

Police - Barrio Relations Project

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TESTIMONY OF WILL GONZALEZ BEFORE THE SUBCOMMITTEE ON COURTS OF THE JUDICIARY COMMITTEE OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES ON HOUSE BILL 1288.

Thank you for giving me the opportunity to testify before your committee.

My name is Will Gonzalez. I am the Executive Director of the Police Barrio Relations Project. The PBRP is a community based non profit organization in Philadelphia. Our mission is to improve relations between the Latino community and law enforcement by addressing police misconduct and by seeking improvements in the delivery of public safety services to the Barrio. Our activities include advocating for institutional changes that meet our mission, the empowering of our community with an understanding of our civil rights and the means to constructively assert those rights, and the empowering of police with an increased understanding of our community through cultural awareness programs. We also help victims of police misconduct.

We are not anti police. Police play an active role in our community education efforts and work with us in organizing and presenting our cultural awareness programs for law enforcement. Our efforts to secure institutional changes have included seeking an increase in the number of Spanish speaking officers, and demanding safer equipment for police.

We are active in issues of police accountability because the Latino community is suffering from enormous public safety challenges and has a great need for effective law enforcement. An act of police misconduct is more than the violation of an individual's rights it is an act that undermines the trust between whole communities and law enforcement. Misconduct by some police makes the safeguarding of our community harder for all police.

The need for effective mechanisms to catch the miscreant officers that are making it bad for all good officers and the community that supports their work is important. Key to that mechanism is the ability of citizens to communicate with those in the Department whose responsibility is to investigate and remedy allegations of police wrongdoing. House Bill 1288 will make it more difficult for that mechanism to work. It puts a chilling effect on the ability of citizens to warn police departments of officers that may be acting improperly and undermining community - police relations. Police Departments have a hard time now getting citizens to trust that they can investigate their own personnel. House Bill 1288 will turn citizen skepticism about the process into outright fear. It will make every citizen that files a complaint with the police department a target for a criminal investigation. If the community is afraid of the police then to who will it turn to address its concerns about police accountability? If the police can not rely on citizens to help them, then how can they protect the integrity of their ranks?

Requiring citizens who fill out a complaint against police form to read and sign the Bill's proposed advisory appears more like a subliminal attempt to scare them from filing a complaint than a warning against filing false complaints.

Pennsylvania already has laws to punish citizens that file false complaints. It does not need another statute to punish what is already prohibited.

One law that prohibits false allegations in complaints against police forms is Title 18, section 4904, of the Pennsylvania Code, UNSWORN FALSIFICATION TO AUTHORITIES. That law protects all public servants not just police officers from any written statements that a person does not believe to be true and is made with the intent of misleading a public official. A violation of this law is a misdemeanor of the second degree.

Another law is Title 18, section 4906, FALSE REPORTS TO LAW ENFORCEMENT AUTHORITIES. This law also provides for criminal prosecution for making false claims against public servants. Section 4906 makes it a misdemeanor of the second degree to knowingly give false information to any law enforcement officer with intent to implicate another. It also makes it a misdemeanor of the third degree to report to law enforcement an offense or other incident within their concern knowing that it did not occur or pretending to furnish authorities with information relating to an offense or incident when that person knows that he or she has no information relating to such an offense or incident.

Falsely accused officers also have the option to seek redress through a civil action. Officers can sue those that falsely accuse them in civil court for libel.

House Bill 1288 also falls short in addressing one of the problems that it was created to remedy, the false accusation of a police officer by defense counsel as a way to divert attention from a criminal case. Defense attorneys do not fill out complaint against abuse forms before they question an officer in court. The best recourse against such a false accusation by a defense attorney is a request for disciplinary action under the Rules of Professional Conduct. This is so with or without House Bill 1288.

A more vigorous use of existing remedies therefore will do more to catch those who falsely accuse an officer of misconduct than a bold faced proclamation of intent to prosecute.

A look at the statistics of the Internal Affairs Division of the Philadelphia Police Department together with a look at the number of total arrests by Philadelphia police and the number of service calls handled by the Department in a given year reveals that false allegations against police are so remote that the proposed drastic measures proposed by House Bill 1288 far outweigh the potential damage that the Bill can cause in suppressing communication between citizens and law enforcement agencies.

According to IAD in 1996 there were 577 complaints against police filed in Philadelphia. Of those 577 complaints 270 had been investigated by January 10, 1997, the date of the last report I have from IAD. Of the 270 completed investigations, 52 were sustained, 19.3%, and only 6, 2%, were considered frivolous. Six other complaints were referred by the Department to other units or agencies. Eight, 3%, complaints were withdrawn. Seventeen, 6.3% had several findings. The vast majority of investigated complaints, 112, 41.5%, were found to be "not sustained." In other words IAD ruled it a tie between what the officer said happened and what the civilian said happened. Only 41, 15.2%, of the investigated complaints were ruled by IAD to be unfounded. Another 28, 10.4%, complaints resulted in officers being exonerated from wrong doing. Putting together the 41 unfounded complaints with the 28 exonerated complaints makes 69, 25.6%, of the completed investigations of 1996 complaints against police as of January, 10, 1997, possibly prosecuted by House Bill 1288 had it been in effect last year. Extrapolating the 25.6% figure to the 307 complaints that had yet to be investigated by the date of the report yields another 79 complaints that would likely be covered by House Bill 1288. This then provides a possible total of 148 complaints that had a possibility of being covered by House Bill 1288 had it been in effect last year.

When you compare the 148 complaints that are possibly covered by House Bill 1288 with the 59,529 arrests made by Philadelphia Police in 1996 or the 2,822,368 dispatched service calls covered by Philadelphia Police last year, the need for additional remedies to address false complaints does not materialize. House Bill 1288 therefore is more likely to scare away a legitimate complaint than to prevent the filing of a false complaint against an officer.

Another important reason against passage of House Bill 1288 is that it sends the wrong message to the public. Passage of Bill 1288 so soon after the most appalling cases of police misconduct in Pennsylvania and the corresponding favorable responses by law enforcement to prevent these problems from recurring will send a signal to the citizenry that state government takes lightly the problems of police accountability that have beset our Commonwealth and that it does not support the reform efforts of law enforcement agencies in our state.

It was a little over a year ago when Philadelphia was coming to terms with the guilty pleas of six officers, most of them from the 39th District. It was last September when Mayor Rendell responded to the scandal and the over 300 overturned criminal cases by announcing a series of reforms that he characterized as "the most ambitious anti-corruption program ever undertaken by the police department in its history."

It was less than a year ago when the US Justice Department uncovered extensive evidence of police misconduct in Pittsburgh. It is less than three months since the city of Pittsburgh responded to this finding by entering into a 40 page agreement with the Department of Justice. The agreement calls for far reaching and comprehensive reforms in the Pittsburgh Police Department.

It is a little over a year ago that reports surfaced that both the US Attorney's Office and the Philadelphia District Attorney's Office were refusing to go forward with a number of prosecutions prepared by the Bureau of Narcotics Investigation. It was also reported a little over a year ago that one BNI agent admitted in court that he made false statements in a search warrant. As a result of this scandal 110 criminal prosecutions have been dismissed so far. It is little over a year ago that the Attorney General's Office responded to this scandal by suspending BNI agents, replacing the regional director and instituting other changes in the regional office.

Passage of House Bill 122 so soon after the above events will make the legislature appear to be out of touch and against reform.

The PBRP does not condone the filling of false allegations of any kind against civilians or police officers. Our opposition to the Bill is in the spirit of ensuring that Law enforcement agencies have the maximum ability to address a serious problem that is getting in the way of effective police community relations. We hope that we have made you aware that the drawbacks of House Bill 1288 far outweigh the benefits of prohibiting what is already prohibited.