

**REPORT OF THE  
VIRGINIA STATE CRIME COMMISSION ON**

# **Police Accountability**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **HOUSE DOCUMENT NO. 51**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1994**



# COMMONWEALTH of VIRGINIA

## VIRGINIA STATE CRIME COMMISSION

General Assembly Building

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ATTORNEY GENERAL'S OFFICE  
H. LANE KNEEDLER

December 14, 1993

TO: The Honorable L. Douglas Wilder, Governor of Virginia,  
and Members of the General Assembly:

Delegate William P. Robinson, Jr., of Norfolk, requested by letter that the Virginia State Crime Commission study the issue of police accountability and conduct, and submit findings and recommendations to the Governor and the 1994 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission. I have the honor of submitting herewith the study report on police accountability and conduct.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert B. Ball, Sr.", written in black ink.

Robert B. Ball, Sr.  
Chairman

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## **Law Enforcement Subcommittee**

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Delegate Clifton A. Woodrum, Chairman  
Mr. Robert C. Bobb  
Senator Elmo G. Cross, Jr.  
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Mr. H. Lane Kneedler  
Rev. George F. Ricketts  
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# Study of Police Accountability

## TABLE OF CONTENTS

I.	Authority for Study .....	1
II.	Members Appointed to Serve .....	1
III.	Executive Summary .....	2
IV.	Background .....	5
V.	Findings and Recommendations .....	11
VI.	Resources .....	13
VII.	Acknowledgements .....	15
	Appendix A - Letter by Delegate Robinson .....	A-1
	Appendix B - Virginia NAACP Survey .....	B-1
	Appendix C - Virginia Association of Chiefs of Police Survey .....	C-1
	Appendix D - Virginia Associations of Chiefs of Police resolution .....	D-1
	Appendix E - Law Enforcement Interviews .....	E-1

## Study of Police Accountability

### I. Authority for Study

Following the 1993 General Assembly session, Delegate William Robinson of Norfolk wrote a letter of request to the Virginia State Crime Commission to study police accountability. Delegate Robinson's letter specifically requests that the Commission examine the role of citizen review panels in promoting the accountability of law enforcement agencies to the citizenry. (See Appendix A.)

Code of Virginia §9-125 establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Code of Virginia §9-127 provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Code §9-125, and to formulate its recommendations to the Governor and the General Assembly." Code of Virginia §9-134 authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of police accountability.

### II. Members Appointed to Serve

At the April 20, 1993 meeting of the Crime Commission, Chairman Robert B. Ball, Sr., of Henrico selected Delegate Clifton A. Woodrum to serve as Chairman of the Law Enforcement Subcommittee, which was directed to conduct the study of police accountability. The following members of the Crime Commission were selected to serve on the subcommittee:

Delegate Clifton A. Woodrum, Roanoke, Chairman  
Mr. Robert C. Bobb, Richmond  
Senator Elmo G. Cross, Jr., Hanover  
The Honorable Robert F. Horan, Jr., Fairfax  
Mr. H. Lane Kneedler, Richmond  
Rev. George F. Ricketts, Richmond  
Senator Edgar S. Robb, Charlottesville

### III. Executive Summary

The Law Enforcement Subcommittee held four meetings in Richmond in 1993 to conduct the study of police accountability. On May 25, 1993, Staff Attorney Dana Schrad presented an initial report of issues and objectives relevant to the police accountability study. The subcommittee directed staff to collect data about citizen review panels in Virginia, and about how citizen complaints against law enforcement officers are filed and resolved. Police Chief Jay Carey of Newport News and Command Sergeant W. L. Vaughn of the Henrico County Police Department each addressed the subcommittee about officer complaints and disciplinary practices in their localities. Ms. Linda Bird-Hardin, executive secretary for the Virginia State Conference of the NAACP, discussed her organization's recent Virginia survey on police conduct, and told the subcommittee she would make the data available for the study. Mr. John Jones, executive director of the Virginia Sheriffs Association, requested that the subcommittee consider procedural guarantees for deputy sheriffs during the study. The Virginia Association of Chiefs of Police (VACP) also offered to provide the subcommittee with its recent survey results on use of force by officers. The subcommittee then directed staff to conduct field interviews with a variety of chiefs and sheriffs to collect information about how complaints are filed, processed and resolved in Virginia.

On August 24, 1993, the subcommittee heard the results of staff interviews with a number of Virginia chiefs and sheriffs. The results from the NAACP survey also were presented to the subcommittee, but the survey results from the VACP survey were not ready for release. The subcommittee directed staff to complete the field interviews for the next scheduled meeting.

At the September 21, 1993, meeting, the executive director of the Virginia Association of Chiefs of Police, Mr. Jay Cochran, presented the results from his association's "Use of Force" survey. He indicated to the subcommittee that the association will distribute another survey next year, and that there were plans to develop recommended guidelines for chiefs in the handling of citizen complaints. Mr. Larry Nowery of the Department of Criminal Justice Services presented to the subcommittee on the topic of police agency accreditation, and how it relates to professional police operations. The subcommittee then discussed the proposed development of a state accreditation process that would be less expensive and more tailored to Virginia than the national accreditation process. The subcommittee also discussed the need for a regular collection of data in Virginia that tracks citizen complaints against law enforcement officers and documents trends in officer conduct. Staff then presented preliminary recommendations to the subcommittee. Staff was directed to revise the recommendations as per the subcommittee's direction and present a final report at the next meeting.

On October 18, 1993, a final report with findings and recommendations was presented to the subcommittee. The subcommittee offered minor changes in the recommendations, and the subcommittee accepted the report pending the proposed changes. The revised recommendations were approved by the subcommittee on October 19, 1993. The full Crime Commission approved the report and recommendations at its November 30, 1993 meeting.

The findings and recommendations of the police accountability study, as approved by the Crime Commission, are as follows:

**Finding:** Delegate Robinson's letter requests that the Commission consider a regular, statewide gathering of information about police misconduct and disciplinary actions taken against errant officers. He has proposed that local law enforcement agencies annually provide data about officer disciplinary actions to a central repository, possibly housed in the Department of Criminal Justice Services. This is suggested as a means to identify and track police officers of questionable professional standing.

A data bank could be developed as an outcome of instituting a certification/decertification process to be used as a research tool for monitoring trends in police conduct in Virginia. This type of data could be used to support further development of certification standards and to improve law enforcement training programs.

**Recommendation 1:** A survey of local law enforcement agencies should be developed and implemented periodically to collect non-identifying, aggregate data on citizen complaints against officers, disciplinary actions taken and resolution of complaints. The survey results could be used to develop a **state data repository on complaints and disciplinary actions** to be used to direct the development of professionalism training.

The Crime Commission supports the continuation of a voluntary effort by the Virginia Association of Chiefs of Police and the Virginia Sheriffs Association to collect and evaluate this data, and recommends that the VACP and the VSA work with the Department of Criminal Justice Services in the **development, implementation and review of a regular survey**. The data collected should be compiled and made available as aggregate data that does not identify individual officers or agencies. This data will allow for trends in police conduct and citizen complaints to be identified for further development of law enforcement professionalism efforts.

**Finding:** One means of controlling the performance of law enforcement officers is through a professional qualification process. Officers who are certified under the auspices of a state-approved program will have to meet or exceed



minimum training and performance standards. Officers who fail to maintain these professional standards would lose their certification in Virginia. If such a program is adopted in Virginia, it will enable police chiefs and sheriffs to determine through a background check whether a prospective hire is currently certified, or whether he has lost his certification due to poor performance or a disciplinary action for misconduct.

Recommendation 2: Virginia should consider the establishment of a **certification and decertification** process to be used for all law enforcement officers in Virginia. Such a process would promote public accountability in that uniform hiring and firing standards and practices would be developed in Virginia, and officers who have been decertified would not be able to work again as sworn law enforcement officers in Virginia.

Finding: The citizen review panel approach to police accountability has not been widely accepted in the United States. It has worked in certain localities where the panel review process has been tailored to local needs and practices. However, there is no conclusive research that supports or disproves the citizen review panel as an appropriate or effective means of checking police disciplinary practices, regardless of the size or demographic makeup of the locality.

Recommendation 3: Virginia should continue to **allow localities the option to establish citizen review panels** by local ordinance or administrative procedure.

Finding: The more widely practiced approach to furthering police professionalism and accountability has been the development of more refined internal controls. Formal, written policies and procedures promote consistency and discourage arbitrariness in agency responses to citizen complaints. Additionally, minimum standards of professionalism, not only for the officer but for the agency, helps law enforcement executives to operate their agencies both efficiently and responsibly.

Recommendation 4: The Crime Commission should monitor the development by Virginia law enforcement organizations of a **voluntary accreditation process for law enforcement agencies** that establishes minimum operations and policy standards. Such agency accreditation should promote uniformity of minimum agency operations and policy standards across the Commonwealth. The Virginia Department of Criminal Justice Services, assisted by the Virginia Association of Chiefs of Police and the Virginia Sheriffs Association, should be requested to report to the Virginia State Crime Commission on the progress of a voluntary accreditation process for law enforcement agencies by August, 1994.

#### IV. Background

Historically, police agencies have been allowed to operate as independent arms of local government, isolated from the political controls that many believed would lead to corruption or patronage. The advent of the civil rights movement of the 1960's, and the growing body of U.S. Supreme Court decisions interpreting the scope of police power, have led to various types of modern police controls. Some controls are external, such as citizen review panels, while other, more traditional controls are internal, such as agency policies and procedures.

There are primarily three means of controlling police performance in modern law enforcement agencies. The administrative approach is the creation of internal affairs divisions within law enforcement agencies. This usually is considered the most practical and effective approach because management is able to provide daily supervision over police activities. However, most police agency rule-making focuses on crisis management, and is sporadic regarding crime prevention and community relations.

The judicial means of controlling police performance is through police liability suits. Also, court decisions on constitutional issues, such as search and seizure, set parameters for police investigative practices. This is not viewed as a practical means of promoting police professionalism, but it provides an avenue of relief for citizens injured as a result of police misconduct.

Citizen review panels have been the primary means of asserting political control over police performance. These panels have resulted in success and failure. In New York City and Philadelphia, civilian review mechanisms were abolished when police rank and file organized in protest against them. However, in locales where citizen review panels have been tailored to the needs and values of the community, they have been well-received.

It is a common misconception that police misconduct complaints usually are associated with brutality or excessive force. However, research conducted by criminal justice scholar William Geller reveals that the primary sources of citizen complaints are as follows:

1. Failure to take appropriate action ..... 35%
  2. Excessive use of force ..... 25%
  3. Illegal arrest complaints ..... 15%
  4. Other (rudeness, etc.) ..... 25%
- (Geller, 1985-4 urban locales)

## Liability for Police Misconduct:

Virginia has codified a state tort claims act that waives sovereign immunity to allow negligence suits against the state. Code of Virginia §8.01-195.3 excludes certain types of claims against the government, and places a cap on the amount recoverable in a negligence suit. The statute allows only money claims for damages, and prohibits recovery of punitive damages or accrued interest prior to judgment. Code of Virginia §8.01-222 requires a negligence cause of action against the state or local government to be filed within six months of the incident. Additionally, limitations on municipal immunity allow negligence suits against local governments. This allows private citizens to file civil suits against police agencies to recover damages incurred by an act of police misconduct.

42 U.S.C. § 1983 was enacted in 1871 to create a federal civil rights act that allows a private citizen to file a civil suit to remedy oppressive official conduct. A person operating in an official capacity and executing duties in an unreasonable manner under color of state law may create a basis for liability in suit under this section. This law protects an individual from being deprived of his rights, privileges or immunities as guaranteed by the federal constitution. Police officers must be found to have acted maliciously, or with reckless disregard for the rights of another. For example, excessive life-threatening use of a gun, unwarranted by an alleged need to defend self or fellow officer, violates an individual's constitutional rights (Garrick v. City and County of Denver, 652 F.2d 969 (1981).) Law enforcement officers often are able to assert the defense of qualified immunity. However, the local government itself cannot assert the qualified immunity defense. Therefore, some suits alleging improper police conduct are filed against the local government based on a claim of "failure to properly train or supervise" or "negligent hiring or retention."

Several types of police activity are particularly subject to civil negligence suits based on allegations of inappropriate conduct. An officer must make a careful decision about when to initiate a high speed pursuit of a fleeing offender, for example. Property damage and physical injuries that have resulted from an accident initiated by a high speed chase may become the basis for a negligence suit against the officer if the high speed chase was inappropriate.

Use of deadly force by an officer only can be justified if the life of the officer or another person is in immediate danger. Deadly force would not be appropriate or defensible if used to stop a fleeing traffic offender, unless the offender's actions were endangering the public safety.

Some wrongful death or negligence claims have been pursued successfully based on the alleged failure by a law enforcement agency to prevent suicide while the person was in detention, such as in a jail or pre-trial holding cell.

Domestic violence calls often are volatile and emotionally-charged situations in which a responding officer must intervene between family members. Officers must determine whether to separate the family members by removing the most violent person from the scene, or decide whether the situation can be defused without effecting an arrest. As such, the parties in a domestic dispute often are dissatisfied with the response decisions made by a police officer, and will file a civil complaint claiming inappropriate police response.

Inadequate training, particularly in the appropriate use of firearms, is a new basis of complaint against law enforcement officers. Officers usually receive ample training and testing in weapons proficiency and accuracy, but officers may not receive sufficient training in when they should use their weapons. If a complainant can show that an officer used his weapon inappropriately due to a lack of proper training, then the complainant may be able to file a negligence claim alleging inadequate training. In City of Canton v. Harris, 489 U.S. 378 (1989), the U. S. Supreme Court established some principles regarding "failure to train" lawsuits. However, the Court indicated that there are "limited circumstances" in which a local government can be found liable for failure to train, and that is "only where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact" and when the failure to train is "closely related to the ultimate injury." (Canton, at 388.) There must be a constitutional violation, an agency policy that results in inadequate training and a close causal connection between the two.

All of these police activities have resulted in federal civil rights actions or tort claims for negligence. The response by many police agencies is to address the problems inherent in these police activities in formal agency policies and procedures. Additionally, police administrators have emphasized advanced training in these areas as a means of improving police professionalism and minimizing claims of misconduct.

#### Virginia survey results:

Three recent surveys have been conducted in Virginia concerning police training, performance and discipline that were reviewed for this study. The first was a survey of police chiefs and sheriffs conducted by Crime Commission staff for a law enforcement training study. When asked whether their agencies were subject to a citizen review panel, 13 Virginia law enforcement agencies responded yes, 181 responded no and seven responded "not applicable."

The Virginia State Conference of the NAACP recently conducted a "Law Enforcement Excessive Force Survey," which focused on how officers are trained in racial sensitivity and crisis response, and on the types and numbers of complaints made by citizens against officers. Although the responses to the NAACP survey are

helpful in analyzing police professionalism in Virginia, the survey results provide only cursory information about police-citizen relations. (See Appendix B.)

The Virginia Association of Chiefs of Police (VACP) conducted a 1993 "Use of Force" survey of chiefs and sheriffs. The VACP sent surveys to 359 Virginia law enforcement agencies, and received only 58 responses. While the response rate was low, the survey results did indicate that physical force without a weapon is the predominant means of force used by police officers against private citizens. The responses also indicate that younger, less experienced officers are more frequently involved in use of force complaints. The VACP survey document comments that the younger officers are most likely to be the uniformed officers who are the first to respond to incidents. The VACP has stated that it intends to continue with some type of regular survey effort to help document police use of force and citizen complaint resolution data. (See Appendix C.)

#### Approaches to Promote Professionalism:

Citizen review panels have been used with varying success and failure around the country. Supporters of citizen review panels contend that panels can recommend changes in police policy to respond to community needs, and that the more open process that panels promote engenders greater trust between the public and the government. They also contend that police agencies cannot investigate and discipline their own officers. Indeed, several professions, such as law and medicine, have state level peer panels that investigate complaints against professionals and recommend and carry out disciplinary actions. However, lawyers and doctors are required by law to be licensed, and no such requirement exists for law enforcement officers.

There are as many designs for citizen review panels as there are communities that have implemented them as a means to bring citizen input to the disciplinary investigations of and actions taken against law enforcement officers. In communities in which citizen review panels have been successful, there is evidence of a high level of cooperation between the law enforcement chief executive and the panel members, and the police chief invariably has a great deal of control over the decision-making process. In these instances, the review panel sits as an advisory body to the police chief and does not have the authority to make binding decisions regarding disciplinary actions.

Additionally, these panels follow agency policies regarding the confidentiality of the officer's personnel records, and individual panel members are prohibited from discussing these personnel records with anyone outside of the disciplinary process. Arguably, this type of panel does not promote public accountability, but does utilize citizen input for advisory purposes. In locations where citizen review panels have failed, police rank and file have organized successfully against such a

process. In no case are citizen review panels mandated as a matter of state law, but are the option of the locality.

A citizen review panel that investigates an officer for misconduct and metes out disciplinary sanctions may be in direct conflict with the immunity from prosecution and punishment often extended by a court in exchange for an officer's subpoenaed testimony. (Garrity v. New Jersey, 385 U.S. 495 (1967) upholds the officer's immunity from criminal prosecution, and the scope of that immunity conceivably could be extended to civil suit, since Garrity leaves the question open.)

The Virginia Association of Chiefs of Police, on June 3, 1993, adopted a formal resolution concerning civilian review boards. The Association supports improved training opportunities for law enforcement officers; a state certification and decertification process for officers and a state system for accreditation of law enforcement agencies as ways to improve police professionalism. However, the Association did not support the promotion of civilian review boards as a means of monitoring and disciplining officers. (See Appendix D.) Lt. Melvin Jones, a Petersburg police officer and vice president of the Virginia chapter of the Fraternal Order of Police, has stated that the FOP does not support civilian review committees.

Most of the Virginia chiefs and sheriffs interviewed by staff have formal, written policies and procedures related to appropriate police conduct in specific instances. However, there are many agencies that do not develop written policies concerning the processing of citizen complaints, choosing instead to handle the few citizen complaints they receive through an informal process. (See Appendix E.)

Some criminal justice researchers have suggested that state legislatures or local governing bodies consider enacting legislation or adopting ordinances that require law enforcement agencies to undertake systematic rule-making concerning police conduct. The goal of this approach is to mandate uniformity and predictability in police conduct and in discipline approaches for misconduct.

There are several advantages to this approach. For one, it does not rely on voluntary rule-making by local police agencies. It also promotes the promulgation of administrative rules, which have a greater likelihood of being communicated to police officers and enforced by police supervisors. Administrative rules can be developed in greater detail and with more specificity than statutes and are the easiest to modify to reflect changing social trends or local needs. Additionally, when administrative rule-making involves the input of both supervisors and rank-and-file, officer "buy-in" to the rules is more likely. Public input to the rule-making process, however, should be considered as a means of developing more trust between the citizens and the government. A requirement to undertake systematic rule-making ensures that police agencies take a comprehensive approach to address

police conduct in all areas of law enforcement, not just crisis situations.

A legislative mandate for police agency rule-making would affect sheriffs offices as well as police agencies, which could be a disadvantage of this approach. As elected officials, sheriffs historically have been empowered to establish disciplinary procedures in their jurisdictions that reflect their political mandates.

Several models of police rules have been developed in recent years. The International Association of Chiefs of Police developed *A Manual on Police Discretion* that contains rules on nine areas of police activity. The University of Wisconsin Institute of Governmental Affairs developed the *Model Policy Manual for Police Agencies* that covers police authority and internal police administration issues. The Nebraska Law Enforcement Training Center published a *Model Policies and Procedures Manual*. The national law enforcement accreditation process, established by the Commission for Accreditation of Law Enforcement Agencies, Inc. (CALEA), requires participating agencies to develop rules and regulations within the *Standards for Law Enforcement Agencies*.

Certification and decertification processes, based on both training and conduct standards, are a growing trend in other states, primarily as a means to identify and track those officers who have failed to meet a set of minimum performance standards. The decertification process gives law enforcement executives an objective and uniform indicator of the employability of a potential law enforcement hire. Additionally, a certification process promotes minimum standards of appropriate conduct and professionalism that in turn promotes accountability with the public. (A study of certification and decertification of law enforcement officers is part of the Crime Commission's 1993 study of law enforcement training.)

As certification is to a law enforcement officer, so is accreditation to the law enforcement agency. Accreditation promotes uniform, minimum standards related to the professional operation of a police agency, and assures the public that the agency has implemented a comprehensive set of policies and procedures related to appropriate police conduct. However, it usually is too expensive for local law enforcement agencies to receive accreditation from CALEA, the national professional organization. A few Virginia law enforcement agencies have sought formal accreditation, and through this process have developed and implemented more comprehensive, formal policies. Other Virginia agencies have followed the national accreditation organization's standards for developing and implementing policies, but have not had the financial resources to seek formal accreditation.

Since a number of Virginia law enforcement agencies have expressed a desire to be accredited, an effort has been initiated to follow the lead of some other states and develop a state accreditation process. The Virginia Association of Chiefs of Police, the Virginia Sheriffs Association and the Department of Criminal Justice

Services have begun developing a proposal to implement a Virginia accreditation process for law enforcement agencies. This methodology utilizes a formal, external review process to determine if a law enforcement agency has met a minimum set of standards for professional operation. At least three formal meetings were held in 1993, with plans to continue the work in 1994.

## V. Findings and Recommendations

**Finding:** Delegate Robinson's letter requests that the Commission consider a regular, statewide gathering of information about police misconduct and disciplinary actions taken against errant officers. He has proposed that local law enforcement agencies annually provide data about officer disciplinary actions to a central repository, possibly housed in the Department of Criminal Justice Services. This is suggested as a means to identify and track police officers of questionable professional standing.

A data bank could be developed as an outcome of instituting a certification/decertification process to be used as a research tool for monitoring trends in police conduct in Virginia. This type of data could be used to support further development of certification standards and to improve law enforcement training programs.

**Recommendation 1:** A survey of local law enforcement agencies should be developed and implemented periodically to collect non-identifying, aggregate data on citizen complaints against officers, disciplinary actions taken and resolution of complaints. The survey results could be used to develop a **state data repository on complaints and disciplinary actions** to be used to direct the development of professionalism training.

The Crime Commission supports the continuation of a voluntary effort by the Virginia Association of Chiefs of Police and the Virginia Sheriffs Association to collect and evaluate this data, and recommends that the VACP and the VSA work with the Department of Criminal Justice Services in the **development, implementation and review of a regular survey**. The data collected should be compiled and made available as aggregate data that does not identify individual officers or agencies. This data will allow for trends in police conduct and citizen complaints to be identified for further development of law enforcement professionalism efforts.

**Finding:** One means of controlling the performance of law enforcement officers is through a professional qualification process. Officers who are certified under the auspices of a state-approved program will have to meet or exceed minimum training and performance standards. Officers who fail to maintain these professional standards would lose their certification in Virginia. If such a program



is adopted in Virginia, it will enable police chiefs and sheriffs to determine through a background check whether a prospective hire is currently certified, or whether he has lost his certification due to poor performance or a disciplinary action for misconduct.

Recommendation 2: Virginia should consider the establishment of a **certification and decertification** process to be used for all law enforcement officers in Virginia. Such a process would promote public accountability in that uniform hiring and firing standards and practices would be developed in Virginia, and officers who have been decertified would not be able to work again as sworn law enforcement officers in Virginia.

Finding: The citizen review panel approach to police accountability has not been widely accepted in the United States. It has worked in certain localities where the panel review process has been tailored to local needs and practices. However, there is no conclusive research that supports or disproves the citizen review panel as an appropriate or effective means of checking police disciplinary practices, regardless of the size or demographic makeup of the locality.

Recommendation 3: Virginia should continue to **allow localities the option to establish citizen review panels** by local ordinance or administrative procedure.

Finding: The more widely practiced approach to furthering police professionalism and accountability has been the development of more refined internal controls. Formal, written policies and procedures promote consistency and discourage arbitrariness in agency responses to citizen complaints. Additionally, minimum standards of professionalism, not only for the officer but for the agency, helps law enforcement executives to operate their agencies both efficiently and responsibly.

Recommendation 4: The Crime Commission should monitor the development by Virginia law enforcement organizations of a **voluntary accreditation process for law enforcement agencies** that establishes minimum operations and policy standards. Such agency accreditation should promote uniformity of minimum agency operations and policy standards across the Commonwealth. The Virginia Department of Criminal Justice Services, assisted by the Virginia Association of Chiefs of Police and the Virginia Sheriffs Association, should be requested to report to the Virginia State Crime Commission on the progress of a voluntary accreditation process for law enforcement agencies by August, 1994.

## VI. Resources

### Citizen Review Panels:

The Dayton Citizens Appeal Board Policies and Procedures of Operation, City of Dayton, Ohio, 1992.

Citizens' Review Board on Police Practices: Policies and Procedures, City of San Diego, California, 1992.

Dallas Citizens Police Review Board, Article III, Sec. 37-31 through 37-38, Dallas City Code, 1992.

Police Leadership in America: Crisis and Opportunity, William A. Geller, Praeger Special Studies, American Bar Foundation, 1984, pp. 149-198.

Police Deviance, Thomas Barker and David L. Carter, Anderson Publishing Company, 1991, pp. 373-403.

Police Management Today: Issues and Case Studies, James J. Fyfe, International City Management Association, 1985, pp. 77-98.

Citizen Review of the Police - The Experiences of American Cities, The Hartford Institute of Criminal and Social Justice, November, 1990.

"Legal Considerations Involving Civilian Review of Police Conduct," Judith E. Secher, The Police Chief, pp. 11-12, March, 1993.

### Police Accountability and Professionalism

"Controlling the Cops: A Legislative Approach to Police Rulemaking," Samuel Walker, University of Detroit Law Review, Vol. 63:3, pp. 361-391, Spring 1986.

"Law and Police Misconduct," Edward J. Littlejohn, University of Detroit Journal of Urban Law, Vol. 58:2, pp. 174-219, 1981.

"Civil Liability and the Police Officer: The Need for New Deterrents to Police Misconduct," Edward J. Littlejohn, University of Detroit Journal of Urban Law, Vol. 58:3, pp. 365-431, 1981.

"The Civilian Police Commission: A Deterrent of Police Misconduct," Edward J. Littlejohn, University of Detroit Journal of Urban Law, Vol. 59:5, pp. 5-62, 1981.

"An Approach to Legal Control of the Police," Observation by Kenneth Culp Davis,

Texas Law Review, Vol. 52:703, pp. 703-725, 1974.

"Constitutional Constraints on the Use of Force," John C. Hall, FBI Law Enforcement Bulletin, pp. 22-31, February, 1992.

**Agency Accreditation:**

"Blueprint for Effective Law Enforcement," New York State Law Enforcement Accreditation Program, handbook, State of New York Division of Criminal Justice Services, 1989.

## VII. Acknowledgements

The members extend special thanks to the following agencies and individuals for their cooperation and valuable assistance to this study effort:

Delegate William P. Robinson, Jr., of Norfolk

The Honorable F. W. Howard  
New Kent County Sheriff

Chief James W. Powers  
Fredericksburg Police Department

Captain S. J. Beger, Jr.  
Caroline County Sheriff's Office

Col. Michael W. Young, Chief  
Fairfax County Police Department

Chief Philip Broadfoot  
Waynesboro Police Department

The Honorable V. Stuart Cook  
Hanover County Sheriff

W. L. Vaughan  
Henrico County Police Department  
Internal Affairs Division

Chief John D. Bowen  
Charlottesville Police Department

Craig Brown  
Charlottesville City Attorney

Charles Wood  
Drewery Brown  
Charlottesville Citizen Review Panel

Col. Carl Baker, Superintendent  
Virginia Department of State Police

Major Jean Henries  
Virginia Department of State Police

Department of Criminal Justice Services

Ron Bessent

Lex Eckenrode

George Gotschalk

Larry Nowery

Steve Squire

Jay Cochran

Virginia Association of Chiefs of Police

Bill Elwood

Virginia State Police Association

John Jones

Virginia Sheriffs Association

Linda Byrd-Hardin

Virginia State Conference, NAACP

Darrel W. Stephens, Executive Director

Police Executive Research Forum

National Criminal Justice Reference Service

National Institute of Justice, Department of Justice

## Appendix A



COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
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GENERAL LAWS  
ROADS AND INTERNAL NAVIGATION  
CORPORATIONS, INSURANCE AND BANKING

April 9, 1993

Ms. Dana Schrad  
Virginia State Crime Commission  
General Assembly Building  
910 Capitol Street, Suite 915  
Richmond, VA 23219

RE: Meeting for April 20, 1993

Dear Ms. Schrad:

Pursuant to your request, I herewith confirm that it is my intention to be present on the 20th of April in connection with the Crime Commission's next meeting.

During the 1993 Session, I indicated to you that we wish to have certain matters referred to the State Crime Commission for consideration with regard to future action. The issues to be referred are as follows:

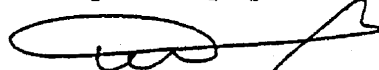
- (1) Identification of the appropriate agency to receive police brutality complaints throughout the Commonwealth. As you are aware, the State Police track the hate crimes under legislation adopted several Sessions ago. It is my belief that we need to get a central clearinghouse for such complaints in order that we may more appropriately identify problem areas and address solutions;
- (2) In order to enhance public confidence in the disciplinary processes of the local police departments, as well as to provide fundamental due process to police officers, we request that the Commission consider a review of the disciplinary procedures employed by the various police departments throughout the Commonwealth. These procedures should be reviewed in conjunction with the due process rights of police officers in consideration of, inter alia, access to files, notification of pending proceedings, investigative procedures used by the Internal Affairs units, and utilization of data in the file which may indicate that allegations of misconduct made against the officer may have resulted in his exoneration. You will please recall that we introduced legislation, at the request of rank and file police officers, designed to provide protections in disciplinary proceedings.

Ms. Dana Schrad  
April 9, 1993  
Page 2

All of these issues which I raise at this time are part and parcel of my ongoing effort to deal with problems of police brutality, protect the hardworking officers who never, or rarely, get into difficulty, and to make certain that the public has confidence in the law enforcement agencies vested with the responsibility of providing public safety. My legislative initiatives with regard to citizens' review boards is just one facet of this problem.

Thank you for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'William P. Robinson, Jr.', with a long, sweeping horizontal stroke extending to the right.

William P. Robinson, Jr.

WRJr/vc



## **Appendix B**



# VIRGINIA STATE CONFERENCE NAACP

P.O. Box 27212 • Richmond, Virginia 23261 • 804-321-5678 • 800-426-2227 • 804-321-5687 fax

June 21, 1993

Mr. Frederick L. Russell,  
Executive Director  
Virginia State Crime Commission  
General Assembly Building  
Suite 915  
Richmond, VA. 23219

Re: NAACP LAW ENFORCEMENT EXCESSIVE FORCE SURVEY

Dear Mr. Russell:

I have enclosed a copy of the NAACP's Law Enforcement Excessive Force Survey, as well as our preliminary findings. Please note that there were some grammatical changes made to the form, at the suggestion of Law Enforcement Officers. Specifically, the name of the Survey was changed from "Police Brutality Survey Form" to "Law Enforcement Excessive Force Survey." In addition, space was added to give more descriptive answers, which resulted in a two page Survey as opposed to the one page original.

*Some of the Respondents made the grammatical changes themselves and submitted additional information pertaining to Courses offered.*

We hope this information will be helpful in your efforts to conduct a more comprehensive report and that it will provide some direction to the Crime Commission in it's deliberations and search for a more effective and viable Law Enforcement Community.

Please call, if we can be of additional assistance.

Sincerely,

  
Linda Byrd-Harden  
Executive Secretary

Enclosures

VIRGINIA STATE CONFERENCE NAACP

PRELIMINARY EXCESSIVE FORCE SURVEY RESULTS

1. Do you maintain a file on charges of police brutality or misconduct?

Of the police departments that responded, (71.87%) maintain files on excessive force complaints.

2. Is there a citizen complaint review process in place within your department?

Of the police departments that responded, only (3.12%) have a citizen complaint review process.

3. Are your officers required to take racial sensitivity courses?

Of the police departments that responded, only (9.37%) require their officers to take racial sensitivity courses.

4. What department or staff persons are responsible for investigating allegations of police brutality or misconduct?

Of the police departments that responded to our survey (66%) said that Chief of Police, Sheriff, Major of Operations or their staff designee investigated excessive force complaints. (33%) said that the Internal Affairs Department investigates those complaints. (1%) said that they call in the State Police to investigate excessive force complaints.

5. What type of training are your officers exposed to relative to defusing volatile situations between police and citizens?

Of the police departments that responded to our survey (66%) indicated that they used In-Service Training that included Crises Intervention, Civil Disputes and Criminal Justice classes. (20%) indicated that they received training at the Police Academy. Approximately (10%) indicated that they received Domestic Violence training classes.

6. Of the police departments that responded, over a three-five year period there were over (800) complaints filed by citizens for excessive force.

PAGE TWO

7. (6.27%) of departments that responded reported more than (100). One department reported more than (450) complaints, and the runner-up more than (130).
8. (6.27%) of departments that responded reported more than (50) complaints for that period. One urban department reported over (95) complaints and the runner-up more than (60).
9. (9.37%) of departments that responded reported more than (10) complaints for that period. The number of complaints ranged from a high of (39), to a low of (13).
10. (28.12%) of departments that responded reported less than (10) complaints for that period.
11. (40.62%) of departments that responded reported having received no excessive force complaints.

\* Of these none of the departments have racial sensitivity courses for their officers, and none (0) have a citizen complaint review process. Some of these departments requested guidance from the NAACP on acquiring the courses, and a citizen complaint review process.

## Appendix C



# VIRGINIA ASSOCIATION OF CHIEFS OF POLICE

PRESIDENT

Chief Stanley K. Johnson, Jr.  
Falls Church

September 17, 1993

IMMEDIATE PAST PRESIDENT

Chief Gilbert F. Jackson  
Suffolk

FIRST VICE PRESIDENT

Colonel Terry L. Roop  
Martinsville

Fred L. Russell  
Executive Director  
Virginia State Crime Commission  
910 Capitol Street, Suite 915  
Richmond, Virginia 23219

SECOND VICE PRESIDENT

Chief Joseph M. Seiffen  
Lynchburg

Dear Fred:

I have enclosed a copy of the report developed from our Use of Force Survey. While the responses were fewer than we would have liked, we believe the data developed gives us a base upon which to build and certainly justifies the effort. It is our intention to continue this effort next year and hopefully with some refinements produce a more definitive product.

THIRD VICE PRESIDENT

Colonel Richard G. Engels  
Henrico County

Please excuse the tardiness in furnishing these results. In order to maximize your review time before Tuesday's meeting, this letter and enclosure are being faxed to you today as well as mailed. Please let me know if you have any questions.

With best regards,

Sincerely,

Jay Cochran  
Executive Director

Enclosure

EXECUTIVE COMMITTEEMEN

Chief Charles R. Wall  
Virginia Beach

Colonel T. Neal Morris  
Danville

Chief Steven G. Hanes  
Norfolk Southern

Colonel James W. Powers  
Fredericksburg

Chief G. L. Wells  
Staunton

EXECUTIVE DIRECTOR

Jay Cochran



# VIRGINIA ASSOCIATION OF CHIEFS OF POLICE

1500 FOREST AVENUE, SUITE 218  
RICHMOND, VA 23288  
(804) 285-8227  
FAX (804) 285-3363

## 1993 USE OF FORCE REPORT

Recent events have focused a great deal of attention and concern over the accountability of law enforcement to the public they serve. The Virginia Association of Chiefs of Police recognizes the need for forthright police policies throughout the Commonwealth that allow for ease of redress by citizens seeking to gain information concerning police conduct. We know that the question of police accountability will continue indefinitely as a public priority even though the 1993 Gallup Poll rating honesty and ethical standards among the professions, released July 30, 1993, rates police at its highest level ever. Only 10 percent of Americans believe their police to be below average in these two critical character traits. As law enforcement administrators, we recognize we have a responsibility to inform and educate the public in this area so as to decrease public concern and increase public confidence in their law enforcement.

Nowhere does the accountability issue manifest itself more apparently than in the concern of both the public and law enforcement leaders over the use of force by law enforcement officers in the performance of their duty. We in law enforcement believe the average citizen understands and accepts that in certain situations the job cannot be done without the use of force. The difficulty for the officer is determining how much force to use in resolving the issue and for the Chief or Sheriff determining whether or not the force used was beyond that necessary to successfully resolve the incident.

In an effort to develop data that would be helpful in assessing the situation, the Virginia Association of Chiefs of Police in August of 1992 formed a Committee of Police Chiefs and a PhD from Virginia Tech to look at the issue of use of force. As a result, a survey instrument was sent to all Police Chiefs and Sheriffs in Virginia. In order to increase the likelihood of response and completeness, the transmittal letter assured the Chiefs and Sheriffs that the information reported would be used to develop a report that reflected the use of force by police officers, without reference to experiences by any specific agency or officer. The Committee knew from experience that many departments would not have some of the data it believed important. In the transmittal letter, we also acknowledged this fact and requested recipients respond as fully as possible, urging consideration of expanding their files in anticipation of a survey to follow in 1994 or 1995.

Surveys were sent to 359 law enforcement agencies across the Commonwealth. The VACP received 58 responses. While the number of responses were less than desirable and they varied in the degree of completion, thus preventing any firm conclusions, several meaningful observations are possible. These observations are presented in the attachments with the following commentary relating to each:

1. SURVEY INSTRUMENT

2. CALLS FOR SERVICE/USE OF FORCE COMPLAINTS

Of the over 3 million calls for service during the survey period 1990-1992, force was used only in approximately .3 of one percent of the total traffic and criminal incidents.

3. SOURCES OF COMPLAINTS

294 complaints of excessive use of force were received by reporting agencies during the survey period, over 25% of which originated from within law enforcement.

4. COMPLAINT DISTRIBUTION

This graph shows the various types of law enforcement situations resulting in use of force complaints. (Two responses did not identify the complaint source).

5. COMPLAINT RESOLUTION

Of the 294 complaints of excessive use of force, investigation determined 165 were unfounded and 29 were sustained. With the remainder of the complaints, no determination was possible.

6. ACTIONS TAKEN

This graph shows the various disciplinary actions taken against thirty officers in the total complaints reported as sustained. A number of the survey responses did not include this data.

7. INJURIES IN USE OF FORCE

Depicts a comparison of officers and citizens injured in use of force complaints. As depicted, officers are more frequently injured during an arrest. The ratios remain approximately the same through the three years depicted.

8. CITIZEN INJURIES

Depicts the number and type of citizen injuries reported in the survey responses.



9. INSTRUMENTALITIES OF FORCE

Physical force without the aid of a weapon remains the predominant means of force by police officers.

10A-C. PROFILE OF OFFICERS INVOLVED IN COMPLAINTS

While the data demonstrates younger, less experienced officers are more frequently involved in use of force complaints, it must be understood these officers are the vast majority of uniformed police who traditionally are the first responders to incidents which give rise to these complaints.

11A-B. PROFILES OF COMPLAINANT AND VICTIM

These categories recognize that the complaint and victim in use of force incidents are not always identical.

12A-B. SUMMARY OF ANSWERS TO QUESTIONS 11-17.

OBSERVATIONS

Based upon the response data, it would appear there is no major problem in Virginia with excessive use of force by police officers. However, it would be premature to draw any firm conclusions from the data thus far assembled. It is therefore our intention to continue the survey on an annual basis and to publish a recommended policy for handling use of force complaints and citizen complaints in general.



# VIRGINIA ASSOCIATION OF CHIEFS OF POLICE

## USE OF FORCE SURVEY

### 1990 - 1991 - 1992

DEPARTMENT NAME _____		2. NUMBER OF SWORN OFFICERS _____														
<b>3. POPULATION OF JURISDICTION</b>  _____	<b>4. POPULATION COMPONENT</b>  WHITE _____ % BLACK _____ % HISPANIC _____ % ASIAN _____ % OTHER _____ %	<b>5. CATEGORY OF JURISDICTION</b>  STATE <input type="checkbox"/> CITY <input type="checkbox"/> TOWN <input type="checkbox"/> URBAN COUNTY <input type="checkbox"/> RURAL COUNTY <input type="checkbox"/>														
<b>6. NUMBER OF ARRESTS</b>  <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">NO USE OF FORCE</td> <td style="width: 50%; text-align: center;">USE OF FORCE REQUIRED</td> </tr> <tr> <td>TRAFFIC 1990 _____</td> <td>1990 _____</td> </tr> <tr> <td>1991 _____</td> <td>1991 _____</td> </tr> <tr> <td>1992 _____</td> <td>1992 _____</td> </tr> <tr> <td>CRIMINAL 1990 _____</td> <td>1990 _____</td> </tr> <tr> <td>1991 _____</td> <td>1991 _____</td> </tr> <tr> <td>1992 _____</td> <td>1992 _____</td> </tr> </table>		NO USE OF FORCE	USE OF FORCE REQUIRED	TRAFFIC 1990 _____	1990 _____	1991 _____	1991 _____	1992 _____	1992 _____	CRIMINAL 1990 _____	1990 _____	1991 _____	1991 _____	1992 _____	1992 _____	<b>7. NUMBER OF MOTOR VEHICLE STOPS</b>  1990 _____ 1991 _____ 1992 _____
NO USE OF FORCE	USE OF FORCE REQUIRED															
TRAFFIC 1990 _____	1990 _____															
1991 _____	1991 _____															
1992 _____	1992 _____															
CRIMINAL 1990 _____	1990 _____															
1991 _____	1991 _____															
1992 _____	1992 _____															
<b>8. NUMBER OF CALLS FOR POLICE SERVICE</b>  1990 _____ 1991 _____ 1992 _____	<b>9. NUMBER OF INJURIES SUSTAINED REQUIRING MEDICAL TREATMENT</b>  <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">POLICE OFFICERS INJURED</td> <td style="width: 50%; text-align: center;">CITIZENS INJURED</td> </tr> <tr> <td>1990 _____</td> <td>1990 _____</td> </tr> <tr> <td>1991 _____</td> <td>1991 _____</td> </tr> <tr> <td>1992 _____</td> <td>1992 _____</td> </tr> </table>		POLICE OFFICERS INJURED	CITIZENS INJURED	1990 _____	1990 _____	1991 _____	1991 _____	1992 _____	1992 _____						
POLICE OFFICERS INJURED	CITIZENS INJURED															
1990 _____	1990 _____															
1991 _____	1991 _____															
1992 _____	1992 _____															
<b>10. NUMBER OF OFFICERS ASSAULTED</b>  <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; vertical-align: top;"> <b>A. ON DUTY/OFF DUTY - POLICE RELATED</b>             NUMBER ON DUTY            1990 _____            1991 _____            1992 _____             NUMBER OFF DUTY            1990 _____            1991 _____            1992 _____         </td> <td style="width: 33%; vertical-align: top;"> <b>B. INSTRUMENT/METHOD USED</b>             FIREARM            1990 _____            1991 _____            1992 _____             KNIFE OR OTHER CUTTING INSTRUMENT            1990 _____            1991 _____            1992 _____             OTHER DANGEROUS WEAPON            1990 _____            1991 _____            1992 _____             STRONG ARM - HANDS - FEET - FISTS            1990 _____            1991 _____            1992 _____         </td> <td style="width: 33%; vertical-align: top;"> <b>C. NUMBER OF INJURIES REQUIRING TREATMENT</b>             1990 _____            1991 _____            1992 _____         </td> </tr> </table>			<b>A. ON DUTY/OFF DUTY - POLICE RELATED</b>  NUMBER ON DUTY 1990 _____ 1991 _____ 1992 _____  NUMBER OFF DUTY 1990 _____ 1991 _____ 1992 _____	<b>B. INSTRUMENT/METHOD USED</b>  FIREARM 1990 _____ 1991 _____ 1992 _____  KNIFE OR OTHER CUTTING INSTRUMENT 1990 _____ 1991 _____ 1992 _____  OTHER DANGEROUS WEAPON 1990 _____ 1991 _____ 1992 _____  STRONG ARM - HANDS - FEET - FISTS 1990 _____ 1991 _____ 1992 _____	<b>C. NUMBER OF INJURIES REQUIRING TREATMENT</b>  1990 _____ 1991 _____ 1992 _____											
<b>A. ON DUTY/OFF DUTY - POLICE RELATED</b>  NUMBER ON DUTY 1990 _____ 1991 _____ 1992 _____  NUMBER OFF DUTY 1990 _____ 1991 _____ 1992 _____	<b>B. INSTRUMENT/METHOD USED</b>  FIREARM 1990 _____ 1991 _____ 1992 _____  KNIFE OR OTHER CUTTING INSTRUMENT 1990 _____ 1991 _____ 1992 _____  OTHER DANGEROUS WEAPON 1990 _____ 1991 _____ 1992 _____  STRONG ARM - HANDS - FEET - FISTS 1990 _____ 1991 _____ 1992 _____	<b>C. NUMBER OF INJURIES REQUIRING TREATMENT</b>  1990 _____ 1991 _____ 1992 _____														
<b>DOES YOUR DEPARTMENT HAVE A "USE OF FORCE" POLICY?</b> YES <input type="checkbox"/> NO <input type="checkbox"/> (IF SO, PLEASE ATTACH A COPY.)	<b>12. DOES YOUR DEPARTMENT HAVE A POLICY THAT DISCUSSES THE USE OF FORCE MOVING FROM A LOWER LEVEL TO MORE SEVERE LEVELS? (PROGRESSIVE USE OF FORCE OR ESCALATION OF FORCE)</b> YES <input type="checkbox"/> NO <input type="checkbox"/> (IF SO, PLEASE ATTACH A COPY)															

**VIRGINIA ASSOCIATION OF CHIEFS OF POLICE - USE OF FORCE SURVEY - PAGE 2**

13. DOES YOUR DEPARTMENT HAVE A POLICY REQUIRING THE ADVISEMENT OF COMPLAINANTS ON THE OUTCOME OF USE OF FORCE INVESTIGATIONS?

YES  NO

(IF SO, PLEASE ATTACH A COPY.)

14. ARE WRITTEN REPORTS REQUIRED ON ALL INSTANCES OF USE OF FORCE?

YES  NO

IF YES

HOW MANY REPORTS? \_\_\_\_\_

DO YOU HAVE A REVIEW PROCESS FOR REPORTS? YES  NO

IS THERE AN INVESTIGATIVE THRESHOLD TO DETERMINE WHICH COMPLAINTS WILL BE INVESTIGATED? YES  NO

15. DOES YOUR DEPARTMENT HAVE A FULL TIME INTERNAL AFFAIRS STAFF?

YES  NO

IF YES

DOES YOUR DEPARTMENT HAVE A POLICY PERTAINING TO INTERNAL AFFAIRS OPERATION? YES  NO

IF NO

WHO IN YOUR DEPARTMENT INVESTIGATES INTERNAL AFFAIR COMPLAINTS? \_\_\_\_\_  
 \_\_\_\_\_

16. DOES YOUR DEPARTMENT ISSUE/USE/PERMIT USE OF ANY OF THE FOLLOWING?

A. MACE  
 ISSUE YES  NO   
 PERMIT USE OF, IF NOT ISSUED YES  NO

B. STUN-GUN  
 ISSUE YES  NO   
 PERMIT USE OF, IF NOT ISSUED YES  NO

C. OLEORESIN CAPSICUM NON-LETHAL AEROSOL SPRAY (i.e. "CAP-STUN")  
 ISSUE YES  NO   
 PERMIT USE OF, IF NOT ISSUED YES  NO

17. DOES YOUR AGENCY USE THE POLYGRAPH FOR INTERNAL AFFAIRS INVESTIGATIONS?

YES  NO

IF YES

A. DOES YOUR AGENCY HAVE A WRITTEN POLICY ADDRESSING ITS USE?

YES  NO

B. FOR WHAT REASONS WILL THE POLYGRAPH BE USED?

1. TO RESOLVE CONFLICTING STATEMENTS

YES  NO

2. AS EVIDENCE OF MISCONDUCT

YES  NO

3. OTHER

YES  NO

C. NUMBER OF TIMES USED

1990 \_\_\_\_\_

1991 \_\_\_\_\_

1992 \_\_\_\_\_

D. DO YOU REQUIRE ADDITIONAL EVIDENCE WITH THE POLYGRAPH RESULTS TO DISCIPLINE?

YES  NO

E. DO YOU USE AN IN-HOUSE POLYGRAPH OPERATOR OR AN OUTSIDE SOURCE?

\_\_\_\_\_  
 \_\_\_\_\_

COMMENTS

**VIRGINIA ASSOCIATION OF CHIEFS OF POLICE - USE OF FORCE SURVEY - PAGE 3**

18. FOR EACH SEPARATE COMPLAINT REGARDING THE USE OF FORCE, PLEASE PROVIDE DATA REGARDING THE FOLLOWING AREAS. PLEASE COPY THE REMAINDER OF THE SURVEY IN SUFFICIENT COPIES TO PROVIDE A SEPARATE REPLY FOR EACH USE OF FORCE INCIDENT.

A. ORIGIN  
PUBLIC  WITHIN DEPARTMENT

B. RESOLUTION  
*COMPLAINT UNFOUNDED*  
NO  YES   
*NO DETERMINATION POSSIBLE*  
NO  YES   
*COMPLAINT SUSTAINED*  
NO  YES

IF SUSTAINED, ACTION TAKEN

C. TYPE OF WEAPON USED

D. INJURIES SUSTAINED (LIST WHO RECEIVED AND SEVERITY)

E. CIRCUMSTANCES SURROUNDING INJURIES. PLEASE EXPLAIN WHETHER THEY OCCURRED DURING COURSE OF ARREST OR IN OTHER MANNER.

F. NUMBER OF OFFICERS PARTICIPATING

G. NUMBER OF OFFICERS ACCUSED

H. TYPE OF CONFRONTATION (DOMESTIC DISPUTE, DISTURBANCE, FELONY ARREST, TRAFFIC STOP, OTHER) EXPLAIN.

**VIRGINIA ASSOCIATION OF CHIEFS OF POLICE - USE OF FORCE SURVEY - PAGE 4**

**19. PLEASE COMPLETE THE FOLLOWING FOR EACH OFFICER/VICTIM/OR COMPLAINANT INVOLVED IN EACH USE OF FORCE INCIDENT.**

<b>OFFICER</b>	AGE	EDUCATION LEVEL	RACE	GENDER	LENGTH OF SERVICE	UNIFORMED OFFICER <input type="checkbox"/>
	PLAIN CLOTHED OFFICER <input type="checkbox"/>					
	ASSIGNMENT TYPE			OFFICER PREVIOUSLY INVOLVED IN LETHAL USE OF FORCE		OFFICER PREVIOUSLY INVOLVED IN ANY COMPLAINT DURING PRIOR 3 YEARS
	COVERT <input type="checkbox"/> OPEN <input type="checkbox"/> CRIMINAL-PATROL AREA <input type="checkbox"/>		YES <input type="checkbox"/> NO <input type="checkbox"/>		YES <input type="checkbox"/> NO <input type="checkbox"/>	
	WERE ALCOHOL OR DRUGS INVOLVED IN INCIDENT?					
	ALCOHOL - YES <input type="checkbox"/> NO <input type="checkbox"/>		DRUGS - YES <input type="checkbox"/> NO <input type="checkbox"/>			
<b>VICTIM</b>	AGE	EDUCATION LEVEL	RACE	GENDER		VICTIM PREVIOUSLY INVOLVED IN ANY COMPLAINT DURING PRIOR 3 YEARS
	YES <input type="checkbox"/> NO <input type="checkbox"/>					
	DOES THE VICTIM HAVE ANY PRIOR ARRESTS?			WERE ALCOHOL OR DRUGS INVOLVED IN INCIDENT?		
	NO <input type="checkbox"/> YES <input type="checkbox"/> NUMBER OF ARRESTS _____		ALCOHOL - YES <input type="checkbox"/> NO <input type="checkbox"/>		DRUGS - YES <input type="checkbox"/> NO <input type="checkbox"/>	
<b>COMPLNT</b>	AGE	EDUCATION LEVEL	RACE	GENDER		COMPLAINANT PREVIOUSLY INVOLVED IN ANY COMPLAINT DURING PRIOR 3 YEARS
	YES <input type="checkbox"/> NO <input type="checkbox"/>					
	DOES THE COMPLAINANT HAVE ANY PRIOR ARRESTS?			WERE ALCOHOL OR DRUGS INVOLVED IN INCIDENT?		
	NO <input type="checkbox"/> YES <input type="checkbox"/> NUMBER OF ARRESTS _____		ALCOHOL - YES <input type="checkbox"/> NO <input type="checkbox"/>		DRUGS - YES <input type="checkbox"/> NO <input type="checkbox"/>	

COMMENTS

**PLEASE RETURN TO: VSA, 9507 Hull Street Road, Suite D  
Richmond, VA 23236  
or  
VACP, 1500 Forest Avenue, Suite 218  
Richmond, VA 23288**

AGENCY CONTACT PERSON

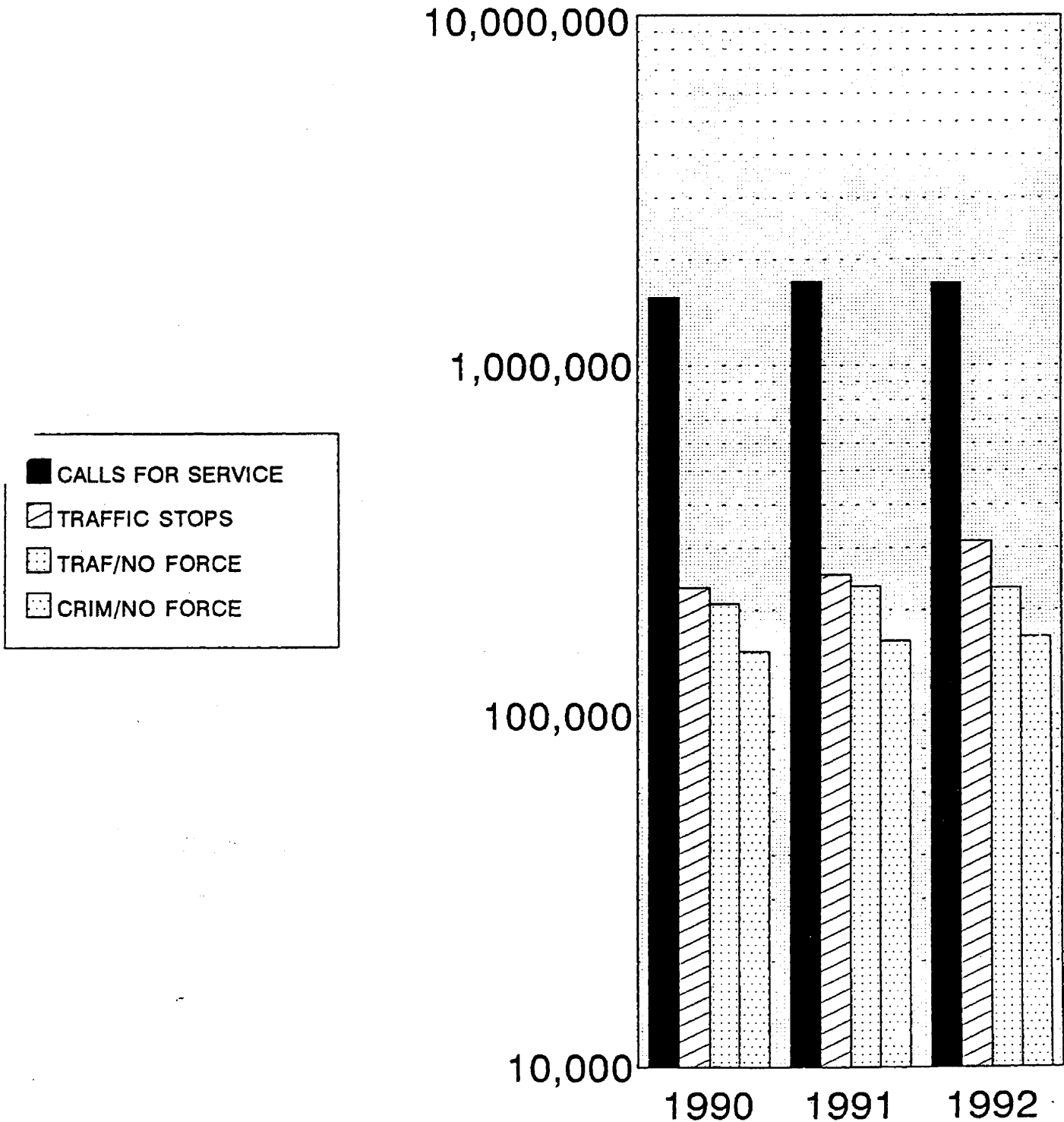
POSITION/TITLE

PHONE NUMBER

MAILING ADDRESS

# USE OF FORCE SURVEY

1990-1992

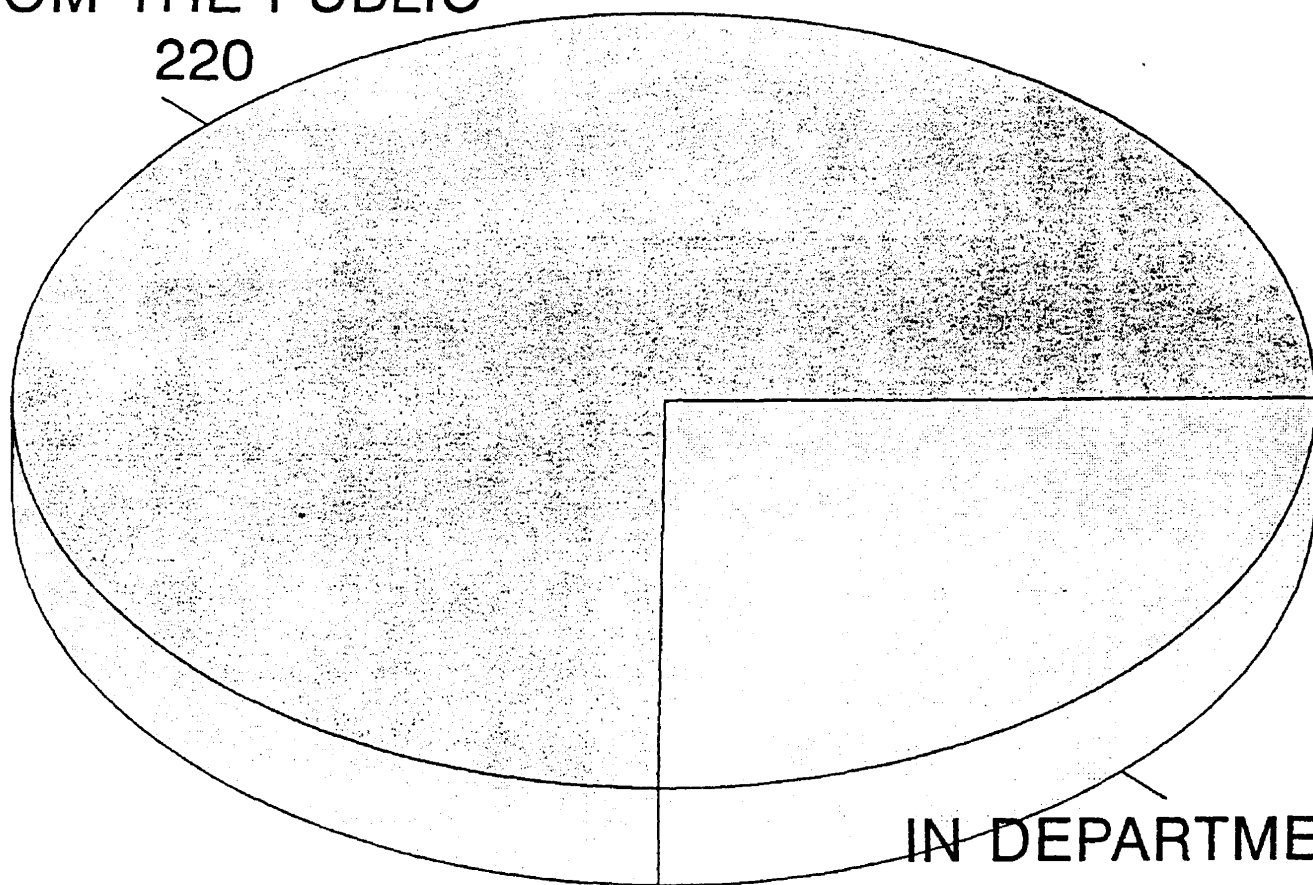


# COMPLAINTS RECEIVED

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FROM THE PUBLIC

220



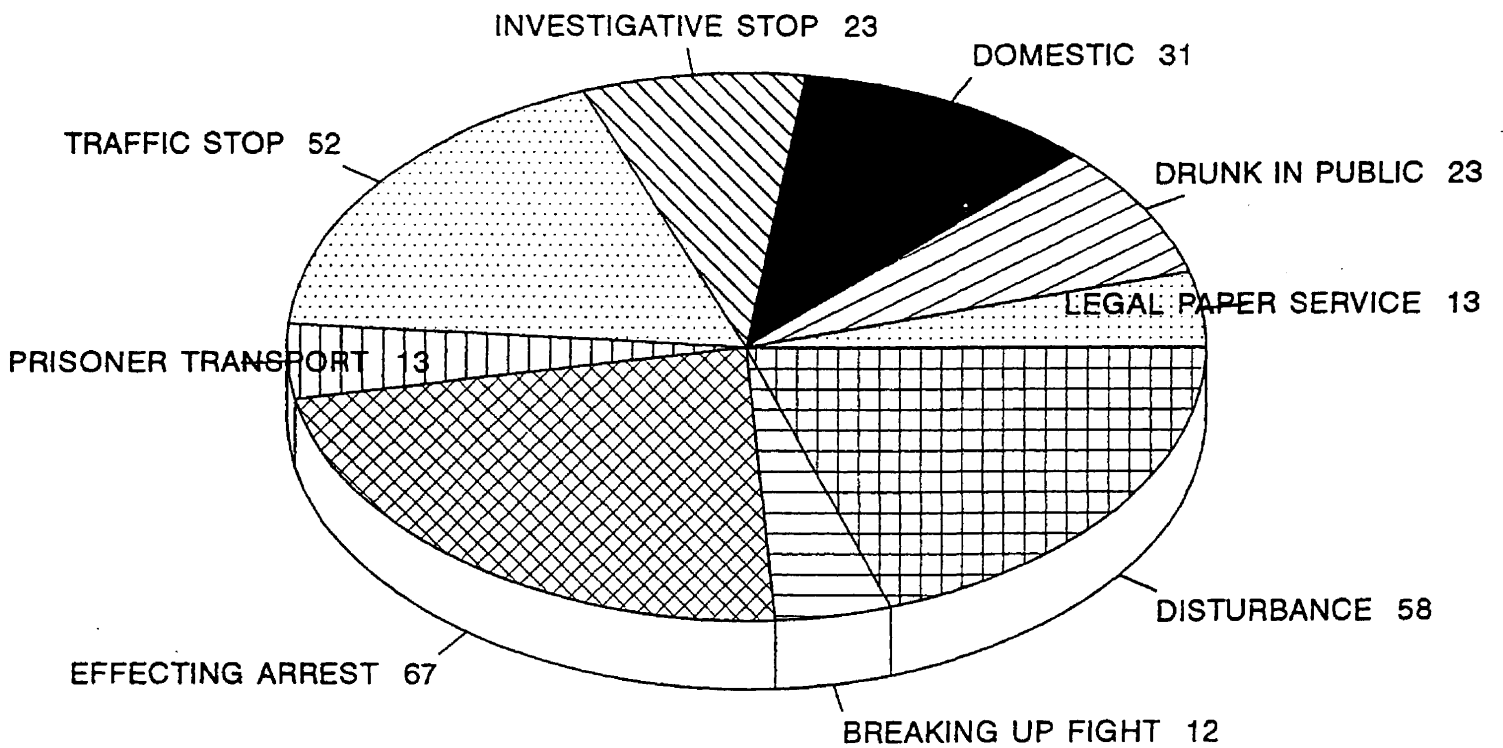
IN DEPARTMENT

74

# USE OF FORCE COMPLAINTS

## TYPE OF SITUATION EXISTING AT TIME OF FORCE

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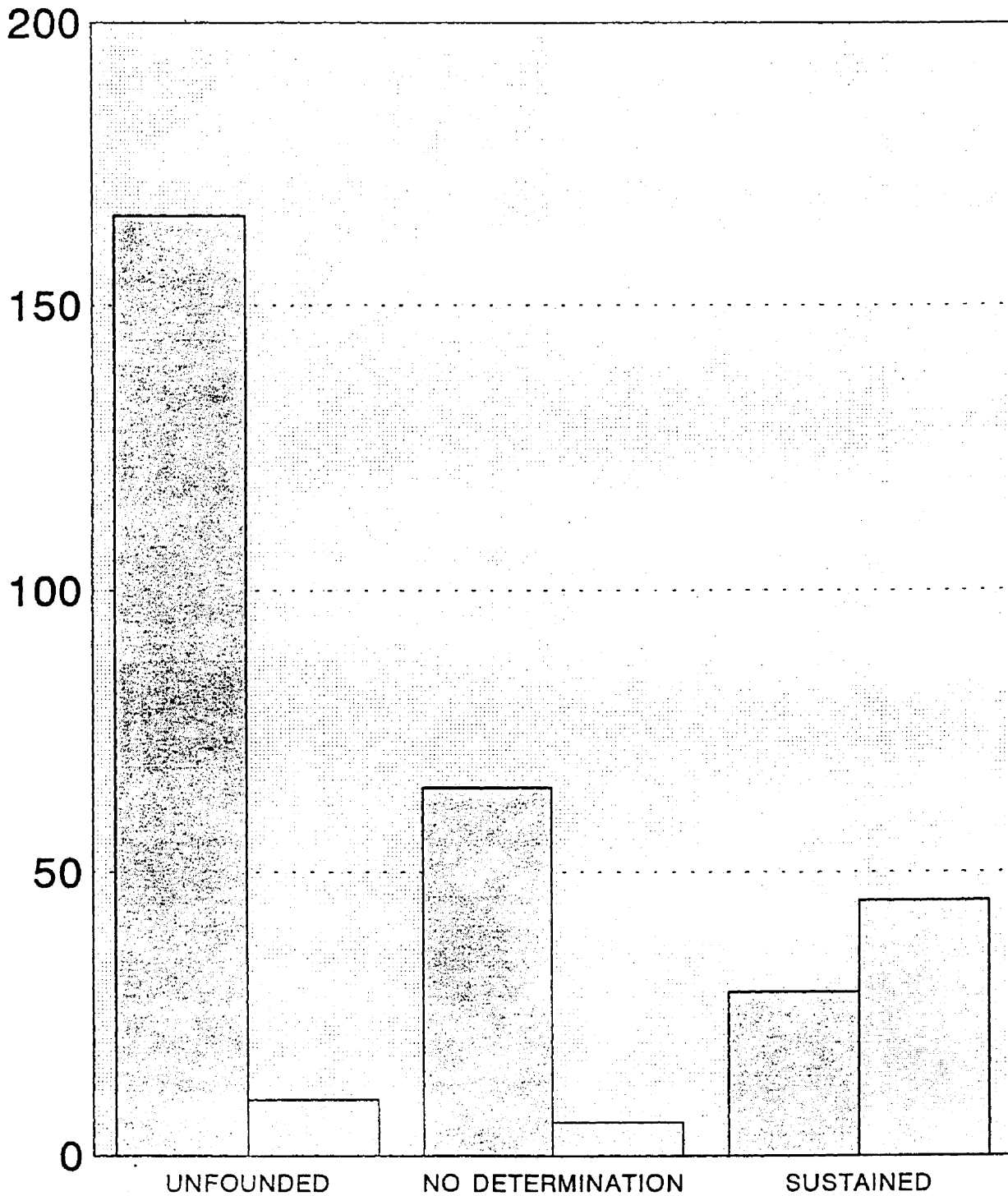


TOTAL NUMBER OF INCIDENTS - 292



# RESOLUTION OF COMPLAINTS

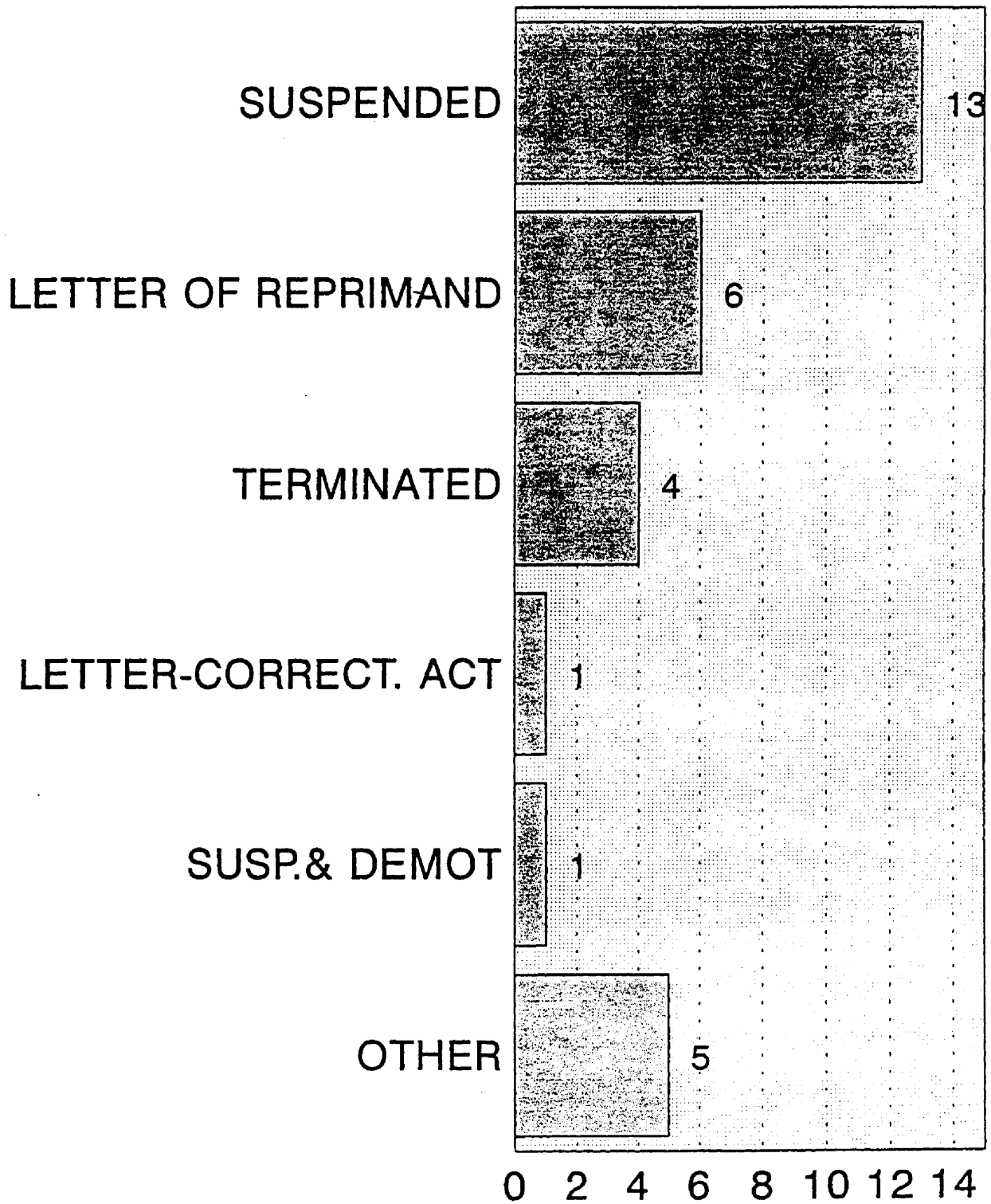
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YES NO

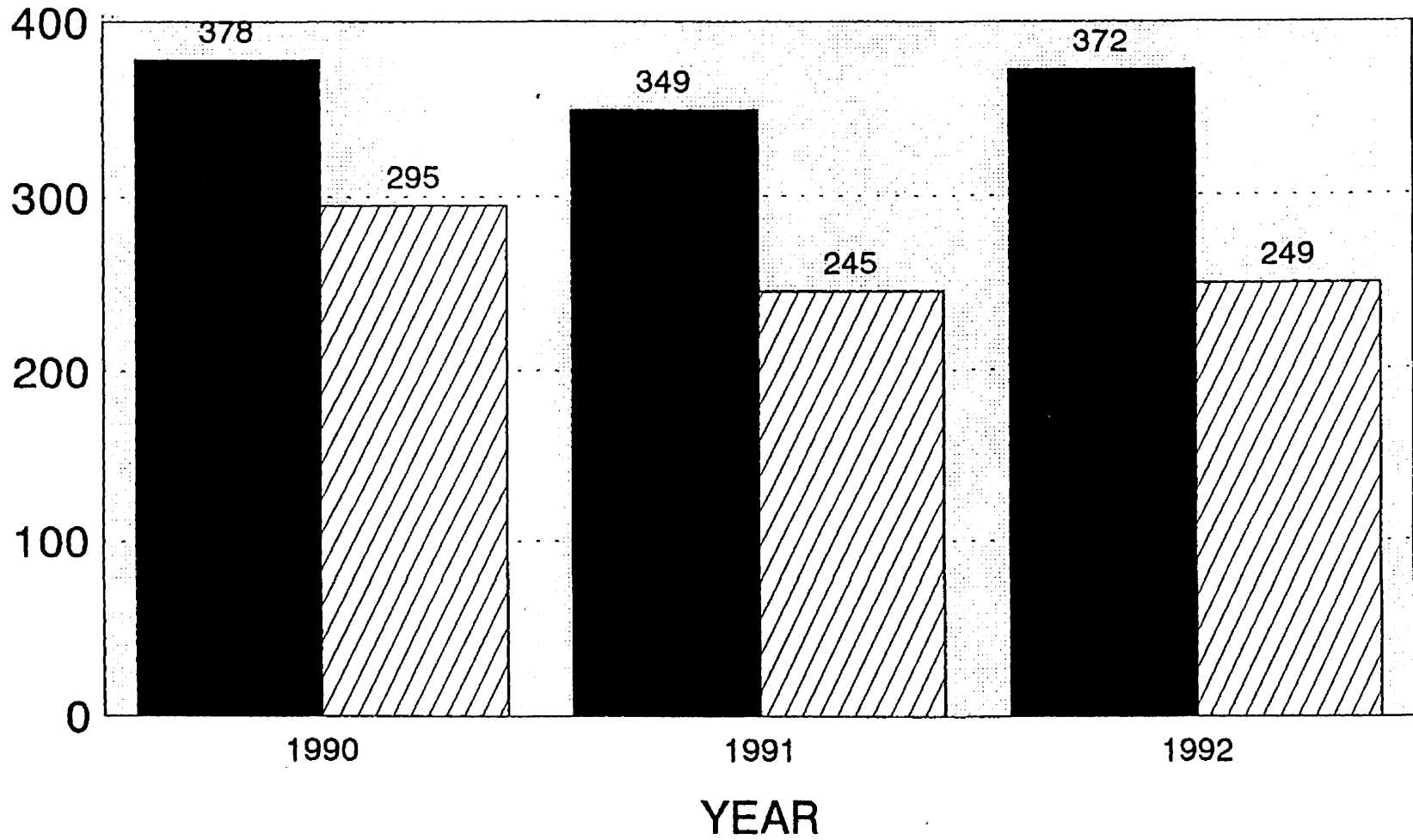
# ACTIONS TAKEN

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# INJURIES IN USE OF FORCE INCIDENTS

## COMPARISON OF OFFICERS TO CITIZENS



■ OFFICERS INJURED    ▨ CITIZENS INJURED

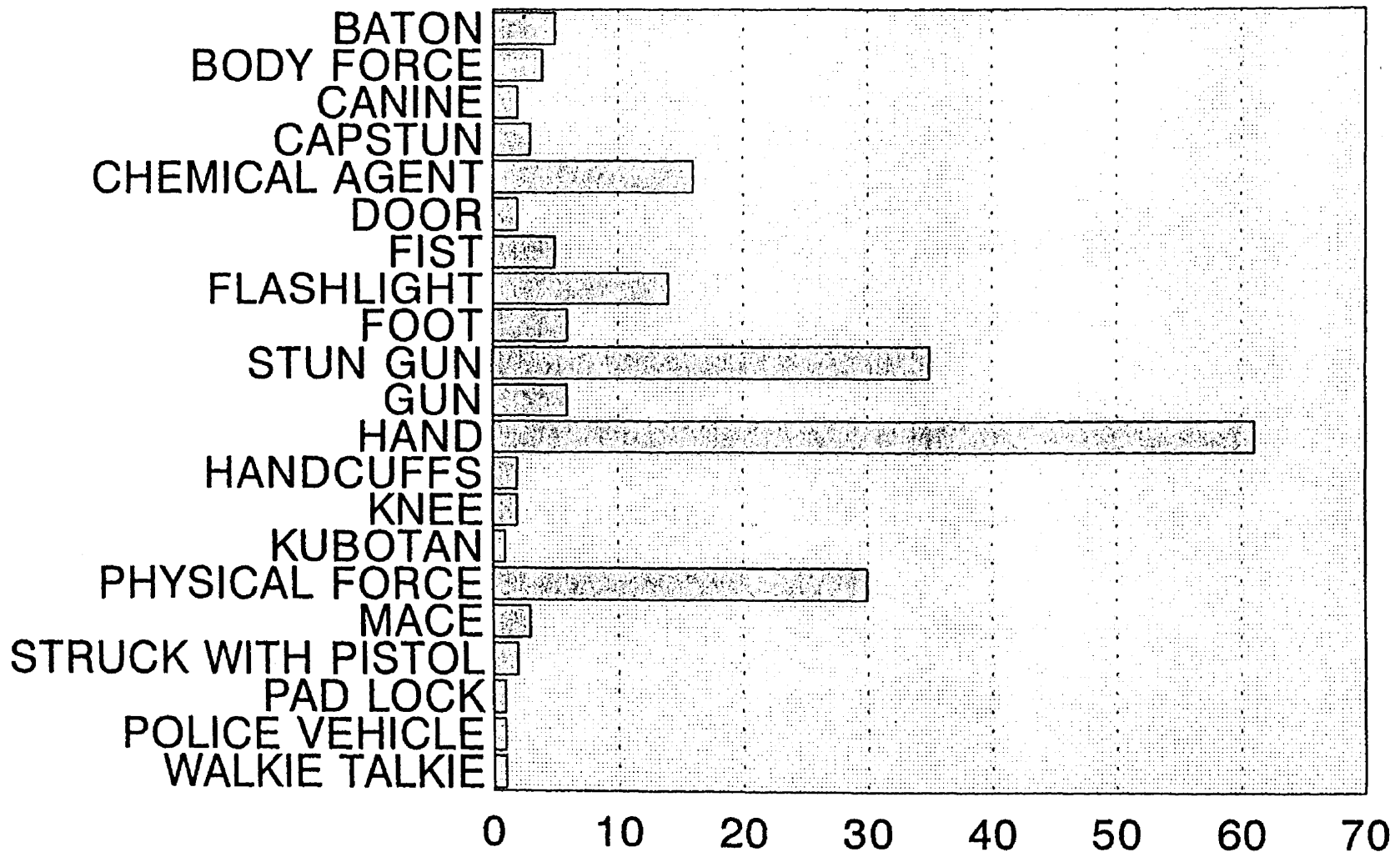
# **CITIZEN INJURIES**

## **MOST COMMON USES OF FORCE**

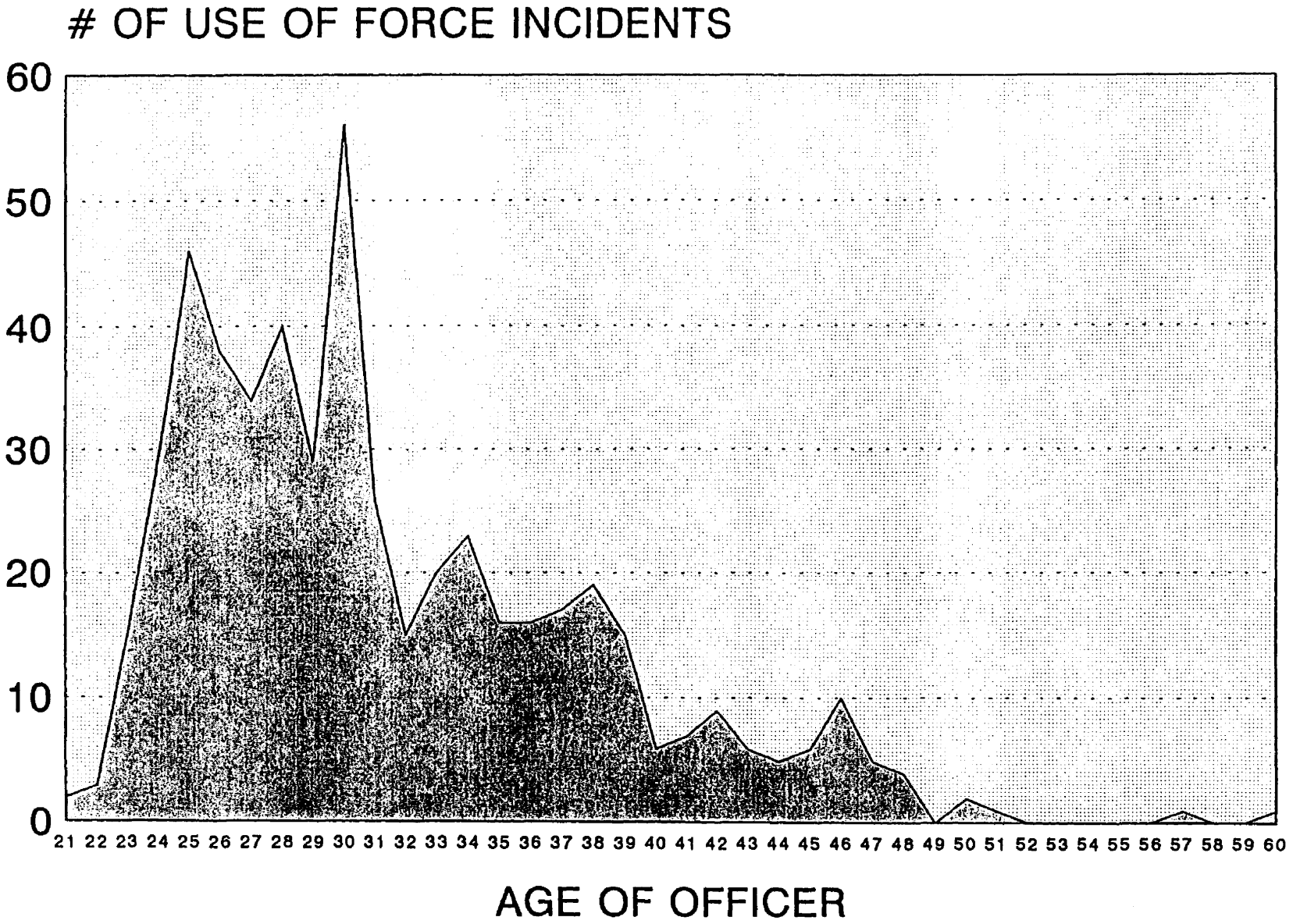
- **Facial or Head Abrasion or Cut - 35**
- **Non - Specific Bruises - 24**
- **Back / Neck Pain - 14**
- **Sore Wrist - 13**
- **Cut / Bruised Leg - 11**
- **Sore / Bruised Arm - 9**
- **Cuts / Abrasions to arm - 7**
- **Head Pain / Injury - 7**

# USE OF FORCE

## INSTRUMENTALITIES USED BY POLICE



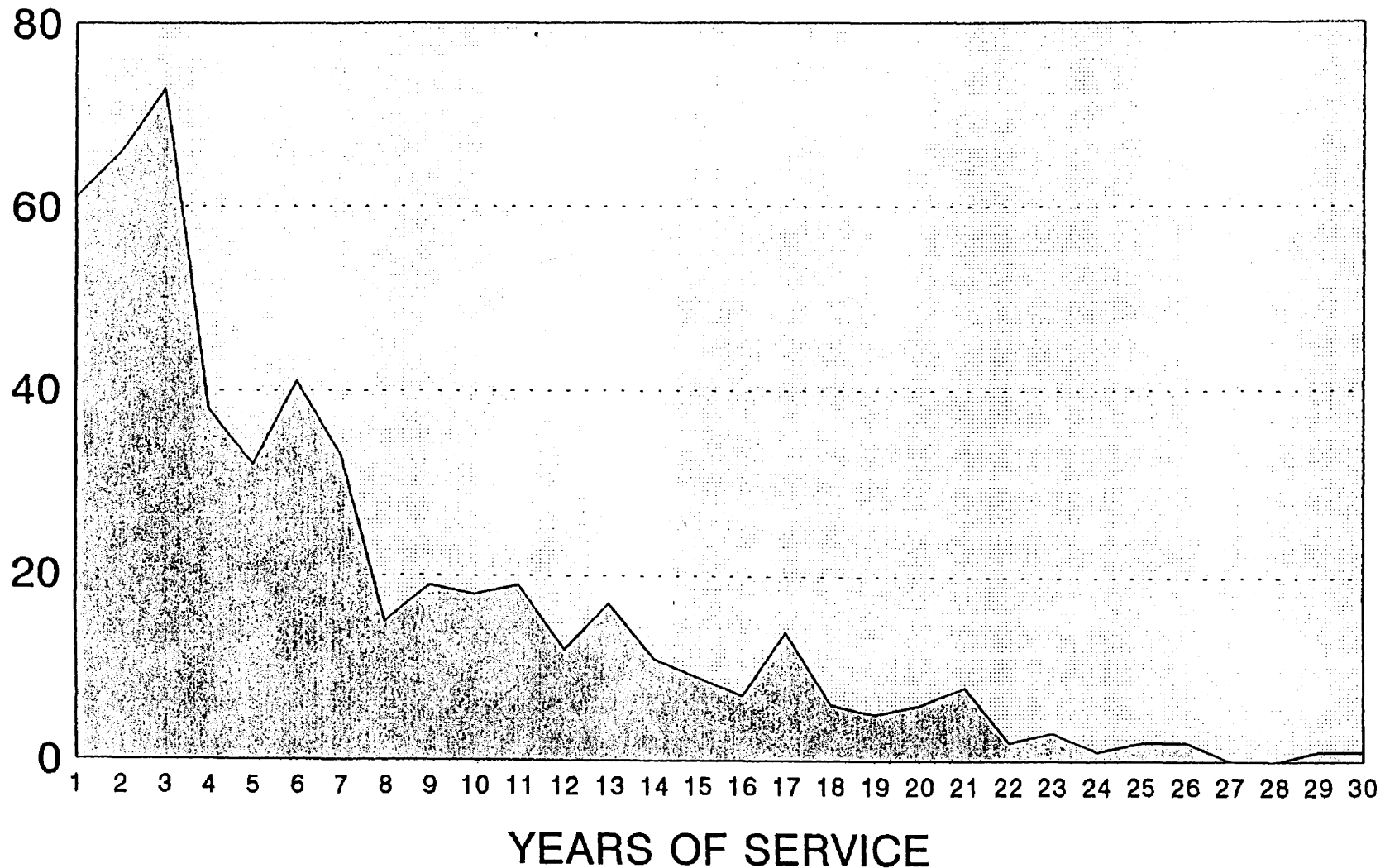
# AGE OF OFFICER IN USE OF FORCE COMPLAINTS



# USE OF FORCE INCIDENTS

## YEARS OF SERVICE OF OFFICERS INVOLVED

---

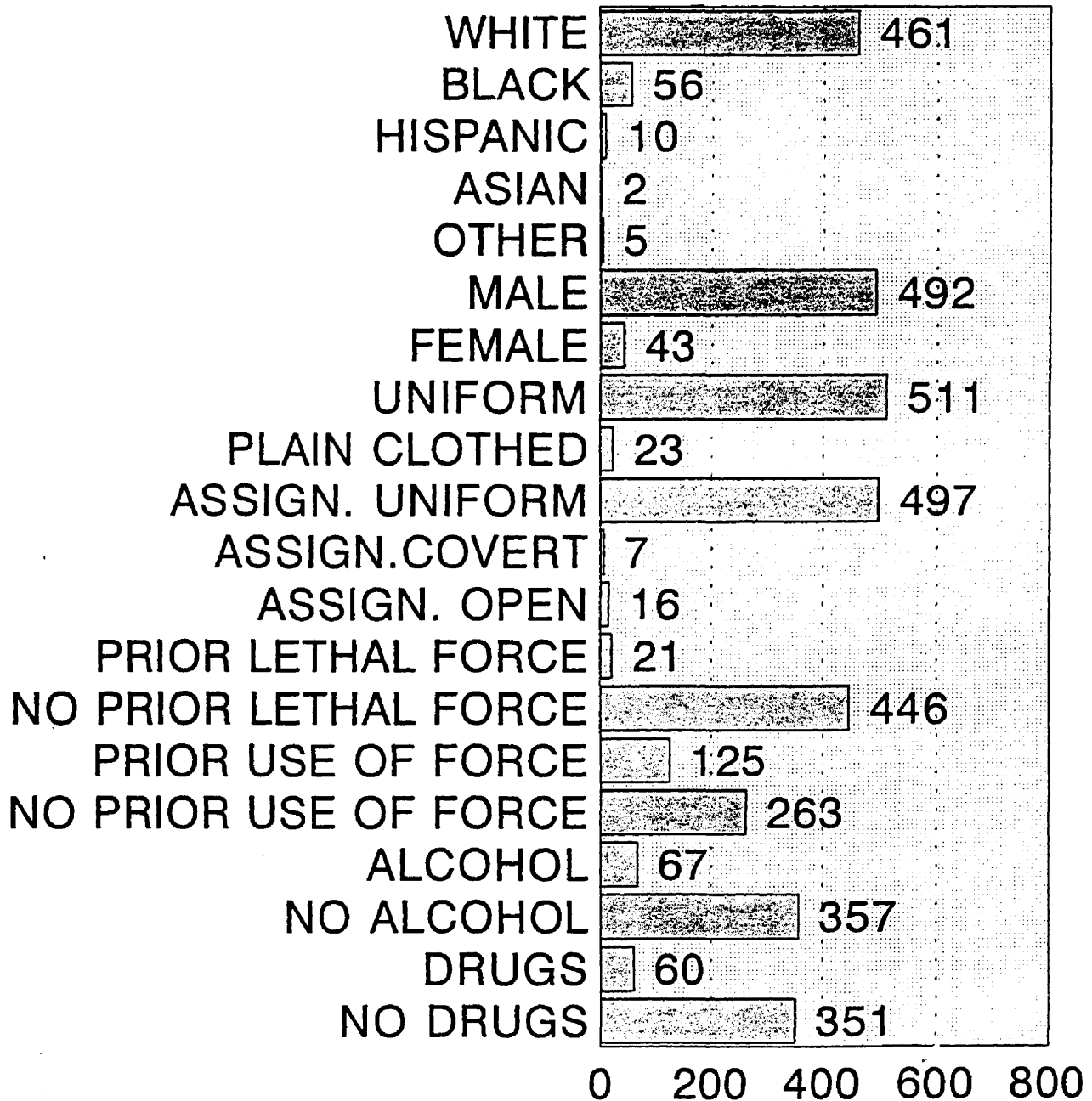


# OFFICER

AVERAGE AGE - 31

AVERAGE EDUCATION - 14

---



AVERAGE LENGTH OF SERVICE - 7.02 YEAR

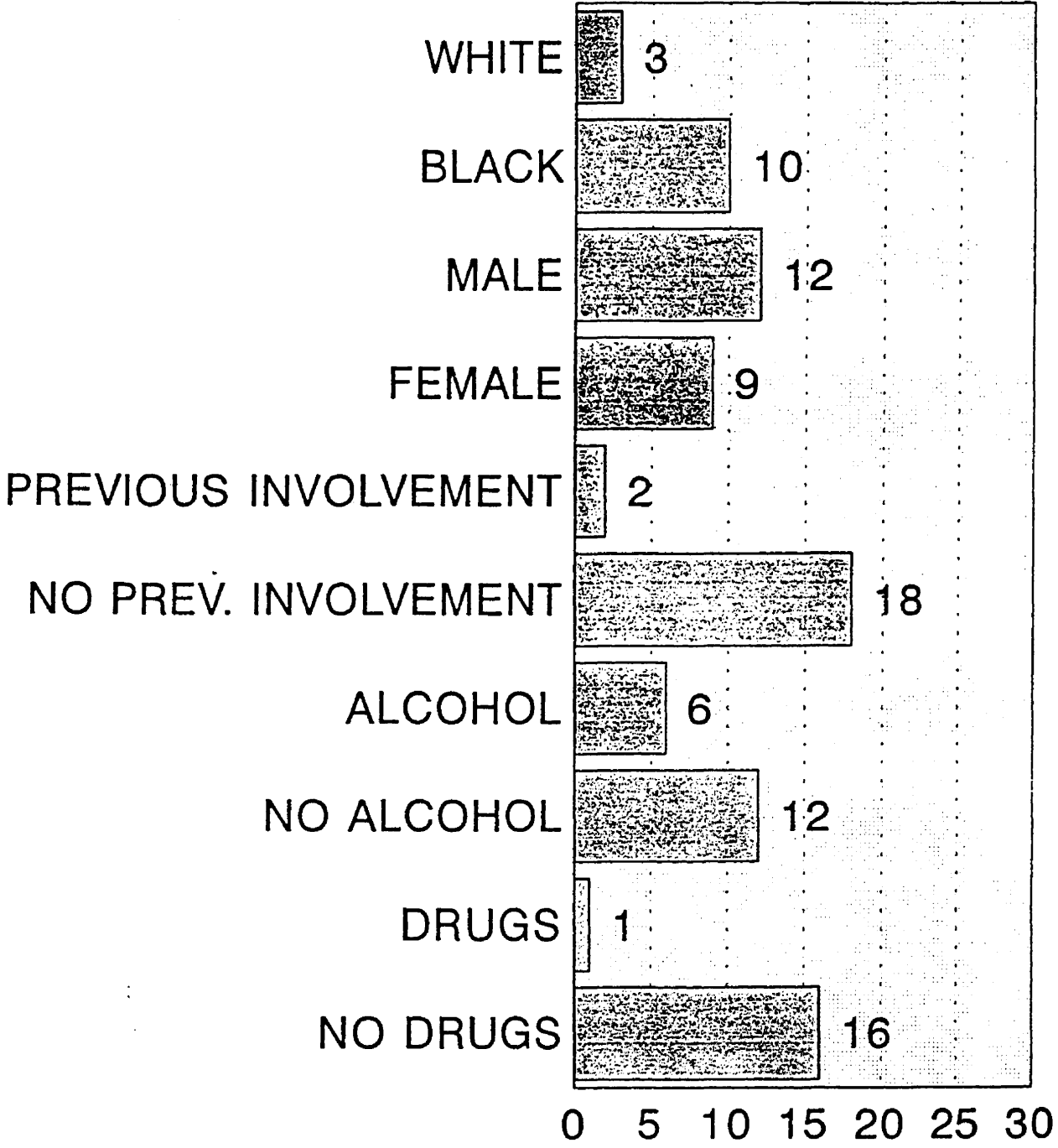


# COMPLAINANT

AVERAGE AGE - 31

AVERAGE EDUCATION - 9

---

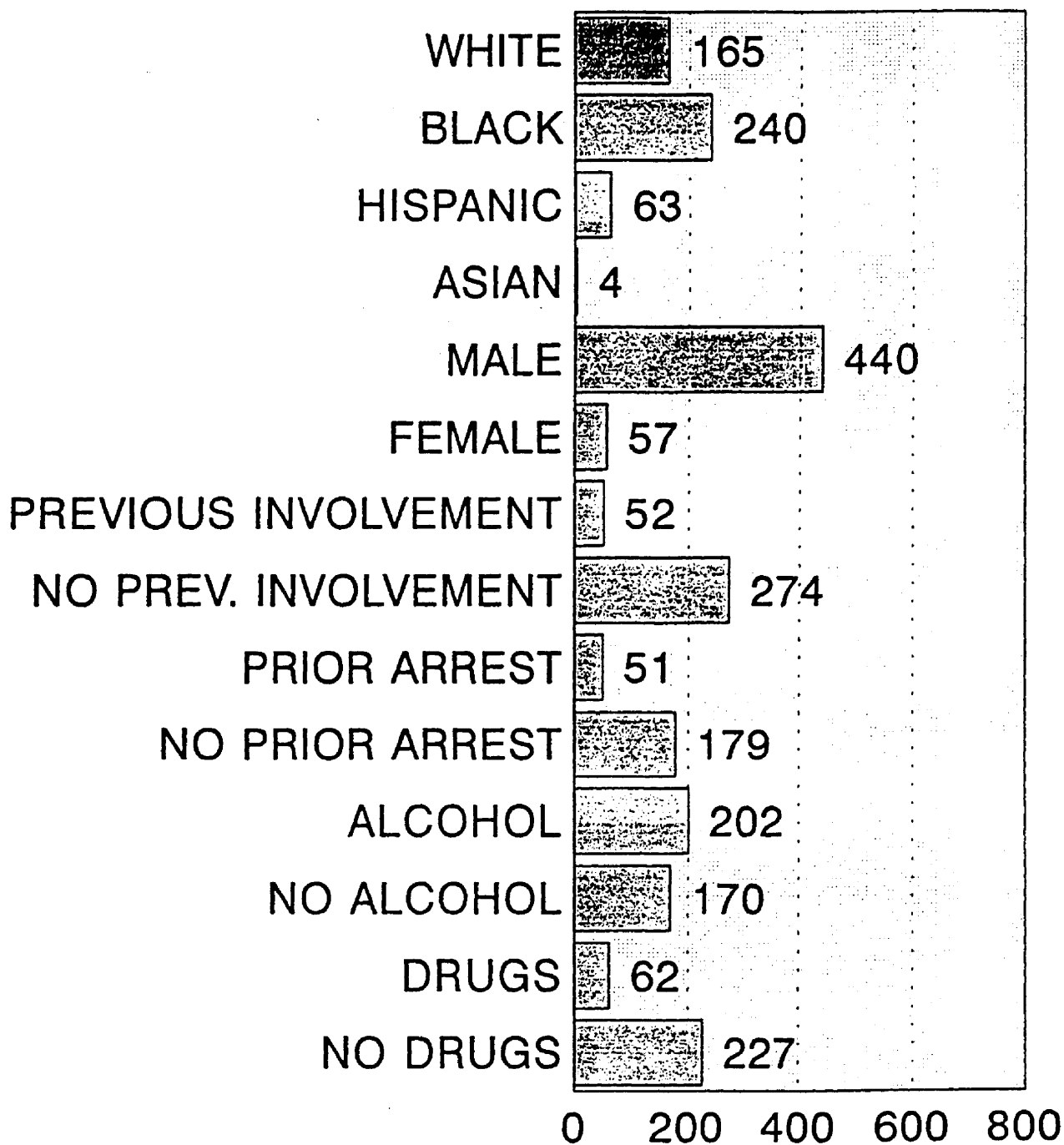


# VICTIM

AVERAGE AGE - 29

AVERAGE EDUCATION - 11

---



# USE OF FORCE SURVEY

- **Use of Force Policy?**  
Yes - 42  
No - 6
- **Progressive Use of Force Policy?**  
Yes - 30  
No - 18
- **Policy requiring advisement of complainant of outcome?**  
Yes - 29  
No - 17
- **Written Report required on all instances of use of force?**  
Yes - 42  
No - 6
- **Review Process?**  
Yes - 39  
No - 1
- **Investigative Threshold to Determine Investigation?**  
Yes - 21  
No - 18

## **USE OF FORCE SURVEY**

- **Full Time Internal Affairs Staff?**  
Yes - 14  
No - 41
- **Policy pertaining to Internal Affairs Operation?**  
Yes - 18  
No - 11
- **Polygraph used for Internal Affairs Investigations?**  
Yes - 34  
No - 18
- **Written Policy on Polygraph Use?**  
Yes - 21  
No - 17
- **Polygraph for conflicting statements?**  
Yes - 30  
No - 3
- **Polygraph for misconduct?**  
Yes - 21  
No - 8

## Appendix D



# VIRGINIA ASSOCIATION OF CHIEFS OF POLICE

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## VACP RESOLUTION ON CIVILIAN REVIEW BOARDS

WHEREAS, it is recognized there is increasing public concern over the accountability of police for their actions, and;

WHEREAS, there is increasing concern on the part of police officers as to the interpretation the public draws from their performance of duty, and;

WHEREAS, this paradox impacts negatively on the security of the community and the ability of the police to do their job, and;

WHEREAS, the confidence of the public in its police is the key to secure communities, and;

WHEREAS, recommendations have been made to the Virginia Crime Commission that Virginia, in order to establish and preserve police accountability, establish a civilian review process to address citizen complaints about police misconduct, and,

WHEREAS, authoritative studies reveal civilian review systems do not find the police guilty of misconduct more often than internal police review systems, and;

WHEREAS, throughout the country, in the cities surveyed, these studies show that on average police internal systems find police guilty of misconduct 25% of the time while the rate for civilian systems is only 10%, and;

WHEREAS, the fiscal impact associated with establishing a redundant civilian system to deal with police misconduct can be very significant and in any case will result in fewer dollars with which to provide police services, and;

WHEREAS, the record demonstrates civilian review is less effective at influencing the behavior of police officers than the internal processes of their departments, is vulnerable to politicizing, and;

WHEREAS, each local Virginia police department has been created in response to a need dictated by the members of its community and not because of a state or national mandate, and;

WHEREAS, the decision as to the processes used to monitor and review police conduct must of necessity rest with that local jurisdiction, and;

NOW THEREFORE BE IT RESOLVED, the Virginia Association of Chiefs of Police herewith recommends the matter of police accountability be addressed at the state level by support of programs specifically designed to improve community relations, intensify training of police officers and police executives in matters relating to community relations, leadership and cultural diversity; reinforce the police chief's role and responsibility to manage and be accountable for his/her department; and encourage the General Assembly to develop systems unique to Virginia which will provide for accreditation of Virginia's police departments and the decertification of certified police officers discharged from their duties for incompetence or lack of integrity.

Approved by the Executive Board

Gilbert F. Jahn  
President

6/03/93  
Date

## Appendix E



## Results of Law Enforcement Interviews:

### Charlottesville Police Department (140 employees, 98 sworn)

Established citizen review panel in 1991

Also initiated community policing in 1991

No serious complaints since 1991, but has kept records of all complaints since 1971

Internal Affairs Division investigates complaints against officers, writes memo to Chief

Serious complaints (race allegations) go directly to Chief

Citizen panel then follows up the agency investigation. The panel does not have subpoena power, but officers and citizens have voluntarily appeared before the panel to answer questions. The panel receives the complete investigative file from the Chief, who does NOT recommend disciplinary action. The panel formulates a recommendation back to the Chief, who may follow the recommendation. If not, the Chief explains to the panel why he chose an alternative resolution.

The panel is advisory only. The sole disciplinary authority remains with the Chief.

Brutality, false arrest and civil rights complaints go to the panel, but minor conduct-related complaints are resolved within the police agency.

When the police department fails to resolve a complaint, then the City Manager decides if the review panel should attempt a resolution.

Panel is composed of two citizens, one city council member and one representative from the city manager's office. The city attorney generally sits in on and advises the panel.

Panel meetings purportedly are subject to open meetings laws, but close meetings to go into executive session when personnel matters are discussed, since panel members comply with police personnel file confidentiality standards. The panel does not have any written guidelines on when it can close meetings.

Panel has heard five or six cases since 1991.

The panel members are issued a police department policy manual to reference, and sometimes will submit recommendations to the Chief on police procedure or policy.

Has a citizen complaint standard form

Citizen complaint process addressed as S.O.P. in officer manual

Nature of most complaints: officer rudeness

Does not note nature of disciplinary action taken in response to complainant

If trend in unfit behavior is noted, investigation may be conducted

Investigation report is confidentially held in officer's file

### Caroline County Sheriff's Office (38 employees, 30 sworn)

Receive "few" complaints against deputies

No Internal Affairs Division

Has a citizen complaint standard form

Citizen complaint process addressed as S.O.P. in officer manual

Nature of most complaints: officer rudeness

Does not note nature of disciplinary action taken in response to complainant

If trend in unfit behavior is noted, deputy is removed from road duty to jail duty for "cooling off" period

Investigation report is confidentially held in officer's file

All citizen complaints heard by sheriff, who acts as arbiter

No appeal of sheriff's decision

Complaints of serious nature would be investigated by the State Police Bureau of Criminal Investigations

### Fredericksburg Police Department (135 employees, 90 sworn)

Complaint may be filed with any employee of agency

Has a standard written complaint form, but is not required to take complaint

Complaints are routed to Chief, who may determine disposition, send to IAD for investigation or route through chain of command for inquiry

Allow about 30 days to process a complaint, although serious complaints take longer  
When investigation is completed, the Chief takes action, informs the complainant that some action was taken

If citizen is displeased with results, Chief advises criminal prosecution, civil suit or an FBI investigation are available options

If officer is displeased with decision, the Police Officer Bill of Rights and the appeal procedure available to city employees are his avenue of relief

Sees law enforcement agency accreditation process as best way to promote police professionalism uniformly in Virginia

Most citizen complaints are not serious, but are born of public's high expectations of police officers

Also supports officer certification/decertification, but points out that Virginia's present "certification" process only sets minimum standards of education and training, not minimum standards of conduct; to be effective, decertification must provide means to weed out officers whose conduct is not fit for law enforcement

#### Hanover County Sheriff's Office (113 employees, 70 sworn)

Receive "few" complaints against deputies

Internal Affairs Division investigates all serious complaints

No citizen complaint standard form, and citizen is not made to sign a complaint

Citizen complaint process addressed as S.O.P. in officer manual

Nature of most complaints: officer rudeness

Try to respond to all complaints within 30 days

Complainants are advised if the complaint is founded, unfounded or unsubstantiated

Does not note nature of disciplinary action taken in response to complainant, just may indicate that "appropriate action" was taken

Investigation report is confidentially held in officer's file

Officer can see personnel file, complainant cannot

Officer files are reviewed once a year to reveal patterns of behavior, and remedial training may be required

All citizen complaints heard by sheriff, who acts as arbiter

May appear supervisor's decision to sheriff, but no process for appeal of sheriff's decision

Concerns about imposition of citizen panel in adjoining jurisdiction may have a chilling effect on cooperative multi-jurisdictional law enforcement efforts

Has observed that internal disciplinary process is stricter than when officer's disciplinary action is determined by a citizen panel

Believes that citizen panels hamper instead of improve police effectiveness

#### Waynesboro Police Department (50 employees, 46 sworn)

Majority of complaints (90%) are officer rudeness

Does not have formal or written procedure for handling citizen complaints

Does have standard complaint form, but does not require it be used

Have not received many serious complaints

Patrol division handles routine complaints, although some may be handled by shift commanders

Do not routinely write letters to complainant; sometimes they only want to "vent" to an officer, and do not want any disciplinary action taken

Historically, the magistrate wrote warrants on all citizen complaints against police, only to see the charges dismissed or reduced by the judge. Now, the magistrate encourages the complainant to file a complaint directly with the police department

City has strong city manager style of government, and police chief does not have direct relationship with city council. About 70% of citizen complaints go directly to the Chief, but about 30% of the complaints that come to the department are filed with a city council member or the city manager.

The city manager passes these complaints on to the Chief.

When the complaint is serious, and a formal investigation is initiated, the complainant is advised by the police department to retain private counsel.

Agency maintains two types of complaint files: a founded complaint is placed in official personnel files; all other complaints are kept in a separate file which all officers may inspect. However, the only information released to another law enforcement agency is that which is in the officer's personnel file

The normal citizen does not understand the use of force, or what constitutes excessive force.

Believes that citizen panels usurp police management authority, thus undermining the chief's authority and power with his officers

#### New Kent County Sheriff's Office (25 employees, 15 sworn)

No internal affairs division

All complaints go to Sheriff, who conducts routine investigation

Does not use a complaint form

Most complaints related to traffic tickets and use of radar, and complain of officer rudeness or inappropriate action. More serious complaints are failure to respond or to take action. Not many complaints are filed.

Sheriff will interview the complainant and the officer separately, but sometimes will bring both parties together for an interview and to facilitate resolution

Complainant gets letter of resolution, but is not told the nature of the disciplinary action taken.

Level 1: the complaint, etc. goes in the officer's file. If it is minor, it will be reviewed after one year and possibly purged from the record. The deputy has one chance to initiate the record purge, on the one year anniversary of the complaint. The deputy must initiate the action to remove the complaint from the file.

Level 2: more serious, permanent letter to officer's file, which is addressed in the agency policy manual.

Level 3: seriousness of complaint may result in loss or annual or compensatory leave.

Level 4: pay is docked.

Level 5: officer is fired

If deputy is unsatisfied with complaint resolution, he may direct a letter to his file. There is no formal route of appeal, but the Sheriff may be willing to consider negotiating with the deputy.

The deputy has access to his personnel files.

A serious complaint would be investigated by the State Police BCI.

Officer disciplinary policy modeled on the DCJS law enforcement manual.

#### Fairfax County Police Department

Internal Affairs Division investigates serious complaints against officers

Minor complaints are investigated by officer's supervisor

Final disciplinary authority rests with Chief

All complainants receive letter acknowledging receipt of complaint

Officer may request that IAD initiate investigation if he feels falsely accused

Complaint investigations completed in 30 days

Accused officer may submit a written statement to investigators

Citizen complaint process addressed as S.O.P. in officer manual

Results are classified as: 1) unfounded, 2) exonerated, 3) not sustained, 4) sustained (which is followed by disciplinary action)

Does not note nature of disciplinary action taken in response to complainant

If trend in unfit behavior is noted, investigation may be conducted

Investigation report is confidentially held in officer's file

Has detailed investigative and procedural instructions outlined in agency manual

Virginia Department of State Police (2,350 employees, 1,685 sworn)

Receive 1,200-1,300 complaints annually

Internal Affairs Division (5 officers) investigates complaints against officers, although minor complaints may be investigated by officer's supervisor

Has a citizen complaint standard form, but will investigate phoned-in and anonymous complaints

Citizen complaint process addressed as S.O.P. in officer manual

Nature of most complaints: officer rudeness (65-70%)

Most complaints not sustained

Does not note nature of disciplinary action taken in response to complainant

If trend in unfit behavior is noted, investigation may be conducted

Investigation report is confidentially held in officer's file

All citizen complaints reviewed by head of IAD

No appeal of decision