

***Police Advisory Commission  
FY2001 Annual Report***

## **FOREWORD**

This is the Eighth Fiscal Year Report issued by the Police Advisory Commission since commencement of operations in 1994. This report covers fiscal year 2001, from July 1, 2000 to June 30, 2001. The Commission welcomes inquiries and comments concerning the contents of this report. The Commission can be reached by calling 215-686-3991; its mailing address is P.O. Box 147, Philadelphia, PA 19105-0147; email to the Commission can be sent to [hector.w.soto@phila.gov](mailto:hector.w.soto@phila.gov). The Commission thanks the public for their continuing interest and support.

## **Mission Statement**

*The Police Advisory Commission is the official civilian oversight agency of the City of Philadelphia for the Philadelphia Police Department. The general mission of the Commission is to improve the relationship between the police department and the community. The Commission, in its diversity of composition and in its functioning, is intended to represent the external point of view of the Philadelphia citizenry.*

*To fulfill its mission, the Commission is authorized to conduct investigations of individual citizen complaints of police misconduct, and/or studies of police department policies, procedures or practices. Findings and recommendations made by the Commission are forwarded directly to the Mayor, the City Managing Director and the Police Commissioner for their review and appropriate action.*



CITY OF PHILADELPHIA  
POLICE ADVISORY COMMISSION

P.O. BOX 147  
Philadelphia, PA 19105-0147

215-686-3991

July 1, 2001

My Dear Fellow Philadelphians:

It has been my pleasure and honor to serve as Chair of the Police Advisory Commission since its initial meeting in February 1994 through the end of June 2001. Although as a result of personal and professional commitments, I am stepping down as Chair, I will remain on the Commission to provide support and continuity. Since February 1994, the Commission has come a long way, yet much remains to be done.

Since its inception, more than 1000 complaints have been filed with the Commission. The number of complaints has increased notably in recent years as have the number of recommendations made to the Police Commissioner for the disciplining of police officers. Unfortunately, the Police Commissioner has rejected most of the Commission's recommendations, and the City has yet to respond to the Commission's requests for intervention. Yes, there is much work to be done.

Police misconduct regardless of type must be the subject of consistent and effective discipline. Effective civilian oversight is essential for public confidence in the police department as well as its disciplinary system. I am convinced that the Commission's oversight of the Police Department has already resulted in improvements regarding how the Department's Internal Affairs Division investigates civilian complaints as well as better police-community relations.

For the successes of the Commission, I thank current and former members of the staff whose commitment has been unswerving. I also thank all current and former Commission members for their enthusiasm, their willingness to listen to strongly held divergent views in an effort to reach consensus, the tremendous amounts of time they volunteered, and their support of the Commission's mission. Last but not least, I want to thank the law firm of Montgomery, McCracken, Walker & Rhoades, LLP, and in particular, the individual attorneys who expended countless hours during hearings and meetings for the benefit of the Commission, and ultimately the public.

Much has been accomplished, yet much remains to be done. I look forward to my continuing participation. I encourage the public to participate as well. Good policing is everybody's responsibility.

With gratitude and respect,

  
Jane Leslie Dalton, Esq., Chair

## I. MEET THE COMMISSION

The Police Advisory Commission is the official civilian oversight agency for the Philadelphia Police Department. The Honorable Mayor Edward Rendell established the Police Advisory Commission by Executive Order in 1993. The Commission began operations in June 1994. The Commission when at full complement consists of 15 permanent members and four alternate members, all of whom serve without compensation for four-year terms. The Mayor appoints all Commission members, however seven of the permanent, and two of the alternate members must be appointed from a list of nominees developed by the City Council. The Commission staff is comprised of six full-time employees. The Commission hires the Executive Director who in turn hires the remaining staff, which during the fiscal year consisted of the Chief Investigator, two Special Investigators, the Director of Operations and an Office Assistant.

### The Commission Members



**Jane L. Dalton, Esq.,  
Chair**

A Chestnut Hill resident, Ms. Dalton is a litigation partner with the Philadelphia law firm, Duane, Morris & Heckscher, LLP. Ms. Dalton served as Chair of the Commission from 1994 to 2001. She successfully created a Board united in the goal of creating a bridge between the police and the community from the diverse members of the Commission. She has spent countless hours on the work of the Commission, assuring that every citizen has an effective and efficient avenue for investigation and determination of complaints about alleged police misconduct, and that every police officer has a fair and independent review of such complaints.



**William T. Cannon,  
Esq., Vice-Chair**

A 1970 graduate of Villanova University School of Law, Mr. Cannon is an attorney and Northeast Philadelphia resident whose experience includes litigation as a homicide prosecutor in the District Attorney's office, where he was Chief of Major Trials and Chief of Investigations. Mr. Cannon also retired from the U.S. Army Judge Advocate General Corps after 28 years of Service. He has been a member of the Commission since 1994.



**Charles V. Harris,  
Vice-Chair**

Mr. Harris is a resident of Yorktown, who served 34 years with the Philadelphia Police Department, including the Civil Affairs Unit. He retired in the rank of Lieutenant. Mr. Harris has been a Commission member since 1994.



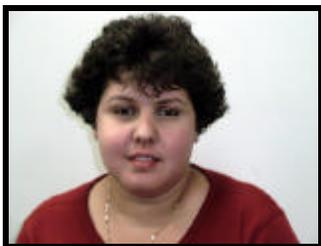
**Mary Ellen Krober Esq.,  
Vice-Chair**

Ms. Krober is a resident of East Falls, and an attorney with the U.S Postal Service. She formerly served as an assistant City Solicitor and Deputy Attorney General. Ms. Krober has served with the Commission as an alternate and then permanent member since 1994.



**Dr. Vivian Ray, Ph.D.**

Ms. Ray is a resident of West Mt. Airy, and a licensed psychologist. She is a former Public School Administrator.



**Carmen Marrero**

Ms. Marrero is a Hunting Park resident, and a school counselor for the League of United Latin American

Citizens. Ms. Marrero is a member of the National Association of Hispanic Journalists, and a Director of the Hunting Park Development Corporation. Ms. Marrero is a well-known and respected community advocate.



**Dorothy F. Cousins**

Ms. Cousins is a Mt. Airy resident with more than 30 years law enforcement experience. She retired from the Philadelphia Police Department with the rank of Inspector. Ms. Cousins also supervised investigations for many years while assigned to the Department's Internal Affairs Bureau, and the Philadelphia District Attorney's Office.



**Anthony K. "Rocko"  
Holloway**

Anthony K. Holloway, or Rocko, as he is known to most, is a lifelong Philadelphian who is currently the Director of Special Projects for the Philadelphia Anti-Drug/Anti-Violence Network (PAAN). Mr. Holloway is a former

Supervisor of the Philadelphia Commission on Human Relations, and a Human Resource Development Specialist for the State's Heritage Affairs Commission. A graduate of LaSalle College, he has been a member of various Boards and Commissions, including the Belfield Advisory Council, Woodrock, Inc., and Brothers Rendering Action for Community Enrichment.



**Robert Nix, Esq.**

Mr. Nix is a resident of Fox Chase, Mr. Nix is a 1986 graduate of Texas Christian University, and a 1994 graduate of the University of Maryland. He received his JD from Temple University in 1997, and specializes in civil litigation with the firm Pepper Hamilton LLP. Mr. Nix is an active member of the Hispanic Bar Association.



**Ronald Burton, Ph.D**

Dr. Burton is a resident of Overbrook, and president of the Center for Social Welfare Concerns, a national consulting firm. He is also

Chair of the Philadelphia Division, Pennsylvania Chapter, of the National Association of Social Workers.



**Paul Uyehara, Esq.**

Mr. Uyehara is a resident of West Philadelphia, and an attorney with Community Legal Services, where he represents low-income clients in bankruptcy, mortgage foreclosure and language rights issues. He served as an Assistant City Solicitor, and on the Mayor's Commission for Asian/Pacific Affairs.



**Joseph T. Stapleton, Esq.**

A graduate of Villanova University, and the Villanova University School of Law, Mr. Stapleton is a partner in the Corporate Section of the Business Department of Montgomery, McCracken, Walker & Rhoads, LLP. In addition to his work as a Commissioner, Mr. Stapleton

is a Director of the Philadelphia Committee to End Homelessness, and a member of the Advisory Board of Esperanza Health Center. Mr. Stapleton is a Chestnut Hill resident.



**Novella Williams**

A resident of SouthWest Philadelphia, Ms. Williams is the founder and President of Citizens for Progress, and a winner of numerous national and local awards for community activism. She received the National Community Leader of the Year Award in 2000 from the National Council of Negro Women.



**Rev. Robert P. Shine Sr.**

Rev. Shine is founder and pastor of the Berachah Baptist Church. He is the Chairman of the African-American Association for Corporate Responsibility; Chairman and Charter member of the World Communication Charter School, and Vice President/Chair of the Civic and Social Action Committee for the Black Clergy of Philadelphia.



**Michael Weiss**

Although he does not consider himself an advocate, Mr. Weiss believes firmly in the fair and respectful treatment of the sexual/gender-minority communities. By profession, Mr. Weiss is a respected businessman. He manages and owns several nightclubs in Philadelphia, including the 2-4 Club in Center City. Prior to his appointment to the Commission in November 1999, Mr. Weiss was an active member of the 6<sup>th</sup> District Police Advisory Council.

**Counsel to the Commission**

**Montgomery, McCracken, Walker & Rhoads, LLP**  
123 South Broad Street  
Philadelphia, PA 19109-1030



**James J. Eisenhower, Esq.**  
**Commission Lead Counsel**



**Michael J. Butler, Esq.**  
**Commission Associate Counsel**



**Jeanette Melendez Bead, Esq.**  
**Commission Associate Counsel**

## The Commission Staff



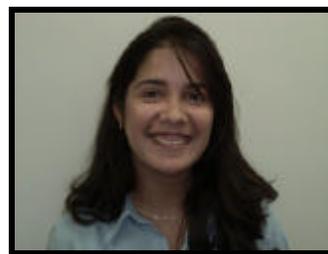
**Hector Soto, Esq.,  
Executive Director**

Mr. Soto has been involved with police oversight and related police-community relations issues as an attorney since 1979. Before his appointment to the Commission as Executive Director in 1998, he served as the Executive Director of the New York City Civilian Complaint Review Board from 1994 to 1996. Mr. Soto also served as the Department Advocate for the NYPD from 1994 to 1996. He also spent five years as a staff attorney for the Puerto Rican Legal Defense and Education Fund. Mr. Soto is a resident of Germantown.



**William M. Johnson,  
Chief Investigator**

Chief Investigator William Johnson began working for the Commission during November 1999. In addition to operating his own private investigation agency for 10 years, Mr. Johnson has worked as a consultant to various law enforcement agencies, and brings to the Commission more than 20 years of investigative and managerial experience in both criminal and civil law settings. He has been a guest lecturer on surveillance and investigative techniques in insurance claims. Mr. Johnson comes from a family of Philadelphia police officers, including his father, a retired Detective, his brother and his uncle. He resides in Germantown.



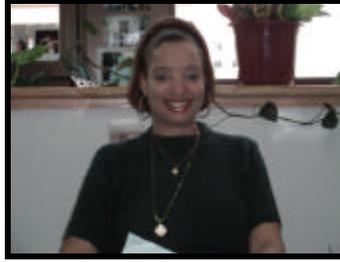
**Grisette Perez,  
Director of  
Operations**

Ms. Perez was a Special Investigator with the Commission from 1999 to 2000, when she became Director of Operations. A 1994 Temple University graduate, Ms. Perez was a community relations specialist and investigator for the Commission on Human Relations from 1995 to 1999. Ms. Perez is a resident of Northern Liberties.



**Kelvyn Anderson,  
Special Investigator**

A former Investigative Journalist for newspapers and magazines, Mr. Anderson has worked as a private investigator for insurance companies and attorneys for the past four years. A resident of West Philadelphia, he has also worked as a Congressional Aide.



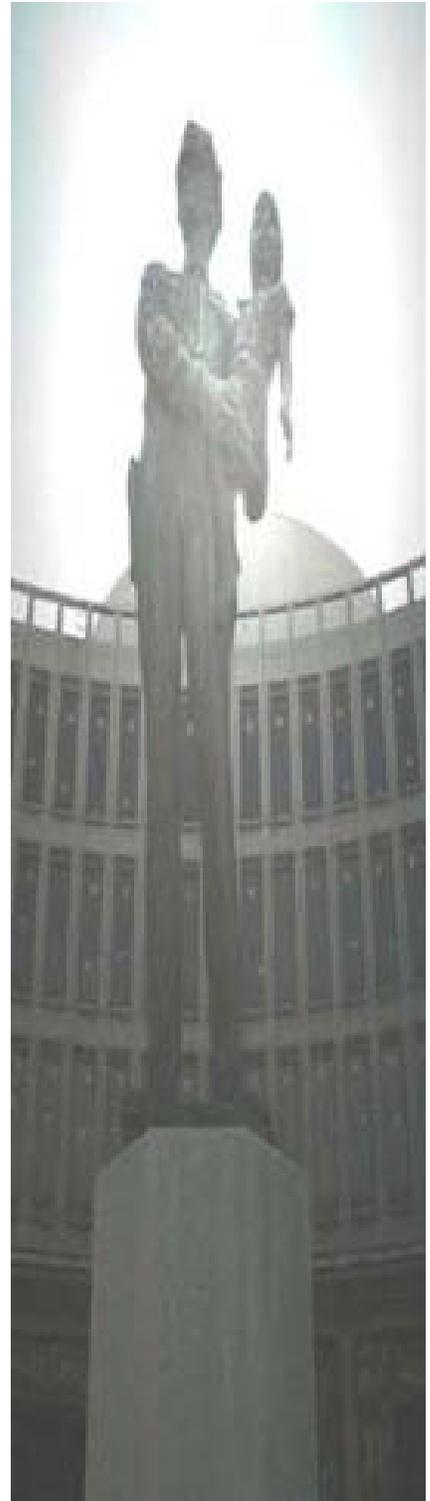
**Karen Fequa,  
Special Investigator**

A graduate of Temple University, Ms. Fequa is a former Philadelphia Police Officer. She has also been a Warrant Investigator, an Adult Probation Officer, and an Arrest Intake Supervisor in Arraignment Court. Ms. Fequa is a resident of East Oak Lane.



**Jeanette Bennett,  
Administrative  
Assistant**

Ms. Bennett is a resident of West Philadelphia. She has worked for the City of Philadelphia since 1989, first with the Finance Director's Office, and then with the Department of Recreation. Ms. Bennett began working for the Commission in 1994. She is the Commission's senior staff member and its resident historian.



### **III. A BRIEF HISTORY OF CIVILIAN OVERSIGHT IN PHILADELPHIA**

Bruria Tal \*

Civilian oversight entities have been since the 1950s the most commonly used governmental administrative tool to enhance police accountability. Police self-policing, although desirable, has been considered insufficient to accomplish complete accountability. Police, as other professional groups, need mechanisms to receive and respond to complaints and criticism of those served. However, the primary objective of civilian oversight is not merely to review the propriety of a police action in a given incident after the fact, or to merely review police policies and practices. Civilian oversight, irrespective of its form, has as its more general objective to provide the police with an external, independent and community-based point of view that represents the public, the ultimate consumer of the police service, and the ultimate source from which the police power is derived.

Public interest in the police, their policies, operations, and procedures, has increased substantially since the 1950s. This public interest has been mostly in response to revelations of police wrongdoing, and the realization that police services were no longer adequate to meet the needs of a heterogeneous population with differences of opinion on the investigative and enforcement practices of the police.

The police are both political and legal actors. In public discussions of civilian review, the police have been considered as administering the criminal law as defined by legislators and as interpreted by the judiciary. The role of the police in deciding how the criminal law will be applied to the general populace also places them in an administrative role. Yet for all the leeway that police officers are granted in maintaining the public order, there is a general public consensus today that a civilian accountability mechanism aimed at reviewing police conduct represents the public's right to have input in the operation of its own governmental administration.

Of equal importance in the public discourse, police officers must be able to use the laws of the land to protect themselves from unfounded accusations and capricious administrative actions. If the police officers' actions are legal they can be found to be so by a civilian oversight system.

A review of the history of the civilian oversight entities in Philadelphia reveals the challenges in relation to police accountability in communities where socio-economic problems have over time affected the interaction of the police with the community.

During the early and mid-1950s, the Police Commissioner's office handled the complaints by Philadelphia residents against police officers. By 1957, many citizens had concluded that the Police Department was incapable of impartiality in handling their complaints. In October 1958, Mayor Richardson

Dilworth created a Police Review Board on the authority of the Philadelphia Home Rule Charter to appoint advisory boards related to the operation of *any* city government department. The Board was authorized to review citizens' complaints against the police, alleging various types of "wrongful conduct of police personnel toward citizens" (Police Review Board, 1959).

The 1958 Philadelphia Police Advisory Board was considered "a pioneering venture," the first government agency outside a Police Department in the United States to consider complaints of civilians against police officers. The mayor-appointed five Board members were prominent Philadelphia citizens. For almost its first year the agency was managed on a volunteer basis by one of its Board members. In 1959, the city administration appointed the Board's first executive director, and approved a \$3,600 budget, but did not formulate any regulations and procedures. The Board developed its modus operandi from its experiences. The first set of regulations and procedures were codified in September 1959 (Police Review Board, 1959), and kept changing over the next seven years of the Board's existence. It had no power of subpoena, or enforcement authority. Complainants had to bring their own witnesses to the hearings. The Mayor's policies stipulated that the Board's recommendations be carried out by the Police Commissioner, unless objections were communicated to the City Managing Director, and ultimately, to the Mayor (Rules of Practice, 1966).

In November 1961, the number of Board members was increased to eight, three members constituting a forum. A staff of two, an executive secretary and a stenographer, with an annual budget of \$15,227.00, constituted the agency. The Board made its recommendations to the Mayor, with copies to the Managing Director and to the Police Commissioner. Between 1958 and 1965, 271 complaints were filed with the Police Advisory Board. The low number of complaints filed may have been due to lack of public awareness of the Board's existence. Complaints had to be in writing and could be withdrawn only with approval of at least two Board members to lessen possibilities of both police intimidation and civil rights militancy (Rules of Practice, 1966).

The first Board's existence was challenged three times by the Fraternal Order of the Police (FOP). The FOP challenged the Mayor's authority to establish the entity. The FOP's lawsuits against the Board in 1959, 1965, and 1967 disrupted the Board's activities, discouraged filing of complaints, and weakened the Board's civic support. In response to the 1959 FOP legal challenge, the Board was compelled to change its name from "Police Review Board" to "Police Advisory Board."

Some experts consider the name change to indicate the demise of the first civilian review board, and the start of the second. The 1967 FOP lawsuit led to the disbanding of the Police Advisory Board on December 22, 1969 by Mayor James Tate. Handling of complaints was reverted to the Police Commissioner (Wallace, 1991:D09).

Legal experts at the time evaluated the first Police Advisory Board to have been successful in applying citizen judgment to police policies and activities, and in developing “an informal procedure of complaint settlement” (Beral and Sisk, 1964). Martin Barol, who served as the Board’s Executive Director in the early 1960s, commented that the civilian review board constituted:

“a real effort to make the [police] sensitive to the fact that they’re dealing with different types of people ... [and to advise] people [that] there’s a place to go if you’re being mistreated by government. If somebody in the Prothonotary’s Office mistreated you, it’s not the same as if a guy with a gun and badge mistreated you” (Gammage, 1993:B01).

Between 1969 and 1994, there was no external, official complaint or oversight agency for the Police Department. At times during that period, the Philadelphia Commission on Human Relations accepted and reviewed some complaints, but for the most part acceptance and investigation of civilian complaints was handled completely internally by the Police Department. There were at various times during those 25 years special or ad hoc commissions that dealt with specific issues, such as the 39<sup>th</sup> District corruption scandal of 1988-9. The monitoring agreement in 1993, which settled the lawsuit filed by NAACP, the Police-Barrio Relations Project and the ACLU as a result of that scandal, included provisions for the maintenance and support of the Police Advisory Commission. And although the monitoring agreement remains in effective through the time of this writing (2001), the Commission was dropped in December 1999 as an element of the agreement. The monitoring agreement also led to the establishment of the Police Department’s internal Office of Integrity and Accountability.

City Councilman Michael Nutter led the 1992 civilian oversight debates. The Councilman’s efforts were supported by two-dozen community and legal organizations that had united as the Coalition for Police Accountability. The Coalition had come together in the aftermath of several high-profile incidents. The Coalition demanded the re-establishment of a civilian review board to investigate allegations against the police as well as to review policies and practices. According to the Coalition, the City had spent more than \$3 million to settle complaints against police in 1992 (McDonald. 1993:10). The Commission also noted that by the Police Department’s own admissions complaints of physical abuse had increased 37 percent between 1989 and 1991. In addition, The Citizens Crime Commission of Delaware Valley, after a lengthy review of the Police Department’s handling of citizen complaints, supported the Coalition’s demands.

On June 10, 1993, City Council, overriding Mayor Rendell’s veto, passed Bill No. 317 that created a “Police Advisory Board” reporting to the City Managing Director, and empowered to investigate complaints and to study police policies and procedures in an advisory role. At the same time, City Council also passed Bill No. 297 that defined internal Police Department procedures for the handling of citizen complaints. Passage of the two bills was followed by negotiations

between City Council and the Mayor on the oversight issue, as well as the handling of citizen complaints by the Police Department.

On January 1, 1994, Mayor Rendell announced the formation by promulgation of Executive Order 8-93 of the Police Advisory Commission. The Commission's general mission would be to improve police-community relations. To fulfill its mission, Commission would have the authority and means to investigate individual civilian complaints of police abuse by Philadelphia police officers, and study Departmental policies, procedures, and practices. A companion Executive Order, 9-93, established internal procedures for the handling of citizen complaints by the Police Department's Internal Affairs Division. The Commission became fully operational during July 1994. Its function, as defined in Mayor Rendell's Executive Order, was, and still is strictly advisory. The Police Commissioner retains the final decision with regard to the disciplining of police officers.

Between 1995 and 1999, the FOP filed five suits against the Commission, challenging its authority to investigate police conduct and procedures. The first suit, in April 1995, was filed in response to the Commission's first major investigation – the 1993 beating death of Moises DeJesus, a North-Philadelphia tow-truck driver. The FOP claimed that the Commission was an advisory, not an investigative entity, and that Mayor Rendell had violated the City Charter by appointing it – an interpretation that was rejected by the city administration, the Commission, and eventually the courts. The FOP continues to oppose the Commission, whose mandate and authority have been reinforced by the court decisions, and by Police Commissioner John Timoney's General Order 7595 of June 1998.

The current Police Advisory Commission is an autonomous, civilian agency that is authorized to conduct fact-finding investigations concerning individual allegations of police misconduct and/or concerning broader issues of police department procedures. The Commission is empowered to conduct public hearings, subpoena witnesses, compel police officer testimony and review police documents. It makes recommendations to the Mayor, the Police Commissioner, and the Managing Director regarding the disciplining of individual police officers, police practices or policies.

Complaints filed with the Commission have increased by almost 16% from 159 filed during 1999 to 184 during 2000. And complaints to the Commission have increased by almost 102% since 1997 when only 91 complaints were filed. The substantial increases could be due to several factors including, but not limited to an increased public awareness concerning police misconduct and the available channels to file grievances and/or more officers on the street coupled with a more aggressive law enforcement style by the Police Department. Moreover however, the notion of police accountability has been steadily gaining public recognition in the wake of publicity concerning several local and national

high-profile incidents involving brutality, corruption, racial profiling, and shootings some of which have been the focus of study and/or reports by the U.S. Commission on Civil Rights (1981 & 2000).

Through the establishment of the Police Advisory Commission and its predecessors, as well as through the creation of the Police Department's Office of Integrity and Accountability, and various special-issue, ad-hoc commissions and blue ribbon panels, Philadelphia's civic leadership has recognized that the police like other governmental agencies are accountable to the public, and that mutual respect and cooperation are essential for improving police-community relations.

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\*Bruria Tal, the author, is a researcher and writer in Philadelphia who is serving as a consultant to the Commission. She is a Ph.D. candidate at the Annenberg School for Communication of the University of Pennsylvania. This article is part of a planned monograph on the History of Civilian Oversight of the Philadelphia Police Department that the Commission projects for publication during FY2002.

## **IV. YEAR IN REVIEW**

### **A. Overview**

Fiscal year 2001 (FY2001) was a very busy and productive year for the Commission. The Commission received and processed 184 complaints during the fiscal year. This represents an almost 8% increase over the number of complaints filed during the previous year, 172. Of the complaints filed, the Commission accepted 102 for investigation leaving it with 164 open investigations pending at the end of the fiscal year.

During FY2001, the Commission also initiated and/or completed seven hearings (referred to as Panel Hearings) on the allegations of complainants. The Commission during the year also issued six Opinions on civilian complaints investigated and completed after a hearing containing findings of fact and recommendations. The Commission also conducted an all-day public hearing on the policies and practices of the police department related to the execution of search and arrest warrants. More than 40 witnesses including the Police Department presented testimony during the hearing.

As regards community education and outreach, the Commission was also very active. The third and fourth editions of PACER, the Commission's official newsletter, were released during the fiscal year. Circulation numbered approximately 500 for the third edition and almost 700 for the fourth edition. The Commission expects to publish the fifth edition of the newsletter in November 2001. In addition, more than 4000 pieces of the Commission's informational brochure were distributed throughout the City during the fiscal year.

Commission members and staff participated in numerous forums including workshops, panel discussions, presentations before governmental committees and bodies, press conferences and media events, professional colloquiums, and community meetings including ten meetings scheduled by the Commission during the year for public input and discussion.

Media coverage of the Commission and its activities during the fiscal year was active and seemingly broader than during the previous year. All major media outlets covered one or more Commission activities during the year. An average of 37 electronic and print media are notified on each Commission hearing, press release, or other Commission activity.

Barring unforeseen developments, fiscal year 2002 (July 1, 2001 - June 30, 2002) portends to be as active and busy, if not more so, than FY2001.

## **B. GENERAL PROCEDURES**

Complaints within the jurisdiction of the Commission are formally known as Civilian Complaints Against Police, or CAPS. CAPS are the subject matter of Commission's Executive Order 8-93, the enabling act that created the Commission. A companion Executive Order, 9-93, enacted contemporaneously with the Commission's executive order (copies of each order are included in the appendix) established procedures for the Police Department's handling of CAPS by the Department's Internal Affairs Division (IAD). The Commission and IAD have overlapping jurisdiction concerning CAPS.

Complainants may file with either agency. However, filing with the Commission, upon written authorization of the complainant, will lead to the forwarding of the complaint to IAD for its evaluation and possible initiation of a parallel investigation. All complainants are asked as matter of Commission policy whether or not he/she would like the complaint forwarded to IAD. On the other hand, filing with IAD will generally not lead to a referral to the Commission. IAD is not required, and its investigators usually do not voluntarily inform complainants about the availability of the Commission process. Citizens who go to a police facility to file a complaint are also generally not informed about the availability of the Commission.

IAD almost always conducts a parallel investigation for each complaint accepted by the Commission for investigation, and then referred. The initiation of a parallel investigation is the rule rather than the exception. The contrary however is also the rule rather than the exception. IAD does not generally initiate an investigation on a complaint not accepted by the Commission, but forwarded nonetheless. This is true even if the subject matter of the complaint is beyond the jurisdiction of the Commission, but squarely within the jurisdiction of IAD such as a complaint alleging lack of service. Complaints falling outside the jurisdiction of either agency, for example, a complaint alleging misconduct by a non-Philadelphia police officer are either referred to the appropriate outside agency, or redirected to the complainant for appropriate handling.

Complaints filed with the Commission are reviewed at intake for subject matter jurisdiction, and screened for compliance with procedural prerequisites by the Commission's Chief Investigator, Mr. William Johnson. The Chief Investigator can accept the complaint for investigation, recommend its referral, or simply decline to accept it. The Chief Investigator, usually within 30 days, presents to the Commission's Investigatory Review Committee (IRC) all complaints initially not accepted for the Committee's review and endorsement. Only after review and endorsement by the IRC is a complaint officially marked as a non-accept. A

complaint in order to be accepted by the Commission must be sworn and notarized by the complainant.

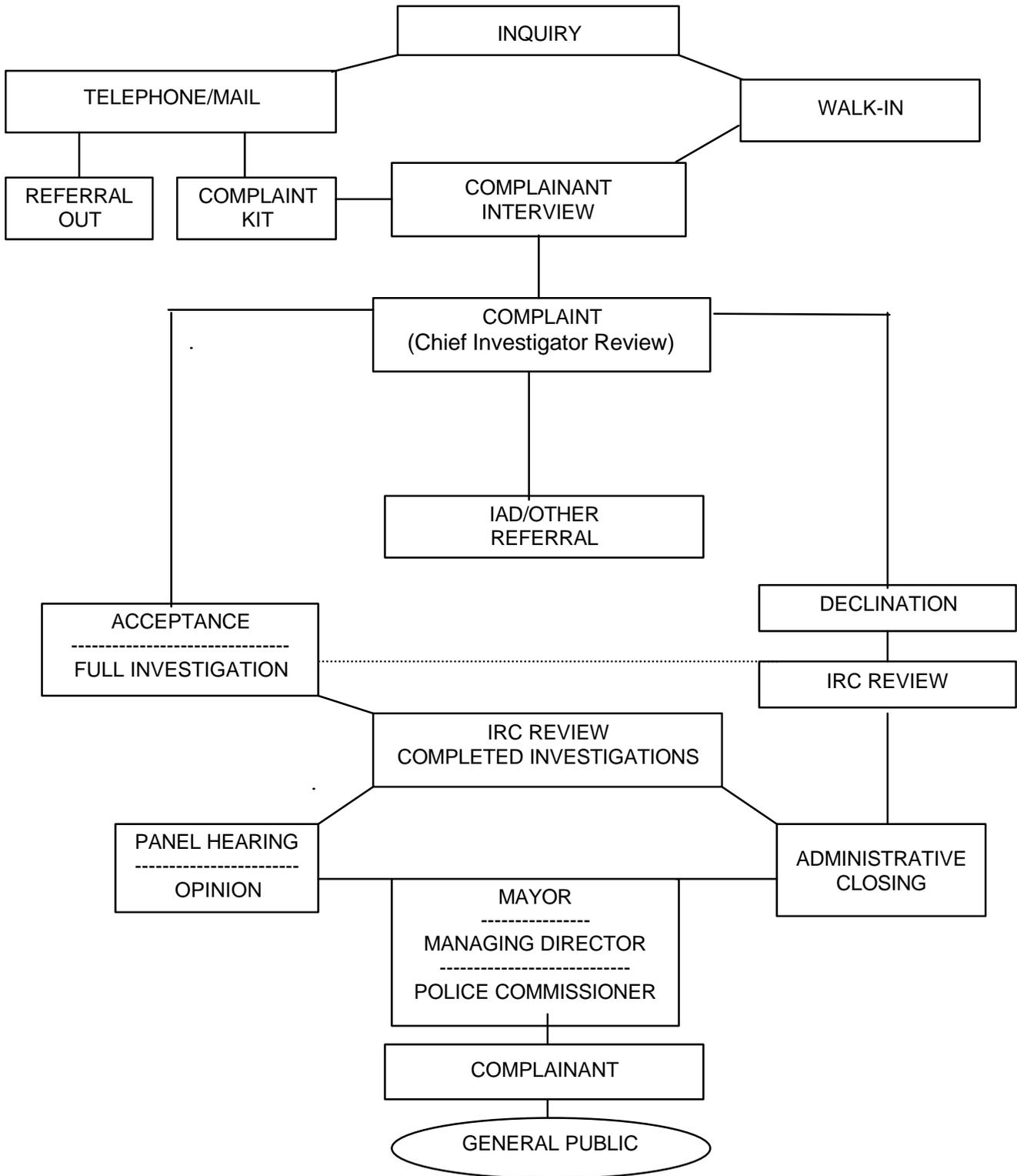
Complaints lacking a procedural prerequisite, for example, the notarization, are held for 30 days upon written notice to the complainant, and then presented to the IRC for administrative closing. These complaints are subject to reopening if the complainant should reappear and comply with the prerequisites at a later date, however, the approval of the IRC is required for reopening. Complaints not accepted for investigation and not referred are administratively closed. The Commission accepted for investigation 102 of the 184 complaints filed during FY 2001, or almost 54%, approximately 40% or 74 were referred or not accepted, and 6% or 11 were administratively closed.

During the fiscal year, the Commission on various occasions discussed alternatives methods of summary disposition of complaint investigations, that is, reaching disposition on a complaint investigation without conducting a panel hearing. Summary disposition could be appropriate if and when the field investigation of a complaint discloses sufficient evidence to meet the Commission's preponderance of the evidence standard. And while the discussions continue into FY2002, the Commission expects to make a decision soon. For now, the Commission has decided that complainants will be notified of the basis of any IRC decision to administratively close a complaint after full investigation if the reason for the closure is exoneration of the police officer(s), or if the matter is determined to be unfounded, or if the police department already has made findings and/or disciplinary recommendations in its investigation that concur with findings and/or recommendations of the Commission's investigation. The Mayor, the Police Commissioner, and the City Managing Director will be notified of these administrative closings pursuant to the same procedure used for notification on a Commission opinion.

The long-term objective of the Commission concerning its complaint investigations is to have a docket with no open investigation being more than 12 months old. By the end of calendar year 2001, the Commission's docket should consist primarily of complaints filed during 2000 and 2001. Investigations continue to be prioritized by age and/or seriousness of the allegations. At the end of June, 2001 the Commission had 164 open investigations of which almost 85% were cases filed during the years 2000 and 2001, 94 and 45 investigations respectively; 13% or 21 complaint investigations dated from 1999: and only 4 or 2% were investigations of complaints filed during or before 1998 (two of which were on hold because of pending civil litigation).

All complainants receive written acknowledgment of their filed complaint within seven (7) days of filing. Similarly, complainants receive prompt written notification of acceptance or declination. The following flow chart describes the inquiry/complaint process from intake through disposition, and post-disposition distribution.

**COMMISSION INQUIRY/COMPLAINT PROCESS**

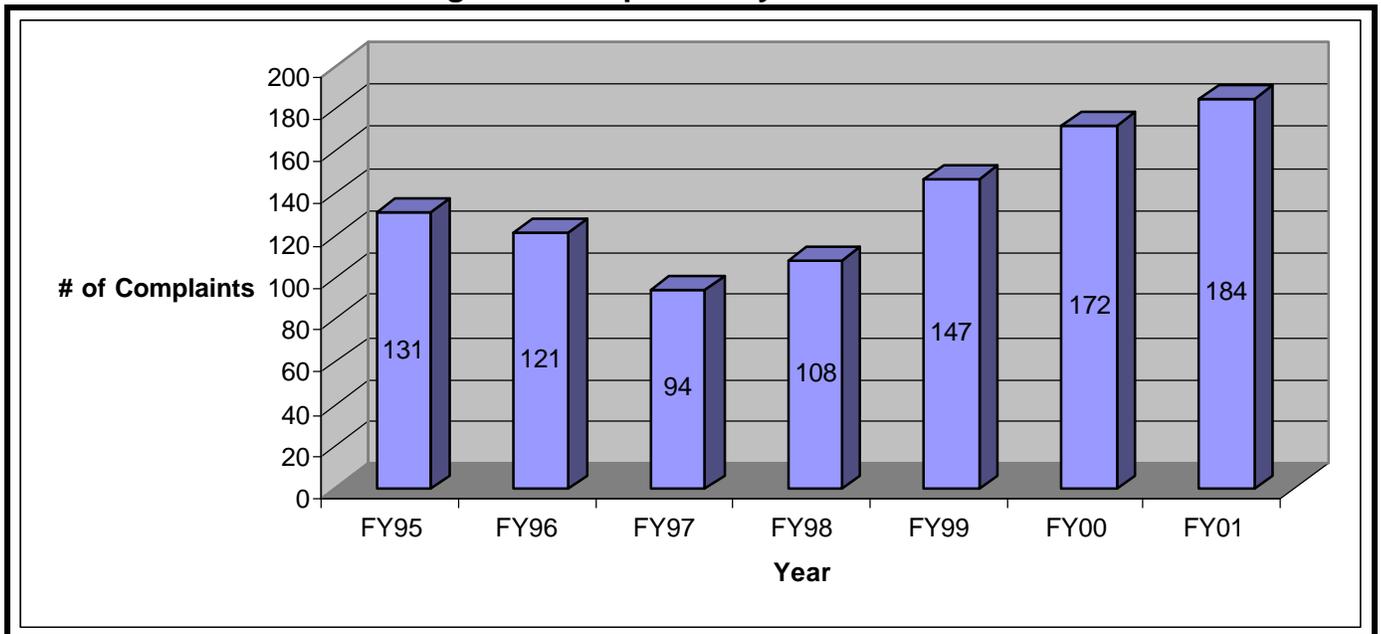


## **B. Complaints and Jurisdiction**

For fiscal year 2001, 184 complaints were filed with the Police Advisory Commission. These complaints represent approximately 27% of the 691 total number of CAPS filed by members of the public with either the Commission or the Police Department. Last fiscal year there were 698 registered civilian complaints of which approximately 25% were filed with the Commission. The 184 CAPS filed with the Commission during this fiscal year represent a 7% increase as compared to the 172 CAPS filed during fiscal year 2000; a 25% increase as compared to the 147 CAPS filed with the agency during fiscal year 1999, and a 70% as compared to the 108 CAPS filed during 1998. Figure 1 below shows the complaint history of the Commission since FY1995, the first complete year of operations.

The 184 complaints filed with the Commission during FY2001 is again the greatest number of complaints ever filed with the agency during a fiscal year. This is the third year in a row that the mark has been set. More than half, or approximately 53%, of all complaints filed with the Commission during its seven years of operation have been filed since July 1, 1999; almost 64% since July 1, 1998. The same number of complaints, 184, were filed with the Commission during calendar year 2000 also setting a new high mark for a calendar year for the third consecutive year. The Commission projects approximately 200 complaints for both fiscal year 2002, and calendar year 2001.

**Figure 1: Complaints By Fiscal Year**



The reasons for the continuing increase in the number of complaints filed with the Commission cannot be authoritatively determined without further study and research. The Commission believes however that the following continue to be possible contributing factors: 1) more knowledge and sensitivity on the part of the public regarding the issue of police misconduct; 2) better information about, and accessibility to the Commission by the public; 3) more police on the streets combined with a more aggressive policing policy by the Department; 4) IAD's move of its Center City office to the far Northeast; and 5) the publicity generated by high profile incidents and court proceedings of alleged police misconduct in and outside of Philadelphia.

Of the total number of complaints filed with the Commission, complaints alleging "abuse of authority" as the primary allegation, that is, complaints in which the allegation is that a police officer(s) by his/her act or omission exceeded his/her authority as granted under law or regulation continued to be the most prevalent type of complaint during fiscal year 2000. Abuse of authority complaints include, but are not limited to complaints of improper searches, unlawful detentions or confinements (arrests), improper seizure of property, and discriminatory or selective law enforcement including racial profiling.

During FY1999, 57 accepted complaints were filed with abuse of authority as a primary allegation; during fiscal year 2000, 88 abuse of authority complaints were filed. In FY2001, only 76 abuse of authority complaints were filed, a reduction of almost 14%. Abuse of authority complaint allegations however continued to be the primary allegation received by the Commission during FY 2001 by a more than two to one margin. The most prevalent type of complaint since fiscal year 1995 has been abuse of authority complaints. It will be interesting to see if abuse of authority allegations will start to decline in a manner similar to the decrease in the number of physical abuse complaints during the past few fiscal years.

Civilian complaints alleging "physical abuse", that is, complaints having as a primary allegation the use of unreasonable force, defined as unnecessary or excessive force by a police officer, accounted for 30 or 29% of the 102 accepted complaints filed with the Commission during the fiscal year. This was the second most prevalent type of complaint filed, and has been the second most prevalent type of complaint since 1995.

Complaints alleging "verbal abuse", that is, complaints stating as a primary allegation offensive language by a police officer denigrating the civilian's race, ethnicity, sex, gender preference, sexual orientation, disability or religion comprised almost 9%, or 9 complaints, of the accepted complaints received during the fiscal year. Complaints of this type may also be filed and investigated

by the Philadelphia Human Relations Commission, and may not come to the attention of the Police Advisory Commission.

The 102 complaints filed with the Commission and accepted for investigation had a total of 115 primary allegations: 78 abuse of authority, 28 physical abuse, and 9 verbal abuse allegations. Fourteen complaints had two or more primary allegations.

Civilian complaints not within the Commission's jurisdiction are complaints that allege verbal abuse of a more general nature such as profanity, rudeness or discourtesy; or complaints primarily alleging lack of service, that is, failure of the Police Department to provide adequate or proper public safety service, for example, failure of the police to respond to a call for assistance. Also beyond the Commission's jurisdiction are complaints with allegations of criminal activity or corruption (bribes, gratuities, etc.). The types of complaints are initially processed by the Commission, and then referred to the Internal Affairs Division (IAD) of the Police Department and/or the District Attorney's office for their review and appropriation action. Finally, complaints of any type involving police officers or law enforcement personnel other than Philadelphia police officers are not within the Commission's jurisdiction, and if possible, are referred to the proper police department or oversight agency for review and appropriate action.

The Commission also has a 180-day filing requirement. As such, complaints concerning incidents, regardless of whether or not the allegations fall within the subject matter jurisdiction of the Commission, that occur beyond the Commission's 180 day statute of limitations for filing are generally referred to the Internal Affairs Division for its consideration and possible action on the complaint. IAD does not have the 180 day limit for the filing of complaints. However, complaints filed with IAD before expiration of the Commission's 180 day statute of limitations, and then filed with the Commission after the 180 days will be reviewed by the IRC, and may be accepted for investigation. The Commission retains full discretionary authority under its Executive Order, Section 4(b), to study any specific individual incident regardless of its age.

During FY2001 of the total number of filed complaints, 74, or approximately 40%, were not accepted and/or referred to IAD or other appropriate agency. Eleven complaints or 6% were administratively closed without formal decision as to acceptance, or as a result of the complainant's failing to comply with the Commission's procedural or administrative requirements, or the complainant's withdrawing the complaint. Although none of the 74 declined or referred complaints resulted in a field investigation by the Commission, each complaint required at least one full interview, written documentation, a referral letter and administrative processing time.

In addition during the fiscal year, Commission staff continued to field a daily average of ten telephone inquiries from members of the public concerning

non-Commission matters (most were inquiries regarding police department questions or issues). Some of these inquiries, however, based on either the nature or seriousness what was presented, for example, threats to individuals, required follow-up and written documentation. In general however, inquiries of this type were individually screened, and, if possible, referred by telephone to the Police Department or other appropriate agency.

**FIGURE 2 - COMPLAINTS BY MONTH FY 1995 THRU FY 2001**

<b>Month</b>	<b>FY95</b>	<b>FY96</b>	<b>FY97</b>	<b>FY98</b>	<b>FY99</b>	<b>FY00</b>	<b>FY01</b>	<b>Total</b>
<b>July</b>	8	13	11	8	7	21	18	86
<b>August</b>	9	24	15	11	13	11	24	107
<b>September</b>	15	9	8	9	9	13	16	79
<b>October</b>	8	17	6	10	13	14	17	85
<b>November</b>	12	13	10	4	9	11	6	63
<b>December</b>	8	7	3	7	19	13	10	67
<b>January</b>	16	8	3	5	16	14	25	87
<b>February</b>	11	6	6	11	11	11	17	73
<b>March</b>	10	6	7	12	20	17	13	85
<b>April</b>	7	10	5	13	9	11	12	67
<b>May</b>	12	4	7	9	8	11	18	69
<b>June</b>	15	4	13	8	13	25	8	86
<b>Total</b>	<b>131</b>	<b>121</b>	<b>94</b>	<b>108</b>	<b>147</b>	<b>172</b>	<b>184</b>	

### **C. COMPLAINANTS**

The 184 complaints filed with the Commission during the year represent a total of 196 complainants. The 102 accepted complaints represent 105 complainants. During FY2001, Latinos comprised approximately 15% of the total complainant pool; they were 17%, or 18, of the complainants whose complaints were accepted during the fiscal year. Historically (thru FY2000), Latinos have been approximately 15% of all Commission complainants. African-Americans on the other hand historically have been approximately 58% of all Commission complainants. During FY2001, they were approximately 57% of the total pool of complainants; they were approximately 54% of complainants for accepted complaints. Complaints by non-Latino whites were approximately 23% of the total number of complaints filed with the Commission during the fiscal year. Historically, non-Latinos whites have comprised 24% of the total complainant

pool. Non-Latino whites represented 27% of the accepted complainants. Asians and others accounted for almost 4% of the total FY2001 complainant pool; they were almost 3% of the number of accepted complainants.

Most complainants for accepted complaints during FY 2001 were males, 70 or 67%; 35 or 33% were females. Female complainants were 32%, or 18 of 57 African-American complainants; they were 7 of 18 or 39% of the Latino total; and 33% or 9 of 27 of white non-Latino total. There was one Asian female complainant during the fiscal year.

The composition of the Philadelphia Police Department during FY 2001 was approximately 59% white (4085), 34% African-American (2388), 6% Latino (399) and 1% Asian/Others (77). The Department was approximately 76% male (3498W, 1441AA, 278L & 59 As/O), and 24% female (587W, 947AA, 121L & 18 As/O) (Source: Police Department, Sept. 2001). The population of Philadelphia for calendar year 2000 was 1,517,550 with a 45% white population, a 43% African-American population, an 8% Latino population, and a 4% Asian/Other population (Source; U.S. Census Bureau, 2000 Census).

The Commission expects during FY2002 to implement a new data collection and data entry system using new software custom designed for the Commission's procedures and operations. The new system will allow the Commission to capture more information and data than in the past concerning characteristics of complaints, allegations, complainants, civilian witnesses, target officers, peripheral officers and general Commission activities. The software will also give the Commission the ability to better analyze the data entered resulting in enhanced data and statistical reporting.

#### ***D. MEDIATION***

The Commission continues to believe that mediation is a viable, alternative method for the resolution of certain types of complaints. The benefits of mediation would flow to the complainant, the police officer, the Police Department, the community, and the Commission. The re-evaluation and restructuring of the mediation program continues to be an important objective of the Commission. However, the continued opposition by the FOP, the unrelenting demand on Commission material and personnel resources imposed by the growing caseload, and the lack of enthusiasm, if not support, by the Police Department for mediation have contributed to a further delay in moving the mediation program forward. That notwithstanding, the Commission during the fiscal year did additional research on the issue including identification of, and obtaining updated materials from mediation programs in operation at other oversight agencies, for example in Minneapolis, Minnesota, with an eye to conducting a site visit to experience and learn how the program operates, and

just as importantly, to learn how union and police department problems were resolved.

The Commission also had meetings with the Philadelphia Human Relations Commission concerning the operation of its community-conflict mediation program. Also discussed with its Executive Director, Lazar Kleit, was the possibility of his conducting (he is a trained and experienced mediator) some preliminary mediation sessions, assuming willing police officers can be found, for research and evaluation purposes. He did agree, and arranging those sessions remained pending at the end of the fiscal year.

### ***E. INVESTIGATIONS***

The two Special Investigators working for the Commission during FY 2001 had an average caseload of 62 open investigations. The Chief Investigator, whose primary responsibilities are supervisory and managerial, had an average caseload of 19 open investigations. The Commission understands that IAD investigators handling civilian complaints had an average caseload of 15 to 20 investigations during the year. Commission's Special Investigators routinely carry a caseload many times greater than that of his/her IAD counterpart, and without the organizational support and additional resources provided IAD by the Police Department.

The seemingly ever-increasing Commission investigator caseload has moved beyond what is reasonable. Without additional resources or changes in procedures, the quality and quantity of Commission investigations could soon be affected. Of course, it is almost axiomatic that as individual investigator caseloads increase, so does the length of time necessary for completion of an investigation to the detriment of all parties involved. Commission investigations averaged 10 months in FY2000 and 7 months in FY2001 only as a result of continuing efforts at streamlining and increased productivity. The Commission also was more selective during its intake screening resulting in fewer accepted complaints during the fiscal year.

Summary disposition of cases, if and when adopted, will help to ease the caseload burden, but may not impact on the growing case backlog if the rate of complaints filed with the Commission continues to increase (and early FY2002 indications are that the increase will continue). Stronger measures, possibly including a "freeze" on intake, may need to be considered if additional resources remain unavailable.

Commission investigators as part of their investigations interviewed 196 complainants, and 97 target and witness police officers during the fiscal year. The latter is a 33% increase as compared to last fiscal year when only 60 such interviews were conducted. As in the past, investigators during the year also had

to monitor numerous criminal and civil judicial proceedings involving either complainants or target officers as part of their investigations. Also interviewed were other civilian witnesses including medical personnel of various types.

All completed investigations are reviewed by the Commission's Investigatory Review Committee (IRC) for determination as to whether or not there will be a public fact-finding hearing (Panel Hearing) as part of the investigative process. Moreover, the IRC reviews investigations for completeness and legal sufficiency. If upon review the IRC determines that an investigation does not warrant a hearing, the investigation will be administratively closed, and a general notification letter is sent to the complainant.

As previously noted, the Commission did decide during the latter part of FY2001, to notify complainants of the reason for the IRC's decision to administratively close a case after full investigation when the reason for the closure is exoneration of the police officer(s), or when the matter is determined to be unfounded, or if the police department already has made findings or recommendations that concur with the Commission's investigative findings and/or recommendations. Under this new procedure, the Mayor, the Police Commissioner and the City Managing Director will be notified by delivery of a copy of the letter sent to the complainant.

Investigations approved for a panel hearing were scheduled as soon as possible during the fiscal year. However, there continued to be a scheduling delay of at least four months. Complainants are notified in writing of the IRC's decision to have the Commission conduct a panel hearing within 10 days of the decision. The IRC met 10 times during FY2001 to review completed investigations and rejected complaints.

## ***F. HEARINGS AND OPINIONS***

The Commission initiated and/or completed seven panel hearings on complaints during FY2001 (See, Figure 3 below). These hearings are fact-finding inquiries conducted by Commission members sitting as panels of not fewer than three members. During the hearings, witnesses testify under oath regarding the allegations framed in the complaint. The witnesses usually include the complainant, other civilian witnesses, the target (accused) officer(s), and other police witnesses (peripheral officers). Commission questioning of witnesses during a hearing is conducted firstly by Commission counsel, and then by panel members. Witnesses may have an attorney present, however, pursuant to Commission rules the role of the attorney during the fact-finding hearing is minimal. The attorney's role is primarily to provide personal counsel to his/her client. The attorney may not question witnesses, cross-examine witnesses or make formal statements or objections.

Panel hearings are usually the final step in the investigative process before disposition. Pursuant to the Commission's Executive Order, the rules of evidence do not apply to a Commission panel hearing. And because it is a fact-finding hearing as opposed to an adjudicatory hearing, there is no burden of proof for either the complainant or the target officer. The standard of proof used by the Commission for making fact-finding determinations is a preponderance of the credible evidence including credibility determinations based on the testimony and demeanor of witnesses. However, as set forth in the Executive Order, no final disposition of a complaint may be based entirely on hearsay evidence, nor may a final disposition be based on an unsworn complaint, or upon the prior unsubstantiated complaints of a target officer. Evidence must be material. Panel hearings generally require 6 to 8 hours for the taking of testimony and deliberations usually during the course of two weekday evening sessions.

Panel hearings are open to the public, including the police department, and the media. However, the presiding panel conducts the post-hearing deliberations in executive session. The decision of a panel is set forth in a written report, called the Panel Report, that includes the findings of fact and, as may be necessary, the recommendations. The Panel Report must be reviewed and approved in its final form by the full Commission prior to its release. The final report is called an Opinion. Opinions are forwarded to the Mayor, the Police Commissioner, and the City Managing Director in advance of public availability, which pursuant to the Executive Order occurs three working days later. Complainants are mailed copies of the Opinion, or a final disposition, on or about the same day that it is delivered to the Mayor, et al.

The Executive Order also requires that within 30 days of delivery of an Opinion, the Police Commissioner must submit a written response on the Opinion to the Commission. During the year, there were at least five Opinions for which no response was received within the 30 day time period including three that were outstanding for more than three months. This is the first year during which the Commissioner's responses to the Commission have been problematic. Prior to this year, the Commissioner had been fairly diligent about having his responses prepared and delivered to the Commission within the mandatory time period.

Police Commissioner Timoney since the start of his term of office has been sent 21 Commission Opinions. His responses to the Opinions have for the most part been timely. As for the Commission's recommendations, the Commissioner has accepted only one recommendation regarding the disciplining of a police officer, Matter of T. Gary, a one-day suspension for the target police officer, May-August 1998. During the past year, the Commissioner did accept a Commission recommendation for non-disciplinary (the Commission made no findings against the police officers) supplementary training for two police officers, Matter of K. Roberts (C. Lackey), June 2001. The Commissioner's response in Roberts was one of seven responses to Commission Opinions forwarded by the Commissioner during the fiscal year (See, Figure 4 below).

The Commissioner has also continued to accept some complaint-specific recommendations as recommendations for possible new training, or for changes in general training. Also as he has done in the past, the Commissioner has agreed to forward the decision of the Commission to a target officer's immediate supervisor for his/her review and/or appropriate action. For the most part however, it remains generally true that the Commissioner has not accepted the Commission's recommendations for discipline. His stated reasons have varied ranging from objections concerning the weight or analysis of the evidence considered by the Commission to objections concerning the nature or severity of the allegation. There have also been objections to the Commission's witness credibility determinations, as well as references to the use of a different "preponderance of the evidence" standard by the police department.

A more pressing problem, to which the Commissioner's response remained pending at the end of the fiscal year, is an issue that first arose during FY2000 in the Matter of Gordy-Lauber, and again in a more definitive form during FY2001 in the Matter of Alexander Kuilan, June 2001. The issue is the refusal of witness and target police officers to properly testify, or testify at all before the Commission. If police officers can pick and choose when to testify, and it should be noted that the police officers' stated reasons for refusing to properly answer the Commission's questions has varied over time, then the viability of the Commission's processes, not to mention its authority, is being put into question.

The Commission also believes that the refusal of police officers to testify properly while under oath at a Commission hearing undermines the authority of the Police Commissioner. Police Commissioner Timoney in June 1998 issued General Order 7595 that in relevant part states as follows:

"All personnel are reminded of their obligation to cooperate with the Police Advisory Commission, and testify before the Commission when called... Personnel who choose to disregard the obligations created under these orders, even at the advice of counsel, do so at the risk of serious disciplinary action."

General Order 7595 was issued after a Commission Opinion (Matter of M. Kile, April 1998) cited three police officers for following FOP counsel's advice and refusing to testify at a Commission hearing. The Police Commissioner rejected the Commission's recommendations for discipline, but did issue the General Order presumably to prevent future occurrences.

For the Commission, General Order 7595 marked a milestone for both it and the Police Department. However, if police officers are now free to choose when and how to testify at a Commission hearing, an option not available to members of the public, then there are two concerns: firstly, what is the status of

the Commissioner's general order, and how is the Commission to address the failure of police officers to properly testify before the Commission; and secondly, could there be a public perception of an improper double standard possibly evidencing a bias in favor of the police and/or of the cover-up of alleged wrongdoing.

Until the Police Commissioner responds to the Commission's recommendation for a 10-day suspension for each of the four officers who refused to properly testify in the Kuilan matter, the message to police officers from the Department could be that each officer has the discretion to pick and choose when to testify, or when to testify properly before the Commission. Of more concern to the Commission is that the message police officers may be receiving is that they can ignore the Commission with impunity. More generally, the danger is that police officers may think that the Police Commissioner's own orders can be ignored with impunity especially when the FOP is covering their backs.

The Commission recognizes that there may be real questions, legal and otherwise, that need to be addressed concerning how and when Police Department and Commission processes should intersect and interact. However until they are addressed formally, the rules, as sanctioned by the Mayor, the Police Commissioner, the City Managing Director and the Commission, and as memorialized in the Executive Order and General Order 7595 in particular, need to be respected.

After delivery of the Gordy/Lauber I Opinion to the Police Commissioner (July 7, 2000), the Commission decided that pending the Commissioner's response on the issue of whether or not police officers could refuse to testify at Commission hearings, it would not be in the best interest of either public or the Commission to conduct further hearings. After an exchange of a series of letters and memoranda, the Commissioner's official response to Gordy/Lauber was received on August 24, 2000. And while the Police Commissioner in his response acknowledged that the Commission had cause to be troubled by the police officers' actions, he did not impose any discipline on the officers. The Police Commissioner's response forced the Commission to further delay the initiation of new hearings until mid-January 2001 while the Commission sought consideration by the Mayor of the issues presented by the Opinion and the Commissioner's response. The same issues are again pending for the Commissioner in Kuilan\*.

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\* The Commission delivered the Kuilan Opinion to the Police Commissioner on August 1, 2001, after the end of the fiscal year. His response was received on October 1, 2001. The response was in the form of a copy of a letter sent by the Commissioner to Richard Costello, the President of the FOP. In the letter, the Police Commissioner stated that the police officers' reliance on the advice of FOP counsel was improper. The Commissioner also stated that future refusals by police officers to testify before the Commission may result in discipline although he declined to impose discipline on the four Kuilan officers for whom the Commission had recommended suspensions. And while the Commission is gratified that the Commissioner reiterated his support for the Commission's authority and his General Order, the issues raised by the police officers' actions in Kuilan remain generally unresolved and in need of further attention.

**FIGURE 3 - FY2001: COMMISSION HEARINGS COMPLETED OR INITIATED**

<b><u>COMPLAINT FILE</u></b>	<b><u>COMMISSION RECOMMENDATION</u></b>	<b><u>COMMISSIONER'S RESPONSE</u></b>
Gordy/Lauber II Comm. # 990545	Opinion Pending	
Varnell Harley Comm. # 990614	Opinion Pending	
Alexander Kuilan Comm. # 000758	10 Day Suspension for 4 P/O's (Refusal to Testify)	Declined Recommendation Reiterated Commission's Authority to FOP
Jamel Nichols Comm. # 000697	Opinion Pending	
Gina Gilliard Comm. # 000682	Opinion Pending	
Carmen Feliciano Comm. # 000728	Opinion Pending	
Eric Colon Comm. # 970346	Opinion Pending	
Cleveland "Joyce" Taylor Comm. # 980408	1 Day suspension for 1 P/O Reprimands for 3 P/O's	Declined Recommendations

**FIGURE 4 - FY 2001: COMMISSIONER RESPONSES TO COMMISSION RECOMMENATIONS**

<b><u>COMPLAINT FILE</u></b>	<b><u>COMMISSION RECOMMENDATION</u></b>	<b><u>COMMISSIONER'S RESPONSE</u></b>
Patricia Cleary Comm. # 980476	5 Days Suspension for 1 P/O	Declined Recommendation No Discipline Imposed
Maria Mulero* Comm. # 940054	10 Days Suspension for 2 P/O's (Moot as to Dismissed P/O)	Declined Recommendation No Discipline Imposed
Khalil Roberts* Comm. # 960288	No Findings Against Officers Supplemental Firearms Training for 2 P/O's	Report Acknowledged Training Recommendation Accepted
William DeSilvas* Comm. # 980471	No Findings Against Officers Supplemental Training for 2 P/O's Review of Procedures for Diabetics	Revisions Enacted Declined Training for 2 P/O's
Marvin Hightower* Comm. # 980526	7 Day suspension for 1 P/O; Reprimands for 2 P/O's	Declined Recommendation No Discipline Imposed
Gordy/Lauber I Comm. # 990545	10 Days Suspension for 6 P/O's (Refusal to Testify)	Declined Recommendation No Discipline Imposed
Deborah Fortune* Comm. # 980436	No Findings Against Officers	Opinion Acknowledged

\* The Police Commissioner's responses to these matters were late as of the end of the fiscal year ( see, p.23) , but received during late July and mid-August, 2001. Inclusion herein is prompted by concerns of continuity and timeliness.

Copies of Commission Opinions, as well as of the Police Commissioner's responses to the Opinions, are available from the Commission upon request. Transcripts to any particular hearing, subject to availability and a copying charge, are also available upon request.

### **G. COMMISSION MEETINGS**

During FY 2001, the Commission held 10 regular "monthly" meetings. Monthly Commission meetings are held the second Thursday of each month at the Commission's office in Center City, 34 S. 11<sup>th</sup> Street, 6<sup>th</sup> floor. The public session of the monthly meeting commences at 7:00 PM and continues until closure is appropriate. Any member of the public may attend the public session and address the Commission regarding any relevant issue. The Commission welcomes the participation of the public. The Executive Committee of the Commission also met on a monthly basis during the fiscal year.

### **H. STUDIES**

The Executive Order authorizes the Commission to undertake broader fact-finding studies regarding the policies or practices of the Police Department either of its own initiative, or upon the request of any member of the public or the Police Department. The authority to conduct the policy/practice studies is in addition to the Commission's authorization to review specific complaints or incidents of misconduct against particular police officers. The subject matter of any broad issue study must be a topic of concern to the community, or the Police Department, or the Police Commissioner. Broad issue studies can include public hearings.

Although neither the Police Department nor any member of the public requested that the Commission consider any particular issue during the fiscal year, the Commission on June 21, 2001 did conduct a public hearing on the policies and practices of the Philadelphia Police Department related to its acquisition and execution of premises search warrants and arrest warrants. The hearing lasted more than six hours during which 40 witnesses including police department personnel and the widely recognized expert on Fourth Amendment issues from the Boston University School of Law, Professor Terry Machlin, presented testimony to the Commission. Six to eight Commission members (plus staff) were present at all times during the hearing. The hearing was both videotaped and recorded stenographically.

The hearing was part of a study prompted by the increase in the number of abuse of authority complaints received by the Commission alleging inappropriate or unlawful conduct by Philadelphia police officers during the

acquisition and/or implementation of premises search warrants or arrest warrants. The Commission expects to issue a report on its findings including, as may be appropriate, recommendations by the end of calendar year 2001.

The Commission expects to conduct other studies during fiscal year 2002; studies that would most likely include one or more public hearings. Topics under consideration include a study of the issues related to car and pedestrian stops, especially in light of the Police Commissioner's acknowledgement of problems in that regard, i.e., the Police Department's development of a training film (April, 1999) for officers concerning those issues. The Commission also notes regarding this topic that the ACLU continued in FY2001 to monitor and conduct research on the issue of racial profiling during car and pedestrian stops by the Philadelphia Police Department. Another subject under consideration for study is policies and practices of the Police Department concerning the filing of civilian complaints. Although the number of complaints alleging police officer (personnel) resistance or interference with the complaint filing process at Districts or other police facilities is low, the Commission has received sufficient hearsay or anecdotal information to raise questions about what is actually taking place, where and why. Another intriguing aspect of this issue, which may or may not be related, is the leveling or decline in the number of civilian complaints being filed with the Police Department during FY's 2001 and 2000 even as the number of civilian complaints filed with the Commission increased significantly. Other issues for study also remain on the table. The Commission welcomes suggestions from the public and the Police Department concerning topics or issues for study.

During the fiscal year, the Commission also contracted with a private consultant for purposes of developing a strategy and proposal for "measuring" police-community relations in the City of Philadelphia. After much discussion and research, a preliminary proposal was developed, and as of the end of the fiscal year was under consideration and study. This project is both short and long term in that the objective is not only to determine the status of police-community relations at the time of the "survey", but also to create a mechanism for regular, future evaluation. The target date for implementation of the initial phase of this project is Spring 2002.

## **V. COMMUNITY RELATIONS AND EDUCATION**

The Commission's community outreach and education efforts continued at a brisk pace during FY 2001. Building on the foundation established during the previous years, the Commission continued to build and strengthen its community base and organizational network. The Commission, during the fiscal year, conducted or participated in more than 70 meetings, presentations or workshops with community-based organizations, professional offices, governmental offices and/or political-community leaders to discuss the Commission and its services.

Meetings and presentations included Police Commissioner John F. Timoney, Deputy Commissioner John Norris (Internal Affairs Division), City Managing Director John Martz, Juan Ramos, Director of the Office of Labor and Standards (former Commission member), the NAACP, the Black Clergy of Philadelphia, the Philadelphia Commission on Human Relations, Police-Barrio Relations Project, The Philadelphia Gay and Lesbian Task Force, the Hispanic Bar Association, PILCOP, the Civil Rights Committee of the Philadelphia Bar Association, the Police Department's Office of Integrity and Accountability, Mother's Organized Against Police Brutality, the Mayor' Office of Community Services, police science expert Professor Jim Fyfe, the Philadelphia Coalition for Kids, Professor Terry Machlin, the American Civil Liberties Union, NACOLE, Elsie Cross Associates (on PD diversity issues), Safe and Sound, the Philadelphia News Project. The Commission also worked 24/7 during the Republican National Convention during August 2000 on community and protestor issues.

The Commission also met with governmental representatives, or testified before governmental panels including Philadelphia City Council oversight committees, individual members of the City Council including, but not limited to the Hon. Michael Nutter, the principal mover behind the establishment of the Commission, and the Hon. Angel Ortiz, Chair of the Council's Committee on Public Safety. The Commission also met with on numerous occasions with City Council member Donna Reed-Miller. State Representatives Harold James and LeAnna Washington also had individual meetings with the Commission. The Commission also testified on two different occasions before the State Democratic Policy Committee concerning issues of police discipline, racially discriminatory practices, and police oversight. Early in the fiscal year, the Commission testified before this same Committee concerning the negative impact of Act 111 on the Police Commissioner's ability to discipline department members.

In addition, the Commission also participated in one statewide and one national forum concerning police accountability and/or civilian oversight issues, namely, the Pennsylvania Bar Association's Minority Attorney Conference and the Cincinnati Police-Community Relations Forum respectively. Because of budgetary restraints, the Commission could not attend the national conference of the National Association of Civilian Oversight of Law Enforcement (NACOLE) during FY2001. The Commission however expects to be in attendance at the next conference during October 2001 in Denver, Colorado. The Commission, together with the Police Department's Office of Integrity and Accountability, was featured in the NACOLE's newsletter of June 2001.

Media coverage of the Commission and its activities during FY2001 was again more frequent and more consistent both in the print and electronic media than during the previous year. Coverage included The Inquirer, the Daily News, The Philadelphia Tribune, the City Paper, the Philadelphia Weekly, the Philadelphia Gay News and Al Dia, Philadelphia's most popular Spanish-language newspaper. Electronic media included Fox News, ABC News, WHAT

radio, and KYW radio and TV. A press conference called by the Commission on July 20, 2000 concerning the videotaped-incident involving suspect Thomas Jones was attended by 25 news media representatives, and well covered the following day. Similarly, the public hearing on search warrant issues was well covered by print and electronic media. More than 35 news media outlets are notified on a routine basis, usually more than once a month, by the Commission concerning its monthly meetings, panel hearings, public hearings, and/or issued opinions.

The Commission continues to believe that the increased interest and coverage is attributable to the more assertive and active public affairs strategy and operations initiated two years ago and continuing to the present. The Commission believes further that its continued enhanced presence and accessibility in the community as well as its increased workload activity is creating more interest. Making the Commission more community friendly and community accessible were guiding principles during FY2000 and FY2001. They will continue to be guiding principles during FY2002.

The Commission continues to explore the possibility of establishing a website for online distribution of services and information. Staff members attended training sessions, city-sponsored and private, during FY2001 to learn more about how a website could/should be developed and used. The objective is for the Commission to develop and manage its own website by the close of calendar year 2001.

The resource materials previously developed by the Commission continued to be well utilized during the past fiscal year. The third and fourth editions of PACER, the Commission's official newsletter, were released during the fiscal year. Circulation was approximately 500 for the third edition and 700 for the fourth edition. The fifth edition of the newsletter is scheduled for publication November 2001 with an expected distribution of at least 1000.

The Commission's bilingual brochure in Spanish continued to be distributed at a rapid pace throughout the year: more than 4000 copies were distributed. The project to translate the Commission's brochure into Chinese, Cambodian, Vietnamese, Russian, and Arabic stalled during the fiscal year. The objective is now to accomplish the translations, and a citywide distribution of the translated brochures by the end of FY2002.

Complaint kits, that is, packets containing the forms and information necessary for an individual to file a complaint with the Commission, are the third most frequently used of the Commission's resource materials. Fifty-four (54) kits were mailed to prospective complainants during the fiscal year in response to telephone inquiries. Additional complaint kits and/or resource materials also continued to be distributed to community-based organizations such as the Police-

Barrio Relations Project and Mothers Organized Against Police Brutality as well as governmental offices.

The Commission expects continued expansion of its community outreach and education efforts. The Commission understands that the continuing increase in the number of complaints filed with the agency, and increased general inquiries to the agency are due in part to the Commission's enhanced visibility and community acceptance as cultivated by its community outreach and education program.

## **VI. PERSONNEL & BUDGET**

### **A. PERSONNEL**

#### **1. Staffing**

Commission staff remains at six full time employees: the Executive Director, the Chief Investigator, an Administrative Director, two Special Investigators and an Office Assistant. During the fiscal year, permanent staff continued to be augmented by part-time "interns" placed by the Transitional Work Corporation, a welfare-to-work support program. Additional staffing was also provided for one term by a legal intern placed through the public service program of the University of Pennsylvania Law School. During November 2000, Ms. Karen Fequa and Mr. Kelvyn Anderson joined the staff as the Commission's new Special Investigators. Ms. Fequa is a former Philadelphia Police Officer; Mr. Anderson is a private investigator and former investigative journalist. Between them, they bring more than 20 years of investigative and law enforcement experience to the Commission.

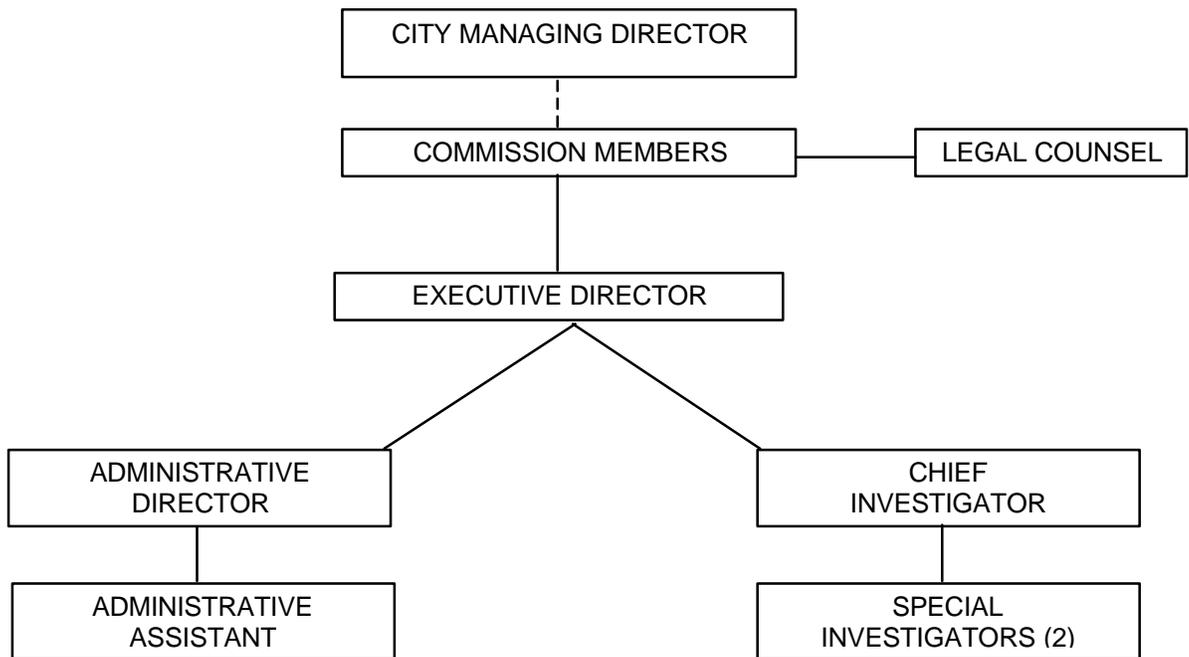
#### **2. Commission Members**

Commission membership was incomplete for most of fiscal year 2001. When at full complement, the Commission has fifteen permanent members and four alternate members. The four Mayoral appointees whose terms expired in February 2000 continued to voluntarily serve during the fiscal year. However, Commission Members David Oh and James Pabarue resigned in January and June 2001 respectively, and Commission Member James DeMarco passed away during the year. These departures created one vacancy in the permanent member positions, and three vacancies in the alternate member positions. The vacancies continued through the end of the fiscal year. The Commission has informed the Mayor and the City Council of the pending vacancies, and awaits action on the naming of new Commission members.

The Commission thanks former Commission Members David Oh and James Pabarue for their service and contributions. The Commission fondly acknowledges and honors the memory of former Commission Member James DeMarco for his service and dedication to community.

Photographs and brief biographies of Commission members and staff who served through the end of the fiscal year can be found as part of the introductory materials at the beginning of this report.

**FIGURE 6 - COMMISSION ORGANIZATIONAL CHART**



***B. BUDGET***

The Commission’s FY 2001 operating budget, original appropriation, was \$389,525. The FY2001 operating budget was almost identical to the Commission’s operating budget for FY2000 of \$389,629. The FY2002 budget is projected at \$388,970 even though the estimated obligations for FY2001 were put at \$391,855. The Commission’s FY2002 projected operating budget is almost \$6000 less than the FY2000 original budget appropriation. Requests for funding above the original appropriation, submitted for the past three years for the hiring of additional investigators, have been denied.

The Commission, like the Police Department, is a labor-intensive operation. The bulk of the operating budget, approximately 75%, is consumed by personnel expenditures. And if the \$40,000 in the budget dedicated for legal counsel services is counted as a personnel expenditure, then personnel services account for almost 85% of the operating budget. The Commission's FY2001 budget was less than .01% of the Police Department's FY2001 original appropriation of \$400,000,000. The Commission's budget has remained basically unchanged since its initial FY1995 budget notwithstanding the increased demand for Commission services.

## **VII. CONCLUSION**

As expected, the Commission enjoyed a very productive and noteworthy fiscal year. The continuing increase in the number of filed complaints and inquiries by the public speaks well about the Commission's continuing community outreach and education efforts. Similarly the enhanced press and media coverage during the year of the Commission and its activities also validates the Commission's community relations' efforts. FY2002 will witness an even more coordinated community outreach and education effort including the launching of the Commission's interactive website.

The Commission also expects the new year to be very busy, and replete with new challenges. The ability of the Commission to meet the challenges of the future will depend in large measure on the support and recognition provided by the City administration generally, and the Police Department particularly. The Commission cannot fulfill its mission in a vacuum - the tail will never wag the dog.

***Good Policing Is Everybody's Responsibility!***