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## ORGANIZATIONAL ASPECTS OF INTERNAL AND EXTERNAL REVIEW OF THE POLICE

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The issue of civilian complaint review boards for incidents involving citizen grievances against the police has continued unresolved for over a decade. While most of the acrimonious debate has been carried on at the municipal level, Presidential commissions, the FBI, and many national organizations have contributed arguments and recommendations at one time or another.<sup>1</sup> Nevertheless, the debate has had to thrive mainly on ideology, rhetoric, and opinion, for few cities have experimented with civilian review boards, making data difficult to obtain.

There is one city, however, that did have an operating civilian review board for a sufficient length of time to permit an analysis of its activities. For about ten years (1958-1969), the Mayors of Philadelphia appointed a group of prominent citizens to the Philadelphia Police Advisory Board (PAB) that had a mandate to accept citizen complaints about alleged police misconduct.<sup>2</sup> At the same time, the Philadelphia Police Department's Police Board of Inquiry (PBI) continued to hear cases that involved citizen complaints, although the bulk of its activity centered on internally generated disciplinary cases. Data on both these

agencies have been obtained, permitting comparison of the organization and functions of the two.

This is especially pertinent because some critics of civilian review have argued that such agencies are redundant, performing functions that the police organization already effectively handles.<sup>3</sup> The data presented here suggest that, in Philadelphia at least, the civilian review board was able to provide services that the internal review board of the police department did not. [Some of these functions may be performed elsewhere in city government or elsewhere within the police department, but that is not at issue here. The purpose of this article is to compare two organizations that had as a major activity the handling of complaints against policemen brought by citizens.]

The structure of these two agencies will be examined, beginning with the mandate each received. Data on civilian complaints will indicate the kind of complaints received and the methods of resolving them. The analysis shows that differences in mandate, staffing, organizational environment, and ideological commitment produced two rather distinct types of procedures that ostensibly dealt with the same problem. The comparison raises some important questions about the handling of citizen complaints and the consequences these complaints have for the police department and the community.

### MANDATES AND PROCEDURES

Most cases that come to the Police Board of Inquiry originate on the precinct level, where a superior officer determines that a violation of the Disciplinary Code may have occurred. The alleged violation can come to his attention through a complaint by a citizen or a fellow officer, by observation or inspection. An investigation is then conducted

<sup>3</sup> See in the matter of Harrington, et al., v. City of Philadelphia, Court of Common Pleas, June Term, 1965.

<sup>1</sup> See, for example, THE NATIONAL ADVISORY COMMISSION ON CIVIL DISORDERS (The Kerner Commission), 1968; The President's Commission on Law Enforcement and Administration of Justice, TASK FORCE REPORT: THE POLICE, 1967; *Police Review Boards*, Prepared by National F.O.P. Committee on Human Rights and Law Enforcement, Cincinnati; Open letter by J. Edgar Hoover, FBI LAW ENFORCEMENT BULLETIN, January, 1965.

<sup>2</sup> A rather extensive report of the Philadelphia Police Advisory Board prepared by the author appears in the POLICE AND THE COMMUNITY: THE DYNAMICS OF THEIR RELATIONSHIP IN A CHANGING SOCIETY by JOSEPH D. LOHMAN AND GORDON E. MISNER, 1966, pp. 205-84; also published as FIELD SURVEY IV. Volume 2, by the President's Commission on Law Enforcement and the Administration of Justice, 1966. A more condensed version is found in James R. Hudson, "The Civilian Review Board Issue as Illuminated by the Philadelphia Experience," 6 CRIMINOLOGICA, 16-29 (1968).

and a report is forwarded through channels until it reaches the police commissioner's desk. Although the report passes through a number of command levels after leaving the precinct, these officers can not adjudicate the case; only the commissioner can make a decision. Based upon this report, the commissioner takes direct disciplinary action or he refers the case to the PBI for hearing. Most disciplinary cases, in fact, do come to the attention of the PBI. It has two distinct functions—one administrative and the other judicial.

PBI hearings are held before a panel of officers whom the administrative staff selects from outside the accused policeman's district. These panels usually include a captain, a lieutenant, and a patrolman who sit for a number of cases. The officer against whom the complaint has been made may request that one member of the panel be of his own rank. It is the responsibility of the permanent staff of the PBI to set a time for the hearing, inform the concerned parties, and bring together all relevant information and files, including the policeman's complete departmental dossier.

Hearings are open to the public, and evening hearings have been instituted to accommodate civilian witnesses who might otherwise have to miss work in order to appear. The accused policeman has the right to counsel, and he is most often represented by a lawyer provided by the Fraternal Order of Police, a benevolent association of police officers.

The charges upon which a policeman can be brought before the PBI are carefully detailed in the Duty Manual of the Police Department which forms the Disciplinary Code of the department. There are five broad categories of offense: Conduct Unbecoming an Officer, Intoxication, Insubordination, Neglect of Duty, and Disobedience of Orders. Within each of these articles are a number of sections that specify various infractions. Each carries a recommended disciplinary action. For example, under Disobedience of Orders there is the specific infraction: "Soliciting money or any valuable thing without proper authorization." The first offense carries a recommended five-to-ten-day suspension without pay. In addition, each charge carries a reckoning period for repeated offenses, essentially a statute of limitation. When the PBI panel finds against an officer, it recommends to the commissioner a penalty based upon the offense, the officer's previous record, and other mitigating circumstances that might guide a disciplinary decision. The commissioner then makes a determination,

which is duly transmitted to the officer and recorded in his dossier.

The Philadelphia Police Advisory Board, originally the Philadelphia Police Review Board, was established in 1958 by Mayor J. Richardson Dilworth, and was "charged with the responsibility of considering citizens' complaints against police where the charge involved brutality, false arrest, discrimination based upon race, religion, or national origin, or other wrongful conduct of police personnel towards citizens."<sup>4</sup> It came into existence after hearings before the City Council where, among other police issues, the internal review procedures came under sharp attack. The case against that system was summarized in an article by Spencer Coxe, Executive Director of the Greater Philadelphia Branch of the ACLU, who wrote: "When the Commissioner's office ordered an investigation, complainants found that the matter was likely to peter out; they were usually not notified of any conclusion unless they pressed for a report, when they were told that the investigation showed that the complaint was without justification."<sup>5</sup>

Philadelphians filed their complaints directly with the PAB. Initially, the only staff were the volunteer panel of prominent citizens. In 1960 an executive secretary was appointed on a part-time basis and in 1963 on a full-time basis. The executive secretary interviewed each complainant personally, reviewed with him the substance of the complaint, and discussed the kind of action the complainant desired. For the PAB records, complaints were classified as: brutality, illegal search and seizure, harassment, and other.

Over time, the PAB worked out different strategies for dealing with citizen complaints. Two of these were conciliatory or mediating procedures. In some cases, the citizen merely wanted an explanation of police behavior—was the police action legal or not? did the police have jurisdiction? and so on. In such cases an explanation of the police actions often resolved the complaint. In other cases, the executive secretary arranged for a conference between the complainant and the accused officer or another member of the police department. Again, whenever this informal arrangement resolved the dispute to the satisfaction of the citizen, his case was closed without a formal hearing.

<sup>4</sup> *The First Annual Report of the Police Advisory Board of the City of Philadelphia*, (1959), p. 1.

<sup>5</sup> Spencer Coxe, *Police Advisory Board*, 35 CONNECTICUT BAR JOURNAL, 139 (1961).

The third type of settlement involved a public hearing before the appointed board of the PAB. Prior to a hearing, the PAB requested from the police department an investigation of the incident, which was essentially a statement from the police officer, along with copies of pertinent official documents and sometimes statements of witnesses. The complainant's statement to the PAB served as his written account of the incident. For the greater part of the PAB's history, the Community Relations Office of the police department carried out these investigations. Both the citizen and the officer were permitted counsel at hearings. Usually, citizens did not have legal representation and policemen were represented by the Fraternal Order of Police. At the conclusion of the hearing, the board would meet privately and make a determination. There were no standardized penalties for any offenses, nor was there an attempt to institute a reckoning period.

If the PAB found the officer at fault, it would send a recommendation for disciplinary action to the office of the Managing Director of the City of Philadelphia, who in turn passed it along to the police commissioner. The intermediate step, sending the recommendation to the Managing Director's office, reflected the status of the PAB as an advisory body to the Mayor. The PAB's recommendation was in no way binding on the police commissioner. As a matter of fact, however, the PAB's recommendations were almost always accepted and implemented by the commissioner.

Since the PBI is an administrative adjunct to the commissioner, his orientation affected its operations directly. The commissioner's authority to send cases to the PBI and act upon its recommendations give him a good deal of administrative power over the PBI. All disciplinary cases cross the commissioner's desk before going to the PBI. While the writer has no data on the kinds of cases that did not reach the PBI, the fact remains that the commissioners in Philadelphia could make such decisions and these, in turn, would influence the role played by the PBI. By the same token, the commissioners could either accept or reject the recommendations from the PBI hearing panels. Again without data it is difficult to document the consequences of this discretionary power. Nonetheless, it would seem apparent that the commissioner's actions on cases would become part of the orientation of the PBI staff.

Of course, the commissioner could also accept or

reject PAB recommendations. But the PAB was more autonomous in its operations. Even though it was administratively responsible to the Mayors of Philadelphia, it did not have the same kind of organizational relations with the Mayor's office as the PBI did with the commissioner's. The citizen brought the case directly to the PAB and there was no intermediate screening. Under these conditions the PAB received a wider range of cases than those processed by the PBI, which resulted in developing the strategies of settlement that have already been mentioned.

#### THE PROBLEMATIC STATUS OF CITIZEN COMPLAINTS

Although both the PAB and the PBI received complaints from civilians, the problem these complaints posed is fundamentally different for the two organizations. One difference is the constituency each serves and the legitimation their constituencies give to the agencies. The constituency for the PAB is the citizen-complainant on one level and the wider community on a more general level. The PBI, by contrast, is concerned with the officer-offender most immediately and the general discipline of the department more abstractly.

The PAB was primarily concerned with the citizen who believed he had been abused and with what that meant to the community at large as well as to the individual citizen. This orientation stems, in part, from the underlying assumption that unresolved police-citizen conflicts increase community tensions. The day-to-day objective was less to document police misconduct or recommend disciplinary action than to reach a satisfactory accord between the parties involved. The PAB's interest was more in the citizen and his allegation than in the policeman's action. This orientation toward the citizen is further underscored in the PAB's use of simple complaint categories adopted from the language citizens employed during the early years of its existence.

The Police Board of Inquiry is directed inward toward the police organization, not outward toward the community. The analogy between police departments and military organizations is often made. As with the military, police departments often regard certain violations as much more serious than similar incidents would be in civilian life, for example, disregard for dress regulations or personal grooming. At the core of these regulations and adherence to them is the issue of discipline. Even in those cases with civilian complainants, the

main issue is not police-community relations, but discipline. The charges against the policeman that the PBI can hear are listed in the Duty Manual of the Philadelphia Police Department under its Disciplinary Code. They are stated in formal language and reflect a concern with breaches in technical competence.<sup>6</sup> Violations in the code indicate a failure on the part of the policeman to carry out his duties in the prescribed manner.

The difference in orientation between the PAB and the PBI is further reflected in the criteria for accepting or rejecting complaints. The PBI's emphasis on discipline focuses on the policeman's alleged violation of the Disciplinary Code. The precinct officer's decision to accept and process an allegation is dependent upon his being reasonably sure that a violation has taken place. No doubt there are organizational pressures within the department not to forward any complaint where a violation cannot be established. By contrast, the PAB was under no such organizational constraint; it was willing to accept and hear almost any citizen complaint. Regardless of the investigation report received from the police department, the PAB would pursue the case and, if the complainant wished, would hold a public hearing. The PAB was concerned with giving the citizen the opportunity to file a complaint and to engage in the process of gaining redress. The process itself was regarded as important because it involved the citizen.

This difference in intake philosophy is reflected in Table 1. The probability of a policeman being disciplined was far greater if the PBI held a hearing than if the PAB did. The PBI recommended suspensions, that is, days off without pay, in over half of all cases it heard, about three times as often as the PAB. Recommendations for dismissal were also much more frequent for the PBI (14 per cent) as compared to the PAB (1 per cent). Unlike the PBI, the PAB used other methods of settling a case after a hearing, such as requesting that the complainant's arrest record be expunged or that a letter of apology be sent to the citizen either from the policemen involved in the incident or from officers in the Community Relations Office. The PAB made no recommendation either against the officer or for the citizen in two-fifths of all the cases it heard. The PBI found 28 per cent of the policemen not guilty in its hearings involving civilians.

While these data are far from conclusive, it ap-

<sup>6</sup> The concept "breach in technical competence" was suggested by Harvey Farberman.

Table 1  
PAB AND PBI HEARING RECOMMENDATIONS

Recommendations	PAB <sup>1</sup> (1958-1968)	PBI (1960-1968)	
		Civilian Com- plaints	Non- Civilian Com- plaints
Suspensions	14%	52%	76%
Dismissals	1	14	5
Reprimands	16	6	9
Other Negative Action	6	* <sup>2</sup>	*
Other Action (letter of apology, expungement of record, etc.)	20	*	*
Not Guilty	*	28	10
No Recommendation	40	*	*
Not Ascertained	3	—	—
Totals			
%	100	100	100
N	145	458	2214

<sup>1</sup> Includes only principal complainants to eliminate double counting on recommendations.

<sup>2</sup> No comparable category.

pears that if a citizen's complaint enters into police channels, there is a very high likelihood that some disciplinary action will be taken against the police officer. What is not known is how many times citizens tried to complain or did complain, but their cases were not forwarded from the precinct so that the PBI got them. In addition, it is not known for what allegations the police officer was found at fault. About 65 per cent of all cases involved multiple allegations and it could not be determined which allegation produced what disciplinary action. On the other hand, the few negative recommendations by the PAB do not necessarily mean that it was less effective in dealing with citizen complaints. The PAB, it should be recalled, was more interested in giving the citizen an opportunity to pursue an alleged grievance than it was in sanctioning police officers.

The PAB's orientation to the problem of community tensions and its role as an advisory board to the Mayor produced another difference between the two agencies. While both processed a number of cases, the PAB was more conscious that the cases themselves represented only a part of the whole picture of police-community relations. It acted on

the premise that these cases were a selection from a larger but unknown number of incidents. In annual reports the board not only listed the number of cases, how they were settled, and the allegations involved, but used these data as the basis for making more general recommendations to the Mayor. For example, a number of incidents involving the use of handcuffs came to the attention of the PAB, and its report made specific recommendations that the policy governing handcuffs be reviewed.<sup>7</sup> This kind of advice was not a part of the PBI's mission. The PAB was interested in changing police practices and policies that contributed to community tensions; the PBI is not involved in policy formation.

#### IMPACT ON CITIZEN COMPLAINANTS, POLICEMEN, AND THE COMMUNITY

Because the PAB developed alternative strategies for settling complaints and the decision of which strategy rested, in part, with the citizen, the consequences for the policeman involved were much less predictable than if charges against him were heard by the PBI. If the citizen decided that an apology or an explanation satisfied his grievance, the case could be settled without a hearing and therefore without the possibility of an adverse recommendation from the PAB. On the other hand, if the citizen did push for a hearing, another policeman could face disciplinary action for an offense similar to the first. The issue, then, is whether the function of civilian review is to satisfy a civilian with a complaint or to assist the police department in monitoring the behavior of its men. If it were the latter, then the focus of civilian review would be on whether or not the policeman was at fault. In Philadelphia, because of the emphasis on the reduction of community tensions, the citizen's satisfaction was the central concern. In practice, the PAB would not pursue a case in which the citizen lost interest, withdrew the complaint, or accepted a settlement without a hearing.

The PBI is not as dependent upon the citizen as the PAB. If a citizen brings a complaint and subsequent investigation suggests that the policeman has violated some article of the Disciplinary Code, the PBI may no longer need the citizen nor does it care what action the citizen desires because it becomes a matter of internal discipline. For example, a citizen could accuse a policeman of illegally entering his home. If the investigation supports the

<sup>7</sup> *The Fourth Annual Report of the Police Advisory Board of the City of Philadelphia, (1962), p. 4.*

Table 2  
ALLEGATIONS AGAINST POLICE OFFICERS BASED UPON  
CIVILIAN COMPLAINTS SENT TO THE PBI

Conduct Unbecoming an Officer	51%
Intoxication	3
Insubordination	2
Neglect of Duty	29
Disobedience of Orders	16
Totals	
%	100% <sup>1</sup>
N	1,029

<sup>1</sup> This total reflects multiple allegations against the 458 officers involved.

allegation and additional violations of the Disciplinary Code are uncovered, the police department acts independently from the citizen in pursuing the case leading to disciplinary action on the part of the commissioner or the PBI. Even if the citizen were to withdraw his allegation against a policeman, other evidence gathered in the investigation could serve as a basis for a hearing.<sup>8</sup>

As a matter of fact, complaints involving citizen witnesses or complainants form a minority of the cases coming to the PBI. In a review of over 2700 cases from 1960 to 1968, not quite one out of five (19%) was based upon a citizen complaint. Even in those cases with civilian complainants, the main issue is not police-community relations, but discipline. Thus a citizen's complaint is translated into this perspective. For example, a citizen complaint of brutality or excessive use of force becomes in official language "Repeated violations of department rules and regulations, or any other course of conduct indicating that a member has little or no regard for his responsibility as a member of the Police Department." It is the official departmental position about the officer's act that is at the core of departmental discipline, not the citizen's interpretation of the act.

It should also be noted that the sheer number of hearings reflects a difference between the two agencies. During its history the PAB received and processed about 677 cases. Some of these had multiple complainants, so that about 1000 individuals made use of the PAB, although only a small

<sup>8</sup> In the Police Board of Inquiry Annual Report 1970 this outcome was stated as follows: "There have been occasions when even though the civilian complainant failed to appear [for a hearing], disciplinary action was taken based on violations of departmental regulations."

proportion of the incidents reached a hearing (about 21 per cent). This indicates the alternative routes open to the PAB for settling citizen complaints. Such options simply are not available to the PBI.

The comparison within the PBI between complaints initiated by civilians and those by non-civilians is also of interest. Complaints originating in the police department are far more likely to result in disciplinary recommendations than those that come from outside the department. About three times as many hearings are settled with a "not guilty" for cases with a citizen complainant than for cases coming from members of the department itself. It would be useful in future research to investigate the allegations made by civilians to see what kinds of cases result in "not guilty" recommendations. In particular, it would be important if these cases come from the more controversial allegations such as brutality.

While those data are not available for this study, there are data on the allegations each agency received that suggest some of the organizational and functional differences between them. In Table 2 the total number of allegations involved in the 458 hearings held by the PBI with civilian complaints is listed. Fifty-one per cent of all allegations fell within the category of Conduct Unbecoming an Officer (CUAO). Within that category no single charge accounts for more than 12 per cent and this is the title category itself. Within CUAO the charge of "Using rude or insulting language or conduct offensive to the public" was made in 9 per cent of the cases, followed by the charge of "Knowingly and willfully making a false entry into any departmental report or record" (7 per cent). The charge under which brutality would be subsumed was next with just under 5 per cent of all allegations. Under Neglect of Duty, the two major charges were "Failure to comply with any Commissioner's orders, directives, regulations, etc., oral or written; and those of superiors and supervisors" and "Failure to take police action when necessary, at any time, in or out of uniform, and/or failure to make a written report of same to commanding officer." The proportions were 9 and 7 per cent respectively. All other charges never exceeded 4 per cent.

In Table 3 it can be seen that brutality, either alone or in combination with some other allegation, comprised 45 per cent of all complaints the PAB received. Harassment was the next most frequent

Table 3  
ALLEGATIONS AGAINST POLICE OFFICERS OF PRINCIPLE  
COMPLAINANTS TO THE PAB

Brutality Alone and in Combination with Other Allegations	45%
Illegal Search and Seizure	15
Harassment	21
Other	9
Multiple (Not brutality) Allegations	10
%	100% <sup>1</sup>
N	868

<sup>1</sup> Includes 181 cases for which no police investigation was conducted.

allegation (21 per cent), followed by illegal search and seizure (15 per cent).

Perhaps the most serious allegation a citizen can bring against a policeman is brutality. Since the police have been given the legitimate use of violence in our society, indiscretion in that respect is a damaging charge—one to which the police are rightly sensitive. Yet brutality, or its more euphemistic label—excessive use of force—is very difficult to prove; indeed, no clear definition of brutality exists. The charge has been raised when the police used racial or ethnic slurs against members of minority groups as well as in cases where policemen have beaten citizen or even shot at them.

As was noted earlier, the Disciplinary Code of the Philadelphia Police Department does not include an allegation of brutality or excessive use of force. The police, of course, are disturbed by this term because of its emotional overtones. If the allegation is made by a citizen, a more bureaucratically neutral charge is employed. The PAB felt no necessity to neutralize the term because its creation stemmed, in part, from the failure of citizens to obtain redress in cases where brutality had been charged. And since the PAB's allegation categories were based upon the language citizens used, its inclusion was only natural.

#### CONCLUSIONS

The data from Philadelphia strongly suggest that something more than a jurisdictional rearrangement resulted when citizens were offered a mode of redress other than police jurisdiction over all citizen-initiated complaints. Differences in mandate, staffing, organization environment, and ideology resulted in two distinct types of review

agencies. The conceptualization of the problem, the ways in which altercations were settled, and the other functions served were markedly different. These distinctions can be summarized as follows:

The PBI is an internal, administrative-judicial body close to the center of a paramilitary bureaucratic organization. Its primary task is to assist the commissioner in formally maintaining discipline within the department. As a consequence, the PBI never receives some citizen complaints, those with insufficient grounds for charges against a specific officer, or those settled by other means at the precinct level or through the intervention of the Community Relations Office. When the PBI does receive a case based on a citizen's complaint, its organizational focus remains fixed upon the officer charged with violation of the Disciplinary Code. It has no mandate or staff to pursue alternative resolutions to a police-citizen dispute, even if a finding against the policeman is not the main purpose of the citizen who registered a complaint.

The PAB was an appointed board of citizens whose mandate was broadly interpreted to include advice to the Mayor on improving police-com-

munity relations on the basis of citizen complaints and, more narrowly, to assist the citizen in a resolution of this problem whenever the board, through public hearings or other means, was satisfied that the complaint had substance. The board or its executive secretary reviewed every complaint in detail, and the choice of a public hearing was available to any complainant, regardless of the evidence available prior to the hearing. In many cases the complaint amounted to a specific charge against a police officer, and the board recommended disciplinary measures whenever it found such charges warranted. But in many other cases the complaint involved no charge against a particular officer, but a desire for other measures of redress, restitution, or changes in department or precinct practices.

The analysis presented here does not permit one to include whether one or the other is the better method of resolving police-citizen altercations, but it does indicate some of the problems in developing a satisfactory redress agency. It is hoped that this investigation will throw some light on what continues to be a very sensitive problem in police-community relations.