

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

BEFORE

SUBCOMMITTEE ON CRIME AND CORRECTIONS

OF THE

PENNSYLVANIA HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

ON

ORGANIZED CRIME, PUBLIC CORRUPTION
AND
CIVIL RIGHTS VIOLATIONS

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

AT

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

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

SECOND DAY
FRIDAY, JULY 21, 1978

RAPID REPORTING SERVICE, INC.
SUITE 1102-10, 1405 LOCUST STREET
PHILADELPHIA, PA. 19102
(215) 732-4334

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REP. DAVID RICHARDSON

REP. MARK COHEN

VAN BRASWELL, ESQ., COUNSEL

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(10:30 o'clock A. M.)

CHAIRMAN RHODES: The hour of 10:00 o'clock having arrived, this hearing on the Subcommittee of the Judiciary Committee on Crime and Corrections in the House of Representatives of Pennsylvania will now come to order.

I am Joseph Rhodes, Jr., Chairman of the Subcommittee. There are no members of the subcommittee other than myself present at this time, but they will be here shortly.

This is a continuation of our hearings pursuant to Resolution 109, authorizing the Subcommittee to conduct public hearings with subpoena power into the subject of organized crime, public corruption and civil rights violations by and on police.

This is the third of our hearings into the questions of civil rights violations by and on police. It is the second of our hearings in the City of Philadelphia.

Today our first witness before the Subcommittee is Mr. Anthony Jackson, Executive Director of the PILCOP Project here in the City of Philadelphia.

Mr. Jackson, do you have in your possession the subpoena to appear before us today?

MR. JACKSON: I do, Mr. Chairman. I have

a subpoena that was given to me today.

I would just like to bring to your attention although subpoenaed, I would waive any immunity that may confer upon me with this subpoena, and I would be glad to defend the validity of any statements I make pursuant to that subpoena.

ANTHONY JACKSON, sworn.

CHAIRMAN RHODES: I would like to acknowledge the presence at this point of the Honorable David Richardson, member of the Subcommittee, Philadelphia County.

To my right is one of the counsel for the Subcommittee assigned to our Civil Rights Violations Project, Mr. Van Braswell.

BY THE CHAIRMAN:

Q Mr. Jackson, do you have copies of your statement?

A Copies will be here presently, sir. I don't have other copies with me now.

Q Fine. Just go ahead and we will get the copies when they get here.

CHAIRMAN RHODES: Before you begin, I would like to also acknowledge the presence of Representative Edward Wiggins of Philadelphia County, also with the Subcommittee.

BY THE CHAIRMAN:

Q You may proceed, Mr. Jackson.

A Thank you, sir.

Again, I am Anthony Jackson, the Director of the Police Project at P.I.L.C.O.P., the Public Interest Law Center of Philadelphia.

This is the tenth year that we have been studying the problem of police brutality and abuse of citizens here in the City of Philadelphia. It was begun close to ten years ago with the Lawyers' Committee for Civil Rights. That was the prior title of the law center.

Since 1975, we have been assisted by funding from the Governor's Justice Commission to investigate complaints, analyze trends, issue reports and recommend legislation.

We are here today to make suggestions for legislation in three areas: training, deadly force, and public accountable review procedures for citizens' complaints.

Because our recommendations for legislation have grown out of our experience, I would like to share briefly with you some of our experiences. Of course, what I say to you today will not replace the victims themselves and we have of course spoken with your staff and have given names

and addresses of those persons, and we are prepared to give additional names and addresses to your staff to testify substantive to my appearance here today.

Nevertheless, I would like to have an opportunity to provide you with a graphic illustration in some situations of what goes on here in the City of Philadelphia.

In 1972 the State Advisory Committee to the United States Commission on Civil Rights stated that police abuse is a serious problem, that Blacks in particular suffer to an inordinate degree. This spring the chairperson of that committee wrote, "The situation in Philadelphia has not improved during the six years since publication of the 1972 report on Police Community Relations in Philadelphia."

Also this spring the United States Commission on Civil Rights itself actively entered the picture and directed the beginning of a major national investigation, reflecting its concern that in some cities misconduct appears to be officially sanctioned. It has scheduled its first national field hearing in Philadelphia on September 4, 1978.

When the Advisory Committee reported in 1972 that there were no reliable statistics on the extent of the problem, we have now since our experience, since our existence, particularly since 1975, had an opportunity to compile statistics that were not then available. We have

shown many of the common myths to be untrue, that is, complaints of abuse do not come from only low-income ghetto youth or from criminals seeking to shift attention from their crimes, but are widely distributed throughout the city's population.

For 55 percent of the victims last year, the incident was their first contact with the police, and 25 percent had convictions of some kind.

Just over half of the victims were Black, another 13 percent of the victims were Hispanic or some other minority other than white male and white female.

Now although we are convinced that much of the abuses incidents reflect racist attitudes, the lack of respect for citizens, and the law spills over to affect everyone within the reach of the nightstick.

The reports that we have issued last year and the year before, of course, reflects again as I have just stated, that most of the attacks occur to minority citizens here in Philadelphia; but I think the report also reflects that be you white male, white female, black male, black female, Hispanic male, Hispanic female, or any other ethnic group, you are just as likely to be affected by the police activities as anyone else.

The victims include working people as well

as students and unemployed, and almost a third were over 30 years of age. In 69 percent of the cases of alleged abuse, there is no criminal activity charged or it is only in connection with the police altercations, that is, the cover charges.

We refer to cover charges as those charges placed against an individual by the police officer to cover his own activity.

Only 11 percent of those people who receive cover charges are ever convicted here in Philadelphia.

Even when there is criminal activity charged, police misconduct poses a serious problem interfering with effective law enforcement.

Most of us know that the Inquirer, of course, interviewed or looked at over 200 homicide files here in the City of Philadelphia, and about 80 of them were thrown out because of police misconduct, police abuse where the suspect was beaten and interrogated under abusive conditions.

The overall scope of the problems is substantial. The Law Center has received about 500 complaints a year and we recently discovered through a court case that the City Police Department receives nearly 1,000 complaints a year. Of this 1,000 complaints per year that the Police

Department itself receives, 80 percent of those complaints the Police Department has decided were founded complaints through depositions of the Police Commissioner and the Mayor of the City of Philadelphia.

We understand that founded complaints mean that there is some reason to believe that there is some merit to the complaint and requires further investigation.

This information comes from the Police Department's own records, not from the Police Project's records, not from some independent agency, but from the Police Department's records themselves.

The seriousness of the situation is marked not only by numbers, but the devastating effects of many of the incidents as was so graphically demonstrated at the NAACP hearings last summer here in Philadelphia. During those hearings we heard stories of wrongful deaths of young men, brutal beatings of frightened persons, sometimes in front of family members, unable to prevent their injuries; long hospitalizations, lost of jobs and fears of retaliation.

Not only do we have the Law Center's statistics about complaints, but our court dockets reflect the grim validity of many of those complaints.

In 1968 there were only six cases pending

in our Federal Courts regarding police misconduct. Today, July 21, 1978, there are over 211 cases pending in the Federal and State Courts regarding police misconduct here in the City of Philadelphia.

REP. RICHARDSON: Could you repeat that figure again, Mr. Jackson.

THE WITNESS: 211 cases as of today pending in both State and Federal Courts regarding police misconduct.

In 1975 a jury awarded damages of \$116,000 against Officer Flint and the City of Philadelphia for the death of 24 year old Joseph Gagliardi who was shot when running away from a police officer and left lying without attention until he bled to death.

That opened the gate.

In the last two years, the City has paid out over \$2 million in verdicts and settlements for police abuse and they have another \$400,000 to be paid pertaining to just three cases. These are the cases that we know about.

The City Solicitor has a staff of seven lawyers plus support staff for those seven lawyers, plus overtime and appearances in court for police officers, plus court costs that we have conservatively figured to be close

to a quarter of a million dollars per year that the City of Philadelphia pays out to defend these cases.

Civil damage suits alone should spur remedial administrative supervisory activity by the city and they also serve a vitally important role in compensating the victim and rendering disinterested verdicts for those activities.

It has been the attempt of the common law for over 600 years that you compensate a victim when they have been damaged, you try to make them whole; and at the same time what you try to do is to correct the errant activities of people. If you do something wrong, then you have to pay for it.

Now we know in the City of Philadelphia at least over the last two years that they have been paying over \$2 million and they have more to pay. The theory is again that if these damage awards have been given, then the city at some point in time would say, "We have to stop these activities because it is costing us too much money. We have need for our money in other areas of our administration."

But that hasn't happened. The city continues to pay those awards. Those police officers involved in those awards have not been taken off the force,

have not been suspended. This is wrong and we have a great deal of sympathy for the officers. Often times when they have been asked to suffer the burden a long time that many times people look at the police officers individually and say, "You have committed some act of misconduct, and for that you should be punished," without looking beyond that one officer and looking at the administration or the policy that fosters that kind of activity.

The F.O.P. has often said that it is not the officer alone that we should look at, but indeed the policy in the administration that condones the activities that these officers often perpetrate.

The Law Center is looking carefully at how to bring the responsibility up the line to the Department's leadership. Particularly, we are looking at the United States Supreme Court's recent decision in *Monell versus New York* which says that a city can be sued for violations of civil rights. We think it is time that the person responsible for directing the policy of the Department bear the responsibility for their failure to supervise, to set standards and to establish discipline for officers guilty of abusive behavior to citizens.

In conclusion on that point, the scope of the problem has made Philadelphia notorious. We are a standing joke on Saturday Night Live with so-called news stories about our police force. Time Magazine, News Week, U. S. World News and Reports have featured stories of the Philadelphia problem. Indeed, the impact of this reputation was so great that it finally moved the Cardinal's Commission on Human Rights, the Philadelphia Chamber of Commerce, the Board of Rabbis, the American Jewish Committee, the Metropolitan Christian Council and the Citizens Crime Commission all to meet privately with the Mayor to seek reversal of his "three monkeys" approach to the problem.

The three monkeys approach to the problem is, "see no problem, hear no problem, and speak no problem."

Joined with vigorous activity of 45 community groups which have endorsed this ordinance to control police procedures and an energetic District Attorney, there is now widespread support for effective changes and improvements.

Accepting that there is a severe problem, what is the solution? The Law Center believes that the problem could be simply solved if the city

leadership wanted to. I don't think there is any question about that. There will, of course, always be problems of individual officers acting wrongfully; but as Lieutenant Fife testified to you earlier in these hearings, so graphically pointed out Monday, if the Department's leadership wants to enforce discipline and reduce use of deadly force and the abuse of citizens, the message can be understood and carried out.

Although the Mayor and Commissioner state that they oppose brutality, they never seemed able to find it in the City of Philadelphia.

The Commission promotes officers like Murray after a history of 14 serious complaints against him, two civil damage actions against him, two currently pending against him, he has been promoted, he is still on the force. He has now been promoted to a detective. He has received no disciplinary action for any of the 14 incidents that have been reported against him.

The Mayor states that the six officers who were recently found criminally guilty of conspiring to violate the civil rights in the Wilkinson case are not guilty of abusive behavior. The police understand that message, and we would be stupid if we didn't understand that message. It means simply that there

will be no administrative change until there is political change and we have a new Mayor and a new Police Commissioner who respect the rights of citizens as much as the rights of police officers. That is the core of the problem. That does not mean, however, that there can be no change, only that in the absence of leadership it must be forced by legislation. That legislation will have to be specific and not rely on the good faith support for its implementation, and it must have provisions permitting outside public review to determine compliance.

This Committee and the State Legislature, therefore, have the unique power to bring about effective change because it still retains the capacity to act and act effectively in ways not open to other actors, those other actors meaning City Council, the Federal Government, the new District Attorney, the courts.

All of them, of course, are attempting to move forward but either have limited power or small chance of success.

The individual police officers who have been valiantly struggling and hoping for reform will continue their efforts, some through the Guardian Civic

League, others through the Spanish Speaking Police Officers Association and others individually; but they need assistance in their message, if their message is to be spoken authoritatively.

We often hear complaints of civilians, of citizens and representatives of organizations like myself talking about the problem of police brutality, but not the officers themselves. Obviously the officers, the current police officers have a peculiar problem in that if they appear before you their jobs would certainly be risked.

In conversations with police officers, sometimes anonymously, sometimes with officers who we have worked with a number of times, they indeed say themselves that the problem is severe, not perhaps as severe as others may make it. but nevertheless they say the problem is severe enough that citizens walk up to them and question whether or not they are abusive officers. They say they want these abusive officers removed from the force so that people will begin to respect them as law-abiding police officers, law-abiding officers who do not choose to violate the rights of citizens. They too need your help.

Many persons are unnecessarily defeatists, "nothing can be done, the cult within the Police Department is so strong, abuse of authority is built in, it cannot be

uprooted."

Both sides kind of reinforce that kind of brutality.

I also use Birmingham, Alabama, the city of Bull Conner, as counter-proof, a racist, violent prone police force famous for its brutality in years bygone. It became famous in 1972 as a model of what Police Departments ought to be here in the United States. They no longer fear its police force. Of course, Bull Conner is no longer around, the Mayor is no longer around. They have a new city administration; but many of us during that time felt that the problems there were so deeply rooted that it would never be eliminated.

I think there is proof that here in the City of Philadelphia something can be done and we ought not be defeatists.

We have three proposals for legislative action which would cause structural changes which should sharply reduce abuse of police authority. They deal with training, deadly force and publicly accountable internal disciplinary systems.

The first area is training and discipline. When we remember that the goal is to prevent incidents, the importance of training not just while an officer is a recruit but during the 20 years that an officer remains on the force is obvious.

Every police administration manual and textbook

refers to the role of supervision and ongoing training. And everything we know about learning is that it becomes most effective in times of crisis, tension and when people are aware of the meaning on which the training is based, rather than isolated academic discussions and sessions.

Pennsylvania passed a police training statute in 1974. Our legislature did and many of you, of course, . participated in the passing of that legislation, the Municipal Police Officers' Education and Training Act, which pertain to every municipality within the Commonwealth of Pennsylvania with the exception of Philadelphia.

It is time to end that exemption. We call upon you to amend the Municipal Police Officers' Education and Training Program to include Philadelphia within the state regulatory system.

Second, that that regulatory system should be amended to direct a major portion of the training to be the best, most modern training available here in the country.

There is no reason why Philadelphia ought to be a second-class city in terms of the training that it provides to its police officers or to the services it provides to its citizens.

Let me give you an example: A state law requires that the Police Department, that police officers before arresting

someone, determine whether or not that person is experiencing an epileptic or diabetic seizure before arresting that person because when someone experiences an epileptic or diabetic seizure, the symptoms are very similar to one who is intoxicated.

Our state legislature, in its wisdom, understood that. They passed as a criminal law within our sanction to make sure you check to see whether or not that person is experiencing that kind of attack before you arrest him. It is on our statute.

There is some limited training within our Police Department to identify these persons; but, obviously, it is not adequately enough. I say it is not adequately enough because the police officers at one time several years ago a person in the subway was shot when he lunged towards a police officer. The police officer did not know that the person was experiencing an attack. That person was shot for that experience.

Another man who was experiencing a diabetic seizure fell out in a restaurant. He told the police officers he was experiencing a seizure. His medical bracelet, his necklace was removed from him. It was gold. To this day he recently got it back, but there is reason to believe some members of the Police Department removed it from him without

telling him. As a result of him being arrested and left in a cell overnight, he experienced a hypoglycemia attack, which means a loss of oxygen to the brain.

He came outside the police station and immediately outside the police station flagged down a fire rescue wagon who took him immediately to the hospital. As a result of him staying in the police station overnight, he experienced a brain stroke. This man suffers to today.

I will make this man's name, address and phone number available to your staff if you wish to bring him in as a witness.

There are a number of incidents which I could relate to you again with regard to these people who demand and deserve the respect and the retraining of these officers who are supposed to be adequately trained at the Police Academy. It is not enough to expose a recruit to some training in the Academy and forget about any follow-up in the future; otherwise, young recruits will follow and practice only what the old Bulls have been doing for time in memorial. The act already provides for in-service training programs for existing personnel. This provision should be expanded.

And finally, the Commission that is set up by the act should be given authority and a staff to investigate and report on the effectiveness of such training programs so the

Department can learn from actual experience. There is no reason why our police force cannot be innovative and leaders in developing workable training methods of supervision and we ought to recognize they must do so, if we want in these days a budget stringency to have effective law enforcement.

Our second major recommendation is for legislation to restrict the use of deadly force. The term "deadly force" broadly defined includes any force resulting in death or having the potential of causing death. The most common form of deadly force in law enforcement occurs in the use of firearms and it is the purpose of deadly force regulation to regulate and restrict the use of firearms by law enforcement personnel.

Deadly force legislation represents an attempt to set guidelines as to when law enforcement personnel may shoot at civilians, exposing them to the danger of death.

Pennsylvania is governed by a forceable felony statute which authorizes the use of deadly force by police officers where such force is necessary to effect the arrest of a person who has committed a forceable felony. In the absence of a workable definition of forceable felony, this kind of statute allows the shooting of person suspected of unarmed property theft punishable by a maximum of ten years in jail had he not been shot.

Although Lieutenant Fife recommended internal

guidelines as an effective control, Pennsylvania's experience is to the contrary with regard to just setting guidelines.

The Attorney General of our Commonwealth in 1971 issued the Attorney General's opinion No. 94 to regulate the use of deadly force. Indeed the Philadelphia Police Department's manual limits the use of deadly force to instances of violent felonies which it specifies as an act which is evil in itself, such as rape by force, murder, armed robber, assault with intent to kill by acts, et cetera. These are guidelines that exist, but there are no laws to that effect.

Lieutenant Fife said the guidelines ought to be enough to reduce the incidents of shooting. We have seen that the manual exists, the Attorney General's opinion exists since 1971, but we have seen shootings in Philadelphia continue.

In April of 1975 we released a report on the use of firearms by Philadelphia Police and we have updated it with further research. Although based on newspapers and P.B.I., Police Board of Inquiry reports, it is the most comprehensive study available. The original report was used as support for the decision in the United States Court of Appeals, *Mattis versus Schnarr*, 547 Fed. 2d 1007, in 1976, which held that a Missouri State statute, which is very similar to that in

Pennsylvania, denied constitutional rights of due process by creating a presumption that all fleeing felons were subject to deadly force and that they posed -- and that it was all right to pose a danger to their life. A presumption obviously not true, but which permits police to kill persons posing no harm to themselves.

We have been able to identify 395 persons shot by Philadelphia Police Officers between 1970 and July of 1977. This is more than one person a week. And obviously it is an understatement, there are more people who have been shot.

The second point to note is that in 45 percent of these cases, citizens were unarmed. In addition, there was another 10 percent of these people who were shot while fleeing from the police.

As Lieutenant Fife reported from New York, deadly force is disproportionately found in the special squads such as stake-out squads, anti-crime teams, narcotic divisions and highway patrol.

One stake-out officer here in Philadelphia is responsible for six incidents. Three officers, two in stake-out, one in narcotics, were involved in four shootings each.

CHAIRMAN RHODES: Could you start that whole statement again.

THE WITNESS: Certainly. One stake-out officer

is responsible for six incidents. Three officers, two of them are in the stake-out squad, one of them in narcotics --

CHAIRMAN RHODES: Before you go on. of the six incidents, did any of those result in serious injury or death?

THE WITNESS: Yes. I have those.

There was one death with this one officer who shot six times. With the other three officers, two of whom were in stake-out, one in narcotics --

CHAIRMAN RHODES: There is no indication or statistics as to whether or not any of these shootings were justified, these were just shooting incidents, right?

THE WITNESS: Yes. I must point out, we are not suggesting that each and everyone of these shootings that I am alluding to were unjustified. We are simply saying there is an inordinate amount of shootings; and as Lieutenant Pife indicated to you earlier in the week, often times a police officer, by virtue of lack of training or other reasons, puts himself or herself in a situation where a deadly force must be used. And we are suggesting that given adequate training in the use of firearms and other techniques that a police officer often times should not or would not put himself in a situation where firearms is the resort that he must resort to.

CHAIRMAN RHODES: Do you know if there is Academy or in-service training for current officers?

THE WITNESS: The type of survival training referred to by Lieutenant Fife is not available in the Philadelphia Police Department. As you recall from his testimony he said they had mock scenes of an apartment building, and things of that sort. That is not currently available at the Philadelphia Police Academy.

CHAIRMAN RHODES: Okay. You said one police officer was responsible for six incidents, however justified, and you said three officers --

THE WITNESS: Yes, there were three officers who were involved in four shootings each. Two of the officers were in stake-out, one in narcotics. It would take me a moment to find out how many were killed and how many were wounded. I have the statistics broken down. By the time I am finished my remarks, I will make them available to you.

CHAIRMAN RHODES: Fine. But again for the record, there is no indication as to whether these were justified shootings or not?

THE WITNESS: That's correct, sir.

CHAIRMAN RHODES: Go ahead.

THE WITNESS: I should point out that we are able to identify whether or not a person was fleeing. We are able to identify whether or not a person was armed. Of course, the exact circumstances surrounding a particular shooting must

be given by the participants there.

CHAIRMAN RHODES: You said that since 1970 until July of last year 395 people were shot?

THE WITNESS: That's correct.

CHAIRMAN RHODES: Some resulted in death?

THE WITNESS: That's correct.

CHAIRMAN RHODES: Do you know of any, do you have a break-out in your statistics as to whether any of these people were shot by so-called warning shots?

THE WITNESS: During 1972 to 1975 there were warning shots and shots fired at moving vehicles. And I should point out to you that in the Philadelphia Police Department's manual --

CHAIRMAN RHODES: I know that, but let me ask that question as chairman. But first let me establish, are you saying for the record that from your compilation of statistics that 395 people were shot between 1970 and 1977, and you are saying some of those were shot by so-called warning shots or shots fired at vehicles, other than vehicles that were directly endangering the life of the officer?

THE WITNESS: That's correct, sir.

CHAIRMAN RHODES: Do you have any idea of the percentage or numbers that are involved?

THE WITNESS: It is a small number, the number

is under ten.

CHAIRMAN RHODES: Of total warning shots at vehicles moving away from officers?

THE WITNESS: The number for warning shots is under ten. The shots fired at moving vehicles, I believe, is about a half dozen.

We don't have statistics since 1974 on warning shots, but during the 1972 to 1974 report it is in that report; and I would have to provide that to you at a later time, to be exact.

CHAIRMAN RHODES: Are you saying you don't know whether any people were shot by warning shots since 1974?

THE WITNESS: That's correct, sir.

CHAIRMAN RHODES: Why is that?

THE WITNESS: The reason is we are just currently in the throes of working on that report. There is some reason to suspect from some of the reports of the incidents and most of the information that we have been able to compile in our report comes from the newspaper reports and that source, to some extent, might be unreliable to the extent the reporter was not there at the time.

But of course the reports often times are given by the Police Department in terms of what circumstances transpired and in situations we know that people were shot mistakenly. The

reason for that mistake, I cannot provide to you today.

CHAIRMAN RHODES: Do you know that the Philadelphia City Police have a use of deadly force rule that says you cannot use deadly force, you cannot fire a shot as a warning shot where a vehicle is not idrectly affected?

THE WITNESS: That's correct, sir, I do know that.

CHAIRMAN RHODES: Do you know how long this rule has been in effect?

THE WITNESS: I know it's been in effect at least since 1973 when it was codified and placed in the police officers' manual. It is my understanding that it was covered by a police commissioner's directive prior to the codification of that guideline in 1973.

CHAIRMAN RHODES: So it has been in effect either by internal guideline or codification during the interval of your study?

THE WITNESS: That's correct, sir.

CHAIRMAN RHODES: Do you know since around 16 officers shot and wounded or killed citizens in violation of city police ordinance and rules or directives, or by codified guidelines, do you know if any of those 16 officers were fired or suspended?

THE WITNESS: Yes, sir. of 170 shootings that occurred between 1972 and 1974, only six incidents were brought

to the attention of the Police Board of Inquiry. Four of the six were initiated by civilian complaints. Only two were initiated by the Police Department itself.

In four of the six cases the officer charged was dismissed by the Police Commissioner without a hearing. There were no P.B.I., Police Board of Inquiry cases involving the firing of moving vehicles or firing warning shots, despite the fact that both these uses of firearms are specifically prohibited. So I stand corrected, sir.

Although there was disciplinary action taken against six officers, they were not for shooting at moving vehicles and not for firing warning shots.

None of the officers have been brought before the P.B.I. for those infractions.

CHAIRMAN RHODES: So for the record would it be correct that over a dozen police officers in direct violation of police procedures have either killed or wounded citizens in the City of Philadelphia in the last seven years and have received no disciplinary action?

THE WITNESS: That figure of a dozen is an approximate figure and I would stand to that, yes, sir. It's close, give or take one or two incidents; yes, sir.

CHAIRMAN RHODES: Thank you, proceed.

THE WITNESS: We think the standards of the manual

are correct, that the Eighth Circuit Court of Appeals is correct, and that we need legislation which will convert these standards into law so that criminal law enforcement is possible for violations when the department refuses to enforce its internal standards.

As I just related to you, these guidelines are there within the Police Department. We have the Attorney General's opinion and as long as it is not part of our criminal statute, there is very little that an energetic District Attorney can do or an Attorney General could do, because it is not part of our crime statute.

Our third legislative proposal is for a first class City Police disciplinary act to assure public accountability of local police disciplinary activities. This legislation is needed because the Department's regulations do not provide for public accountability and because when the pressure is on, they can abandon it.

In the Hood case, just recently, although a complaint was received, a civilian complaint was received by the Police Department, it was investigated not by Internal Affairs as their new directive suggests, but by its Homicide Squad.

The new act as we understand it from the Police Commissioner which was enacted February 15, 1978, states that all acts of civilian complaints would be under the supervision

and control of Internal Affairs, not the Homicide Unit, not any other unit, but the Internal Affairs Unit.

From the published reports that I have seen with regard to the Hood case, it was investigated by the Homicide Squad, not Internal Affairs.

I am not suggesting and don't know what the quality of investigation is by ~~one~~ unit as opposed to the other except to say the Internal Affairs Unit is supposed to be the disinterested unit within the Police Department and should be given the control during all civilian complaints. Now this is pursuant to that directive No. 127 issued by Police Commissioner O'Neill.

The new act again would include the standards that was similar to the bill introduced by Dr. Ethel Allen and Lucien Blackwell introduced in City Council very recently. In order to assure that there is public scrutiny, it should create a commission to monitor and review the quality of investigations in compliance with state standards and laws. This commission should be headed by the newly elected Attorney General or by an Inspector General appointed by the Attorney General and composed of independent persons with public confidence such as law school deans.

On Tuesday you heard from Ben Holman, former Director of the Community Relations Service of the U. S. Department

of Justice, who also called for the clear and open procedures for handling cases of civilian complaints, and that secrecy or perceptions of injustice is the surest route to a dictatorial police state. Thus, it is further recommended that the Attorney General's Commission have full access to all records and personnel to render an evaluation of the functioning of the disciplinary system to the Mayor, to the Managing Director, the City Council and the District Attorney.

This Commission could make its evaluation available to each of these agencies. The Department's new procedures are quite similar to the system abandoned in Chicago over four years ago because it was ineffective in curbing abuse.

Now this new policy I am talking about that was abandoned in Chicago is the one announced by Police Commissioner O'Neill on February 15th of this year. It is the same system with slight deviations that they had in Chicago. Chicago changed it because their incidents of abuse was the same, it continued. They abandoned it.

As I said earlier, I don't see any reason why Philadelphia ought to always be in the behind, back of everyone else in terms of making citizens feel they have an opportunity to air their grievances. Why should we assume a policy that was abandoned by another Mayor of an urban metropolitan area four years ago?

The suggested solutions are not new, but I am telling you what other people have told you, they have been around since the President's Crime Commission said so in 1967. They have been around since the National Advisory Commission on Criminal Justice Standards and Goals in 1973, suggested what to do. They have been around since Judge Fullam issued his opinion in the Goode versus Rizzo case in 1972. They have been around since the International Association of Chiefs of Police have annunciated.

The solutions they have suggested have all been the same, that Police Departments should have an open accountable police disciplinary system as the appropriate way of resolving civilian complaints.

An example of the kind of open complaints or open procedures that I am talking about is the kind that we did have this year, we had one. There was an Officer Frank Stumpo who beat and terrorized a group of musicians out at the airport New Years Eve while intoxicated.

Now what happened in that case the police, after it was publicized in the press here, the Police Commissioner announced, "We will have an open hearing to determine the facts of what transpired in that case."

We had an open hearing. Unfortunately, Officer Stumpo pled guilty, so there was no rehashing of the facts. But

we did have an open hearing. That is the only open hearing that we have had. And what I am suggesting to you is that the incident or the case of Frank Stumpo should not be the exception but should be the rule here in Philadelphia.

One other thing that I want to point out with the Frank Stumpo case, the officer, Officer Stumpo beat and terrorize these individuals in the presence of his partner, Dennis Mongello. That officer was disciplined.

Now we say this, and I must add, I was encouraged by the Police Department; they suspended this officer for ten days. It has not been the history of the police officers to suspend any officer for abuse of that, let alone the partners of those officers who looked upon these acts. So I must point out that the partner was suspended during this public hearing as well.

The structural changes have been implemented in Atlanta, Georgia; Chicago, Illinois; and in Birmingham, Alabama. The structural changes were directly related to three common factors: Racial and ethnic composition of its police force, a sincere and effective community police relations and an open accountable disciplinary system. And as a result of these structural changes overall, police services improved proportionately.

In conclusion, I would like to say it is uniquely within the power and authority of the legislature to address a

remedy for the documented and proven acts of abuse in the City of Philadelphia because the power to police has always been the ultimate power of the state and in its protection of the welfare of its citizens.

That concludes my remarks, and I would be prepared to answer any questions that you might have.

CHAIRMAN RHODES: Thank you very much, Mr. Jackson.

Before I introduce the members of the Subcommittee who are here now, I would like to first extend thanks of the Subcommittee and House of Representatives to Drexel University for being such gracious hosts yesterday and today. Particularly I would like to thank again Dr. William Haggerty, President of Drexel, and Mr. Bruce Sanders, Vice President for Governmental Relations. Both of them have been very gracious to us.

Members of the Subcommittee right now on my extreme right is Representative John White of Philadelphia County; to my left is Representative Mark Cohen of Philadelphia County, Representative David Richardson of Philadelphia County and Representative Edward Wiggins of Philadelphia County, all members of this Subcommittee.

I would like to begin the questioning with Representative White.

REP. WHITE: No questions.

CHAIRMAN RHODES: Representative Cohen.

BY REP. COHEN:

Q I want to ask you, do you believe the Attorney General ought to have concurrent jurisdiction with the District Attorney in police brutality cases and other cases?

A Concurrent jurisdiction, meaning that both of them should act on the very incident at the very same time?

Q Both of them should have the power to act.

A Okay, I believe the answer is yes; but not without some provision for coordination of efforts.

The reason for this, particularly since here in Philadelphia now we do have a District Attorney who is concerned and apparently sincere in his efforts to resolve the problems of police abuse; however, we don't know whether or not Mr. Rendell will be in office forever and whether or not the person who succeeds him will be sincere in his efforts.

And I think the legislation I suggested today is the kind of legislation that goes across individualities, individual persons. And it is the kinds of structural changes that will be in place no matter who serves in the various positions.

Q We have never had a District Attorney who served more than 12 years, so I am not sure if I understood you correctly on the Police Disciplinary Board procedures. You are saying they are

not open to the public at all?

A No, they are not, sir. And let me also add they are open to the persons who bring the complaint if they make it to the Police Board of Inquiry.

If you want me to explain how the system works, I could; but I must suggest to you that most complaints are never acted upon, at least -- the person who makes the complaint is very seldom notified by the police of what, if any, action is being done with their complaint.

In some situations, now we receive about 500 complaints a year. In 1976 we referred a number of complaints to the Police Department.

One person's complaint, one person was invited to the Police Board of Inquiry. And over 100 complaints have been referred to the Police Department over a number of years, but one person ever made it to the Police Board of Inquiry and the person never got an opportunity to testify.

The officer, I might add, was disciplined. He was given one day suspension for some verbal abuse. But most persons don't make it to that point.

Q Perhaps I didn't understand Mr. Meek's testimony yesterday where an officer was found innocent of charges.

A Recently or -- that may have been the Police Advisory Board, I am not certain.

The other problem that maybe I ought to point out too that creates the other problem, if you make a complaint against an officer -- and we will assume for a moment the good faith of the Police Department, the Police Department acts on its own, does not notify the complainant, they may hold a hearing for that officer but the complainant is not notified. I mean, if it's open you ought to know when it is being held and where it is being held; and the point is the person is not notified.

Frank Scafidi indicated that the Police Department is not in the notification business and that they don't have to notify people. Now that is his public statement. And I suggest to you it ought not to be that way.

Q That's true. Can you tell us, the police training, the police training of the City of Philadelphia as opposed to the training they get state-wide and the training the police get after they are on the police force, what it ought to be?

A I can't detail the training of other jurisdictions nor can I detail the training here in Philadelphia. I am familiar with the training that is received here in Philadelphia and some of the deficiencies that exist here in Philadelphia.

With regard to the training, I was specifically pointing out the need for adequate training, at least in the identification of persons having particular ailments that the Police Department ought to be aware of, particularly since the

Police Department is picking these people up, arresting them, withholding medication from them and causing brain stroke to them, causing them to be shot, causing them to be beaten and brutalized and to have criminal records, and interrupting their lives.

I think this training is necessary. I don't think it is inappropriate for us to require that kind of training for police officers in Philadelphia. And if it does not exist throughout the rest of the Commonwealth of Pennsylvania, then it ought to be there as well.

REP. COHEN: Thank you.

CHAIRMAN RHODES: Representative Richardson.

REP. RICHARDSON: Thank you very much, Mr.

Chairman.

BY REP. RICHARDSON:

Q Mr. Jackson, I would like to take this opportunity to thank you for your testimony. I have some questions.

One, during the period of 1977 and 1978, how many cases have you received of alleged brutality here in the City of Philadelphia Police Department?

A We have received approximately nearly 100 cases this year of files that we have opened up.

And let me explain the situation: We have received more complaints --

Q Just for the record, could you tell us how many complaints you received, first?

A I don't have the exact figure, but I would estimate --

Q Can you get it for us?

A -- 175. I could get those figures for you.

Q All right.

A Some of the complaints unfortunately that we received, we appreciate the fact that we are limited in the authority that we have to bring about some appropriate resolution of their problem. Often times a person has a complaint, unfortunately, that does not rise to criminality and does not suggest itself for civil action.

Consequently, the only recourse that we have many times is to refer a complaint to the Police Department. Often times when we tell this to an individual, they say: "What good is it going to do there? Never mind. If I can't sue them to get some money, if I can't take them to court to get them arrested, I don't want to go to the Police Department."

Consequently, we then end our investigation, there is nothing more that we can do with the file. We have with that information, some complaints are screened on the phone for a number of reasons. Sometimes people come in to us and for some reason a file is not opened, but this time we have approximately 100 files opened up since January 1st of this year.

Q Last year how many cases did you have? From January 1st of 1978 you had 100 cases open?

A That's right.

Q What about in 1977?

A I believe that figure is about 300, sir -- I am sorry, did you ask how many cases were opened last year?

Q Yes.

A Three hundred were open last year.

Q Have you ever had occasion to meet with Commissioner O'Neill concerning police files of civilian complaints here in the City of Philadelphia?

A I have not been able to meet with him. I have requested, through intermediaries, I have sent letters to him and sometimes at the suggestion of his own subordinates; he has not offered an invitation to me.

Q Why do you think that is so?

A I just really can't answer that except say perhaps Mr. O'Neill just has no intention of correcting the deficiencies that he knows to be there and has no reason to want to debate me, if you will, or discuss the matter.

The facts that I have given here today, the facts that we have presented at other forums, are facts indeed; and I see no way that the Police Commissioner can deny them. Perhaps because there is no denial of those facts, he sees no reason to

meet with me, but it would seem to me if the Police Commissioner of this city or any city is at all concerned about the citizens within that jurisdiction, then he ought to take those necessary steps to better those relationships between the police officers and the community. If the community is supposed to assist the police officers in crime prevention and apprehension of suspects, it would seem to me that you need the community support. And he is not an individual who seems to be looking in a progressive manner to do that.

Q Who, in your opinion, runs the Police Department here in the City of Philadelphia, Frank Rizzo or Police Commissioner O'Neill?

A The City Charter, of course, gives the authority to the Police Commissioner; but I don't think there is any question that Mayor Frank Rizzo, if not directs on a day-to-day basis, certainly sets the policies to be carried out by the Police Department. And I think Police Commissioner O'Neill obviously reflects the sentiments and the wishes of the Mayor.

Q Philadelphia's Administration, particularly the Police Department, brags about its success in the daily operations of the Police Department here.

What success do you feel they are referring to when they talk about the success here in Philadelphia, particularly when the police violence is so high against civilians?

A I think probably that statement is based on the vast majority of the police officers here in Philadelphia who are indeed professional officers. And I don't want to suggest for one moment that each and every police officer here in the City of Philadelphia is abusive. I think the record here in Philadelphia of the professional officers who don't participate in these abusive acts ought not to be maligned by these abusive officers.

Philadelphia says that its crime rates, according to the F.B.I. compilation of their statistics is one of the ten best in the country. We have to understand and appreciate, of course, that the records that the F.B.I. receives are sent by the Philadelphia Police Department. I don't know how those records are compiled. I don't know who reviews them before they are sent; but I know there has been some criticism in the past by federal officials of the statistics that were being forwarded to the F.B.I. by the Philadelphia Police in terms of the credibility and the integrity of those figures.

I don't know if the recent statement by the F.B.I. is accurate in terms of Philadelphia being one of the safest cities of the ten large cities here in the country. They have made that statement. Of course, the Philadelphia Police Department provided them with those figures.

And I think we must remember that there are a number of good police officers who are doing a good job everyday

and they are being maligned by officers like now Detective Murray, Officer Salerno. We have Girard and Guy. These officers are renowned for their police abuse, particularly in minority communities. And I think it is about time that someone act decisively to remove those officers as a threat to the community and as a stigma to those good officers who do their job day in and day out.

Q Could you share with this Committee of the numbers of cases you received last year how many were Black, how many were Hispanic and how many were White?

A About 55 percent of the complaints we received were from Black persons, about 13 percent were from Hispanic. The rest, a little over 40 percent, were from White.

Let me point out something as well: Of the complaints that we received -- and it is an opinion, it is only my opinion based on the experience I have had in dealing with this issue -- that in many areas of the city, particularly in some sections of North Philadelphia where we believe, according to what people tell us at least, that there are acts of abuse that go unreported to us and to the Police Department everyday, but many times the people in some communities feel, "Why should I go to some downtown organization?" And I will tell you quite frankly, the police project included: "Why should I go to the police project, the District Attorney's office, the Police

Department, F.B.I., U. S. Attorney? Why should I go anywhere? It's been that way since the day I was born in this community; and from the way it looks, it's going to be that way."

So that often times they never make a complaint. So I think that is probably the reason why our statistics do not reflect a more accurate proportion of Black people in some communities making complaints. It is just not the thing to do. Many times they don't know who to complain to and you just, again, accept it as a way of life.

Q Could you share with this Committee, if ever in Philadelphia there have been any officers that have been suspended or disciplined, reprimanded, to your knowledge, for any police violence against civilian citizens?

A The Police Department has fired, suspended or reprimanded some officers for some acts of abuse.

As I have indicated to you, during the period 1972 to 1974 there were four officers who were fired because of shooting incidents. There have been other incidents where the Police Department has fired some officers and have suspended officers.

But I want you to understand that the Police Department itself receives nearly 1,000 complaints a year and what we are talking about now when I indicated to you that there were only, that there were four officers terminated in a two-year

period of time, and you are talking about within a two-year period of time nearly 2,000 complaints, four officers were terminated during that time for shooting.

There are other incidents that I am not personally aware of; but from the statistics we are aware of, there are some limited situations of reprimands and disciplinary actions that are meted out to some officers.

Q Does racial discrimination and corruption exist in the Philadelphia Police Department here in the city?

A I believe that it is true. And the reason I believe it is true, number one, from the victims who report of the beatings are primarily minority citizens. The persons who are perpetrating the beatings are white.

I am not suggesting at all that there are not Black officers who brutalize people. I am not suggesting that white people are not brutalized; but I am suggesting that the vast majority of the police officers who are brutalizing citizens are white officers.

BY THE CHAIRMAN:

Q Are you saying, for the record under oath to this Subcommittee, that the majority of cases, Black cases in the police project, the object of the complaint is a White officer?

A That's correct, sir.

Q Do you know whether in the City of Philadelphia, as

testified by Lieutenant Fife in the New York case that there is a policy of assigning Black officers to Black districts?

A I don't know of any such assignment policy. I am just not familiar with the assignment policy. But again let me point out, refer you to something else again.

As I said earlier, one of the Black communities in Philadelphia is in North Philadelphia, the 22nd and 23rd District is the heart of North Philadelphia. That district, as far as the complaints that we received, did not register that many complaints.

What I am suggesting to you is that these are not necessarily officers who were assigned to a Black neighborhood, but they were assigned in some of the neighborhoods of some of your members here, in the 14th Police District, Germantown and Haines. Most of our complaints came from Germantown and Haines, which is a mixed neighborhood, mixed middle-class neighborhood, if you will. Most of our complaints in police abuse came from the 14th District. Most of our shooting incidents, with the exception of those special squads, came from the 14th District. The perpetrators are White officers and the complainants are primarily Black citizens.

So I think the statistics that Lieutenant Fife gave with regard to New York City were not the same as they are in Philadelphia.

Q Do you have any indication in your records as to what the breakdown is in terms of on-duty officers and off-duty officers?

A I do for shootings during the period 1970 to 1974. I don't have them readily available and I can provide it at a later date; but we have not had an opportunity during our current study to isolate those off-duty officers. But we do know from our prior study that there were a number of officers who were off duty during that time.

Q Are the off-duty incidents deemed racial?

A We don't have that information; no, sir.

CHAIRMAN RHODES: Excuse me, Representative Richardson.

BY REP. RICHARDSON:

Q If you were to compare this city with other cities across this country relevant to the police violence question against civilians, where would Philadelphia sit on a scale relevant to police violence against civilians?

A On a scale of one to ten I would say minus ten, if ten is the best.

I think the reason for that is that there are -- I don't want to suggest to this forum, to this body that Philadelphia is the only city in the country that has a problem of police abuse. There are a number of cities across this country that have problems. The thing that seems different to

me, at least, is that in many of those cities at least the administration and/or its police commissioner has acknowledged the problem and has taken some steps to correct that problem.

We have a situation in Houston, Houston's Police Department is bad, there is no question about it. I think the Police Administration system within Houston is bad. They have a Mayor fortunately who says the problem is bad and they are taking steps to correct it. Their State Legislature is prepared to act, to correct the problem because the Mayor in Houston is not a strong Mayor type as we have in Philadelphia -- not talking about personalities, but given the form of government that governs Houston, strong Mayor-type. Our Mayor here in Philadelphia --

BY THE CHAIRMAN:

Q Not to cut off your appraisal of Houston, in reference to Representative Richardson's question, what the people forget is the Philadelphia Police Department is not the only Police Department operating within Philadelphia County. This Subcommittee has, one of its principal jurisdictions is to oversee the State Police in this state, and it is of significant interest, those who are assigned to the Philadelphia County area, who control the Schuylkill Expressway.

Have you had any complaints in the years you have been operating involving the State Police?

A We have had limited complaints of State Police or other

types of Police.

Philadelphia Housing Authority has its own police -

Q I mean --

A The Community Advocate Unit of the Pennsylvania Justice Department has the jurisdiction to investigate those complaints. We do not. The police project at P.I.L.C.O.P. does not investigate those complaints. We simply refer those cases to the Community Advocate Unit.

Q Do you have any idea as to how many State Troopers were -- complaints of all the State Policemen?

A I just have no idea at all. We don't unfortunately identify or isolate all of those complaints. We kind of aggregate them in terms of what cases we refer to, to that unit.

Q How about private security guards, do you refer those also?

A Yes, we do.

Q For your information, the Community Advocate Unit yesterday testified that they had almost no complaints of officer abuse.

A Now let me explain. We refer the people when they call up to make a complaint. Sometimes if the complaint made, if it was a Philadelphia Police Officer, it may not be the kind of complaint that we would determine requires further treatment. It is just that as soon as they talk about the State, "I have a complaint against the State Police," we say, "Well, before you go on, let me refer you to the Community Advocate Unit."

So what I am suggesting to you is that we have no idea of the quality of those complaints or whether or not there is any follow-up. I know personally as well as from conversations with our staff that we do have some complaints against Philadelphia Housing Authority Guards, against the State Police, as well as some Private Security people, as well as from some suburban areas.

All we do at that time is refer them on. We don't open a file or take them by the hand. We just give them the number.

CHAIRMAN RHODES: Representative Richardson.

BY REP. RICHARDSON:

Q In your opinion, in the City of Philadelphia would you say that Philadelphia is a police dictatorial state now?

A I don't think so. I think it has a potential to become that.

Ben Holman said it, and I have said it a number of times, when you have an arm of government like the police who people come in contact with on a daily basis with so much power, the power of life and death, and when the citizens of Philadelphia begin to become aware that if you make a complaint against the police you don't have an opportunity, you don't have -- the public does not have an opportunity to see what happens.

What happens, obviously, there is a perception, at least a perception of injustice, meaning you don't know what happens and from all reports very little, if anything, happens. People are going to begin to wonder if the Police Department itself is not going to do anything then someone else has to do it. If they won't establish an internal mechanism for police disciplinary action, then maybe there ought to be an external system very similar to the Police Advisory Board that we had here in Philadelphia before.

But this time, if it comes about, one that has the power to act and to act decisively.

Q You already indicated that 45 percent of those individuals who were shot or killed by police officers in the city was 45 percent; is that correct?

A That's right.

Q Okay.

A Yes, 45, unarmed, unarmed.

Q At the time they got shot?

A Yes, sir.

Q Could you give us that figure in numbers and what numbers are you referring to, 45 percent of what?

A Forty-five percent of the 395.

BY THE CHAIRMAN:

Q Around 190?

A That's correct.

Q Do you have any break-out as to that, whether dead or wounded?

A I could give you the aggregate figures.

For 1975 I have that there were 25 killed, 55 wounded. That comes out to 31 percent killed, 68 percent wounded.

In 1976, 13 were killed, 41 wounded. That comes out to 75 percent wounded, 24 --

Q These are people killed who were unarmed?

A Oh, no. This is the aggregate figure. I am sorry, you want of those who were unarmed, how many were killed or wounded?

BY REP. RICHARDSON:

Q Well, my question at this particular time, of the 45 percent that were unarmed, out of the 395, how many were killed?

A I don't have the composite figure for those. I will have them before I leave today and I can provide them to you.

Q Okay, give me your aggregate figure.

A Yes, sir. Again in 1976, 13 or 24 percent killed, 41 or 75 percent were wounded.

In 1977, this is up to July 10th of last year, so just about a six month, seven months of the year: Seven were killed, 28 percent, that represents 28 percent. 18 were wounded which represents 72 percent.

Q How many have been killed this year?

A We have not compiled the study for this year, sir, because of the methodology that we used it requires resources that we have not had this year to do that.

Q Okay. My final question is can you give this Committee the names of other citizens in the city, both Black, White and Hispanic who have been beaten, who can testify before this Committee?

A Yes, sir, I can. I have spoken with staff members of this body as well as the Chairman who has assured me these people will have an opportunity to talk. And I am prepared today to give additional names of our clients.

We have a number of them as I have testified to earlier, and we have talked to them and they will be here either with counsel or by themselves.

REP. RICHARDSON: Mr. Chairman, thank you.

CHAIRMAN RHODES: Thank you very much,
Representative.

Representative Wiggins, do you have any questions?

REP. WIGGINS: Yes.

BY REP. WIGGINS:

Q Mr. Jackson, it's been figured by Mr. Ben Holman in previous testimony that the Police Force is a paramilitary organization; however, it lacks discipline.

CHAIRMAN RHODES: For the record, Representative Wiggins, I think we ought to indicate for the record Mr. Holman was the Director of the Department of Justice Community Services, Bureau Section, out of Washington for a period of almost eight years from 1969 to 1977.

Go ahead.

BY REP. WIGGINS:

Q My question to you, sir, is with the recommendations that you have made, are you suggesting that possibly the police force itself should be handled as a military entity; therefore, establish printed guidelines such as the U.M.C.J., which does control the military, with any violations being handled on various levels?

For comparison purposes, in the military when I was in the service there would be Article 13, a Summary and a General Court Martial, but with different degrees on the various levels of violations of the U.M.C.J.

Are you suggesting that possibly that such a manual be prepared, made into law wherein for various levels of violations of said manuals it would either be handled on a City level, State level or possibly a coordinated effort by both, depending on the crime, such as use of abuse of these forces? Is that what you are suggesting, sir?

A I am indeed. And the reason why I am suggesting this kind

of legislation that you suggest: Here in the City of Philadelphia if we take a moment, if a police officer comes in right now and beats me on the head with all of us here witnessing it, what would that officer -- assuming for a moment we are getting out of the area of criminality -- what would the Police Department itself do administratively? Administratively, what would that officer be charged with? He could be charged with conduct unbecoming an officer, he could be charged with willful disobedience of an order; but he will not be charged with beating somebody.

There is no ordinance, no guideline, no regulation no rule within the City of Philadelphia's Police Department that prohibits you specifically from beating anybody. It seems to me it is an indication of what the attitude is.

I don't think that is an oversight that you don't include that. They do have in their manual that you are forbidden to read newspapers in the patrol car. If they can include that in their manual, it seems to me they should also include that you don't beat people.

BY THE CHAIRMAN:

Q Mr. Jackson, you testified earlier that you had knowledge of the police manual which indicates it forbids the use of deadly force in certain situations?

A That's correct, sir.

Q And I was surprised. I noted that in the manual and I was surprised the way it came about. I will have to look it up.

A Page 64. For firearms, you mean?

Q Yes. It follows something about, it came about in a very curious way in the manual because it follows, "Geographic knowledge of the area."

On that page first you have, "Use of flashlights."

A That's right.

Q The thing that struck me odd about the use of flashlight, you are instructed to keep the flashlight out about here so if somebody is shooting at you they hit the flashlight. That seems like a reasonable rule.

Then it says, "Geographic knowledge of the area," and it says basically the police officer ought to know where places are in their district so if someone asks them how to get to, say, Broad and Girard, he won't look stupid.

Then it says, "Use of firearms," and it says -- and I was surprised by that because I thought in between "knowledge of the area" and "use of firearms" ought to be something like use of Billy Clubs, use of fists, use of other things.

Is it your testimony that there is no place else in the manual that says how you can use a Billy Club or a fist or how to make an arrest?

A None that I have seen.

Also with regard to their disciplinary code there is a separate police disciplinary code which spells out the various punishment and disciplinary actions that could be taken for various activities. Again, in the disciplinary code there is no provision for specifically prohibiting an officer from beating someone.

Again, there are proscriptions against doing all kinds of things while you are on duty such as reading the newspaper while you are in the patrol car or not being properly attired, and things of that sort.

Q But is there disciplinary action for the use of firearms?

A Yes, there is.

Q What about the use of the Nightstick?

A As has been explained to me, that could come under conduct unbecoming an officer or some other category within its disciplinary code. But it seems to me that it ought to be an important enough issue that specifically proscribes a police officer from doing that kind of act.

And I think the reason that many police officers perhaps have some doubt about that is that we do have the Mayor, we do have the Police Commissioner who are suggesting and encouraging the police officers to act one way. As we heard the Police Commissioner and the Mayor saying that those six homicide

detectives were not guilty of any abuse, but the courts and the jurors have said that they are guilty. So the officers are caught in the middle. The community and the courts said they did something wrong; the Police Commissioner and the Mayor said they didn't.

Who are the police officers supposed to believe? Well, they get their job, they keep their job because of the Police Commissioner and the Mayor. And I think in these types of economic hardships people want to keep their jobs. And who are they going to follow? Tony Jackson doesn't have anything to do with their jobs, or the courts who have nothing right now to do with their jobs. They are going to follow the Police Commissioner and the Mayor in these kinds of illegal acts.

CHAIRMAN RHODES: Representative Wiggins, do you have any further questions?

REP. WIGGINS: No, thank you.

CHAIRMAN RHODES: I would like to acknowledge at this time for the record the presence of Representative William Hutchinson, distinguished member of the Subcommittee for Schuylkill County.

To his left, Representative Hardy Williams from Philadelphia County.

Did I introduce Representative Dumas?
Representative Aljia Dumas of Philadelphia County.

Continuing down the line, Representative Hutchinson just came in. Do you have any questions?

REP. HUTCHINSON: No.

CHAIRMAN RHODES: Representative Williams, do you have any questions?

REP. WILLIAMS: No.

CHAIRMAN RHODES: Representative White, do you have any questions?

REP. WHITE: Yes. Thank you.

BY REP. WHITE:

Q Mr. Jackson, again I want to join with the members of the Committee and thank you for your testimony this morning.

As an attorney doing your work with P.I.L.C.O.P. and your information-gathering techniques, you not only receive complaints about violent acts of police officers, but also of non-violent acts by police officers; is that correct?

A That's correct, sir.

Q How many of the complaints that you have received in that period between 1970 and July of 1977 that involve quote "non-violent acts" such as illegal entry, complaints of harassment by individual officers?

A Let me explain, the report that was done for deadly force from 1970 to 1977 was just on deadly force. We compiled statistics on other than deadly force on a yearly basis. I have

statistics with me today for 1976 and it bears out the same proportion or percentages as was for 1975, and in that situation -- would you bear with me a moment.

(Pause.)

Okay, based on our statistics, it would come out to be 60 percent of our complaints would be abusive force, 40 percent would be for some other type of abusive action.

Q What are some other types of abusive action?

A The other types of abusive actions would be harassment; illegal search and seizure; confiscation of property; property damage, that is when they go in and knock the door down and it turns out they are searching the wrong house; verbal slurs such as racial slurs; discourtesy; false arrest and so forth.

Q How do you think that complaints of that type as heretofore we have all been concentrating on, all the more physical violent acts of the Police Department, but it would seem to me that given the number of contacts police officers have with individuals throughout the day or during the course of the day, during the work hours, that the potential would be greater for the 40 percent category of other abusive kinds of things than some type of violent action.

Two points on that: One, given that degree of frequency, why is it that 60 percent of the complaints you have received are for excessive abuse of force and 40 percent for

other areas, coupling that with, I believe in your testimony you stated that the disconcerting relationship between police officers or the Police Department and local communities.

How do you -- do you understand?

A I understand. It is difficult for me to reconcile it to a certainty; but based on my experience in the area, several phenomena become clear:

Sixty percent abusive force, 40 percent of the other types of activities. Sometimes of course a police officer -- some of our statistics reflect a number of complaints. Some of them are abusive force as well as non-abusive force. The reason for this -- and it is important, I think, to note, that often times a citizen believes they have a right to ask a police officer why he is doing something.

Q Does he have that right?

A We have a number of complaints that reflect that they ask the police officer --

Q Do we have that right?

A Absolutely you have a right to ask a police officer what he is doing.

Q What is the general response to that?

A That's when it becomes an abuse of force complaint because what happens is the person will ask, "what are you doing," and perhaps the police officer will answer or not answer. And,

"I have a right to know what you are doing," and then what happens, there is a fight, then it becomes an abusive force complaint, it becomes a racial slur perhaps. It also becomes illegal arrest because the person is ultimately found not guilty of resisting arrest and assault and battery on a police officer, but you can see it build.

We have the case of Cradle down in South Philadelphia who had the audacity to ask a police officer why he was taking so long to write out a ticket. We see those situations happen often times where again the citizens really believe they have the right, and they do of course have the right to ask an officer, "what are you doing?" Or tell an officer, "well, you don't have a right to do this, that, or the other to me."

Of course, the police officer understands that he may not have the right, but he has the immediate power to do anything he wants to do. And that is it. That is the point we have been making all along, that uncontrolled power of the police officer that is encouraged by our Mayor, encouraged by our Police Commissioner; and if they are not taking the steps, then we look to this body, to the State Legislature, to legislate, that they must comply with standards and rules and the laws of the Commonwealth of Pennsylvania.

And to follow your point a little further, with

regard to those other acts of non-violent abuse, I think what it typifies is again the attitude and policy of the Police Department that suggests, "Well, we broke down your door, we made a mistake, and 'tough.'"

We recently about three weeks ago had a situation in North Philadelphia, I don't have the address with me right now, where there was a man in a home, he shot someone, that someone went outside.

Later on the police were there, the man then, still inside his home, he shot himself.

Okay, the police at that time who were at the scene, what they did, they began to shoot at two houses, two of the wrong houses. In one of those houses there were eight kids and a mother and father.

After shooting in the house, and we have the bullets -- I am sorry, they have now been turned over to the District Attorney's office. We have the slugs. They just shot at the wrong house, they broke the door open. The man of the house said, "What are you doing this for?" They shoved him, handcuffed him behind his back and put him in the wagon. The mother, they pushed her aside. The kids were hiding under the bed.

All I am suggesting to you is that the police in that situation -- we are talking about a paramilitary

organization, it is indeed a military organization. They just proceeded to run through the house. They had made a mistake. The people, the occupants of the house tried to explain that to the police, and for that the husband was put in the wagon. He was released after about an hour. The mother was pushed aside. And to this day she is upset with her kids coming very close to being shot.

The people next door they were shot at, an elderly couple. It's that kind of encouragement that they get from the Police Department.

Q And that would most definitely be considered police abuse?

A Yes, it would. But would it be considered criminality? There is a question. I think it is, but I think this body ought to remember it is very easy for us to identify something that is criminal. You say, "Well, the U. S. Attorney or the District Attorney's office will handle it." I think there are some other acts that the Police Department ought to take care of within its own disciplinary mechanism.

If one of the police officers calls me a nigger, I don't know if that is a criminal act. It might be, it might be some sort of an assault. It would seem to me if a police officer just calls me a dirty name for some reason, I ought to have some recourse to the Police Department.

BY THE CHAIRMAN:

Q Have you ever been stopped by the police for speeding or anything like that?

A Yes, I have, sir, unfortunately.

Q Or the State Police?

A Yes, sir.

Q Have you ever been treated discourteously?

A I have not had the experience of being treated discourteously.

Q Neither have I. Do you know why?

A I suppose there is some strong policy within the state police --

Q If the state trooper says anything, if the state trooper is discourteous to anybody -- not calling you a nigger, not calling you names, not rousing you in the car, not physically abusing you -- if he is just discourteous to you, hasty in the way of his demeanor, he is given six days automatically, he has no appeal.

Now that is not because our state troopers are wonderful, it is because we have a very clear disciplinary code with the state police.

CHAIRMAN RHODES: Representative White.

REP. WHITE: Thank you.

BY REP. WHITE:

Q If I may continue, Mr. Jackson, if I came down from this

table and proceeded to beat on you, and you filed a complaint with the Philadelphia Police Department, what procedure would be followed?

A To have you as a citizen?

Q And you are an attorney.

A Yes, sir.

Q And I as a private citizen.

A Yes.

Q What would the procedure be that would follow from that point after you filed a complaint?

A After I filed a complaint the charges, of course, would be brought against you. The police would arrest you. You would be fingerprinted and photographed at the Roundhouse. You would be kept there perhaps 15 hours before you would be released on bail on your own recognizance.

Trial would be established in open court; but eventually you would be brought to a public trial where I would have an opportunity to testify and see what, if any, punishment would be given to you and whether or not you had been proven guilty of the crime.

You would have an opportunity to defend yourself, and I would have an opportunity to bring the charges against you.

REP. RICHARDSON: May I have two minutes for

clarification?

CHAIRMAN RHODES: Representative Richardson.

BY REP. RICHARDSON:

Q If he is a citizen and you are a citizen, although you are a lawyer, and the police did not see it, doesn't that pose a different kind of procedure to follow? Wouldn't that be a fact that they would not bring charges against him because they did not see it? Is that not a fact?

A That is a fact. I was assuming the police officer was there

BY REP. WHITE:

Q No.

A Oh, the police officer is not here, I'm sorry.

CHAIRMAN RHODES: It is not an on-site arrest.

THE WITNESS: Okay. Then if it is not an on-site arrest, I would have to file a private criminal complaint as a result of your beating me. Police officers make sight arrests. If it doesn't happen in their sight for a misdemeanor, they then have to wait for a private criminal complaint.

But let me point out, depending on how you beat me it could be construed as aggravated assault which is a felony, which police officers can arrest on probable cause. Robbery, burglary, rape, aggravated assault, the police officer can make an arrest without ever seeing you, just on probable cause to believe that Tony Jackson is telling the truth about John White

beating him up. But in most situations where we assume it is not a felony, I would have to resort to a private complaint.

BY REP. WHITE:

Q And you would file that private criminal complaint with the District Attorney's office?

A That's correct.

Q What happens from that point?

A A summons would be issued for the appearance of the police officer at City Hall Annex.

Q Why the police officer?

A I am sorry, I am sorry. I am thinking about something else.

You would be summoned to City Hall Annex to appear before a Deputy Trial Commissioner.

Q And what happens then?

A At that time the Deputy Trial Commissioner would ask me what happened and I would say, and the Deputy Trial Commissioner would say, "Well, would you be satisfied if John White promised that he wouldn't hit you again in two years?" If I said, "Yes," that would be the end of it. If I said, "No, I want a conviction," it would then be sent to City Hall and then be put in the Criminal Justice System.

Then it would be listed for trial in Municipal Court -- again I am assuming it is a misdemeanor -- in Municipal Court. At that time a trial date would be set and you would be

required to appear in court, and I would have an opportunity to then present the facts as to what happened, you would have an opportunity to defend yourself, and the judge in open court would make a determination based on the facts that are presented in the case.

Q What happens if I, as a police officer, inflicted the same type of wounds on you?

A Okay, if you are a police officer and you inflict that wound, you now go to the Police Brutality Unit of the District Attorney's office.

Q What is the difference -- I am sorry, go ahead.

A The difference now is that it is up to the District Attorney's Unit to make a determination whether or not there is enough evidence and facts to warrant issuance of the summons. They would not do it in the first instance. The first instance they would assume what I say is true, issue the summons and you would be brought into court.

With police you go to the special unit. They listen to the facts, perhaps investigate. And if there -- well, they listen to the facts, investigate the matter and then perhaps bring charges against the police officer. But it would not be done immediately based on what I tell you.

Q Quite a difference.

A Quite a difference.

Q My final two questions --

BY THE CHAIRMAN:

Q Just to clarify that, Representative White, even if the District Attorney chooses not to bring criminal charges, you would still have the right, if you are attacked by a police officer, to bring a private criminal complaint?

A No, sir. No, sir, you cannot.

Q You cannot file a private criminal complaint?

A There is the authority for bringing a private criminal action against the police officer, but it must be cleared first with the District Attorney's office.

You cannot bring a direct criminal action against an officer without the District Attorney's office issuing a summons.

I might also add, sir, that in the situations -- never mind.

Let me explain something that may shed some light on this situation. We do now have, of course, a new District Attorney, Ed Rendell, who does have a new Police Brutality Unit. In the past, that is, up until January of this year what was necessary, you go to the District Attorney's office to file this complaint and they would discourage you. Our agency on several occasions had to file a petition in court to a Common Pleas Judge to order the District Attorney's office to issue the summons

against the police officer because there was no effort on the part of the District Attorney's office to bring the charges.

We can only hope, based on the statements of the new District Attorney's office, that that will no longer be the case. But I think it is a little bit too early to tell. We are waiting to see what Mr. Rendell does.

BY REP. HUTCHINSON:

Q It is my understanding, but I am trying to get at the problem, our problem is to try to determine what, if anything, we can do with the law.

There are some things not amenable, not statutory demands, but it is my understanding that in the Commonwealth of Pennsylvania and indeed in almost every English speaking jurisdiction, legal system, that the decision in all cases as to whether or not to institute a prosecution or to process it beyond the initial complaint, you can file a complaint, an individual can file a criminal complaint, but the decision as to whether or not to take that case through the legal process, through the criminal process to trial is entirely an oath in the discretion of the District Attorney as the prosecuting officer and there is no check, as I understand it, on that discretion, no practical effective check.

Now that is not just in Philadelphia, that is true where I come from in Pottsville, it is true in Pittsburgh.

So you have the problem of the individual District Attorney, if you have a good one and he handles it well, the community is satisfied. If he gives special treatment to one particular group then you have the kind of problem you have here.

And there have been suggestions made by legal scholars and professors that perhaps that discretion is needed, but that it would be a good idea for the District Attorney to set up some guidelines or standards under which they would exercise that discretion.

Q Are there any guidelines or standards set up right here in Philadelphia with respect to when the District Attorney's office has the discretion?

A With regard to police, I am not aware of any written guidelines.

Again the unit was newly created, I don't know whether or not there are guidelines. Perhaps there are and of course yesterday, as I understand it, George Parry testified.

I have some reservations about some of the proposed activities, procedures that the District Attorney's office intends to pursue; but the one thing that I would like to clarify if I could, Representative Hutchinson, is that the discretion of the prosecutor is exercised with regard to whether or not he prosecutes but not with regard to whether or not the

person is charged.

Unfortunately here in the City of Philadelphia the charging function is solely within the discretion of the police, not the District Attorney.

Q What is that based on? Why can't you or a citizen who has a complaint about a police officer that he believes to be a criminal man, why doesn't he have the right as he would where I come from? He may not get anywhere with it, because the District Attorney may refuse to prosecute; but why doesn't he have the right to go down to the issuing authority, the Magistrate, file a criminal complaint and have a preliminary hearing before that Magistrate and then get the matter handled by the District Attorney? What makes Philadelphia different in that respect?

A Well, as I understand it, at least that there is a fear that if citizens had the right to bring charges against police officers that they would not act responsibly, that they would begin to bring charges against police officers with great frequency.

For some reason citizens of Philadelphia are not accorded the same type of respect with police officers as they are with everyone else. It doesn't matter if today I wanted to go and bring criminal charges against everybody here, I could do it. But with the police officers they feel, well, I won't

do it in the same responsible manner.

BY THE CHAIRMAN:

Q Is that by statute or --

A Not by statute.

BY REP. HUTCHINSON:

Q What legal authority do they have for that decision?

A Again the basis, as we know of course Philadelphia's Police Department has the charging function. The prosecutor has the discretion whether or not to prosecute. But the prosecutor has set up this screening function, if you will, whether or not it will issue a summons against a police officer for his appearance.

Now of course the police officer will not go through and be fingerprinted and photographed or any of that. It has just been built into our culture from a number of years that this is the way you want to protect police officers here in the City of Philadelphia.

CHAIRMAN RHODES: Representative Williams.

BY REP. WILLIAMS :

Q It is my understanding that the discretion by the issuing authority D. A. that there is some discretion, responsibility that that's true, but even though the practices are what you say, the legal basis is that there is a discretion based on legal responsibility.

CHAIRMAN RHODES: Representative Williams, do you

know whether that discretion -- and Representative Hutchinson, do either of you know whether that discretion, can the D. A. exercise that discretion before it gets to a preliminary hearing stage anywhere in the Commonwealth?

REP. HUTCHINSON: Well, Mr. Reilly suggested at one of earlier sessions, he said the Pennsylvania system of having the police make the initial decision, the charging authority function, is peculiar, I had never heard of that because it is normally by the District Attorney. But I don't know where this arises, it is foreign to me because as far as I know under the rules of criminal procedure with respect to issuing authority, a private citizen has a right to file a complaint.

Now the Magistrate or if it is outside of Philadelphia, the District Justice, but the Magistrate with issuing authority does have the power to determine whether there is probable cause to refer the matter to the District Attorney -- first of all, whether the indictment should be stopped. But I never knew that he had the power to just say, "I won't issue a complaint."

I have just been wondering where they get that --

REP. WILLIAMS: We are talking about two different things. We are talking about the authority to decide and probable cause and discretion. But in practical effect not

even dealing with that, if someone requests it based on the discretion, in other words the practice is that they don't even look at it if it has something to do with private citizens.

REP. HUTCHINSON: Yes, but a private citizen has a complaint against the police as a police officer in the City of Philadelphia, you can't even get a complaint filed unless you have it reviewed initially by the District Attorney's office --

THE WITNESS: Could I interject? I have just been advised that the situation I have just told you about is currently under review in the new District Attorney's office. If they decide that it does not warrant their direct attention, that you would still be allowed now to follow along with your private criminal complaint. I don't know whether or not it is operational now, but it is under review that should they decide they don't believe they want to follow it, they will at least let you go along with your private criminal complaint to City Hall Annex, I would imagine.

BY THE CHAIRMAN:

Q Do you know whether that is under consideration or that is a revision that is in effect?

A I am not certain. I understand there was a recent --

REP. HUTCHINSON: I can see a problem if anybody could walk in and file and follow a complaint all the way

through without a basis, that would be a problem for the law. But I see another problem where you apparently don't even have the right to file a complaint and bring it to the attention of anyone. That is a different kind of matter.

I would think the discretion of the District Attorney in throwing out matters that are of no merit, I believe there should be sufficient protection.

THE WITNESS: If I could point out one thing.

CHAIRMAN RHODES: I think Representative White still has the floor.

THE WITNESS: It was in response to the question. I wanted to make sure it was clear about one point.

If the District Attorney allows you to follow through with your private criminal complaint and you go to City Hall Annex, if you are not satisfied when you get back in City Hall, you are back again with an Assistant District Attorney who must prosecute the case that they had already said they are not going to prosecute. So again it is thrown out later on rather than in the beginning. So again you are right back in the same situation. So it doesn't make any difference. If they make a determination that they are not going to prosecute, it then only becomes a question of when they are not going to prosecute.

BY THE CHAIRMAN:

Q And there is also nol pros process?

A Right.

Q Even after the charges have been preferred?

A That's right.

CHAIRMAN RHODES: Representative White, do you have any other questions?

REP. WHITE: Yes, I do.

BY REP. WHITE:

Q Mr. Jackson, with regard to the police witnessing any wrongdoing, it occurs to me that if a uniformed officer or non-uniformed officer while on duty, saw anyone of us in this room committing an act, and illegal act, that he certainly would have the authority and the duty, the responsibility to intercede either to arrest, apprehend, or in some kind of way discourage.

I have seen, for example, police officers drive through particular neighborhoods, they may see two teenagers about to fight and the officer will get out of the car and will kind of break up that fight. I have seen other cases where police officers have seen young people gathering in the street, rode around the corner, come back 10 or 15 minutes later, some people are fighting; arrest somebody, take somebody down, someone has been killed, things of that nature.

But with respect to a partner as a police officer you and I are police officers and I am in the car and you get

out of that car, and I see you abusing or committing an illegal act upon a private citizen.

Is there anything, any police regulation, any law which obligates me to report that incident to anyone as a police officer?

A There is within the Police Department, within their manual, within their training, all over the place they tell you if you see a crime committed you have an obligation to act.

Q Out of all of those complaints that you have received, how many officers, partners of those persons accused have ever come forward and offered information regarding that incident?

A With the exception of one involving Al Deal about -- Al Deal is the police officer and President of the North Philadelphia Action Branch -- about a year and a half ago, perhaps two years ago. As far as I know, he is the only officer who has ever come forward to complain about the abuse of another officer.

REP. WILLIAMS: You didn't mention an organization, you said Action Branch; of what?

THE WITNESS: Oh, I am sorry, of the N.A.A.C.P. I am terribly sorry.

Thank you, sir.

BY REP. WHITE:

Q That is the only incident where a police officer had come forward?

A That's correct. And I think it showed an awful lot of courage on his part because of the subsequent ramifications of that.

And I would also like to point out in response to that, the Frank Stumpo case I mentioned earlier, that is the only incident I know of where again his partner, Mangello, was given 10 days' suspension because he again looked on and did nothing.

BY THE CHAIRMAN:

Q Let me ask this question: You testified that there had been scores of people basically shot, killed, wounded, almost half of them unarmed, by the police. I don't know what the circumstances were, but I assume a lot of them or some of them had to be under suspicious circumstances.

Are you saying that in the times that you have been covering this statistically there has never been an on-site filing of criminal charges by one police officer in Philadelphia against another?

A I am only aware of one, sir. Again, there were --

Q Do they have in their manual requirements that say -- I don't mean complaints to you, I mean by arresting, one officer turns around and says, "You are under arrest because I just saw you commit murder"?

A I know of no arrests that have ever been made.

Q I am not talking about complaints. I am talking about one officer turns to the other officer and says, "I saw you commit an act of aggravated assault, and my understanding of the criminal statute of the Commonwealth" -- I mean, he starts reading him his rights, "You have a right to remain silent, you have a right," et cetera, "You are under arrest."

A I know of no situation even in the case of Al Deal who did not make an arrest of his sergeant at that time. But I know of no arrest. And it was the sergeant, from the reports it was the sergeant who committed the act that he was complaining about, but he was not able to make an arrest.

Q That happens a lot in Pittsburgh.

A Well, maybe we need your Commissioner here.

CHAIRMAN RHODES: Representative Williams.

REP. WILLIAMS: Thank you, Mr. Chairman.

BY REP. WILLIAMS.

Q Mr. Jackson, in reference to Mr. White's question, do they have an obligation, it is my understanding there is a legal obligation, statutory obligation for police officers legally under legislation to do something about it, in which case --

CHAIRMAN RHODES: A legal obligation for police officers.

THE WITNESS: I am not aware of the specific statute within our code that would oblige the police officer to

make an arrest. I know he has the authority, but I stand corrected if I am. I know of the regulation.

BY REP. WILLIAMS:

Q If I were a cop and I saw you kill somebody, wouldn't I be guilty or something as a police officer?

A Administratively, I know you would. Under the Crimes Code.--

Q Something, misfeasance --

A Misfeasance in office, perhaps, sir. I just don't know.

REP. HUTCHINSON: There is a problem with the Crimes Code, as I understand it, that those crimes which are in the old act somehow got amended out. I think perhaps we ought to take a look in that area.

CHAIRMAN RHODES: Yes, we will definitely review this.

REP. HUTCHINSON: And when we review it, to see whether we should have legislation.

(Brief recess.)

CHAIRMAN RHODES: Representative White has a couple of extremely brief questions for you.

BY REP. WHITE:

Q First of all, in regard to the previously exchanged dialogue, I think we have been upon the subject of an area which at this point is undefined or somewhat cloudy. We have certainly been in an area that we have to take a look at. I am

sure with respect to the members of this Committee that we will be taking a look at the statutes in regard to that particular situation and Representative Williams and Representative Hutchinson have all the legal expertise --

CHAIRMAN RHODES: We have our own lawyers.

BY REP. WHITE:

Q My final two questions, Mr. Jackson: We also in this week have been hearing about all of the people who should be involved, all of the people who have some kind of an impact on the attitude of police and the actions that they take.

Now most of the weight has been laid at the feet of leadership, with respect to Mayor Rizzo, with respect to Commissioner O'Neill.

We have heard testimony that has indicated that the community must be involved in working with various departments of the communities, members of the communities, community relations.

One unit that I have not heard discussed is the role of the Fraternal Order of Police with respect to the subject of these hearings.

A Okay, I have, of course, had --

CHAIRMAN RHODES: Representative White, do you have a specific question?

BY REP. WHITE:

Q My question is: What role, if any, does the Fraternal Order of Police play in shaping attitudes of its membership with regard to police violence, police abuse?

A Several points I would like to make in regard to that.

The Fraternal Order of Police will pay the attorneys for any police officer where charges are brought against them, across the board, they will pay for the attorneys.

The thing that I find that perhaps even more intriguing, within the investigations of a police abuse complaint the Police Department assuming they will ask, would interview the complainant, they will interview the complainant and ask, "Will you subject yourself to a lie detector test?" The person says, "Yes, as long as the police officer will subject himself to a lie detector test."

The F.O.P. says, "We will not provide you with counsel if you take a lie detector test. We want you to go through with the trial. If you go through the lie detector test, you have to get the lawyer on your own."

Now that seems to me to indicate that they are not trying to resolve the situation but merely to exasperate the situation. I don't think they are indeed taking an active role in trying to ferret out some officers within their own ranks, that they should have an obligation to do.

They feel they are a bargaining agent for the

police officers and, as such, they have no obligation to ferret out any kinds of abusive acts.

Publicly, what the former president of the F.O.P. says it is not an obligation of the union, it is an obligation of the hiring authority, meaning the Police Commissioner; so the one act within their policy of not providing counsel if you go through the lie detector test is the clear act, as far as I am concerned, of what their attitude is towards the entire situation.

Q Do you agree with that?

A No, I don't.

Lie detector tests -- I am an attorney, I am not really in favor of it, but if that helps to resolve the situation immediately, if the complainant is willing to take it so long as the officer takes it, meaning that you could perhaps resolve the situation quickly and efficiently, then why not? And it just seems there is an obvious resentment against it.

Let him go through the trial, we will get an excellent attorney who will be able to call upon the prejudices of the jury and perhaps win the case.

BY THE CHAIRMAN:

Q Mr. Jackson, in your experience with the project, has any police officer ever waived this provision of the F.O.P. and taken a lie detector test?

A Never that I know of. A former policeman, Rizzo did, but he wasn't a police officer at that time.

(Laughter.)

He is the only one I know, and he is a former police officer.

BY REP. WHITE:

Q Mr. Jackson, a final question:

Do you possess any knowledge of deliberate attempts on the part of the Philadelphia Police Department to alter, falsify or destroy records of civilian complaints?

A I know of complaints that people have made to the Police Department, and when they later go back to find out the disposition of it they were told they don't know anything about it.

Q Are you speaking of complaints that are given over the phone or in writing or by letter, or by specific form?

When you say you know of individuals who have filed complaints and they have gone back and found the Police Department said they knew nothing about it, how is that complaint filed, or was it filed?

A We are talking about prior to February 15th, if I can make that line of demarcation.

What I am saying to you is that we have gotten complaints that people have used each of those sources and gone

back and there are people who have telephoned the Police Department, people who have gone into the district, people who have reported incidents to the police officers on the scene; and what I am saying to you is that we have gotten complaints that people have used each of those sources.

Q Could you repeat those sources?

A By telephone, by walking into the police district.

Q Are telephone calls received by the Department taped or monitored?

A Yes. If you call the Police Department it will be -- if you call to the police radio. If you call to the district, it would not be taped.

BY THE CHAIRMAN:

Q If you call 911 it's taped?

A Yes. But the problem, of course, if you call 911 or 231-3131, you will get police radio. If you want to make a complaint not an immediate complaint, but you want to make a complaint against an officer, they will give you the number to the Police District. You will then call the Police District where there is no tape.

BY REP. WHITE:

Q So there will be no record of the phone call? The phone calls are not logged?

A I don't know if they are logged or not. I am sure they are

supposed to be; but we know of situations of course, even with the tapes where the tapes are reused by the Police Department after a period of time because it is too expensive -- at least I am told -- to buy any tapes, so it is destroyed after a period of time.

Q The telephone -- go ahead.

A That was the telephone.

In situations where the people go to the district, assuming they can make the complaint -- and that's another story, but assuming --

Q What do you mean by that?

A Well, there are people who have gone to the Police District to make a complaint and, as you can perhaps imagine, they are going to the police to complain about the police; and often times a person is not able to make that complaint because of the intimidating atmosphere that exists within the Police District.

I know of a situation even since February 15th where the Police Department has its new system where the person fills out a complaint and receives a copy of the complaint. It's just taken us a long time just to get that, but at least now we do have that. But the person went in to make a complaint to the Police District about some incident that had happened to her son, the son came back and told her.

She went back to that Police District, 55th and

Pine, to make the complaint about the officer. She was told by the officer that, "I'm going to either kick your ass, arrest you, or you can leave."

She had three choices: She could have her ass kicked, she could be arrested or she could leave; she left.

Later I was called in; I went up. Eventually they told her to go back to the district and insist. She was wise enough not to do that. I was able to get a sergeant in Community Relations and eventually we were able to get out and file the complaint. That was in March of this year.

The Police Department says under its new system that they will give some response to the complainant within 45 days. To this date, July 21, 1978, she has not received any response to that complaint nor I as her counsel, so this situation to some extent exists today that there is no response to a complaint the Philadelphia Police Department.

REP. WHITE: Thank you.

CHAIRMAN RHODES: Thank you.

Representative Dumas, do you have any questions?

REP. DUMAS: Yes, thank you.

BY REP. DUMAS:

Q Mr. Jackson, from your vast experience in dealing with police complaints, what would be your suggestion to curb somewhat the violence that is being perpetrated on our citizens from the

police rather than wait until it goes through legislation and all that?

A Well, other than the political change that would certainly make a difference, if somehow we could have the leadership of this city, the Mayor and the Police Commissioner to act right away and start to take some affirmative action -- we have a situation where a man just recently, Mr. Hood, was shot and killed. I don't know whether or not that officer was justified in shooting or not. There are reports he was not.

But it would seem to me that if the leadership of this city wanted to engender better police community relations they would have an open hearing to make a determination what exactly happened, let each and every one of the witnesses who said that they saw what happened, let them come forward and give their statement, let the police officers who were at that scene -- let us all know what's going on.

When the Police Department says, "we have investigated and we found no wrong," we hear this often times. The Mayor has said that in a number of situations he has asked the Police Commissioner to investigate certain allegations of abuse, and the Police Commissioner has assured him that there is no abuse. But we don't know what they do. They say they investigate. We don't know who they talk to, they do not give us any statement that they received. We don't know whether

they intimidated the witness. We don't know whether or not they have all the evidence.

Maybe they are right, maybe they don't have enough evidence to bring charges against a police officer; but if we in the community knew that they didn't have certain information, maybe we could provide it to them. But they leave us in the dark as to what they are doing.

Q So what you are saying is we need better communication and public relations with the Police Department?

A Absolutely.

REP. DUMAS: Thank you, Jr. Jackson.

BY THE CHARIMAN:

Q Mr. Jackson, do you know of any instances in your reports, in your investigations, where there has been a conscious effort by the police officials to distort a case involving a police abuse case, either reports or physical evidence or witnesses, as you suggested, possible intimidation of the witnesses?

Have you run across, in your experiences, any such incidents involving officials other than the actual police officer who would be mentioned in the report?

A Yes, sir. There are several situations that I could relate to you where witnesses, in one case that I was involved in myself where witnesses were interviewed by police and they tell

me that the manner in which the police officers talked to them where the police, they were giving a statement to the police and the police said, "well now, let me get that right," and they would deliberately misstate what they told the police. I could provide that to your counsel as to -- there were two people in one particular case where they said what happened to them where the police deliberately misstated what they were saying. After that, the police typed up what they supposedly said. The statement was eventually in court shown to them, and they said that was not the statement they gave.

Later during the same incident, and we were talking about the F.O.P. earlier, these witnesses testified the F.O.P. indicated that they were going to sue these witnesses for lying.

The suit has never been brought. Whether it will, I don't know; but I think the thing is --

Q Lying in the deposition taken or --

A Well, it wasn't a deposition. In the statement, lying in court as well.

Now as a lawyer on the basis of what they said they were going to sue, it would be dismissed; but it is just the philosophy, the attitude that if you come forward and say something contradictory to the police, then they are going to sue you so you won't come forward to testify.

This happened last summer where they announced publicly the president of the F.O.P. called a news conference and announced that he was going to sue these witnesses for saying what they did. They said something obviously in contradiction to the police. And it is that kind of intimidation, I think, that's very public, it wasn't something that was behind the scene. It's very public when they said they were going to intimidate the witnesses.

Q Is that as far as it goes, the investigating officers?

A In terms of -- I have no proof, I have feelings, I have feelings that there is a great deal of distortion of the information that is perhaps given to the Commissioner; and after it is given to the Commissioner, distorted even further perhaps by the Commissioner himself to the Mayor of this city, and perhaps even distorted further by the Mayor of this city when he tells us, the public --

Q Do you have any particular cases where your feelings are strongest that you might communicate to our chief counsel?

A I have some cases that I would relate; yes, sir.

Q Would you make those cases available to us?

A Yes, I would.

CHAIRMAN RHODES: We would like to thank you, Mr. Jackson, for your testimony before us today. It is extremely helpful to the Subcommittee, and I hope you will be available

for further inquiry. We are going to get back to Philadelphia within the next two weeks and maybe questions will come up, based on review of the material you provide our staff we may want to further interrogate you.

THE WITNESS: Thank you very much, Mr. Chairman, and members of the Committee and counsel. It was my pleasure.

REP. WILLIAMS: May I ask one more question?

CHAIRMAN RHODES: Yes, Representative Williams.

BY REP. WILLIAMS:

Q Sir, generally from what people say, we have a serious problem. Your organization is probably the only operating organization in this area, and functioning as you do, my impression is that you have too little resources to tackle these problems.

Would you agree with that?

A Yes, sir.

Q I am also aware of the difficulty in funding even your organization; is that accurate?

A That is very accurately presented.

Q It seems to me that your organization and other agencies should be comparably and adequately funded so they can do their job, good, bad or indifferent. I just wanted to point that out.

A No, I have not, sir.

Q The philosophy behind financial difficulty to organizations who are doing a basic public service that no one

else wants to do, particularly for people who cannot help themselves, seems to me to be contrary to the American system. And while you are here giving the information that you are giving, I just want to take time to say to the Committee that in an organization like this, the one you are with, it should not have to have that hassle; otherwise, you would go out of business, and we wouldn't get a bit of help that the community is getting on the issue that we are talking about.

A I appreciate your comments.

CHAIRMAN RHODES: Thank you very much, Mr. Jackson, for being with us.

(Witness excused.)

At this time we would like to call Ms. Carol Headley of the African People's Party.

Ms. Headley, do you acknowledge that you received a subpoena to appear before the Subcommittee today?

THE WITNESS: Yes, I do.

CAROL HEADLEY, sworn.

BY THE CHAIRMAN:

Q Would you state for the record, your name and your position and your organization.

A My name is Carol Headley. I am a member of the African People's Party, the chapter here in Philadelphia, and an

organizer for the party.

Q Do you have a written statement that you would like to give us, or would you want to make comments and we will ask questions, or what is your preference?

A Well, the basic format, first of all, I would like to thank the Committee for having established these hearings. And I do hope that the Committee will be able to get out into the community on a more extensive basis, to be able to get first-hand testimony and reports from people in the communities in Philadelphia.

My basic format is I have in front of me a memorandum which was prepared in March of 1977 from a staff member of the American Friend Service Committee of the Special Task Force on Government Surveillance and Citizen's Rights. I will not attempt to read the entire report; however, I will be reading excerpts. I also will make certain elaborations and certain corrections.

Also included in that memorandum are several press clippings, a copy of a federal lawsuit that was filed by the African People's Party in response to the harassment that the local chapter had been placed under by the City, police, county sheriffs and agents of the Federal Bureau of Investigation. This was prepared, as I said, in March of 1977.

The African People's Party, first of all, is a

national Black organization. It is based in Black communities around the country. It is a group, an organization that believes that the Black community has the right to control all institutions that have a direct effect on the daily lives of Black people.

Our day-to-day work includes organizing such issues as housing, health care, schools, police brutality and any issue that affects the daily living standards, daily working standards and conditions of Black people.

I might add also that as documented in our federal suit is also one of the organizations that was targeted for surveillance and harassment under the F.B.I. "Co-Intel Program," Counter-Intelligence Program.

Just briefly, this memorandum deals with harassment by the Philadelphia Police Department, county sheriffs in the context of activities in which we were engaged in approximately from the period of 1975 through 1977. In 1975 on October 20th there was a raid that was perpetrated by the Philadelphia Police Department at the home of several members of the African People's Party. This raid took place at a time when there were major community struggles going on around the question of Black vendors.

Black vendors are usually Black men, young Black men, usually in their 20's and 30's who are unable to get jobs

and, therefore, to support families; or organizations that service the community such as independent schools, set up tables on the street corners sell different merchandise: Jewelry, Clothing, Cosmetics, et cetera.

In 1975 -- well, 1973, 1974 and 1975 downtown merchants pressured the City Administration. This was organized by the Chestnut Businessmen's Association to remove the vendors from the shopping area of Center City. They claimed the vendors were a public nuisance and that they littered and cluttered the city streets and, incidentally, lowered the sales volume of various department stores in the city, primarily Center City.

The African People's Party was deeply involved in this struggle as we saw it as a question of Black people's right to work and to support their families, especially in the time of increased high unemployment in the Black community. And we felt that those people who attempted to develop an alternative that was honest, straightforward, had the right to be able to vend.

The struggle entailed constant beefening in the downtown area the organization of community rallies, marchers, demonstrations and a boycott in 1974 and 1975. These boycotts were 80 to 95 percent effective.

On October 1975 approximately 12:00 P.M. -- it may be a typographical error on some of your copies --

approximately 15 Philadelphia City Police in the S.W.A.T. Special Weapons and Task routine stopped the operation, kicked in the front door of 1351 W. Jerome Street. They wore Flak jackets, bullet proof vests, helmets and carried rifles, shotguns and automatic weapons in addition to their pistols. In back of the house more police stood guard with several police dogs.

The police said they were looking for a fugitive; at no time did they show a warrant. They completely ransacked the house.

At the time of this raid there were two adults present and one at that time, five month old infant, Saladin Muhammad and his wife Naeema Muhammad. At the time Saladin Muhammad was in the bathtub. They were getting ready to go down to the hospital for his wife to have a checkup.

He heard a banging on the front porch and at first thought that it was neighborhood children playing on the porch as with these poorly constructed houses you can hear everything that happens on the front porch all over the house. However, when he heard a loud noise and a crash, he jumped out of the bathtub and ran down the hall to find out what happened.

He heard voices downstairs. He went into his bedroom to get some clothes on, to look out the window and to get some clothes on, to find out what happened, what was going on.

When he looked out the window he saw several

police cars, paddy wagons, the street blocked off.

The police went through the entire house, searched, went through closets, overturned mattresses on beds, pulled out drawers, contents of drawers, went through file cabinets.

Again, as I said before, they were looking -- they said they were looking for a fugitive. No fugitive was found.

The residents on Jerome Street, the 1300 block, came out of their houses and began congregating on the porches trying to find out what was going on.

The police refused to identify themselves when they came into the house. Saladin only went into the bedroom and closed the door to try to get his clothes on. They came to the door and they demanded entrance. He opened the door and they ran into the room, approximately three or four of them, waving guns around. As I said, there was a five-month old baby there in that room. They ran around the room completely indiscriminate going through things.

Saladin Muhammad, as I said before, continuously asked for identification; they refused to give it. He tried to calmly deal with it inside. And then they began to go down the stairs and out the door.

When he got outside on the porch, clad in his underwear, he then began to loudly demand that the police identify why they were coming into his house, who they were, what district

they were from, in order to try to bring further attention to what was going on at the house. It was only after much commotion was raised, okay, that any police officers stepped forward to identify themselves; and that's when they came forward and they said they were looking for a fugitive. They showed a picture which no one knew who this person was. And they then left.

When they left, they left the front door hanging off of one hinge unable to be closed. They did come back upon demands from Mr. Muhammad and his wife, they did come back to repair the door.

That evening members of the African People's Party got in touch with Father Paul Washington, Pastor of the Church of the Advocate at 18th and Diamond Streets in North Philadelphia and other community organizations and leaders. An emergency meeting was held that night at the church and approximately 40 to 50 people representing approximately 18 organizations came out.

On Tuesday, the next evening, Father Washington attended a community meeting held at the house, 1351. The neighbors came out to find out what was going on. At that time Father Washington, then along with Saladin Muhammad and other members of the house, began an explanation or history of some of the activities of the organization in that year. This began

to at least alleviate some of the fears of some of the residents in the neighborhood as people, because they had seen a raid going on, you know, began to be very questionable or felt that their neighbors were now very questionable and were wondering whether or not they should be still welcome on the block.

As I said, many of these fears were answered and resolved. And although there was some amount of tension in that time period, because of our relationship with other people in the neighborhood things began to get smoothed over. However, this incident is still remembered on this block three years later.

On Sunday, October 26th, there was another meeting and this was to discuss how the Black community could begin to address itself to unwarranted attacks by the Police Department on community residents and also support of our organization because the African People's Party does not see itself as from any other organizations or any special particular group targeted out or away from other organizations where no one else received this kind of harassment.

Three days after the attack on the residents, there were two other organizations who were attacked by the Philadelphia Police Department in their ACT Squad, which is the Philadelphia equivalent of S.W.A.T. At this meeting on Sunday the City Wide Task Force against police abuse and citizen

oppression was formed. Father Washington became the chairperson.

The Task Force became active in organizing in the community, holding meetings and demonstrations, circulating petitions. In a five-month period over 10,000 signatures were gathered for elected citizens review board of the Police Department, okay. We still have copies of those petitions, and those petitions have been presented at other hearings, community meetings and at events in order to deal with an alternative that we feel is viable in this city.

Two months after the attack or raid on the house at 1351 W. Jerome Street, a member of the A.P.P., Muhammad Adil, Eugene Sojourner was arrested by two patrolmen on motorcycles, Stephen Girard and Donald Guy. These two policemen are very well known in the North Philadelphia community and particularly in the Richard Allen area where Muhammad Adil was arrested. They are also known throughout the city. I did hear Tony Jackson mention their names earlier in his testimony. And there have been several incidents in the city where these two policemen have accosted and abused other members of the community.

Adil having been active in the Richard Allen area of North Philadelphia, particularly around trying to keep drugs, heroin, cocaine, et cetera, et cetera, out of the Richard Allen area, had seen and had had verbal exchange with

these two officers before.

Adil had gotten out of his car and was walking into the housing project when two motorcycle policemen drove up and called his name. Being that it was 9:30 at night and the conditions, you know, being dark, et cetera, et cetera, and knowing their history, Adil ran. There was a chase.

When the police officers caught up with him, they began to push him around. One officer pulled his gun out, pushed him down on the ground and told him, "Nigger, if you want to run, run now." He got up, began to hold his hands up in the air so it could be clearly seen that he had nothing in his hand, and he began to walk slowly up to the policemen saying, "I am not going to run anywhere."

The policeman, as I said, had his gun out. He cocked the trigger, pushed him again and told him, "Run, nigger."

A crowd began to gather in the projects, I guess approximately 30 or 40 people. The cop walked up to him again, pushed him again. At first he thought, Adil thought it was out of simple anger that the patrolman was pushing him. But it seemed he was very incensed and it seemed that if it had not been a crowd there that he would have done something much more serious to him.

At this time the other policeman stepped forward. They put one gun to his temple, another gun to the back of his

head and said, "Do you know what we do to niggers like you?" And began to go into what they would do to him once they got him down to the police station.

He was taken down to the police station. He was held on suspect of a stolen auto, even though he handed the officers registration for the car, his license and the name and address of the owner of the car whose car he was driving, okay, it was his friend's car.

Two hours later -- I'm sorry, he was taken down to 11th and Winter Police Station.

Two hours later the officers came back and said, "We heard you've been trying to find out what the charges are. If you didn't have a charge, you have one now," and held forward an aluminum package. Adil asked what it was. They said it was dope. They charged him with possession and possession with intent to distribute a contraband, heroin, okay.

Muhammad Adil, as I said earlier, had been very active in that community around keeping drugs out. He at one time owned a record shop at 810 W. Girard Avenue. His reputation as being an anti-drug activist is well known in the community. In fact even the dope pushers thought it was an absurd charge for him.

I would also like to point out that the normal procedure, at least that I am aware of and that my attorney is

aware of, for a drug arrest is that the defendant is taken directly down to the Roundhouse at 8th and Race, searched, booked and tested.

As I said earlier, Muhammad Adil was taken down to 11th and Winter and held two hours later. The police officers did not come down to the police station until that two-hour period had been over. They did not claim to find anything on him. They said they saw him throw a packet into some bushes in the 1100 block of Ogden Place in the projects.

I don't know if any of the Representatives are aware, but there are no bushes in the 1100 block of Ogden Place. The lighting in that area of the project is very, very dim, okay; and as I said, they never found anything on him.

Because of the nature of the charge --

BY REP. WHITE:

Q Excuse me, are there any bushes in the 1100 block of --

A I just got finished saying no, there are not, there are not.

Because of the nature of the charges Adil wrongfully did not take the charges serious because of his reputation, okay. In fact, other members of the organization did not even find out, some of the members of the organization did not even find out about the arrest until a couple of months later. Therefore, when we began to do defense work around the case, the trial had already begun, okay.

Contrary to the evidence presented by the Public Defender who represented Adil, Adil was convicted in April of 1976.

BY THE CHAIRMAN:

Q For possession?

A Of Possession and possession with intent to distribute.

Q A packet?

A A packet of 20 bundles of heroin.

Q Twenty bundles?

A I'm sorry, two bundles, 10 packets each, of heroin.

BY REP. WILLIAMS:

Q Was this in Municipal Court or --

A Common Pleas Court in front of Judge Levy Anderson.

Q Without a jury or with a jury?

A There was a jury.

At the end of the trial or before the sentence was pronounced, various character witnesses came forward in Muhammad Adil's defense, people such as Father Washington, Ms. Jacqueline Watkins who at that time was a community organizer with the Friend's Neighborhood Guild, she later worked with the American Friends Service Committee Police Brutality Unit; Mr. A. Bruce Crawley who is a Vice President of First Pennsylvania Bank; and several members of the Health Community whom he had worked with when he established the drug-free,

drug program to help heroin addicts in the area kick, okay. Along with other representatives of community organizations.

BY THE CHAIRMAN:

Q I noticed in your records you compiled a number of cases detailed in your summary for the Committee. If we could get that information from the report you submitted to us, are there particular cases you have personal knowledge of and that you can testify to?

A Yes. I would like to speak on two subsequent raids on 1351 W. Jerome Street, again looking for a fugitive that was never found and also --

REP. WILLIAMS: Could I interrupt, Mr. Chairman?

CHAIRMAN RHODES: Representative Williams.

BY REP. WILLIAMS:

Q Do I understand that you have a series of cases?

A What we have is a series of raids that happened at a particular address of several members of our organization, the African People's Party.

Q How many, about?

A There were three raids altogether: October 20, 1975; October 20, 1976; and February 4th --

CHAIRMAN RHODES: What was the last date?

THE WITNESS: February 4, 1977 at 4:00 A.M.

BY REP. WILLIAMS:

Q I think that the Committee -- I, for one, would want to hear all of the specific testimony in that one of our problems is we deal with generalities and feel somewhat frustrated in finding the information. I just think whatever time it takes that is necessary for this Committee and the public to get the specifics of each and every situation, that you come in and testify and --

A If I may, I would like to thank you; however, understanding your time limitations, I will try to be as brief --

Q I thought there was some observation -- I may not be correct, that submitted material --

CHAIRMAN RHODES: We will discuss it as long as you want to. Just go ahead.

THE WITNESS: I do understand there are time limitations, and I will try to be as brief but thorough as possible.

On June 17th -- I have a correction on here -- on June 17th there was a sentencing -- I'm sorry, on April 17th Adil was convicted. On June 23rd there was a sentencing hearing scheduled which was continued, okay. At that hearing over 150 people were present, many of them from the Richard Allen area where Adil had been most active and had lived for most of his life. The crowd also included people from all over the city and people that I did mention earlier, specific people like Father

Washington, A. Bruce Crawley, et cetera.

BY REP. HUTCHINSON:

Q Excuse me, may I ask you a question?

A Yes.

Q This was when Adil was convicted, he was convicted earlier, and you were talking about the sentencing which was held subsequently?

A Yes.

Q Did he have counsel at that time?

CHAIRMAN RHODES: Public Defender.

THE WITNESS: Public Defender.

BY REP. HUTCHINSON:

Q Just the Public Defender?

A Yes.

Q Do you have any information on what kind of preparation the Public Defender had done?

A I was one of the people that was assigned in helping with his defense. I had several meetings with the defendant --

Q You were invited by the community?

A By the organization.

Q By your organization?

A Right, to assist with the defense work in investigation, trying to find various people in the area, et cetera, okay.

The Defender, Mr. Bachman, did tell us that he

was unable to put in the type of time that he needed in order to adequately defend Mr. Adil because he had at that time approximately 50 cases coming in in the average of a little over a week.

BY REP. WILLIAMS:

Q You were told that?

A He told us that.

Q Was there a post-conviction held in this case, because it seems to me counsel cannot do that.

A There were post-conviction briefs filed. Mr. Adil's case is pending in appeal.

BY REP. HUTCHINSON:

Q Where is it now, what court?

A The State Superior Court.

Q No decision has yet been made?

A We have not had a decision yet as to whether or not an appeal will be heard.

BY REP. WILLIAMS:

Q Essentially in a post-conviction hearing, if a lawyer tells you, "I tried your case but I really couldn't prepare it," there is a clear reason under the Constitution which guarantees you effective counsel to overturn the case.

My question specifically is: Was one of the post-conviction allegations the reason that counsel was ineffective?

A I don't remember, I don't remember.

BY REP. HUTCHINSON:

Q I just have one other question:

Did you attend the trial?

A I attended on certain days. I was not able to attend the entire trial.

Q To your knowledge, at the trial the police officers testified that they had found him and he had thrown this packet of heroin in the bushes, and they identified it, put on some chemical evidence to show what it was.

Did Mr. Adil take the stand, testify in his behalf?

A On a recommendation of the attorney, he did not.

Now let me also make some further statements:

I was trying to be as concise as possible.

There are a number of questionable incidents at the trial. First of all, understand that I am doing the trial from memory. Number one, the two officers, Guy and Girard, contradicted each other. Number two, in the hearing itself if you can imagine there is a jury sitting on one side and there is a spectators' area.

A young man, Black man, I guess maybe mid-20's to early 30's came in, very flashy dress, the stereotype of what a pusher looks like, big hat, jewelry. He sat in the

front of the spectators' area in full view of the jury and he began to act as if he was nodding in front of the jury. He began to nod and scratch as if he was on drugs.

A member of the organization saw this, okay, and tried to get the attention of the attorney. In fact, he was almost put out of the court for trying to get the attorney's --

Q Where did this person come from?

A We don't know -- well, when it was finally gotten -- when it came to light what the person was trying to do, the attorney asked for some time to find out who this person was, okay, which the judge did grant the time. In that interim process this person got up and left the courtroom. The judge directed the attorney, the defender, to go out and find out who the person was.

The attorney went out into the hallway, okay, followed by the Assistant D. A. The person was in the hallway, the attorney was getting ready to ask, you know, "What is your name, where are you from, what is your address?" The D. A. stepped forward and said, "You do not have to answer any questions, you are not under any subpoena or whatever," okay.

They went back into the courtroom and the person never gave his name. They went back into the courtroom, Judge Levy Anderson.

The defense attorney told the judge what

happened. The judge then directed the D. A. to find out who that was if he had to stay up all night to find out who it was. At that time Girard -- I don't remember specifically which one it was, but Girard or Guy got up and went and told the D. A. the name of the person.

REP. HUTCHINSON: I thank you for going into that detail.

BY THE CHAIRMAN:

Q You may proceed.

A We found it also very interesting, to say the least, that at this time, 1976, the local chapter of the organization had organized a coalition in the community called the Black Anti-Bicentennial Action Committee, which was involved in publicity, community work around our feeling, our position as a coalition, that Black people did not have anything to celebrate in the Bicentennial given the conditions, the living standards and working conditions that our people are forced.

It was very interesting to us that the sentencing hearing, the trial was put forth as quickly as it was, that the sentencing hearing was put forth on -- the first hearing was scheduled for June 23rd, approximately a week and a half before July 4th Anti-Bicentennial demonstration, okay. And we felt that it was very interesting since we had a number of people who were involved in that organizing who

now had to -- we had to redirect work of a number of people in order to be able to now also defend a member of our organization, okay.

I also would like to add as a point for future reference the demonstration that was organized had as one wing a security unit which dealt with security and safety and clean up of the march and the rally site of the demonstration. It was responsible for security or making sure the area was clean after the march passed through, making sure that there were no incidents occurring during the demonstration, okay.

The organizer of the security force, the coordinator, was a young man by the name of Saud Bey, William Lott, who is the national chairman of the New African Martial Arts Federation and a co-founder of the African Institute of Martial Arts in Philadelphia, which is a youth organization that is trained in Martial Arts and involved in community service, tutoring, clean up of the Church of the Advocate, particularly after the fire, voter registration, et cetera.

In August of 1976 and September of 1976 members of the local chapter were involved in campaigning around transportation in Philadelphia. I am sure many of you heard of what was called the Coalition for Better Transportation in

the City. It was concerned around questions of rehiring of SEPTA workers who were laid off and/or fired in 1976; the question of fair hike; an investigation into SEPTA Administration of financial records by an independent auditing group; formation of an oversight board made up of SEPTA workers and community people and management in reinstatement of all service cutbacks in the city.

On October 4th there was a major demonstration at two bus barns in the city and service was stopped for approximately nine hours at one barn, six hours at another barn. The Coalition was made up of a cross section of organizations in the city Consumer Education Protective Association, Operation Push, various neighborhood organizations, Black rank and file workers organizations, unemployed workers organizations and tenant councils.

On October 20th, that morning the Coalition had a press conference to announce a major strategy change in its work around transportation. That evening, or that afternoon approximately 4:30, the house at 1351 W. Jerome was again raided, this time by F.B.I. agents, again looking for a fugitive. They came with rifles, shotguns and pistols and ordered everyone outside on the front porch of the house.

There were several people who were visiting the house at that time and there were approximately eight children

ranging in ages from about a year and a half to eleven at the time.

As I said, everyone was forced to go out on the porch. Children were not allowed to put on protective clothing for the weather. It seemed as if it was straight out of the F.B.I. on TV.

All of a sudden, people in the house heard a voice over the bullhorn, "This is Inspector So and So," I don't remember his name, "We want the residents of 1351 to come out, come out with your hands up. If you don't come out, then you have to suffer the consequences."

One member -- in fact, Muhammad Adil happened to be at the house, went to the window to open the blinds to look out and when he opened the window, he looked down the barrel of a rifle -- I'm sorry, of a pistol of an F.B.I. agent trained on the window. And he said, "If you move, I will blow your brains out."

The people went out on the porch where all of the men were put up against the wall, the women and children were allowed to just stand there.

Again, neighbors began to come back out into the street. This time they were angry. People began to come out in the driving rain, stand in the streets, and they also began to ask what was happening, you know, what could they do.

Neighbors in the street began taking pictures of the agents at the house, okay. This is just to give you an idea of how the neighborhood was beginning to feel.

Again the house was ransacked. Again books, files, shelves were rifled; and this time even though the F.B.I. denied it, \$217 was found missing out of a bureau drawer.

The F.B.I. agent in charge was agent William Ramsey. And again, no warrant was ever shown.

On January 5, 1977, Saud Bey, William Lott, the person I referred to earlier, was arrested by F.B.I. agents at a truck driving school in Fleetsville, Pennsylvania.

Saud Bey was a truck driver for the Associated Bus Company. He was on leave of absence to attend school. He is a former marine; he had no criminal record; and he was a recipient of a citation from his bus company for having saved a woman's life. He was also a shop steward for the union at the job.

He was arrested on a fugitive warrant issued as a result of the testimony of one Willie Williams who said that he and they were part of a conspiracy in 1970, seven years previous to that, that he was part of a conspiracy leading to a robbery of a Gino's Restaurant and the killing of two people who were allegedly members of a People's Liberation Army.

Bail was set at \$150,000. According to research that we did as a part of Bey's case, we found out Willie Williams had been in the Army for six years and had been released from time to time to testify against other people who had been arrested on these same charges.

We would like to also point out again that this was a fugitive warrant; however, Saud Bey was not in hiding. He had been in Philadelphia the entire seven years and he had been very public. He had been involved in a number of martialized demonstrations throughout in several places in Philadelphia, including the federal -- what is it, General Depo, in the Northeast where they keep supplies and all of that.

REP. RICHARDSON: Supply Depo?

THE WITNESS: I think that's what it was, the Supply Depo.

There had been a summer program with youths around career job training, counseling around going to school, counseling in finding jobs. Saud Bey ran a youth clinic and took part in organizing of the career clinic at that time.

As I said, he was very visible. His picture had appeared on flyers, posters, brochures for the

institute of which he was one of the head masters. He had appeared on TV, his voice had been used on radio announcements. all this within the seven-year period; yet instill, he was arrested on a fugitive warrant.

While he was being arrested in Fleetsville, Pennsylvania, F.B.I. agents went to his Philadelphia residence and interrogated his wife for five hours. She was home alone with their child; and according to one member of the organization, they searched the house and questioned her about Saud Bey's relationship with the African People's Party and also to find out, try to quiz her about various other Black organizations in Philadelphia. people such as the House of Umoja, different youth groups, okay.

On February 3rd, there was a preliminary hearing for Saud Bey at which there were a number of character witnesses attending. Bail was lowered to \$90,000. okay.

At 1:00 o'clock on that same day a press conference was called with Saud Bey's attorney, Abram Frank Reynolds, his mother and other members of the family to discuss the case with the community, as he is a known community activist in the city. Approximately 80 community people turned out. No press was in attendance.

A community meeting was held that night at the

church, the Advocate; police cars were seen circling the block. A number of students at the African Institute of Martial Arts who were coming in to attend the meeting were stopped and questioned, where were they going, where were they coming from, who were they. They were let go.

At 4:00 A.M. the next morning, in an action too reminiscent of the December 4, 1969, raid on Chicago Black Panther leader Fred Hampton in which Hampton and another Panther member, Mark Clark were killed and others injured, county sheriffs and Philadelphia Police again raided the same residence, 1351 W. Jerome Street. Approximately 15 sheriffs, officers, came in wearing bulletproof vests, carrying shotguns, went to the front and back of the rowhouse.

When a member who happened to spend the night answered the door, okay -- they rang the bell this time, they were very polite, they rang the bell. When he opened the door, a shotgun was put to his face and deputies forced their way into the house.

They marched him to the back of the house, told him he'd better keep quiet. They opened the back door to allow other officers to come in from the back.

They went from room to room searching the house.

I myself was there. I woke up at the ring of the doorbell and being there were several people in

the house, knowing folks had to get up in the morning to go to work, I just subconsciously thought that it was an alarm clock going off, and I just immediately began to head for the bathroom to get washed up and get dressed.

It was when I came out of my door into the hallway that I saw light reflecting on the wall above the stairs, and I heard footsteps and strange noises.

I went back into my room. I saw police officers and, well, as I later found out, sheriffs, deputies coming up the stairs, very reminiscent of, again, the only thing I could think of, S.W.A.T. on TV or the F.B.I. That was the only thing I could think of. They were going through the entire theatrics of, you know, playing police officer, waving guns around, you know, walking in cat-like motions.

They came upstairs. I saw -- at that time, I saw approximately four come up. They came into my room.

I was standing there, okay, watching from the hallway, the door was opened. I was standing in my underwear. They came into the room, turned the light on, ignored me, went through closets, went through the clothes in the closets, looked around the room, left out of the room.

The occupants -- of the people at the same time, other officers were going quietly from room to room flashing guns and flashlights in children's faces. The

occupants, five adults and six children, the ages at the time from one to ten, were kept isolated from each other and were not allowed to communicate. Saladin Muhammad -- this is from his statement -- says he saw the sheriffs men enter the house from his upstairs bedroom, come onto the porch.

Fearing for the lives of all of the occupants, he immediately placed a phone call to New York attorney Arthur Cannoy, as he was unable to reach Abram Frank Reynolds or any other attorneys that we knew in the city.

When the sheriffs men entered the room occupied by Saladin and his wife, Saladin picked up the phone and said, "Speak to my attorney. I have nothing to say to you." Officer DeDario, the commanding officer in charge, talked to Cannoy and told Cannoy again they are looking for a fugitive.

BY REP. WILLIAMS:

Q Did they ever say what fugitive they were looking for?

A The only thing that we have been able to find out is that this is somebody that they said is from Pittsburgh and they had reason to believe that he was in Philadelphia and that he had come to the house. That is the only thing that we have -- they had shown pictures, okay, they did show a picture to us at one time, okay. I don't know him and no one else knows him either.

Q Did you ever receive any information indicating that

somebody said that he was there at some specific time immediately prior to these raids? Was any information given to you like that?

A The only time that we had gotten any information was as a result of the federal lawsuit that we did file subsequent to this last raid, okay, if I remember correctly.

Q I don't mean from the lawsuit, but did they spell it out to you why they were raiding your house, because someone had just committed arson or treason and, "We are looking for them?"

A No.

Q And that somebody reliable had told them he had just gone in there; or did they give you, as a matter of courtesy, or anyone there that information?

A No, sir. The only thing -- somebody told us that he was here, okay.

Q Are they still looking for the fugitive?

A I don't know, I don't know.

Q It just seems to me that anybody's family or house can be invaded on a similar kind of fiction even by strangers acting as police.

A That's right.

Q Now that is very scary.

REP. WIGGINS: I have a question.

CHAIRMAN RHODES: Yes, Representative Wiggins.

BY REP. WIGGINS:

Q No search warrant was ever produced, but still you have identified on more than one occasion F.B.I. agents?

A One occasion, one, at the house.

Q How did you ascertain they were F.B.I. agents?

A I am sorry, we did get some identification after it was over, after the second raid was over.

CHAIRMAN RHODES: Representative Hutchinson.

REP. HUTCHINSON: Thank you, Mr. Chairman.

BY REP. HUTCHINSON:

Q This address you told us they came to on three occasions, who said they were from the F.B.I., 1351 --

A West Jerome.

Q Who lives there?

A Several members of the African People's Party live there.

Q Is it a big house or --

A It's a three-story row home, okay.

Q And are the people who live there, do they live there all the time or is there a coming and going of people?

A No, they live there all the time. It's their home, it's their residence.

Q It's the home of several families who also happen to be members of your organization?

A Yes.

REP. HUTCHINSON: Thank you.

REP. DUMAS: One question.

CHAIRMAN RHODES: Representative Dumas.

BY REP. DUMAS:

Q In the household has anyone there been convicted, or the head of the household, for subversive activities or illegal activities, --

A No, sir.

Q -- dope, drugs, crimes?

A No.

CHAIRMAN RHODES: You do not have any crimes in the United States?

THE WITNESS: No, sir.

REP. DUMAS: Mr. Chairman, I think we understand her testimony very clearly.

BY THE CHAIRMAN:

Q Do you have anything else of your personal knowledge to testify to the Subcommittee?

A I would just like to say that in April of 1977, William Lott, Saud Bey, was acquitted of all charges and, in fact, it was stated from the jury member after the trial was over, you know, from the amount of activities that he had been involved in subsequent to, or after all of this was

supposedly to take place, that they could not conceivably see how this entire thing had been put together and how he could be considered a threat to society when, in fact, they felt he had enhanced society.

Q Is that your testimony, Ms. Headley?

A I would like to say one thing: Just as I believe Representative Hardy Williams said we come before the Subcommittee not simply as one organization that has suffered harassment or abuse, and will try to organize against this. Again, as I said earlier, we don't see ourselves any different from any other organization that is attempting to address itself to human rights of Black people in this city or elsewhere, and that it is very probable and has happened that other organizations or individuals who have been concerned afterwards have been subjected to the same types, if maybe not always as extreme or in some cases more extreme, the same kind of harassment simply because of their political beliefs. And we feel that -- we have attempted not simply to organize around what we have seen as being wrong, but also to put alternatives, viable alternatives we have felt forward such as elective Citizens Review Board of the Police Department. We have one, we have had very good relationships not only with other organizations in the Black community, but other organizations, Civil Liberterians

and other -- but it is the consensus of many groups that if it can happen to our organization, to any one organization, that it can happen to anyone.

And I would just like to read a brief statement on our federal lawsuit, and then I would like to thank you.

In three incidents in slightly over a year's period of time agents of the Federal Bureau of Investigation, the county sheriffs and Philadelphia detectives and uniformed police invaded the home of several members of the African People's Party. The excuse was looking for a fugitive.

In the course of the raids their homes were ransacked and their children's lives were threatened. In none of these illegal raids was a search warrant ever produced.

The African People's Party immediately took the issue to the people and a major support campaign was arranged by the A.P.P. and the community both in Philadelphia and across the country.

In February of 1977, immediately after the third raid, a pre-dawn search and destroy mission by flak-jacketed police which produced nothing, the A.P.P. filed a federal suit against Philadelphia detectives and the F.B.I. to stop the illegal harassment of the African People's Party by the local and federal government.

In the past several years the massive and

vicious attempts of the government through the counter-intelligence program called Telpo has been exposed to the world. One result of this exposure has been the changing of tactics by the government slightly to more subtle forms of repression, disruption and intelligence gathering. Grand juries, in turning the many suits filed against the interrogations has been one form that this covert approach has taken. The courts have developed a massive series of questions for the African People's Party to answer as a result of the A.P.P.'s lawsuit. Less than a quarter were even related to the case. The rest was designed to solely get information from the African People's Party or its internal organization.

We want to know who is suing who.

The United States Government has violated the human rights of the African People's Party and its members by illegal raids; but the federal government, through Judge McGlynn, has refused to take the case further unless the A.P.P. answers all questions unrelated to the suit.

The A.P.P. states clearly on principle that we refuse to be cast in the role of the criminal when we are the victims in the first place. Therefore, because of these unreasonable, unjust and repressive conditions, the A.P.P. has been forced to withdraw its suit against the government.

This action does not at all mean that the A.P.P. will not continue to fight against the repressive acts or conditions against the Black liberation struggle or the Black community.

Thank you very much.

CHAIRMAN RHODES: Thank you, Ms. Headley.

This Subcommittee Hearing will now stand adjourned until 2:20.

(Recessed at 1:55 o'clock P.M.)

AFTERNOON SESSION

(2:45 o'clock P.M.)

CHAIRMAN RHODES: This hearing of the Subcommittee on Crime and Corrections will come to order.

Our next witness before us are representatives of the National Lawyers Guild. Their names are Ms. Jayma Abdo and Ms. Karen Detamore.

Is that correct?

MS. ABDOO: Yes.

MS. DETAMORE: Yes.

CHAIRMAN RHODES: Do you both have a subpoena to appear before this Subcommittee?

MS. DETAMORE: Yes.

MS. ABDOO: Yes.

KAREN DETAMORE, affirmed.

JAYMA ABDOO, affirmed.

BY THE CHAIRMAN:

Q Do you have a statement you would like to make, or do you want us to just ask questions?

MS. DETAMORE: I have a statement I would like to use for my testimony.

First, by way of introduction, I am testifying here today for the National Lawyers Guild. From January of 1973 to September of 1976, I was the coordinator of Philadelphians for Equal Justice, an organization which was formed in 1967, shortly after the police attack on the Black school children at the Police Administration Building. The organization was formed to try to deal with the problems of police abuse in Philadelphia. During that period, working closely with our staff counsel, Jack Levine, I worked with hundreds of individual victims of police abuse in trying to assist them with their cases. And I also worked with in addition worked closely with various community organizations in their organizing efforts and also with one of the founders of the Coalition Against Police Abuse, or C.A.P.A., here in Philadelphia.

The problem of police abuse in Philadelphia is a serious one, and it has a long history. Others who are testifying at these hearings have talked about the different types of abuse that we have to deal with, beatings, shootings, illegal searches and seizures, denials of people's 1st Amendment rights, and other kinds of abuses of citizens' rights. People have also addressed some of the inadequacies of the existing remedies

to deal with the problem, prosecutions by the District Attorney's office and the U. S. Attorney's office, civil suits, the internal complaint procedures of the Police Department and so forth. And some people who have suggested some possible remedies that would help with the situation, the City Ordinance, State Legislation, and other steps. I would like to focus on a few selected examples of police misconduct that illustrate many of the points made by the other witnesses.

In 1970, two class action suits, *Coppar versus Tate*, which was later amended to be *Coppar V. Rizzo*, and *Goode versus Tate*, which was also later amended, were filed in federal court on behalf of minority citizens and residents of Philadelphia seeking various forms of relief against the Mayor and police officials of this city on the basis of alleged widespread violations of the constitutional rights of minority citizens by the police of the City of Philadelphia.

Now the plaintiffs in those two cases gave evidence about 40 specific incidents of police misconduct, together with a great deal of other evidence, including expert testimony, challenging the existing complaint procedures. The City and police produced evidence defending themselves.

Judge Fullam, who heard both of the cases

together, gave the police the benefit of the doubt in looking at each of the incidents. In his words, "Wherever the merits were substantially in doubt, the defendants were accorded the full benefit of the presumption that the police officers acted properly."

Whenever the evidence was limited to conflicting testimony of the victims and families and friends on the one hand, and the police officers on the other hand, the Judge accepted the police version of the story. And yet, in Fullam's findings of fact most of the incidents indicate improper police conduct.

Let's examine a few of the incidents:

In March of 1969, Roy Lee Shaw, a 16 year old Black male, was badly beaten by police officers. A cut on his head required four stitches. The police charged him with assault and battery on a police officer, resisting arrest, and disorderly conduct; but the charges were later dismissed.

According to Fullam, "There was no basis for stopping Shaw in the first place. There was no probable cause to arrest him, and his arrest was illegal. He did not assault De Fazio, the arresting officer, nor was he guilty of disorderly conduct; he merely made minimal efforts to defend himself and protest the violation of his

rights."

De Fazio, this particular police officer, was the subject of complaint in eight of the incidents in the suit. He was not disciplined by the Police Department in this case, nor might I add, in six of the other cases, nor was he prosecuted by the District Attorney.

In December of 1969, Gerald Goode, a Black graduate student, was beaten by police, held overnight, and charged with assault and battery on a police officer, resisting arrest, and breach of the peace. All of the charges were later dismissed.

Judge Fullam found that: "On the basis of the undisputed and admitted facts, it is entirely clear that there was not probable cause for arresting Mr. Goode and that the conduct of the police was in flagrant violation of the law and the Constitution."

Again the officers were not prosecuted by the District Attorney or disciplined by the Police Department.

Of the beating in October 1969 of Bernard Sisco, a blind 20 year old Black male, Judge Fullam stated that: "I have no doubt that Sisco was struck, and that the officers did not limit their use of force to the precise amount required to subdue a prisoner who was, after all, both blind and handcuffed."

In September of 1970, in an incident that Judge Fullam said, "can only be described as a rather complete loss of control on the part of the police," police officers broke into the house of Mr. and Mrs. Oliver Locke. Mr. Locke was beaten and pulled down the stairs.

Mrs. Locke, who was five months pregnant and dressed only in a nightgown, was beaten, dragged by the hair, and fell down several steps. At the police station -- because of the fact that she was still only attired in a nightgown, -- the police officers refused to let her change before they took her to the police station, she was further subjected to rude and offensive remarks by police officers.

After the incident, the Lockes and the couple with whom they shared their home were further harassed by the police with illegal searches that followed after that and other forms of harassment. The incidents go on and on, and a pattern becomes clear.

Judge Fullam concluded that: "The record does establish, however, that such violations do occur, with such frequency that they cannot be dismissed as rare isolated instances; and that little or nothing is done by the city authorities to punish such infractions or to prevent their recurrence.

"I am convinced that, except in cases of severe injuries, existing remedies are inadequate to protect the public interest involved. Private suits for damages are expensive, time consuming, not readily available, and not notably successful; moreover they have no preventive effect. Except in extreme cases, criminal prosecutions are unlikely; and in any event given the role of the District Attorney's staff, such prosecutions are a most unsatisfactory vehicle for vindication of the rights involved." Commenting on the Police Department's procedures, he stated: "Existing procedures for handling civilian complaints and for enforcement of police discipline related to civilian complaints is totally inadequate. It is the policy of the department to discourage the filing of such complaints, to avoid or minimize the consequences of proven police misconduct, and to resist disclosure of the final disposition of such complaints."

We would make much stronger statements than Fullam about both the severity of the problems and the total inadequacy of existing remedies. Even in the severe cases the remedies rarely provide any relief. The point of quoting Fullam's remarks at such length is to show that it's not just the victims; it's not just a few civil rights organizations; it's not just a few community groups; it's

not just people that can be dismissed as professional troublemakers -- members of the federal judiciary recognize that there is a serious problem in Philadelphia with police abuse and that it goes unchecked by the city authorities.

Fullam ordered the Police Department to institute a complaint procedure that would provide pre-numbered forms for the filing of complaints, so they couldn't be "lost," a thorough investigation of the incident, and notification of the complainant of the results of the investigation.

Most of us who worked in the area of police abuse were at least somewhat disappointed by his ruling. The relief was so minimal. The complaint procedure remained fully in the hands of the Police Department. We just felt that this was so mild that it could have variable impact on the situation of police abuse in this city. But we thought we would see what happened with it.

Well, as mild as this reform was, it was too much for the City of Philadelphia and the Police Department. They fought the ruling all the way to the Supreme Court. The Supreme Court overturned Fullam in 1976 on the ground that the federal courts lacked the

power to issue such an order.

If the City had been concerned about protecting the rights of its citizens, it would have -- at the very least -- instituted such a complaint procedure anyway.

CHAIRMAN RHODES: Before you go on, Ms. Detamore, was the order stayed, pending appeal?

THE WITNESS: Yes, it was. So the complaint procedure was never instituted.

And after Fullam's original order in the case, there was a lengthy process that went on for months of negotiations between the city and the plaintiffs about exactly what form the procedure would take, how many sheets there would be, and on and on and on, and the questions. And it was stayed and it never went into effect.

Up until February of this year, as Professor Meeks was talking about, there was literally no complaint procedure in the City of Philadelphia, nothing whatsoever. The procedure that was instituted by the City -- it was just an administrative reform -- we feel it is inadequate on the face of it; but it hasn't even been applied anyway.

So that -- the kind of procedure he talked about is something that exists in every other major city in the country.

I would like to focus now in some detail on a particularly outrageous case that illustrates almost every aspect of the problem that we are addressing, the Shenandoah case. It is one of the first cases that I did a great deal of work on when I was working on police abuse; and for people who were in Philadelphia at the time and remember it, it's a really horrifying case.

On March 2, 1972, Leroy Shenandoah, John Benedict, Marvin Crouse, Maynard Gabriel, and Raymond Moses, together with a small group of friends were standing on a balcony of a fire escape in the hotel where they were staying. They were peacefully watching the filming of a movie in the streets below.

They had permission from the owner to be on the balcony, they weren't creating any disturbance. And two police officers, Montanaro and Rambo, decided to go up on the balcony and clear them off.

The director of the film said they weren't creating any problem, that there was no reason to throw them off, but the police officers went up and ordered them off.

An altercation broke out between Shenandoah and Montanaro. At that point, Raymond Moses attempted to leave the balcony. Officer Rambo, without any warning,

without any legal justification whatsoever, shot Moses from behind in the arm.

Montanaro then shot Leroy Shenandoah five times. He then turned his gun on John Benedict and shot him in the stomach -- again, without any justification whatsoever.

Crouse, Gabriel, and Moses were then arrested, taken from the balcony, brutally beaten and kicked and thrown down several flights of steps by Rambo and other police officers. Moses was beaten again on the way to the hospital.

Benedict, who was critically injured, was left on the balcony without medical assistance until Montanaro, Rambo, and the others were taken from the building. When he was taken off the balcony, he was maliciously and brutally dragged and bounced down several flights of interior stairways and thrown into a van.

Eventually, he was taken to Jefferson University Hospital where he was operated on to remove the bullet and repair the damage to his internal organs, including the removal of his spleen.

He was interrogated by Philadelphia police officers within 12 hours of that operation. While he was still in excruciating pain, while he was under the influence

of sedating drugs, police officers went in, ordered the doctors and medical personnel out of the room and interrogated him.

Now back to Leroy Shenandoah who was lying on the balcony, who had been shot five times. He was then beaten and kicked. One of the police officers on the balcony picked his head up, raised it about a foot and then smashed it into the balcony. At that time he was still partially conscious, he was severely hemorrhaging, he was in excruciating pain, and he was left on that balcony without any medical assistance, without any first aid, although a dentist on the scene who at least could have rendered first aid and offered to do so, was kept away by the police officers. He was left there for an hour and a half before he was taken to Pennsylvania Hospital. Pennsylvania Hospital by the way, was not the closest hospital to the scene.

They never sent for an ambulance, he was taken in a police van, carelessly, abusively thrown in, taken to the hospital where he was pronounced dead within a few hours of his arrival.

Back at the Police Administration Building, Gabriel, Crouse, and Moses were held for 18 hours before they were charged. Gabriel was handcuffed to a chair that

was bolted to a concrete floor in a windowless, locked room for most of the time.

They were not permitted to consult with their attorney, who was at the Police Administration Building, demanding to see them. Witnesses to the incident were picked up by police officers, unlawfully arrested and detained at the Police Administration Building where they were badgered by police officers who attempted to confuse them and misrepresent their statements.

The survivors of this police assault, Gabriel, Crouse, Moses, and Benedict, were later brought to trial on charges which included aggravated assault and battery, inciting to riot, and conspiracy. These people who were the victims of this attack, who had been shot, who had been beaten, were the ones who were charged, not the police officers. They went through a Municipal Court trial where they were found guilty, and then a Common Pleas Court trial. That process took about a year and a half. They were forced to miss months more of work; their witnesses were forced to be dragged down over and over again from New York; they had enormous legal expense associated with the trial, when they were the victims of the assault.

During that trial there was an enormous amount of evidence that was presented. A large number of

witnesses who saw the entire incident and, most tellingly, a film which one of the camera operators had turned his camera up on the balcony during the assault. And that film clearly showed Leroy Shenandoah after he was shot being kicked and beaten. It showed in particular the thing that I mentioned where the police officer lifted his head and smashed it into the balcony. It also showed -- flatly contradicted other aspects of the police officer's testimony.

The jury in that case was out for about 45 minutes. After the trial, in speaking to the jurors, they said that that 45 minutes was almost entirely consumed with selecting a foreman, filling out the forms and waiting for the lawyers to come back from lunch. They said there was absolutely no doubt in anyone's mind that none of those four men was guilty of anything but, rather, the police officers were; and that the police officers should be on trial for the murder of Shenandoah and for the assaults of the other people who were defendants in this trial.

The police officers, however, were never brought to trial. They were never charged with anything by the District Attorney, the U. S. Attorney, or anyone else, in spite of the mass of evidence, including the film.

They were never disciplined in any way by

the Police Department. They are on active duty today. And in fact, about six months after the trial someone told me that one of the two officers was promoted.

The City later settled civil damage suits that we brought on behalf of the widow and the four survivors of the attack for \$240,000. That money, of course, was paid by taxpayers and not the offending officers.

REP. DUMAS: Was that for just one individual or --

THE WITNESS: That was for Leroy Shenandoah's widow and then for the other four survivors of the attack.

Although it's a lot of the taxpayers' money to be spent covering up for Philadelphia police officers; in fact, it is an incredibly minimal award for those people when you consider what they suffered.

I believe that the widow's share was \$130,000.

Leroy Shenandoah was a very young man. I believe he was in his 20's at the time. The widow was left with three small children to take care of.

He was a structural steel worker who made about \$16,000 a year. So that award doesn't even cover ten years of his income, much less the suffering that his widow went through.

I mean, people sometimes think that these verdicts are large; but from the point of view of the people who got them, they are not so large.

I would like to go into another case, the Independence Mall case, which presents a very different kind of police abuse, but illustrates at the same time the total inadequacy of existing mechanisms for dealing with improper and illegal conduct on the part of Philadelphia police officers.

In October of 1972, President Nixon came to Philadelphia to sign the Revenue Sharing Act at Independence Hall. Others went to Independence Mall, across the street, to demonstrate against the government's policy in Southeast Asia. Peaceful demonstrators were arrested for being in an area with signs that was open to the general public. Others were prevented from entering the area because they had signs. After some of the demonstrators were arrested in the morning, attorneys representing them filed suit in federal court for a Temporary Restraining Order to stop the police from interfering with their exercise of their First Amendment rights. Just after noon, a TRO was granted by Judge Huyett. After the TRO was granted and after police officers had been informed of that fact, they continued to exclude persons

with signs from the area, they arrested those who protested against that policy, and they continued to hold in custody the people they had arrested in the morning.

Later that month, the demonstrators filed a petition for civil contempt and several days of hearings were held on the petition. When Judge Huyett ruled he found that, "The facts established at the hearing demonstrate beyond any doubt that the Philadelphia Police Department engaged consciously and intentionally in conduct that was violative of the TRO."

He went on to say that the plaintiffs were peacefully asserting their right to dissent, protected under the First and Fourteenth Amendments and that, "By police dictate this right was abrogated on that day although defendants did not establish that the presence of signs on Independence Mall would interfere with the rights or interests of anyone who came to the Mall or Independence Hall. It was not a policy that was intended to prevent disruptive behavior, but was applied indiscriminately against those who wished to exercise their First Amendment rights by the display of antiwar signs in an area open to the public."

He rejected the City's argument that their actions were necessary because the demonstrators were a "security risk," stating that, "The term 'security risk' is

not a talisman by which constitutional limitations are erased and the police are given a free hand."

Judge Huyett found Police Commissioner O'Neill, Lieutenant Fenc1, who was then commanding officer, what was called the Civil Disobedience Squad and other individual police officers in contempt. The civil suit arising from the incident was settled by the City for \$45,300 -- once again paid by the taxpayers, and not the offending officers.

The officers were never charged by any prosecutor with any criminal offense. They were never disciplined by the Police Department nothing, absolutely nothing happend to them. Lieutenant Fenc1 is now Inspector Fenc1 -- it hasn't damaged his police career in anyway that he was in clear, in open violation of the law and the Constitution. Once again, improper and illegal conduct on the part of police officers goes unpunished.

Let's look now at a couple of the most recent examples of the utter disregard in which the Philadelphia Police Department holds the safety and rights of the citizens of this city.

In April of this year, Detective Robert Murphy was promoted to sergeant. And since 1971, Murphy has been the subject of at least 14 formal complaints for excessive use of force; he has also been named as a defendant in at least

four civil suits, two of which have been settled by the City already for a total of over \$5,000 -- once again paid by the taxpayers, and two of which are still pending, he has been the subject of at least four investigations by the District Attorney's office. He is presently awaiting trial on charges of aggravated assault and battery. He is still on active duty, and has now been promoted.

His personnel records for this period show that his superiors rate his general performance as "satisfactory," "outstanding," and "superior." The Police Department has never disciplined Murphy for his acts of violence against civilians. They have, instead, given their stamp of approval by promoting him.

On March 2nd of this year, six homicide detectives were convicted by a federal jury of conspiring to violate the civil rights of witnesses and suspects during interrogations in the 1975 Santiago firebombing case. As a result of their interrogations, Robert "Reds" Wilkinson signed a false confession to the firebombing. He was then wrongly convicted in Common Pleas Court and spent 15 months in jail before his release when he was found innocent of all charges.

These six homicide detectives who are convicted criminals, are still on active duty in the

Homicide Unit. Police Commissioner O'Neill referred to their convictions as a "shanghai" and vowed to assist them in their appeals and keep them on active duty until their appeals are exhausted.

The week after the announcement by the Police Department of these two decisions to promote Murphy and to retain on active duty the six homicide detectives, a number of Philadelphia groups, including the Lawyers Guild and the American Civil Liberties Union, called for a picket line outside of the Police Administration Building to protest these decisions.

Three days prior to the picket, they sent a telegram to O'Neill indicating their desire to meet with him. On the day of the picket instead of meeting with O'Neill, they met with Esther Sylvester, who is the counsel to the Police Department. She explained that Commissioner O'Neill hadn't received notice until that morning, and that he was a very busy man and was busy at the time, and couldn't meet with representatives of the groups who were outside. It would seem that Police Commissioner O'Neill is often, perhaps all the time, too busy to meet with citizens about their complaints about the Philadelphia Police Department; much less to take any steps to end the abuses.

Ms. Sylvester stated that time that she

could not speak for the Police Department, but she attempted to cover up their actions and explain these decisions by saying things such as: That she personally knew three of the six detectives and that they were wonderful, sweet fellows, that they "wouldn't hurt a fly."

The representatives of the groups who were there said that her answers were unsatisfactory, even if they had been satisfactory, they wanted to meet with the Commissioner if she wasn't speaking for the Police Department. She indicated at that time that she would convey the feelings of the groups to the Police Department, explain our position why we were unhappy with the decision and that she would, in fact, set up a meeting with the Commissioner for representatives of those groups and get back to us. In spite of calls and letters months have elapsed and we have never again heard from the Police Commissioner or from Ms. Sylvester.

Following the convictions of the six homicide detectives, Mayor Rizzo said, "The policemen are human beings, they make mistakes. I'll be their friend when they are right, and I'll defend them if they are wrong trying to be right."

The Mayor and the Police Commissioner are saying loudly and clearly that police officers are above the law, that they are free to abuse citizens, free even to commit murder, secure in the knowledge that the City will

support them, no matter what the courts say, no matter what the citizens say.

We support some of the state legislation that has been proposed for example: One, the definition of forcible felony in the deadly force statute; two, the clear right of supercession by the attorney general where the District Attorney fails to act; and three, the transferral of the charging function from the police to the District Attorney. We support Bill 1063, the City Ordinance for a fair police complaint procedure. These pieces of legislation, we believe, will help to improve this situation, but they are not a solution. The solution lies ultimately with the people.

CHAIRMAN RHODES: Thank you very much, Ms. Detamore.

We will ask your indulgence at this point to allow a change in our agenda. Would you yield for a moment for Councilman Moore to testify?

MS. DETAMORE: Yes.

(Recessed for testimony of Councilman Cecil Moore, page 392.)

CHAIRMAN RHODES: The Subcommittee will now come to order.

Now back in terms of the record exactly to finish your testimony.

Do any members of the Subcommittee have any questions of our distinguished guests?

CHAIRMAN RHODES: Would you reiterate for the record the specific recommendations for legislative action or action by this Subcommittee?

MS. DETAMORE: We support three pieces of legislation that we understand some people are proposing.

The first is a clear definition of forcible felony and a deadly force statute. The second is a clear right of supersession of the Attorney General in case the District Attorney refuses to act. And the third that the charging function be transferred, the primary function be transferred from the Police Department to the District Attorney.

MS. ABD00: We support like the present bill that has been introduced on the Attorney General's supersession, but we think that there should also be, to go along with that, some legislation to give stronger powers to the Community Advocate Unit and also that they be given more financial resources so that they could add to their staff

once again.

We think if they could become like the investigative arm for civil rights violations and have more powers, they could work hand in hand with that supersession power.

CHAIRMAN RHODES: Representative Cohen.

REP. COHEN: Do you have any thoughts about the jurisdiction of the Attorney General?

MS. ABDOO: I think the bill as I read it, I support that kind of -- I don't think they should, out of this bill, to step right in with the District Attorney. I think that would be too confusing. But they should, if they feel the District Attorney has not done what he should have done and they can make a showing that that happened, then they should be allowed to prosecute.

CHAIRMAN RHODES: Your testimony was that the police report, the police themselves in their own records indicate that between 1971 and 1975 almost 500 people were shot by the Philadelphia Police Department, 94 of whom were killed, and 75 percent of these were Black of the almost 500.

You also indicate that only one officer was arrested and he was someone who shot his wife, he killed his wife; is that correct?

MS. ABD00: That is correct, yes, during that five-year period.

CHAIRMAN RHODES: Of the 500, do you know of any who were not so much arrested and charged, but how many were suspended or dismissed from the police force?

MS. ABD00: We were not given that information; but there were 24 officers who were off duty, fired off duty that were also arrested during that five-year period. But the only officer on duty was that one. We are not aware of any cases where there was a suspension, but that doesn't mean that there hasn't been one.

This information came from discovery in a civil suit, that's how we were able to obtain the statistics from the Police Department. They only gave us arrests, not suspensions or internal discipline.

CHAIRMAN RHODES: Do they consider that confidential information?

MS. DETAMORE: I am not sure. I am not even sure whether we asked for that. We asked for arrests.

CHAIRMAN RHODES: Do you know of any instances where senior officials of the Police Department or the City Administration were personally involved in actions that could be construed by a reasonable person as attempts to obstruct the process of the criminal investigation or the

genuine discovery of the truth in terms of an incident of alleged brutality?

MS. ABD00: There is a recent case where the District Attorney arrested an Officer Giordano for murder of a 19 year old in Kensington. In that case the police story was that he had been shot in -- he had come out and was shot in forward. And then the Medical Examiner's report came out and totally contradicted that.

That report had been issued by, I think, either Patterson or Golden down in Homicide.

CHAIRMAN RHODES: Who are they?

MS. DETAMORE: Patterson is head of Homicide and Golden is like the Inspector that has among his powers Homicide Division.

CHAIRMAN RHODES: And when did this occur -- when did this incident occur?

MS. DETAMORE: I think March. I am not positive. I think March.

CHAIRMAN RHODES: Did it result in death?

MS. DETAMORE: Yes. He was killed. The police officer had been arrested for murder one.

CHAIRMAN RHODES: By who?

MS. DETAMORE: By the District Attorney's office. After that report came out that he had, in fact,

been shot in the back, which totally contradicted everything the police had said about the case, they did make an arrest.

CHAIRMAN RHODES: What is the victim's name?

MS. DETAMORE: Michael Carpenter.

CHAIRMAN RHODES: Now in that case do you know who conducted the investigation of the shooting?

MS. DETAMORE: The Homicide Unit would have investigated for the Police Department, and then the D. A. did their own investigation at the same time.

CHAIRMAN RHODES: Do you know whether after the shooting, how soon after the shooting was the Medical Examiner's autopsy report made available to the Homicide Division?

MS. DETAMORE: I don't know. The story -- some paper got a hold of it, I think the Bulletin --

CHAIRMAN RHODES: Let me put it this way: From the Medical Examiner's report, the shooting occurred -- the bullet entered the frontal part of the body or the back part?

MS. DETAMORE: The Medical Examiner's report said he had been shot in the back, but the police officer's version and the version put out by the Police Department is that he had been shot -- he had come out with a gun and he supposedly looked like he had a weapon on, and the officer shot him in the front.

CHAIRMAN RHODES: What I am driving at, was that report first developed or made public -- I wouldn't say made public, that would defeat my purpose -- was that report first delivered or available to the Police Department when it was publicly released?

MS. DETAMORE: I don't know. It could be that the officer lied to everybody. I mean, that could be also and even Golden, when he gave the report, thought that was true. But I don't know.

CHAIRMAN RHODES: Yes, I understand your point. But my question goes to whether or not in this instance did the police have access to the Medical Examiner's report and still reported that the shooting was a frontal shooting as opposed to a shooting in the back?

MS. DETAMORE: I don't know. I don't know how they worked that.

Usually the police and the Medical Examiner meet and discuss cases together. But I don't know at what point that would have occurred.

CHAIRMAN RHODES: We would not be interested in pursuing whether or not there was criminal wrongdoing by that police officer specifically because this is not a grand jury. However, we would be exceedingly interested in knowing the role of the police mechanism in pursuing that case.

What kind of advice could you give to us in terms of pursuing it?

MS. DETAMORE: Well, Rendell could probably give you more information about that aspect of it.

CHAIRMAN RHODES: I am sorry?

MS. DETAMORE: Mr. Rendell can probably give you more information about when they had that report.

I think in general comment to your question, it is really hard usually to find direct evidence of a cover-up at the top, but what is more going on is the general knowledge. I mean, they have to know what goes on.

The homicide detectives can't be doing what they are doing without an okay from the top to do it. They can't be beating up people and getting confessions. Inspector Golden has to know what goes on and he could stop them if he wanted to.

CHAIRMAN RHODES: Could we suspend the hearing at this point for five minutes.

(Pause.)

CHAIRMAN RHODES: Excuse me, I apologize. You have been very patient and considerate in all of the delays, disruptions and reversals today.

As you were saying -- the question to you again was do you have personal knowledge about the

involvement of police officials and City officials in the City Administration in any instances of covering up an investigation or discouraging the lawful and proper investigation and pursuit of truth in the case of an alleged police brutality incident?

MS. ABD00: I just think you have to look at the general pattern. It is really hard to find directly on the open.

REP. WHITE: Could you please speak up.

MS. ABD00: We do not have access to that kind of information.

CHAIRMAN RHODES: Except this one incident you referred to, which was the shooting incident where the police reported he was shot in the front, and the Coroner reported he was shot in the back. But you do not know whether or not the police had access to that medical report prior to that announcement?

MS. ABD00: Right.

CHAIRMAN RHODES: We will find that out. I am sure our staff can determine that.

MS. ABD00: They certainly aren't cooperative with investigations. I mean, George Parry could testify to that, and Mr. Rendell.

CHAIRMAN RHODES: I again, in a public hearing,

request our staff to research that particular case because that might have some significance for us.

Are there questions of the Subcommittee?

Representative White, do you have a question?

REP. WHITE: No, except to say I am sure as the Chairman has stated, that the Committee members appreciate your patience. I know I have seen you here all day yesterday and you waited quite patiently today to have an opportunity to testify before this Committee.

And I personally apologize for being in and out during the testimony.

CHAIRMAN RHODES: Representative Cohen.

REP. COHEN: Are you aware of what the definitions of forcible felony is in other states?

MS. ABD00: Some of them do and some of them don't. Some of them have the one that is even worse, just a felony misdemeanor distinction. There have been -- I am not sure how many, but I could find that out for you, that have restricted it along the line in the model penal code that it has to be a life-threatening kind of crime.

REP. COHEN: If you can give us the information.

MS. ABD00: I think that is also the way the court seems to be going.

There was another Eighth Circuit decision

recently that said that that would be the only time an officer would be allowed to use justifiable force.

REP. HUTCHINSON: Under what circumstances?

MS. ABD00: A life-threatening crime would be the only time, you know, someone fleeing from that kind of crime would be the only time they could use force.

REP. HUTCHINSON: How many states have it?

MS. ABD00: Have that?

REP. HUTCHINSON: How many states have such statutes?

MS. ABD00: I could find out, I have it here.

REP. HUTCHINSON: And also I would like to know how long it had been in effect and what the problems, if any, have developed in connection with it.

MS. ABD00: I have about seven here, but I know that the law student that is researching this issue for your Committee has a complete list, and I think he is submitting, or he has submitted a brief on the issue.

REP. HUTCHINSON: I have a great deal of concern about the things described about the police, but I also have a concern -- I have no other questions.

CHAIRMAN RHODES: Representative --

REP. HUTCHINSON: If I am preempting somebody, I will wait my turn.

CHAIRMAN RHODES: No, go ahead.

REP. HUTCHINSON: You say that you support legislation on the full right of supersession by the Attorney General where the District Attorney fails to act. And we do have a major problem with the supersession. You can't really tell where it is.

Are you familiar with the bill that the Committee has on that?

MS. ABDON: Yes.

REP. HUTCHINSON: Does that represent a satisfactory solution to you?

MS. ABDON: I think that is satisfactory.

REP. HUTCHINSON: Did you see the draft legislation written and done by the joint state government's Commission for Task Force on behalf of the Attorney General?

MS. ABDON: No.

REP. HUTCHINSON: There was also a supersession on that. I am on that Task Force of that Committee. And that was considerably broader, and the Attorney General may sue the District Attorney at any time.

I wondered what your opinion would be -- I thought, personally, that our draft was better because I think there is -- many people feel the District Attorney must have a major role to play, but I just wanted to know where you

stood on that.

MS. ABD00: I think there should be -- I think the bill that is now, I think there has to be some kind of restriction or some sort of showing.

REP. HUTCHINSON: The bill we have in, the bill of the Subcommittee, its proposal was limited to situations where the District Attorney elected -- where there was a conflict of interest.

The original draft, and I think it is in the process of being changed because the District Attorney vehemently objected to the original draft -- well, first of all, it would have given the President Judge of the Court of Common Pleas of any county the power to request that the powers in the Attorney General, and that is apparently without any hearing or any showing, if the P.J. wanted him there and it would have given the District Attorney the right to request what he can do now or it would have given the Attorney General the right to petition. But it did not set any standards, really, on whether he would be granted that. I don't know whether he would be permitted to do so.

What did you think about the suggestion for pre-investigative -- for a pre-arrest type subpoena?

MS. ABD00: For the District Attorney's office?

REP. HUTCHINSON: Yes.

CHAIRMAN RHODES: I notice you consciously excluded the whole subject of that.

MS. ABDOO: Yes.

I think I would oppose that generally.

CHAIRMAN RHODES: Your lawyer's background.

REP. HUTCHINSON: I know you are biased on such things.

CHAIRMAN RHODES: How about investigating grand jury subpoena power which is the same?

MS. ABDOO: We would oppose that.

CHAIRMAN RHODES: I would think the Lawyer's Guild probably wouldn't be enthusiastic.

MS. ABDOO: We are against it. And the wiretapping, we oppose that.

REP. HUTCHINSON: Which, as you know, I am not in favor of.

CHAIRMAN RHODES: And the wiretapping.

REP. HUTCHINSON: I have stated my position on the immunity thing. I think it is the modern equivalent of imposition.

MS. ABDOO: We would agree with that.

CHAIRMAN RHODES: There are two instances you reported in your report that I find most fascinating and we ought to have some clarification on. This Detective Murphy,

since 1971, had all these suits and charges and these things against him. I suppose his position is it has always justified uses of force.

Your position is -- is it inconceivable that all these could be justified uses of force?

MS. DETAMORE: Well, it is just hard to know what they are. I mean, one of the problems --

CHAIRMAN RHODES: Well, the City already settled for \$5,000 on two of them, so those two couldn't have been justified.

MS. DETAMORE: On two of the civil suits.

Well, part of the problem is precisely with the complaint procedure or lack of a complaint procedure is there is no public access to any of the records. So we have absolutely no idea what the Police Department did in terms of those investigations.

It is questionable whether the complainants know. It is questionable whether there was any investigation. It could turn out that some of those complaints were not justified; but as long as you have a situation where nobody knows what kind of investigation is done and no one knows what the results are, then that cloud is going to hang over it.

When you also have a situation where he is presently awaiting trial on charges of aggravated assault and

battery and is still out on the street --

CHAIRMAN RHODES: Who brought those charges?

MS. DETAMORE: The District Attorney.

MS. ABD00: The District Attorney. And it was under Emmett Fitzpatrick. It was done before -- it was last summer.

CHAIRMAN RHODES: Before the new system?

MS. ABD00: Yes. So it was even before we had --

CHAIRMAN RHODES: What was he promoted to?

MS. ABD00: Sergeant.

CHAIRMAN RHODES: To sergeant. This just goes to my other point. You see, I have one real narrow focus in mind to consider.

Who approves promotions?

MS. DETAMORE: O'Neill.

CHAIRMAN RHODES: The Commissioner must approve them?

MS. DETAMORE: Yes.

CHAIRMAN RHODES: So Commissioner O'Neill approved these promotions?

MS. ABD00: Right. He knows about it. And he was questioned about it on a radio show and he said that Murphy was a fine officer, one of the best; and they

report all these incidents about him, but they don't report the time he saved a drowning woman, or something to that effect.

CHAIRMAN RHODES: I think our Committee staff should review these cases, and in case we do have Commissioner O'Neill before the Subcommittee we might want to review with him his decision.

MS. ABDON: The Inquirer did about two pages on Murphy and a lot of detailed information on each of those complaints. That would be a starting point for you.

CHAIRMAN RHODES: Do we have that in our file?

In any case, we want to review that because that is a kind of example we will be driving at in terms of official sanction or official action, higher up than a sergeant or an officer that might indicate a pattern.

MS. ABDON: I think there should be a policy in the Department that if an officer is arrested, they should be immediately suspended. I don't care if they pay them, they can do that; but they shouldn't be on duty if they have been arrested for a crime.

CHAIRMAN RHODES: The system has been described to us that in Philadelphia County the D. A. must approve it. In a case where you had a county where a private criminal complaint can proceed without the approval of the D. A., it

might be a different case. But we have been told today the D. A. must approve all of them.

MS. DETAMORE: True.

We have a copy of that Inquirer article which does describe each -- I guess it describes most of the complaints. And we could get you a copy of that to use as a basis for your investigation.

REP. HUTCHINSON: You say you don't care about whether he is paid or not. I think the Civil Liberties as a whole -- it concerns me that somebody can be deprived of his livelihood because a charge has been made. I don't think that is appropriate. It may be he should not be out on the beat --

CHAIRMAN RHODES: I think the testimony was to the point they did not mind him being paid.

MS. ABD00: I don't mind if they are paid, as long as they are not on duty, I mean, not out there.

REP. WHITE: I think that is the procedure that Lieutenant Fife brought to this Committee in regard to New York.

CHAIRMAN RHODES: In the cold record it might sound as if you meant you don't care whether they are paid or not.

MS. ABD00: No, I don't mind if they are paid.

REP. WILLIAMS: He is paid for doing nothing.

MS. ABD00: Well, I think it is right -- I have a bias that I think if they are arrested, an officer probably did what they did; but I wouldn't like to see that standard applied. And maybe they didn't do it, maybe they are innocent.

REP. HUTCHINSON: But what happens is you have got to go back to certain other times in this country in the 50's, for instance, when people were deprived of employment and everything else on the basis of charges.

And you can't say just because you don't like police or just because you don't like a particular group, because the shoe may fit somebody you do like. You have got to treat everybody fairly, you know.

I can conceive of instances where that has happened in my county for political or other reasons where people have had charges brought against them in law enforcement. And I think it would be wrong to say that just because they have been charged they will lose their livelihood, because they might be innocent.

They are entitled to the presumption of innocence too.

CHAIRMAN RHODES: Representative Hutchinson's point is well taken; but we can escalate the issue from people

charged and people convicted in your testimony, and you testified that the six people who were recently convicted, and they have been discussed before in the Subcommittee hearings, they were convicted and the Commissioner chose to not fire them.

Does he have the power to summarily fire them?

MS. DETAMORE: Yes, he absolutely does. And he exercises it in some case where you have police officers that come in he considers immoral, they are off the force. There is no question of due process, there is no question of police officer's rights.

CHAIRMAN RHODES: Like catching someone sleeping with someone's wife?

MS. DETAMORE: They are off the force the next day, that is it, that's the end.

But when it is a question of beating or killing people -- he has the power to fire them and he also has the power to not fire them, as Ms. Sylvester, the counsel for the police, pointed out.

But we think in cases where you have people convicted of crimes, especially these kinds of crimes relating to their duties as police officers, they should be fired. I mean, imagine they are still on active duty, there are some still on active duty in the Homicide Unit.

CHAIRMAN RHODES: They are on active duty?
What were they convicted of? What were the exact charges?

MS. ABD00: They were convicted of conspiracy
to violate civil rights.

CHAIRMAN RHODES: Under the Civil Rights Act?

MS. ABD00: Right.

REP. HUTCHINSON: Under the '64 Act.

CHAIRMAN RHODES: U. S. Code 1980?

MS. ABD00: U. S. Code, it was a United States
conviction.

CHAIRMAN RHODES: Maybe they don't recognize
the United States federal jurisdiction having any application.

MS. ABD00: Their excuse was that you are
not really convicted until the highest Appeals Court decides.

CHAIRMAN RHODES: We have heard an argument
in the House of Representatives with reference to our
colleagues.

MS. DETAMORE: One of the arguments that was
raised was the issue of back pay. What if someone is
convicted and the appeal went all the way to the Supreme
Court three years later and you had fired them at the
beginning. And then in the end, the Supreme Court overruled
it, and you would have to reinstate him and give him back pay.

Well, I would rather see them reinstated and

get back pay for having done nothing for three years than have them on the force in the position of abusing people.

CHAIRMAN RHODES: If the City chose not to fire someone who was convicted in a federal court or a state court in an act of official action such as violation of civil rights and that person did something else, wouldn't that reinforce in the civil court the negligence of the City on the civil liability question?

MS. ABD00: Definitely, sure. And it happens in those instances.

Officer Salerno was out awaiting trial on aggravated assault when he killed Jose Reyes last summer. And there is another officer, Boyd, who was awaiting sentence for beating up Judge Nix's uncle, I think; and he shot and killed somebody that summer also.

CHAIRMAN RHODES: Were civil damages filed in those cases?

MS. ABD00: I don't know about Boyd, but it has been in the Salerno case.

CHAIRMAN RHODES: You are saying the City is inviting some significant civil liability by this procedure of announcing, making an announcement that "the policemen are human beings, they make mistakes. I'll be their friend when they are right and I'll defend them if they are wrong trying to be right." Most extraordinary statement.

REP. HUTCHINSON: I am not going to say absolutely from that that under the new federal -- I suppose the charge would be that the City was negligent in permitting a person with known dangerous propensities to be in that kind of a situation.

I certainly wouldn't want to be the City official who had to approve that, who approved of the changes, and the person had committed another violent act of crime while he was --

CHAIRMAN RHODES: In the same direction, there is a question raised by our counsel which I find, again, most extraordinary. Please correct me if it is wrong.

Is it true in the City of Philadelphia that if a police officer is in court he is getting extra overtime pay, doubletime, or something?

MS. ABD00: If he is? For civil trials, yes, they are paid; and if it goes overtime, they get overtime.

CHAIRMAN RHODES: No, trials against him if he is arrested.

MS. ABD00: Oh, if he is arrested, yes.

MS. DETAMORE: Yes.

CHAIRMAN RHODES: Is there an incentive -- are there people who make substantial sums in overtime pay?

MS. DETAMORE: Well, the homicide detectives

do --

MS. ABD00: But that is not for being in court, that is for staying on duty 48 hours.

MS. DETAMORE: Yes.

CHAIRMAN RHODES: Based on cover charges?

REP. WILLIAMS: I understand Chitwood made more than the Commissioner last year.

MS. ABD00: Chitwood, right. He is a homicide detective, and they just work overtime, all the time, beating people.

REP. WILLIAMS: I want to ask you this question of supersession.

Your response to what we have, the bills we have already, your position is that it would be okay for the Attorney General to supersede where the local D. A. neglected his job. Personally, I am not satisfied with that myself because doesn't the history of how District Attorneys have behaved in this problem indicate very clearly that District Attorneys are not exactly, you know, really frightened of the justice in this situation, for a lot of good reasons. But the record is there has been no --

MS. ABD00: I think up until Rendell took office, that's been true.

REP. WILLIAMS: The history of the District

Attorneys has been for some local reasons they do not choose to abide. Maybe Mr. Rendell may be different, I don't know.

MS. ABD00: I think for instance, the Schop case where the Attorney General did supersede, now I think there was a definite showing in that case and they should have been allowed to supersede in that case.

REP. HUTCHINSON: The Supreme Court said no.

MS. ABD00: The Supreme Court said no; but what I am more afraid of is not so much in these cases, but to give the Attorney General a lot of power, they could use it in a whole lot of different kinds -- they could use it not in police abuse cases. And that is what I see as a danger.

REP. WILLIAMS: My question is on these cases, at least it seems to me that the histories of behaviors of District Attorneys -- and Mr. Rendell and his office, that is something we have to wait on. We had him yesterday, and it is my observation the problem has been so clear that thousands of citizens cannot get pass the door. Indeed, the unit we heard about yesterday there doesn't seem to be all that effective.

My view is matters of this kind, if you can't get relief you have an automatic right to just go right to the State and say, "get moving," because it involves fundamental

access to the justice process.

The supersession depended on a showing of failure to act on the District Attorney's part. The immediacy of relief, it seems to me from my experience and involvements in these cases, if something happens to me I should be able to go somewhere and say this happened and investigate this right away.

I am wondering from your experience wouldn't that be true, rather than to have them debate about whether or not the District Attorney is neglecting or not neglecting?

MS. ABD00: Well, I don't oppose that if it was limited to, like, more enforcement violations. But I doubt if there would be a bill just giving the Attorney General -- and then I wouldn't support it because I think it's too dangerous for other areas.

REP. WILLIAMS: I am only talking about violations of civil rights and police abuse because the record on that, in my view, demands some mechanism for immediate relief.

MS. ABD00: If the bill were specifically limited to those cases, yes, I would agree with you. But I don't know whether that bill will get through.

CHAIRMAN RHODES: It might be difficult to do that.

If there are no other questions from the Subcommittee --

REP. WILLIAMS: It might be difficult to do what?

CHAIRMAN RHODES: It might be difficult to -- we tried to limit a couple of our bills to this police-type issue, and it got politically botched. In any case, we tried.

REP. HUTCHINSON: Hardy, one of the things I started out with was with that thought. We had an embryo agency in civil rights, Commissioner's Justice Department as a community advocate.

(Discussion off the record.)

CHAIRMAN RHODES: Are there any other questions from the Committee?

If not, we would like to thank you very much for being with us; and some of the information we asked you about, maybe you can help us with, if you could give us more information along those lines.

And we might have gotten a better picture today where we are in terms of our focus.

We would appreciate you communicating to us any information that you might have.

—
(Witnesses excused.)
—

CHAIRMAN RHODES: It is indeed an honor for this Subcommittee of the House of Representatives of Pennsylvania to have such a distinguished citizen of the City of Philadelphia to testify before us on such a difficult subject.

MR. MOORE: Well, I would like to introduce my Administrative Assistant in Council who was a former bail bondsman who has been in North Philadelphia a little longer than I was. I got here September 15, 1947, at 3:30 in the afternoon in a Marine Corps uniform, unknown, unwanted and unheard of. Of course I know I might be unwanted, but I am sure I've been heard of.

Mr. Marks is one of my experts who knows as much as I do about it.

I would like to know the identities of the gentlemen that I am talking to. I know Mr. Dumas and I have just recently been introduced to you, Mr. Chairman.

CHAIRMAN RHODES: This is, to my left, Representative Mark Cohen of Philadelphia County. To his left, Representative David Richardson --

MR. MOORE: I know Dave. He started out at Girard College with me.

CHAIRMAN RHODES: And to his left, Representative Ed Wiggins of Philadelphia County; and to his left is

Representative William Hutchinson.

MR. MOORE: Ed Wiggins, that's you?

REP. WIGGINS: Yes.

MR. MOORE: What district?

REP. WIGGINS: The 186th District.

CHAIRMAN RHODES: William Hutchinson is from Schuylkill County.

MR. MOORE: Glad to meet you, sir.

And I've known Mr. Hardy Williams for the last -- well, almost as long as I've been here. He's a little younger than I am.

REP. WILLIAMS: Mr. Moore, may I take the opportunity also to welcome you and to let the members of our Committee know that you have given more to this City over your years than any one person that I am aware of, not just in civil rights but criminal courts everywhere. And as you testify it is going to give that recognition to you that is due and that's true. And I really appreciate your testifying today.

CHAIRMAN RHODES: Councilman Moore, have you received a subpoena?

MR. MOORE: Yes.

CHAIRMAN RHODES: Do you acknowledge the receipt of it?

MR. MOORE: Sure. I'm an officer of the court. I swore an oath to uphold the Constitution of the United States and that of Pennsylvania.

CECIL B. MOORE, ESQ., sworn.

BY THE CHAIRMAN:

Q Would you like to make a statement? Do you have a prepared statement, sir?

A I never had a prepared statement in my life. A lawyer who can't talk is like a soldier who can't shoot.

(Discussion off the record.)

BY THE CHAIRMAN:

Q You have a lot of friends, don't you?

A And I suffer from no disability of saying what I want to say because I work for me.

It's true I am a councilman, but the Internal Revenue takes all my salary so I don't get nothing from that. So, gentlemen, this is free too, I am not going to charge you, because freedom ain't free no longer. They have to pay me from now on when they come to the office, back at the law office.

And I haven't been in my council office since the strike because any of you fellows from in the coal mining areas and knowing I come from West Virginia, we don't cross

picket lines. I organized for the mine workers when I was 18 or 19 years old. And we, down in West Virginia, we were so small there, we never learned to lie and to steal, a town so small they could catch you. But we always remembered to fight.

And I was in the Marine Corps from 1942 to 1951; and I was born three things at one time: I was born Black and an American citizen from a christian family. And I went overseas and they gave me 120 rounds of ammunition and that M-1 and give me a serial number, 443572; and after 800 days of combat and a few purple hearts and silver stars and presidential union citations, I came back to the United States to take up which I had been denied for 300 years under the law. And of course I have used and intend to use every weapon, legal weapon, in the arsenal of democracy, which I have continued to use.

Now addressing ourselves to the subject concerning the review of police brutality, when I came here in 1947 I immediately moved up to North Philadelphia. I moved up there because most of the people there were from down home. We weren't like some of those people who lived in South Philadelphia, them part-time niggers -- I mean, I am saying it; I don't know whether I have immunity or not, but it don't matter if I ain't got none, so let them sue me.

And I will name names, if necessary.

But after I got out, I enrolled in Temple Law School and I finished 18 years after I finished college, and I had been in North Philadelphia ever since and I have been active.

I have been a Republican. In fact, I was a delegate to the Republican Convention in 1956; I was a delegate to the Democratic Convention in 1936; and in 1967 I formed my own party. So I ain't married to no parties, so we don't have no hangups on whatever you want.

I supported Hardy when he ran in '71, and I never asked him for a nickel; but I furnished and paid all of the workers up there. So it doesn't matter to me what I say; and if the shoe fits them, they are going to have to wear it.

Now when I first came here in '47 there wasn't any sign of police brutality, everything was a fix. They had a whole lot of councilmen and each station house had its ward leader or councilmen controlled it; and if you greased the right palms, you never had no problems.

But in 1951 and, of course, they had an election about the Charter. And in my ward, the 47th Ward, was the only one that beat the Charter because I believe to the victor belong the spoils.

But under Clark, that phony white liberal who was talking about limitations of people running for office, they should have limited him a long time ago because police brutality with Commissioner Gibbons, what they did in our preliminary state, there wasn't many killings but you had a whole lot of head whippings, all charged with resisting arrest.

And they continued and, of course, the resisting arrest, the defendant resisted that blackjack across his head.

And they pursued a path of pure terrorism, especially in North Philadelphia because they were going to clean up corruption, prostitution and numbers and selling liquor. And a so-called disgarded crime was found unconstitutional by Judge Alexander, unconstitutional; but you members of the legislature have emasculated that, and I so accuse, under certain statutes that you passed.

But in the history we had them. They would go into the house, a hundred people in there, one man selling liquor; instead of just taking the one man who is selling the liquor, they locked up the whole house.

And I represented most of them, most of the people who were selling liquor up there.

In fact, it got so bad, there used to be a

dance hall at the corner of Broad and Master called Mercantile Hall and then they changed it to Reynolds Hall. They locked up 2,500 up there because at that time you had hearings within 24 hours. I represented them.

I also -- there was a bunch of government workers who were having a party at a dance hall on Oxford Street where a fellow had taken three houses and converted it and had made a dance hall. Without a search warrant, without anything in the world, they came in and raided it, they locked up 300 people; all of the people were United States Government employees. And they took out 75 cases of liquor.

And you know we drink better liquor than white folks do. The reason I know, because I was liquor salesman for two years from Vine and Erie Avenue, from river to river. And I sold the worst liquor in the world, I didn't even drink it, Philadelphia, Dixie Belle Gin, Kasser's -- you probably all heard about it, varnish remover. And during that period of time I saw all of that.

But in this particular case it was all top level liquor. I represented them; they all were discharged before Judge Flood. But what they didn't know, I took down the serial numbers of all of the bottles of liquor. At that time they put serial numbers on them, on that stamp. So after Judge Flood found everybody not guilty, I demanded the return of

the liquor. So they brought a whole lot of P.M., Polish Moonshine, and Kasser's and all those other varnish removers.

So I went back to Judge Flood and demanded that I get all the liquor back they took. It was all in the notes of testimony. And it was at that time Sergeant Bridgeford who was Driscoll's nephew, Inspector Driscoll -- you see, you had three squads: You had Driscoll's squad, you had Ferguson, Perkolup, and you had McDermott and his squad.

And the Judge demanded, told him, ordered the liquor to be returned in the same quality and the same kind and the same bottles. And of course they went over to, I guess they shook down every taproom in the City; and in my office at that time, 627 Commercial Trust Building, they had liquor stacked up to the ceiling.

I cite those examples.

Then they would raid and go into the taprooms. They would go into the taprooms and they were using riot guns with double aughts. Now some of you don't know ballistics, I do. But double aughts, you only have ten in there, ten slugs, each one of them capable of killing.

They went in every taproom, every one of them. Half the time they made an arrest about some woman soliciting to commit -- I mean prostitution. Of course I consider that

a private crime because nobody's going to make them.

And that's every taproom in North Philadelphia, on Columbia Avenue especially, because at that time in two blocks we had 17 taprooms and two private clubs. And it didn't matter, they didn't care about search warrants or nothing else.

So they would go in there, they would lock them up, clean out the bar, all waving those big guns. Them guys with them big boots they got on, you know, looking like storm troopers. And all they did was alienate the entire Black community.

Now the first killing, now I am saying to you that the first killing that I recall was at that time under Ray Brown and Dilworth -- but before I go into that, we went to Joe Clark and he didn't even want to see us.

REP. WILLIAMS: Councilman Moore, when you say Ray Brown, you are talking about the Police Commissioner?

THE WITNESS: That's correct, yes. I am talking about before Ray Brown, still under Gibbons, before he had a falling out with his wife. He had to resign and after several hearings -- well, that's a matter of public record. If they don't like it, sue me. The Master was Nick Kozay who is now the Jury Commissioner. I think he made about \$10,000 or \$15,000 off those hearings they had, he might have

made more than that.

He resigned and Ray Brown succeeded him.

There was an incident on 17th Street near York where a police officer in a wagon, had only been on the force just a few months, in answer to this so-called radio call that there was a disturbance in the house, there were people sitting on the steps. He jumped out and killed two people who had not committed any offense.

I had the case at first, and then the family went to some other lawyer, and I don't know what the disposition was. I know there was no prosecution.

Then the next killing we had --

REP. WILLIAMS: Campanella, or something like that?

THE WITNESS: I forgot the name now. He had one of those names that ended in "o," Hawaiian or Italian, or whatever it was. But I know who it was and if I searched my files -- because I have had 255 thousand cases since I have been practicing law, and most of them for free -- but it ain't free no longer now.

And that was a case that happened in 1964 at the corner of 18th and Susquehanna, the name was Figio and, of course, I was the President of the N.A.A.C.P. then, National Association for the Advancement of Cecil's People, where we

ran it from 200 to 60,000 in six months. And my then partner, who is now a judge, Judge Curtis Carson, he sued the City and got a substantial settlement.

Then the next person I had down there was the most liked Police Commissioner, Howard Leary because at that time Howard Leary was a lawyer. He finished Temple Law School, he was about two years in front of me.

CHAIRMAN RHODES: What year was this, Councilman?

THE WITNESS: When he became the Police Commissioner, 1962; and we became President of the United Branch at that time in December of 1972. And of course, the first thing we did, we got rid of all of the cocktail parties and the social climbers, including those who helped to break up the branch, those people you went to her rescue, C. Delores Tucker, an errand boy of segregation and discrimination.

And our first project was that in opposing the Mummer's Day Parade. And before that time our actual confrontation was with that study program of which Sam Dash was the so-called Director of North Philadelphia for the Ford Foundation. And, of course, my answer to him happened to be that you didn't need to pay nobody \$35,000 a year to study North Philadelphia because on a 12 or 25 cent bus ride you could find out what's going on. And I threatened to boycott

that Ford car.

And all of a sudden you had 16 so-called nigger leaders. I said nigger because everybody who is my color ain't my kind. I want you to understand that. Led by Raymond and Bishop Baver, "Bunks" Coleman, Austin Norris, Charlie Baker, Jim Ramsey. It was about 17 of them. And they said that I sounded more like a Black Muslim than I did like an old organization like the N.A.A.C.P. toms. And I told them their position was somewhere between the integration they preached and the segregation they practiced while they were sitting at the table of bigotry, grovelling at the crumbs of dust, waiting for the crumbs to drop.

And we got rid of them with a mass meeting of about 5,000. David Richardson was a little boy then, but Hardy, he was big enough at that time.

So in May of 1963 at the site of 31st and Dauphin, this was relevant and pursuant to police brutality, we put a picket line at that site because craft unions who even discriminated against white folks, which started back over in Germany where you had to be a father or relative or something to be apprentices. They were spending the United States Government's money, and we put a picket line up there.

The first day we had ten people in the morning and, of course, when all the boys woke up we sweltered

that day, the first day, to 10,000. That was at 31st and Dauphin, that's almost two or three miles around there.

They had a police captain whose name -- I forget his name, who was in charge of what you call the labor squad. And he said in front of Leary, he said, "Let's beat them black ass niggers to death, and let's go through that line." And incidentally, one of the people on the labor squad was Alphonso Deal, sitting way back in the back.

So they charged the line. I was right in the middle of it. They started -- stepped on my pretty shoes and my silk suit. And they took Max Stanford and Stan Daniels out there and beat them half to death.

To Leary's credit, he fired that guy on the spot. And we had a conference and he said that, "From now on you are named the Civil Disobedience Squad." Of course I heard this lady before me start talking about the Civil Disobedience Squad. And he told me I could name the three Black ones, he would name the three white ones: Millard Mears, Fencl, I forgot the other white fellow's name.

The Black one was Eddie Worrell who had been in the Marine Corps. with me; Ted Jordan -- so it was only four.

And from then on our ranks continued to swell

until we got to 20,000, because Jimmy Hoffa came up on the line and gave us \$1,000. All the Black preachers, all the Black lawyers -- that included Leon Sullivan who is from West Virginia, where I come from, they were there on the line. And we only had -- while we were down there negotiating, the only incident we had was one, a preacher named John White who's from --

REP. WHITE: The 13th Ward.

THE WITNESS: Right, from the 13th Ward; tried to follow me through the picket line, and I hit him across the head.

And the next one -- well, we had it already settled; and Earl Vann, who used to be in the legislature, got his head whipped up there. And of course, later on, I got Barrett to slate him for that vacant seat. And he's just like a lot of those people, he turned instant white. He forgot he had been Black ever since.

I have said that on Council floor, and I will say that all over.

Now pursuant to that, they had a practice in this City, any time they see a Black man riding down the street in a Cadillac with a woman who looks like she's white -- you see, in our race we range from light white to dark Black, and all our women are pretty as pictures, and they have a lot

of soul.

Of course, when I see some of these Black boys chasing White women now, all they are doing is catching up because my great, great, great grandmother, she might have been down there in the field crawling on her back, but she got caught. So I didn't come from Africa this color.

So in the mean time, the phony White liberals down there with the ADA and that other thing they had down there on 15th Street, I pulled out of it because I called, I told them one thing, and I mean that today: And in North Philadelphia we've been putting it on: No White man knows what it is to be Black.

I'm going to walk in front. You can walk one step to the right and one step to the rear, but never in front no more.

I was heavily criticized; Dilworth called me a demagogue. I said, "What are you going to do about police brutality?"

Even Whitney Young, Whitey Young came in there, and I know his background, he made a living down there in front of a little school down in Kentucky, Lincoln Ridge Institute; and he was so dumb he couldn't get a job. And then finally they took him down yonder to Atlanta and took with the Urban League which has a long time been of racial

politics. They didn't believe in the Constitution, they want to beg just like they want to keep us on relief. But we don't want to be beggars, we want to work. They worked hell out of us when we were down on the plantations.

Of course, they got to derision and schism among the house niggers and field niggers. You see, if you're real black and if you're a big Black guy, you were a stud. And they would put you out there and you would have to get babies. And all the house niggers, they were real light because they were the White man's children. They stayed in the house and they informed on the people in the field.

And of course I am proud to say that my great grandfather was in the Nat Turner rebellion. I am proud of it. Of course, I am from West Virginia.

But pursuing our theme a little bit further, I called a mass meeting at the Met at Broad and Poplar because they had another crime they wanted to charge you with: If they caught you on Sunday with a bottle of liquor, they said that was illegally obtained, even if it had a state seal on it and everything; they locked you up.

And then they had another crime, so-called corner lounging. Of course you Legislators, some of those had a new criminal act. You had emasculated the ruling because Ben Johnson, the lawyer was charged with corner

lounging and he had 28 Black lawyers represent him. Leon Higginbotham, who I had been to a luncheon with today, he did the arguing; and Judge Alexander, who I called every name in the book, but you have to give the devil its due, he found him not guilty and declared the statute unconstitutional, there is no crime called corner lounging. But your legislature, you have never given the right to stop and search, disperse crowds on the corner allegedly disorderly, you took away the rights in the Constitution just like you did in rape victims.

Now you can say a whore can't be raped. After all, it's inclination, involved. You can't even bring that up. That's what your legislature has done. Because that only gives a license to a bunch of these so-called women's liberationists.

As I said at the Atlantic City Bar Association, the Bench and Bar Conference, who wants to rape them anyway, as ugly as they are, and half of them are lesbians.

If they want to sue me, let them sue me.

But they said a woman has a right to protect her body and to sell it to who she wants to sell it to.

How is any court and jury going to know? But you took away that right, you know, just like they did the corner lounging.

Fortunately, the State of Pennsylvania now,

they got rid of that decalogue that they used to have with the numbers, and then with wine they used to make -- all of the people down in South Philadelphia they could make 500 gallons of wine for their own use. I said, "That's unconstitutional. Let me make 500 gallons of corn for my own use."

That's special class legislation. Now everybody can make a little wine.

But at that rally we had about 5,000 or 6,000 up there at the Met, Broad and Poplar. Reverend Thea Jones, White man who is pastor of the thing, most of his congregation is Black.

REP. RICHARDSON: What year was this?

THE WITNESS: 1963. And of course at that time our plan was from now on -- and we didn't ask for no law to help us, we were going to pass out leaflets in front of your houses where you lived up there in the Northeast showing what you do, you are a solicitor, you are a murderer, you are brutal and you are guilty of adultery yourself.

Two days later, Howard Leary issued an order, "There will be no more arrests by the police officers except for highway patrolmen where they have exceeded the speed limits or some of that, by any of those district cops.

Police brutality went down to less than one percent

and stayed like that as long as Leary was involved as a Commissioner.

Now we go to Girard College, or we go to the riots, August 28, 1964. And it started at the corner of 22nd and Columbia Avenue.

A Black cop and a White cop together; the Black cop was named Wells, and he wanted to be a cop so bad -- I don't know if any of you remember when they used to have Auxilliary Policemen. He would get him a sky wave hat and get those simulated .45 pistols, the number cap pistols, and walked up and down the street. Finally made him a cop.

On that particular night there was a woman and her husband, they were parked halfway blocking traffic at 22nd and Columbia Avenue which is on the north side of the street a little west of 22nd. So the woman didn't want the man to move the car. So her husband got out, and the cop snatched her out. And there was a guy up there in North Philadelphia called "Shop" Muhammad. The last name was Hayes because I represented his brother. He's from somewhere down in North Carolina.

So they started -- they said the woman was pregnant, she had been beaten to death and stomped to death.

So I was down to Wildwood. So Leary called me, and I got to do that 90 miles in 90 minutes because I

only lived two blocks down there, and I am going to make sure I take care of my children. The first place I came was there.

In the mean time, before I got there, they had Raymond out there speaking with a big helmet; they threw rocks at him; Georgie Woods; then Leon came up on the scene down there, he and Sam Evans. They threw rocks at them.

The command post was at the corner of 23rd and Ridge Avenue. Leary was there by that time. Rizzo was the only one on the spot when it started. I know he must have had almost a battalion of cops.

Now a battalion would be running around 800. Of course reinforced is 1200.

And I asked him, "What damn fool drove the people east on Columbia Avenue where all the businesses were?" All you have to do is drive them back towards the park, west of 23rd Street, and all those people own their own homes up there, they wouldn't have had no riots because they had the same thing on top of their roofs that they had down there on Broad, east of Broad.

So I told Leary -- first he offered me a hat. I said, "No, no, no, no, sir. I want them to know who I am. I ain't scared of them because they are my folks, they're Cecil's people."

Of course I had on my blue iridescent suit, all

silk.

We went down and I had my helpers out there. I had Lorenzo Shepherd, I had John Gay, I had Trudy Barnes, I had Paul Vance and about five or six of us who had been tried and true.

I took our pieces of sound equipment, I had five. We went down the street, everything was quiet. And I told Leary to tell that big dumb S.O.B. to keep those troops on that sidewalk because if they had swept in the middle of the street they had enough lye and soap and other things and shotguns up there, that there would be a slaughter. That's what they complied with.

So everything was quiet and the only thing they did was take some of that stuff from those cheap stores up there where they overcharged them, like those paper-sole shoes they charged them \$35, and pay 25 cents a week for them; exploitation.

Then we did all right until I got down to Sydenham Street. At that time Rizzo come running up to me, "Oh, Cecil, I'm glad to see you." I said, "I ain't glad to see you, you son-of-a-bitch."

And they started throwing rocks then. So I told him, I said, "You had better get on down yonder."

You all say "there," but where I come

from, you fellows who know about West Virginia, we say "over yonder."

So everything was quiet until the next morning and there was nothing going on one block to the south or one block to the north.

So to Tom Reed's credit, we arranged --

REP. WILLIAMS: Is that the former District Attorney and former Judge, Common Pleas, you are talking about?

THE WITNESS: Who is that?

REP. WILLIAMS: You are talking about former Judge Tom Reed and former District Attorney Tom Reed?

THE WITNESS: Yeah, Judge Reed, he was a District Attorney then.

So those people they arrested who went up there, 19th and Oxford -- I mean 17th and Montgomery, and then they transferred the hearings down to 11th and Winter. And to the credit of those people who volunteered their services, Black lawyers, that Bob Nix, Jr., he's a Supreme Court Justice, I forgot. Pardon me. And Charlie Bowser, Curtis Carson, Kenny Harris. I hate to call all the names -- did you go down there?

REP. WILLIAMS: I was in New York at the time.

THE WITNESS: Oscar Gaskins, that's right.

And we were successful and most of them signed their own bail except this girl who was supposed to have started it. And my administrative assistant who was a bondsman, put up the bail for her.

But that Saturday morning before we could get out on bail, Dick Gregory and Georgie Woods came in there again and at 23rd and Ridge Avenue what they did was they grabbed them. So I had to go up there and save them.

And then I marched all of the agitators to the park. Then we went down and got the girl out.

Leary was still on duty, and I stayed up for 72 hours, didn't sleep. I had the assistance of Tom Evans, I had my administrative assistant -- I mean my other administrator, Henry Redding, my one-arm boy.

So we got her out, rode around -- oh, "Short-Short," what's his name, Roy Arnold, we rode around all through there and said to them, "Now she said she wasn't beaten to death, and you can see that. And she said she's not pregnant, so that proves" -- she's the only one who would know.

And that pretty well quieted them until we ran into an incident involving them preachers and the Human Relations Commission which I had a meeting up there,

I think it's at Bentley's church. And the Public Relations people asked me why I wasn't in the church. I said, "Them damn bastards, they knew about what was going on. If all the people who were rioting would be in the church, then I wouldn't have to be in the street."

Of course, that hit the fan; and, as a result of that, they ran a preacher against me and I beat him 4,500 to 400, that was Nichols.

Then after that, the next major incident involving police brutality -- I could go on and relate them chapter, book and verse -- was at Girard College. I will let you in on a little secret, that's where Dave started.

Henry back there, that one-arm boy, that's my right arm, plus the fact he's my son, I am going to change his name to mine. He's a Redding.

So we went to Girard College on May 1, 1965. At that time Jim Tate said I was doing it because Martin Luther King was in town speaking.

Of course I will tell you very frankly, gentlemen, I don't believe in non-violence. That's one part of the old testament I believe in because the Commonwealth believes in it: An eye for an eye and a tooth for a tooth; otherwise, you wouldn't have death penalties

and et cetera.

So we had planned to go into Girard College in a big van with a load of meat.

We got up there. Of course, it's typical of a whole lot of Black areas and Black organizations, it's too good to keep, you have to tell somebody; and they always plant an informer in there.

When we showed up, I mean they only had about 800 cops all the way around Girard College. So we backed out of our truck and came up and put 10 pickets out there in front of that gate.

And of course we were eventually vindicated; but during that period of time, the first two days -- of course it swelled up to about 10,000, we used to march around that wall every day. We had some who tried to go over the wall. One fellow did get over there and slept in the dormitory, that was Braswell.

And the second day, that following Monday -- that was the third day, we had about seven locked up. We had Stanley Branche and Dwight Campbell locked up and a boy named Harris. I bought them the dungarees to go over there.

Of course at that time the trespass statute which you legislative people have made a mockery of -- at

that time the premises had to be posted first saying what the sign and offense was, which was \$25.

Now your trespass statute passed upon that reaction of law and order, that first-class thief and thug whom we elected president, that's Nixon, because I supported the son-of-a-bitch back in 1956 because I was a delegate to the Republican Convention.

Then comes Rizzo again -- Leary had to take some time off -- and they ran the motorcycles up on the sidewalk. People were sitting on the sidewalk, not in front of the wall, but on Girard Avenue. They hurt two or three of them.

And when I heard about it, I jumped up and went up there. Of course I was down to the Sheraton having a little bourbon, which I can't drink now -- and when I got up there, Freedom George was up there. And Rizzo -- and Leary grabbed George to keep Rizzo from hitting him, and Rizzo hit Leary. No problem.

And of course when I got up there, my boy Braswell and the little Hankins boy which is Henry's first cousin who lives across the street, he didn't weigh any more than about 110 pounds, about five foot two. And they started to hit him. I got right between him and Rizzo. I got the picture, I circulated it a long time ago.

I told him, "if you hit him, me and you are going to war, you big son-of-a-bitch," And that's the words I used because it didn't matter, and if the shoe fit him, if he didn't like it, all he had to do was to leap.

REP. WILLIAMS: Mr. Moore, some of the panel do not know that Girard College is the issue about the entrance of Black minorities into the --

THE WITNESS: Well, I will follow the chronological order and I will get to it in just about three minutes.

So the next incident happened, they blocked off all of Corinthian Avenue. And Dwight Campbell was sitting out there in the middle of the street -- all blocked off, no traffic goes through -- reading the Sunday paper. And they had a Black captain, I forgot his name -- Gethers, came out there and arrested him for trespass. He's in the middle of the street.

Because I talked about him too. Since that time he has had reason to regret his so-called tomism.

Then we were costing the City so much money with all them cops because they weren't worried about nobody doing anything, half of them were sitting up there playing gin rummy, pitty-pat. And some of them, I

know one would work in the daytime, come out and picket at night; that's James Wade who's up there in Harrisburg with you. I forgot what his job is, some Secretary of something.

CHAIRMAN RHODES: Administration.

THE WITNESS: Yes. So Jim Tate then calls, appeals to the Governor, Governor Scranton. Of course I've called him a lot of names too, you know, "Little Willie" and "Limp Wrist."

So they had a meeting at Broad and Spring Garden with the City Administration, and we had about 14 people locked up. That was where Rizzo kicked that little -- what's her name, the one who committed suicide -- her name was Hall; held her down -- I have pictures of it -- held her down and was kicking her. And she wasn't but 16 years old then. "Trees," they had him the same way. I have pictures of them kicking them all under the cars. And they locked them all up.

Out of that meeting Scranton did appoint "Bunks" Coleman -- I mean William T. Coleman, former Secretary of Transportation, as the prosecutor to bring suit against Girard College.

Girard College was left in the will in 1848 of Stephen Girard for poor white male orphans. Then they

diluted it then and said poor White male orphans meant a male without a father. And we sued.

President Judge Joe Lord agreed with our position. The Third Circuit under the -- I forgot his name, I think it was Kalodner, I am not sure. They reversed and the Supreme Court affirmed the position of the lower court.

And as a result, in 1968, the first people to go in their Black was seven of them. Some of them were over age at that time, but the suit had been started earlier.

And I am proud to say that as a result of our efforts, Hershey was desegregated and Girard College now has 42 Black people in there. And they have now, at our request, have now fixed it so where you are unwed, a child born out of wedlock -- well, there's no bastard children, there are bastard fathers and mothers -- fathers who don't take care of them.

And I am very proud to say that that -- and Leary was always constantly on the scene to see no more of that violence took place.

And at the same time they were running motorcycles over us, the Teamsters were in the middle of Roosevelt Boulevard over there, wouldn't let any traffic

pass. But they didn't know anything about that; but when they come down to Girard College, just another nigger.

Then of course that approximately represented the deterioration and lowering of police brutality until Leary left and went to New York. And you had Eddie Bell in there in between and then they made Rizzo Commissioner.

REP. RICHARDSON: What year was that?

THE WITNESS: I think that was 1967, the year I ran for Mayor on my own party.

Then on November 16, 1967, I wasn't in town. I heard this lady just before me refer to it where they had gotten an injunction after having whipped a whole lot of Black kids half to death for nothing, peacefully picketing. That's when Rizzo said, "Let's get their Black asses."

And on that following Monday I represented Walter Palmer and two others involved. And I never heard of this organization she's talking about. And I say as far as I am concerned when she's talking about they represented them, she's a goddamn liar because I almost got disbarred representing them. Because when a guy came over there taking some papers off my table, that was Dave Berger, and court was in recess, I said, "You get out of my business and get off of my table."

Dave Richardson was there.

And they held him under astronomical bail. Because all of them were successfully discharged.

I can also relate and say to you without any fear of successful contradiction, under Jim Crumlish and Emmett Fitzpatrick as first Assistant, they never convicted the first person, and discharged all of the cases. The first time we had one convicted, was after "Darlin Arlen," that faker, became District Attorney. That's Arlen Specter I am talking about.

Now after they broke up my branch I had to go back and practice law and try to make a living because I had gone bankrupt. That was 1968 when they broke it up into branches; because instead of the 60,000 I had, they got 2,500 now all over the City, a bunch of toothless tigers.

There are other incidents I could relate, but I have to get back and make some money. But I will be glad to answer any questions you want to ask me on anything that I said.

CHAIRMAN RHODES: Thank you, Councilman Moore.

THE WITNESS: I would like to also say right now I am on top of that Hood matter. I represented the family and I am the one who got all those witnesses together. And thankfully, Rendell and Penrose down the U. S. Attorney's office are cooperating in it. And we will be on top of that. And I've got tape recordings of every witness there because I'm

not going to let them face them.

CHAIRMAN RHODES: We will start the questioning with Representative White.

REP. WHITE: I do not have any questions of Councilman at this time.

CHAIRMAN RHODES: Representative Dumas.

BY REP. DUMAS:

Q I understood your testimony quite clearly, Councilman, and --

A You ought to, you are a part of it.

REP. DUMAS: Thank you.

CHAIRMAN RHODES: Representative Cohen.

REP. COHEN: I have no questions.

CHAIRMAN RHODES: Representative Richardson.

REP. RICHARDSON: I have some questions.

BY REP. RICHARDSON:

Q Cecil, could you describe, because I think it is important for the record more so than anything, you have given us a very beautiful historical background from 1951 here of police brutality.

Could you describe for the Committee why you believe there is just a blatant disregard for the citizenship here in the City of Philadelphia in the manner in which the Philadelphia Police Department handles police violence here in the City?

A Well, actually, the area of permissiveness is because of the divisiveness that had taken place among the Black community and the failure of our so-called allies it used to have. They are purely concerned about themselves.

And in this entire Hood matter I have not heard from one of them. And that's the big issue.

But secondly, you have -- they have instilled into the people a fear of conduct because your legislature has now practically reinstated corner lounging, you have increased fine for trespass, disorderly conduct. You have practically prevented the gatherings and the demonstrations that we used to have by that type of repressive legislation. And I would like for you all to re-examine that because after all, nobody wants to go to jail. I have been to jail before. In fact, I guess over half the Black community has been to jail one time before. That's just like we use to say a Black man with a moustache had been to jail. Well, everybody has been to jail. You've been to jail. I represented you for a pure nothing, pure nothing. Now that is one of the responsibilities.

Now there was another thing that Rendell brought up yesterday and, of course, I don't like to run with the hares and whore with the hounds; but I think that the District Attorney's office needs subpoena power before trial.

Now they only have subpoena power when the case is listed for trial.

You see, like the U. S. Attorney's office in investigations, they can go out and subpoena. That's the reason I turned over my tapes to them. And they were successful in getting the tapes from the Police Department and the boy's clothes, what he was shot in; and the handcuffs, we got -- and he was handcuffed.

And when I said it was a cold prima facie case of first-degree murder, I mean that, and I will say it again. But we have to get something to preserve it because you know, no cop is going to do anything, and come out whitewashing and say it's customary to handcuff a man after he's been shot. Everybody sitting up there knows that is the first goddamn lie you can ever hear. You handcuff him before.

They beat him half to death, beat him to the ground and then the shot was fired. It was fired right below his left nipple and went out his back. Now you know he died instantaneously. They didn't want to give us the Medical Examiner's report.

And we have five, six, seven eyewitnesses, some five feet apart.

Now you define for me in your experience in all the big cities -- now you fellows from the little towns, I

know they don't have too much of that because you know all the cops and they know that you will get even with them some way; but in the big cities where they can hide them in the anonymity of large crowds and then the Police Department comes out and whitewash, to whitewash -- I should call it "blackwash," that's about what it was.

I have had the cooperation of the Inquirer, I played the tapes for them because I didn't want to fabricate nothing.

Do you want to hear them? I don't have enough time to let you hear them, but you can hear them before you leave, or send somebody to make some copies. You can have them to show you exactly that this is open season on Black people.

And all of the killings they got, 18, 19, 20, 73, 74, 75, 76, I have collected articles here showing these statistics.

And then, of course, the next thing that helped to provide this disunity is some of these phony liberals adopting these funny names and so forth, because even to get these people to go to the Moslem Temple they reported 125. Hell, they had over 500 that stood up 11 times.

And when I said it's a prima facie case, "Do you think he should be indicted?" And they stood up en toto.

Gentlemen, I know all of you are running for re-election, one day or the other. I want to make sure you understand those are some of the things that contributed to violence. If they would unite under one banner -- they even come up to North Philadelphia trying to disrupt me, but I have another thing coming. Let me give you one other example before I'm through -- two.

Max Stanford and the group that was locked up there in 1966 for having a mimeograph machine; he jumped bail, came back in 1972. He was found not guilty by Judge Kane.

Then you have the other case of Reggie Schell and the Black Panthers. Have you ever seen that happen before? Stood up, naked, stripped naked, all out; humiliation, embarrassment, suppression, brutality, all because it's a divided community. If you get some of these phony white liberals who are coming in -- and if they want to talk about me, I am ready to come back after 5:00 o'clock, because I have to go make some money now. But if you have any more questions --

Q One more point, Cecil;

Could you share with the Committee in your extensive background specifically in the cases that you have tried for police brutality in the City, in any of those cases have they ever resulted in the fact that police officers have either been suspended, fired, disciplined or reprimanded?

A The only instances I know of are those that occurred during Leary. I didn't try those cases because I couldn't be two things at one time. But I tried a case last year, Crenshaw case, which I didn't have the benefit of the articles for Marino and those guys of the Inquirer who wrote a very extensive, exhaustive, detailed, factual thing concerning brutality. But I proved to that jury that they had been whipped half to death.

You have a great big guy sitting up there weighing 250 pounds, his hands big as a ham -- and you have some Black cops who also do the same thing at homicide detectives. One of them is Preston Scott, that's only one of them. They had another little flat-head one, they transferred him. I think his name is Porter, I think that's his name. Because he tried to intimidate Charlie Durham's daddy, an old man 76 years old. And I went out to represent him at that time when it first happened.

He was transferred back out into the district.

Q What I want to know, Cecil, is that in your experience as a lawyer here in the City, when a police officer commits one of those brutal beatings or shootings, specifically shootings or matters where the victim winds up dead, where do they transfer, normally, those police officers while the investigation is going on, or are they suspended while the investigation is going on?

A Well, they are not suspended. In very few cases have they been suspended. It's been so flagrant, and maybe less than 1-10th of one percent.

But they transfer them into other districts where they can remain anonymous and nobody knows who they are. And of course they are still free to do the same thing they've been doing.

Just like they talk about a Police Review Board. I'm against it. If a cop commits a crime, lock him up. Why do I have to review it with a bunch of citizens? It all happens, even when Charlie was head of the thing, Charlie Bowser. All you get is a bunch of frustrated people. You get people who come in and let off steam, don't do anything to the cop; and all they do is walk away, and you still have the same recurring brutalities, the same recurring killings, the same recurring head whippings; and they charge him with resisting arrest.

I asked the officer, "Did my client's head assault your blackjack?"

Q Who runs the Police Department in the City of Philadelphia, Frank Rizzo or Commissioner O'Neill?

A Oh, Frank Rizzo runs it, no mystery about that. Of course, if I were the head man, I would run it too. I would run everybody.

Marinelli was that police officer on 17th Street.

BY THE CHAIRMAN:

Q All of Representative Richardson's questions, Councilman Moore, one of the things we are interested in, we are trying to determine whether or not there is need for extraordinary remedies by the state because of the extensiveness of the involvement of officialdom here in the City of Philadelphia in handling the police brutality question either from a point of view of exposing it or covering it up.

As a citizen, as a prominent member of City Council, do you have any personal knowledge of the involvement of officials in the Police Department or political leadership officials in the City who are in the process of covering up instances of police brutality or, in any way, perhaps even criminally involved in obstructing the process of investigating such cases?

A As for City Council, I can't say about City Council because everything is hush-hush unless I speak out.

But from my own personal experiences and my own investigations, what is needed is a state statute in order to provide first for the suspension and have them indicted and have -- if you recognize, our Supreme Court has denied that sovereign immunity. You can sue now the State because I am getting ready to sue everybody in the Hood case. But I am saying what you can do is make it a crime --

Q I understand your point, Councilman. I do remind you and members of the Subcommittee that this is not a legislative hearing, this is an investigating power.

A That's correct. I understand that, sir.

Q And duly constituted -- and to make it clear to members of the press -- this is not a legislative hearing, but this is an investigative hearing of the Subcommittee of the Standing Committee of the House and has both jurisdiction for legislative hearings and in accordance with Resolution 109, investigative hearings. We are here to conduct an investigation.

And one of the questions we are clearly concerned about is any allegations of complicity on the part of senior officers of the Police Department in covering up incidents of alleged police brutality.

Therefore, my question to you is: Do you have any personal knowledge involving all these cases in recent years where there have been such instances of specific officials of the Police Department or the City Administration who have consciously and lawfully attempted to obstruct the possible criminal investigation of police brutality cases or, in turn, from you or a complaint process involving a specific case?

A The answer to that -- of course my personal knowledge goes to some of what I read and some of what I hear from my electorates, and it is quite extensive.

There is a conspiracy of silence which is tantamount to obstruction of justice. That is the first thing.

When I say that, I mean when the police officers, even some who are allegedly sympathetic with the community, they are so "cow-towd" and intimidated; and they have some regulation in the Department that says you can't criticize the Department.

I just talked to this guy at this luncheon today. I forgot, it's 95 or -- some regulation. And of course the biggest arm is the subpoena power. And the next thing is to provide it so a private citizen can get a complaint without having first to go to the District Attorney's office and let him process it.

Q We have already discussed that today, Councilman Moore.

My question to you --

A No, no. Do you understand what I am saying?

Q Yes. We have discussed --

A Right now there is no problem about it because I have had some as recently as the last two months. If they don't think a complaint should be entered -- this was a private complaint against another person, it wasn't against a cop, now. But in all of them they have to pass on it.

Now that's something you put in the legislature in the last six years.

Q Already the members of the Committee have raised this question today during the hearing.

But my real question to you, because you are so prominently involved in the issue here in Philadelphia County: Do you have any personal knowledge, Councilman Moore, of instances where for example, as you just indicated, the possibility where, for example senior officials of the Police Department or senior officials in the Administration have started to silence police officials from testifying or giving witness about an incident of police brutality, any act by an official other than the individual officer to cover up an investigation or criminal prosecution or the normal procedures to redress the situation?

A Well, the answer to your question is the one I just cited. They have a regulation which says you cannot criticize the Police Department. And they interpret that to mean that any guy who is a witness who knows of the existence, that he is immediately distanced. For an example, in this Hood killing, they had a Black cop up there and they urged him to shoot him, and he wouldn't do that. We haven't been able to find him.

Q There was a Black cop who was urged to shoot the victim?

A That is correct. He was standing right there, the same five feet that Organsky was. And one of his sergeants there said, "Shoot the M. F."

And that Black cop refused to shoot him; and walked away and walked over to the car and called for some more cars.

And when Organsky came up, he came up, he heard the guy say, "Shoot the M.F.," and he shot him. I am just giving you an idea --

Q I get your point, Councilman.

A Then they transferred them so you can't find them.

Q Do you know of any specific case involving a specific shooting or beating where a police officer was told by his superiors, either tactical superiors or superiors back at the station in the district office or in headquarters, or political administration leadership that he must not testify or do certain things; otherwise he will suffer certain disciplinary acts?

A The answer is the only way I can say it, it is a bunch of hearsay and most of it I believe.

Any time there is a police killing or police brutality and there is a possibility, because the first thing they will assign it to Homicide to investigate it, whether it is a homicide or not. And the best example is this Black cop. Even Penrose down in the U. S. Attorney's office can't find out what his name is.

But in many instances, and at least in the

last six or seven or eight years, in the last eight years when they get to the station house they are told by whatever superior they have up there, and then the next thing, the first thing they do is bring the F.O.P. in there, and naturally they are going to give him counsel.

But even before they come in --

Q Are you suggesting that the stories that a police officer tells about the incident is fabricated in the station house after the incident?

A I didn't say fabricated, I say it's a lie and they encourage them to lie.

Q My question to you, sir, is do you know of any specific instances which you might relate here publicly at this time or privately to our staff where that has occurred within recent months or years?

A Well, I can get you the research that I have down there, there is so many that I have.

Q Does any come to your mind right now where that has happened? That is very important to our Committee because we are trying to get a process of whether it's a random process or there's an official collusion, involvement of the apparatus in the Rizzo Administration and the Police Administration to orchestrate and investigation. It is very important to us because one level suggests one kind of response, another quite

another one.

A Well I have numerous instances that I have in my files, and I have a whole flock of files.

Q If you will allow our staff to review your files --

A Who is that, Braswell?

Q Mr. Braswell here is our legal counsel.

A And Dave too -- all of you; but I have to take a little time to get them together.

Q Would you allow our staff to review that with you?

A Yes.

Q But you are of the opinion that fabrication -- you say "lie," I say fabrication.

A Well, you are just being mild.

Q I am from Pittsburgh.

A They call people liars out there.

Q If you would provide that to us, Mr. Councilman, we would appreciate that cooperation.

CHAIRMAN RHODES: Representative White, do you have a question?

THE WITNESS: I would be glad to if Braswell and my son -- I mean Dave there, anybody. But I have to take a little time. I am trying a homicide next week and I will be going nutty until I win that case.

CHAIRMAN RHODES: We do need your help because --

A I will give you all I possibly can and go forward for a whole lot of things.

CHAIRMAN RHODES: Thank you very much.

Representative White had a question.

BY REP. WHITE:

Q In your respected opinion, Councilman Moore, what in your opinion is the imminent danger that people of Philadelphia face if the City Administration and Police Department do not act in some positive manner to end this thing they call police brutality?

A On the basis of my own personal investigation over the last two weeks over this Hood killing, I think -- and I am not urging, there's some people say there's going to be an eye for an eye and a tooth for a tooth, and it's going to be a riot.

Of course, that might play in the hands of some of the Rizzo supporters, or whatever it is. But how long can you take it? And how much can you take? Whose kids are going to be next?

That's what we are concerned about. And I say to you there are going to be riots all over the City and they will even form vigilante committees.

CHAIRMAN RHODES: Your conclusion from your interviews is that the Hood case involves murder one?

A That is correct. And I have tried more murder cases than any lawyer in Philadelphia except Milt Leidner and Dave Kanner, and tried more rape cases than anybody else and police brutality and resisting arrest cases.

CHAIRMAN RHODES: Representative Dumas.

BY REP. DUMAS:

Q Do you think there is any kind of coalition that could be put together to encourage the Rizzo Administration to take, from a coalition?

A You said is there any type of coalition you can put together to make him change his mind?

Q Yes, to kind of encourage the Mayor to change his mind.

A Well, a Zebra doesn't change his stripes and a Leopard doesn't change his spots.

Q Okay.

A And most people have to run and hide just like the Lizards do, slide under the rocks, okay?

REP. DUMAS: Thank you.

CHAIRMAN RHODES: Do you have any questions, Representative Wiggins?

BY REP. WIGGINS:

Q Mr. Moore, I am very impressed with your past military record. If my memory serves me correct, I believe you were sergeant major?

A Sure. I was both battalion and regiment and division.

Q Therefore, you heard of military procedures and protocol.

It has been suggested earlier that possibly the formation of a uniform code such as the UCMJ that would govern the police throughout the Commonwealth.

A What is the UCMJ?

Q Uniform Code of Military Justice.

A I had to write part of that. I was still in the Marine Corps when it came out in 1950.

Q Do you feel the establishment of a manual that would be all bearing that the police force would be subjected to would give better discipline and also set up a mechanism for punishment for various levels of offense, for violations of that manual?

A Well, the only disagreement I have with your suggestion is you are making it limited to police, that's one.

And of course if you realize in the military everybody was subjected to the same oath and same offenses.

Of course, Article 15 and so forth, those requiring that enlisted men be able to serve on the court martials and reducing the severity of summary offenses and special court martials, which we used to have deck courts. That involves an entirely different group of people.

Now this may be a quasi-military organization,

but it is responsible to the Commonwealth; while the military was only responsible to the President of the United States.

Plus the fact, they gave up certain rights when they swore that oath. And I did it for nine years, '42 to '51. That is the reason you say the Uniform Code for just the police?

Now Ted Reimel, Judge Reimel put out a book a long time ago -- I guess, Hardy, you know that, a blue book -- but that was mainly all favorable to the police. And Judge Reimel was a good friend of mine; but I said that is a crock because actually there are some things like the right to resist an unlawful arrest. Your legislatures have taken that away. They are saying, "Go in, submit the arrest, go in there and then you can go to court and get rid of it if you are innocent."

You see, that's what one of those Uniform Code things, because the Uniform Code things the minute the man says, "I am putting you on report," you don't have any rights, they are surrendered.

You go to captain's mess and the only thing he says, "I will hold you for either a summary or general or a special court martial." And the sergeant major says, "One step backward, about face, forward march. Prisoner chasers,

take your prisoner."

Now that would be tantamount, if you made it in the manner in which you suggested, would be making them a special class then.

You see, these people come from the people. It is true that the military comes from the people, but you have so many different channels in between because we were part of the Navy, the Marine Corps, we were 10 percent of the Navy -- the best 10 percent, but nevertheless that would be my quarrel with that.

If you make it a widespread statute not just for police officers because if you remember, I don't think you have completely emasculated it, but a citizen has a right to make a citizen's arrest in some instance where he sees a felony being committed. Of course, he has to be sure that there was a felony committed or else he will be locked up and sued.

That would be my only quarrel with what you suggested.

CHAIRMAN RHODES: Any further questions, Representative Wiggins?

REP. WIGGINS: No, thank you.

CHAIRMAN RHODES: Representative Hutchinson, do you have any questions?

BY REP. HUTCHINSON:

Q I am not sure my impression is correct or not; but as you testified, as you recounted the history of the police brutality in this community, am I correct in getting the impression that you believe it is worse now than it has been, that it has been getting worse?

A I said that it is worse today, as far as killings are concerned, and it was worse under Joe Clark when he was a Mayor. But they didn't have all those killings, but it looks like they are trying to run him a sharp race.

And I think this Subcommittee of the Legislature is doing their duty in trying to prevent the repetition of that same thing because, after all, we are dealing with human lives and that is the big thing.

You see, they even shoot White folks now-a-days.

Q And specifically, I think you made one suggestion on legislation, that would be that the District Attorney be given investigative subpoena power?

A That's right, prior to arrest.

Q Prior to arrest, so he could get the discovery and have his case prepared for court?

A That's correct. We have persons accused of a crime of --

Q And there are federal statutes in connection with that, there are --

A Oh, yes. That's the reason Penrose down there in the U. S. Attorney's office, I had to turn to him because they were hiding the boy's clothes, to see if it had been any cordite on it.

Q Are there any other suggestions you have with respect to legislation?

A Well, I think I made all the suggestions right now. If I think of any later, I will be glad to -- and I know all of you personally, most of you; and all of those I don't know personally, I am glad to have been here and I think you have accorded me sufficient kindness, generous treatment in listening to what I said. Maybe it might have been a broader range, but nevertheless, I am very grateful.

CHAIRMAN RHODES: Thank you.

Representative Williams has a question before you go.

BY REP. WILLIAMS:

Q Mr. Moore, before you go, I am sorry partly about our record. I am concerned about the quality of your testimony. You have given us some of your background and were asked for your recollection, to jolt your memory.

And I just want to say I was involved in lots of your involvement in the Philadelphia community with regard to the struggle of civil rights and against police oppression.

And my remark about courteous is the truth that the impact you have made on this City is unlike any other single citizen.

You left out so many other things, so many demonstrations that you led for either economic reasons, employment reasons, discrimination reasons involving lawyers, involving judges -- who are now judges; a lot of people who are concerned about the injustices are led by you. I think that says something about this City because credibility, in my experience as a Legislature many of us just do not seem to understand.

And while you are here, I think we can take advantage of what you represent. I would think it is fair to say you have represented basically the feelings and thoughts and perceptions in this matter of the Black people and much of the White people. So I just wanted us to be clear that your testimony, your experience is not just your own statement but a collective putting together of what the feelings and perceptions of the communities have been for all those years.

Having said that, just for record purposes, just to get it on the record, with your experience, with your involvement all that time and the sacrifices you made from your private practice for the people of Philadelphia, you

sacrificed that time.

In your opinion would you say that the question of police violence and violations of civil rights has been and is now a problem of high and serious magnitude?

A I appreciate what you say about my background.

In answer to Mr. Hutchinson's question there, what I said reflected the opinions of the people that I led and still lead. Of course I am on the corners every Saturday because all us country boys that's the only place we had to go, either the country store or go to the corners. So you can hear actually what's going on. And then observations about the school system and all of that is going to lead to some confrontations. And we know the police will eventually get involved.

Of course, being a councilman, the only thing you can do is vote for or against. Some of them I voted against.

I mean, if I had gone into all the different things I have led, we would be here until next year and I don't want anyone writing a book on me unless you get my authorization, and if I write it, the Internal Revenue would take it.

But in specific response -- because you were here, that's all over the City, out in the Cobbs Creek Parkway

section which used to have the largest voting ratio anywhere in Philadelphia, but the collective experiences, based upon the people that I have talked to and have continuously talked to because, you see, I don't run from the fox. It doesn't mean anything to me where I am because I am more satisfied at 1619 Columbia Avenue than I would be living in one of those big mansions. I have lived in mansions before; but it is not the structure, it is the spirit and the soul involved in the mansion. And that's what I am hoping you all will get to in the recommendations in this legislation.

And I would be perfectly willing to come to Harrisburg and testify before your full Committee, if you want me to.

Q I am sure we will want you to.

A But I don't know whether I have answered your question or not, responsively; but I am not trying to evade but --

Q You have answered it.

A record, as you know, being a lawyer, is important. We can talk all day long. Unless we get to the bottom line it doesn't mean a thing. And as I said, credibility in this area is a problem. People cannot speak for themselves. Little people, you know, they can't speak for themselves and it is hard for people to believe that we have a problem of this nature.

I just want to make sure when we have a person with your exposure and experience and impact, that we get the full benefit of it.

You mentioned the Black Panthers, you mentioned Max, you mentioned Reggie Schell. We had some testimony here earlier from the African People's Party and people involved in different struggles like that who had been oppressively arrested, high, high bail, publicity indicating high, really sinister conspiracy, the end result of which all the cases were not guilty or dropped the charges.

And the Panther case of course, those pictures of naked young Black males was spread throughout the world, the end result of which is not guilty or dropped the charges. And it seems to indicate that when people either stand up or express their points of view, that the police can, just without fear of any kind of attention, do that, and the public not even know the result. And you have seen that many, many times, I know.

A Yes, I have.

Q And that kind of thing can continue to happen.

Would it be your estimation that that fosters a respect or disrespect for the law?

A Naturally it fosters disrespect; and had I known in time, I could have packed this auditorium with people who

could testify, and you would be here from now on.

Q I am glad you mentioned that because I personally apologize for the fact that the community did not know, that was an error on the part of our collective Committee in not disseminating information sufficient such that the people who have that need to testify are not here.

Hopefully, this Committee will correct that. It is my understanding you were just contacted; we are really glad you are here.

I have a lot of other questions, but I would like to restate for this record so when we review it and make recommendations we will know that we had before us a person who has been, over all of these years, deeply and thoroughly involved; has created jobs for people, has broken down walls of discrimination, both in court and out of court; and that is the nature of what you are.

I think this record ought to know that your opinions and observations come from that kind of important source, and I want to personally thank you.

A Thank you very much, Your Honor.

Thank you, gentlemen.

(Witness excused.)

CHAIRMAN RHODES: At this point, we would like to announce that we are going to adjourn and, hopefully, very soon announce the next phase of our investigation which will be community hearings here in the City of Philadelphia.

This hearing of the Subcommittee of Crime and Corrections of the House of Representatives is now adjourned.

(Adjourned at 5:40 o'clock P.M.)

Reported by:

Loretta E. Massey.

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