

Police-Community Relations in Omaha

June, 1982

A report of the Nebraska Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Nebraska Advisory Committee.

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Committee to the United States Commission on
Civil Rights

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ATTRIBUTION:

The findings and recommendations contained in this report are those of the Nebraska Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission. This report has been prepared by the State Advisory Committee for submission to the Commission and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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Dear Commissioners:

The Nebraska Advisory Committee submits this report of its review on police-community relations in Omaha, Nebraska, as part of its responsibility to advise the Commission on civil rights issues within the State.

The Advisory Committee and staff of the Central States Regional Office interviewed a wide range of individuals during the period May 1981 to December 1981 including the mayor, chief of police and some police officers, other city officials and concerned citizens. Those persons who were interviewed were given an opportunity to comment on the draft of the report. Where appropriate, comments and corrections indicated by them have been incorporated into the final report.

The Advisory Committee found that although the city has made some efforts to recruit minorities and women, these efforts have not enabled it to meet the terms of the 1980 consent decree with the U.S. Department of Justice and the Midwest Guardians, an organization of black police officers. The Advisory Committee urges the mayor to direct the city personnel department and police division to develop and implement a joint recruitment program. The chief of police should assign at least one full-time position within the division the responsibility to actively recruit minority applicants. All officers should be urged to make ad hoc efforts to recruit minorities and women and those who successfully recruit candidates who begin the examination process should be rewarded with monetary and/or special commendations useful in promotional decisions.

The Advisory Committee found that the 1980 consent decree has been the source of resentment, misunderstanding and hostility within the police division and community and urges the chief of police to add a review of the consent decree to recruit and inservice training.

The Advisory Committee found that only one of the employment selection devices used by the police division has been validated for job relatedness. The Committee also found many people lacked confidence in the fairness and impartiality of the selection devices, particularly regarding the polygraph examination and oral interviews. The Advisory Committee urges the personnel department to validate all portions of the selection process and to complete its review of the polygraph examination and oral interview as soon as possible. If either selection device is found to discriminate against women or minorities, it should be amended or eliminated.

The Advisory Committee found insufficient recruit or inservice human relations training. The Advisory Committee urges the police division to add more human relation courses to its training programs. The city's human relations department and members of the local minority community should be considered as sources for instructors and materials.

The Advisory Committee found that although Nebraska has adopted the Model Penal Code which restricts the use of force and the police division has adopted guidelines to implement the State statute, police officers still have been involved in incidents where the force used caused great concern to the minority community. The Advisory Committee recommends that the police division provide additional recruit and inservice training on the use of force. The Advisory Committee notes that the police division has not established guidelines for escalation in the use of non-deadly force and urges the division to adopt the model rules published by the International Association of Chiefs of Police regarding the use of force.

The Advisory Committee found that the community services bureau has not had a stable existence and that its purpose and functions are not understood by the public. The Advisory Committee urges the police division to review the current status of the community services bureau, evaluate its activities and develop a coordinated program to improve police-community relations. Further, the Advisory Committee recommends that the police division initiate a public information campaign for at least twelve months and should make the program permanent if it succeeds in improving police-community relations. The mayor and chief of police should issue a joint statement emphasizing their support of community relations programs and making it clear that discourteous, disrespectful or unfair treatment of citizens by police officers will not be tolerated.

The Advisory Committee found that there has been too little contact between police officers and the community, despite limited outreach programs in the past and despite the current desires of the mayor and police division officials to have police officers leave their cars to walk part of their beat while remaining available for calls. The Advisory Committee recommends that the chief of police make clear that division policy encourages informal contacts with the community.

The Advisory Committee found that the minority community has very little confidence in the existing citizen complaint process. The Advisory Committee recommends that the city establish a citizen complaint process that balances the rights of the police officers and the citizens. A public information campaign should be initiated to inform citizens about the complaint process.

We urge you to concur with our recommendations and to assist the Advisory Committee in follow-up activities.

Respectfully,

SHIRLEY M. MARSH, Chairperson
Nebraska Advisory Committee

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CHAPTER 1

INTRODUCTION

The Nebraska Advisory Committee to the U.S. Commission on Civil Rights undertook this study to ascertain the general status of police-community relations in Omaha because of its size and minority population. It is the first study on police-community relations by the Nebraska Advisory Committee. In the past the Advisory Committee has conducted studies on school desegregation and private employment in Omaha. This study was not prompted by complaints of police brutality or abuse.

When the study began in May 1981, E.L. Stokes was Acting Chief of Police. Late in 1981 he was replaced by Jack Swanson who remained Acting Chief of Police until Robert Wadman became the Chief of Police on March 1, 1982. Advisory Committee staff, assisted by members of the police-community relations subcommittee, met with these men as well as other members of the police division, city officials, community leaders and citizens. In all, about fifty individuals were interviewed. Additional data was obtained from the police division and the city's personnel department.

After reviewing the setting, the city of Omaha and crime patterns, the Advisory Committee examines affirmative action efforts by the police division, including efforts to comply with the 1980 consent decree between the city, Midwest Guardians (an organization of black police officers), and the U.S. Department of Justice. The use of force, an important issue in police-community relations, the community perceptions of the police division, the past and current police-community relations programs, the complaint process and the police disciplinary policies are discussed.

A draft report was circulated for comments in April 1982. All persons who participated in the study were supplied with copies and encouraged to tell the Committee what errors or omissions they found. Where appropriate, all

responses have either been used to correct errors, incorporated into the text, or used as footnotes.

CHAPTER 2SETTING

The City of Omaha had a population in 1980 of 311,681, 10.2 percent less than it had in 1970. It is located in the Omaha SMSA which includes Douglas and Sarpy counties in Nebraska and Pottawattamie County in Iowa. The black population in Omaha rose 9.9 percent in the decade, to 37,852 according to census data (but may be higher; undercounts of minorities are not unusual). That population is concentrated in the northeast sector of the city; less than five percent live west of 72nd Street, less than eight percent live south of Dodge. The center of the black population, the Center for Applied Urban Research estimates, is 34th and Pratt Streets. In fact, over half the black population lives in 15 of the 105 tracts in the SMSA. But the black population has been moving in a northwesterly direction throughout the decade. There has been a slight, but significant decline in segregation over the decade.¹

The American Indian population increased 58.4 percent in Omaha during the decade but still remained a small portion (.06) of the total population. The American Indian population is less concentrated than other minorities in Omaha, in only one census tract were as many as five percent of the inhabitants identified as American Indian.²

Hispanics in Omaha account for over one-quarter of all Hispanics in Nebraska and make up 2.3 percent of the city's population. They are increasingly concentrated in southeast Omaha.³

The city was incorporated on Feb. 12, 1857. A city marshall appointed on Mar. 5, 1857 became the first city law enforcement officer. Chiefs of Police were appointed beginning in 1887. From 1912 to 1957 the city had a commission form of government, one of the commissioners serving as police commissioner. A "home rule" city charter was adopted in 1957 and the city is now governed by

a mayor and council. The Department of Public Safety administers the police, fire, permits and inspections and civil defense divisions.⁴

Crime statistics for 1980 show that there were 38 murders, 213 rapes, 1,053 robberies, 679 aggravated assaults, 5,351 burglaries, 15,138 larcenies and 958 motor vehicle thefts reported to the police.⁵

The Uniform Code Statistics for Omaha show that the proportions of crimes committed by whites and blacks were essentially the same in most categories of crime. Blacks were somewhat more likely than whites to be arrested for murder, rape, robbery and burglary. The proportions of white persons arrested for death by negligence, theft, motor vehicle theft and in most other categories of crime were larger than were the proportions of black persons arrested for those crimes (as a proportion of all arrested). Overall, about 63 percent of arrested persons were white, about 35 percent were black and most of the rest were American Indian or Alaskan Natives. No separate figures were provided by the Omaha Police Division for Hispanic arrested persons.⁶

Table 2-1 shows the size of the police forces in 16 cities that are similar in size or crime rate to Omaha or that are in the central region. Omaha has the third lowest ratio of population to police force. It has the seventh highest ratio of officers to crime index. This means it has somewhat fewer officers per 1,000 inhabitants than most cities and a somewhat higher number of crimes are reported for each officer.

The size of the department has been a source of controversy. The city council provided funds for an additional 17 officers for the 1981 fiscal year.⁷ Bernie Simon, president of the Omaha city council, told staff the authorized maximum strength for the division would be 588 in Fiscal Year 1982.⁸ George Ernce, president of the police union, maintains that most authorities recommend two officers per 1,000 population. If that recommendation were followed in Omaha, he said, the police division would have 600 officers.⁹

Table 2-1

Ratio of Size of Police Force to Population and Crime in Selected Cities

	<u>Police Force</u>	<u>Population</u>	<u>No. of Offcrrs. Per 1,000</u>	<u>1980 Crime Index Total</u>	<u>Crime Index No. of Offcrrs</u>
Omaha	549	311,681	1.77	11,436	20.83
Akron, Ohio	469	237,177	1.98	8,627	18.39
Charlotte, N.C.	746	314,447	2.38	12,325	16.52
Dayton, Ohio	594	203,588	2.91	12,005	20.21
Denver, Colorado	1,690	491,396	3.44	26,142	15.47
Des Moines, Iowa	431	191,003	2.26	9,114	21.15
Flint, Michigan	430	159,611	2.69	10,127	23.55
Fresno, Ca.	468	218,202	2.15	11,452	24.47
Kansas City, Mo.	1,668	448,159	3.72	22,230	13.33
Lincoln, Ne.	282	171,932	1.64	5,112	18.13
Oklahoma City	915	403,213	2.27	16,650	18.20
St. Louis, Mo.	2,541	453,085	5.61	30,650	12.06
Toledo, Ohio	609	354,635	1.72	15,482	25.42
Tucson, Az.	773	330,537	2.34	16,575	21.44
Tulsa, Ok.	794	360,919	2.20	14,449	18.20
Wichita, Ks.	531	279,272	1.90	11,126	20.95

Sources: U.S. Department of Justice, Community Relations Service; FBI; Bureau of the Census.

The police division is divided into a uniform field bureau, criminal investigation bureau, technical services bureau, inspectional services bureau, administrative services bureau and community services bureau. All are headed by deputy chiefs except the community services bureau which was headed by a police-community relations coordinator.¹⁰ This position was eliminated in late 1981 and the duties assigned to a deputy chief.¹¹ The three main operational bureaus--uniform field bureau, criminal investigation bureau and technical services bureau--operate in three shifts.¹²

The uniform bureau is divided into north and south sectors and each sector is divided into sergeant areas and patrol districts.¹³ They split a third area between them.

The criminal investigation bureau includes a crime against persons section, a crime against property section and a general administration section each of which is headed by a captain. Under them are lieutenants or sergeants heading units with specific functions such as homicide/assault, robbery/sex, burglary, auto theft, general administration and regional investigations. The technical services unit includes a records section headed by a civilian, a detention section and criminalistics section each headed by a lieutenant.¹⁴ The community services bureau is divided into a community relations section that includes a human relations unit, a public information unit, and a program development unit; and, the youth aid section that includes only the safety education unit.¹⁵

Notes

1. David R. DiMartino, "Omaha Area Demographic Change 1970-1980," Review of Applied Urban Research, Vol. IX, No. 6; July, 1981.
2. Ibid.
3. Ibid.
4. Omaha Police Manual, Vol. I, Pre. 4-0, p. 2, 25, May 1974 and 39, Dec. 1977.
5. Data supplied by the Omaha Police Division, on file at CSRO.
6. Data supplied by Omaha Police Division, on file at CSRO.
7. Omaha World-Herald, Apr. 3, 1981.
8. Bernie Simon, interview in Omaha, Dec. 11, 1981.
9. George Ernce, interview in Omaha, Dec. 10, 1981.
10. Omaha Police Manual, Vol. I, Adm. 2-1, p. 1, March 1977.
11. Omaha Star, Dec. 31, 1981.
12. Omaha Police Manual, Vol. I, Adm. 2-1, p. 1, March 1977.
13. Omaha Police Manual, Vol. I, Adm. 2-2-6, p. 1, (Rev.) Oct. 1976.
14. Omaha Police Manual, Vol. I, Adm. 2-1, p. 1, March 1977.
15. Ibid.

CHAPTER 3AFFIRMATIVE ACTION EMPLOYMENT EFFORTS OF THE OMAHA POLICE DIVISION

The Advisory Committee chose to review affirmative action efforts by the police division, both because they are legally mandated and because they are closely connected to police performance. As mentioned elsewhere in this study, many persons interviewed during the course of the review believe that more minority officers in the police division would improve police-community relations. Professor Gerald E. Caiden of the University of Southern California has summarized the argument for greater affirmative action efforts:

The unrepresentative nature of the police profession, its white masculinity, has definitely shaped the nature of policing in the United States and led to the persistence of questionable police styles. Had the police been more representative from early on, they probably would have been less prone to violence and aggressive behavior, more effective in delivering police services, more responsive to communal needs, more humane and understanding, less discriminatory, much closer to the public they serve and much less set in their ways. Patrolwomen, for instance, would have aroused less antagonism, stimulated less fear and provoked less violence.¹

The National Advisory Commission on Criminal Justice Standards and Goals (NACCJSG), in its review of police standards, put the matter another way: "to police a minority community with only white police officers can be misinterpreted as an attempt to maintain an unpopular status quo rather than to maintain the civil peace. Clearly the image of an army of occupation is one that the police must avoid."² The NACCJSG concluded that the way to correct this is to create a police force which mirrors the ethnic composition of the population it serves.³

Equal opportunity efforts are also required by Federal, State, and local regulations. Under Title VII of the 1964 Civil Rights Act, as amended, discrimination in employment by local governments is prohibited.⁴ Law enforcement agencies that benefit from Federal general revenue sharing funds (as the city of Omaha does) are subject to review by the Office of Revenue Sharing to ensure that there is no discrimination in employment.⁵ Nebraska's Fair Employment Practices Act provides the possibility of awards of

back pay and reinstatement or hiring to persons who are victims of discrimination in employment.⁶

Past Recruitment and Selection Efforts

A World-Herald article on recruitment included a chart on utilization for the period 1972-June 1981 that shows a decline in the number of black officers from 26 in 1972 to 24 in June 1981 (the number reached a high of 28 in 1980).⁷ The number of Hispanic officers remained about the same, eight or nine, throughout the period. An American Indian officer joined the force in 1980. The proportion of black officers was about 4.5 percent of the force throughout the period. The proportion of Hispanic officers was about 1.5 percent of the force throughout the period.⁸ The division's total force ranged from a high of 578 in 1974 to a low of 538 in June 1981.⁹

The World-Herald reported that for the 1978 recruit class while 45.7 percent of white male applicants were put on the eligible list for appointment to the division, only 23.4 percent of white women, 11.1 percent of black women and 7.1 percent of black men applicants were put on the list. It reported that as of June 1981 the most recent black male hires occurred in 1974 and 1977 (one each); the most recent Hispanic male hires were in 1969 and 1974 (one each); and the more recent female hires were in 1978 (two).¹⁰

The clip file of the Omaha Public Library shows that in 1964 Monroe Coleman became the first black police captain.¹¹ In 1965 a special ordinance made possible the promotion of a much decorated black officer, Aaron Dailey, to sergeant, over the opposition of the police union and despite a suit filed by the police union to block the promotion.¹²

Racial problems in the department led to the resignation in 1967 of 17 black officers from the Omaha Police Union (six other black officers did not resign). They charged that the union had tolerated discriminatory practices and had retained as its business representative a State legislator who had

opposed a fair housing law. But they also complained that the union had done nothing to end discriminatory practices by the department that had resulted in the absence of black officers from either the identification bureau or the vice squad and the failure to send most black officers to out-of-town police schools or seminars. One of the black officers alleged that: "If there is a call about a disturbance or a man with a gun on the Near North Side, they will send one Negro officer. If none is available, they send two or three white officers."¹³ Both the police chief and the city's human relations director stated that they had received no formal complaints on those issues.¹⁴

The city's first affirmative action plan was approved in 1975 and a revised affirmative action plan was approved by Mayor Al Veys, Aug. 8, 1979.¹⁵ This plan called for an increase in minority hiring in protective service occupations (which include police and fire department entry level workers) of 0.9 percent per year and an increase in female hiring of 1.7 percent per year for five years.¹⁶ Even allowing for the inclusion of the fire department, this is considerably less than the city subsequently agreed to in a consent decree. The city is currently revising its affirmative action policy. The city personnel director, Gary Troutman, believes that if the city had been more alert and conscious of affirmative action in the past, it is possible legal actions by black officers and the Department of Justice could have been avoided.¹⁷

In July 1979 the black police organization, the Brotherhood of Midwest Guardians, filed suit alleging racial discrimination in employment by the city. That suit ultimately was supported by the U.S. Department of Justice and resulted in a consent decree that provided for a dramatic increase in the proportion of black officers over a period of years. The decree provides that, subject to the availability of qualified applicants, the city of Omaha must achieve a long term goal of hiring a sufficient number of black sworn

officers so that by 1987 9.5 percent of the work force will be black officers. Interim goals are to fill at least 40 percent of all vacancies in the sworn entry positions with qualified black applicants until black officers make up six percent of the sworn personnel, and then to fill one-third of all entry level vacancies with qualified black applicants until the sworn work force is eight percent black, and thereafter to fill 25 percent of all entry level positions with qualified black applicants until the long term goal is achieved. No goals were established for other minorities or women.¹⁸

I.C. Plaza, chairperson of Nebraska's Mexican American Commission, and Joe Ramirez, director of the Chicano Awareness Center, mentioned the consent decree as a source of resentment in the Hispanic community. Both stated that the decree benefited only black officers and that Hispanics still suffered from employment discrimination.¹⁹ University of Nebraska at Omaha (UNO) Associate Professor Sam Walker commented that he believed the nonminority officers also are resentful of the decree.²⁰ In commenting on the draft of this report, Mr. Walker added that he believes that for many white officers the consent decree was a "scapegoat" to vent their concern about the lack of opportunities for professional development, the lack of promotional opportunities, and their sense of alienation from the top command. In Mr. Walker's opinion, the city officials added to the problem by failing to explain and defend the consent decree to the officers.²¹ Regarding the consent decree, Gary Troutman, personnel director for the city, said he does not believe enough has been done to explain it to the police officers. He believes that when the officers realize the police division will not suffer because of the decree, the opposition will disappear.²²

Promotions are an important part of affirmative action. The consent decree touched briefly on the issue, providing: "For promotional sworn positions in the Omaha Police Division, the interim goal shall be to appoint

qualified blacks in at least the proportion that these groups are represented in the classes of employees eligible for promotion."²³

According to the Omaha police manual, captains must have seven years experience in police work, including two years as police lieutenants; while lieutenants must have six years experience, including two years as police or detective sergeants.²⁴ Sergeants are required to have four years of experience as patrol officers. Years of police work in another city of comparable size and population can be substituted for two years of the required experience for sergeants.²⁵ In addition to the requisite number of years of experience, written and other examinations are a part of the promotion process.²⁶

In 1979 and 1980 five persons, all white males, were promoted to lieutenant. During the same period, ten persons, nine white males and one black male, were promoted to sergeant.²⁷ There were no promotions to captain during this time period.²⁸ As of June 1980, there were one black lieutenant, two black sergeants and 20 black police officers in the division. The city did not provide information on the seniority of the officers so it was impossible for the Advisory Committee to determine how many, if any, minority officers were eligible to take the promotion examinations. Those who were promoted to lieutenant during 1979-1980 averaged 17.25 years on the force while those promoted to sergeant averaged eight years.²⁹

Current Recruitment and Selection Efforts

The National Advisory Commission on Criminal Justice Standards and Goals has suggested: "Every police agency seeking to employ qualified ethnic minority members should research, develop and implement specialized minority recruitment methods."³⁰ Such efforts were mandated by the consent decree.³¹

Mr. Troutman stated that recruitment for the last few training classes was a combined effort by police officers, the Interdenominational Ministerial Alliance and the personnel department. Advertisements were placed in all the media, job announcements were placed in neighborhood gathering places and recruitment was done at the colleges. Mr. Troutman said recruitment at the colleges was done while they were in session except for one class for which recruitment was done during the summer.³² A list of recruitment sources used for the September 1981 class shows 84 contacts ranging from out-of-State universities and colleges to local minority organizations, church groups and individuals. The NAACP, Urban League, Chicano Awareness Center, United Indians of Nebraska and American Indian Center were on the list as was a member of the Ministerial Alliance, although the organization itself was not.³³ Mr. Troutman also asserted that contact had been made with the Midwest Guardians regarding recruitment although the president of that organization, James Patterson, said he was never contacted.³⁴ In commenting on the draft, Mr. Troutman clarified this point by stating that a black officer had been consulted regarding recruitment in October 1981 but the Midwest Guardians organization had not been contacted.³⁵

Mr. Troutman stated that in 1979 there had been a strong recruitment effort in which officers were assigned to do recruitment; but that this was abandoned because then Chief Richard Andersen felt it was more critical to have the officers on the street. Mr. Troutman stated he would like to have police officers made available to him for recruitment programs because they can give a firsthand viewpoint on police work while his people give information on city personnel regulations and benefits. However, he stated that he understands the division's reluctance to use officers this way while it is understaffed. Currently, one person in the personnel department has been responsible for recruitment for all city departments in addition to other

responsibilities. Mr. Troutman hopes to use more personnel department staff to do recruitment for the police division in the future.³⁶ He believes that one of the problems the city has had with police recruitment is the "lack of credibility" the police division has in the minority community.³⁷ At least some citizens agree with him on that point, saying that the police division has an image problem which hinders recruitment in the minority community.³⁸ Members of the Midwest Guardians believe most recruitment in the black community has been done by the black officers. They said no one is designated to do recruitment and alleged that recruitment is done at the universities when the classes are not in session.³⁹ I.C. Plaza and Joe Ramirez maintained that there were no recruitment programs directed at Hispanics and that recruitment in the Hispanic community was done by Hispanic officers on their own initiative.⁴⁰ Mr. Troutman said that in 1981 recruitment contacts were made with the Chicano Awareness Center, Amigos de See and G.I. Forum, all Hispanic organizations. In addition there was an information booth at the Cinco de Mayo celebration.⁴¹ Rita Garcia, director of the Indian-Chicano Health Center, said she thought a good job of advertising had been done for the September 1981 class. Ms. Garcia also said that she had tried to interest some Hispanics in taking the written examination but had not been successful.⁴²

The department did not meet the goals of the consent decree in its December 1980 recruit class. The class of 15 began with six black recruits but one was dropped for academic reasons as was a white male, and a second black recruit resigned, leaving the class only 33.3 percent black, instead of the 40 percent mandated by the consent decree.⁴³

The department also experienced difficulty in meeting its target for the second class following the decree. Initially, the World-Herald reported, 550 persons, 124 of whom were black, began the testing process. But by June 1981

only 53 applicants were left, 10 black (18.9 percent).⁴⁴ In an effort to improve on this, the police division ordered all its officers to carry and disseminate application forms. The World-Herald reported that Lt. Pitmon Foxall, the department's ranking black officer was assigned to head the special effort that would make "each and every Omaha police officer" a recruiter of blacks.⁴⁵ By August 1981, the World-Herald reported that the department had assembled a class of 33, of whom 12 were black (one fewer black recruit than needed to meet the goal of 40 percent and eight fewer recruits of all races in the class than desired to meet department personnel needs).⁴⁶ At the time of appointment, Sept. 1, 1981, the class had become 34 persons, of whom 14 were black (41 percent of the class).⁴⁷ The city reported three other black applicants were offered appointments but declined to accept them.⁴⁸

Selection devices for applicants to become police officers consist of a written examination, physical agility test, polygraph examination, oral interviews, medical examination and psychological profile.⁴⁹

The written examination was mentioned by the city personnel director as being a problem because it is multiple choice which does not give an accurate assessment of recruits' reading and writing abilities. In commenting on the draft, Mr. Troutman said that applicants are not required to do any actual writing but grammar and spelling skills are tested.⁵⁰ Mr. Troutman has ordered some of his staff to work with training personnel from the police division to develop another test. The new test should be ready for the September 1982 recruit class.⁵¹

The Omaha police division provided data to the Advisory Committee on selection and hiring for classes begun Dec. 16, 1977; Aug. 7, 1978; Dec. 1, 1978; Sept. 1, 1981 and Dec. 16, 1981. In the class of Dec. 16, 1977, 3.2 percent of white male, 1.6 percent of white female and 2.5 percent of black

male applicants were ultimately hired. For the class appointed Aug. 7, 1978, 5.9 percent of white male and 10.9 percent of white female applicants were appointed (no black applicants were appointed). For the class appointed Dec. 1, 1978, 3.2 percent of white male and 3.6 percent of white female applicants were appointed (no black applicants were appointed). For the class of Dec. 16, 1981, 0.8 percent of white male, no white female, 2.2 percent of black male and 1.2 percent of black female applicants were appointed. For the class of Sept. 1, 1981, 1.6 percent of white male, 1.7 percent of white female, 4.8 percent of black male and 3.5 percent of black female applicants were appointed.⁵²

There are marked disparities in the success rate on the examinations. In examinations for the recruit class of 1977, 81.1 percent of white male applicants were placed on the eligibility list, while only 69.4 percent of white female, 67.5 percent of black male and 45.5 percent of black female applicants were placed on the list. For the 1978 classes the pass rate for white male applicants on the written exams was 52.7 percent compared to 65.5 percent for white female, 11.1 percent for black male and 30.8 percent for black female applicants. The pass rate on the physical test was 43.6 percent for white male applicants compared to 32.7 percent for white female, 6.7 percent for black male and 15.4 percent for black female applicants. The pass rate on the interview was 32.5 percent for white male applicants compared to 20.0 percent for white female, 4.4 percent for black male and 7.7 percent for black female applicants. Of the applicants who reached the eligibility list for 1978, 32.5 percent of the white male applicants did so, compared to 20.0 percent of white female, 4.4 percent of black male and 7.7 percent of black female applicants.

The pass rate on the written and physical examinations for white applicants for the 1980-1981 classes was 42.8 percent, compared to 23.6

percent for white female, 20.5 percent for black male and 17.7 percent for black female applicants. The pass rate on the interview was 24.3 percent for white male applicants compared to 18.7 percent for white female, 17.4 percent for black male and 15.5 percent for black female applicants. The pass rate on the polygraph examination (not all applicants reported) was 2.8 percent for white male applicants compared to 2.2 percent of white female, 9.2 percent of black male and 5.9 percent of black female applicants. The rates on the remaining sections of the examination were essentially similar.⁵³ In view of the subsequent concern expressed about the polygraph portion of the test, it is interesting to note that 11.1 percent of white male, no white female, 44.7 percent of black male and 50.0 percent of black female applicants who took the polygraph test failed.⁵⁴ The minority failure rate was 10 times that of the interview phase which preceded it.⁵⁵ The physical agility test has been validated for job relatedness, Mr. Troutman stated.⁵⁶ It was never mentioned in any interview as a source of contention. Similarly the medical examination and psychological profile were not mentioned.

Omaha is unique among the cities surveyed by the World-Herald in rejecting candidates based on a polygraph examination. Five other area police units contacted by the newspaper--the Nebraska State Patrol; the Kansas City, Missouri, Police Department; the Des Moines Police Department; and, the Lincoln Police Department use the polygraph but none would reject an applicant on the basis of the results. Indeed one applicant who failed the test, the grandson and son of Omaha officers, subsequently passed similar tests and became an officer in another jurisdiction. Usually, the polygraph is used in conjunction with a background investigation but Omaha does not do a background check because it believes the checks are too expensive.⁵⁷ In commenting on the draft, Mr. Troutman said the city did a modified background investigation which was described as a check on criminal and traffic records.⁵⁸ The

polygraph examination is controversial. Some community leaders interviewed see it as a means of rejecting otherwise qualified minority applicants.⁵⁹ A State parole officer, who was rejected for a police job because of the test, filed suit in Federal District Court in August 1981 alleging the test discriminates against blacks. He alleged that 68 percent of recent black applicants were disqualified on the basis of the polygraph test, while 32 percent of white candidates were similarly disqualified.⁶⁰ The case is still pending.⁶¹ But Deputy City Attorney James Fellows asserted that while only one person was rejected in recent tests for lying, many were rejected for truthfully reporting criminal pasts which would disqualify them.⁶² The police denied the test was discriminatory.⁶³ In October 1981, an effort by Fred Conley, the only black member of the city council, to eliminate by ordinance the polygraph test was rejected. But the mayor did order changes in the procedure including transfer of administration of the test to the city personnel department, creation of a panel including a minority person to develop questions and an agreement to review the effect of the changes. He also said the city council could decide to abandon the test if it continues to have an adverse effect.⁶⁴ The Mayor told the Advisory Committee that he is not sure yet if it will be retained as a screening device. He commented that he believes it can serve some purpose if it is properly administered and the test questions are relevant. He said an expert not connected with the police force had been brought in to do the latest round of testing.⁶⁵ City Councilmember Fred Conley said "the jury is still out" on the polygraph which he contends is inappropriate as a screening device.⁶⁶

A letter from the city to the U.S. Department of Justice regarding compliance with the consent decree explains that substantial changes have been made in the administration of the polygraph. The letter, dated January 19, 1982, states:

....Presently the examination consists of eighteen (18) standardized questions covering specific job related areas dealing with a candidate's previous criminal activities, use of drugs, latent physical deficiencies and work history. These questions are then verified by polygraph evaluation and the candidates responses, together with the polygraph evaluation, are assigned a numerical score by a three-member committee consisting of the Chief of Police, a personnel evaluator and a lay member of the general populace, applying pre-set standards to the given responses. This numerical evaluation is then considered together with scores from other facets of the pre-employment testing in making a final determination of selection or non-selection.⁶⁷

Acting Chief Jack Swanson stated his belief that the polygraph issue finally has been settled by introducing the new procedures. He commented that at one time the police division had a polygraph operator on its staff but stopped administering the test because of complaints that it was not being handled fairly. Then a person outside the department was hired (but from Omaha) and the problem worsened. Acting Chief Swanson did not foresee the police division taking back the responsibility for the test because there would be too much "suspicion."⁶⁸

After the polygraph, candidates are interviewed by one of three panels. Acting Chief Swanson stated that these are composed entirely of police personnel, each panel consisting of three officers with the rank of lieutenant or captain. Currently there is only one black officer on one of the panels, there had been two at one point. Appearance is considered by the panel although a candidate would not be rejected on appearance alone. Questions are asked from a list of set categories so while the categories covered remain the same for all candidates, specific questions might change. Acting Chief Swanson said the interviewers receive 16 hours of training on interview techniques.⁶⁹ However, the oral interview was criticized by members of the Midwest Guardians as being unstructured. They alleged irrelevant and perhaps even illegal questions were used. They stated it is impossible to check because there is no set of specific questions. They believe a civilian or at least a representative of the personnel department should be on the interview

panels. They are also concerned that there is only one black on one panel.⁷⁰ Mr. Troutman said the oral interview process is being reviewed to determine if civilians could be added to the panels.⁷¹

By December 1981, nine of the 14 blacks in the September 1981 recruit class had either resigned or been dropped.⁷² This rate of failure caused questions to be raised about the entire selection procedure.

One citizen, Mary Jane Harvey, said she believed something was wrong if an applicant could pass the selection devices and then fail the training.⁷³ Fred Conley agreed.⁷⁴

Members of the Midwest Guardians called the September recruit class an "insult to all black citizens." They believe that when so many blacks fail training after being certified as qualified, there are problems in the selection tools. One member of the Midwest Guardians went so far as to say he thought the recruits had been chosen to fail, saying it was common knowledge that the class had been told that just because the division had to hire 40 percent black did not mean 40 percent of the training graduates would be black.⁷⁵

Mr. Troutman denied that the city had lowered its standards for the September class. He did say, though, that recruits from that class were chosen "from the bottom of the list" in order to have enough to meet the 40 percent minority goal. It should be noted though that everyone on the list had qualified. Mr. Troutman believes that the entire city will see changes with the February recruit class that will give them confidence in the police division.⁷⁶

Recruit Training

The U.S. Commission on Civil Rights, in its 1981 report on police practices, has pointed out, as do numerous experts cited therein, that the police spend a large proportion of their time providing "social services" and

very little time pursuing criminals. The Commission said that few departments provide much training for the bulk of the work, including race relations, actually performed by officers.⁷⁷ This is apparently also true in Omaha.

Currently training of police recruits is an in-house function. The police provide 672 hours of training for the recruits. Of these, two are devoted to handling domestic complaints, three to civil rights laws, five to police-community relations, three to officer stress, three to child abuse, three to spouse abuse and four to handling the mentally ill.⁷⁸ Thus, a maximum of 23 hours or about four percent of the class time is devoted to the problems officers will encounter in dealing with minorities and women.

Ruth Jackson, director of the city's human relations department, said more human relations training might be useful for the police. About eight or ten years ago her office did the human relations training for the police recruits. But one year, she said, they were not invited back. She believes the human relations training is now done by the division. She feels the training is very necessary because police officers often see only the worst elements of each group and sometimes that only reinforces the prejudices they may have.⁷⁹

According to members of the Midwest Guardians, training instructor positions are considered "cushion" jobs and in effect there is no competition for vacancies.⁸⁰ According to the union contract which sets out the terms of employment in the police division, sworn personnel bid on assignments based on seniority. However, the chief can circumvent the system under special circumstances to make assignments on a case by case basis. The chief of police has the exclusive right to assign the captain and lieutenant of training.⁸¹ Additionally, the organizational chart provided by the police division shows two sergeants in the training section.⁸² Instructors are police personnel who receive some training at Northwestern University.⁸³

The officers from the Midwest Guardians alleged that because of the consent decree some of the white instructors were passed over for promotions and now take their frustrations out on the black recruits. Ethnic jokes in the classroom were said to be common. There were no black instructors for the September 1981 class until a black officer was assigned there about halfway through the training after the Midwest Guardians and the Ministerial Alliance expressed their concern about the number of black recruits who were failing.⁸⁴ The personnel department also played a part in the assignment of a black officer to do the recruit training. In a series of meetings with the mayor, the personnel department urged that the temporary assignment of the black officer be made permanent which it was.⁸⁵ The officer said he had previously applied for an instructor's position but the application "never got anywhere."⁸⁶

Members of the Midwest Guardians said the instructors are evaluated by the students but the officers expressed the opinion that students probably would be reluctant to express their true feelings because they doubt the confidentiality of the process. The officers would prefer a more independent evaluation process.⁸⁷ Mr. Troutman stated that the lieutenant in charge of training reviews the evaluations.⁸⁸

Members of the Midwest Guardians also believe the tests developed to cover the training material are inappropriate because they are not a true measure of whether students are learning what they should. They believe that under the terms of the consent decree they are entitled to copies of the tests to determine if the questions are appropriate. (Because new tests are written for each class they do not believe there would be a security problem. They want to determine that the questions are correctly written.)⁸⁹

Mr. Troutman said the city administration was distressed because so many recruits in the September class failed. A tutoring program was established

after the class to help the recruits who failed to improve their study habits and writing skills. A similar tutoring program will be a standard part of the training program beginning with the February 1982 recruit class.⁹⁰

Participation in the first tutoring program was offered to the recruits in the September class who failed for academic reasons.⁹¹ Mr. Troutman stressed that he did not consider the tutoring program for these recruits "special treatment." He said the recruits' academic problems should have come to someone's attention earlier in the training. If it had, amends could have been made then and the recruits would not have been in the position of losing their jobs. He also said the recruit class was too large for good instruction.⁹² Members of the Midwest Guardians agreed with him on that point.⁹³

Mr. Troutman said he felt that the city had a "moral obligation" to pay the recruits in the tutoring program because they had given up their jobs and had made a real commitment to becoming police officers. They were paid at a lower rate than if they had passed the training course. While only blacks were in the special tutoring program, Mr. Troutman said that anyone who had had academic problems would have been offered the same opportunity.⁹⁴

The recruits going through the tutoring program had to go through the entire application process again according to Mr. Troutman. This was to avoid problems with seniority (which begins accruing when the recruit starts training) and also to give new applicants an equal chance at the vacancies. Mr. Troutman added that recruits who were accepted the second time would not be counted as part of the 40 percent minority goal.⁹⁵

The tutoring program for the five black officers who failed the classroom training was criticized by members of the Midwest Guardians. They said the fact that the recruits were paid caused resentment and charges of unfair treatment by other officers. One of the officers interviewed said if the

screening devices are good and testing and training procedures are fair and legal then the city should not be involved in the tutoring.⁹⁶

The final phase of the training for Omaha recruits is a period of policing with an experienced officer for on-the-job training that the police manual calls "coach-trainer field training."⁹⁷ According to the manual this training is to last twelve weeks.⁹⁸

The National Advisory Commission on Criminal Justice Standards and Goals recommends a minimum of four months field training in rotating shifts, districts and assignments.⁹⁹ The U.S. Commission on Civil Rights reported that in Houston recruits receive 14 weeks of such training and in Philadelphia 18 days.¹⁰⁰

Members of the Midwest Guardians criticized the selection of officers to serve as coaches for the September 1981 class. They asserted that for the first time the day shift was not involved in the field training and because almost all of the black officers are assigned to the day shift (assignment is based on seniority) this meant there were no black coaches. The Midwest Guardians were told the day shift field training had been eliminated because the new officers would not be assigned to days for at least ten years and therefore needed experience only on the other two shifts. As a result of the Guardians' protest, two young black officers with just one year of experience each were assigned as coaches. The officers feel this one year's experience is insufficient for coaching. They emphasized that they believe it is important for both the black and white recruits to have experienced black officers as coaches. They contend that this would promote understanding, acceptance, and enable black and white officers to work together and know each other as individuals.¹⁰¹ Seeing only white officers in these positions can reinforce existing prejudice, if any. If white recruits and officers can get to know black officers and recruits as individuals no different from

themselves then that feeling can carry over to their work in the community.¹⁰²

Because of the concerns noted above, the city is looking into various aspects of training and selecting police recruits.¹⁰³ Mr. Troutman stated that various aspects of the selection procedure and training are being reviewed by the personnel department. The curriculum, the possibility of civilian instruction, evaluation of instructors and the oral interview are all being "looked into." Mr. Troutman hopes that his department will be given clear authority to take control of the recruitment, testing and training for the police division. He believes he now has the legal authority under the city charter to do so but feels the procedures need to be studied before he can recommend changes.¹⁰⁴

Current Inservice Training

The Omaha police division provided 50 days of inservice training in 1979, 19 days in 1980 and 19 days in 1981. Two sessions, each 15 days, of "police instructor school" account for the large number of days in 1979. The school was not offered in 1980 or 1981.¹⁰⁵ The entire department received firearm training all three years but generally only a limited number of officers attend the different training programs.¹⁰⁶ Other training covered auto theft, advanced accident investigation, homicide investigation and highway safety.¹⁰⁷

Training that could impact on police-community relations included a stress management school attended by one officer, a public speaking school for the community services bureau which was attended by 12 officers and a human behavior program attended by 40 officers. The latter two training programs were in 1981, the stress management class had been in 1979. Aside from the human behavior program, no sensitivity training has been given in the last three years.¹⁰⁸

Several citizens interviewed for this study commented on the need for inservice sensitivity training. Bernice Dodd, director of Opportunities Industrialization Center (OIC), advocates sensitivity training for officers to make them familiar with black culture.¹⁰⁹ One group of citizens believe officers need training in appropriate behavior and language while performing their duties.¹¹⁰ Two citizens, while making the point that inservice sensitivity training is needed, added that local black leaders could be used as instructors.¹¹¹

Some officers may need training in handling spouse abuse and sexual assault cases, according to Mary Larsen, coordinator of the Women Against Violence Program in Omaha.¹¹² However, Ms. Larsen does not see any major problems in the way most officers handle victims of spouse abuse and sexual assault cases. Her organization is willing to assist in providing inservice and several years ago offered to do so. The offer was refused and it has made no recent attempts to contact the police division on the subject.¹¹³

Notes

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2. National Advisory Commission on Criminal Justice Standards and Goals, Police (Washington, D.C.: Government Printing Office, 1973), p. 330.
3. Ibid.
4. 42 U.S.C. 2000e (1976).
5. 31 C.F.R. Part 51, Subpart E (1981).
6. Neb. Rev. Stat. sec. 48-1119 (1979).
7. Omaha World-Herald, July 14, 1981.
8. Ibid.
9. Ibid.
10. Omaha World-Herald, Jan. 2, 1979.
11. Omaha World-Herald, Jan. 16, 1964.
12. Omaha World-Herald, Sept. 29, 1965.
13. Omaha World-Herald, Sept. 7, 1967.
14. Omaha World-Herald, Sept. 8, 1967.
15. Gary Troutman, comments on draft, Apr. 28, 1982 and City of Omaha, Affirmative Action Policy, Aug. 1, 1979.
16. City of Omaha, Affirmative Action Policy, Aug. 1, 1979, p. 19.
17. Gary Troutman, interview in Omaha, Dec. 9, 1981 and Gary Troutman, comments on draft, Apr. 28, 1982.
18. Brotherhood of Midwest Guardians v. City of Omaha, No. 79-0-528, consent decree at p. 4 (D. Neb. Oct. 23, 1980).
19. Joe Ramirez, interview in Omaha, Sept. 24, 1981 and I.C. Plaza, interview in Omaha, Sept. 24, 1981.
20. Sam Walker, interview in Omaha, May 27, 1981.
21. Sam Walker, letter to Gary Hill, Chairperson, Police-Community Relations Subcommittee, Nebraska Advisory Committee, Apr. 12, 1982.

22. Gary Troutman, interview in Omaha, Dec. 9, 1981.
23. Brotherhood of Midwest Guardians v. City of Omaha, No. 79-0-528, consent decree at p. 5, (D. Neb., Oct. 23, 1980).
24. Omaha Police Manual, Vol. I, Pers. 1-4, p. 1 and 1-5, p. 1 (Rev.) Sept. 1975.
25. Omaha Police Manual, Vol. I, Pers. 1-6, p. 1, (Rev.) Sept. 1975.
26. M. Lillian Bedell, memorandum to George E. Miller, Oct. 6, 1981.
27. Ibid.
28. George Miller, letter and attachments to staff, Apr. 2, 1982.
29. Ibid.
30. National Advisory Commission on Criminal Justice Standards and Goals, Police, Standard 13.3, p. 329.
31. Brotherhood of Midwest Guardians v. City of Omaha, No. 79-0-528, consent decree, p. 4 (D. Neb. Oct. 23, 1980).
32. Gary Troutman, interview in Omaha, Dec. 9, 1981.
33. George E. Miller, letter and attachments to staff, Apr. 2, 1982.
34. Gary Troutman, interview in Omaha, Dec. 9, 1981 and Marvin McClarty, James Patterson and Robert Dacus, interview in Omaha, Dec. 8, 1981.
35. Gary Troutman, comments on draft, Apr. 28, 1982.
36. Gary Troutman, comments on draft, Apr. 28, 1982 and interview in Omaha, Dec. 9, 1981.
37. Gary Troutman, interview in Omaha, Dec. 9, 1981.
38. Wilda Stephenson, telephone interview, Nov. 17, 1981; Fred Conley, interview in Omaha, Dec. 10, 1981.
39. Marvin McClarty, James Patterson and Robert Dacus, interview in Omaha, Dec. 8, 1981.
40. I.C. Plaza, interview in Omaha, Sept. 24, 1981 and Joe Ramirez, interview in Omaha, Sept. 24, 1981.

41. Gary Troutman, comments on draft, Apr. 28, 1982.
42. Rita Garcia, telephone interview, Nov. 11, 1981.
43. Mark A. Williams, memorandum to George Miller, Oct. 26, 1981.
44. Omaha World-Herald, June 30, 1981.
45. Omaha World-Herald, July 2, 1981.
46. Omaha World-Herald, Aug. 11, 1981.
47. Omaha World-Herald, Aug. 20, 1981.
48. Ibid.
49. Omaha World-Herald, Nov. 13, 1981; Gary Troutman, interview in Omaha, Dec. 9, 1981.
50. Gary Troutman, comments on draft, Apr. 28, 1982.
51. Gary Troutman, interview in Omaha, Dec. 9, 1981.
52. Mark A. Williams, memorandum to George E. Miller, Oct. 26, 1981.
53. Ibid.
54. Ibid.
55. Ibid.
56. Gary Troutman, interview in Omaha, Dec. 9, 1981.
57. Omaha World-Herald, Aug. 9, 1981.
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59. Clyde Christian, telephone interview, Nov. 12, 1981; Alvin Goodwin, telephone interview, Nov. 5, 1981; Bernice Dodd, interview in Omaha, Sept. 9, 1981; Joseph Forbes, interview in Omaha, Sept. 23, 1981; George Garnett, interview in Omaha, Aug. 8, 1981; Sonny Foster, interview in Omaha, Aug. 8, 1981; Luke Nichols, interview in Omaha, Aug. 27, 1981.
60. Omaha World-Herald, Aug. 6, 1981.
61. Clyde Christian, telephone interview, Mar. 18, 1982.
62. Omaha World-Herald, Sept. 30, 1981.
63. Ibid.

64. Omaha Star, Oct. 8, 1981.
65. Mike Boyle, interview in Omaha, Dec. 9, 1981.
66. Fred Conley, interview in Omaha, Dec. 10, 1981.
67. James E. Fellows, letter to Thomas E. Steven, Jan. 19, 1982.
68. Jack Swanson, interview in Omaha, Dec. 9, 1981.
69. Ibid.
70. James Patterson, Marvin McClarty and Robert Dacus, interview in Omaha, Dec. 8, 1981.
71. Gary Troutman, interview in Omaha, Dec. 9, 1981.
72. Fred Conley, interview in Omaha, Dec. 10, 1981.
73. Mary Jane Harvey, telephone interview, Nov. 13, 1981.
74. Fred Conley, interview in Omaha, Dec. 10, 1981.
75. James Patterson, Marvin McClarty, James Dacus, interview in Omaha, Dec. 8, 1981.
76. Gary Troutman, interview in Omaha, Dec. 9, 1981.
77. U.S. Commission on Civil Rights, Who Is Guarding the Guardians? (October 1981), pp. 23-29, 32-34.
78. Lt. Raymond Sorys, inter-office communication to Coordinator Alfred Pattavina, Jr., Oct. 7, 1981.
79. Ruth Jackson, interview in Omaha, Dec. 10, 1981.
80. James Patterson, Robert Dacus, Marvin McClarty, interview in Omaha, Dec. 8, 1981.
81. Omaha Police Manual, Vol. I, Con. 1-0, pp. 22-23, Sept. 1981.
82. Omaha Police Manual, Vol. I, Adm. 2-1, p. 1, March 1977.
83. Gary Troutman, interview in Omaha, Dec. 9, 1981.
84. James Patterson, Marvin McClarty, James Dacus, interview in Omaha, Dec. 8, 1981.
85. Gary Troutman, comments on draft, Apr. 28, 1982.

86. Marvin McClarty, James Patterson and Robert Dacus, interview in Omaha, Dec. 8, 1981.
87. Ibid.
88. Gary Troutman, interview in Omaha, Dec. 9, 1981.
89. Marvin McClarty, James Patterson, Robert Dacus, interview in Omaha, Dec. 8, 1981. In commenting on the draft, Mr. Troutman said that the personnel department had offered to review the tests but had no response. However, the department believes it could be of some assistance and is ready to give assistance, Gary Troutman, comments on draft, Apr. 28, 1982.
90. Gary Troutman, interview in Omaha, Dec. 9, 1981.
91. Gary Troutman, interview in Omaha, Dec. 9, 1981 and Omaha World-Herald, Nov. 11, 1981.
92. Gary Troutman, interview in Omaha, Dec. 9, 1981.
93. Marvin McClarty, James Patterson and Robert Dacus, interview in Omaha, Dec. 8, 1981.
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96. Marvin McClarty, James Patterson, Robert Dacus, interview in Omaha, Dec. 8, 1981.
97. James Patterson, Robert Dacus and Marvin McClarty, interview in Omaha, Dec. 8, 1981 and Omaha Police Manual, Vol. I, Trng 4-1, p. 1, November 1977.
98. Omaha Police Manual, Vol. I, Trng 4-1, p. 1, November 1977.
99. National Advisory Commission on Criminal Justice Standards and Goals, Police (1973), p. 392.
100. U.S. Commission on Civil Rights, Who Is Guarding the Guardians? (October 1981), p. 25.
101. James Patterson, Marvin McClarty and Robert Dacus, interview in Omaha, Dec. 8, 1981.

102. Ibid.
103. Erven McSwain, interview in Omaha, Dec. 9, 1981.
104. Gary Troutman, interview in Omaha, Dec. 9, 1981.
105. Lt. Raymond P. Sorys, inter-office communication to Coordinator Alfred P. Pattavina, Jr., Oct. 7, 1981.
106. Ibid.
107. Ibid.
108. Ibid.
109. Bernice Dodd, interview in Omaha, Sept. 24, 1981.
110. Francis Smith and others, interview in Omaha, Aug. 27, 1981.
111. Alvin M. Goodwin, Jr., telephone interview, Nov. 5, 1981 and Luke Nichols, interview in Omaha, Aug. 27, 1981.
112. Mary Larsen, interview in Omaha, Aug. 26, 1981.
113. Ibid.

CHAPTER 4USE OF FORCE

The National Advisory Commission on Criminal Justice Standards and Goals has stated that:

Every police agency should define situations in which force is permitted, establish a range of alternatives to its use, and restrict it to the minimum amount necessary to achieve lawful police objectives.¹

Deadly Force

The importance of policies on use of force, especially deadly force, was stressed by the U.S. Commission on Civil Rights in its report on police practices:

Clearly-defined policies and guidelines are vital in the sensitive area of police use of deadly force because an officer may not have even a few seconds in which to assess the situation and decide whether to fire. There is little opportunity to determine the nature of the offense committed, the identity and age of the suspect, the reason for his flight, or whether he is carrying a weapon. Snap judgments on these factors often lead to tragic, unnecessary shootings and loss of life. Moreover, since this is a fleeing suspect, authorizing the officer to shoot essentially makes a police officer the prosecutor, jury, sentencing judge, and executioner, all in one moment.²

Use of firearms, deadly force, by police officers has always been a matter of concern for minorities. Paul Takagi, commenting in Crime and Social Justice on the disproportionate number of black persons killed by police officers nationwide, stated that "police have one trigger finger for whites and another for blacks."³

Nebraska is one of the States which has adopted the Model Penal Code on use of force.⁴ This means that the decision to use deadly force is based on the danger presented by the actions of the suspect, not the crime committed. This contrasts with the common law rule which allows deadly force to be used against any person suspected of committing a felony. The problem with the common law rule which has been codified by many States, is that today there are many more crimes than in the past, some not dangerous, that are classified as felonies.

The Nebraska law states that deadly force is not justified unless:

- (a) The arrest is for a felony;
- (b) Such person effecting the arrest is authorized to act as a peace officer or is assisting a person whom he believes to be authorized to act as a peace officer;
- (c) The actor believes that the force employed creates no substantial risk of injury to innocent persons; and
- (d) The actor believes that:
 - (i) The crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or
 - (ii) There is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed.⁵

Adoption of the Model Penal Code by the State in 1972 has not prevented Omaha police from being involved in controversial incidents regarding the use of force.

In January 1974 a police officer shot and wounded a 15-year-old who was fleeing from a stolen car. Eyewitness accounts of the incident varied. Some stated that the officer firing the shot was within grabbing distance of the youth when he fired. Others stated that another officer chasing the youth was in grabbing distance. One person stated that the officer who fired the shot had yelled a racial slur at the youth before firing. Then Chief Richard Andersen stated that the officer was authorized to fire because he was attempting to prevent escape of a felony suspect, even though he acknowledged such offenses are frequently reduced to misdemeanor charges. He asserted that "If the crime later is determined to be less than a felony, that does not take away the officer's right to make a felony arrest."⁶

There was a series of incidents in the summer of 1974. On June 6 the police were involved in a shootout with a sniper in the course of which one officer was killed and several others seriously wounded.⁷ In the aftermath, a black woman was shot by an officer in the course of her arrest for disorderly conduct. The officer was accused by the division of not giving an

accurate account of the shooting and dismissed.⁸ In an unrelated incident on June 9, a black man was fatally shot by a police officer during the course of an investigation of a disturbance. The officers stated the man fired at them first. His wife gave conflicting evidence; she told police she was asleep throughout the incident but she told the press the officer had fired first, and for no apparent reason.⁹

In August 1975 two Omaha police officers answering a call of a burglary in progress at a service station shot and killed Roy Lee Landrum as he fled from the scene. Landrum's mother filed a civil rights action pursuant to 42 U.S.C. sec. 1983(1976) against the two officers. Neither officer ever asserted that Landrum had used or threatened to use deadly force in commission of a felony or that he posed a threat to their safety or the safety of anyone else. The officers based their defense on a good faith reliance on the police division's policy then in effect. This policy, in contradiction of the State law, allowed firearms to be used when the officer had reasonable grounds to believe a felony had been committed. The appellate court determined that under the State law, excessive force had been used by the officers but that the validity of their good faith defense was a jury issue. A new trial was ordered.¹⁰ The case was settled, though, before it came to trial again.¹¹

In 1976 a police officer who shot at a fleeing car from his cruiser was accused of "poor judgment" by then Police Chief Andersen but was cleared of violating police procedures. Chief Andersen stated that while shooting at a fleeing felon was appropriate, doing so when there was minimal chance of hitting him was not.¹² The incident provoked protests from north Omaha residents who contended that the chief's characterization of the shooting as "poor judgment" would encourage "dangerous, unprofessional actions."¹³

In January 1977 a police officer fatally shot a suspect fleeing from an investigation. The chief attempted to fire the officer for failing to run a

license check that would have disclosed the suspect was wanted on a felony conviction. The personnel board voted to reinstate the officer.¹⁴

According to statistics provided by the Omaha police division there were no fatal firearm discharges in 1978. However in 1979 there were two fatalities.¹⁵ In August 1979 the fatal shooting of a black Omaha resident again sparked controversy, although the police ruled that the officer acted in self defense. In September 1979 two officers, responding to a report of a gun having been fired, fatally shot a northside Omaha resident after he fired and wounded one of them.¹⁶

Statistics provided by the Omaha police division indicate there were six incidents in 1980 when officers fired their weapons. Two of the incidents were categorized as "animals destroyed." There was one accidental discharge but no injuries or fatalities were recorded for the year.¹⁷

There were three incidents in 1981 when firearm discharges caused injuries or death. In September a plainclothes detective was shot by another officer who mistook the detective for a fleeing burglary suspect. In October a burglary suspect was shot and killed by officers after an extensive chase. The suspect had shot at police during the chase and was fired upon when he continued approaching the officers with a loaded shotgun.¹⁸ Later in October an officer was accidentally shot by another officer during an exchange of fire with a burglary suspect and police. The suspect was fatally wounded.¹⁹

The Omaha police division has a written policy on the use of firearms, dated March 1981, which follows the State law and gives specific guidelines. The guidelines, found under the rules of conduct in the police manual, provide:

The sidearm is a Police Officer's professional tool. He must keep himself as adept and skillful in its use as possible for the protection of the public as well as his own personal protection. He must exercise the greatest caution in the use of such firearm, not only to avoid injuring innocent persons, but to avoid firing unnecessarily.

An officer of the Omaha Police Division may use his firearm in the performance of duty for any of the following reasons:

- (a) To defend himself from death or serious injury.
- (b) To defend another person from death or serious injury.
- (c) To effect the arrest or capture, or prevent the escape or rescue, of a person whom the officer knows or has reasonable grounds to believe has committed a felony, when the crime for which the arrest is made involves conduct including use or threatened use of deadly force or when there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed when:[sic]

- (1) Such force may only be exercised when all reasonable alternatives have been exhausted and must be based only on facts or what reasonably appear to be the facts known to the officer at the moment he shoots. It is not practical to enumerate specific felonies and state with certainty that the escape of the perpetrator must be prevented at all costs or that there are other felonious crimes where the perpetrator must be allowed to escape rather than shoot him. Such decisions are based upon sound judgment, not arbitrary check lists.
- (2) An officer shall not shoot at a fleeing felon whom he has reasonable grounds to believe is a juvenile. However, when the escape of such a suspect can reasonably be expected to pose a serious threat to the life of another person, then, under these circumstances, an officer may shoot to prevent the escape of such person.
- (3) A locally stolen vehicle that is not connected with any other felonious crime should not be considered a violation which would permit the "use of deadly force." Deadly force should not be used in effecting the arrest or capture of perpetrators of this crime.
- (4) The "use of deadly force" is prohibited in the apprehension of parties suspected of felony traffic violations.²⁰

Nondeadly Use of Force

While arguably the city has sufficient policies on the use of deadly force to prevent unnecessary use of firearms, there is no written policy on the use of nondeadly force. Another section in the rules of conduct provide what little guidance can be found in the police manual:

No officer or employee of the Division shall abuse, orally or physically, any person in his custody, or any other person during the performance of his duty. He shall use only such force as may be reasonably necessary to effect an arrest, to defend his person, or to defend the person of another.²¹

Nebraska State law regarding use of force generally provides that the use of force is justifiable if the officer believes such force is immediately necessary to effect a lawful arrest. Under the statute the use of force is not justified unless:

(a) The actor makes known the purpose of the arrest or believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and

(b) When the arrest is made under a warrant, the warrant is valid or believed by the actor to be valid.²²

Acting Chief Jack Swanson told staff that the officers are indoctrinated and trained regarding the amount of force necessary to effect arrest and maintain the peace. He said that rather than depend on detailed written policies, he preferred to rely on the discretion of the individual officers and their knowledge of the law. Acting Chief Swanson summarized his interpretation of the requirements on the use of force by saying that officers can use whatever force is necessary to prevent injury to themselves and others.²³

George Ernce, president of the police union, when asked about the police division's written policies on use of force stated that he personally relied on the State law. He did not believe the division needed any more written policies on the use of force.²⁴

Some Omaha residents disagree. A.B. "Buddy" Hogan said that he thought there were situations where more force than necessary had been used by the police. Mr. Hogan complained that there are no escalation of force provisions for police officers to follow.²⁵ Clyde Christian alleged that in the last two years there had been an increasing number of incidents of brutality.²⁶ Wilda Stephenson said she thought confrontations between the police and blacks had increased in the recent months.²⁷ Wayne Tyndall, director of the American Indian Center of Omaha, alleged that police officers use excessive force when arresting American Indians. He also asserted that, when there is no other reason to arrest an American Indian suspect, officers will harass suspects until they physically react and then arrest them on assault charges.²⁸

Within the last several years the Omaha World-Herald has reported several incidents of alleged use of excessive force. In a 1977 incident, white

residents alleged excessive force was used when they were arrested. The police division officially cleared the officer of any wrongdoing.²⁹

In 1980 a black motorist, arrested for disorderly conduct, driving without a license and resisting arrest, alleged that the arresting officer used excessive force. The officer was cleared by the police division of any wrongdoing. The same officer was involved in a shooting incident in 1977 which left the black suspect dead. He was cleared by the police division of any wrongdoing in that episode.³⁰

A north side Omaha man, charged in 1980 with use of terroristic threats, brought suit in mid-1981 against six Omaha police officers for excessive use of force. The charges against the plaintiff were dismissed. The police reported that two of the officers accused were injured in the incident.³¹ The case is still in the discovery stage.³²

While written policies on escalation of force will not end confrontations between police and the minority community, the policies may decrease the allegations of use of excessive force when those confrontations occur.

In Model Rules for Law Enforcement Officers, A Manual on Police Discretion, copyrighted in 1974 by the International Association of Chiefs of Police, model rules governing escalating use of force are indicated.

Whenever a police officer finds it necessary to use nondeadly force to achieve a lawful police objective, it shall be incumbent upon that officer to exhaust every reasonable means of employing the least [original emphasis] amount of force to effect the purpose before escalating to the next, more forceful method. However, nothing in this rule shall be interpreted to mean that an officer is required to engage in prolonged hand-to-hand combat or struggle rather than resort to that method which will most quickly and safely bring the arrestee under control.³³

The lowest, least drastic method of a police officer using force would be physical strength and skill (holding, throwing, restraining, pushing, pulling...) Physical prowess is a reasonable method of overcoming the resistance of a person who is unarmed or simply failing to abide by the officer's lawful command to submit.

There are few situations where an officer should resort to any force greater than physical prowess.

Chemical mace should be used only if physical strength and skill are ineffective or impractical.

In instances where physical strength and skill or mace are ineffective or their use might constitute a danger to the officer or a third party, the officer is justified in using the baton or sap to overcome resistance and to end the conflict.

The application of the baton is considered the most drastic form of nondeadly force. It must be used judiciously and only if lesser methods have failed or their use would be impractical.³⁴ As a basic rule, firearms should be utilized only [original emphasis] in self-defense or in defense of another against death or grievous bodily harm.³⁵

Notes

1. National Advisory Commission on Criminal Justice Standards and Goals, Police (Washington, D.C.: Government Printing Office, 1973), p. 18:
2. U.S. Commission on Civil Rights, Who Is Guarding the Guardians? (October 1981), p. 37.
3. Paul Takagi, "A Garrison State in a 'Democratic Society,' " Crime and Social Justice, (Summer 1974), p. 30, note 1. The issue of police shootings is surveyed in John S. Goldkamp, "Minorities as Victims of Police Shootings: Interpretations of Racial Disproportionality and Police Use of Deadly Force," The Justice System Journal, Vol. II, Issue 2 (Winter 1976), pp. 169-83.
4. Model Penal Code, sec. 1307(2)(b)(i)(IV)(Proposed Official Draft, 1962).
5. Neb. Rev. Stat. sec. 28-834, 1972.
6. Omaha World-Herald, Jan. 29, 1974.
7. Omaha World-Herald, June 14, 1974.
8. Omaha World-Herald, June 12, 1974.
9. Omaha World-Herald, June 10, 1974.
10. Landrum v. Moats, No. 77-1656, (8th Cir. May 30, 1978).
11. Landrum v. Moats, No. 75-0-440, (D. Neb. Feb. 8, 1979).
12. Omaha World-Herald, June 1, 1976.
13. Omaha World-Herald, June 8, 1976.
14. Omaha World-Herald, Jan. 25, 1977 and Sept. 24, 1979.
15. Data supplied by Omaha Police Division, on file at CSRO.
16. Omaha World-Herald, Sept. 21, 1979; Sept. 24, 1979.
17. Data provided by the Omaha Police Division, on file at CSRO.
18. Omaha World-Herald, Oct. 18, 1981.
19. Omaha World-Herald, Feb. 24, 1982.
20. Omaha Police Manual, Vol. I, Pers. 2-3, p. 2, March 1981.
21. Omaha Police Manual, Vol. I, Pers. 2-2, p. 2 (Rev.) Sept. 1975.

22. Neb. Rev. Stat. sec. 28-839, 1972.
23. Jack Swanson, interview in Omaha, Dec. 9, 1981.
24. George Ernce, interview in Omaha, Dec. 10, 1981.
25. A.B. Hogan, interview in Omaha, May 27, 1981.
26. Clyde Christian, telephone interview, Nov. 12, 1981.
27. Wilda Stephenson, telephone interview, Nov. 17, 1981.
28. Wayne Tyndall, telephone interview, Nov. 5, 1981.
29. Omaha World-Herald, Aug. 22, 1977; Oct. 26, 1977.
30. Omaha World-Herald, Oct. 23, 1980; Oct. 25, 1980; Oct. 27, 1980.
31. Omaha World-Herald, July 15, 1981.
32. Tappan v. Coufal, No. 81-0-0367 (D. Neb. July 14, 1981).
33. Model Rules for Law Enforcement Officers, A Manual on Police Discretion (IACP, 1974), pp. 138-39.
34. Ibid., pp. 140-42.
35. Ibid., p. 143.

CHAPTER 5POLICE-COMMUNITY COMMUNICATION

The information collected by the Advisory Committee and others indicates a profound disparity in perception of police activity.

Past Community Attitudes

Minority complaints about police behavior and hostility to the police have a long history. The earliest reports of it in the files of the Omaha Public Library date back to 1965.

In October 1965 Homer C. Floyd, executive director of the city human relations board, reported that "tremendous hostility" against the police was developing among the black residents of northside Omaha.¹ A list of grievances was developed by the Northside Police-Community Relations Council whose members included Ernest Chambers, William Mitchell, Mrs. Robert Gibson, Rev. Wilkinson Harper and George Crenshaw. These focused on lack of police courtesy toward blacks--referring to them as "nigger", "boy", "gal"; arrests without apparent justification; use of force as a result of verbal abuse or to obtain information or to punish a suspected offender; random searches without apparent cause; harassment by the vice squad; harassment and intimidation of children on the streets; placement of radar in places that interfere with private businesses; failure to process complaints; failure to respond to calls for assistance from the black community; and, failure to respond to citizen requests for information about arrests.² The police division either stated these accusations were not justified or offered a legal explanation for the practice.³

In July 1966, the views of the black community again became of interest to the media in the aftermath of a weekend of civil unrest. Many concerns were cited as causing the riots. Demands presented to the city by blacks after the riot included "a change in police attitudes."⁴

In March 1968 black leaders again complained that an officer who fatally shot a black youth inside a looted pawnshop was not suspended during the investigation and that police used their clubs and mace indiscriminantly against black demonstrators at a George Wallace rally.⁵ Later in that month a black youth was charged with criminal libel when he distributed a handbill accusing two officers of being racists and using excessive force.⁶ A report by the city's human relations board, published in June 1968, stated that "it is a simple fact that most Negro citizens do not believe that we have equal law enforcement...."⁷

Also in 1969 a black organization called "The Matched Sets" conducted an extensive survey of black opinion in which it interviewed 641 black residents of the northside and 51 white residents of the area. The results were reported separately for older people (361 persons) and younger people, under the age of 19 (331 persons). Three-quarters of the younger people thought the police were not courteous. Over 60 percent had heard of incidents of police brutality and more than three-quarters believed the police used excessive and unjustified force. A little less than half thought the 1968 riots were justified. A little more than half did not think police-community relations had improved in the past few years. Over 60 percent of the older people interviewed thought the police were not courteous. Over 80 percent had heard of incidents of police brutality and 60 percent believed the police used excessive and sometimes unjustified force. About 70 percent of those interviewed thought the 1968 riots were justified. About half thought that police-community relations had not improved in the past few years.⁸ Then Police Chief Richard Andersen asserted that out of 140,000 cases involving police contact with citizens in a one year period, only 10 resulted in complaints of police mistreatment.⁹

In early 1970 two incidents of alleged police abuse were reported to the city's human relations board.¹⁰ In August 1970 the bombing death of a white

police officer led Roger Sayers, then director of the city human relations department, to urge black citizens to keep cool, despite the widely held view in the community that the police had increased their arrests in the area with the intention of clearing the streets.¹¹ The incident also reinforced anti-black feeling, according to then police-community relations coordinator Al Pattavina. Patrolman Marvin McClarty, a black officer and member of the community relations unit, stated at the time that the police reflect the general attitude of the community towards blacks.¹²

In 1970 the League of Women Voters of Omaha surveyed businessmen, religious leaders, city hall personnel, minority group members, high school students, young adults, police officers and league members. (There is no indication of how many were surveyed.) At that time two out of every three persons interviewed stated that police-community relations were "only fair or poor or bad." All minority respondents and all but one of the high school students, religious leaders and young adults believed relations were bad. However, all but one of the respondents from the police division, all but one of the respondents from city hall and a majority of the businessmen respondents believed relations were good.¹³

In the aftermath of a 1974 shootout between police and a black gunman, resulting in the death of an officer and the gunman, black ministers urged that "policemen are going to have to stop thinking of themselves as little tin gods and the community will have to stop looking upon policemen as being their arch enemy." One minister suggested that race relations in Omaha had become worse than those in the south.¹⁴

In its 1975 report to the mayor, the Mayor's Task Force on Police-Community Relations, Community Concerns Subcommittee, stated:

There is a mutual lack of respect between the Omaha Police Division and significant numbers of the young, minority, poor, and in some cases elderly Omahans. This lack of respect makes positive police-community relations a sham.

After obtaining the views of many Omahans through public hearing testimony, personal interviews and telephone inquiries, the committee has concluded that this lack of respect must be dealt with promptly if the city is to have effective and humane law enforcement.

To be sure, not all lack of respect is based on documentable facts. Some of the mistrust is based on peoples' feelings. But fact or feeling, the rift between some citizens and officers is there.

Findings--Broadly described, citizens' complaints about Omaha police fall into these categories:

--There is a tendency for officers in the largely white police force to use excessive force and/or discourtesy when they stop minority persons.

--When an incident occurs in minority and poor communities, there is invariably too much show of force by the police. This distorted presence only helps fuel existing tensions.

--The committee found many minority and poor citizens who believe police are not there to protect them, but to protect the white community.

--A corollary point is the distinct feeling that there is a dual system of justice in Omaha. Many Omahans heard by the committee believe that police officers allow prostitution, street gambling and their own misuse of firearms to flourish in poorer neighborhoods when they wouldn't tolerate it in more affluent neighborhoods. Similarly, many people believe suspects or law violators are handled one way in affluent neighborhoods and in another, harsher way in minority and poor neighborhoods.

--When citizens do make complaints about police conduct, they generally believe nothing will be done about alleged police wrongdoing. They feel complaints are ignored.

--Most minority citizens are sure that most of Omaha's white police officers are racist to one degree or another. Police officers, according to our task force survey, don't believe minority and poor citizens support them. This makes it almost impossible for viable police-community relations.¹⁵

The newspaper files do not show any reviews of community perceptions between 1975 and 1980. But then interest recurred. Although then Chief Andersen did not think relations between the police and community had deteriorated, State Senator Ernest Chambers pointed out that there had been a number of incidents in which the police had used excessive force. He said that there were a few officers who were highly prejudiced and blamed then Mayor Al Veys and Chief Andersen for failing to control these men.¹⁶ His

concerns were shared by four veteran black police officers interviewed by the World-Herald. They pointed out that as race relations became less visibly tense many of the police-community relations initiatives of the city had been abandoned and that their absence contributed to a rise in hostility. They thought merely by properly disciplining the few officers responsible for allegations of brutality much of the tension could be reduced. The mayor, chief of police and president of the Omaha police union denied there were any problems.¹⁷ The World-Herald, commenting editorially, stated "There exists within the black community an impression that its complaints are not handled properly within the Police Department. Whether this be true or not, the impression and suspicion become deeper with each incident."¹⁸ Then deputy police chief Joseph Friend commented that "The respect for policeman just isn't there anymore. It's a sign of the times. Respect for authority is declining and the policeman is taking the brunt of it." He pointed out that "Some people believe that policemen are brutal and they think they will be brutalized, so they react before anything happens."¹⁹

Commenting on charges made by the black community of police misconduct, former mayor Al Veys said that "inflammatory comments about possible problems between police and blacks do nothing to help solve problems."²⁰ He was responding to allegations by a black minister that "We have youngsters beaten, we have mothers propositioned by white officers. We've pointed this out to your city officials and they still refuse to believe us."²¹

Current Community Attitudes

Current community attitudes toward the police cover a broad spectrum of opinion. Some express fear, others ambivalence, and others support.

Wilda Stephenson stated that the "police instill an attitude of fear instead of protection."²² Robert Broom stated that a sizable portion of the black community does not trust the police, and that there are also feelings of

fear and disrespect toward police officers. But Mr. Broom did point out that there are parts of the black community which support the police.²³ Joe Ramirez, director of the Chicano Awareness Center, stated that the Hispanic community sees the police as the enemy, although he also said he did not hear of many problems with the police from the Hispanic community.²⁴ I.C. Plaza, an Omaha resident and chairperson of the Nebraska Mexican American Commission stated that he did not hear complaints from the Hispanic community in Omaha about police but added that the city's Hispanic population is so dispersed that perhaps no pattern of problems emerges or gains attention.²⁵ One group of community residents told staff that they were unhappy about what they viewed as unnecessary roughness used by police to arrest teenagers for minor offenses.²⁶ Bernice Dodd, director of Omaha's Opportunity Industrial Center (OIC) and a long time resident of Omaha, concluded that the residents of North Omaha are as afraid of the police as the police are of North Omaha.²⁷

The minority communities perceive the police as often hostile to them. Typical of this view was the statement by the president of the local NAACP, James Hart, that police officers have a preconceived fear of blacks which causes them to overreact in some cases. Blacks, on the other hand, fear the police and expect mistreatment.²⁸ One citizen stated that police do not believe they have to do anything about crime in the black neighborhoods because blacks do not have any political clout.²⁹ George Garnett, director of North Omaha Community Development, Inc., stated that the community perceives the police as "potentially dangerous to their health" but also realize they need the police, explaining that good police-community relations and good police protection translate into economic development which the black community needs. He noted some improvement since March 1981 which he attributed to the new city administration.³⁰ A black police officer stated that the lack of witnesses to crimes in the black community is evidence not

that there are no witnesses but that people do not know or trust police and therefore do not come forward.³¹

Luke Nichols, a member of the Interdenominational Ministerial Alliance, stated that police brutality was never a serious problem, rather the problem is unequal treatment such as stopping only black citizens for routine traffic checks or not taking crime in the black community seriously. He stated that the community wants the "after hours joints," gambling and drug dealing out of the community but they also want the police to respect everyone's rights when they come into the community.³²

Sonny Foster, a member of the Board of Directors of Urban League, stated that he believes the black community is more supportive of the police than any other segment of Omaha. Mr. Foster asserted that black citizens want crime out of their neighborhoods but they also want their constitutional rights respected.³³ Similar sentiments were expressed by Wayne Tyndall, Director of the American Indian Center of Omaha. Mr. Tyndall said he realized that in encounters with the police American Indians were not entirely blameless, but even if there is cause for arrest, they should be treated fairly and not harassed.³⁴

Many in the community expressed support for the police. Rita Garcia of the Indian-Chicano Health Center reported her clients had not complained about the police and that she thought bilingual services were adequate.³⁵ Mr. Plaza said he thought the Hispanic community sees the police as friendly and helpful and that bilingual services are adequate.³⁶ Mr. Ramirez, however, was of the opinion that language problems do occur that cause simple situations, like issuing a traffic ticket, to escalate into serious problems.³⁷ Debbie Brockman, coordinator of a coalition of neighborhood associations called IMPACT, told staff that on the whole people are sympathetic to the police and understand what they face on the street. She

believes the community wants more personal contact and "humanism" from the officers.³⁸ Carl Christian of the Bedford Place Neighborhood Council told staff that members of the neighborhood association are satisfied so long as they are treated with respect.³⁹ Elbert Ross of the Binney-West-Spencer Neighborhood Association told staff he was brought up at a time when "you knew if you did wrong you would go to jail." He believes people should realize law enforcement officers have a job to do.⁴⁰

Several community leaders agreed with George Garnett who said the new public safety director, Joe Friend, gave the impression of being responsive and accessible and was sensitive to the issues involved in police-community relations.⁴¹ Two people, James Hart of the NAACP and Debbie Brockman, coordinator of IMPACT, noted that the new public safety director is trying to improve police-community relations by communication with the black community--attending community meetings and making public statements in support of change.⁴² Several citizens expressed the opinion that the current city administration appeared to be more concerned about police-community relations than others in the past.⁴³

Many interviewed said the police chief and other city officials set the tone for the police division when dealing with citizens, that in effect the attitude of the officer on the street reflects the attitude of their supervisors.⁴⁴ Robert Broom commented that a new chief will have to make clear that racial slurs, verbal abuse, excessive force and similar tactics will not be tolerated and that offending officers will be disciplined.⁴⁵ Alvin Goodwin, Jr., of the Omaha Economic Development Corporation and Mary Jane Harvey, Associate Executive of the Presbytery of Missouri River Valley, expressed similar sentiments.⁴⁶

Commenting on the current status of relations from the point of view of the police, Acting Chief Jack Swanson said the number one goal of the division

is "maintaining an orderly city." He said that "every attempt is made to get people to like the way we do it." He remarked that it is difficult to know how many of the problems with police community-relations are perceived and how many are real. However, the acting chief said if police-community relations are perceived as bad then there is still a serious problem in the area. He said that in Omaha "there is a feeling--a perception that police officers are insensitive to minorities."⁴⁷ Bernie Simon, president of the Omaha city council, said that while he believes some improvement could be made in police-community relations, he does not believe the situation is as bad as some people think.⁴⁸ Omaha Mayor Mike Boyle told staff that on police-community relations, "we have a long way to go" but he believes improvement is being made.⁴⁹

Notes

1. Omaha World-Herald, Oct. 1, 1965.
2. Sun, Dec. 9, 1965.
3. Ibid.
4. Sun, July 7, 1966.
5. Omaha World-Herald, Mar. 9, 1968.
6. Omaha World-Herald, Mar. 27, 1968.
7. Omaha World-Herald, July 9, 1968.
8. Sun, Sept. 4, 1969.
9. Omaha World-Herald, Aug. 20, 1969.
10. Omaha World-Herald, Jan. 30, 1970.
11. Omaha World-Herald, Aug. nd, 1970.
12. Sun, Nov. 26, 1970.
13. League of Women Voters, A Study of Police-Community Relations in Omaha, Publication No. 71-1, 1970.
14. Omaha World-Herald, June 8, 1974.
15. Mayor's Task Force on Police-Community Relations, The First Report and Recommendations of the Mayor's Task Force on Police-Community Relations, p. 1, Feb. 20, 1975.
16. Omaha World-Herald, Jan. 14, 1980.
17. Omaha World-Herald, Feb. 10, 1980.
18. Omaha World-Herald, Oct. 24, 1980.
19. Omaha World-Herald, Nov. 6, 1980.
20. Omaha World-Herald, Nov. 12, 1980.
21. Ibid.
22. Wilda Stephenson, telephone interview, Nov. 17, 1981.
23. Robert Broom, interview in Omaha, Sept. 24, 1981.
24. Joe Ramirez, interview in Omaha, Sept. 24, 1981.

25. I.C. Plaza, interview in Omaha, Sept. 24, 1981.
26. Francis Smith and others, interview in Omaha, Aug. 27, 1981.
27. Bernice Dodd, interview in Omaha, Sept. 24, 1981.
28. James Hart, interview in Omaha, Aug. 27, 1981.
29. Sonny Foster, interview in Omaha, Aug. 28, 1981.
30. George Garnett, interview in Omaha, Aug. 28, 1981.
31. Marvin McClarty, interview in Omaha, Sept. 23, 1981.
32. Luke Nichols, interview in Omaha, Aug. 27, 1981.
33. Sonny Foster, interview in Omaha, Aug. 26, 1981.
34. Wayne Tyndall, telephone interview, Nov. 5, 1981.
35. Rita Garcia, telephone interview, Nov. 10, 1981.
36. I.C. Plaza, interview in Omaha, Sept. 24, 1981.
37. Joe Ramirez, interview in Omaha, Sept. 24, 1981.
38. Debbie Brockman, interview in Omaha, Aug. 26, 1981.
39. Carl Christian, interview in Omaha, Aug. 28, 1981.
40. Elbert Ross, interview in Omaha, Sept. 24, 1981.
41. George Garnett, interview in Omaha, Aug. 28, 1981.
42. James Hart, interview in Omaha, Aug. 27, 1981; and Debbie Brockman, interview in Omaha, Aug. 26, 1981.
43. Dorothy Galloway, interview in Omaha, Aug. 27, 1981; Luke Nichols, interview in Omaha, Aug. 27, 1981; George Garnett, interview in Omaha, Aug. 28, 1981; Jerry Elrod, interview in Omaha, Sept. 23, 1981; Joseph Forbes, interview in Omaha, Sept. 23, 1981; Sonny Foster, interview in Omaha, Aug. 8, 1981.
44. George Garnett, interview in Omaha, Aug. 8, 1981; Marvin McClarty, interview in Omaha, Sept. 23, 1981; Alvin Goodwin, Jr., telephone interview, Nov. 5, 1981; Marvin McClarty, Robert Dacus, James Patterson, interview in Omaha, Dec. 8, 1981.

45. Robert Broom, interview in Omaha, Sept. 24, 1981.
46. Alvin Goodwin, Jr., telephone interview, Nov. 5, 1981 and Mary Jane Harvey, telephone interview, Nov. 13, 1981.
47. Jack Swanson, interview in Omaha, Dec. 9, 1981.
48. Bernie Simon, interview in Omaha, Dec. 11, 1981.
49. Mike Boyle, interview in Omaha, Dec. 9, 1981.

CHAPTER 6POLICE-COMMUNITY RELATIONSHistory of Police-Community Relations

In February 1966 the city began discussions about a new position within the police division--police-community relations coordinator--to head a community services bureau.¹ In March 1966 the city council approved the proposal but not without opposition, one council member maintaining the position was not needed and that "The lines of communication are open."² The first coordinator was appointed a month later and was put in charge of recruit and in-service training as well as development of a police-community relations program.³

This was not the first time the issue of police-community relations was addressed by the police division, however. In 1956 then Police Chief Harry Green stated he would ask the police commissioner and mayor to appoint a "citizen's police committee" which he proposed should meet monthly to "study all phases of police-community relations." The plan included representation of minority groups on a body which would promote clear relations between the police division and the public.⁴ No further reports of the "citizen's police committee" were found in the city library's newspaper files. In 1964 the files show that a Police Advisory Board, reported as recently established, held hearings on an allegation of police abuse. This group, however, was composed entirely of police officers.⁵ In November 1965 the Sun newspaper reported on a series of meetings on the South, East and Near North sides of Omaha at which the police division sought to establish a dialogue with the community. After relatively peaceful meetings on the South and East sides, police officials reported they had not anticipated the wide ranging criticism they heard from the black community.⁶

In March 1967 Inspector Al Pattavina was assigned the job of police-community relations coordinator. At that time the purpose of the

program was "to create awareness on the part of the public as to the nature of the problem we face--to get them involved."⁷ The World-Herald reported that "Much of Pattavina's effort will center on improving the police 'image' in the city's Negro ghetto area, scene of racial violence last summer."⁸ As part of this effort, the police proposed a ride-along program, expansion of the Police Activities League, more cooperation between the police and the schools, creation of a speakers bureau, and possible increased use of beat policemen.⁹ In July 1967 the police opened a branch office at 2218 North 24th Street to provide direct communication between the police and the black community.¹⁰

In late 1969 the police department added a southside facility to its outreach center network.¹¹

In November 1969 the International Association of Chiefs of Police (IACP) prepared a report on police operations in the city that included significant comments on race relations. The IACP urged expansion of the police-community relations program. They reported that:

IACP consultants received the impression that the rank and file in the Omaha Police Division look upon the concept of police-community relations as an isolated function completely divorced and distinct from routine police operations.

A police-community relations program will fail miserably if police officers are uninvolved and have little or no understanding of the larger objectives....

The citizen must cooperate with the police, understand and accept his responsibilities in a democratic society and observe laws and regulations adopted for the common good.

Those with the influence and moral authority to promote changes must contribute their abilities. The police cannot function in a vacuum.

The most brilliantly conceived and precisely implemented program will be ineffective if other social ills are not cured and if the community as a whole is unsympathetic to the aspirations of deprived persons.¹²

IACP stated that all Omaha policemen

must be thoroughly indoctrinated in the purposes and objectives of such programs, or they will assuredly fail. The police must be convinced that such a program is valuable not only to the community but to the police as well.¹³

However, the IACP urged abolition of the position of police-community relations coordinator because its occupant had become virtually an assistant chief of police, compromising the control of the chief over the division's operations. The report also stated that the position had been specifically created for a former chief of police.¹⁴

In 1969 police-community relations coordinator Al Pattavina took a leave of absence from that position.¹⁵ In the middle of June 1970 it was reported that a community services section had been established and put under the command of an inspector.¹⁶ It maintained the storefront headquarters on the northside and kept close contact with youth in the community. The community relations staff was speaking regularly at local high schools.¹⁷

Summarizing the changes in the police-community relations unit operations over the six year period, ending in 1972, in which he worked for it, Lt. Pitmon Fox II stated that there had been a shift away from complaint processing (by 1972 handled in the office of the chief) toward reaching school children. He commented that police-community relations training had been added for recruits.¹⁸

Following two shooting incidents in the black community, Mayor Edward Zorinsky appointed a task force on police-community relations, chaired by Michael Adams, a former president of the Urban League of Nebraska. Then Mayor Zorinsky denied the shootings and the task force had any immediate connection.¹⁹ Among many other recommendations, the task force suggested increased funding and staff for the community services bureau and expansion of the storefront operations to include evenings, nights and weekends.²⁰

In 1978 as an economy measure, the two police outreach centers on the north and south sides of Omaha were closed.²¹

In the summer of 1980 former Mayor Veys announced the northside outreach center would be re-established. The mayor asserted he had been contemplating

the move for some time, but had delayed public announcement until a suitable site could be found.²² The announcement was made at a meeting with members of the Interdenominational Ministerial Alliance whose members represented the black community in public calls for remedial action to prevent a violent summer.²³ A temporary outreach office was opened late in July 1980 in the offices of North Omaha Community Development Corporation.²⁴ However, a year later Luke Nichols, a member of the Interdenominational Ministerial Alliance, stated that finding a permanent location for the outreach center had stalled.²⁵ The center finally opened at its permanent location in September 1981.²⁶

Current Police-Community Relations

The community services bureau currently is made up of fifteen officers.²⁷ The organizational chart for the division shows the bureau divided into two sections, community relations and youth aid. The community relations section has the human relations unit, public information unit and program development unit. The safety education unit is the only unit in the youth aid section.²⁸ An undated document obtained from the police division lists fifteen functions and programs for the human relations unit including school visitations; "operation identification" to inform the public how to engrave identification numbers on their property; displaying the crime prevention mobile unit; and, providing speakers for civic clubs, service clubs, churches and other groups. The functions of the "storefront" operation are given as:

Develop a neighborhood consciousness of the need for mutual cooperation and understanding in the improvement and maintenance of law and order.

- a. Provide the citizen with a neighborhood police facility where they can discuss police problems.
- b. Develop tighter intergroup relations with the area residents.
- c. Develop a place where clarification of false rumors can be accomplished and eliminated.
- d. Provide an on-the-spot neighborhood system for marshalling the service of agencies which deal with all phases of community services and problems.

- e. To serve as a link between "grass roots community" and the police administration.²⁹

Data were received from the police division on community service contacts for the months January 1980 through May 1981. The Advisory Committee reviewed the data for the months of August and April of 1980 and 1981 to obtain a picture of what might be typical contacts during the school and summer months. In August 1980 there were 62 community service contacts which brought the police division into contact with 1,376 individuals. Forty-two of the contacts that month were listed as "display of the crime prevention mobile units." Other contacts were lectures on home security, self-protection for women and juvenile procedures. Three contacts were with schools.³⁰ In August 1981, 20 community service contacts were made which reached 379 individuals. Again the mobile unit was very popular accounting for 15 of the contacts. One school was visited for a meeting on "problems with students and police."³¹ Sixty-four contacts were made in April 1980, nine of those were display of the crime prevention mobile unit. Members of the police division met 3,367 citizens that month during the various contacts. Forty-three contacts were with schools. During that month lectures were given to non-school groups on crime in Omaha, building safety and home security.³² Records for April 1981 show 137 contacts with only 11 for the crime prevention mobile unit. One hundred and two school contacts were listed and 11,067 individuals were reached. Non-school contacts involved lectures on police-community relations, self-protection for women and crime against the elderly.³³

Mr. Simon, president of the city council, said that he believes the safety education unit which works with school children is doing a great job. But other areas could probably use improvement in his estimation. Mr. Simon said that he thought manpower had been a problem and that he believed the community services bureau was probably the first one cut when staff was needed elsewhere.³⁴

City Councilmember Fred Conley stated he was not sure that the outreach office was useful. The improvement of police-community relations should be the responsibility of all police officers. In his opinion, having the separate office gives the impression that police-community relations is the job of only a few. When reminded of how strongly the black community had urged the location of the office on the northside, Mr. Conley remarked that the establishment of the office has had great support because "it is the only thing the police division was willing to give the community." He believes that once the community sees the changes in police-community relations it would not mind losing the office which he called "window dressing" and a "placebo."³⁵

Mayor Mike Boyle expressed similar thoughts, saying he believes it is important that the black community not be targeted. To do so makes it appear that the remainder of the city does not have any problems. He also said he is not sure that having a police-community relations office separate from the remainder of the division is good. He said it could give officers not in the unit the idea that police-community relations was not part of their job. The mayor said all officers need to be involved in police-community relations.³⁶ City Council President Bernie Simon emphasized that good police-community relations are needed in the entire city and contended that police-community relations does not mean just police relations with the minority community.³⁷

Some people interviewed were critical of the current community relations program. Wilkinson Harper, pastor of the Metropolitan Missionary Baptist Church, commented "we don't have a police-community relations program per se in Omaha--what Omaha has is a public relations project."³⁸ Clyde Christian, an attorney, called the program a "joke."³⁹ George Garnett, executive director of North Omaha Community Development, agreed with Rev. Harper, saying

that there is a difference between creating liaison and doing a public relations "selling job." He believes a permanent office which would disseminate information and mediate minor complaints would be useful.⁴⁰

Marvin McClarty, who is assigned to the community services bureau, described the purpose of the community relations neighborhood office as becoming totally involved with the community and providing liaison and information.⁴¹ Ruth Jackson, director of the city's human relations office, commented that she thought more publicity should be given to the activities of the community relations section. In her opinion too many citizens are unaware of the office or confused about its purpose.⁴² Wilkinson Harper said he was familiar only with the section's work in schools and the use of a van which is used to go to neighborhoods and give talks on home security.⁴³ Robert Broom's knowledge of the section's activities was limited to the "baseball card" program of the 1980 summer.⁴⁴ Under this program, established in late June 1980, "baseball cards," redeemable for tickets to Omaha Royals games, were passed out to young people by the police. The program was criticized by black ministers at the time, although the police division considered it a success.⁴⁵

A few citizens mentioned past programs of the community relations section which they thought were useful and should be reestablished. The most frequently mentioned were the police athletic programs and summer camps.⁴⁶ This was also a recommendation of the mayor's task force on police-community relations in 1975.⁴⁷

The effect on police-community relations of current police practices and suggestions for changes were discussed by many of those interviewed in connection with this study.

Some of the comments focused on the need for improved communication between the police and citizens. For example, Acting Chief Swanson believes

that officers fail to take into account the impact of their "authority" on their relations with the public, that they have to be more careful about what they say and how they say it as officers than do other people.⁴⁸ Fred Conley, the city's first black member of the city council, stated that there needs to be sensitivity training for both the police and the public. Citizens need to be aware of the police officer's job and what it involves.⁴⁹

Mayor Mike Boyle sees communication between officials and community leaders as essential. He said he had been meeting with the Ministerial Alliance, an organization of about 40 black churches, regarding the establishment of a city-wide police-community relations program. He said there are no regularly scheduled meetings with the Alliance but that he is contacted when they have a particular issue of concern. Mayor Boyle mentioned that in the week just prior to the staff interview he had met with the Ministerial Alliance regarding the recruit class that had just completed training. Mayor Boyle said he had also met with the Midwest Guardians in the week prior to the staff interview to discuss the training program for recruits. The mayor expressed concern that some of the initiatives in the police-community relations area were not being communicated to the public. He said that he hoped the meetings with the Ministerial Alliance would help "get the word out about the changes." He also commented that he thought too much emphasis in the media was placed on negative aspects of police-community relations.⁵⁰

The city attorney remarked in response to a question on improving police-community relations, that in his opinion promotion of good police-community relations takes assistance from the media. He suggested that a strong media office in the police division might help and could become a resource for the media for information on the police. Then, he said, maybe the "good things" about the police division would get some coverage.⁵¹

Mayor Boyle said he had talked with Ms. Ruth Jackson about public education on the rights of citizens, especially the right to make a complaint against the police.⁵²

Neighborhood offices or community and business persons meetings attended by officers assigned to the area were suggested as ways to improve police-community communication.⁵³

A similar program was tried earlier. A "home visitation" program had been created in 1970 to "bring about a more friendly and closer relationship between the police and the community."⁵⁴ The purpose of the program was "to allow residents of Omaha--whatever their age--to meet and talk with policemen, especially the patrolmen in their areas, in a casual and friendly situation."⁵⁵ The home visitation program was described as a "bomb" in 1972 by then Police Chief Andersen, apparently because there were so few requests for the visits.⁵⁶

Footpatrol officers walking all or part of their beat also was frequently mentioned as a means for the police and community to get to know each other.⁵⁷ The 1975 mayor's task force on police-community relations had recommended the use of footpatrols in its report.⁵⁸ Acting Chief Jack Swanson said footpatrols are not feasible because there are not enough officers to patrol the 92 square miles under the division's jurisdiction. He said beat officers were once a very effective tool but now there is too much area to cover and response time would be too slow. Instead of footpatrols, the acting chief said the division already had a "10-10" program in effect which called for officers to leave their cruisers and walk through the neighborhoods. They are to remain in radio contact and never be more than a block from their cruiser. According to the acting chief, this program has been in effect for four or five years but he was not sure how many officers actually participated. Acting Chief Jack Swanson said he was also considering

assigning cruiser officers for an hour or two to the police-community relations unit so they could become acquainted with the community. Acting Chief Jack Swanson believes attitudes will change when community and police officers alike can recognize each other as individuals and the community realizes that the officers are "simply family men out to make a living."⁵⁹

Other suggestions for improving police-community relations involved the 911 emergency number, assignment of rookie officers, sensitivity training for officers and the need for more minority officers.

Residents expressed concern that although they believed they were making anonymous calls to the 911 emergency service numbers (used to contact police), the police officers answering the alarm knew who had made the call. One group alleged that the officers, during the investigation of a situation that prompted a call, released the name of the caller to the subject of the investigation. The group did not like the idea that the 911 system "locked in" the caller's telephone, making it inoperable until released after the officer was on the scene.⁶⁰

Acting Chief Swanson said the 911 system was designed to lock callers telephones because in an emergency situation it might be necessary to keep the line open. He said there was no special policy that he was aware of regarding anonymous calls. He said he saw no reason why police officers should release the names of callers to the persons complained against.⁶¹ Albert Jones, director of the communications division for Omaha, said anonymous calls are accepted although names are requested. Most persons who are concerned about giving their names are worried about being identified over the police radio because of the numerous police scanners in the city, according to Mr. Jones. He said if a citizen does not want his or her name used, that request is honored. Mr. Jones said the "lock-in" characteristic has saved lives and helped solve crimes.⁶²

Some citizens complained about the assignment of rookie officers to the minority community. These citizens feel the younger officers have less experience in dealing with minorities and have a tendency to overreact.⁶³ Acting Chief Swanson agreed that as a result of shift assignments based on seniority and area assignments based on a bidding process, it is generally true that the new officers are in North Omaha. However, in his opinion this means better service for the residents because the rookies are apt to respond to calls quicker.⁶⁴ George Ernce, president of the Police Union, essentially agreed with Acting Chief Swanson. Mr. Ernce added that the chief of police has the power to assign officers regardless of the bidding and seniority systems if he believes it is necessary.⁶⁵

The need for sensitivity training to help experienced and rookie officers better understand the minority community was mentioned by many interviewed.⁶⁶ Many of those interviewed also mentioned the importance of minority officers to good police-community relations and stressed that Omaha needs more minority officers.⁶⁷ These two topics are discussed more fully in other sections of this study.

Fred Conley suggested creation of a permanent advisory board to the mayor on police-community relations. The committee could suggest programs for the community relations office and keep the mayor aware of developing issues.⁶⁸

The Complaint Process

Many authorities feel that the citizen complaint process can be an important tool for detecting police violations. A 1964 Harvard Law Review article, "The Administration of Complaints by Civilians Against the Police" by Harold Berol and Marcus Sisk, quoted with approval by the International Association of Chiefs of Police (IACP), stated the complaint system should serve two ends:

A properly administered complaint review system serves both the special professional interests of the police and the general interests of the community. As a disciplinary device, it can promote and maintain desired standards of conduct among police officers by punishing--and thereby deterring--aberrant behavior. Just as important, it can provide satisfaction to those civilians who are adversely affected by police misconduct.⁶⁹

Discussing the perceptions of minorities and other advocacy groups, the IACP noted that when 17 agency citizen complaint systems were assessed through IACP field research and interviews of the news media and community groups, it found:

A common theme throughout these interviews was distrust of internal investigations, generally founded upon the citizens' lack of information about the process. Many community representatives stated that police agencies should not investigate complaints against their own personnel. The rationale was that investigations would be biased. The terms whitewash and cover-up were used to describe community sentiment toward departmental investigation practices. These groups stated that alternative bodies, such as the district attorney's office, other law enforcement agencies, and private investigators should be responsible for investigating complaints.

The fact that citizens' groups did not communicate with the police on an ongoing basis, and generally were not aware of investigative practices, generated this criticism. In one jurisdiction, the district attorney actually was responsible for investigating serious allegations. Community representatives were unaware of this practice.⁷⁰

The International Association of Chiefs of Police manual on police discipline states:

Complaints or allegations of police officer misconduct may be brought by citizens who believe they have witnessed or suffered from officer misconduct or may be brought by fellow officers or supervisors. Complaints of officer misconduct must be afforded the same degree of serious consideration as reports of criminal offenses.⁷¹

Acting Chief Jack Swanson described the Omaha police division's citizen complaint process to staff. He stated that complaints are accepted 24 hours a day. If a person calls they are asked to come down to the station. If for some reason, such as health, age, or lack of transportation, the person cannot come to the station, an internal security investigator is sent. Unless there are extenuating circumstances, though, formal complaints are taken only at the downtown station.⁷²

Some persons interviewed questioned the necessity of going to police headquarters and expressed the opinion that complaints should be taken at the neighborhood outreach center on Lake Street.⁷³ Wayne Tyndall, director of the American Indian Center of Omaha, Inc., was unsuccessful in convincing two American Indians that they should file formal complaints because they were afraid to go to police headquarters.⁷⁴

Information in the police manual that indicates complaints can be taken at the neighborhood police-community relations office is outdated, according to the acting police chief.⁷⁵ He said that it had been tried for a while but was discontinued, partly because the offices had been closed and also because officers at the police-community relations neighborhood office did not like taking complaints because they simply forwarded it to the station and did not conduct any investigation themselves. However, the citizens still expected them to know all about their complaints and their progress.⁷⁶

One member of the Midwest Guardians, in response to a question on the point, said he knew of no instances where an officer had been sent to the neighborhood outreach office to take a complaint from someone unwilling to go "downtown."⁷⁷ Ruth Jackson, director of the city's human relations department, said she could understand the reluctance of some people to go to police headquarters to make a complaint. The issue is not a new one. In late 1980, the Sun newspapers noted that black leaders were unhappy about the inability of the northside outreach center to process complaints of police abuse.⁷⁸

According to Acting Chief Swanson, when a citizen goes to the main police station and alleges police abuse or misconduct the uniform captain on duty takes the complaint and also does a tape recorded interview to supplement the form. The complaint then goes to internal security where an investigator is assigned. The investigator conducts more interviews if necessary. The

officer complained about is notified and interviewed.⁷⁹ At the close of the investigation a finding is made of:

1. Unfounded - The allegation is false or not factual.
2. Exonerated - The incident complained of did occur, but was lawful and proper.
3. Not Sustained - Insufficient evidence either to prove or disprove the allegation.
4. Sustained - The allegation is supported by sufficient evidence.⁸⁰

The results and findings of the investigation are given to the chief who determines the final action.⁸¹ The police manual states that if the complaint is sustained the chief may take the following actions which are subject to review by the city's personnel board:

1. Consultation - With the officer by the Chief of Police and/or by a Command Officer of the Police Division.
2. Oral Reprimand - The final report shall indicate when, where, and by whom the reprimand was given and an entry will be made in the employee's oral reprimand record.
3. Written Reprimand - The reprimand will be prepared and presented to the accused by the Chief of Police. A copy will be sent to the Personnel Section and placed in the officer's personnel jacket.
4. Suspension - The Chief of Police will suspend the accused for a specific number of days up to and including thirty (30) days.
5. Removal - The Chief of Police will relieve the accused from the Division.⁸²

A citizen filing a formal complaint receives notice of the results and in a separate letter two days later is told of the appeals procedure.

Third party complaints and anonymous complaints, as a rule, are not accepted. However, exceptions are made if the allegation is thought to be serious and credible. An investigation will be made but the person complaining will not receive the notices.⁸³

Leadership of the Midwest Guardians stated that they believe the citizen complaint process should be changed. They stated that citizens believe they will not get an honest investigation and that nothing will change because it is "cops policing cops."⁸⁴ Several citizens interviewed agreed with them. James Hart, president of the local NAACP, said he considers the process ineffective and that it undermines the citizens confidence in the police.⁸⁵

Sonny Foster, a member of the Board of Directors of the Nebraska Urban League in Omaha, remarked that the process needs to be changed because citizens have lost faith in it.⁸⁶ The complaint process was described by George Garnett as "useless." He added that in his opinion the influence of the police chief and public safety director would have more impact on police-community relations than improvement in the citizens complaint process.⁸⁷ Wayne Tyndall asserted that American Indians in Omaha are afraid to use the complaint process and believed their complaints will not be taken seriously.⁸⁸ Wilda Stephenson said the process needs to be more objective.⁸⁹

The Midwest Guardian members interviewed by staff see citizen input in the complaint process as critical. One officer commented that if civilians on such groups as the city's personnel board are qualified to judge disciplinary action taken on police officers, civilians should be qualified to judge allegations of police abuse.⁹⁰ Mary Jane Harvey said the recommendation to establish a citizen review board was made to the city by a task force on police-community relations established by then Mayor Zorinsky. Ms. Harvey, who was a member of the task force, said the recommendation was not well received by then Chief of Police Andersen.⁹¹ A newspaper report in 1981 indicated Chief Andersen still opposed any form of civilian review, other than the existing administrative and legal remedies.⁹² Many others agreed with the members of the Midwest Guardians that citizen input is needed or that the process needs to be more objective.⁹³ Ruth Jackson, director of the Omaha human relations department, said she is aware that her office has been mentioned by some in the community as a possible department to do an independent review of citizen's complaints. Ms. Jackson said she would not mind having the job but additional staff would be needed and her department given access to the confidential records of internal security.⁹⁴

But Ms. Jackson supported the existing citizen's complaint process itself. As a member of the Mayor's Administrative Review Board, she has seen some internal security investigation reports and believes they are thorough.⁹⁵ A.B. Hogan also believes the citizen's complaint process is adequate but said that few people even know it exists and they are confused about the procedures. He believes a civilian review board for citizen complaints cannot work in Omaha because the city would not give such a board the power to discipline officers. The current system with the first review done by the police division and appellate review by the Mayor's Review Board is workable, according to Mr. Hogan.⁹⁶

The Mayor's Administrative Review Board, established by executive order by Mayor Zorinsky, hears appeals from citizens who are dissatisfied with the results of the police division's complaint process. Its membership consist of the mayor, the public safety director, chief of police, human relations director and city attorney.⁹⁷ Citizens have ten days after receipt of the letter notifying them of the results of the internal police investigation in which to file their appeal with the mayor's office.⁹⁸ The review board then has 30 days to decide whether or not to hear the appeal.⁹⁹ However, Mayor Mike Boyle said that all appeals are heard.¹⁰⁰ Only members of the review board and the complainants are allowed to be present at the hearing. No transcripts or recordings are made of the proceedings.¹⁰¹ The review board issues its finding at the conclusion of the hearing and can either concur with the decision of the police chief or make an alternate recommendation.¹⁰²

The city attorney, Herbert Fitle, who is one of its members, stated that over the last couple of years the board had heard six or seven cases. He stated that the complaining party is allowed to come to the board and give any relevant information. The usual rules of evidence are not strictly followed to allow the citizens as much freedom in presenting their case as possible.

The officer complained against does not appear, instead the board depends upon the reports from the police division's internal security unit.¹⁰³ Mayor Mike Boyle stated that the board had met about two times since he became mayor. He estimated that about one percent of the citizen complaints are appealed to the review board.¹⁰⁴ Ms. Ruth Jackson stated that over the last two years she could recall 10-12 cases and that most had been brought by whites; only three or four blacks had used the procedure. She believed that if there is a large number of concerns from blacks about police behavior, they are either satisfied with the police investigation or not filing formal complaints.¹⁰⁵

City Council President Bernie Simon said he and Mayor Boyle had discussed criticisms of the mayor's administrative review board during the summer of 1981 when citizen input on the board was an issue. The mayor and Mr. Simon discussed putting Mr. Simon on the board. As an elected official, they thought citizens might see him as their representative while he might be more acceptable to the police who oppose a citizen review board. Now that the issue of civilian participation is discussed less, Mr. Simon said, no action has been taken. He said that in his opinion it still remained an option.¹⁰⁶

Another appeals unit involved in police disciplinary procedures is the city personnel board. The Omaha city charter authorizes the personnel board to:

Hear appeals in case any officer or employee in the classified service is suspended, or removed, or reduced in classification or pay by the mayor or a department or division head, and report in writing to both parties its findings and decision, which shall be binding on the mayor or department or division head, but subject to all remedies available to the officer or employee.¹⁰⁷

There are five members on the board, appointed by the mayor for five year terms.¹⁰⁸ The personnel board has subpoena powers.¹⁰⁹ According to John Herdzina, chairperson of the board, the burden is on the appellant to show why the disciplinary action is excessive.¹¹⁰ Minutes are kept of the proceedings.¹¹¹

A.B. Hogan was critical of the board. He said the board was supportive of police officers to the point that it seemed they thought officers could do no wrong.¹¹² Sam Walker asserted that the police chief can hand out tough discipline knowing that the board will overturn his decision. Professor Walker believes the police officers know this and it adds to the overall insensitivity of the division.¹¹³ City Council President Bernie Simon believes the board is necessary as a check and balance. Officers may for one reason or another need discipline and the personnel board helps insure that the discipline is reasonable and fair.¹¹⁴ Responding to the allegation that the board is "easy on police officers," the city attorney estimated that on major cases resulting from citizen's complaints; the board had supported tough discipline half the time. He does not believe officers were kept on the force when their records show that they should be terminated.¹¹⁵

The president of the personnel board said that while the board has sometimes overturned the police chief's decisions, he does not believe it happens as often as the community thinks it does. He commented that the police division considers itself a quasi-military organization and as such tries to maintain strong discipline. Sometimes, in the board's opinion, the division "comes down too strong."¹¹⁶

Other Remedies

An agency independent of the police division and city government was organized in 1981 to help citizens with complaints against the police division. The Public Interest Law Center of Omaha provides referral service to persons seeking legal assistance in cases of police misconduct or abuse.¹¹⁷ The Law Center is run by volunteers and does not provide legal services itself. Rather, a paralegal conducts an initial interview over the telephone and the case is then referred to a private attorney who has agreed to handle such cases without charging initial attorney fees. Charges are made for such costs as depositions, however.¹¹⁸

The Law Center opened in May 1981 and received dozens of calls the first week but now averages one or two calls a week.¹¹⁹ The calls come from all segments of the community but because there are so few, it is difficult to determine if there are any patterns developing.¹²⁰

A pamphlet distributed by the Law Center advises victims of police abuse or misconduct to write down as much as they can remember about the incident. Names and addresses of witnesses as well as names and badge numbers of the police officers should be included.¹²¹

In addition to local remedies, if a citizen's civil rights are violated by police misconduct or abuse of authority, action may be brought under 18 U.S.C. 241 or 242.¹²² Section 241 provides:

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured--they shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life.¹²³

Sec. 242 is the more useful statute though because proof of conspiracy is not needed. Sec. 242 provides:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if death results shall be subject to imprisonment for any term of years or for life.¹²⁴

The U.S. Attorney for Nebraska told staff that primary responsibility for the cases alleging violation of sec. 242 rests with Civil Rights Division of the Department of Justice.¹²⁵ Complaints alleging violations of a citizen's civil rights by police misconduct can be made to either the U.S. Attorney or

the Federal Bureau of Investigation. The FBI conducts an investigation and it is the U.S. Attorney's responsibility to ensure that the investigation is complete.¹²⁶ According to the U.S. Attorney for Nebraska, the decision to prosecute the case lies entirely with the Civil Rights Division in Washington, D.C.¹²⁷

The city attorney stated that there had been about 21 such complaints since 1979, none of which had been accepted for prosecution.¹²⁸ The city attorney's office is notified when the complaints are made but does not generally conduct its own investigations.¹²⁹

Notes

1. Omaha World-Herald, Feb. 13, 1966.
2. Omaha World-Herald, Mar. 16, 1966.
3. Omaha World-Herald, Apr. 15, 1966.
4. Omaha World-Herald, Feb. 19, 1956.
5. Omaha World-Herald, Oct. 9, 1964.
6. Sun, Nov. 11, 1965.
7. Sun, Mar. 2, 1967.
8. Omaha World-Herald, Mar. 16, 1967.
9. Omaha World-Herald, Mar. 16, 1967.
10. Omaha World-Herald, July 28, 1967.
11. Sun, Oct. 2, 1969.
12. Omaha World-Herald, Nov. 24, 1969.
13. Ibid.
14. Ibid.
15. Omaha World-Herald, Oct. 26, 1973.
16. Sun, June 4, 1970.
17. Ibid.
18. Omaha World-Herald, Dec. 5, 1972.
19. Omaha World-Herald, July 3, 1974.
20. The First Report and Recommendations of the Mayor's Task Force on Police-Community Relations, p. 3, Feb. 20, 1975.
21. Omaha World-Herald, July 27, 1980.
22. Omaha World-Herald, July 9, 1980.
23. Omaha World-Herald, July 8, 1980.
24. Omaha World-Herald, July 27, 1980.
25. Luke Nichols, interview in Omaha, Aug. 27, 1981.
26. Joseph Forbes, interview in Omaha, Sept. 23, 1981.

27. Jack Swanson, interview in Omaha, Dec. 9, 1981.
28. Omaha Police Manual, Vol. I, Adm. 2-1, p. 1, March 1977.
29. Omaha Police Division, Community Services Bureau, nd., on file at CSRO.
30. Data from Omaha Police Division, on file at CSRO.
31. Data from Omaha Police Division, on file at CSRO.
32. Data from Omaha Police Division, on file at CSRO.
33. Data from Omaha Police Division, on file at CSRO.
34. Bernie Simon, interview in Omaha, Dec. 11, 1981.
35. Fred Conley, interview in Omaha, Dec. 10, 1981.
36. Mike Boyle, interview in Omaha, Dec. 9, 1981.
37. Bernie Simon, interview in Omaha, Dec. 11, 1981.
38. Wilkinson M. Harper, interview in Omaha, Sept. 24, 1981.
39. Clyde Christian, telephone interview, Nov. 12, 1981.
40. George Garnett, interview in Omaha, Aug. 28, 1981.
41. Marvin McClarty, interview in Omaha, Sept. 23, 1981.
42. Ruth Jackson, interview in Omaha, Dec. 10, 1981.
43. Wilkinson M. Harper, interview in Omaha, Sept. 24, 1981.
44. Robert Broom, interview in Omaha, Sept. 24, 1981.
45. Omaha World-Herald, July 10, 1980.
46. Mary Jane Harvey, telephone interview, Nov. 13, 1981; Alvin Goodwin, Jr., telephone interview, Nov. 6, 1981; Herbert Fitle, interview in Omaha, Dec. 11, 1981,
47. The First Report and Recommendations of the Mayor's Task Force on Police-Community Relations, p. 2, Feb. 20, 1975.
48. Jack Swanson, interview in Omaha, Dec. 9, 1981.
49. Fred Conley, interview in Omaha, Dec. 10, 1981.
50. Mike Boyle, interview in Omaha, Dec. 9, 1981.
51. Herbert Fitle, interview in Omaha, Dec. 11, 1981.

52. Mike Boyle, interview in Omaha, Dec. 9, 1981.
53. Debbie Brockman, interview in Omaha, Aug. 26, 1981; George Garnett, interview in Omaha, Aug. 24, 1981; Delores Galloway, interview in Omaha, Aug. 27, 1981; James Hart, interview in Omaha, Aug. 27, 1981; Ruth Jackson, interview in Omaha, Dec. 10, 1981.
54. Omaha Police Manual, Vol. I, Pre. 4-0, p. 42, May 1974.
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56. Omaha World-Herald, Feb. 19, 1972.
57. Delores Galloway, interview in Omaha, Aug. 27, 1981; Luke Nichols, interview in Omaha, Aug. 28, 1981; George Garnett, interview in Omaha, Aug. 24, 1981; Debbie Brockman, interview in Omaha, Aug. 26, 1981.
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59. Jack Swanson, interview in Omaha, Dec. 9, 1981.
60. Bernice Cooper and others, interview in Omaha, Aug. 26, 1981 and Francis Smith and others, interview in Omaha, Aug. 27, 1981.
61. Jack Swanson, interview in Omaha, Dec. 9, 1981.
62. Albert Jones, interview in Omaha, Dec. 10, 1981.
63. George Garnett, interview in Omaha, Aug. 24, 1981; Bernice Cooper and others, interview in Omaha, Aug. 26, 1981; Francis Smith and others, interview in Omaha, Aug. 27, 1981.
64. Jack Swanson, interview in Omaha, Dec. 9, 1981.
65. George Ernce, interview in Omaha, Dec. 10, 1981.
66. Luke Nichols, interview in Omaha, Aug. 27, 1981; James Hart, interview in Omaha, Aug. 27, 1981; Francis Smith and others, interview in Omaha, Aug. 27, 1981; Ruth Jackson, interview in Omaha, Dec. 10, 1981; Helen Hiatt, interview in Omaha, Sept. 25, 1981.
67. Luke Nichols, interview in Omaha, Aug. 27, 1981; James Hart, interview in Omaha, Aug. 27, 1981; Sonny Foster, interview in Omaha, Aug. 26, 1981; George

Garnett, interview in Omaha, Aug. 24, 1981; Jerry Elrod, interview in Omaha, Sept. 23, 1981; Alvin Goodwin, Jr., telephone interview, Nov. 5, 1981; Mary Jane Harvey, telephone interview, Nov. 16, 1981.

68. Fred Conley, interview in Omaha, Dec. 10, 1981.

69. International Association of Chiefs of Police, Managing for Effective Police Discipline (Gaithersburg, Md.: IACP, 1977), p. 48.

70. Ibid., p. 49.

71. Ibid., p. 51.

72. Jack Swanson, interview in Omaha, Dec. 9, 1981.

73. Luke Nichols, interview in Omaha, Aug. 27, 1981; Marvin McClarty, interview in Omaha, Sept. 23, 1981.

74. Wayne Tyndall, telephone interview, Nov. 8, 1981.

75. Omaha Police Manual, Vol. I, Adm. 3-0, p. 1, July 1977 and Jack Swanson, interview in Omaha, Dec. 9, 1981.

76. Jack Swanson, interview in Omaha, Dec. 9, 1981.

77. Marvin McClarty, Robert Dacus, James Patterson, interview in Omaha, Dec. 8, 1981.

78. Sun, Nov. 20, 1980.

79. Jack Swanson, interview in Omaha, Dec. 9, 1981.

80. Omaha Police Manual, Vol. I, Adm. 3-0, p. 4, July 1977.

81. Ibid. and Jack Swanson, interview in Omaha, Dec. 9, 1981.

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84. Marvin McClarty, Robert Dacus, James Patterson, interview in Omaha, Dec. 8, 1981.

85. James Hart, interview in Omaha, Aug. 28, 1981.

86. Sonny Foster, interview in Omaha, Aug. 26, 1981.

87. George Garnett, interview in Omaha, Aug. 28, 1981.

88. Wayne Tyndall, telephone interview, Nov. 5, 1981.
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90. Marvin McClarty, Robert Dacus, James Patterson, interview in Omaha, Dec. 8, 1981.
91. Mary Jane Harvey, telephone interview, Nov. 13, 1981.
92. Omaha World-Herald, Apr. 3, 1981.
93. Clyde Christian, telephone interview, Nov. 12, 1981; James Hart, interview in Omaha, Aug. 8, 1981; Robert Broom, interview in Omaha, Sept. 9, 1981; Wilda Stephenson, telephone interview, Nov. 17, 1981; Fred Conley, interview in Omaha, Dec. 10, 1981.
94. Ruth Jackson, interview in Omaha, Dec. 10, 1981.
95. Ibid.
96. A.B. Hogan, interview in Omaha, May 27, 1981.
97. Omaha Police Manual, Vol. I, Adm. 3-1, December 1980 and A.B. Hogan, interview in Omaha, May 27, 1981.
98. Omaha Police Manual, Vol. I, Adm. 3-1, p. 1, December 1980.
99. Ibid.
100. Mike Boyle, interview in Omaha, Dec. 9, 1981.
101. Omaha Police Manual, Vol. I, Adm. 3-1, p. 1, December 1980.
102. Ibid.
103. Herbert Fitle, interview in Omaha, Dec. 11, 1981.
104. Mike Boyle, interview in Omaha, Dec. 9, 1981.
105. Ruth Jackson, interview in Omaha, Dec. 10, 1981.
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107. Omaha City Charter, Art. VI, sec. 6.04(3).
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112. A.B. Hogan, interview in Omaha, May 27, 1981.
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114. Bernie Simon, interview in Omaha, Dec. 11, 1981.
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116. John Herdzina, interview in Omaha, Dec. 10, 1981.
117. Robert Broom, interview in Omaha, Sept. 24, 1981.
118. Ibid.
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122. 18 U.S.C. sec. 241, 242 (1976).
123. 18 U.S.C. sec. 241 (1976).
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FINDINGS AND RECOMMENDATIONS

The following findings and recommendations are submitted under the provisions of Section 703.2(e) of the Commission's regulations, empowering the Advisory Committees to "Initiate and forward advice and recommendations to the Commission upon matters which the State Committees have studied.

The Nebraska Advisory Committee presents the findings and recommendations for consideration by the Commission in its national program planning and for its consideration in advising the President and Congress on matters within its jurisdiction.

Finding 1: The Advisory Committee finds that although the city has made some efforts to recruit minorities and women, these efforts have not enabled it to meet the terms of the 1980 consent decree with the Department of Justice and the Midwest Guardians. The responsibility for recruitment now lies entirely with the personnel department, which has insufficient staff to do an adequate job. Further, the Advisory Committee finds that liaison with minority organizations for recruitment purposes has been infrequent, informal and ineffective.

Recommendation 1: The Advisory Committee urges the mayor to direct the city personnel department and police division to develop and implement a joint program to encourage minorities to join the police force. Minority organizations should be consulted for ideas on an effective recruitment program. The personnel department should utilize minority organizations as key elements in the search for minority applicants.

Recommendation 1a: The chief of police should assign at least one full-time position within the division the responsibility to actively recruit minority applicants on a one-to-one basis, in cooperation with the personnel department. All officers should be urged to make ad hoc efforts and those who successfully recruit minority or female applicants who begin the examination

process should be rewarded with monetary benefits and/or special commendations useful in promotional decisions.

Finding 2: The Advisory Committee finds that the 1980 consent decree, mentioned above, has been the source of resentment, misunderstanding and hostility within the police division and community.

Recommendation 2: The Advisory Committee urges the chief of police to include in both recruit and inservice training a discussion of the consent decree, including the problems leading to the lawsuit and the provisions of the settlement.

Finding 3: The Advisory Committee finds that of all the selection devices used by the police division, only the physical agility test has been validated for job-relatedness.

Recommendation 3: The Advisory Committee urges the personnel department to validate all portions of the selection process to ensure their relevance to actual job performance.

Finding 4: The Advisory Committee finds that there is little confidence in the fairness and impartiality of the selection process, particularly regarding the polygraph examination and oral interviews. The Advisory Committee notes that these and other aspects of the selection process are being reviewed by the personnel department.

Recommendation 4: The Advisory Committee urges the personnel department to complete its review of the polygraph examination and oral interview as quickly as possible and make its findings public. If either selection device is found to discriminate against women or minorities, it should be amended or eliminated. Consideration should be given to putting civilians on the oral interview panels.

Finding 5: The Advisory Committee notes that training is currently done entirely by the police division. The lack of sufficient human relations

training, the tests given recruits and the fairness of instructors were criticized by community leaders and some officers.

Recommendation 5: The Advisory Committee urges the public safety department and the department of personnel to cooperate in reviewing curriculum, providing professional civilian instructors for some courses, and developing appropriate and valid tests.

Finding 6: The Advisory Committee finds that recruit and inservice training is seriously lacking in human relations courses although social services make up the bulk of an officer's workload.

Recommendation 6: The Advisory Committee urges that the police division add more human relations courses to its training program. The city's human relations department should be considered as one possible source for instructors and materials. Members of the local minority community also should be considered as resources.

Finding 7: The Advisory Committee finds that although the State has adopted the Model Penal Code which restricts the use of force and the police division has adopted guidelines to implement the statute, police officers still have been involved in incidents that cause great concern to the minority community.

Recommendation 7: Training in the use of force, especially deadly force, must emphasize the overriding need to protect the lives and safety of officers, bystanders and suspects. The Advisory Committee urges the police division to include additional training on the use of force in its training program. Inservice training for all officers should be scheduled regularly so as to thoroughly indoctrinate the officers.

Finding 8: The Advisory Committee finds that the police division has not established guidelines for escalation in the use of nondeadly force by an officer or defined the circumstances in which each level of force is to be used.

Recommendation 8: The Advisory Committee urges the police division to adopt the model rules published by the International Association of Chiefs of Police relative to the escalation of force.

Finding 9: The Advisory Committee finds that over the years the community relations bureau has not had a stable existence, at one time being without a coordinator for several years. The position of coordinator now has been eliminated and the duties assigned to a deputy chief. Further, the Advisory Committee finds that the community is largely unaware of the purpose and functions of the community services bureau.

Recommendation 9: The Advisory Committee urges the police division to review the current status of the community services bureau, evaluate its activities and develop a coordinated program to improve police-community relations.

Community and minority organizations should be a part of the planning process.

Recommendation 9a: The Advisory Committee recommends that the police division initiate a public information campaign for at least twelve months. The purpose would be to inform the public not only about the community services bureau but also about other aspects of policing, such as the complaint process and 911 system. If the program succeeds in improving police-community relations, it should become permanent.

Recommendation 9b: The mayor and chief of police should issue a joint statement emphasizing their support of community relations programs and making it clear that discourteous, disrespectful or unfair treatment of citizens by police officers will not be tolerated.

Finding 10: The Advisory Committee finds that there has been too little contact between police officers and the community, despite limited outreach programs in the past and despite the current desires of the mayor and police division officials to increase use of the 10-10 status (whereby officers may leave their cars while staying available for calls).

Recommendation 10: The Advisory Committee recommends that the chief of police make clear that division policy encourages the use of 10-10 status. The chief of police should monitor its use and evaluate its effectiveness. If it proves effective, the chief periodically should emphasize its use through inservice and recruit training.

Finding 11: The Advisory Committee finds that the minority community has very little confidence in the existing citizen complaint process. The mechanics of the complaint process and the right to appeal to the mayor's administrative review board are relatively unknown to the minority community. While there is widespread dissatisfaction with police processing of citizen complaints, few appeals have been presented to the mayor's administrative review board.

Recommendation 11: The Advisory Committee recommends that the city establish a citizen complaint process that balances the rights of the police officers and the citizens. Consideration should be given to using an outside agency to take the complaints and allowing complaints to be filed at locations other than the police division headquarters.

Recommendation 11a: The Advisory Committee urges the police division in cooperation with the city's human relations department to initiate a public information campaign informing citizens of their right to file complaints and the steps needed to do so.

APPENDIX A

Model Rules for Law Enforcement Officers: A Manual on Police Discretion
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Sec. 3.03. Under normal circumstances, only the methods or instrumentalities listed below may be used to apply force. These methods are listed in ascending order from the least severe to the most drastic. It is the officer's responsibility to first exhaust every reasonable means of employing the minimum amount of force before escalating to a more severe application of force.

- (a) Physical strength and skill.
- (b) Approved mace, gas or noxious substance.
- (c) Approved baton, sap or blackjack.
- (d) Approved service revolver or other approved firearm and approved ammunition.

Section Four - Use of Non-Deadly Force

Sec. 4.01. Non-deadly force may be used in instances where a police officer must take aggressive physical action to achieve a lawful objective, as enumerated in Section 1.01.

Sec. 4.02. Whenever a police officer finds it necessary to use non-deadly force to achieve a lawful police objective, it shall be incumbent upon that officer to exhaust every reasonable means of employing the least amount of force to effect the purpose before escalating to the next, more forceful method. However, nothing in this rule shall be interpreted to mean that an officer is required to engage in prolonged hand-to-hand combat or struggle rather than resort to that method which will most quickly and safely bring the arrestee under control.

Sec. 4.03. Chemical mace may be used when the officer, while performing his official duties, is required to use physical force, either to protect himself from assault or to subdue a person engaged in unlawful activities. Chemical mace shall not be used if the resistance is minor, not hazardous to the officer (or a third party), or if the resistance can be overcome by the officer's physical prowess, or by several officers acting together.

Sec. 4.04. The baton (short or long) may be used by an officer to subdue a violently resisting subject or in self defense or defense of a third party if lesser methods have failed or if circumstances warrant the immediate use of the baton.

- (a) Blows from the baton capable of inflicting permanent injury must be avoided.
- (b) The baton should not be used as a club or bludgeon and it shall not be raised above the head to strike a blow to any person.
- (c) Blows delivered with a baton shall be short and snappy and shall be delivered only to the vulnerable areas of the body which will render the opponent temporarily incapacitated but will not cause serious bodily harm.

Sec. 4.05. The baton may also be used as a barricade or repelling device in crowd control situations, or to ward off blows from an assailant.

Section Four - Commentary

Fortunately, while an officer may have to resort to use of non-lethal force fairly frequently, situations requiring the use of deadly weapons are relatively infrequent.

The definition of non-deadly force, Section 2.02, includes the specific instruments normally available to an officer. Physical strength or skill, mace or the baton is neither "likely" nor "intended" to cause great bodily harm if properly used. No one, however, will dispute the fact that the improper and unreasonable use of any of the above methods or instruments could cause severe injury and even death.

Section 4.01 calls attention to the fact that law and sound police practice recognize the need to apply reasonable non-deadly force where necessary and practical. However, if the circumstances are such that non-deadly force would be ineffective, or its use would not prevent great bodily harm to the officer or a third party, it would be justifiable to use deadly force.

In an effort to minimize the possibility of unnecessary force, these rules establish an escalating scale of force. The lowest, least drastic method of a police officer using force would be physical strength and skill (holding, throwing, restraining, pushing, pulling, singly or with help from other officers). Physical prowess is a reasonable method of overcoming the resistance of a person who is unarmed or simply failing to abide by the officers lawful command to submit.

There are few situations where an officer should resort to any force greater than physical prowess. Escalating this type of force may mean simply bringing in more officers. It should be remembered that good police procedure dictates that, on potentially hazardous calls for service, more than one officer should be automatically assigned and reinforcements should be called upon, if necessary. The key to restraint and diminishing resistance is superiority of manpower, and no officer should ever be faulted for requesting assistance. The officer who enters a bar room brawl or domestic disturbance alone, unless absolutely necessary or when a cover unit is not available, is in need of retraining. The theory behind superiority of manpower involves not only the protection of the officer, but also the protection of the person to be taken into custody. One man may not have the ability to effectively control a subject and must therefore resort to a degree of force greater than if two officers simply restrained the individual. Although both forms of force may constitute lawful violence in that they were reasonable under the circumstances, the latter is by far a more effective and superior police tactic.

Section 4.03 refers to the use of chemical mace in rendering the resistor incapable of further resistance. Chemical mace should be used only if physical strength and skill are ineffective or impractical. Although mace can be used effectively in most cases, there have been instances where mace has simply not been successful or has further angered the subject, resulting in increased aggression.

In instances where physical strength and skill or mace are ineffective or their use might constitute a danger to the officer or a third party, the officer is justified in using the baton or sap to overcome resistance and to end the conflict.

The application of the baton is considered the most drastic form of non-deadly force. It must be used judiciously and only if lesser methods have failed or their use would be impractical.

APPENDIX B

Model Penal Code Rule on Deadly Force

Sec. 1307. Use of Force in Law Enforcement

(1) Use of Force Justifiable to Effect an Arrest. Subject to the provisions of this Section and of Section 3.09, the use of force upon or toward the person of another is justifiable when the actor is making or assisting in making an arrest and the actor believes that such force is immediately necessary to effect a lawful arrest.

(2) Limitations on the Use of Force.

(a) The use of force is not justifiable under this Section unless:

- (i) the actor makes known the purpose of the arrest or believes that it is otherwise known by or cannot reasonably be made known to the person to be arrested; and
- (ii) when the arrest is made under a warrant, the warrant is valid or believed by the actor to be valid.

(b) The use of deadly force is not justifiable under this Section unless:

- (i) the arrest is for a felony; and
- (ii) the person effecting the arrest is authorized to act as a peace officer or is assisting a person whom he believes to be authorized to act as a peace officer; and
- (iii) the actor believes that the force employed creates no substantial risk of injury to innocent persons; and
- (iv) the actor believes that:
 - (1) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force; or
 - (2) there is a substantial risk that the person to be arrested will cause death or serious bodily harm if his apprehension is delayed.

(3) Use of Force to Prevent Escape from Custody. The use of force to prevent the escape of an arrested person from custody is justifiable when the force could justifiably have been employed to effect the arrest under which the person is in custody, except that a guard or other person authorized to act as a peace officer is justified in using any force, including deadly force, which he believes to be immediately necessary to prevent the escape of a person from a jail, prison, or other institution for the detention of persons charged with or convicted of a crime.

Model Penal Code, Sec. 1307(2)(b)(i)(iv)
(Proposed Official Draft, 1962)

APPENDIX C

Complaints about police practices can be filed with the Omaha Police Division. The complainant should appear in person at division headquarters if at all possible because complaints generally are not taken by telephone. Contact:

Omaha Police Division
505 South 15th Street
Omaha, Nebraska
(402) 444-5811 (Internal Security)

If you believe your constitutional rights have been violated by the police, you can file a complaint with:

United States Attorney
215 North 17th Street
Omaha, Nebraska
(402) 221-4774

or

Federal Bureau of Investigation
215 North 17th Street
Omaha, Nebraska
(402) 348-1210

The Public Interest Law Center of Omaha offers a referral service for those who want to file suit against abusive police officers. Volunteer attorneys will not charge initial attorney fees but will charge for other expenses such as depositions. Every effort is made to keep costs at a minimum. The Law Center is staffed with volunteers and has no office. Contact can be made by telephone. Call: 348-1075.

CITY OF OMAHA

MICHAEL BOYLE
Mayor

SUITE 300 • OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET • OMAHA, NEBRASKA 68183 • 402/444-5001

May 4, 1982

Mr. Melvin Jenkins
Regional Director
U.S. Commission on Civil Rights
Room 3100, 911 Walnut
Kansas City, Missouri 64106

Dear Mr. Jenkins:

It is apparent that a great deal of time and effort went into the preparation of the report on police-community relations in the City of Omaha. I appreciate all of this work, and found the historical perspective on this situation to be very informative.

As you know, the past year has seen an entire new command structure in place over the police division -- with my election as Mayor and with my subsequent appointments of a new Public Safety Director, Assistant Public Safety Director, and Chief of Police.

Other changes in approach have followed as a result of this change in administration. I am very confident that our approach will meet with your approval.

Some of the elements of my acts are:

-- My appointment of former Deputy Chief Joseph Friend as my Public Safety Director. This appointment was met with considerable favorable response from many segments of the community, especially in view of Mr. Friend's well-known commitment to community relations and affirmative action.

-- Mr. Friend's appointment of Erven McSwain as Assistant Public Safety Director. Mr. McSwain previously worked in the City of Omaha Human Relations Department.

-- My appointment of Robert Wadman as Chief of Police. Chief Wadman is also committed to community relations and affirmative action, and has excellent credentials. Chief Wadman has already implemented a number of new programs which will obviously greatly improve the Police Division, and he will soon announce a new Mission Statement for the Police Division, a copy of which is enclosed. Also enclosed is a copy of an article which appeared in the Omaha World Herald today regarding the Police Division.

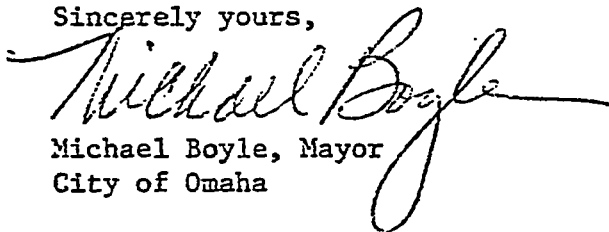
"
6 MAY 1982

Mr. Melvin Jenkins
May 4, 1982
Page Two

These and other activities by members of my administration over the next three years will demonstrate that we are committed to good police-community relations.

Again, thank you for the opportunity to review and respond to your report, and we look forward to future opportunities for cooperation with your group.

Sincerely yours,

A handwritten signature in cursive script that reads "Michael Boyle". The signature is written in dark ink and is positioned to the right of the typed name.

Michael Boyle, Mayor
City of Omaha

MB:24:cr

Enclosure

(Enclosures to this letter have been omitted.)

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