

POLICE COMMUNITY RELATIONS
IN HUNTINGTON BEACH

A Staff Memorandum of the
U.S. Commission on Civil Rights

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The United States Commission on Civil Rights is an independent, bipartisan, factfinding agency established by Congress under the Civil Rights Act of 1957. The Commission is authorized to study legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice. The Commission is not an enforcement agency and has no power to apply specific remedies in individual cases. Complaints about denials of rights are referred to the appropriate Federal agencies for action.

INTRODUCTION

In recent years agencies of the Federal Government have recorded growing numbers of complaints from citizens across the nation on excessive use of force by local police. For example, in 1970 the U.S. Department of Justice received 5,000 complaints of alleged police misconduct; in 1977 that department received 12,000 such complaints.

Because of the large number of complaints involved, the U.S. Commission on Civil Rights began a nationwide study on policies and procedures governing misconduct of local law enforcement officers. One goal of this study is to develop model methods for controlling police misconduct, including internal police department complaint procedures and external review systems.

As part of the national effort, the Western Regional Office of the Commission on Civil Rights investigated alleged police misconduct in Huntington Beach. The findings of this investigation will contribute to the Commission's national project; however, to provide local

citizens and government officials with preliminary findings for their review and consideration, the Commission's regional staff prepared this memorandum.

BACKGROUND

Once a predominantly agricultural community, Huntington Beach had a population of 11,492 in 1960. The population had increased tenfold to 115,960 by 1970, an average annual increase of 26 percent. From 1973 to 1977 the population increased at an average annual rate of less than 4 percent to a population of approximately 158,000. By 1990 the population is projected to reach 190,060.

A part-time seven member city council governs the expanding city. Elected at large to serve four-year terms, the council meets twice a month, or more if necessary, to discuss city problems and issues. It invites citizens to express opinions on matters before the council at its public meetings. The council adopts laws, sets standards, levies taxes, directs expenditures, approves contracts, and determines municipal policy. By city charter, the council must direct its orders through the City Administrator who carries out the council's directives by supervising all city departments, including the police department.

As of July 1978 the Huntington Beach Police Department had 202 sworn and 98 non sworn employees. According to a recent audit by Booz, Allen, and Hamilton, there were an estimated 1.74 police department employees per thousand population in 1976. The national

average of police employees per thousand population in 1976 was 2.1. The ratio of police employees to population does not account for the estimated 2 million people who visit the 8.5 miles of beach each summer. While the police department does not have responsibility for the beaches, which are policed by State law enforcement agencies, it does have responsibility for policing all access roads and businesses near the beaches.

SCOPE OF INVESTIGATION

The Commission's investigation focused on two issues: police misconduct, primarily excessive force, and the department's formal complaint process. Excessive force, as defined by the Americans for Effective Law Enforcement 1974 special report, "Survey of Police Misconduct Litigation," is menacing conduct which usually results in assault and/or battery. Police misconduct may also include: invasion of privacy, abuse of process, wrongful death, defamation of character, negligent administration of first aid, negligent vehicle operation, false imprisonment, and cruel and unusual punishment of prisoners.

A formal citizen complaint process is one method to control potential misconduct. If a citizen believes that a police officer acted improperly, a complaint may be filed with a police department. There are two types of complaints which a citizen may file. The first is a complaint against the quality or type of service; the second is against personnel. Service complaints are those relating to a policy, a rule, a procedure, or a practice of the department.

Personnel complaints are those relating to alleged police misconduct such as those enumerated above.

Once a citizen files a complaint, the process usually includes an impartial investigation by a responsible authority. In most police departments, the investigation is conducted by a unit within the department. Final determination as to the validity of a complaint is made by the chief of police.

In the winter of 1977 the Commission's Western Regional Office received complaints from Huntington Beach residents alleging excessive use of police force. The complaints continued up to and during this study, which began in early April 1978.

Commission staff interviewed 40 persons in Huntington Beach including the Chief of Police, the City Administrator, a Deputy District Attorney, members of the City Council, various alleged victims and witnesses, and other concerned citizens. Every effort was made to obtain a cross section of perceptions about the police department's policies and practices.

FINDINGS

Excessive Verbal and Physical Force

Of the 40 persons interviewed by Commission staff, 25 reported that they had been either victims of or witnesses to police abuse. These reports included allegations of handcuffed victims beaten with night sticks, verbal obscenities directed at both victims and witnesses, and beatings after victims were booked into jail.

Although the police chief attributed the complaints to "a few politically motivated malcontents," many of the complainants did not know one another, nor had they had any communication with one another. The complainants included both residents and non-residents of the city of Huntington Beach.

Two other sources suggest the extent of police abuse in the department. The Booz, Allen, and Hamilton audit report released in June 1978 itemized the disposition of citizen complaints filed during calendar year 1977. Of the 36 complaints, 44 percent alleged excessive use of force. The internal affairs unit, with the concurrence of the police chief, found nearly one third of all complaints to be sustained or inconclusive.

Similarly, the police chief informed Commission staff that 46 complaints were received between July 1, 1977 and July 1, 1978. Of these 36 (78 percent) alleged police misconduct; findings on 10 of these were either sustained or inconclusive; and the remainder were dismissed. The chief ordered three officers disciplined for major offenses, and two cases were referred to the district attorney's office for investigation and possible prosecution.

The number of complaints filed and their disposition do not indicate the full scope of the problem. Of the 25 complaints received by the Commission, only 8 were filed with the police department. Seven complainants stated that they attempted to file complaints but were told by department representatives that 1) only

victims not witnesses could file; 2) their complaint had little merit and should not be filed. One complainant said that the complaint had been investigated by the department, but the investigating officer was the officer accused of the misconduct.

Complaints emanating from the Main Street area of Huntington Beach further charged that police abuse was compounded because the younger, least experienced officers were assigned to the beach area which experiences the most enforcement problems.

Of those who did not file formal complaints with the department, several stated that they questioned the ability of the department to investigate itself; others feared harassment by officers against whom they had a complaint.

The police chief acknowledged the occurrence of occasional police misconduct, but he defended the department's record by noting the low number of complaints relative to arrests: 1 complaint for every 278 arrests. He stated that the most effective control of abuse was the "professionalism" he demanded of his officers; "peer pressure" controlled potential abuse, he added, because officers were expected to report to their superiors any observations of abuses committed by fellow officers. Complaint records do not show how many such reports were made as a result of peer pressure.

Internal Complaint Process

Besides peer pressure, the citizen complaint process is another method for curtailing potential abuse. According to a Huntington

Beach Police Department complaint brochure, "anyone who is directly involved in the incident" may make a complaint to the officer's immediate supervisor, or in his absence, the on-duty watch commander. Further, the complaint may be made initially in person, by telephone, or by mail.

During the course of this investigation, the police department modified its complaint brochure in July 1978. Prior to these modifications, the department policy was to accept complaints only from victims and/or their attorneys. Seven complainants charged that as witnesses to alleged police abuse, they were unable to file complaints. Local attorneys alleged that five additional cases of witnesses unable to file complaints had come to their attention. The revised brochure states that complaints will be accepted from witnesses, too.

Allegations were made to Commission staff that on-duty desk officers frequently exerted their discretion in accepting or discouraging complaints. The police chief acknowledged this problem. He stated that in the future those on duty would be well trained, evidence sensitivity to the public, and most importantly, not dismiss complaints as frivolous or unmerited. The revised complaint brochure states:

It is the policy of the department that all complaints against the department or its officers will be accepted, documented, and investigated by a reasonable authority /emphasis added/.

With several exceptions*, the "reasonable authority" who investi-

*These exceptions include major incidents such as death at the hands of an officer (these cases are referred immediately to the district attorney), and minor infractions of rules such as tardiness and uniform defects (these cases are handled by an officer's supervisor).

gates complaints is the police department's own personnel division. A subunit of the personnel division, whose sole function is complaint investigation, is the internal affairs unit. According to the police chief, the 2 staff of the personnel division spend approximately 20 to 30 percent of their time on internal affairs matters. The internal affairs unit refers its findings to the Internal Affairs Committee, composed of the four division commanders or their alternates. This committee in turn forwards its advisory recommendations on a complaint's disposition to the police chief. He makes the final determination on recommended action.

As with all personnel actions in governments, both officers and/or complainants may appeal the chief's decision to the city's personnel appeal board or the county district attorney. Complainants may also appeal, according to the department's brochure, to the State Attorney General or the U.S. Department of Justice, or they may file a civil suit against the city.

The major vehicle for informing the public about the complaint process is the department's complaint brochure. This brochure is available at an information table in the lobby of the police department. The police chief said that little if any effort is made to explain the complaint process during the department's numerous appearances before community groups. Neither the city council members nor the city administrator were clear about the complaint process when they were initially interviewed by Commission staff.

The method for disseminating information about the complaint process is critical because Commission staff received allegations that complainants were given "the runaround" when trying to file a complaint. For example, one person said that the desk officer referred him to another government agency which in turn referred him to the police department. The complaint was not accepted a second time by a department representative, and the complainant resorted to a civil suit against the city.

External Complaint Process

Either because complainants felt the police department was unresponsive or because the complaint process was not understood, complainants turned for relief to sources outside the police department. Members of the city council told Commission staff that since the city council election in April 1978, they had individually received increasing numbers of complaints alleging police misconduct or unresponsiveness by the department to their complaints.

As individuals, city council members have no mechanisms for investigating complaints. Complaints are funneled informally to the police through the City Administrator. The City Administrator asks for a report from the police department on these ad hoc requests, but there is no formal recording system, nor response mechanisms. Neither the City Administrator nor the city council could tell the Commission how many such complaints had passed through their offices, nor when and how these complaints were resolved.

By July several council members became concerned about police department handling of complaints. As a body, the council resolved to establish a citizen advisory committee for review of all complaints against the city, including those against the police. Established in July 1978, this committee has no authority and no staff.

The City Administrator routinely requests a written report from the police department on any complaints he refers. But the police department is not periodically asked to report to him or the city council on the patterns of complaints and their resolution.

The district attorney's office has also received complaints about police misconduct in Huntington Beach. But like the city officials it has no log of complaints nor formal mechanism for referral to the police department. A deputy district attorney stated that the usual procedure is to refer the complainant back to the police department; he had no records of how many such cases were referred.

The city attorney has no jurisdiction over complaint investigation since that office is responsible for defending the police department. The current city attorney stated that she had received only several complaints informally and had routinely referred complainants to the police department. Her office has no mechanism for following up on the resolution of these referrals.

In other words, the only system of recording complaints is within the police department itself. There are no city mechanisms to oversee how effectively the complaint process is working.

The final possible avenue for a citizen complainant is to file a civil suit against the city or individual officer, usually for monetary relief. Such suits are merely compensatory, if successful, and therefore, do not result in corrective action. During 1977, 110 civil suits were filed in Huntington Beach; 55 of these were filed against the police department or individual officers.

CONCLUSIONS

Since the Commission began its study of police community relations in Huntington Beach, the police department has modified its procedures, most notably in the revision of the complaint brochure and the staffing of the on-duty desk officers. Despite these changes, the Commission continues to receive complaints of excessive use of force by individual officers.

While not limited to one part of town, the majority of these complaints come from the beach area near Main Street. Activities in this area complicate law enforcement efforts. In the summer, the area is inundated with youth. It is an area of many robberies and burglaries; it has the highest rate of drunk driving and drug abuse relative to the rest of the city. But the fact that enforcement is probably more difficult there, requires greater vigilance to assure just and even handed practices. It is a questionable procedure to place the least experienced officers in the Main Street area.

The number and variety of complaints received by the Commission suggest that police misconduct is neither isolated nor infrequent.

Regardless of the number of abuses, none should be tolerated, and all complaints should be objectively and thoroughly investigated.

RECOMMENDATIONS

1. Formal mechanisms for investigation and resolution of complaints about police misconduct must be instituted.
 - a. Internal investigations by the police department should never be conducted by the accused officer or anyone within that officer's division.
 - b. The internal affairs unit should be separated from the personnel division. Its sole responsibility should be complaint investigation.
 - c. In addition to individually informing complainants of an investigation's outcome, a statistical summary of complaints and their resolution should be made public through the city council on a regular basis.
 - d. Any investigation which is deemed unsatisfactory to either the accused officer or the aggrieved party should be turned over to the district attorney's office for an impartial review.
2. The complaint process should be fully disseminated to the public.
 - a. The brochure should be mailed to community organizations.
 - b. Efforts should be made to describe the process on radio and television public affairs programs and in newspapers.

- c. The citizen advisory committee of the city council should periodically review the process and suggest modifications if necessary.
3. Patrol teams in the beach area should consist of equal numbers of experienced officers and new recruits.
4. Agencies with oversight responsibility for the police department should establish formal procedures for logging complaints, and monitoring the resolution of those complaints.

FOOTNOTES

1. Telephone interview, Public Information Office, U.S. Department of Justice, August 1978.
2. Booz, Allen and Hamilton, Inc., "Final Report Management Audit of the Police Department," Huntington Beach, California, June 1978, pp. 3-4 (hereafter referred to as Booz Allen report).
3. "City of Huntington Beach" brochure, 4-78; interview with City Administrator and members of City Council, July 1978.
4. Interview with Earle W. Robitaille, Chief of Police, Huntington Beach, July 1978.
5. Booz Allen report, Exhibit X.
6. Telephone interview, Public Information Office, U.S. Department of Justice, August 1978.
7. Booz Allen report pp. 4 and 12.
8. "Survey," p.
9. Booz Allen report, Exhibit XIII
10. Letter from Earle W. Robitaille, Chief of Police to Sally E. James, deputy director, Western Regional Office, U.S. Commission on Civil Rights, July 26, 1978.
11. Interview with Earle W. Robitaille, Chief of Police, Huntington Beach, July 1978.
12. Huntington Beach Police Department, "Citizen Complaint Reporting Procedures," 1-1-75 (mimeograph).
13. Huntington Beach Police Department, "Citizen Complaint Reporting Procedures," 7-1-78 (mimeograph).
14. Ibid.
15. Interview with Earle W. Robitaille, Chief of Police, Huntington Beach, July 1978.
16. Interview with members of City Council and City Attorney, July 1978.
17. Interview with City Attorney, July 1978.

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