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MEMORANDUM

TO: Board Commissioners

FROM: Mel P. Barkan, Chair

DATE: August 11, 1998

RE: Report on 75th and 81st Precincts

INTRODUCTION

The following is a report on complaints against officers from the 75th and 81st precincts. Pursuant to the Chair's request, the research staff began to prepare this report in March 1998 when it became apparent that these commands incurred a disproportionately high number of substantiated cases. Because the study has taken a lengthy period of time, we were able to extend the review of substantiated cases to include the most current month.

Upon reviewing the substantiated cases, we learned that although they were substantiated within a year of each other, the incidents that led to complaints occurred as many as twenty-one months apart. Therefore, in addition to looking at the substantiated cases, we decided to look at all the complaints that arose from incidents that occurred during a designated period of time. The second part of this study, then, analyzes those complaints that stem from incidents occurring between July 1997 and February 1998. Our limited resources prevented us from analyzing complaints that stemmed from incidents that occurred since February 1998.

Although we do not have detailed information on complaints filed after February 1998, we do know that both the 75th and the 81st precincts received a high number of complaints between January and June 1998. In fact, during that six-month period, the 75th precinct received a total of forty-six complaints, which represented fourteen more complaints than any other patrol precinct in New York City. Taking into account the number of personnel assigned to each precinct, the 75th precinct was ranked the fifth and the 81st was ranked the nineteenth highest recipient of complaints out of the 76 patrol precincts in the first half of 1998.¹ In 1997, the 81st precinct ranked second and the 75th ranked twelfth.² During the eighteen-month period ending on June 30, 1998, the 75th precinct ranked first of all patrol precincts with 118 complaints and the 81st precinct ranked twelfth with seventy complaints. The consistently high rate of complaint activity heightened our commitment to studying the possible factors that contribute to the increased complaint activity occurring in these two precincts.

Since June 1996, the date of occurrence of the first complaint in this study, the 75th

¹ Semiannual Report: January-June 1998, Vol. VI, No. 1, (draft).

² Semiannual Report: January-December 1997, Vol. V, No. 2, page 61.

precinct has had just one Commanding Officer and the 81st precinct has had two Commanding Officers. The current Commanding Officers, as well as senior Police Department officials, have been made aware of this study, which was prepared in the hope that they will devote special attention to these precincts. We would like to recognize the Department for voluntarily and promptly providing information to the CCRB on an informal basis in a commendable spirit of cooperation.

SUBSTANTIATED COMPLAINTS: JULY 1997-JULY 1998

As stated above, we began to study the 75th and 81st precincts because the officers assigned to those commands had a large number of complaints substantiated against them. Between July 1997 and July 1998, the average patrol precinct had less than three substantiated complaints; in comparison, sixteen complaints were substantiated against twenty-three officers from the 75th precinct and nine complaints were substantiated against fourteen officers from the 81st precinct. Of those substantiated from the 75th precinct, the Board recommended charges against seventeen officers, command discipline against five officers and instructions against one. Of those substantiated from the 81st precinct, the Board recommended charges against nine officers, command discipline against four officers and instructions against one. These two commands, which comprise 3% of the seventy-six patrol precincts, accounted for twenty-five or 12.3% of the 204 complaints substantiated against officers assigned to all citywide patrol precincts. Thirty-seven officers from these commands had complaints substantiated against them, which represented 13.3% of the 278 officers from patrol precincts who had complaints substantiated against them.

In order to determine some of the contributing factors to a high substantiation rate, we sorted the data on substantiated complaints in two ways: first, we looked at the years of service of the subject officers and second, we looked at the respective races of the subject officers and victims.

Upon categorizing the subject officers by date of appointment to the Police Department, we determined that of the twenty-three officers assigned to the 75th precinct, one was appointed between 1982 and 1985, six were appointed between 1986 and 1989, thirteen were appointed between 1990 and 1993 and three were appointed between 1994 and 1997. It should be noted that three of these officers were counted twice because they had two substantiated complaints against them during the time period in question. Of the fourteen officers assigned to the 81st precinct, two were appointed between 1982 and 1985, one was appointed between 1986 and 1989, eleven were appointed between 1990 and 1993, and none were appointed between 1994 and 1997. Two of these officers were counted twice because they had two complaints substantiated against them in the thirteen-month period. The data shows that the overwhelming majority of officers who had complaints substantiated against them have been in the Police Department for approximately five to eight years. In addition, seven of the subject officers were appointed on October 10, 1990 (three of whom are counted twice because they had two substantiated complaints against them within the study period) and nine officers were appointed on August 30, 1993.

In addition to the length of time in the Police Department, we considered racial difference as a possible contributor to police misconduct. Of the twenty-five substantiated cases, five involved the use of a racial epithet by police officers. For the purposes of this study, we looked at the racial backgrounds of the subject officers and victims of substantiated complaints. In order to contextualize our findings, we took into account the demographics of the general population and

the police personnel in each respective precinct. According to the *1990 Census Data for New York City Police Precincts*, approximately 9.5% of the 75th precinct population is white, 47.9% is black, 38.4% is Latino, 3.2% is Asian, and 1% is classified as other. In the sixteen substantiated cases from the 75th precinct, there were twelve black victims, six Latino victims, one Asian victim, one white victim, two Arab victims and one victim whose race was unknown.

The June 30, 1998 personnel statistics reveal that 69.1% of the uniformed police officers at the 75th precinct are white, 13.5% are black, 15.6% are Latino, 1.3% are Asian, and 0.5% are Native American.³ Based on the demographics of the 75th precinct, we would expect the majority of subject officers to be white. Indeed, of the twenty-three officers who were subjects of substantiated complaints from the 75th precinct seventeen were white, two were black, four were Latino, and none were Asian. In two of the sixteen cases the victims were the same race as the subject officers and in the remaining fourteen at least one victim was a different race from the subject officers. In nine cases, black civilians were the victims and white police officers were the subjects. In no instances were white civilians the victims of black subject officers.

The *1990 Census Data* showed that approximately 0.6% of the 81st precinct population is white, 86.1% is black, 12.2% is Latino, and 1.0% is Asian. Because the population is overwhelmingly black, we would expect the number of black complainants to be accordingly high. Indeed, in the substantiated cases from the 81st precinct, there were seven black victims and two white victims.

According to the June 30, 1998 personnel statistics, 59.0% of the uniformed police officers at the 81st precinct are white, 27.8% are black, 12.7% are Latino and 0.5% are Asian. While these percentages would lead us to expect the majority of subject officers to be white, the number of white subject officers in substantiated complaints considerably exceeded their representation at the precinct: twelve white officers, one black officer and one Latino officer were the subjects of substantiated complaints. In one of the nine cases the victim was the same race as the subject officer. In six cases, black civilians were the victims and white police officers the subjects. In one instance a white civilian was the victim of a black subject officer.

INCIDENTS THAT OCCURRED BETWEEN JULY 1997 AND FEBRUARY 1998 GIVING RISE TO COMPLAINTS

Between July 1997 and February 1998, 107 incidents occurred that led to the filing of a civilian complaint: seventy-three complaints against officers in the 75th precinct and thirty-four against officers in the 81st precinct. Of the seventy-three cases in the 75th precinct, twenty-one are still open, thirty-four were truncated or administratively closed, two were conciliated, and sixteen were fully investigated. Five of the fully investigated cases were exonerated, four were unsubstantiated, three were unfounded, three were substantiated and one was closed as miscellaneous.⁴ Of the thirty-four complaints in the 81st precinct, thirteen are still open, fifteen were truncated or administratively closed, one was conciliated, and five were fully investigated. Of those that were fully investigated, two were substantiated, two were unsubstantiated, and one was unfounded.

³ All of the statistics related to the racial breakdown of personnel at the 75th and 81st precincts was supplied by the Police Department's Office of Management Analysis and Planning.

⁴ The category miscellaneous refers to those cases in which the subject officer is not a member of the New York City Police Department.

In order to establish an objective benchmark for the complaint rate, we calculated the proportion of complaints per officer for the Brooklyn North Patrol Borough, an operational unit of the NYPD comprised of ten precincts roughly contiguous with the 75th and 81st precincts. The complaint ratio was determined by date of report, not date of occurrence. During the eight-month period in question, the patrol precincts received 338 complaints.⁵ To obtain the complaint rate we divided this number by 2,545—the average number of uniformed personnel for 1997 as of December 31, 1997.⁶ The resulting ratio for Brooklyn North patrol precincts was .13 complaints per officer.

As stated above, in the 81st precinct there were thirty-four complaints that stem from incidents occurring between July 1997 and February 1998. However, only thirty-one were filed during this time period. When we divide the number of complaints filed (31) by the number of uniformed personnel (214), the resulting complaint ratio is just under .15 complaints per officer—approximately .02 complaints per officer higher than the Brooklyn North patrol precinct ratio.

Although seventy-three complaints stem from incidents that occurred between July and February 1998, only sixty-two complaints were filed during this time period. The 75th precinct received more than any other Brooklyn North precinct, but the number of uniformed personnel assigned to the 75th precinct is significantly larger than any other Brooklyn North precinct: all of the other Brooklyn North precincts have less than three hundred uniformed personnel and the 75th precinct employs 402 uniformed personnel. While the geographical area of the 75th precinct is roughly equivalent to that of other precincts within the patrol borough, the area has historically had a higher crime rate than neighboring ones. However, the crime rate has been significantly reduced in recent years. When we divide the number of complaints filed (62) by the number of uniformed personnel (402), we arrive at a ratio of just over .15 complaints per officer, which is more than .02 complaints per officer higher the Brooklyn North patrol precinct ratio.

Complaints associated with law enforcement activities (an arrest, summons or the execution of a warrant) accounted for more than one half of the total complaints in both precincts. In the 75th precinct, forty-three of seventy-three or 58.9% of the complaints involved law enforcement activities and the remaining thirty or 41.1% did not. We did not ascertain the reason for the charges in nine of the thirty-eight cases involving an arrest or summons because the cases were closed prior to a full investigation. Similarly, in the 81st precinct, twenty-four or 70.6% of thirty-four involved law enforcement activities and the remaining ten or 29.4% of the complaints did not. We could not ascertain the reason for the charges in six of the twenty-four cases involving an arrest or summons because they were closed prior to a full investigation. Based on the high number of truncated and administratively closed cases and the lack of reliable information available on such cases, we were unable to conduct a comprehensive study of the reasons why arrests were effected or summonses issued. That said, at least fourteen or 20.9% of sixty-seven complaints associated with law enforcement activities included a charge of resisting arrest or disorderly conduct.

In many cases that involved law enforcement activities, the reason for the initial contact between civilians and police officers was unrelated to those activities. In other words, an arrest or summons may have been the result rather than the cause of the conflict. Data related to initial contact was not readily available because it is not automatically captured by the CCRB database.

⁵ The number of complaints by Patrol Borough and by individual precincts were calculated using the CCRB monthly tabulation of complaints. These tabulations may change slightly because further investigation sometimes reveals that a complaint was attributed to the wrong command when filed.

⁶ Semiannual Report: January-December 1997, Vol. V, No. 2, page 61.

Therefore, we had to review case files individually. Despite our careful review, this information often remained elusive. Since a large percentage of cases are not fully investigated, the victim and the subject officer may not have been interviewed and the reason for initial contact may not be known. Furthermore, even when the participants have been interviewed, the reason for initial contact is often a subjective judgement call because the subject officer's version of events may differ from the victim's.

We also determined the rate of complaints by tour of duty using the time of occurrence of the incident that gave rise to the complaint.⁷ Therefore, if an officer was assigned to the second platoon but was working overtime when an incident occurred, we would designate the tour of duty as the third platoon. Based on these calculations, we determined that within the 75th precinct, forty-four or 60.3% of the seventy-three complaints stemmed from incidents that occurred during the third platoon, eleven or 15.0% stemmed from incidents that occurred during the second platoon, and the remaining eighteen or 24.7% stemmed from incidents that occurred during the first platoon. These results were surprising because they did not correspond with the number of officers assigned to each tour. According to the Commanding Officers of the 75th precinct, fifty-four patrol officers are assigned to the first platoon, ninety are assigned to the second and ninety-one are assigned to the third. An additional twenty-eight community police officers make up their schedules on a weekly basis but tend to distribute their time evenly between the second and third platoon. Based on these numbers, we would have expected to see an equal number of complaints generated from incidents that occurred during the second and third platoons and a smaller number generated from the first. However, more complaints were attributed to the first than the second platoon. This could be partly because the overtime initiative that will be discussed later falls within the first and third platoons.

According to the Commanding Officers of the 81st precinct, the patrol officers are divided as follows: thirty-three are assigned to the first platoon, thirty-nine are assigned to the second, and thirty-nine are assigned to the third. They explained that the 81st precinct also has a fourth platoon, which lasts from 6:00 p.m. to 2:00 a.m. and thereby overlaps with the first and third platoons. Fifteen probationary officers are assigned to this tour of duty. In addition, the 81st precinct has ten anticrime officers, who rotate between the second and third platoons. Finally, there are thirteen community-policing officers who submit their hours on a weekly basis. In the 81st precinct, the number of complaints were more evenly distributed amongst the three platoons: twelve or 35.3% of the thirty-four complaints stemmed from incidents during the third platoon, thirteen or 38.2% stemmed from incidents that occurred during the second platoon, and the remaining nine or 26.5% stemmed from incidents during the first platoon.

The individual review of cases allowed us to become more familiar with the details of the complaints we studied. Upon reading the case files, we learned that several complaints arose out of incidents that occurred during an NYPD overtime initiative referred to as *COMBAT OT*, an acronym for Combined Municipally Based Anti-Drug Team Overtime. Unfortunately, our current system did not capture whether the subject officer was working overtime when the incident occurred. Thus, the correlation between overtime initiatives and high complaint activity is based on anecdotal evidence.

Under *COMBAT OT* precinct commanders authorize overtime and instruct officers to

⁷ Technically, the first platoon begins at 11:15 p.m. and ends at 7:50 a.m., the second platoon begins at 7:05 a.m. and ends at 3:40 p.m., and the third platoon begins at 3:00 p.m. and ends at 11:35 p.m. However, officers generally do not begin patrolling until approximately half an hour after their tour begins. For the purposes of this report, we attributed complaints that occurred between midnight and eight a.m. to the first platoon, those that occurred between eight a.m. and four p.m. the second platoon, and those that occurred between four p.m. and midnight to the third.

aggressively seek out “quality of life” violations, such as public drinking, public urination and gambling. According to the Police Department, this initiative was in effect from June 1997 to October 1997 in the 81st precinct. It thereby covered three months of the study period. COMBAT OT was implemented on March 21, 1997 in the 75th precinct and continued until December 31, 1997, by which time the program had used up its funding. COMBAT OT was in effect for five months of the study period in the 75th precinct.

The COMBAT OT tour of duty does not fit into the traditional designations for the first through third platoons. Instead, like the fourth platoon, the tour begins at 6:00 p.m. and lasts until 2:00 a.m. Officers are selected on a volunteer basis and they generally work on their regular days off. However, they may be asked to work overtime if no volunteers come forward. Police Department officials could not say whether officers would commence COMBAT OT after having completed a full tour.

The strong possibility that COMBAT OT and similar overtime programs increase complaint activity may result from a variety of factors that remain speculative at this point. Although COMBAT OT is no longer in effect, a similar overtime project is currently being implemented. The present overtime project also focuses on quality of life crimes but is only authorized on weekends. The CCRB’s new case-tracking system will be designed to capture the subject officer’s tour of duty and overtime status so that in the future these variables may be studied in a more systematic manner.

We suggest that this report be adopted by the Board and forwarded to the Police Commissioner for his review. We wish to bring the matters discussed herein to the Department’s attention so that it, too, may monitor the 75th and 81st precincts in the future.