

Minneapolis

City of Lakes

CIVILIAN POLICE REVIEW AUTHORITY

SEMI-ANNUAL REPORT

2009

Serving civilians and police officers with honesty and integrity

Executive Summary

This report will provide CRA data from the first six months of 2009. The report will also discuss issues that confronted the CRA during the first six months of 2009. The CRA believes the data and issues discussed in this report will aid policymakers and civilians in their discussions about the level of police misconduct and creating solutions to the challenges involved in providing effective police accountability.

During the first six months of 2009, the CRA received 224 initial complaints of which 69 were sent for complainant signature. The CRA received 59 signed complaints, which is a 127 percent increase from the first six months of 2008 total. Of particular note, inappropriate conduct, inappropriate language, and excessive force allegations all recognized triple digit increases. Allegations of public strip searches, questionable justification for searches and pat frisks, unnecessary kicking of civilians, and cell phone confiscations became noticeable.

The CRA observed significant changes during the first six months of 2009 from 2008; complaints from the 4th Precinct and persons under 21 exceeded the total number of complaints received in those categories last year. Complaints against officers with less than five years on the MPD have surprisingly exceeded year-end totals for years 2004 through 2008.

Of the 59 complaints received during the first six months of 2009, sixteen were referred to mediation. The CRA had a 70 percent successful mediation rate. The board heard 30 complaints, sustaining, in whole or in part, 7 complaints.

The Chief delivered 12 disciplinary decisions on 20 officers during the first six months of 2009. Three of the 20 officers, 15 percent, who received sustained allegations, had discipline imposed against them. Five complaints were not disciplined because of the age of the complaints, meaning the length of time from the date of the incident to the imposition of discipline, if discipline had been imposed.

Operational issues that affected the CRA included the MPD's application of its disciplinary reckoning period; the CRA's workload; the MPD's handling of the CRA's policy concerns; and a board leadership ordinance change.

Other points of interests discussed in this report include receipt of MPD training materials, a CRA community forum, the creation of an online complaint form, and a lawsuit filed by a local community organization.

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Introduction

The CRA believes this report will provide useful information about police accountability in Minneapolis, specifically the MPD and CRA's efforts to handle police misconduct complaints in a fair and objective manner. To inform the public and policy makers of the CRA and MPD efforts to handle police misconduct complaints fairly and objectively, this report will present the raw data and a context for what the data means to the civilians and the CRA.

The report is divided into four sections. Section I of this report will provide a comparison of the first six months of data collected from 2008 and 2009. Section II will break out select complaint data for closer examination. Section III will discuss issues that have affected the CRA operation during the first half of 2009. Section IV will provide additional highlights from 2009.

Section I Comparison of the 2008 and 2009 first six months statistics

The data below provides a compilation of the number of civilian contacts, the demographics of the civilian contact, and the allegations contained in the complaints during the first six months of 2009. Table 1 shows the increases in the complaint data collected during the first six months of 2009, as compared to the data collected during the comparable period of 2008.

Table 1 Complaint Data

Minneapolis Civilian Police Review Authority Statistics from January 1 through June 30		2008	2009
1.	Number of initial complaints received	175	224
2.	Number of complaints sent for signature	50	69
3.	Number of signed complaints received	26	59
4.	Number of complaints withdrawn	3	2
5.	Percentage of complaints containing multiple allegations	85%	86%
6.	Total number of allegations by type		
	• Inappropriate Conduct	21	84
	• Inappropriate Language	10	80
	• Harassment	8	18
	• Excessive Force	19	67
	• Failure to Provide Adequate or Timely Police Protection	11	5
	• Discrimination	7	0
	• Failure to Report Use of Force	0	1
	• Retaliation	0	1
	• Theft	0	1
7.	Location of complaints by precinct		
	• Precinct 1	4	8
	• Precinct 2	4	4
	• Precinct 3	7	19
	• Precinct 4	11	22
	• Precinct 5	0	4
	• Outside City	0	2
8.	Location of complaint by ward		

**Minneapolis Civilian Police Review Authority
Statistics from January 1 through June 30**

		2008	2009
	• Ward 1	2	1
	• Ward 2	2	2
	• Ward 3	4	5
	• Ward 4	1	8
	• Ward 5	7	10
	• Ward 6	5	4
	• Ward 7	4	8
	• Ward 8	0	4
	• Ward 9	2	11
	• Ward 10	0	1
	• Ward 11	0	1
	• Ward 12	0	2
	• Ward 13	0	0
	• Outside City	0	2
9.	Race of Complainants (includes victims) ¹		
	• Asian	0	1
	• Black	19	53
	• Latino	2	0
	• American Indian	2	1
	• Unknown	0	6
	• White	8	15
10.	Age of Complainants		
	• Under 21	1	10
	• 21 – 40	18	38
	• Over 40	11	18
	• Unknown	1	10
11.	Gender of Complainants		
	• Female	11	31
	• Male	20	45
12.	Race of Officer		
	• Asian	7	3
	• Black	2	5
	• Latino	1	7
	• American Indian	0	2
	• White	21	61
13.	Officers time on force		
	• Less than 5 years	8	30
	• 5 or more years	23	48

¹ Because the CRA ordinance allows any person with personal knowledge to file a complaint, the term "victim" is used to describe the individual who experienced the police action contained in the complaint.

Section II Complaint Data Break Out

This section provides additional information on data presented in Section I. The figures, tables, and discussion below should aid the reader in understanding the changes in police misconduct complaints and the results of the CRA process during the first six months of 2009.

Figure 1 Initial Complaints

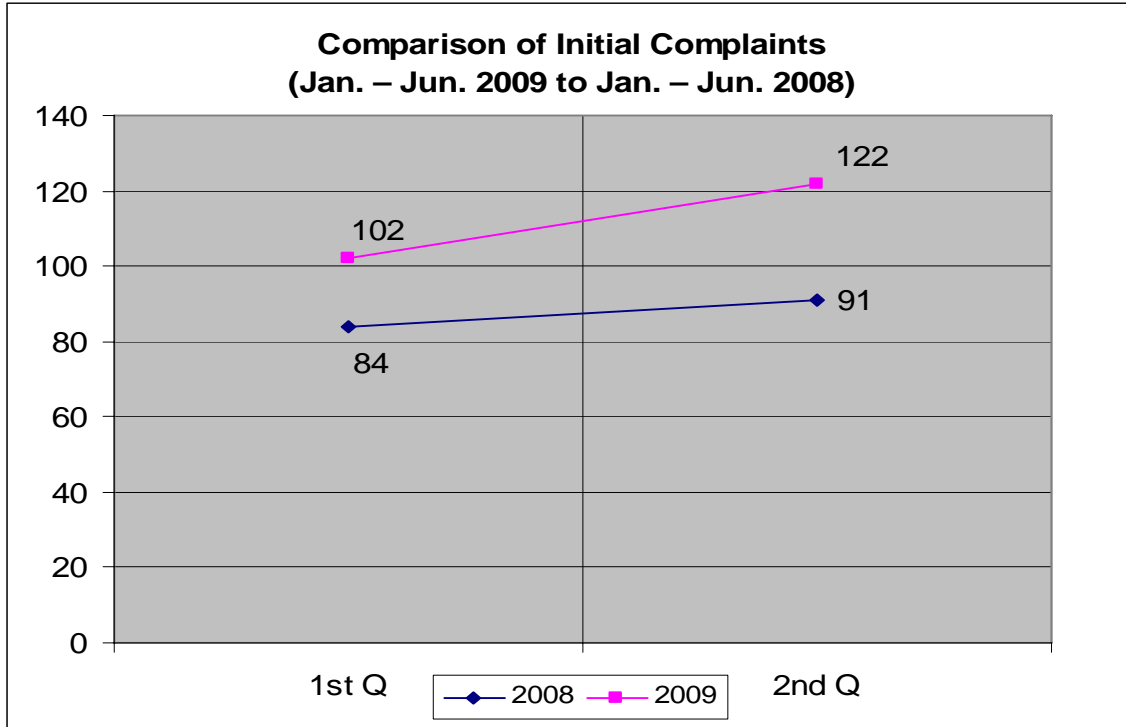


Figure 2 Complaints Sent for Signature

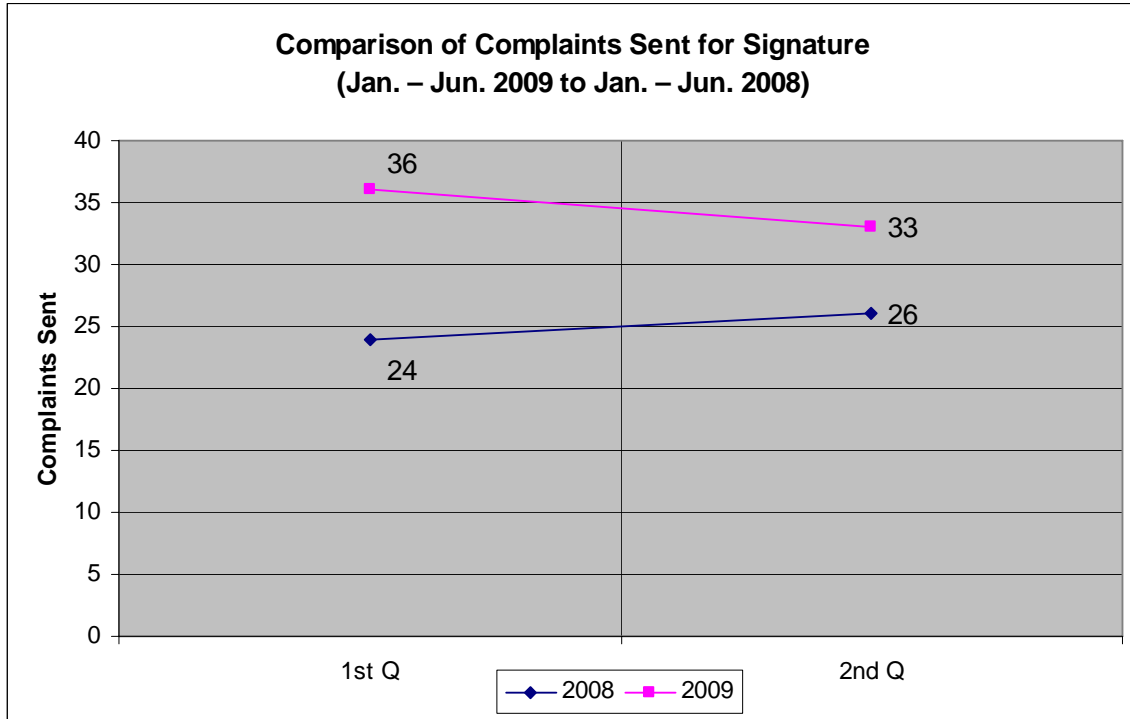
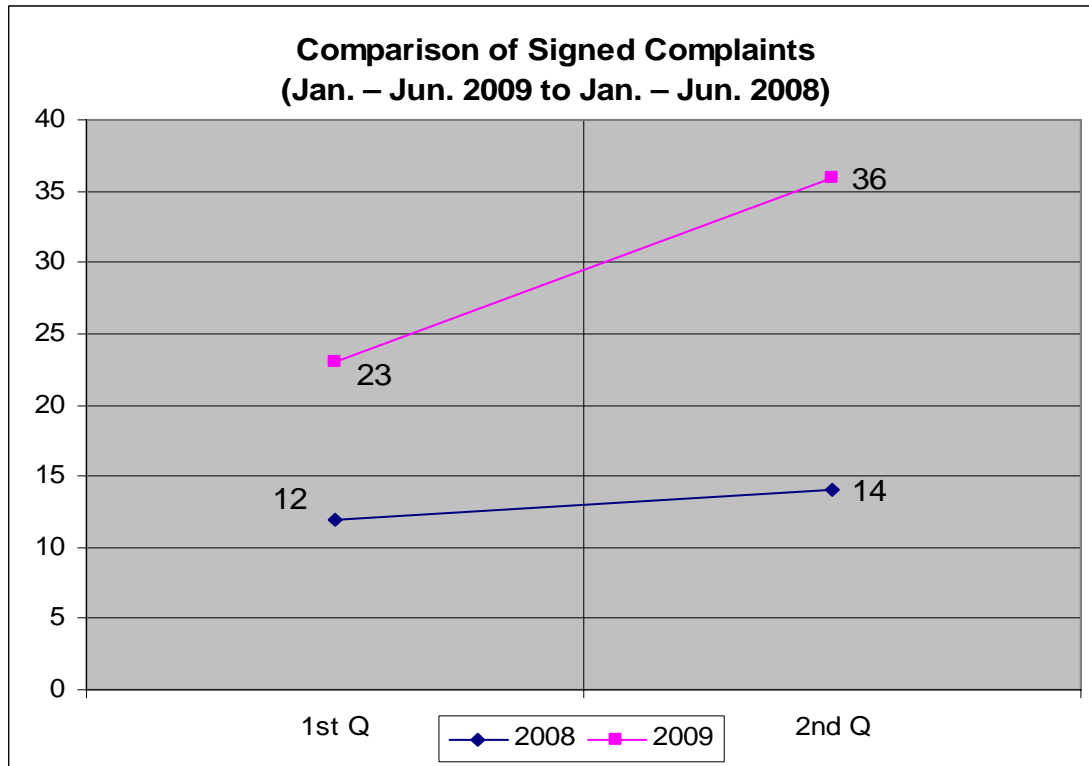


Figure 3 Signed Complaints



Allegations

From January through June 2009, inappropriate conduct, inappropriate language and excessive force allegations recognized increases in the number of allegations. At the end of June, each of the categories exceeded last year's total allegations for the corresponding category. As shown in Table 4, excessive force, inappropriate conduct, and inappropriate language allegations had triple digit increases when compared to the first six months of 2008.

Table 2 Increases in Complaint Allegations

Allegation	Increase	Jan – Jun 2008	Jan – Jun 2009
Excessive Force	253%	19	67
Inappropriate Conduct	300%	21	84
Inappropriate Language	700%	10	80

During the first six months of 2009, failure to provide adequate or timely police protection and discrimination allegations decreased. Failure to provide adequate or timely police protection decreased by more than half of the first six months of 2008 total, from 11 to 5. The CRA received zero discrimination allegations during the first six months of 2009.

New Allegations

During the first six months of 2009, the CRA took notice of three new allegations emerging and one continuing allegation from 2008. The new allegations of strip searches conducted on the city streets, officers asserting officer safety to justify searches beyond pat and frisk where there is no support for the extended search, and officers allegedly kicking individuals who are not resisting. The continuing allegation involved allegations of cell phone confiscations, "scrolling" through phones for private information, erasing information from the phones (allegedly, if the officers believed they were recorded), and officers breaking phones (allegedly, if the officers believed they were recorded).

Location of Complaints

After an impressive decrease in the number of complaints from the 4th Precinct in 2008, complaints from the 4th Precinct during the first six months of 2009 have exceeded last year's total number of complaints. At the end of June 2009, the 4th Precinct had 22 complaints, compared to 20 at the end of 2008. Complaints from the 3rd Precinct have also exceeded last year's total of complaints. Surprisingly, the number of complaints from the 1st Precinct are on pace to be lower than last year.

Complaints from Ward 9 dramatically increased during the first six months of 2009 when compared to the relevant time of 2008, from 2 complaints in 2008 to 11 complaints in 2009.

Complainants

During the first six months of 2009, the CRA received an increase in the number of complaints

from persons under 21 years old. The first six-month total for 2009 exceeds the total number of complaints from youth received in 2008. This may be a result of increased MPD contact with youth.

Officers

Complaints against officers with less than five years on the MPD force have unexpectedly increased during the first six months of 2009, when compared to data from year-end totals from 2004 through 2008. Table 5 shows that the number of officers with less than five years of MPD service who received complaints during the first six months of 2009 is significantly more than the number of those officers in the previous five years. In fact, this group has already exceeded last year’s total of complaints by 58%.

Table 3 Officers with less than Five Years of MPD Service

Officer	2004	2005	2006	2007	2008	Jan – Jun 2009
Less than 5 years	14	11	9	19	19	30

This increase in the number of complaints against officers with less than five years with the MPD is interesting because the trend for this group had remained relatively low, as compared to the more experienced officers.

Historically, the rate at which new officers received complaints has been slower than the rate that experienced officers do. Currently, the number of new officers is out pacing the number of complaints received by officers with over five years of experience. The data shows that the complaints against officers with less than five years of service increased by 275 percent from January through June 2009, as compared to the number of complaints received during the relevant period in 2008. In contrast, the total for officers with over five years of service increased by 109 percent from January through June 2009, as compared to the number of complaints received during the relevant period in 2008.

While it is difficult to determine the exact causes for the increase in the number of complaints against new officers, the CRA identified the following factors that could affect the new officers’ performance:

- Newer officers settling into the MPD culture
- Change in training
- Decrease in appropriate supervisory involvement
- Lack of meaningful discipline and correction

Mediation

Of the 59 complaints received during the first six months of 2009, sixteen were referred to

mediation. During the first six months of 2009, the CRA had a 70 percent successful mediation rate. Seven out of the ten mediations held were successfully mediated.

Board Activity

The board heard 30 complaints during the first six months of 2009. The board fully sustained or partially sustained seven complaints. Hearing panels averaged 26 days to deliver disciplinary decisions. The policy, outreach, and reports committees were very active during the first half of the year. The hearing panels sustained 19 percent of the allegations heard during the first six months of 2008, as shown in Table 4.

Table 4 Board Data

Disposition of Complaints	2008	2009
• Number of complaints heard by panel	0²	30
○ Number of complaints fully sustained		5
○ Number of complaints partially sustained		2
○ Number of complaints not sustained		6
○ Number of complaints dismissed ³		18
○ Number of complaints determination pending		8
• Number of allegations contained in complaints heard		100
○ Number of allegations sustained		19
○ Number of allegations not sustained		28
○ Number of allegations dismissed ²		31
• Types of allegations sustained		
○ Inappropriate conduct		5
○ Inappropriate language		3
○ Harassment		2
○ Excessive force		3
○ Failure to provide adequate or timely police protection		4
○ Discrimination		2
○ Failure to report use of force		0
○ Retaliation		0

Chief's Discipline

The Chief delivered 12 disciplinary decisions involving 20 officers during the first six months of 2009. The CRA board heard the complaints of those decisions between 2007 and 2009. The Chief did not request a reconsideration of any of the sustained complaints. Reconsideration is an option that allows the Chief to present a legal or factual basis for the reversal of a hearing panel decision. The reconsideration option would be extremely valuable when the Chief is considering a no discipline decision based on insufficient evidence. As shown in Table 5, only 2 of the 12 complaints returned from the Chief received discipline.

² The CRA board heard no complaints January – August 2008.

³ Includes complaints dismissed by CRA manager 172.85.(b)

Table 5 Disciplinary Decisions by Complaints (Jan. – Jun. 2009)

Quarter Decision Rendered	Total Decisions	No Discipline	Discipline	% Discipline
1st	7	6	1	14%
2nd	5	4	1	20%
TOTAL	12	10	2	17%

In 2008, during the first quarter, the Chief made no disciplinary decisions. In the second quarter of 2008, the Chief made three disciplinary decisions, all no discipline. Table 6 shows that only 3 of the 20 officers who received sustained complaints received discipline, which is an increase from the Chief's zero percent discipline for 2008.

Table 6 Disciplinary Decisions by Officers (Jan. – Jun. 2009)

Quarter Decision Rendered	Total Officers	No Discipline	Discipline	% Discipline
1st	11	9	2	18%
2nd	9	8	1	11%
TOTAL	20	17	3	15%

First Six Months of Disciplinary Decisions

To aid the reader with the meaning of the above numbers and provide increase transparency to the public, the CRA presents the Chief's first six months of disciplinary decisions in a table format. Table 8 presents a breakdown of the 12 complaints returned from the Chief during the first six months of 2009. The table contains the CRA sustained violations, the MPD policy and procedure violations, and the Chief's reasoning for the disciplinary decision. It should be noted that the CRA only has to place the civilian allegations in the CRA allegation categories. The MPD aligns the MPD policy to the CRA allegation after the file is forwarded to the MPD. As the table shows, no discipline was imposed on officers for sustained excessive force allegations. In addition, the table shows that the Chief declined to discipline on five complaints because the complaints were viewed as too old. The MPD asserts that the corrective intent that would have been associated with discipline on the old complaints would have been minimal or possibly nonexistent. The Chief's rationale for no discipline because of the age of the complaints clearly highlights the need for an additional CRA investigator.

Table 7 Disciplinary Decisions

CRA Sustained Violations	MPD Policy and Procedure Violations	Chief's Disciplinary Decision
Inappropriate Conduct	Professional Code of Conduct MPD P/P5-105.3	No Discipline – Insufficient Evidence
Harassment	Use of Discretion MPD P/P 5-103	
Inappropriate Conduct	Ethics MPD P/P 5-102	Oral Reprimand – Use of Discretion
Theft	Use of Discretion MPD P/P 5-103	
Inappropriate Language/Attitude	Professional Code of Conduct MPD P/P5-105.3	No Discipline – Complaint too old
Discrimination	Ethics MPD P/P 5-102	
Harassment		
Inappropriate Conduct	Search Warrant Requirements MPD P/P 9-301	No Discipline – Complaint too old
Theft		
Inappropriate Conduct	Search/Arrest Warrant Requirements MPD P/P 9-301	No Discipline – Complaint too old
Excessive Force	Professional Code of Conduct MPD P/P5-105.9	No Discipline – Insufficient Evidence
Inappropriate Conduct		
Excessive Force	Use of Force MPD P/P 5-303	No Discipline – Insufficient Evidence and complaint too old
Inappropriate Language/Conduct	Professional Code of Conduct MPD P/P5-105.9 and 105.15	
Excessive Force	Use of Force MPD P/P 5-303	No Discipline – Complaint too old
	Mobil Video Recording Guidelines MPD P/P 4-218	
Inappropriate Language/Conduct	Professional Code of Conduct MPD P/P5-105.3, 105.9 and 105.10	No Discipline – Insufficient Evidence
Excessive Force	Use of Force MPD P/P5-303	
Harassment	Professional Code of Conduct MPD P/P5-105.3	Letter of Reprimand – Use of Discretion and Reasonable Judgment
Inappropriate Conduct	Use of Discretion MPD P/P 5-103	
Excessive Force	Use of Force MPD P/P 5-303	No Discipline
Excessive Force	Threatening Use of Force MPD P/P 5-305	No Discipline
	Impartial Policing MPD P/P 5-104	

During the first six months of 2009, the Chief reduced the number of days to deliver a disciplinary decision. The average length of time for the Chief to deliver the 12 disciplinary decisions was 74 days, compared to 194 in 2008. The 74 day average is the lowest average for the MPD to deliver a disciplinary decision since the reformation of the CRA in 2003.

Section III Operational Issues

MPD Reckoning Period

The proper use of the MPD reckoning period is very important to the integrity of the city's efforts to provide effective police accountability. Each MPD policy has a discipline category range of discipline (A – D) attached to the policy with a corresponding reckoning period. For example, an “A” violation has a one-year reckoning period. The MPD assigns a discipline category with the corresponding reckoning period to a CRA sustained finding.

As mentioned above, the MPD informed the CRA board that the MPD would have disciplined on the five old complaints but the reckoning period had expired. The MPD Complaint Process Manual defines the reckoning period as the period of time in which a *previous* infraction may be considered in a present disciplinary action. All CRA sustained complaints that are sent to the Chief are *present* infractions, which are sent to the Chief for a present disciplinary action. The present and previous timeframes referred to in the definition are not related to calendar years; they are used as points of relation to the disciplinary action.

The CRA disagrees with the MPD's rationale for not disciplining the officers because the MPD's application of the reckoning period is not appropriate for the handling of those complaints. First, based on the definition of the reckoning period, those CRA complaints were still eligible for discipline; the complaints would have only been barred from being used as enhancement of discipline related to a future misconduct action. Second, an officer is notified of a complaint within the ordinance time required, which is within the reckoning period and should be a controlling factor.⁴ Third, the no discipline decision provides an officer with a “pass” for proven misconduct. Fourth, this rationale is in direct conflict with past disciplinary actions, where the MPD disciplined on complaints beyond the reckoning period.

The age of a complaint may be affected by the length of time it takes the CRA to receive the initial complaint (must be filed within a year of the incident), time for the investigation, time for scheduling a hearing, time for the board to make a determination, and time for the Chief to make a disciplinary decision. The underlying cause for the case ageing is related to the CRA's investigative capacity, which should not be used by the MPD as a bar to disciplining officers. In general, civilians and officers' slowness to reply to CRA request does not cause significant delays.

In most situations, the civilian is only in control of the length of time to make the initial complaint. In light of the benefit extended to the officers of the above complaints, the Chief's rationale for

⁴ The civilian has one year from the date of the incident to file a complaint with the CRA. M.C.O. §172.160.

no discipline creates an unfairness of the process for the civilian, which brings into question the integrity of the process and further highlights the imbalance of power between the CRA and the MPD. Moreover, the MPD's rationale on the five complaints creates an unfairness within the MPD's disciplinary process because, with all of things being equal, an officer whose complaint took longer to get through the CRA process benefits from a no disciplinary decision, whereas an officer whose complaint took less time to go through the process receives discipline.

If the MPD considers the age of the complaint as a factor during the disciplinary stage, it should be, at most, to determine the length of the discipline and the level of discipline, not whether discipline should be applied.

CRA Workload

CRA complaints must be processed expeditiously in order for the CRA's function to be most effective and to have the greatest positive impact on correcting problem behavior. The ordinance states that the investigation must be completed within 60 days of receipt. The CRA's current staffing level makes the 60-day requirement impossible to meet.

At the end of June 2009, the CRA had 87 cases in investigation. The CRA had the following cases in investigations: 2007 (11), 2008 (28) and 2009 (48). As discussed earlier, the CRA is dealing with a greater number of initial complaints each month and without one or two additional investigators, the CRA will continue to have aging cases in jeopardy of not receiving discipline.

Ordinance Change – Vice Chair and Acting Chair

In March 2009, the CRA ordinance was amended to include a vice chair and acting chair. This change settled the board's concern about the inability to conduct hearings in the absence of a board chair.

MPD Conductive Energy Devices (CED) Policy Issues

As a continuation of the board's activities concerning the MPD CED policy discussed in the 2008 Annual Report, in February 2009, the Policy Committee drafted a list of inquiries, to be submitted to the PACC, in order to determine the current status of CED policy, to determine how and why the changes were made, and to obtain more current CED usage statistics. In April, the CRA Board approved the inquiries, along with a policy recommendation that the previous CED policy be explicitly reinstated in the MPD Policy and Procedure Manual. These inquiries and recommendation were submitted at the April 8 PACC meeting. At the writing of this report, the board is awaiting the MPD's response to the inquiries.

In the future, the Policy Committee hopes to further investigate CED policy, looking at the CRA's own experience and recommendations from national organizations, in order to recommend improvements as needed. The committee hopes to review other areas of the Use of Force policy, all of which was rewritten on August 17, 2007 when the CED policy changed. The

committee is interested in other policy areas, and would welcome suggestions from the City Council, other city agencies, and the public.

Section IV Other Points

Training Materials

The MPD provided the CRA with an update of all written training materials. The materials will assist the board and investigators with the evaluation of police officers' actions.

CRA Community Forum

During March 2009, the CRA board held a community forum to discuss the CRA operation. The forum was well attended. The public expressed many concerns about the state of police accountability in Minneapolis. The majority of the public's questions were related to the discipline of police officers, the availability of CRA data, and the imbalance of power between the CRA and the MPD.

Creation of an Online Complaint Form

The CRA and the MPD worked together to create an online complaint form. The form was placed on the web on March 26. From March 26 through June 30, the CRA received 28 initial complaints from the online access point.

Communities United Against Police Brutality Lawsuit

In January 2009, the City of Minneapolis and the CRA faced a legal action challenging the CRA's ability to release hearing panel findings. A civilian watchdog group committed to tracking and fighting police misconduct initiated the lawsuit. This action is still in litigation.

Section V Conclusion

The civilians of Minneapolis value having an agency external of the MPD Internal Affairs Unit to file complaints concerning police officers' actions. Despite civilians valuing the process, civilians, officers, and the MPD are concerned about the length of time required to complete the CRA process. With the increases in the number of complaint filings, the CRA will continue to be challenged to meet the needs and desires of the officers and civilians without additional investigative resources. The level of discipline on CRA sustained complaints continues to be a major concern for the board. The level of discipline coupled with the chief's failure to use the reconsideration option has increased the board's concern that the MPD does not recognize the value of civilian oversight.