RE: PUBLIC HEARING. SUB-COMMITTEE ON CRIME AND CORRECTIONS INVESTIGATION OF ORGANIZED CRIME, PUBLIC CORRUPTION, AND THE VIOLATION OF CIVIL RIGHTS AND LIBERTIES BY AND ON LAW ENFORCEMENT OFFICERS

TRANSCRIPT OF PROCEEDINGS

BEFORE: SUB-COMMITTEE ON CRIME AND CORRECTIONS
JOSEPH RHODES, JR., Chairman
ANTHONY SCIRICA, Minority Chairman

DATE : July 17 and 18, 1978

PLACE : House of Representatives
Majority Caucus Room
Harrisburg, Pennsylvania

COUNSEL PRESENT:

MICHAEL REILLY, Esquire, Chief Counsel

Theo M. Rewak, RPR

MR. RHODES: The hour of 10:00 o'clock having arrived, this public hearing of the House Judiciary Sub-Committee on Crime and Corrections will now come to order.

I'm Joseph Rhodes, Jr., Chairman of the Sub-Committee.

Present with us today is: Minority Chairman Anthony Scirica; from Montgomery County, Representative John White; from Philadelphia County, Representative Harold Brown, to my extreme left, Berks County; to my right, Representative Dave Richardson of Philadelphia. There are other members of the committee coming.

Also present is Chief Counsel of the Sub-Committee for the 109 investigation, Michael Reilly of Allegheny County.

A little over a year ago the House of Representatives authorized this Sub-Committee, the Judiciary Committee, to conduct a subpoena empowered investigation into organized crime, official corruption, and civil rights violations by and on police in Pennsylvania.

The first phase of our investigation was punctuated by introduction of House Bills 2601 through 2611, which represented our legislative response to the critical problems of organized crime activity and public corruption in Pennsylvania.

Today we begin the first of a series of public hearings into the disturbing problem of civil rights abuses by and on sworn law enforcement officers of the Commonwealth.

This subject is of the most grave and difficult nature. It is too easy to come to a superficial and simplistic view of police brutality. There is, however, no point of contact between the government and the people governed that more reveals the true nature of our society than does the police role.

This Committee has received numerous charges of extreme police misconduct in terms of civil rights violations in the last year. These charges have been most notable in reference to the City of Philadelphia.

Several of the charges of violence and harassment aimed at the police have also been noted.

We as a sub-committee shall reserve judgment on these matters, and we caution others to do likewise. This is an explosive issue, and we should come to conclusions cautiously and carefully. If, however, the police of this Commonwealth are found to be routine victims of injustice, then the Legislature should and will act swiftly to end this dangerous condition.

And if we find that the police in any jurisdiction of the Commonwealth systematically place the rights and even the lives of Pennsylvania citizens in needless jeopardy, then this Sub-Committee will not hesitate to recommend whatever measures are required to protect the citizens of that jurisdiction from its police.

There could be no more vile situation than that where the people fear their keepers of the peace.

Our first witness today is Lt. James J. Fyfe, Ph.D., with the New York City Police Department, Coordinator of the Executive Development Program in the New York City Police Department.

The first phase of our public hearings into civil rights violations by and on police is an overview from national experts into the national ramifications and experiences of the jurisdictions in terms of the problem.

Before we begin today's hearing with Lt. Fyfe, who I welcome to the Sub-Committee and the Commonwealth, there is also a statement that Representative Richardson would like to make at the outset of today's hearing.

Representative Richardson.

MR. RICHARDSON: Thank you very much, Mr. Chairman.

Members of the Committee and those who are assembled, I first want to say that I believe that where we're starting in terms of the national question, in my estimation and my opinion, is wrong.

I believe that we should start where the problem exists and that it should start basically in Philadelphia, because that's where the problem is.

I'm citing this for the record, because I believe that the outset of the national question and the national problem involving police and police violence is only an indication to me that that should come at the end, where you could

expect to find in some type of order, chronologically, how the crimes in Philadelphia have been going rampant.

Right now we've had a recent shooting in Philadelphia, and I believe that this is really where it should begin. I believe that it will have a far-ranging implication later on for the Sub-Committee because we did not start in that matter.

Not to prolong the hearing, I wanted to cite this for the record so that those who are members of this Committee know my disenchantment with us beginning at the national level. I think we should have wound up with the national in respect to this.

MR. RHODES: The comments of the Representative are duly noted and inserted into the record of this hearing.

The first witness before the Sub-Committee is Lt. James Fyfe of the New York City Police Department.

Have you received your subpoena to appear here?

LT. FYFE: Yes, I have.

LT. JAMES J. FYFE, Ph.D., called as a witness, having been duly sworn, testified as follows:

BY MR. REILLY:

Q Lieutenant, how long have you been a New York City police officer?

A Since June of 1963.

Q And what positions have you held with the New York City Police Department?

A Well, following recruit training in October of 1963, I was assigned as a patrolman in the 84th Precinct, which is in Brooklyn, the Downtown Brooklyn - Borough Hall - Brooklyn Heights area.

In January of 1971 I was promoted to sergeant and was assigned to the 18th Precinct, which covers the Times Square area and theatre district, for about five months.

Following that I was assigned to the 114th Precinct on patrol. That covers an area of Queens around Laguardia Airport.

I was out of the Department, so to speak, for two years during my studies.

In 1973 I returned and was assigned again to patrol in the 114th Precinct as a sergeant.

Later that year I was assigned to the Police Academy as Chairman of the Police Science Department and Recruit Training School.

In February of 1976 I was made the Executive Officer of the Management Training Unit, which bears responsibility for training everybody at the rank of sergeant and above.

In November of '77 I was promoted to lieutenant. I was assigned as Manager of the Management Training Unit.

In February of this year, I was assigned as

Coordinator of the Executive Development Program.

Q What's your educational background?

A Before I entered the Department, I had about 90 undergraduate credits from Brooklyn College. I found that my working hours conflicted with my studies, dropped out of school for above five years, and completed a B.S. in Criminal Justice at John Jay College in 1971.

Q For the purposes of the record, some of us are unfamiliar with John Jay College. Would you explain what John Jay College is and how it's run?

A Sure. John Jay College is a specialized school within the City University of New York. It originally started as a college of police science in the Barouk School. It was set up as an independent school in 1964, largely for practitioners in the criminal justice service, with the open enrollment and the idea of expanding the school. It's population has grown to about 7,000.

It's major raison d'etre is to train people as practitioners in criminal justice.

I earned my B.S. there in 1971, won a Department scholarship for a Master's Degree in Criminal Justice at the State University of New York at Albany.

The following year I was awarded fellowships by the Ford Foundation and National Science Foundation. I completed the course work for my Ph.D.

Five years later I finished the dissertation and received a Ph.D. in Criminal Justice from SUNY at Albany this May.

Q What was the subject of your Ph.D. dissertation?

A It's called: "Shots Fired - An Examination of New York City Police Firearms Discharges."

What I did was analyze all reported firearms discharges and serious assaults upon New York City police officers between 1971 and 1975.

Q These were firearms discharges by New York City police officers?

A Yes, firearms discharges by New York City police officers. It would also include firearms discharges at New York City police officers.

Q As a serious assault?

A As a serious assault.

We defined a serious assault as an assault with a deadly weapon and/or which resulted in serious officer injury or officer death.

Q How valid was the data that you were able to do these studies from?

A I have two questions about the data. One has to do with the possibility that data are missing.

For example, it's possible for police officers to have fired their revolvers and not have reported it. My feeling

is: Police officers who fired justifiably would not do that because they would be disciplined for failing to report a shooting. Had they fired justifiably, they would have nothing to fear from the Department.

So we're talking about police officers who fired unjustifiably under my intuition.

Even in those cases, I don't think police officers who had hit someone or thought they might have hit someone would neglect to report their shooting.

So now we're talking about police officers who fired unjustifiably and knew that they had missed with their shot. We're also talking about police officers who fired unjustifiably in situations where they had to be fairly certain that a third party would not bring their shooting to light later on.

I think the problem of missing data is kind of insignificant. I don't think there are very many missing. I would say that the ones missing are the inconsequential ones, the warning shots-- They're not insignificant, but they're of least significance.

Q Is the reason that you feel that the shots, if fired, would tend to be called to the Department's attention because of the population density of the City of New York?

A I would say that there are very few places in New York City where you could fire a shot and not be heard.

Q Is the practice to call those kinds of things to the attention of the Department?

A I've come across a few cases in the data which would indicate that that is the practice. Someone will make a complaint about a police officer having fired shots a week or so after the incident happened. It seems to me that they quite often come to light.

Q Did you limit your study to on duty police shootings and assaults on police, or did you also take into account off duty shootings and assaults on police?

A It took into account all shootings other than firearms ranges; so that included accidental shootings and destruction of animals, shootings to settle personal disputes. All the shootings.

Q How did you go about conducting your study?

A It was partly fortuitous. I became interested in the summer of '73 after I had returned from Albany. Went to a day at the firearms range. Was looking for a dissertation topic. Became aware that they had been collecting these data for about two years. Listened to some statistical interpretations which seemed to me inaccurate. Spoke to the commander of the firearms range about getting access to the data. He had no problem with that.

Later I was assigned to the police academy, and it turned out that at a staff meeting I discovered that my boss, the

commander of the academy, who was also in charge of the firearms unit, wanted to computerize all those records so that we could conduct an analysis. I had already invested quite a bit of time-- a survey of the literature and working up a code book-- to put these things on line in the computer.

I spoke to him. He made me the coordinator. It became sort of my second job at work.

Over the next three and a half-- well, the next five years, actually, I divided my time about evenly on duty and off duty, and converted the data that were kept at the firearms range and at the Firearms Discharge Review Board, which is an adjudication body which examines all reported shootings-- put those along with some personal records on line and had a computer program up and running with 4,904 firearms discharge assault reports, about 150 variables per case, in October of '76. I began my analysis then.

Q And what did your analysis develop? Were you surprised by the results as they emerged from your analysis?

A Well, after you put 4,904 pieces of paper onto the IBM cards, you have a pretty good idea of what you're looking at.

Some of my impressions were not confirmed, but I had laid out 13 hypotheses. Generally, they fell into three areas.

One had to do with describing the circumstances under which police officers fire their guns. I can talk about

that in some detail.

Another had to do with the effect of direct interventions upon police shooting discretion. In the middle of the period that I studied in August 1972, the New York City Police Department instituted firearms discharge discretionary guidelines considerably tighter than had existed in the past, when the police officers were limited only by the penal law provisions. I wanted to test the effects of those things.

Another was to test the results of some indirect influences upon shooting frequencies. There was a change in narcotics policy, for example-- narcotics enforcement policy that I felt would be shown to have reduced shootings. And it did.

Q Did you also analyze variables such as the race and age of the shooter and the person who was shot?

A Yes, I did. As part of the descriptive part of the study what I did was attempt to create typologies of incidents and of officers and of opponents. And I also generated some hypotheses that related to those.

Do you want me to talk about those?

Q Well, let's go back to the beginning. What did you discover in the first of your three areas? Under what circumstances do police officers ordinarily fire their guns in the City of New York?

A Well, I was kind of surprised to find that an awful lot of shootings involved the destruction of injured

animals. About 10 or 12 percent of the shootings in New York City involved the destruction of injured animals. That was kind of a minor surprise.

I found that shootings in New York City are not a summertime phenomenon; they're spread pretty evenly over the year. And they're spread evenly over the week; they're not a weekend phenomenon. That's because I think there are fewer officers on duty in the summer and on weekends.

What happens is that on-duty shootings during the summer and around Christmas and weekends decline and off-duty shootings increase considerably. So if you look at the one phenomenon, it's a pretty constant line straight across.

Q Police shoot as much, but they shoot on duty and sometimes in off-duty hours?

A Yes, exactly.

Q Is that a fair statement?

A Yes, right.

Q All right.

A I think if you ask most police officers, they would tell you that the most dangerous job a cop can handle quote is a family dispute. In New York City I found that about 30 percent of the shootings were precipitated by reported robberies. Only about 1/3 of that number were precipitated by respond to disturbance calls, which includes family disputes and a lot of other things. That was something that I had not expected to find when

I first set out. I guess those are the circumstances.

I found that officers who work out of uniform are involved in a disproportionate number of shootings, but that's because of the type of work that they do.

Q Disproportionately high or low?

A Disproportionately high.

In New York City we have an outfit called the Street Crime Unit. I guess everybody has seen pictures of the Hasidic rabbis, et cetera, the police officers in disguise. They're out looking to get mugged. Their work involves them in types of situations that precipitate shootings.

Q In terms of the off-duty police shootings, are New York City police officers required to carry their firearms off duty?

A Yes, they are, while they're in New York City. A good percentage of New York City police officers, as you may know, live outside the city; so we're not required to carry guns outside the city. In fact, we're discouraged. Inside the city we're required to carry a revolver. My own feeling: I would recommend against that. I would make that an option. I would leave that up to the officer's discretion.

An awful lot of the off-duty shootings result in criminal charges or in disciplinary action against the police department.

Q Is an officer who shoots more likely then to be

charged criminally or to shoot improperly shooting off duty rather than on duty?

A Yes. He's probably 20 or 30 times as likely to be charged criminally as he would be on duty. He's two or three times as likely to be brought up on department disciplinary charges off duty as would an on-duty shooting.

Q Is one of the factors that causes the plain-clothes assignments that would be weighed more heavily-- that wouldn't include people in your service organizations, your clerks, your radio operators, people like that?

A No. When I said about investigating, I broke the commands down into eight types. I excluded people in staff administrative jobs and plain-clothes types.

Q So you're comparing plain-clothes patrol to uniform patrol?

A Basically. But I broke plain-clothes down pretty finely. The detective, the Kojak type, contrary to the myth, doesn't get involved in very many shootings. It's generally the narcotics people, the people in the street crimes units, who are over represented among plain-clothes men.

Q Those are the circumstances in which you determined that police officers shot.

Now, what effect did the change-- You said that there had been a change in departmental policy and regulation--

A Right.

Q --about halfway through your study.

Could you give us a little detail? We're not familiar with the New York law. We're charged with being familiar with Pennsylvania law, not the law in New York.

What were your regulations and laws before and after this study?

A Prior to August of 1972, police officers' shooting discretion-- The only thing the Department said about shooting discretion was that you should fire as a last resort. Within the penal law, the penal law limited police officers to shooting in cases involving people fleeing from some violent felony: felonies against a person, robberies, forcible rapes, forcible sodomy, homicide, felonious assaults, and in defense of life-- to defend themselves or another against the use of deadly force. So that's pretty broad guidlines. That leaves an awful lot of discretion on the officer.

Partly in reaction to a controversial shooting, I think, did the Department change those guidelines considerably. One of the problems--

Q What was the controversial shooting?

A The controversial shooting involved the shooting of a young-- I guess an 11 or 12-year-old boy who was a passenger in a stolen car. It was a fatal shooting by a New York City police officer.

I believe the police officer was adjudicated as

not having violated any departmental regulations. He was cleared by our grand jury which investigates all shootings in New York City.

It was the type of thing that aggravates relations between the policemen in New York.

Partly in reaction to that, I believe, and partly in reaction to the recommendations of the President's Task Force in 1967-- the Task Force on the police-- the Department narrowed those guidelines considerably.

By doing that, they also brought the possibility of punishing officers who have used their guns unjustifiably. They brought that out of the courtroom and into Department trial rooms, where a positive finding is based on a lesser standard of evidence than is required in the criminal court.

But the 1972 guidelines basically said that police officers can shoot only as a last resort. It discouraged police officers from shooting at fleeing felons. They said that police officers could no longer fire warning shots. They could no longer fire at automobiles unless the person in the automobile was using deadly force other than the automobile upon them.

What that meant was that if a police officer-- If an individual was attempting to run down a police officer, the police officer could no longer fire at him. He couldn't really shoot at a car unless they were shooting back at him.

So we had the violent felonies. It was limited to

a few violent felonies. It discouraged officers from shooting at cars or from shooting at clean felons. It excluded warning shots. It excluded shots at cars. Basically I guess that's it.

Q Did it establish the system that you described of internal departmental review of shootings?

A Yes, it did. In 1972 the Departmental Firearms Discharge Review Board was established. The composition of that board has been changed a few times in minor ways, but basically the board presently consists of the Chief of Operations, the Chairman, who is the Department's highest uniformed officer. It includes the Deputy Commissioner of Legal Matters, the Deputy Commissioner for Community Affairs, the Chief of Personnel, and the Commander of the Firearms Training Unit.

The process is that after an officer fires a shot, the captain on duty-- whether it's his command or another-- is required to make a complete investigation and forward recommendations and his finding, based on the information he has at hand, to the area level, which is a borough in New York City.

New York City is composed of five boroughs; but as far as the police department is concerned, we have seven.

So the borough commander compiles all this information, forwards a copy of the report to the Chief of Operations. Periodically-- I guess once a month or so-- the borough commander has the Firearms Discharge Review Board. He and a zone commander-- who is another command officer-- and a precinct commander, and a

person from the same rank as the individual who fired the shots conduct the hearing and make a recommendation which goes to the Firearms Discharge Review Board.

Members of that board individually sit down, look at the case, and make some sort of determination on it. They meet periodically and reach a consensus as to what should be done, how the case should be disposed of.

So the case is reviewed at the precinct command level-- at all levels up to the top of the Department.

Q At what level is the decision as to what to do with this finding in terms of the Department?

A The board is an advisory body. The board is the Chief of Operations, basically; and he forwards a report to the precinct commanders and recommends that the officer's shooting was justified; or the officer's shooting itself was justified, but the officer should be retrained in tactics; or the officer's shooting was not justified, and the officer should be subject to disciplinary action. Of course, a recommendation from a four-star general to a captain is tantamount to an order.

Q This is the internal departmental policy.

What is the external criminal review procedure for police shootings in New York?

A I would say most of the shootings go to the grand jury. All the fatal shootings and all the shootings where there is any question at all, all the shootings which result in serious

injury, all the shootings in which bullets strike someone are referred to one of the five district attorneys in New York, who conduct grand jury hearings on the case.

Q Have you noticed any marked difference in police shootings based on the, say, aggressiveness of the individual district attorneys in the different counties? Was that a factor developed at all in your research?

A I don't think so. I think the geographic variance in shootings is largely dependent upon intracommunity violence rather than the aggressiveness of the DA.

I found that across the city shootings were very strongly correlated with rates of arrest for violent felonies and with rates of reported homicides. So I think those probably are the determining factors. This probably was one of the major findings.

The same goes for age. People wonder why the young are disproportionately involved in police shootings. I find that the same indices hold. Reported homicides and rates of arrest for violent felonies hold by age, and they also hold by race.

Q Was this independent review function-- I shouldn't call it an independent review function-- this grand jury - district attorney system constant throughout the time period of your study?

A Yes, it was.

Q And the only major review that changed then was this internal departmental review; is that correct?

A Yes.

Q The new regulations and special review procedures?

A Yes.

Q What effect did that have on police shootings?

A Okay. I have to qualify my answer to this, because the beginning of the period I studied was 1971 and 1972. And a lot of criminologists feel that that was an especially violent time in the United States.

In New York I would say that it was an especially violent time. Most police officers who are killed in New York today, for example, are killed by robbers attempting to flee. In 1971 and 1972, we had a lot of assassinations and attempted assassinations of police officers for apparently political purposes. They were done apparently in an unprovoked manner, or at least in a manner that was not provoked by the incidents that immediately preceded the shootings. I could give you some numbers.

The numbers I have for shooting incidents-- Now, these are incidents of which one or more officers fired his gun. That might be two radio car partners who are involved in the shooting incident. One or more officers at the same time and place. In 1971 I have 630 reported shootings. I feel that that might be a little bit understated, because the reporting

requirements were not yet made clear. We didn't start to collect these data until 1970.

Q By shootings, this is any discharge of a firearm?

A That's correct.

Q Warning shots, whatever?

A Warning shots. Anything at all.

Q How large is the New York City Police Department?

A In 1971 the New York City Police Department consisted of about 32,000 sworn officers. At present it's just over 25,000.

Q So for 32,000 officers, you had how many shootings in that area?

A 630.

Q Which includes warning shots, people hit?

A Shooting dogs. Everything.

In 1972 I have 803 shooting incidents. Now, the guidelines were promulgated in August of 1972. If I would show you a graph, you would see that there is an immediate drop. I broke the five years I studied down to two month periods. At August 31st there's a pretty dramatic decline.

The total for 1973 is 574 shootings. The total for '74-- Now, there were also some more revisions of that directive in the middle of 1973, in August of '73, which basically just changed the composition of the board and said, "Don't shoot at dogs unless it's a last resort." So they were kind of minor

changes.

In 1974 I have 471 shootings. This is at a time when the Department was growing. We had hired better than 3,000 officers between early 1973 and 1974, late '74.

In 1975 I had 448 shootings.

In '76 I have 374. Now the Department is down to about 26,000 people.

In '77 I have 414 shootings. These figures, by the way, since 1975 are not mine; they come from the Firearms Discharge Review Board.

As of June 30th, 1978, the first half of 1978, the Firearms Discharge Review Board had reviewed 188 cases.

And they tell me that for the period between July 3rd and July 10th, 1978, was seven days in which no New York City police officer fired a shot. So that's the longest seven days since 1971.

Q Over the Fourth of July weekend?

A Right.

My feeling is that the number of shootings has declined pretty dramatically.

One of the things that interferes with that, however, is the fact that the guidelines restricted police or prohibited or proscribed police from firing warning shots. So a good proportion of that involves warning shots, a good proportion of the decrease. Let's see if I have some numbers on that.

I don't have numbers on it. What I do find: When I remove the warning shots-- I had the shootings broken down into about seven or eight different reasons for shooting, and those included defense of life and prevent - terminate crime, which is basically the most controversial type of shooting. He's running away, allegedly having snatched a purse, and gets shot in the back. What I found was that the shootings to defend life, excluding warning shots, have remained fairly constant.

So the circumstances in which police officers report that they shoot at someone who attacked them with a gun has remained-- the circumstances and the frequency have remained fairly constant over the five years.

The big decrease comes in those prevent - terminate crime shootings. The fleeing felon shootings are way down over what they had been.

Some other consequences of that: What I had found prior to--

Q I'm sorry to take you off the track, but would it be a fair statement to say that police officers find themselves in approximately the same number of confrontations where they think they're shooting to save their own life or someone else's life over this eight-year period?

A Basically, yes.

Q And do in those circumstances shoot no matter what the Department does? The departmental regulations have no effect

on police officers shooting when they think they're saving their own life or someone else's life?

A No, they don't. Probably part of the reason for that is that the Department's regulations are interpreted fairly liberally.

For example, it says that a police officer can't fire a warning shot or a police officer can't shoot at a car unless the individual involved is using deadly force other than the car. But when you review the cases, you find that there are still situations in which a warning shot is the police officer's least drastic alternative. For example, if a youth is attacking him with a knife and there's a large crowd behind the youth, the cop is reluctant to take a 14-year-old's life and he's reluctant to shoot at the kid because he's liable to hit someone else. My own feeling is that the least drastic alternative in a situation like that is to fire one across his bow.

Those things do happen. Those warning shots are generally found to be justified.

The same is true with shots at vehicles. A police officer is trapped in an alley and has no place to hide, and an individual is attempting to run him down. The cop fires shots at the car. The board's position, I think, is, "Gee, your rules really don't work in a case like that." So there are exceptions.

Q The reason I pursue this area of inquiry is: There is another area with another problem raised; and people

say, well, if you put any constraint on the discussion of a police officer in using his firearm, the police officer will be injured or killed or the police officer will hesitate to shoot in self-defense where the police officer or someone else's life would be taken.

Has your study borne any of that out?

A No. In fact, during the summer of 1973, our PBA president-- I guess it was the equivalent of FOP president in Pennsylvania-- but the President of the Patrolmens' Benevolent Association argued pretty strongly that New York City Police should be armed with shotguns and that firearms restrictions should be dropped because police officers were being hurt at an inordinate rate.

My figures show-- I did weekly means of police officers injured, police officers killed, opponents injured, and opponents killed. Again, considering that the early '70s were probably extraordinarily violent, what I find is that prior to the guidelines, one New York City police officer was killed in the line of duty every five weeks. Now, following the guidelines, one New York City police officer-- this is over a two and a half year period. The rate has gone down to one New York City police officer every ten weeks.

While we probably can't say that the guidelines made the cops' job safer, there's a pretty strong suggestion that the guidelines did not make his job more dangerous.

As far as opponents are concerned, prior to the guidelines-- and the New York City police had killed 556 people over the five years I studied. Prior to the guidelines, they killed 1.6 per week. Following the guidelines, they killed 1.0 per week. That's a pretty considerable reduction, also, assuming it's correct.

Q One of the aberrant factors in the New York City police shootings and fatal New York City police killings of individuals was the existence of a special stakeout unit.

A Yes.

Q Would you explain how that unit functioned?

A Robert Daley, who was our Deputy Commissioner for Public Information, wrote an interesting article on it in New York Magazine a few years ago. Most of what I say will be based on him.

The stakeout squad consisted of about 20 men who were assigned-- There were people from our Emergency Service Unit, people from our firearms range who were assigned to locations which had been robbed on several occasions, which were surveyed to find out whether they were suitable for a stakeout.

What would happen is-- I might use a liquor store as an example. The officers would hide in the back of the liquor store from a place where they could see everything that transpired in the front of the store. And the two would be rather heavily armed. They would be armed with a shotgun. Each armed

with a shotgun. Several of the officers carried two or three revolvers or other handguns.

They would just sit there and wait for the place to be robbed. When the place was robbed, they would jump out with bulletproof vests and a police cap and a shotgun and say, "Police. Don't move."

They were very successful. They rarely arrested anybody alive, if that's a measure of success.

I guess it ran from about 1968 to the middle of 1972.

Robert Daley's thesis, which I tend to agree with, was that they were programmed-- and it's not intentional on their part-- but the whole operation was programmed so that they could not but kill, because they would generally jump out from behind their stores-- or from behind their hiding places behind the bad guy and yell, "Police. Don't move." And his normal reflex is to jump and turn around. And then he was facing them with gun in hand. They really had no choice but to blow him away.

I guess they account for about 8 or 10 of the shootings in my study. Less than 20, anyway.

Following a couple shootings, they were very highly publicized. And they were received very favorably by the press in New York. But following a couple of shootings, that were really sensational, they were disbanded in 1972.

Q So you say that this was not a major factor in

the reduction of individuals shot by police officers?

A No, it wasn't.

Q All right.

A Black Liberation Army shootings, which also took place early on in the period: 20 of the shooting incidents involved Black Liberation Army-- alleged Black Liberation Army shootings. They account for 4 police officers' deaths and, I suppose, 12 or 15 more police officer injuries.

Q Was that one of the factors that tended to cause the early data to be somewhat higher?

A Yes, they swell up a little bit.

Q But they're not especially significant?

A No.

Q So when you speak of the turmoil in society in 1971 and 1972, it's not just the Black Liberation Army that you're talking about?

A No, it wasn't.

I tested that. There was a feeling in the press at that time that police officers might have been over-responding to the Black Liberation Army by shooting blacks in ghetto areas in situations in which they would not normally do so.

I tried to test that by breaking the city down geographically and looking at the distribution of opponent race in, of course, the different areas of the city across a five year period. I find it's pretty constant. The percentage of

people who are police shooting opponents who are black or white or Hispanic has remained fairly constant over the five years. No significant difference.

Q Did you notice any differences in the rates with which police officers shoot correlated to age or race?

A Yes, I did. I found that black and Hispanic police officers fired their guns considerably more often than white police officers.

Now, you get into a lot of problems when you say things like that. You get into a lot of problems when you say that black shooting opponents are disproportionately represented, which they are.

What I find there is that we can't just look at one variable, the officer's race. That variable, it's inter-related with a lot of other things which include where he works. I think most urban police departments have found that it's generally a good idea to put black police officers in black neighborhoods.

I know in New York, it seems that every time we have a shooting that involves a white officer and a black kid, the community and the Black Police Officers' Association, the Guardians' Association, argue that we should assign black officers to black neighborhoods.

Basically, New York City police officers who are on patrol who are black are disproportionately assigned to the

areas in which intracommunity violence is high. As a consequence, they account for an awful lot of shootings.

However, if you further subdivide police officers by their race and by the type of assignment that they have, you find out that there is very little difference. The only difference that I found that was significant was that black police officers who work in quiet, middle-class or upper middle-class white neighborhoods very rarely shoot their guns, very rarely.

My problem there is that the numbers of black police officers who work in those areas is small enough so that they may not be statistically significant.

But off-duty black police officers fire their guns, I guess, five or six times as often as off-duty white police officers. Again, what you find there is that that's closely related to where the officers of the different races live and socialize.

Most-- Not most, but an awful lot of New York City police live outside the city in tract houses and suburbs and the chances of walking into a mugger, et cetera, there are very, very thin. On the other hand, if you look at off-duty shootings involving black or Hispanic officers, you find that most of the officers involved live in inner city areas, and the shootings take place in inner city areas.

So insofar as officer race is concerned, I found

that it's significant only in that it's related to other variables: officer assignment, officer residence.

Q There have been a few sensational cases in New York City involving off-duty police officers shot by on-duty police officers and vice versa. What did you determine in your study about that?

A One thing that I determined was that during the five years I studied, the only male whites-- that was one of the opponent types I used, which is kind of an unfortunate commentary on our society, I think-- that the most significant variables in looking at both the officers and looking at the opponents, was race. I think that's kind of a sad commentary.

I broke the opponents down by race and number, so that I had lone male white, lone male black, lone male Hispanic, more than one male white, et cetera. I found that the only male whites who killed New York City police officers in the line of duty in the five years that I studied were other police officers. They were either mistaken identity shootings or a drunk off-duty cop decides to shoot it out with his on-duty colleagues. So that was kind of sad.

What I found was that there were an awful lot of-- not an awful lot. There were, I believe, about 20 confrontations between on-duty police officers and off-duty police officers during the five years that I looked at. Two of those mistaken identity confrontations involved on-duty white officers who

responded to robberies and the like and took the lives of off-duty black police officers who were there.

I also found a lot of situations which were intra-racial or which involved other races, a black officer and Hispanic officer, mistaken identity shootings, none of those were fatal. So there were two white-black inter-racial shootings.

And again, I think the Department runs a black-white dialogue session which is designed to help iron out some of the difficulties within the Department, the inter-racial difficulties within the Department. And the fellow who runs that is an inspector who heads our Employee Relations Unit. He had asked me to go through the data and see what I could pull on these officer confrontations, because that is one of the major grievances of black police officers. "They mistake us, but they don't mistake the white guys."

My feeling is-- and again, I don't have enough numbers to say this with any certainty. But statistically, it's really what you would expect, because most of the violence in New York City takes place in inner city areas. And that's where the black police officers are off duty.

You wouldn't expect very many white-on-white mistaken identity shootings in neighborhoods where off-duty white police officers never have to respond to muggings or street robberies, because they just don't happen in the suburbs-- or they don't happen with near the frequency.

My feeling was that that was just about what you would expect. And it's unfortunate. We haven't had any.

Following those shootings, we developed an awful lot of training material, a set of identification procedures. All instances of confrontations between police officers which were not resolved to the satisfaction of either officer were referred to our Equal Employment Opportunity Unit. And they conduct an investigation and make recommendations which can include disciplinary action.

I guess the incidents I'm talking about took place in '72 or '73. Fortunately, we haven't had any since those.

Q What conclusions did you reach as a result of your study?

A Okay. I have a whole lot of those. Some are pretty specific to New York City. One of the conclusions that I reached was that the relevance of the study to other jurisdictions is probably dependent upon population density and size. My feeling is that a study which shows that robberies precipitate most police shootings would be most relevant to large cities. I doubt very much-- and the statistics tend to bear me out-- that in rural areas or suburban areas, that robberies would precipitate an awful lot of the shootings.

So before I say anything, I have to say that it's probably most relevant to large jurisdictions.

Because I found that variance, because I found that

police officers in New York City are involved in a large number of shootings precipitated by robberies-- and nobody I spoke to expected that. I would ask people. I didn't do anything scientific with this, but just would ask people, "What's the most dangerous job a cop can go on?" And, unfailingly, they would respond a family dispute was.

That might be the case in terms of punches in the nose but not in terms of shootings and serious assaults.

So my feeling was that any agency with any significant number of personnel at all should conduct its own analysis of its own shootings to see what precipitates shootings.

Q When you began this study, didn't you attempt to look at other major departments to determine how their data correlated with yours?

A Yes, I did.

Q What studies had been done?

A Well, what you find is that very few studies have been done. Of the empiracle studies that have been done, you rarely find that a police department cooperates.

Two fellows named Harding and Fayhe at the University of Chicago for example, did a study of 89 consecutive fatal police shootings involving the Chicago police in 1969 and 1970. The Chicago Police Department didn't give them anything. They got all their data from the medical examiner's office or the coroner's office out there.

Harding is in Australia, who had done some studies of shootings in Australia, where he claims the police are cowboys. But most of them are unarmed, so there aren't very many shootings there at all. But he was interested in that. Then in '69 in Chicago, you may recall, we had the Fred Hampton shooting, the Black Panther shooting, which was very controversial. He went into his study with some predispositions.

But his finding was that of the 89 consecutive police shootings in '69 or '70-- that was a rate much higher than took place in New York, by the way, a rate about twice as high as the rate in New York City percapita and per officer. He found that there were 11 prima facie cases of murder or manslaughter.

Chicago police shootings are very rarely reviewed by grand jury unless it's a case like the Hampton case, a very sensational case. So that study was done with no cooperation from the police agency involved.

Another fellow by the name of Arthur Cobler did a study using data compiled from a newspaper clipping service. He studied 1,500 fatal police shootings on the West Coast over about a 10 year period. His data are generally unreliable. You can make some-- Because they're not systematic. They weren't systematically collected. They're neither a random sample nor a total population. But there are enough of them to make some generalizations about it. He did this.

He also found, as did Harding and Fayhe, that blacks and Hispanics were disproportionately represented among shooting opponents.

There was a study done in Philadelphia. I guess it was published in the Journal of Criminal Law, Criminology and Police Science in 1963 by Gerald Robbin, who is now at the University of New Haven. He looked at 32 fatal police shootings that took place over 10 years in Philadelphia.

He got access to police department records. He found that the police officers acted justifiably most frequently and that they responded to people who had attempted to assault them.

Kenneth Clark, the psychologist in New York City has done-- well, his organization has done a study. It was a study using some of the same data that I used in 1973 and 1974.

He released it along with an open letter to the Mayor and to the Police Commissioner the day after a particularly controversial shooting-- or within a couple days after a particularly controversial shooting.

I think Dr. Clark is a very eminent individual, but he made an awful lot of-- drew an awful lot of conclusions not supported by his data in that study.

I can attack him methodologically, but I think his purpose was to bring the whole problem of police-citizen violence to public attention. He certainly did that.

31st, 1972. And they reported-- Now, this is over about a 34 month period. I don't have the numbers, but the 1971-1972 figures work out to an average of 27½. If you take the Southern Methodist University Law School figures, you find that that means that 200 of the shootings that they said occurred in 1970 or say over the 34 months that they looked at, I guess they found 352 shootings or 355 shootings.

When our police department asked them for information, we were told that 55 happened in two years.

So what I find is that departments are reluctant to let you know how many shootings happen. I'm fairly sure that they collect data on how many people they kill, but they're kind of reluctant to give you access to anything like that.

Again, this is from pretty influential-- This letter was sent out under the aegis of a pretty influential police official. Here's a little note that I have.

The other 17 departments-- I only have numbers for 16. The other 17 departments questioned-- I won't mention city names-- either did not respond to the single questionnaire item or reported that they did not maintain or, in one case, could not release these figures.

It's kind of difficult to get access to numbers like that.

BY MR. RHODES:

Q Were any cities in Pennsylvania included in that

request?

A Let's see. . .I can tell you who did. Atlanta responded. Boston. Cincinnati. Columbus. Dallas. Denver. Honolulu. Indianapolis. Jacksonville. Kansas City. Memphis. Minneapolis. Phoenix. Seattle. Suffolk County, Long Island. Washington, D. C.

The other 17 departments questioned-- Baltimore. Chicago. Cleveland. Denver. Detroit. Houston. Los Angeles. Miami. Nassau County, Long Island. Newark. New Orleans. Philadelphia. Pittsburgh. San Antonio. San Diego. San Francisco. And St. Louis. They either did not respond or said they couldn't release the figures.

Q So the two largest cities in Pennsylvania were asked and did not respond?

A Yes, right. Again, that's not unusual. Better than half the people we asked did not respond. And I would say that some of the people who did respond did not respond candidly.

Again, there are a lot of reasons for that. One of the hot issues with the whole area that you're looking at deals with the problem of civil liability. One of the reasons that police administrators give for not writing clearly defined police discretionary guidelines apparently is one of civil liability and the probability that they'll be called to answer to those things later on in a court.

BY MR. REILLY:

Q Is this also a reason why some of the departments are hesitant to conduct detailed investigations into the police shootings, internal investigations?

A Yes, I would say. In my own case-- I think New York City is a pretty progressive police department. In my own case I found that politics were much more difficult than methodology.

It seemed-- Originally I wanted to study police corruption. I made a proposal to some of the people at Albany State for a dissertation, and they thought it was great. Came to New York City and made the same proposal to a very progressive police administration shortly after the Knapp Commission hearings and went through an inquisition. They gave me an okay but not their blessings.

Two years later I thought that police shootings are pretty non-controversial, and I started to look at those. But we have controversial shootings in the city, as well-- in New York City, as well.

What I found there was that every time one of those took place, the threat was made that I was about to lose my data. So I got it all on sheets as quickly as possible and xeroxed it in Albany so that I had another set of it hidden away.

That is a little subterranean, but I think it speaks well for the objectivity of the study. The people who

authorized my study have since left and gone to other departments or are in other assignments and left me absolutely alone with the data.

The one thing that they did which kind of stifled me on: They gave me access to records of cases in which police officers had shot their wives and all sorts of sensitive information they gave. But I found that on about a third of the cases, the race of the officer involved was not included. The Department at that time maintained a printout of its black and Hispanic members. I asked for access to that printout so that I could classify these officers-- that was a major variable in my study-- so that I could classify these officers.

After having given me access to everything else, I was denied access to the race printout, which seemed sort of inconsequential-- or sort of-- My feeling at that time was that race would not show up to be a significant variable. I felt that it was in their own interest to give it to me, because it served as an organizational defense: It's true that white officers shoot an awful lot of black and Hispanic kids, but white officers are disproportionately represented in the Department.

So I felt that it was in their own interest, so it wouldn't embarrass them or wouldn't have embarrassed them. They denied it to me.

I went around the other way. We have about 400 locations to which police department checks are sent every payday.

You know, 400 commands. So I made a list of the people I was missing by command, and I called each of those commands and said that I'm Jim Fyfe and I work in the police academy and I'm conducting a study of police shootings. I'm missing a race on a few of the fellows who work in your place, would you care to give them? And they did. So I collected all that information in four or five hours. So I find that police on a one-to-one basis are not very hard to get information from.

But that was the only time they denied me access. They threatened to pull it away at other times.

BY MR. RHODES:

Q Did you find there was no variation in the shootings of whites?

A By race?

Q Yes.

A I found a lot of things that have to do with race.

Black police officers are disproportionately represented. They shoot their guns off duty about six times as often as white police officers. So we could say on the one hand, well, they run into muggers six times as often and that's why. Or, on the other hand, we could say, well, they settle family disputes much more often than police officers with their guns.

What you find is the Department's Review Board can adjudicate cases in one of six ways: They can say the

loss of pay. So those are the kind of penalties we're talking about. We're not talking about major penalties or one-year suspensions. The penalties that we're talking about are kind of minor. The police officers seem to have been very sensitive to them.

A major problem in New York City, given the size of that agency, I think, is the personnel record system. The Department now is trying to put everything it has on every individual onto a centralized computer file. But right now, if I were to try and select an individual for an assignment to a sensitive job, it would take me about five or six weeks to round up all the personnel records on him to see whether or not something disqualified him.

Q Is what you're saying: Were I a New York City police commander in a tactical situation and I had to pick officers to go out as mugging targets or to man a stakeout situation, that there would be no way for me to tell of the people I was looking at how frequently they had shot in the past or whether or not their shootings in the past had been justified or unjustified?

A Right. Most of that information is kept by the investigatory bodies on a need-to-know basis. So what you find quite often is that a commander of a sensitive outfit like this street crime unit or the narcotics division only has access to the number of arrests that a cop has made, but he doesn't know

how many of those arrests were klinkers or how often that officers has been the subject of civilian complaints, which may or may not be founded, but which all say exactly the same thing: How often he's been involved in shootings of questionable justifiability.

So he looks at the number of arrests the cop has made, regards him as an asset, and puts him in another sensitive job, and doesn't find out quite often until it's too late that the guy is at least violence prone.

Q Has it been your experience that officers are bounced around the Department from command to command, having been put in one sensitive position after another until it's found out what they're like?

A Yes, I-- You couldn't generalize. When I went through the study, I came across a few incidents in which I felt that this guy should not be in this job in specific cases. I can think of a few specific cases-- not a whole lot. But I think there are people who have been involved in questionable shootings who should never have been put in the positions which led to the shooting. If someone had had access to their departmental history and seen what they had done in the past, they would have made sure that the officer involved was running an elevator or had been dismissed from the Department. So I found a couple of those, yes.

The same deals with suicide, incidentally. I find

New York City police commit suicide twice as often as the New York City male white population. During the five years that I studied, 30 New York City police officers were killed in the line of duty. 28 committed suicide by gun. I don't know how many committed suicide by other than gun. So I would say that the New York City police suicide rate is at least as high as the line-of-duty death rate.

When you look at those records, too, it seems-- I guess this is off the track. But when you look at those records, those people generally gave some indication upon which no one took any action.

Q Is what you're suggesting that there are indicating factors present that indicate when an officer is likely to take his own life or likely to start to behave in a fashion that may cause him to take the lives of others or put in jeopardy the lives of citizens?

A Well, I'm not a psychologist. The people in the psychological services section are working on that.

I guess about 1972 or 1973 they asked field commanders for a list of people they regarded as violence prone; and the psychological services section came up with a set of criteria which had to do with numbers of civilian complaints, vehicle accidents, prior shootings, lost time due to line-of-duty injuries. So they tried to identify those people and monitor them closely.

Right now-- I wrote a chapter in the dissertation on suicides. My observation is that-- and I don't have enough to come with any statistically valid conclusions. But police officers who are disenchanted both with their home lives and with the job are the guys who are most likely to commit suicide. The psych services section is trying to identify some patterns of behavior that immediately precede suicide. The kind of things they've identified so far aren't very helpful, because it seems that I do them two or three times a week.

I think they're very general. Beware of the officer who gives away his valuable possessions, because that means he's not going to be around very long. That type of thing.

The Department maintains a number of honorary psychiatrists to whom the psychological services section refers people, I guess, who have especially deep problems. From what I understand, the psychiatrists are very reluctant to label anyone or to remove his gun because they feel they're stigmatizing him for the rest of his life. The indicators are kind of general and would probably apply to most of us.

BY MR. RHODES:

Q Just to clarify your point about suicide. You said that the death rate from suicide in the New York Police Department for the period you studied seemed to be equal to the death rate from gun incidents; is that correct?

A I said that there were 28 shooting suicides and one

attempt. So 28 shooting suicides or 30 line-of-duty police officer deaths.

Q You said that was higher than the rate of suicide among white males?

A Yes, which is population from which most New York City police are taken.

Q That's what I'm driving at.

A Yes. It's about twice as high.

Q Does this suicide rate include the entire police department or just white males in the police department?

A No. It includes the whole police department.

Q You're saying the proportion of white males is so much larger in the police department that as measured against the suicide rate amongst white males generally in New York is an actual comparison?

A Yes, I would think that's fairly close.

I think there was one black police officer suicide and another that's questionable. The grand jury-- or the detective seems to feel that the officer's wife had done it. There's one, possibly two, black officers who committed suicide. The one who is generally considered to be a valid suicide was an officer who commanded a vice unit, which just about the whole outfit was indicted by grand jury. He committed suicide the day the indictments came down. So there were three officers in the city who committed suicide after being implicated in some corruption

scandal.

I have some more. One of the things I found-- and this is a recommendation, also. In 1970-- I guess everybody is familiar with Serpico and the film in the way Serpico was shot. That film-- Again, the depiction of that incident may or may not have been valid. But Serpico was shot. He was one of the first people in my study. He was shot in January or February of 1971. He was shot, as you may recall, if you've seen the film or read the book, when a narcotics dealer slammed a door on his head and shot him in the face.

Around that time the New York City Narcotics Division was requiring its personnel to make four arrests a month. You had to make four sale arrests a month. What that meant was that people like Serpico were going out and busting nickel and dime drug dealers four times a month.

The New York State Investigations Commission did some hearings on that policy in 1970. They came up with some very interesting numbers. This is not a cost beneficial endeavor. They analyzed the undercover narcotics buys-- undercover heroin buys made by the New York City Police Department in 1970.

They said that in 1970 the police department made something better than 7,000 direct undercover heroin buys, this special investigations unit, Narcotics Division. Something in excess of the 7,000 direct sales. And as a result, they made better than 5,000 arrests. Quite often they'll buy from the same

individual more than once. They made better than 5,000 arrests, better than 7,000 sales.

The total weight of heroin seized in all of those sales, which includes the milk sugar and quinine and everything else, was something less than five pounds. It was 4.97 pounds.

So the State Investigations Commission said this was kind of silly, particularly when someone could walk into the property clerk, sign out 270 pounds of heroin and 90 pounds of cocaine all in one shot. That was the French Connection thefts.

So as a result of that, the policy was changed, and the Department stopped chasing nickel and dime peddlers.

Q How many police officers were injured seriously and/or killed making those 5,000 arrests?

A Quite a few. And again, you're talking about a small outfit. You're talking about an outfit that at that time would probably have 55 or 60 people. They were shot on a pretty regular basis, and they were shot very much like Serpico was shot. Their heads were slammed in doors and they were shot in the face.

BY MR. REILLY:

Q Weren't they frequently shot-- Really, the nature of that business is that one group is always ripping off another group? I'll bet that many times people weren't aware they were shooting police officers.

A No. Those shootings came later. Most of the

police officers who were involved at the Serpico era now-- we're talking about the four felony arrests a month-- weren't making buys big enough to make a rip off worthwhile.

The largest buy made in 1970 by the New York City Police Department was $800. And that was a buy from a detective who was a narcotics dealer. So they were out to get him.

The next largest buy was $35. The rest were all $5, $10, and $15 buys.

In 1972-1973 the Department started chasing highers up. That's when the rip off shootings came about. They were much less frequent. Those were the $100,000 buys, the $150,000 buys.

I think that narcotics deployment-- The point I'm trying to make is that if you tell someone he should go out-- And in New York State, the sale of heroin, a nickel bag sale of heroin will draw you a life sentence with no chance of parole. Killing a cop in New York State will draw you a life sentence with a chance of parole after eight years. So if you're being locked up for a sale of a nickel bag, it's worthwhile to shoot the cop.

BY MR. RHODES:

Q There's an incentive to shoot the cop?

A Yes. He comes out ahead if he shoots the cop. The cop can't testify that he made the sale, either.

The point that I'm trying to make is that if you

send police officers out to deal with nickel and dime people four times a month, an awful lot of them are going to get shot. If you concentrate your attempt on people at upper levels where the cost benefits as well as the benefits in conserving your manpower resources are a whole lot better, you find that police officers less frequently get involved in shootings.

So what I'm trying to say-- the generalization that comes out of all of that is that there are an awful lot of deployment practices that impact upon the possibility that a police officer will shoot his gun.

Again I would go back to that stakeout squad. As Dailey points out, it was almost automatic. Anyone who went into a store and held it up while the stakeout squad was there-- and it reflects not negatively on the stakeout squad at all-- had to get shot. Because if you're sticking up a store and someone yells at you, you're going to turn around. When you turn around, you're facing him with a gun and you have to get shot. You have to get shot. So that's another deployment practice.

Another thing I feel pretty strongly about in New York City, at least, is that off-duty guns should be an option.

The off-duty gun in New York City is something that generates disproportionate numbers of shootings, unjustifiable shootings or shootings of questionable justifiability. So I would make that an option and not mandate it.

BY MR. REILLY:

Q Did you make a change during this time period in what officers were allowed to carry as off-duty firearms?

A Yes. In about 1970 or the late 1960s, a lot of police started carrying second guns. Since 1963 when I've been on the Department, New York City police have been permitted to carry on duty a Colt or a Smith and Wesson .38 police special revolver with a four-inch barrel. And they've had the option of carrying a Colt or a Smith and Wesson off-duty revolver with two-inch barrel. They could carry that off duty. It's a lot more convenient. It's still kind of bulky.

I would say in the late '60s and in the '70s, a lot of police officers started carrying second guns. I, for example, have a .25 Colt automatic, which I found much more convenient to carry around than my .38. I could throw that in my pocket, and nobody even knew it was there. I could carry it on duty in my pocket, and nobody knew it was there.

I didn't carry it to plant on someone I shot. I don't know any police officer who does that. I think that since the Department and-- Well, since the firearms regulations in New York are probably the stiffest in the nation-- and the Department knows very well where that gun came from. It has serial numbers on it. It's my gun. There's no hope of ever planting it. But it sort of made me feel good to have a second gun in my pocket. A lot of other people do the same thing.

And there have been instances where police officers were disarmed and shot people or managed to resolve the situation successfully without a shooting by using their second guns.

It made me feel comfortable. A lot of other cops felt the same way and started to buy all sorts of freaky little guns in which they were not trained. A lot of cops were carrying over and under derringers and .25 automatics. They had been trained very extensively at the firing range in handling .38's. What you found that time or what I found during the study was that an awful lot of these guys were shooting themselves with those guns, because they didn't know that they were cocked, or they would carry them in shoulder holsters and they would discharge. When a fellow raised his arm, it would shoot him in the armpit. So there were an awful lot of accidental shootings of police officers by themselves using those guns.

Of course, the allegation is always made that police officers carry those to plant on people they've shot. In 1973, I suppose-- Yes, in fact it was. In the first change of the discretionary guidelines we're talking about, there is a paragraph that said that police officers can only carry one of the two .38's. They can't carry .25's, derringers, anything else. They can't store them in departmental lockers, and they can only use them at authorized firearms ranges. So a lot of cops still have those things, but they're verboten unless you have permission

because of a special assignment, an undercover assignment.

As a consequence of doing away with that, the numbers of accidental shootings of police officers by themselves involving those guns has gone way down.

One last comment, I suppose. At the end of my study I said something about of a thing that bothered me the most was that race was the major variable in talking about police officers or talking about opponents who were shot or shot at. I think something that all city administrators have to consider is this: A consequence-- I think most of the black community and most of the black police officers, given the society that we live in, would like to have black police officers working in black communities. Given the society that we live in, black communities are more violent than most white communities. That's not a racial comment; it's because this is probably a racist society, and we all have the social problems that engender those crimes.

What happens when you put black police officers in black neighborhoods is that they're going to get involved in a disproportionate number of police shootings and they're going to be hurt disproportionately and they're going to be involved in a disproportionate number of the controversial police shootings. That's the case in New York City, now.

So we get into a trade off, which seems to me a few years down the line may start people talking about using black

officers as cannon fodder and things like that. The point I'm trying to make is that the partial consequence of assigning black officers to black areas is that administrations and police administrators and the community have to be aware that black police officers are going to get involved in more and more of the incidents of police - citizen violence.

BY MR. RHODES:

Q Just to clarify that point for a second, and excuse me for interrupting.

Does your study indicate that while black police officers are more involved in off-duty shootings, are they more involved with on-duty shootings than are white officers also assigned to black communities.

A Okay. If I can look up a table, I'll give you the numbers on it.

Q Do you understand my question?

A Yes, I do. They are, and I'll show you what I found, at least.

Basically, here's what I found. . .I'm missing something. I'm not sure that this is the right table.

BY MR. REILLY:

Q How many pages is that dissertation?

A It's about 750.

Q Is it possible for us to get a copy of that?

A Yes.

What I found was that overall 98 out of every 1,000 white New York City police officers discharged his gun during the five years that I looked at. So that's a rate of 9.8 to 100. 98. The black rate is 130. The Hispanic rate is 118.

So black officers on duty and Hispanic officers on duty are involved in shootings-- and it's a statistically significant difference there. Off duty it's much more significant than that.

Q Limiting it to on duty, the next question is: When you correlate those numbers with assignment--

A Okay. If you correlate them by rank. If you correlate them by rank, that was the first thing that I looked at. I eliminated the supervisory officers. You find that black and Hispanic officers are under-represented in the supervisory ranks. And supervisory officers don't shoot their guns very much. A disproportionate number of us work in places like the police academy, so that explains some of the difference.

And if I look at only the police officers and detectives, the enforcement personnel, what you find is that the differences sort of disappear. For example, I had hypothesized or I had laid out eight command types. I felt that these had varying potentials for shooting.

An officer who works in a quiet, suburban, outlying precinct is much less likely to shoot his gun than a cop working

in central Harlem. Okay.

So the New York City Police Department had broken its precincts down into three types: A precincts, B precincts, and C precincts. They're high hazard precincts, medium hazard precincts, and low hazard precincts. It's a scientific formula which is based on a regression equasion which includes: calls for services, indoor crimes, index crimes. So that we have these three different precinct types.

I also felt that cops assigned to narcotics or anti-crime jobs, the decoy jobs, were very likely to fire their guns.

I came up with eight of these, which included staff, the officers who are least likely to fire their guns. And what you find is that the differences disappear.

For example, in the A precincts, which are the most hazardous precincts as far as the Department is concerned, you find that 197.4 of each 1,000 officers there has fired his gun during the five years that I looked at. So that's one in five. 97.4. Among white officers the rate is 196.5. Among black officers it's 198.6. Among Hispanic officers it's 210.2. So that's pretty close.

BY MR. RHODES:

Q So it's visibly similar, almost identical?

A Yes.

What I'm saying now is, gee, if you look at it,

you find that black officers and Hispanic officers are over-represented among shooters; but when you control for where they work and the type of duty that they do, those differences disappear. So my feeling is that a white officer is no more likely to shoot than a black officer and vice versa. It's where he works that determines the likelihood that he's going to fire his gun.

Q Thank you very much.

I want to thank you very much for your extensive testimony this morning, Lieutenant Fyfe. I'm about to open the questions up to the members of the Sub-Committee.

You've covered a lot of information which will be very helpful to us as we go on in our investigation and certainly in our looking at specific cities.

Before I open the general questioning, there is just one question I have. It's a statistical question. I'm sure we're going to be asked this a lot as we try to compare your results with other results, especially your reduction in shooting deaths as a result of the imposition of the Firearms Review Board.

Did you test for. . .how would you say it. . . I'll put it in common language. Is New York City more violent as a police working environment than other cities? Would any other city in the United States be able to lay claim to the dubious honor of being a more violent, more dangerous city to work in as

a cop than New York so that people could say well, they reduced it in New York, but things are much rougher say in Broad St. and Spring Garden St., to show you one bias that I have?

A Okay. I think that's a really tough question to answer, because New York is a very heterogeneous place and because you can't get numbers from a lot of other places.

I think if you look at areas in New York City, the 28th Precinct is the Harlem precinct. That's the Central Harlem precinct. I looked at that. I had some numbers on that. I was comparing two precincts. What I found in the five years that I looked at, in that precinct there was one homicide for every 1.3 acres. That includes streets. I think that's a pretty high figure.

Q Annual?

A No. Over the five years. One homicide for every 1.3 acres of area. I think it worked out to about one homicide for every 200 residents. That's a lot in five years.

Q Is there any city you think in the United States that can lay claim to a more violent precinct than that or is a statistically significantly more violent place?

A I don't know. When I first started this, my boss said, "The thing that you have going for you is that data accumulates very quickly in New York City." He was right.

There are other places where there have been hardly any shootings. Let's see if I can come up with some

figures on that for you.

Q The thrust of my inquiry is that--

A Yes, I would think that other big cities are just as busy. The 28th Precinct and probably parts of the South Bronx, I would say, are as violent as anyplace in the United States.

I don't know generally whether the chances that a Washington, D.C., cop or a Philadelphia cop is going to get involved in a shooting may be higher than they are in New York. Some cops in New York work in places where they could ride a horse to work. Other cops in New York work in places like Harlem.

The thing that always bothers me is that cops in different areas of the city make the same money.

It seems to me that a cop in Staten Island has a much less demanding job than a cop in one of the inner city areas.

I really can't answer your question. I would say that areas of the city are as violent as anyplace in the country.

MR. RHODES: Thank you.

I'd like to open the questioning now for the next 20 minutes to the committee.

Members of the committee, do you have any questions?

Representative White.

BY MR. WHITE:

Q Lieutenant Fyfe, during the course of your study, was there perceived to be a police violence problem in the City

of New York?

A Yes, there was. Again, it's generally precipitated by one of two incidents. But there was, yes. There's been an awful lot of press about it, that that problem or the perceived problem was the reason for my difficulties in getting access to the data from time to time.

Q In saying that you had some difficulty in getting adequate information, would that have been implying that the attitude-- Let me rephrase that.

What was the general attitude of the leadership of the City and the leadership of the Department during that particular time? Did they recognize and admit that they had a problem indicated in some of the studies you were getting into?

A I think they approached it in a very funny way. The Department is a very conservative and defensive organization. Dr. Kenneth Clark--

Q Everywhere you went?

A Yes.

It works the other way around, too. For example, Kenneth Clark, whom I'm sure you know-- the black psychologist-- released a study that I talked about a few minutes ago. One of the things that he said in it was that during the couple of years that he looked at, only one black New York City police officer had killed a white man but more than half the blacks and Hispanics killed in New York City were killed by white police

officers.

He said, ergo, it's a genocidal plot and New York City police officers do not respect the lives of black and Hispanic youngsters, and that's beyond statistical significance.

When I read that, it's just not supported by what he found. Now, if you say that more than half of the black and Hispanic youngsters killed by police in New York were killed by white police officers, that means that slightly less than half were killed by other than white police officers.

Now, since at the time he studied the New York City Police Department was 92 percent white, that meant that 8 percent of the Department was black and Hispanic officers, and they were killing almost half of the black and Hispanic kids.

BY MR. RHODES:

Q Didn't you just say he said that only one person was killed by a black officer?

A One white person.

Q Oh, one white person. I see.

A One white person was killed by a black police officer during the couple years that he looked at, and more than half the blacks and Hispanics were killed by white officers. So that leaves slightly less than half of the blacks and Hispanics were killed by black and Hispanic officers. Only 8 percent of the police department is black and Hispanic.

So he sent that to the Times and to the Mayor and

to the Police Commissioner. It was valid in that it raised the issue, but the statistics were not appropriate at all.

The man who authorized my study was the Chief of Personnel. And this was at a time before he authorized this study. In fact, it was at a time when we say Twisted Tom got him to authorize it. He held a meeting of all the staff unit heads within the Personnel Bureau the day before he and the Police Commissioner and some other officials were to meet with Clark in response to Clark's comments. He just wanted to be briefed on what we were all doing to try to minimize police - citizen violence within the Personnel Bureau. Everyone told him. He had gone around the table.

After he went around the table, he said, "Does anybody else have any comments?"

So I said, "Yes, Chief. I do. I think you're being very defensive. And I think you should tell Dr. Clark that you agree with his assertion that we can do more to reduce police - citizen violence and we'll be willing to accept all the help we can. But the conclusions of your study are not supported by your data."

He could not respond that way. "I can't tell the man that." It seemed to me that he should have.

It seemed to me that the police department owed it to its members and to the City to respond to Dr. Clark's study in the first instance.

I guess in response to your question, yes, it was made difficult for me to get access to the data, and that was because there was a perceived problem of police violence. The Department, I think, is regarded by its members as not having done enough to put that in its proper perspective.

BY MR. WHITE:

Q I raise that question because the City of Philadelphia has been told by the Mayor and by the Police Commissioner that there is no problem with police abuse, that there is no police brutality in the City of Philadelphia.

It just seemed to me that it would make it rather difficult to begin to develop a solution to a problem when you refuse to recognize that the problem exists. That was why I raised that point.

The second question: All of your testimony has centered around shootings and use of firearms. I think that there's another aspect to police abuse and police brutality that is not touched on very much, and hopefully we will touch on it through our hearings. That is in regards to beatings during interrogation, beatings prior to arrest or during arrest.

I'm very curious as to whether or not you compiled any data in regards to that. Secondly, what procedures individuals would go through to report a criminal violation of your rights by a law enforcement officer in the City of New York.

A Okay. No, I don't have any data on any beatings

of suspects or defendants. I don't have that. I have assaults upon police officers. My own experience would indicate that it doesn't happen. Now, you can take that as you may, because I'm a cop in the city myself.

Right now we have a major investigation into the death of a black community leader during arrest. That involves, from what I'm told-- and it's in front of the grand jury now-- that involves death by strangulation, which was caused by a single blow to the throat. So we're very much like Philadelphia, I suppose, in that regard. It's in a very sensitive area in the black community which is half black, half Hasidic Jews. And the blacks have had friction for many, many years. The Hasidim have their own patrols, neighborhood patrols. Now the black community is doing very much the same kind of thing. Witnesses have appeared from everywhere to testify on this case.

So we have that. If you pick up the Times, it's in the Times every day or the Daily News.

Q How does someone report a complaint?

A Someone who wants to make a complaint against a New York City police officer can do it to any police officer or make it to any police officer in any way: over the telephone, in person, at any police facility. Or he can stop a cop in the street.

Q Step by step, what does that police officer do once that complaint has been filed?

A Okay. If, for example, I were an officer on patrol and you wanted to make a complaint about another police officer to me, I would take you to the stationhouse. The forms--

Q Why would you take him into the stationhouse?

A Okay. A lot of people will refuse to go.

Q Do you know any reason for taking him to the police station?

A No, I wouldn't-- Because it would facilitate matters. I would take him into the stationhouse because what we usually do is request an individual to fill out a civilian complaint form. If he doesn't fill it out or if he refuses to fill it out or if he doesn't want to accompany me to the station, I have an obligation to fill it out myself.

If an individual wants to make an anonymous telephone complaint or an anonymous complaint in person, I have an obligation to fill that form out.

In answer to your question, if I were to get it on patrol-- Let's say that you wanted to make a complaint, "Officer X did this to me."

"Well, why don't we go into the stationhouse. We'll fill out the forms."

Or it's, "I know what you'll do, you'll call Officer X and he'll come lock me up and say I escaped," and so forth.

No, I'm not going to do that. My obligation then

would be to go into the stationhouse, complete that form, make a telephone notification to our Civilian Complaint Review Board. They would handle the investigation of that complaint.

Q Who sits on that Civilian Complaint Review Board?

A That was a matter of great controversy in the mid '60s. We got a Philadelphia police commissioner, I guess, solely on the premise that he could work with one.

It's a compromise. It's civilian members of the Department.

Q Civilian members of the Department?

A Civilian members of the Department. The Deputy Commissioner of Community Affairs. The Executive Director of the Civilian Complaint Review Board. I guess the Deputy Commissioner for Legal Matters. There are about six or seven members of the Department, all of whom are civilian members of the Department, which seems to me a semantic difference, since most of them are former police officers.

BY MR. RHODES:

Q Who are they appointed by?

A They're appointed by the Police Commissioner.

BY MR. WHITE:

Q By the Commissioner?

A Right.

BY MR. RHODES:

Q Before we get too much in the train there, there's

a question that occurred to us: When the citizen files a complaint, if he'd choose not to be anonymous, is he given a receipt of the complaint?

A He's given the number of the complaint.

There are a lot of interesting controls. The Internal Affairs Division in our Department runs controls on whether or not-- They run tests on whether or not the complaints are processed. They have an awful lot of problems with our PBA doing it.

I listened to some tapes. They tested about a hundred police facilities. They called in-- I listened to tapes of telephone conversations. They would have an individual call.

One I heard which resulted in a disciplinary action against the officer involved, involved a man who said that he was driving home after finishing a 4:00 to 12:00 on a Saturday night, and he pulled over to the side because he was tired. He hadn't been drinking.

The police car pulled up behind him, came out, asked him for his license and registration.

"What for?"

"You're drunk. Go get a cup of coffee, and we won't lock you up."

So the man said, "I did. But when I came back my car keys were gone. The car was still there and my car keys were gone."

"I went home and got my wife's car keys and brought them back, and we took my car home. But the next day when I checked, I opened my trunk and found that all my tools from work were gone. And the cop had to do it. It had to be the cop."

So the cop who was handling the call objected. "You mean, the man gave you a break and now you want to make a complaint against him? He didn't lock you up, and now you want to make a complaint against him?"

"That's right. I want to make a complaint against him."

"Well, why don't you come in here and make the complaint? He gave you a break last night. He'll be here when you come in. Maybe he'll lock you up now."

And the police officer hung up.

That was the officer's response to this phone call, which was a test being conducted by the Internal Affairs Division to see how these things are processed.

Q Is that a surreptitious test?

A Yes.

Q So the officer who was responding didn't know he was-- This is not a routine thing to report these things?

A No, not a call on a civilian complaint. But from time to time like periodically, all the departments' Field Internal Affairs Unit as well as the Central Internal Affairs Division conduct these tests.

And I've gotten them on the phone. People will call the police academy and make a complaint. There's really no reason to call the police academy. It doesn't seem logical to me to call the police academy to complain about what an officer in the Bronx did. You know, someone far away. It seems to me that you would call the precinct that you knew or you would call police headquarters.

Q In other words, this is a police officer calling in to complain?

A Yes, it was a cop calling in a complaint.

Q Pretending that he was--

A Pretending that he was a civilian.

Q Oh, I didn't get that.

A Do you see that?

Q Oh, I see.

A He was calling in a complaint pretending to be a civilian.

Q I see.

A The conversation was taped.

Those are checked on now.

BY MR. WHITE:

Q What happens after that complaint? You interview the complainant, you fill out the form, the form is then given to the Civil Complaint Review Board?

A Right.

Q What do they do with it from there?

A Okay. If it's a serious allegation or an allegation which they think can be substantiated, they will handle it themselves.

Q When you say they will handle it, what does that mean?

A It means that they have quite a large staff of investigators who are assigned.

Q How many?

A I guess there are about 200 people working in the Civilian Complaint Review Board.

BY MR. RHODES:

Q Are those investigators sworn police officers of the police department?

A Yes, they are.

Q On assignment to this unit?

A Yes.

So they'll investigate, compile a folder. It operates in very much the same manner as the Shooting Review Board does. I can speak with much more authority about the Shooting Review Board, you know, and say that they're very thorough. I imagine that the C.C.R.B. is equally as thorough.

They conduct an investigation. The results of the investigation are given to the members of the Civilian Complaint Review Board, who can decide to dispose of the case in

several manners: What the officer did is unsubstantiated. It's unfounded. Or it's founded and the police officer should be disciplined. Or criminal charges should be brought against the police officer.

BY MR. WHITE:

Q They don't file charges themselves; they make the recommendation to someone?

A Yes. They make a recommendation to the Police Commissioner that charges should be filed against the officer in this case.

So the Police Commissioner-- If it's a minor type of violation, the Police Commissioner can refer it back to command for disposal at a local level.

A good friend of mine who is the Department Advocate, the prosecutor for the police department's trial room, which is very much like a court martial type of arrangement, tells me that the Civilian Complaint Review Board is his biggest customer. They bring more cases than all the internal kinds of disciplinary operations and supervisors do.

Q Does the Commissioner have anything to do with that recommendation? Does he have to do anything with it?

A No, he doesn't have to do anything. I've never heard of a case where-- He's a rubber stamp in that case. I never heard of a case where he said, "No, I don't accept your recommendation." I've never heard of a case in which he's turned

down the recommendation of the Review Board.

MR. RHODES: Before we go on, let me acknowledge the presence of Representative Aljia Dumas of Philadelphia.

Representative Frank Oliver, who is also in attendance at the Sub-Committee hearing.

Representative Stewart Greenleaf from Montgomery County.

Representative Steve Levin from Philadelphia County.

Did I miss anybody?

Go ahead, Representative Dumas.

BY MR. DUMAS:

Q In your opinion, do you feel as though a citizen could get a fair and unbiased investigation in reference to his complaint?

A I have about 14 civilian complaints against me. I've decided that people who are 6 foot 7 and weigh 240 pounds can't look good locking up 135 pound guys.

Yes, I think you can.

The last civilian complaint I got is a good example. I was driving home off duty at 51st and 3rd Avenue at 20 after 4:00 in the afternoon, which is an absolute madhouse.

A fellow hit me in the back-- struck my car in the back. I had a small car. He knocked me into the car in front of me. We got out. The traffic light had changed. We got out and

talked about it.

I said we should cross the intersection because we're blocking traffic. He said fine.

I pulled across the intersection, and he made a quick right and took off. But he was dealing with a bully.

I chased him down 51st Street. I thought that he had a stolen car, because I had his plate number. I chased him down 51st Street in the height of the rush hour. I finally succeeded in forcing him to the side of the road. I thought sure that he was dirty, that I had a stolen car.

I got out of my car, pulled him out of his. Placed his hands on top of his car. At that time two CSO's-- the Model City Police Cadets. We have them in New York City. I don't know whether you have anything like that in Pennsylvania. They were just leaving a building across the street. They saw me, and I identified myself. I asked them to call for help but that there was no emergency.

Two nice little old Irish ladies came down the street and wanted to know what I was doing. I told them. I said, "I'm a police officer. He hit me and took off." We had a nice amicable conversation.

A radio car responded. I handcuffed this guy and had searched him. We took him to the stationhouse. No force was used on him except that I pulled him from his car.

It turned out that he lived in New Jersey and

shouldn't have been in Manhattan. That's the only reason he ran. He shouldn't have been in New York at that time of the day.

While I was booking him, one of the little old Irish ladies called up and said, "I want to make a complaint against a police officer."

The complaint that she made said that, "I saw a police officer pull a man from his car, search him, handcuff him, put him in a radio car and drive away with him." That's the procedure that I was supposed to follow. And those were her words.

The desk officer took that complaint, read it back to her. Then he called the Civilian Complaint Review Board, gave them the allegation. Got a number and called her back and gave her the Civilian Complaint Review Board number, which is the procedure.

The Civilian Complaint Review Board called about ten minutes later. They had called her back to confirm that they were going to conduct an investigation. Her husband had said, "She's a damned busy-body. Why don't you forget about it."

The complaint which said that I had followed department procedures and which, even if unfounded, was negative was investigated.

So anything is investigated, and I think they're investigated pretty thoroughly. Again, I could speak better for the Firearms Discharge Review Board. They're really thorough.

Q Oh, I'm not questioning that. I'm sure you're honest about what you said.

I find it to be very convenient for a police officer to have the impression of a stolen car or some violation of the law other than being involved in an accident.

But I'm sure that wasn't your purpose.

A No, no. He fled.

MR. RHODES: Representative White.

BY MR. WHITE:

Q Did you discover or uncover police officers who were involved in more than one questionable shooting?

A I found police officers who were involved in shootings that I would question that apparently went through the grand jury with no problem.

The review procedure is something that happens sometime when it's too late, I think. There should be some preventative measures. I don't know just what those should be.

Yes, I did. I found police officers involved in more than one questionable shooting. I found police officers whose guns had been removed by the department surgeons and psychologists who had the guns returned-- psychological instability or something-- who killed their wives and mother-in-laws three weeks later.

So I did find that. I'm not sure what to do about it.

Q The New York City Police Department I'm sure had various counseling programs for officers?

A Yes.

Q Drug, alcohol, and family counseling, something of this sort?

A Yes.

Q Is there any such program set aside for shall I say those officers who have questionable violent tendencies?

A Yes, I guess the Psychological Services Section is the outfit that handles most of that. They spend an awful lot of their time dealing with that. A great percentage of their time deals with that.

Q In order for someone to be referred to them, do they have to be involved in an instance of a questionable shooting or beating?

A No. They can be referred by their commanders, by themselves, by their family, by their colleagues. It doesn't necessarily involve previously reported brutality. As you pointed out before, there may have been brutality that was not reported or that people know about and are not willing to identify themselves when they make a referral. But they can be referred that way.

Q The point of the question, Mr. Chairman, stems from the fact that I think that we are about the business of developing solutions to what we think is a very serious problem in the

Commonwealth of Pennsylvania.

I think that the experience that Lieutenant Fyfe has had in New York in regards to the Civil Complaint Review Board or the Shooting Review Board and the data that he has compiled is, I think, something that we hope we can find useful as we continue in our deliberations.

I would have no further questions.

MR. RHODES: At this point it's 12:30. If there are other questions by the Sub-Committee to our very distinguished and helpful guest today, I'd like to recommend to the Committee that we continue until we exhaust our questions and our guest or we suspend for lunch and start the afternoon session with Lieutenant Fyfe.

(Discussion off the record.)

MR. RHODES: Other questions from the Sub-Committee?

Representative Richardson.

BY MR. RICHARDSON:

Q In your remarks today, my concern is, number one, has there ever been a study made by you in relationship to anything in Philadelphia as a city concerning police violence and police shootings?

A One of the best books I've read about the police is set in Philadelphia. It's called City Police by Jonathan Rubenstein. That doesn't deal with police violence specifically, but it deals with the whole patrol operation. I think that's

a fine piece of work. Again, I can't speak for its authenticity. It rings true to me. It sounds very much like the New York City Police Department in some ways. That I think is a fine piece of work.

The only thing I've seen in Philadelphia that deals with police violence specifically is Gerald Robbins' 1963 article on police homicides. I think it's called Justifiable Police Homicides. It's, in general, criminology, criminal law, and police science in 1963.

Q So you really haven't done a comparison to be able to really give us an intelligent answer based on any scientific study that you've done?

A No, sir.

Q The second question: Do you know what the training procedures are for the New York police?

A Yes, I do. I've been involved with them for five years now.

Our recruit training curriculum was revised in 1973 following the recommendations of a study that had been done in '69 and '70, a federally funded study. That recruit training program is broken down into three areas: police science, which deals with the nuts and bolts of policing and procedures, et cetera; law; and social science. A third of the recruit curriculum is devoted to social science.

The basis of that-- Most of what we spend our time

on there is the concept of a police officer as someone who intervenes in crises and someone who, regardless of his prior experience, is not going to be experienced with all the types of people who live and work in New York City. So a good part of that is spent on making him aware of cultural and ethnic differences.

Another part of it is his role as a crisis intervener.

The law part of the curriculum is based on the idea that a police officer is a decision maker in the street, and he has to know when a crime has been committed. He has to know how much force he can use when different crimes have been committed. He has to be aware of the basis of authority for his actions. The Bill of Rights. How far he can go. He has to know when he can search. It's the law that the police officer needs. That's a six-month program. It's about a 26-week program.

That's followed by a two and a half month internship in which the police officer is assigned to a field command and works with several training officers, each of whom evaluates him either daily or weekly.

That's the recruit program. We're very proud of the fact that the State Board of Regents has evaluated that as the equivalent of 35 credits, undergraduate college credits.

His training goes on on a regular basis. He

attends at least five days a year of area level training, which is training on topical subjects that are suggested to us by field commands and others.

Whenever he's assigned to any sort of a special detail, he's given another training course to prepare him for that job.

He spends two days a year in firearms training. I guess that's probably most relevant to what you're talking about or one of the more relevant programs for what you're talking about right now.

When I first came on the job in 1963, the firearms training consisted of shooting at bull's-eye targets at some distance, and it wasn't very much related to what's going on in the real world. The program has been changed considerably. The shooting part of it has been changed to hip shooting at 7 yards and 7 feet, close-up kind of shooting, officer survival-type of shooting. A large part of the program-- I'd say better than half-- doesn't consist of shooting. It consists of officer survival.

Last year for a grand total of about a hundred bucks, the staff at the police academy built an apartment which is based on-- it's set up with trap doors that swing open and people who attack you with knives and people who suddenly appear but who are good guys and not bad guys. Two police officers at a time go through that and try to make it through alive. They go

through under the notion that they've gotten a call that there's a man with a gun someplace in that building. Nobody gets out alive. About 98 percent get killed in there.

The idea is that your gun is not going to help you in those situations, and you have to be very careful and not expose yourself to situations in which you're going to have to use your gun.

BY MR. RHODES:

Q Is this a program only recruits are exposed to, or is there continuing education or on-duty training of officers?

A Yes. It's in-service training.

Q In-service training, that's the term. In-service training for regular officers who have already survived as policemen?

A Yes. I did one based on this. It was called Avoiding Reflexive Response that dealt with response to shooting situations. That was on videotape and was a multi-media type of program. Videotape situations. We laid out a couple of concepts which we felt would help reduce police - citizen violence.

Basically they had to do with the officer knowing as much as possible about the situation before he became involved in it and concealing himself or concealing his identity in some way before he committed himself.

(Discussion off the record.)

BY MR. RHODES:

Q Can a person flunk this?

A That's a problem; because once someone has been appointed a permanent employee, it's just about impossible to get him out. Probation in New York lasts for about a year. We find that field commanders especially are kind of reluctant to take action to dismiss someone. You really can't flunk it, because it's ungraded, the in-service stuff.

One of our big problems is trying to get people who are already tenured and don't feel that they have anything to lose a stake in some of our training. So that is a problem.

Q What if you find a young recruit who goes through this-- Half the training is on how to survive and how not to stop the surviving of what you've called opponents who shouldn't be stopped?

A Right.

Q What if you find a recruit who just can't hack it? What do you do then?

A Well, that's an interesting thing, too; because a lot of things led to the curriculum revision in 1973. For example, when I came on the police department in 1963, I entered with about 450 or 480 people. Only one fellow was dumped. Only one fellow didn't make it through probation. That was because he shot someone in a bar at 3:00 o'clock in the morning. Everybody else-- and I'm sure that there are unstable people among

our squadron in the police department today-- everybody else got through. So the Department felt pretty strongly that because of a lot of equal opportunity legislation and because of past departmental tradition-- once he's a cop, we don't hurt him-- there are an awful lot of screwy people coming through the police academy. We should screen them out at the academy.

After the curriculum revision in '73, we were. We were screening out 18 or 20 percent of some of the recruit classes or they were dismissed.

And they were dismissed for a lot of reasons; for academic failures, for disciplinary failures, on the recommendation of instructors, on referrals to the psychiatrist or the psychologist. I don't know what percentage-- Under New York State law, the Police Commissioner only has to specify that, "I'm dismissing you because of your unsatisfactory probation." There are questions on litigation. So I'm not sure how many. There's usually one course. He's unstable or he's an academic failure or he's a disciplinary problem. I'm not sure just what the breakdown is.

I would say that during my tenure at the academy when we ran through about 3,000 people, several came to my attention who were unstable and who were dismissed.

MR. RHODES: Thank you, Representative, for allowing me to amplify my question.

Representative Richardson.

BY MR. RICHARDSON:

Q So those that go through that particular training process are, in your estimation then, equipped and ready to come onto the force to do the job they're supposed to do?

A Well, I have problems with that, too. No, they're not. Again, I came across shootings where I thought that they were questionable or that the people involved had really checkered pasts. So that would suggest to me that no, they're not. There's no fail-safe screening program.

Q What are the qualifications of a police officer in New York?

A That's a difficult question to answer because we haven't hired any since '74. The last test that was given required that people be in good health. There are no minimum height requirements. Pass a written exam. Pass a character examination. Pass the physical exam, and pass the medical examination.

Q And anyone can apply?

A There is an age limit. I think the maximum age is-- on your 29th birthday you're ineligible, except that they include your service time. So that, for example, if you were 32 but had spent four years in the Navy, that wouldn't be included.

BY MR. RHODES:

Q Does the mental include a psychological?

A Yes. The tests that they give before you enter are the Otis IQ tests and the MMPI, the Minnesota Multiphasic. We've gotten a few tests that other police agencies have experimented with.

I think the Detroit Police Department had some sort of psychological exam, and Cornell University developed some sort of exam. But I don't think that they have enough experience to make them statistically significant.

BY MR. RICHARDSON:

Q What is the population of black officers to white officers or white officers to Hispanic officers in New York?

A I think about 11 percent of the Department is black and Hispanic. It probably breaks down to something like 8 percent black and 3 percent Hispanic. There are a few others-- Orientals, for example-- but there aren't very many.

Q And administratively in terms of chiefs of police, chief inspectors, et cetera, how many would you say are minorities?

A Okay. Our deputy commissioners are civilian appointees. My experience has been that there are some deputy commissioners-- for example, the Deputy Commissioner for Community Affairs-- who is traditionally black. There are others who are traditionally Jewish. It's very much like the Supreme Court.

I guess there are seven or eight deputy commissioners.

Two or three are black. One is Hispanic. The Executive Director of the Civilian Complaint Review Board and several of the prople on that staff are black.

Of the uniformed officers-- I was at a training course last year. The Deputy Commissioner of Community Affairs said that we have 450 or 420 people who hold ranks of captain or better. I believe that there are only about seven or eight black or Hispanics in those jobs.

Q That would also include like lieutenants, sergeants, on down?

A No.

Q It's different?

MR. RHODES: Captain or better.

A Captain or better.

BY MR. RICHARDSON:

Q Okay. What about sergeants or lieutenants?

A Okay. There are about 2,500 sergeants in the Department. Now, you can't quote me on this. I think about 100 are black and probably 25 Hispanic. Lieutenants, I think we had eight or sixteen. I guess it was eight. Eight black lieutenants.

Q It's significantly lower, considering the numbers of the officers that are there in terms of percentage of those who are in minorities?

A Yes. That observation was made in that police

performance and training study that led to a revision of the recruit program. We've had some hard numbers on it in 1970, but it does get smaller and smaller.

Q The only reason I'm trying to do this is just maybe for the record so that when we go to Philadelphia, we'll have something to compare something with since we're doing it this way.

My other question is related to your statement on the fact that the violence in the black community seemed to be greater than that of the white community and that you said that was not a racial statement.

My question is: How did you come to that final analysis? Based on information that I received-- particularly when you relate it to the fact that in minority communities like Harlem and other parts of New York where unemployment seems to be much greater, folks who are on assistance and essentially dealing with the social conditions, that those circumstances are not taken-- seemingly to me-- into accordance with the kinds of and conclusions that you would get.

Could you just share a little bit of background on how you came to that conclusion?

A Okay. I think that my conclusion-- this is a tough question to answer. And this I knew would be the most sensitive part of my dissertation. I think Ramsey Clark when he wrote Crime in America in 1970 made some pretty good observations.

He said that if you look at the typical inner city area, you find that it's heavily black. You find that crime is highest. I'm sure you probably read this. Infant mortality is higher. Unemployment is highest. Underemployment is highest. All those conditions exist in the inner city. And all those things are the kinds of things that engender violence.

My conclusion is racist only in that the society is a racist society, and it is. The people who are disproportionately included among those who endure those conditions are black and Hispanic. A large proportion of the black population and Hispanic population-- at least in New York City-- is young.

I read some interesting numbers that said the mean age in 1970 of a male black in New York City was 18, the mean age of a male Hispanic was 17, the mean age of a white was 33. There's a big difference there. So you would expect disproportionate minority involvement in violent crimes and street crimes because a disproportionate number in comparison to the white population is young. We would also expect it because of the social conditions that exist there.

The point that I'm trying to make is not that black folks are inherently more violent than white folks, but that they live under the conditions which engender them.

Harding and Fayhe make a very good point. Their study I would commend highly to you. It's a study of Chicago police shootings. Their feeling is that police shootings are not

an independent aspect of the racist problem. Their argument is that people who are disproportionately shot by police are going to be the people who are disproportionately involved in violent crime. Fifty years ago, they argue, the people who were disproportionately involved in violent crime in Chicago were Al Capone and the prohibition era people. Prohibition went away, so the disproportionate involvement of Italian bootleggers in police shootings also went away.

Now what we have is a disproportionate involvement of young blacks and young Hispanics in police shootings. If that problem is ever solved-- the problem of social equality is ever solved-- someone else will be disproportionately involved.

Q One final question-- and thanking the Committee for allowing us to belabor this point. Are there any written statistics that you have that would deal specifically with the number of persons that were either shot or killed by black police officers in number and, also, those white officers that were assigned to the black community in relationship to the number of those persons that were killed or shot in the same situation and setting which you already described, like in other parts of New York where the suburban and probably middle or high income-- where these things don't happen to be there, any scientific study that you've done and a comparative analysis on that specifically?

A Yes, insofar as possible I did. There are some

numbers on it I compared. Again using those criteria that the Department uses-- and they're fairly scientific-- the A, B, C precincts. You find that a disproportionate number of black officers shootings take place in those areas, and white officers are fairly equally distributed among A, B, C precincts.

Am I being responsive to your question?

Q Well, what I'm trying to get to is if you could tell me those-- I guess you're using A, B, C precincts meaning--

A High crime. Dangerous places and country clubs.

Q How many white officers are assigned to those areas and how many incidents have there been concerning shootings or deaths that have occurred by police officers? I'm trying to get a breakdown, if it was done that way, from what you did.

A Yes, I have that.

MR. RICHARDSON: I would ask that, wherever that is, the Committee get a part of that so it can specifically look at that to try to do some analysis. Because I think that there is a correlation in relationship to what's happening in Philadelphia with the idiot that we have as a mayor who runs the Philadelphia Police Department, although he has a figurehead to run it.

But our concern is that the same kinds of conditions stem out of the fact that there just seems to be a lack of training and sensitivity to the community to allow for us to go in and shoot to kill without any kinds of real-- I just call it

murder. I think that there has got to be some stopping to it. My concern is that there has to be a different type of training. I just wanted to draw that out in relationship to what you explained here today.

Thank you very much, Mr. Chairman.

MR. RHODES: Thank you Representative Richardson.

Representative Scirica.

BY MR. SCIRICA:

Q Lieutenant Fyfe, you came up with a shocking conclusion-- at least it is to me-- and I want to make sure I understand and entirely hear it.

The law in Pennsylvania on the justifiable use of deadly force is roughly the same as what you have in New York: that it can be used for self-defense or for the defense of another person or to restrain-- to prevent or to terminate the commission of a felony. But I'm very interested in the guidelines that were developed by the police department in New York.

You gave a brief description. I hope you would leave us with a copy of those guidelines.

A Sure. I have them.

Q In your brief description, you talked about how it was recommended that deadly force be used as a last resort, that it not be used generally with fleeing felons, that warning shots generally not be fired, and so forth.

Now, we are often told as legislators that we may be taking action that would handcuff the police, hamstring the police both in the exercise of their function, which is to prevent crime, and also in their own self-protection.

Now, the information you've given us here today seems to refute the fact that any limitation on the discretionary function of the police officer in using justifiable force, in fact, hamstrings him.

In your statement here you said-- I don't know that you touched on this during your testimony-- You said that the guidelines have impacted only slightly upon the frequency of reported defense of life shootings, but has apparently reduced reported shootings to prevent or terminate crimes to one-sixth of their former frequency.

Then later on you testified that in terms of police deaths, that after the guidelines were instituted there seemed to be a death every ten weeks instead of one death every five weeks, which was pre-guidelines.

A Right.

Q Are you saying to us, therefore, that if a police department were to-- similar to New York-- were to institute guidelines such as what you've done in New York City, that there does not appear to be any likelihood that either there's going to be additional danger to the police or that the police would place their lives in jeopardy by limiting their discretion to

use deadly force?

A Yes, that's what I'm saying to you. You can't interpret my statistics directly. Four of those police officer deaths that occurred early on were allegedly assassinations, so they were sort of atypical police shootings, if there is such a thing as a typical police shooting. I don't see how administrative guidelines make a cop's job more dangerous. They do not prevent him from shooting to defend his own life, they do not prevent him from shooting to defend the life of another.

Q And in fact, the incidence of those have remained the same?

A Yes, they've remained pretty constant.

Again, the guidelines have to be tailored to the nature of the jurisdiction. The most inconsistent issue, I think, in the criminal justice system is the amount of attention that's paid to the death penalty and lack of attention that's paid to police shootings.

If we look at the rule that says that a fleeing felon can be shot by a police officer and say-- That took place or that rule became part of the common law about 1800, and if you committed any felony at that time you were going to die. They were all capital crimes. So actually the fleeing felon rule is defensible if you operate under that premise.

Today I don't know what the stats are in Pennsylvania, but I know in New York where-- There's an article in the

Times today that only about a third of the people who get indicted for felonies do any time at all.

So that means we have a fleeing felon rule in which we're allowing a police officer to take a life on the basis of probable cause when, even if that guy were caught, his life would not be taken even if he were convicted by guilt beyond a reasonable doubt.

One of the things I found in the study was that the Maryland state law allows a police officer to shoot someone fleeing from a felony. The act of fleeing from a misdemeanor is a felony in Maryland. So that means that a police officer in Maryland can shoot anybody who runs away.

So in the absence of more stringent restrictions, I think it's up to a police department to develop some administrative regulations of its own.

Q You've been debunking some commonly held perceptions this morning.

What is the perception of your police department right now that these guidelines and whether, in fact, it restricts or restrains them from protecting themselves? Do they feel that it's an undue burden, or have they learned to live with it and think it's fair?

A Since I've been a member of the police department, if you asked at any one time, you would find that morale has never been lower than it is today. In 1964 this job was not like

the old job, in 1967 it wasn't, and in 19-- So morale is always very low. There's a lot of carousing on the part of the troops about the people in headquarters.

One of the sociologists said that there are two different societies: the headquarters society and the street society. And I believe that.

I think if you spoke to most cops on the street, they would say, "Yes, the guidelines reduced shootings, but they made our job more dangerous." That's because they don't know the numbers.

Q The statistics don't bear that out?

A No, the statistics don't bear that out.

Q Two other brief questions.

When cases involving police shootings are taken by the district attorney, is there a special unit within the district attorney's office that handles this?

A The Homicide Bureau.

Q Is there a special unit within the Homicide Bureau that handles nothing but police-involved shootings?

A No. I think the most sensational ones are handled by the DA himself, but I don't believe there is any special unit within Homicide.

Q Does the district attorney move on these cases while they're being heard by either the Civilian Review Board or the Firearms Discharge Review Board?

A No. As a matter of fact, the Firearms Discharge Review Board will hold a case in abeyance until it comes out of the grand jury.

Q Okay. So it's the other way around?

A Yes.

Q My last question is: Have civil damage suits been filed against New York City patrolmen for alleged police brutality or homicides?

A Oh, yes. A lot have been filed against members of the Department and against the Department itself.

Some of the suits have been filed by people-- brought against the Department by people who felt that the Department failed to identify violent prone members. A hypothetical case: This officer shot my son, and his record shows that he was flaky. The police department should have identified him ten years ago and pulled him off the street.

Q Have there been substantial verdicts against the City?

A The only ones that I know of involve a third degree type of beating. It was a U.S. 1983 suit. I believe that the verdict handed down-- There was about a $120,000 fine or award made in that case. But I don't know. There are several heavy ones pending right now.

Q Has the fact that these suits have been filed and in some cases verdicts been awarded against the City had any

restraining influence on the behavior of the individual police officers? I'm asking a subjective question here. Or is it disregarded?

A Under 1983 the police officer could be held personally liable. I don't know what the situation is again in Pennsylvania, but the state legislature passed an act saying that as long as an officer was acting within the line of duty, the municipality would have to pick up the tab on any suit.

At the time that legislation was pending, there was a lot of anxiety on the part of police about being personally liable for any damages. I think that may happen but, again, it may happen in the stationhouse--

Q But the cases of the municipalities now liable for the damage?

A As long as the determination was made that the officer was acting in the line of duty.

Q Okay. Given that fact, do the officers feel any constraint to change their behavior because of the existence of these suits, or do they feel "It's not coming out of my pocket, so it doesn't make any difference"?

A I don't know whether that constraint is operative. I think the major constraint is that "If I get involved in a situation that's going to cost the city $\frac{1}{2}$ million, they're going to send me to limbo and I'm going to spend the next twenty years directing traffic under the West Side Highway."

Q That is the general perception in that area?

A Yes.

Q Mr. Chairman, one other brief one.

In talking about the guidelines and review boards, you said one might interpret these as a suggestion that repeated demonstrations of "high level interest in violence reduction exert a downward influence on shooting frequencies."

Could you expand a little bit more on what you mean by "high level interest in violence reduction"?

Are you simply talking about the existence of the guidelines, or is there a statement of policy that emanates out of City Hall or the Police Commissioner that you act in a certain way?

A In 1972 the original policy guidelines were implemented. I have them here-- or a copy of them. They're about five pages long. They reduced shooting, it seemed to me-- or there was a reduction of shooting associated with them.

A year later-- and they were rather controversial. A year later the Department put out another order which was five pages long which really doesn't say much more. It says that you can't carry a funny gun, and it says to shoot at a dog as a last resort, and it changes the composition of the Review Board. But it doesn't limit a police officer's discretion very much in situations in which he has a human opponent.

There's another big drop in shooting frequencies

associated with that guideline. It comes during the two-month period immediately following that.

The police administrations that we had at that time, former Commissioner Patrick Murphy and former Commissioner Donald Halley, were very high profile police commissioners. They were always in the papers. Almost any policy directive that they released made the front page of the Times. Murphy acts to reduce shootings. Halley does this, Halley does that.

I know that there was a lot of resentment on the part of the troops for that sort of operation, but I think it was very effective. "They're really thinking about it at headquarters. Look at how often they talk about pclice shootings in the paper. You better not get in trouble now or you'll be in the papers."

So it seems to me, yes, even if they made non-substantive changes on a regular basis, just a constant reaffirmation of their position, that it would reduce shootings.

BY MR. RHODES:

Q Your testimony is that the second issuing of a guideline would not substantively change the guidlines under which police officers could shoot, but the mere issuing of the guidelines was enough of a signal that there was a reduction?

A Yes. Yes, it seems that way to me. Again, that's a partially subjective conclusion. But it does seem that way to me.

Q That's part of the old thing about you tell a teacher that the students are all right and they'll work out to be bright.

A Right. Exactly.

Q Even though they may not necessarily be brighter.

A Yes.

MR. RHODES: Representative Levin.

BY MR. LEVIN:

Q This has been covered this morning and I suspect that is the answer from your previous comment about the police officers' attitude and morale-- I think it was Commissioner Learey from Philadelphia who set up your original Police Advisory Board?

A The Review Board, yes.

Q The Review Board you call it?

A Yes.

Q When did that occur?

A That occurred with the coming of John Lindsay on January 1st, 1966. I guess Commissioner Learey was probably sworn in about two weeks later.

Q You've had that Board in some form or other since 1966?

A That's correct.

Q What is the attitude of the general police force now towards that Board?

A There are probably as many attitudes as there are police officers.

My own attitude-- Again, I've been down there thirteen or fourteen times for various things. My own attitude is that they're limited very much like the Firearms Discharge Review Board, because usually the only witness to any genuine abuse is the cop and the bad guy. But the cop is a much more credible witness than the bad guy, especially in court. He's a much more credible witness. So their effectiveness is kind of limited there.

I think in some sense the feeling among the police-- and I'm not saying-- In some sense the feeling among the police is that you'd have to be pretty dopey to get hurt by the Civilian Complaint Review Board. You'd really have to beat someone on the head in front of an audience, because it's generally just a one-on-one situation, your word against his. I'm not saying that that kind of situation happens, but I think probably their major purpose right now is public credibility.

Q Maybe I misled you by my question. You're coming from the wrong side of it.

A Okay.

Q The police advisory boards have been resisted generally by police departments in any form around the country.

A Okay.

Q Now, you've had one for a long period of time. My

feeling was that they really ended up being a public relations measure for the police department and they helped the police department more than they hurt the individual officers. We had one here in Philadelphia.

Now that you've had the experience of this period of time, are the police officers in New York City still resistant to the idea of a police advisory board?

A They're resistant to the general idea of anybody looking at them. I think the resistance is much less than it was. Police officers realize that they're not ogres.

Operationally I think it's a great improvement over what had happened in the past where, if you were the subject of a civilian complaint, it was investigated by someone from within the Department at a higher command level. The feeling always was that if he couldn't prove the allegation, he'll get you for smoking in the radio car or something minor.

So the Review Board only deals with the substance of the issue and investigates as far as they can. I don't think there's very much resistance among officers.

Q In your position as an individual officer, you're not opposed to it?

A No, not at all.

Q You think it's working to the benefit of the police officer?

A Yes, I would say.

Q Would you say that there has been a lessening of the antagonism to it over the course of the years in New York City?

A Oh, yes. Yes, very much.

Q Now, this advisory board is mandated by the Mayor?

A Yes. I guess it was instituted by an executive order, and it was changed on a referendum which you may recall. It was originally a majority Civilian Review Board that was composed of people from entirely without the Department. The PBA lobbied and got it put on a referendum, so that it consists of civilian members of the Department.

It probably originated in an executive order. It was changed by statute.

Q Would you advocate to other police departments that they institute some kind of internal board in which the public had some say?

A Oh, yes, I would think so.

Q And your feeling-- at least in the firearms department where you have statistics to back it up-- is that the more publicity given to this type of board-- at least in the shooting area-- results in a more careful use of firearms by the police officers?

A Yes, I think so. I don't think the major abuse of police officers of their guns has to do with shooting at people; I think it's indiscriminate warning shots and things like that, which are very dangerous, which can be reduced if the public

is aware that a police officer is under stringent guidelines which will, in turn, make a police officer more aware that he'd better do the right thing-- because if he doesn't report the discharge, some citizen who has been educated is likely to do so.

BY MR. RHODES:

Q Following Mr. Levin's question--

MR. RHODES: If you don't mind, Representative Levin?

MR. LEVIN: No. Go ahead.

BY MR. RHODES:

Q Representative Levin's questions go to the Civilian Review Board. New York has two boards: the Civilian Review Board and the Firearms Discharge Review Board?

A That's correct.

Q Is your recommendation that in large metropolitan cities in city police departments there probably is a need for both versions of the review board system? Or can you do with one?

A I think you'd have to do with two in a large city, because you'll have cases in which the same body will be hearing actions that emanate from the same incident. It might be a good idea to have them separated.

MR. RHODES: Thank you, Representative Levin.

Representative Levin.

MR. LEVIN: No. The question has been answered. Thank you.

I found your testimony enlightening.

MR. RHODES: I was going to second that. I just have a couple of quick questions.

BY MR. RHODES:

Q Don't take the departure of my committee as an indication of the quality of your testimony. They're just hungry, as is their chairman. I'm sure you are, too.

We want to get to our luncheon break, but we are so pleased with the extensiveness and the quality of your testimony before we get into the hard knocks phase of our investigation, because we'd like to know what we're talking about. Just a couple of questions.

One I might have missed because I had to step out at the beginning of your testimony. You said there are six or so categories-- The number is not important. Five or six categories of outcomes that can result from a Firearms Review Board inquiry?

A Yes.

Q All the way from justifiable to various degrees of unjustifiable?

A Yes.

Q Can you say anything-- You've indicated that there's been a reduction of shootings period. An absolute

reduction of shootings-- substantial, it seems to me-- over the years of this Firearms Review Board policy and the guideline policy which-- I guess you can't have one without the other-- has been instituted. Has there been any shift in proportion between justifiable and unjustifiable, all categories? I'm really not concerned about whether it's extremely unjustifiable or not so unjustifiable but still unjustifiable. Has there been any statistically significant shift in the line, you might say, between justifiable and unjustifiable over the years of your study?

A None that I found, no.

Q A statistically significant difference?

A No. There are gradations within severity of the penalty and things like that, but nothing statistically significant.

Q And what is that point, just for my own? You might have testified to that effect, but I don't recall it. What is the percentage of justifiable versus unjustifiable?

A Okay. That's kind of surprising. About 71 percent are found to be justifiable. About another 20 percent are found to have been justifiable, but the officer involved should be retrained in tactics and/or law.

What that means is that it's true that this police officer did kill someone in a situation where his life was in danger; but if he had responded to this situation in a different

manner in the first place, he wouldn't have put himself in that position. So he made a strategic error early on in his encounter which wound up putting him in a situation where he had to shoot someone, although he acted in good faith. Do you follow that?

Q Absolutely.

A Okay. So those are about 20 percent.

Q And what's left?

A The command discipline or disciplinary action where the officer is brought up on departmental charges, that's about 7 percent. So we're almost done. We've almost got a hundred percent.

The recommendations for transfers to less sensitive assignments, that's always been a bugaboo in police administration. You should never transfer a problem; you should always deal with it more directly. That bothered me when I first saw that that was something that they were entitled to do.

It turns out that they don't transfer problems. That's very rarely imposed. It's .1 percent. And it's never imposed; it's always a recommendation. It's one out of a thousand officers.

Basically the kind of situation that is, it might be an officer assigned to a stakeout squad a few years ago who had shot someone and they would say, "Do you feel shell shocked or do you feel like you're due for some R and R? Would you like the opportunity to transfer to a quiet place?" They don't

mandate a transfer; they ask him if he would want out.

I've also seen a couple of occasions involving officers working very, very busy precincts who have been involved in a couple shootings, all of which are justifiable. They say, "Your shooting was justifiable, you're doing a fine job. Is it getting to you? Would you like to go work in the country club for a while?" That's the kind of recommendation for transfers. It's never mandated. That's under 1 percent.

Criminal charges is about 1 percent. About 1 percent of the police are locked up for firing their guns, and most of those are off-duty shootings. You're about five or six times as likely to be locked up for shooting off duty as on duty.

The last one is referral to the department psychologist or to the alcohol counseling program. That's probably half a percent. They come infinitesimal beyond the first three.

Q Which takes precedence, or can they act independently: the Firing Review Board or the Civilian Review Board? Can they come out with different results for the same incident? Is that a procedural thing that's worked out--

A Well, they really have different jurisdictions. They're really not the same. They overlap in places where--

Q I know that. But in a case where there's been a shooting and also there's been some allegations of misconduct by citizens involved, can one or the other body overrule the other?

Or can they both find contradictory conclusions?

A That's a good question. I don't know that I know the answer to that. I really don't know. I imagine that they'd reach some sort of consensus on a case like that. Or the officer might--

Q They'd reach a consensus?

A Yes.

Q You mean they'd be allowed to meet and discuss the case? Some of the same people are involved, I noticed, from the report.

A Yes. But they'd actually be dealing-- The Firearms Discharge Review Board deals only with the shooting itself. So there could very well be two different findings.

Q Two different findings but on one incident?

A Yes. I really don't know how to answer your question.

They might find that the civilian complaint was unfounded but, on the other hand, the Firearms Discharge Review Board might say that he did fire his gun in violation of departmental procedures.

So I don't know what would happen.

Q That hasn't come up yet?

A No, not that I know of.

Q What would you think of a city which had no established review procedure and no established shooting guidelines?

A I think I'd concur with the President's Commission on the Administration of Justice, the task force in 1967, and the ABA, the American Bar Association's minimum standards on urban police functions. They all say that establishing those guidelines and review procedures is an administrative responsibility.

I really think that any agency of any size should have some sort of procedures, if only-- Even if no shooting problem in quotes exists. If only as a device to demonstrate their credibility to the public. I think you need those.

Q And finally: In response to Representative Scirica's questions about fleeing felons, we have had this legislation in terms of an amendment to the legislation to clarity a forcible felony before this Sub-Committee more than once since its creation.

Am I to understand your testimony that you don't see any need for state law permitting the use of deadly force against a fleeing felon?

A Oh, no. I see the need for that. What I said was that that was very broad and that it should be limited.

Q To what?

A Well, in New York State stealing a new Cadillac is grand larceny, auto. That's a felony. The kinds of shootings that we have in New York State very frequently involve 16-year-olds fleeing in cars and getting their heads blown off.

Q So you can think of felonies, the fleeing from which should justify--

A There are felonies and there are felonies.

Q So there are felonies you think, even though the penalty to which would not be the death penalty-- You still think there ought to be permissible use of deadly force against someone fleeing from the commission of such a felony?

A Sure. Son of Sam will never go to the electric chair. But if I had had a post and Son of Sam would have done one of his jobs, I would have had no hesitation in shooting at him. He represents a future danger to the public. A forcible rapist. A kidnapper. I would have no compunctions about shooting a person like that.

Q In Pennsylvania you're allowed to shoot a fleeing burglar, for example.

A Well, in some cases in New York you're allowed to shoot a fleeing burglar. If it's a burglar in a dwelling or if you're a resident or an occupant of a place that a burglar is entering, you're allowed to shoot him.

But there are some burglaries-- And again, I've just studied all this for the captain's exam and it's all gone in and out of my mind, but there are some cases in which you can.

Q Thank you very much.

I think on behalf of the Sub-Committee I can say unanimously that we're mightily grateful to you for your

very helpful testimony, Lieutenant Fyfe. I hope that we can obtain the copies of the information from you that we've requested by various members of the Sub-Committee.

If there are no objections, I'll declare a recess of the Sub-Committee until quarter of 2:00, which is when we'll take up the subject of the Ridley Township experience.

We now stand in recess.

LUNCHEON RECESS

AFTER RECESS

EMILY SONTAG and CHARLES WALKER, called as witnesses, having been duly sworn, testified as follows:

BY MR. REILLY:

Q Mrs. Sontag, could you give us any background? How was the Friends Suburban Project formed?

A Okay. Friends Suburban Project was a committee formed by the Philadelphia Urban League in the late 1960s as a response to the civil rights crises of the '60s. They were mandated to work in the suburbs to confront white racism, to confront racism in the institutions that were governing people.

Q What activities has the Friends Suburban Project been involved in prior to its working in Ridley Township?

A Well, the beginnings of most of the programs or projects that we've undertaken has been in the courts.

We began in the City of Chester, which is in Delaware County, monitoring the local courts. We monitored that for about a year. We went on and monitored the juvenile court.

We drew in community people to become aware of the kinds of problems that they were confronting in their judicial system.

We had a program for juveniles where we set up a youth advocate program in Delaware County. We spun that off as an independent organization, again, using community people, training them to do these jobs.

We've been involved in all three aspects of the

justice system: prisons - Delaware County Prison, Chester County Prison; the courts; and, most recently, in the police area.

Q What training and background have you had, Mrs. Sontag, to qualify you in this work?

A Well, I've been working for the last, I'd say, ten years as a community organizer, and I guess most of my-- It's just been experience.

Q That seems to be a common experience in that field; it's an emerging field.

A Yes.

Q How did the Friends Suburban Project initially come in contact with the problem in Ridley Township?

A I'm going to take you back to 1974 for just a minute. That was when the Philadelphia Flyers won the Stanley Cup for the first time. Ridley being not the exception had a mass celebration in their streets.

The police department found it difficult to cope with the demonstrations and the celebrations in the streets.

There were some incidents of brutality arising out of that celebration.

Between May of '74 and May of '75 when they won the Stanley Cup for the second time, they got two police dogs thinking that that would help them control the crowds the next time they won the Stanley Cup.

What happened was that they just ended up with a bunch of kids with severe dog bites, puncture wounds, and even more incidents of abuse happening the second night than happened the year previous.

Q I wonder if you could give us some background material on Ridley Township?

We've learned it's located in Delaware County. Where in Delaware County is it located?

A It's between Philadelphia and the City of Chester. It's not contiguous with the City of Philadelphia. It's about maybe ten miles outside of Philadelphia.

There are 42,000 people, a mostly white community, working class.

Q When you say "mostly," what do you mean?

A I'd say there is less than 5 percent black population in Ridley Township.

Q Is there any Hispanic population in the township?

A Not that I know of. I'm not aware of any.

Q You're saying that they're mostly working class people?

A It's a working community. There's Boeing, Westinghouse, Reynolds Aluminum. You know, these are people who are-- Scott Paper-- who work in the factories surrounding Ridley Township.

Q What is the political orientation?

A Historically it's been the seat of Republican politics in Delaware County.

The War Board, in quotes, is the committee that governed Republican politics in Delaware County. Its seat was in Ridley Township, and it was strictly and tightly controlled by the Republican party.

Q What about the racial composition of the department? Are the police officers all white?

A It's an all white police force. There are approximately 35 police officers. A couple of them just retired. They've just added a couple more. They're in the process of getting a few more officers. I would say at any given time it's approximately 35 officers.

Q What did you say the population was, about 42,000?

A 42,000 people.

Q Okay.

A There's a large Catholic population.

Q Is this another case of a suburban county being populated by migration from one of the Philadelphia neighborhoods?

A Many of the people that have moved to Ridley Township have moved from Philadelphia to escape some of the problems that they were finding in Philadelphia.

Q Is there a central town, or is this one of these strip city situations?

A It's a community-- There is no sense of community.

I remember an 18-year-old girl who came to one of our community meetings. We were talking about a community. She stood up and said, "Hey, wait a minute. That just doesn't exist in Ridley Township."

It's a series of small districts. It can be described best by-- There's two major highways cutting through Ridley Township from Philadelphia southwest. These are lined with bars, fast food places, real estate agents, and that kind of thing. Half a block back off that begins your residential area.

Now, these strips attract a lot of problems that the police find they have to handle.

In a sense, that describes why it's not a community; it's just there.

Q It sounds a lot like Los Angeles.

A It's spread out.

Q You say that the problem, at least your having had the problem called to your attention, came to a head with the second Flyers victory night?

A Yes.

Q What happened after that, after there were all these incidents?

A Mary Jane McGlynchey, who I'm hoping will be here this afternoon, was appointed by Governor Shapp as an interim district justice in Ridley Township.

Now, she saw and heard a lot of what was going on inside the township because of her position. She had also been working with Friends Suburban Project on some of these other programs that we had over the years, especially the ones related to juvenile justice.

Mary Jane knew our group. She knew what we were capable of doing. She asked a small group of community people in Ridley if they would like some help in trying to address this problem. So they said yes, and they came to Friends Suburban Project and asked if we could supply them with organizational expertise to try to make some changes that they knew had happened in Ridley with their police department.

So they did. They came and met in June of '75, right after the Flyers celebration. That was sort of the straw that broke the camel's back. "Hey, I just can't sit back any longer and watch them beat up our kids. Now they've got dogs, and now they're chewing up our kids."

So they came to us for help.

Q What did you suggest?

A Well, the first thing we suggested that they do was come to court and listen to what was going on. And a lot of the hearings related to the Flyers celebration were happening that summer. So they got quite an education as to how the judicial process was handling this sort of thing.

Q I'd like to stop you at this point, because this is

a point that Representative Williams has alluded to before: Experience of the community in the courts, when they see that there's a different perception of reality in the courtroom than what actually occurred on the streets or in the police stations of the town.

I know you had a court watch program, but most of us have not had that experience. I wonder if you could touch on that a little, what they learned? The difference between what was in the courtroom as opposed to what they had experienced.

A Well, I know in some of the cases growing out of the Flyers incidents, the lawyers for the young people might try to bring up the fact that some injuries were sustained by the young people. And, you know, this was not allowed. The evidence was not allowed to be brought in. The people were there because they wanted that kind of justice to happen-- or to be brought out in public so that it wouldn't happen again.

I remember one young man. Some of the testimony did come out. He had some doctor bills. After the hearing had been completed, he held up these doctor bills and said, "Well, what am I going to do about these? This is the result of injuries given to me by the police department."

And the Superintendent of Police who was standing in the back of the room said, "Give them to Mary Jane McGlynchey." This is the judge sitting up in the front of the room. "She'll pay them for you."

Q These were magisterial hearings, right?

A Yes. She was a district justice.

Q Were most of these charges then summary offenses, or were these preliminary hearings before the cases were being held over?

A These were preliminary hearings. Most all of the time there were cover charges placed on the young people: Resisting arrest, assaulting an officer. Many, many times before it even got into the hearing room, it had been decided beforehand between the lawyers and the district justice or the police department that they would drop the charges of resisting arrest and assaulting an officer if you will sign a statement releasing the police department from any action that you might take against them.

And some of these kids and their parents were really scared, and they saw a way out. "Well, if we get out of this with a $25 fine, we'll do it. Because if it goes any further, it's going to be his word against mine, anyway."

Q That raises another point. As you continued to follow these cases through the system, did these cases frequently turn on a question of credibility between a police officer in a one-to-one confrontation with an accused?

A Many of them were a one-on-one situation. Or, if the girlfriend were there, she could be discounted as being young and obviously biased.

Q Did the system tend to credit the testimony of the police officers?

A Yes.

Q More than the testimony of other witnesses?

A Yes. There's no question about it.

Time and time again, this is one of the things that would come out. You could just go down to any local district justice's office and see that that's the case.

Q Well, many of these went on to trial. Did the same thing occur at trial?

A You mean an officer-- You mean a young person that had been accused of these--

Q Testifying against-- You know, you've got the young person's version of what happened and the police officer's version of what happened.

A Well, one instance where-- Well, this one young man, it did go to the common pleas. It left the district justice's office. He was remanded over. Then what they do there is, if it's a first offense, then they'll go through the whole thing again and say, "Well, we'll put you on ARD--" which is accelerated rehabilitation program--

Q Disposition.

A Disposition. "If, again, you will sign this statement."

But even when it gets that far, you know, they

still have one more club that they can use on these kids.

I know that's happened in several cases. It will get up to common pleas and the kids will go on ARD, and they drop the more serious charges.

Q If we're talking about kids going to trial, I presume you're talking about people over the age of 18?

A 18, 19, these-- Most of the injuries that are inflicted on people in Ridley are against kids. And I use that term loosely. Long haired, young.

Q Were there juveniles in the same affray? Were there juveniles arrested and processed through the juvenile court?

A Yes, there have been juveniles arrested and beaten and taken through the juvenile court process.

Q But basically in your experience, it's more a phenomenon of young adults than juveniles?

A It's both. Anywhere. 16, 17, 18, 19, 20, 21. If you happen to look young, have long hair and a beard, and you're 23 or 24, they consider you 18. You know, the same.

Q You say this concerned group of parents did some court watching. That was the first thing?

A Yes.

Q What did you recommend to them after this court watching experience?

A All right. Well, they were meeting periodically

during this time. They decided that they wanted to organize and try to do something about it as a group after they had the experience and got some information that they needed.

They organized in the fall. The first thing they did was to take their concerns to the Superintendent of Police. So there were about three--

Q How is the police department structured in Ridley Township?

A There is a superintendent who is over all. Then a captain, then a couple of lieutenants.

Q Who does this superintendent report to, the head of the police committee or the police committee? Who does he report to?

A The commissioners. The police committee of the commissioners of Ridley Township.

Q So he's the highest police official in the township?

A So within the police department itself, Superintendent McElwain was the ultimate authority.

So the first thing they did was go to him. They had a number of incidents that they related to him.

There were some things that happened to kids, to young people, inside the station. They don't feed them for like six or eight hours if they're holding them. They don't allow juvenile phone calls. You know, there's a lot of complaints made including abuse.

First of all, another woman and myself went. We don't happen to live in Ridley Township. He absolutely refused to talk to anyone until we left the room. They were very defensive about the outsider, the instigator, the inciter.

So we did leave. And he did talk to some community people from Ridley.

They followed that up with a letter. He was very non-committal, by the way. He doesn't say much, anyway, as I recall. They followed up with a letter saying that we really weren't too clear on your position on certain items, and here they are. Would you please respond?

He absolutely refused to respond to the letter. Stone wall number one.

After that they decided to go to the commissioners. So a group of Ridley Township Police-- or people went directly to their commissioners at an open commissioners' meeting.

They had submitted their request to meet with them ahead of time, so they knew they were coming. They were met by a large, hostile group of police supporters who had been garnered from the neighborhood to come in.

They were harassed and ridiculed and shouted at. It was not a terribly well run or productive meeting. However, out of the end of that came a commitment on the part of the commissioners that they would investigate the charges that had been made. And they always kept saying, "But we need proof."

You know, here's a few citizens, and they want proof. What they really meant by that no one knew, except it was a delaying tactic.

We did give them some things to follow up on: names and particular incidents.

They never did, by the way, report back to the committee.

Their idea of investigation was to take the incidents that we had given to them, take them to Superintendent McElwain and say, "How about this?"

And he'd say, "There's nothing to it whatsoever," and they'd all go home.

That was the extent of the investigation by the commissioners. Another stone wall.

Okay. Pete O'Keefe, who is a representative from Ridley Township.

Q Representing?

A A representative to the House.

Some people met with Pete a couple of times, and that was the beginning of the steps going outside the township to try to seek some kind of redress to the grievances.

The next step was a public meeting. They were going to go public with it. We're going to try to garnish some support from the Ridley community itself. They had a meeting at the V.F.W. hall in Ridley Township. I'd say there must have

been 50 or 60 people at the first meeting.

We had victims there who were willing to come and testify and tell people what happened to them. They gave their stories.

We announced the fact that we were going to form a hot line, which is another way to reach the community. That was our first public meeting, and we felt it was quite successful.

Q Was this to be in someone's home? What do you mean by a hot line?

A Okay. After the public meeting, we established a hot line. We felt that people needed a place to call when they were abused. They needed information. They needed counseling. They needed help. So it was really a hot line and a counseling service.

One thing we'd been finding by talking to the parents of some of the kids that had been abused is that it's a frightening experience. They don't know where to turn.

BY MR. WILLIAMS:

Q When you say abused, in using that word, do you mean violence or something else?

A Violence, yes.

There are three terms that people use: One is brutality, one is abuse, and the other is misconduct.

Q Well, when citizens do it to each other and the police, they usually call it violence.

I find it very helpful to keep a common definition so we know what we're talking about. The use of other definitions oftentimes puts the problem off in the corner.

Would you agree that you're talking about violence?

A We're talking about violence. Physical, personal violence.

MR. RHODES: Thank you, Representative Williams.

BY MR. REILLY:

Q As opposed to verbal harassment? So often when people hear the word abuse--

A The reason we use abuse is because there is some of both. I mean, the element of constant harassment has to be dealt with. That's not necessarily physical abuse.

There are kids at Ridley who for two and three years when they're going adolescence are harassed by the police constantly. They can't walk out on the street.

BY MR. RHODES:

Q Now you're talking about verbal abuse?

A It's verbal abuse. It's being taken into the station on some trumped up charge.

Maybe they don't physically abuse them, but in many of these cases it's ended up at the last trip to the station they've been beaten.

BY MR. WILLIAMS:

Q In the cases that you were referring to earlier it

is violent, right?

A Yes, the prior cases I had referred to were violent.

BY MR. REILLY:

Q So you were telling us about your hot line.

What did you use for a hot line? Did you use an answering service?

A Yes. We wanted it 24 hours, because we knew that a lot of the violence that happened on young people happened at 1:00 and 2:00 in the morning. And they needed help right then and there.

So we had to get an answering service, which presented our first monetary problem. This was a citizens' group. They had nowhere to turn to for outside funds, so they passed the hat at the public meeting. They passed the hat. But they felt so strongly that they needed this answering service to implement the hot line, that people really reached down in their pockets and gave enough money to continue the answering service for like a year and a half.

We had training sessions to train community people, people who cared about what was happening, to respond to the victims and to their families. Usually we could respond within a matter of hours.

We'd go down to their homes. We'd talk to them. We'd answer their questions to the best of our ability. We'd

take photographs or we'd ask them if they couldn't see to take photographs immediately of the wounds. We would do the best we could with representation, whether it was a public defender or whether it was a private attorney.

Q Would you attempt to record their version of what happened?

A We tried to take down the complete details of the story as they knew them right then and there.

Then we would go and interview witnesses, if there were any, which generally there aren't. But we would go and make an effort to take down their stories. Identify them, get names, addresses, telephone numbers, et cetera.

So within the limitations of, again, working with an unsophisticated, untrained citizens' group, we did the best we could to document the stuff that was coming in to us.

Q Was your experience that if you did not get to the people within a matter of hours, that the follow-up was more difficult?

A It is more difficult. The faster you can get to them the better. For one thing, memories tend to fade. They're usually extremely angry when this happens to them.

If they'd never been involved with the police force before in any way, they can't believe it. You know, this thing doesn't happen in the United States. It just doesn't happen. Or they're just outraged in some manner. Their parents

are outraged. They're willing to sue or do anything possible to clean up the situation.

By the next day, they're a little less mad and a little less anxious to become involved. By the third day they're anxious to get their kid out from under these heavy, heavy charges that have been placed against him.

So the sooner you get to these people, the better. We would do whatever we could to counsel.

It was a two-way street, the hot line. It gave us access to the community to find out what was going on as far as the abuse cases were concerned and, on the other hand, it gave us the opportunity to counsel people who really needed help in a very trying situation.

Q Would it be a fair statement to say that your primary focus and concern was a communitywide focus and concern; whereas, of course, the individual families and children of parents were concerned with their particular case?

A Right.

And this made it hard in some instances to counsel. Because I know I myself was torn, you know, a couple of times. I mean, some of these people really wanted to make changes. I mean, they said, "This can't go on."

But, I mean, here's their kid who might end up in Delaware County Prison or worse on a two-year sentence on a trumped up charge.

BY MR. WILLIAMS:

Q Do I understand you to say that when these improprieties do happen that usually they're accompanied with other charges; and that if they're successfully prosecuted, it would be a heavy burden on the child, and therefore that the prospect of those charges is a serious deterrent to the individual and the individual's family for moving ahead to solve the initial impropriety? Is that accurate?

A Yes.

Q If that's so and if there are a lot of individual cases like that with the same pattern, wouldn't that mean that you would very rarely have an aggressive moving ahead on an impropriety, misconduct, or violence that would actually get litigated in court?

A Yes.

Q Would the touchstone of that be that the armor that authorities have to impose charges and the prospect of that, that in and of itself-- Wouldn't that be a very intimidating factor to keep the police armor from ever being tested in any serious way?

A It can't be challenged. It's really very difficult to challenge that kind of authority, because they do have that power. And they use it.

Q Do you find that the higher-up officials like, say, the police chief or the DA-- that the establishment reinforces

that in any way? When charges are made, don't they go deeper past that structure?

A I happen to believe that-- I don't believe in the rotten apple theory. By that I mean if there's just one or two bad apples and if you get rid of them, you've cleaned up the whole thing. I believe that if it happens and there's a pattern that you can show this happening in a township or a city or wherever, that it's condoned if not actually encouraged by the superiors on a police force.

Q Why would they do that? Wouldn't the highers up get rid of the so-called rotten apple so it would not affect other police officers and the fair and efficient disposition of law enforcement would continue? Wouldn't that be--

A I really couldn't answer for why they would want to continue that posture.

Charley, do you want to follow up on that?

A (By Mr. Walker) May I answer in reply to that?

BY MR. RHODES:

Q Yes, if it's getting back to our line of questioning.

A (By Mr. Walker) There are many people on the force who are very embarrassed by this, put in a very difficult situation. Whether to be loyal to the person they're working with, their partner. Or whether to go along with lies.

The most pervasive form of police abuse is lying.

All the false charges, all the things that are said. So it's a very difficult thing.

Mr. McElwain said in one of the interviews with us, "No policeman will ever cross that thin blue line."

Q Who is this?

A Mr. McElwain is the Police Superintendent. He said, "No policeman will cross that thin blue line and testify against another policeman."

But some policemen can say, "Well, you're lucky that this man, the other fellow, is not the one dealing with you. You're dealing with me now." He can get concessions that way.

Even some people, rather unprincipled, can benefit from the violence of other people even though they themselves have not committed it. So there is some benefit to be gained.

MR. RHODES: Before we continue, I'd like to note for the record the presence of Representative Mark Cohen from Philadelphia County, who has joined us on the Committee; and the presence of Representative William DeWeese of Greene County in the Sub-Committee.

Any further questions, Representative Williams?

MR. WILLIAMS: You can go back to the main line of questions.

MR. RHODES: Mr. Reilly?

BY MR. REILLY:

Q What else did you have to train your volunteers in?

A (By Mrs. Sontag) Investigating techniques. That is, we developed a form that our counselors used when they went to the house to record all the facts.

We followed up these sessions by going to preliminary hearings.

If it went on further than that, then we provided support and follow up and went on.

Again, as I said before, we did the best that we could in trying to retain-- not retain, but suggest lawyers that they might retain if they wanted to hire a private attorney.

BY MR. WILLIAMS:

Q Why would you suggest those?

A Well, a lot of these people have never had a lawyer ever for any reason whatsoever, and they really didn't know where to turn as far as a lawyer was concerned. Those that simply could not afford a private attorney, we referred them to the public defender.

And that trouble that we ran into was that there were a lot of lawyers in Delaware County-- and I can only speak for Delaware County-- that would not, simply would not handle a police abuse case.

Q Well, I really want to know whether there was any

pattern with lawyers who just didn't want to handle them and those who would. I'm a lawyer. On the basis of the fact that lawyers have a creed of some kind in assuming the obligation to defend what may appear to be an injustice, they have an obligation to pursue that the same as they would pursue a $100,000 case. But that made a difference?

A Oh, yes. There were some lawyers that simply would not handle them.

There were other lawyers that handled a couple of cases. Although I would have to say they were competent, I think you have to be more than competent when you're handling a police abuse case. It's very complicated, and if you don't do everything absolutely-- just thoroughly, you know, you might just as well not even embark. So we really ended up with just a couple of lawyers that we felt personally could handle these cases.

BY MR. RHODES:

Q Before we get back to the Chief Counsel's questions, you're talking basically about instances that occurred in 1974?

A No. There was one grievous incident that arose out of the first Flyers celebration.

Q The Flyers celebration.

A A young man ended up in the hospital for five days. They didn't know whether he was ever going to return to normalcy again.

Then I skipped to 1975. So the cases that I referred to now have been since 1975.

Q Continuously since '75?

A Continuously since 1975.

Q Are you a resident of Ridley Township?

A No, I'm not.

Q Are any of you residents of Ridley Township?

A (By Mrs. Cawley) I am.

Q You are?

A (By Mr. Walker) There are others in the audience.

BY MR. RHODES:

Q Who are also from Ridley Township?

A Yes.

Q Mr. Reilly may have covered this when I was out of the room. Are these incidents involving juveniles and young people which you referred to as kids-- are these kids from any particular socioeconomic class in Ridley Township, or is there no way to describe these children or kids or youth other than the fact that they had this bad experience with the Ridley Township Police Department?

A (By Mrs. Sontag) I would have to go back to the records and check again. I don't think there would be any way to generalize on that.

Q So they're just--

A Some kids just happen to be in the wrong place at

the wrong time with the wrong officer.

Q Is there a street culture in Ridley Township?

A There is a street culture. A lot of these kids were known to the police, have had involvement with the police before. Have a reputation and are constantly being harassed by these officers.

So a lot of times they know one another. In a way, some of them are kind of playing games on the street. It's a dangerous game, but they're playing a game.

Q The youth are?

A And the police. Oh, they're both involved. It's a two-way street. The police are playing a game as well as the kids.

Q But these youth come from a variety of home lives in Ridley Township? They're not necessarily-- Are they more or less in a socioeconomic class or group in the township? These aren't poor kids or rich kids or middle class kids?

A Well, to characterize Ridley, it's a working class community. So necessarily, most of the kids I guess should be characterized like that. But that's not-- I couldn't say that across the board. But that would probably be true for Ridley.

BY MR. REILLY:

Q You're saying it's more likely to happen to happen to a counterculture kid than the captain of a football team, but it's not unlikely it would happen to the captain of the football team?

A If he were in the wrong place at the wrong time.

BY MR. RHODES:

Q And you've had instances of that in your experience?

A Yes.

BY MR. REILLY:

Q You said you had to train your volunteers, your counselors in investigation.

About this time did you attempt to-- You've tried within the township governmental establishment and you've made initial approaches outside-- in the government but outside of the township. Did you try other establishment institutions like the schools and the churches to try to help you?

A Right.

Still remaining within Ridley Township, we began to try to get some support from the institutions in Ridley.

We went to the school, and I got permission from the work study teacher to come in and talk to the work study kids. They were the ones that were in school part of the day but were in the community more often than the regular student and would have more of a chance to meet up with the officers on the street.

I had it all set to come in and talk with them for three consecutive days, and there were two Bulletin articles that appeared in the paper, one on Sunday. That night at home I got a call from this man saying, "No way are you going to come into this school. I'm going to lose my job."

Q Okay. I think we're getting a little bit out of sequence.

I can't believe that the Bulletin article just struck you by surprise, this just happened.

So you must have sought out the assistance of the media as well as these various community institutions; is that correct?

A Frank Hedlin, who was working with-- employed by the Bulletin. There are two major newspapers in Philadelphia. One is the Inquirer and the Bulletin. There is one major newspaper in Delaware County.

Q Let me suggest that you're going to get into big trouble when you take that position with all these reporters here.

A Oh, what have I said?

(Laughter)

The Daily News, the Tribune, the Journal.

A (By Mr. Walker) The Germantown Courier.

A (By Mrs. Sontag) I apologize to anybody I might have offended.

(Discussion off the record.)

A I can't even say one newspaper in Delaware County. The Delaware County Times in Delaware County.

BY MR. REILLY:

Q Is that a daily?

A That's a daily newspaper.

Then there is a Town Talk which comes out once a week, and they did give us some publicity.

Frank Hedlin was employed by the Bulletin, and he was a member of the Ridley Committee of this group that was trying to work on this problem. They did send an investigative reporter into Ridley. That was Bill Keho. As a result of that, two very large articles, long articles, came out in the Bulletin in May of 1976.

That's when the guy called me on the phone and said, "Hey, I can't touch that. I'll lose my job if you come into the school."

Q Did you try to get in touch with-- You started to touch on the media, but I'd like to go back to the community institutions. What about the churches?

A Okay. For another reason, I happen to be a member of the Juvenile Justice Task Force of the Metropolitan Christian Council of Philadelphia.

Q What's that?

A Gee, I wish you hadn't asked that.

It's a private organization. It's a coalition of Christian denominations in the Philadelphia area.

I was a member of the Juvenile Justice Task Force, which also had representatives from the different denominations in the Philadelphia-- in Philadelphia, actually. I asked for their support. At that point I was ready to ask for anybody's

support to help solve the problem.

They wrote letters. Each representative wrote to their denomination in Ridley Township. Wrote directly to the church describing the Ridley Committee and what we were all about doing and could we come and meet with them. This included the Catholic churches as well as the Protestant denominations.

We got absolute-- Well, at that point we got absolutely no response whatsoever from the Catholic denominations. In fact, they were particularly hostile to what we had to say. They wouldn't even meet with us.

Q Did you testify earlier that that was the dominant religion in that particular community?

A Yes. There is a large Catholic population, but I don't have the percentages on that. A lot of the policemen on the force are Catholic. That's a fact.

We did get some response from a couple of the Protestant churches, and four protestant ministers in one way or another did work with us for a while.

They would respond. If we wanted them to go and meet with the police committee with us, they would do that. They didn't come to regular meetings. That really wasn't what they were all about doing.

One Catholic priest and assistant priest did come to the committee after we talked with them. He has been very helpful. Again, he will respond to us on an individual basis.

Whenever we need him for something, he will respond if he can. He was very supportive.

We tried to hold a couple of meetings in the church, in churches, drawing in their congregations. I think at one meeting after a couple of weeks of publicity, and it was in the church bulletin, I think one person came.

It's difficult for people to cope with that problem.

Q What about service organizations?

A Well--

BY MR. WILLIAMS:

Q Do you have any idea why church people, Christians in particular, would not want to be interested in or involved in a problem of this nature, which seems to have a lot to do with a person's respect and dignity? Is there any reason in your mind why that seems to be true, that there is not a better response by religious congregations or even ministers?

A I don't know whether it's--

Q Let me put some words in your mouth, if I can.

It seems to me what you've said about the young adults being long-haired and whatnot, they're just different. And it seems to me that those who seem to have a lot of serious problems are different. Some groups, like the rest of us, put aside the problems, serious or not, because it involves a different group, so to speak.

Would you find that the priority is something like that?

A I think that's part of it.

First of all, you have to believe it's happening. We found a lot of people simply would not believe that it was happening.

Q I guess what I'm saying is it's sometimes more difficult to think about whether you believe it if it's happening to older ladies or--

A Long-haired kids, you don't have to get personally involved.

Q I was wondering whether there's a psychology about that that disallows one who would normally be interested in the problem not to find significance in the problem? What would be your observation along that line?

A Again, I have to say I'm not a psychologist, either, but I would say that there's an element of truth in that. As long as it's not happening to my kids and it's happening to them, so to speak, then I'm just not going to get myself involved. Even if I believe that it's really happening.

But there are people who simply will not believe that it happens at all. You could show them pictures like this. (Indicating)

And they're going to say, "What did he do to deserve that? He must have done something."

Or "What was he doing there in the first place?" I mean, there's always a reason.

Then you have people who--

Q I guess the major way would be through educational means where at least they can actually tell us both sides of the story.

To that extent do you think that the media has taken the problem as have some of the parishes?

A (By Mr. Walker) Ministers share in many community standards as other people do, even though they may challenge them at certain times.

Secondly, I had the occasion to visit a number of ministers personally rather than just invite them to a meeting to go and sit down and talk an hour with them.

The very first problem that seemed to come up was: How do you counsel victims? Do you have sometimes in your congregation somebody who encounters this problem; and if so, do you counsel with them?

It hadn't occurred to many of them that they would have a special job of counseling on this matter or were willing to respond to that.

More typically, they would say, "Well, if you need to have a meeting, a meeting between the police and your group, you can meet in my church." That would be a more typical kind of reaction in terms of the counseling, let alone the public

involvement. They have other things to do.

In some respects, they would respond. In particular, a black minister in that area in a small group said, "You got a good record. We're going to keep it that way. We're going to keep the lines of communication--" He would go to talk to the police if something would happen about his kids. But this was exceptional. It was interesting it was in a black community that this happened rather than a white.

A (By Mrs. Sontag) I don't know if you can characterize people in the way they view police abuse, you know, the issue of police abuse. But there are those that I describe that simply will never believe that it happens. Then there are those that believe that it happens, but they don't want to get involved just because it's not their way of life to get involved in much of anything.

Then there are people who know it happens. It's happened to them or some of their kids. And there are some examples sitting here today who finally made up their own personal commitment to get involved. Those are few, because it takes a hell of a lot of guts to do that.

Then the other group of people knows it's happened-- it's either happened to them or their kids-- and they're so scared that they won't even come to a meeting. But they will get word to us, "Thank God you're in there plugging, you know, but I haven't got the guts."

Q Do you think there's an element of fear, although not stated, on the parts of other people who don't get involved? Ministers and other people who have to deal with the police who might feel there's a good reason not to get involved where there might be some fear of some kind?

A They don't express it in those terms, but that could be a possibility.

Now, businessmen along what I have already described, your strip, McDade Boulevard and McKoucheon Pike-- The businessman, maybe it's happened to a relative of theirs. But they're not going to get involved because they don't want their business destroyed. Or the next time they call the police, they're not going to come.

Q Why would the police not come to their business?

A Because if they went public and called the police to task over an abusive situation, then I don't think-- It's something else you can't prove. The next time they make a call, they might just be a little late in responding.

Q Do you really believe that could happen?

A Yes, I really believe that happens.

Q That challenges the integrity of the police in doing their basic job. If they're charged with something wrong in this instance, they might not do their job? Do you believe that could happen?

A I think that's true.

BY MR. REILLY:

Q What about the community interest and service organizations, did you try to get their support?

A Yes, we did make an effort. We wrote to the Lion's Club and we wrote to the Businessmen's Association knowing beforehand that they would be hostile; but we wanted to approach them, we wanted to talk with them. We wanted to at least get a dialogue going about the problem. And they never even bothered to answer the letters.

Q What about other governmental entities? Did you approach the district attorney's office or the United States Attorney's office or the Federal Bureau of Investigation, United States Congress, Senators? Who else did you approach?

A Okay. Up to a certain point, we had kept it local. First the officials, then we went public and tried to enlist the support of the community people involved. Then we went to Frank Hazel, who is the District Attorney of Delaware County.

He in turn called Superintendent McElwain into his office, he and Captain Randall. Out of that meeting came the recommendation from Frank Hazel that we set up a committee-- a tri-parte committee of members of the Ridley Committee from the community, the police committee of the commissioners, and the police-- to have regularly scheduled meetings so that these things could be aired, discussed, talked about, communicated about.

As I recall, the first meeting went rather well.

BY MR. RHODES:

Q When was this meeting, what year?

A It was in '76. The exact month, we'll check that out.

That meeting was conducted politely. The people were listened to rather politely.

Then they held another meeting of what we call now the Hazel--

(Discussion off the record.)

A Then at the second meeting there had been an officer that had been attacked in the township. Then they met with nothing but hostility and personal attacks on some of the Ridley Community citizens who had come to the meeting in good faith.

We also did find that if we could take a clergyman along to the meetings, that they were conducted much more politely and much more sanely than if you didn't have a clergyman along. It did make a difference.

BY MR. REILLY:

Q In the makeup of the Ridley Committee, did you have more men or more women on the committee?

A I would say it would be about half and half.

We've had again-- The Ridley Committee would fluctuate as far as-- As I said before, some of the people who were

really frightened would come to a committee meeting, maybe two committee meetings, and just say, "My kids are on my back. They're telling me don't get involved. You don't know what happens on the street. I'm out on the street, and you're not. Don't get involved."

They drop out, but we would keep in touch with them.

So the committee has fluctuated. There's been maybe 10 or 12 people who have hung in there through thick and thin for three years. And they deserve a lot of credit.

BY MR. RHODES:

Q We're going to take a brief break fairly soon and come back to you.

Before we do that, let me ask you this question-- and maybe you've already testified to this. To give us some sense of the problem that you had in Ridley Township and maybe you already continue to have in Ridley Township, how many instances annually did you have of these cases of violence or abuse-- however you define it-- and tell us what you mean by it, abuse or violence or harassment, or actual cases that you've got photos of.

A Yes, I do have some pictures.

As of the end of May '78, we had 102 incidents reported to us. And that was basically since May of '75. Maybe one or two before that, but basically it was from May of '75.

Q Over three years you had 102 reported incidents?

A On a 35-man force. We have like 28 incidents reported to us where we couldn't identify the officer. Then I have one officer here. I have 37 incidents against one officer, and it wasn't until just recently that he was even taken off the street.

BY MR. WILLIAMS:

Q Could he have been promoted?

A Well, I wouldn't be surprised. No, I don't know that.

But we had asked several times that he be taken off the street. He's one of the officers that had a dog, a police dog that was given to him. Between he and his dog, he's wreaked more havoc in Ridley Township than. . .

BY MR. RHODES:

Q Do you find the situation in Ridley unique in communities surrounding Ridley?

A No. We have had incidents reported to us from neighboring townships and from other areas in Delaware County. We did the best we could in counseling them, but we just couldn't get involved personally. It took too much time. We had more than we could contend with just handling what was happening in Ridley.

There's a need in other townships for this kind of community group, an ongoing group, to deal with it. They

just don't exist. There's no place for people to turn.

Q Your testimony is of special interest to this Sub-Committee. Certainly to me it is because we've just begun our investigation, as you know, into civil rights abuses by and on law enforcement officers pursuant to Resolution 109. We've been looking into organized crime and official corruption principally in the Commonwealth.

Just as Lieutenant Fyfe this morning was debunking a number of myths, at least that I had, about the dangers associated with police work and the nature of police violence in the City of New York, you are giving the Sub-Committee a different perspective on the problem of civil rights violations upon and by police in the Commonwealth.

I think, generally speaking, people associate this problem with the cities. One city, notably, but principally with cities. If I'm not mistaken in what you're saying, you're saying that in the suburban communities of the Commonwealth there may very well be a problem of police misconduct, abuse, or violence that has also gone unchecked.

A There are three things that I think are important to carry away, and that is that it's not just a big city problem. It does happen in the suburbs. The wounds and the emotional trauma is the same in the suburbs as it is in the city. It's not necessarily a racial problem, and I don't believe it's a bad apple problem.

Q We're not trying to draw you to a conclusion, because we're going to come back.

I did want to get that clear on the record. You're saying to this Sub-Committee in the House of Representatives in Pennsylvania-- under oath actually-- that you're experiencing in suburban Philadelphia a problem where citizens not defined as socioeconomically lower than the average citizen in a community and not racially distinct from the police department itself are still subject to civil rights violations by the police?

A Yes.

Q And you're saying that's the experience in Ridley Township and perhaps in townships near Ridley?

A Yes.

Q Now, you've also described and Representative Williams has been very meticulous in drawing out of you the problem of community support.

A Yes.

Q And to the extent it may be hazardous actually for community support organizations to provide support or various religious or social organizations to provide support to your effort. Some out of personal fear because their own children are involved. Some out of indifference. Some out of pressing other business.

A Yes.

Q Do you feel that in the cases you've investigated, particularly in Ridley Township, that the recurrent administrative structure of law enforcement in the county and the Commonwealth as it impinges on your township proper is sufficient to provide an official response to citizens who have the kinds of grievances you have?

A No, there isn't. That's why, you know, as I said before, we began to look anywhere and everywhere that we could. Because there was nothing that we could turn to. Nobody. No agency, no group to turn to who could really make an impact on the problem.

We did go to District Attorney Hazel.

Q And he was not helpful?

A Yes, he was helpful.

First of all, he did help set up the Hazel Committee which did-- I don't know if it improved the community.

Q He tried to help?

A Yes.

Q The county commissioners, they tried to help or didn't try to help?

A We did not go directly to the county commissioners, no. But we did go to FrankHazel. He explained his position. He said, "If you come up with a good case against an officer, I'll prosecute to the very best of the ability of this office."

Q Did you provide him with good cases?

A We provided him with a lot of-- Well, it's very difficult to come up with the good case in police abuse. It's just an extremely difficult thing to do.

Q People are unwilling to testify, or you don't have good cases?

A It's that, or it's a one-on-one situation where we know you're going to get all the way to court, and the officer is going to be believed and the victim is not.

There have been several officers indicted in Ridley Township. Three of them have been acquitted by a jury. And the fourth one, the judge dismissed it just as they were about to start selecting a jury. The judge dismissed it without prejudice. I still have questions about that.

In the one case, the jury had to believe that you can fall off a motorcycle in a standing position and fracture your skull so badly-- or your jaw so badly that it has to be wired shut for five weeks. And after two years, he still had a speech impediment.

Now, the officer is claiming he fell off his motorcycle.

Q It was not moving?

A No. It was standing still.

Q Oh, I can imagine him falling off a motorcycle at greater rates of speed.

A No. It was standing still.

Q That could cause that injury.

It was standing still.

A And the victim claims that the officers knocked him on the ground and kicked him so hard under the jaw that it literally physically lifted him up off the ground and turned him over.

Now, the jury had to believe the other story. But there were no witnesses.

Q The thing that strikes me or disturbs me-- Well, I'll share my own biases. I come from a predominantly black community in the City of Pittsburgh. I always thought the police were nice to you people basically.

MR. WILLIAMS: I come from West Philadelphia and that's a black community, and I never thought that.

A You believe.

BY MR. RHODES:

Q And I'm hearing a story now which is very different.

How do you explain it? Why are the Ridley Township police this way? Why are they this way in your opinion?

A Well, I can jump ahead for just a minute, which I'm not sure that I should do because it's going to be out of sequence.

Tom Maslin did an investigative story for the Inquirer.

Q Right.

A And part of his analysis of why the Ridley Township police force was particularly abusive and continued to be so was because they had a very difficult problem with motorcycle gangs located in Ridley Township. The word came down, "I don't care how rough, tough, you know, what you have to do, we want them out of our township."

And they did get them out of the township. But once they were out, they just continued to use the same tactics on everybody that came down the pike.

I think then you get into the position of hiring-- I'm only guessing now, an educated guess-- that you hire men who will fulfill that role, even though you take civil service exams, et cetera.

In fact, there's proof that some of the civil service exams have been changed, erasing answers and changing the answers in order--

BY MR. WILLIAMS:

Q You mean you can't be firm and fair and solve a problem?

A I¢ that a rhetorical question?

MR. RHODES: It must be.

BY MR. WILLIAMS:

Q You mean to say that police can not be reasonably fair, effective, and tough when they have to be on a problem that requires toughness without at the same time utilizing that

excessiveness to folks who don't deserve it?

A Are you asking me if it's possible to have a police force that can function in a professional manner?

Q Yes.

A I believe it probably can. I don't have the experience with the police force to be able to point to one, but I believe it can happen.

BY MR. RHODES:

Q Well, there is more to your story we want to hear. Do you want to say something about that?

(Discussion off the record.)

A (By Mr. Walker) The establishment has been there a long time. They have had their collaborators in many different segments of the community and, in particular, among the township commissioners who very seldom raised any questions about the way things were going.

This kind of long-term power breeds a kind of feeling, "I can handle whatever comes down the pike."

So at times the problem really the young people complain about is not being tough; it's being unfair, corrupt. Or the same policemen who give you a hard time or give you a lecture are the people who take a payoff someplace, and they see them because of all the underage drinking problems that arise. It's the unfairness rather than the toughness.

The same thing is true for the parents. The parents

know they aren't angels. Many of these kids have been involved in drug things, drug busts and the like. They know they're not angels, either. It's the imperial mentality of the whole thing that makes people so angry and so determined to do something about it.

This breeds a kind of contempt for the police department that bodes a lot of trouble at a very deep level in our society.

MR. RHODES: On that point, we'd like to now stand in recess until 3:30 when we'll reconvene with you.

(Recess)

AFTER RECESS

MR. RHODES: The hour of 3:30 having arrived, this hearing on the Sub-Committee on Crime and Corrections will reconvene.

Before we continue the hearing, I'd like to suspend the hearing momentarily and go into a meeting of the Sub-Committee and also announce that a quorum of the Sub-Committee was duly noted early today and, in a similar effect, I'd like to make a motion at this time that this Sub-Committee of the Judiciary Committee on Crime and Corrections in the House of Representatives will hold a public hearing Thursday and Friday of this week on the subject of civil rights violations on and by the police in the City of Philadelphia.

This would be Thursday the 20th and Friday the

21st of this week. The location of the public hearings will be Drexel University Student Activities Center, Room 101. That's Drexel University, Student Activities Center, Room 101. The address is Chestnut and 32nd Street in the City of Philadelphia.

A witness list of the witnesses who are now on schedule for Thursday and Friday will be circulated this afternoon by our staff.

Is there a second to the motion?

(Seconded.)

MR. RHODES: There is a second to the motion.

All those in favor of the motion say aye.

THE COMMITTEE: Aye.

MR. RHODES: Opposed?

No opposition is noted.

MR. WILLIAMS: Mr. Chairman, I will vote for the motion. I want to enter an objection on the record to scheduling problems and witness problems. That's all I'll say at this time.

MR. RHODES: The objection of Representative Williams is duly noted in the record.

It's been duly voted by the Sub-Committee of this Judiciary Committee of the House of Representatives in Pennsylvania that we hold a public hearing pursuant to Resolution 109 on the subject of civil rights violations by and on police in the City of Philadelphia this Thursday and Friday, July 20th

and 21st.

We'll now adjourn the meeting of the Committee, if there is no opposition.

This meeting of the Sub-Committee is hereby adjourned. We'll go back to the recess of the Sub-Committee's hearing on Resolution 109.

You just saw, witnesses, one of the quickest meetings of the Sub-Committee on record.

We'll now continue our discussion with our friends from Ridley Township on the problems of abuse they have experienced in Ridley Township with questions by Chief Counsel Michael J. Reilly to our witnesses.

BY MR. RHODES:

Q By the way, has your additional witness that you thought was coming arrived this afternoon yet? Has she joined the table yet?

A (By Mrs. Sontag) She doesn't appear to be here yet.

(Discussion off the record.)

MR. RHODES: Mr. Reilly will continue with the questions.

Before Mr. Reilly starts, is there any member of the Sub-Committee who has any questions of our guests from Ridley Township on this subject before proceeding with the direct interrogation?

MR. WILLIAMS: I have a question or two.

MR. RHODES: Representative Williams.

BY MR. WILLIAMS:

Q When we broke we were talking about just why these sorts of things could happen, and Representative Rhodes indicated some surprise that it happened in basically a white community where the socioeconomic group was pretty much the same.

I guess my question is: Is there anything in particular about the mentality of people who get to be police officers in this kind of a situation that perpetuates the abuse in and of itself?

From what you've described, it seems as though the situation is removed from any responsiveness to the law once these things get started.

I just wonder whether you all have any observations about the dynamics of the psychology which allows in American this kind of fundamental and basic intimidation, an impropriety with no apparent relief to any citizen.

Is there anything about the psychology of those dynamics that you observed that you could tell us?

A I think there are some officers who become police officers and believe that they can do a good job, a professional job, not overreact. Do the job as it's prescribed by law. But I do think that once you get into the system, that the system, you know, by itself will force you to conform to their standards.

said, "I'm ashamed to admit that I'm too frightened to speak out. In fact, I'm too frightened to ever come back to another meeting."

So that's what happens.

Q Well, I'm very unashamed and proud that you all have taken the time to be with us today.

Is there anything you want to add to that, sir?

A (By Mr. Walker) The largest attendance at a public meeting was around 150 people. That wasn't just all on our side. There were police wives and other groups.

At any rate, we were able to attract that kind of public meeting on the difficult issues. So that's the upper limit of involvement.

MR. RHODES: Representative DeWeese.

BY MR. DEWEESE:

Q You have a meeting tomorrow night with the police committee of the commissioners and yourselves?

A (By Mrs. Sontag) Yes.

Q That's two parts of the tri-parte effort?

Are the police no longer participating directly in your meetings?

A (By Mr. Walker) That's right. That was held in limbo. As a matter of fact, the police were never very happy about it. That sort of fell in limbo.

This is now the result of a new political situation

where we said all along that our basic question has always been: What kind of a police department do we want in Ridley Township.

Now we have a new opportunity. They're appointing a new commissioner-- not commissioner. Superintendent. That process is starting.

The superintendent should carry out the kind of policies you want. What kind of policies do we want?

So we listed eight, I believe, topics that we should discuss. What is the complaint procedure? Instead of a man going in to complain and getting beaten up before he even got in the door, one of our young fellows who was told, "Come in and tell us," that's as far as he got. There should be a complaint procedure, and one publicly known and explained.

That's one kind of thing.

Secondly, a public declaration of policy when we get a new commissioner.

The matter of the fact that the only public phone in the whole place is inside the police station in the municipal building. The courtroom is over here and all of that, library over there. Whether there shouldn't be some other place to have a phone.

When you go in to complain, you're talking like this in through a plate glass with a little hole. Almost invariably when you go in to complain, the person says, "Speak up,

we can't hear you. Got a complaint?" Well, even big people tend to wilt a bit under that.

Q They set it up real well.

A They're building a new building. I want to look at those plans and see what they look like.

All the way to these smaller things, but they're not small to the people who are making their first venture into this kind of thing, defying the awesome power that the law represents.

The matter of names and numbers on the sheet, they aren't identified by name or number.

On the other hand, in the local town of Westchester, they said, "We want to be known. We're going to put the names and the numbers on the anteway as you come in on a card so that you can see it."

If you ask the name of a policeman in Ridley Township, they nail you right then and there. As a matter of fact, one guy was trying to say, "No, sir. No, sir." He made the mistake of saying "No, sir, number 129" and he got nailed.

The point being, well, it's too expensive. But you have to weigh that expense against whether or not as part of the new--

Q You mean the name tag is too expensive?

A (By Mrs. Sontag) Well, they keep losing them.

Q Oh, I see.

A (By Mr. Walker) And the training programs we talked about before.

Finally, the matter of code of conduct. The bad apple theory has its counterpart in another false theory: the good cop.

The problems of the police of today are so complex and much more difficult that they can't be answered either by a person subjectively being a good cop and saying, "I'll do a good job" on the one hand, or the bad apple who misuses his position. There needs to be a code of conduct. Almost any profession has this as one of its hallmarks. It now has a code of conduct. If you violate it, at least you know you're violating something that's corporately agreed upon.

In one place called Springfield, Pennsylvania, the police chief decided that he was going to have his code of conduct enacted as a township statute; so that if you're disobeying this, you're disobeying the law. And he would have counseling sessions with his policemen on this matter.

We just heard the other day about how the youths there in town say, "Well, what a difference this police force is in this town than all of Pennsylvania." It wasn't simple, what's trying to be done.

The whole idea that needs to be examined, I would suggest, by the Committee is the extent to which a code of conduct, professional conduct, can have some impact.

Q Just one thing. There are those who would say, "You've got to be tough with the kid." Now, I know it might have started because of the motorcycle gangs. And having ridden a motorcycle, I've decided I will never drive it in Delaware County.

Anyway, some would say, "You've got to be tough with the kids, otherwise they'll get out of hand."

What you've indicated, I think-- and correct me if I'm wrong-- is that this game that's being played in the streets between the police and the kids, it seems to me to be implied that the tougher the police got, the more imaginative and tricky games the kids got into. Which would seem to imply to me that the police cracking down on the kids may have encouraged more unlawfulness than there was before. Is that correct?

A (By Mrs. Sontag) Right.

A (By Mr. Walker) Correct.

Q In other words, there might have been a negative result for what the average law-abiding citizen would use as a justification for police brutality. You know, most of us would say, "Well, okay, maybe they got out of hand in a couple of cases; but they kept the kids under control. They're not cutting up. And Ridley is a nice place to live because of this, so I can accept a little bit of cracked heads and all those bruise pictures and those police dog bites."

A Right.

Q Are you saying that, or am I putting words in your mouth? Are you saying to the Committee that in fact the result of this systematic abuse of children in Ridley Township was to increase lawlessness?

A Harassment is an escalating process. No crime has been committed yet, but one guy is a little sassy. Didn't move on fast enough. Next thing you know, somebody is hit. But no crime has been committed.

If the policeman is going to say that, "I had to hit him to subdue a suspect," there's no crime. Then the crime is manufactured of disorderly conduct or whatever it may be.

Now, sometimes there are real crimes. For example, the kids will go out and line up the beer bottles along the yellow lines in the malls right outside of the liquor establishment as if to say, "Last night we won." You see? Those kinds of things.

That will show you how the escalation pattern--

Q So there is on either side escalation?

A There's a clear line between that and brutality of the kind that would turn a dog loose on a handcuffed suspect. Or as the policeman is beating up a man, he says, "This is the only discipline you're ever going to get." Or in a cell--

Q I'm not trying to equate the two. I'm just saying that people imply-- or the public comment might be, "We can

accept some brutality because it keeps these unruly children in line." What your testimony has been saying to me is that the more you brutalize the children, the more they're going to brutalize back. Maybe not at the same level of brutality, because I won't equate the two. But the escalation process seems to be what you're saying. Is that correct?

A Correct.

MR. RHODES: Representative Cohen.

BY MR. COHEN:

Q I'd just like to know about the meeting you had with the police wives. What role did the police wives play in that meeting?

A (By Mrs. Sontag) I'm sorry?

Q I'd like to know about the meeting you had with the police wives. What role did they play in the meeting?

A When we had the public meeting when we went to the police commissioners?

BY MR. RHODES:

Q The 150 who attended this meeting. You said the large meeting you had with 150, and a lot of them were police wives.

A (By Mr. Walker) There were two times when the police wives intervened. One was at the public meeting.

Incidentally, they were not a negative force necessarily. They were raising real problems about the strains

and stresses under which policemen function and all the rest. So that was a lively and controlled meeting.

The fact that it was lively and had a lot of yelling even at times didn't make it necessarily such a bad meeting.

The other time was we thought we had a meeting privately with three members of the police committee. Three members. So we selected three. We even had a little role playing, how we were going to do this and that beforehand. We got there and about 100 people had shown up, because the police wives had gone from door to door. "Our police are under attack." That was a shouting match. In fact, our recorder for us fled from the meeting. That was a different kind of thing.

Even then, after we came out of that, it took a while for them to realize it, but still after we pointed it out they said, "Well, we'll investigate it." They always had that up their sleeves. "We'll investigate."

A (By Mrs. Sontag) One reason that I'm not too clear what happened at some of those meetings was that we were the outsiders. The Ridley people handled the meeting that took place in Ridley Township with their own officials.

So some of those specifics, those details I am really not aware of except second hand.

MR. RHODES: Thank you very much.

On behalf of the Sub-Committee on Crime and

Corrections of the House Judiciary Committee, I'd like to thank you for coming and being with us today and for your testimony. It will be added to our record.

BY MR. RHODES:

Q Do you have copies of those photographs, or are those the only copies you have?

A These are the only ones we have.

A (By Mr. Walker) We'll have copies made for you.

Q Could you get some copies and submit them to us? It will be very helpful for our record.

Your testimony, I assure you, will be very, very helpful in coming up with our conclusions.

I hope you will stand ready to respond to questions and inquiries that the Committee might have after today.

Thank you very much.

MR. RHODES: If there is no public voice, and I hear none, this hearing of the Sub-Committee on Crime and Corrections is hereby adjourned.

This Committee will reconvene its next hearing tomorrow morning at 10:00 o'clock in this room.

(Hearing adjourned.)