

**Minneapolis**  
*City of Lakes*

**CIVILIAN POLICE REVIEW AUTHORITY**

**ANNUAL REPORT**

**2008**

*Serving civilians and police officers with honesty and integrity*



*equal access*  
*equal opportunity*  
*equal justice*

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## **Minneapolis Civilian Police Review Authority Mission Statement**

Adopted May 4, 2005

The Minneapolis Civilian Police Review Authority Board are residents of Minneapolis appointed by the Minneapolis City Council and Mayor to fairly, objectively and independently consider complaints of misconduct by members of the Minneapolis Police Department, and to issue determinations based on findings of fact and evidence to promote the adherence to the highest standard of police conduct and to foster mutual respect between the Minneapolis Police Department and all the populations of the city of Minneapolis.

## Letter from the Board Chair

This annual report provides statistics and information that illustrates the crucial role that the Minneapolis Civilian Police Review Authority plays for the development of a better understanding between the residents of Minneapolis and its Police Department. In 2008, with the appointment of new Board members, the CRA moved along on its stated mission to provide fair, objective and independent complaint resolution while adhering to the highest standards and fostering mutual respect between the Minneapolis Police Department and the residents of Minneapolis.

The progress has been steady and has been built through the unwavering commitment of the CRA staff and new Board members who have dedicated themselves to fairly investigate and adjudicate the complaints received. Our highest priority has not only been to treat parties without bias, but to eliminate a backlog that had resulted from the amount of time it had taken to appoint new Board members, and to recommend ordinance changes that have made the CRA more efficient and effective.

The recommendations contained in this report, if adopted, will not only strengthen the CRA but will also lay a foundation and foster better relations between the residents of Minneapolis and the Police Department. These recommendations will assure transparency, assure citizens that their police complaints have been thoroughly investigated, seriously evaluated, and impartially considered to assure efficacy of the entire process.

I am proud of the diligent work that the CRA staff and Board members have done to provide the residents of Minneapolis efficient and effective police oversight. I am also appreciative of the Police Department's work in the pursuit of fostering better relations with the citizenry. I look forward to recommitting ourselves to strengthening the effectiveness of the Minneapolis Civilian Police Review Authority.

Sincerely,

Donald L. Bellfield  
Chair

## Executive Summary

The CRA observed a 19 percent increase in the number of initial complaints filed with the office. Inappropriate conduct and inappropriate language were the most frequently filed allegations, accounting for 48 percent of all allegations filed in 2008. Excessive force allegations represented 20 percent of the 2008 allegations.

African Americans filed 62 percent of the 2008 complaints. The First Precinct received the most complaints, while the most notable change in precinct complaints occurred from the Fourth Precinct, which had a 33 percent decrease. City Council Ward 7 received more complaints than any other ward, which reflects a growing trend for the ward. Mediation was successful for 12 percent of the complaints received in 2008.

In May 2008, six civilians joined the CRA board. The new board members came on the board with enthusiasm and new energy. After training, the board began conducting hearings. From September through December, the board heard 57 complaints, which nearly eliminated the backlog developed because of a lack of board members during the first half of 2008.

In December 2008, the Police Executive Research Firm (PERF) released its audit of the MPD Internal Affairs Unit with recommendations. One recommendation encouraged the MPD to work within the CRA requirements. The report also affirmed the CRA location, diversity of investigators, and independency of investigations.

The Chief's discipline rate continued to be a major challenge. In 2008, the Chief disciplined on zero of the five CRA sustained complaint allegations against MPD officers that were returned to the CRA. The zero percent discipline represented a continuous sharp decline from the 51 percent discipline rate of 2006 and was the lowest amount of discipline since the beginning of the CRA, excluding the years the CRA was inactive. Additional challenges that the CRA faced were the continued hesitancy of some officers to timely comply with CRA requests, the restrictions on the release of hearing panel data, limited investigative resources, and lawsuits by the Police Officers Federation of Minneapolis and the Community United Against Police Brutality.

The CRA data shows that civilians desire an alternative to filing complaints with the MPD IAU. Moreover, the data shows that the CRA needs the continued support of policymakers and the MPD Administration to achieve the goals and objectives associated with effective police accountability.

Resource limitations and the Chief's lack of discipline detrimentally affect the CRA operation as opposed to deficiencies in the CRA ordinance or the complexity of meshing the MPD and CRA processes. Without additional CRA

resources or a change in the MPD's handling of CRA sustained complaints, the CRA will continue to struggle to achieve the city's goals and objectives and to meet the needs of officers and civilians.

Therefore, the CRA recommends the following actions:

1. Policymakers should encourage the Chief to discipline on sustained CRA complaints.
2. The Chief should use the reconsideration option added to the CRA ordinance in 2006.
3. City policymakers should consider an ordinance change that requires the Chief to meet with the board regarding no discipline decisions on CRA sustained complaints prior to the notification to the officer.
4. Policymakers should approach the state legislature to obtain an exemption to the Minnesota Government Data Practices Act that allows for the release of CRA hearing panel determinations.
5. CRA should hire an additional investigator.
6. The CRA should hire an intake coordinator.
7. The CRA should contract for mediation services.
8. The CRA should be repositioned to include proactive work as well as investigative services.
9. The CRA and MPD should re-establish set meeting times for the PACC meetings.

## Introduction

This annual report will highlight data from the 2008 Minneapolis Civilian Police Review Authority (CRA) complaints and explain the changes in the 2008 data as it relates to previous years data. The purpose of this report is to provide information, collected and investigated independently of the Minneapolis Police Department (MPD), to the public and policymakers on the state of police accountability relative to civilian complaints in Minneapolis at the end of 2008. Additionally, this report will provide an understanding of the CRA's challenges and the hard work that must be done to achieve and maintain effective civilian oversight of law enforcement in Minneapolis, with the hallmarks of transparency and accountability.

The City of Minneapolis created the CRA in response to civilians' demand for external oversight of the MPD and civilians' desires for more transparency of the handling of civilian complaints against Minneapolis police officers. The demand for external oversight of the MPD had its basis from decades of civilians' lack of trust in the MPD's Administration and the Internal Affairs Unit's ability to fairly and objectively investigate civilian allegations of misconduct and discipline MPD officers.

The CRA offers the civilians of Minneapolis a unique service with regard to police misconduct investigations; the CRA has civilian investigators (former non-MPD police officers) who are insulated from the pressures that may accompany police officers who are assigned to the Internal Affairs Unit (IAU) on rotational basis. In addition, the CRA has a civilian board empowered to make decisions on officers' actions and make MPD policy recommendations. Moreover, civilians do not have to be concerned about criminal prosecution if the CRA is unable to prove the reported allegations. As may be the case, if an allegation is made to the MPD IAU.<sup>1</sup>

The CRA's actions are guided by the City of Minneapolis Strategic Goals, the Department of Civil Rights goals and values, the CRA Mission Statement, and the CRA ordinance and administrative rules. Through these goals, laws, and governing rules, the CRA provides the residents of Minneapolis and the Minneapolis police officers with civilian police oversight that allows transparency and accountability of the civilian complaint investigation, encourages officer professionalism, and develops mutual understanding between civilians and officers. Additionally, the effectiveness of civilian oversight in Minneapolis depends on all stakeholders working within the spirit of the ordinance.

This report is divided into six sections. Section I will present an overview of the CRA's structure and process. Section II will provide the 2008 CRA statistics.

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<sup>1</sup> Minn. Stat. §609.505 (2008).

Section III will examine the CRA 2008 statistics beyond the raw numbers, offering examples and analysis on selected data. Section IV will discuss the challenges that were confronted in 2008. Section V report will present conclusions. Section VI will present a set of recommendations.

## **Section I: The Agency**

### CRA Jurisdiction

The CRA is an investigative authority, independent of the police department, established by Section 172 of the Minneapolis Code of Ordinances. The ordinance states that the CRA was created “for the purpose of investigating allegations of misconduct on the part of officers of the Minneapolis Police Department and making findings of fact and conclusions based on those findings of fact.” The CRA has jurisdiction over Minneapolis police officers. CRA jurisdiction does not include Minneapolis Park Police or Metropolitan Transit Police.

The CRA accepts allegations including, but not limited to, the following:

- (1) excessive force;
- (2) discrimination;
- (3) harassment
- (4) inappropriate conduct;
- (4) inappropriate language;
- (5) retaliation;
- (6) theft;
- (7) failure to provide adequate or timely police protection; and
- (8) any MPD policy or procedure violation.

While the unit conducts investigations independently of the MPD, the CRA ordinance requires the MPD to comply with CRA investigations. The MPD’s compliance with the CRA investigations is critical to the efficient operation of the CRA, and includes providing MPD records, videos, and officer appearances upon requests.

### CRA Composition

The CRA comprises a city staff and civilian board. City staff consists of a manager who must be a licensed attorney, two investigators who cannot be former MPD officers, a program assistant, and a transcriptionist. The staff’s primary responsibilities are receiving and investigating complaints, conducting community outreach, facilitating mediations, and participating in policy recommendations.

The board consists of 11 board members appointed by the Mayor and the City Council to four-year terms. Members must be residents of Minneapolis. Board members are responsible for conducting hearings and making adjudications on complaints, making policy recommendations to the MPD, holding monthly public meetings, and participating in community outreach. The CRA board is not involved in management decisions or daily operation matters. The City Attorney's office (CAO) provides the board legal advice, board member training and assistance with drafting administrative rules, as needed.

#### CRA and Police Executive Research Firm Recommended Best Practices

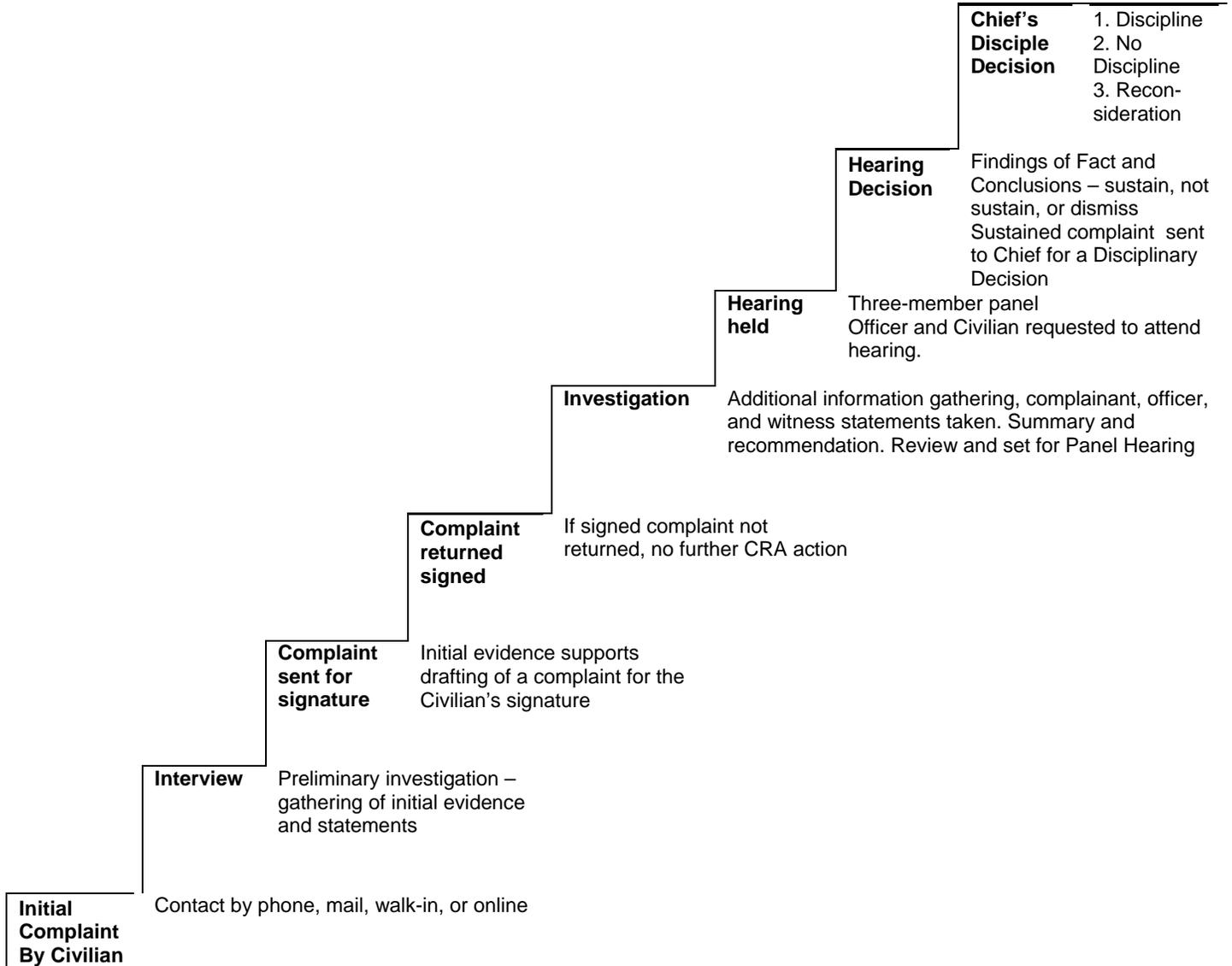
In 2008, the Police Executive Research Firm (PERF) presented MPD IAU audit results and recommendations to the City Council. While the report made recommendations aimed at improving the IAU operation, several of the audit recommendations affirmed the CRA's operation. One of the most notable recommendations was that the MPD make efforts to operate within the CRA ordinance. This recommendation was particularly discussed in relation to timely response to CRA sustained complaints.

In addition, the report noted several best practices for police misconduct investigations that have been in use by the CRA for years – experienced investigators, diversity of investigators, investigative office location away from police presence, and interview rooms conducive to private interviews.

The CRA currently has two investigators with each having over 20 years of experience in investigations and policing. The CRA staff is racially diverse. The office is located in an office building away from law enforcement traffic and has private interview offices.

Stages of the CRA Investigative Process

The chart below shows the stages of the CRA investigative process.



All initial complaints undergo a preliminary investigation that includes identification of officers and gathering police reports, videos, and other information that would allow the agency to process the complaint in the appropriate manner. Preliminary investigations require a great deal of investigator time to clarify issues and provide civilians with information relevant to their expressed concerns.

During the preliminary investigation stage, complaints may be drafted and sent for signature, found to have no basis, referred to another agency, the civilian may

be advised about the police action, or the initial complaint may be closed for lack of contact.

The complaints sent for signature statistic is important because it indicates the number of initial complaints that the CRA investigators believe involved MPD policy violations that warrant an investigation. The civilian is expected to sign the complaint and return it to the CRA office.

Signed complaints represent those complaints that the CRA is expected to investigate or mediate. Where the initial complaint goes through a preliminary investigation to determine whether a complaint exists, the signed complaint authorizes the CRA to contact the officer for a statement.

Upon receipt of hearing panel sustained findings, the CRA copies the file and forwards the copy to the MPD for a disciplinary decision. The Chief, under direction of the Mayor of Minneapolis, has the sole discretion to impose discipline.<sup>2</sup> The Chief has 30 days to make a disciplinary decision on a sustained CRA complaint.<sup>3</sup> The Chief's disciplinary decision may be "discipline" or "no discipline." A "no discipline" decision includes decisions that are categorized as coaching, training, or counseling.<sup>4</sup>

The Chief has the option to request reconsideration of any sustained CRA complaint that the Chief believes should not be disciplined. Reconsideration is an option that allows the Chief to present a factual or legal basis for the reversal of a sustained CRA finding. In theory, the exercise of the option should bring the CRA sustained complaints and the MPD disciplinary decisions into closer alignment. Additionally, the option would allow for increased meaningful dialogue related to discipline between the MPD and the board. To date, the Chief has not utilized the reconsideration option. As a result, the CRA does not have an understanding of why the Chief's decision analysis differs from its own before the matter is closed.

### Investigator Workload

The effectiveness of an independent civilian oversight agency depends, in part, on whether there is the appropriate level of investigative resources to meet the organizational needs. CRA staffing is currently not at the level needed to meet the mandates of the CRA ordinance and have not been since the CRA's inception.

The CRA's two investigators are responsible for investigating civilian complaint allegations that may arise from over 850 sworn officers. Nationally, civilian

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<sup>2</sup> The City of Minneapolis Charter provides the Mayor with the sole authority over the Minneapolis Police Department and its employees, which includes appointment and removal of MPD personnel. See Minneapolis, Minn. City Charter, Ch. 6, § 1.

<sup>3</sup> The 30-day count begins when the CRA sends the complaint to the MPD and ends when the MPD returns the disciplinary decision.

<sup>4</sup> Under the MPD disciplinary model, training, coaching, and counseling are not discipline.

oversight agencies of comparable-sized police departments that have independent investigative authority have, on average, one investigator for approximately every 225 officers. This would suggest that the CRA should have four investigators.

Investigator workloads affect the level of service that the CRA is able to provide to civilians and officers, which is recognized in fluctuations in investigative timelines and complaint closures. Fortunately, CRA investigators have maintained the quality of their investigations despite the workload pressures.

During 2008, of the 391 initial complaints, investigators drafted 101 complaints for civilian signature. Investigators also conducted 195 interviews of officers, complainants, and witnesses involved in preliminary complaints and complaint investigations. The investigators closed 57 investigations.

Because individuals have asked how the CRA's workload measure up against the IAU workload relative to citizen complaints, the CRA will attempt to address the question with a comparison of the respective complaint workloads. In regards to the IAU data below, it should be noted that the MPD IAU assists the MPD with investigations of critical incidents, use of force, civil rights complaints, and special investigations, which are not accounted for in this comparison.<sup>5</sup> In 2008, the MPD added two investigators to the IAU to assist with the IAU workload.

Table 1.1 illustrates a workload comparison of complaints of the MPD IAU and the CRA investigative staffs in 2008.

**Table 1.1 – 2008 CRA and IAU Workload Comparison**

Agency	No. of Investigators	No. of MPD Sworn Officers responsible for	No. of Preliminary Investigations	No. of Preliminary Investigations referred to full investigation	Percentage of Preliminary Investigations to Full Investigation
<b>CRA</b>	2	850+	342 <sup>6</sup>	60	18%
<b>MPD IAU*</b>	8	850+	115 (external <sup>7</sup> ) 7 (internal <sup>8</sup> )	3	3%

\*IAU data taken from the MPD IAU 2008 Annual Report.

<sup>5</sup> A review of the 2008 MPD IAU Annual Report shows that the IAU reviewed 1157 force reports and investigated 8 critical incidents.

<sup>6</sup> Initial complaints that were Referred, No Wish to File, and Duplicate are not included in this number.

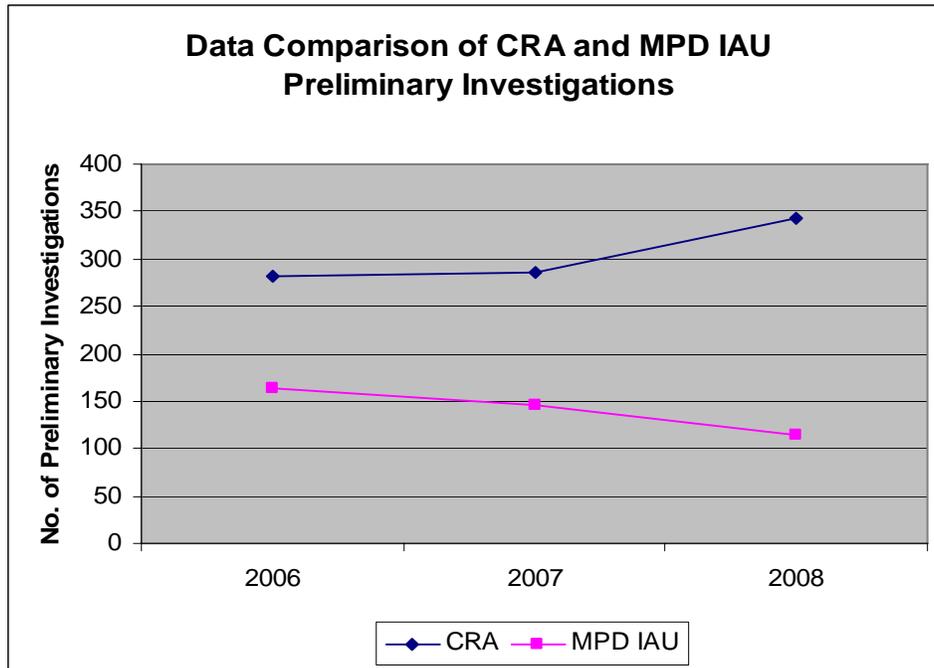
<sup>7</sup> External Complaints – complaints from outside the MPD

<sup>8</sup> Internal Complaints – complaints from within the MPD

This data, coupled with the data in Figure 1, brings to focus the issues of (1) transparency, (2) lack of trust, by civilians, of the MPD IAU, and (3) significant differences between the way that the MPD IAU and the CRA evaluate alleged police officer misconduct.

Figure 1 below shows a comparison of the number of preliminary investigations from MPD IAU and CRA from 2006 through 2008. While the MPD IAU preliminary investigations steadily decreased from 2006 through 2008, the number of CRA preliminary investigations remained steady from 2006 through 2007, followed by a sharp increase in 2008. This increase may be related to several factors, such as an increase in the public's distrust in the MPD's ability to investigate its own officers, an increase in civilian's desire to report officers' actions to an independent investigative agency, an increase in questionable officer actions, and an increase in the public's awareness of the CRA.

**Figure 1 – Data Comparison of CRA and MPD IAU Preliminary Investigations**



As Table 1.1 and Figure 1 illustrate, the CRA's ability to conduct investigations within 45 days with two investigators as compared to the IAU's eight investigators, as the PERF report recommended for IAU investigations, is a certain impossibility.

Because the CRA's investigative capacity is overextended, the CRA faces several negative ramifications. The ramifications include: (1) criticism about timelines related to its ability to provide officers and civilians timely resolutions to their complaints; (2) the possibility of less thorough screening of initial complaints, in order to focus on timely processing of ongoing investigations; (3)

reductions in the number complaints that can be closed during a year; and (4) the possible effect on the thoroughness of each investigation.

*Number of Closed Investigations and the Average Length of Time to Complete an Investigation*

The CRA closed 63 complaint investigations last year. The table below provides the number of complaints closed from 2004 through 2008. The table shows that the number of complaints closed has fallen over the years. The reduction in the number of investigations closed is positively related to the increases in the number of initial complaints and preliminary investigations.

**Table 1.2 Number of Closed Investigations**

	2004	2005	2006	2007	2008
Closed Investigations	99	124	84	54 <sup>9</sup>	57

As shown in Table 1.3, the average length of time to close an investigation was 218 days, which was slightly higher than the 2007 average of 202 days. The increase in investigative days can be attributed to several old complaints (29 percent of the complaints were from 2006 or older) that were closed during the year. Some of those complaints involved officers who had been unavailable to provide statements for an extended time.

**Table 1.3 Average Number of Days to Close an Investigation**

	2004	2005	2006	2007	2008
Investigative Days	255	292	252	202	218

Just as old complaints affect the investigative timeline, an increase in initial complaint filings adversely affects the investigative timeline. Thus, the CRA is in a paradoxical situation, in that a comparison of CRA and IAU civilian complaint data, as noted in Figure 1, suggests that the civilians of Minneapolis prefer to file police misconduct complaints with the CRA rather than with the MPD IAU; but the CRA is severely limited by its resources to provide timely resolutions to complaints. In addition to investigative resource limitations and increases in complaint filings, the length of time needed to complete a CRA investigation depends on the complexity of the issues, number of allegations, number of officers and witnesses to be contacted and interviewed, accessibility of information, and the level of cooperation from the MPD and the city attorney assigned to the MPD.

<sup>9</sup> The CRA had one investigator for several months. A new investigator was hired in September 2007.

## Section II: 2008 Selected Data

This section presents the 2008 CRA complaint statistics. Table 2 provides the Complaint data.

**Table 2 – Complaint Data**

	2004	2005	2006	2007	2008
1. Number of initial complaints received	401	236	332	329	391
2. Number of complaints sent for signature	125	98	131	95	101
3. Number of signed complaints received	128	85	89	75	68
4. Number of complaints withdrawn	1	2	3	2	3
5. Number of complaints referred to mediation	13	15	35	26	20
Number of successful mediations	9	9	15	7	8
6. Percentage of complaints containing multiple allegations	87%	86%	82%	77%	76%
7. Total number of allegations by type					
• Inappropriate Conduct	114	91	88	87	58
• Inappropriate Language	161	111	88	60	56
• Harassment	98	30	36	52	46
• Excessive Force	130	80	64	76	47
• Failure to Provide Adequate or Timely Police Protection	33	20	31	18	15
• Discrimination	6	7	11	6	13
• Failure to Report Use of Force	0	0	0	1	3
• Retaliation	3	3	2	0	1
• Theft	1	2	3	0	0
8. Location of complaints by precinct					
• Precinct 1	35	19	22	20	22
• Precinct 2	11	7	7	6	11
• Precinct 3	29	19	21	12	13
• Precinct 4	30	29	30	30	20
• Precinct 5	23	11	9	7	2
9. Location of complaint by ward					
• Ward 1	5	2	3	2	6
• Ward 2	2	4	4	3	2
• Ward 3	18	11	14	12	7
• Ward 4	6	15	11	15	5
• Ward 5	25	16	22	13	13
• Ward 6	17	11	6	8	5
• Ward 7	22	7	8	13	20
• Ward 8	11	5	13	3	4
• Ward 9	9	5	1	3	3
• Ward 10	9	2	2	1	2
• Ward 11	2	3	3	1	0
• Ward 12	2	1	1	1	1

	2004	2005	2006	2007	2008
• Ward 13	0	3	1	0	0
10. Race of Complainants					
• Asian	2	1	0	0	1
• Black	86	67	73	67	51
• Hispanic	1	8	2	2	5
• Native American	4	6	1	2	2
• Unknown	4	5	10	8	2
• White	59	33	20	17	21
11. Age of Complainants					
• Under 21	13	23	9	14	7
• 21 – 40	91	54	54	53	49
• over 40	45	34	37	21	20
• Unknown	7	10	6	8	6
12. Gender of Complainants					
• Female	46	45	42	36	25
• Male	110	74	64	60	57
13. Race of Officer					
• Asian	4	4	5	5	9
• Black	7	4	3	7	5
• Hispanic	5	5	4	3	5
• Native American	2	6	1	1	2
• White	127	88	103	72	52
• unknown	0	2	2	0	0
14. Officers time on force					
• Less than 5 years	14	11	9	19	19
• 5 or more years	131	98	107	69	54

### Section III: Data Discussion

This section will discuss the public’s concerns about police misconduct, mediation and board activity, and most importantly, the Chief’s level of discipline in 2008.

To aid civilians and policymakers with their efforts to understand the nature of police complaints and the challenges of conducting an effective police accountability agency, the CRA will provide examples of the types of police misconduct complaints civilians brought to the CRA and the CRA and MPD’s handling of civilian complaints.

Because the Minnesota Government Data Practices Act limits the amount of information that may be released on government employees, the examples in this report have been edited to ensure the privacy of the public employee. All identifying information related to the complainants, officers, and locations have been removed from the examples. It should be noted that the examples are in

various stages of the CRA process. The CRA believes the following examples will allow the reader to have a fuller understanding of what the raw 2008 data means.

### Initial Complaints

In 2008, initial complaints filed with the CRA increased by 19 percent. In general, increases in initial complaints may be attributed to increase awareness of the CRA, civilians' desire to file with an agency other than the MPD IAU, increase in officer misconduct behavior, severity of complaints, and civilians' desired outcomes.

In 2008, thirty percent of the initial complaints were classified as No response/No contact. Typically, No response/No contact designations occur when an initial complaint is assigned an intake number and an investigator begins the preliminary investigation of the complaint; however, at some point during the preliminary investigation, the civilian fails to respond to the investigator's attempts to establish contact. The CRA has identified several possible reasons that may contribute to the loss of contact: (1) the civilian's living arrangements may not be stable; (2) the length of time for the CRA to make additional contact with the civilian; (3) the civilian's loss of interest in the process; and (4) the civilian believes the initial contact was all that was required to have the complaint investigated.

To reduce the loss of contact, the CRA makes extra effort to explain the basic requirements of the CRA process – the initial contact with the office and the first contact with the investigator. Additionally, the CRA attempts to obtain additional contact information from civilians and makes an effort to take statements earlier in the process for those individuals who may be at risk of disappearing or losing interest.

### Complaints Sent

The CRA typically sends one third of the initial complaints to civilians for signature. Last year, the number of complaints sent for signature increased by six percent, from 95 in 2007 to 101 in 2008, which may be explained by the 19 % increase in the number of initial complaints, as mentioned above.

### Signed Complaints

Last year, the return rate of complaints sent for signature was 67 percent, which is the lowest return rate in the last five years. It is difficult to determine the reasons why the return rate was so low in 2008. Two factors that may have contributed to the level of the return rate are: the amount of time between the civilian's filing of the initial complaint and the CRA's sending of the drafted complaint for signature because some individuals had moved leaving no

forwarding address or the complainant may have had second thoughts about filing a signed complaint. It should be noted that, with an increase in the number of initial complaint filings, the number of days to conduct preliminary investigations increased, which caused delays for civilians to receive their complaints for signature.

### Allegations

Misconduct allegations against officers have steadily decreased over the past five years. The CRA received 239 allegations of police misconduct in 2008, which represents a 20 percent decrease from 2007. In 2008, excessive force complaints were at the lowest number from 2004 through 2008.

In 2008, the majority of allegations filed against MPD officers involved inappropriate conduct and inappropriate language. Inappropriate conduct allegations typically included detainments and arrests, searches of houses, cars, persons, and personal effects, lost of documents and personal effects, rude manners, discourteous actions and abuses of officer discretion. A new type of allegation in 2008 was allegations that officers attempted to prevent civilians with cell phones from recording officers' actions by confiscating and searching the cell phones.

Another inappropriate conduct allegation that was common and easily avoidable was allegations of officers refusing to provide their names and badge numbers to civilians when requested. While some officers view this as a harmless complaint, the seriousness of this policy violation is evident when a civilian has contact with an officer that is not recorded by a citation, radio communication, or a police report. These types of complaints require additional staff resources to properly identify an officer before assigning the misconduct allegation.

In regard to inappropriate language, allegations ranged from gender and racial language to profanity. While some civilians and officers view these types of complaints as minor, civilians who have experienced these types of inappropriate language by officers often report to the CRA feelings of disrespect and a loss of a sense of dignity in front of their families and neighbors.

Below are examples of the types of allegations that were received in 2008.

1. A civilian alleged that an officer threatened to hold the civilian's recently purchased vehicle in the city's impound until it was auctioned if the civilian did not provide information other than the information the civilian had already provided to the officer. The officer eventually removed the hold on the vehicle, but did not inform the civilian that the hold had been removed. The officer also did not inform the impound lot that the vehicle had a new owner (the civilian). Because of the officer's actions, the owner did not claim his vehicle and it was sold at auction.

2. A civilian alleged that during a vehicle pursuit, his vehicle crashed. The civilian alleged that a pursuing officer demanded that he get out of the vehicle. While the civilian was trying to climb out of the vehicle, the officer pulled him from the vehicle through a broken window. The civilian further alleged that after he was pulled from the vehicle, the officer dropped him on the ground and struck him in the head with the barrel of his gun. The officer then kicked and punched the civilian when the civilian was not resisting arrest. The civilian alleged that he sustained injuries to his head, teeth, chest, and ribs.
3. A civilian alleged that, while attempting to file a report at a police precinct, an officer used inappropriate language toward him when the officer spoke to him in a demeaning tone. The officer told Complainant, "You don't need to be here" (to file the report). Instead, he told Complainant to call 3-1-1 to file.

After following instructions of the 3-1-1 Operator to obtain additional records, the Civilian, following the 311 Operator's instructions, returned to the precinct. When the same officer saw that Civilian had returned, the officer said to Complainant, "What the f--- are you doing here?"

4. A civilian alleged that at the scene of an assault, an officer told a witness to the assault, who had expressed concern that the suspect might retaliate against her, that the suspect should have "beat" the witness's a--. The witness left the scene without providing her information. The victim of the assault alleged that when the victim verbally objected to the officer's comment to the witness, the victim was arrested.
5. A civilian alleged that during a traffic stop, an officer would not allow her to call her minor child to tell the child that she would not be able to pick her up at school. The civilian further alleged that, during a pat down search, an officer touched her inappropriately when the officer ran his hands roughly under her breasts and up into her vaginal area. Additionally, the civilian alleged that the officers used excessive force when they picked her up and threw her face first into the ground, resulting in cuts to her face.
6. A civilian alleged that two officer used excessive force when one officer punched him in the mouth with a closed fist. The civilian alleged that the second officer struck him in the stomach with a baton after he was stunned from the first officer's punch. The civilian alleged that the officer's actions were unprovoked. Civilian also alleged that he suffered injury to his lip and had to seek medical attention for continual headaches.

## Location of Complaints

Police misconduct is a greater concern to the residents in some areas of Minneapolis than in other areas. CRA data related to the location of where complaints generate from provides policymakers independent, reliable data that will assist in discussions with their constituents and MPD administration about concerns related to police accountability and the MPD's efforts to resolve the misconduct issues.

The most notable change in complaints received by a precinct occurred in the Fourth Precinct. Complaints from the Fourth Precinct decreased by 33 percent to 20 total complaints, which is the lowest number of CRA complaints received in the precinct since the beginning of the CRA. Since 2004, the Fourth Precinct had consistently received nearly 30 complaints a year. While the exact causes for the decrease in Fourth Precinct complaints cannot be identified, the Fourth Precinct received a new Inspector at the end of 2007, and crime decreased in the area during 2008.

While nearly all City Council Wards experienced a decrease in the number of misconducts complaints filed in 2008, the number of complaints in City Council Ward 7 increased by 53 percent, from 13 to 20. Complaints in Ward 7 have steadily increased since 2006.

## Officers

Seventy-three officers received misconduct complaints in 2008. Ten of those officers received at least two complaints in 2008. In the 2007 annual report, the CRA noted that the majority of officers who received misconduct complaints had over five years of experience as MPD officers. The same held true for 2008. Seventy-three percent of the officers who received complaints in 2008 had over five years of service as Minneapolis police officers.

While the number of complaints against supervisory-level officers is small, the tracking of supervisory-level officers receiving complaints is important because they have a great deal of influence on police officers. The CRA started tracking the types of complaints that supervisory-level officers received to determine if there is a correlation between the supervisory level officer's actions and the actions of patrol officers. At this time, there has not been enough data collected to determine the strength of a correlation.

Because civilians expect supervisory-level officers to be more professional and responsive than patrol officers, the CRA has taken a special interest in the complaints received against supervisory-level officers. In 2008, the number of supervisory-level officers who received complaints dropped, which indicates a steady downward trend from 2006, as shown in Table 3.1. In 2008, only eight

supervisory-level officers received complaints, containing 14 allegations, as shown in Table 3.2.

**Table 3.1 – Supervisory-Level Officers Complaints 2004 - 2008**

	2004	2005	2006	2007	2008
<b>MPD Supervisors</b>	18	5	19	13	8

**Table 3.2 – Types of Complaints against Supervising Officers in 2008**

Allegation	Number of Allegations
Discrimination	1
Excessive Force	2
Failure to Provide Adequate or Timely Assistance	2
Harassment	2
Inappropriate Language	2
Inappropriate Conduct	5

Of the eight supervisors who had complaints, the allegations were distributed as follows:

1 supervisor had 4 allegations – inappropriate language, harassment, discrimination, inappropriate conduct

3 supervisors had 2 allegations each –

1 officer – inappropriate language, inappropriate conduct

1 officer – failure to provide adequate or timely police protection and inappropriate conduct

1 officer – harassment and inappropriate conduct

4 supervisors had 1 allegation each –

1 officer – excessive force

1 officer – excessive force

1 officer – failure to provide adequate or timely police protection or service

1 officer – inappropriate conduct.

As the tables show, the majority of the complaints against supervisory-level officers involved allegations classified as inappropriate conduct. The inappropriate conduct allegations ranged from displays of an attitude of indifference, disrespectful behavior, search violations, and destruction of property.

The example below illustrates how the attitudes and behaviors of some officers could be reinforced by the actions of supervising officers.

A civilian alleged the following:

An officer stopped a civilian and threatened to arrest the civilian for loitering, when the civilian was riding his bike through a neighborhood. During the stop, the officer told the civilian that he was out of place in the surroundings. The neighborhood was predominately black and the civilian was white. After the civilian protested the stop, the officer encouraged the civilian to file a complaint so the Chief of Police would know that the officer was working and not wasting time. During the stop, the officer's supervising officer came on the scene and told the civilian that he did not belong in the area and if he saw him in the area again that he would be f--- arrested. The supervising officer used additional profanity during the incident.

The example above illustrates how the supervising officer's actions and behavior condoned and reinforced the patrol officer's alleged inappropriate conduct. This example also illustrates the supervisory-level officer's additional display of alleged inappropriate language toward the civilian.

The cumulative effect of veteran officers and supervisory-level officers' displays of inappropriate conduct and language are likely to negatively affect newer officers' behaviors, which may result in newer officers receiving more complaints as they settle into the MPD culture and environment.

### Mediation Activity

The CRA's mandatory mediation program provides a supportive environment that attempts to foster mutual respect between officers and civilians. Providing the opportunity for civilians and officers to speak with each other on equal footing to discuss their incidents is one of the best ways to obtain resolutions of civilians' complaints. A major benefit that civilians have communicated about mediation is the opportunity to express to officers the disappointment in the officers' behavior. Some officers have used the mediation opportunity to explain to civilians why they took certain actions, whereas on the street it may not have been the time or the place to provide explanations.

CRA investigators play a crucial role in explaining the benefits of mediation, answering civilians' questions and responding to civilians' objections to mediation before the mediation date. The CRA relies on experienced mediators to assist officers and civilians to discuss the issues. CRA mediators are volunteers and are not associated with the MPD or CRA. CRA mediations are also confidential (CRA staff is not involved in the mediation) and cannot be used in a subsequent investigations or actions.

In 2008, the CRA conducted 16 mediations. Eight complaints were successfully mediated, which represented 12 percent of the 2008 signed complaints. Below is an example of one the successful mediations.

A civilian alleged that two officers violated the civilian's rights and those of the civilian's passengers when the officers stopped the civilian's vehicle, ordered the civilian and companions out of the vehicle, searched and handcuffed them, searched the vehicle, and then released the civilian and companions without explanation or reason for the stop and detainment. The civilian also alleged that one of the civilian's companion's personal effects was taken and not returned.

This complaint was referred to mediation because the length of the detainment was minimal, both officers qualified for mediation, and the civilian expressed an interest in mediation because the investigator had properly explained the value of mediation. This complaint was successfully mediated.

The mediation was successful because the mediator maintained control of the issues discussed and encouraged the participants to fully engage in the mediation process. The officers acknowledged and explained the reasons for their actions. The officers also apologized for the lost property and offered to check into the location of the property. The complainant accepted the officers' apology and explanations. The complaint against the officers was closed as successfully mediated.

Experienced, dedicated mediators are vital to the success of the CRA mediation program. Since the reformation of the CRA in 2003, the CRA has had to rely on volunteer mediators. The CRA has worked hard to maintain a pool of mediators experienced in police-civilian mediations. The CRA has been fortunate to have individuals who were willing to contribute their time and talents as mediators in 2008. The law firm of Gray Plant Mooty provided four attorneys to assist the CRA with mediations. In addition to other individuals, the CRA has been extremely fortunate to have a long-time mediator, Denise Reuter, continue to give of her time and expertise. However, as with most programs or organizations that depend on volunteer support, the ability to meet the needs of the program are limited to the availability of the volunteers, which, at times, results in delays in mediation scheduling.

### CRA Board

The CRA board offers civilians the ability to be involved in the city's efforts to ensure police accountability. Board members have the opportunity to participate in aspects of police policy recommendations and the police disciplinary process, which are typically closed to civilians. The CRA is proud that the board has consistently proven to be above reproach in carrying out its duties.

Appointing civilians to the CRA board is often a long process because of the need to attract civilians who are willing to commit their time and energy to learn about police training and MPD policy, attend board meetings, committee meetings, and hearing panels. Applicants are required to set aside their personal agendas and biases in order to make fair and impartial determinations.

At the end of 2007, the terms of seven board members expired. New board members were appointed in May 2008, and a new board chair was appointed in August 2008.

The board chair is appointed by the Mayor and must be approved by the City Council. Last year, the appointment of a board chair proved more difficult than expected. The original board chair resigned shortly after being appointed. Several board members were approached to serve as board chair, but declined. During the absence of a board chair, the Police Officers Federation of Minneapolis (police federation) challenged the board's ability to appoint hearing panels when the board attempted to resume a hearing schedule after completing board training.<sup>10</sup> This caused an additional delay for complaint hearings. As a result, the City Council and the Mayor supported the board's desire to change the CRA ordinance to include an acting chair. The ordinance was changed to provide the appointment of a vice chair by the Mayor, and in the absence of the chair and vice chair, the board is authorized to appoint an acting chair to serve until the next board meeting or until a chair is appointed.

### Board Activity

To prepare the board for its work, the City Attorney, the MPD, and the CRA staff provided training to board members. The training covers use of force, ethics, data practices, board orientation, and other areas. In addition, board members participated in the MPD Civilian's Academy, police ride-a-longs, and one of the new board members attended the National Association of Civilian Oversight of Law Enforcement (NACOLE) Conference.

The core of the board's work is conducting hearings on civilian complaints. The CRA ordinance requires that CRA hearing panels make Sustained<sup>11</sup>, Not Sustained<sup>12</sup>, or Dismissal<sup>13</sup> determinations on civilian allegations. Notifications of the hearing panel's findings are forwarded to the Chief of Police for a disciplinary decision. The CRA discontinued the practice of notifying the complainant's of the Hearing Panel decision in 2007. While the public may not learn of individual

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<sup>10</sup> Appointment of hearing panels is a duty assigned to the board chair, by ordinance.

<sup>11</sup> Sustained allegations are allegations that the board believed that the greater weight of the evidence supported the likelihood that the action occurred.

<sup>12</sup> Not Sustained allegations are allegations that the board believed the greater weight of evidence supported the likelihood that the action did not occur.

<sup>13</sup> A Dismissal of an allegation or complaint usually occurs because the civilian failed to cooperate with the CRA process.

complaint allegations and the board's decisions on every police misconduct complaint, board members, through their participation in hearings and public meetings, are able to assure civilians that their police complaints have been thoroughly investigated, seriously evaluated, and impartially considered for misconduct findings.

In 2008, complaint hearings did not begin until September due to the lack of a board chair, as discussed above. During the months of September, October and December, the board conducted 57 hearings.

For Table 3.3 below, it should be noted that the number of complaints heard by panel includes complaints filed before 2008. The number of complaints heard by panel does not necessarily correspond to the 2008 complaint data.

**Table 3.3 – Board Data**

<b>Disposition of Complaints</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
• Number of complaints heard by panel	85	179	86	57	57
○ Number of complaints fully sustained	9	10	7	3	2
○ Number of complaints partially sustained	22	29	14	4	6
○ Number of complaints not sustained	37	91	48	22	19
○ Number of complaints dismissed <sup>14</sup>	16	60	17	44	28 <sup>15</sup>
○ Number of complaints determination pending <sup>16</sup>	0	0	0	0	9
• Number of allegations contained in complaints heard <sup>17</sup>	657	947	351	226	191
○ Number of allegations sustained	109	112	74	22	21
○ Number of allegations not sustained	424	602	215	82	70
○ Number of allegations dismissed	88	233	62	171	86
• Types of allegations sustained					
○ Inappropriate conduct	28	26	15	7	11
○ Inappropriate language	31	44	27	6	2
○ Harassment	15	11	5	4	2
○ Excessive force	22	22	22	3	6

<sup>14</sup> Includes complaints dismissed by CRA manager 172.85.(b).

<sup>15</sup> Seventy-one percent of the dismissals were due to complainant's failure to continue with the CRA process.

<sup>16</sup> Pending at the end of year.

<sup>17</sup> No probable cause was found for 27 of the 657 allegations contained in complaints heard in 2004, under the previous CRA ordinance.

<b>Disposition of Complaints</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
○ Failure to provide adequate or timely police protection	11	7	3	2	0
○ Discrimination	0	0	1	0	0
○ Failure to report use of force	0	2	0	0	0
○ Retaliation	2	0	1	0	0

Below are examples of cases that went before hearing panels in 2008. In the first example, the board made a not sustained determination on the allegations contained in the complaint. The second example is of a complaint where the hearing panel delivered a sustained determination on the allegations contained in the complaint. The last example is of a complaint that the hearing panel dismissed. Each example provides the facts of the incident, the board's determination, and the basis for hearing panel's determination.

Not Sustained

A group of civilians of different races was in a vehicle near an area of a shots fired call. Officers stopped the vehicle. The black civilians were handcuffed, and the white civilians were not. An officer pat searched and handcuffed a civilian of the opposite sex. The civilian reported that the officer conducted the search inappropriately. During the incident, no officers of the same sex as the civilian responded to the scene.

The hearing panel determined that the officer who conducted the pat search did not violate policy because the MPD policy provides that in a potentially dangerous situation, any officer may search a suspect of the opposite sex. The file evidence indicated that the call was a potentially dangerous call involving guns. The board also determined that there was not enough evidence to sustain an allegation of discrimination because the potential witnesses to the officers' actions did not participate in the investigation.

It should be noted that, during the course of the investigation, it was discovered that the MPD did not have a documented standard for training officers on how to conduct searches of the opposite sex. Had the hearing panel sustained the complaint against the officer for inappropriate conduct during the search of a civilian of the opposite sex, the officer would not have been disciplined because the officer's conduct would have been attributed to a training failure.

The CRA made informal inquires and suggestions to the MPD about documenting officer training for searches of the opposite sex. At this time, the MPD has not expressed an interest in documenting training for searches of the opposite sex.

## Sustained

An officer observed a group of civilians in a public area. One of the civilians grabbed a friend by the arm to leave the place because he thought his friend was under the influence of drugs.

As they approached an officer, the officer told the civilian to release his friend's arm. The officer maced the civilian and placed him in handcuffs. During the macing and handcuffing of the civilian, another member of the group yelled his objections to the officer's actions. The officer used profanity towards the member and maced him. The officer also called for assistance because he feared for his safety.

The arriving officer noticed another individual of the group pacing back and forth behind the officer, while the officer was placing the civilian in handcuffs. Upon noticing the individual's actions, the arriving officer grabbed the person by the neck and pushed him into the wall. The individual was arrested and placed in handcuffs.

During the arrest, the individual's pants fell down to his ankles, the officer refused to pull up his pants. The individual's pants remained down while he walked to the squad car, traveled to the station, and during the booking at the station.

The hearing panel sustained an allegation of excessive force against the first officer for the use of the mace on civilian who was holding his friend's arm. The hearing panel did not believe that the evidence supported the first officer's version that the civilian posed a threat to the safety of others.

While the hearing panel expressed concern that the member might have been maced for yelling and not for posing a physical threat to the officer, the panel determined that under the circumstances, it might have been reasonable for the officer to make a split-second decision that the member posed a threat during the officer's interaction with the original civilian

The hearing panel did not sustain an excessive force allegation against the arriving officer because, even though the civilian may have been innocently "pacing back and forth" when the officer arrived on the scene, the arriving officer had to make a split second decision to assess and control the situation.

The hearing panel did not sustain the inappropriate language allegation because the only corroborating evidence was what one civilian told another after the incident.

The hearing panel found that the officers violated policy by not providing their badge numbers when requested, even though, they had provided the badge at a later time on the report.

The panel also determined that the officers' action in allowing the civilian's pants to remain around the civilian's ankles did not serve any legitimate purpose, but was meant to embarrass the civilian.

### Dismissal

A civilian alleged that an officer struck him in the head with a flashlight and sprayed him with mace. The civilian also alleged that the officer and his partner delayed in providing medical treatment for the injury he sustained from the strike to his head.

A hearing panel dismissed this complaint because the civilian did not continue to cooperate with the investigation. The civilian signed and returned the complaint, but failed to provide a formal statement. The investigator documented attempts to contact the civilian by telephone and mail. Telephone calls were not returned. The mail was not returned as "Undeliverable," at first, and then a letter was received in the CRA office as "Return to Sender Unable to Forward." The complaint was recommended for dismissal. The hearing panel dismissed the complaint.

Each of these examples reflects the hearing panels' efforts to objectively evaluate the evidence and render decisions that are supported by the evidence.

As the reader may have noticed, while it is essential that the civilian who signed the complaint participate in the investigation, it is also very important that witnesses to the incident participate in the investigation. Witnesses, especially non-interested witnesses, are in the position to allow the hearing panel to determine the facts of the incident more clearly. In addition, audio and video recordings have greatly aided the board's ability to determine the facts of an incident.

Policy recommendations are another important part of the CRA board's work. In 2008, the board followed up on a MPD Conducted Energy Devices (CED) policy issue that the 2007 outgoing board members had started inquiring about.

In 2006, the MPD sought additional funds from City Council for CEDs. Because the use of CEDs had been controversial in many cities, the previous CRA board researched the issues surrounding CEDs and proposed policy recommendations to the MPD and City Council. City Council accepted and approved the recommendations and provided the funding for the new CEDs. Shortly after City

Council approval, the MPD policy reflected the CRA policy recommendations. However, in the fall of 2007, the MPD changed the CED policy, without any input or involvement from the CRA board or the City Council. The CRA board began questioning the MPD about the unilateral change to the CED policy at that time. but the issue was not resolved before the previous board members' terms expired. In 2008, the new board renewed its questioning of the MPD relative to changes to the CED policy. However, by the end of 2008, the MPD had not provided any additional information concerning the change in CED policy. The change to MPD CED policy has sparked additional discussions among board members about the manner of MPD policy change notifications to the CRA and the discussion is ongoing.

Chief's Discipline

The actions that the Chief of Police takes relative to police misconduct complaints are an expressed concern of the public. For some civilians, the concern is rooted in the monetary cost of settlements to the city, fear of interaction with the police, and the feeling of helplessness when confronted with perceived officer misconduct. Because of limitations on the amount of information that can be provided to the public related to police misconduct complaints, the concerns of police misconduct are intensified. This section will discuss the Chief's actions related to CRA board sustained findings in 2008.

The Chief declined discipline on every complaint returned to the CRA in 2008. In 2008, the Chief's disciplinary decision letters involved sustained allegations against six officers. In 2008, it took the Chief 195 days on average to render the discipline decision, which was 16 days less than the 2007 average of 209 days.<sup>18</sup>

Table 3.4 provides data related to the number of sustained CRA complaints the Chief returned to the CRA office in 2008.

**Table 3.4 – Chief of Police Data on Sustained CRA Complaints**

<b>Number of sustained complaints receiving discipline<sup>19</sup></b>	<b>2008</b>
• Discipline assigned	0
○ Number of officers disciplined	0
• No discipline assigned	5
○ Number of officers not disciplined	6

These “no discipline” decisions did not include training, coaching or counseling. Below are the types and number of sustained allegations that the Chief declined to impose discipline on in 2008.

<sup>18</sup> The CRA tracks the disciplinary days timeline from the day the CRA send the sustained complaint to the MPD to the day the CRA receives the Chief's disciplinary decision letter.

<sup>19</sup> The Chief of police is responsible for all disciplinary decisions related to Civilian Police Review Authority complaints.

**Table 3.5 – CRA Sustained Allegations contained in the 2008 Disciplinary Letters**

<b>Allegation</b>	<b>Number sustained</b>
Discrimination	1
Excessive Force	5
Inappropriate Conduct	4
Retaliation	1

Below are examples of the disciplinary decisions received from the Chief in 2008.

1. Officers #1 and #2 pulled over a driver and a passenger. Officer #1 approached the driver's side while Officer #2 approached the passenger's side. Officer #1 escorted the passenger to the back of the squad car where the officer forced the driver across the trunk, handcuffed the driver, forced the driver's face into the trunk of the squad and pulled up on the driver's handcuffed arms, while the driver was offering no resistance.

During Officer #1's interaction with the driver, Officer #2 opened the passenger door and asked the passenger to exit the vehicle. Officer #2 brought the passenger to the front of the vehicle, turned the passenger around, handcuffed and frisked the passenger. During the passenger's interaction with Officer #2, the passenger looked over toward the squad car and observed the driver being manhandled by Officer #1. The passenger stated to Officer #2, "There's no need for violence, officer; we're not offering any resistance." Immediately, Officer #2 grabbed the passenger and forcefully pushed the passenger's face into the hood of the driver's vehicle. Officer #2 then punched the passenger several times about the face, head, and back. When Officer #2 lifted the passenger up, from the hood of the car, the passenger was bleeding from the nose and mouth.

Officer #2 placed the passenger into the back of the squad car. Officer #1 seated the handcuffed driver at the curb. The officers decided to take the passenger to the hospital for emergency treatment. They removed the driver's handcuffs, informed the driver that they were going to tow the vehicle, and sent the driver from the area. The officers took the passenger to an emergency room.

The civilian board sustained excessive force allegations against the officers and an inappropriate conduct allegation against Officer #1. The MPD declined discipline, citing insufficient evidence.

2. After an officer approached a civilian and a companion sitting in the backseat of a vehicle, the officer demanded that the civilian exit the

vehicle. In response to the officer's questions, the civilian provided an explanation as to why the civilian was in the backseat of the vehicle. Then the officer requested the civilian's identification; the civilian refused. The officer continued to demand that the civilian exit the vehicle. The civilian exited the vehicle, but continued to refuse to provide identification. The officer took out a can of mace, threatened to spray the civilian if the civilian did not produce identification, and started counting backwards from ten. The officer put away the mace, handcuffed and pat-searched the civilian and put the civilian in the backseat of the police car.

The board sustained the allegation of inappropriate conduct because if the officer had any reasonable suspicion of criminal activity, the reasonable suspicion should have been cured with the civilian's explanation, in the absence of factors that the officer may have considered. Secondly, the MPD policy provides that an officer may threaten to use force only in situations where an officer reasonable believes such force could be authorized. Here, under the circumstances, force could not be used to coerce the civilian to provide identification.

The Chief did not impose discipline on this allegation, citing insufficient evidence.

The MPD provided the following explanations for not imposing discipline on the officers in 2008: investigator bias, dispute with the facts contained in the hearing panel determination, and insufficient evidence.

During closed board meetings, the Assistant Chief provides the MPD's rationale for its disciplinary decisions; however, in a practical sense, it is unrealistic for the MPD to change its disciplinary decision at the time the Assistant Chief makes a presentation to the board because the officer has been notified of the Chief's disciplinary decision. Nevertheless, the CRA disputes the Chief's decisions during the closed session. The CRA believes that the proper method for the MPD to handle their assertions is through the exercise of the Chief's reconsideration option. Below, the CRA discusses each of the MPD's assertions.

First, the assertion that a CRA investigator was biased in the investigation fails to recognize that the civilian board makes the final determination on the allegations, not the investigator. The CRA believes this assertion would have been justified as a reconsideration of the sustained finding before the entire board. Reconsideration by the entire board would have allowed the MPD to present an argument against the investigator's work and afforded the full board an opportunity to carefully consider the assertions made against the investigator and the decision made by the hearing panel.

Second, the MPD's dispute with the facts found by the hearing panel typically included facts that are not considered by the hearing panel, e.g. the criminal past

or associations of the complainant and the good record of the officer. The board does not consider the number of complaints that an officer has received during the course of his employment when considering the facts of an incident or the past criminal acts and criminal associations of the civilian. Those facts are not germane to the question of whether the misconduct occurred in the particular situation before the CRA hearing panel. Those facts may be recognized as mitigating and aggravating factors during the imposition of discipline. However, if during the MPD disciplinary panel review, where the officer is afforded another opportunity to explain the appropriateness of his or her actions, the MPD learns of new evidence that should have been presented during the course of the CRA investigation, the reconsideration option is a suitable venue for the Chief to make the argument against the sustained allegation.<sup>20</sup> If the disciplinary panel should base its decision for a recommendation of no discipline on the officer's presentation, the MPD should return the sustained finding back to the board for a reconsideration of the finding in light of the new evidence presented by the officer during the disciplinary panel stage.

Third, on the majority of sustained complaints that the MPD declines to discipline, the MPD provides a letter that states there was insufficient evidence to support discipline against the officer for the alleged acts; however, the letters lack detail as to what was deficient about the evidence. This assertion by the MPD has the appearance of an additional assessment of the CRA file and the hearing panel's findings of facts, which would be in direct conflict with the ordinance. Moreover, the want of written details raises a question of the MPD's sincerity in operating within the spirit of the CRA ordinance. The MPD's assertion of insufficient evidence, like the assertion above, would be ripe for a board reconsideration of the hearing panel's sustained finding. The reconsideration would provide the MPD with an opportunity to present an argument as to why the evidence is insufficient to discipline, thus the sustained allegation should be reversed. Although the Assistant Chief provides additional information to support the disciplinary decision during closed board meetings, the information provided is not an official recording for the file and it does not allow the board an opportunity to make a change in the sustained finding, if necessary.

As stated above, each of the three reasons provided above for no discipline would have been suitable for reconsideration. In 2006, the Minneapolis City Council amended the CRA ordinance to provide the Chief the reconsideration as an opportunity to directly dispute a sustained CRA finding with the CRA board by presenting a factual or legal basis as support for his assertion that the allegation should not have been sustained and therefore no discipline is required.<sup>21</sup> The reconsideration is especially important when the Chief has determined that

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<sup>20</sup> In theory, the officer's presentation during the disciplinary panel review should be the same as the CRA interview and hearing panel presentation. The officer has the ability to have representation at the disciplinary panel review and the CRA interview and hearing stages.

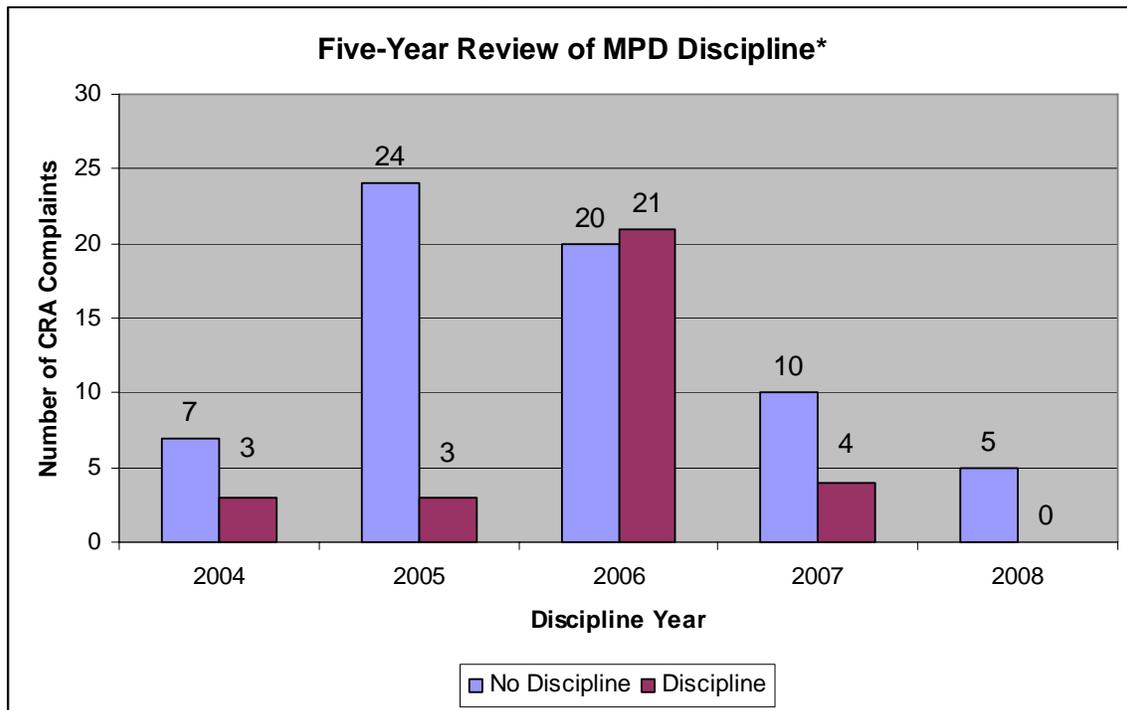
<sup>21</sup> Central to working group's examination was the Chief of Police's lack of discipline on sustained CRA complaints.

discipline is not warranted on a sustained complaint because of insufficient evidence.

### Five-Year History of MPD Discipline

The Chief's 2008 discipline rate is the lowest amount of discipline that the MPD has ever done; excluding the year, the CRA was inactive. The table below shows the last five years of MPD's disciplinary decisions on sustained CRA complaints. This data is provided to allow the reader to assess the current Chief's discipline in the context of his predecessor's actions on CRA complaints.<sup>22</sup>

**Figure 2 – Five Year-Year History of MPD Discipline**



\* Includes disciplinary decisions by different Chiefs: 2004 – Chief Olsen; 2005 – Chief McManus; 2006 – Chief McManus/Interim Chief Dolan; 2007 – 2008 – Chief Dolan

As the table shows, there are two outliers in the above data – 51 percent discipline in 2006 and zero percent discipline in 2008, both of which were discipline years by the current Chief. To attempt to explain these outliers, the CRA reviewed data from the 2006 and 2008 – the sustained complaints, the disciplinary decisions, the ages of the complaints, and the CRA's operating environment.

The review of the 2006 and 2008 sustained complaints and the ages of cases showed that the types of complaints and the ages of the cases were similar. It

<sup>22</sup> It should be noted that the MPD has historically disciplined at a higher percentage on complaints initiated from within the MPD as opposed to complaints from civilians.

should be noted that in 2006 the MPD complained that the quality of the CRA investigations caused the low discipline in 2005 and previous years. The CRA has not heard that explanation since 2006.<sup>23</sup> The review of the disciplinary decisions from 2006 showed that the majority of the disciplinary decisions were oral reprimands, which included many older complaints. While in 2008, all decisions were no discipline.

A review of the CRA's operating environment in 2006 and 2008 showed that in 2006 the CRA received a high level of attention and concern from the policymakers through the formation and work of a CRA working group, the CRA board was fully engaged in the Chief's level of discipline, and the then Assistant Police Chief who handled the majority of the disciplinary decisions from 2005 through April 2006 was applying for and was appointed to his current Police Chief position in April 2006. In contrast, in 2008, the CRA's operating environment lacked the high level of attention on discipline and the CRA board was inactive for two-thirds of the year.

In fairness to the Chief, the Chief made disciplinary decisions on 41 complaints in 2006; while, in 2008, the Chief made five. It is at least arguable that the Chief's disciplinary percentage may have been better if more decisions would have been made in 2008.

#### **Section IV: Major Issues facing the Agency**

This section will discuss the key challenges that the CRA faced in 2008. The section will relate some of the difficulties associated with civilian oversight in Minneapolis, and lay the foundation for an understanding of the complexities involved in making the CRA more effective. The paragraphs below will discuss the following challenges:

1. Alignment of Chief's Disciplinary Decisions and CRA Sustained Complaints
2. Investigative Resources and Agency Funding
3. Ordinance Timeframes and Investigative Resources
4. Imbalance of Power between the CRA and MPD
5. Data Practices and CRA Data Release
6. Transparency and Accountability
7. Police Officers Federation of Minneapolis Lawsuit
8. CRA and MPD Working Relationship
9. Policy Recommendations
10. CRA Ordinance and Administrative Rules Changes
11. Loss of Civilian Reconsideration Option

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<sup>23</sup> The CRA has continued to assert investigator bias related to a former investigator's comments and the investigator's characterizations of officers' actions.

### Alignment of Chief's Disciplinary Decisions and CRA Sustained Complaints

The number one challenge facing the CRA is the Chief's disciplinary rate on sustained allegations.<sup>24</sup> The CRA has always disagreed with the MPD over discipline on sustained CRA complaints; however, the resolution to this on-going challenge is in the sole control of the Chief of Police.

As discussed in Section III, Chief's Discipline, in 2006, a provision was added to the CRA ordinance that provides the Chief with a reconsideration option. This option was provided as a method to bring the CRA sustained complaints and the MPD discipline into closer alignment. However, since the amendment to the ordinance, the MPD has not used the opportunity to request a reconsideration of a hearing panel determination despite returning every letter to the CRA with no discipline imposed because of insufficient evidence.

There is no risk to the MPD for bringing sustained complaints back to the CRA board prior to the disciplinary decision because the Chief retains the disciplinary authority regardless of the board's subsequent action on the reconsideration. The Chief is not obligated to discipline the officer if the CRA board does not overturn the hearing panel's sustained finding. If the Chief were to exercise the reconsideration option, the Chief and policymakers may avoid the criticism that the MPD administration's "no discipline" decisions on CRA sustained complaints are less based on supportable reasoning and rationale (legal or factual basis), than an unwillingness to objectively evaluate police misconduct issues brought by civilians. Additionally, police officers could benefit from the Chief's exercise of the reconsideration because the board would have an opportunity to reconsider findings, in light of additional factors presented by the Chief, before they have a negative impact on officers' CRA records. The Chief's current practice of no discipline on a sustained CRA finding does not remove or change the sustained finding in the CRA records, which has been a concern of the police federation for years

In the end, the Chief's exercise of the reconsideration option would serve the police officers, civilians, MPD, the CRA, and the city's overall police accountability objectives. While the Chief's actions may be based solely on the MPD's management philosophy regarding officer discipline, officer morale, and the preservation of the MPD's culture, the Chief's actions, as some civilians have stated, appear to make the CRA impotent in its efforts to provide the civilians with disciplinary results. To overcome this obstacle, the CRA will continue to advocate for discipline on CRA sustained cases with the policymakers and the MPD, encourage the Chief to use the reconsideration option, and attempt to eliminate the Chief's reasons for not imposing discipline.

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<sup>24</sup> It should be noted that there is little difference between the MPD's actions on sustained CRA complaints and the MPD's actions on civilians' complaints filed with the MPD's Internal Affairs Unit.

### Investigative Resources and Agency Funding

Investigative resource challenges prevent the CRA from providing civilians and officers timely resolutions to complaints, which further erodes the public's confidence that the city is willing to deal effectively with police accountability issues.

At the end of 2008, the City of Minneapolis faced deep cuts to aid received from the State of Minnesota. It is abundantly clear that the CRA's home department, Minneapolis Department of Civil Rights, will receive a significant reduction in its funding due to this fact. As a result, all of the Civil Rights Department's business lines are being evaluated for necessity, duplication, results for expenditure, and the value to civilians. At this time, the CRA is in position to keep its funding for the remainder of 2009. However, the state and local economic forecasts for 2010 appear bleak. The CRA will continue to explain the functions and benefits of civilian oversight to the Mayor, the policy makers and the public. This challenge will undoubtedly cause the CRA to continue to struggle to meet the civilians and officers needs and demands for quicker investigations and resolutions on CRA complaints. Despite the resource limitations, the CRA will continue to adjust its processes and advocate for ordinance changes that would allow the CRA to serve the public and officers within the spirit of the ordinance.

### Ordinance Timeframes and Investigative Resources

The CRA will continue to be challenged to meet the CRA ordinance timeframes with its current investigative resources. The CRA ordinance mandates that the CRA complete investigations within 60 – 90 days. PERF recommends that the MPD IAU complete investigations within 45 days. To simply solve the public's expectations of investigation completion timeframes, the CRA could change the 60 – 90 days to complete an investigation to "within a reasonable time"; however, that sort of change would not satisfy the civilians and officers desire for quicker resolutions to misconduct complaints. Without the addition of an investigator, the CRA will need to continue to determine how to best deliver services to civilians, while maintaining the quality of investigations and providing all initial complaints with acceptable service.

### Imbalance of Power between the CRA and MPD

The imbalance of power between the CRA and the MPD is a significant challenge for the CRA. This imbalance of power is recognized most clearly when officers violate the CRA ordinance by failing to respond to requests and by failing to provide information in a timely manner. It is also evident when civilians report that officers taunt civilians to report their actions because nothing will happen to the officer if the civilian reports the officer for misconduct.

To illustrate this imbalance of power, the CRA ordinance provides a provision that failure to cooperate with reasonable CRA requests “shall be deemed an act of misconduct.” While a provision in the CRA ordinance compels officer to comply, the final decision as to whether an officer will be disciplined for documented non-compliance with CRA requests rest with the Chief. When the CRA used this provision in the past, the MPD declined to discipline the officer because the MPD policy did not explicitly state that officers had to comply with the city ordinance.

The imbalance in power is also demonstrated in the misalignment between the CRA sustained complaints and MPD discipline, which may be related to officers’ alleged beliefs that civilians can complain but nothing will happen to them.

A resolution to the imbalance of power is beyond the CRA’s control. Nevertheless, the CRA will continue to work with the Mayor’s office, City Council members, and the MPD to lessen the impact of the inherent imbalance of power that exist between the CRA and the MPD.

#### Data Practices and CRA Data Release

To compound the effect of the challenge of the lack of discipline, the CRA is restricted from releasing information related to the hearing panel determination, which limits the transparency of the CRA operation as it relates to individual complaints, and increases the public’s doubt about the police accountability efforts. In 2007, the City Attorney advised the CRA that it could no longer provide civilians hearing panel determinations, reversing a practice that had been in place for 16 years, after a request by the police federation. At that time, the board adamantly disagreed with the City Attorney’s opinion.

In August 2008, the Minnesota Department of Administration (MDA) delivered an advisory opinion limiting the amount of information the CRA could provide to civilians, which restricted the release of CRA hearing panels’ determinations on allegations against police officers.<sup>25</sup> The MDA’s advisory opinion also called into question the civilian’s ability to request reconsideration of a not sustained complaint because the reconsideration would be based on the civilian’s knowledge of the CRA hearing panels’ findings, thus a violation of officers’ private data.

As a result of the advisory opinions, the CRA may only release hearing panel determinations through a subpoena, when discipline has been imposed on an

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<sup>25</sup> In March 2008, the CRA submitted a request concerning the release of hearing panel findings to the public and the City Attorney’s opinion to the MDA. The MDA declined to provide an opinion because it considered the CRA’s request to involve an internal dispute between the CRA and the City Attorney. In June 2008, the City Attorney’s office submitted a request for an advisory opinion regarding the classification of CRA data, specifically what data may be released to the public, to the MDA. The MDA accepted the City Attorney’s request.

officer, or in the aggregate. Additionally, the CRA has had to adjust the public data designations. In the past, the CRA could state whether a complaint was sustained or not sustained. Now, the CRA may only release the following data to the public regarding CRA hearing panel's actions and status of the complaint:

- Closed, awaiting notice of further action by MPD
- Closed, discipline imposed
- Closed, no discipline imposed
- Dismissed

As you may have noticed, the civilian cannot determine if the hearing panel voted to sustain or not sustain the allegation. For the CRA and the civilian this ambiguity is especially troubling with the closed, awaiting notice of further action by MPD and closed, no discipline imposed. Both of these designations could contain sustained or not sustained hearing panel findings. Currently, the only way the civilian or the public can find out how the board decided on allegations against an officer where discipline had not been imposed against an officer is with a subpoena.

Although the City Attorney and MDA opinions protect the officers' privacy related to no disciplined complaints, the ambiguity of the CRA designations that the opinions created opens officers up to more public scrutiny. The civilian, when viewing the officer's public CRA record, does not know if the Chief did not discipline because the CRA hearing panel did not sustain the allegations or that the Chief refused to discipline on the sustained allegations against the officer. Therefore, in most cases, when civilians request public information about an officer, the civilian will only know that an officer received a number of complaints that no discipline was imposed on, which gives the appearance that the MPD refuses to discipline officers. That appearance coupled with the Chief's discipline rate has raised considerable concern with the public that civilian complaints of misconduct are not taken seriously.

### Transparency and Accountability

The City of Minneapolis created the CRA with the intent to provide the public with independent, reliable information concerning police officer misconduct, thereby providing the transparency and accountability that the public demanded for the handling of police misconduct complaints.

The CRA provides transparency three ways. First, transparency related to an individual complaint, which has been severely reduced by the City Attorney and MDA advisory opinions restricting the release of hearing panel decisions, as discussed above. Second, transparency of the CRA process and overall outcomes related to the CRA complaints, which is provided through monthly board meetings, monthly statistical reports, and the availability of public files when discipline has been imposed. Third, transparency related to an individual

officer through the release of individual officer's public CRA information, as discussed above.

Transparency as it relates to the individual complainant is a challenge that does not have a simple solution because the restriction on the release of the hearing panel determination is based on the Minnesota statute governing public employee data.

### Police Officers Federation of Minneapolis Lawsuit

In January 2008, the CRA learned that the police federation filed a lawsuit against the City of Minneapolis demanding the name an individual who could overturn or amend CRA board findings during grievance negotiations. This issue arises when the Chief rescinds discipline attached to a CRA sustained finding during the MPD grievance process and the CRA finding remains sustained because the Chief does not have power to overturn or amend CRA findings. While the lawsuit deals with the sustained findings related to rescinded discipline, it does not affect sustained findings where the Chief did not impose discipline, which the police federation has long opposed.

The CRA immediately raised concerns about the board maintaining the final authority to determine the finding of a CRA allegation against an officer. Eventually, the city prevailed on the lawsuit; however, the city offered to negotiate with the police federation regarding the negotiating of CRA sustained findings where the Chief rescinded discipline. At the end of 2008, a process was developed that allows the CRA to maintain its final authority on CRA findings where the Chief rescinds discipline. While it is good that the CRA maintained the authority over CRA sustained findings, the larger issue concerning sustained findings where discipline was never imposed will remain an issue for the city and the CRA to deal with when it is raised by the police federation through litigation or contract negotiations. It is very likely that this issue will be raised in the future because the MPD imposed discipline on approximately 32 percent of all CRA sustained findings over the past five years. The police federation's concern about sustained complaints that receive no discipline from the Chief further supports the need for the Chief to exercise the reconsideration option.

### CRA and MPD Working Relationship

Despite the Chief's discipline level in 2008, the CRA had a positive relationship with the MPD administration and the IAU. The major difficulty between the CRA and MPD involved individual officers failing to respond timely to CRA requests for squad video tapes, videos from the downtown area cameras and officer appearances after CRA requests and MPD orders to appear for CRA interviews.

During 2008, the MPD implemented a policy where the city attorney attached to the MPD would review all video footage that the CRA requested prior to the

release of the video. That practice caused unnecessary delays and at times appeared to be a hindrance to CRA investigations and resulted in video footage being lost or recorded over because of the communication lapse. The CRA and MPD discussed this issue in several PACC meetings without a firm resolution. Eventually, the MPD agreed to a process where the CRA would directly receive the video footage, with a copy of the request going to the MPD's city attorney.

### Policy Recommendations

The CRA ordinance provides the CRA with the ability to make policy recommendations to the MPD. The CRA understands that the MPD is not obligated to implement CRA policy recommendations. In the case of the 2006 CRA policy recommendations relative to the Conducted Energy Devices (CEDs), the MPD intimated to City Council that the policy recommendations would be implemented. The recommendations were implemented, but subsequently removed from the MPD policy manual. The subsequent removal of the CED recommendations presents a significant challenge for the CRA. Because of the involvement of the CRA in the writing the CED policy, it is troubling that the MPD chose not to consult the CRA. At the time of this report, the CRA had sent inquiries to the MPD to solicit information on how the MPD arrived at the changes to CED policy. This issue will continue to be discussed in 2009.

### CRA Ordinance and Administrative Rules Changes

The CRA will need to focus on making changes to the CRA ordinance and administrative rules. The major changes involving the CRA ordinance and administrative rules are related to the City Attorney's Office and Minnesota Department of Administration's advisory opinions concerning the limitations on the release of hearing panel data.

This limitation on the CRA is a hindrance to providing transparency of the agency's work on individual complaints. Last year, the CRA discussed ways to maintain a level of transparency within the limitations. To date, the CRA has not settled how to handle the limitations on the release of the hearing panel determinations. A civilian watchdog group's lawsuit has delayed action on the changes to the ordinance related to the data restrictions. In the meantime, the CRA is developing ways to provide civilians more aggregate data reports and redacted examples of the agency's work.

### Loss of Civilian Reconsideration Option

This issue is related to the Minnesota Department of Administration's advisory opinion. In 2008, the CRA no longer allowed civilians to request reconsideration of the hearing panel's not sustained finding. This change was necessary to comply with the City Attorney's opinion.

## **Section V: Report Conclusions**

This report shows that civilians desire an alternative to filing complaints with the MPD IAU. The report also shows that the CRA needs the support of policymakers and the MPD Administration to achieve the goals and objectives associated with effective police accountability. Further, the report shows that resource limitations and the MPD's handling of CRA sustained complaints are the biggest challenges facing the CRA. Without additional resources and a change in the MPD's handling of CRA sustained complaints, the CRA will continue to struggle to achieve the city's goals and objectives related to civilian oversight.

## **Section VI: Recommendations**

The following recommendations are based on the preceding discussions of the CRA data and the CRA challenges. These recommendations are meant to present solutions that will aid the CRA in its efforts to provide the MPD and the civilians of Minneapolis effective and timely civilian oversight of Minneapolis police officers.

1. Policymakers should encourage the Chief to discipline on sustained CRA cases – Because the CRA does not have authority to compel the MPD to discipline on CRA sustained complaints, the CRA must rely on policymakers to ensure that appropriate levels of discipline are being administered on sustained CRA complaints. CRA recommends that the CRA and MPD provide a joint monthly report on sustained complaints and discipline decisions to the Mayor and the Public Safety & Regulatory Services committee as a monitoring method.
2. The Chief should use the reconsideration option added to the CRA ordinance in 2006 – The Chief's reconsideration option may help align the CRA sustained complaints and MPD disciplinary decisions. The reconsideration option would allow the CRA and the MPD to squarely handle issues of insufficient evidence, investigator bias, and disputes with facts that the MPD asserts as barriers to imposing discipline on officers with sustained CRA complaints.
3. City policymakers should consider an ordinance change that requires the Chief to meet with the board regarding no discipline decisions on CRA sustained complaints prior to the notification to the officer. This requirement would allow the board and Chief to have dialogue prior to the disciplinary notification being sent to the officer, which may result in meaningful and more productive discussions that could bring better alignment between the Chief's disciplinary decisions and the board's findings.

4. Policymakers should approach the state legislature to obtain an exemption to the Minnesota Government Data Practices Act. An exemption to the Minnesota Government Data Practices Act would allow the CRA to continue to provide transparency and accountability. The exemption should be pursued because the state legislature granted an exemption to allow for the proper operation of the CRA by granting an exemption to the Peace Officers Discipline Procedures Act. This additional exemption would be a necessary for the intent of the exemption to the Peace Officers Discipline Procedures Act to have some meaning and effect.
5. CRA should hire an additional investigator – The CRA’s investigative capacity is severely strained. The success of the CRA depends on the CRA’s ability to process complaints within a reasonable time. Civilians and officers desire faster resolutions to their complaints. An additional investigator would allow the CRA to process civilian complaints in a timelier manner, reduce investigators’ workload, and maintain the quality of investigations.
6. The CRA should hire an intake coordinator – An intake coordinator would absorb the investigators’ initial complaint and preliminary investigation duties. This would allow investigators to focus on processing their caseloads.
7. The CRA should contract for mediation services – The CRA’s mediation program is challenged because of an over-reliance on volunteer mediators. A paid mediator would allow the CRA to hold mediations quicker.
8. The CRA should be repositioned to include proactive work as well as investigative services – The CRA is in an excellent position to work with community members and the MPD to provide community education on police civilian encounters. The CRA should emphasize proactive activities as envisioned in the CRA ordinance.
9. The CRA and MPD should re-establish set meeting times for the PACC meetings.

## **Conclusion**

As 2009 rolled in, the CRA continued to work diligently to provide the civilians of Minneapolis efficient and effective police oversight. Despite the investigative resource challenges and process disappointments, the agency will continue to conduct investigations with the highest integrity and objectivity as envisioned by the creators of the CRA and drafters of the CRA mission statement.

## **Appendices**

### Appendix 1: CRA Team

#### CRA Staff

Samuel L. Reid II, Manager  
Robin Lolar, Investigator  
Stephen J. McKean, Investigator  
Sharon Pelka, Program Assistant  
Carolyn "Charli" Schwartz, Transcriptionist

#### Minneapolis Department of Civil Rights

Michael S. Jordan, Director

#### CRA Board Members (2008)

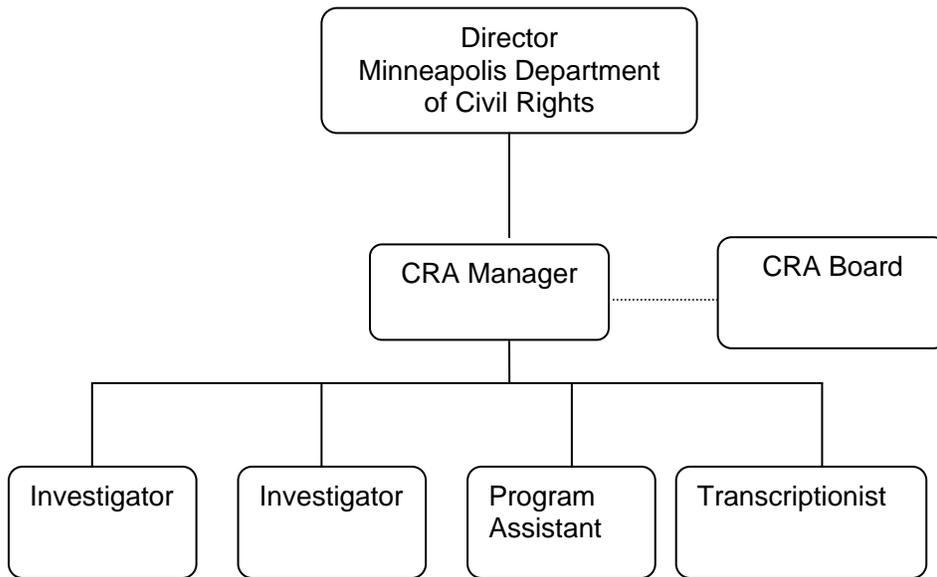
Donald Bellfield, Chair  
Sharlee Benson  
David Bicking  
Pam Franklin  
Charles Hall  
Patrick Kvidera  
Justin Terrell  
Lindsay Turner  
Austen Zuege

#### Mediators

Julie Boehmke\*  
Susan Dworsky  
Bill Fisher\*  
Laurie Knocke\*  
Denise Reuter  
Tracy Sherbert  
Charlie Wilson\*

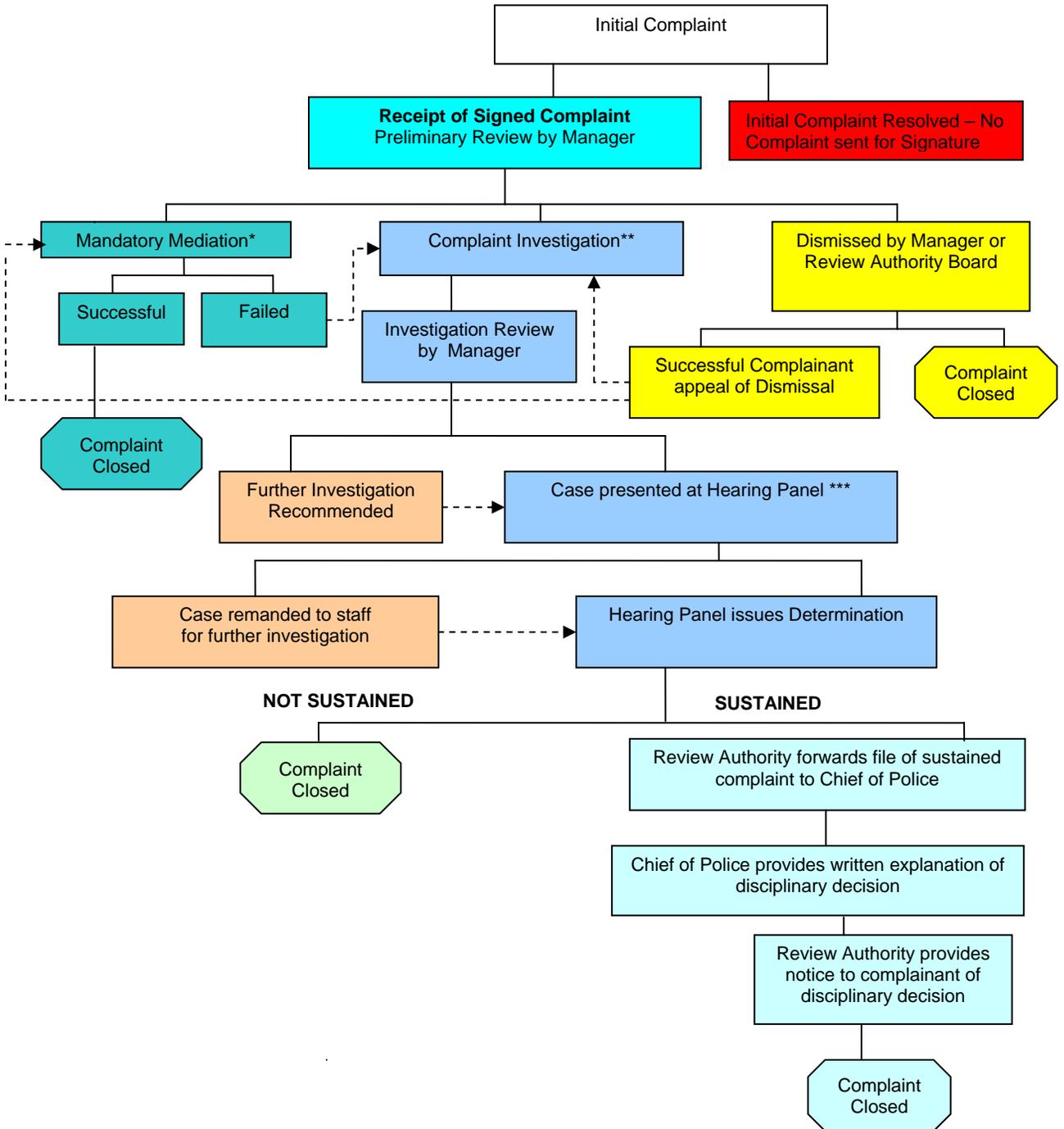
\* Gray, Plant, Mooty Attorneys

Appendix 2: CRA Organizational Chart



Appendix 3: CRA Flowchart

The CRA ordinance provides the operating structure and timelines of the CRA process. The flowchart below illustrates the CRA process.



\* Complainant and Officer must participate

\*\* Complainant and Officer must provide statements

\*\*\* Complainant and Officer attendance optional, but encouraged