

P U B L I C H E A R I N G S

*Corrected  
July 21, 1978*

BEFORE

SUBCOMMITTEE ON CRIME AND CORRECTIONS

OF THE

PENNSYLVANIA HOUSE OF REPRESENTATIVES  
JUDICIARY COMMITTEE

ON

ORGANIZED CRIME, PUBLIC CORRUPTION  
AND  
CIVIL RIGHTS VIOLATIONS

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PRESIDING: CHAIRMAN JOSEPH RHODES, JR.  
REPRESENTATIVE, ALLEGHENY COUNTY

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AT

DREXEL UNIVERSITY  
STUDENT ACTIVITIES CENTER, ROOM 101  
32nd AND CHESTNUT STREETS  
PHILADELPHIA, PENNSYLVANIA

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TESTIMONY FROM  
PHASE I: CITY OF PHILADELPHIA DISTRICT ATTORNEY  
REPRESENTATIVES OF ORGANIZATIONS

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FIRST DAY  
THURSDAY, JULY 20, 1978

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**PRESENT:**

**SUB-COMMITTEE ON CRIME AND CORRECTIONS**

REP. JOSEPH RHODES, JR., CHAIRMAN  
REP. ALJIA DUMAS  
REP. JOHN F. WHITE, JR.  
REP. HARDY WILLIAMS  
REP. STEPHEN LEVIN  
REP. DAVID RICHARDSON  
REP. MARK COHEN

MICHAEL REILLY, ESQ., CHIEF COUNSEL

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**ALSO PRESENT:**

REP. RUTH HARPER  
REP. JOEL JOHNSON

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(10:32 O'Clock A. M.)  
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**CHAIRMAN RHODES:** This Public Hearing of the House Judiciary Sub-Committee on Crime and Corrections for the Commonwealth of Pennsylvania will now come to order.

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

A little over a year ago the House of Representatives authorized this Sub-Committee of 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 the introduction of House Bills 2601-2611 which represent our legislative response to the critical problems of organized crime activity and public corruption in Pennsylvania.

On Monday and Tuesday of this week, this Sub-Committee initiated its public hearings into the disturbing problem of civil rights violations by and on police in Pennsylvania. National experts from the police field and community interest organizations testified, and provided a national perspective on the problem, as well as potential solutions. It is hoped that the information gained will provide a solid factual basis for comparison as we examine the issues in

Pennsylvania.

Today we continue the series of public hearings into this subject, which is of the most grave and difficult nature. Today and tomorrow we will hear from the District Attorney of Philadelphia County and representatives of organizations that have taken an active interest in the issue of violation of civil rights by and on the police of this city.

At the next phase of our hearings, we will hear from citizens of Philadelphia who have first-hand knowledge of this problem. Following this, we will begin our interrogation of officials of this city and the Police Department.

It is too easy to take 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. Similar charges of harassment and violence aimed at the police have been duly noted.

We as a Sub-Committee shall reserve judgment on these matters and we caution others to do likewise. This

is an explosive issue; 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 remedy 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 in that jurisdiction from its police.

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

Members of the Sub-Committee present this morning with me, to my left is Representative David Richardson of Philadelphia County. To his left, Representative John White, Philadelphia County; Representative Stephen Levin, Philadelphia County.

To my right, Representative Hardy Williams of Philadelphia County. These are the members of the Sub-Committee present here today. To his left, Chief Counsel, Michael Reilly, and numerous members of our staff.

There are statements of some of the Sub-

Committee members before we move to our first witness. First, I would like to call upon Representative John White.

REP. WHITE: Thank you, Mr. Chairman. I wish to state very clearly for the record, that it is certainly the intent and the responsibility of this Sub-Committee to solicit testimony and to accept testimony from as broad a spectrum of the Philadelphia Commonwealth community as possible.

That testimony should come from not only experts in the field, representatives of various active civil rights, human rights community organizations, but certainly that testimony should also be solicited and accepted from private citizens, who do in fact have first-hand knowledge, who have in fact been victims of this thing we call police abuse.

Certainly there can be no justification for the delay in the conducting of these hearings in Philadelphia. I think all of the members of the Sub-Committee are keenly aware of the fact that it has taken us more than a year to finally implement Act 109 with respect civil rights violations and criminal rights violations by members of the police. So, it is impossible for any justification to be made for that.

But I say to the members of this Sub-Committee, those persons gathered today, that it is also our responsibility, not to allow any other form of dilatory effort to be made that

would seek to stifle the intent, the actions of this Sub-Committee.

As a member of this Committee, I take my responsibility extremely seriously. As a member, it is incumbent upon me and I certainly share responsibility and weight with my colleagues, so we will not allow members of this Sub-Committee, members of the political community of Philadelphia, or any other city, borough or township of this Commonwealth, to utilize this Committee in any form of a white-wash, in any form that is not willing to allow for adequate input from all parties concerned.

It must not only be our intention, Mr. Chairman, to invite and solicit the testimony from citizens of the Philadelphia Community, it also must be our action, and our hope, Mr. Speaker, I would move that at the immediate recess of this Hearing, for the scheduled lunch break, that this Committee meet with staff, and immediately set dates for when the Hearings, the next phase of the Hearings can be held in the City of Philadelphia, not in some fancy institution, but within the heart and in the breadth of the community which is most directly affected by this most serious and grave problem.

Thank you, Mr. Chairman.

CHAIRMAN RHODES: Thank you, Representative White, for your comments which are duly noted for the record.  
Representative Williams --



REP. WHITE: I offered a motion.

CHAIRMAN RHODES: We will not entertain the motion at this time. Representative Williams?

REP. WILLIAMS: Thank you, Mr. Chairman. I will read my statement but first say that our Hearing here today has not been publicized in order to inform the general Philadelphia community of its existence, and that is a vital omission on a problem of this serious a nature.

The awesome and very critical problem that we see in Philadelphia involving police and citizen violence should be of fundamental concern for all Pennsylvanians. Certainly all Philadelphians are concerned about a serious resolution of this problem.

The state committee can be one instrument through which to propose recommendations which may alleviate this American problem. In order to do that, our approach must be serious and deliberate.

The approach must, therefore, involve the citizens and the officers who come face-to-face with the situation every day. Even now in our city, we are subjected to incidents of shootings under highly questionable circumstances. We are appalled that for so long citizens can be hurt and killed and there is no mechanism which meets this American problem.

Almost one year has passed since this

particular investigation was proposed and acted on by this Committee. We have not since that time seen fit to conduct hearings in Philadelphia, an area where even the Federal Government finds signs of a serious problem.

Now that we have decided to conduct these hearings in this area, they must be and should be thorough and open for the participation of its citizens.

These hearings, scheduled on Thursday and Friday, have been hastily put together and have not been publicized to invite the full participation of citizens.

I, therefore, urge that the Committee, if it is serious, in accord with what Mr. White suggests, schedule additional hearings to be held along this line.

My addenda to my written statement, Mr. Chairman, is that unfortunately we have seen fit to have what we call the expert or established witnesses; that is fine, and we need their very, very critical input and observation, but it has been my position that an approach to a problem of this nature, seeks to get the basic facts first. Because for some reason, for too long, the experts who get in position and power, and this is no particular reference to any particular witness here today, don't seem to handle the problem. I think we're going at it in a little backward fashion.

In accordance with that, I would support the

recommendation by Representative John White, Jr. Thank you.

CHAIRMAN RHODES: Your comments are duly noted for the record. Representative Richardson?

REP. RICHARDSON: Thank you very much, Mr. Chairman. In my remarks this morning, I want to make it clear that our concern is to deal specifically with the police violence, police abuse situation here in the City of Philadelphia.

I take note of the fact that the Chairman and members of the Committee have not had the ample time to do the research that is necessary in order to touch base with who we feel are very pertinent individuals in the community.

In that light, Mr. Chairman, I share the sentiments of Representative Williams and Representative White in regard to the fact that we have labored long and hard in Philadelphia here, and have seen the problems that have come about through some of the violence in the community by the police, and we are definitely concerned.

Therefore, I would say that we have not had input with staff here, and even in these hearings, to sit down as Philadelphians or even as a Committee, to decide who was going to be called here as witnesses for these first two days of hearings. I feel it is blatant disregard to us who are members of this committee.

I feel that the time has come for us to lock

horns with those individuals in the city who tend to violate the law and tend to get away with the kinds of serious matters that has been plaguing our community for numbers of years. This is not a recent situation that has just occurred.

I say that to you, Mr. Chairman, because of the fact that other members of the community which have not been invited here this morning to testify, should have been, and I would follow the recommendation of Representative John White and ask that there be a recess meeting, and that we have an opportunity to plan exactly what other witnesses can appear before this Committee.

I think that it is only right because the fact that it is our city; we do have an understanding about the problems that do exist here, and the persons who have been invited -- no reflection on them -- but it seems to me that it would certainly help this committee have a proper perspective of the problem if they had an opportunity to have some witnesses who would give you a first-hand knowledge of actually being involved, not from the so-called expertise, but from the standpoint of we're talking about community involvement and community participation that our people should have an opportunity and this committee, to hear that.

We are very serious about these hearings, and we do not want to rush; we do not want this hearing to go by

the wayside as so many hearings have done in the past. If there is a blatant move to disregard that, I would like to, Mr. Chairman, make a recommendation that these hearings immediately have some follow-up by calling in whatever authorities are necessary to make sure that a continuation of them develops.

We are not going to sit as Philadelphians here and allow the situation to get by without the involvement of the citizens in the city who are being abused.

I therefore ask that the recommendation of Representative White be reconsidered by you since you said you would not entertain this at this time.

CHAIRMAN RHODES: Thank you, Representative Richardson. Your comments are duly noted for the record.

The first witness is Mr. Edward Rendell, District Attorney of Philadelphia. I would like to thank you for taking time out of your busy schedule, Mr. Rendell. I apologize for being a little late getting started; our microphones are being installed; the first day of hearings is like that. Thank you, Mr. Rendell.

Representative Johnson, would you like to sit with the Committee? We would like to have you, if you have the time; I don't want to put you on the spot. This is Representative Joel Johnson.

REP. JOHNSON: Thank you.

CHAIRMAN RHODES: Mr. Rendell, do you have a statement?

MR. RENDELL: Nothing to read, Mr. Chairman. The problem with that is I was hoping to present you with a type-written statement; unfortunately at the present time, my typist is not at the office.

CHAIRMAN RHODES: I heard about this problem in Philadelphia. Our records state I should ask you for the record, do you have a subpoena to appear here today?

MR. RENDELL: Yes, I do.

CHAIRMAN RHODES: I would like now to swear you in before the Sub-Committee.

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EDWARD G. RENDELL, District Attorney for the City of Philadelphia, sworn.

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MR. RENDELL: I have a very brief statement at the outset. Since I have been in office, it has been a little bit over six months, we have established during the campaign an independent police brutality unit. In this unit we have four attorneys that do nothing but investigate police brutality cases, police abuse cases. There are four investigators that do nothing but investigate these cases. They are completely insulated from any other contact with the Philadelphia Police Force.

It is an essential thing, if the Prosecutor's

office in the County of Philadelphia was going to have meaningful input in solving this problem. From the experiences we have had in the first six months, we have had immediate successes and immediate failures. I think in the long run, given proper support and some proper legislation, we can be eventually successful in helping to ameliorate the problem.

I would like to make two points at the outset. Point number one: I believe that the Philadelphia District Attorney's office, and the United States Attorney's office, and you are all aware that both offices have been looking into this problem -- our office for the past six months, and the United States Attorney's office for several months before that.

I think, given the laws on the books, the statutory offenses, and given good intentions by both offices, which I believe were present under the previous district attorney, and I know our office has intentions to get at this problem. I think they are sufficient for the prosecutor to deal with the problem. I don't think we need a special prosecutor; I think that the two agencies can do the job with adequate support; the laws on the books, the statutory offenses are sufficient.

Assault and Battery, Aggravated Assault, Recklessly Endangering Another Person, Terroristic Threats, Homicide; those laws are sufficient in the State. The Civil

Rights Act that the United States Attorney uses to prosecute violations; these laws are sufficient. The statutory offenses are adequate.

What is not adequate at this point is access to information, and as you are aware, and this Sub-Committee is keenly aware, the District Attorney in Philadelphia County or any county throughout the State, has no subpoena power. Our subpoena power attaches only in court cases when an arrest has been made. During the investigatory stages, we have no subpoena power. That has hampered us in the first six months.

Mr. Parry, who is the head of the Police Brutality Unit, was selected, has a law enforcement background and is familiar with investigative police problems. Mr. Parry was in the Strike Force in Buffalo, United States Attorney's Office. In the Strike Force, he investigated police abuse and corruption in Rochester, New York.

We have been impeded, slowed down, to a great degree in not being able to act as fast as we had hoped in bringing this matter to investigatory resolution, because we do not have access to very important pieces of evidence. We can go out and interview all of the witnesses, knowledge of whom are known to us, either through the newspapers or complaints that come into the office.

We do not get all of the complaints that come



in the area, in the City of Philadelphia. The complaints that come into the social service agencies, like PILCOP, are being referred to us.

But we do not get access to the complaints that come to the police department. We are never told those complaints. A lot of our citizens still have a tendency when they feel they are abused by the police, to make those complaints to the police themselves. Knowledge of the existence of those complaints is never given to us. That is number one.

There are a number of complaints we never even hear about, unless the individual goes to the newspapers or comes to us, or comes to a social service agency, we may never get knowledge. I think we are investigating a high percentage -- I guess eighty or eighty-five percent of the complaints made, but we are missing a significant segment, because there is no force of law to make the police notify us of the complaints given to them.

Secondly, more importantly, very often crucial investigatory material is in the sole possession of the police force. We have requested that material on a case-by-case basis and the response is on a case-by-case basis. In some cases, the Police Department has given us all the material in the file; in other cases, they have refused to give us certain things. In some cases they are given to us, but after inordinate delay.

We, as the chief prosecuting agency with the County of Philadelphia, should have immediate and contemporaneous access to any evidence in the file.

To give you an example -- I won't use the specific case name -- but to give you an example, we are presently investigating a case that occurred several weeks ago in the Philadelphia area, where an individual was driving a cab. The report came to the police that that cab was stolen. In fact, that individual was a cab driver who accidentally got into another cab, leaving his cab behind in the parking lot, and was driving.

The report did come into the police that the vehicle was stopped, very properly by the police. The man was told to get out, place his hands on the car, and a frisk was undertaken. The officer frisking the individual pulled out his service revolver; had his service revolver in his hand, and was proceeding to frisk, when something occurred which caused a discharge of that revolver.

Most of the witnesses at the scene were candid and said it was not a deliberate shooting. However, it may well have been criminal negligence involved in that case. One of the crucial things to find out is what the officer says happened. And two, the ballistics report of that gun. There was talk in the police version they put out to the newspapers that

the officer had cocked his gun. That is an important fact to nail down. Because if he was frisking with a cocked gun, that might draw you to one conclusion; where if he was frisking someone with a gun that was not cocked, and less likely to go off by accidental jarring -- it makes it more likely to go off quicker if it is cocked.

That is a key investigative fact. We need to see ballistics reports; ballistics reports would indicate trigger pull, things like that. We need to see the officer's statement; we also need to independently examine the gun ourselves, have our own independent ballistics expert take a look at that gun. We have requested that from the police over the past several weeks. Mr. Parry has done that informally. Those requests have gone unheeded. I am in the process of sending a formal request, signed by me, to the Commissioner to turn over that material to us. It is my belief that the police are best served by giving us that material, because very often we are sometimes forced to make a decision whether to arrest or not to arrest on incomplete facts, and sometimes the facts could be beneficial to their own officers.

The position taken by the Police Department has a tendency to hurt their own officers, because we are forced to make very difficult decisions, whether to arrest or not to arrest, bring criminal charges, without a complete investigative file.

On the other side of the coin, we are totally unable to make an arrest because our investigation may be blocked. How do we resolve that problem? It seems to me there are two ways. Number one: I think this Sub-Committee has already put into effect by promulgating House Bill 2603.

As you are aware it calls for investigating grand juries in a different context. It will allow us to have at our option a regular city investigative grand jury that can subpoena material in different criminal investigations.

Under current Pennsylvania law, we can only go in and request one topic; it has a limited scope and prove pattern of abuse, and cannot handle it under normal investigative means. Under your bill, an investigative grand jury can be empaneled when the D. A. says it is necessary to investigate criminal activity in his district.

Number two: it has no limitations in scope, so we can bring six different things before it; we can bring organized crime before it; we can bring political corruption investigation before it; we can bring police brutality investigation before it; we can bring murder cases investigation before it, and we can have access through the subpoena power of that grand jury to these records.

2603 is a vital, crucial, important step. I would urge you to do everything you can to make sure it is

passed through the House. You are aware that the Senate has promulgated a somewhat similar legislation.

Secondly, there is a bill in Philadelphia, Bill 1063, which is an excellent bill, which would provide almost the same type of access. There were some difficulties in the bill, some provisions we felt would be needed to be amended. I wrote Dr. Allen a letter suggesting several amendments he could give the District Attorney's office. One would be contemporaneous access. The bill calls for the file to be open to the public forty-five days after the investigation. That is too long for us to wait. I have asked to amend the bill to give us contemporaneous access within twenty-four hours to the police materials. It is amended, and I wrote a letter to the chairman of the committee in order to see if we can get the bill moving.

That bill would also do the job. Again, I don't know what this House Committee can do to speed that bill along. We are very disappointed, but I think your Bill 2603 will be an enormous help in solving this whole problem.

In summary, two things I want to get across today. One, I think we have enough prosecutors. The D. A.'s office, the U. S. Attorney's office is enough. I think we, in the first six months, have shown even in our incipient stages, that we are willing to do a fair job. We are not willing to

white-wash; we are not head hunters of the police. We will try to do a fair and honest job. We do need more support in legislation, and House Bill 2603 is frankly, the answer, or Council Ordinance 1063.

CHAIRMAN RHODES: Thank you, Mr. Rendell for your comments on House Bill 2603, which was principally intended to deal with organized crime and official corruption, has a side benefit in terms of investigation of police brutality.

MR. RENDELL: I think, Mr. Chairman, the benefits will go to murder cases. Sometimes in murder cases subpoena power is essential in the investigatory stages. I think it is a great piece of legislation.

CHAIRMAN RHODES: We will do everything we can to meet the deadline of the Fall session.

MR. RENDELL: Mr. Chairman, I want to note also that Mr. Parry is here. I am willing to answer questions on my own behalf. Mr. Parry can give you some explicit answers about the operations of the Police Brutality Unit, and he is available to do so.

CHAIRMAN RHODES: Questions from the Committee now. I understand, Mr. Rendell, you have another appointment, and we can focus our attention more on the District Attorney first.

MR. RENDELL: I have to testify before another legislative committee.

CHAIRMAN RHODES: I have a principal responsibility of investigating police brutality.

MR. RENDELL: All kidding aside, I do believe this is a problem, that we as Philadelphians have to deal with, whether we need outside special prosecutors.

CHAIRMAN RHODES: Are there questions from members of the Sub-Committee? Representative Williams.

BY REP. WILLIAMS:

Q. Mr. Rendell, the problem of police violence, and I must inject once again at this time, we always refer to it as police brutality. I guess it has been over twenty-five, maybe forty years it has been referred to.

It is my opinion that by referring to it as something special, police brutality, we put it in a special category, to be handled specially -- and it's never handled; that's my own prejudice.

Being fair and equal, situations where police did commit violence on citizens, I would like to call it police violence, citizens violence, robbery violence. I think if we have a definition which all people understand, then we understand we are talking about the same problem. I just want to impress that on you, and I think we need to change that language and call it what it is, so when I'm talking about it, I am talking about violence committed by the police.

Do you believe that the problem of police-citizen violence in Philadelphia is a problem of a great magnitude?

A. It is a substantial problem, no question about it. People always ask me, what percentage of the Philadelphia Police Force commit acts of violence. That is an impossible figure to give. I think a substantial problem, substantial in number, and substantial in implication, as one of the speakers said before we began my testimony, it is a problem that goes to the heart of the relationship with the citizens with the government.

Most citizens, their only link on a day-to-day basis, is the police, and I have noticed by talking to people during the campaign, in all areas of the city, not confined to the black areas of the city. I have noticed a lessening of the confidence in all areas, of citizens about the fairness of the police force. It is very damaging.

It is damaging to me as a law enforcement officer. I do want to prosecute the murderers, the robbers, the rapists, but if the public doesn't believe in its police, they are not going to cooperate, if they don't have confidence. It has all sorts of detrimental offshoots, and it has got to be solved.

What percentage of the police force is involved in brutality, there is no way I can answer that.

Q. I didn't ask you that question. I asked whether you



believe it is a problem, serious, of substantial magnitude, and your answer is yes. You did go on to talk about the implications and absolutely I would agree with you; that is fundamental.

At the same time, it is a crime the same as rape and robbery and murder when it occurs, would you agree?

A. Yes.

Q. And of course, we never hear -- we always hear from public officials about we're going to solve the rapes, we're going to solve the murders and the robberies, which of course, the rhetoric doesn't conform to the performance in many, many cases.

But there is a passion by those in power to talk to the public about the crimes of rape and robbery, and so on, but you do agree that the police violence in various forms, is a crime and should be rooted out, and should be punished?

A. Representative Williams, not only do I believe that, that is not just rhetoric, but I have acted upon that in the first six months.

Q. I am not accusing you personally of rhetoric.

A. I didn't take your remarks personally. Not only do we believe it to be so, but we have acted on that belief.

Q. We'll get into that later. The thing I wanted to get at was, it seems to me that the public officials who

have anything to do with law enforcement, and even those of us who have to do with legislation, have to understand if there is a problem of this nature that does exist -- in other words, it seems to me that the first line is one of credibility.

A. No question that it exists.

Q. On that line, do you have any observation as to why it seems to be so difficult for district attorneys, public officials, judges, and all that, to first of all, believe that police violence exists to a degree and that it is a serious threat to both citizens and its justice system? Do you have any observation as to why that is so difficult?

A. Perhaps only because we come into constant contact with the police force itself, both judges, prosecutors, etc. For a long time it was a myth that you need an outside prosecutor, because the D. A. is dependent on police officers to cooperate in murders, burglaries, etc., and it can't ruin its relationship with the department by prosecuting police brutality.

Q. Can I stop you there?

A. Sure.

Q. If five of us are on the police force, and one of us commits a murder, or aggravated assault --

A. Right.

Q. -- are we talking about five professional police, and the other four are professional policemen who want to do their

job, why would it be so difficult to say, for a prosecutor to say, that guy who is a policeman, who did that is a criminal?

A. It isn't.

Q. And why should the other four say, we agree and we don't want that on our police force?

A. It's not difficult. There was a myth for many years that it was difficult. We have found in the first six months, that prosecuting and investigating cases of police abuse have not caused us any problem with the line officers. The line officers still cooperate fully with the D. A.'s office, with us, on murders, rapes, burglaries, etc.

Q. As they should.

A. As they should. Conducting themselves as professionals. Even Commissioner O'Neill, who I have been critical of in a number of cases, even though he argues and disagrees and gives us problems in the area, in all other areas, he still cooperates with us, because we are the chief law enforcement agency.

A number of line officers, white and black, all sorts of officers, from every district, have told me privately that the people on the force that commit this type of act, should be rooted out, because it is going to make their job easier.

Q. Just a few more questions to ask you. What you just

said, I think is very important. One of the things is the myth about what the relationship would be with various law contacts if you prosecuted police for doing what they shouldn't do. You are saying that is a myth?

A. That is a myth. Commissioner O'Neill has been very, very professional in cooperating with us, in other areas.

CHAIRMAN RHODES: We will have to limit the questions.

REP. WILLIAMS: Well, so many of the answers are so long, and I understand that. The problem is, we are always in a rush.

BY REP. WILLIAMS:

Q. Be that as it may, I don't know that an investigative grand jury has ever been used on police violence -- ever. You mentioned this as an important tool. Would you, as District Attorney, if you got this tool, because of appreciation of what the problem has been, conduct an investigative grand jury on the question of police violence?

A. If 2603 were law today, we would use it in almost every case.

Q. Just two other observations. It seems to me in pursuing and prosecuting cases of police violence, that good investigation is vitally important, but also when it comes to the trial, the actual trial of those cases, that you have got to have the same kind of prosecutor that you have in a rape case that you

want to convict, or important public corruption case that you want to convict, and all too often I have seen investigation along these lines go caput, because the person who has to carry through with the prosecution, is not as aggressive or skillful, or whatever, as a good, tough prosecutor.

Now, given that prosecuting rape should be tough, also obstruction or misconduct in justice, should be tough, what have you done or what are you doing about getting the front line people to carry the prosecution?

A. What we have done — Mr. Parry, for instance, came from outside our office. We have given Mr. Parry three attorneys in our office, who are among the best trial lawyers that we have.

Robert Campolongo, is one I would like to speak about specifically. Robert Campolongo as some of you may know, convicted something like twenty-nine state murder cases; he convicted Councilman Bellas in the public corruption trial. As of January 3rd, my first day in office, Mr. Campolongo was transferred to Mr. Parry's department, and has been there. There is no more feared prosecutor, I would say, in the D. A.'s office, and no more vigorous prosecutor. In fact, when he was prosecuting murder cases, he was considered to be too vigorous.

I agree with you, if we believe a policeman has violated the law, we have got to convict him and do everything

we can to convict him.

Q. One other observation. I think, from my experience, from the D. A.'s office and community problems like this, that the biggest gap is access to your office, or anybody else's office, not yours personally. But citizens cannot make their complaints. This has happened, and I can prove it now -- that doesn't happen.

If there is a beating at the Gallery, or a thing in West Philly, that the people -- no access, so therefore there is no monitoring. And before you know it, the charges which your office gets and becomes the prosecutor and the defendant is between the devil and the hot place. That means, that, wow, if I really say they took money off me, really say they beat me, they have got to prosecute me for these charges, and what do I do, how do I work it out.

A. We have addressed that problem.

Q. Access to the prosecutor, some prosecutor, would you agree, is vital to getting information in the individual cases?

A. No question. Right now, and this is one of our most difficult cases, in getting complete access. I think Mr. Parry in his remarks can comment on that.

REP. WILLIAMS: I'm sorry I took so long.

CHAIRMAN RHODES: Thank you, Representative Williams.  
Representative Richardson.

REP. RICHARDSON: Good morning, Mr. Rendell.

I would like to say that if you're in a rush, I would suggest to the Chairman that perhaps we can have Mr. Rendell back at a later time for further testimony.

MR. RENDELL: I have no objection to that.

BY REP. RICHARDSON:

Q. I would like to know if you would share with this Committee, Mr. Rendell, the kinds of brutality, police brutality, violence cases you do get, some description for the record, to try to formulate some type of idea of what is going on in Philadelphia. I think a lot of our members not in Philadelphia need to have that shared.

A. Representative Richardson, without speaking of specific cases, I think Mr. Parry is probably better qualified to give you a day-to-day run-down on that. We do have a summary prepared of cases, leaving names off, of the officers and complainants. We could make copies available; it's up to a hundred cases, if we could white out the names of the officers and complainants, we would have no hesitancy of making a copy of that available.

Q. Why would you want to white out the names?

A. These are cases where we have not made a decision yet, and because we met with the American Civil Liberties Union, and they requested that at the investigative stages, for the

protection of the complainants and the officers, if the complaint proves to be unfounded. The American Civil Liberties Union tells us they believe it would be unfair to the officers to make it a public matter; the same thing to the complainants. We may have to say that it is untrue. It would discourage people from coming in to see us.

I would make that available, date, times, location would be in there. I think until the case has reached the stage of arrest I would not think --

REP. WILLIAMS: If you investigated it, do you think the press would find out about it? If you investigated me, do you think the press would find out about it?

THE WITNESS: We may be investigating you right now and the press doesn't know about it. All kidding aside, it depends on your prosecutor.

REP. WILLIAMS: I'm not saying your wrong, but I'm saying, if they investigated chief counsel, or Mr. Rhodes, the press would know about it, whatever the standard is, it should be equal.

THE WITNESS: It's not to protect the police officer; it protects the complainants as well.

REP. WILLIAMS: I won't argue with you.

THE WITNESS: We would make that available.



CHAIRMAN RHODES: Following up on your offer, Mr. Rendell, could you work it out on your submission to the Committee so that we could detect from the submission whether or not an officer was involved -- not his name.

THE WITNESS: Sure. That would be very easy.

CHAIRMAN RHODES: Thank you.

BY REP. RICHARDSON:

Q. Thank you very much. In the City of Philadelphia, if you know, how many policemen and women are there?

A. Approximately eight thousand. A little more now.

Q. In your estimation, I know this is going to be a hard question, but in your estimation, your feeling as a district attorney here in the City of Philadelphia, who runs the police department in the City of Philadelphia, Frank Rizzo or Commissioner O'Neill?

A. I think that Mayor Rizzo obviously has a great deal to say, being involved in the police department and a former commissioner; it's something near and dear to his heart. But I think Commissioner O'Neill on a day-to-day basis runs the department more so. On big decisions, obviously the Mayor controls, but on a day-to-day basis the Commissioner acts somewhat independently.

Q. Does he, in your complaints that you have been getting

from civilians in Philadelphia concerning some of the police violence, would you say that the Police Department covers up a lot of those situations here in the city?

A. I think that the Police Department has a tendency to take the attitude, we can do no wrong; it's their duty to protect police. I have argued with Commissioner O'Neill that it is their duty to root out bad police.

Q. Do you think that the infestation is a matter of majority of the police officers here in the City of Philadelphia or do you think it is done by a segment?

A. I would say limited to a segment, and in reference to what Representative Rhodes was talking about, we do find a number of repeat offenders.

Q. Do you find that citizens who are apt to take the polygraph test in the City of Philadelphia more so than the police officers are asked to take the polygraph test in similar conditions concerning police brutality?

A. I have instructed Mr. Parry that any time we ask anybody in the case to take the polygraph, that all witnesses will be asked to take the polygraph test. Unfortunately, the police officers have refused to take the polygraph. It is a voluntary thing; we can't compel anybody. But the police say no on a uniform basis, and that is not helpful.

Q. Let me ask you this question. What would your statistics

show if you had them, if you could get them for the Committee, of those persons who are asked, how many times the police denied taking the polygraph test?

A. It is a uniform policy; they don't take the polygraph test. I think that is essentially an F.O.P. rule.

Q. I want to cite a case that has already been heard and tried; there was a case in Germantown, where a police officer shot a young boy running away from the scene of a crime, with a television set, and the youngster was shot in the back.

Would you describe to the Committee very briefly for the record, that case? We know the outcome; the police officer was acquitted. Could you share with us that kind of case that you are referring to, seeing that we have the evidence, and we have the witnesses who come forward, willing to give information, and still we find in a case like that, that they are acquitted. Tell us a little bit about that kind of case.

A. The specific case, Representative Richardson, took place while I was not District Attorney; I was campaigning at the time. I did read about it; I am aware of the case. In all fairness to my predecessor in that one case, I think the community uproar forced him to prosecute. That was assigned to an assistant D. A. by the name of Barbara Christie, who is also one of the better prosecutors in the office. I don't think

there was any intent by the prosecutor to lay down on the case. That was a case where the defense was that the officer was -- I don't recall the specific defense, but in that many cases it is difficult to convict those police officers when an arrest has been brought; it is very difficult, because we still are facing a mentality in jurors, both white and black, that police can do no wrong.

All of us when we were younger, even myself, were told a policeman was a friend, he can do no wrong, he is honest in law enforcement. That is the mentality in certain of our jurors, both white and black. It is a difficult mentality to overcome, especially because in many of our cases, the person who has been victimized will have a long criminal record and will in a specific instance be guilty of a crime we are investigating. We are investigating a crime where there was a clear-cut beating, and the defendant was arrested for robbery, was later convicted for robbery, but nonetheless it was a clear-cut beating.

I think our investigation is going to culminate there; we are going to have a difficult time if the jury is going to ask to convict a policeman for beating up an armed robber. The fact that it is difficult does not in any way mean we shouldn't try. It is hard; it is very, very hard.

Q. Since you have been District Attorney, can you tell us

how many police shootings, and how many police beatings have been in the city on civilians -- I know that is a broad question?

A. Mr. Parry can give you the exact answer. I know we have received over a hundred complaints in the six months. Those, of course, were with live complainants, and in addition to that, we investigate any police shooting where a death has occurred in this time period.

We investigated fifteen cases where they have police shootings, and death occurred, and over twenty cases when injuries have occurred. Of course again, I remind the Committee, just because we investigate it, does not mean there was improper police conduct.

Q. Let me ask this quickly, that is not all of the shootings necessarily, is it?

A. In the area of deaths, it is.

Q. What about not deaths; what about an officer who wounds somebody?

A. The problem again is in a death case, we receive notice, because we are getting a notice on all death cases. In many cases we will not receive notice from the police department in shooting cases; nor at the beginning of the case we will not receive notice, and unless the newspapers inform us about it, or unless the complainants come forward, we don't know about it.

Q. You have no accurate file you can get on the number of

police shootings?

A. No, because we don't necessarily get notice. The fifteen is clear, because we got notice of all deaths.

Q. On that point, just to follow up, in the City of Philadelphia, we have a chief person who is in charge of the medical examiner's office, Aaronson, right?

A. Right.

Q. Now, my question is, why can't the D. A.'s office have an independent medical examiner in cases where it seems that a lot of these cases, the medical examiner agrees with the police department, and somehow, in some way --

A. We do have the ability when it is essential, and have doubt about the medical examiner's conclusions on some essential thing, we do have the ability to use our limited budget. We have built into the budget a small amount of money to hire experts to hear an outside pathologist. We have not had occasion to do that in the six months I have been there, but we have a limited budget available for that.

Q. Who appointed Aaronson?

A. The Mayor of the city appoints the medical examiner; actually, it goes through the Commissioner of Public Health. Obviously, I think the Mayor has input on that.

Q. My final question is this, Mr. Rendell, how many black investigators do you have in the Police Brutality Unit?

A. Four investigators, sergeant and three investigators. All of them are black. We have one captain assigned to the Police Brutality Unit; as far as staff inspectors, four out of five line investigators are black.

Q. What about in the Puerto Rican community?

A. We have no Hispanic speaking assigned to Police Brutality. When we get such cases, we have a paralegal assigned to us, Gonzales, who goes into the community. We have four county detectives who are hispanic, and if the need arrives we assign them on a case-by-case basis to the Police Brutality Unit.

REP. RICHARDSON: Thank you very much.

CHAIRMAN RHODES: Thank you, Representative Richardson. Representative White.

BY REP. WHITE:

Q. I have just a couple of questions. In your opening testimony, you spoke of the fact that when you mentioned specifically we had gotten the additional prosecutors that are in the U. S. Attorney's Office and the District Attorney's Office, prosecutorial power to adequately investigate the cases involved in the police shootings in the City of Philadelphia. In spite of the prosecutorial power, I am very much concerned about the Police Department's responsibility in investigating cases in which firearms were used to shoot and unfortunately kill.

We spoke also about the major problem was access to information. Given all of these things, of course, how do you feel is the competence of the Police Department, relating to their ability to control or investigate themselves internally, as a unit?

A. I think from a competence point, they have some very fine investigators. We do not have access and knowledge of all of their internal disciplinary hearings, but a number of them convince me they are not whole-heartedly disciplining their own officers.

Q. How could an adequate and fair type of investigation be conducted?

A. Internal investigation?

Q. Is it necessary for this Committee, for example, to impose a separate arm of the Attorney General's office to investigate police shooting incidents, and forward that information to you? Is it necessary for the citizens of Philadelphia, in your opinion, to press for a citizens' review board to review cases of police abuse, or do you think it would be best effected by having the Police Department itself establish a separate unit?

A. We have a separate unit, and again it is a unit which has competent investigators, but under current circumstances, I don't think that unit is going to be one hundred percent



successful. As for the Attorney General, I don't think that is necessary, and I think we can do it, and the U. S. Attorney's office, adequately enough.

Q. How do you do that? You have already admitted that the major problem you face is having access to information. You are basing your hope on House Bill 2603; it is quite possible this 2603 might be in a little bit of trouble.

A. The problem is you could pass a law vesting the Attorney General with the right to have access to that information. You could just as easily pass a law giving us access to the information. I am saying, we don't need the Attorney General -- I have a little problem, Representative White. I think we are men of good will; we have problems with contemporaneous investigation, both the U. S. Attorney's office, and the District Attorney's office. Too many prosecutors can foul up a case, and that is when we have a problem. I don't think we need another prosecutor; I think we need the law.

REP. WILLIAMS: What if you have a D. A. who won't do it, which has happened?

THE WITNESS: You also cured that with 2611; if it passes, it gives the Attorney General the right to supersede the District Attorney, in fact.

CHAIRMAN RHODES: I was going to ask about 2611.

THE WITNESS: I think 2611 is a concept I support.

REP. WILLIAMS: But you always have the argument about whether or not the D. A. will do his job.

THE WITNESS: Under 2611, if the D. A. fails to prosecute, the Attorney General can step in.

CHAIRMAN RHODES: Representative White.

BY REP. WHITE:

Q. The Citizens Review Board we have mentioned, if we just have a board that can hold hearings, it is not going to do anything. If we're going to have a board, give it the equipment with power to recommend, suspend and dismiss, that is the only way we can have a civilian review board with any teeth in it. To have a body that hears evidence --it is a waste of the board's time.

A. That might be a good idea; as a matter of reality, you are not going to get that.

Q. We took testimony from Lieutenant Fyfe from the New York City Police Department, and one of the things I pointed out was the fact that New York has established a firearms discharge review board. I think it's entitled Civilian Complainant Review Board; reviews all complaints filed by citizens in regard to the police department.

A. What did they do with them?

Q. Those complaints were investigated and recommendations

made to the police commissioner for specific action. I questioned Lieutenant Fyfe in regard to what happens after that particular board makes the recommendation to the police commission, and Lieutenant Fyfe's response to us, to our inquiry, was that he could cite no case in which the recommendation of the board was followed by the police commissioner.

A. I suggest you examine the history of our board, seven, eight years ago. My guess is -- I don't have the statistics -- there you will probably find the reverse of the situation.

REP. WILLIAMS: I think we have a lot bigger problem now, too.

THE WITNESS: I don't think we need, and I know what you're saying, but I don't think boards that recommend are particularly necessary. I think you can have a board made up of police and civilians, and should have the power to suspend.

REP. WHITE: I believe that is how the New York Board is established.

CHAIRMAN RHODES: The reason the New York Board works, is because the Mayor and the commissioner of police of New York, have repeatedly publicly established their support of the review board procedures.

THE WITNESS: That is the condition that you must have before you can have any type of board like that. Again, I don't like to see people, good intentioned people, waste their time, if it turns out to be a waste. If we have that type of commitment, that would be excellent, sure.

BY REP. WHITE:

Q. It is easy to derive from your comments, the basis for your problem is the attitude of the people at the top, and you mentioned a couple of times, the Police Commissioner and the Mayor. Until some changes take place in the attitude there, we are really not going to see any solution.

A. I don't disagree with everything you said. I do agree the solution would be expedited to some extent by a different attitude at the police hierarchy. But I think between us and the U. S. Attorney's office is good solid prosecution; I think we are justified and we can have impact. I don't think it is hopeless until there is a change in police hierarchy at all. I think we can have an impact; I don't think it is hopeless, no, I don't.

CHAIRMAN RHODES: Thank you, Representative White. Before we go on, I would like to recognize the presence of Representative Aljia Dumas.  
Representative Levin.

BY REP. LEVIN:

Q. Mr. Rendell, I am very impressed with your attitude. I think in a very short period of time you have done everything that a District Attorney could do to fight the problem for which we are here.

Unfortunately, I am not as optimistic as you are that the avenue you have taken would be productive as you hope it would be. I think you are correct in your attitude, counting the signs. I certainly wish you luck in every way, better legislation and the efforts to continue.

We have heard from experts in other areas of the country. They are on the firing line, and they could be a little more objective, I think. You have heard of Professor Hollman who at one time was Director of Community Affairs of the Justice Department of the United States, who had the problem of going around the country. His conclusions were that basically, while certainly not wishing to stop law enforcement in that area, that it was not really a productive avenue to pursue in the long run.

That the way to solve the problem was to get competent police officers to represent the community. By that, he meant not a quota system, X number of blacks or women or Spanish-speaking, but to have the police force represent the community as it really exists, and the problem you see with

the police force will dissipate and in the long run, we suggest we do that.

A. I don't disagree with that. Prosecution never cures a problem a hundred percent. We get them after they have occurred; we are not going to cure the problems that cause rape by -- or murder, etc., but the effect of stopping the cause, I agree with you in this area, basically. I can agree with you.

I suggest deferentially, but I still suggest, that is a problem I don't know if the House Committee can have any input into it.

Q. Correct, we have very limited authority; we can only do a very limited number of things here. I think we are doing something valuable by giving you this form, allowing the public to perceive the depth of the problem, and your commitment to solve it, and our commitment to support it in legislation.

I think in the legislative area we really do not have great areas that we can go into; the laws are on the books. To have the public be willing to convict police officers, we do have testimony from the former police commissioner of Boston, who has suggested very much as you do, the local district attorney, or the state attorney -- different name -- should be the prime party to prosecute the police cases, should not be dealt with through the attorney general and removed from the

community. I take it you believe that also?

A. Yes.

Q. The chief law enforcement in the City of Philadelphia should bear the responsibility and should have the prime responsibility?

A. Yes, with the qualifier that if the District Attorney refuses to discharge that responsibility the Attorney General has a legal right to come in.

Q. That is exactly his position, and I am glad you said it. Thank you.

CHAIRMAN RHODES: Thank you, Representative Levin. I would like to ask you a couple of questions; I know you are scheduled elsewhere and I will try to be as brief as I can.

BY CHAIRMAN RHODES:

Q. We have mentioned the problem of deadly force against fleeing felons. Do you feel that the laws of the Commonwealth should be amended in any way? Perhaps clarify what we mean by forcible felony?

A. Absolutely. Mr. Parry can give you some examples of the problem, having no definition has caused us and caused police officers. I am sure all of you, and I know a number of you personally, and we want to make sure that the people who are abused get redress, but we don't want to make the

policemen out there on the line so confused he is never going to use force, deadly force to aid people in distress. One of the ways we can help law enforcement and help the police, is to define what forcible felony is. The legislature has to tell us what crimes are forcible felonies. Mr. Parry can go into them with you on the question of burglary.

Q. You have indicated there are thirty-five shootings resulting in injury or death since you have -- that you have investigated -- since taking office as District Attorney. Could you give us an indication how many cases might have been forcible felonies.

A. I can't; that is why Mr. Parry is here.

Q. We'll ask him the question then.

A. But it's absolutely essential -- I'm sorry I neglected to bring this up. If you do anything, give us a good definition, fair to law enforcement, fair to the public, fair to the police. This is very, very important; that officer on the street has got to know when and when not to.

Q. Under Pennsylvania law now, the relationship between the District Attorney's office and the police in terms of the charging function is such that there is some question as to who is the ultimate charging function. What is your recommendation of that issue in terms of the problem of brutality?

A. Well, it doesn't affect the problem of brutality, because



we have a secondary charging function. The police can or cannot charge an individual potentially liable for any crime under our crimes code. We also have that power. We can bring an arrest warrant against anybody we want. In fact, of course, we have brought the charges.

The charging function really gets involved in the other end, when the police charge someone who we feel they shouldn't.

Q. I'm talking about in terms of brutality cases.

A. I agree; we should get the charging function; even in the area of cover charges; John Jones and an officer get involved in a conflict; blows are exchanged; the officer charges John Jones with assault, resisting arrest, assault and battery, whatever. John Jones comes in; makes a complaint to us. Until our investigation is finished, we will, with agreement of John Jones's counsel, stop the criminal proceeding against John Jones. It will not proceed. Then if we determine that the officer was right, and John Jones was wrong, then John Jones get prosecuted. If we determine the officer was wrong, we drop the charges against John Jones. We put a freeze on it; in most cases counsel will agree to that freeze. You have got nothing to lose to stop the trial until our investigation is completed. We deal with that problem now, although we don't have the initial charging function, we do

have the ability to charge.

Q. Is it your recommendation to the Committee to clarify the charging function legislation?

A. Yes.

Q. This is not a legislative hearing; we do intend to have them, and that is a good recommendation to the Subcommittee.

A New York police lieutenant that testified before this week, indicated in the New York case, and I think also the Boston case, that their procedures are that if there is a shooting incident involving police, that they suspend their investigation, their action of their review board, until the district attorney has acted. Is that the procedure in Philadelphia County? I have read in the paper this morning or yesterday morning, that the Philadelphia police announced a joint investigation. Have you cleared that case in the District Attorney's office?

A. There is no policy on that. I have tried to persuade the Commissioner on many different occasions to have joint investigations, and of course, let us have first crack as determining what should be done. Joint investigations would of course eliminate any access problems; it would eliminate a lot of the fortress mentality in both the police department and the police brutality unit at the same time. It would really

clear the air.

Q. Have you initiated overtures to the Police Commissioner requesting such joint investigations?

A. Formally, by letter and verbally.

Q. What has been the response?

A. He hasn't rejected it as a concept; he will deal with it on a case-by-case basis. We have yet to have a case.

Q. A no comment letter, tell my secretary to send them a no comment letter.

A. As a practical matter the suggestion has been rejected.

Q. One final question, Mr. District Attorney, in your investigations, we are interested not just in the street instances of alleged brutality, but also the role of the entire apparatus, in terms of dealing with that alleged brutality.

A. Sure.

Q. Have you in your thirty-five investigations or other investigations uncovered instances where you had suspicion, basis to suspect that officials higher up than the actual police officers involved, were involved actively covering up the incident involved, actively deflecting the investigation of the cases?

A. Obviously by my earlier comments, by their not giving us access contemporaneously or immediately, sure; foot-dragging, making it difficult. Do we have any evidence of a specific

cover-up where they put a gun in someone's hand in the city, no. Obviously, sure, there is deflecting, foot-dragging, no question about it.

Q. If this deflecting, foot-dragging, willful foot-dragging, is bordering on obstruction of justice, would you hesitate to file criminal charges of obstruction of justice against members of the police department?

A. On a number of occasions we have discussed that possibility with the police department. A lot of what is done is in the area of foot-dragging; in most cases we get it a little later than we should have it; it is not a concrete policy, never giving us anything.

Q. The State Police patrol the Schuylkill Expressway. Have you had any allegations involving our State Police?

A. No, only an allegation about a prison guard.

Q. How about other police departments in Philadelphia, airport authority police, and all kinds of other police, have you had any allegations about police brutality, police of the county?

A. Sure; they are handled in a more routine sense as a regular criminal matter. That is a whole other topic.

Q. I don't mean private; I mean official police other than city -- county, Housing Authority, Port Authority police.

A. Sure.

Q. Have you had cases with Port Authority Police, Housing Authority Police?

A. Housing Authority; I don't think Port Authority.

Q. Shooting incidents?

A. Yes.

Q. Injuries?

A. Sure. I know when I was in private practice a few years ago, I represented housing authority policemen in cases where there was violence.

Q. Finally, we are charged not only to investigate allegations of violation by police but on police. Do you have any information you could give the Sub-Committee about Philadelphia County which would indicate civil rights violations on the police?

A. Specific civil rights violations in such a pattern or system, no. I am sure we are all mindful of one thing, and we have got to be mindful of this throughout all this. There are many cases when policemen do subject themselves to situations which put them in fear of their lives, which put them in the position of a direct recipient of violent beatings, no question about that. A policeman's job is very, very tough. Police get beat up an awful lot of times not involved in brutality situations. That is true.

We have got to do our job fairly; we have got

to tread carefully, because frankly, in almost every serious arrest of robbery, of rape, of murder, there is a cry of police brutality. These are often violent people who commit violence on police officers. We have to look at the record, and see there are four, five, six cases where police are killed in the line of duty.

As Representative Williams says, I think that is a very good point -- there is violence out there in all forms. Police are very often the recipients of that violence.

Q. You have just said that the elimination of the perception of the pattern of police civil rights violations of citizens would tend to help the problem of civil rights violations of police?

A. Sure; let me share one last little vignette with you; this is a joint committee I am standing up right now. When I was assistant district attorney I participated in the prosecution of a case where a fifteen year-old boy, and it is a matter of record, walked up to a policeman at 21st and Montgomery -- 21st and Norris, walked up to a policeman who was writing up an incident report, walked up to him, took out a gun, shot him in the temple -- dead. During the interrogation we asked him, did this policeman ever arrest you before? No. Did you ever have any contact with this policeman before? No. Did you have any problems with that policeman? No. Did you

exchange angry words with that policeman when you walked up to the corner? No. Did you say anything him? No. Why did you shoot him? Because a week ago several -- he identified them as highway patrolmen -- several highway patrolmen beat up very badly with their clubs a fourteen year-old retarded boy who was my friend.

I don't doubt that was his motivation for shooting that officer. What I am saying is, the perception of brutality causes some people who are not stable to respond against police and hurt police. Whenever I talk about this brutality problem, I would mention that case, because it is right on point.

REP. WHITE: The one problem I have in your testimony, in the latter part of your testimony, is when you speak of citizens -- police who lay their lives on the line, having to face that daily, but certainly Mr. Hood did not have a weapon; Mr. Goode did not have a weapon; Mr. Ott did not have a weapon; Mr. Shirrer did not have a weapon.

THE WITNESS: We are not talking about those cases, Representative White. If you want to talk about just cases, there are those cases, and those cases exist. I am not prejudging ones where we still have an investigation ongoing. Representative Williams,

who practices in our criminal courts can tell you, there are just as many cases on the other side that exist, where the officer was shot and wasn't doing anything. I knew an officer, a black narcotics officer who came upon a scene where they were dealing narcotics in the house. Knocked on the door, with a search warrant and got blown away. It's not an easy question, on the police side as well.

REPRESENTATIVE WILLIAMS: The problem is the innocent people always get hurt; that's clear, by bad acts of other people, whether by police or citizens, and usually the citizens who do that, those bad guys are prosecuted and convicted; and usually the police who are guilty, who do that, don't get it. The retarded boy situation, as far as I remember, the officers never got prosecuted. Isn't that right?

THE WITNESS: Excuse me?

REP. WILLIAMS: When Hogan killed the police, he was prosecuted and convicted, as he should have been. There was no prosecution in the other case.

THE WITNESS: That's correct.

REP. WILLIAMS: So, you have got to be clear -- don't mix apples and oranges, because our answers are



unclear. I agree there is a violence with police, as their job. Usually the innocent policemen get hurt; usually innocent citizens get hurt, and it is time that our citizenry separate the apples from the oranges for the benefit of everybody. I think it is important for all of us to recognize that.

CHAIRMAN RHODES: I couldn't agree with you more. Representative Dumas.

BY REP. DUMAS:

Q. The D. A. brought out the point that I was going to make. We all know that we have some fine policemen in Philadelphia; no one on the Board would say every policeman in Philadelphia is violent, but there are too many that are, and if we weed those individuals out, we would not have the retaliations such as the fifteen-year old boy that walked up to the officer and blew his brains out.

A. I agree. I talked to police wives, police groups. I requested to speak to the F.O.P. but I wasn't allowed. I tried to make that very point. No one has more to gain by curbing the violent police, the number that are out there, than the police force as a whole.

Q. You also stated in your testimony earlier, that it is very hard to convict a police officer because of the mentality of our citizens, the grand jury or the jury. I agree with you,

but don't you think, Mr. Rendell, it is the duty of the D.A. to work out the strategy in order to get a conviction from the grand jury? If he goes into his investigation, his prosecution with a negative attitude, then it ends up negative.

But if he has a more progressive, positive attitude, that I am going to get a conviction, I am going to prepare my case so that I can reach that jury, so they can understand that one human being has imposed suffering and harm to another human being, regardless of what his position is in life.

A. I agree with you.

Q. If he were more positive and prepared his strategy so he could reach the jury, we would get more convictions.

A. We've been trying to do that, and I know that the Committee -- we have cases coming up in litigation in the near future. If you want to send a staff representative to sit throughout the trial, I think that would be a valuable experience.

REP. RICHARDSON: I believe that is the Ardis case.

THE WITNESS: That is the one I used in my example.

REP. DUMAS: Did you close it out?

THE WITNESS: We've got to find the ballistics

report and we've got to find the gun, and we've got to see what the officer said.

REP. DUMAS: Where does your investigation stand, is it still open? Have you closed it out, also?

THE WITNESS: We're waiting for that material.

REP. DUMAS: Thank you.

CHAIRMAN RHODES: Mr. Rendell, on behalf of the Committee, I thank you very much for giving us so much time this morning.

THE WITNESS: I think some of the data mentioned by Representative Richardson, Mr. Parry can comment on.

CHAIRMAN RHODES: Thank you, Mr. Rendell.

(Witness excused.)

CHAIRMAN RHODES: We will take a five minute break at this time.

(Brief recess.)

CHAIRMAN RHODES: This hearing of the Subcommittee will reconvene. Our next witness before the Subcommittee is Mr. George Parry of the Philadelphia District Attorney's office. Before we continue with the witness, I would like to cover an oversight that I unfortunately made, which was not to thank Dr. William Haggerty, President of Drexel University for making these facilities available, and

thank Mr. Thomas Shannon for his kind and attentive accommodations for this hearing today.

Mr. Parry, do you have a statement to make to this Sub-Committee?

THE WITNESS: Just briefly.

CHAIRMAN RHODES: Have you been subpoenaed to appear here today?

THE WITNESS: Yes.

-- --

GEORGE PARRY, of the Philadelphia District Attorney's Office, sworn.

-- --

CHAIRMAN RHODES: Do you have a statement to make to the Sub-Committee?

MR. PARRY: I have a brief biographical statement I would like to make. As Mr. Rendell indicated, I am from out of town. I was brought here by Mr. Rendell from the Organized Crime Racketeering Section of the U. S. Department of Justice. I was assigned to the Buffalo Strike Force of the Department of Justice May -- actually August of '72. I served with the Strike Force until January of this year.

In the course of my duties with the Strike Force, I had occasion to conduct a two and a half year investigation of police abuse in Rochester, New York.

The problem of police abuse in that area was more in the area of police corruption rather than in the brutality area.

When I met with Mr. Rendell, he described the problem that existed in Philadelphia and it was apparent that the techniques used to investigate police corruption in Rochester could be applied to the problem of investigating with the Police Brutality Unit.

I have no further statement to give to you. I would prefer to answer the questions of the Committee. I believe as far as general principles, Mr. Rendell has very adequately stated my feeling in regard to police brutality. I will be pleased to answer questions.

CHAIRMAN RHODES: Thank you. I would like to start from the other side of the table. Representative Levin.

BY REP. LEVIN:

Q. Mr. Parry, how many years of experience do you have in your former city, investigating corruption?

A. Five and a half years.

Q. What was the leadership attitude of the police department in terms of cooperating with you in that community?

A. Well, the attitude was actually a question we never encountered, simply because as a federal prosecutor I was empowered with federal grand jury powers, which were quite broad, and we never got to the question of attitude. If we

wanted records, if we wanted witnesses, we just sent our agent out and subpoenaed what we wanted, and it wasn't a question of cooperation or not cooperating. People had to appear and testify and produce documents.

I might say that the leadership of the Rochester police department as constituted today as a whole, are professional law enforcement officers who were at the middle ranks at the time we were investigating, and we did receive support from them. From this standpoint, we received an informal kind of cooperation that was of benefit. I wouldn't say it was critical to our investigation, but they were able to steer us in the right direction in certain instances.

I think that we have to owe a measure of our success in our efforts to that helpful attitude.

Q. How many active cases have you had to investigate since you have come to Philadelphia?

A. Our Unit has investigated close to two hundred cases. Many of these were cases that had been investigated and disposed of by the previous district attorney, and were reopened when Mr. Rendell took office, because he had questions about the persons assigned to them. We reopened them. I would say there are approximately thirty to thirty-five cases that fall into that category. The other cases are 120 to 130, those are

cases resulting from complaints that have been made since January 1, 1978.

Q. When you get complaints that are made, who makes the complaint and what is the avenue for a citizen to make the complaint?

A. The sources of our cases are varied. We have citizen complaints; we have our standing policy of investigating all police shootings, and we also have a policy of investigating events, incidents of abuse, whether or not a complaint has been made. Whether or not we have a walk-in complaint.

The first category, citizens complaints, we have a procedure whereby a citizen can come into the District Attorney's office to make a complaint. He will be interviewed at that time, take the names of all witnesses, go out and interview witnesses, and handle it that way. We have also received cases such as the PILCOP, Pennsylvania Department of Justice, community advocates, send us cases, various committees, organizations, have referred cases to us.

In each and every instance we conduct an investigation. Now, many of those walk-in complaints involve people who are looking for apologies from police officers involved, or something less than a criminal prosecution. We take the position, and those cases we are not in the business for wringing apologies out of police officers. We are in the

business of criminal prosecution.

If someone is not interested in criminal prosecution, we refer those persons out. Up to this time, we have been referring those individuals to the staff inspectors of the Philadelphia Police Department.

Recently, we had a meeting with the National Lawyers Board and the American Civil Liberties Union. They asked us to include them in our referrals. As a result, we have adopted a new policy, which we are going to be implementing where an individual who has come into our office, and because he does not want to pursue a criminal prosecution, or we have concluded that no criminal prosecution is warranted, feasible, we will advise that person to contact the staff inspectors of the Philadelphia Police, the National Lawyers Guild, the Pennsylvania Department of Justice, Community Advocates. Those are people that we tend to include in our list. I think also we would include PILCOP on the list, although the list has not been finalized yet.

As to the second category that I spoke of, police shooting area. As Mr. Rendell indicated, we do not receive notice -- formal notice from the Police Department, when a police officer wounds a citizen with his firearm.

For a period, we did not receive notice when police officers killed a citizen. There used to be a procedure



whereby the Police Department, when a police officer kills someone would notify the Homicide Bureau of the District Attorney's office. Mr. Rendell and I requested that this procedure be changed to the Police Brutality Unit. The reason being the Homicide area of the Philadelphia Police force works on a regular basis with the Philadelphia Police Department. We felt we would like to get them out from between the District Attorney's office and the police department in the investigation of shootings.

If you work with someone every day, you are going to have a very difficult time investigating it. We felt that in the Homicide Bureau, in all fairness to them and the public, they should not be the ones notified; it should be the Police Brutality Unit. I have asked that we be notified contemporaneously with the shooting, so we can respond to the scene of the shooting and join the investigation. That request was flatly turned down. As a matter of fact, there was a period when they did not notify the District Attorney's office at all.

Now, they have gone back to sending over a report three or four, maybe five days after a police homicide. They will now send over a report. Usually we have learned through the media, of a homicide involving a police officer, have started our investigation prior to that report. There

have been some instances where we missed the report of the homicide through the media and received the report from the police department, and opened up our case.

In the area where homicides are not involved, merely wounding, it is a hit or miss proposition. It's reported in the paper, if it is on television, if we hear about it by word of mouth, we get our investigation open. If we don't learn of it that way, we have no certain communication with the police department. We are not covering the area as thoroughly as I would like; we do everything we can. We have no other resources available to us.

In the final category I spoke of, we have received reports of beatings or other kinds of brutality and we initiated investigations in that area without the complainant actually coming forward. Those are the sources of our cases that are being investigated.

CHAIRMAN RHODES: Would you bring the mike up closer to your mouth. Thank you.

BY REP. LEVIN:

Q. How would you suggest to a citizen who felt he had a complaint of police brutality, where should he do it?

A. A citizen who has a complaint comes to the District Attorney's office at any time, say from nine to five-thirty, Monday through Friday, comes directly to the District Attorney's

office, twenty-fourth floor of Center Square West, and he would be met by an assistant district attorney for an initial evaluation. This means that we have assistant D. A.'s who meet with the person to see if the person has any kind visible injury, bruises or cuts or whatever. If it turns out he does not have any kind of immediate manifestation, physical manifestation of a complaint, and it is feasible to have him come back at another time, we schedule him an appointment.

The reason we do this is not because we like to play bureaucratic games; we have a very limited investigative manpower, and to the extent possible, we like to schedule our interviews for the morning hours. So it is assigned to investigators for in-office interviews in the morning, who have afternoon duties out in the street. This way we are able to utilize the available investigators in a much more effective manner this way.

Now, if someone has a complaint, he can call at MU 6-8000, and the assigned inspector will take down the complaint if it's reported, and if it is an immediate problem, the assigned duty detective contacts me at home, and I get back to the person or I have the person get back to the person and deal with the complaint immediately right then and there. Frequently it happens at three in the morning, on a Sunday, somebody calls up the duty detective to say that four years ago

he was beaten up by a policeman on the subway, and why he waited four years, and why three o'clock in the morning, Sunday morning, I don't know. I don't know why it happens, but those cases we let go till Monday morning.

CHAIRMAN RHODES: May I ask a question, Mr. Parry? I am not a police officer, but I would like to ask this question as an experienced person in investigation. If you are called on the scene of a homicide, potential homicide by a police officer, four days after it occurs, is there much chance of your being able to conduct an on-the-scene thorough police-work type criminal investigation?

THE WITNESS: Well, if someone else has processed the scene, they have got to it first and wrapped up all the physical evidence.

CHAIRMAN RHODES: But an independent investigation by the District Attorney?

THE WITNESS: No -- well, independent in the sense that I feel fairly confident that the processing of the physical evidence by the Philadelphia Police Department is done in a competent manner. The question is how do you evaluate the physical evidence, how do you evaluate the statements taken from the witnesses.

CHAIRMAN RHODES: I am talking about speaking to witnesses at the scene, things like that.

THE WITNESS: Well, yes, that is one of the problems we have with our showing up after the fact. If I could have the best of all possible worlds, I would have an investigative staff equal to the investigative staff of the Philadelphia Homicide Bureau and we would go out at the report of a police shooting, and we would go out and secure the scene and grab the physical evidence, interview the witnesses. Now, that is beyond our budgetary capabilities to handle that. We would probably get to the shooting with the police department, and it would come to a show-down.

But, given the limitations that we have to work with, I feel that in terms of processing the physical evidence, I have no doubt of the competence and the integrity of the police department.

BY REP. LEVIN:

Q. With your experience in police corruption and your experience here, can you give us an honest evaluation of how effective you think prosecutions are, how successful?

A. To be truthful, I think prosecutions are a last resort in that they are -- the effect of a prosecution is so attenuated;

it cannot begin to compare with the good effect of proper prevention. Police officers by nature of their job, come into contact on a daily basis with the criminal justice system. They know that the chances of being caught in the first place, if you commit a crime, are remote. They know that your chances of being successfully prosecuted are even more remote; they know even if you have successfully prosecuted, the chances of your being sent to jail are miniscule.

As a practical matter, the effect that a criminal prosecution or a program of criminal prosecution, that effect is going to be much less than the effect of proper command; for example, the range of sanctions that are available to the police commissioner -- Officer Jones is reported to be engaging in some kind of brutal conduct, and you can't prove it beyond a reasonable doubt, but this is the third time you have gotten this kind of complaint; transfer him out to work midnight to eight shift in the 35th district.

But we know within the police department, that is not considered to be a good assignment. That kind of informal or at least noncriminal approach to the problem, will be felt within the ranks and it is something that can be done like that by the commission, and the police officers recognize that. I think that would have a much greater deterrent effect.

Q. Then you would agree that the most effective remedy,

is to enlighten police professional leadership?

A. No doubt about that, absolutely.

REP. LEVIN: Thank you.

CHAIRMAN RHODES: Thank you, Representative Levin. Representative White.

BY REP. WHITE:

Q. Mr. Parry, could you describe for the Committee your organizational structure in terms of where the Police Brutality Unit fits in, in the District Attorney's Office?

A. Within the District Attorney's office you have several divisions. You have the Law Division, the Trial Division, you have also the Investigation Division, and we are a part of the Investigation Division.

The Unit consists of a chief, and then we have three assistant district attorneys who supervise the investigations, and conduct the trial of the resultant cases. We also have a sergeant who is incharge of investigators. We have three investigators assigned full time. We also have a captain who is assigned to us temporarily as an investigator. Whether or not he becomes permanent is still up in the air.

We have a captain that has just recently been rotated into the Unit. Even though he is a captain he is serving as an investigator. He is under the direction and control of our sergeant. Those are all district attorneys,

detectives, county detectives. The sergeant whom we have, is a former Philadelphia police officer who has since become a county detective. He is on the county detective payroll. The same is true of all the rest of the investigators we have.

Now, in terms of insulating the Unit, as Mr. Rendell stated is correct, I think, that this is going to be a very unpopular assignment from the standpoint of having to deal with the police department. It is indeed an adversary relationship we have with the police department, no matter how fair and objective we try and be or how we try and aid the police department. The fact of the matter is they perceive us as a threat and there is nothing we can do about that.

Mr. Rendell felt it would be best to bring in someone from out of town who had no allegiance or contact with the police department. That is where I come in. I have had -- I can't say the pleasure, on occasion, to meet many times with the Commissioner of Police, and our difference in opinion in approaching this problem have become apparent.

I will say the Commissioner is a very frank man, very straightforward. We have gone nose to nose on these cases.

Q. What is the relationship, past and present, of the investigators with the police commissioner? In other words, the detectives, do they serve at the pleasure of the District



Attorney or the Police Commissioner?

A. The detectives serve at the pleasure of the District Attorney. They are independent of the police commissioner. There are other detectives within the District Attorney's office, who are policemen; they are not assigned to the Police Brutality Unit.

Q. Are all of these former police officers?

A. All of them with the exception of the captain that I referred to; he has always been a county detective. The other investigators are former policemen.

Q. You stated that a hundred complaints have been filed at the office. How many of those cases brought out in earlier testimony, how many of those have involved shootings or physical abuse?

A. Well, all of the complaints we receive, the cases, hundred cases, they have all involved some form of physical violence.

Q. More than one hundred cases since January of 1978, between January of 1978 and July of 1978, there were more than one hundred cases brought to your attention in regard to police shootings, which you and your staff actively investigated?

A. Not police shootings. Police shootings and other forms of physical violence.

Q. Who brings those complaints, what type of public relations

campaign has the District Attorney's office undertaken to inform citizens that they have an opportunity to bring such a complaint before the District Attorney?

A. Well, I have spent a considerable amount of time going to community groups; the American Civil Liberties Union had a meeting sometime back where they had a public forum on Bill 1063, the City Council resolution, which Mr. Rendell referred to, which I attended. There are meetings like that I attend. Whenever I get an opportunity to go to one of these meetings I do, or we do, and we are trying to spread the word in the community that way.

Also, there is a fair degree of publicity attending the establishment of our unit, and also the investigations that we conduct. I think the best advertising we can do, or we can have, without question, would be one or several of the successful prosecutions in this area, and we hope to obtain that goal in the future.

Q. Doesn't the District Attorney's office have a policy of announcement, the unit, for example, witness's counseling program, unit hearing of rape cases?

A. I really don't know what they have available as public service announcements. Are you referring to spots on television?

Q. Yes.

A. I have no idea if they have those available. I would

think it would be a good way to proceed.

Q. From whom do complaints come from -- young, old, black, white -- where do they come from?

A. They are black and white; if I had to characterize them, from middle aged to young. There are very few old people involved. They come, not surprisingly enough, from parts of the community where there is friction between the police and community, and it's well recognized. Whereas you don't find that many people wearing three piece suits, driving rolls royces, getting tuned up by the police department.

They are not uniformly poor; they tend in that direction, but we have many middle class people who get involved with police. It is for many a cultural awakening of the middle class, a cultural awakening to find out this is how the department functions. It would be very hard to draw a file of our average complainants. I would like to think it is fair to state with very few exceptions, it covers a broad spectrum in the community.

Q. Are we talking about income and things like that?

A. Well, proportionately, if we were to arrive at some median figure, I think we are talking about the poorer people and we are talking predominantly black. There are not that many Puerto Rican complainants. There are many black complainants.

Q. Mr. Rendell testified that of the investigators who were assigned, four are black. What about the district attorneys?

A. They are all white.

Q. Just happened that way?

A. Well, when Mr. Rendell set up the unit, I think he wanted to draw on the available staff that he had in the district attorney's office. These are men who have established track records as prosecutors. I don't know what he had available to him, but the assistant district attorneys that he gave you are top quality prosecutors. The one he had referred to, Campolongo, is indeed a feared prosecutor.

I might also point out the two others, Joseph Casey and Harry Spaeth, are first rate prosecutors by any one's standard or even by the standards of the Department of Justice.

Q. One final question, you noted the implications of names of officers who have been involved repeatedly in violence against citizens.

A. We have several instances of police officers who have been involved in repeated abuses. The Police Department, I know is aware of their names. I have had occasion to discuss these officers with the police commissioner. There have not been that many instances where we got repeated complaints; we haven't been in existence that long.

Q. Not many, one, two, three, ten?

A. There are three names.

Q. Twenty out of a hundred and fifty might not be many to some people; to the victim that is a lot.

A. There are about three names that I can think of, off the top of my head.

Q. Has the District Attorney formally made any recommendation to the police commissioner as to what should happen?

A. No, the position that we have taken -- first of all, the position that the police commissioner has taken, he runs the police department, and we respect his position. As far as making recommendations, assignment of personnel and policies, we have always taken the position we are in the business to prosecute, and if we can make the case, we are going to prosecute; if we can't it is given the attitude of the commission, not only is it pointless but of no value to make any recommendation concerning the disposition of this police officer.

Q. Are you saying you would consider individual complaints made on one, two, three or even more cases involving a complaint filed against the police department -- are you saying that you would consider it disrespectful to point out to the commissioner the jeopardy, remind the commissioner of the jeopardy he is placing that officer in, and secondly the integrity of the Philadelphia Police force? Would that be disrespectful?

A. I am not saying disrespectful. I am not saying I am reluctant to do it -- if I can, fine. I am not saying it is disrespectful or even reluctant to do it. I kind of even enjoy going nose to nose with the commissioner.\* What I am saying is, that given the attitude of the police commissioner, it would be pointless, and unless I can back it up, the only means I have available to back what I say is by way of criminal prosecution, I can't see the need for it. I don't mean the need -- I can't see the -- well, I don't believe in empty gestures. If I can do something, I'll do something; if I can't, I can't. I can't see the need for empty gestures; empty gestures for public consumption are not my style.

Q. I would not be quick to say that it is done simply for public consumption. Certainly the most effective pressure that can be brought against any unit of government, is public pressure. Certainly it is the attitude of many folks who are not here today, legislators not here day who would have changed if this room was packed. Certainly, it would seem to me that if the public was aware of the fact that the police commissioner overlooked, refused to recognize a suggestion or recommendation coming from the Unit which is investigating police abuse, that they have a right to know.

A. I frankly don't agree with you. I think that the one outstanding characteristic of leadership of the police department

of Philadelphia, as I see it, is the total and complete sensitivity and disdain for public opinion in this issue.

REP. WHITE: Thank you.

CHAIRMAN RHODES: Thank you, Representative White. Representative Williams.

BY REP. WILLIAMS:

Q. Mr. Parry, on that note, you indicated that the most effective sanction was what the police department itself would do to "enlighten leadership in the police department." What grabs me about that isolation is the fact that police department belongs to the people, and does not sustain or should not sustain in and of itself, and I wonder how so many public officials, and the public gets a perception that this police department, some unit -- they work for us, the people, the public. That's my view, that is the philosophy of America. I know you agree with those words.

But somehow we seem to step back and say, as we said before, enlighten leadership. Having made the statement last made that there is actual disdain for what the public thinks, you do not believe there is enlightened leadership in the police department now?

A. Not only from the standpoint of whether or not that leadership is responsive to public opinion, I think from the standpoint of professional law enforcement, which I consider

myself, I don't think they have got the leadership.

Q. Would you not agree, however, that a police department or any unit of government, works for the people to carry out the policies and the objectives of the people they work for, if it is done right? That's the way it should be?

A. No question about it. We live in a society where those people are servants. The term public servant should be applied literally. I think, however, you have to recognize as I think we all implicitly do, when you take one group of men and give them a badge and gun and say, you enforce the laws for the rest of us, you have whether we like it or not, tended to put them to one side, make them separate, because we have given them this power. We do consider them separate and apart. This is a natural tendency.

The problem arises when these men who have been given this power, take off on their own completely, and break away completely.

Q. We all know what the problem is. I am going at the mechanics of how American citizens make the rest of us -- whatever unit -- generally responsive to the reason we're there. And of course, by saying that, I do not accept nor do I think these gentlemen or you, accept the fact that any police department can in and of itself, ignore these problems we are talking about, cannot be disdainful for any area of law enforcement.



That cannot be; that is my position. What it is that is necessary to correct that condition, I think it is our collective responsibility to get down to brass tacks and do that as fast as possible. I know you agree with that?

A. Yes, sir.

Q. Having said that and in your responsibility with the District Attorney's office, one of the things I do strongly agree with Representative White, that it is very simple. If you want to get the people to come, public service announcements like they do for other things, Red Cross, or whatever, it's very simple, so people will know, poor people especially, and other people who don't know. Some people if they knew couldn't make it down town, but really there are some other things that need to be done. Those simple things could help serve the people to come in.

On that note, I'm kind of experienced in this area because of a lot of involvement as a lawyer, and also in other ways, and some of these, so many of these problems, happen at night, a lot on weekends. If you just look at it, other things happen, too, but nights and weekends -- even if you are wearing a three piece suit, it can happen, too. If it does happen on these hours and it is crucial as Representative Rhodes said, to find out what is going on at the beginning, would solve a lot of problems for later on. My observation is

if you are talking about this subject, that you need to have some people on duty at night. If you're talking about senior citizens being informed to their particular situation; if you are talking about women, conform to that particular situation. If you are talking about police vacation, you conform to that particular situation, and we do it all the time.

We're talking about police violence, and the night work for immediate contact has to be very keen, and I would suggest to you, not only does it provide a lot of relief for the citizen, but also provides a lot of perspective and balanced relief in judgment for the police officers who are not involved to solve more situations. We'll get more accurate facts. I would just recommend to you, and ask you if you would be responsive to recognizing at least in Philadelphia, I would say a good forty percent if not more, maybe more than fifty percent of these problems, happen at night and on the weekends. So to actually be of service to the people, so they can get through, and not knowing you existed -- or I knew you existed, but I didn't know how that channel worked, no one told me, you know, and we missed the meeting. What about that?

A. I might point out I agree with everything you have to say. The situation we have found in terms of responding into non-shooting situations. I might say the reason I draw the distinction, is that shooting cases the police secure the scene

they grab the witness; they take it all down to the P.A.B. and I have already said, we are not allowed in. So, under those circumstances, the immediate response which was my original idea, when we came here, if we were able to join in the investigation, we wouldn't have the manpower to seize everything, but we could be there while they were lining up witnesses, while they getting evidence. We could be at the P.A.B. during the questioning.

That would be far preferable to the catch-up ball we have to play, and we interview the witnesses after they interviewed them. We get the physical evidence after they have processed it.

My thought is to get out to the scene and do it, and we have been told categorically, we are not going to be allowed at the scene; we are not going to be allowed at the P.A.B.

Q. Can I intercede on just a suggestion; I'm not trying to argue with you. The Hood case, the developments on that got out very early because non-D.A., non-police persons got there somewhat early and got the information. That is the only way there is a balanced view of what really happened there. The District Attorney's office can do the same thing. I am not criticizing you, but I'm saying a little bit of imagination on how the problem works. The reason I'm saying

this, is that there are so many people in the city, who probably don't know, who want to provide information, and you are missing them.

I notice the groups that you spoke about and refer to people, to no organization here that is black. There are persons in this city, groups in this city, who have worked on the problem a long time, and they never get the invitation from your office, and as you suggested, a lot of citizens are black. Whether they are white or not, whether all white, black citizens have the same interests and activities, and I think that is really, really expressive, maybe unintentionally of the exclusion process. There are black lawyers, and some white lawyers who have worked very actively over the years, are right there.

Other community groups, other political figures, Cecil Moore you have probably heard about. You have got to reach out if you really want to get -- what you have is probably just the tip of the iceberg from people who happen to get down town. I am not criticizing you; I just want to end by asking you, would you be open to input from other people, like myself and other people?

A. I would welcome it.

Q. I would be glad to come.

A. Anyone or any group that you can recommend to me, I

will be more than happy to meet with them, speak with them. I agree with you, I feel we are not receiving all of the complaints available in the community. I think there are many people -- just because this is the way it has always been -- feel, why would the D. A. do anything to help me.

Q. That's right.

A. And there is an educational process that needs to take place, and I recognize it can't take place overnight.

CHAIRMAN RHODES: Thank you, Representative White. I would like to acknowledge the presence of Ruth Harper. Thank you for coming to be with us. I hope you will stay with us and ask that you help us today. Are there any more questions?

REP. DUMAS: Just a couple, then I have to leave.

CHAIRMAN RHODES: We will get to Representative Dumas a little later; we'll go to Representative Richardson.

REP. RICHARDSON: Thank you, Chairman Rhodes.

BY REP. RICHARDSON:

Q. I would like to get into an area, when you spoke about communities and the types of people in the communities broke down for us what you felt most of them were, poor black, non-Spanish speaking, young and middle aged. In breaking down this City, would you say that the majority of the complaints

come out of North and central Philadelphia area?

A. I hesitate to give you a definitive answer because I haven't broken it down geographically.

Q. I couldn't get a comment from you about West, East, North, South at this point in time?

A. No, they seem to be spread out all over the City.

Q. What about the Kensington area? Do you get cases of police brutality in the Kensington area?

A. Yes, we do.

Q. For the record, is it a poor white community area?

A. Yes.

Q. In Philadelphia?

A. Yes.

Q. In line with some of the questions, my concern is of a recent police finding of the Winston Hood case, just one case; I thought I read it was the cab driver case, and it was. Not getting into the details, that you, the Federal Bureau of Investigation, are doing it now for the United States Attorney, Attorney General is doing it now. Could you specifically give us a reason why the police could come up with a final decision on a case without jury recommendation of the D. A.?

A. The police, not only in shooting cases, in every case they have investigation, have the charging function, so that they can make their own decision independently as to whether or not they are going to bring charges. I don't

know of any standing procedure, whereby they consult with the District Attorney's office on deciding whether or not to charge someone.

I know once they have made the decision to charge some kind of violation, they will contact the District Attorney's office. The basic question, do we charge or don't we charge, is the decision always made by the police. So that the procedure they followed in the Hood case, where they made up their own minds not to charge without consulting the District Attorney's office, this is standard police procedure in Philadelphia.

Q. The Honorable Cecil B. Moore characterized this as cold-blooded premeditated first degree murder. In this instance, did you find that cases that have resulted in police violence where individuals have been shot, that police officers invariably never come to Court, or never are reprimanded, not just killings but shootings or other police violence cases, police brutality -- do you find that police officers are never brought to trial, never reprimanded, never suspended, and never transferred out of their particular area?

A. Well, it would be hard to say, and here is why: we are investigating several cases; they involve brutalities. I think we've got about -- right now we have actively about six, or seven investigations. We have in the past charged in only

one such case since January. The officer involved in that case, I don't want to get the case name because of pretrial publicity problems. The officer involved in that case was transferred from his assignment, and was placed in the homicide bureau of the Philadelphia Police Department.

Now, that, as it turns out, is a standard procedure, and the interesting thing about that, it gets back to the point I made in answer to Representative Levin's question. The result is you place the police officer, the subject of the police investigation, in direct contact with men who are conducting the investigation, and the only possible result you can have from that, is an already sympathetic investigative group is going to become sympathetic, not just because he is a brother officer, but he is a human being they are in contact with on a day-to-day basis. It makes their job difficult.

Why they assign police officers involved in the situation to the Homicide Bureau is a matter of speculation. I should say the effect that it has is that it makes the investigation by the Homicide Bureau just that much more difficult.

As to whether or not they are suspended or ever come to Court, I can't say. All I can tell you, we are going to see how our cases go. Every case we are in charge of



we'll follow the thing through. What the history has been prior to my arrival, I hear stories around the office; I haven't gotten the hard data to give you on that.

Q. Can the D. A.'s office give us a breakdown of the over three hundred cases or two hundred or one hundred or what?

A. We have close to two hundred total that have been processed, or in the course of being processed.

Q. Since January 1, 1978?

A. About thirty-five, thirty to thirty-five of that two hundred are cases that had come up in the previous administration that Mr. Rendell wanted to reopen.

Q. In this year of January 1978, could you give us a breakdown of the number by age, race and sex, without getting into the names of those individuals who have brought complaints against police in the city?

A. Not right now.

Q. Not right now; can you supply us that information?

A. I'm pretty good, but I couldn't do that. I would be glad to supply that. I will make a note.

Q. We would appreciate that. Can you get into a little bit about the fact that in the City of Philadelphia, there tends to be an attitude of when you get beat up by a police officer, in the City of Philadelphia, you are charged with assault and

battery, resisting arrest, and disorderly conduct. Is that a normal type of procedure, when an individual gets beat up by a police officer?

A. Yes.

Q. Why?

A. From a practical point of view, if you have got somebody who is beat to a pulp, you have to have some explanation as to how he got that way. The only way you can justify putting him in this condition is to say he was resisting arrest, he was doing something he shouldn't, and fought back. Just as a defensive measure, a good defense being a good offense, you have to bring those kinds of charges.

There is also the standpoint of protecting the City from possible civil liability. These charges, as I see them, are sometimes brought to cast any potential plaintiff in a civil action against the City, in the role of wrongdoer. That is the reason for a lot of these charges.

Q. On that point, the police officers here in the City, when charged with assault and battery on a police officer, resisting arrest, disorderly conduct, etc., you cited why. Why is it invariably, it seems that all of those police officers go to a general hospital? For example, when P.G.H. was in existence, if you got beat up by a police officer in Germantown, why did the police officers go to P.G.H. hospital?

A. I don't know why.

Q. If you're beaten up so bad, wouldn't you go to the nearest hospital?

A. It's a matter of speculation as to why they use one hospital as opposed to another. I couldn't really answer your question.

Q. A better question to ask of Frank Rizzo himself or Police Commissioner O'Neill?

A. I don't know if you would get an answer out of them either. They probably have the information; I don't.

Q. The kinds of cases that we are concerned about, as Mr. Rendell spoke about, the forcible felonies where people seen fleeing from the scene, don't have any weapons in their hands, but wind up being maimed or killed. Are those cases in Philadelphia, can you cite since January, since you have been in office, any particular police officer, or those in the law enforcement agencies, that have been suspended from the force, that have been discharged from the force, that have been reprimanded or in any way shape or form that you know of?

A. Involving forcible felonies?

Q. Involving forcible felonies, where it has been brought before the Court, brought before the Board.

A. The only suspension that I know of involving a police officer presently under charges, in connection with what we

allege are a series of assaults at the Airport Sheraton, which occurred in January 1, 1978, and the officer was suspended for thirty days. However, his suspension, I believe he had the option of collecting a vacation pay while on suspension. He did not exercise that option, but it was available to him.

Q. What was he charged with?

A. He is presently charged with aggravated assault, simple assault, recklessly endangering another person, and official oppression.

Q. Would you suggest to this Committee they should visit the Police Administration Building, Eighth and Race, the Round House where victims are brought in in this City, all cases are brought directly to the Round House, would you suggest that this Committee should visit that building? Do you think it would be helpful to this Committee?

A. It could.

Q. Nobody is allowed down there. I am saying as a Committee from the House of Representatives, do you think it would allow the Committee to have an opportunity to observe some of the action there, in terms of some of the folks that allegedly get beat up in the Police Administration Building?

A. I am sure you could get a tour of the building --

Q. Not a tour.

A. They even gave me a tour. The problem you might have

and the way most of the activity that is explained to us that we run across, complaint doesn't center on the Police Administration Building; that activity is on the street or in the district houses. Very few complaints come out of P.A.B.

Now, there used to be as I understand it, a pattern of complaints involving the Homicide Bureau of the Philadelphia Police Department. There were six detectives from that Bureau who were convicted in Federal Court for civil rights violations. Interestingly enough, since that conviction this tends to fly in the face of what I said about effectiveness of the criminal prosecution, that since that conviction we have not received complaints of violence by Homicide Bureau detectives, during interrogations at the P.A.B.

Q. It became a deterrent because of the arrest and conviction of the six officers?

A. I think it had a devastating effect on the Homicide Bureau. Now, on the other side of the coin, you get from the police you talk to, they are now rolling over and not doing the job; they are afraid to question.

The fact of the matter is, I don't think if you would visit the P.A.B. you would have occasion to see any violence in progress. I think if you wanted to find that, just hang around the streets.

Q. Do you feel racism and corruption is running rampant

in the Philadelphia Police Department in the City of Philadelphia?

A. Well, I can speak -- let me address your latter point first, corruption, yes, no doubt about it in my mind. As a matter of fact we investigated, we had several investigations into the corruption area, which of necessity we have to make confidential.

As far as racism goes, again I don't know if I am your best witness on the question of racism. I can see what I believe is racism in the Philadelphia Police Department. Certainly I find an attitude, a pretty extreme attitude with the people I have dealt with in the police department, on the subject, and I think that there is no question, their relation to the community is abysmal. They could stand a lot of improvement.

Q. My final question: do you think that stems basically, Mr. Parry, that is a lack of training -- there is a lack of psychological, lack of understanding in the community in which one works? Again, for example, last week I happened to be on Shoe Avenue, and there was a fellow who was running down the street with an axe. He was pursuing another guy. Two black police officers happened to recognize the gentleman because they worked that beat, and they were walking the beat, so they happened to know this particular guy. And they were able to stop him before he got to the guy he was pursuing.

My point being, it seems that in other instances, based on situations in the city, that if they do not know the guy and they saw him running down the street with an axe and they told him to drop it and turn around, he would have been shot.

A. It is entirely possible, yes. I am not quite sure how I should respond to that. It is entirely possible that that could happen. You have got to understand, however, that in terms of training, training as being a cure for certain attitudes, a lot of whether or not a man is going to be a bad or good police officer is a question of what he brings with him to his job.

Now, I speak not from the standpoint of extensive police experience, but I did work with the Department of Justice in this area. In the course of working on the streets, I learned a little bit about the kinds of decisions a police officer has to make on a day-to-day basis.

There are police officers who are individuals that you could give all the training to in the world, and they are still not going to be cool, level-headed people in control of themselves.

CHAIRMAN RHODES: Thank you. Not in control of themselves, but just able to handle stressful situations and developing that kind of attitude to a

certain degree.

THE WITNESS: To a certain degree you can do it with training; a lot of it has to do with the material that you start with.

CHAIRMAN RHODES: Representative Richardson, thank you very much. Representative White, are there a couple of questions you want to ask?

BY REP. WHITE:

Q. During the course of your testimony -- I kind of backed up there, this is a good time. Can you describe for the Committee, for this Committee, whether the vast majority of the people have been black -- you have said middle aged and young. I am interested in, is there any variation in terms of who is doing the shooting and who is getting shot?

A. Well, if you're asking --

Q. What I am asking you, are those police officers involved in police violence, proportionately as you described the victims, how would you describe them in terms of black and white?

A. Well, there are a majority who are white; however, I don't think you can reach any kind broad -- draw a conclusion on that basis. A lot are black, but there are a majority who are white, but there are a lot of black officers involved in shootings.

Q. You indicated that the majority of the officers involved are white, but also a high number of black officers involved.



This question may not be directly related to your activity as assistant district attorney, but I am certain, based on your knowledge and information during the months you have been in the employ of the district attorney's office, you can answer this question.

The rate or the incidents of police violence, you stated were taking place in relatively poor neighborhoods, or you indicated that poor people were disproportionately the victims. Are those incidents taking place within poor communities? You did say within communities where there is a considerable amount of tension between the police and the community. Are you saying generally in one neighborhood more so than in other neighborhoods?

A. In terms of a median figure, yes, this is true. Now a lot of contributing factors, where you have a neighborhood where there is a lot of tension, I think you are going to find that the police officers in this neighborhood are going to be more apprehensive of what they are getting into, what they are going to encounter. With this heightened sense of apprehension, they might be quicker to go for their guns or night sticks, than they would be if they were to patrol another part of the city. You have got that problem; it is a natural outgrowth of the situation.

Q. My final question, in terms of those officers involved in alleged police violence, where would, in your information and

knowledge, say that the majority of the black police officers are assigned? Would you say that the majority of black officers are assigned to the black communities?

A. I don't have any information on that.

Q. Would you, if possible, provide the same type of information in regard to police officers are you intend to provide to this Committee, in terms of race?

A. The officers involved in the incidents we are investigating, yes.

REP. WHITE: Thank you.

CHAIRMAN RHODES: Thank you, Representative White. Mr. Parry, you were very helpful to us today. I do have a couple of questions before we break, and we will break until two o'clock.

BY CHAIRMAN RHODES:

Q. First, the difficulty of bringing successful criminal prosecution is well noted, it was noted in our hearing in Harrisburg earlier this week by all witnesses. However, the standard of proof that applies in criminal prosecution does not necessarily apply to the administrative procedures in the police department.

In the cases you have investigated, has there been instances where you felt that you could not bring criminal prosecution, but that there was basis for administrative censor

was there administrative censor?

A. There are many cases we have encountered like that. Our standards in the Police Brutality Unit actually goes beyond your normal standard of --

Q. Beyond a reasonable doubt?

A. Yes. Whether or not you have got a prima facie case you have to present to the Court or not. We take the position in our unit, we need not only a prima facie case, we need a case that is an absolute winner.

Our concern is we start bringing these cases and start losing them, it is going to have a counter-productive effect. It is going to encourage this activity. When we bring the case to Court, we have got to win it. We have much more stringent standards.

Having said that, as a result we do find a lot of cases, the vast majority of cases, we decline. We are looking for the cases where we can make a point. Out of all those cases, there are many I couldn't give you numbers off the top of my head, but there are many cases where I think the evidence would substantiate a disciplinary action by the police department, where no disciplinary action was taken.

Q. Having asked you earlier to provide us a list of cases, without names, and only designations, to indicate what the repetition case charges, I would like to ask you to provide us

with names of cases where you did have disciplinary action. Many instances where you thought it was justified, because if the Committee decides to call police officials, and I think that point might be coming, I think one of the critical questions I am going to ask the police officials why they chose to decline imposing administrative sanctions.

Another way of asking that question is this: is it your perception that the police officers of this city feel if they pass the purview of your unit, they have made it?

A. Well, I'm not sure they even perceive our unit as a hurdle. We are not a day-to-day concern to the police officers of this city. Shooting cases, I think they know --

Q. Many para-military units have to have a background fear of what this upper-upper echelon is going to do to you if you overstep your authority. What is that in the Philadelphia Police? What do they fear?

A. You actually anticipated the point I was going to and that is this: I think that the feeling of the police officers of Philadelphia is, no matter what the District Attorney's office wants to do about a problem, they have the backing of the police department, and this is what counts. The Police Commissioner has told me himself he is going to back his police officers right or wrong. I am not putting words in his mouth; I am not trying to make him sound bad; that is what he said.

Now, that is communicated by the Commissioner

all the way down the line, that no matter what the District Attorney's office does, the officer in the line, the officer in the field knows he has the backing of the police department. Within the police department, that is all that counts. If the department is behind him, those crazy people at the District Attorney's office can try to do what they want to do, but we have the police department behind us, and that is the primary problem.

To the extent we can do something about it, we are doing it. But you can't escape reality that the attitude at the top of the department really dilutes the effect of anything we can do.

Q. We had testimony earlier this week from numerous leadership figures around the country as to how they handle the problem of insuring a proper police response to brutality allegations. Your testimony to me indicates that you feel that the leadership of this department in this city, does not have a commitment to provide -- if there were a commitment on the part of leadership, as a hypothetical, if there were a commitment of this department -- and I'm not assuming there isn't -- that is your testimony today -- if there were such a commitment by the political and police leadership to provide a guarantee of fair treatment in terms of brutality allegations, and cooperation with the District Attorney's office in a proper

professional law enforcement way, could you tick off in summary what you said today, what steps they should take, A, B, C, D, E, F, G, what series of actions should the police department take, if there is a commitment?

A. Well, I think the steps they should take --

Q. Procedural steps.

A. Just very fundamental. I think they would start with proper training at the Police Academy, on the justified use of force.

Now, I had occasion to go out to the Police Academy and participate in the mock trial as part of the evidence training session that the District Attorney's office has out there. It was a very enlightened session from many points. I got a chance to talk about the Police Brutality Unit. I thought I was going to wind up at the police firing range as a target.

But I had an opportunity to go out there and talk to them, and I had a chance to question some of them. I found out these were recruits who had two weeks left to go in the Academy and no one had come in to give them a lecture on the justified use of force, which is insane. I would start there, with proper training, just what the law is.

They also have police department directives which are far more restrictive --

Q. I was going to ask about that. What are they informed about those directives?

A. The recruits I talked to, I might be drawing too big a conclusion, based on the segment I talked to, the recruits said we have got a gun -- they are not quite sure, from what I can tell in talking to these kids.

I might point out there are a lot of these situations we are investigating where it becomes apparent that the officer doesn't know for sure when he was empowered to shoot and when he wasn't. That comes through loud and clear.

Now, I would start with the training. When you get into the area of other kinds of physical violence, getting away from the use of weapons, I would look for a change of leadership up and down the line. You don't have the commitment within the police department to that kind of impartial enforcement of the law, which I think is necessary in professional law enforcement.

I think you need a change of leadership; I'm not just talking about the commissioner's office; I'm talking about the key positions throughout the department.

One problem that you have, I don't know if there is any solution to this, the real backbone in any police department happens to be at the level of sergeant. They are the people who run the department. If you can't get the sergeant

on your side, you aren't going anywhere. I don't know how you go about attacking that problem. If the men in the ranks see that the attitude has changed at the top, that the young recruit coming in below them is better trained, then that could have an effect in changing the police department.

Q. Is there a firearm discharge procedure in the Philadelphia Police, a firearms discharge review board that hears every case when a firearm is discharged?

A. As I understand, when a weapon is used, there is an investigation. If it results in death, it is an investigation by Homicide.

Q. The discharging of any weapon?

A. I don't know if there is; I think there is an investigation by the staff inspector.

Q. Do you recommend there be such a review board?

A. I would recommend a review board, provided they were serious about it, but when you get down to the whole question of attitude within the police, you can have the greatest looking organization on paper. If you have a bunch of guys without the proper attitude staffing it, it is not going to have the effect. I think one other point I'd like to make about training, that is a matter I discussed with Representative Levin before I began this testimony today. I understand you heard testimony from Lieutenant Fyfe from the N. Y. P. D. He indicated that they have training in the New York Police Department, in the



use of weapons, what it can do for you and what it can't do for you. I think that would be a very important thing to include in the training of the Philadelphia Police Department.

Now, the bulk of my experience has been in working with the F. B. I. and Federal investigative agencies. I think they have the same kind of training. They demonstrate to their agents when they are in training, and they have recurring training periods. They demonstrate to their agents the limitations of their sidearms. Because you have a gun on your hip doesn't mean you can control any situation that comes your way. You are going to continue to be vulnerable.

The way you minimize your risk is by taking other steps; you don't rely on that gun to get you out of jams. You approach situations cautiously. I think that would be a very good thing, to add to the training.

You have to maintain, and I don't want to belabor this, but you have to maintain the proper aggressive spirit in the police. I have been in communities where the police departments literally do not want to get involved with the call of a crime in progress. I have had police officers tell me, I heard one conversation, he said, yes, I was sitting in my car and I heard a couple of shots go off, and I heard somebody scream. What did you do? I waited five minutes and went to the scene.

Fortunately we don't have this problem here. I think they tend to go in the other direction in Philadelphia. It is a good point to keep in mind, that an aggressive police department is a good thing to have. It is controlling that aggression and seeing to it that it doesn't go across accepted lines that is the trick. It is a difficult thing to do in police administration.

CHAIRMAN RHODES: Thank you, Mr. Parry.

I would appreciate if you would provide the information to determine information on that case, those cases where you thought there was need for administrative sanction and there wasn't action by the police department.

BY REP. HARPER:

Q. Do you feel that your department is doing all that it can to curb police brutality in the city?

A. Yes, ma'am.

Q. You do. What would you like for us as elected officials to do to support your efforts?

A. Well, I would like to have a Grand Jury bill by Fall that would give us subpoena power.

CHAIRMAN RHODES: Thank you, Mrs. Harper.

REP. RICHARDSON: Just one or two more questions, Mr. Chairman.

BY REP. RICHARDSON:

Q. Mr. Parry, you testified earlier about the effect that it was your opinion that your understanding about the racism of the police department here in Philadelphia, that there is a rule of thumb that seems to me that goes out across the police department, and in line with Representative Rhodes, is it not a policy that the police department already has the sanction to shoot to kill on the street here in the City of Philadelphia?

A. I am not sure; they have power under the crimes code to use deadly force.

Q. I'm saying an order coming from the top rank and file to say if there is a case, or a problem in the community, they have the right to shoot to kill.

A. I am not aware of it.

Q. There is a difference between shooting to kill and shooting to wound. Shoot to wound, if a person is going to be wounded in the leg, he knows how to shoot and wound a person in the leg. In other instances, we have cases specifically in Philadelphia, where a person who has gotten killed might not necessarily have needed to be killed, in order to subdue him.

A. I don't want to quarrel with you, but I do think -- I have carried a gun for five and a half years. There is no

such distinction between shooting to kill and hitting someone or shooting to wound. If you can hit him at all, you are doing well. There is a limitation to sidearms. I don't want to quarrel with you, with what you are saying. All I can tell you is that based on my experience and the men I knew that carried weapons, mostly F. B. I. agents, who have the best firearms training in the world, that when you draw your weapon, you hit him anywhere at all.

CHAIRMAN RHODES: That is one reason why our Pennsylvania State Police are trained to shoot only if they have to kill. When you discharge a weapon you have to take into consideration you may kill them.

REP. RICHARDSON: That is what I was trying to bring out. If you draw your revolver, you are supposed to draw it to kill. If someone doesn't have a weapon, why draw your revolver?

THE WITNESS: You never know what the situation is. He might think someone is going for a weapon; someone might have a knife -- you never know. That is why we review these things on a case-by-case basis. It would be very hard to make a general pronouncement, that unless you find a gun on the guy, the police officer wasn't justified killing him. There could be a certain case where a man had the police officer by the

throat, was choking the life out of the police officer, and he doesn't have a gun, but he is threatening the police officer's life, and there are a number of variations. That's why I'm saying we take it on a case-by-case basis.

REP. RICHARDSON: The one that was running away with a TV in his hands didn't have a gun.

CHAIRMAN RHODES: Thank you very much, Representative Richardson. Thank you very much, Mr. Parry. I think we all appreciate your cooperation with this Committee and the matters brought to our attention.

This Hearing will stand adjourned until two o'clock.

(Lunch Recess.)

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(Hearing reconvened at 2:30 O'Clock P.M.)

CHAIRMAN RHODES: This Hearing is declared open. I would like to acknowledge the presence of Representative Mark Cohen of Philadelphia County.

Our first witness this afternoon is a representative of the Pennsylvania Department of Justice, Community Advocate Committee, Mr. Michael Louik and Mr. William Joyce.

Gentlemen, what is your please -- first of all, do you have a copy of the subpoena we gave to you?

THE WITNESSES: Yes, we do.

CHAIRMAN RHODES: Do you acknowledge receipt of the subpoena?

THE WITNESSES: Yes.

CHAIRMAN RHODES: Will you both raise your hands to be sworn.

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MICHAEL LOUIK, Deputy Attorney General and Director of the Community Advocate Unit, Pennsylvania Department of Justice, and WILLIE JOYCE, Special Investigator of the Community Advocate Unit, sworn.

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CHAIRMAN RHODES: Why don't you state for the record, your name and position.

MR. LOUIK: My name is Michael Louik, and I am Deputy Attorney General and Director of the Community Advocate Unit of the Pennsylvania Department of Justice. I will let Mr. Joyce introduce himself also.

MR. JOYCE: My name is Willie Joyce and I am a special investigator for the Pennsylvania Department of Justice, Community Advocate Unit.

MR. LOUIK: Mr. Chairman, we have some prepared

remarks to present for your consideration, and we certainly are prepared to engage in dialogue with members of the Committee particularly after listening to the discussions this morning, and listening to the concerns of the members of the Committee, as well as the presentation from the District Attorney's office, we are anxious to engage in some dialogue and address some of those problems. We think we do that in our prepared remarks.

We have been looking forward to this day for some time. We think it is a historic day; one, because of the legislation to deal with the problem of police abuse is finally being given serious consideration. We have a lot to say, and perhaps we'll move to that. If you see fit, please interrupt in the middle of my remarks.

CHAIRMAN RHODES: Fine.

MR. LOUIK: Just so you understand what we plan to do I will attempt to provide kind of an overview of our perspective on the police abuse problem on a state-wide basis and then Bill will talk specifically about some of our experiences in Philadelphia, and then I would like to address myself to some recommendations to the Committee for its consideration in drafting legislation.

The Community Advocate Unit has been in existence since 1970. From that time to the present date, one

of our many responsibilities has been to deal with the problem of police abuse.

Police abuse, in our judgment is a problem that requires special treatment. The members of this Committee should they think that the problem of police abuse is peculiar to Philadelphia, let me assure you from our experience, it is not.

CHAIRMAN RHODES: Please pull the mike up closer.

MR. LOUIK: The problem of police abuse is in fact, a state-wide problem. It is certainly true that in many respects the problem is highlighted and perhaps most intense in the Philadelphia area. But we have had complaints and have dealt with significant police abuse problems elsewhere.

We believe that police abuse requires special treatment because -- not so much just because the problem exists, but because it is difficult, we have found, to resolve even the most egregious kind of behavior or conduct by police officers.

We feel very strongly, and to this extent at least disagree, with the implications of the District Attorney's office, the testimony. We feel very strongly that police abuse is not just a criminal law, criminal prosecution problem, but can be dealt with in a strong criminal prosecution manner. We will get to that in just a moment.



The Community Advocate Unit was set up in 1970 -- was really set up as a federal grant, called the Community Tension Unit. The grant said that the unit was to apply the law enforcement authority of the Department of Justice to the alleviation of the causes and effects of community unrest and alienation of minority communities, with emphasis upon the enforcement of civil rights of members of minority communities, and enforcement of the criminal laws in those areas in which those laws are not equally enforced by the agencies having primary responsibility therein.

It was really our thought at that time that was the way to deal with the police abuse problem, to assure that the laws that police officers were held accountable in terms of the crimes code or violations of the crimes code, that other citizens were.

As a result, the office was set up, and right now we have an office in Pittsburgh, and we have one here in Philadelphia. Our staff, while very aggressive and active and dedicated is very small in Philadelphia. We have six people on our staff. In Pittsburgh we have five.

MR. REILLY: How big have you been?

THE WITNESS: We have been as high as eighteen.

MR. REILLY: How many attorneys, how many investigators?

THE WITNESS: Right now we have two attorneys in Philadelphia and two in Pittsburgh. At the height of our existence we had four attorneys in Philadelphia and two in Pittsburgh.

MR. REILLY: Was there a precipitous drop-off in the federal grant that transpired or has this been a gradual transition?

THE WITNESS: I think it has been a gradual attrition. The grant eventually expired and could not be renewed, although we enjoyed at some point some increasing funds from the state legislature. They were never increased sufficiently to let us get back to the level where we once were.

MR. REILLY: Do you feel that that level was adequate or do you feel as you established your procedures and expertise the unit should have been expanded rather than contracted?

THE WITNESS: I think given the nature of the unit, a total of eighteen would have been sufficient. We could have used one more attorney in the Pittsburgh office. But with the full complement, the four lawyers in Philadelphia and two or three in Pittsburgh with the staff of investigators we would have two in each office, as well as secretarial staff, this would be sufficient.

MR. REILLY: One of the areas called to our attention by Mr. Hohlman, the former head of the Community Relations Unit of the Department of Justice is the potential problem area within Pennsylvania. He was asked where were -- in the eight years he was with the Department of Justice, as director -- where were the problem areas as he saw them in Pennsylvania. He said, of course Pittsburgh and Philadelphia, as your major cities.

But he also mentioned cities in the center of the state, cities such as York and Lancaster, Reading, as cities in all of which had been problems with police - community relations.

How were problems in that area handled; do you have a central field office, too?

THE WITNESS: No, we have never had a central field office. We have shared responsibilities for the entire state. We have gone to many different parts of the state. I recall Reading -- did you say Lancaster, Easton, Erie, Harrisburg, Warren, Pennsylvania. So we have traveled out to those areas and we have spent time there on many occasions.

I am not sure that is particularly a hindrance. If we were to set up a third office, we might well choose

to put it in Harrisburg; perhaps Erie would be appropriate. I am not sure that we would in fact, in order to be productive, have to be further dispersed than that.

MR. REILLY: It is refreshing to find somebody that is not trying to build an empire, say we have enough with what we have.

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MR. LOUIK: What we have tried to do and what we have done for years, we are available and until recently we published a newsletter and quarterly that went out to different communities located throughout the State.

What we have discovered is that the police abuse problem has many different parts to it. Part of the problem, in our judgment is that in fact criminal laws are not easily enforced; that is, they are not enforced against police officers, the same way they are enforced against other citizens. This is for a number of reasons alluded to this morning, reluctant officials, reluctant district attorneys who just will not take criminal action against police officers.

Now, that situation has changed considerably as you have heard this morning, in terms of Philadelphia. It has changed considerably in Allegheny County at the other end of the State. Bill Joyce will address our specific

experiences with the Philadelphia District Attorney's office in just a few minutes.

But we find even when the District Attorney is willing to pursue a case that exists, even then, for example, we find often that the district attorney that is going to investigate an allegation of police abuse, must rely on police officers to conduct investigations.

There are inherent problems in that, not because all police officers are bad and unable to conduct an appropriate investigation, but there clearly crops up a bias in favor of the police position in most cases -- not always.

Often too, we find that the D. A.'s are concerned particularly in other counties, about creating a rift with the police department that they have to work with. Mr. Rendell has found it to be his experience; I feel if you have heard from other district attorneys they would tell you that is so.

The Attorney General has no power to prosecute on his or her own at this time. They have a limited power to request supersession from the district attorney, and we have got to convince the president judge of the county that the D. A. abused his discretion.

We also find that part of the problem that judges and juries are indeed reluctant to convict police officers.

A case we're very involved with in the western part of the state, we were very instrumental in doing investigation and bringing to the Allegheny County District Attorney the results of the investigation, which led to the prosecution of the police officer from a small borough right outside the city of Pittsburgh. That police officer was eventually tried on twenty-nine counts of abusing his office over a period of four or five years. He was eventually convicted of three of those counts; one was simple assault and two official oppression which proved a pattern of official oppression, from 1973 to 1977.

I found it fascinating, the jury was out about two days, and I found it fascinating to talk to the members of the jury after they returned the verdict and they expressed or shared with me, some of the things that went on in the jury room. And that indeed, in spite of the fact that there were over forty-five prosecution witnesses who testified of either fifteen or sixteen separate incidents of abuse, some relatively minor, some relatively serious, still a number of people on that jury which, in my judgment was a true cross-section, who wanted to acquit the police officer of everything.

Someone wears a uniform, he should be able to do whatever he has to do. Yet at the same time, there were people on the jury who wanted to convict the police officer.

That counts for something of a compromise, relatively speaking, a victory for the prosecution.

I will tell you a little bit more about that case in a moment, when we get to some of the other problems.

Another part of the problem, which again was referred to rather pensively earlier; poor management and/or supervision of the police department. Police officers are just not often enough held accountable by their superiors.

We investigated a case involving the firing of a weapon. It is what I call a class warning shot. You know most enlightened, progressive police department prohibit warning shots. They are prohibited in most cases; State police prohibit it; I am almost positive the Philadelphia regulations prohibit it.

In this particular instance some kid got into a tussle with an off-duty police officer who was working at the Burger Chef in this particular community, and incidentally it led to an altercation eventually, which you might call a classic disorderly conduct, and the young people who were high school seniors, I believe, some of them, got into their car and were driving away. The police officer was furious, fired the so-called warning shot, the warning shot ricocheted off the ground, went through the gas tank of the car. Another police officer, hearing the other police officer shoot, got concerned

and he fired his revolver and the bullet went through the window of the car.

It is only because the people inside the car heard the first shot and got scared to death and ducked down, were prevented from almost certain death by the other police officer shooting. There is no justification under the crimes code for that shot. When I talked to the police chief about that particular case, which has still not been resolved, he made a long speech about the pendulum swinging back in favor of the police. I pointed out that the crimes code just doesn't allow a police officer to use deadly force in that kind of situation.

That was perhaps the most graphic example of what I am sure many of you are aware of anyhow, the supervisors just refuse to hold their police accountable and certainly contributes in a major way to abuse problems.

Even if regulations are enforced, what we generally find is that they are afforded in matters involving internal operations, not so much enforced with regard to brutality. You'll find if he is charged with violating some internal code, drinking on the job, sleeping on the job, insubordination, frankly you are much more likely to get a disciplinary action than you are if a citizen comes in with a brutality complaint.



Of course there are more internal grievance mechanisms than there are for citizens to use. Sometimes these are by design. Many municipalities don't keep any records at all about complaints about their officers. They deal with them in an offhand way. Some of those for internal grievance mechanisms are the result of legislations.

Pittsburgh police established a trial board system that is unparalleled in the country. Do you know -- maybe some of you do -- in Pittsburgh, if a police officer, if the superintendent of police determines that the police officer caused grave bodily harm to someone, abused that person, police treated that person, caused that person to be in the hospital for two weeks, suffering a concussion, losing work, and if he determines that the police officer is at fault, he can do nothing, nothing, unless a trial board, made up of his peers of that police officer, recommends that the superintendent or the mayor do something.

That situation doesn't even exist in Philadelphia; that is peculiar to Pittsburgh, and that is in the second class city code. If that doesn't inhibit dealing with the police abuse problems, you've got the superintendent as we've said, for a number of years now several superintendents of good will, who have tried to do something about that. You are familiar, I assume with the fact that Philadelphia had the first civilian

review board in the nation. It was established in October 1958 and was created by Executive Order of Mayor Richardson Dilworth.

Suffice it to say, that the F.O.P. is instrumental in fighting that trial board. There were a number of Court actions involving the trial board. Some of them were successful; some were overturned.

Mayor Tate in 1969, eleven years later, announced as a Christmas gift to the men of the police department, he was issuing an executive order disbanding the board. So much for the civilian review board. There were problems with it, from my study of it. It did not have any power; it was an advisory board. It was an attempt to deal with a problem at that time that was perhaps not as grave then as it is now.

One of the other things that contributes to the problem of police abuse, is the lack of investigative tools. You have heard considerable discussion of that this morning. The governmental agencies that deal with that problem within the state as opposed to the federal level, don't have subpoena power, don't have Grand Jury, and we have been dependent solely upon voluntary cooperation for witnesses and the police department.

We often find a lack of cooperation from police officers, police officials; I guess the D. A. couldn't have been more graphic about that than he was this morning.

We have had the same experience; we can't get reports. Of course there is a general problem in which the brotherhood, fraternal feeling among the police officers is to protect each other.

I don't necessarily criticize that; I understand that exists in many professions. However it is particularly significant in the police abuse area, because most often the only other witness besides the victim to the so-called police abuse is another police officer, and if we can get to the source of the problem, we have to seek out the cooperation or some kind of testimony from other police officers.

When we have been successful in cases, it is usually because we have disinterested witnesses or other police officers who will testify. Part of the problem is also, the whole problem of cross complaints/ cover charges, which was mentioned earlier, that you are well aware of, which in many cases of police abuse kind of get washed out. If you drop your charges, I will drop my charges. Let's sign a release.

Signing releases is common practice throughout the Commonwealth; I have some question whether or not it is binding on the individual that signs it. The victim of abuse will sign a release, releasing the municipality, the police officer and everybody else from any liability, and in exchange, the charges will be dropped.

I will move on to something else here. We often find, too, that a police officer who wants to cooperate with us is afraid to do that for various reasons. In this case I mentioned involving a borough right outside of Pittsburgh, we found we had a number of police officers who were willing to testify against the particular officer who was prosecuted. This particular officer continues to serve on the police department. What the borough did was fire the main witnesses against the police officer. That certainly is calculated to intimidate and harass people who come forward.

We found that police officers called our office and that just happened to be on Monday with a matter they wanted to bring to our attention. They were inside some garage, talking very fast on the phone. They didn't want to be seen, didn't want it known they were calling, and they called, and eventually came in on a very confidential basis to meet with us, to present certain information, which we intend to pursue.

MR. REILLY: One of the things we have been told, time and time again, is that police officers will not testify against other police officers. Your agency has succeeded in getting not only police officers from other agencies to testify, but getting officers from within the same agency to testify, and as you said the practice continues, once you have broken that blue line,

you have other people come across. How were you able to do that?

THE WITNESS: I have given that considerable thought; I'm not sure I really know the answer, to the point that if everybody did this, you would find this kind of cooperation.

I think a combination of things. I think part of it has to do with the nature of the specific case involved. We have had officers come to us willing to cooperate; it is generally a case involving a long-standing pattern of misconduct by a particular police officer, and these officers are just fed up, and they feel that the reputation of this other officer is starting to reflect on them. When they stop somebody for a legitimate arrest, they are accused, you're from so and so township; that is where all this other stuff goes on, and they start to get upset.

I think part of it effects their willingness to come forward, when they are kind of fed up. And I think part of it is there is someone willing to listen to them, and take their concerns seriously. We often get, along with information of abuse, information from police officers that are really management grievances. I think in some respects this is at the basis of some

of this. While we listen to that, and we duly note that, we point out that is a matter we can't really deal with, and often they are kind of interrelated; if you deal with one, we're dealing with the other.

MR. REILLY: Another thing I found very interesting, everything that everybody had thought would happen to police officers if they cooperate in the investigation of another police officer, did happen. They were ostracized by brother officers; they were humiliated; they were insulted and it went so far the main witnesses were fired. At the trial -- because a lot of people here are not familiar with what happened -- in spite of that other officers have been willing to come forward to cooperate with your agency.

THE WITNESS: We have had a peculiar reverse backlash in some respects. Certainly in this one case we were involved in got an extensive amount of publicity in the Pittsburgh area, because there are still many things going on in that litigation.

We found that some other officers came to us, interestingly enough, they talked to an officer in an adjoining municipality who we had conducted an investigation on, because we had information that this other officer was engaged in a pattern of misconduct. We

conducted a very thorough investigation. That particular officer was eventually not prosecuted, however, his municipality did take some administrative action. That was the end of it.

That officer said, "Boy, that Community Advocate Unit really does a thorough job." When those officers, the other officers, heard we do a thorough job, to be relied on, they were willing to come to us with this other problem.

MR. REILLY: Thank you.

THE WITNESS: It makes me think and I don't mean to be simplistic, I don't think this is a simplistic problem at all. It makes me think if you do a really good job, if you are sensitive, thorough and accessible, that people will come to you, and certainly we all agree there are good officers and bad officers, and I am sure there are more good than bad.

But they will come to you if they know they can come to somebody. We get complaints, we get a lot of complaints about what happens to people who go to internal affairs to present their complaints. If it is a black victim, they will say, "I went and it was a black police officer, and I had the impression about he couldn't care less what I had to say." Now that turns people off; it is part of a technique and it turns people off.

Even if you legitimately determine you are not going to pursue the matter, they feel they had a raw deal because they had no trust. That is part of the problem of giving the police abuse investigative function to police officers, not just because officers may in some cases may be biased in favor of the police officers; there is a perception that you can't get a square deal from another police officer. That is a very real perception; sometimes it is true.

I think part of this problem is there are a lot of perceptions that we have to deal with, too. What we found, even if you find wrongdoing, even if we or someone else finds wrongdoing, there are incredible problems. Even if we find wrongdoing, as we said before, with local officials or reluctant D. A.'s to pursue the matter, even if we find wrongdoing we find police officers continue to serve.

This is true in Philadelphia; it is incredibly true in this case I referred to earlier in the Pittsburgh area. It involved a police officer from Millvale. This police officer has been convicted of abusing his authority, and one of the counts I mentioned includes a conviction for violating -- criminally violating peoples' rights over a period of four years. It was his way of doing business.

He is still a police officer, still working full time, regular duty. The borough council refuses to suspend



him or take any action again him. In fact all they do is issue statements of support. There is no provision in Pennsylvania law that requires that that police officer be removed. He could be sent to jail; he wasn't; he was sentenced to two years probation and a thousand dollars fine, and court costs, which would be considerable, but he could be sentenced to jail, and he could go to jail, and even though he has been convicted of official oppression, which is a crime, while not peculiar to police officers who violate the law, but there is nothing that requires him to be removed.

And that is true in every municipality in this Commonwealth, except there is a quirk in Pittsburgh, if a police officer is convicted of a felony, he must be removed, but that is the only place in Pennsylvania where there is anything like that.

The State Police don't have to remove their police officers if convicted of anything. In fact it's a practice to remove their officers, but there is nothing that requires them to be removed.

Tied in with this problem, just to point out the limitations, the Attorney General has no subpoena power over the police department.

CHAIRMAN RHODES: Let me ask you some questions, Mr. Louik.

BY CHAIRMAN RHODES:

Q. Are you saying, Mr. Louik, that a police officer can be sentenced to prison and can still be a police officer?

A. That is what I am saying.

Q. In prison?

A. Well, I don't think he could; I don't know if you are suggesting -- are you asking me if he could exercise his police powers within the prison? I don't know if that is what you are getting at.

Q. Yes.

A. You are asking me then --

Q. Yes, this is an extreme. You said there is nothing required to fire him. In this case in Millvale, which I am very familiar with, being from that end of the state, which I find absolutely absurd, outrageous situation, in the western part of the state. If by chance the Court had an inclination to sentence him to a prison term, and the Millvale council which apparently is committed to this person, because he keeps people in line, as they keep saying -- if the Millvale police -- Millvale council had voted to retain him as a police officer, and he was remanded to the Western State Correctional Institution in Pittsburgh, is there anything in Pennsylvania law that says he wasn't a police officer inside the prison?

A. Yes. Let's see if Mr. Reilly agrees with me. If

Western was located in Millvale, he probably could exercise his powers.

Q. In the City of Pittsburgh --

A. You could be sent there on a misdemeanor.

Q. In the City of Pittsburgh it has to be a felony to be inside Western. In the City of Pittsburgh Police Department, if the superintendent chose to keep him on the force, according to Pennsylvania law, could go to Woods Run which is the state correction institution, be inside the prison and would still be a police officer?

A. I'm sure it has happened; there have been police officers sent to prison on occasion; I am sure it happened. Whether or not they have exercised their police powers, I don't know.

MR. REILLY: They have been misdemeanor convictions on the whole. Usually they were assault and battery, for beating people up as police officers.

BY CHAIRMAN RHODES:

Q. I just want to see how far the irony would go, apparently it goes pretty far.

A. Yes.

MR. REILLY: It also has been a frequent practice, when we looked into it from the idea of corruption and organized crime and public corruption,

there are a number of individuals who have been convicted of crimes of public corruption or crimes of brutality, at the felony level, and when they completed serving their time were pardoned by the Governor, and allowed to return to the police agency from which they had been convicted.

THE WITNESS: You see, there is usually a requirement in the law, but not always, that you can't be hired as a police officer, if you have been convicted of a crime; that isn't uniform in Pennsylvania. Every class of municipality has its own code, borough code, township code, all a little bit different. One of my recommendations is to straighten that out.

For example, in the City of Pittsburgh, a second class city code, you can't be hired as a police officer if you have been convicted of a crime. We have been able to convince the Civil Service Commission to change that. We believe it is discriminatory, and they agree with us, you know, that the State Police have changed it to some extent. That has been some controversy.

However, more than likely, ironically, you can't be hired as a police officer if you have been convicted, but you sure can continue, even if you have been convicted.

BY CHAIRMAN RHODES:

Q. Of crimes you would only commit if you were a police officer or an official of the Commonwealth?

A. I'm really focusing on problems with the police. If you are a police officer, and you are convicted of a disorderly conduct because you got into some kind of dispute at the corner on your night off, I am not sure that I think that should disqualify you from continuing to serve. I am talking about crimes that you are convicted of in the course of your duty as a police officer.

Q. Like, for example, a murder?

A. Or official oppression.

Q. Murder, assault on a citizen, something like that.

A. Sure, terroristic threats, so forth. For the reasons that we have been discussing, we really do think that the problem of police abuse is one that requires special treatment albeit rather complex.

Just very generally, the Community Advocate Unit over the years has tried to get -- to the extent we have been successful, we have had some successes, and we have had some lack of success.

To the extent we have been successful, we think it is because our unit has been removed from the pressures that many other governmental agencies are subjected to. That

we have been aggressive in a positive way, and we have been thorough in our investigations, and rather significantly I think, we have been sensitive to the people with whom we are dealing, and also when appropriate we have developed a rapport with the local D. A.'s office and local officials, so we could implement the findings that we have made.

I have attached to the outline of my testimony examples of two pamphlets we have produced to give you an example of some of the things we have done or could do.

One is an explanation we developed from the District Attorney's office of Allegheny County, procedures for citizens to initiate criminal complaints.

Another kind of related issue, but I think is involved, is a guide to help Pennsylvania Municipalities prevent illegal discrimination in the hiring of police officers.

On occasion, we have used persuasion and publicity because we haven't had any other tools. One never knows whether it is successful or not. Perhaps it was successful to some extent. We worked with many other groups in bringing this issue to the fore in Philadelphia.

Finally, one of the reasons that we have had some successes is because we are not just a criminal prosecutorial criminal enforcement agency. We have also had the power in

certain areas to institute civil actions, and we cannot institute civil actions on behalf of an individual, but we can institute in the name of the Commonwealth (patria) or the good welfare of all, the welfare of the state.

We have done that, in this Millvale situation we are in Federal Court seeking an injunction against this police officer and the borough of Millvale, who are continuing to violate peoples' rights. We were involved on an amicus level in Goode versus Rizzo and Goode versus Tate. Unfortunately, the Supreme Court overturned it.

This is something the District Attorney cannot do; this is something peculiar to us that we have been able to do and we think it is important.

I would like now to ask Bill Joyce to give you specifics about the Philadelphia experience, and I have a few final comments and recommendations for your consideration, also.

MR. JOYCE: Mr. Chairman and Members of the Committee, I have prepared a statement, which covers the introductory parts, if you want to follow along on it.

Our unit has tried to establish a rapport and mutual working relationship with local district attorneys. We have met on past occasions with former District Attorneys Arlen Specter and F. Emmett Fitzpatrick, and more recently with Mr.

Ed Rendell and the head of his police brutality unit, Mr. George Parry. We presented to these men facts and statistics which dramatically and unquestionably demonstrated the severity of the police abuse problem in Philadelphia, and asked them to address the issue, as is their mandate. Only Mr. Rendell's administration has taken any affirmative steps to comply with our requests for aggressive and impartial investigations of alleged police abuse of force.

It has been our experience and the experience of all other groups working in the police abuse area, that the reasons this problem continues unchecked in Philadelphia, is that police are not held accountable by any of the law enforcement agencies charged with that responsibility, including themselves. For the most part, an officer is not disciplined, at least not publicly, nor is he arrested or in any way reprimanded for his actions. Instead, he is insulated from prosecution and from agencies such as ours, in such a way as to make him and other officers believe that they can take improper actions with impunity.

There are basically three routes that a complainant can follow to redress a grievance against the police. One is through a complaint directly to the police department; the second is to press charges against the police officer by filing a private criminal complaint with the District Attorney;



and the third is to file a civil suit for money damages.

The problems with filing a complaint with the police can best be summarized by quoting from Judge Fullam's opinion in COPPAR v. Rizzo and Goode v. Rizzo, which is perhaps the most complete judicial examination of police abuse in Philadelphia history. This lawsuit involved thirty-five incidents of police abuse in Philadelphia. The judge stated in his opinion that "the violations take place with such frequency that they cannot be dismissed as rare or isolated incidents and that little or nothing is done by the city authorities to punish such infractions, or to prevent their reoccurrence." Complaints went uninvestigated. Victims were often intimidated at district police stations and frightened by the police into not filing the complaint at all. And on many occasions complainants were subjected to additional physical and verbal abuse at the police station and in some cases, even re-arrested.

The judge ordered the police to revise the procedures within the police department for processing citizens' complaints against the police, including such matters as:

1. Preparing and distributing appropriate forms for submission of complaints.
2. Initiating an adequate investigation.
3. Adjudication by an impartial body insulated from command pressure.

4. To provide a fair opportunity for both complainants and police officers to present their cases, followed by notification to the parties of the outcome of all complaints.

The City and Police Department appealed Judge Fullam's decision to the Third Circuit Court of Appeals which affirmed the decision in November, 1974. Our Unit filed an Amicus brief on that appeal in response to the City's appeal before the United States Supreme Court.

In January of 1976, the Supreme Court reversed the holding of the lower courts in this case. The finding that there had been violations of citizens' constitutional rights by the police was not challenged. Instead, the Court expressed its concern over the involvement of Federal courts in dictating policy to a city government on how to run its police department. Also, the Court felt that it was not the named defendants (the Mayor, police commissioner, etc.) who had violated civilians' rights, but that individual officers had, and that the defendants were not proper parties to the suit. Again, the Court's emphasis was on the propriety of Federal court involvement, and not on the legitimacy of the findings of constitutional violations.

The factual findings of the District Court were upheld against challenge by the Third Circuit Court of Appeals in *Goode v. Rizzo*. Although the U. S. Supreme Court

reversed the lower courts, it was not on the basis of the insufficiency of the allegations. The Court based its decision principally on U. S. Constitution Article III considerations, particularly that it was improper to have federal courts meddling in a city government matter, where officials were not shown to be part of the pattern of abuse, and because the named defendants (the Mayor, etc.) were not the agents violating plaintiffs civil rights. The Court ignored the additional findings of fact as to the overall dimension of police abuse in Philadelphia, focusing instead on the few incidents investigated by the District Court. The Court noted, however, the finding of the District Court that the failure of the officials was to act to remedy the situation.

Recently, the Philadelphia police department instituted a complaint procedure for the handling of citizens complaints against the police. Preliminary reports on its effectiveness however, are inconclusive.

Under Rule 133 of the Pennsylvania Rules of Criminal Procedure any person can press criminal charges by filing a complaint with the District Attorney. This rule applies to citizen's filing complaints against police officers. The District Attorney must approve or disapprove the complaint within a reasonable period of time. If the complaint is approved, it is sent to a judge for issuance of a warrant or

summons. If disapproved, the complainant may appeal to a Common Pleas Court judge to reverse the decision.

Our Unit has been involved in discussions with the present and past District Attorneys in Philadelphia with regard to their implementation of this rule. Arlen Specter's office had a poor record with regard to issuing any complaint against a police officer. Under F. Emmett Fitzpatrick, the most ever done was that a form was developed which was given to each complainant.

MR. REILLY: Let me ask you a question. Is that a correct statement? Isn't there a recent law that a judge cannot order the district attorney?

MR. LOUIK: Not that I am aware of.

MR. REILLY: I think the D. A. has pretty much the last word. I don't think the judge has the power to order.

MR. LOUIK: There might be a recent case which delineates where a judge overruled the D. A. to the extent he has to make a finding as to the use of discretion.

MR. JOYCE: I had a case recently in Montgomery County where it was appealed to the Common Pleas Court judge. He turned it down.

MR. REILLY: We had it in Allegheny County where

the judge ordered us to file a complaint; we refused.

MR. LOUIK: Was there a decision?

MR. REILLY: We showed the case to his law clerk. I think the district attorney's authority in that area might be unfettered, and if that is the case that may be something the Committee might want to address themselves to. Go ahead, please.

MR. JOYCE: Although it is too soon to make any conclusions on the effectiveness of Mr. Rendell's efforts in investigating police abuse cases, it appears that although his powers are limited and cooperation from the police hierarchy is on occasion token at best, he appears to be proceeding with police abuse cases much more aggressively and vigorously than his two predecessors.

We must not forget that the District Attorney's office must still work closely with the police department in the majority of its day-to-day cases. Their job is to be the Commonwealth's prosecutor, and to do this job well, they must work closely with and believe in its police. It is therefore, not hard to see the difficulty in getting an unbiased, impartial investigation of a police abuse complaint.

This situation is further complicated by the fact that in two-thirds of the cases, "cover" charges of assault and battery, resisting arrest, and disorderly conduct are filed

against the complainant of a police abuse case by the officer and the District Attorney is the prosecutor for these charges. So one can easily see the albatross with which the District Attorney must proceed and which he himself readily admits undermines his effectiveness in such cases.

Civil actions are, in our opinion, the least effective way of dealing with this issue. A complainant may file a civil suit in Federal or State Court, but experience has shown that their chances of a favorable ruling are better in Federal Court. These suits take from one to three years to be decided and are long and drawn out. Many times the city ends up settling the case out of court. The problem with this course of action is that, again, the police officer is not held personally accountable for his actions.

As an investigatory agency the Unit's main purpose was to investigate individual cases of police brutality and when warranted, to recommend to the District Attorney to either proceed further with an investigation or to arrest and prosecute. This strategy was rarely successful because:

1. The police would not cooperate with investigations of our Unit which caused the investigation to be incomplete. Officers weren't interviewed. Witnesses went unknown to us. And police reports, ballistic reports and coroners reports were not made available.

2. The District Attorney was intent on not prosecuting police officers, consequently they ignored most of our recommendations for prosecution, and in fact as policy, used the police department to do the investigations.

3. The Attorney General was reluctant to supersede the District Attorney.

For some time now, the Unit has changed its strategy, and is now working closely with other groups to bring about change. This has included:

1. Forming a coalition of groups called the Coalition Against Police Abuses (CAPA) to work together to end police brutality.

2. Working with the Citizens Committee for a Fair Police Complaint Procedure.

3. Pressuring the District Attorney to adopt meaningful investigative procedures for the handling of Private Criminal Complaints.

4. Filing an Amicus brief in Goode v. Rizzo case.

5. Compiling statistics on police abuse complaints.

6. Working with private attorneys who are representing complainants in investigations if needed.

7. Addressing community groups on the problems and available resources.

8. Assisted in drafting new legislation for the

definition of forcible felony. This was done a couple of years ago.

This new strategy has caused the issue of police brutality to become a public issue as well as a political one in Philadelphia. Month after month there has been an increasing number of articles written about the subject, and in the last District Attorney's election the topic was debated by all candidates.

However the problem continues, and we believe that law enforcement agencies have a responsibility to do more. It is our belief that there has been a complete breakdown of the criminal justice system with regard to complaints against the police. Complaints have not been fairly investigated by the police or the District Attorney's office in the past. Both offices have been guilty of going into investigations with a strong bias in favor of the police. Complainants charged criminally by the police were sometimes coerced by the District Attorney to enter into agreements not to sue the city or the police in return for ARD or probation. And judges have been and are extremely reluctant to sentence guilty police officers to jail terms.

This situation has led to a complete loss of faith on the part of the black and Puerto Rican communities of Philadelphia that anything will be done. In the past years we



have seen a spreading of this belief to the white sections of the city as more and more police abuse victims are white youths.

Such an attitude is leading to further disrespect and fear of the police. Juveniles run from the police rather than be questioned because they fear for their lives. One black mother from the Wynnefield section of Philadelphia told us that she used to fear her son being hurt by gangs; however, ever since her son was unjustly beaten by the police, she must now fear them also.

Our Unit has for the past seven years actively participated in assisting local community and civic groups in organizing their efforts in the fight against police abuse. This assistance was and is in the form of sharing our investigative skills, providing information on available remedies, civil and criminal, and the steps required in these actions and help in organizing coalitions for a collective effort.

Through various coalitions we attempted to attack the issue through all available resources; the District Attorney's office, politically, civilly, through community awareness, and educating the public via the press and other media and conferences. We even assisted complainants in filing private criminal complaints and established a system whereby we could monitor the District Attorney's progress in police abuse investigations. We also lent legal expertise to complainants

in the appeal of the District Attorney's decision to the Court of Common Pleas.

With only two investigators, it was quickly discovered that with the rapid increase of complaints against police in Philadelphia and state-wide, our Unit could not do all the investigations alone. Moreover, we found that the local District Attorneys in the smaller counties were much more cooperative, and our effectiveness was much greater on a whole outside of Philadelphia.

Through the Community Advocate Unit, we drafted a proposal for funding a law center to deal directly with the victims of police abuse. This was done out of necessity as well as through our idea that the problem of police brutality in Philadelphia was large enough that an agency should devote one hundred percent of its time to the issue.

Mr. Barry Kohn, our former director, wrote a funding proposal for the Police Project of the Public Interest Law Center of Philadelphia. The Unit worked very hard to get the proposal through the Governor's Justice Commission, and the agency was established. Ironically, during our lobbying efforts for the proposal, we found that many police agencies state-wide supported the funding proposal and were aware of the enormity of the police abuse issue in Philadelphia.

In working with the public, we found a sizeable

number of local community groups that were very sensitive to the problem. With this in mind, we organized two conferences on police brutality; one in 1974 and one in 1975. Several community-based groups, civic groups and governmental agencies participated. Workshops were held, information and training sessions were given by the Community Advocate Unit investigators and prominent leaders in the field from other cities addressed the conferences, and it was well attended by the local press. In addition, on April 30, 1977, our Unit helped organize a state-wide conference on police abuse that was held in Chester, Pennsylvania.

In conclusion, a good evaluation of the Community Advocate Unit's efforts in the police abuse area in Philadelphia, would be that we have tried every available alternative that our limited powers have granted, but we haven't been able to even put much of a dent in the problem.

Many of the reasons for this failure, I have mentioned before, such as a lack of sensitivity and cooperation by the city administration and the police department, and the difficulties encountered by the District Attorney in investigating and prosecuting police abuse cases. But a seldom-mentioned problem for groups and agencies in trying to eradicate the problem, is a growing apathy and callousness to the issue by many Philadelphians. Although such apathy can be justified

because of the lack of anything positive being done, nevertheless, such community grassroots support is continually needed to ever deal with the problem effectively.

On many speaking engagements in various communities, I am asked what can be done about the problem. The only answer I can give is that nothing will ever be done if you, the community, accept abusive police officers without even a whimper of opposition.

The police, as we all know, have an extremely difficult and thankless job to perform. They are subjected to "citizen abuses" daily, both verbal and physical. They work constantly with the criminal element of our society who very often would think little of taking aggressive acts against the police. Their lives are very often endangered, not only because of the incidents that confront them often on a daily basis, but occasionally just because of the uniform they wear. By their nature and the very nature of the job itself often dictates that they have to have an aggressive demeanor. But the police, as do we all, must still conduct themselves within the law and within the United States Constitution.

Police, just as all of us, are not above the law and should be governed by it. If a police officer assaults a citizen without justification, he should be prosecuted just as you or I would. And until separate laws are written for police

officers accused of crimes than that of citizens accused of crimes, it is up to you, our elected officials, and us the citizenry, to insure that existing laws are being complied with by everyone.

CHAIRMAN RHODES: Thank you. Have you finished your testimony?

MR. LOUIK: As Mr. Joyce indicated, certainly if we were going to effect a cause, and if anything it would be how to increase the accountability of the police. Lack of accountability is a short way of saying, in my judgment, identifying the problem.

The accountability of police officers is really a tenuous thing; since they are rarely dependent upon the approval and satisfaction of their clients, police officers are inclined to misperceive client needs, motives and capabilities. Police are the most visible representatives and enforcers of the legal order, and because they maintain a near monopoly on the lawful use of domestic force, and because of this review of police behavior is particularly important.

I would cite this to persons who argue with me, why can't police police themselves. There is substantial scholarly literature that indicates the reason, one of the reasons, they cannot successfully police themselves is because they misperceive what the public thinks of them; that they are very

defensive about their jobs; that they have a very low estimate of what kind of support there is out there for them.

With all of those misperceptions, it would be very difficult it seems to me, to make any kind of evaluation of the complaints by citizens against them.

I think there is in fact, a scholarly basis for that, for whatever it's worth. Our Unit has undertaken to conduct a survey of various police departments in Pennsylvania. We have a student working with us, doing practicum, a senior in the Penn State Law School. She has prepared a survey of internal and external review mechanisms of police abuse complaints. She believes it is statistically valid, has done all the statistical things to insure -- in fact it's a random sampling of police departments.

I want to relate to you some of the tentative findings. Only one-half of the departments responding have written procedures or policies for handling citizen complaints.

Only slightly more than one-half of the departments responding record all citizen complaints.

About twenty-five percent of the departments responding have been subjected to external review within the past year.

Most complaints involved discourtesy or verbal abuse; the next highest number of complaints involved excessive

use of force.

The questionnaire indicates there is a belief that it is necessary to punish police officers for misconduct.

It also indicates there is a strong belief among police officials that primary responsibility for police discipline must remain with the police department itself.

There is a belief that there is a police subcultural norm against testifying or offering information against a police officer. That is, of course, from police officials themselves.

There is a strong belief that officers get more abuse from citizens than citizens get from officers, and that there is limited support for an agency external to the police department for processing citizens complaints.

Notwithstanding this, I would like to make several recommendations for this Committee's consideration in drafting legislation:

1. Establish an agency for dealing with police abuse complaints, separate and apart from local officials and district attorneys. This agency should be more than just a prosecutorial office. Among other things, it should have the power to bring civil actions, to recommend discipline and publicize findings with due regard to the individual rights of the police officers.
2. Provide the investigative tools that this agency

would need such as subpoena power, standing Grand Jury with authority to inquire into criminal matters, and immunity.

3. Require all police agencies, including the State Police, to devise and maintain internal mechanism for handling complaints from citizens. Include requirement that records be maintained of complaints, that complaints be handled within a specified period of time, and that complainants be informed of the outcome of any investigations.

4. Mandate removal of the police officers convicted of any crime involving the misuse of authority.

5. Eliminate trial boards where they exist and substitute defined disciplinary powers of chief or superintendent.

6. Clarify when police officers can use deadly force by adding the definition as proposed here -- I don't have to read it. See Senate Bill 194 of 1977.

7. Establish common, consistent, and nondiscriminatory qualifications for the appointment and removal of police officers throughout Pennsylvania.

CHAIRMAN RHODES: Thank you very much, Mr. Louik and Mr. Joyce. Representative Cohen?

BY REP. COHEN:

Q. Earlier today there were hearings on an elected Attorney General for Pennsylvania at the State Office building. In your testimony, because you work for the Attorney General,



and your functions are going to be a factor in some way or another when this system for selecting an Attorney General is changed.

Do you think the Attorney General ought to have prosecuting authority on the cases of police abuse?

A. I think that is one of the alternatives that should be considered. I think that it is necessary in spite of what Mr. Rendell said. The present situation in Philadelphia is such that it could change upon an election some day. The situation that presently exists in Philadelphia in regard to prosecution does not exist every place else in the state.

We are talking about a state-wide policy or law that is going to have state-wide effects. If we are going to deal effectively with police abuse problems which come up much less frequently, but do come up with other counties, there should be concurrent jurisdiction for prosecution as we know the District Attorney and the Attorney General.

From my seven years experience in the department through four different Attorney Generals, who have had varying philosophies the way the office should be run, I feel quite certain, if Mr. Rendell wanted to actively pursue the prosecution of police brutality I can't imagine that the Attorney General would interfere with that.

I should add a caveat: I have never been involved with the Attorney General; I don't know for sure.

Q. Your recommendation number one: establish agency for dealing with police abuse complaints separate and apart from local officials and district attorneys. Should that be in addition to giving the Attorney General concurrent jurisdiction?

A. Well, I would think it would make most sense to kind of put that all together. I guess because of my experience, and although that might sound self-serving, I think that in dealing with police abuse, prosecution is only part of it. Dealing with police abuse, I think that should be a tool available within whatever agency is going to deal with the problem. But that clearly is not going to solve the problem or deal with it in any pervasive basis.

I have a very high regard for Mr. Parry and Mr. Rendell. As Mr. Parry admitted they are only going to prosecute the sure winners. They are only going to prosecute the cases that are egregious; that they know they have a chance. Even so, somebody may make out a prima facie case and they may choose not to prosecute it.

Prosecution isn't, in my judgment, the answer. If I were drafting legislation, I would put it all together in one unit. I don't think it has to be large, myself. I don't think it is going to require a million dollars a year to run. I am sure that altogether -- so that some unit or division

has a perspective of the problem.

Q. Do you favor transferring the unit away from the Attorney General's office?

A. No, I think we enjoy as part of the Attorney General's office, we enjoy certain authority and powers which have been effective. We have been able to use effectively the law enforcement powers and duties of the Attorney General, which have enabled us to do the few positive things we have been able to accomplish.

BY REP. WHITE:

Q. What about appropriations for budget, budget considerations; the more progressive members of the General Assembly have to fight.

A. Well, that's for sure. We have always appreciated the assistance of the progressive members of the General Assembly, who have come to our rescue. What we do, and I don't have to tell you this, but I will say it for the record -- what we do will never be popular. When budget-cutting time comes, civil rights enforcement will always be at the bottom of the list.

It is my impression that we have suffered or where we have been in jeopardy in the General Assembly ironically not because of our police abuse efforts, but because of our efforts which we have taken to correct discriminatory employment practices, particularly in the hiring of Philadelphia police and

firefighters, we are the major plaintiffs in those lawsuits, one of which has been going on ever since our Unit started. We've been involved in significant litigation like that. So, it will never be popular, and I guess if anything, that is perhaps why we should be institutionalized by legislation or a function that we serve, doesn't necessarily have to be us -- so that it is clearly the will of the legislature that we exist.

As you know all too well, we exist at the pleasure of the Attorney General, the governor. The Community Advocate Unit could be over tomorrow if they chose not to spend the money you have appropriated for it.

BY REP. COHEN:

Q. You told us about the hearings or the state-wide conference in Chester, Pennsylvania, in which there were a good number of witnesses. I am not sure where it is in the statement, but other times in which large numbers of people came together.

A. That's correct.

Q. And discussed this. Could you submit to this Committee whatever material you have from your records on that?

A. Sure.

Q. Like names of people who came and talked about the problem, statements they made, if they are available?

MR. JOYCE: No problem.

REP. COHEN: I think that would be very helpful.

in planning further hearings.

CHAIRMAN RHODES: Thank you very much  
Representative Cohen and Representative White.

BY REP. RICHARDSON:

Q. Mr. Louik and Mr. Joyce, you handle Philadelphia, is that correct?

A. That's correct.

Q. Is there a certain procedure that you use to advertise your office, where you are located, other than sending out the correspondence that were about three hundred or so in number, to community organizations? Is there a place where people can come off the street, come into your particular unit and give information?

A. Well, they can come to the office; they don't need an appointment. They learn about us through our work with different community groups, or civic organizations. If they have a complaint, be it a police abuse complaint or other complaint of discrimination, the agency that would work with it, they know our function and they will refer the people to us.

Q. What if you don't get referrals, for instance, I note that some people in Philadelphia are not necessarily associated with a particular organization, but on their own, they have a certain feeling in their own particular area, but they are not associated with a particular group. How does the organization

itself advertise the fact that they are around, and the fact that they can bring complaints to the Unit?

A. Well, as mentioned earlier today, we don't have a public service type of announcement that goes out. It may be helpful if we did, but we don't have that. It is usually either through groups and organizations that are aware of us or possibly through the newspapers.

Q. So really word of mouth and some of the material that you send out to existing organizations, but it is really, you think it is really not something you would have in your mechanism of your organization.

Do you think if you had that, that it would be helpful to you, would you be able to take the case load? Would you be able to handle it?

A. Possibly not. The reason I say this is because we don't limit ourselves strictly to Philadelphia. To give you an example, I have cases that I have to begin work on next week in Bethlehem, and a place called Berwick, and I'm pretty much alone in that.

CHAIRMAN RHODES: How many counties do you have?

MR. JOYCE: Thirty-four.

CHAIRMAN RHODES: In total? And how many staff do you have total? Two staff for thirty-four counties?

MR. JOYCE: Yes.

REP. RICHARDSON: Two investigators for thirty-four counties?

MR. JOYCE: Yes.

REP. WHITE: It hasn't always been that way?

MR. LOUIK: No, there were more staff.

MR. JOYCE: Always two investigators; but we had more attorneys who helped us with the investigations, but actually performing that function, yes.

CHAIRMAN RHODES: Annually, we had have debate on this floor about the budget for this unit.

MR. LOUIK: For some reason there is some animosity in the House towards the Unit, which I find unfathomable. In any case, that's the problem.

CHAIRMAN RHODES: Representative Richardson, I'm sorry.

BY REP. RICHARDSON:

Q. It makes it difficult because now I want to get in some areas, but what you're saying is that limited amount of work you are allowed to do prevents you from doing certain things. If you stayed under the arms of the Attorney General and you didn't become independent, what pleasure do you see serving under that particular Attorney General if you can't move or do the things that have to be done? Two investigators cannot cover thirty-four counties. You need two right here in Philadelphia for the problems

that are going on?

A. I guess I have a couple of problems with response to that. I don't know that anything can be solved, that the problem would be solved by taking us out of the Attorney General's office. I don't know that the legislature could -- I guess it could, I don't know if it would mandate that there should be ten investigators. That is not usually the format the legislature takes. It usually sets out an objective, somebody shall have the power to accomplish this and to the extent that it might be suggesting if we have more staff we could solve a lot of these problems, I don't think that that would be my position.

I think more staff would help to some extent. I think what we need are some additional powers that have been addressed earlier, and even then they become speculative about the impact you can have in a place like Philadelphia.

Now, the fact is if you take enough complaints and could catalog them and say pick up a pattern of misconduct by one particular police officer, it has always been my position that even under existing law, the way it is right now, that we could act, and that is where we have acted.

We have not, to my knowledge, substantiated that kind of pattern here; we have been on the trail of a couple of cases that we thought were going to develop into that, but for various reasons, they didn't develop into that. That is the kind



of thing we looked for. When people come to us with an individual complaint, what we try to do is listen and help them as best we can in terms of the alternatives that the Bill referred to, but we look, in terms of taking action ourselves, we look for patterns. If we had the power like the Bureau of Consumer Protection does, we could take action in the name of the state. That might be a different story.

Then of course that would clearly increase our case load enormously. We'd have to be very selective, but we could do something with that.

Q. Thank you. In talking a little bit about accountability of police, in Philadelphia, how do you make police accountable?

MR. JOYCE: I think that maybe was answered before; you have to start from within the department, from the top, the commissioner.

REP. RICHARDSON: In Philadelphia, it's the Mayor.

MR. JOYCE: Our thinking, it would be the Commissioner. He is the recognized head of the police department. I think as to where is the best place to begin accountability, as Mr. Parry said earlier, I think he was speaking from his own knowledge, vigorous and successful prosecution would be the answer.

I think the problem could best be solved from within the police department itself, which would indicate

to me that a change from the top, starting from the top and working your way down. I do agree with them about the sergeants, the sergeants are the ones -- they supervise the leadership, out on the streets. They can go along with or punish those officers that are involved and so forth, with citizens.

But as far as overall problems, agencies such as ours, the D. A.'s office, the U. S. Attorney's office, they are fine, and can do whatever they can, but to really end the problem, it has to come from within.

I think that has been shown in Atlanta, when the new Mayor, the chief of police, they had a police brutality problem there. That's the way you are going to have to deal with it.

BY REP. RICHARDSON:

Q. In Atlanta, that was Reverend East, wasn't it?

A. Yes.

Q. Do you personally -- both of you -- get an opportunity to witness any brutality in the cases here in Philadelphia or in Pittsburgh, or any place else in the state for that matter, being out in the community, do you get to see it?

A. I have seen some and the other investigating officer witnessed one last week that she is going to pursue when she comes back.

Q. What about when --

A. Even the witnesses who witness them personally, even doing that, we still have to know more about it. In one case, we saw a case right inside the Inquirer.

MR. LOUIK: You wanted to know if I have seen any; I have. It has been a number of years since I first did. It would be about eight or nine years ago, but I have seen movies of it -- I don't mean dramatizations; I mean TV news film.

BY REP. RICHARDSON:

Q. Mr. Joyce, how long has your organization existed?

A. Since 1970.

Q. Was the gentleman you saw that was getting beat up, black or white?

A. Black.

Q. Would you say the number of cases that come before you in your Unit in Pittsburgh and Philadelphia, what are they, as far as race, age and sex?

A. Percentage-wise I would say it runs like seventy-five percent black; ten percent Puerto Rican; the remainder are white. Age would be -- runs anywhere from fourteen or fifteen I guess, to like forty or fifty.

Q. Average?

A. Yes.

Q. And Mr. Louik?

A. In the western part of the State, it has been about fifty-fifty. We have had a substantial number of complaints from the white community, and interestingly enough, the age group has gone the whole gamut. Because of one particular matter, we are hoping to get enough complaints from older people about a police officer who wasn't letting them sit in front of their homes, their houses.

Q. Do you get police officers that come to you about abuse at all?

A. No.

Q. I'm saying some guys who have been on the force who have had encounters on the inside for one reason or another felt it was just too hot for them to handle, have gotten out, have they ever come to you?

A. In the western part of the State it has happened, not in the eastern part of the State.

Q. Earlier I asked Ed Rendell and the assistant D. A. whether or not they thought that racism and discrimination existed here in the city as far as police, the police department was concerned. I think your agency, which you stand for here, well, would you find that the Philadelphia Police Department either aides and abets that racism or corruption?

MR. JOYCE: Corruption I couldn't speak to.

BY REP. RICHARDSON:

Q. What about racism?

A. As far as their employment practices we have sued them, hearings on promotional practices, they have shown to be discriminatory in promotion of blacks, Hispanic. As far as day-to-day operations, of the police department, based on the complainants, I have been with the Unit five years and based on the complaints -- the complainants I have interviewed, the cases I have investigated, and some of the verbal abuse which is to me, a big indicator of a racist, yes, I would say there is racism in the police department.

Q. My final question, Mr. Chairman. How do we begin, based on the testimony thus far, do we begin as legislators, as a community, as individual persons to clean up the problem in the Philadelphia Police Department, being that is the chief military organization in this city?

A. Legislatively I think hearings such as what you are holding here, would give you a clear indication as to what laws; as far as what the community can do, I think a good indication would be the case involving Mr. Hood who was killed. It's going to be a real outpouring from the community saying pretty much we're really tired of this. There are several things if you have that type of grassroots support. You can do it politically. There is a Bill in city council now, and with the upcoming

elections in the Fall, local elections, there are several ways politically you can do it. To me I think politically would be the best way to try to, as I said before, get to the hierarchy within the police department.

REP. RICHARDSON: Thank you.

CHAIRMAN RHODES: Do you have any further questions?

REP. RICHARDSON: Just one final question, Mr. Chairman.

BY REP. RICHARDSON:

Q. How do we, when you have a Mayor that sanctions most of these things, who gives credence to the commissioner, even with our own political progression and our attempts to try and do things, how do you begin to make the changes, that is our concern. How do we make it like in Atlanta, for example, and other cities. How do we do that -- by just saying communities should try to put more pressure on the top -- how do we change the -- how do we do this?

A. The way it was done in Atlanta, the black and the Mexican communities were primarily recipients of the police abuse, got together politically as a block, and voted for a change and were successful. You are going to have to do it the same way in Philadelphia. The ones taking the brunt of the problem, black, Puerto Rican or white.

MR. LOUIK: I want to add an addendum to Mr. Joyce's response. I think I can share some of the frustrations from the Representative's question. We wish we had the answer; we share the frustrations, and there have been many times we have wondered what we were doing for seven years.

For whatever it is worth, I think what we can do to begin, as a non-Philadelphian, but someone who has been involved in a certain way, concerned about the problem here for seven years, I think you have begun. I think that there is only so much each of us can do in our particular roles, even though we have concerns we pursue.

My concern is, as you well know, if there was a referendum here tomorrow in this country, city or State, people would vote down the Constitution.

There have been studies that have indicated people who go around and read the Fourth Amendment, or the First Amendment or the Fifth Amendment, or the Fourteenth Amendment, that we rely on in our work, that you rely on, and people say, what is that communistic document; I would never vote for that. I think that as legislators, what I would like to see you do -- I don't care if it's me personally in the job or not, but I would like to see institutionalized the -- in the State government, at least a minimally effective effort to enforce civil rights, that is different from the Human Relations

Commission, which I am of course very supportive of. They are limited by their actions, but every Justice Department in the country, and certainly the U. S. Justice Department, needs a Civil Rights Division, one that has in effect, the ability to change with the times, but will be there, with some enforcement power that can go to Court, when necessary and otherwise exercise some influence and be there and speak with some authority. It won't always work; sometimes people aren't impressed when I tell them who I work for; people tell me where I can go, when I tell them who I work for.

If you are there, you can make dents in the employment practices. I think what our Unit has done in the area of employment discrimination is as important towards trying to deal with the police abuse problem as anything else. I believe, and it's been kind of suggested by Mr. Levin this morning, if we can see to it that qualified, sensitive people get on the police department, who are in fact, a cross section of the community and don't just represent one small segment of the community, that will contribute to the development. I think if we get women in the police department, it will take some of the machoism out of being a police officer.

Those are the kinds of things we have tried to do; that is as much a part of an effort to deal with the police problem as trying to prosecute officers. Prosecution is such a



narrow thing, and beyond a reasonable doubt -- proof beyond a reasonable doubt -- there are so many other things, and that is only one part of it.

CHAIRMAN RHODES: Thank you. Are there any questions from Representative White?

BY REP. WHITE:

Q. I've been listening to the testimony, and how many cases do you handle involving police?

A. In Philadelphia?

Q. Particularly Philadelphia.

A. The ones we actually investigate are two or three a month.

Q. Two or three a month?

A. Yes.

Q. The ones you actually investigate?

A. We receive many more than that, that we send to PILCOP and/or other agencies.

Q. How do you differentiate between those which you investigate and those cases that you refer to other agencies?

A. We'll take in terms of the ones the District Attorney would like to win, we will take a case like the Hood case. If a complainant came in off the street, that he was picked up, arrested and had all these articles taken from him when he was released they weren't given back to him, they were sent to

Parry's office or FILCOP.

Q. You wouldn't investigate a case similar to the Hood case?

A. We would have to draw the line some place, because of the staff, because of the area we have to cover.

Q. What have you done, would you give us an example of a case that you have taken, take us through it?

A. What I do, I want to point out the problems we encounter along the way, it is a hypothetical case. A person will come to the office and he will say, I was arrested Friday night. I was beaten up in the 39th District, and he has all kinds of bruises on his arms, face, whatever.

Q. That is different from the Hood case.

A. Yes. He will come into the office, and the first thing we will take the statement, ask are there any witnesses. We have medical authorization form slips which generally the hospital will accept. If they don't accept them, we will go and get his medical records; we will write to the police department requesting the police report, the arrest report, which nine times out of ten we won't get an answer. We ask for the officer's name involved. You will get that. We will go to the D. A. with it; the D. A. is then faced with the same problem we are faced with.

Q. How much time do you think, would you estimate elapses between the time you are denied access to this report before --

A. Well, based on my experience, we usually ask for a report and we usually don't get them for a week; we don't get a response any way.

Q. This is a week after someone comes to you with a complaint, which may have taken place two days before?

A. Two or three days before -- you're talking ten days.

Q. Ten days will probably have elapsed before you have been turned down, and all this is brought to the District Attorney?

A. Right.

Q. Do you think that is a very effective way of handling it?

A. It is the only way we can do it. It is difficult to say that. If we go to the District Attorney -- he has his priority of cases; he has usually more than we have, and he has a staff of four, and maybe they are working on three or four cases apiece.

Q. The testimony we have had this morning -- and correct me if I'm wrong, from Mr. Rendell and Mr. Parry, is that the time that elapses between an incident and the time the individual comes to the police themselves is so long, and it would seem to me if there is a state agency involved in the middle of all these things, you are doing the same thing the police are doing for different reasons.

A. We are doing the same thing the D. A. is doing.

Q. The time delay, even though I am not an attorney, I

would think that the time of investigation could be very, very keen.

A. I agree, I think and I think we would be ahead of ourselves as soon as we get a case, we would go to the D. A. and say, we think you should move with this case, and we don't have anything more than a statement from an individual.

Q. That's on a lesser issue, but on a severe act of police abuse, you would have no hesitancy at all?

A. At that point it comes down to a question of priorities with the staff that we have, to the severity of the case.

MR. LOUIK: I think as it turns out Bill's hypothetical was not maybe the best one, because I think as a general matter the hypothetical he presented, if it came into the office in most cases unless there were very, very serious injuries, and any injury is serious, but the most terrible kind of injury, we would probably tell that person, your chances of success are nil or almost nil. If whatever happened to you happened in the police station, and the only witnesses are other police officers, that we will be happy to look into it to the extent we can, we will be happy to refer it to the D. A.'s office, we will write out the letter, but the chances of any kind of relief for that are almost nonexistent.

That is the reality of that. Unless there were--

REP. WHITE: I hate to interrupt you, but

let me ask you this.

BY REP. WHITE:

Q. What you just said is what many citizens from Philadelphia hear from the police themselves. I don't see any difference between the police officer saying to me, you know, why do you want to proceed on this; he gave you a break -- he didn't give you a ticket; he didn't run you in; drop the whole thing, and your saying your chances of getting relief are nil as well. They both serve to discourage the citizen from coming forth and presenting testimony or evidence, or just filing a complaint.

A. I am sure that what I said was subject to interpretation as you said. My understanding is that we are here today to deal with the fact that we have to tell that to people. The way we have always tried to operate the office, was to be realistic and not to raise peoples' expectation about the relief if the relief is not available.

I think that does a grave disservice to the people if we make it appear we are going to do wonderful things for them. I think that is as much of a problem as anything else. I am saying to you, we find ourselves in the position to have to tell people -- we don't like that; we don't want to do it that way, but it is our experience we have to tell them that, if we are going to be honest. We made some suggestions to

correct that, to deal with it. If we tell them, tell your story to the D. A., they will tell their story to anybody -- nobody will do anything about it, and they will be upset and discouraged, and rightfully so, as before, and it will not really have accomplished anything.

I am only saying to you that as we have found in our experience, if you have that kind of situation the criminal justice system is not going to serve you well. The civil proceedings may serve you, if you have serious enough injuries, but we're not even sure that is going to serve you.

Our experience is that we can't get information out of the police, out of the station, what happened in the station. All we can say to you is those are the problems we are seeing, and perhaps some legislation could help us, at least get into the station, at least get some information about what went on there, and maybe that would go towards that.

Any time you have a closed institution that is hard to get into, it is protected from society, whether mental, physical -- you know, the whole business, it is tough to break through there. I don't want to give false hope to people.

CHAIRMAN RHODES: Representative White, do you have additional questions?

REP. WHITE: I don't mean to elaborate there,

but this is something I wanted to get into.

BY REP. WHITE:

Q. Were either of you familiar with the report issued by former Attorney General Cramer in regard to police corruption?

A. Crime Commission Report?

Q. Yes.

A. Yes, generally familiar with it, yes.

Q. Were there any recommendations included in that?

A. Recommendations -- I believe there were; I know the recommendations we wanted included were not.

Q. You didn't think they were included?

A. I have a recollection of our recommending a Crime Commission investigation of the problem of police abuse to the Attorney General.

Q. How long ago was that?

A. Bill thinks it was three or four years ago; I think maybe even longer than that.

Q. Who was that to?

A. The Attorney General; I can't remember which one. . . I think it was Shane Cramer. Maybe it was -- well, we have that in our file. I just can't recall.

Q. You have served with a number of Attorney Generals, the agency has, have you noticed any difference in the attitude in terms of the Attorney Generals with respect to you? Was

there a difference, for example, between Attorney General Kane's attitude toward your activities in the area of police abuse versus Cramer?

A. I think there was a difference. Attorney General Cramer was very interested and concerned about the problem, but was reluctant to move. Mr. Packel was concerned, was supportive of things we wanted to do. Nobody was unsupportive but he was supportive. Attorney General Kane, I believe, was generally supportive of what we wanted to do, believed it was primarily a problem the Feds should deal with, and the new Attorney General Gornish is very supportive of our Unit, of our efforts. Well, I am not authorized to say that; I think he is supportive.

Q. In view of the fact that you do have first-hand knowledge of victims of police abuse, who possibly have not had their cases aired, that you think are worthy cases, do you see any probability that you might be able to assist this Committee in having victims brought before this Committee to testify?

MR. JOYCE: Yes.

REP. WHITE: Would it be too much to ask that you do something about that right away, and communicate with Mr. Brasswell or through Mr. Reilly, our counsel, as quickly as you possibly can?

MR. LOUIK: You are talking about Philadelphia



victims?

REP. WHITE: Yes, we are.

CHAIRMAN RHODES: Can you tell us how many cases in Philadelphia have been filed -- not necessarily pursued -- but filed in the area of Philadelphia Police abuse?

MR. JOYCE: In Philadelphia, I could say two or three a month, forty a year.

CHAIRMAN RHODES: Forty you pursue or forty come in the door?

MR. JOYCE: We get about forty a year.

CHAIRMAN RHODES: Have you had any cases where you investigated and determined that there was an inference of official collusion, participation by senior officials of the police department, in thwarting adequate investigation by your agency or other prosecutorial agencies?

MR. JOYCE: Yes, I think I mentioned before, when you say forty -- by not giving us needed information.

CHAIRMAN RHODES: Is the form affording -- take any other form than denying you information, information as to falsification reports, or discarding of complaints, or directions of investigations within the police department?

MR. JOYCE: No.

CHAIRMAN RHODES: Are there any other questions from the Committee? I hope not. Thank you very much.

(Witnesses excused.)

CHAIRMAN RHODES: We will now take a break for five minutes and begin again with Mr. Meek.

(Brief recess.)

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CHAIRMAN RHODES: Five minutes having expired, this Hearing on Crime and Corruption in the Commonwealth of Pennsylvania is now reconvened. Our last witness today will be Mr. William Meek, representing the American Civil Liberties Union of Philadelphia.

Mr. Meek, did you receive a subpoena to appear here today and do you acknowledge receipt of a subpoena?

MR. MEEK: I suppose Spencer may have. He asked me to speak in his stead, because he had to go on a vacation.

CHAIRMAN RHODES: Our rules require that all testimony given under a pursuant resolution be under oath. Is there a subpoena for Mr. Meek? Mr. Meek, will you waive your right under the rules of the House of Representatives, to be given timely notice to appear to be sworn before this Committee today?

MR. MEEK: Certainly.

-- --

WILLIAM MEEK, Representative of the American Civil Liberties Union of Greater Philadelphia, sworn.

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CHAIRMAN RHODES: Mr. Meek, do you have a prepared statement, or do you have testimony, or how do you want to proceed?

MR. MEEK: I have a statement; I don't have copies to distribute to the Committee today.

I first want to explain Spencer's absence because he had to leave in order to enjoy a month's vacation, and he has the wisdom and experience sufficient to give him strength to move when he needs to, so he didn't come today. Those of us who are not that wise stay around too long and get caught.

I first wanted to identify myself. My full time occupation is Professor at the School of Social Work, University of Pennsylvania, and Regional Director in this area. With the ACLU I am a former vice president and member of the Board of the American Civil Liberties Foundation.

Now, the statement, I shall read and perhaps comment on as I go along, but I will be glad to answer questions as I go. Also, at the outset there is extensive documentation

that backs up the presentation, and the members of the Committee are welcome to access to the files of ACLU if there is a desire to confirm the statement, or utilize the file.

In a deposition in April of this year, Mayor Rizzo stated under oath:

"I called to talk to the Commissioner (Police Commissioner O'Neill). He assured me there was no police brutality in Philadelphia, and I would have to say he was right, because all the cases that I hear of, at least 98 percent of them in a court of law, all the policemen have been found not guilty. So it would indicate to me that there is no police brutality in Philadelphia."

In a companion deposition, Police Commissioner O'Neill decribed police abuse as a problem of police-community relations rather than as a substantive problem.

The statements of these officials demonstrate why it is unrealistic to expect that the Police Department itself will provide redress for police abuse. When the Mayor and the Police Chief deny that police abuse exists in the face of the most overwhelming evidence, of course the Department will deal with complaints as merely a public relations problem. It is totally unrealistic to suppose that internal review and disposition of complaints, unchecked by any outside guide-

lines or review, will be effective. I intend to document that internal review has failed miserably in Philadelphia, and continues to fail.

First, I will make brief mention of the Philadelphia Police Advisory Board. In 1958 largely at the instance of the American Civil Liberties Union, Mayor Richardson Dilworth appointed a five-person board of civilians charged with investigating civilian complaints of police abuse and transmitting findings and recommendations to the Police Commissioner. The Board never had an investigative staff, and always had to rely on police personnel for the investigations. At the outset it had no budget at all, and at its peak it could afford only a part-time director and part-time clerical help.

Throughout its eleven-year existence, the Board faced the implacable hostility of the Fraternal Order of Police, which through two lawsuits (ultimately unsuccessful) managed to bring the Board's operations to a halt for considerable periods of its life.

Despite these obstacles, the Board was responsible for the discipline -- always short of dismissal -- of several dozen police officers. Its operations, and the knowledge that it had the support of the Administration, may have had an imponderable but salutary deterrent effect, and to the extent that its operations were known, the Board doubtless made many

citizens feel better about their police and their city. That the Board accomplished anything at all was attributable to a friendly city administration, whose Mayor and Police Commissioner recognized the existence and gravity of police abuse. Its modest success was a tribute to its dedicated membership and staff, who did the best they could with almost no resources. The Police Advisory Board demonstrated that civilian review could be successful and useful to the police so long as there was a desire on the part of the police command to use it and make it work.

The friendly attitude evaporated slowly with a change in administration, and by the late 1960's, the incumbent Mayor (Tate) no longer supported the Board. It got no cooperation from the Police Department, and in 1969 was finally abolished by letter, as informally as it had been created. This history demonstrates the inherent weakness of an ombudsman agency dependent on the bureaucracy it is designed to monitor.

It is because of this inherent weakness that the ACLU and approximately fifty other city-wide and community agencies are now pressing for a city ordinance which would mandate fair procedures for the police department in the handling of abuse complaints, thus creating a right ultimately enforceable in the Courts. The ordinance, which I shall return to later, is important because its passage would establish the intent of

the city legislature to take responsibility for a problem that the city administration will not even admit exists, and which to date the City Council has by and large ignored. In our view this is an important principle to establish, and we suggest to the state legislature that it too could assume some responsibilities. I shall come back to this at the close of my remarks.

Next, I would like to examine the Police Board of Inquiry (PBI), the Police Department's own internal mechanism for dealing with allegations of wrong-doing by members of the force.

The PBI is designed primarily to provide a fair forum for examining charges that officers have broken departmental regulations. The vast majority of the charges are for such offenses as failure to respond to radio calls, intoxication, abuse of sick leave, lateness at roll call, etc. An officer charged with such a violation is heard by a three-person panel convened for the case, consisting of one officer with the same rank as the accused, and two of higher rank. Hearings are conducted in accord with the usual due process standards of administrative proceedings. The Board usually makes findings of guilt, since only the strongest of the cases are presented to it, and the Police Commissioner usually accepts the findings and imposes the recommended discipline.

MR. REILLY: How are the members of the Board

selected, by the Police Commissioner?

MR. MEEK: Yes. Since only the strongest of cases are presented to it, and the Police Commissioner usually accepts the findings and imposes the recommended discipline.

Mayor James Tate, when he abolished the Police Advisory Board, observed that it was unnecessary because the Police Board of Inquiry could and did provide an adequate forum for hearing civilian complaints against the police. This was not true at the time; it has never been true since, and it certainly is not true now. Our assertion is based upon ACLU's own observations of the FBI hearings, from what we have been able to determine by following individual cases, and from official statements and purported statistics.

Unfortunately, there are no credible comprehensive statistics of FBI hearings of abuse complaints. Such statistics are not kept, so far as we know. The categories on which statistics are kept include disobedience of orders, conduct unbecoming an officer, intoxication, neglect of duty, and insubordination. Abuse of civilians, or even excessive use of force, is not among the categories. There is no way of telling from the statistics how many complaints, if any, under the category of conduct unbecoming an officer, or any other category, involved abuse of a civilian.

From February 22nd through June 6th of this year,



ACLU observers attended all FBI hearings, and heard the charges against forty-six officers. Ten of these involved charges of abuse of civilians. The ACLU does not have access to the disposition of most FBI complaints, and we cannot say how many of the ten officers were found guilty and disciplined. We can, however, recount a revealing illustration of what we believe is typical. A civilian witness complained of very serious police abuse; an officer, he said, had failed to identify himself and without provocation had stuck a pistol against the complainant's head. Other police arrived and restrained the officer. They testified that the officer failed to identify himself to them.

At the hearing, the FBI devoted itself exclusively to the failure of the officer to identify himself to the other police. The panel showed no interest whatsoever in the very grave allegations of civilian abuse, and asked no questions of the civilian witness. This officer was given ten days suspension for failure to identify himself to other officers.

CHAIRMAN RHODES: Dr. Meek, you testified earlier that you do not have access to the final disposition of those cases. So you wouldn't be able to tell us whether that ten-day suspension was upheld by the Commissioner?

THE WITNESS: I can't tell you.

CHAIRMAN RHODES: Do you have the name of that

case?

**THE WITNESS:** That is FBI number 78-111. In May, the Police Department furnished Philadelphia City Councilman James Tayoun with a document captioned, "Survey of Complaints Against the Police Since Implementation of New Citizens' Complaint System." The statistics covered the period February 15 to early June, almost exactly the span observed by the ACLU.

This document states that twenty-five policemen were brought before the FBI and of these, six were dismissed. The caption and the figures are designed to create the impression that the FBI heard charges of civilian abuse against twenty-five policemen, and as a result six were dismissed. But this is not true. Of the twenty-five cases reported, only nineteen were heard. Of those nineteen, only half involved civilian abuse. The other half involved crimes (such as larceny) or infraction of departmental rules, where there were civilian witnesses, but where the charge had nothing to do with civilian abuse. So far as we can tell, none of the officers charged with abuse of civilians were dismissed.

I have gone into considerable detail to illustrate an important conclusion, namely that the Philadelphia Police Department distorts and doctors its statistics on abuse, when it is willing to reveal any statistics at all. In fact,

it apparently does not keep statistics on civilian abuse charges heard by the FBI, and when challenged, it appears to concoct figures to bolster the myth that the FBI provides redress for civilian abuse.

MR. REILLY: The officers who were dismissed, do you know what their offenses were?

THE WITNESS: That would be in the records. We do have them. There were other kinds of behaviors which caused them to be dismissed, robbery I recall; something like that, or something else.

CHAIRMAN RHODES: Would you make a copy of that report available to the Committee as soon as possible?

THE WITNESS: Yes. In fact, if you like, there are parts of the documentation if you would like to have access to it, I would be glad to make that available.

MR. REILLY: Thank you.

CHAIRMAN RHODES: Thank you very much.

MR. MEEK: In 1971, Chief Inspector Frank Scafidi, who is in charge of the Internal Affairs Bureau, told ACLU that sixty-one civilian complaints had been referred to the FBI in 1970, out of a total of 550 such complaints received by the Department.

We assume that these sixty-one civilian complaints include cases where a civilian is merely a witness

of an officer's infraction of a police regulation, such as being drunk or asleep on duty. But even assuming that civilian complaints mean complaints of abuse, it appears that in 1970 only one in nine got a formal hearing at the FBI. Inspector Scafidi told us that, at that time anyway, there were no explicitly written criteria for deciding which cases to send to the FBI, and which to dispose of without a formal FBI hearing.

I would like now to turn to the routine handling of civilian complaints by the Philadelphia Police Department, that is, disposal without FBI involvement. Inspector Scafidi, at a deposition on May 10 of this year, stated, "there are many, there are a number of levels of command and supervision, and there is no one simple way that a complaint is received, processed, dismissed, evaluated."

Inspector Scafidi's statement seems an accurate description of what happens. The police play it by ear. In a recent case, a woman who complained at the local precinct was told she had better leave or she would get a shoe up her ass. Another person, whose child was allegedly terrorized by the police, was given a form to complete, as required by the new procedure, and was duly notified within two months, that the officer had been given a ten-day suspension. However, it appears in this case that the suspension may have been based on the officer's failure to fill out the proper incident report

form. In another recent instance, some foreign students sought to report an incident they saw on Walnut Street, and were told that foreigners can't make complaints.

Under the new procedures, as under the old, the police response is determined less by the rules than by an assessment of how much they can get away with. The woman whose son was mistreated had been to the District Attorney's office, and went about filing her complaint in a manner that showed she meant business.

Any analysis of what happens when a civilian files a complaint is bound to be anecdotal because there are no statistics. No one knows how many complaints are filed at the district level, by letter to the Commissioner, or by phone to the Internal Affairs Bureau. As Inspector Scafidi himself said, there is no standard procedure. The new procedures, announced with great fanfare in mid-February, require that all citizen complaints of verbal or physical abuse be reported to the Internal Affairs Bureau, but we can safely bet that the Bureau never heard anything about the woman who was threatened by the officer, or about the incident on Walnut Street. Even if the Bureau was disposed to publish meaningful statistics, it would not have the data to do so.

CHAIRMAN RHODES: You say there is no reliable

method of communicating complaints from district offices to central FBI, Police Bureau of Investigation?

THE WITNESS: Police Board of Inquiry.

CHAIRMAN RHODES: Are all complaints at least filed at the district offices?

THE WITNESS: There is no way for us to know that; that is what I am saying.

CHAIRMAN RHODES: If you were to obtain access to all the complaint forms, that wouldn't tell us how many total complaints filed because all the forms weren't filled out?

THE WITNESS: We would not know. There is no system for actually being certain that that is done.

CHAIRMAN RHODES: Thank you.

MR. MEEK: Relying as we must on impressions from individual experiences, we conclude that the overwhelming bulk of civilian complaints are brushed aside or whitewashed, and not infrequently bring threats of reprisal. Because of long and unhappy experience, neither the ACLU nor other agencies, nor most experienced individual lawyers, encourage clients with substantial complaints to go to the police. The pursuit of administrative redress within the department, besides being a waste of time, may seriously interfere with other avenues of redress.

We have yet to hear of a civilian being notified in writing of the outcome of a complaint. He or she will sometimes be told by telephone that the officer has been disciplined, but in most cases, even in those rare instances where an officer is disciplined, the complainant will not even be notified.

The ordinance to which I referred earlier will require that the complainant and the police officer be notified in writing of the decision and of the action taken. The complainant will be told that the entire file is available for inspection.

I am assuming you have received copies of the proposed bill or ordinance 1063 for the City of Philadelphia, but at present under the so-called new police procedures, everything is ad hoc, covert and unreported, as in the past. The investigation, if any is made, is usually carried out by the accused officer's superiors in the same district, who have every bureaucratic reason to cover up for him. Even when the new procedures are followed, and they are often ignored, the complainant and the police officer have no opportunity to face each other, and the complainant will get no written report, only a telephoned notification of the outcome.

In their obsession for secrecy and unaccountability, the police will not even permit the public to see the

directives setting forth the new procedures. The ACLU in fact, has a copy of the new directives. But I want to take one second to give you a concrete example of that.

Spencer Cox has requested copies of Police Directives 127 and 127a, and he received first just a refusal from the Commissioner. Then he wrote to Hillel Levinson, the Managing Director of the City and asked him if he might receive those directives. The reply to Mr. Cox was:

"Dear Mr. Cox, Your letter of March 15, 1978 requesting my assistance in obtaining for you a copy of Philadelphia Police Directives 127 and 127a cannot be granted. These directives reflect internal procedures. Certain portions of these directives on police abuse were covered in the press."

But not to be daunted, Spencer went to the next step, and as a consequence received a letter from the City Solicitor, with a copy to Hillel Levinson saying:

"Dear Mr. Cox, The Managing Director has referred your letter of April 20, 1978 to this office. The directives would refer solely to the internal workings of the police department, and are not public documents." Then he had cited certain statutes that had to do with information. "It seems obvious to me that your letter is really designed to besmerch the police department and serve as



a propaganda device on your own behalf. The simple fact of the matter is that the request is made as a pretense; the new procedures were made public and are public and they conform precisely to suggest that they are made. It is obvious to me that having seen the police department mechanism and procedures, you now find yourselves in the position of searching out another windmill which to tilt."

That is the kind of response, which was simply over the request for copies of directives which had to do with procedures.

The ACLU in fact has a copy of the new directives, numbers 127 and 127a, and I have indicated above some of their grossest inadequacies. A citizen has brought suit to compel the Police Department to permit public access to the directives, as it is required to do under the Pennsylvania Public Documents Act and the Philadelphia City Home Rule Charter.

The significance of this suit lies not so much in the possible violation of these laws, but in the dangerous arrogance of the police department. The very subject matter of the directives is community-police relations, yet in his letter to the ACLU, Managing Director Hillel Levinson contended that they are internal procedures. This assertion reveals the basic problem -- that the Department intends to remain unaccountable;

that its operations are none of the public's business. The Department apparently believes that by merely announcing new procedures it can solve what it conceives of as a public relations problem, even when those new procedures are ridiculously inadequate and also secret.

I will now turn to the last and perhaps most sinister police policy I intend to deal with, namely record-keeping. Certain portions of the depositions by Rizzo, O'Neill and Scafidi indicate that the Police Department's record-keeping policy is designed to conceal and destroy evidence of police abuse. Those incidents of complaints against the police which are reported to the Internal Affairs Bureau at all, are reported on Form 2703, called "Investigation Report". Inspector Scafidi states in his deposition that his Internal Affairs Bureau investigates about thirty percent of these incidents and the rest are investigated at the district level.

Only about twenty percent of the 2703 forms show a complete record of investigation and disposition. Most of the forms which are complete deal with trivial incidents, or incidents where the officer was exonerated. The other forms are incomplete, and bear the notation "Confidential Complaint".

According to Inspector Scafidi's deposition, actual papers in these confidential cases are destroyed after three years, and the record of the incident consists of an

incomplete form containing a summary of the complaint, but no summary of the witnesses' statements, no summary of the investigation, and no notation of the disposition.

Commissioner O'Neill, at his deposition, was unwilling or unable to say why certain materials are marked confidential. Inspector Scafidi stated that either he or the police Commissioner makes the determination that the investigation should be marked confidential, but he also was unable or unwilling to explain the basis for the decision.

Thus it would be difficult even for an agency with subpoena power to construct from police data an accurate statistical picture of the incidence of abuse complaints and their disposition.

CHAIRMAN RHODES: Before you proceed, you testified in the deposition that was indicated, twenty percent of the forms were completed. Is that a result of interrogation during deposition or do you have a factual basis.

THE WITNESS: I can't give you a specific answer. I have to assume it was the interrogation at the deposition. I was not party to it.

CHAIRMAN RHODES: From what you describe about what you state in the record, it would seem that mentioning of hard statistical numbers, like twenty percent

would have to be taken with a grain of salt.

THE WITNESS: You're right; it would have to be unless it was a clear-cut way of determining precisely how many records there were in the first place.

CHAIRMAN RHODES: Based on earlier testimony, I was wondering how hard that number was?

THE WITNESS: It might be twenty percent of the forms that were shown.

CHAIRMAN RHODES: Not an accurate record of forms filed of a complaint, okay. Thank you.

MR. MEEK: Thus it would be difficult even for an agency with subpoena power to construct from police data an accurate statistical picture of the incidence of abuse complaints and their disposition. We know that the purported statistics the police produce, are deliberately misleading. So we are again forced to generalize from the incidents that we do know about.

We do know, for instance, that all six homicide detectives recently found guilty in Federal Court of crimes against civilians in custody are still on duty, and have never faced departmental charges. It would be revealing to learn more about the policemen whose wrongful acts have forced the city to pay out a million and a half dollars in damages in the past two years. Since the taxpayers picked up the tab for this

wrongdoing, the verdicts against the police involved no deterrence. Were any of them suspended or dismissed? Were any even reprimanded? Only the police department knows. Is it not fair then, to infer from the Department's handling of the six homicide detectives, that none of the others was disciplined?

Let me now summarize our conclusions and submit some recommendations:

First: Internal police procedures for the investigation and disposition of complaints of police abuse are totally inadequate. Internal redress is a sham and a fraud. Objective and thorough investigations are almost never made, especially where serious charges have been brought. Witnesses whose stories support the complaint are often not interviewed. When they are interviewed, the police frequently attempt to put words in their mouths. Complainants are sometimes urged not to press their charges, and occasionally are threatened.

Second: Many civilians with serious abuse complaints refuse to go to the Department, because they know the pattern of washing away blame or they are afraid. Agencies such as ACLU also knowing this cannot in good conscience urge the filing of complaints.

CHAIRMAN RHODES: Have you known of any instance where an individual has been involved in an incident, who is not charged, came to you filed a complaint, and then

was charged with a crime?

THE WITNESS: That is not within my knowledge. It might be within ACLU's knowledge, however.

CHAIRMAN RHODES: Thank you.

MR. MEEK: Third: The Police Department, pursuant to policy established at the highest level, denies the existence of a problem everyone knows exists. To support this position, the Department issues deliberately misleading statistics, and conceals and even destroys records. That is a strong statement, but I am quite sure the ACLU is prepared to back the statement up.

Fourth: The Department in principle refuses to be answerable to civilian authority or to the public. It has adamantly refused to provide access to its procedures. As you have already heard, it has refused to cooperate with the District Attorney's office in investigation of wrongdoing by officers. Other witnesses will recount additional incidents of recalcitrance.

The Department is vigorously opposing Bill 1063, the pending fair police procedures ordinance, apparently because of its opposition to the proposition that the legislative branch of government should exercise any meaningful supervision or perform any monitoring function.

Fifth: The Philadelphia Police Department's incapacity

to recognize and deal with police abuse, creates an alarming situation. Many poor people, and black people, have known for years that the police are unaccountable and that police abuse is a major problem, along with lack of police protection.

Emboldened by the lack of restraints, institutionalized police abuse is spreading more and more in other sectors of society which heretofore have not felt the impact. In the past two years, the major media have discovered the problem, and their coverage has spread public awareness still further. The police response has been to declare that the whole issue is an invention of the media, of the liberal conspiracy, and of lawyers trying to make a fast buck.

Those kinds of statements have been made by the highest authorities in the City. But these utterly transparent excuses will not make the problem go away. The executive branch of government may not be willing yet to set its house in order. And the courts, for reasons another witness will explain, are unable to solve the problem by themselves. Thus, the legislative branch must assume some of the responsibility, a responsibility it has under our tripartite form of government.

As I have stated, the Philadelphia City Council is being pressed to take a hand by adopting Bill 1063. In the U. S. Congress, efforts are under way to put more teeth into the civil rights laws by increasing the power of Federal courts

to order redress.

On the state level, the role of the legislature is somewhat limited, but still important. We believe that this Committee is making a major contribution by holding hearings on an issue that City Council lacks the statesmanship or courage to address. The General Assembly can also pass laws that, to a limited but significant degree, can help. At the present ACLU can recommend three specific measures.

First: Clearer guidelines on the proper use of deadly force by law enforcement officers.

Second: Legislation permitting the Attorney General of Pennsylvania to assume the prosecutor's role in situations where the local district cannot or will not act effectively.

Third: Legislation transferring from the police to the district attorney the basic power to define the charges to be brought against accused persons.

Other witnesses are addressing themselves to these remedies; I wish only to state that the American Civil Liberties Union of Philadelphia has considered them and supports them.

I have copies of the bill to circulate and copies of the proposed ordinance for the City of Philadelphia, Bill 1063.

CHAIRMAN RHODES: Thank you, Mr. Meek.



MR. MEEK: I would like to frame this in one concluding statement. I had picked up the paper on Wednesday, and I do read papers rather thoroughly. I noticed that very pertinent to our testimony here today, there were two articles in the same issue; one about killing of a youth in Kensington, which happened some time back, and the D. A. criticizes police in the killing of cabbie.

It might also be significant that we see that the defense attorney said in summation, that one of the policemen was firing a warning shot. I understood that is not the manner in which police in Philadelphia were to try and apprehend someone fleeing. In both cases of course, they weren't armed.

Some of the statistics which I have reviewed, not just in preparation for the testimony here, but for five years, 1970 to 1974, came as a result of PILCOP studies. In five years 236 citizens were shot by the police. 85 were killed -- I'm sorry, 81 were killed, and 155 were wounded by police. The most significant aspect is, 110 of that 236 were unarmed, no knife, gun or anything else. They were totally unarmed.

I think that says something about the dangerous kind of situation which exists in Philadelphia. And I would say one more word in connection with what police systems can be, if allowed to run and trammel on the rights of people. I think we have at least two instances when the police refused

to obey the order of the Mayor and also struck over it. It seems to me that is just one step away from a military situation.

In Tupelo, Mississippi, where blacks are demonstrating and boycotting on behalf of their rights, the police allow armed ku klux klansmen to monitor the demonstrations. These kinds of developments are purely and simply the result of lack of accountability, and the development of power to the point where the control rests with, in effect, the military, rather than with the kind of legislature that should be representing the people.

**CHAIRMAN RHODES:** Thank you very much, Mr. Meek.

It is interesting that you mentioned Tupelo. One of the most moving experiences I ever had in my life was when I went to Jackson, Mississippi, to investigate the shooting at Jackson State on behalf of the Scranton Commission.

The first witness I interviewed was a girl who was shot nine times in a little hallway in Jackson State. This reminds me of that.

**THE WITNESS:** You got into a lot of difficulty because you didn't want to wash that away.

**CHAIRMAN RHODES:** Well, I appreciate your testimony. You made some very strong statements to the Sub-Committee today, and I believe that this Sub-Committee

would be very much interested in having the supporting documents, both depositions and reports you referred to, just as soon as possible, if not tomorrow, soon thereafter as possible. Our staff will be here tomorrow at the Hearing, and I would strongly urge you, Dr. Meek, and I know it's vacation time, and all the staff may not be reachable, but some of the things you raised are precisely the kinds of questions this Sub-Committee wants to follow and determine, because we must get some feel for the situation here in Philadelphia before we even venture to legislate a remedy, or any kinds of remedies. I hope that you will be able to comply with that.

Are there questions: Representative White?

REP. WHITE: No questions.

CHAIRMAN RHODES: Representative Richardson.

REP. RICHARDSON: I just wanted to say, Dr.

Meek --

THE WITNESS: It's not really Dr. Meek; I'm sorry I let it start out that way.

BY REP. RICHARDSON:

Q. I want to thank you for the testimony. I only have one question. For the record, you have been around a long time, and I think you know the Committee needs to know just a little

bit about the transformation of how you have perceived this City, going back to November 15, 1967, that situation. In point of fact, Mayor Rizzo was the police commissioner who gave a charge against some of the children at the Board of Education. From that period of time until now, very briefly, could you just describe the kind of situation in Philadelphia that we have, so people can have an understanding?

A. The date in November of 1967 is critical in relation to some of the developments of what has taken place over the past ten years. It was the date when over three thousand -- probably closer to four thousand black students from high schools in the city, marched to the Board of Education and presented their grievances, which had to do with the kind of education they were receiving.

You who are sitting at the table, and many others were engaged in helping make that happen, and we were younger then, and had a real first-hand experience of the use of police force.

I think it was probably the greatest illustration of how police force can be used negatively and destructively against people operating completely within the law, and of course, completely within the realm of conscience and right.

The present Mayor sicced the police on the high school students who were demonstrating and speaking on their own

behalf in regard to their education, and beat women, men, arrested scores, directing even at that time, Reverend Nichols who was on the Board, who had walked out to try and quiet things down, to tend his own damn business.

That kind of a day which only could be dreamed about unless you had experienced it. It was 1967. It is significant that in 1969 a short few years ago, that the Police Advisory Board was abolished forever, and four years later the same police commissioner was elected Mayor of the City and elected by a large vote.

In connection with that, he made a public declaration after that demonstration that he was going to break the back of the black power movement in Philadelphia.

Now, as to the Mayor of course, he had even more power than he had as police commissioner, and he also, I think envisioned himself as still being police commissioner in addition to his mayoralty and a protector of police practices of the kind we are trying to get rid of. And as someone said, quite clearly, there was nothing going on, therefore there is no police brutality in Philadelphia.

In addition to that in very recent months in the face of Federal Court decisions, he has made it quite clear he has no intention of living up to the order of the Court. He has made public declarations and he continues to

make them in very recent days, his statement was, "Now we can get rid of some of the affirmative action programs in Philadelphia."

So, the whole aura of Philadelphia today is one of almost lawlessness on the part of the police, public officials, who are supposed to be protectors of the rights of the people. I saw it quite clearly; I believe that is the exact situation we find ourselves in, and if there is not a legal way to deal with this problem, I really believe that in the not too distant future, the way in which it will be dealt with, will be the way those back in Tupelo are dealing with it: they are beginning to arm themselves, protecting themselves against the armed ku klux klan. That is how the direction will go unless there are some protective measures brought about to protect people.

CHAIRMAN RHODES. Thank you. Representative Cohen.

BY REP. COHEN:

Q. I very much appreciate your testimony; it is very comprehensive. I appreciate your answer to that last question. On the question of the Attorney General, do you believe -- we are going to have an elected Attorney General beginning in 1980, and right before the legislature ends, we are going to be voting on what the powers of the newly elected Attorney General ought to be.

Right now, the Attorney General has to file a

motion in Court to take away the power of the local district attorney, if the local district attorney is not prosecuting police brutality.

There are some people who think that system ought to be continued, and other people who believe it would be better to give the Attorney General jurisdiction so he could go in and prosecute police brutality or other crimes, without any Court case saying that the district attorney was derelict in his duties. I wonder if you have any feeling on that?

A. Are you asking me where the determination ought to be made, or whether or not the power --

Q. Should the Attorney General have the power to go in and investigate police brutality, automatically, as a function of his office, without showing that the district attorney is negligent in his duties?

A. My personal feeling would be that the Attorney General of the State, should have the authority to go and investigate or prosecute police brutality, whether or not the district attorney wishes it, or whether or not there is any Court order. I see it as a responsibility of the State, especially when it involves police abuse. That is one of the things that citizens cannot be protected against by devices of any other kind.

Q. Do you think there might be some advantages to that?

A. I think so.

Q. Because the Attorney General doesn't have to work as closely with the police on a day-to-day basis?

A. I think it is advantageous.

REP. COHEN: Thank you very much.

CHAIRMAN RHODES: Thank you, Representative Cohen.

I have been advised, Professor Meek, there is a bill before this Sub-Committee and before the Judiciary Committee of the House, House Bill 2611, which speaks to the questions of supersession by the Attorney General of the local district attorney, and you ought to communicate to the House when it is appropriate, your position and that of the ACLU.

THE WITNESS: All right.

CHAIRMAN RHODES: And if the ACLU comes to an official position on what should govern supersession.

If there are no further questions, I would like to thank you very much, Professor Meek, for being with us today, and I strongly urge you to get this information you have alluded to today, to us as early as possible.

THE WITNESS: I will work on it right away. I have to consult in regards to what specific pieces you might want. I have quite a bit of documentation here today. I'll check and see if there are copies.



**CHAIRMAN RHODES:** Also copies of your testimony, your statement which you have given today.

**THE WITNESS:** All right. I can get that out; I'm sorry I only have one copy.

**CHAIRMAN RHODES:** Thank you very much. If there are no further questions by the Sub-Committee, we will adjourn this hearing of the House of Representatives on Crimes and Corrections. The Hearing of the Sub-Committee on Crimes and Corrections of the House of Representatives will hereby adjourn and will reconvene tomorrow morning at ten o'clock in this room.

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(Concluded at 5:35 O'Clock P.M.)

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**REPORTED BY:**

**Barbara Green.**

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