done in the situation that he was aware of.

Comm. Richard asked did they get treatment for themselves?

PO Crawford stated yes.

Commissioners thanked **2nd DC Henry** for her presentation.

7. OTHER BUSINESS

Comm. Dewaelsche stated she received complaints after the community meeting that was held on February 8, 2001 regarding the Secretary's Report because it was too graphic for the children that were at the meeting. If we could wait until the following week or the week before the community meeting is held to read reports with suspensions of officers. She also asked if it could be edited.

Comm. Head stated we already have in the guidelines to refrain from talking about personal problems in public where we can delete that to some extent.

Ex. Sec. McDonald stated that she and Denise Hooks have been addressing that issue with Cmdr. Falvo to edit it if we can.

Comm. Dewaelsche suggested if they could wait until the following week or the week before the community meeting is held to read suspensions of an officer. She also asked if it could be edited.

Ex. Sec. McDonald stated there is a timeframe on making the report.

Comm. Dewaelsche stated she didn't realize there are some restrictions regarding the report.

8. ORAL COMMUNICATION FROM THE AUDIENCE

Herman Vallery stated he is the co-chairman of the Detroit Coalition Against Police Brutality and the father of Lamar Grable who was shot by Eugene Brown. He asked the Board did they receive the 46 page report?

Vice-Chair Head stated no.

Mr. Vallery stated he is aware of Eugene Brown suing the Board of Police Commissioners and Chief Napoleon. O'Neill Wright also did the desposition on him for Sheldon Miller, which he thinks is a conflict of interest.

Head asked have you raised that with anyone?

Mr. Vallery stated yes, he has raised it with the newspapers and he has talked to two attorneys, who also say it is a conflict of interest. He stated he also wanted to talk to Ms. McDonald about the issue.

Vice-Chair Head asked have you spoken with anyone in the proper judiciary authority?

Mr. Vallery stated no. He also asked why was there no information saying that Lamar Grable was shot in the back included in the police report, autopsy police and deposition. The only person who stated he was shot in the back was in the DC Shoulders report.

Vice Chair Head stated the report has not been forthcoming to us as of yet.

Minister Joe Adams, Jr. asked in May of last year he was assaulted by his director on his job and he filed a police report. He wanted to know why no investigation was done and he was given the run around. They issued a warrant and it was denied. If I file an assault charge on the 12th why did it take until the 19th for the investigation to begin?

Comm. Head asked if he has talked with anyone at the Office of the Chief Investigator?

Min. Adams stated no.

Comm. Head asked if the prosecutor's office claims that they did an investigation.

Min. Adams stated yes, they said a "proper" investigation was done based on what they received. When you look at the report you can tell it is not proper.