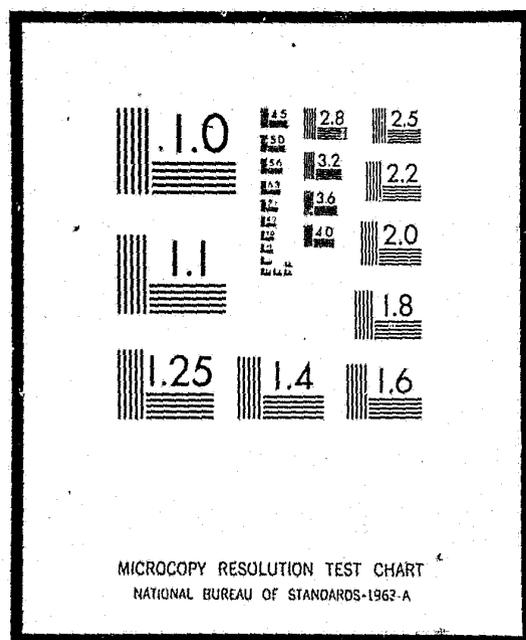


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THE PENNSYLVANIA CRIME COMMISSION

Report on Police Corruption and the Quality of Law Enforcement in Philadelphia

March, 1974

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DEDICATION

The last public office Richardson Dilworth held prior to his untimely death was as a member of the Pennsylvania Crime Commission.

Mr. Dilworth agreed to serve on the Commission primarily because of his concern about the quality of law enforcement in Philadelphia, a city which he loved above all others. He was deeply committed to the Commission's police corruption investigation and was a source of inspiration to the staff as it grappled with various problems along the way.

* This Report is dedicated to the example he set for all men of integrity everywhere.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF JUSTICE
PENNSYLVANIA CRIME COMMISSION
523 EAST LANCASTER AVENUE
SAINT DAVIDS, PENNSYLVANIA 19087

Milton J. Shapp
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G. Thomas Miller, Esq.

March 11, 1974

Lawrence T. Hoyle, Jr.
Executive Director

HAND DELIVERED

Hon. Milton J. Shapp
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Dear Governor Shapp:

As Chairman of the Crime Commission, I take pleasure in forwarding to you the Commission's report on police corruption and the quality of law enforcement in Philadelphia. The enclosed report clearly documents substantial evidence of systematic patterns of corruption in Philadelphia. The actual document consists of a summary, recommendations, and a detailed report setting forth the results of the Commission's eighteen-month intensive investigation.

A word of caution should be noted. This report is not a blanket indictment of all police officers in Philadelphia. Quite the contrary, it points out an existing problem that the Police Department leadership has refused to recognize. Most police officers in Philadelphia perform their difficult and dangerous tasks daily with integrity, honor, and distinction. By bringing the systematic corruption problem to public attention, the Commission hopes it will render support to the honest, hard-working members of the Philadelphia Police Department who have too long suffered from conditions that all informed police officers know to exist.

You will see that the report makes a number of recommendations. An important one is the establishment of an independent special prosecutor to pursue the information developed by the Commission. I shall follow the Commission's recommendation for the appointment of a special prosecutor to fight police corruption in Philadelphia. In this effort, I shall seek the full cooperation of District Attorney Emmett Fitzpatrick.

I hope that you will concur with the Commission's recommendations for a long range attack on the lack of integrity in government and support legislation to create an Office of Special Prosecutor.

Sincerely yours,

Israel Packel
Israel Packel
Chairman

Narcotics Control Strike Force
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Harold E. Dunbar, *Assistant Counsel*

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*There were a number of other members of the Pennsylvania State Police, of the Department of Justice, and of the Pennsylvania Crime Commission who assisted the Strike Force but spent less than six months with the investigation. Therefore, they are not individually named.

Acknowledgment

With a tinge of idealism, a small group began the intensive phase of this investigation in July, 1972. Long hours and hard work have been their plight. It would be impossible to acknowledge the many individuals who have made significant contributions to this investigation. Nevertheless, there are a few who deserve special thanks.

The Commission's legal staff operated on essentially democratic principles with a free exchange of ideas among the entire staff. Each attorney had various areas of responsibility. Alexander Kerr, who was one of the long marchers, eventually came to serve in the role of chief counsel with the basic responsibility for the Commission's litigation against the Police Department. His participation and exercise of good judgment helped us negotiate many of the obstacles encountered. Barbara Bailey was the attorney in charge of the vice investigations and helped guide most of the street investigations. Thomas J. Oravetz was the attorney in charge of the non-vice investigations, handled important litigation, and developed one of the Commission's principal police witnesses. John L. Rolfe was the attorney responsible for much of the theoretical research, organizing, planning, and editing of the final Report. The narcotics investigations were conceived, planned, and directed by Stanley R. Wolfe, Esquire. He, with the assistance of Harold Dunbar, developed a very sophisticated narcotics operation which was used to study the Philadelphia Police Department's narcotics enforcement effort.

While lawyers gather certain information in hearings, provide some overall direction, and provide legal counseling, the backbone of any investigation is the investigators. The Commission was fortunate in having the advice, assistance, and experience of David W. Breen, a 25-year veteran of the Federal Bureau of Investigation. The Commission's own agents made very valuable contributions to the investigation. Special Agent Christopher J. DeCree provided efficient administrative assistance. Special Agents Albert Risdorfer and Joseph Morace performed well in many extremely sensitive investigative tasks, particularly in working with one of the Commission's most important police witnesses.

The State Police were motivated and led by Sergeant (now Lieutenant) Matthew E. Hunt who has been with the investigation since its inception. The Commission and staff owe him a special note of thanks for his aggressive and tireless conduct of the investigation. The Commission is grateful for the assistance of many other State Police officers and wishes them well in their careers.

In the narcotics investigation, Trooper (now Corporal) John Schafer and Troopers Robert Dorman and Edward Long were especially effective undercover agents. Trooper Arnold Smith worked on extremely dangerous narcotics assignments and developed more experience in infiltrating high level drug operations than any other member of the unit.

An investigation must have good administrative support. Ms. Diane Scott proved an able organizer and assisted the Executive Director in coordinating much of the Commission's activity. Mrs. Rita Freeman, as secretary to the Executive Director, worked extremely long hours and provided invaluable assistance. The governmental bureaucracy was always dragging its heels; but with the energy of Richard Decker, we learned to make it supportive. Roger Arner, as Director of Intelligence, provided able assistance with the retrieval and organization of the results of the investigation.

A special word of thanks is owed to the Commission's clerical and secretarial staff and legal assistants who willingly worked long hours at night, on holidays, and over weekends to help make the Report available as soon as possible.

The initial planning of this investigation was fertilized by the provocative comments of Professor Norval Morris of the University of Chicago Law School. As the investigation proceeded, Nicholas Scoppetta, formerly a staff member of

the Knapp Commission and now Commissioner, New York City Department of Investigations, provided invaluable guidance with the investigative techniques utilized by the Commission staff and guidance in handling police witnesses.

Finally, the Commission staff owes a word of special thanks to Governor Shapp for his personal encouragement and assistance. Although there was some disagreement over public hearings, the Governor and his staff never failed to provide the support which was necessary for this investigation.

Lawrence T. Hoyle, Jr.
Executive Director

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PREFACE

The following Report sets forth the Pennsylvania Crime Commission's findings concerning police corruption in the City of Philadelphia. The Commission has uncovered evidence of systematic, widespread corruption at all levels of the Department.

The Report has two purposes: to publicize the police corruption problem and to suggest some possible measures for its eradication. The first goal, that of alerting and acquainting the Police Department, other government officials, and the general public with the fact that police corruption is a problem in Philadelphia, is of critical importance. The single biggest roadblock to instituting any reforms has been the repeated failure of the Department leadership and the City Administration to admit that corruption exists on a widespread, systematic basis. The traditional departmental view is that the Police Department, like any large organization, has a few "rotten apples," who will be dealt with by the Department when discovered. In its view, the only people qualified to investigate police are police.

Until the true dimensions of the problem are acknowledged, no reforms will occur. Thus, the Report takes the time to detail some of the specific facts which support its findings in an effort to convince people through concrete evidence that corruption in the Philadelphia Police Department involves more than a few rotten apples.

Despite the call by some public officials to "name names," the Commission does not want to be accused of maliciously

publishing names in a "smear" attempt. The Commission has, therefore, adopted the policy of listing officers who might be subject to criminal or disciplinary proceedings by rank, first name, last initial, and badge number if they are presently in the Department, or payroll number if they have resigned from the Department. Since inspectors have no badge numbers, payroll numbers are used. The first name and last initial are included because the Commission discovered that the same badge number can be issued to two different police officers.

Every effort has been made by the Commission to insure the accuracy of the list. However, the Commission only had access to badge numbers as of May 1, 1973. A complete list of the full names and badge numbers is being turned over to the Police Department and the appropriate prosecuting officials.

The second purpose of the Report is to offer suggestions for possible reforms which might bring about some effective changes. The Commission and the public would be naive to think that any single reform could completely eradicate the corruption problem. A cursory reading of the newspapers indicates that integrity problems exist at the highest levels of government. The Commission believes, however, that the creation of a special and completely independent prosecutor responsible for law enforcement corruption would be a significant step in combatting the problem. A local district attorney cannot effectively investigate the people on whom he must rely for the day-to-day performance of his job.

One of the difficult issues in assembling the Report was determining how much information to include. A decision was made to exclude most of the material developed in the early stages, which has already been subjected to public scrutiny and used for prosecutions. Thus, the evidence developed by former policemen Carl Johnson and Edward Mitchell, as well as alleged prostitutes Barbara Dunagan and Lorraine Nyeigio, has not been included for purposes of the present Report. Most of that material has already received publicity; additionally, the Commission believed in August, 1972, when the new staff was assembled for the intensive investigation, that it was more promising to begin work in areas that had not already received publicity. Thus, what follows is what the Commission was able to uncover since August, 1972, with the exception of information provided by one club owner.

During the intensive investigation, the Commission held 245 hearings, accumulating 10,989 pages of sworn testimony from

351 witnesses. The Commission cannot recommend indictments or prosecutions; its purpose is to identify problems and patterns of wrongdoing. However, during the course of its investigation, the Commission came across more than 150 officers who could be indicted (approximately 100 for perjury, bribery, or related offenses and 50 for misdemeanors such as violation of the City Charter); an estimated additional 250 officers who could be dismissed or disciplined (for receiving money at Christmas, receiving illegal gratuities in the form of meals and other merchandise, or for neglect of duty); and more than 300 other officers, not referred to in the body of the Report, who should be further investigated, if appropriate prosecuting and Police Department officials desired to take an active stand against corruption. This additional information will be made available to the appropriate officials.

I

SUMMARY

The Pennsylvania Crime Commission is an investigatory fact-finding agency with the responsibility of inquiring into causes of crime and the adequacy of law enforcement. It does not have the power to arrest, indict, or prosecute individuals for criminal wrongdoing; rather the Commission prepares reports concerning problems in the criminal justice system, with particular emphasis on corruption. The Commission believes that the forces of informed public opinion and legislative action are necessary to correct the system-wide problems uncovered by this investigation; prosecution of a few individuals will have little impact on the conduct discussed in this Report.

POLICE CORRUPTION

The Commission found that police corruption in Philadelphia is ongoing, widespread, systematic, and occurring at all levels of the Police Department. Corrupt practices were uncovered during the investigation in every police district and involved police officers ranging in rank from policeman to inspector. Specific acts of corruption involving improper cash payments to the police by gamblers, racketeers, bar owners, businessmen, nightclub owners, after-hours club owners, prostitutes, and others are detailed in the Report; more than 400 individual police officers are identified by first name, last initial, and badge or payroll number as receiving improper payments in terms of cash, merchandise, sexual services, or meals.

Corruption and political influence in the Police Department are problems which have plagued the force since its inception. In the 20th century alone, there have been three previous special grand jury investigations, each of which found widespread corruption within the Department. Difficult problems of integrity, political influence, and professionalism still continue, as the following summary of the Commission's factual findings indicates.

Liquor

The time, location, and means of selling alcoholic beverages in Pennsylvania are all subject to strict regulation under the Liquor Code. Many establishments operate in violation of the liquor laws to maximize profits, either by staying open past required closing times or having women solicit drinks from customers. Little social pressure exists in favor of the laws, but the Police Department has had to assume responsibility for enforcing those laws. In many instances, rather than enforce the Liquor Code, the police receive payments to overlook violations. More than 20 officers are identified as having received illegal cash payments from bars and approximately 50 from after-hours clubs. Additionally, more than 25 officers are identified as having been in after-hours clubs after the proper closing time. The Commission found widespread shakedowns of licensed liquor operators on the "Locust Street Strip" by members of the Philadelphia Police Department. The Commission discovered evidence that payments to the police were directly responsible for several illegal and open "bust-out" operations.

Eventually, one bust-out bar owner cooperated with the Commission's effort. He worked with the Commission for over a year and made tape recordings of conversations involving payoffs to police officers. During that time, he or his employees made direct payments to twelve police officers on a periodic basis. The tape recorded conversations which occurred during direct payoffs implicated another five officers. He testified concerning payoffs to two other identified police officers—one when he operated another bar and one when he had been arrested and was attempting to obtain expedited treatment at the Police Administration Building. He paid the police in a highly organized fashion, and his experience is a good example of the payoff system as it presently exists in Philadelphia.

To protect his bust-out operation, the bar owner paid an aggregate of \$800 per month to policemen in every unit which had vice enforcement functions in his area. He paid each of the four uniformed squads when they worked the midnight to 8 a.m. shift; three of the squads received \$35 and the fourth received \$40. The "captain's men," who did plainclothes vice work for the captain of the 6th Police District where the bar was located, were paid \$80 apiece each month. The plainclothes officers who did vice work for the inspector of the Central Police Division, the "inspector's men," also received \$80 apiece each month. Their lieutenant received \$100 per month, which was paid by the bar owner's manager. The manager also paid the inspector and his "bagman" each month—the bagman received \$50 and took \$100 to the inspector. Two members of the City-wide vice squad, the Chief Inspector's Squad, received \$50 per month.

The Commission also uncovered circumstantial evidence of payoffs to police by three other bust-out bars. An officer who was picking up money from the cooperative bar owner commented, in tape recorded conversations, that the bar was only one of a series of stops. Also, other conversations occurred concerning payments being made by the other bars. A police witness for the Commission also confirmed that he had received payments from other operations on the Strip. Because of this evidence and because the bust-out activity continues in such a blatant manner with few arrests being made by the police, a reasonable conclusion is that the owners of those establishments are also paying for protection.

In addition to the Locust Street Strip, the Commission found that certain after-hours clubs routinely and systematically paid police in order to operate past prescribed closing times. After-hours clubs are private clubs licensed to sell drinks until 3 a.m., one hour past the normal closing time for bars.

A pattern of police activity occurred at the clubs which operated illegally after 3 a.m. Officers would enter the club at approximately 3:15 a.m., but make no effort to close it. They would then leave and subsequently return a few minutes before 4 a.m. and close the club. On occasion, an officer would remain at a club during the extra hour, and the bartender would continue to serve drinks in his presence.

This pattern of police activity occurred in all of the clubs for which the Commission has evidence of payments

by the club to members of the Police Department. The cooperative bar owner tape recorded conversations with the managers and employees of several clubs in which the employees detailed payments to various police officers including the inspector of the Central Division.

The owner-operator of a Kensington club identified over 40 police officers that he had paid during the period from January, 1970, to September, 1972, including uniformed men up to the rank of lieutenant, two captains, two captain's men, two inspectors, and two inspector's men. The Kensington bar owner's identifications were corroborated by direct observation of payoffs by Commission agents, examination of a ledger the owner maintained in which he recorded police payments, and an examination of police assignment sheets. Incredibly, even after a widespread transfer of men in the 26th District and the East Division, the police did not miss a payment installment; the only result was a slight reduction in payment amounts. Thus, the uniformed squads received \$170 each month until January, 1972, and then the new squads received \$160. The captain and his men received a total of \$110 per month prior to the transfer and \$75 afterwards. The inspector and his men received a total of \$80 per month prior to the transfer and \$50 afterwards.

Illegal liquor sales outlets, "speakeasies," also operate in Philadelphia with both the knowledge and protection of the police. The Commission found two kinds of speakeasy operations: one operates on Sunday when state liquor stores are closed, and the other is similar to an after-hours club and is in operation seven nights a week.

The Commission discovered a typical Sunday operation in Germantown. Agents made numerous purchases from the speakeasy. One former police officer testified he had received steady payments from that speakeasy. The Commission also uncovered a bar which permitted lewd shows under the protection of a policeman moonlighting as a bartender, and a tavern owner who testified under oath that prior to selling his bar he paid the police between \$300 and \$400 each month.

The Commission thus found evidence of widespread payoffs to police officers from Locust Street Strip establishments, after-hours clubs, and speakeasies in order to conduct operations in violation of the liquor laws. Even legitimate taverns were at times forced to pay to forestall being charged with having violated one or more of the numerous technical pro-

visions of the Liquor Code. Clearly, segments of the Police Department, confronted with enforcing laws about which society cares little, selectively enforce the law for personal gain.

Gambling

The gambling laws prohibit conduct in which large numbers of people engage. The prohibition of gambling is unpopular and is certainly not of as great public concern as the enforcement of laws against such serious acts as burglary, robbery, rape, and murder.

The most prevalent forms of illegal gambling are numbers, horse bets, and sports bets. Commission agents made direct bets or observed bets at more than 200 illegal gambling locations. This does not include the numerous locations where agents saw all the indications of a gambling operation but did not observe or place a bet. An example would be a variety store where very few goods could be found on the shelves, and large numbers of people would enter the store for short periods of time during peak betting hours but rarely buy anything.

The Commission found direct evidence of ongoing illegal gambling in every police division of the City. Gambling operations were found in such places as candy stores, variety stores, restaurants, and bars. Police witnesses identified other locations which were systematically paying for police protection. The Commission documented payoffs to more than 25 police officers from gamblers. As a result of the work of the Commission's police witnesses and other investigations, there is evidence warranting more than 200 gambling raids and the arrests and indictments of more than 50 gamblers on bribery charges.

One of the Commission's more successful ventures was the infiltration of a medium size gambling network in West Philadelphia. The agents also became familiar with a nearby horse betting system on North 64th Street, as well as other gambling operations in the area. Because of their acceptance by these groups, Commission agents also placed bets with the largest operation in West Philadelphia which conducts business from a club on North 66th Street.

Because of the regularity, size, and openness of the business, widespread illegal gambling cannot exist over a period of time without the knowledge of the Police Department. Gambling has historically been tied to police corruption, and the Commission found the same ties exist today.

Each time police raid an operation, the disruption costs the gambler hundreds, and possibly thousands of dollars; consequently, a gambler is willing to pay to prevent the disruption. Confronted by an apathetic public, by gamblers who can evade arrest through the use of rice paper and the telephone, and by courts in many cases unwilling to impose a sentence of more than a small fine or probation, the police have become justifiably cynical about their ability to control a "crime" which few wish to control. However, Department policy demands vice arrests, and many times police officers turn the situation to their own benefit.

The Commission found that police officers throughout the City accept protection money from gamblers. The Commission received sworn testimony from its principal police witnesses concerning many gambling locations giving protection payments to police. The Commission's investigation disclosed that the basic pattern of gambling payoffs involved a sum of money paid by a numbers banker to a policeman who acted as the bagman for his unit. The bagman then distributed the money to all the members of his unit who were aware of the illegal activity and who wanted the note. Uniformed squads were paid when they worked the 8:00 a.m. to 4:00 p.m. (day work) shift, every 24 days, with generally about \$5 going to a policeman, \$10 to the sergeant, and \$15 to the lieutenant. Payments to plainclothes units may range from \$15 to \$50 per man paid through a bagman once each month, usually on the 1st or 15th. Plainclothes officers normally have a number of such regular notes.

The method for handling the payoffs can be well planned and hidden. For example, in West Philadelphia, a middle level gambler pays the uniformed squads \$65 a month when they are on day work; he also delivers money for two smaller bankers, each of which pays \$50. He also pays a total of \$450 to one bagman for the captain's men and inspector's men.

The Commission uncovered other payoff patterns. Some gamblers pay by locations, with office men and writers making their own payments when necessary. Two principal Commission police witnesses gave sworn testimony concerning \$5 and \$10 notes they had received from many gamblers, usually through a bagman. One banker from South Philadelphia began working with the Commission and taped a payoff with a sergeant. The payoff occurred in a police car, and the police

radio can be heard in the background. Other bankers pay their "edge off" houses a fee for police protection.

The Commission also discovered a substantial number of illegal gambling machines in the City. The machines were declared illegal in the late 1950's by the Pennsylvania Supreme Court. Distributors would not place them in the outlying counties but had no hesitation about installing them in Philadelphia. However, the Commission was unable to determine whether the existence of the machines was due to police laxity, ignorance, or payoffs.

A combined program of gambling law revision, adequate police training, and leadership on the corruption issue, as well as the deterrent of an ongoing, institutionalized investigative unit outside the Police Department specializing in integrity are necessary to fight corruption arising from gambling activities.

Prostitution

The Crime Commission investigation into prostitution and its relationship to police corruption concentrated in the Central and North Central Police Divisions. During the course of its investigation, the Commission located various centers of wide-open prostitution operations. Approximately seven police officers were identified as receiving cash payments to permit prostitution; eight others were alleged to have received or demanded sexual services from prostitutes in lieu of arrest. The Commission found that in certain selected localities within those areas, streetwalker and bar prostitute operations flourished due to police protection.

Commission agents received 62 separate solicitations in two limited geographic areas. In the North Central Division, street-walkers, primarily black, frequent a two-block stretch of North Broad Street. They become known to both the police and the general public and obtain most of their clients from being in a place where prostitutes are "known" to be.

In the Central Division, Commission agents discovered wide-open and fast-moving prostitution rings at two bars at 10th and Race Streets, both within two blocks of the Police Administration Building. In addition, agents received solicitations at other bars in the area.

The Commission interviewed several of the bar prostitutes

from the 10th and Race Streets area to determine whether they paid the police in order to operate so openly. Three of the women gave sworn statements that they were required either to solicit four drinks from their clients before they adjourned from the bar to a nearby hotel or to pay the equivalent of four drinks to the bar from the money they earned. It was their understanding that the money was used by the bar to pay police for protection. The witnesses had both observed and been involved in instances which corroborated their understanding. For example, when a prostitute was about to leave the bar with a client and saw a police car outside, she told the bartender. He went outside and the car left. Additionally, a procurer (pimp) who frequents one of the bars testified that he had observed the owner pass currency to a police officer inside the bar. As soon as the Police Department learned of the Commission's activity in the 10th and Race Streets area, the prostitution operations were closed down for a short period, according to one of the police witnesses who testified before the Commission.

A cooperative bar owner tape recorded a conversation with two officers in which they told him bar owners still pay the police for protection of their prostitutes. The same bar owner and his employees told the Commission that police protection involved not only payments of money but also free sexual services. The bar owner identified five police officers who received these services. One prostitute who worked at a Center City restaurant testified that she had sexual relations with police officers several times a week. She also told the Commission of an incident in which two police officers extorted \$300 from her, part of which was used to pay for their dinners and a hotel room where they engaged in sexual relations with her. The prostitutes from the 10th and Race Streets area also testified that they were propositioned by police officers. When they did get arrested, an officer would offer to drop the charges if the female would engage in sexual relations with him.

The laws against prostitution, like those regulating gambling and the distribution of alcoholic beverages, are concerned with victimless crimes. The Commission found corruption usually attended the regulation of the conduct by the police.

Narcotics

In terms of patterns and regularities, narcotics related police corruption shares little with the other vice areas.

The Commission discovered corruption in narcotics enforcement to be more of an individual than squad-wide activity. While the financial temptation is greater because of the extensive profits involved in narcotics traffic, the long standing law enforcement view of narcotics graft as the "dirtiest" type of corruption and the very nature of the narcotics transaction itself mitigate against systematic corruption. Nevertheless, the Commission received sworn testimony concerning police officers who allegedly have accepted, and in some cases, extorted money and narcotics from drug offenders interested in avoiding arrest. Approximately eight officers have been identified as being involved in narcotics related corruption, although an additional estimated fifteen unidentified officers were said to be involved. This does not include the incidents detailed by the special investigating grand jury.

The most common type of corruption appears to be the "shakedown" where an officer receives money, drugs, or other payment in lieu of arresting a suspected drug offender. An officer who makes a practice of narcotics shakedowns may patrol known drug use areas in search of a "score." When he sees an addict or a pusher, the corrupt police officer stops him as if to make an arrest. At the suggestion of the suspect or on his own impulse, the officer may come to some sort of understanding with the individual. The street addict, pusher, and addict-prostitute make particularly easy targets for the corrupt officer.

A former police officer testifying before the Commission estimated that in 65-70% of narcotics arrests, part of the drugs seized were not turned in as evidence but were kept for farming, paying addicted informants, sales, or personal use. Farming—the planting of evidence—is used to make or strengthen the case against a suspect. This conduct is often rationalized as a means of removing the trafficker from the street.

The Commission assembled evidence about the occurrence of shakedowns and farming in the 16th, 17th, and 18th Police Districts. In some cases, female addicts were allegedly threatened with arrest, beaten, or forced into performing sexual acts with the officers who had stopped them, while males were threatened, beaten, released, and told to "keep their noses clean."

One addicted drug dealer told of four incidents during the last two years when he was detained by police officers and lost more than \$2,400. Another told of being detained during a drug raid in North Philadelphia and having all of his cash

stolen. A third pusher, a woman, described various instances when officers allegedly obtained sexual services to forestall an arrest, mentioning three detectives and a lieutenant by name. The Commission has received allegations concerning fourteen other instances of Philadelphia police officers taking money, drugs, information, goods, or sex from suspects.

The Commission's findings in this area are supported by the investigating grand jury which unearthed similar examples of narcotics corruption. However, the Commission did not uncover the same widespread, systematic corrupt activity as in other areas of vice enforcement.

Business Notes

The Crime Commission found a broad spectrum of businesses, large and small, making illegal direct cash payments to the police; they included banks, insurance companies, automobile dealers, restaurants, supermarkets, jewelers, construction companies, vendors, country clubs, and moving companies. Businesses were found paying police officers in every one of the twenty-two police districts.

Most of the payments can be categorized as follows: (a) payments made in return for clearly improper acts by policemen, including providing on-duty policemen as private guards and providing confidential criminal records and intelligence information; (b) payments for proper police services rendered during the course of duty, including extra protection, police escort service, and quick response to calls; (c) gifts or payments made to incur "goodwill" on the part of the policemen; and (d) payments by businesses in response to extortionate demands by policemen or as bribes to overlook traffic, building codes, or other violations.

Although only a limited investigation of this matter was undertaken, the Commission uncovered identifying data on more than 200 police officers receiving cash payments from businesses. The names and badge numbers of 129 police officers who have received illegal cash payments were obtained, including one inspector, one captain, seventeen lieutenants, twenty-four sergeants, one corporal, and eighty-five policemen. Hundreds more such identifications would be obtainable through careful examination and correlation of police records with testimony of Commission witnesses. An estimated 700 policemen have received cash from

just the businesses named in this Report in 1972-73. In addition, approximately 167 police officers were specifically identified as having received one or more free meals. An estimated 2,000 policemen have received free meals from just one restaurant chain in the above period.

The cash payments uncovered by the Commission are specifically punishable by dismissal and up to 90 days in jail under the Philadelphia City Charter and are potentially punishable as bribery under the criminal laws. The Police Department takes a strong official position opposing such payments, yet the Department never investigates them or punishes officers who receive them. Policemen thus generally refer to business payoffs as "safe notes" or "clean notes."

Police officers high in the chain of command are well aware of and participate in clean notes. Guard service at one company was arranged with at least the knowledge of the commanders of ten police districts. One instance was found in which an inspector in command of a police division was required to share Christmas notes by taking a case of liquor to a downtown staff meeting.

The amounts of money paid to the police for extra services provided to businesses range from \$2 for an escort to the bank to \$125 paid weekly for a full-time police guard stationed on business premises. Although the amounts of individual payments to police are often small, they can amount to a substantial investment of money. One business paid nearly \$60,000 in cash and dispensed \$70,000 worth of free meals to policemen in 1972. Another business paid cash to police officers at an annual rate in excess of \$23,000.

The clean note presents a serious corruption hazard to any police department, despite the fact that often no criminal activity is being protected. Where police act as regular guards for specific businesses their services are effectively denied to the rest of the public. The Commission found that in the case of one fast-food chain, the services of the equivalent of 22 full-time, on-duty police officers were devoted to protecting various business locations. These on-duty policemen were used in place of private guards at a substantial savings in cost to the company. However, the Philadelphia taxpayers lost the services of men who received a combined salary of about \$264,000.

In addition to taking police services away from the public, this use of police as private guards was completely inefficient as a means of reducing crime. Close examination

of crimes at protected and unprotected restaurant locations shows that the regular presence of on-duty police guards prevented, on the average, less than \$13,000 in crime losses due to thefts per year, while the police protecting the stores were paid a combined public salary of about \$264,000. At the four major supermarket chains in Philadelphia, extra police services also had no measurable effect on the crime losses of individual businesses.

Failure to enforce restrictions on clean notes thus has led to policemen being given assignments which afforded inefficient and ineffective protection to the public and has resulted in a distorted allocation of police resources.

An even more serious consequence of the clean note is that decisions on where to allocate police personnel are influenced by who is willing to pay extra for them, rather than where they are most needed. In effect, police services are open for bidding with the money going to individual police officers.

The receipt of clean notes also has an impact on the integrity of the individual police officer. The wide acceptance of illegal gifts causes everyone to be compromised to some extent. Some honest officers find them personally degrading and resent the assumption that they can easily be bought. Clean notes are also one means by which officers are tested by other officers who want to see if they will go along with the system. Even an officer who will not personally take a clean note learns that he must look the other way when his colleagues take them, or risk being an outcast.

In some cases where police officers receive a modest but steady clean note, they can become dependent on the extra income, causing them to look for other sources of notes if transferred. The note becomes an expected way of life, and officers may use the wide discretion at their disposal to bring non-paying individuals into line. For example, the Commission discovered that in certain sections of the City, vendors are systematically "shaken down" by the police. One fruit vendor testified before the Commission that he had been operating a fruit truck for the past twenty years and during that period he had to make regular payments to members of the Philadelphia Police Department in order to operate. During the five years that he operated an unlicensed stand at 20th and Johnson Streets, he paid at least \$60 a month and at times as much as \$75 a month to the police. Each of the shifts was paid

\$15—\$5 for the sergeant and \$10 for the sector car. He also usually had to pay \$10 a month to an emergency patrol wagon. The vendor believed that everybody in the fruit business has had to pay the police at one time or another. The vendor finally stopped payments to the police in October, 1972, and several months later, his truck was confiscated by the police and shredded.

Police officers become so accustomed to receiving income from vendors they have actually been known to argue over the location of vendors. For example, a former police officer testified about a dispute between officers in the 22nd and 23rd Districts over the side of the street on which a vendor would illegally park. Each wanted access to the free food and cash that would be forthcoming.

Even occasional Christmas notes, free meals, or other presents given to create goodwill have an adverse effect. Although at first the effect of a gift to policemen or other public employees may be to create good feeling and marginally better service, in the long run the recipients grow to expect the presents as their just due. When they are not forthcoming, hostility is often created, and solicitation, or even harassment may take place and service deteriorates.

Car Stops

Police officers often receive cash from motorists who have been stopped for an alleged traffic or other violation. Small cash payments are made in return for failure to issue a ticket; larger amounts change hands when a driver is caught with a stolen car, numbers, drugs, or bootleg whiskey.

According to police witnesses, an expectation prevails among both policemen and motorists that the cash will be offered and accepted. Car stops are one of the first ways a rookie will be tested by his peers to see if he is "trustworthy" in terms of accepting notes. Many officers, according to Commission witnesses, do not solicit such payments but rarely refuse them if offered. Others, if they are aggressive, can make significant amounts of money through car stops.

Unprotected Property

Another common variety of police corruption, and one which offers no clear-cut remedy, is the taking of money or valuables from premises or individuals when the valuables

are unprotected. This type of violation occurs when a building is open and unoccupied, presumably because a burglary has been committed. Similar to this practice is the confiscation of money or goods during a search, arrest, or detention of an incapacitated person.

The Crime Commission has received sworn testimony from a Philadelphia police officer concerning several incidents of police burglary that he personally witnessed. His accounts of these incidents indicate that such a practice is pervasive. Further evidence of irregularities which occur during arrests has been provided by a Philadelphia police officer and by individuals who have been arrested and have allegedly had money stolen from them while in the custody of the police. Although the Department promulgates regulations to prevent such occurrences, it is apparent that there is a substantial problem in the area of enforcement and detection.

Stolen Cars

The handling of stolen cars by the Philadelphia Police Department provides a further opportunity for corruption and misconduct. During the course of its investigation, the Commission found evidence of three types of police activity related to the handling of stolen cars. First, the Police Department occasionally uses for its own purposes private automobiles and automobile registrations which have been impounded. Second, there is a general lack of security in the handling of impounded cars which has resulted in an inordinate amount of stripping of impounded automobiles. Third, there are indications that as a result of the stripping of cars at the Police Automobile Pound, insurance companies may have a practice of paying a "reward" to police officers for recovering cars and holding them at the district headquarters instead of sending them to the Pound.

The Crime Commission undertook an investigation of the Pound when a regional claims manager of an insurance company informed the Commission that a system of payments existed between one of its district claims managers and officers of the Philadelphia Police Department in order to secure the retention of recovered stolen vehicles at the district station and prevent the vehicles from being taken to the Automobile Pound. It was the company's experience that once a car went to the Pound it would be completely stripped of tires, wheels, radio, battery, engine, chrome, and grill.

On the basis of these allegations the Commission began a surveillance of the Pound and also subpoenaed representatives from five major insurance companies to see if the company's experience was unique or typical. However, at private hearings, officials of the complaining insurance company denied that payments to the Philadelphia Police Department had ever occurred. Representatives of other companies testified concerning poor security at the Pound and confirmed that on many occasions when they went to the Pound, they would see men surreptitiously working on cars.

Commission investigations also disclosed situations where tires were stolen from inside a locked trunk of a car that was in the sole possession of the Police Department; a car was totally stripped while in the Police Department's possession; and a car was stolen, recovered, but stolen again from the police before the owner could get to the station to claim the car.

Perjury

A Philadelphia police officer's conduct often leads to perjury and offering intentionally false statements in reports and in court. Perjury and intentionally false statements occur in the following contexts: officers swearing to false probable cause sections of search warrants for purposes of conducting a raid; officers falsifying the "evidence found" section of returned search warrants to hide evidence retained by the officers; officers planting vice evidence on suspects or searching them illegally and later lying under oath about the arrest situation; and officers providing false statements to protect themselves or another officer under suspicion of corruption.

Although no perjury is defensible, much police perjury is actually created and almost compelled by the Department's system of vice enforcement, which, despite officially stated policy, is in fact based upon arrest quotas.

The Commission has received sworn testimony concerning the above types of police perjury and false statements. A former Philadelphia policeman testified in detail about the course of events and conditions that brought him to a choice of perjury or testifying against a fellow officer.

Substantial evidence uncovered by the Commission indicates that a number of Philadelphia police officers committed perjury during sworn testimony before the Commission concerning

their involvement in the illegal receipt of money from established businesses.

The Corruption Environment

The Commission's investigation has shown that systematic corruption exists in the Philadelphia Police Department. This condition results from the interaction of many factors, including the Police Department's attitude toward the corruption problem, the vice enforcement policy of the Department, various societal pressures on the individual police officers, and the reaction to corruption of other parts of the criminal justice system and the public.

A rookie policeman is assigned to patrol city neighborhoods with complex human problems that society has been unable to resolve. He is placed in difficult situations with almost unlimited discretion to exercise, virtually no guidelines for action, and little or no supervision. There are strong corrupting influences "in the street." His position exposes him to far more temptations than in other occupations. Public apathy to the enforcement of vice laws helps break down resistance to accepting gifts or bribes or ignoring violations of the law. Also, many practices such as tipping and doing favors that are accepted in the business community are not compatible with the police role. Thus, the police are subjected to conflicting pressures.

The attitudes within the Department to the corruption problem do not assist the individual police officer facing temptations and pressures from his peers. The Department takes the official position that corruption exists only in isolated cases and is a matter of individual conscience. This theory, known as the rotten apple theory, is an obstacle to any meaningful attempt to deal with systematic police corruption. It is impossible to fight successfully a problem that the leadership will not acknowledge exists.

To the individual policeman, the action of the Department leadership speaks louder than pious statements on corruption. Department spokesmen assert, for example, that taking clean notes is against departmental policy; yet, despite its prevalence and openness in the Department, there have been no investigations of the clean note problem by the Internal Affairs Bureau. With this type of official response, the burden of the corruption hazard is placed on the individual policeman without the Department leadership doing its part to assist the individual officer face difficult temptations.

Another indicator of this attitude has been the failure of Department leadership to provide adequate training at the Police Academy to educate young officers about the corruption hazard. Many Crime Commission witnesses testified that the Academy failed to prepare young officers for the temptations that would arise once they are assigned to a district.

The Department's vice policy also contributes to the corruption problem. This policy is ineffective as a means of suppressing vice activity. According to Directive 8, the Department's official statement of its vice policy, all units are required to enforce the vice laws and to file various reports about vice activity. These reports are useless as a law enforcement tool. There is little or no correlation among the number of vice figures arrested, the identities of those arrested, and those listed on the vice reports. The Commission's investigation revealed that most vice reports are essentially recopied from year to year.

In addition to this reporting system, the Department has established vice arrest quotas, which emphasize the quantity and not the quality of the arrest. There is much pressure created at every level of the Department for vice arrests. The number of vice arrests made by a police officer is one factor used to evaluate his ability and performance. Yet the Department does not provide sufficient financial support and equipment to enforce vice laws in any effective way. These pressures for vice arrests and lack of support result in illegal conduct to meet the quota requirements.

The current vice policy of the Department, therefore, is not effective as a law enforcement tool but appears to exist as a shield for the Department leadership. Without the pressure for vice activity, very few arrests would be made. Corrupt officers would be content merely to collect their money from vice centers. Such conduct would become obvious to the public. With current policy, corruption is somewhat hidden from the public by the large number of vice arrests. These vice arrests are not effective against vice centers because the emphasis is only on arrest and not conviction thereby resulting in bad arrests and arrangements between corrupt police and illegal operators to satisfy the quota.

Not only Department policy but pressures created by a "policeman's lot" have an impact on an officer's resistance to corruption. As a young man puts on the police uniform, he becomes a different person in the eyes of many people. His presence creates uneasiness in many people. The paramilitary

police organization places further pressures on him and his family. His working schedule isolates him from many prior friends. As a result, he turns inward to the police community. He thereby becomes more susceptible to peer pressures. There will be many pressures on the new policeman to be trusted and accepted by his fellow officers. When a man arrives at a new assignment, he will be tested by the older men to see his reaction to minor indiscretions. He will be told about places he can get the police price on food, clothing, and other merchandise. He will be assigned work which will produce the safe or clean note from a businessman. His reactions and attitudes to police problems and borderline conduct will determine the trust the older men have in him. Once the new man is accepted by the older men, he may be given a permanent sector assignment. When he patrols a permanent sector assignment, he will notice open illegal activity; he must begin to question what is happening. Such inquiry will usually determine whether he will become part of the system. As one officer testified, if he does not go along, he will be "walking the third rail" on subway duty.

For many reasons, there is great hesitancy on the part of police to turn in other police officers. Warnings from supervisors about internal security operations in the district clearly tell the policeman that he should not make any disturbance about activities of fellow officers. If one is caught, he should remain silent.

Systematic corruption of policemen does not occur in a vacuum. Officers succumb to pressures within the Department. Illegal conduct of fellow officers, and especially by superior officers, has a destructive impact on an individual policeman. In Philadelphia, police officers have seen the Police Commissioner held in contempt of court for "blatant disregard" of a court order. They have witnessed the Department leadership fail to take action against open and widespread violations of Department policy such as in the area of safe or clean notes. They see other public officers act in ways suggesting improper influence or corrupt behavior. They perceive the courts treating policemen as a special category of offenders. Very few police cases get to trial and fewer still are sentenced to jail. The general public seems complacent about corruption problems. Even though large segments of the population are victims of it, people generally do not come forward to protest about police corruption.

All of these various factors contribute to the corruption en-

vironment in which a police officer in Philadelphia must work. The Department leadership must acknowledge that corruption is a problem that must be dealt with openly and frankly before there will be any meaningful progress made towards eradication of systematic corruption. The attitudes of members throughout the Department must change to deal effectively with the corruption problem. At the Police Academy, the recruit should be educated about the corruption hazard. Commanders must be held responsible for the conduct of their men. There should be changes in the criminal laws to remove the police from attempting to enforce the unenforceable vice laws. The Commission's investigation established that vice laws cannot be effectively enforced without enormous commitment of resources in terms of support and supervision. Departmental policies toward the vice area should be modified to reflect realistically the conditions which exist in an urban community.

CONTROL OF THE POLICE

The control of corruption and misconduct by police officers in Philadelphia lies for the most part in the hands of the Police Department itself. The District Attorney's office has shown itself to be ineffective at investigating the police and in fact is forced to rely upon the Police Department to assist in its investigations. The federal authorities also often refer allegations of corruption or misconduct by police officers to the Department, since there is not always a violation of federal law. Although some federal laws do prohibit police officers from taking bribes, the Commission is aware of very few police corruption prosecutions by the federal government in Philadelphia.

The internal control mechanisms within the Police Department are vague, fractionalized, and almost totally ineffective. The Department's attempts at controlling corruption are crippled at the outset by the attitude that there is no widespread or systematic corruption in the Department. Thus, there is little or no serious, active effort made to seek out evidence of corruption in the absence of complaints. Surveillance and exit interviews are conducted but produce few results. There has been no attempt to "turn" a police officer who has been caught and to have him work undercover to help improve the system in exchange for lenient treatment. There has been no attempt made to acknowledge the problem of corruption openly and to create an atmosphere within the Department which would allow

honest officers to bring forward evidence of corruption without fear of retribution by their colleagues or their commanders.

The responsibility of investigating allegations of both corruption and police "brutality" (a catchword for improper and excessive uses of physical force on citizens) is shared by the commanding officers of the police officers involved and by the Internal Affairs Bureau. There are no written guidelines on who shall investigate particular matters and no special forms for recording allegations of police misconduct. Which unit investigates a complaint appears to depend on a number of various circumstances such as the source of the information, where it was received, the nature of the matter, and the amount of public attention it receives. According to the testimony of Chief Inspector Frank A. Scafidi, most investigations of corruption and brutality in the Police Department are carried out by the Internal Affairs Bureau, while investigations of lesser offenses are carried out by line commanders. Although complaints against police officers are required by police directive to be recorded, the forms used are the same as those for any matter which requires police action, and there are strong indications that the forms are not always filled out.

As the arm of the Police Department with primary responsibility for investigating corruption, the Internal Affairs Bureau is very weak. Under existing procedures it might never even learn of evidence or an allegation of corruption which turns up at the police district level since it might be covered up. Assuming the matter is duly recorded, the incident report would flow up the chain of command rather than be sent directly to the Bureau. Only if the matter is at some point determined to be sufficiently "serious" might a decision be made to bring in Internal Affairs investigators.

Assuming the Internal Affairs Bureau handles an investigation, there is little assurance the Bureau will conduct it vigorously and thoroughly. The officers assigned to the Bureau do not receive any special training in investigating corruption or in the use of undercover techniques. As previously stated, the Bureau has not attempted to exact cooperation from officers who are caught. The Department does not require police officers to submit to polygraph examinations during the course of internal investigations, although it makes frequent use of polygraphs in non-police investigations. Although the present policy is that a member assigned to the Bureau may remain as long as he wishes, Internal Affairs is not in fact a permanent assign-

ment; and as a practical matter, an officer is subject to being transferred out if he displeases his superiors or an influential commander who may be the subject of an investigation. There is also no assurance that Internal Affairs investigators will not later be required to serve under or alongside officers they have investigated. Finally, the members of the Bureau receive no special rank, status, or pay to go along with the significantly different duties of their assignment.

During the course of its investigation, the Commission came across two incidents which illustrate the manner in which the Internal Affairs Bureau investigates evidence of corruption. In one case, a memorandum was sent from the District Attorney's office to Internal Affairs stating that a Locust Street bar owner had made tape recordings of payoffs to twelve police officers. One of the officers mentioned in the memorandum later testified before the Commission that his immediate commander was notified of the allegation by Internal Affairs and that the officer and his partner were questioned by the commander. At the end of that interview, the two officers were told to go to Internal Affairs the next morning. In the meantime, the two officers had an opportunity to discuss the matter and to make their stories consistent. They decided to deny the allegations. To assist them and to get advice, they also contacted a former policeman. The following day during the Internal Affairs interrogation of the two officers, the former policeman called a staff inspector in Internal Affairs and got a full outline of the evidence against the two officers. Later that day a representative of the Fraternal Order of Police called Chief Inspector Frank Scafidi, head of the Bureau, and was told the two officers need not be concerned since the charges would probably die a natural death. These messages were immediately transmitted to the officers alleged to be involved, which fortified their resolve to deny the whole incident.

In another case, the Commission, in August, 1973, turned over to the Police Department massive evidence of police officers illegally receiving cash payments from businesses. Seventy-seven officers were identified by name and badge number and one hundred and six were identified by assignment, initials, or signatures as being apparently involved. The evidence consisted of documents and testimony. Thorough examination of relevant police records, together with interviews of all witnesses, could have resulted in criminal or disciplinary actions against several hundred police officers. However, the only ac-

tion taken was that thirty files were "opened." One officer who was apparently deeply involved had been permitted to resign without charges placed against him. No effort was made to contact the business witnesses who testified or to interview additional witnesses. Furthermore, many police patrol logs which would have contained essential corroboration apparently were not examined and were routinely destroyed.

The weakness of the Internal Affairs Bureau is also illustrated by its lack of concentration on internal police matters. Several of its members were assigned during 1973, to conduct an ostensible investigation of corruption in other City agencies.

There is no question that given existing guidelines, attitudes, personnel, and organization the Police Department cannot effectively police itself. Efforts at internal control should not be abandoned; rather, they should be greatly strengthened and vigorously pursued.

PERSONNEL—SOME CURRENT ISSUES

The Commission examined three personnel issues of current concern: the role of minority group members in the Police Department, promotions, and pensions.

Minority Groups

The Commission has found that the Police Department consciously and intentionally discriminates against women in hiring, promotion, and assignments. There are only 77 policewomen compared to 8,226 policemen. There currently is such a large backlog of women police candidates and so few openings, that the Department has ceased to recruit or test women.

In promotions, women have in the past been restricted to supervising other women, and opportunities for promotion for women are only one-fourth as great as for men. Policewomen in Philadelphia are limited to assignments where they will have contact with women or juveniles. They are not given general patrol, investigative, or staff assignments. This has limited the effectiveness of the Department since women can make valuable contributions. In many other major police departments in the country, women have been given full status as police officers. These departments, including the Pennsylvania State Police, have high praise for the accomplishments of women police officers.

The Police Department has also been found by a federal court to discriminate against black persons through the use of unfair tests for entrance and promotion. In addition, the minimum height and weight limitations imposed by the Department discriminate against males in some racial and ethnic groups.

Promotions

The Commission examined the police promotion system in the wake of four controversial promotions in January, 1973. The promotion system is governed by the civil service procedures and regulations and is primarily sound in concept. However, the system as applied is subject to abuse when the regulations are stretched. This was the case with the creation of four new "supervisor" positions within the Police Department, three of which are equivalent in pay to inspector and one of which is equivalent to captain. Four officers were immediately appointed to the new positions; first provisionally, then three permanently. (One of the officers died after the provisional appointment and never received a permanent appointment.) Although other officers were permitted to apply for the new positions, only one application was "approved" for each, and only one person was allowed to take the test for each. The examinations were completely oral, which was unprecedented since the implementation of the present civil service system. The circumstances clearly indicate an intention to promote specifically four individuals through whatever means possible. Although there was apparent technical compliance with civil service regulations, these promotions violated the spirit of the civil service system. The Commission has set forth recommended changes in the civil service regulations to guard against such abuses.

Pensions

A sound disability payment and pension system administered without favoritism is critical to good morale within a police department and contributes to the enhancement of police professionalism. The Commission received allegations that "well connected" individuals in the Police Department were given Regulation 32 payments if they were forced to leave the Department prematurely due to a disciplinary problem. Additionally, the Commission was informed that many individuals who were accorded disability payments and a pension then proceeded to get jobs which were inconsistent with the injury they had sustained.

The Commission found that various former police officers receiving pensions and disability payments had histories of corruption or disciplinary problems which might prove an embarrassment to the Department. For example, one was a chronic gambler; two were instrumental in arranging the original "note" from a club owner; one was found by a federal district court to have made numerous illegal arrests and used unnecessary force against racial minorities; and one was about to be dismissed because of a disciplinary problem but suddenly had his dismissal rescinded by the Commissioner.

In another case, an apparently illegal pension was awarded to a detective who had refused to cooperate with the Commission and took his chances with the system. The detective had been tape recorded and photographed by the Commission in the process of receiving a bribe. Following his refusal to cooperate with Commission investigators, he was turned over to the Philadelphia police. Although he was interrogated extensively by staff inspectors, he was not arrested until five days later. On the same day that he was arrested, he was given a 30-day suspension from the Department. Yet another record indicates that he had resigned from the Department on the day before the arrest and suspension; however, the date on that document is altered. Even accepting the alteration as valid, he was allowed after his arrest to submit his resignation effective prior to the date of his arrest and, thereby, permitted to obtain his pension.

During its investigation the Commission also came across numerous individuals who, after receiving disability pensions, went out and obtained employment of a law enforcement type seemingly inconsistent with their disability. For example, a detective who worked as a polygraph operator received a back injury. He was retired on a disability pension and is presently president of Polygraph Examination Association, and his occupation is administering polygraph examinations in his office. Another policeman slipped in a cell room injuring his lower back. He received a disability pension and is now working for an appliance store moving large appliances such as dishwashers from the warehouse to trucks. Another policeman, while he was reported as permanently and partially disabled, served on active duty with the Pennsylvania Air National Guard and subsequently went to work as a security guard for the Willow Grove Naval Air Station. A list of 35 disability pensioners is included showing the type of their injury and present employment. All the listed employment is law enforcement type work and con-

sists of occupations such as store detective, bank guard, and private investigator. All of these individuals received both their pension and retainer from their new employers.

DRUGS AND LAW ENFORCEMENT

A major portion of the Commission's * effort in the narcotics area was to investigate the nature and scope of drug abuse in Philadelphia and the quality of narcotics control law enforcement rendered by the Philadelphia Police Department. To help fulfill these goals, an undercover narcotics law enforcement unit was organized to infiltrate Philadelphia drug trade and to make high level arrests. In addition, facts were gathered through traditional research methods.

As a result of this work, the Commission concluded that (1) drug abuse is widespread and open within Philadelphia; (2) the criminal justice system has been and continues to be ineffective in reducing drug abuse; (3) the Police Department has a very poor program of drug law enforcement; and (4) thorough changes in the policy and operational techniques of the Police Department's drug law enforcement program are required.

Officials estimate that there are 30,000 heroin addicts and 30,000 to 40,000 heavy abusers of other drugs residing in the Philadelphia area. In addition, police and court records indicate that since January 7, 1969, approximately 28,000 drug cases have been processed by the Philadelphia criminal justice system.

The experience of the Commission's undercover agents indicates that drugs can be purchased openly in some areas of the City in full view of the public and the police. At least 448 drug dealers operating in Philadelphia selling a full range of drugs were identified. The Commission's undercover agents, averaging 11 in number, made sufficient purchases of illegal drugs in eight months to result in the issuance of 125 arrest warrants. The conviction rate resulting from these arrests is 90% as of February 1, 1974, which is more than twice the normal conviction rate in Philadelphia.

Empirical studies of all drug case dispositions in the Philadelphia system from January 5, 1969, through March 31, 1973, and the dispositions of East Police Division arrests for the

*The Commission's effort in the narcotics area was primarily performed by the Narcotics Control Strike Force. In this section, no attempt has been made to specify which unit actually coordinated the various operations.

first six months of 1972 were conducted. They showed that the Department arrests large numbers of individuals, primarily addicts and small-volume addicted sellers, most of whom are male, black, and have some history of prior criminal arrest. Most arrests are made by uniformed officers who are limited to employing "sight arrests" as their primary law enforcement tool. The Department has not infiltrated the higher levels of the drug trade in Philadelphia. Few drug sale arrests are made. Over one-half of the police drug arrests are deemed not worthy of prosecution by the District Attorney's office because of poor or unconstitutional conduct by the arresting officer.

The Commission obtained Police Department documents relating to narcotics control and held private hearings with Department personnel as witnesses. The focus of the investigation was on the Department's drug control policy, manpower, resources, operating techniques, and internal evaluation procedures. The Department admits that its policy is directed at addicted possessors or small quantity dealers. It does not aim at high level drug dealers or financiers.

While 96 police officers are assigned to the Narcotics Unit, all but one squad of 17 officers function to process the arrests made by the remainder of the Department. Thus, the entire Department has only 17 officers assigned exclusively to undercover drug work. The Department provides insufficient money to fund a "buy" program aimed at drug dealers. For example, it had made no purchases in excess of \$100 from its own funds in 1972.

Moreover, the Department has no truly undercover narcotics officers. Each officer drives his own vehicle, is provided with no false identification, resides at home, regularly reports to headquarters (where all those arrested for violation of the Controlled Substance Act are processed), is afforded no cover when appearing in City Hall to testify, and has no limit to how long he may serve in an undercover capacity. In addition, the Department has no women officers assigned to its Narcotics Unit. Plainclothes officers within each district and division also do some undercover narcotics work, but their effectiveness is limited by their multiple duties and lack of training and funding.

No meaningful intelligence system is used by the Department in connection with drug control work. In place of sophisticated computerized analysis of drug markets and distribution systems, the Department operates on a primitive case by case basis. The Narcotics Unit has no analyst or statistician who reviews the data, and the head of the Unit has no information to allow him to

give any realistic figure of the number of major heroin dealers in Philadelphia. In addition, the Department has no program to measure its strengths and weaknesses or the performance of individual officers.

THE CORRUPTION INVESTIGATION EXPERIENCE

A corruption investigation into a police department is one of the most difficult investigative tasks which any law enforcement agency can undertake. The Crime Commission has devoted a significant measure of its energies and resources during the past one and one-half years to such an effort. This is the most ambitious and sophisticated project which the Commission has completed in its brief existence. Thus, it was a learning experience, and the lessons which have been learned, some of them painful, will materially assist any agency that conducts a large-scale probe in the future.

The Commission soon discovered that the days of visible corruption payoffs have long since passed. As the corruption system is above all else a conspiracy, the Commission had to resort to creative investigative techniques in order to develop its information. Only by utilizing such techniques could the extremely intense organizational loyalty of the police be breached.

The Commission strongly believes an investigating agency cannot resort to methods beyond the boundaries of legal investigative techniques. Hence, no illegal methods were authorized or utilized. The Commission did make extensive use of tape recordings made by "walking bugs" and microphones placed in rooms with the consent of one of the parties to the conversation. The Commission believes such tape recordings were critical in developing informants, particularly police informants.

The Commission found the immunity system of obtaining information, in which an individual caught in some illegal activity is granted immunity from prosecution in exchange for answering questions concerning illegal activity and policy payoffs, to be useful but not foolproof. In many instances the individuals preferred to take their chances with the Police Department and the courts.

The Commission also conducted extensive overt operations—issued subpoenas, conducted interviews, and searched countless documents for data—which were helpful in the investigation. Straightforward approaches were made to many members of the business community, current and former members of the

Police Department, and individuals engaged in illegal activities, mostly without success.

The Commission supplied information for three major raids during the course of its investigation, one concerning gambling machines, one concerning prostitutes, and one concerning narcotics. In general, while the Commission gained much useful information about substantive criminal problems which tended to be confirmed by the testimony of witnesses who agreed to talk, the raids did not produce a significant amount of direct information on actual police corruption and payoffs.

The greatest success the Commission had with informants was in developing one-to-one relationships with individuals. The Commission's most productive non-Police Department informant was a proprietor of a Locust Street bust-out operation. Another informant, a former professional gambler, made several tapes for the Commission concerning a wide system of police payoffs. He was developed through contacts Commission investigators had had with the individual in the past. Through payments of money and preservation of anonymity, the individual agreed to give information concerning the gambling and police payoff situation in Philadelphia.

Because of the police code of silence, most officers will not come forward with corruption information, especially to an outside investigating agency. The only successful way the Commission had to induce an officer to cooperate was to catch him in some illegal activity, then see if in return for immunity protection the officer would agree to work within the Department, making tape recordings and otherwise corroborating the evidence he produces.

The Commission's initial attempts in this area met with no success. The Commission was unable to persuade a Philadelphia police lieutenant, moonlighting as a bartender and permitting obscene shows in the bar, to cooperate. Likewise, the Commission was unable to persuade a detective who was taped and filmed by the Commission receiving a bribery payoff to cooperate.

Eventually, however, the Commission did obtain the cooperation of some police officers. In one case, the Commission had a tape which one of its informants had made while he made a payoff to one of the police officers. The Commission then contacted the police officer in question and played the tape for him. No amount of mere discussion with the Commission would have been effective; it was the tape recording which

in the end persuaded the officer to cooperate with the Commission.

No informant provides information for nothing, and any agency serious about attempting a corruption probe must have adequate funds with which to provide informants reasonable monetary reimbursement for their information. An investigatory agency also must have subpoena power and, along with unconventional techniques, must employ traditional methods of subpoenaing records and spending long hours searching documents.

The Crime Commission's effort, for many months, was subjected to intense public scrutiny. Maintaining informant relationships under such circumstances is difficult.

A successful major corruption investigation cannot be accomplished in a few weeks or a few months. Dedicated, experienced undercover agents, considerable administrative support, and money are necessary; and if the investigative agency does not possess all three in abundance in advance, it probably should not undertake a police corruption investigation. For a long time, the Crime Commission had neither the manpower nor administrative resources necessary. The investigative staff was eventually drawn from former Philadelphia policemen and state policemen. The Commission had difficulty in getting equipment such as undercover cars, cameras, and tape recording and communications equipment.

During the Philadelphia investigation, the Commission's very constitutionality was litigated in the Pennsylvania Supreme Court. The Commission's most active opponent was the Philadelphia Police Department. The Commission instituted eight separate lawsuits against the Department and was ultimately successful in its litigation efforts. The Commission also had to file actions against persons other than the Philadelphia Police Department.

In contradistinction to the Knapp Commission in New York, the Crime Commission did not have the cooperation of the Mayor or the Police Commissioner in Philadelphia. While an investigation can succeed without such cooperation, the assistance of these officials can materially shorten the investigation. However, delay is not the major obstacle posed by the lack of cooperation; rather it is the attitude of defiance and "I'll take my chances with the system" which is telegraphed from the Mayor and Police Commissioner through the ranks.

Initially the Department's campaign against the Commission's

investigation was mainly verbal. Then in October, 1972, a pattern of harassment against Commission agents began. Seven Commission agents and troopers were either improperly treated or unlawfully detained and their cars illegally searched by the Philadelphia Police Department during a three-month period.

RECOMMENDATIONS

Corruption within the Police Department and government in general has been such a constant problem down through history that the Commission believes no single reform can serve as a cure-all. Any progress that is made will have to come through a combined effort on many fronts to change attitudes, systems, and structures within and without the Police Department. However, the Commission believes the establishment of an independent prosecutor, who would institute a full-time, ongoing, active, and inventive integrity campaign is an extremely significant and necessary part of any reform program. Such an official could actively prosecute offenders and serve as a deterrent to future corruption.

A local district attorney cannot properly investigate the very police on whom he must rely for the day-to-day conduct of his job. Throughout its investigation, the Commission repeatedly witnessed examples of this phenomenon; however, the Commission does not ascribe a marked lack of incentive to that particular District Attorney. Rather, an inherent conflict exists, and no district attorney, no matter how dedicated to eradicating police corruption, can properly perform this function. As the Hon. Whitman Knapp, Judge of the United States District Court for the Southern District of New York and former Chairman of the Knapp Commission has remarked, "The District Attorney has to be in partnership with the police, and it is absolutely impossible to suspect your partner."

To remedy the situation, the Commission proposes two solutions: one interim and administrative, the other long-range and legislative.

As an interim measure, the Commission recommends that the Attorney General of Pennsylvania immediately exercise his traditional common law powers and appoint a Special Deputy Attorney General as an independent prosecutor with jurisdiction over police corruption investigations and prosecutions in Philadelphia. The Commission recommends that the Attorney

General appoint a committee consisting of the Deans of Pennsylvania's six law schools as well as the Chancellors of the Philadelphia and Allegheny County Bar Associations and the President of the Pennsylvania State Bar Association to nominate three qualified people for the position and that he select one of the three as the Special Prosecutor. Because of the need for continued public confidence in governmental institutions, the appointment should accord the Special Prosecutor the greatest degree of independence consistent with the Attorney General's statutory and constitutional accountability for all matters within the jurisdiction of the Department of Justice. The interim Special Prosecutor should have full authority to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel on a full or part-time basis in such numbers and with such qualifications as he may reasonably require. He should have full authority for investigating and prosecuting cases of bribery, perjury, theft, embezzlement, or other illegal taking of public funds, conspiracy, misfeasance, malfeasance, non-feasance in office, or any other cases of graft or corruption incident to or in connection with police corruption in Philadelphia. The Special Prosecutor should not be removed from his duties except for extraordinary improprieties on his part.

As a long range measure, the Commission recommends the Legislature create an Office of Special Prosecutor with a staff of attorneys and investigators of its own and an adequate budget. The Special Prosecutor himself should have a six year term of office and be prohibited from holding elective office in the State for a period of four years subsequent to his term.

The Commission suggests that the enabling legislation creating the Office of Special Prosecutor provide for a panel consisting of the Chief Justice of the Pennsylvania Supreme Court, the President Judge of the Commonwealth Court, Chief Judge of the Pennsylvania Superior Court, the Speaker of the Pennsylvania House of Representatives, The President *pro tem* of the Senate, the Chancellors of the Bar Associations of Philadelphia and Allegheny Counties, the President of the Pennsylvania State Bar Association, and the Attorney General. That panel should submit three nominees to the Governor, who shall select one of the three as Special Prosecutor. The Special Prosecutor should be subject to removal from office only upon conviction of misbehavior in office or any infamous crimes, or by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of the Senate, as set forth

in the Pennsylvania Constitution for removal of civil officers. The Legislature should not permit his removal from office at the pleasure of the appointing authority.

The permanent Special Prosecutor would be responsible for any and all corrupt acts and omissions occurring in the criminal justice system in the Commonwealth of Pennsylvania, and any acts committed to hinder such investigations and prosecutions.

Aside from the Special Prosecutor, the Commission has made specific recommendations for changes in vice laws and enforcement policy and a thorough reevaluation of business notes, as well as changes in internal control, pensions, minorities, promotions, numerous personnel policies, and drug enforcement practices.

II

PENNSYLVANIA CRIME COMMISSION INVESTIGATION IN PHILADELPHIA

ROLE OF THE PENNSYLVANIA CRIME COMMISSION

By the mid-1960's, a public reaction of combined anger and despair was developing over the seeming inability of the criminal justice system to do anything about "the crime problem." To many observers, society's tools for apprehending and punishing offenders had fallen into serious disrepair while criminals preyed upon more and more citizens.

To find solutions to the system's flaws, President Lyndon B. Johnson, on July 3, 1965, created the President's Commission on Law Enforcement and the Administration of Justice with the mandate of undertaking an exhaustive nationwide study of crime and the criminal justice system. Nineteen months later, in February of 1967, the President's Commission published its comprehensive report, *The Challenge of Crime in A Free Society*. Among its two hundred-plus recommendations for combatting crime and improving the administration of criminal justice was a proposal that states create agencies to plan improvements in law enforcement and to assist in the implementation of those reforms.

The recommendations reflected a growing reliance upon independent fact-finding bodies to search for the causes of, and solutions to, major social and economic problems. The theory was that the study commissions with their technical resources could spotlight the existing shortcomings of the criminal justice system, gauge how the system should actually

operate, and determine the resources that would be needed to close the performance gap.

Pennsylvania responded to the recommendation of the President's Crime Commission on March 27, 1967, when Governor Raymond P. Shafer issued an executive order creating a temporary "Crime Commission of the Commonwealth of Pennsylvania," which, *inter alia*, was to inquire into the causes of crime and delinquency, and the adequacy of law enforcement and administration of justice in the Commonwealth.

The Governor's executive order gave the Crime Commission certain additional assignments, including responsibilities to recommend improvements in police administration, to assess the need for additional local police, and to encourage inter-governmental cooperation among criminal justice agencies.

On July 31, 1968, the General Assembly created a permanent state-level Crime Commission as an administrative fact-finding agency within the Pennsylvania Department of Justice.

Soon after the permanent Crime Commission was created, the United States Congress passed the Omnibus Crime Control and the Safe Streets Act of 1968. Title I of the Act¹ established a program of federal block grants to states to defray the costs of criminal justice innovations. The block grant funds were to be sub-granted to state agencies and units of local governments by specially designated "state planning agencies."² Because the Pennsylvania Crime Commission was in operation and partially staffed at the time the Omnibus Crime Control Act was passed, and because the Commission's legislative mandate dovetailed with many of the objectives of the federal program, the Crime Commission was designated as Pennsylvania's criminal justice planning agency. This was done by executive order on July 31, 1968—the same date that the Crime Commission Act was signed into law.

As Pennsylvania's criminal justice planning body, the Crime Commission developed a foundation for a state-wide program. Policymaking councils were established at the state level and in five regions,³ and staffs for the central and regional offices were recruited. The Crime Commission also began to compile its

¹42 U.S.C. §3701 *et seq.* (1970).

²42 U.S.C. §3722 (1970).

³Separate Regional Planning Councils were established for Philadelphia and Allegheny Counties.

first annual "Comprehensive Plan for Improvement of Criminal Justice in Pennsylvania."

In March of 1970, it became evident that the inclusion of such varied responsibilities in criminal justice reform had inhibited the performance of the Commission's investigative role. The problem became acute when the Law Enforcement Assistance Administration of the U.S. Department of Justice (the federal agency which oversees the state block grant program) issued a requirement that state criminal justice planning agencies had to expand in size to include a more representative sampling of public officials. Because the size of the Pennsylvania Crime Commission was set by law at five members and since state criminal justice planning agencies could be created by executive order, it was felt that a different body should be established and charged with the planning and grant responsibilities.

On April 13, 1970, Governor Shafer issued an executive order that placed those responsibilities in a new agency, which was named the Pennsylvania Criminal Justice Planning Board, and is now known as the Governor's Justice Commission. With the administration of the federal Omnibus Crime Control program removed from its jurisdiction, the Crime Commission was free to devote its full attention to the duties for which it was created: the investigation of criminal justice problems and particularly organized crime and official corruption.

The legislation creating the Crime Commission assigned it five fact-finding responsibilities:

1. To inquire into the causes of crime and delinquency, measures for their prevention, the adequacy of law enforcement and the administration of justice.
2. To develop standards and make recommendations for actions which may be taken by the state and local governments to prevent, reduce and control crime and increase respect for law, including, but not limited to improvements in training of law enforcement personnel, improvements in techniques, organization and administration of law enforcement activities, improvements in the administration of justice, and rehabilitation techniques.

3. To investigate all crime generally, and shall have the power to investigate specifically but not limited to any relationship between any combination of persons involved in the commission of crimes on one hand, and any government or political unit, or any association, organization, trade business constituting a part or, doing business within the Commonwealth, and to gather evidence of the existence of organized or syndicate crime in the Commonwealth.
4. To investigate all fields of organized or syndicate crime.
5. To carry out continued research and planning to improve the quality of criminal justice.⁴

The Commission also has the responsibility to issue a detailed written report of every completed investigation.⁵ Such reports may contain recommendations for legislative or administrative action by appropriate agencies of state or local government.⁶

To assist it in carrying out these duties, the General Assembly equipped the Commission with the power to issue subpoenas and to conduct hearings.⁷ The Commission, when necessary, may invoke the aid of a court to enforce compliance with its subpoenas and compel the attendance of witnesses and the production of documents.⁸

Thus, the Commission was created as an independent fact-finding agency without any prosecuting power or responsibility. Its purpose is to focus attention on general problems in the criminal justice system, with particular emphasis on corruption.

⁴Act of July 31, 1972, P.L. 151, 63, amending Act of April 9, 1929, P.L. 177, 6923, 1 P.S. 4307, 710, 751 (Supp. 1973).

⁵Act of July 31, 1972, *opra* 1 P.S. 4307, 710 (Supp. 1973).

⁶Although the Commission's investigative work culminates in the issuance of reports, an occasional by-product of Commission investigations is the discovery of evidence of criminal offenses or administrative violations. On this point, the Commission believes that a note of clarification is in order. While the Commission is in pursuit of the specific factual information that is necessary to expose problems within its jurisdiction, it may come upon information concerning matters that constitute violations of law. In such cases, the information that is germane to the Commission's fact-finding duties would also be pertinent to the prosecution of criminal offenses. Where evidence of violations is discovered, the Commission may transmit it to federal, state, or local law enforcement officials for their consideration and appropriate action. The material, where relevant for fact-finding purposes, may also be included in the Commission's final report.

⁷Act of July 31, 1972, *opra* 1 P.S. 4307, 709 (Supp. 1973).

⁸*Id.*

The Commission has operated and will continue to operate on the assumption that to focus on individual acts of wrongdoing cannot correct system-wide problems. The specific facts contained in its reports are presented solely to support the validity of the Commission's overall factual findings. The Commission does not have the power on its own to correct the general problems it uncovers; rather it depends on the forces of informed public opinion and legislative action to remedy the problems it uncovers.

HISTORY OF THE PHILADELPHIA INVESTIGATION⁹

In large part, the investigation which is the subject of this Report began in July, 1972, when then Attorney General and Crime Commission Chairman J. Shane Creamer announced the beginning of an intensive investigation of the quality of law enforcement in Philadelphia by the Commission.

A preliminary investigation had been underway since May 7, 1971, when Attorney General Creamer announced that the Pennsylvania Crime Commission was going to investigate allegations of corruption within the Philadelphia Police Department.

After investigation and a series of hearings, the preliminary probe was completed in February, 1972. An "Interim Report" was published concluding that widespread and systematic corruption existed within the Police Department and calling for a full-scale probe. The Commission adopted a resolution on February 26, 1972, outlining the general purposes of the proposed intensive corruption investigation.¹⁰

The Attorney General soon realized that a substantial effort would be necessary to accomplish the recommendations of the Interim Report. The Commission's Philadelphia investigation was consequently reorganized under the leadership of a Deputy Attorney General from Harrisburg.

It became apparent that the existing staff at the Commission had to be expanded to carry out adequately the ambitious task which the Commission had set. At the time the Commission began the intensive phase of the investigation, it had ten

⁹A more detailed discussion of certain events of the investigation, focusing on fundamental conclusions the Commission has made concerning a corruption probe, is presented in Chapter VIII *infra* at 738.

¹⁰The resolution was amended on July 29, 1972. See Appendix A.

special agents who could be assigned to the Philadelphia project, some of whom were newly hired and had little or no prior investigative experience or familiarity with Philadelphia. However, the Commission gained the assistance of a twenty-five year veteran official of the Federal Bureau of Investigation as a consultant. He eventually became director of field operations.

The Attorney General, meanwhile, secured the assistance of fourteen State Police officers, led by a sergeant who was an experienced undercover agent. In addition, Mr. Creamer assigned to the Commission five investigators from the Department of Justice's Bureau of Investigation and one agent from the Department's Bureau of Weights and Measures. When the actual street investigation began in August of 1972, the Philadelphia project had thirty investigators. The legal staff was filled out by two attorneys from the Defender Association of Philadelphia, Inc., and two attorneys from the Department of Justice in Harrisburg.

In July, the data developed during the preliminary inquiry was reviewed by the new Philadelphia investigation's embryonic staff. The data consisted of statements of Carl V. Johnson and Edward Mitchell, former Philadelphia police officers, concerning corruption; statements of two alleged prostitutes¹¹ concerning corruption; investigative reports involving John Hollawell, an after-hours club owner who admittedly paid the police on a regular basis; and general information from Commission confidential informants. A plan was devised to spend the first two months on the street developing a "crime profile" of ongoing centers of illegal criminal activity. This approach was based upon the view that if the Commission could locate ongoing centers of criminal activity, there had to be an explanation for the failure of the Police Department to close them down.

Seven squads were formed on July 31, 1972, and given geographic responsibilities in the City's then eight police divisions. The units were assigned cases involving numbers banks, after-hours clubs, business payments to police, prostitution, and other matters for a total of twenty-eight active cases. The case load tripled within a month.

¹¹The two women in question were also involved in the arrest of *Evening Bulletin* reporter, Greg Walter, who was charged with illegal recording of telephone conversations. The highly publicized prosecution against Mr. Walter was eventually dropped.

During the early part of this restructuring of the Commission staff for the Philadelphia investigation, the District Attorney of Philadelphia requested and obtained the impaneling of a special investigating grand jury to inquire into police corruption in Philadelphia.¹² Throughout the remainder of 1972, a feud between Attorney General Creamer and District Attorney Arlen Specter, which had developed during the preliminary inquiry into police corruption in Philadelphia, would continue to plague the expanded Philadelphia investigation. At the heart of the dispute were different philosophical approaches to the problem of corruption which prevented the grand jury and the Crime Commission from working together.

During the time that the initial investigative work on the street was beginning, the legal staff began working on plans for assembling the necessary documents and other materials on which a significant portion of the Commission's analysis of the Philadelphia Police Department would depend. On August 25, 1972, a letter was addressed to Philadelphia Police Commissioner Joseph F. O'Neill, asking that certain specific documents be produced voluntarily. The documents requested included items related to the Department's Internal Affairs Bureau, the pension system, and various background data such as names, working assignments, and photographs of all policemen. The request was made privately, for the Commission had resolved to go to great lengths to avoid any unnecessary publicity.

The Commissioner's initial response was that the Crime Commission should contact Richard A. Sprague, First Assistant District Attorney of Philadelphia, who was "counsel" for the Police Department. With this began a pattern of recalcitrance by the Police Department which the Commission would encounter with every effort to obtain information.

After efforts to resolve the matter without the necessity of a subpoena failed, the Commission finally, on September 22, 1972, served a subpoena on the Police Department to produce several different categories of documents. This subpoena resulted in extensive litigation which would not be resolved for over a year and necessitated going twice to the Supreme Court of Pennsylvania. Eventually, the Commission was successful.¹³

¹²A detachment of fourteen State Police officers was assigned to assist District Attorney Arlen Specter with his grand jury investigation.

¹³The details of the complex litigation, especially the orchestrated opposition of both the Police Department and the Fraternal Order of Police, are set forth in Chapter VIII *infra* at 768-784.

In connection with the overall planning of the investigation, the Commission determined that special attention should be accorded narcotics enforcement efforts in Philadelphia. Consequently, the Attorney General decided to have the Narcotics Control Strike Force, which was a division of the Pennsylvania Department of Justice, assist the Crime Commission's investigation. The Narcotics Control Strike Force effort was to be coordinated with the Commission investigation and devoted exclusively to the narcotics problem in Philadelphia. In accord with this decision, the Strike Force operation was established at the Crime Commission headquarters in St. Davids, Pennsylvania.

From the inception of the Strike Force's joint efforts with the Crime Commission, the Strike Force sought to investigate the nature and scope of drug abuse in Philadelphia and to analyze the quality of narcotics control law enforcement rendered by the Philadelphia Police Department. Concerned with possible criticism that the Strike Force and the Commission had little operational experience in drug work, the Strike Force organized an experimental narcotics unit which would attempt, with limited resources and manpower, to make significant inroads into the drug problem.¹⁴

Much of the Commission's effort in the fall of 1972, was concerned with security problems and contacts between the Commission's agents and the Philadelphia Police Department.¹⁵ The two trouble areas may well have been related.

In October, 1972, four state troopers working as Commission investigators were arrested. The harassment began on October 4, 1972, when Trooper Anthony Caldonetti was taken into custody at a Center City bar known as the Grog Shop. Despite having been badly beaten, Trooper Caldonetti was chained to a chair and then to a metal bench for several hours while in police custody. Although he was arraigned on charges of indecent assault, the prosecution was eventually dropped.

Also during October, Troopers William Fitzpatrick, Donald Ziegler, and Donald Auman were arrested while on surveillance duty. Auman was beaten while in a prison cell by a Philadelphia police officer. Ostensibly, all men were detained because of

¹⁴The results of this unit operation are recorded in Chapter VII *infra* at 720-724.
¹⁵Only a brief summary of those encounters is offered here. The details are contained in Chapter VIII *infra* at 781-804. Several of the repeated arrests of Commission agents dramatically illustrate how elements of the entire criminal justice system would often take in defense of a threatened Philadelphia police officer.

alleged irregularities with their drivers' licenses and registrations. Absolutely nothing was wrong with the vehicle cards or licenses. Each trooper had a normal driver's license and registration in a fictitious name issued by the Pennsylvania Department of Transportation, Bureau of Motor Vehicles. The cards had also been carefully reviewed by experts in the State Police. Apparently, the Philadelphia Police Department was aware of who the Commission agents were.

Additional detentions occurred in November. Agents William Willoughby, Glenn Hollier, and Joseph Byerly were each stopped, were brought to a station house, and had their cars searched illegally.

Pressure was added in other ways. Agent Albert Risdorfer, a former Philadelphia policeman working with the Commission, was threatened with expulsion from the Philadelphia chapter of the Fraternal Order of Police because of his Crime Commission activity.

Coupled with the detentions was a serious problem of security leaks. In the months of October and November, as soon as the Commission finalized plans to move on a particular project, the Philadelphia Police Department would move on the matter. For example, in August, 1972, Commission agents began an active investigation of a speakeasy operated at 148 Price Street, Philadelphia, by Eugene "Tax" Thompson with emphasis on alleged payoffs he made to police officers to be allowed to operate. As the Commission was getting ready to approach Mr. Thompson, police officers of the 14th Police District raided the speakeasy. As one of the speakeasy's salesmen remarked to a Commission agent after the raid: "I can't understand why they knocked Tax off, with all the money he is paying them. I know he is paying them because he sent me around the corner a couple of times to pay them."

Other indications of security problems abounded. The Commission received intelligence from a number of sources that high officials in the Police Department were aware of "every movement the Commission made," and consequently were not worried about the investigation. Also, one of the troopers assigned to the Commission was called to Harrisburg and questioned by Commissioner Rocco P. Urella's personal staff concerning all of the Crime Commission's activities. The trooper involved protested, for he did not want to be placed in the middle. As the Commission was later to discover, State Police Sergeant George Froio, who was a member of the

State Police detailed to District Attorney Specter's grand jury investigation, was keeping Colonel Urella informed of Commission activities; for example, he called Urella on August 7, 1972, and reported that four state troopers, a Bureau of Investigation agent, and a Commission agent all assigned to the Commission's Philadelphia police investigation had checked into the Marriott Motor Hotel. The Commission subsequently obtained a copy of Sergeant Froio's note of his phone call to Urella.

The Commission's security problems climaxed on Monday, November 27, 1972, when State Police attached to the Commission discovered that some of their rooms at the George Washington Motor Lodge had been wiretapped. The facts and circumstances surrounding the subsequent charges and countercharges, the resignation of the Attorney General, and the dismissal of the Commissioner of State Police, as well as the State's unsuccessful attempts to bring criminal charges against many of the individuals believed to be involved in the wiretapping have received widespread publicity in the news media. Only the highlights will be covered here.

With the discovery of the wires on Monday night, an intensive investigation began which was to last through the month of December, thereby foreclosing almost all Commission work on substantive corruption problems in Philadelphia. Regrettably, the Commission and its investigation were to receive intensive public scrutiny for the next few months, seriously disrupting all relationships with informants and any ability to conduct a successful undercover operation. The resignation of Attorney General Creamer came as a great surprise and created a serious morale problem with the investigation staff. Finally, a whole new Commission and new Attorney General, as well as a new State Police Commissioner, were appointed as a result of the wiretapping episode.

The new year brought a fresh start and numerous obstacles. The new Commission had its first meeting on January 8, 1973. Governor Shapp addressed the meeting and stressed that the recent changes in no way reflected any lack of commitment on his part as far as the Philadelphia investigation was concerned. He emphasized, moreover, that the investigation was a non-political effort, and that the Commission was to act as an independent body in determining which courses of action were most appropriate.¹⁶

¹⁶To demonstrate his support for the Commission, the Governor issued an Executive Order dated January 5, 1973, stating that the Commission was involved

During the first meeting, the Commission received a lengthy briefing from the acting executive director on the present status of the Philadelphia investigation. The Commission that day passed a resolution stating that the Philadelphia investigation would continue, be intensified, and receive the highest priority. The Commission also resolved to request the new State Police Commissioner to withdraw all state policemen assigned to the Philadelphia District Attorney so that the Crime Commission would represent a single effort of all State law enforcement agencies.¹⁷

When the Commission took stock of its situation on January 5, 1973, 290 matters had come to its attention and required the opening of new cases. Forty-nine of the matters had been closed and 241 remained open. The Commission also received new infusions of investigative personnel who were broken down into six squads, ranging in size from four to six agents. There were a total of 31 investigators with the Philadelphia investigation, including the supervisor and administrative assistant. Six other individuals were assigned to a special project unit bringing the total to 37. Fifteen more agents were working with the Narcotics Control Strike Force. This was the largest number of investigative agents that the Commission ever had working on the Philadelphia probe. Within three months, the total number of investigators, including both Narcotics Control Strike Force and Pennsylvania Crime Commission agents, had been reduced from 52 to 35.

Much of the Commission's effort in the early part of 1973, was spent on massive amounts of litigation against the Philadelphia Police Department. While the original subpoena case was passing through the courts, the Commission decided to proceed with attempts to gain additional documents. All informal attempts to gain the documents proved fruitless.

On January 19, 1973, the Commission issued a second subpoena to Police Commissioner Joseph O'Neill concerning Philadelphia Police Department procedures with respect to vacancies and promotions.¹⁸ The Police Department resisted, in a number of investigations of alleged corruption which were of the utmost importance for the improvement of the quality of life in Pennsylvania. The Governor instructed all administrative departments, boards, commissions, and agencies within state government that if a request for materials, equipment, information, or any other item were directed to them from the Crime Commission, it was to receive highest priority treatment. See Appendix B.

¹⁷See Appendix C.

¹⁸A separate subpoena was issued to the Philadelphia Civil Service Commission for its relevant documents.

even after the Commission successfully obtained a Commonwealth Court order enforcing the subpoena. Not until the Commission filed a petition to adjudge Commissioner O'Neill in contempt of court was any progress made in gaining access to the documents. Compliance was not completed until September 24, 1973.

On March 15, 1973, a third subpoena was issued by the Commission to Commissioner O'Neill concerning the history and operation of the Department's Narcotics Unit. On April 5, 1973, a subpoena requesting documents concerning recruiting was issued; and on April 6, 1973, another subpoena concerning working conditions in the Department was issued. Then on July 20, 1973, a sixth subpoena concerning internal security case files was issued. Each resulted in protracted litigation in the Commonwealth Court.

Unfortunately, the Police Department's record of cooperation with the Commission did not improve with time. On October 12, 1973, a subpoena requesting statistical data concerning arrests and deployment was issued, and on November 1, 1973, patrol logs and data concerning 80 identified officers and 25 cars were requested by the Commission. All told, eight subpoenas were issued, countless man hours were expended in extensive litigation at taxpayers' expense, and a lawful investigation was delayed and frustrated. All this despite a letter by Commissioner O'Neill dated May 5, 1972, to the then Executive Director of the Pennsylvania Crime Commission stating:

... we have, when called upon, filled any request for information by the Crime Commission. In the interests of a sincere desire to perpetuate the highest calibre of professional law enforcement, the same policy of assistance by this department will continue to be maintained.¹⁹

The Philadelphia Police Department's resistance was not limited to the courts. Contrary to the situation in New York City, where the Knapp Commission's investigation of police corruption had the cooperation of the Mayor and the Police Commissioner, the Crime Commission was openly opposed by the Philadelphia Police Department. The most extreme

¹⁹Letter from Joseph F. O'Neill to Owen M. Morris, May 5, 1972.

example occurred on March 4, 1973, when three Philadelphia police officers interfered with the lawful service of a search warrant by Pennsylvania State Police.²⁰

The Commission met additional resistance from individual officers, who, when subpoenaed to testify at private Crime Commission hearings, took the fifth amendment to practically all questions, even though many of the questions could not have incriminated them.²¹

However, the Commission overcame many of these obstacles. In early 1973, the street investigation was resumed with renewed vigor. The Commission's primary hurdle during the early part of 1973, was re-establishing its credibility with its informants. New investigative techniques were adopted, a large gambling raid was successfully executed by the State Police, and the Narcotics Control Strike Force arrested two heroin dealers. Extensive private hearings were begun, a prostitution raid was accomplished by the State Police, and some valuable informants were developed, such as Irvin Goltzer, the owner of the Why Not Lounge, who began to make a series of tape recordings of actual payoffs to police officers.²² Not all the Commission's informant relationships were successfully re-established. For example, John Hollawell, who had at one time provided extensive corruption data which had been verified by Commission investigators, was now refusing to talk with the Commission, apparently having determined that the political tide was changing. The Commission was forced to launch extensive legal proceedings against Mr. Hollawell to obtain his cooperation. By the date of this Report, due to frivolous excuses, extensive legal maneuvering, and an inherent weakness in the Commission's enabling legislation, Mr. Hollawell continued to evade a Commission subpoena.²³

During the summer, the Commission made extensive headway in the area of the safe note. On August 10, 1973, the Commission delivered to the District Attorney's office

²⁰The incident is detailed in Chapter VIII *infra* at 794-795.

²¹For example, Narcotics Unit officers were asked: "Will you tell me your educational background?" "Have you ever seen heroin?" "Have you ever made an undercover purchase of narcotics?" "Who is your commanding officer?" Eventually, late in the investigation, the Commission obtained limited answers to some of the questions.

²²The details of the individual operations are contained in substantive areas of the Report.

²³See Chapter VIII *infra* at 777-780 for a discussion of these maneuvers and the Commission's inability to obtain a contempt citation.

and Commissioner O'Neill detailed facts identifying 183 police officers who, according to documents or sworn testimony, regularly accepted money for extra police services. Of these, 77 were identified by name, badge number, or both. An additional 48 were identified by signatures or initials. The remainder were identified by assignment and location. The amounts of individual payments ranged from \$2 to \$150 to police officers ranging in rank from policeman to inspector.

Receipt of money for the performance of police services is a crime. The Commission noted that the payments which it had uncovered were extremely widespread in that the practice by then was found to exist in at least 20 out of the 22 police districts. The Commission pointed out to the Police Commissioner that permitting one business to monopolize an individual patrolman by paying for his services deprived the rest of his patrol sector of that individual officer's services.

Yet, the Police Department refused to acknowledge that the Commission had uncovered a problem. Almost three months after the information had been turned over to the Police Department, Chief Inspector Frank A. Scafidi, head of the Internal Affairs Bureau, testified before the Commission that approximately 30 out of a possible 183 case files had been opened, despite the fact that names, amounts, signatures, and locations were all provided in detail to the Police Department.²⁴ To date the Commission has received no notification from the Police Department of any disciplinary proceedings instituted against any of the 183 officers.

The early days of September were spent making final preparations for a narcotics raid in the City of Philadelphia of unprecedented size and scope.²⁵ Such a raid was planned because the Strike Force had used only between six and fifteen agents during the entire course of its investigation. If arrests had been made after each purchase, the undercover identity of the agents working for the Strike Force would have been destroyed. Therefore, they were permitted to work for between six and eight months, enabling them to establish themselves in various communities within the City and make significant progress in reaching various levels of dealers of a wide range of narcotics.

Arrest warrants were secured for 127 individuals. To make the actual arrests, over 300 State Policemen from Eastern

²⁴Testimony of Chief Inspector Frank A. Scafidi before the Pennsylvania Crime Commission, October 30, 1973, N.T. 9.

²⁵The history of the narcotics investigation is contained throughout Chapter VII *infra* at 583.

Pennsylvania assisted the Strike Force in conducting the raid. In conjunction with the raid, the Crime Commission issued 154 subpoenas requiring persons involved in drug traffic to appear at private hearings of the Commission to testify concerning drug connections in Philadelphia. Geographically, 105 of the 127 persons charged resided in Philadelphia, 19 in Bucks County, two in Montgomery County, and one in Delaware County. Of the 19 residing in Bucks County, eight committed various violations in Philadelphia.

The remaining months were spent completing the street investigation, preparing this Report, holding private hearings to obtain sworn testimony on various subjects, and maintaining relationships with informants. One more Commission agent was arrested.²⁶

Two critically important events also occurred, however, during this period. The Commission gained the active assistance of one former Philadelphia policeman, Felix Ruff, and one policeman then on the force, Robert J. Weiner.²⁷ Both made tape recordings with other members of the Department and worked in an undercover capacity with the Commission for some months.²⁸ They made a significant contribution to the Commission's investigative effort.

By the end of the investigation, on a budget of 1.8 million dollars²⁹ for the entire two and one-half year period, the Commission had held 245 hearings, accumulating 10,989 pages of testimony from 351 witnesses. Despite obstacles that at times seemed insurmountable, the Commission obtained extensive, probative evidence of systematic and widespread corruption at all levels of the Department in all sections of the City.

This Report sets forth the Commission's findings in detail, including specific evidence upon which the Commission's findings are based. More than 400 individual police officers are identified as involved in wrongdoing. The Commission's success or failure must be judged by this Report.

²⁶This incident is discussed in Chapter VIII *infra* at 799-800.

²⁷He resigned effective February 7, 1974.

²⁸The story of how these men came to cooperate with the Commission is recounted in Chapter VIII *infra* at 752-753. See also *infra* at 92-94.

²⁹For a financial breakdown of monies expended by the Commission on the Philadelphia investigation, see Appendix D.

III

A DESCRIPTION OF THE PHILADELPHIA POLICE DEPARTMENT

SIZE

The Philadelphia Police Department is the fourth largest metropolitan police agency in the United States. As of February 19, 1974, the total number of sworn officers was 8,303. The Department has a paramilitary structure, with each officer having a designated rank. The various ranks and the number of police officers in each is given in Table 1. These figures are the number of officers actually holding the positions. For most ranks there are vacancies which have not been filled. Thus, for example, there are five chief inspector vacancies.

In addition to the sworn police officers, there are 981 civilian civil service employees and 986 part-time school crossing guards in the Police Department. The total number of personnel in the Department is thus 10,267, which represents a dramatic growth over the last ten years. Since 1964, the number of sworn officers has increased by 41%.

ORGANIZATION

The Police Department organizational structure is complex and somewhat confusing. The verbal description of the Department contained in the *Policeman's Manual*, issued in October, 1973, is inconsistent in several respects with the official Department organization chart issued in December, 1973. The following description of the Department's organization is drawn primarily from the *Policeman's Manual*. The organization chart in Table 2 follows the official organization Department chart where it differs from the *Manual*.

TABLE 1

Men: Policeman	6,651
Corporal	166
Detective	498
Sergeant	492
Lieutenant	266
Captain	82
Staff Inspector	18
Inspector	25
Chief Inspector	7
Deputy Commissioner	2
Commissioner	1
Firearms Specialist	6
Bandmaster	1
Supervisor, Traffic Court Liaison	1
Supervisor, Firearms Training and Police Armory	1
Supervisor, Canine Training	1
Supervisor, Civil Disobedience	1
Total men:	8,226
Women: Policewoman	72
Policewoman Sergeant	3
Policewoman Lieutenant	1
Policewoman Captain	1
Total women:	77

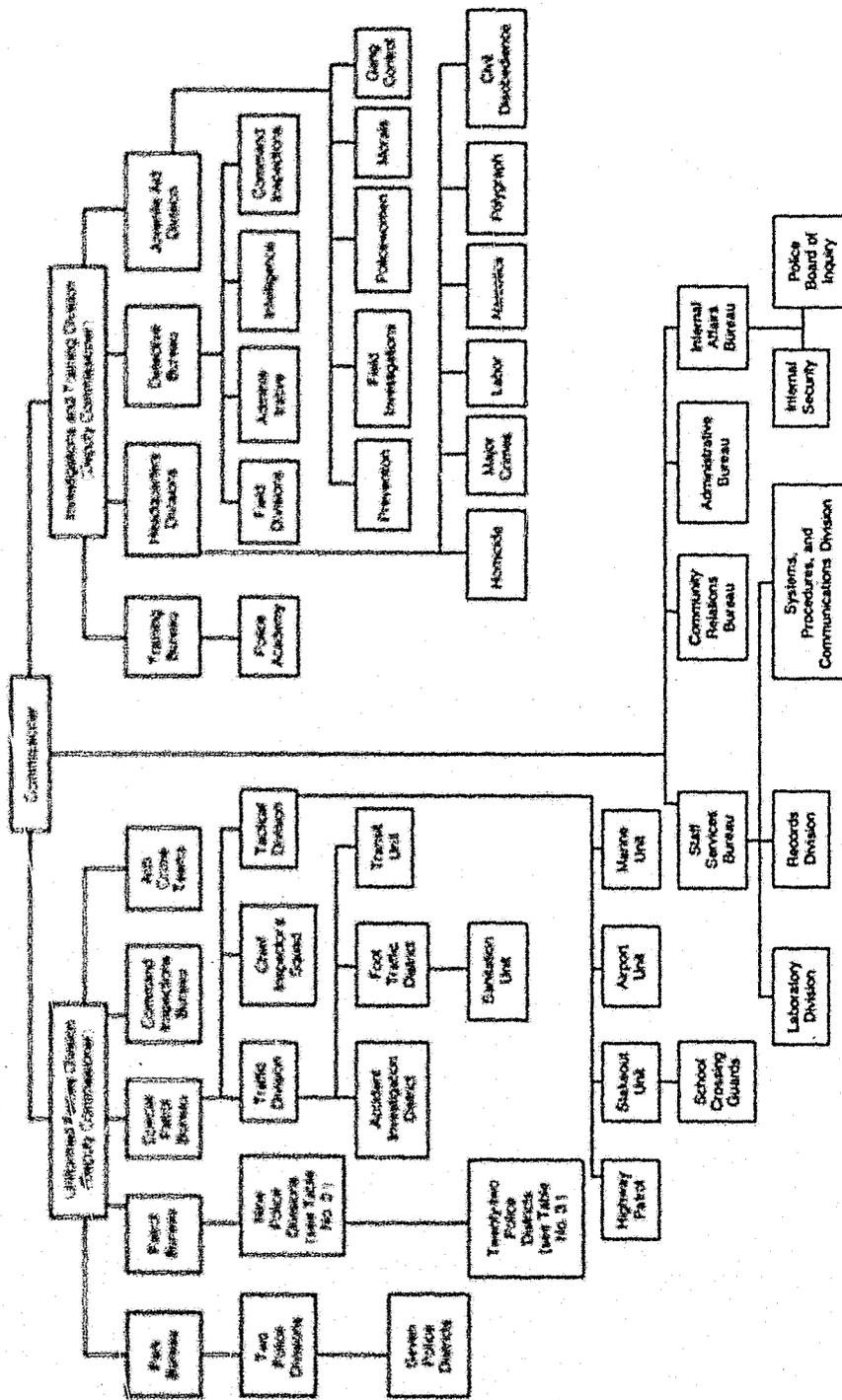
The Police Department is headed by the Police Commissioner who is appointed by the City's Managing Director, who in turn is appointed by the Mayor. Beneath the Commissioner are two operational divisions and four support bureaus. The two operational divisions are each headed by a deputy commissioner who is appointed by the Commissioner. The heads of three of the support bureaus are police officers, while the fourth is a civilian; each is a civil service appointee and reports directly to the Commissioner.

The Department's "line" ranks, which exercise command or supervisory authority, are sergeant, lieutenant, captain, inspector, chief inspector, deputy commissioner and Commissioner. All positions in the Police Department are civil service, except for Commissioner, deputy commissioner, and school crossing guard.

Uniformed Forces Division

The most visible members of the Police Department, the uniformed police officers patrolling the streets in vehicles and

TABLE 2
BASIC ORGANIZATIONAL STRUCTURE OF THE PHILADELPHIA POLICE DEPARTMENT



on foot, are found in the Uniformed Forces Division, the largest division of the Department. The core of the division is the Patrol Bureau which is headed by a chief inspector and divided into nine geographical divisions; each division is headed by an inspector. The geographical divisions are further subdivided into twenty-two districts, each commanded by a captain. The nine police divisions and the police districts within them are indicated in Table 3, and their respective geographical boundaries are traced in the map on the following page.

TABLE 3

Police Division	Police Districts
Central	6th, 9th
South	1st, 3rd, 4th, 17th
West	16th, 19th
Southwest	12th, 18th
North	14th, 35th
North Central	22nd, 23rd
Northwest	5th, 39th
East	24th, 25th, 26th
Northeast	2nd, 7th, 15th

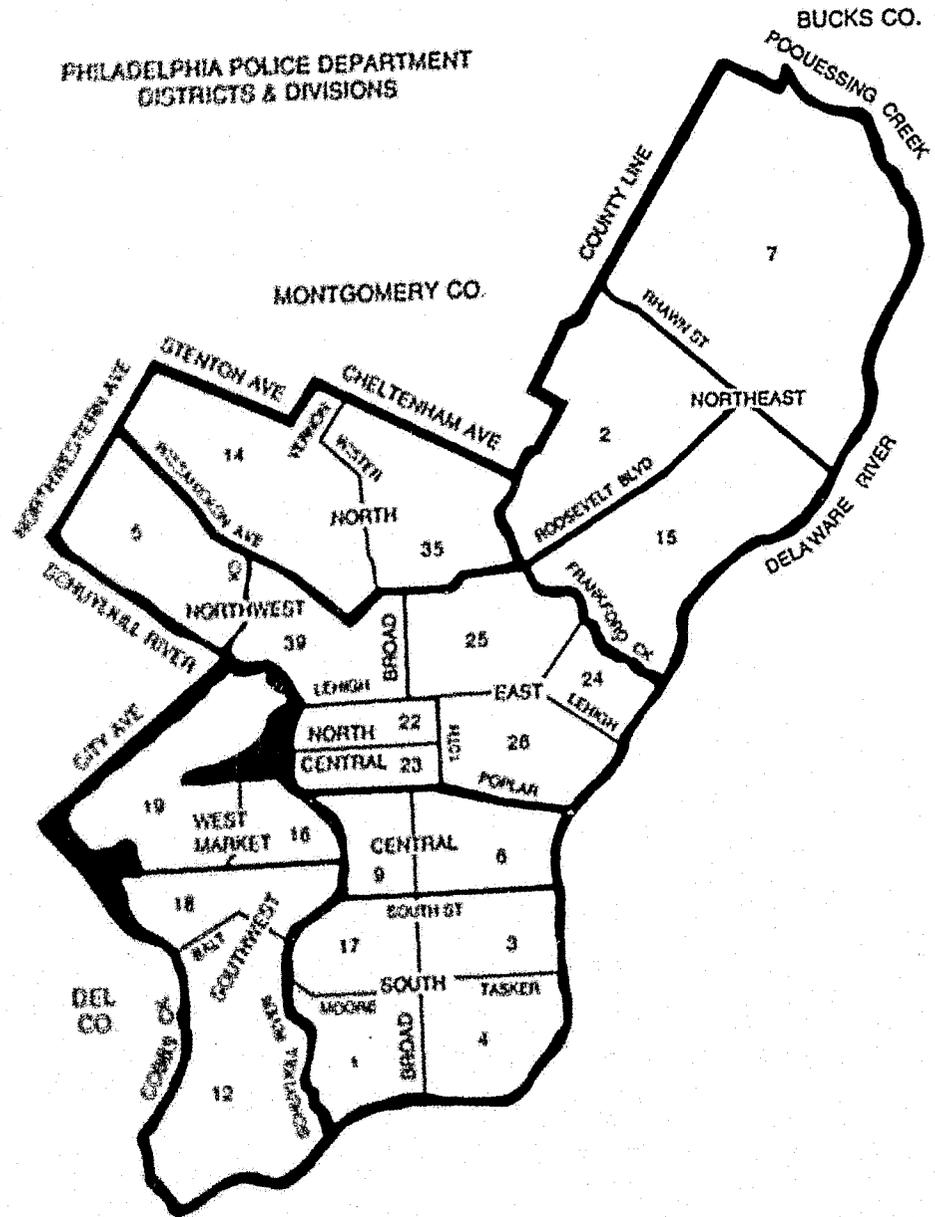
The police districts are far from homogeneous, varying widely in geographical area, population, crime rate, and number of policemen assigned. The size of the police districts ranges from 1.14 square miles (23rd) to 26 square miles (7th); the population ranges from 16,500 (6th) to 183,600 (7th); the rate of major crimes varies from 11.1 per 1,000 persons (7th) to 139.7 per 1,000 persons (6th); and the number of policemen on each shift in a district varies from 22 in the 5th District to 68 in the 19th District. The average number of policemen per shift per district throughout the City is 43.¹

The district boundaries and number of policemen on patrol in a district are not directly correlated to any single factor, and there is no precise formula for determining them. The *Policeman's Manual* states that they "will vary with location, hazards, crime rate and required services,"² while in its application to the United States Law Enforcement Assistance Agency for funds, the Department states that it utilizes both "computer-

¹These figures are for 1972, the most recent year for which the figures were available.

²City of Philadelphia, *Policeman's Manual* 10 (1973).

PHILADELPHIA POLICE DEPARTMENT
DISTRICTS & DIVISIONS



assisted analysis" and "the thinking of senior commanders" in updating boundaries and assignments.

Within an individual police district, policemen work on a shifting platoon system. All of a district's patrolmen are evenly divided into four platoons,³ each headed by a lieutenant and further subdivided into two squads, each supervised by a sergeant. Each squad is assigned to one of the two "ends" (east and west or upper and lower) into which the district is divided. These two "ends" are further divided into permanent car sectors, foot beats, and wagon areas. Most policemen are assigned a semi-permanent foot beat or car sector in the district. The organization structure of a police district is indicated in Table 4.

At any one time only one platoon is on duty in each district. Every day each district is policed by three different platoons while the fourth is off. Each platoon works a six day week followed by two days off.⁴ Every week each platoon works a different shift, and over 24 days the men have worked "around the clock" on all three shifts. The "day work" shift runs from 8:00 a.m. to 4:00 p.m. and is relieved by the "night work" shift which is on from 4:00 p.m. to midnight. The midnight to 8:00 a.m. shift is called "last out."⁵ In the regular rotation, a platoon works six days on 8:00 to 4:00, takes two days off, returns for another six days on the 12:00 to 8:00, followed by two more days off before the final six day period on the 4:00 to 12:00 shift.

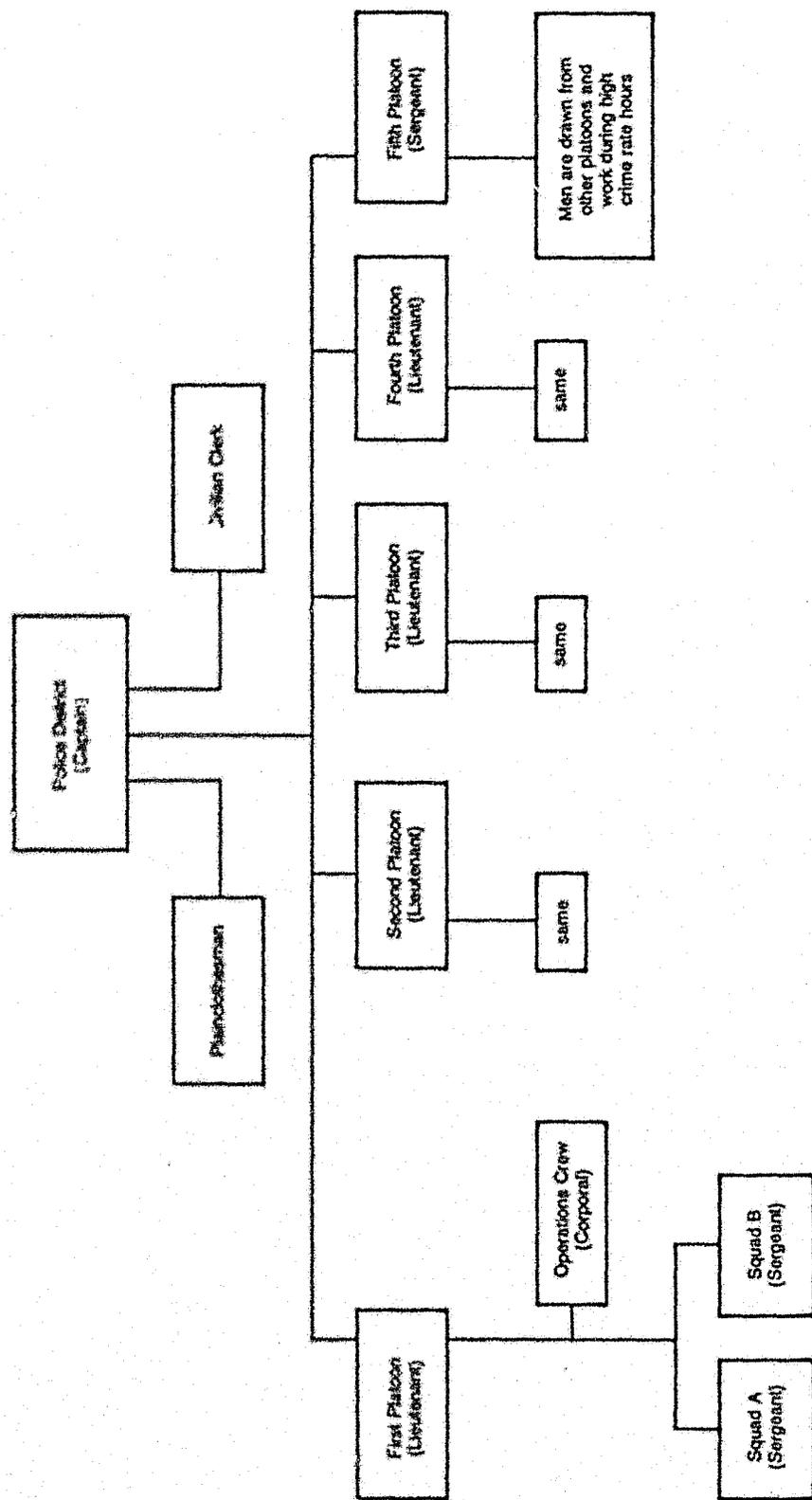
An operations crew, usually three or four men under a corporal, works at the district station during each platoon's shift. The crew is responsible for maintaining the station, guarding prisoners, and performing clerical and administrative services such as the preparation of assignment sheets, equipment records, and overtime pay lists and the tabulation of tickets, summonses, and reports submitted during the squad's tour of duty.

³A fifth "platoon" under the supervision of a sergeant may also be utilized at times which the district commander determines to be high crime periods. The men in the fifth platoon are drawn from the regular four platoons in rotation.

⁴In practice, because of a large number of days off, policemen generally work a five-day week. They are paid at an overtime rate for any hours in excess of forty worked in a calendar week.

⁵These starting and stopping times are staggered by one-half hour for the two squads to avoid leaving the district unprotected during shift changes and also to avoid traffic jams at the district headquarters.

TABLE 4
ORGANIZATION OF THE POLICE DISTRICTS



The policemen on patrol in wagons, cars, or on foot constitute the majority of Police Department personnel and carry the brunt of police work. A patrolman's duties, as defined by the *Policeman's Manual* are diverse:

[He] conducts preliminary investigations of major and minor crimes at the scene, upon discovery or by request; maintains continuing surveillance of community hazards; provides miscellaneous services to the public; represses disorderly conduct connected with personal, familial or public disputes; attends to minor injuries and emergencies; interviews and interrogates those persons whose conduct requires it; issues warnings and citations; arrests offenders; and maintains continual observation of the community to determine the need for police intervention or assistance.⁶

Police work in Philadelphia is specialized and compartmentalized. An individual patrolman covers only a small part of the City, and his work is limited in scope. Patrolmen do not conduct investigations, dispose of juvenile cases, or perform follow-up work on those cases which they initiate. Instead, a specialized unit assumes jurisdiction. Thus, while a patrolman performs many of the peace-keeping functions within his sector or beat (*i.e.*, settling family fights, conducting building inspections; quieting noisy parties, ordering corner youths to disperse), a substantial portion of the law enforcement functions are performed by specialists whose enforcement jurisdiction supersedes that of a patrolman. There are contingents of police officers from the Detective Bureau, Juvenile Aid Division, and Community Relations Bureau assigned to each geographical division. These officers report to their separate unit commanders, rather than to the division commander.

One of the duties of the policeman assigned to patrol, that of enforcing the vice laws, is shared with at least three other groups of police officers. Each geographical police division has a team of policemen in plainclothes, commonly referred to as "inspector's men," who concentrate on vice law enforcement (liquor, gambling, prostitution, and narcotics). These officers are taken out of the normal duty rotation and report

⁶*Policeman's Manual*, *supra* note 2, at 3.

to a lieutenant, who reports to the inspector. The captain in each district also has a number of plainclothesmen (usually two) assigned to vice work and referred to as "captain's men." Finally, the Chief Inspector's Squad consists of plainclothes officers assigned to enforce the vice laws on a City-wide basis. The officers in this squad work directly for the chief inspector of the Special Patrol Bureau.

The second of the three bureaus making up the Uniformed Forces Division is the Special Patrol Bureau, which supervises patrol services not otherwise provided by regular district patrolmen. Encompassed within the Special Patrol Bureau are the Foot Traffic Unit, Sanitation Unit, Accident Investigation District (AID), Highway Patrol, Airport Unit, Marine Unit, Transit Unit, Stakeout Unit, Canine Unit, School Crossing Guards, and Chief Inspector's Squad (CIS). These units carry out the special functions that their names connote. The Highway Patrol supplements patrol in high crime areas, patrols expressways, and escorts visiting dignitaries. The Stakeout Unit attempts to prevent burglaries and robberies by stationing undercover officers in locations where holdups are predictable.

The third bureau under the Uniformed Forces Division, Command and Inspections, provides high level commanders on the street during hours when the captain of the district or the inspector of the division are off-duty, particularly at night. Its duties also include inspections of personnel, equipment, and district or unit operations.

Investigation and Training Division

The second operational division of the Police Department, called Investigation and Training, handles the investigation and disposition of all major criminal offenses in Philadelphia. The two major subdivisions within this division are the Detective Bureau and the Training Bureau.

The Detective Bureau is commanded by a chief inspector and provides most of the investigative services for the Police Department. It has officers assigned to work in each of the nine patrol divisions, who remain under the command of the Detective Bureau. This Bureau contains a number of sub-units with specialized investigative responsibilities: homicide, major crimes, labor, juvenile aid, and narcotics.⁷ It also contains

⁷According to the *Philadelphia Manual*, each of these units is a sub-unit of the Detective Bureau. However, the official organization chart indicates that the

the civil disobedience squad,⁸ which handles public demonstrations and monitors groups which engage in public protest activities, and the intelligence unit, which compiles intelligence data on persons and organizations, both criminal and subversive.

The Juvenile Aid Division investigates all crimes involving juveniles and all sex offenses, except for rape cases involving adult offenders which are investigated by the Detective Bureau. Juvenile Aid also contains a gang control unit and a policewoman unit which investigates incidents involving a female perpetrator or a child of a tender age.

The Labor Squad is used in situations involving potentially large-scale labor disruptions throughout the City. The Narcotics Unit coordinates narcotics arrests and all major narcotics investigations. All narcotics arrests, regardless of whether made by uniformed officers or plainclothes officers, must be processed by the Narcotics Unit.

The Training Bureau is responsible for administering the Police Academy course, overseeing in-service training for veteran officers (*i.e.*, driver's education, firearms practice, and training for special units), and selecting officers to attend short-term training courses provided by universities and other law enforcement agencies.

Staff Services Bureau

The Staff Services Bureau is headed by a chief inspector and is further divided into two sections. The Laboratory and Records Division does the scientific investigative work of the Department (firearms identification, document examination, fingerprinting, etc.), maintains criminal records, stores evidence, and also handles court liaison and location of defendants failing to appear at trial. The Systems, Procedures and Communications Division administers the police "radio room" and other communications, controls data processing and statistics, and handles research and planning.

⁸Inspector in charge of Juvenile Aid reports directly to the deputy commissioner, and that there is a second chief inspector reporting to the deputy commissioner and in charge of "headquarters divisions" of homicide, major crimes, labor, narcotics and polygraph. See Table 2.

⁹The civil disobedience squad is not listed on the official organization chart, but logically should be a "headquarters division" on that chart.

Internal Affairs Bureau

The Internal Affairs Bureau is charged with enforcing compliance with Departmental rules and regulations and with investigating all complaints of police misconduct. The Police Board of Inquiry—a quasi-judicial body which makes recommendations to the Commissioner regarding disciplinary actions against offending officers—comes under the jurisdiction of this bureau.

Community Relations Bureau

The Community Relations Bureau, as its name implies, is given the role of maintaining good relations between the Department and the public. Within this bureau are the Public Information Unit, the Tension Control Unit, and the Police Athletic League (PAL). Community relations are specialized and centralized in the Philadelphia Police Department, and the Department assigns its community relations programs to a select group of officers. Although each division and district has its police-community relations (PCR) officer, he comes under the formal authority of the Chief Inspector of Community Relations.

Administration Bureau

The Director of Administration provides the essential finance, personnel, maintenance, and other support services required for the Department. The bureau is primarily staffed with civilians.

BUDGET

The total budget for the Philadelphia Police Department for fiscal 1974 is \$118,095,084, which is divided into \$112,668,557 for salaries and purchased services and \$5,426,527 for supplies and equipment. The police budget is 17.2% of the total Philadelphia operating budget of \$686,026,000 for fiscal 1974. The police budget represents an expenditure of an annual average of \$53.35 for each resident of Philadelphia.

In terms of the percentage of total City budget allocated to the police and the amount spent per person on police protection, Philadelphia is comparable to other major cities in the United States, as can be seen from Table 5.

TABLE 5

City ^a	Total City Budget	Total Police Budget	Police Budget As Percentage of Total Budget	Per Capita Police Expenditures
New York	\$8,107,000,000	\$757,372,000	9.3%	\$82.50
Chicago	1,047,433,510	254,636,903	24.3%	68.58
Los Angeles	695,808,372	161,407,917	22.1%	58.83
Philadelphia	686,026,000	118,095,084	17.2%	53.35
Detroit	714,815,055	147,736,953	20.6%	70.96
Houston	234,440,373	35,050,862	14.9%	22.71
Baltimore	752,677,652	72,014,826	9.6%	73.95

PERSONNEL

Compensation

The starting salary of a policeman in Philadelphia in January, 1974, was \$11,441. Salaries ranged up to \$23,148 for a chief inspector with maximum service.¹⁰ The Commissioner is currently paid \$35,000. The salary of Philadelphia policemen is supplemented by fringe benefits and overtime pay. The fringe benefit package, including medical, life, and workmen's compensation insurance, and pension contributions, comes to about \$600 per year. Overtime pay averages between \$900 and \$1,000 per man each year. Since most police officers are at least at the policeman step 4 rate, the average policeman may be said to earn about \$13,000 per year as of January, 1974.

Police salaries in Philadelphia compare favorably with those in other cities. Philadelphia is the nation's fourth largest city,

^aThe figures in this table are all for fiscal year 1974 and were obtained through contacts with city budget personnel in each city in January, 1974.

¹⁰The schedule of salaries for personnel in the Police Department is indicated below, as of January, 1974. \$1,000 raises are scheduled for July 1, 1974, and July 1, 1975. Effective July 1, 1976, the voluntary retirement age will be reduced to 45. Policemen now start at step 2. After one year they reach step 3 and after two years reach step 4. In addition, they receive longevity pay of \$100 for each five years of service.

Class	Step 2	Step 3	Step 4
Policeman	\$11,441	\$11,730	\$12,022
Police Corporal and Detective	12,356	12,668	12,984
Police Sergeant	13,043	13,372	13,705
Police Lieutenant	14,869	15,244	15,624
Police Captain	16,951	17,378	17,811
Police Staff Inspector	18,307	18,768	19,236
Police Inspector	19,324	19,811	20,305
Chief Police Inspector	22,029	22,585	23,148
Director of Administration	\$24,051		
Deputy Commissioner	28,000		
Commissioner	35,000		

but the starting police salary was the highest among major cities as of January, 1974, with Chicago, Los Angeles, and New York less than \$300 behind.¹¹ At the end of one year of service, a Philadelphia police officer's salary is slightly less than a police officer's salary in the other three cities. Police salaries in Philadelphia increased approximately 20%, between 1971 and 1973, and they will rise another 10% by July, 1975.

Philadelphia also has a generous pension system for police officers and other civil servants. A retired police officer who reaches the age of 50 with at least 10 years service is eligible to receive a percentage of his average final compensation which is determined by multiplying 2½% by the number of years of service. Thus, an officer retiring with 40 years service receives a pension equal to his full pay. Retirement is mandatory at age 70.¹²

Entrance Requirements

The basic requirements a candidate for policeman must meet are that he be between the ages of 19 and 35 years, be at least 5'7" and 140 pounds, have 20/50 vision correctable to 20/20, and have been a resident of Philadelphia for one year prior to taking the entrance examination. He must also pass a medical examination, psychiatric interview, background investigation, and written examination.

Education and general intelligence play an insignificant role in the Philadelphia Police Department's hiring practices. There is no requirement that police recruits receive any minimum amount of education before applying to the Department,¹³ and there are no provisions for higher pay or special assignments for recruits who have significant educational attainments. Department officials have conceded that the present written entrance examination does not directly measure the intelligence of the applicant.¹⁴ Furthermore, there is apparently little

¹¹Based upon contacts with the police departments in major cities in the United States.

¹²For further discussion of pensions in the Philadelphia Police Department, see Chapter VI *infra* at 538.

¹³Civil Service Specification No. 5011 for policemen states only that "desirable training and experience [includes] education equivalent to completion of a standard high school."

¹⁴The test has in the past been made up by employees of the City Personnel Department who, in general, have no training in testing other than what they learn on the job. Pursuant to a court decree, a new test is being prepared by an outside professional testing company.

intellectual pressure exerted at the Police Academy, since it is very unusual for a recruit to fail to pass the Police Academy courses for academic reasons.

The only physical standards imposed by the Philadelphia Police Department are that an officer be at least 5'7" and 140 pounds, with height and weight proportionate, and be free from medical disqualification. Although police officers are periodically given a medical examination, the Department does not require them to meet any strength, agility, endurance, or other physical fitness tests.¹⁵

The psychiatric examination administered to applicants is a pioneering development for Philadelphia, instituted in 1958, for which the Police Department and the Personnel Department of the City deserve credit. Recent national study commission reports have urged general use of this practice.¹⁶ It is vitally necessary because police are constantly involved in conflict-laden, stress situations where they may receive verbal or physical abuse and where there is a potential for violence. Police officers furthermore have unique opportunities to inflict physical harm on citizens while enjoying relative immunity from close scrutiny of such actions. To protect society and other police officers, individuals who have a tendency to be unstable or brutal must be weeded out, if at all possible. At the present time, according to an official of the Personnel Department, approximately 12% of the police applicants are rejected for psychological reasons.

Lateral Entry

Police officers in the Philadelphia Police Department must enter at the basic patrolman level, attend the Police Academy, and almost all serve an "apprenticeship" on street patrol. All the officers who reach supervisory positions must work their way up through the ranks of the Philadelphia Department. There is no provision in the regulations governing the Department for "lateral entry" at a supervisory level for a police officer with exceptional qualifications or experience. Lateral

¹⁵Such a physical fitness test for police officers has been devised by the International Association of Chiefs of Police, see International Association of Chiefs of Police, *A Survey of the Police Department, Atlanta, Georgia* Appendix V (April, 1971).

¹⁶See, for example, National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police* 337-339 (1973); American Bar Association Project on Standards for Criminal Justice, *The Urban Police Function* 200 (1972); and The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police* 129-130 (1967).

entry in fact is made impossible by the pre-employment residency requirement, by the Department's interpretation of Section 9.021 of the Civil Service Regulations which states that "... vacancies ... shall be filled so far as practicable by the promotion of permanent employees . . .," and by the maximum age of 35 for new police officers.¹⁷ The only exceptions to the prohibition on lateral entry are the two Deputy Commissioner and one Commissioner positions which are not under Civil Service. In practice, however, the men filling these positions have also been drawn from the Department's ranks.

Recruiting

In 1965, an intensive recruiting program began for the Philadelphia Police Department. Prior to that time, little was done aside from the posting throughout the City, usually in public buildings, of announcements of Civil Service examinations for positions as policemen. Since then, as part of a program in which the Department greatly expanded in size, the Police Department has engaged in an advertising program emphasizing salary and fringe benefits, availability of positions, and locations of testing centers. There still is no regular program of recruitment teams being sent to schools and colleges to provide information about the Police Department or to interview prospective candidates.

Training

The only formal training received by Philadelphia police officers is the instruction at the Police Academy given to them prior to their initial assignments. The Academy training course now calls for over 500 hours of instruction spread over fourteen weeks. All but two weeks of this training takes place at the Academy, with the remaining two weeks at Temple University. The instructors at the Academy are all Philadelphia policemen selected by the Superintendent of the Academy (also a police officer), for a teaching tenure of two to three years. The police instructors receive no formal preparation in teaching techniques except for some who voluntarily take a one week course administered by the United States Civil Service

¹⁷Such restrictions on lateral entry have been strongly criticized by the President's Commission on Law Enforcement. See *Task Force Report: The Police*, *supra* note 16, at 142.

Commission. The instructors at the Temple University portion of the training are civilians.

The curriculum of the Police Academy training is divided as follows:

1. Orientation (including departmental rules and regulations and administrative matters)	27 hours
2. Firearms training	43 hours
3. Driver training	14 hours
4. Criminal law rules of evidence (includes testifying in court)	66 hours
5. Traffic (includes motor vehicle code, violation reports and accident reports)	37 hours
6. Arrest procedure (mechanics of placing people under control and in custody)	36 hours
7. Physical training (exercises and close order drill)	27.8 hours
8. Patrol operations (includes crowd control, patrol procedure, radio communications and "roll call training")	72.4 hours
9. Miscellaneous (includes first aid, vice enforcement, crime reports, crime prevention and public relations)	51 hours
10. Tours (courts, agencies)	11 hours
11. Special police units (activities and roles)	19 hours
12. City agencies	23 hours
13. State agencies	3 hours
14. Federal agencies	21 hours
15. Temple University—Social Sciences in Police Work (topics covered include conflict resolution, history of police role, mental disorders, family organization, juvenile problems, human behavior, physical reaction to stress, and a courtroom simulation).	51 hours

The Philadelphia Police Academy curriculum has a notable absence of courses geared to some of the major problems policemen will be confronted with in the Department: race relations, corruption,¹⁸ and investigative techniques. Another vitally important area, relations with the community in general, is covered in two hours under "courtesy and public relations." Once a police officer leaves the Police Academy, his formal Department-sponsored training ends except for a recently adopted program of firearms refresher training and for some specialized training given to officers promoted to detective or to new members of units such as the Narcotics Unit. There is

¹⁸For discussion of this aspect of Police Academy training, see Chapter IV *infra* at 396-401.

no provision for a police officer to return for additional instruction or class discussion after his initial patrol experience. There also is no provision for bringing officers back to update their knowledge of the law, Department policy, technology, or other matters. In this regard, Philadelphia is not unlike most other police departments. One major exception is the Los Angeles Police Department which requires its officers to return three times (at the end of one year, between the third and fifth years, and between the seventh and fourteenth years) for a formal training period of one to two weeks. The Federal Bureau of Investigation also requires its agents to attend a two week refresher course after two years and every five years thereafter.

Police officers may attend college on their own volition while in the Police Department, and a federally funded program now provides free tuition. Officers get little encouragement to do this and must arrange their days off in order not to miss any classes. A few policemen are given steady assignments which do not entail shift changes, making it much easier to attend college. However, there is no program for reserving these positions for part-time students and obtaining such a position depends on chance or influence within the Department.

Promotions

Promotions within the Philadelphia Police Department are governed by the Civil Service regulations applicable to other City jobs. A discussion of the promotion system is contained in Chapter VI of this Report.

IV

POLICE CORRUPTION

PRIOR REFORM EFFORTS

The Pennsylvania Crime Commission is extremely concerned that after the expenditure of 1.8 million dollars and countless man-hours on an investigation dedicated to the improvement of the Philadelphia Police Department, little or no actual change will occur as a result of the Commission's efforts.¹ Unless an enlightened leadership presses for massive changes in the Philadelphia Police Department's procedures and attitudes, the Commission fears that if another investigative body were called upon to examine the Department ten years from now, it would find little change.

Thus, the Commission is taking the time to set forth a brief history of the Department, with particular reference to various reform efforts. One can soon see that corruption and political influence in the Department are problems which have plagued the force since its inception. As the four previous investigations in the 20th century indicate, the Crime Commission is not, by this investigation, raising new issues. Hopefully, the Commission's recommendations for system-wide changes will alter the steady presence of corruption and political influence which past history demonstrates has always existed.

Long before there was a Philadelphia Police Department, there was a police force in Philadelphia. Beginning in 1705,

¹The Knapp Commission had the same concern. Commission to Investigate Allegations of Police Corruption and the City's [New York's] Anti-Corruption Procedures, Commission Report 13 (December 26, 1972). The Knapp Commission did accomplish a change of attitude in New York, and efforts to root out corruption within that Department have been intensified.

there was a system requiring each citizen to take a turn patrolling the City.² Then, in 1771, the General Assembly of Pennsylvania passed a comprehensive law for policing and lighting the City at night and set up Philadelphia's first salaried police force. The Act also provided for a board of "wardens" who were empowered to "order, appoint, hire and employ what number of Watchmen they shall judge necessary and proper."³

The wardens generally supervised the watchmen, set their wages, and removed any man who was found to be derelict of duty. However, some of the supervision of this police force fell to the mayor, the recorder, and four aldermen. They were to make rules and regulations to determine the placement of the watchmen and the frequency of their rounds.

During the Revolution, municipal government was suspended, and the affairs of the City were acted upon by Councils of Safety, Wardens, and Street Commissioners, who claimed to function with the authority of the old acts of the General Assembly, even though that body itself had been overthrown on July 4, 1776. Provisions were made for lighting and paving the streets, but the only provision for watchmen during the Revolution was a set of military guards.

The forces of the early watchmen and of the "constabulary" were small and frequently scoffed at, although they had some success in controlling juvenile gangs. One of their more important functions was to call out the hour and weather conditions.

The first half of the 19th century was a period of rapid expansion in the police force. In 1797, a Superintendent of the Night Watch was appointed. Between 1809 and 1829, the total cost of lighting and policing the City more than doubled, from \$19,263.73 to \$49,586.73. By 1833, the City's force, which had numbered 52 men in 1811, had reached 144 men. Stephen Girard's will provided funds for restructuring and improving the police system, but two years later, the new system was discarded as too drastic and expensive.

²Materials on the history of the Philadelphia Police Department are scarce. H. Spragle, *The Philadelphia Police Past and Present* (1887) [hereinafter cited as Spragle], is the best work on the early force. Unless otherwise noted, Spragle should be credited as the source of such early information.

³The Philadelphia police force has had the title of Bureau of Police and Police Department at various times in its history. To simplify matters, it is referred to as the Police Department throughout this Report.

⁴Act of March 9, 1771, Ch. 1, [1810] Laws of Pennsylvania 350.

A series of racial, religious, and labor riots broke out in the 1840's. At the same time, organized gangs of "ruffians and thieves" who went by such names as Killers, Blood Tubs, Rats, and Bouncers did extensive damage by arson and general vandalism. These disorders spurred Philadelphia, its incorporated districts, and Moyamensing Township to set up a quota system whereby each area was required to maintain "not less than one able-bodied man, for every one hundred and fifty taxable inhabitants."⁴ Five years later, in 1850, the Legislature passed an act directing the citizens of Philadelphia and certain districts to elect a marshal of the Philadelphia Police District to serve for three years.⁵ The office of marshal was eliminated in 1857.

In 1854, the consolidation of the City of Philadelphia, expanding the City limits to the same boundary as Philadelphia County, necessitated a reorganization of the police force. An ordinance of Common Council in November, 1855, established the Police Department.⁶ Sixteen police districts were organized based on the boundaries of the 24 political wards and covered a total area of 129.5 square miles.⁷ Each police district contained one or two political wards. The original Department was comprised of 650 patrolmen, 40 sergeants, and 16 lieutenants.⁸ Each district was commanded by a lieutenant. The patrolman's salary had been set at \$400 per year, but with the creation of the new Department it was raised to \$500 per year. At the time, duties consisted entirely of foot patrol with the exception of 14 men assigned to the Mayor's office.⁹

Political influence, particularly mayoral influence, prevailed in the organization and operation of that first Department, and no Philadelphia Police force since has ever been completely free from partisan party presence.¹⁰ Judge Robert J. Conrad, who

⁴Act of April 12, 1845, §1, [1845] Laws of Pennsylvania 380.

⁵Act of May 3, 1850, §7, [1850] Laws of Pennsylvania 668.

⁶Philadelphia, Pa., Ordinance, Ch. CXC, November 15, 1855.

⁷*Id.* §1.

⁸*Id.* §4.

⁹The control by the Mayor is evidenced by §4 of the Ordinance, which gave the Mayor the duty to distribute the police among the districts, as he saw fit. He also was responsible for promotions and all police rules and regulations, the latter subject to council approval.

¹⁰An interesting example of current political interference in the actual running of the Philadelphia Police Department by a politician occurred in April, 1973. Police Commissioner O'Neill was asked about a special police squad investigating members of City Council. He responded that he had no knowledge of such an investigation. The next day the Mayor responded to the same inquiry and said that there was such an investigation and that he was responsible for it. *Philadelphia Inquirer*, April 27, 1973, at 12.

had been elected Mayor with the support of the "Know-Nothing" party in 1854, quickly took charge of the original force. He ordered that only American born citizens be accepted in the Police Department. At his direction, an old ordinance forbidding policemen from accepting rewards for services was repealed. He was also responsible for the general policy which made each political ward a separate police district.

In 1860, during the administration of Mayor Alexander Henry, the first building designed specifically to be a police station was constructed on the southeast corner of Frankford Avenue and Ruan Street. Mayor Henry is also credited with many other innovations in the Department. He recommended that all appointments to the higher ranks be made from men who had completed a prescribed time in the rank immediately below in the hope that the personal ambitions of each officer would produce a general improvement in police services. He also reorganized an inadequate detective system into the Detective Department of the Police Force of Philadelphia. At the time of its formation, the Detective Department consisted of the Chief, Joseph Wood (originator of the "Rogues Gallery"), and eight subordinates.¹¹

Two important steps were taken toward the modernization of the force in 1860. The first Harbor Police was created, and the regular alternation of day and night shifts was established. Despite many of the organizational reforms instituted during the period, little was done to curb political influence within the Department. Referring to patronage jobs, including appointments to the police force, Lincoln Steffens has characterized the 1860's and 1870's in Philadelphia as a period of "miscellaneous loot."¹²

In 1868, Mayor Daniel M. Fox reorganized the elite Detective Department and placed it completely under the jurisdiction of the Chief of Police, but not before surrounding himself with "a police force mainly drawn from the ranks of those 'in political sympathy with him.'"¹³

The period was not without its reformers. Mayor Samuel G. King began a three year term in 1881, with the declaration that:

¹¹Detectives in the Police Department have been traditionally a privileged class, this special status goes back to the formation of the first detective department which reported directly to the Mayor.

¹²L. Steffens, *The Shame of the Cities* 136 (1957 ed.) [hereinafter cited as Steffens]

¹³Sprogle 148.

"It will be my duty to free the city from a partisan police."¹⁴ He abolished the practice of individual assessments for political coffers in the Police Department, appointed the first blacks, and inaugurated the first formal in-service training in the Philadelphia Police Department, a four-lecture course dealing with emergency medical treatment taught by Professor J. William White of the University of Pennsylvania.

The reforms were short-lived. Municipal government in Philadelphia in the latter part of the 19th century was characterized by "bossism," and the Police Department was one of the most important political tools at a boss' disposal. Various political duties went along with an appointment to the Police Department—registering citizens for the polls, rounding up voters, and accompanying citizens to City Hall to pay taxes.¹⁵ Voting lists were loaded with fraudulent names by the assessor, and "repeaters" were protected by the police.¹⁶

Given these conditions and the general preoccupation with a depression and two wars, it is not altogether surprising that there is very little written about the Police Department from 1900 to 1950. What was written is frequently critical of the Department.

In 1920, one critic remarked, "Generally speaking, Cleveland, with one officer to every 796 inhabitants, is a better policed city than Philadelphia, with one to every 431."¹⁷ Criticism was also levied against a system in Philadelphia whereby the civilian director of public safety, who controlled the Department, had too many diverse functions.¹⁸ Unnecessary duties of the police were also viewed with disfavor; Philadelphia was noted for its stinginess with the police budget.¹⁹

The most serious criticism, however, was reserved for the ever present problem of political influence:

Once administration . . . is a matter of politics. It is organized on the basis not of individual fitness, but of political faith. It is part of the sordid system of jobs and

¹⁴*Id.* at 66.

¹⁵F. Hamilton, *Rizzo* 38 (1973) [hereinafter cited as Hamilton].

¹⁶Lincoln Steffens relates alleged incidents where the police actually bear citizens or election officers who were trying to do their duty, then arrested the victims. Steffens 140. The events of the recent election, where a young attorney serving as a poll watcher in South Philadelphia was beaten, indicates little advancement. *Philadelphia Inquirer*, November 7, 1973, at 1-2.

¹⁷R. Fosdick, *American Police System* 201 (1920) [hereinafter cited as Fosdick].

¹⁸*Id.* at 192, 193, 228.

¹⁹*Id.* at 218.

spoils which so notoriously distinguishes much of our local government . . . A Republican victory in Philadelphia means a Republican director of public safety . . .²⁰

One of the unhappy results of the system was a high turnover rate in directors of public safety so that they had little chance to gain experience which might enable them to do their job well. Philadelphia changed directors of public safety thirteen times in 33 years, an average of only 2½ years for each.

One of the issues raised by critics of the Department and by a 1926 report of the Bar Association of Philadelphia was who should be responsible for disciplining members of the Police Department.²¹ The Department was also attacked for its lack of crime statistics:

Neither the chief of police nor the head of the detective bureau has any idea of the aggregate number of burglaries, robberies, larcenies, or any other crime, occurring within his territory from week to week or month to month.²²

As in the 19th century, periods of reform came and went. Usually, the reforming vehicle was a special investigating grand jury. The fact that each of the grand juries was charged to root out similar corruption problems indicates that few effective institutional changes were adopted and that the Police Department had little ability to correct its deficiencies.

On August 17, 1928, Edwin O. Lewis, Judge of Quarter Sessions Court, directed the August Grand Jury to make a "sweeping investigation into the deplorable criminal conditions" in Philadelphia.²³ Inspired by the August gangland-style murders of two citizens, Judge Lewis instructed the jurors to investigate, under the direction of District Attorney

²⁰*Id.* at 231.

²¹*Id.* at 283, Philadelphia Bar Association, *Crimes Survey Commission Report* 64 (1926)

²²Fosdick 341.

²³*Evening Bulletin*, August 17, 1928. In researching the 1928, 1937, 1951, and 1953 grand jury investigations, the Commission was hindered by the unavailability from court records of the presentments and charges in all but the 1937 effort. The following accounts are pieced together from a review of newspaper clippings. Because of ease of access, the *Evening and Sunday Bulletin* was the primary source, and should be credited with information on the grand juries unless otherwise noted.

John Monaghan, the operation and maintenance of gambling establishments, the conditions under which they were permitted to thrive, and the connection, if any, between the Police Department, public officials, and various elements of the underworld.

In complying with Judge Lewis' charge, the Grand Jury examined a total of 748 witnesses and made in excess of ten presentments in the seven months that it was continuously in session from August 6, 1928, until March, 1929.

In the initial phase of the investigation, questionnaires were distributed to all policemen and detectives in which they were required to furnish information about their financial status. Many of their bank records were also examined.

By August 31, 1928, the Grand Jury prepared a preliminary report revealing that members of the police force of all ranks had obtained graft which totalled millions of dollars. The Grand Jury found that elaborate gambling devices such as roulette wheels, bird cages, and dice had been maintained unmolested for years in luxurious gambling establishments which served free liquor and food. The profits derived from these operations were enormous both for the operators and for the police in the form of protection payments. The District Attorney estimated protection payments of \$2,000,000 not counting sums received by high ranking police officials. One police captain deposited \$8,500 in his bank within fourteen weeks; another captain received \$200,000 in two years; and an inspector banked \$36,000 over a three year period.

The Grand Jury concluded in its preliminary report that the explanation for such accumulations of money was a systematic method of payments to the police which involved the entire Department. The funds were collected at payoff stations in exchange for protection against interference with gambling and liquor operations. The Grand Jury further reported that graft among the police had increased since police districts were made the same as the new ward lines.

A week later, the Grand Jury declared the Captain of Detectives, Charles Beckman, unfit to hold any City office. He was immediately suspended, ordered to trial, and ultimately dismissed on the basis that he had failed to account for his wealth.

The Mayor directed that the Police Department be reorganized free from politics and that the undesirables be weeded out. Many of the 4,800 member Police Department were re-

assigned.²⁴ The official response to findings of corruption then was similar to the response in the 1970's.

On the basis of an interim presentment, three police inspectors and eighteen captains were ordered to trial before the Civil Service Commission. An additional twenty-two officers were suspended for failure to explain their accumulations of wealth. Several weeks later, the Trial Board dismissed twenty-nine officers. Then on March 13, 1929, the Grand Jury cited eighty-five police officers as "unfit" for failure to disclose their sources of wealth. Two captains, fourteen detectives, and sixty-nine patrolmen were suspended and listed for trial before the Civil Service Commission.

In its final presentment of March 28, 1929, the Grand Jury concluded that a definite and precise relationship existed among liquor traffic, gang activity, and the police. The operation of 1,170 saloons and cafes, thousands of speakeasies, many houses of prostitution, and large gambling establishments, all of which had been in existence for years, indicated that police acquiescence was essential for these thriving operations. That police officers had accumulated great wealth in the districts where this activity flourished was not a coincidence. Evidence consisting of bank accounts, accountants' records, police logs, and testimony indicated that members of the Police Department amassed great wealth through bribery and extortion. The extensive organized vice operations were the result of a corrupt alliance between members of the Police Department, the underworld, and public officials.

The Grand Jury made various reform proposals. Among them were the repeal of Prohibition, the empowering of the Director of Public Safety to select and dismiss employees independent of the Civil Service Commission, a total separation of police districts from political boundaries, and an increase in police officers' salaries.

Alarmed by the obvious lawlessness in the City of Philadelphia, Mayor Kendrick asked President Harding to send the famous World War I General, Smedley D. Butler, to rescue the City from crime. Brigadier General Butler immediately or-

²⁴After the Crime Commission investigation of police corruption began and following a series of articles on police corruption in the *Philadelphia Inquirer* in November of 1971, Commissioner O'Neill on December 18, 1971, transferred the commanders of all the police divisions and 19 of the 22 police districts. On December 28, 1971, the two deputy commissioners were reassigned. O'Neill described all of these moves as "routine." *Philadelphia Inquirer*, December 18, 1971, at 1, 6; December 29, 1971, at 25.

ganized a special police squad of 75 men to raid speakeasies and night clubs. Within the first week of his military-like campaign, he had closed over six hundred saloons and made two thousand arrests. But that only skimmed the surface; there were over 13,000 speakeasies in Philadelphia at the time.²⁵ It thus appeared that General Butler's war might "fulfill his promise to transform Philadelphia into a law abiding community."²⁶ Nothing, however, could have been further from the truth. Surprised at General Butler's crackdown and fearful of a loss of graft, politicians began to intercede on behalf of arrested bootleggers and speakeasy operators. Magistrates dismissed violators almost as quickly as General Butler could haul them into court. High police officials warned bootleggers of pending raids, cases of liquor held for evidence mysteriously disappeared, and police officers resigned and opened speakeasies. The General continued to make arrests, but few went to jail. Philadelphia was still very "wet." In the end, General Butler returned to the Marine Corps; his job had been a waste of time. "Trying to enforce the law in Philadelphia," he said, "was worse than any battle I was ever in."²⁷

Few permanent reforms had been accomplished by the efforts of either the 1928 Grand Jury or General Butler, for less than ten years later another special investigating grand jury was convened.

The 1937 investigation was at the request of District Attorney Charles F. Kelly and under the supervision of Curtis Bok, then President Judge of Common Pleas Court. The Grand Jury was limited to inquiries into gambling, vice enforcement, and the City's law enforcement agencies.

Kelly's appeal emanated from evidence which had been collected by a legislative commission investigation of the court system that revealed the existence of 100 gambling establishments which, according to the District Attorney, existed because of neglect, inefficiency, and even connivance on the part of police authorities.²⁸

In his charge to the Jury, Judge Bok asserted that crime was a flourishing and prosperous industry throughout the country, estimating that approximately \$15,000,000,000 of crime

²⁵Lewis, *The Worlds of Chippy Patterson* 240 (1960).

²⁶H. Asbury, *The Great Illusion* 186 (1950).

²⁷*Id.*

²⁸Special Grand Jury, October Term, 1937, Philadelphia County, *Presentments of the Special (October 1937) Grand Jury and Instructions of the Court* [hereinafter cited as *Presentments and Charge*].

\$60,000,000,000 national income was expended on crime.²⁹ The Judge instructed the Jury to explore the system of law enforcement in Philadelphia to ascertain whether the alleged conditions of vice and crime existed and, if so, who or what was making their existence possible. He encouraged the jurors to investigate public officials as well as private citizens.

Shortly thereafter, Judge Bok ordered two separate investigations of the City's law enforcement agencies. Earl G. Harrison, Esquire, appointed initially as an impartial observer to still charges of politics, was requested along with a committee of fourteen lawyers to investigate the District Attorney's office. The District Attorney's office, under the direction of John A. Boyle and three assistant district attorneys, were to investigate the Police Department. Prompted by the Mayor's accusations that the Grand Jury was a "huge joke being perpetrated upon the people of Philadelphia,"³⁰ and the Mayor's failure to cooperate with requests for evidence, Judge Bok requested Attorney General Charles J. Margiotti and three assistants to supersede the investigation. Earl Harrison, the committee, and the District Attorney's office were relieved of their duties on October 11, 1973.

In the course of its twenty-seven month investigation, the Grand Jury collected in excess of 1,200 statements and examined in excess of 400 witnesses. The Federal Bureau of Investigation, the Treasury Department, and the Post Office Department aided in the investigative process.

Evidence revealed that organized vice, particularly gambling and prostitution, not only existed but flourished in the City. The operation of these establishments was confirmed by State Police investigations which revealed an additional three hundred active establishments.³¹ Elaborate gambling establishments were located in Center City with branches in Frankford, Germantown, West Philadelphia, and the Greater Northeast. Additionally, payoffs were filmed and police officers were observed guarding the establishments and acting as bodyguards for collectors.

With respect to prostitution, reports were submitted of "fifteen bawdy houses and there were complaints of eleven other establishments soliciting in the nineteenth district."³² Call-girl operations were abundant throughout the City.

²⁹*Id.* at 7.

³⁰*Evening Bulletin*, October 1, 1937.

³¹*Presentments and Charge* 241.

³²*Id.* at 243.

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³²*Id.* at 243.

The Jury concluded that activity of this nature and magnitude could have only existed with the support of public officials. Such activity was not the result of laxity and carelessness, but rather a conspiracy between the police, public officials, and criminal elements. In fact, the Jury uncovered a "Plan of Organization" through which "Mayor Wilson exercised the most far-reaching and damaging political control"³³ of the Police Department. He announced publicly that he had exclusive control of the Police Department and none of its functions were to be performed without his approval. He appointed inexperienced men who would execute his orders without question. Wilson implemented his plan by requiring undated resignations and other documents containing signatures of his employees. The Director of Public Safety, the Assistant Superintendent, and the Superintendent of Police exemplified incompetency. The inefficient and archaic detective squad was also controlled by Wilson, and the vice squad was allegedly used for "tailing persons politically opposed to the mayor."³⁴ Finally, this system of control included flagrant violation of the Civil Service Regulations.

The corrupt system of administration was not limited to high ranking officials; it pervaded the entire Police Department. The system for protecting illegal activity which operated throughout the districts was implemented by direct orders and enforced by transfers, promotions, demotions, and appointments on all levels.³⁵ The captain of the 6th District instructed his men that patrolmen would be assigned to highway duty and that captains and plainclothesmen would take care of all violations committed indoors. They were then instructed ". . . not to report any gambling or vice on mere suspicion, or in the absence of direct evidence."³⁶ It was understood that orders by superior officers pertaining to the disclosure of gambling operations were to be ignored. Likewise, many of the complaints filed by citizens with respect to gambling operations were disregarded. Some, however, were investigated by plainclothesmen and reports denying their validity were submitted routinely.

³³*Id.* at 25.

³⁴*Id.* at 115-116. There is a modern parallel between this and the accusations concerning Mayor Frank Rizzo's use of a special squad of police from the Internal Affairs Bureau. See Special Grand Jury, June Term, 1972, Philadelphia County, *18th Presentment* [the presentments of this grand jury are hereinafter cited as — *Presentment*].

³⁵Then, as now, certain districts were regarded as places of exile for non-conforming officers.

³⁶*Presentments and Charge* 45.

Patrolmen submitted weekly vice condition reports which were falsified to omit extant vice conditions before ultimate submission to the superintendent. Eventually, the vice report forms were depleted and the supply was not replenished, thereby making it difficult for conditions to be reported. It was made clear that anyone objecting to or deviating from this policy would be chastized. Hence, silence and submission were the only recourse. This was confirmed by the testimony of a patrolman who stated that:

he was personally aware of considerable criminal activity on his beat, but experience convinced him that it was useless to report it. What he reported was ignored . . . The reason for false reports is that patrolmen and other officers of higher rank who conscientiously reported their observations were reprimanded, transferred to other duties or to other districts, and in some cases demoted without a fair trial.³⁷

The Grand Jury made fifteen presentments pertaining to various areas of the investigation such as evidence uncovered, recommendations, indictments, and pleas to continue the investigation and for financial assistance. A total of 348 persons³⁸ were indicted, among whom were gambling operators and their associates, police, and City officials, and the Mayor. Over one-half of the police officers in the 6th District, ranging in rank from patrolman to inspector, were recommended for penalties which included dismissal, suspension, public censure, and reprimand. They were named "unfit for public office" because they were inefficient, corrupt, and negligent. Similar treatment was accorded to the police officers of the 19th District. Mayor Wilson was indicted on September 9, 1938, and reindicted on February 27, 1939, on charges of "misbehavior in office" which included making illegal promotions, demotions, and transfers of policemen and firemen, failing to suppress gambling, and interfering with a legislative investigatory commission.

In its 96 page presentment on November 28, 1938, the Grand Jury recommended the abolition of the Department of Public Safety and its replacement by a Police Commissioner and five assistant commissioners. Other recommendations were made for upgrading standards for police services, including more stringent entrance examination requirements, intelligence

³⁷*Id.* at 249-250.

³⁸*Id.* at 262-263.

testing, and successful completion of courses such as practical police problems, traffic regulations, criminal law, criminal evidence, criminal investigation, and other optional courses. To effectuate a merit system for appointments and promotions, competitive examinations were to be mandatory. The final decision on dismissals and demotions was to be made by the Civil Service Commission. Finally, the Civil Service Commission was to be reorganized in accordance with recommendations made by a committee appointed for that purpose.³⁹

The fifteenth and final presentment on March 2, 1939, contained twenty more recommendations for a more effective system of law enforcement, the more significant of which were: (a) police districts should be reconstructed so as not to coincide with political ward boundaries in order to reduce political influence; (b) police appointments should be made on the basis of a competitive examination which requires for eligibility an extensive training program in police problems and procedures; (c) positions in the Police Department should be determined from a single current list of eligible applicants; (d) there should be no elevations to temporary acting positions except under defined circumstances; (e) exemptions from Civil Service requirements should be strictly limited; (f) the trial board within the Department should adjudicate only minor infractions of departmental rules, and all other cases should be referred to the Civil Service Commission; (g) the salary of ranking officers in the Department should be increased commensurate with similar positions of responsibility in industry; (h) policemen should be relieved of clerical duties and civilians should be hired to relieve them; and (i) pension system payments should be more liberal, officers should be required to retire at the age of 60, and ranking officers at the age of 65.⁴⁰

Several factors severely hindered the investigation. At the outset, the investigation was accused of being politically inspired, and Mayor Wilson requested Judge Bok to refuse to impanel the Jury for the investigation. After it was impaneled, Mayor Wilson requested the Attorney General to supersede and thereafter did not cooperate in any way with the investigation. He denied the possibility of any police responsibility for the lack of law enforcement by charging that the District Attor-

³⁹*Id.* at 176-179. As the sections of this Report on disability payments and promotions indicate, reliance on the Civil Service Commission may occasionally be misplaced.

⁴⁰*Id.* at 263-268.

ney failed to prosecute criminal cases. He accused the District Attorney of laxity and incompetence and ridiculed the Jury's effort. In a letter to the Attorney General, he later charged the Jury and the deputies with "reckless conduct," "official depravity," "unlawful and cowardly tactics," "villainous intentions," and "dastardly action."⁴¹ Likewise, the police rendered no assistance whatsoever. They failed to arrest the persons indicted, they raided small gambling houses rather than larger gambling establishments that paid off well, and their indifferent attitude resulted in the acquittal of notorious racketeers.

Furthermore, the Jury was convinced that the District Attorney was politically motivated in his request for the inquiry. He crippled the investigation by revealing his course of action and thereby forewarned the underworld and its conspirators. The Jury was then unable to collect much valuable evidence because the opportunity to investigate the system of corruption was destroyed.

The 1937 Grand Jury was severely criticized for its failure "to bring the 'big fellows' to light."⁴² The Jury did not present bribery charges against anyone, including police officials, and those indictments brought against police officers were quashed. Not one police officer ever served a prison sentence. Of the large number of people indicted and tried, relatively few were convicted and the accompanying penalties were far from severe. Twenty-five percent of the 247 persons who went to court had previous police records; 110 received suspended sentences or light fines; 56 were freed or their prosecutions were withdrawn as a result of absent witnesses; 15 either had charges dismissed or acquittals directed; and 8 were acquitted by juries. Approximately 16 of the 43 people imprisoned faced sentences exceeding three months. The heaviest jail sentence, two years, was reduced to eleven months parole.

It is generally conceded that during the 1940's the Police Department remained corrupt in terms of its internal operations and its functions within the community.⁴³ In 1950, the Department issued its first public annual report in more than 30 years. The report revealed a Department making organizational progress but doing little to cope with the corruption problem. The Department included among its notable achievements for the year the establishment of a Morals Squad, the assignment of

⁴¹Evening Bulletin, April 27, 1938.

⁴²Evening Bulletin, November 27, 1939.

⁴³Hamilton 43.

unmarked cars, the compulsory retirement of policemen of all ranks except superintendent at age 65, the purchase of 60 motorcycles of the semi-car type, and comprehensive Red Cross training for all police personnel. Recruit training, which had been allotted four weeks in 1915, was extended to almost nine weeks by 1950.

In 1951, another grand jury investigation was begun. It was inspired by two federal investigatory bodies, the Special Grand Jury investigation into organized criminal activity conducted by Special Assistant Attorney General Max Goldschein, and the Kefauver Investigating Committee, a Senate Committee which was convened in May of 1950, to inquire into the relationship between organized crime and interstate commerce. The Kefauver investigation reached the proportions of a national crusade.⁴⁴ During two days of hearings in Philadelphia, where "one of the nation's largest and most efficiently organized numbers rackets" was said to have flourished, testimony from a former policeman, the Superintendent of Police, and two notorious racketeers exposed a system of graft and corruption involving "a politico-gambler-police tie-up."⁴⁵ Payments to police officers of lower rank were estimated at \$150,000 per month.⁴⁶ Recalling the situation, Estes Kefauver stated that "the paralyzing attitude of *laissez faire* [seemed] to hang like an ether mist over the administration of the Philadelphia Police Department."⁴⁷

The petition for the grand jury investigation asked for an inquiry into the racket graft allegedly paid to police. The District Attorney alleged that the widespread and flagrant gambling conditions were the result of a corrupt system of police manipulation by politicians and racketeers in which police were regularly paid for protection.

On March 22, 1951, Judge Edwin O. Lewis, the same judge who had presided over the 1928 Grand Jury, charged the Jury to examine the corrupt conditions alleged to exist, with particular emphasis on syndicated gambling, to determine whether the conditions prevailed and, if so, who the participants were.

The investigation received the full support of law enforcement officials, as well as public and private agencies. By October of 1951, additions to the staff included eight private

⁴⁴E. Kefauver, *Crime in America* 11 (1951).

⁴⁵*Id.* at 218.

⁴⁶*Id.* at 225.

⁴⁷*Id.* at 218.

investigators and six lawyers, each of whom was assigned to one of six police districts into which the City was divided.

In addition to the private investigators, state, federal, and local agents rendered assistance. Selected City police officials were assigned to the District Attorney's office to investigate gambling activities while a secret staff was assembled to investigate the police. County detectives, however, were barred from the investigation. Civil organizations lending support were the Greater Philadelphia Movement, the Committee of 70, the Chamber of Commerce, and the Better Business Bureau.

Information pertaining to members of the Police Department was obtained from various sources. The Director of Public Safety voluntarily submitted records of all police officials to the Grand Jury. A six-page questionnaire, similar to that used in the 1928 investigation, was used for obtaining financial information about each member of the Police Department. It sought information relating to the past and present financial status of each policeman including annual salary; average annual salary from date of appointment; wife's employment and salary; real estate ownership, date and methods of ownership, acquisition, purchase value, present value, and mortgages and encumbrances; bank accounts in the past five years and present balances; assets when appointed and sources of money; contents of safety deposit boxes; ownership or interest in stocks, bonds, notes, mortgages, and securities; personal property; gifts given and received; insurance; and net worth. The President of the Fraternal Order of Police denounced the questionnaire and characterized it as "illegal, downright degrading and an insult to every police officer and his family,"⁴⁸ and directed its members not to complete the forms. A lawsuit by the Fraternal Order of Police for a restraining order was dismissed for lack of jurisdiction. Those policemen who refused to complete the questionnaire were subpoenaed for questioning before the Jury. Further documentation included the compilation of information contained in records of the District Attorney's office.

A total of approximately eight hundred witnesses testified, a substantial number being police officials. Approximately fifty "rank and file members" of the Police Department were questioned; newspaper accounts reported that all but one rookie agreed that:

⁴⁸*Evening Bulletin*, April 12, 1951.

the bureau was controlled by cliques, peppered with grafters and discouraged by current probes that have held it up to public contempt. . . . [T]he bureau was politically controlled. Politics in the police bureau has reached the point where officers, from sergeant up, have no say as to which men will or will not work on the cars. They can't even change a man's beat. The police department is demoralized; there are too many politicians running it.⁴⁹

In its first interim presentment on October 18, 1951, the Grand Jury reported that there was an illicit federation between the "gambling underworld" in Philadelphia, some politicians, public officials, and members of the Police Department. Police officials, including members of the Vice Squad and plainclothesmen, and other public officials promoted the systematic organization of gambling by enforcing "geographic gambling monopolies" and by controlling various gambling employees in exchange for protection payments and other forms of tribute. Although the most prevalent form of bribery was "the secret passage of money," gifts were bestowed upon public officials and the police. Although sufficient evidence for indictment had been obtained by that time, the Jury withheld any action in the interest of furthering the investigation.

Following his November, 1951, election victory, District Attorney Richardson Dilworth recommended that the Grand Jury be terminated and that a racket squad and several assistant district attorneys be appointed to pursue the efforts of the Grand Jury and continuously to monitor racket activity. The reasons for this recommendation were that the investigation had been undertaken without adequate preparation, that it suffered from a lack of uniform guidance resulting from constant changes in personnel, that there was inadequate financing, and that there was insufficient secrecy.

Prior to its dismissal, the Grand Jury submitted a final presentment. It was rejected by Judge Lewis on the ground that it contained categories and numbers of persons who were believed guilty rather than specifying persons for indictment. The Jury then submitted an evaluative report which was reviewed by two attorneys whose recommendations were made to the Dis-

⁴⁹*Sunday Bulletin*, April 8, 1951.

trict Attorney. The confidential report contained numerous instances of corruption involving the police, gamblers, and public officials; it was indicated that "indictments could be sought for . . . [fifteen persons on charges of] conspiracy, corrupt solicitation, extortion, bribery, and perjury among other offenses."⁵⁰ There was evidence that a numbers banker gave automobiles to three police officers and to one magistrate, and a \$100 suit to another magistrate. At least fifty other persons, among whom were members of the vice squad, received wearing apparel. A police captain was known to have collected several large sums of money from racketeers as "campaign contributions" for two ward leaders, and another captain gave protection to gamblers. Of the forty policemen named in the report, fifteen were involved with the receipt of small gifts; only three of the cases were ever criminally prosecuted. Twenty-five policemen had unusually large assets and a number of policemen were "implicated in a conspiracy with politicians and gamblers,"⁵¹ but evidence for their conviction was insufficient. Eventually, approximately one dozen officers were dismissed.

In assessing the Jury's efforts, Judge Lewis commended the jurors in that their efforts had succeeded in reducing crime during the past year and had largely eliminated gambling in Philadelphia. Nevertheless, the Jury fell far short of its expectations. Judge Lewis commented that the Jury "spread its shots all over the lot. It did not have the moral power and direction hoped [for]. . ."⁵² Furthermore, "the grand jury never captured the imagination of the public like the Kefauver Committee did."⁵³ With respect to the value of grand juries in general, Judge Lewis was of the opinion that they would be ineffective under present laws because of the lack of secrecy in swearing witnesses in open court. He advocated the revision of the laws in that regard. In an interview, the Judge made the following assessment:

Corruption can be a stink in the public nostrils for only so long, then there must be a retching. The sporadic Grand Jury investigations are the result of the nausea, but always now I have a sense of futility about

⁵⁰*Evening Bulletin*, February 12, 1952.

⁵¹*Evening Bulletin*, February 15, 1952.

⁵²*Evening Bulletin*, February 6, 1952.

⁵³*Id.*

them . . . Without some permanent organization maintaining a continuous civic probing for corruption there can be no permanent reform . . . from this, or any other Grand Jury.

But certainly this jury would do a great service if it were the spur for a commission. . . But always the biggest obstacle to such a commission would be public apathy.

The citizen who accepts corruption [is to blame for crooked cops and crooked politicians.]⁵⁴

With the election of a reform Democratic administration came the appointment in 1952 of Thomas J. Gibbons as Commissioner of Police. He made a stand against corruption, and in the fall of 1953, ordered an investigation into racket activity in Philadelphia. His inquiry was precipitated by two events. The first was a raid on a numbers bank near 21st and Diamond Streets on September 11, 1953. The second was the testimony provided by an ex-convict, former payoff man for an alleged numbers boss who disclosed to the Police Commissioner that he paid thousands of dollars to police for protection of a North Philadelphia numbers mob. The informant exposed a system of weekly payments based on rank in the Police Department which was similar in many respects to the patterns detailed in this Report. He reported that policemen received \$5; sergeants received \$10; and captains and special vice investigators received \$15. The payments, usually made between the hours of 8 a.m. and 4 p.m., primarily involved police personnel in the North Central Division. The informant stated that he made regular payments of a sizeable sum to a large number of persons in exchange for protection against gambling raids. Those payments ranged in amounts from \$5 to \$900 on a monthly basis. From January to June of 1952, he paid an officer \$200; from March to September of 1952, he paid another officer \$900 which was divided among a six man squad; from May to October of 1952 he paid another policeman \$25 per month; from July to October, he paid still another policeman \$5 per day. Forty-seven persons were identified by the informant as recipients of graft, and an inspector was implicated.

The Police Commissioner stated that it was impossible for gambling of this magnitude to exist without the knowledge of

⁵⁴*Evening Bulletin*, March 28, 1951.

the police. An inspector charged that the numbers racket was flourishing because sergeants failed to make arrests in gambling cases.

The questioning of police officers commenced immediately when approximately sixty men were summoned to the Police Commissioner's office. Information concerning the men was elicited from various sources, the first being the work schedules and radio logs of all policemen in the 23rd, 26th, and 31st Districts from 1951 to 1953. These records were used to compare the activities of police officers with statements made by the informant to establish the validity of his information.⁵⁵ Another source of information, the assignment sheets, determined whether a policeman was on duty and where he was located at a particular hour of the day. In addition, vice activity reports for the entire City for the preceding three years were reviewed. In accordance with the City Charter, which compels police officers to provide information upon request, financial questionnaires were only partially completed and the majority of police officers refused to complete the forms on the basis that there was not an official directive from the Police Department. Those who failed to comply were interrogated by the Police Trial Board.

As a result of evidence obtained early in the investigation, an inspector and six plainclothesmen were accused of collecting \$900 a month for ignoring gambling operations. In addition, five sergeants were brought before the Police Trial Board by their inspector on charges of failing to suppress gambling in their districts; specific charges included disobedience of orders and neglect of duty. However, they were found not guilty. Several other persons were arrested, including a magistrate on the charge of subornation of perjury. Rearrests of defendants in gambling cases handled by one particular magistrate were also made. The first dismissal of a policeman on the basis of con-

⁵⁵The inability of the Crime Commission to obtain relevant patrol logs from the current departmental administration during the current investigation is noteworthy in comparison.

duct unbecoming an officer, disobedience of orders, and unfitness to be a policeman occurred on November 17, 1953. He was accused of acting "improperly" on behalf of a gambling operator and a lottery which was maintained during 1952 and 1953.

Following three months of investigation, District Attorney Richardson Dilworth submitted a final report to the Police Commissioner in which twenty-eight policemen of lower rank were cited for alleged involvement in the numbers racket. In a letter attached to the report, the District Attorney recommended dismissal of sixteen policemen. The information regarding the sixteen men was provided by the informant and the officers cited were questioned in his presence. Seven others were to "be given assignments as far removed as possible from temptation and . . . be watched with extreme care," as there was insufficient evidence to bring charges against them. The District Attorney's office suggested no action be taken in connection with the remaining five officers because "there was no system of continued payment to [them]."⁵⁶

On February 11, 1954, twenty-seven persons were indicted by the February Grand Jury as participants in a numbers ring operation in North and West Philadelphia. The charges included lottery, gambling offenses, corrupt solicitation, and conspiracy. The investigation, which had continued for four months, revealed a connection between the Police Department and numbers racketeers in the City. While a few officers were dismissed, not one policeman was even indicted.

The 1960's were tumultuous times for the Police Department in several ways. The turnover rate of commissioners was again high. When Thomas Gibbons retired in July 1960, he was succeeded by Albert Brown, who three years later was succeeded by Howard R. Leary, who three years later was succeeded by Edward J. Bell, who less than two years later was succeeded by Frank L. Rizzo. There were alliances and different philosophies among ranking officers within the Department.⁵⁷ The appointment of Edward Bell aroused controversy when it bypassed the recommendations of a special "blue ribbon" committee appointed by the Mayor himself to screen and recommend candidates for the post.⁵⁸

⁵⁶*Evening Bulletin*, January 7, 1954.

⁵⁷Hamilton 66-68, 72.

⁵⁸J. Lohman and E. Misner, *The Police and the Community* (A Report Prepared for the President's Commission on Law Enforcement and Administration of Justice) 36-37 (1966).

Meanwhile, Philadelphia experienced the same societal strains which were affecting the country as a whole. A wide range of social and political movements emerged on the issues of race relations, the Vietnam war, sexual mores, and drug use. Indeed, the public became increasingly alarmed as evidence of a massive drug problem arose.

By far the most significant social development during the decade was the violent upheaval in race relations. Near the end of the decade there was a growing disenchantment on the part of blacks with the civil rights movement. Underlying some of the dissatisfaction of the black community was a sense that it had been betrayed once more—that politicians had explicitly and implicitly encouraged expectations of improved living conditions for blacks which the general public was not willing to support. At the same time a complex of inter-related factors came into play. Black consciousness was fostered, and black leaders in turn articulated black demands with even greater insistence.

Throughout the 1960's, the black community remained divided on whether to use violent or non-violent means for achieving its goals. It was this issue which determined the two perspectives from which the 1964 Columbia Avenue race riot was viewed by the black community—either the riot was a gut-level political action or it was an excuse for looting. While the reactions of the black community to the weekend of violence were mixed, the white community made it clear that however much it might deplore the impoverished conditions of North Central Philadelphia, it would not tolerate such violence.

The Police Department was widely commended for the restraint it had shown during the riot; however, several later incidents were often interpreted as typical of white backlash at black violence. In 1966, the police raided four Student Non-violent Coordinating Committee meeting places and reported that they had found 2½ sticks of dynamite. Other sources claimed that the raid was a frame-up and charges against many of those arrested were dropped.⁵⁹ Then in November of 1969, a demonstration by predominantly black high school students at the school administration offices resulted in charges of police brutality which were eventually dismissed.⁶⁰ In August of 1970, a raid on three Black Panther headquarters once more aggra-

⁵⁹Hamilton 76-77.
⁶⁰*Id.* at 81.

vated relations between the police and substantial segments of the black community.

While the Police Department's community relations suffered during the 1960's, many technical and organizational improvements were implemented within the Department. Specialized units including Intelligence, Civil Disobedience, Labor, and a Stakeout Squad were organized; and more sophisticated equipment was employed, including a highly valued communications system. The Department increased its use of a canine corps.⁶¹ A new headquarters building was dedicated in 1963. When Commissioner Rizzo resigned to run for Mayor in February, 1971, Joseph F. O'Neill was named as Acting Commissioner. His appointment was made permanent in 1972, and he has remained in that position to the present.

The history of Philadelphia's Police Department reveals certain clear-cut trends. Widespread corruption has been a constant problem which has plagued the Department since its inception. The Department's methods for internal control of discipline have proved inadequate to solve the recurrent corruption problem. Additionally, the Mayor of Philadelphia has traditionally exercised great influence over the Police Department, resulting in the politicization of the force and often impeding efforts to deal with corruption in the Department.

The Philadelphia Police Department has played a significant role in the development of Philadelphia. As the City has grown, so the Philadelphia Police Department has had to evolve in reaction to the increasing problems of urban living. The early watchmen would be amazed at the technological training of today's specialized 8,300 man force. Yet, the difficult problems of integrity, political influence, and professionalism remain.

SURVEY OF CORRUPTION

Introduction

The Commission found systematic widespread corruption in terms of payoffs to police officers centered in two main areas: cash payments by various individuals for the non-enforcement

⁶¹However, it received scattered criticism for doing so on the grounds that the dogs were a symbol of white racism in black communities. L. Berson, *Case Study of Riot* 61 (1966).

of vice laws and payments in cash or merchandise by individuals or companies for special services or the overlooking of certain regulations. The Commission also discovered shakedowns by police officers and evidence of police perjury. The Commission located specific instances of corruption in all twenty-two police districts, involving officers ranging in rank from policeman to inspector.

The specific acts of corruption varied depending on the source and purpose of the note⁶² and the unit, rank, and assignment of the police officer. Within these variables, the Commission was able to discern definite patterns, as will become evident in the survey.

The Crime Commission's experience closely followed that of the Knapp Commission. In the eleventh hour, the Crime Commission gained the assistance of two Philadelphia police officers, one a former officer and one on the force at the time.

Robert J. Weiner was a policeman for six years. A native Philadelphian, he grew up in the Northeast section of the City, and attended parochial schools. After graduation from high school and several short term jobs, he entered the Police Academy in 1966. In 1969, he resigned from the Department and went to Florida, but he returned within a year and was reinstated.

During his career he worked in the 22nd, 15th, and 23rd Police Districts, the Chief Inspector's Squad, and finished his career back in the 15th District. From Commission observation, he was a talented police officer. He had a feel for undercover work and was very effective during the months he worked with the Commission. He received "superior" and "outstanding" performance ratings while in the Police Department and received a departmental commendation for bravery in 1967, when he disarmed the suspect in a shooting incident at a crowded shopping center.

In return for his cooperation and testimony before the Commission, Officer Weiner was given immunity. He finished his work for the Commission in early February, 1974, because of the projected public hearings and also because a news reporter suspected the Commission might have a police officer working for it. When the hearings were cancelled, Officer Weiner resigned from the Department.

⁶²Payment of money to a police officer is often referred to as a "note."

Officer Weiner cooperated fully with the Commission. He made several tapes with other officers, and he became committed to making some contribution to exposing the corruption problem within the Philadelphia Police Department. The Commission has corroborated his evidence, and much of his testimony meshed with information the Commission received from other sources.

Felix Ruff grew up and attended public schools in North Central Philadelphia. He entered the Police Department in May, 1967, at the age of twenty.

After leaving the Police Academy in August, 1967, Mr. Ruff was assigned to the 22nd Police District in North Central Philadelphia. In October, 1967, he was reassigned to the 23rd Police District as a uniformed policeman, where he remained until February, 1970. At that time, he became a plainclothes officer assigned to the inspector of the Northwest Division and remained in that assignment until May, 1971. He was then reassigned to uniformed status in the 23rd District, and, in June, 1971, he was injured in an automobile accident while on duty. The remainder of his police career was spent in limited duty assignments first at Police Headquarters; then starting in September, 1971, in the Mayor's Office of Administrative Services. He left the Department in January, 1973, as a result of a disputed incident in which he was alleged to have been involved in a stolen car incident. The charges were dropped by the District Attorney's office following Mr. Ruff's testimony before the Crime Commission.

Mr. Ruff received "outstanding" performance ratings while in the Department and in 1971, while attached to the Northwest Division as a plainclothesman, he received the Police Department's highest decoration, the Valor Award, as a result of an incident in which he and another officer were fired upon as they attempted to serve a search and seizure warrant.

Mr. Ruff cooperated with the Crime Commission in return for immunity for the matters about which he would testify. He was given a series of polygraph examinations concerning his statements about police corruption and was found to be truthful on every occasion. After extensive interviews, a petition for immunity was filed and granted.

While in the Police Department, Mr. Ruff regularly attended college courses at night. Upon leaving the Department, he pursued his education and attained enough credits to qualify for entrance to law school. He has been accepted as a student in an

out-of-state law school and anticipates enrolling in September, 1974.

The Commission additionally has made use of testimony obtained from Mr. Jonathan Rubinstein during a closed hearing on January 2, 1974. He was also prepared to testify publicly. Mr. Rubinstein is the author of *City Police*, a book based on his experience in the Philadelphia Police Department. As a research project, he went through the Philadelphia Police Academy and worked full time as a police officer from September, 1969, until September, 1970. He spent an additional year working on the street on weekends and on special occasions with men he had come to know particularly well. As part of the condition of the project, Mr. Rubinstein agreed with the Department that he would not name or directly quote anyone other than from the public record. The Crime Commission had the same arrangement with Mr. Rubinstein; during his testimony, he did not identify the specific places or individuals involved in his study. However, because of his unique opportunity to study the Department, the Commission deemed his corroborative testimony to be important and is grateful for his assistance and views.

The following survey first sets forth in detail the Commission's findings and evidence concerning the various types of police corruption. After the factual material presentation, a discussion of factors in the present law enforcement system in Philadelphia which may lead an honest rookie into corrupt practices is presented.

Vice Notes

LIQUOR ESTABLISHMENTS

Liquor establishments have traditionally been targets of police shakedowns. Licensed liquor operations are subject to a wide variety of regulations on the one hand, while on the other, the public is not outraged by their violation. Experience has shown that this situation leads to non-enforcement of many provisions of the law, as is the case with the Liquor Code.⁶³ The police, therefore, may make arrests in a selective fashion, allowing bars and clubs which pay them to operate illegally.

From the outset, the Commission directed a large part of its investigative effort into this area. Several informants who were

⁶³Act of April 12, 1951, P.L. 90, 47 P.S. §1-101 et seq. (1969).

operators of liquor establishments were developed and provided the Commission with documented evidence of police corruption. Commission investigators were able to document patterns of police activity which surrounded these illegal operations and were able to trace these patterns to other establishments throughout the City.

Commission investigators directed their attention primarily to bars on the "Locust Street Strip" and to clubs licensed to serve alcoholic beverages one hour after the normal closing time (known as after-hours clubs). The results of these investigations comprise the first two parts of this section. The Commission also received information of illegal liquor sales and bars which permit lewd shows, along with allegations of less serious offenses. Although the Commission did not emphasize these areas, it did uncover evidence of corruption and patterns of corruption related to police activity.

Locust Street Strip

The name Locust Street Strip is used to describe the area in which Philadelphia's "bust-out" bars are currently located. The bars are for the most part situated on Locust Street along a three block stretch from 11th to Broad Streets; however, other bust-out operations have sprung up on small side streets and main streets within a block or two of Locust Street.

The origin of the term bust-out is somewhat of a mystery, even to the owners of these bars. However, it connotes an operation which is open and freewheeling and takes a customer for everything he has. In each establishment, the bartender supervises the activity of the females known as "bar-girls" or "B-girls" who are employed to solicit patrons to buy drinks. In some cases, the bartender or barmaid will solicit the patron to purchase a drink for the female. The patron is charged \$1.50 for his drink and \$2.00 for the B-girl's drink. The drink served to the B-girl is usually Cold Duck in a shot glass with a chaser into which she spits the Cold Duck. This permits her quickly to consume a large number of drinks without becoming inebriated. Various methods are utilized for tabulating the number of drinks solicited by each girl. This is referred to as the "rebate tally." The most commonly used item is the swizzle stick which is redeemed at the end of the evening for \$.25 or \$.50. Other methods include the bartender or barmaid placing pennies in individual bins in the cash register or using pad and pencil. Once the customer has agreed to buy the B-girl a first drink, the

bartender begins an automatic refill procedure in which he refills the girl's glass without permission from the patron and takes \$2.00 from the customer's change, which is usually left on the bar.

According to one bust-out operator, the B-girl will generally approach the customer and say, "Would you like some company?" She will then ask, "Would you like to buy me a drink?"⁶⁴ Once she is "connected," the bartender immediately starts pouring her drinks continuously without asking the customer. In a period of fifteen minutes, a B-girl can consume twenty drinks at a cost of \$40 to the patron.

The owner of one bust-out joint stated:

First she'll get him to buy her one or two drinks and then she'll start talking to him really nice saying she'll do this and that. She'll promise him anything in the world sexually. It's a promise but that doesn't mean anything.⁶⁵

The promises are usually accompanied by petting and caressing designed to arouse the customer sexually and to entice him to purchase bottles of wine or champagne at prices of \$10 (a "nip"), \$25 (half-bottle), and \$50 (bottle). The B-girl receives a higher rebate for bottles; for example, for a purchase of a \$50 bottle, she receives five dollars.⁶⁶

There are other ways of fleecing the customer for even more money. The B-girl is always determined to secure an adequate tip for the bartender. If the tip is insufficient, she embarrasses the patron. Short-changing the patron is easily accomplished because of inadequate lighting.

The only violation of the Liquor Code in the bust-out part of the operation is spelled out in a provision which states that it is unlawful "to employ or permit the employment of any female . . . for the purpose of enticing customers, or to encourage them to drink liquor, or make assignations for improper purposes."⁶⁷

⁶⁴It is this solicitation to buy a drink that is a violation of the Pennsylvania Liquor Code. See Act of April 12, 1951, P.L. 90, art. IV, §493, as amended, 47, P.S. §4-493 (25) (1969).

⁶⁵Testimony of Irvin Goltzer before the Pennsylvania Crime Commission, June 20, 1973, N.T. 28 [hereinafter cited as Goltzer, June 20, 1973].

⁶⁶The large bottle costs the owner only about \$2.50. Deducting that amount and the \$5 rebate, he makes \$12.50 profit on each large bottle.

⁶⁷Act of April 12, 1951, P.L. 90, art. IV, §493, as amended; 47 P.S. §4-493 (25) (1969). Of course, as with any bar, there may be other violations of the Liquor Code or applicable Pennsylvania law.

The bust-out operation is not new to Philadelphia. Violations of the Pennsylvania Liquor Laws and Penal Code by licensed establishments along Philadelphia's notorious Locust Street Strip have been recorded as far back as World War II.⁶⁸ Once the center of legitimate entertainment, the Strip has become what one local magazine has described as "a street of clip-joints, bargirls, pimps, prostitutes and deviates."⁶⁹ Despite efforts by the media to arouse public indignation and the sporadic attempts by federal, state, and local law enforcement authorities to curtail such flagrant abuses of the law, the bust-out business on the Strip continues to flourish.

In the 1950's, the Strip attracted its customers with lewd stage entertainment, primarily strip-tease dancing. In 1954, the Supervisor of the Pennsylvania Liquor Control Board's South-eastern Region made an effort to crack down on this activity that was earning Locust Street a national reputation. This effort was realized through raids of licensed establishments and padlocking but produced only a temporary cessation of activity. The stripping continued during five years of lengthy litigation which eventually reached the United States Supreme Court. However, by 1959, lewd stage entertainment on the Strip was obliterated.⁷⁰

Strip operators sought another sex attraction for their operations. They found a substitute in the bust-out operation, and they found it lucrative. In 1961, it was estimated that a "good" operation grossed from \$10,000 to \$15,000 per week.⁷¹ The Philadelphia news media attempted to expose the Strip's new operation, labeling it the "hub of lurid low life."⁷² The Philadelphia Police Department and the Pennsylvania Liquor Control Board were moved to act against the bars, but their efforts yielded only one license revocation and five suspensions.⁷³

Bust-out action on the Strip continued through the 1960's even as law enforcement officials claimed it had been halted. In 1962, a United States Senate Subcommittee commenced an investigation of the entertainment industry in which they examined the failure of local unions to prevent employers from

⁶⁸Pennsylvania Crime Commission, 1971-72 Report 150-51 (1972) [hereinafter cited as 1971-72 Report].

⁶⁹Fonzi, "Lurid Locust Street," *Philadelphia Magazine*, October, 1961, at 20.

⁷⁰*Id.* at 21.

⁷¹*Id.* at 42.

⁷²*Id.* at 21.

⁷³Fonzi, "Locust Street Revisited," *Philadelphia Magazine*, October, 1970, at 76 [hereinafter cited as "Locust Street Revisited"].

forcing employees to solicit drinks as a condition of their employment.⁷⁴ Testimony was heard from various law enforcement authorities in Philadelphia, among whom were the Commissioner of Police and the inspector of the Central Division⁷⁵ in which the Strip is located. They provided documentary evidence about their crusade against bust-out operations and the police success in halting such activity. Under oath, the inspector stated that "the record will indicate that the City of Philadelphia Police Department has done a job in this area that cannot be equaled by any police department in the country."⁷⁶

Yet by 1970, the media again reported that:

The operations of the clip joints are just as bad as ever . . . perhaps more so . . . The techniques of getting customers to part with money have been refined to a precision sharpness and, in some cases, an almost mechanical process.⁷⁷

Another effort against the Strip was undertaken by the Pennsylvania Crime Commission in 1971, when it launched a full scale investigation to determine why the condition of lawlessness prevailed and what was responsible for the breakdown in law enforcement. In so doing, it examined the operation of eleven licensed establishments believed to constitute the principal centers of vice in downtown Philadelphia. In addition to on-site investigation, corporate records and tax files were scrutinized. Not only did the Commission find violations of the Liquor Code, but it discovered that these bars were violating reporting provisions of the corporate laws and were failing to pay taxes.⁷⁸

Following the Commission's findings, the law enforcement community renewed efforts to clean up the Strip. The Liquor Control Board, utilizing its power to revoke liquor licenses for violations of the Liquor Code, instituted proceedings against nine of these establishments primarily for permitting solicitation and for permitting entertainers to associate with patrons.

⁷⁴1971-72 Report 151.

⁷⁵In 1963, the inspector in charge of the Central Division where most of the bust-out operations were located was Frank L. Rizzo.

⁷⁶Locust Street Revisited, at *8.

⁷⁷Id. at *9.

⁷⁸1971-72 Report 151-171.

The ultimate disposition in four of the cases was the imposition of a \$350 fine; five of the other licensees withdrew their appeals in Common Pleas Court and were therefore prohibited from holding a license for a period of three years.⁷⁹ The Philadelphia Police Department exercised jurisdiction under the criminal laws and arrested several of the owners and managers for permitting employees to solicit drinks. The Attorney General went to the civil courts and asked for an injunction (called a padlock action) to prevent the further operation of these establishments on the grounds that they were a public nuisance.

The recent Commission investigation of activities on the Strip had a two-fold purpose: to determine whether or not the flagrant bust-out operations were continuing and, if so, whether or not payments to the police were responsible for their continued livelihood.

Undercover investigative activity began on the Locust Street Strip in the summer of 1972. Agents visited various bars in the area to determine which operations were bust-out. The agents simply entered the bar, sat down, and ordered a drink.

It quickly became evident which bars were operating bust-out in a wide open and flagrant manner. As the agents approached the entrances of the bars, loud music blared from amplifiers set up near the open doors. The go-go dancers were readily visible from the outside. Once an agent was "attracted" inside by these ploys, one of the B-girls immediately approached him. She no sooner sat down when the bartender appeared before her ready to pour. No agent failed to get solicited unless all of the girls were occupied.

Excerpts from one of the Commission agent's reports best illustrate the present operation:

I entered the Opal Room, 1627 Ranstead Street, approximately 12:05 a.m.; took a stool under the stage. I noticed the subject one stool over from me on the right—a thin, balding male approximately 40, sitting with a dark-haired female. The female would motion to the bartender, named Al, and Al would pour her another shot but wouldn't take any money. He was keeping account on a tablet under the cash register. At one point he came up and said to the male subject, "That's 37 bucks."

⁷⁹Pennsylvania Liquor Control Board News Release, July 26, 1972, at 1-2.

At approximately 12:15 a.m., a medium built female, approximately 23 years, dirty blond hair, wearing a low-cut mini dress, took the stool to my left. She asked me if I'd mind if she joined me; I said no. She then asked if I'd buy her a drink. Al, the bartender, standing in front of us, looked at me. I said give her one. She was drinking a shot of clear liquid with water chaser. The name of the female was Pat. Pat talked with a slight speech impediment which she said was a southern accent she picked up in Florida. During the course of this conversation, Pat had two more drinks, the first one she asked me if I'd buy her. The second one, her third drink, Al poured and took the two dollars without being told. This third drink Al came up, took the shot and water chaser and dumped them down the drain, then poured a new shot and took two more dollars. When I mentioned this to Pat, she said don't worry and started playing with me. At this point, Pat asked me if I wanted to go to a table up front. I asked what's at the table. She said we can take it out at the table. I asked take what out. She said this and squeezed my privates. I asked how much; she said thirty dollars. I said just for a hand job; she replied yes. I said everybody will see us over there. Pat said no, it's dark and they all watch the go-go dancer. I said to Pat I only have \$40. Pat said that'll be just right. I said I thought you said \$30. Pat replied \$30 for the bottle and I always get a \$10 tip. During this conversation, Al poured Pat three more shots without being told. I noticed when Al would go to the cash register and put the \$2 in for Pat's drink, he would wait a few seconds after closing the drawer, then mark something down on a tablet under the cash register. This would not occur when male patrons sitting alone around the bar would purchase a drink.

I told Pat \$40 is too much and actually I only have \$10 on me. Pat said you can spend the \$10 here at the bar and enjoy it. I said what do you mean enjoy it? Pat again began playing with me. I said I better save the \$10; I don't get paid until Thursday and I'll need it to eat. At this point Pat said she had to go to the ladies room. Pat left and did not return.

While finishing my drink I overheard Al say to the subject who was with the female on my right and was previously told by Al—that's 37 bucks—it's 69 bucks now. Left establishment at approximately 12:55 A.M.

Evidence of bust-out operations was found in the following locations:

Brass Monkey, 1227 Walnut Street⁸⁰
Gay Nineties, South 11th Street
Opal Room, 1627 Ranstead Street
Skabidoo/All in the Family, 1301 Locust Street
Pal Joey's, 1314 Walnut Street⁸¹
Why Not Lounge, 1305 Locust Street
RD Club, 1301 Locust Street (2nd floor)
Playpen Lounge, 1418 Walnut Street

Over a period of 15 months, undercover agents received a total of 110 solicitations.⁸²

As a result of the undercover investigation, the Commission selected three bars which appeared to be operating in the most flagrant manner with the least interference from the law enforcement community. Owners of the Skabidoo Lounge, the Opal Room, and the Playpen Lounge (which accounted for 76 of the solicitations) were invited to cooperate with the Commission. When they refused, legal proceedings were instituted at various levels, and the Commission quickly learned that for some reason, the criminal justice system was more than reluctant to move with any force against these offenders.

In each case the Commission turned over its evidence to the Pennsylvania State Police, the Pennsylvania Liquor Control Board, and the Philadelphia District Attorney's office. The State Police responded immediately by arresting the owners and bartenders for employing females to solicit customers. However, when the cases reached the Philadelphia courts, the system reacted again by ignoring the situation. One judge dismissed the case before him and said, "Let the Liquor Control Board handle it." Another judge accepted the Assistant Dis-

⁸⁰The Brass Monkey was operated as a bust-out bar for approximately two months.

⁸¹Pal Joey's is presently closed by court order.

⁸²Because the owner of the Why Not Lounge cooperated with the Commission, there was no active investigation of that bar, although agents were solicited on a few occasions.

district Attorney's erroneous argument that the relevant statutory provision applied solely to the situation where a female was employed to solicit the patron to buy drinks for himself.⁸³ Several of the defendants were put in a special pre-trial program designed to give first offenders a second chance. The Commission questions these latter dispositions in light of the fact that the defendants had prior criminal records for the same offenses and had been involved in bust-out operations for years.

Evidence was turned over to the District Attorney's office with a request that padlock proceedings⁸⁴ be instituted against the three bars. After several months of prodding by the Commission, padlock petitions were filed against the Skabidoo Lounge and the Opal Room Bar. Subsequently, a petition was also filed against the Playpen Lounge. Each bar was ordered to close for a period of sixty days. The Opal Room Bar has since reopened and is back in the bust-out bar business. On October 23, 1973, five agents of the Commission visited the Opal Room and received 13 solicitations. The Skabidoo Lounge has also returned to its former bust-out operation. Commission agents visited the lounge on January 9, 1974, and received numerous solicitations. It is obvious that the short closings had absolutely no deterrent effect on those illegal operations.

The Commission also turned over its evidence to the Pennsylvania Liquor Control Board. Again several months passed before action was taken. Finally, proceedings were instituted against the three bars. The case of the Opal Room is still pending. However, the Skabidoo Lounge and the Playpen Lounge were permitted to retain their liquor licenses and were fined only \$500 and \$600 respectively.

Although the owners of these three bars did not cooperate with the Commission, extensive documented evidence of corruption on the Strip was received from another owner. Irvin Goltzer, owner of the Why Not Lounge, approached the Commission shortly after he turned a normal restaurant operation into a bust-out bar in July, 1972. He testified that the

⁸³Although it is a violation of the Liquor Code for employed females to encourage patrons to drink, the statute states that it is also a violation to entice customers and to make assignations for improper purposes. Act of April 12, 1951, P.L. 90, art. IV, §403, as amended, 47 P.S. §4-493 (25) (1969). The Commonwealth presented evidence on both of these points.

⁸⁴Under the Liquor Code, Act of April 12, 1951, P.L. 90, art. VI, §611, 47 P.S. §6-611 (1969), the use of a building may be enjoined for one year if the court determines that liquor was sold there in violation of the Code and declares it a common nuisance.

restaurant began losing money when the Locust Street area gained notoriety following the 1971 raids on many of the bars.⁸⁵

Before Mr. Goltzer began making periodic payments, there were arrests. On one occasion, Mr. Goltzer was arrested, and he found the experience not to his liking. He also learned that by giving money to the police officers involved in processing suspects, he could get through a little more quickly. For example, if he arrived at the Roundhouse (Police Administration Building) at midnight or 1:00 a.m. and paid some money, the officers would take him before the judge and do the paperwork later. In this way, he could be released in two or three hours. Otherwise, the normal processing may take up to ten hours or more.

When Mr. Goltzer was arrested for his bust-out operation in July, 1972, he paid \$50 to a sergeant working in the processing unit to speed things up. When one of his bartenders was arrested shortly thereafter, he paid "Izzy," an officer at the Information Desk of the Police Administration Building, \$10 to hurry the process. Mr. Goltzer expressed some doubt about the "service" he received for that money. According to Mr. Goltzer, "He [Izzy] was supposed to speed it up, but it got slower."⁸⁶ Izzy has been identified as Policeman Isadore P_____ (#2643).

Having an extra five or ten dollar bill might also be helpful at the district station house where every suspect is taken prior to being processed at the Police Administration Building. Mr. Goltzer testified:

A: . . . When you're taken to 11th and Winter⁸⁷ you're put in a cell which the Board of Health should examine. The toilets are dirty; the thing you sleep on is hard; no food; no water, no matter how many hours you're there. If you wanted a candy bar to take off some of the pressure, or a soda, you could get it for a five dollar or ten dollar bill, one candy bar.

Q: Now, you say that you can get it for a five dollar or ten dollar bill, what--

A: The man back there, they call the "turnkey."

⁸⁵Goltzer, June 20, 1973, N.T. 16.

⁸⁶Testimony of Irvin Goltzer before the Pennsylvania Crime Commission, August 1, 1973, N.T. 43 [hereinafter cited as Goltzer, August 1, 1973].

⁸⁷11th and Winter is the address of the district station house for the 6th District in which Mr. Goltzer was arrested.

Q: Do you pay him that money?

A: You have to give him the five dollars—to even make a phone call, if you wanted to make a phone call you have to give him a five or ten dollar bill to make a phone call.

Q: Did you ever give a turnkey—

A: Oh, yeah.

Q: Where was that?

A: At 11th and Winters. I had to give the turnkey ten dollars, and he let me make a phone call and got me a candy bar.⁸⁸

Over the twelve months that Irvin Goltzer operated the Why Not Lounge and provided information to the Commission, he or his employees paid at least 18 identified officers of the Philadelphia Police Department at an aggregate rate of \$800 per month in order to continue operation. He paid the police in a highly organized fashion, and his experience is the best example found by the Commission of the payoff system as it presently exists in Philadelphia.

Many of the police payoffs were recorded on a small body tape recorder worn by Mr. Goltzer or on a tape recorder hidden in the desk of the office at the Why Not Lounge. In addition, several payoffs were recorded on film by agents of the Commission.

Irvin Goltzer paid policemen in every unit which had vice enforcement functions in his area. These units included the men patrolling the street in uniform, vice men in plainclothes working for the 6th District captain and the Central Division inspector, men attached to the Chief Inspector's Squad (the City-wide vice unit), and various individual ranking officers.

The uniformed squads⁸⁹ or "beatmen" were paid by Mr. Goltzer when the squad worked the midnight to 8:00 a.m. shift. Payments were made on the final day of the shift. Three of the squads were paid \$35 per shift and the fourth received \$40. The negotiations with the uniformed squads for protection

⁸⁸Goltzer, August 1, 1973, N.T. 38-39.

⁸⁹References are made on this and following sections to payoffs to "1 Squad," "2 Squad," etc. This is in effect a shorthand reference to the "Squad in 1 Platoon," "Squad in 2 Platoon", etc. From the point of view of one bar owner the terms squad and platoon are interchangeable, since he normally came into contact with only one of the two squads in a platoon.

were fairly easy because Mr. Goltzer had had earlier contact with them while he was running his restaurant.

The first man with whom Mr. Goltzer dealt was Policeman John B_____ (#1892) who later became the pickup man for 1 Squad. They agreed on a price of \$35 for each midnight to 8:00 a.m. shift. Mr. Goltzer then asked Officer B_____ (#1892) to set him up with the other squads.⁹⁰ In a tape recorded conversation with Officer B_____ (#1892) on June 9, 1973, Mr. Goltzer learned that out of the \$35 Officer B_____ (#1892) sergeant, Frank J. H_____ (#8590) received \$10, the emergency patrol wagon manned by Policemen Gary R. M_____ (#9381) and Cornelius J. N_____ (#2577) received \$10, the policeman walking the beat, Joseph J_____ (#3617) received \$10, and Officer B_____ (#1892) kept \$5. In a tape recorded conversation on July 15, 1973, Officer B_____ (#1892) told Mr. Goltzer that the lieutenant was also receiving part of the money. On another occasion, Officer B_____ (#1892) entered the Why Not Lounge and claimed that Mr. Goltzer shortchanged him \$10 in the monthly payoff. The following conversation was recorded by Mr. Goltzer:

Goltzer: You mean to tell me I only handed you . . .
Officer B_____ (#1892): Twenty-five

Goltzer: I handed you twenty-five. Would you swear on a Bible?

B_____ : I most certainly would.

Goltzer: You would swear on a Bible.

B_____ : Certainly.

Goltzer: That I handed you twenty-five dollars.

B_____ : Certainly. Right in front of the Crime Commission.

Goltzer: Now, he is a graft-taking son of a bitch.

B_____ : Yes, I am. If I am going to get accused of it, I want the full amount.

* * * * *

Goltzer: I said maybe I did. I don't know.

B_____ : I didn't think you did intentionally.

Goltzer: I would never do anything to you, darling, intentionally.

B_____ : I know.

⁹⁰Goltzer, June 20, 1973, N.T. 47-48.

Goltzer: Because I love you. I love every cop that takes money.

B._____: I just wish I was in a position to take more, that's all.⁹¹

The pickup man for 2 Squad was Policeman Gene G____ (#3270). Arrangements for these payments were made for Mr. Goltzer through the manager of the Why Not Lounge, Sam LaRussa. The original price was \$20 because Officer G____ (#3270) said that some officers on the squad did not want any money. However, within four months the price was raised to \$35. Mr. Goltzer paid Officer G____ (#3270) directly on one occasion, but most payments were made by the bartender, Joseph Martino. When Mr. Goltzer was not in his bar, Mr. Martino would call him to get approval before paying any officer.⁹² He would then prepare a slip marked either "Groceries" or "Graft" and note the amount paid.

Policeman Leroy A. W____ (#4154) began picking up for 3 Squad in January, 1973. He approached Mr. Goltzer in late December, 1972, and simply told him that the lieutenant ordered him to start collecting payments from the Why Not Lounge. On January 8, 1973, in a photographed meeting, Officer W____ (#4154) collected \$35 from Mr. Goltzer and explained that he turned over the money to his lieutenant.

Policeman William D____ (#1783) picked up \$40 for 4 Squad. Negotiations with him were fairly simple according to Mr. Goltzer's sworn testimony:

Then I noticed [Officer D____ (#1783)] in the neighborhood and I started talking to him. He said that no problem between you and me and he said he would do me a lot of good, and I said, fine. He said it was thirty-five a month.⁹³

According to the system as Mr. Goltzer understood it, each pick-up man was supposed to collect for and distribute to the other officers in his squad. Although it cannot be said for certain that other uniformed officers were taking money, Mr. Goltzer was able to identify for the Commission several officers who

⁹¹Tape recording made by Irvin Goltzer, March 24, 1973, on file at the Pennsylvania Crime Commission (verified on June 20, 1973).

⁹²Goltzer, August 1, 1973, N.T. 3.

⁹³Goltzer, June 20, 1973, N.T. 48.

were supposed to be receiving his money. This understanding was illustrated by Mr. Goltzer in his testimony:

A: . . . A patrolman [C____ (#1775)], he drives a car, he was getting paid by us. He arrested us for the front door being open.

Q: This is the patrolman who received money from you?

A: Yes.

Q: What's his name?

A: [C____ (#1775)].

Q: Has he told you that he received money from you?

A: No.

Q: How do you—

A: It's just that when I went on the parking lot he said, "Irv, I hate to do this but Lieutenant [G____ (#139)] brought a new sergeant in and he told the sergeant to bust the place, and the sergeant went and busted [you]. It was out of our hands. The Lieutenant just wanted to bust [you]." So then I said, "Why, he is taking our money?" And he said, "Well, he is a creep. He is no good and nobody likes him."

Q: Did he admit taking your money?

A: No.

Q: How do you know he gets money from you?

A: Because that's the squad, that's the [Officer B____ (#1892)] Squad.

Q: Does everybody in [Officer B____'s (#1892)] squad get money?

A: Yeah, supposedly.

Q: In other words, that's what [Officer B____ (#1892)] told you?

A: Right

Q. That everyone gets money?

A. Right. So I was surprised when we got arrested because of the door being open.⁹⁴

These payments to the uniformed officers were made primarily to protect the illegal operation in the Why Not Lounge. The officers were to refrain from arresting Mr. Goltzer or his employees unless they were ordered to do so by ranking officers who were not receiving money. If such orders were issued, Mr. Goltzer was to be warned ahead of time.⁹⁵ Such warnings appear to be a normal practice. For example, in a conversation with Mr. Goltzer, Carmen G. (#3757), an officer working plainclothes for the inspector, was discussing an anticipated raid on various liquor establishments. He knew the raid concerned serving minors, but he was unaware of which places were to be raided. Therefore, he passed on the word to Sam LaRussa, owner of an establishment called the Sugar Shack. As it turned out the Sugar Shack was not raided, but Officer G. (#3757) had fulfilled his part of the bargain.

The uniformed squads often performed an additional service. Although most of the B-girls encourage men to buy drinks by promising sexual relations at a later hour, few actually prostitute themselves. While the patron waits outside the bar for the B-girl after the closing hour, she usually sneaks out a back way, and a man who spends a lot of money for a lost cause often becomes very angry and wants to complain to the police. The officer on the beat will calm the customer and send him on his way; and if he becomes too belligerent, the officer may even arrest him. Sometimes this service costs a little extra. On March 29, 1973, in a tape recorded conversation, Mr. Goltzer paid Officer William D. (#1783) \$10 for locking up a complaining patron.

Sometimes, however, the protection system breaks down. For example, with regard to the "open door" arrest referred to above, Mr. Goltzer related the following in his testimony:

Q: When did that arrest take place?

A: A month ago.

Q: Okay.

⁹⁴Id. at 72-73.
⁹⁵Id. at 75.

A: That is when I taped every cop. I taped [Sergeant Frank J. H. (#8590)]. [Sergeant H. (#8590)] told me . . . that the lieutenant told him to do it. [Officer C. (#1775)] told me that the lieutenant ordered it.

Q: This is Lieutenant [G. (#139)]?

A: [Lieutenant G. (#139)], yes. And [Lieutenant G. (#139)] brought in a new sergeant [Sergeant H. (#8590)] and transferred the other sergeant to the other end of town. He brought the new sergeant in and the new sergeant did the arrests. Then when I taped [Lieutenant G. (#139)] he said, "I didn't do it" . . . I taped [Officer C. (#1775)] and [Officer C. (#1775)] said that the lieutenant is a liar.

So I named three names. I headed it the tape of lies.

Q: In other words—

A: In other words, I got no service.⁹⁶

Plainclothesmen in the Police Department do not work on time shifts, and payments were made to them once a month. They ordinarily picked up their money at an appointed time each month although the existence of the Crime Commission investigation disrupted the regular procedure. The officers would stop by the bar at different times each month or would call ahead of time and arrange a meeting.

The two officers who did undercover vice work for the captain of the 6th District received \$80 apiece every month. Negotiations with Policemen Edward M. (#7049) and Ronald K. (#2480) followed what the Commission found to be the pattern in Philadelphia. They arrested Mr. Goltzer or someone from the Why Not Lounge on several different occasions in order to, as Mr. Goltzer put it, "give us the lesson that we needed to make the deal."⁹⁷ Mr. Goltzer described the procedure in sworn testimony before the Commission:

⁹⁶Id. at 74.

⁹⁷Id. at 57.

Q: What is the usual way people start paying police or is there a usual way?

A: A usual way is first they arrest you a few times, give you a little taste of the tank⁹⁸ and after you don't get out for about eight to ten hours, the worst thing they could do is arrest you on a Saturday night. That was a certain pattern. They never make arrests, only on Friday, Saturday, or Wednesday.

Q: Are those the big nights?

A: Those are the nights they arrest you, but mostly Friday and Saturday, for the simple reason that they know if they arrest you on a Friday or Saturday you can't get out for 8 to 10 to 12 hours. If you get arrested at one o'clock in the morning, forget it, you don't get out until Monday. So they have that pattern set down good. In other words, first they arrest you, get you all shook up, then you will come forth.

* * * * *

Q: After that [last] arrest, how did you contact him?

A: We got hold of Sam Miller.

Q: Who is Sam Miller?

A: Of the Brass Monkey.

* * * * *

Q: What did he do?

A: He made the connection with the captain. He is the one that set me up with him. In other words, that I would be all right.

Q: Is this the normal practice to have a third party set [up] a bar owner and a policeman, or can you do it directly?

⁹⁸The "tank" is the holding cell, a large basement room with benches, at the Police Administration Building where all prisoners await processing. The prisoners who are drunk, sick, or coming down off drugs often make it almost unbearable. On weekends, it is literally packed with human bodies.

A: If you don't know the cop, it is very hard to approach them because you are scared of what he is liable to do. You don't know if he is an honest cop or if he isn't. So you have to be careful. If he is an honest cop, he locks you up for bribery. If he is not an honest cop, he will still lock you up for bribery. So you always try to get a third party to find out if he is all right. That means he told me he was okay. So he set a meeting up and we met.⁹⁹

The captain was originally part of the deal; but because of the Crime Commission investigation, he refused to become involved. Mr. Goltzer testified that he gave \$100 to the captain's men to deliver to Captain John B. _____ (#31) at Christmas, 1972. However, no further payments were made.¹⁰⁰

In March, 1973, in tape recorded conversations with the captain's men, Mr. Goltzer raised the question of paying the captain again. In a taped conversation on March 20, 1973, Officer M. _____ (#7049) explained that because of the "Crime Commission being on the town and everything, he's really not taking anything off of anybody, believe me." However, he agreed to check the possibility through the captain's clerk. On March 27, 1973, Officer M. _____ (#7049) said, "No, not right now, he won't move."

A division inspector, like a district captain, has undercover men known as inspector's men working on vice who report directly to him. The Central Police Division is presently commanded by Inspector Charles F. K. _____ (payroll #16940). His plainclothes unit is headed by a Lieutenant John J. G. _____ (#144). Two officers in the squad, Harry G. Q. _____ (#7067) and Carmen G. _____ (#3757) were regularly receiving \$80 a month from Mr. Goltzer. These two officers were not particular about who paid them at the Why Not Lounge. Mr. Goltzer did pay each of them directly in tape recorded conversations. In addition, they were paid by Mr. Goltzer's former bartender, Tony Mazzuta, and his present bartender, Joseph Martino. As was the procedure with other officers, the bartenders would call Mr. Goltzer and get his permission before making any payments. Some of these payments were confirmed in tape recorded conversations between Mr. Goltzer

⁹⁹Goltzer, June 20, 1973, N.T. 69-72.

¹⁰⁰Id. at 55-56.

and Joseph Martino. During the summer of 1973, Officer Q _____ (#7067) was transferred out of the unit and an unidentified black officer became Officer G _____'s (#3757) partner. Officer G _____ (#3757) continued to receive the full amount, but it is unknown whether or not any money was passed on to his new partner.

The money paid to these plainclothesmen was not shared with Lieutenant G _____ (#144). He collected his own payoffs and received \$100 a month from Mr. Goltzer. He appeared at the Why Not Lounge on February 5, 1973, and asked to be put on the payroll. Lieutenant G _____ (#144) was usually paid by Sam LaRussa, Mr. Goltzer's manager. However, Mr. Goltzer did observe the first payoff.

Q: Do you know how much money he was to be paid?

A: \$100 a month, and on March 9th he picked up his first \$100.

Q: Were you present at that time?

A: Yes, I was.

Q: Did you pay him?

A: No, I did not.

Q: Who paid him?

A: I gave it to Sam to pay him.

Q: Did you observe the payoff?

A: Yes.

Q: Where did that occur?

A: In front of the men's room in the basement of the Versailles,¹⁰¹ that's where—in the basement of the Why Not.

Q: And do you recall about what time of the day or night that occurred?

A: Approximately three o'clock in the afternoon.¹⁰²

¹⁰¹The building which houses the Why Not Lounge was also the location of Mr. Goltzer's restaurant which was called the Versailles.

¹⁰²Testimony of Irvin Goltzer before the Pennsylvania Crime Commission, August 22, 1973, N.T. 6-7 [hereinafter cited as Goltzer, August 22, 1973].

The payments to Lieutenant G _____ (#144) were sporadic; in fact, at one point, he did not pick up his money for three months. However, he did return and was put back on the payroll. Although Mr. Goltzer did not personally pay Lieutenant G _____ (#144), he approved every payment, and on August 10, 1973, in a taped conversation, Officer G _____ (#3757) told Mr. Goltzer that he would deliver Lieutenant G _____'s (#144) \$100 to him.

Mr. Goltzer also made monthly payments to Inspector Charles F. K _____ (payroll #16940) through his "bagman" Policeman Salvatore B _____ (#1902). These payments were not made directly by Mr. Goltzer because he had not had sufficient contact with these officers to be trusted. Instead his manager, Sam LaRussa, who also negotiated the payoffs, gave Officer Salvatore B _____ (#1902) \$50 for himself each month and \$100 to be delivered to Inspector Charles F. K _____ (payroll #16940). However, Mr. Goltzer was called prior to each payoff. At times, he did not want to pay, but Mr. LaRussa advised him to pay or "they will bust the joint."¹⁰³ Mr. Goltzer was unable to observe any payoffs to Officer B _____ (#1902) because he refused to go into the Why Not Lounge. He would call Mr. LaRussa and set a time and place for the exchange. The Commission was advised of this information on several occasions shortly before the payoff was to be made, but because of the short notice, Commission agents were unable to observe any of the meetings.

The Chief Inspector's Squad (CIS) has responsibility for vice enforcement throughout the City. On June 6, 1973, two police officers entered the Why Not Lounge and identified themselves as members of CIS. Mr. Goltzer testified:

A: They first approached the bartender and said, "Where is Irv?" He said, "He is home in bed." And they said, "Well, get him on the phone." And Joe Martino called me on the phone and Joe Martino said that there are two policemen here from the Chief Inspector's Squad. "What do they want?" He said, "It looks like they want to get some money." I said, "Put them on the phone." So he got on the phone and he said, "Can I see you?" I said, "Well, not tonight." And he said, "You better get down here tonight because we

¹⁰³Goltzer, June 20, 1973, N.T. 65-66.

know you got B-girls and solicitation and it would be better for your sake if you get down here."¹⁰⁴

Mr. Goltzer went to his bar and in a tape recorded conversation with Officers Robert J. W_____ (#7172) and Fred I_____ (#5649) negotiated payments of \$50 each per month. Mr. Goltzer had been cautioned by the Commission about the law of bribery and the first part of his conversation with Officer W_____ (#7172) was an attempt on his part to see why the officer was really there. Officer W_____ (#7172) attempted to reassure him by expressing his own fears:

Officer W_____ (#7172): I know well look, let me put it this way. I been in the squad 2½ years. I never spoke to you. In fact, this is the first time I'm ever seeing you. I always understood that Sam the Barber [LaRussa] ran the place, you know, and . . .

Goltzer: He works for me.

W_____ : See, I never knew this.

Goltzer: He has nothing. He works for me now.

W_____ : Now until I get recommended to somebody from somebody else, I ain't going to talk to nobody. It's my job, I got a wife and two kids and I can't be fucking around, and by the same token, you have to be careful because you know you don't want to be putting your ass in jail. So it's all I'm recommended, Al Schmidt, ah, Jack Manoff.¹⁰⁵

Goltzer: Jack Mooney.

W_____ : Yea, now the whole thing. Now they told me you're good, no problem, no sweat, you talk to Irv. Well, actually they said Sammy the Barber and they said the main man is Irv, they told me Goldberg.

Goltzer: Goltzer.

W_____ : Right, something like that, they said he's good. He keeps his mouth shut; there's no prob-

¹⁰⁴Id. at 68-69.

¹⁰⁵Al Schmidt and Jack Manoff are co-owners of the Opal Room Bar, a bustling operation on the Strip.

lem. So you know, like I don't know if you're wired up; you don't know if I'm wired.

Goltzer: I'm not wired up.

W_____ : So we'll do a strip teaser, no look what it boils down to, Irv.

Goltzer: No, I just don't want to get pinched on no bribery charge.

W_____ : Hey, we ain't going to do this; you can check me for . . .

Goltzer: No, I don't care about that. Look it's your word, you're a cop. You don't understand, you're a cop; you can make an offer to me and you can still pinch me for bribery. You understand what I'm talking about—if you want to be a creep.

W_____ : You see, it's a fucking sticky situation out here.

Goltzer: If you want to be a creep, that's what you can do.

W_____ : If I want to be a creep, I can walk out and say, look, Irv just gave me \$50—all right?

* * * * *

Goltzer: You follow me? I own a bar. I can't say a word. I've been pulled in to every department, took the 5th Amendment wherever I went. You understand what I'm talking about? So I won't make no offer to you, you're going to have to make the offer to me, and then if you bust me, you're going to be an awful prick, I'm telling you right now.

W_____ : Irv, I wouldn't hardly—all right, all right, look. I mentioned a few names to you and they know me.

Goltzer: Well, you mentioned a name that happens to be a very, very—we're not friendly.

W_____ : Well, that was Jack Manoff.

Goltzer: Yeah, and Al Schmidt, yeah, we're not friendly.

W_____ : Well, let me tell you about Jack Manoff and Al Schmidt. They at one time told me, now this is maybe going back 8 months ago, they told me that they understand that there's a guy on Locust Street, an owner of a bar, that's in with the Crime

Commission, they're working with the Crime Commission.

Goltzer: That I was working with the Crime Commission?

W____: Right. They said now I don't know, but the word I got was Irv. Now I've been in the unit, well, this is going back 8 months, I've been in the unit almost two years; I said who the fuck is Irv? Irv Goldberg.

Goltzer: I am working for the Crime Commission, is that why I got busted three times?

W____: No, well, Al Schmidt didn't say specifically; he said I heard it, now, so watch what you say about Irv, to Irv. So he said come back with me, and let me know further. He's going to send some rats out and find out, so he later told me, oh four months passed; he said, look, I got the clear signal on Irv. He said Irv's all right, he says Irv and I aren't the greatest of buddies but he's all right, so he said if you want to, Irv, talk to Irv.

After the initial sparring to see where each other stood, the discussion got down to a negotiation of the price and what Mr. Goltzer would receive for his money:

W____: Well, Irv, look, there's a thing of trust between each other.

Goltzer: Well, I'm not going to make the offer, I'm telling you right now, because if they put me in a lie detector test and you bust me, it'll show up, you understand what I mean?

W____: Right. Now look, the only thing I can tell you is this: I got to take a chance, you got to take a chance. Now I'm speaking for myself.

Goltzer: See, you've got the badge, I don't have the badge. See, you can even lie, you can even turn around and lie and say you know what I'm talking about because you got the badge.

W____: Then all of a sudden I got the upper edge on you

* * * * *

Goltzer: Look, I don't know you. If I knew you or if another cop brought you to me, I could understand it. You know what I mean? But I don't know you and you mention a guy that I ask to do me a favor and he never did it.

W____: Well, if I was trying to get you, would I mention this fucking guy?

Goltzer: Well.

W____: I would keep him a fucking secret. The thing is this, Chief Squad, two and a half years. For a long time I didn't do a fucking thing, I was scared, right? I took a chance on a couple people. They recommended me to a couple other people and as time has gone by I been recommended here and there, you know. So you know this is my position. So finally at this point in the game I said, well, see Sammy the Barber, see the Why Not. Sammy the Barber's good, I said, well, look I took a couple of Sammy the Barber's joints. I took the Bag O'Nails; you know now this is going back two years ago.

Goltzer: So what? I'm taking care of a certain guy that's busting me once in a while, too. If you have to do it, I can't help that.

W____: Of course, I would have to give you a buzz. I'd call you and say, look Irv, I'm coming down; the heat's on, I got to let you know I can't speak for nobody else in this fucking squad. This fucking squad, believe me, they're cutthroats, they'll lock their own fucking mother up. Me and my partner are on our own, we're working

Goltzer: Yeah, but there's 12 men on that squad. There's no way I can take care of 12 men, it's impossible. I'd be out of business, are you kidding? You'd have to either pass the line down or try to tell them that I'm a friend of yours or whatever you want to do.

W____: Well, basically, the only thing that I can really offer you is myself and my partner. Anything that I hear, I give you a buzz and say, look, Irv, watch yourself. This week something's going to happen on Wednesday night. That's all I can do for you.

Goltzer: That's fair.

W____: Me and my partner will be two sets of ears and two sets of eyes for you. The only point is I got to trust you, you got to trust me, we got to take a chance.

Goltzer: Now it's the first shot and I don't know you and you got the upper hand, the badge, don't you understand?

W____: Where do we go from here?

Goltzer: You have to tell me what you want and that's it, and then I'll tell you whether it's right and then we'll dicker. So if you bust me, you put me in a lie detector test. It will show up.

W____: Okay, let me shoot something at you, like I told you on the phone, I'm not a greedy son of a bitch, but let's face it, I got a wife and two kids. If I'm going to put my job on the line, let's make it worthwhile, all right?

Goltzer: But I don't want you to get more than an inspector now.

W____: Well, let me throw a thing at you and we'll dicker . . . Let me throw \$75 a month.

Goltzer: That's no problem.

W____: For me and my partner.

Goltzer: That's no problem.

W____: Apiece, \$75 for me and \$75 for my partner.

Goltzer: Oh, a hundred and fifty?

W____: Right. Now we'll go from there.

Goltzer: Oh, you're getting more than somebody way higher than you.

W____: Look, I'm shooting high, I know you're going to get me down.

Goltzer: Wait a minute, you're higher than somebody way up there, you know what I'm talking about?

W____: All right.

Goltzer: Way, way up there.

W____: I'm going to shoot high, okay let's say we just need a compromise. Cause, Irv look, I'm not greedy, believe me.

Goltzer: Come down a little bit. Come down another \$30.

W____: I'll come down \$25, \$50 a month for me and my partner.

Goltzer: Okay.

W____: Okay, fair enough.

Mr. Goltzer and Officer W____ (#7172) then set up a system for future payoffs. The system on which they agreed reflected the hesitancy of police to walk into a place and collect money as was done before the various probes into police corruption began. Officers have been taking as many precautions as possible to avoid being seen taking a payoff.

Goltzer: Now you can get me here anytime between one and four for sure.

W____: You're here between one and four?

Goltzer: Except Saturdays.

They agreed on a signal to use when Officer W____ (#7172) called.

W____: This is Richie, do you want to have coffee?

Goltzer: Richie, you want to have coffee, I'll remember that name.

W____: Hey Irv. Richie. You want to have coffee? And you say yeah, and you can meet me at . . . cause I don't want to see you here. It's better off meeting you, let's say, what's the name of the fucking place on Broad Street, like Horn and Hardart, ah, Broad, and ah,

Goltzer: Broad and Walnut. That's Horn and Hardart, yeah.

W____: Broad and Walnut. All right, I'll meet you in there, okay?

Goltzer: Right.¹⁰⁶

Officers W____ (#7172) and I____ (#5649) were paid \$100 on June 6. They returned on July 5, 1973, and collected their second payment of \$100. Their conversation was again taped by Mr. Goltzer.

Although the Commission was unable to get cooperation from other owners of bars on the Locust Street Strip, it does have evidence which strongly indicates that they are also making payments to the police.

¹⁰⁶Tape recording made by Irvin Goltzer, June 7, 1973, on file at the Pennsylvania Crime Commission (verified on June 20, 1973).

In a tape recorded conversation on June 23, 1973, with Mr. Goltzer, Officer D_____ (#1783) expressed his appreciation to Mr. Goltzer for paying him a day early on Friday:

Officer D_____ (#1783): It saves me a lot of time. I got to go to the Skabidoo, I got to go get the Club 13.¹⁰⁷ It's too much on a Saturday night.

Goltzer: I know, well you check it.

D_____: Huh?

Goltzer: Check it, I think I—

D_____: I know.

Goltzer: Forty. Joe? What did you give me?

Joe Martino: Forty.

Goltzer: Okay, that's forty. Ah, is he doing any business next door? The Skabidoo?

There is a short discussion concerning whether or not the Skabidoo can get go-go dancers for \$20 per night.

Goltzer: He'll never get them for less. Don't tell me he comes up with something?

D_____: Oh, yeah, sure.

Goltzer: You're kidding?

D_____: They all do. What do you think I'm out here looking for a fucking toupee?

Goltzer: That guy comes up with a note? I'd never believe he'd come up with a note in my life.

D_____: Well, he never did till I got there, but if you got to come up with one he does too, don't he?

Goltzer: Jesus Christ, he's the cheapest son-of-a-bitch I ever met in my life.

D_____: Ah, listen, if I do something extra and I get an extra note out of him, that's a lot of shit. I've been around here too fucking long.

Goltzer: But I didn't think he'd ever come up with anything.

D_____: He'll come up with it. He comes up with it. Why should he sit there and not pay and you have to?

¹⁰⁷Skabidoo Lounge, 1301 Locust Street; Club 13, South 13th Street.

Goltzer: He's not busting out anymore.
D_____: Well, I don't know.¹⁰⁸

Officer D_____ (#1783) statements were corroborated by the testimony of Officer Robert J. Weiner. Officer Weiner told the Commission that in June, 1973, he was sent to the Locust Street area to investigate "B-girl activities and prostitution activities." He stopped at the Skabidoo Lounge and as soon as he took a seat at the bar, he was solicited by one of the bar girls. The manager, Anthony Gentile, realized that Officer Weiner was a policeman and quickly approached him. He offered the officer \$40 to overlook the violation and it was accepted. Mr. Gentile also picked up Officer Weiner's drink bill.¹⁰⁹

The Opal Room, 1627 Ranstead Street, has operated in a similar fashion. An arrest by the Philadelphia Police Department in April, 1973, is the first one at that establishment recorded in Pennsylvania Liquor Control Board records. Although the Commission did not obtain substantial evidence that the owners were then paying the police, it did receive evidence that the Opal Room had paid in the past. There is no reason to believe that practice would not continue today, especially in light of the fact that the ownership has remained the same.

Marge Wilson is a B-girl who worked in the Opal Room during the summer of 1968. In a tape recorded conversation with Irvin Goltzer on April 29, 1973, she stated that she was paid \$15 per night and received 25 cents commission for each drink she solicited. She recalled that on one occasion, Jack Manoff, one of the owners, asked her to be the subject of an accommodation arrest.¹¹⁰

¹⁰⁸Tape recording made by Irvin Goltzer, June 23, 1973, on file at the Pennsylvania Crime Commission (verified on August 1, 1973).

¹⁰⁹Testimony of Officer Robert J. Weiner (#7172) before the Pennsylvania Crime Commission on February 6, 1974, N.T. 46 [hereinafter cited as Weiner, February 6, 1974].

¹¹⁰According to the accepted practice in Philadelphia, even operators who pay the police must be arrested at times. Sometimes the arrests are shams arranged by the operator and the police. On other occasions a raid may be ordered by a superior officer and the operator will be warned. In either case, the arresting officer will make sure he has insufficient evidence for a conviction.

Yeah, so like he said about the routine, he said, you know, he is going to show you who the cop is you sit with and he is going to buy you a couple of drinks and then pinch you and I will get you out in a couple of hours and all that. I said, no, I'm not taking that pinch.¹¹¹

There is no indication of whether or not the arrest was ever made. Marge Wilson did not talk specifically about payoffs but as she said, "He had the wire. He knew when the place was raided before it was raided."¹¹² Sometimes she was told not to come to work because the police were coming that night. The Commission cannot point to one instance where an operator had the "wire" and was not paying the police.

Marge Wilson also told Mr. Goltzer that police officers had their choice of sexual companionship with the girls who were willing. There was a room on the second floor where the officer could take the girl to engage in a variety of sexual acts. The girls would accompany the officer if asked by one of the owners, and these services were considered part of the protection cost. According to a Philadelphia policeman, free food and drink were also available to the officers at the Opal Room.¹¹³

The Commission learned that the Gay Nineties Bar on South 11th Street was paying the police for protection. In a tape recorded conversation with Irvin Goltzer on June 13, 1973, Edward Cohen, a nephew of the owner, Sam Segal, discussed his uncle's problems with the bar:

Cohen: He's got the same problem you got. They want to do that thing to him. The old law.

Goltzer: What old law?

Cohen: You know, about putting you in jail.

Goltzer: Oh, on the B-girl charge. Yeh. Well, if he helps him with that, Jesus Christ, he's got it made, you know what I mean?

¹¹¹Tape recording made by Irvin Goltzer, March 29, 1973, on file at the Pennsylvania Crime Commission (verified on February 14, 1974).

¹¹²¹¹³Testimony of Officer Robert J. Weiner before the Pennsylvania Crime Commission, December 5, 1973, N.T. 130-131 [hereinafter cited as Weiner, December 5, 1973].

Cohen: Rizzo hasn't been too much help lately. He's [Segal] been getting like everybody else.

Goltzer: He has been getting closed?

Cohen: Yeh.

Goltzer: Well, not from the city though. He's been getting it the same way everybody else is getting it from the State. I don't think he ever took a city pinch, did he?

Cohen: Yeh, sure.

Goltzer: Not from cops.

Cohen: No, he's got the same payroll that you have.

Goltzer: Oh, he's got the same payroll? Oh, well, it he's got the same payroll then he's got problems. Even with knowing Rizzo he still has to pay?

Cohen: Yeh, believe me.

* * * * *

Cohen: You know, it's the same thing like you said. You can pay and you can pay and you can pay and you can pay until one day all the guy's got to do is walk in there and say, I'm sorry, Irv, what can I tell you, man.

Goltzer: Yeah, right.

Cohen: But you're going.

Goltzer: Right.

Cohen: You say what about, I've given you \$18,000 in the last three years. Yeh. And I got to do it. I don't want to do it.

Goltzer: But I got to do it, yeh. Well I don't think he's ever had that problem. That he's never had. He was fortunate in that.

Cohen: Uncle Sam's been in it so many years.

Goltzer: Right. He's been in the longest actually.

Cohen: And knows everybody—

Goltzer: Yeh.

Cohen: —there is to know.¹¹⁴

¹¹⁴Tape recording made by Irvin Goltzer, June 13, 1973, on file at the Pennsylvania Crime Commission (verified on August 1, 1973).

Testimony of a Philadelphia police officer revealed that the Gay Nineties was also willing to make sporadic payments. In December, 1972, the officer entered the bar to investigate its activities. Jack Ettinger, the manager, approached him, told the bartender not to charge him for any more drinks and gave the officer \$10.¹¹⁵

Officer Weiner also testified that he was paid by the manager of the Playpen Lounge in June of 1973. He entered the bar and was recognized by Carol Dougherty, a B-girl who had previously been arrested by him. She informed the manager, Tommy Amodei of his presence. "Mr. Amodei wanted to be a friend, so at this time he gave us \$20 apiece, myself and Officer [] (#5649)]."¹¹⁶

The Brass Monkey, 1227 Walnut Street, presently a restaurant, was formerly a bust-out operation. In fact, it was run bust-out for a month by Irvin Goltzer and Sam LaRussa at the request of the owner, Sam Miller.¹¹⁷ During that month, no arrangements for payoffs were made, but protection payments for the Why Not Lounge seemed to provide a sufficient umbrella. In late November, 1972, Officers G _____ (#3757) and Q _____ (#7067) [plainclothesmen for Inspector Charles F. K _____ (payroll #16940) of the Central Division] attempted to arrest one of the B-girls. They were told by the bartender, Joe Martino, that the place "belonged" to Sam and Irv. No arrest was made.¹¹⁸ An agent of the Commission tape recorded a conversation with a B-girl named Candy, in which she told him that she had almost been arrested on that date but the officers suddenly changed their minds and no arrest took place.

The pattern of operation and police activity throughout the Locust Street Strip is strikingly similar. The bars allow their bust-out operations to run in an open and flagrant manner. Agents of the Commission had little difficulty getting solicitations from the bold and fast-drinking B-girls. It is simply impossible for the Police Department to be unaware of the violations occurring hundreds of times each night. Yet, the police rarely make arrests in the bars; and when they do, the case will more than likely be discharged. In light of the evidence

¹¹⁵Weiner, December 5, 1973, NT 131.

¹¹⁶Weiner, February 6, 1974, NT 48.

¹¹⁷The license is in the name of Sam Miller's brother.

¹¹⁸Goltzer, August 22, 1973, NT 10-11.

the Commission has gathered on systematic payoffs in some of the bars, it concludes that the rest of the bust-out operations must also pay the police to exist.

After-Hours Clubs

Under the regulations of the Liquor Control Board, most establishments which serve alcoholic beverages must close at 2:00 a.m. No alcoholic beverages may be served or purchased by patrons after that hour. However, there are clubs which operate after 2:00 a.m. These clubs, referred to as "after-hours clubs," are licensed to operate until 3:00 a.m.,¹¹⁹ although the Commission has found that clubs usually continue to operate for several hours after 3:00 a.m.

After-hours clubs were ostensibly established so that bartenders, cocktail waitresses, and waiters could frequent a liquor establishment after their places of employment closed at 2:00 a.m. All after-hours clubs must be private non-profit associations.¹²⁰ They are usually operated under the guise of being social clubs.

Becoming a "legitimate" member of a club is a fairly easy process. Members sponsor others for membership. In most cases, a friend of a member will fill out an application which asks for information about the applicant's job and general character. Theoretically, the information is checked before the application is approved. Applications are reviewed by a board which decides whether or not the applicant is worthy of membership.

Most after-hours clubs do allow members to bring guests. Some clubs require that guests sign a register and produce identification. Others require that the member also sign along with his guest. A guest system has been established by most clubs because the sale of alcoholic beverages to non-members is a violation of the Liquor Code.¹²¹

Agents working undercover for the Commission, however,

¹¹⁹Act of April 12, 1951, P.L. 90, art. IV, §406, as amended, 47 P.S. §4-406 (a) (Supp. 1973).

¹²⁰Act of April 12, 1951, P.L. 90, art. I, §102, as amended, P.S. §1-102 (1969).

¹²¹Act of April 12, 1951, P.L. 90, art. IV, §406, as amended, 47 P.S. §4-406 (a) (Supp. 1973).

were regularly admitted as non-members to after-hours clubs throughout the City. They were always questioned on their initial visit to a club, but entrance was eventually gained in one of two ways: the agents either talked their way in or found someone the owner knew to vouch for them.¹²² After the initial visit, most of the clubs investigated permitted the agents to enter without proof of membership or guest registration.

The agents also learned that these same clubs regularly serve alcoholic beverages after 3:00 a.m. The agents were permitted to purchase drinks after 3:00 a.m. and were able to observe other patrons do the same. In most cases, the club continued to sell alcoholic beverages until 4:00 a.m.

That additional hour can be very profitable. Although the number of people present at the clubs varies, the Commission estimates that there are on the average 75 people who stay and purchase alcoholic beverages during the last hour. In one club for example, drinks cost from fifty to seventy-five cents, and agents estimate that each person orders at least three drinks in the last hour. Thus in an average week, that club will gross an additional \$1,000 by operating until 4:00 a.m. The temptation is great, and a number of clubs in Philadelphia cannot resist.

The desire of some operators to remain open an extra hour coupled with the stated policy of the Police Department to enforce the closing hours of licensed liquor establishments provides a situation ripe for corruption. The *Policeman's Manual* instructs each officer to enforce all provisions of the Liquor Code including those provisions which define the legal hours of operation.¹²³

The Commission has determined from its investigation that the above directive is carried out in a selective manner. Throughout the investigation, the Commission conducted scores of hearings with owners of liquor establishments of all types. Every taproom or neighborhood bar owner told the Commission that the police rarely, if at all, checked their establishments at 2:00 a.m. to see if they were closing. Not one bar owner has testified that the police arrived nightly at 2:10 or 2:15 a.m.; some of the owners could recall one or two occasions

¹²²It was obvious that the owner or manager was not concerned that a non-member was entering the club. However, he was worried that the non-member might be a policeman.

¹²³City of Philadelphia, *Policeman's Manual* 104 (1973) [hereinafter cited as *Policeman's Manual*].

in the past year when an officer came into the premises after 2:00 a.m. to ascertain whether or not drinks were being served.

By comparison, the police activity observed around the after-hours clubs at closing time was staggering and suspicious.¹²⁴ Night after night agents of the Commission observed as many as four police vehicles, often including the command car, arrive shortly after 3:00 a.m. Sometimes the vehicles would remain until 4:00 a.m.; on other occasions, agents either observed them shortly after 3:00 a.m. or shortly before 4:00 a.m. when the agents departed the premises. Agents present inside the clubs between 3:00 and 4:00 a.m. also observed extensive police activity. In most cases, one or two policemen—sometimes accompanied by their sergeant—entered the club around 3:15 a.m., stayed several minutes, left, and returned at 3:45 a.m. to close the establishment. On occasion, the officers would remain in the club the entire time. When the officers entered the club at 3:15 a.m., there was never any action on their part to close the club. Often they came, chatted with the owner, made some notations and left. It was, if anything, a sham performance of their duty intended to provide a record in case questions of impropriety were raised in the future. When the officers returned at 3:40 or 3:50 a.m., they remained until all the patrons exited the premises. It was obvious to the agents present that 4:00 a.m. was the intended closing time.

This pattern of police activity occurred in all of the clubs for which the Commission has evidence of payments by the club to members of the Police Department. The results of the investigation of these clubs will be presented first. However, there were other clubs where the police activity at closing time was strikingly similar to that around the clubs where there was substantial evidence of payments to police. The Commission has received indications of payoffs by these other clubs which it feels are strongly corroborated by the pattern of police activity between 3:00 and 4:00 a.m.

Road Drivers Association

The Road Drivers Association, known as the R.D.A. Club, is located on the second floor of the Drake Hotel, 1512 Spruce

¹²⁴Chief Inspector Frank A. Scafidi testified before the Commission that regularity of visits to bars and clubs by police with no police justification was an indication of corruption that warranted further investigation. Testimony of Chief Inspector Frank A. Scafidi before the Pennsylvania Crime Commission, July 10, 1973, N.T. 152 [hereinafter cited as Scafidi, July 10, 1973].

Street. The R.D.A. has a membership of between one thousand and fifteen hundred persons. Membership fees range from ten to one hundred dollars. It appears that the differential was made so that control of the club would be in the hands of a few persons. Only one hundred dollar members have a vote on policy decisions, and there are only six or seven such members.

Crime Commission agents went to the R.D.A. Club approximately ten times between August, 1972, and February, 1973. Usually they entered by saying "hello" or "how are you doing" to the doorman. They were not asked to present membership cards. In fact seven different agents were admitted to the club as non-members. On most of these occasions, the club remained open until 4:00 a.m. The agents were able to purchase alcoholic beverages after 3:00 a.m. as well as observe other patrons do likewise.

The method of operation of the R.D.A. Club indicated that the police are ignoring it for some reason—probably payoffs as indicated by its manager. In a tape recorded conversation on April 18, 1973, Robert Dallas, who manages¹²⁵ the R.D.A. Club, told Irvin Goltzer about the payments he was making to police. They discussed a recent raid by plainclothesmen assigned to Inspector Charles F. K. _____ (payroll #16940), who is the commanding officer of the Central Police Division. Mr. Dallas was upset because he was paying money so that he would be warned of impending raids, and he was not getting his money's worth.

Dallas: Yeah, well it's the same thing.

Goltzer: Isn't that awful? Who did it, [Inspector Charles F. K. _____'s (payroll #16940)] men?

Dallas: Yeah.

Goltzer: His men did it? Same with me. I'm paying him a hundred a month, this prick.

Dallas: Yeah, I'm doing the same.

Goltzer: What are you giving him, a hundred?

Dallas: Hundred and a quarter.

Goltzer: Hundred and a quarter a month. [Inspector Charles F. K. _____'s (payroll #16940)] men did it to you and you're giving them a hundred and a quarter?

Dallas: Yeah, they're not getting another thing.

¹²⁵ Although Mr. Dallas allegedly resigned his post in late 1972, he is still working there and his duties have not changed.

Goltzer: Why did he do it? Why did they do it to you, Bob?

Dallas: Why do they do it to you?

Goltzer: He claims he has orders.

Dallas: Yeah, but I mean the point is fine, you have orders, you should call me.

Goltzer: That's right, that's what you're supposed to do.

Dallas: Of course.

Mr. Dallas then told Mr. Goltzer how the payments were negotiated and how they were picked up.

Goltzer: I'll tell you what, if I ever get closed up, I'll open up on all of them, I swear to God I will, I'll open up on all of them. 'Cause he takes a hundred a month from me and he takes a hundred and a quarter, what did you say, hundred?

Dallas: Hundred and a quarter.

Goltzer: Takes a hundred and a quarter from you, hundred from me.

Dallas: He's getting a hundred and that driver's getting a quarter.

Goltzer: Who picks it up?

Dallas: Sam, Sam [B. _____ (#1902)]. I hand it to him.

Goltzer: Oh, you know Sam?

Dallas: Sure I know Sam.

Goltzer: Oh, you know Sam, he picks it up and he, how do you know he's giving it to him?

Dallas: Well, you know I mean we sat down to dinner, we had it all worked out. My cousin, Ted [F. _____ (#2618)], works as a detective out of the D.A.'s Office. You know he worked it all out for us. He thought it was a fair price. I wasn't going to argue for \$25 a week. Give the driver another \$25 and get them off my back, I thought.

Goltzer: Driver, who's the driver?

Dallas: [B. _____ (#1902)].

Goltzer: Oh, [B. _____'s (#1902)] the driver? Oh, you call him the driver, he's the bagman.

Dallas: Yeah, bagman.

Goltzer: You got somebody in the D.A.'s Office?

Dallas: Yeah.

Goltzer: Who? [F_____ (#2618)]?
Dallas: Yeah, Ted [F_____ (#2618)], he's my cousin.
Goltzer: What is he, Assistant D.A.?
Dallas: Oh, no, he's a detective.
Goltzer: County detective?
Dallas: Yeah, County detective, that's it.¹²⁶

The police activity around the R.D.A. Club between 3:00 and 4:00 a.m. is indicative of protection payments. Crime Commission agents have observed policemen come and go between 3:00 and 4:00 a.m. on seven occasions at the R.D.A. Club during their visits between August, 1972, and February, 1973.

The police officer would enter the club around 3:10 a.m. to clear out the club. The bartender would stop serving drinks just before the policemen entered then resume serving drinks when the policemen left.¹²⁷

On most of these occasions the badge number of the officer could not be seen. However, on September 6, 1972, Policeman Lorenzo T. C_____ (#5876) entered the R.D.A. Club at 3:10 a.m., stayed several minutes, left, and returned at 3:45 a.m. This same officer was seen sitting in a patrol car, #93, outside of the club at 4:00 a.m. on February 23, 1973. On August 23, 1972, Policeman Edward D_____ (#9807) entered the R.D.A. Club at 3:12 a.m. He left after a couple of minutes, at which time the selling of alcoholic beverages resumed; he returned at 3:57 a.m.

Liberty Clown Club

The Liberty Clown Club, 1216 Sansom Street, has a membership of five to six hundred persons and does not charge a membership fee.

On two occasions during September of 1972, three different agents for the Crime Commission were admitted to the club without membership cards or the sponsorship of a member. These agents were allowed to purchase drinks although they were not members of the club. Also, on both occasions, drinks were purchased by agents after 3:45 a.m.

¹²⁶Tape recording made by Irvin Goltzer, April 18, 1973, on file at the Pennsylvania Crime Commission (verified on August 1, 1973).

¹²⁷It would be too obvious if the bartender continued to serve drinks while the officer was present. Thus, for the sake of appearances, he steps from behind the bar. It is all part of the charade of normality.

According to Benjamin Levine, the former manager, the Liberty Clown also had to pay the police in order to operate late. Irvin Goltzer tape recorded a conversation with Mr. Levine on May 18, 1973. An agent of the Commission was present during the meeting. The conversation opened with the common complaint of all illegal operators who pay the police—the club had been raided.

Goltzer: You never got hit with [Inspector Charles F. K_____ (payroll #16940)].

Levine: K_____ (payroll #16940) never hit us but once. And that was in the beginning. And after that was no problem.

Goltzer: Just once.

Levine: They take money [Lieutenant John G_____ (#144)], sure I know they do. They all take. That don't mean nothing, bribes.

Goltzer: But, I'm saying . . .

Levine: I pay [K_____ (payroll #16940)].

Goltzer: I got a hit with them.

Levine: You got hit with them?

Goltzer: I pay them and I got hit.

Levine: Well, that's right, you gotta get hit—you gotta take it once in a while. You gotta get hit. That's the way they put it to you.¹²⁸

In a discussion of Lieutenant Joseph G_____ (#139), who refuses to take money, Mr. Levine indicated he had been paying the uniformed men patrolling his area.

Levine: He [Lieutenant G_____ (#139)] takes your money? You mean the squad takes the money. He don't get it.

Goltzer: How do you know he's not getting it?

Levine: He's not supposed to get it. I know from Morris.¹²⁹ The squad told us now he don't want the money.

Goltzer: Somebody's bullshitting you.

¹²⁸Tape recording made by Irvin Goltzer, May 18, 1973, on file at the Pennsylvania Crime Commission (verified on August 1, 1973).

¹²⁹The Commission was unable to determine if Morris was a member of the Philadelphia Police Department.

Levine: I know what we're paying the squads and what we paid then.¹³⁰

Mr. Levine also stated that he paid Inspector [Charles F. K_____ (payroll #16940)].

Levine: Sure, I'm trying to tell you, we paid him and he hit us that one time.

Goltzer: What excuse did he . . .

Levine: I'll say one thing for him, he called me and he said, Ben, we got to hit you. I said I don't mind if you're going to hit me with a legitimate pinch. He put a new man on. The new man . . . I'm on the door. The guy comes to the door and he's telling me about a guy I know from downtown. So the guy works for [G_____ (#3757)], Tony. They call him, eh . . .

Goltzer: He takes my money, too.

Levine: Who [G_____ (#3757)]?

Goltzer: [G_____ (#3757)], yeah.

Levine: He's the runner.

Goltzer: He's the runner for [Lieutenant G_____ (#144)].¹³¹

Mr. Levine then explained how Officer G_____ 's (#3757) partner sneaked in and bought a drink in order to make the arrest; the discussion returned to payoffs.

Goltzer: But [G_____ (#3757)] actually took your fucking money and hit you too.

Levine: He wasn't hitting me at the time.

Goltzer: Huh?

Levine: He wasn't getting paid at the time, but [Inspector Charles F. K_____ (payroll #16940)] was getting paid.

Goltzer: [B_____ (#1902)]?

Levine: [B_____ 's (#1902)] the same, he's [K_____ 's (payroll #16940)] little errand boy.¹³²

¹³⁰Tape recording made by Irvin Goltzer, May 18, 1973, on file at the Pennsylvania Crime Commission (verified on August 1, 1973).

¹³¹Id.

¹³²Id.

Like the R.D.A. Club, the Liberty Clown Club showed a pattern of police activity during the extra hour that it was permitted to operate. An officer would arrive shortly after 3:00 a.m., stay a few minutes, leave, and return at 3:45 or 3:50 a.m. to close the club.

Commission agents were not always able to obtain the name or badge number of the officers who entered the club. However, on September 14, 1972, two Crime Commission agents observed two uniformed policemen in front of the club at 4:20 a.m., while patrons left the club. One was identified as a white male in his thirties of the rank of sergeant. The other was Policeman Raymond H_____ (#9336) from the 6th District. Patrol cars #6A and #68 were seen outside of the club at this time.

Randolph Social Club

The Randolph Social Club is located in Northeastern Philadelphia at 517 West Erie Avenue and is an after-hours club which operated illegally after 3:00 a.m. on a regular basis.

Crime Commission agents conducted internal and external surveillance of the Randolph Social Club between September, 1972, and March, 1973. Two agents entered with a known patron. On the second visit, they were asked for identification and were then permitted to enter after the doorman got approval from the bartender. After these two agents were seen by the doorman several times, they were never challenged about not having membership cards.

After fourteen visits to the club, they were issued membership applications. Their membership cards were issued as soon as the applications were completed. It is obvious no check of the agents' backgrounds was made. The agents used false names, addresses, and jobs; yet their membership cards were never recalled.

Crime Commission agents on twenty-four occasions purchased alcoholic beverages after 3:00 a.m. The last call was given often at 3:20 a.m. or 3:40 a.m. The Randolph Social Club operated after the legal closing hour seven days a week; and on most evenings, 60 to 100 people stayed and drank until 4:00 a.m.

Agents of the Crime Commission became acquainted with "Scotty" the doorman, later identified as Donald S. Linton. Scotty, on at least one occasion, told the agents that Thomas J. Neri (known as "Tommy the Boot") who "owned" the club,

paid the police \$25 per night to permit the club to remain open an additional hour. The pattern of police activity around the club certainly substantiates that assertion.

The Randolph Social Club was a favorite hangout for the police between 3:00 and 4:00 a.m., and agents of the Commission extensively documented the activity. To report the results of the Randolph Social Club investigation in a chronological fashion would be tedious. A few examples will be presented to illustrate the pattern of activity at the club.

Agents observed policemen either inside or outside of the club between 3:45 and 4:00 a.m. on at least twenty visits to the club. On eleven of these occasions, the officers were seen entering the club between 3:10 and 3:20 a.m.; leaving a few minutes later, then returning around 3:45 a.m. Not all of the police officers who have been seen inside or outside of the Randolph Social Club between 3:00 and 4:00 a.m. were identified.

On September 16, 1972, Policeman Thomas J. F. _____ (#9680) entered the club at 3:15 a.m., talked with Thomas Neri, left at 3:18, then returned at 3:50 a.m. He talked with Thomas Neri until 4:15 a.m., at which time the patrons left. Red car #2514 and blue van #2505 were parked outside.

On September 22, 1972, drinks were served after 3:00 a.m. in the presence of an unidentified police officer described as blond, 30-35 years, 5'9", 160-170 pounds. Blue car #2514 was outside the club between 3:00 and 4:00 a.m.

On September 27, 1972, vehicles #254, #P39, #2502, and #25A were parked outside the club. Agents observed patrons being admitted to the club after 3:00 a.m. while officers were seated in their police vehicles. An unidentified officer entered the club at 3:15 a.m. and stayed three minutes. He returned at 3:50 a.m. When the agents departed the club, Thomas Neri was seen talking to the officers on the sidewalk in front of the club.

On October 31, 1972, Sergeant James McG. _____ (#546) entered at 3:15 a.m. with another officer, made a notation, and left two minutes later. Sergeant McG. _____ (#546) returned at 3:30 a.m. and remained until the club emptied. Cars #25A and #2512 were seen outside of the club.

On December 7, 1972, Patrolman Dennis T. _____ (#4310) entered the club shortly after 3:00 a.m. He took a seat on a stool by the door and remained while drinks were being served until last call at 3:45 a.m. At 3:50 a fight was brewing and

Thomas Neri solicited help from the officers there. Sergeant Sherrell C. _____ (#347) and Policeman Terrence K. _____ (#2466) entered to assist. After the situation calmed, Neri told the officers to take a case of cold beer, which they did. Police vehicles #3505 and #2517 remained outside until 4:10 a.m.

The following officers also took part in the closing ritual at the Randolph Social Club:

Sergeant Michael C. _____ (#8508)
Sergeant Walter McD. _____ (#8610)
Policeman Roland P. _____ (#6636)
Policeman Charles A. _____ (#9768)
Policeman R. A. G. _____ (#5375)
Policeman William H. B. _____ (#1417)
Policeman Ronald F. _____ (#9684)

From the pattern of police activity observed during the Commission's investigation, it is impossible to believe that the police were unaware that the Randolph Social Club was operating past the legal closing hour. Officers were in the club while drinks were being served after hours. On some occasions, persons entered the club after 3:00 a.m. The arrival, departure, and return of the police at 3:45 or 3:50 a.m. worked as if it were a prearranged schedule.

Croatian Club

The American Croatian Singing Society, also referred to as the Croatian Club, is located at 2525 East Thompson Street, Philadelphia. The owner-operator is John W. Hollawell. The club opened on New Year's Eve, 1969, and since then has been popular and successful. It is open three days a week—Friday, Saturday, and Sunday—and offers live entertainment. It typically draws a crowd of 300 to 400 people and takes in, according to Mr. Hollawell, about \$2,500 per weekend. The total number of club members is estimated to be approximately 4,000 to 5,000. Membership is apparently easily gained upon filling out an application and paying a fee of \$2 with an annual renewal of \$1.

Surveillance at the Croatian Club in January, 1972, reflected that patrons stayed at the club until 3:30 a.m., which is after closing time. However, last call for drinks on nights when Crime Commission agents were present was always prior to 3:00 a.m. and lights normally went on at 3:00 a.m. There were, however,

numerous instances of the club serving drinks to uniformed police officers, usually between 3:00 a.m. and 4:00 a.m., after the club's bars were officially closed, while the patrons were departing. Agents nearly always reported the presence of police cars at the club well after normal closing hours.

Mr. Hollawell has been forced to pay the police from the very day the Croatian Club opened. The system of payoffs to police at the Croatian Club is striking and widespread, and the number of police officers participating, and their ranks and assignments, reveal the involvement of many levels of the Police Department. The facts reflect the standard pattern for establishing and maintaining a police payoff system.

In 1969, the Club was taken over by John W. Hollawell and James Busk acting as partners. Prior to that time, the Club had a reputation of being controlled by racket-oriented persons and of being a place from which prostitutes worked.

Before buying the club, Mr. Hollawell had been in the trucking business with his father. He had one brush with the law in 1960, when he was arrested for interstate theft. He was subsequently convicted, but pardoned in 1963. Mr. Hollawell's partner, Busk, was, according to Mr. Hollawell, a "numbers operator." Mr. Busk has a series of arrests for gambling on his record. He was convicted for gambling following a raid conducted at his numbers bank, on April 29, 1970, by former police Lieutenant Christopher DeCree, then with the Department's Chief Inspector's Squad. Lieutenant DeCree, now a Special Agent for the Pennsylvania Crime Commission, reported that when he entered Mr. Busk's office he found a table with piles of gambling slips, cash, and other paraphernalia. He seized all of the cash as gambling paraphernalia despite heated objections by Mr. Busk that part of the money was "Croatian Club" money.¹³³ Mr. Hollawell bought Mr. Busk's interest in the club in 1971, for \$20,000 and became sole owner of the club.

¹³³This incident sparked an interest in the Croatian Club itself. Lieutenant DeCree later entered the club at 1:00 a.m. one morning, well after closing time. He was delayed at the door, and by the time he got in, the bartenders were out from behind the bar, although nearly everyone had a drink in front of him. Captain Malcolm K. #35, then commander of the 26th Police District, was present. He said to Lieutenant DeCree, "Everything is okay here. If anything was going on I would know about it." Later, Lieutenant DeCree told Mr. Hollawell and Mr. Busk that he would not tolerate any illegal activities at the Croatian Club. He said they might get by the district police but not the Chief Inspector's Squad.

The following description of payoffs to police at the Croatian Club is based on large part on statements repeatedly made by John W. Hollawell¹³⁴ to Attorney General Creamer and to various members of the staff of the Crime Commission. It is strongly corroborated by club records examined by the Commission, by the results of surveillances conducted by the Commission's agents, and by other events discussed below.

Payments of money from the Croatian Club to members of the Philadelphia Police Department began immediately upon the Club's opening on New Year's Eve, 1969. That night the club was visited by three police officers in plainclothes. The men were identified by Mr. Hollawell as K_____, Charlie Mc_____, and "Mike, an Italian guy since retired." They were captain's men.¹³⁵ The officers still on the force have been identified as Officer Charles McC_____ (#4551) and Officer Dennis P. K_____ (#5978).¹³⁶ "Mike" has been identified as Michael P_____ (payroll #105652) who was a captain's man in the 26th District from June, 1968, to April, 1970. He was retired with a Regulation 32 disability pension in November, 1970, as a result of a back injury.

These police officers told Mr. Hollawell that they had seen Tommy Wilson, "a known numbers writer," in the club and threatened Mr. Hollawell with a raid on the club.¹³⁷ Mr. Hollawell talked to the officers for a while, then gave them \$10 to \$20 each and told them he would "work out something" with them later.

Mr. Hollawell described his reaction to the police visit as one of thinking "why should I be bothered?" and "what can I do to prevent a raid?" Since Mr. Hollawell's partner was in fact in the numbers business, the threat of a raid was all the more credible. Mr. Hollawell also stated that he paid the police because he understood that they wanted money and that one

¹³⁴These statements were not under oath. Although Mr. Hollawell frequently met with Crime Commission personnel and enabled them to observe police payoffs taking place, he was reluctant to confront the Police Department directly by testifying against specific officers. The Crime Commission has attempted to compel him to testify, but thus far without success. See the discussion of the litigation involving Mr. Hollawell *infra* at 777-780.

¹³⁵This means they worked directly for the captain in charge of the 26th District and were primarily responsible for curtailing vice activity in the police district.

¹³⁶Officer K_____ (#5978) has been observed at the Croatian Club by agents of the Commission on several occasions.

¹³⁷Under the Liquor Code, bar owners may not permit "undesirables" such as convicted gamblers to frequent their establishments. See Act of April 12, 1951, P.L. 90, art. IV, §493, as amended, 47 P.S. §4-493 (14) (1969).

had to pay for police protection in order to operate a club such as his. It was a way of life.

Shortly after the initial visit by the police on New Year's Eve, Mr. Hollawell conferred with the operator of the Adriatic Social Club (AD Club) at 2644 East Huntington Street, Philadelphia, which is also in the 26th District. He told Mr. Hollawell that he paid a total of \$500 per month to the police and Liquor Control Board agents. This conversation acted to confirm Mr. Hollawell's feeling that he had to make payoffs as a cost of doing business.

Two or three weeks later, the captain's men returned to the Croatian Club. Policeman Michael P. _____ (Payroll #105652) told Mr. Hollawell that he wanted \$50 a month for the captain of the district and \$60 for the captain's men (ten dollars for each man on the captain's vice squad).

At about the same time, arrangements were made to pay the uniformed policemen in the district. These payments were to cover the men in the patrol car assigned to the sector in which the club is located as well as the lieutenant and sergeant in charge of each of the four squads operating in the district. The arrangements for paying these police officers were made through Lieutenant P. _____ (#281), a friend of Mr. Hollawell's partner Busk. Lieutenant P. _____ (#281) told Mr. Busk and Mr. Hollawell that in that district the normal figure was \$40 a week for the lieutenant, sergeant, and squad car. Lieutenant P. _____ (#281) said that was the amount the club down the street (AD Club) was paying. Mr. Hollawell was then told to pay \$40 a week for three weeks each month and \$50 for the fourth week. The extra \$10 one week was for a task force sergeant.

By the end of January, 1970, the Croatian Club's new owners were paying both the captain's men and uniformed men in the 26th District. They did not immediately begin to pay the inspector's men, although Mr. Hollawell was aware that some of these officers were hanging around the club and that they knew he was paying the captain's men and uniformed men. He and his partner had agreed that they should pay the inspector's men since they did not want any trouble. However, there apparently was a mixup, and arrangements were not made. Each later blamed the other.

One morning at 2:55 a.m. the Club was raided. Mr. Hollawell reported that the inspector's men were present, as well as the captain's men from both the 25th and 26th Districts. The

inspector's men present included "Zoogie," Cahill, and Bill H.¹³⁸ They were rough with the customers and insisted on checking membership cards. They took one patron outside and arrested him there.¹³⁹

One week later two inspector's men [H. _____ (#2659) and Z. _____ (payroll #103726)] came back and went to the basement with Messrs. Hollawell and Busk. Figures were bargained and agreed upon. The police wanted \$100 to \$110 per month, but Hollawell got them down to \$80 per month to be paid on Friday nights. This figure was intended to include a payment for the inspector.

The meeting in the basement with the inspector's men was the last step in establishing the regular system of payments to police in the 26th District. Mr. Hollawell had by then agreed to pay a total of \$360 per month to the police, broken down as follows: East Division inspector's men (including inspector), \$80 per month; 26th District captain, \$50 per month; 26th District captain's men, \$60 per month; and 26th District uniformed men, \$170 per month. On paper, these payments covered the East Division and 26th District from top to bottom. The number of police officers who were slated to receive regular notes totaled twenty-six.

The amount of the payments agreed to by Mr. Hollawell and the police continued in effect for nearly two years until December, 1971. During that time, he paid a total of \$8,640. On December 18, 1971, the inspectors of all of Philadelphia's police divisions and the commanders of nineteen of the twenty-two police districts were transferred in an unprecedented shuffle of the police hierarchy.¹⁴⁰ Inspector James K. _____ (payroll #16918) was replaced as head of the East Police Division by Inspector Anthony J. W. _____ (payroll #34980). Captain Malcolm K. _____ (#55) was replaced as commander of the 26th Police District by Captain Martin McN. _____ (#73). On December 30, 1971, it was revealed that Police Commissioner O'Neill was also planning to transfer most of the Department's 352 uniformed supervisors (lieutenants, sergeants,

¹³⁸"Zoogie" has been identified as Officer Richard Z. _____ (payroll #103726), now retired; Bill H. _____ as Officer William H. _____ (#2659); and Cahill has not been further identified.

¹³⁹By making the arrest outside the club, the officers had a two-fold purpose: to prevent Liquor Board problems for the club, which would arise if someone was arrested on the premises, and to warn the owner that an arrest could be made inside the next time.

¹⁴⁰Philadelphia Inquirer, December 18, 1971, at 1.

and corporals) within the next 30 to 60 days.¹⁴¹ It was confirmed by the Commissioner on January 20, 1972, that transfers were taking place, but he refused to reveal the number.

These large-scale transfers indicated that the "heat" was on corruption within the Police Department making it possible for Mr. Hollawell to renegotiate and reduce the amount of the monthly payoffs. On January 13, 1972, Mr. Hollawell spoke to Captain Martin McN _____ (#73), the new captain of the district, and set a new figure for him and his men of \$75 per month instead of \$110. This conversation took place at the district headquarters, and Mr. Hollawell reported he paid Captain McN _____ (#73) \$75 on the spot. At the same time, the amount of payments to the inspector's men was reduced to \$50 per month, and the amount to the uniformed squads was reduced to \$160 per month. The latter amount was increased back to the original amount (\$170) on February 25, 1972, when the police demanded an extra \$10 from Mr. Hollawell.

The manner in which the payoffs to the police at the Croatian Club were made was usually that a representative of each of the groups being paid would come into the Croatian Club on a Friday or Saturday night and pick up the money either from Mr. Hollawell, a bartender, or a doorman. On occasions, Mr. Hollawell went to the district headquarters to make payments. The police officers who made the pickups at the club were not always the same ones. Although some officers did pick up more often than others, it is difficult to single out one man as the bagman for all the others.

Mr. Hollawell reported to the Crime Commission on March 9, 1972, that since January, 1970, he had made payments of money to 33 different police officers that he could identify in some way, as well as at least two others he could not identify.¹⁴² They are listed below:

UNIFORMED MEN, 26TH DISTRICT

Lieutenant Henry P _____ (#281)
Lieutenant Harry J. B _____ (#260)
Lieutenant Francis F _____ (#116)
Sergeant Thomas T. L _____ (#442)

¹⁴¹Philadelphia Inquirer, December 30, 1971, at 1.

¹⁴²The total of 33 police officers exceeds the original total of 26, because officers were transferred out of the division and the new ones were put on the payroll. In one case an inspector from another division was paid.

Sergeant Henry J. G _____ (payroll #69931—dismissed after bribery conviction)
Sergeant Francis K _____ (#8566)
Sergeant Alphonso C _____ (#541)
Sergeant Edward J. Q _____ (#290)
Policeman Dennis P. K _____ (#5978)
Policeman Arthur S _____ (#5790)
Policeman William McG _____ (#3142)
Policeman Robert S _____ (#4857)

CAPTAINS, 26TH DISTRICT

Captain Malcolm K _____ (#55)
Captain Martin J. McN _____ (#73)

CAPTAIN'S MEN, 26TH DISTRICT

Policeman Charles McC _____ (#4551)
Policeman Charles E. J _____ (#2309)

INSPECTORS, EAST DIVISION

Inspector James E. K _____ (payroll #16918)
Inspector Anthony J. W _____ (payroll #34980)

INSPECTOR'S MEN, EAST DIVISION

Policeman Richard Z _____ (payroll #103726—retired on disability pension)
Policeman William H _____ (#2659)
Policeman Michael P _____ (payroll #105652—retired on disability pension)

The identifications which Mr. Hollawell provided on March 9, 1972, included others which have not yet been traced, such as "Lt. Smith," a "6'7" Lieutenant," an "Italian sergeant," "Dave," "Ron," "Cahill," "Frank," "Carmen," "Failer," "Rainer," "Vince," and "a dopey guy."

Mr. Hollawell also reported that he paid money a number of times to Inspector Charles F. K _____ (payroll #16940) while he was assigned to night command. However, Inspector Charles F. K _____ (payroll #16940) collected his money sporadically.

The number of police officers Mr. Hollawell paid increased as time went on and as he continued to make payments.

Between April and September, 1972, the following additional officers were either seen taking money, reported by Mr. Hollawell to have taken money, or observed to be present while payoffs were made at the Croatian Club:

Policeman Anthony M. _____ (#2940)
Sergeant Nicholas F. _____ (#570)
Sergeant Daniel F. V. _____ (#599)
Policeman Reno R. _____ (#4825)
Policeman William "Reds" S. _____ (#4213)
Policeman Michael McG. _____ (#5087)
Policeman Vince McF. _____ (#3131)
Policeman Albert R. _____ (#3631)
Policeman Robert D. _____ (#9744)

The reports by Mr. Hollawell to the Crime Commission that he was making payments to police officers were confirmed and corroborated by Crime Commission agents who conducted surveillances at the Croatian Club throughout 1972. These surveillances were established shortly after the first meeting between Mr. Hollawell and representatives of the Crime Commission in late December, 1971.

On four separate evenings, Commission agents saw money being handed to Philadelphia police officers by employees of the Croatian Club. On January 23, 1972, Commission agents visited the club in the guise of patrons. They reported that at 1:48 a.m. a uniformed Philadelphia police sergeant entered the club and engaged Hollawell in conversation. During that conversation, Mr. Hollawell reached into his left pants pocket and then handed the sergeant a roll of bills which the sergeant took between his fingers in the hand holding his nightstick. The sergeant then placed the money into his right-hand pocket while still holding his nightstick. After finishing his drink, which the doorman had brought him, the sergeant left the Croatian Club at 2:03 a.m. and got into police radio patrol car #26T1.¹⁴³

¹⁴³The Crime Commission has not yet ascertained the identity of this officer. The agents did not see his name tag or badge number while he was at the club. At the time, the Commission did not have photographs or assignments of the police officers to examine. These documents were not obtained until about a year and a half later. The Commission could not go to the police immediately since it would disrupt further surveillance. When the Commission subpoenaed car logs for car #26T1 for that evening, the Police Department at first refused to turn them over, making litigation in the Commonwealth Court necessary. It then developed that the car and patrol logs for that time had been routinely destroyed. The only remaining records, the District assignment sheets, indicate no one was officially assigned to car #26T1 on the 12 to 8 shift on January 23, 1972.

After the sergeant left the club, one of the agents questioned Mr. Hollawell about what had just happened. Mr. Hollawell confirmed that he had paid the officer and stated that he paid the police every Saturday around 3:00 a.m. The sergeant had told Mr. Hollawell he had come in unusually early that evening because he was being transferred and it was his last night on the beat. The officer wanted to go home early.

The following weekend, on January 30, one of the agents returned to the club accompanied by another agent who had not been there the previous week. At 3:40 a.m., they saw Mr. Hollawell pass a roll of bills approximately 3/4-inch in diameter to a uniformed Philadelphia police lieutenant [identified as Lieutenant Francis F. _____ (#116)] in the vicinity of the main entrance of the building. The lieutenant took the money and placed it between his belt and his trousers. A policeman accompanied the lieutenant and appeared to observe the transaction. The policeman has been identified as Officer Robert J. S. _____ (#4857). Mr. Hollawell later confirmed this payoff in statements to other agents.

On March 4, 1972, at 2:50 a.m., two Commission agents observed two men in civilian clothes enter the club and stand about five feet from the door in an open area of the club. Mr. Hollawell passed paper money to one of the men—Hollawell's right hand to the other's left hand. The two immediately left. Mr. Hollawell advised the agents that they were captain's men and that he had given them \$75. They have not been identified.

Earlier the same evening, at 2:10 a.m., Mr. Hollawell told the agent that two inspector's men in plainclothes had just arrived and were drinking at the bar. Mr. Hollawell then spoke to the men, who appeared to be nervous and uneasy. The taller of the two men took Mr. Hollawell aside. When the men left, Mr. Hollawell told the agents that the men had been worried that the Crime Commission agents were from the Police Department's Internal Security Squad. Mr. Hollawell added that it was only the second time these men had been in the club. They have not been identified.

On March 18, 1972, a Commission agent saw Officer Robert J. S. _____ (#4857) enter the club at 3:29 a.m. and sit down at a table near the entrance. Mr. Hollawell then got money out of a cash register and handed it to Officer S. _____ (#4857) behind S. _____'s (#4857) back but within the agent's clear view. Mr. Hollawell shortly afterward told the agent he had

given Officer S _____ (#4857) \$40. Mr. Hollawell additionally told the agent that Officer S _____ (#4857) had brought Task Force Sergeant Daniel F. V _____ (#599) to the club to receive \$10 and that Sergeant V _____ (#599) wanted the \$10 weekly. Mr. Hollawell said Officer S _____ (#4857) had been bringing other new transfers into the Croatian Club to introduce them to to the system of payoffs.

On several other occasions, Commission agents observed incidents in which it seems virtually certain that payments of money to police took place, although in each case the view of the actual transfer of the cash from one hand to another was obscured. For example, on February 6, 1972, at the Croatian Club, Mr. Hollawell approached two Commission agents at 2:45 a.m. and stated he would remove cash from the register at the bar to pay the policemen when and if they arrived. At 3:20 a.m. three uniformed police officers entered the club and stood by the wall near the entrance. A sergeant appeared at the door, but did not enter. Mr. Hollawell then walked over to the officers with the money clearly visible in his hand. The actual transfer of the cash this time was not observed because of people blocking the agents' view. From their badge numbers, the three policemen were later identified as William S _____ (#4213), Anthony M _____ (#2940), and Albert R _____ (#3631). Their presence is corroborated by the fact that police records show they were assigned to car #261 and wagon #2602 which that night were parked outside the club. Car #26A was also outside that night and was assigned to Sergeant Henry J. G _____ (payroll #69931). Hollawell later confirmed to other agents that he paid \$40 to a sergeant and three officers on this date.

On February 13, 1972, at about 3:30 a.m., a Commission agent saw a Croatian Club doorman take paper money from a cash register, place it in his right hand, then walk up some stairs to a corridor near the restrooms, away from the main part of the club. His hands were kept in front of him. Simultaneously, Policeman Dennis P. K _____ (#5978) also climbed the stairs, followed by a Crime Commission agent. Officer K _____ (#5978) was seen extending his left hand to the doorman, then withdrawing with the fingers curled. He then put his hand in his pocket.

On February 27, 1972, Mr. Hollawell was not at the Club when Crime Commission agents arrived, but he had left a message for them to call him at home. When an agent called,

he was told that the doorman, Ollie, would make the payoff to the police. At 3:16 a.m., two uniformed policemen entered the club and stood near the entrance. One of the officers was William McG _____ (#3142). The bartender handed the doorman some paper currency. The doorman approached the policeman, faced Officer McG _____ (#3142) and moved his hands towards the officer's hands. McG _____ (#3142) then placed his hand in his jacket pocket. Shortly after the payoff, a policeman wearing a jacket with sergeant stripes appeared in the door. He was wearing badge #5346 and wearing the name tag "C _____" [Policeman Thomas P. C _____ (#5346)] When they left, the officers got into cars #26A and #2622. Mr. Hollawell later confirmed to an agent that \$40 was paid to one sergeant and two officers that night.

On March 5, 1972, two agents went to the Croatian Club at 12:30 a.m. At 1:00 a.m. Mr. Hollawell told them he was concerned about the surveillance on the previous night, March 4, 1972. Mr. Hollawell believed they may have been detected by the inspector's men whom he had paid. The inspector's men thought the Crime Commission agents were Internal Security Squad men and warned Mr. Hollawell that he "had better not have notified anyone concerning the payoffs." Because of that concern, Mr. Hollawell told the agents he would not make the payment that night in an open area.

At 3:10 a.m., a police officer entered the club and went out through a doorway with Mr. Hollawell. The officer could not be identified by the agents. When Mr. Hollawell came back he sat with the agents and said he had just paid Officer K _____ (#5978) and that K _____ (#5978) had received money on previous occasions.

On March 26, 1972, a Commission agent was told by Mr. Hollawell that Policeman S _____ (#4213) would probably come in around 3:30 a.m. Mr. Hollawell also said he thought S _____ (#4213) does not distribute the money to the squad but keeps it for himself. At 3:10 a.m., Officer William S _____ (#4213) came into the club followed by another officer with sergeant stripes on his sleeve. The agent left at 3:30 a.m. without having seen money change hands, but the officers were still there. Mr. Hollawell's ledger records a payment of \$50 to the police for that weekend. The police vehicles parked outside the club were cars #26A and #2613.

On April 23, 1972, at 3:21 a.m., an agent saw a sergeant enter the Croatian Club. A few minutes later a policeman came

in. Both talked to Mr. Hollawell for a few minutes, then Mr. Hollawell took currency from a cash register and spoke to the officers further. Finally, at 3:40 a.m., Mr. Hollawell walked up a stairway out of sight, followed by the policeman. They both returned shortly. Mr. Hollawell then told the Commission agent that he had made his weekly payment to the policeman while up the stairs. Mr. Hollawell further said that the sergeant had told him not to make the payment in the open area of the club. Mr. Hollawell told the agent the policeman was Officer Michael McG_____ (#5087). The following day, Mr. Hollawell told another agent in a telephone conversation that the sergeant was Nicholas F_____ (#570). When they left the club, the officers got into cars #26B and #264, which according to police records were occupied by Sergeant F_____ (#570) and Officer McG_____ (#5087), respectively.

On June 18, 1972, at 2:00 a.m., Mr. Hollawell told an agent that he expected Sergeant Alphonso C_____ (#541) to come in the club that night to pick up money. Mr. Hollawell said C_____ (#541) had been in the previous night but had not been paid then. At 3:10 a.m. a uniformed police officer came in and sat at the bar. At 3:25 a.m. Sergeant C_____ (#541) came in and sat next to the first officer. Both had drinks. At 3:30 a.m. Mr. Hollawell went behind the bar, removed cash from the register, and spoke to the officers. About five minutes later, Mr. Hollawell told the agent, "He got it." When the second policeman left, he entered car #264 which was assigned to Officer Robert D_____ (#9744) that night. Sergeant C_____ (#541) drove car #26A.

On June 25, 1972, a Commission agent saw Lieutenant F_____ (#116) and Officer S_____ (#4857) come in together at 3:20 a.m. A club employee removed money from the cash register, but before the employee approached the officers the doorman asked the agent and the other patrons at the bar to leave. Mr. Hollawell's ledger has recorded in it a payment of \$50 to "[S_____ (#4857)]" for that time.

A combination of other surveillances by Crime Commission agents and reports by Mr. Hollawell provide evidence of additional payments to police officers at the Croatian Club.

On April 17, 1972, Mr. Hollawell reported that he had paid Task Force Sergeant Daniel F. V_____ (#599) \$10 the previous night and paid Policeman S_____ (#4213) \$40 two nights previously. On May 5, 1972, at 4:00 p.m. Mr. Hollawell called a Commission agent to inform him that on May 4, 1972,

at about 3:30 p.m. he stopped at the 26th District headquarters while en route from the liquor store to the Club. He paid \$75 to Policeman Charles J_____ (#2309), which was intended to go to Captain Martin McN_____ (#73).

On May 15, 1972, Mr. Hollawell reported by telephone that he had paid Officer S_____ (#4213) \$40 on May 14, 1972.

On May 21, 1972, an agent saw a police officer get out of car #264 and enter the club at 3:20 a.m. He could not get close enough to identify him but police records show that Officer Charles McC_____ (#4551) was assigned to car #264 that night. On May 22, 1972, Mr. Hollawell reported by telephone that he had paid \$40 to Policeman Charles McC_____ (#4551) inside the Club on May 21, 1972.

On June 4, 1972, an agent saw Policemen Albert R_____ (#3631) and Reno R_____ (#4825) in the Club from 3:20 a.m. to 3:30 a.m. On June 5, 1972, Mr. Hollawell reported by phone that he had paid \$40 to a policeman whose name he believed was "Rosen" on the night of June 3-4. Mr. Hollawell also reported that he had paid the captain's man, Patrolman Charles J_____ (#2309), \$75 on Sunday night, June 4, 1972.

On July 9, 1972, an agent observed Sergeant C_____ (#541) and another unidentified police officer inside the Club between 3:00 and 3:20 a.m. On July 11, 1972, Mr. Hollawell reported by telephone that he had paid \$40 to Sergeant C_____ (#541) on July 9th. Mr. Hollawell also reported on July 11th that he had paid \$75 to Officer Charlie J_____ (#2309) on June 30, 1972, and \$50 on July 7, 1972, to an officer named "Bill" who was a captain's man. At 3:30 a.m. on July 16, 1972, a Commission agent observed police patrol car #267 park near the Croatian Club after the last customer had left. The policeman driving the car entered the club alone and departed at 3:41 a.m. He then drove away. On Tuesday, July 18, 1972, Mr. Hollawell contacted an agent by telephone and reported that he had paid Officer S_____ (#4857) \$50 on July 16th.

On August 16, 1972, an agent and Mr. Hollawell again spoke by telephone. Mr. Hollawell reported that the pay-off situation had not changed and described four additional payoffs. Around the first of August, the captain's plainclothesman and the inspector's plainclothesman were in to see him. He paid the captain's man \$75 and the inspector's man \$50. On the weekend of August 5, 1972, Sergeant C_____ (#541) visited the club and was paid \$40. On the weekend of

August 12, 1972, Lieutenant F_____ (#116) came into the Club and was paid \$50.

The system of payments by John Hollawell to police officers at the Croatian Club was further corroborated by a set of detailed ledgers maintained by Mr. Hollawell. The ledgers consisted of a series of pocket-sized black covered books with dates printed on the pages. There was one book for each calendar year beginning with 1970. All three books were shown to two Crime Commission staff members on March 9, 1972, at which time Mr. Hollawell read selected entries to them. On June 20, 1972, and on July 25, 1972, Hollawell also showed the books to the present Executive Director of the Crime Commission, at which time verbatim notes on the entire contents of the ledgers were made. These notes are retained in the Crime Commission files. The ledgers themselves were eventually subpoenaed by the Commission, but Mr. Hollawell's attorney has stated that the ledgers apparently were stolen during a burglary at the Croatian Club and that Mr. Hollawell no longer has them.

The ledgers consisted of a list of all payments made by Mr. Hollawell from virtually the beginning, with dates, amounts, and recipient indicated. Mr. Hollawell stated that these records were prepared at the time the money was paid or within the week following it. All of the entries were in Mr. Hollawell's handwriting or his mother's handwriting, since she was the bookkeeper for the club.

The entries in the ledgers begin on January 24, 1970, but they do not become regular until March 21, 1970. Mr. Hollawell stated he is sure that at first many payments to the police at the Croatian Club were made but not recorded. This was partly due to the lack of organization at first and partly due to the fact that his partner James Busk also was paying out money on occasion and using some of the money in "another business."

In addition to recording the regular payments to the uniformed men, captain's men, and inspector's men, these ledgers also record bribes or payoffs made to other police officers. For example, the ledger records two payments of \$20 and one payment of \$10 to the "night inspector," said by Mr. Hollawell to be Inspector Charles F. K_____ (payroll #16940), who formerly was assigned to the Police Department's Night Command. The ledgers also record that the Night Captain, R_____ (payroll #12771), was given \$10 to \$20 occasionally.

To indicate payments to police, the ledgers in the early months contain a date, a dollar figure, and the word "law." In September of 1970, the entries become more refined, indicating which group of police are being paid. The entries for the month are as follows:

September 4, 1970	\$80.00	Inspector
September 5, 1970	\$40.00	Law
	\$50.00	Captain
September 12, 1970	\$50.00	(Task Force)
	\$60.00	Captain's men
September 19, 1970	\$40.00	Law
September 26, 1970	\$40.00	Law

The word "law" here refers to the payments to the uniformed men. "Inspector" refers to the inspector and his men. "Task Force" refers to the uniformed men plus the task force sergeant.

This pattern of notations holds until 1972, when Mr. Hollawell began cooperating in the Crime Commission investigation. The ledger entries then became even more specific, giving names of officers who actually received the money in many instances. The entries for February, April, and May, 1972, are as follows:

February 1, 1972	\$40.00	Law
February 8, 1972	\$75.00	Captain's men—picked up by Charlie and Dave
	\$50.00	Inspector's men—picked up by Carmen and Vince
	\$40.00	Law
February 15, 1972	\$40.00	[K_____ (#5978)]Law
February 22, 1972	\$40.00	Law
February 29, 1972	\$40.00	Law
April 4, 1972	\$75.00	Law Capt.
	\$50.00	Inspector's men
April 11, 1972	\$40.00	Law for last week— [McC_____ (#4551)]
	\$40.00	Law [C_____ (#541)]
April 18, 1972	\$40.00	Law Red [S_____ (#4213)]

	\$10.00	Sgt. [V (#599)]
April 25, 1972	\$40.00	Law [McG (#5087)]
May 2, 1972	\$40.00	Law
May 9, 1972	\$75.00	Capt. \$50.00 Inspector's men
	\$50.00	Law [Lt. F (#116)]
May 16, 1972	\$40.00	Law Red [S (#4213)]
May 23, 1972	\$40.00	Law [McC (#4551)]
May 30, 1972	\$50.00	Law [S (#4857)]

John Hollawell originally approached the Attorney General in December, 1971, with an offer to assist in the investigation of police corruption. In return Mr. Hollawell sought the assistance of the Attorney General in Mr. Hollawell's pending cases before the Liquor Control Board.¹⁴⁴ Although he provided invaluable cooperation in this investigation through the first half of 1972, his willingness to continue cooperation flagged and eventually disappeared. On September 11, 1972, the Executive Director met with Mr. Hollawell and tried to persuade him to testify before the Commission about his payments to the police under a grant of immunity from prosecution. On October 11, 1972, they again met and Mr. Hollawell stated that in his view "the tide was changing." He adamantly refused to testify and said he intended to seek "political help in other quarters."

The Commission subpoenaed Mr. Hollawell in February, 1973, but he invoked the fifth amendment and refused to testify. A protracted battle to compel him to testify is still being litigated.¹⁴⁵

Miscellaneous Clubs

Agents of the Commission were able to gain entrance as non-members to three other clubs which served alcoholic

¹⁴⁴After that meeting the Attorney General asked the Liquor Control Board to prosecute Mr. Hollawell's cases, which was done several times. Eventually, the cases resulted in convictions relative to the club. The cases are now on appeal.

¹⁴⁵For a summary of this litigation, see Chapter VIII *infra* at 150-151.

beverages after 3:00 a.m.: Aloha Social Club, 1614 McKean Street; Kensington Bubble Club, 1823 East Hilton Street; and 48th Ward Republican Club, 1734 Snyder Avenue. They made spot checks at these clubs during the investigation and found that police activity fell into the same patterns as that observed at the clubs discussed above, which would again indicate that these illegal operations were protected by payoffs to the police.

Former police officer Felix Ruff testified that when he was in the Northwest Division he received payments for protection of illegal operations from the Democratic Club, 1800 West Columbia Avenue, the Square Club, 1511 West Oxford Street, and the Club 25, 13th and Pacific Streets. There was no surveillance to corroborate these payments because the testimony was received late in the investigation.

Speakeasies

Although it is unlawful under the Pennsylvania Liquor Code to sell liquor without a license or to sell liquor on Sunday except in limited circumstances, operations which do just that have sprung up in various sections of Philadelphia. These establishments are called "speakeasies" or "speaks," a name reminiscent of the places which sold liquor during Prohibition.

The Commission investigation revealed that speakeasies are operated for the most part out of private residences and fall into two distinct patterns. One is primarily a Sunday operation, in which orders are taken over the telephone or in person, and the liquor is taken out. Some Sunday speakeasies may also have facilities for customers to come and stay for a drink. The second is similar to an after-hours club where people arrive after midnight and purchase drinks through the night. These speakeasies may operate up to seven days a week.

Agents working undercover for the Commission discovered a curb service Sunday speakeasy operating out of the residence of Eugene "Tax" Thompson at 148 West Price Street. The operation was recorded on movie film and tape recordings. Cars would pull onto West Price Street and wait in line for service. One of several male attendants approached each car and took the order. Beer was sold at \$3.00 a six-pack and a pint of liquor at \$5.50, both prices substantially above those charged at the legal stores. The attendant then retreated into 148 West Price Street and returned with a brown bag containing the order. When members of the Pennsylvania State Police executed a search warrant on the Thompson residence, it was also learned

that liquor was being sold by the drink on the premises, with the kitchen table serving as a bar.

The Thompson operation afforded the Commission a unique opportunity to observe a speakeasy. Most speakeasies are operated from within a residence, and only trusted patrons are allowed inside. The Commission received information from confidential informants, letters, and telephone calls about the locations of many of these illegal operations. However, because our agents were not known in the neighborhoods, they were often refused entry.

The existence of the Thompson operation has to be obvious to officers of the 14th Police District. Many times cars block the street, and the transactions are made in plain view. Crime Commission agents purchased liquor from this speakeasy with little difficulty. It was apparent that the attendants did not discriminate among customers, indicating they felt well protected. An agent reported that during one of these transactions he was told the following by Thomas Landers, one of the men who works at the speakeasy:

The District police raided Tax and cleaned him out this morning [11/7/72]. They have had him at the station since 11:00 a.m. The only thing they didn't take was a case of Windsor that they didn't find and a case of VO which was outside in the trunk of the car. This is all the liquor I have to work with and probably will be sold out by 8:00 p.m. I can't understand why they knocked Tax off, with all the money he is paying them. I know he is paying them because he sent me around the corner a couple of times to pay them. I thought maybe one of the plainclothesmen had made a buy and they then raided him. I could understand that, but it wasn't the plainclothesmen, it was the District Police. I just don't understand. They have to be pretty rotten.

Former Philadelphia police officer Felix Ruff testified before the Commission that when he was an inspector's man in the Northwest Detective Division during 1970-71, he received a steady note from "Tax" Thompson.¹⁴⁶

When a raid was conducted on the Thompson residence by the Pennsylvania State Police, as a result of information received

¹⁴⁶ Testimony of Felix Ruff before the Pennsylvania Crime Commission, December 31, 1973, N.T. Ex. 2, p. 7 (hereinafter cited as Ruff, December 31, 1973).

from the Commission, members of the Philadelphia Police Department interfered with the search.¹⁴⁷

With the help of an informant, agents of the Commission were able to gain entrance to a speakeasy operating out of the residence of Joe Moore, 935 Spruce Street, and make purchases of liquor on Sunday. Moore did not have any accommodations for selling individual drinks. An agent of the Commission also made numerous purchases of untaxed cigarettes from Joe Moore and his wife. In a raid by the Pennsylvania State Police, five cases of wine and 700 cartons of cigarettes were seized from the Moore residence.

Mr. Moore refused to give the Commission any information about his operation or whether or not he had to pay the police to operate. The evidence gathered by agents of the Commission was therefore turned over to the District Attorney of Philadelphia. Mr. Moore was tried and convicted of selling untaxed cigarettes. He was fined \$500 by Judge Stanley Kubacki.

In testimony before the Commission, Policeman Robert J. Weiner stated that he was aware that during the 4:00 p.m. to midnight shift on Sundays, the sector car, patrol wagon, sergeant, and lieutenant would receive a "suitable note" from the speakeasies in their areas. He defined a "suitable note" as \$5 for the patrolman, \$10 for the sergeant, and \$15 for the lieutenant.¹⁴⁸ As in other areas of vice activity, an individual officer might look for a quick note for himself. On one occasion, Officer Weiner spotted a man in the 1900 block of Norris Street "nervously" carrying glass jars from a car to a house. The jars contained a clear liquid. The officer stopped the man, opened one of the jars, and smelled alcohol, known as "white lightning." The officer received \$10 to forget what he saw and smelled.¹⁴⁹

The former owner of a club-type speakeasy gave sworn testimony about the speakeasies in West Philadelphia and police payoffs made by the operators of the speakeasies. This former owner operated a speakeasy in the 18th District in 1968. Anonymity of the owner had to be guaranteed because of the possibility of physical harm if the owner's name were revealed. Some of the information was corroborated by a second witness. The owner described her operation:

¹⁴⁷ For details of this incident see Chapter VIII *infra* at 794-795.

¹⁴⁸ Weiner, December 5, 1973, N.T. 17-18.

¹⁴⁹ *Id.* at 26-27.

Q: You say that it ran like a club. Were there rooms set aside in the building with chairs and tables like a regular club, or what?

A: Well, you rented just an apartment, and the apartment was fixed up completely like a club. There is a bar in there, and it was set up exactly like one that was in a club, chairs, there were two bedrooms, a kitchen, and whatnot. It was set up and run like a legal club.

Q: And where did you get the liquor?

A: You would buy the liquor at the State Store.

Q: Now, how did someone gain admission to the speakeasy?

A: Generally, you either had to be with someone that you knew or the owner knew or—you just had to be known, really.¹⁵⁰

The charge for a beer was one dollar and a mixed drink cost two dollars.¹⁵¹ The speakeasy was open seven days a week from around 1:00 a.m. to daybreak.

The former owner estimated that the income from liquor sales ranged between \$1,000 to \$2,000 a week. In addition, prostitutes rented the bedrooms at \$10 a session for their activities. Income from that operation totaled \$100 to \$150 a day. Cocaine and marijuana were sold by the owner, and these sales usually brought in over \$1,500 a week.¹⁵² At a minimum that speakeasy grossed \$3,200 per week.

The owner testified that in order to operate, the lieutenants commanding the midnight to 8:00 a.m. shift had to be paid. The amount of money which was to be paid varied with the intake of the club. The owner made the following statements about the payments:

A: Well, as far as the policemen were concerned, a week, I would say that the most we really ever spent a week was about two-fifty [\$250].

¹⁵⁰Testimony of Ms. X before the Pennsylvania Crime Commission, September 6, 1974, NT 5.

¹⁵¹*Id.* at 26.

¹⁵²*Id.* at 14, 26, 27, 28.

Q: And how many people would you say shared in that two-fifty from the Police Department, roughly?

A: As far as I know just—well, as far as I know, really, when the Lieutenant did come around he was the only one in the car. So I wouldn't know that. I just know I was paying him off.

* * * * *

Q: Usually, two hundred for the Lieutenant and \$50 for anybody else that drops in?

A: Right.

* * * * *

Q: Were you ever raided by the police?

A: No, that's why we paid the money.¹⁵³

The speakeasy was operated by a partnership, and the witness' partner negotiated the payment schedule:

Q: You and [your partner] both made payments; is that correct?

A: Well, I never had direct contact with the police. He always negotiated those type things, and if something would happen to him, I would continue it. I knew that they could be paid, and it would be me that gave them the money rather than him.

Q: Did you ever see [your partner] pay the police?

A: Yes.¹⁵⁴

Although the witness is no longer operating a speakeasy, she still visits them and is aware of their operations. One speakeasy, known as "Snakes," which operates from an apartment at 43rd and Chestnut Streets, was formerly located on the corner of 52nd and Vine. When the owner, William Haulin was operating at 52nd and Vine, the witness would observe him leave the club to go across the street and pay the police when they arrived.¹⁵⁵

¹⁵³*Id.* at 13-14.

¹⁵⁴*Id.* at 29.

¹⁵⁵*Id.* at 30-31.

When asked about speakeasies presently making payoffs to police, the witness was unable to provide specific information, but asserted, "You can't operate anything like that, that open, without paying the police."¹⁵⁶

An agent of the Commission was able to gain entrance to a club-type speakeasy in the 15th Police District. The Frankford Sportsmen's Club at 1700 Foulkrod Street sells liquor without a license Fridays through Sundays and often stays open all night. The club name is a front; it has been in existence for three years and has only seven members. To gain entrance, a buzzer must be rung and a doorman opens the door. A bar is situated in the middle of the first floor room and is manned by two bartenders. Gambling is alleged to take place in a second floor room.

According to the bartender, the club was raided, but the seven members of the club were not worried about being raided again because they took "special precautions." The informant who accompanied the agent into this club and a patron named Emanuel both indicated to the Crime Commission agent that the club pays the police so that it may operate as it does.

The Commission was able to obtain direct evidence of payments to police to protect speakeasies from former Policeman Felix Ruff. He testified that he received regular payoffs from at least four speakeasies in the Northwest. The location of each speakeasy and the amount of each payoff are as follows:

Tax Thompson 118 East Price Street	\$15/month
Willie Drayton 3409 North 17th Street	\$25/month
Vernal Sawyer, Sr. 154 East Pleasant Street	\$15/month
John (Buddy) Walker 5332 Wakefield Street	\$30/month

Following Mr. Ruff's testimony, he took a Crime Commission agent to the Buddy Walker speakeasy to corroborate its existence. The agent reported that when he arrived at the house on December 2, 1973, at 5:45 p.m. (a Sunday), police wagon #1102 was parked a few houses down the street, and remained for over twenty minutes. Between 5:45 p.m. and 6:40 p.m., six

people entered Walker's home and left with packages, and two men were observed sitting in a car in front of the house drinking liquor from a bottle.

The agent then went to the door of the house to attempt to purchase a pint of liquor. When the door opened, he stepped inside and asked for the liquor; but the man answering the door stopped him, stated he didn't know him, and could not help him. The agent said he was attending a party in the neighborhood and was told to come to Walker's for some liquor, but the man stood fast saying he only worked there and could not let him in since he had never seen him before.

While the agent was standing in the doorway, he was able to observe about ten people sitting in the living room drinking and talking. Within a minute after the agent left, all the people exited the house, apparently fearful of arrest.

Lewd Shows

Many bars and clubs in Philadelphia employ go-go dancers to attract customers. Commission investigators learned that in at least one location, the already scantily clad young women were quite willing to strip completely and perform lewd dances.

Agents of the Commission were present in an undercover capacity inside the Gaslight East Lounge, Ford Road, when one of the go-go girls stripped and began to dance. The agents noticed that the front door was locked and manned during the entire performance. A second female who entered the bar also stripped and danced. The performances included audience participation. At one point, a collection was taken up to give to the second dancer.

Apparently, the dancers felt secure in going to any extreme because the bartender was Philadelphia Police Lieutenant John O'C_____ (payroll #61822) who was temporarily out of the Department because of a disability, but maintained sufficient authority to protect the lounge's operation. Additional protection was provided by the presence of another officer, Lieutenant Charles Allen B_____ (#71). Lieutenant B_____ (#71) knew the two dancers and was aware that they stripped periodically. Needless to say, he took no action against the performance. In fact, he contributed \$1.00 to the collection.

Because of the arrest of Trooper Anthony Caldonetti and State Police participation in preventing a robbery attempt in the Gaslight Lounge,¹⁵⁷ the go-go girls stopped stripping. However,

¹⁵⁷These incidents are discussed in Chapter VIII *infra* at 785-786, 746-747.

Lieutenant O'C_____ (payroll #61822), who continued to bartend, assured undercover agents that they would soon begin again. On most occasions, when Commission agents visited the Gaslight Lounge, the go-go dancers were more than willing to mix and drink with the customers. Although the Liquor Code prohibits such activity, there was no attempt by the owner or bartenders to prevent it.

As a result of the Commission's investigation, members of the Pennsylvania State Police arrested Lieutenant O'C_____ (payroll #61822) for permitting an obscene exhibition. He was acquitted at a trial on July 18, 1973, but the Internal Affairs Bureau of the Philadelphia Police Department also conducted an investigation of Lieutenant O'C_____ 's (payroll #61822) ties to the Gaslight Lounge, and found sufficient evidence to sustain his dismissal from the Department.

The Commission turned over information on Lieutenant B_____ 's (#71) activities in the Gaslight Lounge to the Police Department. Not only was he present during the lewd performance, but he had also been observed gambling in the Lounge. Lieutenant B_____ (#71) had a hearing before the Police Board of Inquiry and was found guilty. He was suspended for thirty days and was demoted to the rank of sergeant.

Payoffs For Miscellaneous Violations

The Pennsylvania Legislature has applied strict regulations to licensed liquor establishments. However, the agency of enforcement, the Pennsylvania Liquor Control Board, has not been sufficiently staffed to carry out the legislative mandate. Thus, much of the enforcement of the liquor laws has been left to local law enforcement agencies who do not see liquor law violations as a top priority item. Such a position is especially applicable to an urban area such as Philadelphia where violent crime is a substantial problem and causes the public to demand action in that area as opposed to the vice area. As with other vice activity, much of the public is not appalled by liquor law violations.

These combined factors allow for selective enforcement of the Liquor Code and open the door of temptation to shake-downs. Mr. Joseph D'Angelo, a bar owner and representative to the Philadelphia Tavern Association testified before the Commission:

A: Well, in most cases, our Liquor Control Board laws are so stringent—there is so much variety in our Liquor Control Board laws that I believe there are more than 60 percent that violate the law, whether it be intentionally or unintentionally.

When the officers come in, they find this violation and remind the owner that this is going on, and he must do something about it, and so the easiest way out for him to forget it is spend a couple of dollars on the officer.¹⁵⁸

Mr. D'Angelo thought that sporadic payoffs and free drinks are a widespread phenomenon. He also indicated that systematic payments were not uncommon for tavern owners.

Q: Do you think most of them give the officers the free drinks or the money or whatever is necessary?

A: Without a doubt. I wouldn't hesitate to say that most—I can speak for the tavern people. I would say every tavern in the City of Philadelphia has given something to the police at some time or another.

Q: Is this ever discussed at Tavern Association meetings?

A: Yes, and then they are just erased or forgotten or just put down by the wayside, because we need the policemen to protect our business because we are in a very busy business, that it could be as sad as it is happy, and if we don't have police protection in our industry, we could be in trouble. And police protection is something that is a necessary evil, if you want to call it such. . . .

* * * * *

Q: Do you know whether many of the taverns have to make a systematic payment, in other words, a payment every month in order to avoid that kind of a problem, or is this just a payment whenever a policeman comes in?

¹⁵⁸Testimony of Joseph D'Angelo before the Pennsylvania Crime Commission, July 3, 1973, N.T. 13.

A. I would have to say I do know there are systematic payments. However, I don't believe I could ever prove it personally, but I do know there are.¹⁵⁹

Because the police are needed by bar owners and because bar owners are so vulnerable to arrest, Commission agents found that interviewing bar owners about police corruption had few positive results. Some persons such as Grover West, the manager of El Bar in the 25th Police District, did admit in an interview to giving the police money at Christmas. Mr. West stated that he gave each officer who stopped by \$5 or \$10, the total amount usually reaching between \$100 and \$150 each year. He paid the uniformed squads, their sergeants and the captain. However, most owners simply refused to talk about police corruption, saying they did not want any trouble with the police.

Because of the obvious reluctance of bar owners to talk to the Commission about shakedowns by the police, the Commission decided to interview persons who had sold their establishments within the past three years. It was believed that because they no longer needed to fear police harassment of their bars, they would be willing to talk more freely about their experiences. Still, many people were fearful of "becoming involved." They did not want any more trouble. Some former owners agreed to be interviewed informally but would not appear before the Commission to testify. As one man put it, "I'll deny I said any of this if you subpoena me."

Of those bar owners who admitted making payments to police officers, a majority of them said they paid only at Christmas. Normally, the district sent around "Christmas lists." John Douris, who owned the Packer Bar in the 1st District, recalled in an interview that he had received a list of about twenty police officers with the amounts broken down by rank: captain—\$50; lieutenant—\$20; sergeant—\$15; and policeman—\$10. Mr. Douris also stated that his place was "like a police station, where they would eat and drink all the time for nothing." He added, "God help you if you asked any of the policemen for money for their food or drinks."

Adam Rutecki, who owned a bar-restaurant in the 15th Police District for twenty-five years, told agents of the Commission that he paid \$300 every Christmas to the officers in his district.

In fact, because the amount was such a substantial burden for his business he maintained a special Christmas Club at \$6 per week so that he would be able to pay it each year.

In sworn testimony before the Commission, Alek Klinman who owned a bar in the 3rd Police District stated that he paid between \$200 and \$400 to the police every Christmas. Often, he received a list from the district. He gave each patrolman between \$3 and \$5; each sergeant between \$5 and \$10; and the lieutenant and captain \$50 apiece.¹⁶⁰

Not all of those interviewed recalled the amount they paid each year, but all were in accord that the officers in their districts expected "nice gifts" every year. Mildred Stabilito told agents of the Commission that she and her husband had been giving officers of the 14th District money and alcohol for Christmas for the past twenty-three years.

The necessity of paying money to police at Christmas seems to be accepted as a fact of life by most bar owners who talked with the Commission. Indeed one former owner said he actually asked for a Christmas list after he heard all the other taverns had received them.

However, many police officers were not satisfied with their Christmas gifts and demanded payoffs throughout the year. As was stated before, tavern owners are especially vulnerable to shakedowns. For some owners, the harassment can be devastating.

In April, 1967, William and Mary Taylor bought a bar at 8018 Castor Avenue. They sold it four years later in June, 1971, because, as Mr. Taylor put it:

A: The harassment and always not sure where you are going to be on the next day or whether you will have your bar there, or are they going to close it or what.

Q: When you say harassment, what do you mean?

Mary Taylor: Police.

William Taylor: Police harassment.¹⁶¹

The Taylors bought the bar known as The Dapper Dance with

¹⁶⁰Testimony of Alek Klinman before the Pennsylvania Crime Commission, December 13, 1973, N.T. 5-6.

¹⁶¹Testimony of William and Mary Taylor before the Pennsylvania Crime Commission, August 28, 1973, N.T. 3-4.

the best of intentions, and after nine months, they appeared to be succeeding:

A: Dapper Dance. It was a pretty wild place. The thing was, the name Dapper Dance stuck with the place. And the minute you mentioned Dapper Dance, like, "I won't go in there. It's bad. I wouldn't bring my wife in there." So then I looked, and Mary and I bought it. We got rid of the element that was in there. We cleaned the place up, did a little bit of remodeling and everything, and finally we started bringing the husband and wife and neighborhood trade in. And then Christmas of 1967, a patrolman brought in this list.¹⁶²

The officer was a policeman from the 7th Police District. He had a handful of mimeographed sheets with all of the officers' names in that sector on it. Before handing a copy to Mr. Taylor, he wrote down an amount next to each name. Mr. Taylor described the list:

A: It started out at the top. It had the Captain's name, the Lieutenant's, the Sergeant's and the Patrolman's of the particular area. There was three shifts of them. And then he went on, he added, "I know what each one was supposed to get". He started off, "The Captain was supposed to get a hundred; each Lieutenant, 50; each Sergeant, 15 or 25; and each Patrolman, five dollars". This was a Christmas list.

Q: You say the amounts were written in?

A: He wrote them in, yes, sir.

Q: Were the names typed?

A: Right. They were typed and then mimeographed. The sheet I got was a mimeograph sheet. It wasn't the original.

Q: Then there was amounts written in?

A: He had a whole handful of those things, passing them all around the neighborhood.

Q: Did you ever see any of those lists in other bars?

A: No. I have asked people if they got their list, and they said, "Yes, we got it". Most of them took it and bent it like this (indicating), and threw it away. What they thought they were going to do was pay anyway, regardless.¹⁶³

A few days later Lieutenant Alfred C. P_____ (payroll #15370), who is no longer with the Department, came into Mr. Taylor's bar and asked for his Christmas gift. Mr. Taylor refused to pay, and the harassment began. For the next month both Taylors were constantly stopped and issued tickets for speeding and ignoring stop signs and stop lights, even though there was no violation. At one stop the officer told Mr. Taylor that he did not know why but every officer carried the Taylors' license number and the description of their car. Mr. Taylor's customers' cars were ticketed even though they were parked legally outside the bar. His bartender was arrested for allegedly calling in numbers at 1:10 a.m. long after the betting closed. These acts were accompanied by threats to close the bar because of drugs, numbers, and prostitution, none of which were in the bar. By the end of January, 1968, Mr. Taylor reached the breaking point and decided to pay.

Q: What did you do that made you decide it would be easier to pay? How did you contact the police?

A: He contacted me. It was after they had picked me up. I walked out of the bar at one o'clock in the morning one night, and I was going to see another fellow in the bar and I said hello to him and everything. And the next thing I know, a car pulled up alongside of me with lights blinking. I figured, "Here was another ticket". He said, "Would you come with us and park your car?" So he put me in the back. So we rode around for a while. He said, "You are going to save yourself a lot of harassment". He said, "I'm going to get in touch with you tomorrow. Be in your bar tomorrow morning." He said, "Look, I know you can't afford it. Would you like to be closed for 90 days?" He

said, "We understand—how was this point put—we understand you are—we understand that there is a possibility you are peddling drugs". So I figured right there, "No more. That's it. I quit."¹⁶⁴

Lieutenant P _____ (payroll #15370) called Mr. Taylor the next day and asked him if he had had enough. He instructed Mr. Taylor to put \$100 in a brown envelope and he would come by to pick it up.

Lieutenant P _____ (payroll #15370) did not set up a schedule of payments with Mr. Taylor, but payments were demanded at least once a month. Lieutenant P _____ (payroll #15370) would call and tell Mr. Taylor that he was having problems with Mr. Taylor's bar again. Mr. Taylor would ask how much. The usual payoff was \$30 or \$40.

The harassment and the payments continued into 1970, and the pressure began to wear on Mr. Taylor.

A: . . . It was just like nerves, and you were sitting there and you were waiting for something to happen. Like you figure, well, suppose I haven't got the money to pay him. I says, well, then all of a sudden—she can tell you. There is nothing to worry about, and then I started to drink heavily. My nerves started to get bad. We got to the point—it was the hospital.¹⁶⁵

Mr. Taylor remained in the hospital for over two months. When he got out, "it started all over again". Lieutenant P _____ (payroll #15370) left the District, but a Sergeant came around to remind him to get his money up and various plain-clothesmen began to shake him down:

A: Now, it was always different ones, around every month, two different ones every month. I figured they were switching off in territories.

Q: What would happen when they came in, the plain-clothesmen?

A: He would come in and—come in two or three nights. Well, the bartender can pick them out right

¹⁶⁴*Id.* at 12-13.
¹⁶⁵*Id.* at 16.

away. And they would tell me they would be there in the morning. I used to be there in the morning. I figured one of the mornings in two or three days they were going to be down there and talk to me. I just made sure I had the money in my pocket. Sure enough, without fail, maybe the second or third night, they would come back. They would gamble on that machine. They would say, "Some of these girls are peddling in here. They are soliciting for drinks." Stuff I don't see at night, which never happens. I know that the people they are talking about were guy's wives that would come in and wait for them. If I was there, I would say—no solicitation or anything else. Then they got tight pants. They would say, "Well, we don't want to see you be closed up".¹⁶⁶

Mr. Taylor would give them \$10 or \$25 apiece. He estimated that on the average he paid the police between \$300 and \$400 every month.¹⁶⁷ When the pressure got to Mr. Taylor again, he went back into the hospital and told his wife to sell the bar.

A: . . . It's just—in other words, I figure we spent \$37,000 for the bar and I took—and I actually sweated blood into it. I was working at it a lot of times from seven in the morning to two in the morning by myself week on ends. And the place was really starting, and all of a sudden somebody put their foot on it and kept pushing it down. That's too much. So I told them, "I can't take it anymore. I'm not going to stay in the business".¹⁶⁸

Although the Commission was unable to obtain sworn testimony from other former owners, the results of informal interviews indicate that the Taylors' story is not an uncommon one. Agents interviewed Lemmie Belton who owned a bar in the 26th Police District until late 1971, and still operates one bar in the 24th Police District. He told the interviewers that until early 1972, he had to make weekly payments to the uniformed

¹⁶⁶*Id.* at 20.
¹⁶⁷*Id.* at 21-22.
¹⁶⁸*Id.* at 30.

squads and the captain's men in both districts. However, he has had no trouble "since the probe began." Not all owners were required to make such systematic payments. One man, who owned a bar in the 35th Police District until 1973, told an interviewer that he often paid the captain's men to avoid an arrest. In early 1969, he paid Sergeant (now Lieutenant) Raymond M _____ (#154) \$100 on three different occasions to avoid arrests for operating after hours.

Gambling

Gambling and the establishment of gambling parlors and lotteries have always been popular in America both as a way to raise money and as a way to enjoy oneself. Even before the Revolutionary War, colonies and churches used lotteries as a means of raising revenue. The first permanent colony in America, the Jamestown settlement, was financed by funds raised through a lottery, as were the early colleges of Harvard, William and Mary, and Yale.¹⁶⁹ The Market Square Presbyterian Church, an old established landmark in Harrisburg, was built with revenues received from a lottery. Thomas Jefferson organized a lottery in order to help pay off his personal debts, although he died before the lottery was held.¹⁷⁰ During the period before and immediately after the Revolutionary War, lotteries were a widespread and legitimate means of raising money for both public and private use.

Gambling first came under attack during the 1830's when, after a wave of frauds, Pennsylvania and Massachusetts outlawed the lotteries and policy games. Other states followed suit until by 1870, lottery systems were generally outlawed.¹⁷¹ This trend to prohibit gambling continued until the late 1890's when the federal government outlawed all forms of lottery, and state governments throughout the country prohibited horse betting, card games, and other forms of gambling.

With the wave of prohibitions, gambling was not eradicated or even severely curtailed. Rather, gamblers began to set up quiet illicit operations which were able to operate by paying off police and other public officials. In 1875, a New York State Assemblyman noted that the great number of gambling parlors were able to operate because of the benign neglect of precinct com-

¹⁶⁹M. Costello, "Gambling in America," *Editorial Research Reports* 198 (1972) [hereinafter cited as Costello].

¹⁷⁰H. Asbury, *Maker's Progress* 72 (1969).

¹⁷¹Costello 199.

manders with respect to the state's gambling statutes.¹⁷² During the first part of the 20th century, grand jury investigations in various parts of the country showed that there was a close relationship between gambling payoffs and the existence of widespread gambling.¹⁷³ More recent investigations have shown that this pattern still exists. J. Edgar Hoover, testifying before the Kefauver Committee on Organized Crime, quoted a ranking official of a metropolitan police force who said that illegal gambling has probably been responsible for nearly 90 percent of all police corruption during the history of this country.¹⁷⁴

The corrupt ties between police and gamblers have also existed in Philadelphia. There have been a variety of grand juries probing those ties.¹⁷⁵ Max Goldschein, special prosecutor to the Attorney General of the United States, stated in 1952 that "the racketeering situation in Philadelphia is worse than anywhere I have been."¹⁷⁶ By racketeering, Mr. Goldschein was chiefly, though not exclusively, referring to gambling. In 1966, a federal grand jury substantiated this viewpoint with the statement that gamblers use Philadelphia as the center for sport service gambling because, "they know Philadelphia is one of the easiest places to buy freedom."¹⁷⁷

In his study of the Philadelphia police, Jonathan Rubinstein asserts:

In every district where gambling goes on, there is money for those who want it and are willing to take the risks. "It's there, it's all over the place. All you need are these stripes and you know there's an envelope waiting for you. You know, guys come up to you on the street and ask you to stop here or there. If you want it, it's yours," a sergeant said.¹⁷⁸

Historically, therefore, in Philadelphia as in most cities in the United States, William B. Dickinson's statement holds true: "It

¹⁷²Burnham, "How Corruption is Built Into the System—And a Few Ideas For What To Do About It," *New York Magazine*, August 21, 1970, at 32.

¹⁷³*Id.* at 33.

¹⁷⁴Costello, 208.

¹⁷⁵These were discussed in *Prior Reform Efforts supra* at 74-89.

¹⁷⁶Pennsylvania Crime Commission, *Report on Organized Crime* 27 (1970) [hereinafter cited as *Report on Organized Crime*].

¹⁷⁷*Id.* at 36.

¹⁷⁸J. Rubinstein, *City Police* 394 (1973) [hereinafter cited as *City Police*].

is a maxim in the business that connivance of local authorities is necessary to the success of organized illicit gambling in any community."¹⁷⁹

With these facts in mind, the Crime Commission in the early months of its investigation directed its investigators to make a City-wide survey of gambling activity. Since most of the Commission investigators were new to the Philadelphia area, the Commission believed that if its agents were able to detect widespread gambling, there could be no reason the Philadelphia Police Department could not do the same.

Commission agents found open and flagrant gambling in every area of the City. Gamblers plied their trade in candy stores, variety stores, groceries, restaurants, bars, and clubs. Descriptions of some of these operations appear below following a discussion of the types of gambling the Commission found in the City. Their operations continued uninterrupted day after day, with no apparent interference from the Police Department.

In the case of a number of these operations, the Commission pursued its investigation to determine if payoffs were being made to the police so that the gamblers could operate freely.¹⁸⁰ The Commission found that payments were being made on a systematic basis by gamblers throughout the City. Evidence of these payments was obtained through sworn testimony of gamblers and police officers, tape recorded conversations with gamblers and police officers, and direct observations of payoffs. A discussion of the Commission's findings is presented in the third part of this section.

Types of Gambling

The major forms of gambling in Philadelphia fall into three categories: horse betting, sports betting, and numbers. Horse betting is a gambling system whereby an individual bets on a horse to "win," "place," or "show."¹⁸¹ The system is very similar to the betting method followed at race tracks; the main difference is that one is private, off-track, and illegal while the other is public, on-track, and legal. Sports betting is a term which refers

¹⁷⁹W. Dickinson, "Betting, Legal and Illegal," *Editorial Research Reports* 382 (1934).

¹⁸⁰Because of limited time and resources, Commission agents were unable to pursue every investigation. As pointed out in other sections of this Report, a corruption investigation is difficult and time consuming.

¹⁸¹Win is equivalent to first place in the race, "place," equivalent to second, and show, to third.

to all gambling on sports events other than horse racing; it includes wagers on baseball, football, and basketball games, hockey matches, and prize fights. Of the five, baseball and football are the most popular. The widescale betting reflects the national interest in the sports. Numbers is clearly the most popular form of gambling the Commission found in Philadelphia. Unlike sports and horse betting, numbers requires no special knowledge on the part of the bettor. It is essentially a lottery in which an individual bets on a three-digit number which is determined by adding win, place, and show payoffs of the races at a predetermined racetrack. The popularity of playing numbers stems from the fact that a bettor can win a great deal of money on a small bet. The payoff on the most popular bet, guessing the entire three digit number, can be as high as 600 to 1.

During the Philadelphia investigation, the Crime Commission was able to outline the structure of a variety of gambling organizations. The Commission found that although there may be differences dictated by the nature of the gambling done by each operation, there were striking similarities. The various gambling organizations and types of betting required special methods of determining odds and payoffs. The figures given for payoff values may vary from bank to bank¹⁸² throughout the City. However, the Crime Commission found that both the payoffs and the odds on different bets were essentially standard.

Numbers Betting

The most complicated, yet most common, gambling organization is the large-scale numbers bank. In its most sophisticated form, the bank is headed by a banker or a group of bankers with lieutenants, office men, pickup men, and writers working under them. The banker, besides administering the organization, provides the financial backing for all payoffs on numbers bets. In addition, the banker regulates payoffs to police and provides legal services for the operation. Lieutenants help the banker in these administrative tasks, often settling accounts with writers¹⁸³ and contacting police when mixups in payoffs or arrests occur. Office men act as accountants for the numbers

¹⁸²The term "bank" is used by the gambling community to describe an individual organization.

¹⁸³Accounts are settled usually on a weekly basis.

operations. They receive the bets from the pickup men, tabulate the bets and the results from the race track, and list the winners and the amounts to be paid. They are paid a weekly salary, usually around \$150 or \$200. The pickup men collect the bets from a number of writers and also are paid a salary.

Writers are the most prevalent and most visible members of the numbers organization. A large numbers operation may have as many as thirty writers working for one banker. A writer's sole responsibility is to accept and solicit bets from individuals in a specific area. During the Philadelphia investigation, the Crime Commission found writers throughout the City. Some writers literally stand on street corners in order to accept bets. In many cases, Commission agents found writers who primarily worked out of one bar where they had a little more protection from the weather and the police. A bar may tolerate the presence of a writer either because it is getting a commission on the bets written in the bar or simply because the gambling activity brings in more bar business. Numbers writers may also work under the guise of being owners of restaurants, variety stores, candy stores, or corner groceries. Writers are also known to work out of the factories in which they are employed.

Unlike the other members of a numbers organization, writers work on a commission basis. Most bankers pay their writers between 25 and 35 percent of the numbers bets they accept and turn in. Writers do not always turn in to the bank all of the bets they take. Numerous witnesses told the Crime Commission that some numbers bets of 25 or 50 cents will be kept by the writer. Even if such a bet should be a winner, the payoff would be low enough that most writers would not be financially ruined.

Not all gambling operations are large enough to utilize the previously described structure. The Commission talked to a small banker in South Philadelphia who handled about \$1,500 a week. He had several writers working for him; however, the banker did his own office work in order to cut down on operating costs. This banker had no other means of financial support and was, therefore, in a rather precarious position if he had to pay off a large numbers bet. Certain small bankers are able to avoid this pitfall by using other business enterprises to support the bank. One such man contacted by the Crime Commission was a banker in Northwest Philadelphia whose operation grossed between \$3,000 and \$5,000 each week. In addition to the bank, the man also ran a restaurant. The restaurant provided a

financial cushion for the banker so that he could dispense with giving his bets to a larger bank.

The various sizes of numbers operations has given rise to the existence of "edge-off houses." Essentially, "edging off" means that a banker gives all or part of a large numbers bet to a larger banker. The original banker edges off because the bet, if it hit,¹⁸⁴ could severely hurt the small banker's operation. As one small banker explained it:

I am a numbers writer and I also "edge-off" to a banker when I get big hit bets. I can't hold them all. I may get \$10.00 on a number, I may get \$15.00 on a number. I have to give some of these away to a bigger man. Now I get a \$20.00 number and I can't hold it. This involves \$10,000 payoffs and I don't have that kind of bankroll, so I have to give it to a bigger man, give him \$10.00 or \$15.00 to play so if I get hit I will be able to pay the individual his money.

The winning number on any day is the same throughout Philadelphia, regardless of the organization involved. The number originates through a very complicated process. Seasonally, a single race track is chosen from which the number is determined. The race track and, therefore, the number are the same for the entire City on a given day. In the summer, the track is usually one from New York, while Florida tracks are used in the winter. This fact further illustrates the organized structure of gambling in Philadelphia.

The first digit of the number is called the lead. It is determined by adding together the win, place, and show payoffs for the first three races. The digit immediately to the left of the decimal of this sum is the lead number. The second and third numbers are determined in a similar manner. The total payoffs for the first five races determines the second digit, and the total payoffs for the first seven races at the track provides the formula for the third digit. From this three-digit number, individuals may bet on a variety of combinations reflecting different odds.

The most popular bet is the straight bet on the full number. The odds of winning the full number bet are 1,000 to 1 and the payoff is normally at a rate of 500 or 400 to 1. Because of the large payoffs, players will normally place bets of a dollar or less. Rarely will players wager over ten dollars on a full number unless they are playing a particular "hunch." In addition to the

¹⁸⁴The term "hit" is used by the gambling community to describe a winning bet.

number bets, most writers accept bets on individual digits or permutations and combinations of digits. For instance, players may bet on a single digit guessing the denomination and the placement of the digit. The payoff on single numbers in Philadelphia is normally 8 to 1. Players also place bets on combinations of two numbers. This type of bet is called a parlay and pays off at a rate of 64 to 1. The final bet is a box bet which is a convenient way to bet on six three digit numbers containing various combinations of the same three digits. For example, if a player made a box bet of \$6 on 321, he would win if the track determined number was either 123, 213, 321, 132, 231, 312. The payoff on this bet is the same as the regular three digit number; that is, if any of the player's combination of digits hit, he would win the same amount as if he had bet \$1 on the exact three digit number, although in fact he bet \$6 on any combination of the three digits.

As mentioned above, writers are paid a 25 to 35 percent commission on all numbers they write. Bankers normally request the writers to hold all number bets for small amounts and all single digit number bets. The payoff on either one of these bets is very small and therefore, the writer is taking a small chance in covering the bet himself. The banker desires this because for each single number bet the banker would statistically lose money if he had to pay the writer a 30% commission and pay off at an 8 to 1 rate. Bankers and writers particularly solicit full number bets. At a payoff rate of 400 to 1, the banker, after accounting for the writer's commission (say 30%), makes an average of 30 cents on each dollar bet. In order to further motivate the placing of full numbers bets, bankers give 20% bonuses on the payoff to the writer who wrote the winning bet. The bankers thereby encourage the writers to solicit full numbers bets. Apparently this system works quite well. Undercover Crime Commission agents found that numbers bankers balked at repeated plays on single bets or parlay numbers.

Horse Betting

Horse betting organizations have a structure similar to numbers banks. In fact, some of the larger organizations accept both horse and numbers bets.¹⁸⁵ Like number banks, horse banks depend on a large volume of business because players

¹⁸⁵The Commission learned that the West Philadelphia bank run by James Malterri accepts numbers, horse, and sports bets. Each type of bet is called in on a different phone number. Few banks are large enough to be this diverse.

normally place relatively small bets, usually \$5 to \$10. Thus, a large number of writers and office men are needed.

Horse racing is one of the most popular spectator sports in the United States. Its popularity is reflected in the vast amounts of money wagered on horse races both at the track and through illegal horse writers.

The most popular form of horse bet is the single wager on a horse to either win, place, or show. Bookmakers normally pay off at the same rate as the track; but if the payoff on a long shot is very large, the bookmaker will pay slightly less than the track. The Crime Commission found through its discussions with various writers that the payoff by a bookmaker virtually never exceeds 20 to 1 on a winning horse, 10 to 1 on a second place horse, and 5 to 1 on a third place horse even if there is a greater payoff at the track. The bookmaker reduces the odds in order to insure he will not be financially ruined by any one horse bet.

Undercover agents for the Crime Commission found that occasionally bookmakers accept bets which vary from the normal betting procedure. The most popular one is the Daily Double. The Daily Double is a bet on two horses in two races, the player choosing each horse to win. At the track, the money is placed in a separate pool and the money is paid equally to all winners of the Daily Double. Bookmakers follow the same betting scheme; however, they generally pay off at a rate of fifty to one.

Sports Betting

Sports betting includes wagers on individual games and betting on pools.¹⁸⁶ Organizations which distribute sports pools also have a structure similar to numbers banks. Pool writers told the Commission that normally people will place small bets, rarely over \$10. Thus, many office men and writers are required to handle the large volume of bets needed to keep the bank in business. Additional personnel are required to determine the odds on each football game listed on the pool slips and to actually print up the slips. Because of the increased overhead costs, the odds of winning a pool are rather poor so that the bank may maintain a tolerable profit level.

Wagers on individual games or matches are traditionally very

¹⁸⁶A pool is a printed slip which lists a number of teams and the player may select a number of winners as opposed to one winner in one contest.

large; \$100 bets are not unusual. Therefore, a large volume of betting is not needed and writers become unnecessary. An individual wishing to place a bet with a gambler simply places a phone call to the bank's office. The office men are able to handle all the calls and tabulate the bets. A smaller overhead allows the bank to give better odds to the bettor and still receive a large profit.

Straight betting is a bet on a single game or contest in which the gambler gives or takes points or odds on one of the teams. The betting scheme is constructed so that no matter which of the two teams the bettor chooses he will have a minor disadvantage in the probable outcome of the contest. Straight betting primarily appeals to large wealthy bettors who may not bet on a regular basis but rather are willing to bet on one game for a large amount. The Crime Commission found that the most popular form of the straight bet was the 6 for 5. Essentially this system means that an individual in an even match will wager six dollars in order to win eleven.

Football pools are initiated by the determination of point spreads for individual games. A series of approximately forty games are placed on a card. In each game, one of the teams is handicapped with a certain number of points. The player chooses at least three, and possibly more, teams which he believes will win their respective games. The odds paid off on the bets are determined by the number of games chosen by the player. Football pools played by Crime Commission agents paid off at the following rates on a one-dollar bet: 3 teams, 5 dollars; 4 teams, 10 dollars; and 5 teams, 15 dollars. In order for a player to win the pool, he must have chosen each of his handicapped contests correctly.

Sports betting requires a vast knowledge of the various events being covered by the gamblers. The Crime Commission discovered that many large sports gamblers subscribe to a service which provides them with odds and point spreads on almost all major sports events. Information indicated that sport news services located in Miami, Cincinnati, Chicago, and Nevada may be the sources for odds found in the football pools and the straight betting existing in Philadelphia.

Gambling Activity in Philadelphia

Commission agents found that illegal gambling flourishes in Philadelphia. They substantiated through direct bets and obser-

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Gambling Activity in Philadelphia

Commission agents found that illegal gambling flourishes in Philadelphia. They substantiated through direct bets and obser-

vations of bets¹⁸⁷ 212 illegal gambling operations involving one or more types of gambling activity in locations throughout the City. Scores of other gambling locations were identified through surveillance, sworn testimony, tape recorded conversations, and interviews.

The following is a list of the number of substantiated illegal gambling locations found in each police division:

TABLE 1

Substantiated Illegal Gambling Locations by Police Division	
Central	4
East	60
North	9
North Central	20
Northeast	23
Northwest	10
South	51
Southwest	15
West	20
TOTAL	212

The Commission concentrated its gambling investigation in areas of East, West, and South Philadelphia. However, it received extensive testimony on gambling activity in the northern areas of the City from two police officers who had worked in those areas. This information is tallied in Table 2. Because many locations were involved in more than one type of gambling, Table 2 presents a more complete picture in terms of the number of locations the Commission found to be involved in numbers, horses, sports, games, and gambling devices.¹⁸⁸

The Commission found gambling activity occurred in many different types of locations, making generalizations difficult.

¹⁸⁷For a transaction to be classified as an observation of a bet for the purposes of this Report, the agent had to overhear the placing of the bet and observe the passing of money.

¹⁸⁸In the early months of the investigation, Commission agents began to locate in Philadelphia bars and restaurants gambling machines which were ruled illegal in the late 1950's. The agents traced these machines to their distributors and attempted to obtain similar illegal devices. One distributor told them he would provide them a gambling device only if they were planning to locate it in Philadelphia and not in the outlying counties where the machines would be seized. After the Pennsylvania State Police seized 127 machines in a January, 1973, raid based on

TABLE 2
Locations Involved in Specific Forms
of Gambling Activity by Police Division

	Numbers	Horses	Sports	Card Games and Crap Games	Gambling Machines
Central	1	2	—	—	1
East	17	15	8	3	37
North	6	—	—	3	1
North Central	17	—	—	5	1
Northeast	6	1	2	1	15
Northwest	10	1	2	1	—
South	22	6	5	6	21
Southwest	8	2	1	1	7
West	16	9	6	—	—
TOTAL	103	36	24	20	83

What follows are descriptions and examples of some of the more common types of gambling locations followed by a case study of a middle level bank in West Philadelphia. The examples are not exhaustive; they were selected to provide a brief overview of different types of gambling locations.

Store Front Operations

The variety or candy store was one of the most popular fronts for an illegal gambling operation. Through the testimony of a gambler, the Commission learned that there was a large numbers operation in the M Variety Store, Market and Conestoga Streets. An agent went to that location and attempted to enter the store. The door was locked and manned by a doorman. After the agent told the doorman he wanted some candy, he was allowed to enter but was led to a back counter by the doorman. There was a scant selection of candy. The agent made his purchase and, as he was leaving, noticed five or six people in line

Crime Commission information, the Commission subpoenaed the location owners and the distributors in an attempt to find out why these illegal machines were permitted to exist in the City. From the testimony it received, the Commission was unable to answer that question. However, the Commission did find that there were illegal gambling devices throughout the City, that these machines were used for gambling in that payoffs were made for games won on the machines, and that police were not enforcing the law prohibiting these devices.

at a front counter giving what the agent believed to be numbers plays. Several days later, the agent returned and conducted an outside surveillance. In little more than two and one-half hours, between 10:45 a.m. and 1:30 p.m., 223 persons entered the variety store and exited a few minutes later. Of those 223 persons, only one was seen carrying a bag when she left. After 1:30 p.m.,¹⁸⁹ no one else was permitted to enter the store, and at 1:40 p.m., everyone left the store and it was closed for the day.

It was obvious to the Commission agent that the doorman was only permitting those he knew inside to bet. It would probably have taken an undercover agent a substantial amount of work to gain the trust of those running the operation. Yet all the indications of a gambling operation were there: a variety store in name only, a doorman who selectively allowed persons to enter, large numbers of people entering the store during normal betting hours and leaving a few minutes later without packages, and a closing time shortly after the close of betting. Obviously, M Variety Store is a front for an illegal gambling operation.¹⁹⁰

Other stores used as fronts for a gambling operations were described in testimony before the Commission:

. . . Piggy's was like a confectionery store where he sold candy, I think. I don't really remember seeing anything on the shelf. In fact I have never really been in there other than to look inside. And he didn't really sell much of anything, but the tremendous amount of trade walking in and out of the place, and not buying anything, and staying in for short periods of time, I started wondering.

There was another location. During this same time I was introduced basically to all the operations on my sector. Another one was a cleaners at Twenty-first and Berks Street. . . There was a man in there, I believe his name was Garland Harris; he was writing numbers also. And this was a cleaner. And again, there was a tremendous amount of activity in and out of the place and nobody was bringing in clothes for

¹⁸⁹1:30 p.m. is the "turn in" time for three-digit numbers. The writers must send the bets into the bank at this hour.

¹⁹⁰Nevertheless, this location has not been included in the above Table since no bets were actually seen to take place.

dry cleaning; nobody taking anything out. But you be seeing maybe fifteen people every ten minutes going in and out of the place. So I started wondering.¹⁹¹

Restaurants

A number of restaurants also serve as fronts for gambling throughout the City.¹⁹² While agents ate lunch at Perrie's Restaurant, 10th and Hall Streets, they observed numerous males entering carrying Armstrongs¹⁹³ and proceeding directly to a rear room. The visitors left after a few minutes without purchasing any food or drink.

Acting on information received from a confidential informant, an agent visited the area of the Flamingo Restaurant, 1220 North Broad Street. The agent was able to corroborate the description of the operation which the informant gave. The numbers writer stood on the sidewalk outside the restaurant and pedestrians approached him. After he spoke to two or three for a brief time, he entered the restaurant apparently to call in the betting action. Then he returned to his position outside.

An agent also frequented the M & D Restaurant, 6554 Germantown Avenue, and was successful in placing several bets with the owner-writer. For the most part, action was taken in a backroom. Players would sit at the end of a lunch counter while they waited their turn to bet. A small window had been placed in the wall between the restaurant and the backroom so that the writer could see who entered the restaurant. On occasion bets would be taken over the counter by another employee when the owner was not present.

Bars

A typical bar operation was found in Slug's Bar, 1337 Porter Street. After a week or two of frequenting the bar, an agent of the Commission was able to penetrate the gambling operation

¹⁹¹Weiner, December 5, 1973, N.T. 14-15.

¹⁹²Although Commission agents were able to identify scores of gambling fronts in South Philadelphia, placing bets proved to be a difficult task. No agent had an initial contact who could provide an entree; therefore, it often took agents weeks of visiting a location almost every day before the writer would trust him enough to take a bet. The slowness of this process caused the Commission to move two agents into an apartment in the area in the summer of 1973.

¹⁹³An Armstrong is a published newspaper which contains the latest information about which horses are running at every track in the United States.

in Slug's Bar and place a bet with Burton Freeman, a numbers writer.¹⁹⁴ Bets were placed on a periodic basis through October, 1973, with Mr. Freeman, Dominic Pileggi the owner, and a third writer known as Mike. The betting atmosphere was open; there was no attempt to be discreet.

Mr. Freeman explained to the Commission how he started in the numbers business:

Q: How did you come to get into Slug's Bar; how did you get started taking action there?

A: Well, like I say, I work at Methodist Hospital which is right up the street and I used to go down there for lunch. About two years ago I started, you know. I went in there and there was a little action going on and I played a few numbers myself and then the guy that had it dropped it.

Q: Who was there then?

A: All I know him by is Blackshirt.

Q: What happened to him, do you know?

A: No, I don't.

* * * * *

Q: Okay. Go ahead and tell me.

A: Well, he left and, well, everybody was sitting around with nothing to do. So they said, "Anybody get a number in for me?" So I just said, "Yeah." So that is all.¹⁹⁵

Freeman estimated that he takes in \$300 worth of action each week and receives a 20% commission. He turned in all of the bets to a bank at 1410 Porter Street¹⁹⁶ run by a man named Knighty, whom he classified as a "peon." The small size of the operation is somewhat corroborated by the fact that Freeman

¹⁹⁴In his testimony, Burton Freeman told the Commission that he will not take bets from anyone who has not been in the bar for two or three weeks. Testimony of Burton Freeman before the Pennsylvania Crime Commission, November 8, 1973, N.T. 22 [hereinafter cited as Freeman].

¹⁹⁵Freeman, N.T. 5-6.

¹⁹⁶The phone number to which Freeman called in bets was listed to that address in the name of Kathryn T. Daly. Freeman told the Commission that a woman called Cass often answered the phone. Freeman, N.T. 7.

wrote only leads and parlays. He would never accept a full number bet. Unlike most numbers writers, Freeman never wrote anything down. After he took several bets, he immediately called them into the bank.

Upon entering Angie's Bar, 2661 East Cumberland Street in the East Division, Crime Commission agents overheard a conversation between the bartender and a customer concerning the payoff of a numbers bet. In addition, the agents witnessed the bartender receive about 15 phone calls within 45 minutes; none of the conversations lasted more than two minutes. After each phone call, the bartender wrote something down on a small piece of paper. The bar operated so openly it was virtually impossible for anyone who had any knowledge of gambling not to realize that it occurred at this bar.

Pat Howley's Welcome Inn, 2365-67 East York Street, operated in a similarly flagrant manner. An agent entered the bar and immediately asked the barmaid what the number was. In most parts of Philadelphia, the writer or bartender will not give this sort of information to a stranger. At the Inn, however, the barmaid gave the agent the number and immediately started talking about playing numbers and horses. Crime Commission agents found this form of open operation to be common throughout the East Division. This activity was unlike that which the Commission encountered anywhere else in the City. Although agents had difficulty placing bets, initially, none of the gamblers seemed wary of the undercover agents knowing that gambling was occurring.

With the help of an informant, agents were able to place bets in a number of other bars in the East Division. The pattern of operation was similar to that in other parts of Philadelphia. Each bar had its own writer who was in the bar during the noontime hours. One writer described his pattern of activity:

Q: . . . What would you do on the normal day?

A: I get in there say twelve o'clock and there would be people in the bar and they would give me their horse action and their numbers which I put on the same piece of paper which is rice paper.

I would get one phone call a day from the banker who I turned my numbers into. He called me about two o'clock and I give him all my numbers.

With the horses I had on the slip I would just listen to radio for the results. If the people were there when they had a hit, I would pay them.

* * * * *

Q: Where is the bar located? What District?

A: 24th District.

Q: Do you work in a single bar or several bars?

A: Just one.

Q: What time do you get in there?

A: Usually about twelve o'clock.

Q: What time do you leave?

A: About five, five-thirty.

Q: Do you ever take any action out on the street?

A: Once in a while somebody will give me something and I will try to remember it until I get into the taproom.

Q: Do you ever write on the street?

A: I try not to.

Q: Do you ever take action over the telephone?

A: Yes.

Q: Would you say that is a large part of your business?

A: No, most of the business is the people there in the bar.

Q: Would you rather have phone action as opposed to people coming in?

A: No, I would rather have people coming in. Phone action you get too many people that owe you and don't show up.

Q: What do you write the bets down on?

A: A piece of rice paper.

Q: About what size piece of paper would you have?
Show me and I'll describe it for the record.

A: About two inches wide.

Q: How long?

A: About twelve inches, I guess.

Q: What is the advantage of writing the bets down on rice paper?

A: If the police ever do come in I would deposit it in the water around or the Coke that I have in front of me.

Q: What would happen?

A: It would dissolve.¹⁹⁷

In sworn testimony before the Commission, John Rzymyk, owner of Mickey's Bar, 2663 East Norris Street, told the Commission about his numbers operation. Although he considers himself a writer, he holds all bets up to \$5; anything larger than that, he turns into his banker, James Busk. He estimated that he accepted \$900 each week in bets and turned \$400 into Busk. He received no commission.¹⁹⁸

Mr. Rzymyk also told the Commission that the Shrimp Boat Bar, Gaul and Norris Streets, was part of the Busk operation. Agents began betting in that bar in March, 1973, with the writer, John Hannah. During that time, the agents learned that Busk visited the bar. Indeed the informant who introduced them to Hannah also gave them a statement in which he described Busk making a payoff to a policeman behind the Shrimp Boat Bar.

The Commission learned of a telephone gambling operation through an investigation of the Bull and Barrell Tavern, 3942 Chestnut Street. James McAnally is a West Philadelphia banker who takes numbers and horse action by phone. His phone number is maintained by the bartender in the Bull and Barrell, Willie Milano, who gives the number to trusted bettors. The bettors can call in their bets and leave their money with Milano or they can settle up on a weekly basis with McAnally.

¹⁹⁷Testimony of Mr. R before the Pennsylvania Crime Commission, August 29, 1973, N.T. 8-11 (name withheld as a condition of testifying).

¹⁹⁸This relationship is more akin to a small banker and his edge-off banker than a writer and his banker.

McAnally visits the Bull and Barrell each Saturday around 6:00 p.m. to settle up with Milano and anyone else.¹⁹⁹

The Commission detected the most active gambling in areas of West, South, and East Philadelphia. The results of investigations presented above do not include all of the locations in which bets were placed or observed. However, they do demonstrate the kind of gambling activity which exists in Philadelphia.

Commission agents were successful in infiltrating a middle level gambling operation in West Philadelphia. To illustrate how each operation has certain unique qualities based upon personnel, location, and clientele, a detailed description of the operation follows.

An Overview of a Middle Level Bank

In the area surrounding 64th and Vine Streets in West Philadelphia, Commission agents found a pocket of interrelated gambling operations both in terms of day-to-day operations and police payoffs. In the summer of 1973, two agents began posing as numbers writers and worked in two of the operations. This new relationship allowed open discussion of problems with the police, and several of the conversations were tape recorded.²⁰⁰

Initial contact was made with a small numbers banker in August, 1972. Emil Tucci, who operates his numbers bank from his residence at 6402 Callowhill Street, had become acquainted with one of the Commission agents during a gambling investigation in 1971.²⁰¹ Tucci introduced the agent to his writer, Samuel Polof, and agents began betting regularly with him.

The Commission learned that Tucci handled only numbers action through his bank, which took in approximately \$5,000 per week. Polof wrote both numbers and horses but turned only numbers in to Tucci; he turned his horse bets into Michael Mattia, who operated a horse bank from the Endeavors Club, 334 North 64th Street. Because he was a small banker, Tucci

¹⁹⁹Agents of the Commission were present in the bar on a Saturday when McAnally arrived. They observed Milano pass a large amount of currency to McAnally.

²⁰⁰The Commission also received sworn testimony from several gamblers operating in that area on the condition that their names not be revealed.

²⁰¹The agent was able to maintain his cover throughout that investigation so that Tucci remembered him only in his undercover capacity.

had to edge-off his larger bets; one of his edge-off bankers has been identified as William Fallone whose bank was last known to be operating out of 726 North 64th Street.²⁰²

When agents of the Commission first began their own numbers writing operation, they "worked" for Tucci. The first time that the agents did business with him, one of them went to his bank. The agent entered at 12:15 p.m. and by that time Tucci had already tallied several hundred dollars worth of action.²⁰³ As the agent read off his numbers to Tucci, he was constantly interrupted by others calling. Tucci kept a separate list for each caller. At that meeting it was agreed that the agent would receive 25% for all parlays and straight numbers which were not winners and 50% for all leads after the hits were paid.²⁰⁴

At times Polof took bets inside Chippy's Bar, 6400 Vine Street. Once Commission agents placed bets with him there, they were fully accepted by the employees and patrons of the bar. The Commission has learned that a small gypsy banker operated out of Chippy's as well as a writer for William Fallone who has been described as a medium size banker for Philadelphia.

Anthony Narcise, the night bartender at Chippy's, had been a writer for William Fallone for over 20 years. According to information that the Commission has received, he did not write numbers himself but had a number of subwriters working for him.²⁰⁵ He turned all of the bets, which averaged at least \$3,000 per week, into Fallone. Anthony Narcise only accepted number plays.

Joseph Narcise, Anthony's son, operated solely out of Chippy's Bar and accepted both horse and number bets. He would call the numbers into his bank located at 823 Atwood Street where Jean McElroy tallied the work. If he received a

²⁰²Federal legislation in 1968 and 1970, authorized federal investigators to obtain federal court approved "wiretaps" on major local gamblers. As a result, bankers constantly move the location of their offices to avoid federal raids. When raided, their paper work is seized or destroyed, and they are subject to paying anyone who claims his number play hit.

²⁰³The normal closeout time for betting is 1:30 p.m. and most of the action is called in then.

²⁰⁴In essence, the bookie and the writer split the wins and losses on lead bets.

²⁰⁵Subwriters split commissions with writers. For example, Narcise's subwriters receive 25% and Narcise gets 10% of what they turn in.

large bet, he edged off to Emil Tucci or Michael Mattia. He personally held the small horse bets. If he received a large bet, he edged off to Pasquale Vagnoni, a bookie in the area of 49th and Lancaster Avenue.

The younger Narcise's operation grossed \$500 per week. Joseph Narcise was the second banker with whom the undercover agents number writers did business. He agreed to pay the agents 20% of all the action if there was "enough gross and not too many leads." The agents were amazed at the openness of his operation. Each day when they arrived at Chippy's, Joseph Narcise would be seated at a table writing numbers on 1/2 inch-wide strips of rice paper. There was always an Armstrong on the table for players to use. Often the agents would spend an hour with Joseph Narcise, reading him their numbers and deciding which horses to play themselves. While they were there, bettors would parade in to place their bets. Joseph Narcise took action from at least 80% of the patrons. Joseph Narcise also had another writer, Mike Gallie, a bartender at Chippy's. Agents of the Commission bet with Gallie on numerous occasions. They learned that Gallie turned in his numbers action to Joseph Narcise but turned in his horse bets to Michael Mattia in the Endeavors Club.

Michael Mattia operated a horse bank which also handled some numbers action at the Endeavors Club, 334 North 64th Street. Agents of the Commission were able to bet with him directly even though a banker generally refuses bets from players when he has writers working for him. Agents also bet with Samuel Polof, Joseph Narcise, and on occasion Lou DiVincentis, who turned in action to Mattia.

Mattia's operation, which took in approximately \$6,000 per week, was not as open as that in Chippy's. The Endeavors was the location of the bank, and the financial loss from a raid would be much greater than in a place like Chippy's Bar where numbers and horses are only written. An agent of the Commission learned just how much Mattia guarded his operation. After gaining entry to the club, the agent proceeded to a rear counter where Mattia sat, accepting action over the phone. He questioned the agent at length²⁰⁶ and then gave him a scratch sheet.²⁰⁷ When the agent took out a written

²⁰⁶It was only the agent's second visit to the club and Mattia was still suspicious.

²⁰⁷The scratch sheet is a list of horses which are not running in races in which they were originally scheduled to run.

list of horses he wished to play, Mattia became enraged and ordered the agent to leave until he got rid of the slip. Mattia did not want any paper not under his control inside the club.

Because Mattia's operation was relatively small, he did not hold all of the large bets. He edged off at least some of his large numbers bets to William Fallone.

William Fallone was the largest banker among this group of operations even though he handled only numbers bets. His gross has been conservatively estimated as over \$10,000 a week, making him a medium size bank for Philadelphia. He moved the location of his bank once a month; in late 1973, his bank was located at 726 North 64th Street. He had, according to one gambler, "quite a few" writers, but he did not have any office men. He did all of the tally work himself. In addition to Anthony Narcise, the Commission has learned that his writers include Daniel Falcone, his brother-in-law, who turns in over \$3,000 each week, and Anthony DiFederico, who turns in about \$1,500 each week.

Fallone visits his writers or meets with them at a prearranged location every day in order to pick up their work. Commission agents observed one of these meetings on November 8, 1973, on Media Street. They approached Fallone's car and spoke with him; and at that time, they were able to observe the number slips.

As was stated before, Fallone also serves as an edge-off banker for other operations in his area. Occasionally, Fallone would receive too many bets on one number or a large bet that he did not feel secure in holding. The Commission was unable to learn if he edged-off to one of the larger banks but a gambler testified that at times he gave action to the smaller banks who edged-off to him:

Q: I assume people edge off to him, because he is paying six to one.

A: Oh, yeah. They work, like four or five of them work together. Like the two fellows that you just mentioned.

Q: Emmy Tucci and Mike Mattia?

A: Yeah.

Q: In other words, they edge off to him?

A: Like, if they get something big they give it to him. They switch.²⁰⁸

Security Precautions Taken by Large Scale Bank

Although each of the operations in the 64th and Vine Streets area is independently run, the extent of their interdependence is striking. Through their connections in the Fallone organization, Commission agents were able to gain entry to one of the banks of a large operator in the same area of West Philadelphia to observe the precautions taken by a large bank each day to protect its large volume of work.

James Maletteri operated primarily from the Fab Tram Club, 902 North 66th Street, and the West End Golf Association, 6561 Haverford Avenue. Because his operation was large, Mr. Maletteri could handle more than one type of bet. One gambler testified before the Commission:

Q: Do most writers or bankers that take numbers action also take horse action or are they normally separate operations?

A: I will give you an example. There is a guy at 66th and Haverford. . . .

Q: James Maletteri?

A: Yes, his place.

Inside they've got maybe two guys working horse phones, two guys working numbers phones and two guys handling sports phones.

An operation like that handles three different things.

* * * * *

Q: Most writers will handle a single type of action, but a large banker will handle everything?

A: Right.²⁰⁹

²⁰⁸Testimony of Mr. A before the Pennsylvania Crime Commission, November 9, 1973, N.T. 12 (name withheld as a condition of testifying) [hereinafter cited as Mr. A, November 9, 1973].

²⁰⁹Testimony of Mr. J before the Pennsylvania Crime Commission, October 29, 1973, N.T. 9-10 (name withheld as a condition of testifying).

Commission agents were able to penetrate this operation once it became known that they were trusted by Emmy Tucci. Initial bets were made with Carlo Bellotti, a writer who worked for Maletteri and operated from Bob's Bar, 66th and Lebanon Streets. Bellotti, in turn, provided them an entry into the Fab Tram Club. Over a period of four months, Commission agents placed bets with the three office men, John Capriotti, Caesar Gramenzi, and John Pastori, and attempted to learn more about the operation. However, this proved difficult because the agents could only remain a few minutes without raising suspicion.

Not only were the office men constantly on their guard about those who came into the club, but the club itself was built like a fortress. Entrance could only be gained through a front door because the back door was barricaded shut by a 2" x 4" wooden lock bar. The front entrance consisted of two bolted metal doors. In order to enter the club, an agent would press a buzzer outside the building; and the doorman would let him into the club by first opening the outside door, lock the agent in the vestibule between the two doors, and then by opening the second door. Inside the club there were buckets and sinks of water at key positions so that work which was recorded on soluble rice paper could be destroyed in the event of a raid by police.

Acting on information received from the Crime Commission, members of the Pennsylvania State Police conducted such a raid on June 20, 1973. The State Police estimated that at least half of the paper work was destroyed before they were able to seize it. However, that paper which was confiscated still reflected \$4,000 in sports, horse, and numbers bets for that day.

Gambling Corruption in Philadelphia

The above descriptions and case studies are not an exhaustive accounting of the Commission's investigative effort. Rather they provide a description of the types of ongoing gambling activity in Philadelphia and demonstrate that gamblers continue to operate in a blatant manner without interference from the police.

Many of the factors which indicated the existence of gambling to Commission investigators should also indicate the possible existence of a corruption problem to police officials. In New

York, for example, the Police Department issued a Corruption Control Manual following the revelations of the Knapp Commission. It contains a description of corruption "hazards" followed by a listing of indicators of the problem. The gambling hazard was defined as:

The acceptance or solicitation of money and gifts by members of the department from individuals involved in illegal gambling activities to overlook violations of law relating to gambling.²¹⁰

The "indicators of problem" bear a striking resemblance to much that Commission agents observed in Philadelphia:

Known gambling locations allowed to operate within the confines of the precinct without proper intelligence reports being submitted by members of the command.

Parking condition in vicinity of suspected premises (especially during evening hours) indicating possible organized card or dice game.

Large number of persons entering a business establishment (candy store, shoe shine parlor, grocery store, etc.) and leaving shortly thereafter without having made a purchase.

Numerous observations of known gamblers at specific locations.

Members of the command, while on or off duty, observed consorting with known gamblers or frequenting locations suspected of gambling activity.

Failure by the patrol services to correct public nuisance conditions relating to gambling.

The receipt of written and oral communications alleging that members of the command are permitting such activities to take place.²¹¹

Although gambling as a source of corruption has not been officially recognized by the Philadelphia Police Department as it was in New York, Chief Inspector Frank Scafidi, in testimony

²¹⁰New York City Police Department, *Corruption Control Manual* 18 (n.d.).

²¹¹*Id.*

before the Commission, stated that the men in the Internal Security Unit undertake surveillances of locations "where there has been a history or experience of vice activity . . ." ²¹² When asked if ongoing vice activity at a particular location was an indication of some problem of police performance, Chief Inspector Scafidi said that where there is a "blatant and flagrant operation," it could indicate "corruption" and "collusion." ²¹³

The Commission found that Chief Inspector Scafidi's assessment was correct for numerous gambling operations throughout the City. Evidence was received by the Commission of widespread and systematic payments to police to protect illegal gambling operations.

There is a historical tradition of gamblers paying police which has grown and been maintained because of the nature of the business. Essentially, gambling is a widespread operation that requires stability and visibility at the low levels in order to operate. Profits in gambling do not come from infrequent large bets but rather from a large volume of frequent small bets by neighborhood people. The gamblers therefore must provide a location or phone number where the bettors can always contact the gamblers in order to place their bets. This means that many people know the location of an illegal gambling operation. When people know the location of a gambling establishment, it is virtually impossible for the gamblers to hide the operation from the police. Once the police know of a stable, lucrative gambling operation, police arrests, or police harassment and the financial burden which accompanies them, can put a writer or a banker out of business. Therefore, the gamblers pay the police because that is the only way they may operate free from disruption.

Gamblers are willing to pay a tariff to the police because of the profits involved in illegal gambling. In 1970, the Pennsylvania Crime Commission estimated that approximately 240 million dollars is wagered on numbers alone each year in Pennsylvania. ²¹⁴ In its present investigation, the Commission found bankers who took in an estimated \$10,000 gross income each week. Even a small banker received a gross weekly income of \$1,500 to \$3,000.

²¹²Scafidi, July 10, 1973, N.T. 79.

²¹³*Id.* at 80.

²¹⁴*Report on Organized Crime* 26.

During the Philadelphia investigation, the Crime Commission found that it is much more likely for a large established gambling bank to pay the police than a smaller, gypsy operation. Large banks with their numerous writers in stores, bars, and clubs cannot successfully hide from the police. Large bankers believe that it is much easier and, in the long run, cheaper to pay the police than attempt to hide from them. Small banks, on the other hand, are much more successful at avoiding police payoffs. A gambler who ran a small operation in South Philadelphia stated that if the police request a monthly tariff he merely moved on to another district. His business is not stable and moving his operation is not particularly detrimental to his work. ²¹⁵

Payoffs from a gambler's view, as we have already illustrated, is for a rather straightforward reason; economically, it is more profitable for the gambler to buy protection than to take the losses which result from his having to destroy the work during a raid or to pay attorney's fees, court costs, and fines as a result of arrest.

The reason for the acceptance of these payoffs by the police, however, revolves around more complicated motivations and social pressures. First, prohibition or legitimacy of various forms of gambling have placed gambling in a very ambiguous position within the United States, and more specifically within Pennsylvania itself. State lotteries are tolerated while similar betting schemes, numbers and policy, are outlawed. Horse betting is legal at the race track while it is outlawed in bars or clubs.

The Police Department, composed of members of society, reflects the confusing status of gambling. The allocation of resources, both manpower and money, by the Police Department does not reflect a desire on its part to eradicate the large gambling organizations which thrive in Philadelphia. Although every officer is charged with investigating gambling, there are not a sufficient number of effective undercover investigators nor are there funds available to enter into and expose the large operations which are the mainstay of gambling in Philadelphia. Yet the unofficial but clear policy of the Department requires just a substantial number of gambling arrests be made, though there is little emphasis on the quality of arrest or whether there

²¹⁵Tap e recording made by Crime Commission agents of conversation with Red Oлива, February 28, 1973. See note 254 and accompanying text.

is a conviction.²¹⁶ Commanders at the district and division levels judge the effectiveness of an officer partly by the number of vice arrests he has made during a particular time period.

In addition to the ambivalent policy of the Department toward gambling law enforcement, police officers must contend with the ability of gamblers to protect their operations. In bars, clubs, or other public establishments, most writers record the bets they have received on a small piece of rice paper. Rice paper dissolves on contact with water; therefore, if the writer is raided by the police, he is able to destroy the evidence immediately by placing the paper in water. Without the evidence of recorded bets the police cannot legitimately arrest the writer. A technique employed by bankers is the extensive use of the telephone. The banker receives action from his writers over the phone and has very little contact with the public. Thus the police have a difficult time getting information about or observing that operation because it is illegal for state officials to tap telephones in Pennsylvania.

Coupled with these problems are the strict legal guidelines which an officer must follow in getting a search warrant, conducting a search, and making an arrest. Because he does not have the resources to conduct a thorough investigation, he cannot usually adhere to these standards and resorts to illegal tactics in order to make an arrest. He feels safe in using these tactics because the Department cares only about the quantity of arrests, not the quality. Jonathan Rubinstein, who spent two years studying the Philadelphia Police Department, comments in *City Police*:

The district policeman is well aware of the department's "official" policy toward vice, but he also knows that its purpose certainly is not the eradication of gambling or illegal drinking. All vice activity is computed on the basis of arrests, a policy that is not designed to encourage men to make quality arrests. It also encourages an indifference to the method by which the arrests are made. . . .²¹⁷

Even when an officer does make a good arrest, it is unlikely that the gambler will be severely punished. A study

²¹⁶See *City Police* 377.

²¹⁷Id.

conducted by the Crime Commission of 1972 arrest data showed that arrests for gambling in Philadelphia normally result in discharges, regardless of the gambler's position within the bank. The statistical results of the gambling arrests are as follows: 91.6% of all those arrested were acquitted or had their cases dismissed, most of these at the pretrial hearing; 2.9% were given probation; 4.0% were given light fines (never more than \$500); 1.1% were given suspended sentences; and only 0.4% of all those arrested were sent to jail.²¹⁸ A random check of the individuals sent to jail showed that the punishments were not substantially stiffer for more important members of gambling organizations than for lesser members.

The arrest records of three major bankers, Theodore Demko, James Jackson, and Anthony Cholewiak support this hypothesis. Despite the fact that all of them have been involved in gambling since 1960, and they all have long arrest records, none of them were sentenced to jail on their most recent gambling convictions. They were sentenced to one or two years probation or a fine of about \$300 and court costs. For men who accept thousands of dollars worth of gambling action each day, this type of punishment is obviously not severe enough to act as any kind of an effective deterrent.

Police officers, realizing that gamblers will not be punished, become justifiably cynical about their ability to control a crime that apparently no one truly wishes to control. In addition, pressure from the Department for gambling arrests has forced them to engage in unconstitutional practices. At this stage, police officers become amenable to accepting money not to enforce a law which they believe has marginal moral justification and can only be enforced by illegal conduct on their part.

The Commission found that police throughout the City accept money from gamblers to protect their illegal operations. Although there are a variety of ways for gamblers to pay police in Philadelphia, the favored system is the payment of a monthly lump sum by the banker to a "bag man" for the police. In this system, the banker will be responsible for payments to one man in each uniformed and plainclothes unit.²¹⁹

²¹⁸The Commission compiled these statistics from data supplied to it by the Philadelphia Police Department.

²¹⁹There are four squads of uniformed men in each district which have responsibility for a particular location, as well as captain's men, inspector's men, and men from the Chief Inspector's Squad who are all in plainclothes.

This single contact method of payoff reduces the contacts between the police and the gambling bank. In this manner, the payoff system is less apt to be detected. Occasionally one of these police units or some officers in it will not accept payments. The bank will then pay those who will accept the money and try to avoid the others. The structure of the police command is such that payment to one unit cannot insure the protection from all units.

One South Philadelphia gambler who was formerly employed as an office man by a large numbers bank²²⁰ told the Commission in a sworn statement that a large operator will solicit police protection right from the start. Initial contact is usually made with the uniformed officers who may stop one of the bank's writers on the street. At that point, the banker will contact someone in the Police Department who will set up a meeting with an officer in the squad that stopped the writer. Payoffs will be arranged. Eventually the other uniformed and plainclothes squads will become aware of the bank's payments to the first squad. They will either follow the process of stopping a writer or may approach the banker directly. The banker, of course, wants the best protection available and will attempt to pay as high a ranking officer as possible.

According to the South Philadelphia gambler, the uniformed squads are paid when they work the 8:00 a.m. to 4:00 p.m. shift. This is the only shift which has to be paid because most of the gambling occurs during these hours. Each squad has the day work shift once every 24 days. From its investigation, the Commission has determined that the average payment is \$5 for each patrolman concerned, \$10 for the sergeant, and \$15 for the lieutenant. The bagman for the squad generally picks up the money for his squad on the last day of the day work.²²¹

The amount of money paid through the bagman each month remains the same despite the assignment to or reassignment of men from his sector. According to the testimony of a Philadelphia police officer, it is the police officer's duty to make sure he receives his share. Otherwise, the bagman will pocket it.

²²⁰The bank employed 30 to 40 writers and took in a gross total of \$5,000 to \$6,000 per day.

²²¹Paying uniformed men on the 8:00 a.m. to 4:00 p.m. shift apparently was an arrangement which prevailed throughout the City. However, a police officer who worked in the North Central area testified that the bagman "made rounds" on the first day of the shift. Weiner, December 5, 1973, N.T. 17.

The officer recalled an incident when he was temporarily assigned to an emergency patrol van with Patrolman Richard S_____ (#3157). Officer S_____ (#3157) kept a list of approximately ten numbers operations from which he was to receive money.²²² He wanted to make sure the bagman did not cheat him.²²³

The plainclothes squads are paid a certain sum every month, although traditionally half of the amount was paid on the first of the month and half on the fifteenth. However, it appears that the current risk involved in collecting the money due to corruption probes has resulted in payments only once a month, often within a week of the first. From its investigation, the Commission has determined that payments to the various units may range from \$20 to as much as \$50 per man. Of course, the captain or inspector, if involved, will receive a larger amount. The South Philadelphia gambler told the Commission that his bank paid the captain and his four men \$120 each month. As with the uniformed squads, there will be a bagman for one or more of the plainclothes units.

This system is well illustrated by the operation of William Fallone which is located in the 19th Police District. A gambler intimately involved with the gambling operations in the area of 64th and Vine Streets testified before the Commission about the payoff system. He testified that Mr. Fallone pays \$65 to each day work shift of uniformed men in the 19th District. The sergeant receives \$45 for himself and his men;²²⁴ the lieutenant receives \$15; and the corporal in charge of the precinct station gets \$5.

Q: How are those payments made? Is it like a meet or—

A: Well, they like meet every day, day work. A certain guy picks it up.

Q: Where does he go to pick it up?

A: A lot of time they have a meet or over his house.²²⁵

²²²One of the locations on the list was Tom Montgomery's Barber Shop, 11th and Dauphin Streets.

²²³Weiner, December 5, 1973, N.T. 21.

²²⁴The witness believed that the sergeant kept \$10 for himself and distributed the rest to his men.

²²⁵"His house" is that of William Fallone, 216 North 64th Street.

Q: In other words, they will go right up to his house?

A: That don't bother them.

Q: They drive right up in squad cars?

A: Oh, yeah.

Q: Does one person pick up the money for everybody?

A: For every daywork?

Q: Right. In other words, will one person come in and pick up the sixty-five dollars?

A: Yes.²²⁶

Fallone also makes payoffs to the uniformed squads for Michael Mattia and Emmy Tucci. Each week, Tucci and Mattia deliver \$50 to Anthony Narcise at Chippy's Bar, and the money is passed on to Mr. Fallone who gives the entire \$165 to the squad's bagman. The police refuse to take money directly from Tucci and Mattia because they simply do not trust them.²²⁷

The captain's men and inspector's men are paid by Fallone during the last week of the month. Prior to September, 1973, both units received a total of \$350 per month; however, because the Commission's investigation provided an additional risk, the amount was increased to \$450. There is a single bagman for the two units, and he has been identified as Patrolman Anthony M. _____ (#2940).²²⁸

The procedure for setting up a payoff is somewhat unique in this type operation. All communications between the police and the Fallone operation were made through the William Penn Civic Club, 52nd and Master Streets. Officer M. _____ (#2940) would contact the bartender at the William Penn and set a date and time for Mr. Fallone to meet him there. The bartender would call Anthony Narcise at Chippy's Bar, who would relay the message to Mr. Fallone. Agents of the Commission observed and photographed Mr. Fallone and Officer M. _____ (#2940) entering the club for a payoff on December 4, 1973. The Com-

²²⁶ Mr. A, November 9, 1973, N.T. 21.

²²⁷ Id. at 26-27.

²²⁸ Officer M. _____ (#2940) was one of the officers who met with John Hollowell in the Creation Club to receive money. See *supra* at 142, 144.

mission had received word from a gambler familiar with the Fallone operation that a payoff was to occur there on that date; this same gambler later told the Commission that Mr. Fallone had paid Officer M. _____ (#2940) between \$300 and \$400 at that meeting.

Fallone's payments apparently provided a sufficient umbrella of protection to cover the small independent operation of Joseph Narcise. Mr. Narcise was never required to make systematic payments to any unit. However, two plainclothes officers in the 19th District, William J. K. _____ (#3987) and Charles D. _____ (#1327) learned of Narcise's operation and extorted amounts ranging from \$20 to \$75 on a variety of occasions. On September 18, 1973, undercover agents who were working as numbers writers for Mr. Narcise were present at Chippy's Bar when Mr. Narcise received a phone call from Officer K. _____ (#3987) instructing him to meet him at Ray's Bar, 63rd and Lancaster, for a payoff. Mr. Narcise paid Officer K. _____ (#3987) \$20 on that occasion.

In return for the money they pay, gamblers are supposed to receive protection from arrest, and more importantly, protection from disruption of their businesses. Most gamblers are not afraid of arrests because they know that even if they are convicted they will receive at most a relatively small fine. However, when their locations are raided the paperwork must be destroyed,²²⁹ and that often results in financial loss. With no record of what number each bettor played,bettors can and often do claim they hit the numbers even when they did not.

Despite the payment of large sums of money, there still are raids. At times the gamblers are warned, but sometimes the raids are very real. On those occasions, the officers on the payroll will tell the victim of the raid that the "undercover man" turned him in.²³⁰ Each plainclothes unit has an undercover man whose identity is kept from the people in the area in which he works. He turns in his information to other members of the squad who prepare the search warrant and conduct the raid.

A warning of a raid may come directly from the police or through a third party. For example, the Fallone operation was contacted by the bartender at Ray's Bar²³¹ and was told,

²²⁹In a raid, the officers normally will not overlook evidence. If it is there, they will seize it, or at least some of it.

²³⁰Mr. A, November 9, 1973, N.T. 28-29.

²³¹Ray's Bar, 63rd Street and Lancaster Avenue, is a current "hangout" for police and serves as a type of communications center for the area.

... tell your man not to have anything on him because they are going to pick him up tomorrow."²³² One gambler in Northwest Philadelphia would get a call either from his banker or the police and was told, "Expect a visitor tomorrow," and he always received the "visitor." A former Philadelphia police officer in sworn testimony to the Commission explained that on occasion the word comes from "downtown"²³³ to arrest a major gambling figure. If the gambler is paying, the officers in the unit designated to make the raid will consult with the gambler and make the necessary arrangements. The gambler is even allowed to select the day of the raid as long as it is within the time period in which the officers have to make an arrest. In all of these cases where there is a warning, there is never sufficient evidence present at the time of the arrest to make a case that will go to trial and result in a conviction.²³⁴ One service provided by the uniformed squads is to warn their "steady notes" that the Chief Inspector's Squad or the Federal Bureau of Investigation has agents in the area.²³⁵

Sometimes the warning systems must be intricate to be effective. For example, James Maletteri had a special code word, "Linton," with Officer James M. _____ (#2825) of the Chief Inspector's Squad whom he was paying. The word was selected because Officer M. _____'s (#2825) girlfriend worked at Linton's Restaurant, and she was the one who passed on the warning to Maletteri. Officer M. _____ (#2825) used her as a go-between because his lieutenant was always suspicious of someone in the squad being on the take.²³⁶

Once the word is passed out from the police, it spreads like wildfire and everyone begins taking precautions. On one

A. Like he's the information bureau. If something happens they [gamblers] get a hold of Ray . . . and he gets hold of one of them [police] and wants to find out what's the matter.

Q. In other words, he is sort of a conduit between the police—

A. Yeah.

Q. —and the people in the area?

A. Yeah.

Q. If you wanted to talk to a policeman would you contact him?

A. I'd get a hold of him. You couldn't go to the district.

Mr. A, November 9, 1973, N.T. 23-24.

²³²Mr. A, November 9, 1973, N.T. 30.

²³³"Downtown" indicates that a high police official working out of the Police Administration Building wishes an arrest to be made.

²³⁴Ruff, December 31, 1973, N.T. Ex. 2, p. 16-17.

²³⁵Weiner, December 5, 1973, N.T. 99.

²³⁶Tape recording made by Robert J. Weiner, January 4, 1974, on file at the Pennsylvania Crime Commission (verified on February 6, 1974).

occasion Commission agents were in the 64th and Vine area and noticed that all the gambling operations had tighter security than usual. For example, Samuel Polof, normally a street writer, was taking all of his action inside. As one agent stood in front of the Endeavors Club, he overheard one of the bettors say, "They should've hit by now, there's two of them sitting in a car." The raid did not take place that day and on the following day, Polof told the agent to be careful because the police were getting ready to hit.

The Caesar Nelson operation located primarily in the black North Central area of the City is so extensive that it pays by location. Nelson himself makes payments apparently to cover himself and his immediate operation. However, separate payments are also made by some of his office men and writers. Two police witnesses who testified before the Commission both worked as uniformed patrolmen in this area. Former Police Officer Felix Ruff told the Commission that he received his first note as a policeman from the Nelson operation. In January, 1968, he began receiving \$5 each day work shift from Nelson.

The money was given to him by the bagman for his district, Patrolman Joseph A. R. _____ (#1258): "... I received the basic note from Caesar from that point until I was assigned in plainclothes in 1970, but with different payments."²³⁷ He received \$5 as a beatman. When he was assigned to a patrol car, the amount rose to \$8 because a car would be able to cover more of Nelson's activities. A patrol wagon which covered even more area was paid \$10.

When asked how he knew that Nelson was actually paying the money, Mr. Ruff described an incident which occurred when he "sneaked" a search warrant out of the station house and raided an office of the Nelson operation. The raid was successful, and he was able to seize most of the work, but both his sergeant and his lieutenant quickly arrived on the scene and tried to talk him out of pursuing the case. He refused to drop the matter completely but finally agreed to shave the evidence.²³⁸ He received \$50 for his cooperation.²³⁹

Officer Robert J. Weiner worked in the North Central area from 1966 to 1969, and from 1970 to 1972. During both

²³⁷Ruff, December 31, 1973, N.T. Ex. 1, p. 7.

²³⁸To "shave" evidence means not to turn in all of the evidence seized. Usually only enough is turned in to justify the arrest but not enough to support a conviction.

²³⁹Ruff, December 31, 1973, N.T. Ex. 1, p. 30-32.

periods he received money from the Nelson operation. The first bagman to give him money was Patrolman John R. _____ (#8073) and during the second period he received payments through Patrolman Lawrence F. _____ (#4920).²⁴⁰ Officer Weiner testified that he personally received notes from the following additional operations in North Central Philadelphia:

Piggy's (candy store)—\$5
1900 block West Susquehanna Street

Garland Harris (cleaners)—\$5
21st and Berks Streets

William Alexander (office for Nelson)—\$10
22nd and Seybert Streets

Officer Weiner was also aware that the following Nelson locations were paying even though he did not personally receive money from them:

Henry Dorsey (grocery store)
Gratz and Jefferson Streets

Black Jimmy (street writer)
Tower Apartments, Broad Street and Girard Avenue

Mr. Weiner concluded, "Caesar Nelson was just out and out paying off the whole District."²⁴¹

Not all bankers pay the police directly as a regular practice.²⁴² The Commission interviewed a small independent banker operating in Northwest Philadelphia who stated that for the past five years he has paid his edge-off banker \$300 per month for police protection.²⁴³ The edge-off banker added another \$300 and paid the police directly. The police actually assisted the banker in locating an edge-off banker:

Q: How did you first get on the payroll with the

²⁴⁰Weiner, February 6, 1974, N.T. 15, 22.

²⁴¹Weiner, December 5, 1973, N.T. 71.

²⁴²Unlike the situation with Michael Mattia and Emry Tucci, the reason is not always mistrust of a specific individual but often a desire to minimize the number of contacts between gamblers and the police.

²⁴³The banker told the Commission that he grossed between \$3,000 and \$3,500 each week. As a condition of the interview, the Commission agreed to withhold his name.

policemen? I mean did you just go up to them or did they approach you?

A: No, the first time I was pinched. I started out small, I didn't have a banker at the time and a policeman suggested that they knew a very good banker who had money and would be able to help me out and I'd be able to operate there without too much interference if I went with him.

Q: And he introduced you to the banker?

A: They contacted me, yes.

Q: The banker?

A: Right.

Q: And did they mention that the police officer mentioned your name?

A: No, they didn't mention the police officer, they just said they heard you needed a banker, and they could afford protection. They mentioned that.²⁴⁴

The bank, subsequently identified as the operation of Pasquale Biondi and Chester Lubiewicz ("Pat and Bubbles") paid \$600 which covered the plainclothes units and the lieutenants and sergeants commanding the uniformed squads. Former Officer Felix Ruff testified that he was an inspector's man in the Northwest Division in 1970-1971, and received \$75 per month from "Pat and Bubbles." He was told that this money covered the smaller banker interviewed by the Commission; and on several occasions, the officer picked up money directly from that banker. Former Officer Ruff also testified that he personally picked up his unit's Christmas notes from Pat and Bubbles in 1971 when he received \$420 from Harry Della Porta, a writer for Pat and Bubbles.²⁴⁵

Although Pat and Bubbles handled most of his police protection, the Northwest banker was responsible for the patrolmen on his beat. He told the Commission that these officers did not demand a regular note, but they would periodically approach him and tell him that they knew what he was doing. He paid each man \$5 on each such occasion.

²⁴⁴Tape recording between Crime Commission agent and Mr. F, March 18, 1973.

²⁴⁵Ruff, December 31, 1973, N.T. Ex. 2, pp. 4-5, 37.

Because he did not pay the police directly, there was anticipation that the police might not know when they stopped him that he was protected. Therefore, a code word was devised. The banker described how it worked:

Q: How did you know these police officers received the money you paid the banker?

A: Well, the banker told me that if I ever was in trouble with the squad, that I should pass a certain word on to them and this word would automatically put them on notice that I was one of the protected ones. And if they had to make an arrest, it would be a very small arrest and it would be very little evidence which would have no danger of going to court or hurting me in any way.

Q: Have you ever had occasion to use the code word when policemen came to you?

A: Yes.

Q: And what was the result of this?

A: The result was that I got preferential treatment.

Q: What do you mean by that?

A: They said they wouldn't do anything to hurt me, but they had to take me in or they had to do this and that they would make sure that I wouldn't be held for court.

Q: In other words, they would shave the evidence?

A: Exactly, if they found three slips they'd only hold one on me.

Q: Just enough to make the arrest but not enough to hold you for court?

A: Exactly.²⁴⁶

A variation on the indirect payment scheme came from a writer operating out of a bar in the East Division. This writer paid the plainclothesmen in his area, and another bookmaker took care of the uniformed squads. The writer had originally

²⁴⁶Tape recording between Crime Commission agent and Mr. F, March 18, 1973.

taken care of all the units on the payroll and told the Commission how the payments were arranged:

Q: Why did you have to start paying yourself?²⁴⁷

A: Well, two years ago there was a big expose in the paper and everybody either got out or went undercover with what they had and the few people who remained had to pay to stay in the business.

Q: How did the contact between you and the officer you are paying, how did that take place?

A: The banker set it up before he went out more or less.

Q: Did he say anything to you?

A: He said somebody would get in touch with me. If I wanted to work, somebody would come around and see me.

Q: Did that happen?

A: Yes.

Q: What happened when they came in? Were you arrested?

A: No, they said, "we understand that you are going to work. This is what it is going to cost you to stay and operate."

Q: Were you able to negotiate?

A: No, they had determined the price.

Q: Do you know whether other people pay the same price?

A: Yes, more or less.

Q: It was a fixed price?

A: It seemed to be, yes.²⁴⁸

²⁴⁷Prior to paying on his own, the writer worked for a banker who took care of police protection. The writer was required to contribute between \$180 to \$200 each month depending on his winnings.

²⁴⁸Testimony of Mr. R before the Pennsylvania Crime Commission, August 29, 1973, N.T. 18-19 (name withheld as a condition of testifying) [hereinafter cited as Mr. R].

When he paid them, the uniformed squads received \$45 each day work shift. The writer identified the following officers that he had been paying within the last two to three years:

Policeman Orville R. _____ (#2250), 24th District
Policeman Robert R. E. _____ (#3713),²⁴⁹ 24th District
Policeman George C. _____ (#2570), 24th District
Policeman Leo S. _____ (#7326),²⁵⁰ 24th District
Policeman James J. S. _____ (#3204), 24th District

The writer paid the captain's men \$60 per month and the bag man picked it up "the first of the month." The inspector's men received \$80 each month. Officer William H. _____ (#5196) was identified as the pickup man for that unit which worked under Inspector Anthony W. _____ (payroll #34980). He also testified that the notes were simply doubled at Christmas and vacation time.

Like gamblers in other areas of the City, those in the East Division must suffer arrests even though they pay for protection. The writer who testified before the Commission described what happens:

Q: When you began to make payments to the various individual police officers, were there any arrangements made for what they call "accommodation arrests?"

A: Yes.

Q: When was the last time that happened?

A: It's been a year or two, I guess, since an accommodation arrest.

Q: What happens when one of those takes place?

A: Well, they let you know when they are coming over and you don't have anything on you and they take you down and fingerprint you and mug you, but the magistrate doesn't have any evidence to hold you so they let you go.

Q: What is the reason for arresting you then?

²⁴⁹The writer testified that Officer E. _____ (#3713) was a captain's man at one time and he also paid him in that capacity.

²⁵⁰This officer was also paid as a captain's man.

A: I imagine to make it look good for them.

Q: Do you have to destroy your work when they come in?

A: No, I just don't have any with me, that's all.²⁵¹

Although very small bankers are generally able to avoid contact with the police by constantly moving the location of their bank, they do at times get caught and shaken down by the police. In these situations, they, unlike a larger banker, attempt to pay as few police officers as possible.²⁵² The Commission had been in contact with a small banker from South Philadelphia who for a period of several years had avoided paying the police.²⁵³ However, on July 27, 1973, his luck changed.

The gambler, Red Oliva,²⁵⁴ was picked up on July 27, at 12th and Moore Streets by Sergeant S. _____²⁵⁵ who was operating patrol car #4B. For no apparent reason, Oliva was taken to the district station house, searched, and interrogated.²⁵⁶ During his stay there, some police officers were called in to observe him for future identification. When the sergeant returned him to 12th and Moore Streets, he told Oliva to meet him on July 30, 1973, at that location for "additional arrangements." Oliva took that very clearly to mean a payoff.

Commission agents were able to observe the July 30 meeting at which Oliva agreed to pay the sergeant \$30 per month for protection. The sergeant stated that the district was picking up all gamblers and that even Nicholas Lapentina²⁵⁷ was paying. The first payoff was made on August 14, 1973, at the corner of 4th and Morris Streets, with Commission agents observing the meeting. In a conversation tape recorded by Oliva, the sergeant told him that the money covered himself and four of his men on 3 squad.²⁵⁸ The following conversation occurred inside the sergeant's patrol car:

²⁵¹Mr. R, N.T. 32.

²⁵²Most very small bankers are simply not able to afford more than minimal payments to police.

²⁵³The banker's estimated gross weekly income was \$1,500.

²⁵⁴Red Oliva is a code name for the gambler and has been used to protect him. He agreed to work with the Commission if his name was not revealed.

²⁵⁵Because of incomplete records provided to it by the Police Department, the Commission was unable to identify fully this officer.

²⁵⁶This whole procedure was unlawful unless there was probable cause for Oliva's arrest. Since no arrest was made, the validity of taking Oliva into custody is doubtful.

²⁵⁷Lapentina is alleged to be a lieutenant in the Edward "Buddy" Fina bank. Fina runs a large scale operation in South Philadelphia.

²⁵⁸The sergeant was to receive \$10 of that money and each of his men was to get \$5.

Oliva: How ya doin', Sarge?

Sergeant: All right.

Police Radio: One seven what? One five car involved at Porter and Snyder.

Oliva: Lousy.

Sergeant: Yeah.

Oliva: Lousy. (Police Radio inaudible) Now what's this? Who's this take care of? (Police Radio inaudible)

Sergeant: Ah, there's four of us that, you know (inaudible because of Police Radio)

Oliva: What do you mean four?

Sergeant: We're looking at. They're four men. There's some men that, you know, you can't trust.

Oliva: Right.

Sergeant: The lieutenant, he ain't doin' nothin'.

Oliva: The lieutenant ain't doin' nothing?

Sergeant: No.

Oliva: That's you and four patrolmen?

Sergeant: The other sergeant ain't doin' anything.

Oliva: Ah, well, how's ya work? Where do you get the men?

Police Radio: OK three one four (3 beeps at five second intervals). Attention all police. Your gun is a police tool to be used within its legal limitations. If you . . . yourself . . . from death or grievous bodily harm or to apprehend an escaping felon who has committed murder or rape or . . . other atrocious crime, that you are certain he has committed and cannot be apprehended in any other way . . . this crime, do not use your gun, use your radio. You shall not use firearms in stolen car chases. KGF five eight seven at 5:56 p.m.

Oliva: In other words, that's you. What other car number?

Sergeant: Ah 47 (?) and 46.

Oliva: Ah, huh. Ah, 48. (Conversation is then inaudible because of Police Radio)

Police Radio: 1701 1701 . . . 1704, 1718 24th and Catherine report of a hospital case and a stabbing. . . I'll take the hospital case. OK 1704.

Oliva: All right.

Sergeant: Do you want me to (inaudible because of Police Radio)

Police Radio: . . . 1718 1718 (end of conversation in the RPC)

Oliva: Yeah, all right.

Sergeant: All right.

Oliva: Okay, that was 10 for you and 5 for each guy. There's four guys.

Sergeant: Right.

Oliva: Just mention your name if anything takes place. Okay?

Sergeant: Ask them to get a hold of me right away.

Oliva: Get a hold of Sergeant S_____.

Sergeant: Right. Ah, now that's in three squad. They won't come and see you. They won't pay you a visit unless I'm there.

Oliva: Right. Okay. All right, ah, see you later.²⁵⁹

A second payment of \$30 was made on September 13, 1973, and Oliva again taped the conversation. No payment was made in early October, but on October 24, 1973, a double payment of \$60 was made. This encounter was filmed by Commission agents.

Payoffs for protection of card games and crap games are systematic or sporadic depending on the regularity of the game. Large scale games run primarily on weekends, but smaller games may go on throughout the week. The Commission did not direct its investigation toward this aspect of illegal gambling because of the financial resources necessary for putting an agent into a game. However, the Commission did receive evidence from the testimony of two police witnesses and a gambler which reveals the system of payoffs for card and crap games.

Crap games are often played right out on the street, usually on a small street or in an alley. When an officer discovers one of these games, he simply drives up and receives a \$5 note.²⁶⁰

Unless a card game operates on a regular basis and pays a steady note, the officer must discover it running before he gets a note. According to Officer Weiner, the average note is \$5 for the sector car, \$10 for the sergeant, and \$15 for the

²⁵⁹Tape recording made by Red Oliva, September 5, 1973 (verified on January 8, 1974), on file at the Pennsylvania Crime Commission.

²⁶⁰Weiner, December 5, 1973, N.T. 33-34.

lieutenant.²⁶¹ He also testified that once a game was located and he had solicited his note, it was his obligation to notify his sergeant of the game so that the sergeant could pick up his money. For example, card games ran on a periodic basis in the back of Black Jimmy's Barber Shop, 19th and Ridge Streets. When the officer found it in operation, he would call for his sergeant, Vincent M. _____ (#499) to meet him and would tell him that "Black Jimmy is running."²⁶² Officer Weiner never saw his sergeant get that note but he told the Commission, "Well then you never go around and witness him taking anything, but he is happy."²⁶³

Former Officer Ruff identified a large number of gambling locations from which he collected systematic payments.²⁶⁴

Thomas Pasquale was one of the backers of a Sunday crap game in a residence near 36th and Wharton Streets.²⁶⁵ In testimony before the Commission, Mr. Pasquale said that the game, often involving up to \$15,000 began after 4:00 p.m. so that only the 4:00 p.m. to midnight shift would have to be paid. The organizer of the game was Amodei Policchio.

Q: Now, were there any payments made to members of the Philadelphia Police Department in order to allow that game to be run?

A: They were made, yes.

Q: And how were they made?

A: They were made by Amodei Policchio. He would come into the game and ask for money for the law, and we would sort of, you know, collect the money. He'd ask for so much money. You know, some of the players would give—you know, right bettors would give a few dollars and wrong bettors would give a few dollars until we got the amount of money for the law.

Q: Okay. In other words, everyone chipped in a certain amount of money?

²⁶¹Id. at 18.

²⁶²Id. at 87-88.

²⁶³Id. at 89.

²⁶⁴Ruff, December 31, 1974, N.T. 230107.

²⁶⁵This game and police corruption was the subject of a series of Philadelphia Inquirer articles in November, 1971.

A: Right.

Q: And how much money was paid out each Sunday?

A: That varied, that varied. Sometimes he would ask for like \$35, \$40. The highest he ever asked for was like \$50, \$51.

Q: Okay. And how were the payments made to the police, who made the payments?

A: Amodei Policchio.²⁶⁶

Because Policchio told the bettors that he was collecting money for "the shift," Mr. Pasquale assumed that only the uniformed men were paid.

Sporadic shakedowns by individual officers may occur even though systematic payments are made by the gambler. An agent of the Commission was making a numbers bet with Samuel Polof, a writer for Emmy Tucci, on January 19, 1973, when a police patrol car, #P42 operated by Policeman Leigh Van O. _____ (#5714) stopped, and the officer called Polof to his car. There was a short conversation, and when Polof returned, the agent asked him what the officer wanted. Polof replied, "He wanted \$100 and he doesn't even belong here."

A former writer for Carl Robinson, a banker who operates in numerous sections of Philadelphia was interviewed by Commission agents. Although she asserted that she never paid a police officer, she told the Commission that Robinson was making payments.²⁶⁷ She described one incident involving her "book" where Robinson had to take care of the police:

Q: What happened the time the police came to your house?

A: They found my work and they told me to get in touch with Carl. And when I finally got him, he agreed to meet them at 22nd and Christian and give them \$75 apiece. There were three of them.

²⁶⁶Testimony of Thomas Pasquale before the Pennsylvania Crime Commission, September 17, 1973, N.T. 12-13.

²⁶⁷Her statement was borne out by the testimony of a Philadelphia Police officer who told the Commission he received \$5 per month while a uniformed officer in the 23rd Police District from one of Carl Robinson's operations located in Chip's Bar at 24th Street and Ridge Avenue. Weiner, December 5, 1973, N.T. 68.

One's name was Dan. That's all I can remember, the name Dan.

Q: He gave them \$75?

A: Yeah, he said he did.

Q: And then you were released?

A: No, they didn't carry me down. They didn't take me down. They talked to me on the telephone.

Q: Did they ever press any charges?

A: No, they left the work there and told me to put it away, and be more careful next time cause another squad would be here.²⁶⁸

Sometimes the police officer does not even have to shake down the gambler. While working with the Crime Commission, Officer Weiner met a numbers writer, David McCoy, on the street shortly after he had been reassigned to the 15th Police District. McCoy asked Officer Weiner if he was back in the 15th, and when he replied in the affirmative, gave him \$10.²⁶⁹

Periodic shakedowns may take seemingly strange forms. Officer Weiner spoke with Officer M. _____ (#2825) who told him that Inspector P. _____ (payroll #16184) gave him banquet tickets to sell.²⁷⁰ Inspector P. _____ (payroll #16184) told him to be sure to see Teddy Perry, "Sassy Doc" Manuszak, and James Maltereri for \$100 each; and to give them the tickets only if they insisted.²⁷¹

From the police officer's point of view, the opportunities for collecting gambling payoffs greatly increase when an officer goes into a plainclothes unit. The experiences of two police witnesses illustrate this fact.

Officer Robert J. Weiner worked in uniform in the 23rd Police District before becoming a member of the Chief Inspector's Squad. He told the Commission that he was receiving \$20 each month while in uniform²⁷² but this amount jumped

²⁶⁸Tape recorded conversation between Crime Commission agent and Mrs. E. May 4, 1973 (name withheld as a condition of interview).

²⁶⁹Weiner, February 6, 1974, N.T. 75-76.

²⁷⁰Weiner, February 6, 1974, N.T. Ex. 25, p. 2.

²⁷¹All three are alleged to be large-scale gamblers.

²⁷²Officer Weiner received money from the following locations in the 23rd Police District

to \$390 while he worked in CIS. His first payoff came from Joe McMonigle²⁷³ who gave him \$100 for his vacation and then continued to give him \$100 each month thereafter.²⁷⁴

Soon thereafter, Officer Weiner and another member of CIS, Officer James M. _____ (#2825) arrested James Mallateri. Mallateri put the word out through Ted Perry, another banker, that he would pay to keep these officers "off his back." They began receiving \$50 per month.²⁷⁵

Once it started, taking became easier. He then approached another informant, George Castine, and made arrangements to receive \$25 a month from him.²⁷⁶ He also successfully approached the following gamblers:²⁷⁷

John Shopa	\$50/month
Third and Girard Avenue	
Leonard Gniewiek	\$50/month
3500 block Edgemont Street	
Cokie Pernitsky	\$55 one time
George and Laurence Street	
Ralph Patrone	\$25/month
900 South Street	
Richard McCabe and Ronald Pables	\$25/month
3215 H Street	
Abe Glassman	\$10/month
1205 Locust Street	
Nick DiPietro	\$10/month
Passyunk and Federal Streets	
Peter Argentiero	\$25 vacation note
11th and Oregon Streets	
Henry Scipone	\$12.50/month
Mole and Dickenson Streets	
James Hillisie	\$10 one time
150 North 10th Street	
William Alexander	\$10/month
22nd and Seybert Streets	
Luther Franks ("Chips")	\$5/month
24th Street and Ridge Avenue	
Bar	\$5/month
24th and North College Streets	
²⁷³ Prior to that time, McMonigle had avoided arrest by giving him information.	
²⁷⁴ Weiner, December 5, 1973, N.T. 124-125.	
²⁷⁵ <i>Id.</i> at 127-128.	
²⁷⁶ <i>Id.</i> at 128-129.	
²⁷⁷ Compiled from Weiner, December 5, 1973, <i>passim</i> ; Weiner, February 6, 1974, <i>passim</i> . Since Officer Fred I. _____ (#5649) was receiving the same amount, the gamblers were actually paying double the amounts shown.	

Joseph "Peppy" Fanelli
800 block Fitzwater Street

\$25/month

Once Officer Weiner began cooperating with the Crime Commission, he was able to corroborate this testimony with additional payoffs and tape recorded conversations. On December 12, 1973, George Castine admitted to Officer Weiner, who taped the conversation, that he had been paying him \$25 each month.²⁷⁸

On December 27, 1973, Officer Weiner taped a conversation with Ralph Patrone at his place of business when Patrone paid him \$50.²⁷⁹

Officer Weiner met with Leonard Gniewiek on January 11, 1974, inside the T-Bird Bowling Lanes, Holmes Avenue. In a tape recorded conversation, Gniewiek gave Officer Weiner \$225 to split with Patrolmen James M. _____ (#2825) and Fred I. _____ (#5649).²⁸⁰ On January 18, 1974, Officers Weiner and M. _____ (#2825) returned to the T-Bird Lanes and received a second \$225 from Gniewiek.²⁸¹

Officer M. _____ (#2825) informed Officer Weiner on January 14, 1974, that Ted Perry agreed to give the two officers \$150 per month to split. This money was for Perry's operation in the Northeast.²⁸²

These two officers also met with "Sassy Doc" Manuszak, a banker, on January 14. In a taped conversation, he indicated he would pay them a note the following day.²⁸³ However, Officer M. _____ (#2825) failed to pick it up.

Officer Felix Ruff was also a uniformed officer in the 23rd Police District before he went into plainclothes in the Northwest Division. Officer Ruff testified that while he was a uniformed patrolman he received as much as \$200 to \$225 per month in bribes from gamblers and speakeasies.

²⁷⁸Tape recording made by Officer Robert J. Weiner on December 12, 1973 (verified on February 6, 1974). Castine also told Officer Weiner that a uniformed officer had just won \$17,000 on a sports bet; consequently, he was no longer taking sports action.

²⁷⁹Tape recording made by Officer Robert J. Weiner on December 27, 1973 (verified on February 6, 1974).

²⁸⁰Tape recording made by Officer Robert J. Weiner on January 11, 1974 (verified on February 6, 1974).

²⁸¹Tape recording made by Officer Robert J. Weiner on January 18, 1974 (verified on February 6, 1974).

²⁸²Tape recording made by Officer Robert J. Weiner on January 14, 1974 (verified on February 6, 1974).

²⁸³*Id.*

He found it difficult to estimate what the average policeman on the take in the 23rd District received, since a number of different factors were involved, including whether the officer was assigned to the east or west end of the district. He said, "The west end is known to be more prosperous in vice activity than the east end." When he was assigned to plainclothes his take immediately rose to \$300 to \$350 per month and gradually increased to \$600 to \$700 per month.²⁸⁴

As soon as former Officer Ruff was assigned to the Northwest Division, money became available to him:

Well, right after the assignment to my division, I was introduced to one of my partners, which had been with the squad for some time, possibly a year or so. He informed me that there would be some notes coming in the first of the month and the fifteenth of the month.²⁸⁵

Officer Ruff was asked if he had to initiate the discussion of payoffs:

A: Well, it was, it was understood that as a plainclothesman in the Northwest Police Division that each man would receive a certain amount of money because this is the main policy in the Philadelphia Police Department.

Q: Was that known to you before you became a plainclothesman?

A: Yes, it was.²⁸⁶

At the time he received his first note from a gambler, Officer Ruff would be shown a photo of the individual. In some cases, he was given a code word such as "apple" so that if he raided one of the locations of a gambler who was paying, the writer or office man would communicate that fact to him.²⁸⁷ He testified that all but one of the officers in the plainclothes unit (a total of 8 out of 9) received regular payoffs from gamblers or other vice figures.²⁸⁸

²⁸⁴Ruff, December 31, 1973, N.T. Ex. 1, p. 34, Ex. 2, pp. 10, 14.

²⁸⁵Ruff, December 31, 1973, N.T. Ex. 2, p. 3.

²⁸⁶*Id.* at 6.

²⁸⁷*Id.* at 6-7.

²⁸⁸*Id.* at 14.

Because Officer Ruff was black, he was not always able to solicit and collect payoffs from white vice figures. Therefore, he often received his money from white officers, who served as bagmen for him and the other black officers. Officer Ruff identified the following officers who were inspector's men with him and delivered payoffs to him:

Policeman Anthony C. _____ (#4722)
 Policeman Elliott F. _____ (#7400)
 Policeman William N. _____ (#6498)
 Policeman Vincent S. _____ (#7219)

The following is a list of locations from which Officer Ruff recalled receiving money both in the 23rd Police District and the Northwest Division.²⁸⁹

23rd Police District:

Numbers:

Caesar Nelson	\$8 on day work
Office at 2426 Redner Street	
Bobby Clark	\$5 on day work
Office at 15th and Seybert Streets	
Shoeshine Store	\$12 on day work
On Ridge between Oxford and 22nd	
Plummer	\$10 on day work
1427 West Girard Avenue	
James Singleton	\$20 on day work
Office at 21st and Montgomery	

Games:

Barbershop (Jimmy)	\$5 or \$10 on weekends
19th and Ridge	
Checker Club (William Alexander)	\$15/month
Ridge and Oxford	
1415 North 21st Street	\$25 on night work ²⁹⁰
Rudy's Bar (William Hogwood)	\$10/week
Godfrey and Ogontz	

²⁸⁹Ruff, December 31, 1973, N.T. Ex. 1 and 2, *passim*.
²⁹⁰He recalled that the sergeant received \$50 from this game.

Northwest Division:

Numbers:

Delicatessen	\$25/month
25th and Allegheny, N.E. Corner	
Americo Braschetti	\$15/month
7544 Valley Avenue	
C & O Bar (Ike Notte and "Chappy")	\$75/month
15th and Venango (also 1034 65th Avenue)	
Boyce's Bar	\$10/month
17th and Pacific	
Blue Bell Restaurant (Frank Hedges)	\$75/month
26th and Allegheny, S.E. Corner	
Bar (Harry Della Porta)	\$80/month
Chelton and Baynton	
Embassy Rug Showplace (Reds Lorenzo)	\$25/month
2939 North 22nd Street	
Norman Simms	\$25/month
1426 Kerbaugh	
Luncheonette (Willie Drayton)	\$25/month
17th and Westmoreland	
Tribune Laundry	\$10/month
23rd and Fox	
Family Food Market (Charlie Henry)	\$10/month
Morton and Tulpehocken	
Chiz Chellis	\$10/month
Haines and Morton	
Union Hall (Sam D'Oranzo)	\$50/Christmas and vacations
East side of 22nd, south of Allegheny	
Carmen D'Oranzo	\$50/Christmas and vacations
N.E. Corner Mt. Pleasant and Stenton	
Mary Bucci	\$25/month
Sassy Doc (Alfred Manuszak)	\$10/month
Phil Flicker	\$20/month
Front and Godfrey	
Anthony Faschetti	\$10/month
6652 Germantown Avenue	

Games:

Hunt Room Bar	\$10/week
Wister and Church Lane	
Scalea's Pizza (Lewis Buscio)	\$10/month
5200 block Wakefield	

For an officer "on the take," the advantages of plainclothes work are obvious. The area of opportunity expands from a district to a division or, in the case of CIS, the whole City. The plainclothes officer is solely concerned with vice, and theoretically his entire workday can be spent in developing opportunities for payoffs. The amount of the payoffs also increases. The \$5 and \$10 notes that a uniformed man receives jump to \$25 or \$50 notes. When plainclothes officers go back to uniform, it is difficult to leave that money and some try not to. After Officer Weiner went back in uniform from CIS, Officer M _____ (#4443) told him not to tell vice figures of his reassignment. Officer M _____ (#4443) said that he had been able to pick up notes for eight more months after he left plainclothes.²⁰¹

Conclusion

The above discussion of gambling in Philadelphia and related police corruption is not intended to be exhaustive. However, in light of the above and other evidence in its possession, the Commission makes the following factual findings:

1. Open and notorious illegal gambling of all types continues unabated in every police division in Philadelphia.
2. Numbers, the most popular form of gambling in Philadelphia, are played in blatant fashion on the street, in bars, and in store fronts which are easily identifiable.
3. Illegal gambling which can be detected by officers with a minimum of vice enforcement experience, operates in Philadelphia with little interference from the Philadelphia Police Department.
4. In light of the public apathy toward enforcement of gambling laws and the lack of resources available to investigate violations, the gambling laws as written are unenforceable.
5. Police officers, faced with public apathy, few resources, pressure from the Police Department to make vice arrests, and

²⁰¹Weiner, February 6, 1974, N.T. 89.

failure of the courts to discipline gamblers, become frustrated with their sworn duty to enforce the gambling statutes.

6. There is widespread acceptance of systematic payoffs by police from gamblers for failure to enforce the gambling laws;

7. Although there is pressure from the Department to make vice arrests, police officers who are accepting payoffs protect those gamblers by arranging fake raids, shaving evidence, and warning them of raids by other units. Gamblers are willing to accept arrests if there are no convictions and if there is minimal disruption to their businesses.

PROSTITUTION

During its investigation, the Commission found that prostitutes operate in a variety of ways. Streetwalkers operate on the corners of major intersections in the poor districts of Philadelphia. They stroll along streets and wait for prospective clients to drive past. When a client stops, the streetwalker approaches the car and either solicits the client or is propositioned. Bar prostitutes, as the name implies, are affiliated with one bar. They sit on barstools and solicit customers as they enter. The prostitutes may have an arrangement with the management of the bar where the prostitute agrees to solicit at least four drinks from the client in return for operational protection. Some bars vary this procedure so that the prostitutes pay a straight fee to the management. Call girls operate either from a private residence or from the phone of a specific bar. Unlike streetwalkers and bar prostitutes, call girls do not solicit strangers. They normally have a regular clientele to whom they sell their services. They accept new clients only if they are referred to them by other clients with whom they have a long standing relationship.

The Crime Commission investigation into prostitution and its relationship to police corruption was concentrated in those areas of the City defined by the Police Department as the Central and North Central Divisions. Philadelphia Police arrest statistics for 1972, indicate that approximately 75% of all prostitution arrests were effected in these divisions.

In a sporadic investigation which was secondary to Commission inquiries in other areas of vice activity, the Commission found numerous instances of prostitution. Prostitutes in the Central Division primarily "hustled" out of bars while in the poorer North Central Division they were primarily street-

walkers. The solicitations from prostitutes received by Commission agents are summarized in Table 3.

TABLE 3
Solicitations Received by Agents

Division	Streetwalkers	Bar Prostitutes	Call Girls
Central	—	47	1
North Central	7	3	—
Northeast	—	1	—
West	—	—	1
South	—	2	—

The investigation has shown that prostitution is even more concentrated than the statistics show. Of the 47 bar girls found in the Central Division, nearly 30 operated in three bars at 10th and Race Streets. The seven street walkers in the North Central Division were all found within a two block stretch of Broad Street. They become known to both police and the general public. The prostitutes thereby obtain their clients by being in places that prostitutes are known to frequent.

An investigation into the bars at 10th and Race Streets was begun in early 1973, as a result of information received by the Commission that prostitutes were freely operating out of a number of the bars. Undercover investigators visited several of the bars in the area. They found wide open and fast moving operations in the Bridge Tavern, 10th and Race Streets, and the 150 Bar, 150 North 10th Street. After a short time, they had received solicitations from 18 prostitutes in the 150 Bar and from eight prostitutes in the Bridge Tavern. In addition, they received two solicitations in Chick's Bar, 1011 Race Street, five solicitations in Firenze's Tavern, 135 North 11th Street, and six solicitations in the Beef and Beer, Broad Street and Girard Avenue.

Because of the frequency and ease with which solicitations were received, the Crime Commission questioned whether either the bars or the prostitutes were buying protection from arrest by the police in order to operate so blatantly. Numerous informal discussions between Crime Commission agents and prostitutes furthered a belief that they were. In February 1973, the Crime Commission interviewed numerous prostitutes in an effort to obtain facts concerning the system which allowed the prostitutes to operate from the bars without fear of arrest. Three of them gave sworn statements in which they told

the Commission that they were required to solicit at least three or four drinks from their clients before leaving the bar. Pamela Turner described the procedure:

Q: . . . [W]hat did anyone tell you about "protection" from getting arrested?

A: They just told us that we had to buy drinks if we wanted protection from the bar, we had to buy our drinks in the bar and we could not even work in the bar unless we worked under that principle.

Q: . . . [W]hat did they tell you about the police?

A: I know that they are being paid off. One is that they come into the bar and they know who the police are. . . .

Q: When you went in, what did they tell you the money was for that was from the drinks?

A: To pay the policeman.

Q: Who told you that?

A: Jimmy, he didn't say that in those exact words, but that is what he meant.

Q: Do you remember his exact words at all?

A: No, I think he said, "You know the rules, don't you?" . . . and I had already been told the rules.

Q: And the rules were . . .

A: That you had to buy four drinks to pay the policeman.²⁹²

One prostitute related a near arrest which further supported the system described. She was stopped by a Sergeant P²⁹³ who was about to arrest her; however, when he learned she was affiliated with the 150 Bar, she was released. Another girl stated that often the owner of the 150 Bar would warn the girls not to solicit anyone that night because a raid was scheduled. The three girls who gave sworn statements to the

²⁹²Testimony of Pamela Turner before the Pennsylvania Crime Commission, February 8, 1973, N.T. 4-5.

²⁹³Although the Commission has the last name of the sergeant, its information is insufficient to identify fully this officer.

Crime Commission and the many girls informally interviewed by the investigators all stated they had never been arrested in the bar. Apparently the prostitutes are free to solicit within the bar but upon leaving they may be arrested by the police. Sandra Jackson told the Commission that the bartender or owner is sometimes able to prevent an arrest outside. After she solicited one of the patrons, she always left first. If she saw a police vehicle outside, she would return to the bar. Someone "connected with the bar" would then go out and talk to the officers, and often they would leave the area.

In addition to the three prostitutes from the 150 Bar who gave sworn statements, the Crime Commission obtained the sworn testimony of George Taylor to support the fact that the bars pay for protection. George Taylor worked as a pimp for his wife, Edith. Mr. Taylor stated that he saw payoffs to police at Red's Bar (11th and Race Streets), the Merry-Go-Round (10th and Race Streets), and the Bridge Tavern. He testified that he had been in Chick's Bar when patrolmen entered, and he observed the owner of the bar take currency from the cash register and give it to them, although the Commission has no proof that this was an actual police payoff. In addition to this evidence, solicitation is so patently obvious. The ease with which Commission agents received solicitations raises the question of why the Police Department is apparently so unsuccessful at curtailing prostitution activity in these bars. The Crime Commission is presently involved in immunity hearings for the owner of the 150 Bar in order to obtain more information concerning the relationship between the bar and 6th District policemen.

Employees who worked at another prostitute bar, the Chanticleer, from 1962-1967 also provided the Commission with evidence of police payoffs. The owner, Irvin Goltzer, stated that he repeatedly paid off police for allowing prostitution to function within the bar. In 1964, he paid an inspector's man \$50 a month.²⁹⁴ He also paid Officers Al S. _____ (now retired) and Joseph T. _____ (#3566) \$5 a month and a Sergeant G. _____ \$10 a month.²⁹⁵ In addition, he made Christmas gifts to various police officers including \$50 in 1964 to Captain (now Inspector) Anthony W. _____ (payroll #34980) of the 6th

²⁹⁴The Commission has the officer's last name on file but the data provided to the Commission by the Police Department on names of its members as of May, 1973, does not list that name. Apparently, the officer has left the force.

²⁹⁵The Commission was also unable to identify fully this officer from the data on names and assignments of officers provided to it by the Police Department.

District. Mr. Goltzer also provided drinks and prostitutes to policemen.²⁹⁶

The owner of a speakeasy in the Southwest Police Division related a similar story. During 1968 and 1969, in addition to selling liquor illegally, she provided rooms for prostitutes and their prospective clients. In order to operate, the owner paid on the average \$250 a week to lieutenants and patrolmen in the Southwest Division.

A recorded conversation between Irvin Goltzer and patrolmen Robert J. W. _____ (#7172) and Fred I. _____ (#5649) on July 5, 1973, showed that bars still pay police for protection of their prostitution operations. The officers stated that even if they are required by their superiors to make an arrest for prostitution, they arrest the prostitute outside the bar. The owner of the bar paid them in order to operate with the prostitutes, and they believed he should not be punished by demands from their superiors. Their description of the practice indicated that the bar owners accepted the fact that prostitutes would be arrested. The men agreed to occasionally sacrifice prostitutes in order that all parties might function. The bar owners could stay open and the police could receive payoffs while giving the appearance of effectiveness.

Not all payments to police for protection of a prostitution operation are on a systematic basis. For example, the street walkers operating in the North Central area of the City told Commission investigators that they were only required to slip a note to police officers occasionally. Because these prostitutes do not make as much money as call girls or bar prostitutes, a steady payment would drive them out of business. Therefore, the police tolerate their existence for the most part.

Edith Taylor, presently a call girl in Philadelphia, described another example of a monetary payoff. While Mrs. Taylor was working as a bar prostitute, she was picked up by three policemen. After she was arrested, Mrs. Taylor asked if there were some way she might be released. Edith Taylor is a French citizen and feared that if she was arrested she might be deported as an undesirable alien. The officers asked her how much money she had with her. Mrs. Taylor said she had \$100 in her purse but had another \$200 at her home. The policemen took Mrs. Taylor and the \$300 to a hotel. After eating dinner financed with her money, the three policemen rented a hotel room. They had sexual relations with Mrs. Taylor and then

²⁹⁶Goltzer, June 20, 1973, N.T. 8.

allowed her to leave. The three officers kept the remainder of the money.

Aside from money, the police corruption in the area of prostitution found by the Commission was the free use of a prostitute in return for not raiding a bar or arresting a prostitute. The best documented source of corruption of this sort comes from the Chanticleer Bar which operated from 1962-1967. Irvin Goltzer stated that many times policemen would require one of the bar prostitutes to service them either in the office or basement of the club. Among those mentioned who used these services were Policeman Albert G. (#4042); Michael B. (#2459); Joseph T. (#3566); Al S. (retired); Inspector Charles L. (payroll #36594) and Chief Inspector John P. McH. (payroll #14588). Edith Taylor stated that several times a week Vivian Ashton or Mrs. Taylor, both prostitutes who operated out of the Chanticleer, were required to take care of police officers. Periodically, sexual relations with officers took place in a police car. Mrs. Taylor testified before the Commission about these services:

Q: You were, then, working as a prostitute in the Chanticleer Bar? Is that correct?

A: Yes.

Q: Did you have any connection with the Philadelphia Police Department during that time?

A: Well, to keep everything quiet—if there was any kind of problem, if somebody reported anybody, if a policeman would come down, he would have his pick of any girl, and we would go out to the motel, or in the basement.

Q: The policeman could come there and pick out any girl that he wanted, is that correct?

A: Yes, any girl that he desired.

Q: Who told you that the policeman could do this?

A: Irv.

Q: Did he tell you why he let the policemen do this?

A: Yes. To keep me [from] getting arrested, or getting him arrested; to keep everything quiet.

Q: In other words, to protect both his place and you?

A: That's correct.

Q: Were they uniformed policemen, or plainclothesmen?

A: A couple of times, it was uniformed. Most of the time, it was plainclothes.

Q: Did any uniformed men come into the bar?

A: Yes, later at night, after 2:00 o'clock.

Q: What would they do when they came after 2:00 o'clock?

A: They would talk to him, and come to me and ask if I would go with them, and I would say yes. Lots of times, I didn't want to go, but most of the time, I would go.

Q: Where would you go?

A: Most of the time, it was in the basement.

Q: Most of the time you had intercourse with them in the basement?

A: Yes.

Q: Was there any time when you were at another place?

A: One time, I went to a motel with a couple of policemen, that I didn't know they were policemen.

Q: How about police cars?

A: Yes, I went to the police cars, too.

Q: You had intercourse in a police car?

A: Yes.

Q: About how many times was that?

A: It depended if they seen me every day, or if they seen me once or twice a week. They would wait for me outside the Chanticleer.²⁹⁷

²⁹⁷Testimony of Edith Taylor before the Pennsylvania Crime Commission, May 24, 1973, N.Y. 4-6.

Prostitutes in the 150 Bar stated they also have been propositioned by arresting police officers. Although none of them admitted having sex with a police officer who did not pay, they implied that such extortion was common. Carla Gaston, a prostitute, stated that she was once arrested by a patrolman James M. (#2825). After the arrest two policemen drove up and joined the officer. One of the two stated, "We can eliminate all this process [referring to the arrest] if you knock me off." After Miss Gaston refused, she was taken to 8th and Race Streets and booked.

Female drug addicts, whether or not they prostitute themselves to support their habit, are targets of police shakedowns for sexual services. Agents of the Commission interviewed a white female addict from the area of the 26th District who described a typical shakedown. She was stopped on April 13, 1973, by an officer on Kensington Avenue:

He had asked me to turn him on²⁹⁸ and I said no and he said well, if you don't then you're going to take a bust and I said what for. And he said you just solicited me. I said you have to be joking, and he said no, I'm not. And he grabbed me by the wrists and he said you're under arrest. I got into the car and he had taken me down to the 26th.²⁹⁹

When the officer and the female arrived at the 26th District station house, the other officers joined in harassing her. She was ridiculed about being a prostitute and a drug addict:

Q: So he sees track marks on your arm and he gets into the area—

A: That I'm a junkie, and he gets to this thing where, he wants to know how many nigger dicks I have to suck for a bag of dope. I told him I don't have to do anything like that for it. He says these things you'll turn them on but you won't turn us on and you know, don't you like your own kind and that I'm a disgrace to Fishtown.³⁰⁰

²⁹⁸She later explained that this meant he wanted her to commit sodomy with him in his car.

²⁹⁹Tape recording by Crime Commission agent, July 24, 1973, on file at the Pennsylvania Crime Commission, tr. 2.

³⁰⁰Id.

A corporal, known to the female only as Michael, then entered the interrogation room. He told her that she could save herself a lot of trouble if she took care of him. He would see that the charges were dropped. He added that there was a lock on the door and they could do it right there. When the female refused, she was booked for prostitution.³⁰¹

The female told Commission agents that she was not the only one who received this treatment:

I was talking to two girlfriends of mine about what had happened and they told me that they constantly have to be taking care of officers down at the 26th. If not, they take a bust, and one girl is on probation and if she just gets so much as locked up for anything, she goes to jail. You know, her probation officer will put her away. She had to be . . . you know, she takes care of them in the back of the paddy wagon.³⁰²

NARCOTICS

In terms of patterns and regularities, narcotics-related police corruption is unlike other types of vice-related police corruption; it appears to be a more individual practice with one-time police contacts with drug offenders. While the financial temptation is greater because of the tremendous profits involved in narcotics trafficking, the Commission believes that narcotics corruption is not as widespread as corruption related to gambling or liquor. A long-standing law enforcement view of narcotics graft as the "dirtiest" type of graft is one reason for this; the very nature of the narcotics traffic is another. The narcotics police corruption found rarely involved more than a few officers operating together in any given situation, as compared with the patterns involving entire squads described in the sections of the Report dealing with liquor and gambling police corruption.

Nevertheless, the Commission has found that Philadelphia, like most large American cities, has a problem of narcotics related police corruption. Some Philadelphia policemen have extorted money and narcotics from drug offenders to avoid arrest; they have solicited and accepted bribes. Uniformed patrolmen, plainclothes officers, and management personnel have had knowledge and proof of drug violations and have withheld

³⁰¹The case against her eventually resulted in a verdict of not guilty.

³⁰²Tape recording, July 24, 1973, *supra* note 299, tr. 4.

enforcement action. Some officers of the Philadelphia Police Department have been personally associated with narcotics pushers and have used drugs themselves.

The incidents detailed below are not as numerous or as well documented as those in the earlier corruption sections of this Report. The reasons for this are many, most important of which are the less extensive nature of narcotics corruption, and the individual or partner system rather than the unit payoff system which makes detection much more difficult. Also, in this area, important information can often only be obtained from drug dealers after they have been arrested. It is then, with the threat of jail overhead, that disclosure of corruption is possible. However, even this technique of plea bargaining with drug dealers proved to be of no value since those arrested as a result of Strike Force activity were willing to "take their chances" in the Philadelphia court system, rather than cooperate.³⁰³ Finally, the Strike Force and the Commission suffered from a lack of proper manpower to investigate fully this type of corruption and a limited freedom to employ special investigative techniques felt necessary to ferret out corrupt officers.

With respect to personnel, it took the Strike Force better than eight months to assemble a well staffed drug unit and, even then these personnel had no experience in the area of police narcotics corruption. Thus, the almost exclusive area of activity of the Strike Force agents was an undercover buy program aimed at the eventual arrest of drug dealers. In addition, techniques to disclose corruption suggested for use by the Strike Force often were vetoed, delayed, or modified by the State Police because of traditional law enforcement attitudes and policies.³⁰⁴

What is reported then, in this section, is a mix of intelligence information, sworn testimony of witnesses before the Commission, and summaries of already public information relating to Philadelphia police officers illegally involved in narcotics transactions.

³⁰³ One example of this is the case of James Lyles, Jr. described in Chapter VIII. See *ibid.* at 745.

³⁰⁴ For example, agents were never permitted to appear as if they were selling drugs, nor were they authorized to carry drugs to set themselves up for attention by corrupt officers engaging in "stop and frisk" actions. One technique finally approved involved placing an undercover agent in a motel room with over two thousand dollars and a drug scale, and placing a phone call to a police officer suspected of being involved in narcotics corruption. The goal was to determine if the officer was corrupt by creating the opportunity for a shakedown of the agent by the alleged corrupt officer. By the time the Strike Force obtained approval for the use of this technique, the agent was in Canada as a part of the Canadian Connection and it never was tried.

The most common form of narcotics related police corruption is the so-called "shakedown," where an officer receives money, drugs, or other payment in lieu of an arrest of a drug offender. If the "arrangement" is initiated by the suspect, it is a plain case of bribery; if the officer suggests it, he is committing the crime of extortion in addition to ignoring his law enforcement duties. Addicts and especially pushers, detained by the police, are almost always willing to give up anything to avoid arrest; and, on the other hand, many policemen believe that drug law enforcement is a futile policy and that self-enrichment is the reward of a "realistic" approach to the situation. Hardcore corrupt officers often patrol known drug centers in search of a "score" using confiscated drugs and threats of arrest to extort payment from their victims.

The other forms of corruption generally include payment of drugs to addicted informants, "farming" or "flaking" (planting evidence on suspects), "padding" (adding to the quantity of drug seized in an arrest), sales, and personal use by officers. The first three items are procedures which are undoubtedly illegal, but ones which many policemen apparently feel they must use in order to make drug arrests. Addicted informants provide most of the information used by local law enforcement; and, since addicts prefer to be paid with drugs, the narcotics officer often uses the stock of the trade as payment.

The practices of farming and padding are used by police to create cases or to strengthen the case against persons they have arrested. Many narcotics traffickers are clean (*i.e.*, have no physical evidence in their possession) when police arrest them, and flaking or farming provides a means to get the suspect off the streets and into police hands. When they are formally arrested, few narcotics traffickers have large quantities of narcotics in their personal possession. To stiffen the charges against these persons, a sufficient supply of padding is sometimes kept by police officers. Both of these practices provide officers involved in narcotics work with a tool to exert pressure on any individual they choose to threaten in shakedown situations.

The shakedown situation often occurs where an officer, during the normal course of his duties or out looking for a "score," sees an addict or pusher on the street and stops him as if to make an arrest. At the suggestion of the suspect, or on his own impulse, the officer takes money, drugs, goods, information, or (if a female) sex in lieu of arrest. Patrolling officers who know their area know who has reason to fear such an arrest, and the

street addict-pusher and addict-prostitute make particularly easy targets for the corrupt officer.

The Commission has sworn testimony from three witnesses concerning an intricate, double narcotics shakedown.³⁰⁵ In early February, 1974, two policemen assigned to the 26th District, one of whom has been positively identified, searched the occupants of a parked automobile in front of a grocery store and confiscated three small manila envelopes containing marijuana. The occupants were not arrested. On the next day, the same police officer, along with other police officers, appeared at the store with a search warrant. After conducting an exhaustive search of the grocery store, the policeman allegedly found three manila envelopes containing marijuana in a carton of canned dog food. One of the persons who had been searched the previous day and a person who had witnessed the previous search were in the store and testified that the envelopes appeared to be the same ones seized the previous day.

Following the "discovery" of the manila envelopes in the store, the police officer took the store owner to the cellar, and the following conversation occurred:

A: . . . Then he told me, "Look, I'm going to let you go." I said, "Why are you going to let me go? The stuff is not mine. You put it in here." He said, "Well, I pick you up anyhow for anything I find in your store." I said, "Look, you put it in here." And then he said, "Well, just give me something, and we forget about it. Just give me some, you know, some money."

Q: He said money?

A: Yes. And then I said, "How much you want." Because I figured they take me to the jail. . . . And then he said, "Whatever you give to me. Just remember there's three guys." I give him sixty dollars. I give twenty dollars each. I thought twenty dollars for him, twenty dollar for the colored guy, and twenty dollar for whoever will take twenty dollars.

³⁰⁵Testimony of three witnesses before the Pennsylvania Crime Commission, March 4, 1974, N.T. *passim*. (The names of the witnesses and the police officers involved are being withheld as a condition of the witnesses testifying. The information will be turned over to the appropriate prosecuting authorities.)

In this incident, there were two shakedowns: the first one in which the police officer illegally seized drugs without making an arrest; and the second one in which money was taken from a person in exchange for not arresting. A further corrupt act is the alleged planting of evidence. It is noteworthy that the police officer involved was previously investigated by the Internal Affairs Bureau for allegedly purchasing marijuana.

Specific incidents involving such conduct were found in the 16th, 17th, and 18th Police Districts.³⁰⁶ In some cases, female addicts had drugs and money taken from them, were beaten and forced to engage in sexual acts with the officers who had stopped them, were threatened with arrest, and later released. In the case of males, some incidents consisted of an officer detaining an addict on the street, taking him to a secluded place (abandoned house, cemetery, police station), and threatening him with arrest. The addict is forced to give up anything he has of value and sometimes is beaten "to be taught a lesson" before he is released with a warning to "keep his nose clean."

Often specific incidents were found in other police districts. An addicted drug dealer, well known to the Philadelphia Police Department, who testified under oath before the Commission, told of four incidents in two years when he was detained by Philadelphia police officers and lost more than \$2,400 to those officers.³⁰⁷

On October 15, 1971, the witness and a companion were arrested by narcotics officers and taken to the headquarters of the 19th District. They were questioned about drugs in separate rooms, and each was beaten. The witness stated that \$200 of the \$600 he had was taken from him, and that his companion told him he also lost money.³⁰⁸

In the first week of February, 1972, the witness was staying at the Holiday Inn, 18th and Market Streets. Two Philadelphia police detectives and the hotel detective had been alerted that the suspect had been using a stolen credit card. During a search one of the detectives found \$5,600 on the suspect, who made it clear to the detectives that he "could not afford to be arrested" because of outstanding bench warrants for failure to appear at

³⁰⁶Testimony of Ms. X before the Pennsylvania Crime Commission, August 30, 1973 (name withheld as a condition of testifying) [hereinafter cited as Ms. X, August 30, 1973].

³⁰⁷Testimony of Mr. H before the Pennsylvania Crime Commission, October 25, 1973, N.T. *passim* (name withheld as a condition of testifying).

³⁰⁸*Id.* at 20-23.

trials. The witness was released, \$1,900 and some personal possessions poorer, and the detectives reported that he had not shown up at the hotel.³⁰⁹

On March 3, 1972, while staying at the Holiday Inn at Third and Arch, the witness was arrested by two highway patrolmen, taken to a police station, and relieved of \$20 and an \$85 leather coat.³¹⁰

In August, 1972, the witness was apprehended by police officers after having tried to pass a bad check. In the rear of the patrol wagon, \$280, some "speed" (a controlled substance), and two expensive rings were taken from him, and only \$9 returned.³¹¹

Another addict under treatment at the Eastern Pennsylvania Psychiatric Hospital, told a Commission investigator that late in 1971, he was detained during a drug raid in a house in North Philadelphia. The witness had come to the house to buy seven bags of heroin. Instead of being searched, the addict was told to empty his pockets on a table. He did so, and the \$130 he had placed there was pocketed by one of the officers and never returned.

Another addict who was interviewed by the Commission had been arrested in possession of 25 bags of heroin. He was released before charges were brought against him since his father paid the arresting officers \$200 by money order.³¹¹

In a classic shakedown case investigated by the June, 1972, Special Grand Jury, it was determined that Policeman Joel M. _____ (#5331) and Policeman Johnny R. _____ (#5355) had attempted a shakedown of a narcotics pusher in West Philadelphia. Officer M. _____ (#5331) while off duty had stopped a man named Pitcher on the street and demanded \$1,000 to avoid a false arrest. Pitcher and his boss, Earl Walden, paid Officer M. _____ (#5331) the \$1,000 despite the fact that Officer R. _____ (#5355) had been receiving \$500 weekly from Walden for systematic protection. Walden and Pitcher filed a blackmail complaint with the police which eventually led to the Grand Jury's investigation and request for indictment of the two officers.³¹³

³⁰⁹*Id.* at 3-13.

³¹⁰*Id.* at 23-26.

³¹¹*Id.* at 27-30.

³¹²The addict's father denied making this payment in sworn testimony on December 5, 1973.

³¹³*17th Presentment.*

Money is not the only thing policemen take from addicts. In her sworn testimony, a native West Philadelphian, a woman with a career in the local drug trade, speakeasy business, and prostitution, described various instances in which when officers obtained sexual services from females in lieu of arrest, mentioning specifically Detectives William M. _____ (#9089), James R. _____ (#9054), Johnny R. _____ (#5355), and Lieutenant Charles B. _____ (#147) of the West Division.³¹⁴

Additionally, she testified that Detective William M. _____ (#9089) previously had taken two bundles of narcotics from a male acquaintance of hers and then released him.³¹⁵ In the drug trade, he is reputedly "rotten," meaning quite ready to take money, drugs, goods, or sex from addicts to refrain from arresting them.³¹⁶

Another situation investigated by the June, 1972, Grand Jury and reported in its *17th Presentment* involved repeated shakedowns of addicts by Lieutenant Donald G. _____ (#117) and Policeman Martin G. _____ (#7004), of the 16th Police District. On at least seven occasions, these officers received money from three heroin sellers so that the officers would refrain from arresting the sellers and would return confiscated narcotics. The lieutenant's attitude is characterized in the following excerpt of testimony:

A: ... He said, I didn't start this, I can't break it up, I didn't start it, I'm not going to break it up. He said, its not up to me to break it up, I'm going to get what I can out of it. This is the lieutenant.

Q: He said what? Say that again.

A: He said he didn't start it.

Q: Start what?

A: This drug thing, the drug business. And he wasn't going to try to break it up because he couldn't break it up, so he just was going to get what he could out of it.³¹⁷

³¹⁴Ms. X, August 30, 1973, N.T. 27-29. Documents obtained from the motel where some of these events allegedly took place support the witness' testimony.

³¹⁵Ms. X, August 30, 1973, N.T. 30.

³¹⁶*Id.* at 30-31.

³¹⁷*17th Presentment*, at 21.

The Commission also has unsubstantiated information regarding fourteen other alleged instances of Philadelphia Police Department officers taking money, drugs, information, goods, or sex from drug possessors in lieu of arrest or in return for insured dismissals of charges.

The Commission has found that in serving a search and seizure warrant Philadelphia police officers are not likely to keep all the money or drugs seized and let the suspect go because it is in the officer's self interest to turn in enough drugs to sustain an arrest; this does not preclude making financial arrangements with the suspect to insure dismissal of the case at a later stage of the proceedings.

The practice of retaining part of the confiscated narcotics was explained to the Commission by former Philadelphia policeman Felix Ruff:

A: . . . The reason that we would keep the drugs was because it was, number one, one way to pay some of our informants . . . it's a very closed operation in narcotics. If we received information of police dealings in a large amount of drugs, out of the number of whatever, the quantity of whatever we would get in the arrest, we would pick out a certain amount for the information, ah, the informant that gave us the pinch.

Q: How much would you take out?

A: It would depend. Sometimes if we, say we would get ten bundles of skag or heroin, we might give the informant two or three bundles. . .

Q: Do you know of any police officers who keep some of the narcotics and then sell it?

A: Yeh, well, if you're ever going to get into problems of totally reevaluating the narcotics unit, because this is one of the principal methods of the narcotics unit in the Philadelphia area deals with. Not only the narcotics, but the plainclothesmen and uniform personnel.

Q: How do you know this?

A: Simply because I've had occasion to work with men from the narcotics unit.

* * * * *

Q: Do you have any knowledge of police officers taking all or some of the narcotics that they seize and just simply keeping it for their own personal use or for their own personal sale? . . .

A: It has happened.

Q: Is that a frequent occurrence?

A: I think it's a very, very very frequent occurrence with plainclothesmen.

Q: Would you say that the keeping back a certain amount of drugs to pay the informants is something that happens in 100 percent of the cases?

A: I would say maybe 65 to 70 percent of the cases.³¹⁸

In another case investigated by the Grand Jury, four former officers of the Narcotics Unit, Hugh McN_____ (no longer in the Department), Lawrence G_____ (no longer in the Department), Michael S_____ (no longer in the Department), and Nicandro I_____ (no longer in the Department), went to raid a Society Hill apartment on February 21, 1971, to execute a search and seizure warrant in the apartment of Michael Fidelibus (aka Baba), and found more than one pound of methamphetamine, a controlled substance, with a street value in excess of \$10,000 and a pistol. The suspect, Baba, was allowed to call his father, Mr. Nicholas Fidelibus (aka Nicholas Baba) who arranged to pay the officers a total of \$5,000 to arrest another person instead of his son, who was awaiting final disposition of a robbery charge in New Jersey. The substitute suspect (Dennis Verelli) was arrested; only nine ounces of the drug found were turned in as evidence, and the pistol found during the search also was not turned in. Each of the officers received approximately \$1,000 from Nicholas Fidelibus. On August 23, 1971, Dennis Verelli (the substitute suspect) was discharged of all criminal liability on the basis of the perjured testimony of Officer McN_____ (no longer in the Department), the sole Commonwealth witness. The Special Investigating Grand Jury recommended indictment of all the officers involved.³¹⁹

³¹⁸Ruff, December 31, 1973, N.T. Ex. 2, p. 31-32. Captain Orbell, commanding officer of the Narcotics Unit apparently had no knowledge of these practices. See Chapter VII *infra* at 702-705.

³¹⁹1st Presentment.

In testimony before the Commission, former Officer Ruff described an incident in which he was personally involved in receiving money to refrain from arrest. In serving a warrant in May of 1971, this officer and his partner James P. _____ (no longer in the Department) discovered a quantity of marijuana and amphetamines in a box that also contained some \$250-\$275. The suspect named in the warrant was not at home, but his roommate was. In order to avoid arrest, the roommate offered the officers the cash they had found. They took the money and split it between themselves. The next day the original suspect named in the warrant filed an extortion complaint with Captain Guy G. K. _____ (#56), Commander of the 14th Police District, where the officers were assigned. The officers returned the money through Officer Mike D. _____ (could not be identified further), who worked for Captain Guy K. _____ (#56), and the complaint was withdrawn, all of which took place with the knowledge of Captain K. _____ (#56), Inspector Harry W. _____ (retired, payroll #15867), and the other officers. To protect the record both officers were suspended for ten days on a technicality of submitting false records and reassigned out of the 14th Police District.³²⁰

Another instance of this type was described to Commission agents in an interview with an individual familiar with the drug scene in West Philadelphia.³²¹ In the latter part of May, 1972, at approximately 9:00 p.m., Philadelphia officers of the 18th Police District, including Detective Michael C. _____ (#710), served a search and seizure warrant on an apartment in the Briarhurst Hotel in West Philadelphia, 45th and Walnut Streets, rented to Diane Mason.³²² Since the police were looking specifically for a narcotics figure known as "Chicago," none of the four people including the witness, was arrested despite the fact that fifteen bundles of drugs had been found during the search. The drugs and all the money found during the search, including \$400 of the witness, were confiscated by the officers. The police left after a 45 minute search with a warning that "they were out to get 'Chicago,'" the tenant's uncle.

In addition to these incidents the Commission has informa-

³²⁰Ruff, December 31, 1973, N.T. 58-74

³²¹Interview of Mr. A by a Pennsylvania Crime Commission agent on December 6, 1972. Mr. A is currently in jail, and his statements were obtained after a promise of immunity.

³²²The Commission is in possession of a copy of the search warrant validating the correctness of the raid. However, Diane Mason denied the discovery of drugs and their theft.

tion regarding four other instances of this type of narcotics police corruption.

Regular and systematic payment to police to protect narcotics sales and distribution operations also exist in Philadelphia. For example, an operator of a speakeasy, who had been dealing narcotics in West Philadelphia, stated that she paid \$200 weekly to a night-duty lieutenant who visited the speakeasy once a week, in the early hours of the morning, and approximately \$50 weekly to a patrolman who was less regular in his visits.³²³

In North Philadelphia, a group of citizens organized by a state correctional officer who lived on the block attempted to get a known speakeasy operator and drug dealer out of the neighborhood. The group claimed that she made regular payoffs to officers of the 23rd Police District. These officers would park their patrol car on the street near the speakeasy and wait for Mrs. Lucille Terry or one of her family to come out and leave enveloped money on the seat of the car.³²⁴

A mutually profitable regular narcotics protection arrangement was uncovered by the June, 1972, Special Investigating Grand Jury in the course of the investigation of a blackmail incident. From August, 1971, through September, 1972, Earl Walden, a heroin distributor in West Philadelphia, paid Policeman Johnny R. _____ (#5355) of the Narcotics Unit \$500 per week, either directly or through an intermediary, in return for the protection and cooperation provided by Officer R. _____ (#5355). Walden's organization decided to pay Officer R. _____ (#5355) because it had been sustaining weekly losses of \$2,000 to \$5,000 in confiscated narcotics and legal fees, arising out of arrests of himself and his associates. The \$500 was paid for Officer R. _____ (#5355) to refrain from arresting Walden and his heroin associates and to alert Walden of any investigations or raids being conducted by other members of the Narcotics Unit of the Philadelphia Police Department.

In addition to the cases described above, the Commission has information relating to several other regular payoff protection arrangements.

Many of the drugs taken illegally by corrupt Philadelphia Police Department officers are used to pay informants. One addict who led officers to a pusher in South Philadelphia told a Commission attorney that he was given part of the seized nar-

³²³Testimony of Ms. X before the Pennsylvania Crime Commission, September 6, 1973, N.T. 14.

³²⁴Interview with James Reddick, Jr., November 1, 1972.

cotics and was allowed to inject it into his veins in a locked room of the police station at 24th and Wolf Streets.

Another witness stated that Lieutenants Charles B. _____ (#147) and Albert T. _____ (#347), and Detectives James R. _____ (#9054), William C. _____ (#9020), Gerald R. _____ (#946), and William M. _____ (#9089), took 300 caps of cocaine from her and gave it to a girlfriend of one of the detectives to sell, splitting the profits with the police.³²⁵

Another witness testified before the Commission that he was given 1/2 of the narcotics seized by officers of the 16th Police District in raids made on the basis of information he had given them.³²⁶

Police officers performing drug law enforcement activities often "pad" drug arrests involving small quantities with narcotics taken from others in order to increase the chances of conviction. Relating such an incident before the Commission, one addict testified that officers of the 3rd Police District, cruising in a patrol wagon, had taped bags of heroin to the inside of the wagon to use as evidence in his arrest. When he was let out of the wagon at the station, one of the officers told him, "After you get out of the wagon, anything we find in here is yours." When the suspect said the drugs were not his but the officers', the officer turned around and laughed at him.³²⁷

There are individual officers in the Philadelphia Police Department who are actively involved in the distribution of narcotics, providing protection, official information, and in some cases narcotics for local pushers in return for a share in the profits. Some officers accept payments because they feel they cannot have a real effect on drug trafficking given present enforcement policies. Others force their services on narcotics traffickers to broaden their income base. Finally, there are police officers who are themselves addicts or users who must maintain an association with a distributor to insure their own supply.

Late in 1973, agents for the Commission investigating narcotics conditions in West Philadelphia purchased quantities of heroin from a pusher suspected of having a working arrangement with a Philadelphia policeman. The pusher was arrested on

³²⁵Ms. 2, August 30, 1973, N.T. 18-19.

³²⁶Testimony of Charles Anderson before the Pennsylvania Crime Commission, Ms. 2, 1973, N.T. 11.

³²⁷Testimony of Robert D. Adcox before the Pennsylvania Crime Commission, September 18, 1973, N.T. 52. Similar incidents are related in the perjury section. See 1973, at 64.

May 2, 1972, on two charges of delivery of a controlled substance and one charge of conspiracy. Attorneys for the Commission interviewed the suspect at State Police Barracks in Philadelphia, but the suspect was uncooperative. The suspect was found guilty on all charges. He later, on November 29, 1973, testified before a Federal Grand Jury concerning his liaison with the Philadelphia Police Department policeman who was the subject of the Commission's investigation, stating that the officer had supplied him with narcotics and had split the profits with him. His testimony before the June, 1972, Grand Jury revealed extensive shakedowns and illegal arrangements made between Officer Samuel W. _____ (#4406) and several West Philadelphia narcotics pushers.³²⁸

Known instances of Philadelphia policemen actually distributing drugs are rare, but do occur. On May 16, 1973, Policeman Joseph C. _____ (#1285) was arrested on charges of possession of narcotics with intent to sell them. A fourteen year old girl testified at his trial that he had tried to sell her drugs on several occasions.³²⁹

There are similar cases already discovered and tried, the most noteworthy being the case of ex-Lieutenant Joseph M. _____ (dismissed)³³⁰ who was found guilty on December 18, 1972, on three counts of conspiring to possess and distribute 185 pounds of hashish, valued at \$150,000. Lieutenant M. _____ (dismissed) allegedly received \$5,000 to arrange and direct police protection during removal of the vehicle containing the drug from a center city garage. The vehicle was under surveillance by U.S. Customs agents and Lieutenant M. _____ (dismissed) was apprehended during the actual movement of the vehicle.

Finally, there are officers in the Philadelphia Police Department who use narcotics themselves, either for their own addiction or at social occasions. Captain Clark, commander of the 25th Police District, testified before the Commission that he felt there were officers who were foolish enough to involve themselves in the personal use of drugs.³³¹ In fact, during the past year, at least five Philadelphia police officers have been dismissed or suspended from the force on charges of possession of drugs. They are: Policeman Joseph C. _____ (#1285);³³²

³²⁸17th Presentment.

³²⁹Philadelphia Daily News, September 8, 1973, at 9.

³³⁰Philadelphia Daily News, December 19, 1972, at 5.

³³¹Testimony of Captain John J. Clark before the Pennsylvania Crime Commission, October 10, 1973, N.T. 67-68.

³³²Philadelphia Daily News, September 8, 1973, at 9.

former Policeman Erroy McC_____,³³³ Policeman Dennis M____ (#9386),³³⁴ Policeman Bruce B____ (not further identified),³³⁵ Policeman Robert K____ (#9542).³³⁶

From testimony before the Commission and from other information gathered by the Commission, it is evident that the City of Philadelphia has a serious problem in narcotics police corruption. Although the real parameters of the problem cannot be accurately determined without the full cooperation of the Philadelphia Police Department and other elements of the criminal justice system, the indications are that narcotics police corruption poses a significant problem, both in terms of honest police performance of drug law enforcement and in terms of declining public confidence in all public officials.

Narcotics police corruption is not limited to the personnel of the Narcotics Unit of the Police Department, nor is it limited to plainclothes officers on vice investigations; it can and does reach any police officer who has any narcotics duty in any police district, unit or division. Since all elements and members of the Police Department are in fact involved in drug law enforcement, no officer is immune to narcotics related police corruption, even if it consists merely of ignoring the illegal activities of one's fellow officers.

The extent of narcotics police corruption is especially alarming to those areas of the City where drug abuse and addiction are more prevalent among low income residents of the City. These areas include West Philadelphia, South Philadelphia, and North Philadelphia.

Narcotics police corruption is not a new problem, nor is it unique to Philadelphia. As long as there have been huge profits to be made in the distribution of narcotics, in any place with even the potential for a sizable narcotics market (virtually any American city), those who distribute the drugs have needed police cooperation and have always been able to find officers in whom the greed for easy money outweighs the oath of office and the moral commitment to strict law enforcement.

Business Notes

INTRODUCTION

The corruption in the Philadelphia Police Department found by the Pennsylvania Crime Commission includes direct pay-

³³³*Philadelphia Tribune*, December 9, 1972.

³³⁴*Philadelphia Inquirer*, April 29, 1973, at 4.

³³⁵*Evening Bulletin*, May 28, 1973.

³³⁶*Evening Bulletin*, June 4, 1973, at 27.

ments by businesses to police officers which are made for extra police protection or for overlooking violations of laws. As in the case of vice notes, these payoffs are usually made voluntarily by businessmen, although solicitation also takes place, particularly at Christmas. In some cases, outright pressure, amounting to extortion, is placed on businessmen to pay the police to overlook law violations.

All of these business payments generally fall under the rubric of "clean notes" or "safe notes" in the slang of policemen. The term "clean notes" is generally understood within the Police Department to mean "money paid to a police officer from not an illegal source for some kind of service rendered."³³⁷ The term "safe notes" has a similar meaning, with the additional connotation that the notes can be taken without fear of punishment. One officer testified:

A: The common vernacular is: a safe note is a note where you don't specifically permit anything illegal going on; this is just a service to someone. You are there and you would get like two dollars just to be around.³³⁸

A former officer testified:

Q: And does that encompass paying money to police officers for giving extra services to a business such as escort or protecting premises?

A: That would be considered clean or safe notes because you do not have to worry about the person that gave you the clean or safe note giving testimony that they gave you anything.

Q: Why wouldn't you have to worry about that?

A: Because you are doing them a service.

Q: Rather than extorting from them?

A: Right.³³⁹

³³⁷Scafidi, July 10, 1973, N.T. 115.

³³⁸Weiner, December 5, 1973, N.T. 59.

³³⁹Ruff, December 31, 1973, N.T. 50.

The acceptance by police officers of payments for extra services performed in the line of duty is clearly illegal under the Philadelphia City Charter, which provides that:

No officer or employee of the City and no officer or employee whose salary or other compensation is paid out of the City Treasury shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work.³⁴⁰

Violations of this section are punishable by dismissal, a fine, and up to 90 days in jail. The bribery and extortion laws are also applicable to some cases of policemen receiving money from businesses.

The Police Department has traditionally taken a very strong stand, at least on paper, against policemen receiving such extra compensation. For example, the oath of office taken by policemen until very recently included the following:

I will not knowingly receive, directly or indirectly, any money, or other valuable thing for the performance or nonperformance of any act or duty pertaining to my office, other than the compensation allowed by law.³⁴¹

The chief of the Police Department's Internal Affairs Bureau echoed this policy in his testimony before the Commission on July 10, 1973. He said:

I am opposed to all notes, clean and dirty, and I think that any kind of involvement with notes opens the door for further involvement, and we are opposed to it. We are opposed as a department. I am opposed as a person. I don't like the practice. I never did. I don't condone it, tacitly or openly. I don't think it does the Police Department or policemen any good.³⁴²

³⁴⁰Philadelphia, Pennsylvania, Home Rule Charter, §10-105 (1959).

³⁴¹Philadelphia Police Department, *Det. Manual* §1 (1971). The oath was revised in late 1972, and this portion was deleted.

³⁴²*Id.*, July 10, 1973, NT 118-119.

Despite this strong policy, business payments to police of either cash or free meals have long existed, though few specific facts have ever been disclosed. One reason for this lack of information is the usual hesitance of those engaged in or benefiting from illegal activity to talk about it. Further, until now no one has ever seriously or systematically investigated it. Chief Inspector Scafidi testified on July 10, 1973, that he had been in charge of internal Police Department investigations for five years and that he could not recall any instance of assigning his men, on his own initiative, to seek out evidence of businesses paying police for extra services, except for investigations of Christmas lists.³⁴³ On October 30, 1973, after he had had an opportunity to review his files, he could remember only one specific case.³⁴⁴

The Crime Commission undertook a limited investigation of this aspect of the problem of police corruption in order to find and to reveal to the public some indication of just how widespread these payoffs are, how much money is involved, why they are made, and what the cost is to the public. No attempt was made to identify all of the businesses which paid the police or all of the policemen who received those payments. The facts uncovered, however, clearly establish the existing patterns and form a basis for an evaluation of the problem.

The Commission found that illegal payments of money by businesses to individual policemen are an open, widespread, and traditional practice in Philadelphia. A manager from one chain store testified that he had regularly paid cash to Philadelphia police for extra services for over 25 years. One large restaurant chain has had a practice of giving away free or half-price meals to the policeman on the beat since its inception in 1888. Paying the police is so institutionalized that one large corporation has the words "police protection" inscribed on printed expense forms filled out on a daily and weekly basis at the store level.

The extra protection businessmen get for paying the police was found in some cases to include a full-time, on-duty policeman stationed at or near a business location for the specific purpose of guarding that individual business. In other cases, payments were made in return for a relatively brief special service such as giving a businessman a police escort to the bank,

³⁴³*Id.* at 126-127.

³⁴⁴Testimony of Chief Inspector Frank Scafidi before the Pennsylvania Crime Commission, October 30, 1973, N.T. 27-28 [hereinafter cited as Scafidi, October 30, 1973].

standing by while the businessman closes at night, providing more frequent patrols in the vicinity of the business, guarding and helping to secure a business property after it has been broken into, or holding a stolen car until the insurance company sends someone for it. Free meals were given to the police in order to incur good will on the part of policemen and to reap the protective benefits that arise from policemen simply being present occasionally. Christmas presents were also given once a year for the purpose of establishing goodwill to insure quicker response should the police ever be needed.

Businessmen also pay the police for "services" which are improper or illegal. These "services" include not strictly enforcing the parking laws around busy retail establishments, overlooking traffic or licensing violations at construction sites or where street vendors operate, doing background checks on employment or loan applicants and furnishing other confidential police information for a fee. Police officers are also paid by businessmen seeking to avoid harassment for violations of laws.

The amounts of money paid to the police for extra services range from \$2 for an escort to the bank to \$125 paid once every six days for a full-time police guard stationed on business premises. Although the amounts of individual payments to police can be small, they often add up to a substantial investment of money. One business paid nearly \$60,000 in cash and dispensed \$70,000 worth of free meals to policemen in 1972. Another business was found to be paying cash to the police at an annual rate in excess of \$23,000.

Large numbers of individual policemen have received money from businesses. The Commission's limited inquiry into business notes produced the names and badge numbers of 127 police officers who had received cash payments. This includes one inspector, one captain, seventeen lieutenants, and twenty-five sergeants. Incomplete identification, consisting of initials, last names, or assignments, were obtained for an additional 106 police officers receiving money. The Commission estimates that well over 500 officers received cash payments from just two companies in 1972-1973. Free food or merchandise for police was even more widespread. Identification of 167 specific officers who received free meals was obtained. The Commission estimates that nearly 2,000 officers received free meals from just one company in that period.

The types of businesses paying the police cover a broad spectrum, including banks, insurance companies, automobile

dealers, restaurants, supermarkets, jewelers, construction companies, country clubs, street vendors, and moving companies. Businesses paying the police have been located in every one of the 22 police districts in Philadelphia.

The clean note in Philadelphia results in a serious and improper displacement of police services. It represents a serious corruption hazard despite the fact that often no criminal activity is being protected. In its most petty form—the free cup of coffee—a clean note constitutes a rather small problem. However, because the problem is often cast in that vein the real harm of the businesses paying policemen is often overlooked.

Where police act as regular private guards for specific businesses, their services are effectively lost to the rest of the public. The Commission specifically found that in the case of Gino's, Inc., the services of the equivalent of 22 full-time, on-duty police officers were devoted to protecting various business locations. These on-duty policemen replaced private guards employed by Gino's at a substantial savings in cost to the company. However, the Philadelphia taxpayers lost the services of men who received a combined annual salary of about \$264,000. The cost to the taxpayer of police guards at two other businesses was \$144,000 annually, for a total of \$408,000. This figure is for only three of the many businesses who obtained these special services.

In addition to taking police services away from the public, this use of police as private guards was ineffective as a means of reducing crime. Close examination of crime reports at various Gino's locations in Philadelphia indicates that the regular presence of on-duty police guards could have prevented, on the average, no more than \$13,000 in crime losses due to thefts per year. At the major supermarket chains in Philadelphia, extra police services also had no measurable effect on the safety of individual businesses.

Failure to enforce restrictions on clean notes thus has led to policemen being given assignments which afforded inefficient and ineffective protection to the public. This failure has resulted in a distorted allocation of police resources. An even more serious outcome of the clean note is that decisions on allocations of police personnel are influenced by who is willing to pay extra for them, rather than where they are most needed. In effect, police services are open for bidding, and the proceeds of the bidding go in the pockets of individual police officers, not the City treasury.

The receipt of clean notes also has an impact on the integrity of the individual police officer. The wide acceptance of illegal gifts causes everyone to be compromised to some extent. Some honest officers find them personally degrading and resent the assumption that they can easily be bought. Clean notes are one means by which officers are tested by other officers who want to see if they will go along with the system. Even an officer who will not personally take a clean note learns that he must look the other way when his colleagues take them or risk being an outcast. In some cases where police officers have received a modest but steady clean note, they can become dependent on the extra income, causing them to look for other sources of notes if transferred.

Even occasional Christmas notes, free meals, or other presents given to create goodwill have an adverse effect. Although at first the effect of gifts to policemen or other public employees may be to create good feelings and marginally better service, in the long run the recipients grow to expect the presents as their due. When they are not forthcoming, hostility is often created, and solicitation in a more or less overt form, or even harassment may take place.

Finally, and not least, the fact that policemen so often engage in this manifestly illegal activity and that the police commanders have failed to halt it contribute to a general sense of cynicism and hypocrisy throughout the Department.

SPECIFIC BUSINESSES FOUND TO PAY PHILADELPHIA POLICE

The Crime Commission focused its investigation of payments by businesses to police, to a great extent, on businesses which operated a chain of establishments throughout the City. That decision was based on two primary factors. First, the fact that local stores were part of a larger organization meant that cash accounting procedures were likely to be standardized and records were likely to be centralized making investigation much easier. Second, it was felt that the executives of large organizations would be more likely to decide to cooperate with the Crime Commission investigation since they had to be concerned with the interests and image of the organization as a whole and they also were not likely to be personally involved in the payments.

Because of this initial decision much of what follows is data from chain business operations. However, although the parent companies in these chains are often quite large, the individual units are semi-autonomous and moderate in size, making them comparable to the majority of retail businesses in the City. These businesses, as retail operations, have a great deal of contact with people in the locale and thus should reflect general conditions in the community. The situation uncovered at these chains was corroborated by facts found at non-chain businesses.

Restaurants

Gino's, Inc.

The payments by Gino's, Inc., to Philadelphia police were the largest and most systematic found at any Philadelphia business investigated. They represent a particularly outrageous example of police officers individually contracting out extra police services to private persons in exchange for money.

Gino's, Inc., is a prominent member of the "fast food" industry. It operates a chain of restaurants offering a limited menu of hamburgers, fried chicken, french fried potatoes, and beverages. The company was founded in 1957, and has grown quickly to the point where it now has thirty-six restaurants within the City limits of Philadelphia alone. The company's operations extend throughout Pennsylvania, New Jersey, Delaware, and Maryland.

The Crime Commission subpoenaed business records of Gino's, Inc. on June 25, 1973, asking for all records of any payments to Philadelphia police officers. The records produced contained a detailed accounting of the money given to police officers including, in some cases, identification of the officers who received the money. The records for the whole of 1972 and the first six months of 1973 were examined. Shortly after the subpoena was served, payments of cash to police stopped.

The records showed that 15 of the 36 Gino's restaurants in Philadelphia regularly paid police officers a cash sum of money for "guard service" in 1972-73. The amount of money paid was usually \$75 or \$100 every six days, although at one store it was only \$56 and at some it occasionally rose to \$125. The total amount of money paid for 1972 was \$59,947. For the first half of 1973, the amount was \$29,110.

The standard arrangement between Gino's and the police provided that one on-duty police officer in full uniform with

badge and weapons be assigned specifically to patrol a "beat" in or around the Gino's store. For the purposes of police record-keeping, these policemen were sometimes assigned to a geographical footbeat which covered an area larger than the store itself. For example, the police officer guarding the Gino's at Broad and Lehigh was often theoretically assigned to patrol two blocks of North Broad Street. The officer guarding the Gino's at Midvale Avenue in East Falls usually had a theoretical beat extending from the store to Ridge Avenue, several blocks away. Policemen also apparently were carried on the assignment sheets as working inside headquarters or as being a second man in a car.³⁴⁵ In practice, however, the police officers generally confined their patrolling to the immediate vicinity of the restaurant. The manager of the Midvale Avenue Gino's testified that the officer in his store spent his time in the dining area, the back room of the restaurant, and also went outside, "even, going as far as down the street."³⁴⁶ The Crime Commission conducted surveillances at this location prior to issuance of the subpoena and observed that the policemen guarding the store were always located in the back kitchen area, frequently out of the sight of patrons.³⁴⁷ During the course of one evening's surveillance the police guard, Officer Leonard McC_____ (#9626) never left the restaurant except to confer once with his sergeant, Lawrence F_____ (#322) who had driven up. Officer McC_____ (#9626) did not have a police car with him. When he departed at 11:55 p.m., he got into his own private car and drove away.³⁴⁸ An eyewitness also reported to the Commission that he had observed one or two police officers in uniform sitting in this Gino's watching television on summer evenings in 1972. One of these officers was Policeman John J. G_____ (#1425) identified by the manager as one of the steady police guards.

³⁴⁵Mr. Rubenstein described a situation precisely parallel to the Gino's guard service, see text accompanying note 361 *infra*, although he has refrained from identifying the company. In his book, he states that in his opinion police records were falsified to disguise the guard service. *City Police* 408.

³⁴⁶Testimony of Nicholas Karamis before the Pennsylvania Crime Commission on October 22, 1973, N.T. 13 [hereinafter cited as Karamis].

³⁴⁷The company apparently made some effort to confine police guards to the kitchen area. The minutes of a Gino's managers' meeting on March 22, 1971, state: Guards and Police 1. No guard or police are to be near the front area. Backroom only. 2. Police are to enter at the rear door.

³⁴⁸These officers later appeared at a Crime Commission hearing under subpoena and denied both giving extra guard service to Gino's and receiving money.

At the restaurants which paid for on-duty guards, one policeman was usually present every day. It was normally the same officer each day for six days in succession, with a new officer coming in as the shift changed. This pattern occasionally varied to allow for vacations and sicknesses. In some police districts, which were shorthanded or which had rapid turnover of men, there was less consistency. One restaurant manager testified:

... all that I can say is there was someone there every night. But I would even go to the point in saying that maybe one guy would start it out, he would go back on the car and they would put another guy in there.

It has even been to the point that maybe sometimes they might be short on cars and we wouldn't have a guard inside, but yet, he would be in the car, but he would be in the vicinity.³⁴⁹

Since policemen work a six-day shift, they would be paid every six days. Payments were made either by the manager or an assistant manager on duty at each restaurant, although in one police district where there were three restaurants with police guards, payments were made at one restaurant for the entire district. Gino's managers, who had paid the police directly, testified that they usually paid the sergeant. Petty cash receipts showed that lieutenants also frequently collected the money from some restaurants, and patrolmen would also occasionally receive it.

The extra services provided by the police to Gino's included an escort for the manager as he took the day's receipts to the bank and, occasionally, the presence of a police car on the parking lot at closing time. This service was provided both at the Gino's locations which paid for police guards and at those which did not. From Police Department records produced under a subpoena,³⁵⁰ it was determined that Gino's received an average of 382 police escorts per month in the period January 23 to June 30, 1973. However, locations which paid for police guards tended to get police escorts much more often. These locations

³⁴⁹Testimony of James H. Parker before the Pennsylvania Crime Commission, October 22, 1973, N.T. 21. [hereinafter cited as Parker].

³⁵⁰These records consisted of a "Transportation Log" maintained at the radio room at police headquarters. This log was an informal document which was not maintained prior to January 23, 1973. It listed all assignments given by radio to policemen to give transportation to civilians. It does not include escorts arranged informally between a single policeman and a single store manager.

averaged 17 police escorts per month while locations which did not employ police guards averaged 7 police escorts per month.

Police escort service for individuals or businessmen carrying money is available, theoretically without cost, to anyone who asks for it by calling the Department. Police records show that over a five month period in 1973, a total of 113 businesses, 25 churches, and 59 individuals received money escorts. The types of businesses included grocery stores, gas stations, auto dealers, bowling alleys, check cashing services, hospitals, theaters, banks, department stores, nurseries, country clubs, caterers, schools, jewelers, realtors, churches, cabs, and the City Department of Collections. Although many businesses receive escorts on an occasional basis, Gino's and one supermarket chain²² made it a regular practice and received the lion's share of all the escorts given. Out of the 5,672 money escorts given by the police in the above period, 2,005 were given to Gino's restaurants, which is approximately 36% of the total. This supermarket chain received 1,611 escorts, or approximately 28% of the total. Two other businesses together received an additional 11% of these police escorts. Thus, 2% of the escort recipients garnered 75% of the police escorts. Of these four companies three were found either to have paid cash to police or to have given free meals. The fourth company, accounting for only 442 escorts, was not investigated.

The Gino's restaurants apparently did not make extra cash payments to the police for this service. One manager testified that escort service was included under the payments for guard service. No petty cash receipts were found which indicated payments for escort service at any Gino's locations. It is perhaps significant that although on-duty police guard service at Gino's was quickly terminated as of about June 28, 1973, the police have continued to provide escorts and to receive free meals.

Police escort for managers taking money to the bank appears to be an important part of Gino's system of protection of receipts, and this police service was a matter of some concern to the Gino's managers. Minutes of their meetings in 1969-73 contain frequent reminders to be sure to obtain a police escort. On at least one occasion, December 17, 1971, there was a discussion among the managers of what to do if the police do not show up for an escort an hour after they are called. It was

²²See notes at 271-278. This company paid cash to the escorting officer on each occasion.

recorded that the district manager said he would contact the captain in charge of the 1st District "to see if we can get better cooperation from the police on this."

The police guard service and payments for it at some Gino's restaurants have existed on a formalized basis since at least 1968, and probably longer. Present company executives indicated in interviews that it initially grew out of agreements between individual restaurant managers and policemen at the district level, then spread as new branches were opened and as Gino's personnel were transferred from one district to another. The manager of the Gino's on Midvale Avenue in East Falls testified, for example, that he had no police guards when he took over the store in 1970, but at the suggestion of his district manager he contacted the police and arranged for the guards:

A: ... I think one of the district managers, or another person, may have suggested that it was being done in another area, and asked me—I think it was me—and I think I asked the officers to ask the sergeant. He came in, and I guess they knew it was another area and said, "Well, we can work out the same thing," maybe.

Q: So, as best as you can recall, you or someone discussed it with the officer who was in the sector, and with his sergeant?

A: Right.

Q: Did anybody talk to anybody higher than a sergeant; such as, the lieutenant or captain?

A: I talked to a lieutenant. I think I went through the sergeant and I may have gone through a lieutenant.

Q: Anybody else?

A: No, that's it.

Q: Who was the sergeant and lieutenant that you spoke to?

A: I couldn't even begin to give you the names, it's been so long. But now that I think of it, I think that's the way it started. It was suggested to us that we ask our local police district that we were in, and I think I asked the sergeant—the officer and the

sergeant, and I think—I can't really answer you if I really talked to a lieutenant. I think I did.³⁵²

The manager of a Gino's on Torresdale Avenue testified that police guard service was arranged by his district manager. The restaurant manager in that case simply expressed a wish for a guard, though he did not specify police guards. He said he had little direct contact with the police since they were usually paid through another restaurant in the same police district.

The upper level management of Gino's adopted a "hear no evil, see no evil" posture toward the company's use of on-duty police officers as guards. Raymond Haas, Vice President and General Manager of Gino's for the Eastern Pennsylvania area, testified that he was completely ignorant of the fact that Philadelphia Gino's stores were hiring on-duty police officers as guards until the subpoena was served by the Crime Commission in June, 1973.³⁵³ He stated that the decision whether to hire guards was one made by the area manager, who is one step above the district manager in the Gino's hierarchy.

Cloyd Fleming, the area manager in charge of most of the 36 Gino's restaurants in Philadelphia since May, 1972, testified he had first become aware of the police guard service around August or September of that year. He said, ". . . I noticed a policeman standing in the patio, no patrol car around, or—actually seemed to be loitering in uniform, and I asked about it. The comment that I got back was, 'He was the guard.'³⁵⁴

Mr. Fleming testified that he did not think it unusual to have a police guard since "as a manager I had off-duty policemen working guard details in uniform, and this was at the Upper Darby unit. However, Mr. Fleming testified that he had no idea whether these officers were on or off duty.³⁵⁵

³⁵²Karamis, N.T. 20-21.

³⁵³Testimony of Raymond Haas before the Pennsylvania Crime Commission, October 23, 1974, N.T. 3-6 [hereinafter cited as Haas]. However Mr. Haas, as well as Gino Matchetti, attended a meeting on April 9, 1969. The minutes of that meeting set forth the following procedure: "Contact the local police and arrange to see if they could be in the area of the unit when the employees are leaving for the evening."

³⁵⁴Testimony of Cloyd Fleming before the Pennsylvania Crime Commission, October 23, 1974, N.T. 8 [hereinafter cited as Fleming].

³⁵⁵Id.

Despite his awareness of police guards in Philadelphia, Mr. Fleming told a Commission investigator on April 18, 1973, that he had no knowledge of any "payoffs" to police. Mr. Fleming later tried to explain that statement by saying he did not actually find out that the police were being paid until the subpoena was served. As area manager, he was unaware of the total cost of paying for police guard service and could not explain why the same service cost more in some police districts than in others.³⁵⁶

The Gino's managers testified they did not know what the policemen did with the money. The Commission discovered it was divided up among all the officers who either participated in the guard service, had direct knowledge of it, or responsibility for it.

There is no question that at least the middle-echelon police commanders knew of and participated in the Gino's guard service scheme. Both testimony and Gino's company documents showed the officers who actually received the payments were sergeants and lieutenants more often than not. Moreover, the sergeants, as squad leaders, have the responsibility for assigning duties to the men under their command each day with the approval of the lieutenants in charge of the platoons. Each sergeant fills out the daily assignment sheets, or "pull sheets," which list the assignments for that day.³⁵⁷ Each sergeant and lieutenant questioned by the Commission acknowledged that there was a footbeat located at the Gino's restaurant in his district.³⁵⁸ Moreover, surveillances established that the sergeants and other police officers knew that policemen were in fact patrolling inside the Gino's restaurants. For example, on the evening of June 13, 1973, when policeman Leonard McC_____ (#9626) was stationed inside the Midvale Avenue Gino's, he went outside at one point to talk to his sergeant. On another evening, Policeman Ronald G_____ (#1768) another regular guard, was dropped off at Gino's by a policeman in a police car.

The police guard service at Gino's was obviously well-organized within the Police Department. If an officer failed to

³⁵⁶Id. at 8, 14, 19.

³⁵⁷Testimony of Sergeant Paul C_____ (#346) and Lieutenant Robin G_____ (#143) before the Pennsylvania Crime Commission, November 13, 1973, N.T. 6, 7, 35 [hereinafter cited as Sergeant C_____ (#346) and Lieutenant G_____ (#143) respectively].

³⁵⁸They did maintain, however, that the beats were broader than just Gino's and were not always filled by men.

show up the manager would call the sergeant to straighten it out.

Q. What happens if the police guard doesn't show up on certain days? Is there someone that you call?

A. We would call the sergeant.

Q. And how would you reach him, at the district headquarters?

A. I would ask an officer that might stop in to eat, you know, and ask him if he would see the sergeant to ask him to stop by.

Q. Which sergeant would you call?

A. The one that would be on duty. . . .³⁵⁹

Even though there might be transfers or changes in police personnel, there would always be a police officer available. James J. Parker, the manager of the Gino's at Broad and Lehigh in the 22nd District, testified:

Some weeks it may be that same particular officer who would work the six days and, and maybe, the next week on a different shift they may have one guy there two days, another guy there two days, or a different guy every day.³⁶⁰

Some indication of the manner in which the Gino's payments for guard service were divided among police officers is given by Mr. Jonathan Rubinstein. In his book *City Police*, Mr. Rubinstein describes a system of paid police guards at an unidentified Philadelphia restaurant chain, which is strikingly similar to the system found at Gino's.

In a number of districts some branches of a restaurant chain have a policeman assigned to sit inside during the four-to-twelve shift. This chain has an established policy of giving free food to patrolmen during certain times of the day and each branch keeps a careful record of what is given away. But the beat

³⁵⁹Karmin, NT 21-22
³⁶⁰Parker, NT 20-21

man's services are not offered in exchange for these favors: he is rented for a fee. It is against departmental policy to assign men fixed posts in commercial establishments; the men who do this work are officially listed as working on a sector car or a beat. In one district the man who handled the assignment on the four-to-twelve shift said that he was paid \$20 a week for acting as a private guard. Since the arrangement required the permission of his sergeant and possibly his captain, it can be assumed that they, too, were being paid. . . .³⁶¹

At another store, the arrangement was that:

. . . every Saturday night the sergeant or his bagman would collect \$100. The money was distributed among all the men who contributed to maintaining the arrangement. The beatman got \$25, and lesser amounts were paid to the sector car which was operated by the man's partner, and to the wagon crew that serviced the area. In addition, the sergeant, lieutenant and captain were also given a cut.³⁶²

Mr. Rubinstein confirmed and elaborated on the above statements in his testimony before the Crime Commission, emphasizing that the captains of the various police districts must have known about the guard service at the restaurant chain:

Q: I was wondering if you knew for sure if [the money] was going for all the officers that you mentioned, as high as the captain, and if so what do you base that on?

A: I don't know specifically that money was going to the captain or the lieutenant or even the sergeant for that matter, in the sense that I, under oath, couldn't—didn't see the sergeant, lieutenant or captain receive the money.

³⁶¹*City Police* 408.

³⁶²*Id.* at 409. This system of guard service payoffs is quite similar to the common pattern of payoffs to protect illegal gambling and other vice operations. As demonstrated elsewhere in this Report numbers operations typically pay off all the police officers who know of their existence and have any responsibility for taking action against them.

Q: Were you told that they were getting [the money]?

A: Oh yes.

Q: You were told by whoever you spoke to that the captain was sharing in that also?

A: (Witness nods head.)

Q: So the captain knew about it in this case?

A: That's what I was told, yes.

* * * * *

A: I don't, by the way, believe that it would be possible to regularly assign a patrolman to one of these places two or three nights a week, every week, without the captain knowing. I think it would be impossible unless, I mean, the captain is a complete idiot. Very few idiots become captains in the Police Department.³⁶³

The number of individual police officers receiving payoffs from Gino's is very large. A total of fifteen stores were receiving police guard service and paying policemen in 1972-73. They were spread over ten Philadelphia police districts. In each district one captain, four lieutenants (one for each shift), and at least four sergeants were usually involved, possibly more where there was more than one Gino's in the district. There would also be a minimum of four policemen, four carmen, and eight wagon men (there are always two men to a wagon) taking part in the payoff at each Gino's. This means that an estimated minimum of 320 police officers were involved in any one month. With transfers and reassignments of police, the actual total number of policemen who shared the Gino's note was much larger.

These estimated numbers are corroborated by the business records produced by Gino's in response to subpoena. Each of the payments made by Gino's employees to the police was duly recorded on a petty cash receipt. At seven of the fifteen Gino's which paid the police, the receipts also frequently contained indications of the identity of the policemen receiving the money. Names, badge numbers, ranks or initials appeared

³⁶³Testimony of Jonathan Rubinstein before the Pennsylvania Crime Commission, January 2, 1974, NT 139-140 [hereinafter cited as Rubinstein].

in various combinations. Testimony, as well as examination of the documents, show that in some cases the name or badge number was written by the store manager. In other cases, the police officer himself signed the receipt.³⁶⁴

The clearest and most complete records were kept at the Broad and Lehigh Gino's. Those records show that from January, 1972 to June, 1973, four lieutenants, four sergeants and one policeman from the 22nd District picked up cash payments. Each is identified at least twice on receipts.

The company receipts clearly identify 41 separate police officers as directly receiving money from Gino's. Four additional officers are identified in testimony as regular guards. The full list of 45 is set forth in the margin.³⁶⁵ There are also 62 other separate notations of the identity of police officers receiving money on Gino's company records. These consisted of names, badge numbers, or initials which could not be definitely traced. They include such apparently false names as "F. Rizzo," and "J. E. Hoover." The full list was turned over to the Philadelphia Police Department for its review and investigation on August 10, 1973.³⁶⁶

³⁶⁴Parker, N.T. 29.

³⁶⁵Lieutenants

Lewis P. C. (#157)
Charles F. (#313)
Phillip M. F. (#119)
Charles V. G. (#131)
Robin K. G. (#143)
Richard F. K. (#182)
Robert D. K. (#155)
Robert M. N. (#102)
William P. P. (#279)
Lynn T. S. (#256)
Harvey H. W. (#179)
Joseph T. W. (#307)

Policemen

Obie B. (#1565)
Francis C. (#5619)
Blase C. (#4265)
William R. D. (#2485)
John J. G. (#4425)
Ronald G. (#1768)
Thomas H. (#6905)
Crummer H. (#7249)
John J. (#2778)
Richard J. (#2415)
Leonard McC. (#9626)
Robert D. R. (#2856)
William R. (#9362)
William W. (#7112)

Sergeants

William A. B. (#489)
Paul C. (#346)
Alfred C. (#240)
Michael C. (#8508)
Francis C. (#8500)
James P. F. (#526)
Howard R. H. (#272)
Robert H. (#363)
John M. (#372)
Thomas A. R. (#412)
Joseph R. (#593)
Thomas J. S. (#373)
William S. (#262)
Myron D. T. (#507)
Henry V. (#509)
Daniel F. V. (#599)
Reuben W. (#8537)
Gene Z. (#587)
Robert K. (#291)

³⁶⁶As discussed *infra* at 502-505, no action was taken by the Department other than opening a few files.

Many of the police officers who received cash from Gino's did so on more than one occasion. The leaders are Lieutenant Robin G. _____ (#143), whose name or number appears fifteen times for \$1,125; Sergeant Paul C. _____ (#346), whose name also appears fifteen times; Lieutenant Robert M. N. _____ (#102, now retired), ten times; and Sergeant Michael C. _____ (#8508), eight times. The name of one police officer, Sergeant Daniel F. V. _____ (#599), appears on the records of three separate restaurants as directly receiving cash payments.

Eight of the police officers involved in the Gino's police guard service scheme were subpoenaed to testify before the Crime Commission. The eight were Lieutenant Robert M. N. _____ (#102); Lieutenant Robin G. _____ (#143); Sergeant Paul C. _____ (#346); and Policeman John J. _____ (#2778), all from the 22nd Police District; Sergeant Michael C. _____ (#8508), from the 25th District; and Sergeant Lawrence F. _____ (#322), Policeman Leonard McC. _____ (#9626), and Policeman Ronald G. _____ (#1768), all from the 39th District. The names of Lieutenants N. _____ (#102) and G. _____ (#143), Sergeant C. _____ (#346), and Policeman J. _____ (#2778) appeared on cash receipts at the Broad and Lehigh Gino's. Lieutenant N. _____ (#102) and Policeman J. _____ (#2778) were also specifically identified by the manager as officers to whom he gave money.³⁶⁷

Sergeant C. _____'s (#8508) signature and badge number appeared on cash receipts from the Gino's at Eleventh and Allegheny. Policemen McC. _____ (#9626) and G. _____ (#1768) were identified in testimony as regular guards at the Midvale Avenue Gino's. They, along with Sergeant F. _____ (#322), were observed on those premises.

One of these eight officers, Lieutenant N. _____ (#102) failed to appear in response to the subpoena. It was subsequently learned that he had retired on a pension on October 8, 1973, a few days before the subpoena was served at police headquarters. The Commission has attempted to re-serve a subpoena personally, but Lieutenant N. _____ (#102) has appeared. His family professes not to know his whereabouts.

Despite the clear evidence of their involvement in the Gino's guard service, each of the seven officers denied under oath receiving any money from Gino's, Inc., or participating in pro-

³⁶⁷Parker, N.T. 26-37. Mr. Parker testified that his assistant managers frequently made the payments and that he therefore did not know all of the police involved. N.T.

viding guards for Gino's. Each of the officers did, however, concede facts during the questioning which corroborated the information the Commission had already received. The three policemen from the 22nd District each acknowledged, for example, that there was a regular footbeat covering the intersection of Broad and Lehigh Streets, where Gino's was located.

Sergeant C. _____ (#346) and Lieutenant G. _____ (#143) both testified that the Broad and Lehigh beat was a low priority assignment—it was "beat number seven" on the district list. Sergeant C. _____ (#346) said that the beats are taken in numerical order once the cars are all filled, and that "[t]he only time that it [beat number seven] could ever be covered would possibly be on day work [8 a.m. to 4 p.m.], when there are restrictions on the number of cars you can have two-man."³⁶⁸ Lieutenant G. _____ (#143), who was in charge of a different platoon, said beats are usually not assigned on a regular basis. He also said that the police assignment sheets he had checked showed he had not assigned a man to Broad and Lehigh since at least June of 1972.³⁶⁹

Policeman J. _____ (#2778), who testified after Sergeant C. _____ (#346) and Lieutenant G. _____ (#143), contradicted them. He was asked if the Broad and Lehigh beat was called "beat number seven." He replied, "One time they called it special beat one. Now they call it beat number seven." When asked what "special beat one" meant, he said, "High crime rates, things like that," and then volunteered, "They put a man out there on four to twelve." Policeman J. _____ (#2778) acknowledged that he himself had frequently been assigned to special beat one prior to March, 1973, when he became ill and went on leave. He said that while on the beat he "patrolled the two blocks there," going into Gino's "occasionally."³⁷⁰

The existence of a police guard at the Broad and Lehigh Gino's was corroborated by former policeman Felix Ruff in his testimony before the Commission on December 31, 1973. Mr. Ruff said that while he was on the police force he was aware that there was a policeman assigned to a footbeat at Broad and Lehigh and that the policeman spent most of his time in Gino's.³⁷¹ However, Mr. Ruff was in the adjacent 23rd Police

³⁶⁸Sergeant C. _____ (#346), N.T. 6.

³⁶⁹Lieutenant G. _____ (#143), N.T. 30.

³⁷⁰Testimony of Policeman John J. _____ (#2778) before the Pennsylvania Crime Commission, November 13, 1973, N.T. 40-42.

³⁷¹Ruff, December 31, 1973, N.T. 53.

District at the time and had no knowledge of whether the Gino's policeman was being paid. Sergeant C_____ (#346) and Policeman J_____ (#2778) confirmed from their own memories that most of the policemen whose names appear on the cash receipts from the Broad and Lehigh Gino's actually were assigned to the 22nd District in 1972 or 1973.

Sergeant Michael C_____ (#8508) confirmed that there was a beat in the 25th District from Eleventh to Broad Streets on Allegheny Avenue (a Gino's is at Eleventh and Allegheny) and that he would assign a man to it "when we had the manpower." He stated, "We were told by the captain [John J. C_____ (#35)] to put a beat there if we could because of the holdups."³⁷² He said he would assign a man either from four to twelve or from seven p.m. to three a.m., if a task force man were available. Sergeant Paul C_____ (#346) also testified that the four lieutenants whose names appear on cash receipts at the Eleventh and Allegheny Gino's, Charles V. G_____ (#131), Harvey H. W_____ (#179), Lewis P. C_____ (#157) and William P. P_____ (#279), were in charge of 25th District platoons number one, two, three, and four respectively. Although Sergeant Michael C_____ (#8508) denied receiving any money or signing any receipts for money at Gino's, a handwriting sample he gave shows striking similarities to the signatures on the receipts.

Sergeant Lawrence F_____ (#322) testified that he had been in the 39th District since February, 1972. Prior to that he had been in the western part of the 25th District, covering Eleventh and Allegheny. He acknowledged there was a beat located around the Gino's restaurant in his district on Midvale Avenue and that he assigned men to that location, though not on a "steady" basis. Policeman Leonard McC_____ (#9626) was one of those assigned, though he was not the only one. Sergeant F_____ (#322) gave a confused and contradictory account of why there was a foot beat at the Gino's. He said it probably began when there was a "racial problem" at a barber shop "down by East River Drive."³⁷³ When questioned about the racial problem he said at first that it happened a few months after he had been transferred to the district. A few minutes later he changed his story and said he had been informed by others there was a racial problem and a twenty-four hour guard at Midvale

³⁷²Testimony of Sergeant Michael C_____ (#8508) before the Pennsylvania Crime Commission, November 13, 1973, N.T. 56.

³⁷³Testimony of Sergeant Lawrence F_____ (#322) before the Pennsylvania Crime Commission, November 13, 1973, N.T. 79, 81.

and Ridge Avenues before he got there.³⁷⁴ He also said there was a regular foot beat at the intersection of Ridge and Midvale, but it did not extend up to Gino's.

Policeman Leonard McC_____ (#9626) acknowledged under oath occasionally being assigned to foot patrol duty on Midvale Avenue but said he never spent more than twenty minutes inside and that was while eating. He specifically testified he had never spent a period of two or three hours in the restaurant. His testimony is directly contradicted by the observations of Crime Commission agents as well as the testimony of the Gino's manager.

Policeman Ronald G_____ (#1768) testified that he "quite frequently" was assigned to a foot beat in the vicinity of Gino's on Midvale Avenue.³⁷⁵ While on the beat he would go into Gino's. His estimate of the length of time spent in Gino's grew larger the more he thought about it. At first he testified:

Q: When you're up around Gino's, do you go in the restaurant?

A: Sometimes.

Q: Do you ever spend some time in there?

A: I could, yes.

Q: How long would you spend there?

A: Off and on, maybe ten, fifteen minutes.

Q: At a time?

A: Yes.

Q: Then you would go take a walk?

A: Walk, come back.

Q: And come back?

A: Yes.³⁷⁶

Shortly after that he testified:

Q: What would be the maximum amount time you might spend in one stretch at the restaurant?

³⁷⁴*Id.* at 81-84.

³⁷⁵Testimony of Policeman Ronald G_____ (#1768) before the Pennsylvania Crime Commission, November 13, 1973, N.T. 106.

³⁷⁶*Id.* at 107.

A: Maybe half an hour, forty-five minutes. Depends on, you know, situations. I might spend an hour, maybe an hour and a half.³⁷⁷

The Crime Commission concludes that there is substantial evidence that these police officers have lied under oath about their involvement with police guard service at Gino's.

In addition to paying for on-duty police guards at fifteen Philadelphia restaurants, Gino's, Inc. also gave free food to police officers at all of its restaurants. General Manager Haas of Gino's testified on October 22, 1973, that he had been with the company for thirteen years and that it had been giving free meals to police officers in every state it operated in during that period of time.³⁷⁸ The Gino's restaurant managers who testified before the Commission also stated that Philadelphia police officers receive free meals and that the practice is continuing despite this investigation.

Just as in the case of the payments for guard service, Gino's, Inc., produced detailed and precise records on the amount and type of food given to police officers. These records have provided a unique opportunity to observe how widespread and accepted free meals for police are. Gino's keeps a close account of each individual item of food, such as rolls or hamburger patties, that moves through each restaurant. Each time an employee or policeman or any other person consumes an item without paying for it, a check is marked under the appropriate column on a printed form called the "Gino's Eaten-Spoilage Report," also known as the "eat sheet." A list of employees is also written along the left margin of the sheets, along with either a summary for "police" or the names of individual police at the bottom of the column. A new sheet is filled out each day.

From these records and the wholesale and retail prices furnished by Gino's, the Commission was able to calculate the actual value of the food given by the company to Philadelphia police officers for one four week period. Extrapolating from that period to an annual basis, the Commission computed that Gino's has given approximately \$70,000 worth of free food (retail value) to Philadelphia policemen each year.

At three of the thirty-five Philadelphia Gino's whose records were examined,³⁷⁹ the "eat sheets" contained the name or badge

³⁷⁷ Haas, NT 6.

³⁷⁸ Haas, NT 6.

³⁷⁹ The thirty-sixth restaurant had just opened and had no records.

number of the policemen who received free meals there. One store also maintained a "Police Food Log" which was a running tally of food given to police, containing badge numbers or car numbers of the police receiving food.

The records at these three stores reveal the identity of 152 individual police officers who received free meals in an eighteen month period from January, 1972, to June, 1973. The names and ranks of these policemen are set forth in the margin.³⁸⁰

380

Captain Bernard S. (#40)	Policeman William F. B. (#1472)
Lieutenant Charles M. (#220)	Policeman Robert T. B. (#1250)
Sergeant Richard C. (#405)	Policeman Melvin B. (#9792)
Sergeant William D. (#394)	Policeman Frank J. B. (#9392)
Sergeant Thomas J. H. (#554)	Policeman Tilton B. (#7374)
Sergeant Ronald C. H. (#8564)	Policeman Harold B. (#2136)
Sergeant Stephen K. (#294)	Policeman Elwood H. B. (#1808)
Sergeant Joseph M. (#437)	Policeman Richard W. B. (#5872)
Sergeant Harold M. (#8626)	Policeman Roosevelt B. (#6672)
Sergeant Joseph R. (#593)	Policeman Vincent C. (#2571)
Detective Preston L. S. (#983)	Policeman Thad L. J. C. (#1925)
Policeman Ignor A. (#9787)	Policeman Lawrence C. (#3905)
Policeman John J. A. (#1500)	Policeman David F. C. (#5357)
Policeman Roland A. (#5864)	Policeman Ralph D. (#6692)
Policeman Daniel J. A. (#1233)	Policeman George D. (#1960)
Policeman James J. B. (#6029)	Policeman Marion H. D. (#7473)
Policeman Frederick B. (#6195)	Policeman Arnold D. (#3021)
Policeman William B. (#9866)	Policeman Bede D. (#3748)
Policeman Michael E. B. (#6088)	Policeman James H. E. (#6226)
Policeman Dennis E. (#3360)	Policeman Joseph K. (#7026)
Policeman Daniel E. (#9879)	Policeman Russell L. (#4538)
Policeman James J. F. (#1551)	Policeman Leroy R. L. (#3506)
Policeman Charles E. F. (#5538)	Policeman James C. L. (#5762)
Policeman Dennis F. (#3981)	Policeman Leonard L. (#2444)
Policeman Joseph P. F. (#9604)	Policeman Burton L. (#4171)
Policeman Leroy J. F. (#1996)	Policeman John C. L. (#4977)
Policeman Michael F. (#9413)	Policeman Joseph D. L. (#2061)
Policeman William G. (#5235)	Policeman Robert L. (#6014)
Policeman Martin G. (#4927)	Policeman William L. (#5410)
Policeman Charles G. (#1623)	Policeman Ronald L. (#3071)
Policeman John G. (#3484)	Policeman Lewis M. (#4761)
Policeman Harry L. G. (#3608)	Policeman Joseph M. (#6726)
Policeman Lewis R. G. (#7005)	Policeman Jeremie M. (#2548)
Policeman Ronald G. (#1768)	Policeman Leonard M. (#9626)
Policeman David R. G. (#3734)	Policeman Vincent M. (#4939)
Policeman Elwood F. H. (#6260)	Policeman Vincent M. (#3340)
Policeman Robert H. (#9812)	Policeman Joseph M. (#5164)
Policeman Robert H. (#3301)	Policeman James J. M. (#5043)
Policeman James H. (#3302)	Policeman Stephen M. (#6085)
Policeman Robert W. H. (#4509)	Policeman Paul M. (#4346)
Policeman Frank F. H. (#3747)	Policeman Thomas M. (#6246)
Policeman Joseph E. H. (#2168)	Policeman Gary M. (#6299)
Policeman M. H. (#5890)	Policeman E. S. M. (#4347)

This number actually understates the number of policemen who received free meals since even at these three restaurants the records frequently just said "police" and a figure. Also, some identified officers frequently picked up food for others since they could not possibly have eaten by themselves all the food for which they signed.

It can be conservatively estimated that if similar records had been maintained on the identity of each policeman receiving free food at all the other Gino's restaurants in Philadelphia, the names of at least 2,000 police officers would be revealed, which would be 25% of the Philadelphia police force.

The police food log maintained by the Gino's at 4200 North Broad, located in the 39th District, reveals other interesting information. From the police car numbers on this log it appears that policemen from distant sectors of the 39th District frequently ate at this restaurant despite the strict departmental rule that a policeman may not leave the sector or district to

- | | |
|---------------------------------|---------------------------------|
| Policeman Joseph E. H. (#7424) | Policeman Robert M. (#1889) |
| Policeman Michael H. (#1533) | Policeman Arnold L. M. (#5603) |
| Policeman Joseph J. (#3617) | Policeman Carlos W. M. (#5245) |
| Policeman Albert J. K. (#4221) | Policeman John J. M. (#3894) |
| Policeman James K. (#6923) | Policeman Charles F. M. (#9636) |
| Policeman Robert K. K. (#7385) | Policeman Hugh A. N. (#6414) |
| Policeman Kenney J. K. (#2086) | Policeman Richard N. (#3776) |
| Policeman John F. K. (#3516) | Policeman Lawrence N. (#5397) |
| Policeman Edward E. K. (#1282) | Policeman Andrew N. (#2972) |
| Policeman George P. K. (#4131) | Policeman Lorenzo O. (#3210) |
| Policeman Donald L. K. (#6429) | Policeman Bernard O. (#4395) |
| Policeman Edward J. O. (#4478) | Policeman Ronald S. (#4124) |
| Policeman James O. (#5516) | Policeman Thomas S. (#7205) |
| Policeman William A. P. (#3378) | Policeman Joseph S. (#6825) |
| Policeman George R. P. (#5518) | Policeman Raymond S. (#1396) |
| Policeman William P. (#3958) | Policeman R. S. (#6828) |
| Policeman John E. P. (#5524) | Policeman Gerald S. (#5846) |
| Policeman Joseph J. P. (#6612) | Policeman John J. T. (#6778) |
| Policeman Francis M. P. (#6160) | Policeman Joseph T. (#5353) |
| Policeman Harvey Q. (#4000) | Policeman Edward J. V. (#4130) |
| Policeman Leslie R. Q. (#3478) | Policeman Robert V. (#5572) |
| Policeman James R. R. (#3039) | Policeman Raymond W. (#3234) |
| Policeman Alan J. R. (#6717) | Policeman Reginald W. (#6451) |
| Policeman Eugene R. (#3793) | Policeman Jon W. (#4130) |
| Policeman James T. R. (#7194) | Policeman James T. R. (#7194) |
| Policeman Orville R. (#6461) | Policeman George M. W. (#6648) |
| Policeman John J. R. (#3073) | Policeman George W. (#6666) |
| Policeman Earl G. S. (#4938) | Policeman Warren W. (#6773) |
| Policeman Robert S. (#6771) | Policeman Will W. (#2185) |
| Policeman Robert S. (#5951) | Policeman Kenneth W. (#9480) |
| Policeman Richard S. (#6135) | Policeman Harold A. W. (#6826) |
| Policeman Robert J. S. (#6037) | Policeman Kenneth P. Y. (#4734) |
| Policeman Robert F. S. (#3986) | Policeman James F. Z. (#7358) |

which he is assigned without special permission. The log also shows that the occupants of police cars #39DC, #39A, #39B, and #39C regularly received free food at the 4200 North Broad Gino's. These four cars are normally occupied by the command personnel of the district: captain, lieutenant, or sergeants.

The popularity of Gino's with police officers is not difficult to understand. In the first place, it is free. Second, it is accessible and quick, which is important since a policeman is only allowed twenty minutes to eat. Third, and not least, some policemen did not feel safe eating in local establishments in some areas of the City because of antagonism to police and lack of cleanliness. One policeman testified:

There were a few eating spots [in the 22nd District], not many, because most of it, the places down there just don't like policemen, we were really afraid of getting something put in the food. So most of the policemen when they ate, you ate at specific places.³⁸¹

Gino's was particularly appreciated by this officer: "Well, when I worked the twenty-third we didn't have any Gino's . . . but at the time I worked the District, I would have given my right arm to have a Gino's, at least a clean place to eat. . . ."³⁸²

The large number of free meals eaten by police officers has given the Gino's management some second thoughts. Although, surprisingly, the company has never added up the total cost of giving police free meals,³⁸³ the executives are aware that the cost is heavy, particularly in the Philadelphia area. The minutes of a managers' meeting of December 22, 1971, state that "spoilage and eaten" was 1.8% for the Delaware Valley area while it was 1.4% companywide. The cause of the higher rate was attributed in part to "feeding of police."

The company has made some internal attempts to limit free meals to police. A memorandum dated August 18, 1971, and circulated to managers, states "the eating privileges we are offering police officers have been abused" and sets out a limited menu choice for police. The minutes of a managers' meeting state: "feeding of the police is getting out of hand again." At this

³⁸¹Weiner, December 5, 1973, N.T. 29.

³⁸²*Id.* at 77.

³⁸³Both General Manager Haas and Area Manager Fleming so testified. Haas, N.T. 12-13; Fleming, N.T. 19-20.

meeting the managers were directed not to serve police from 11:30 to 1:30 and from 5:00 to 7:00 p.m. A sign informing the police of these restricted hours was observed at the Midvale Avenue Gino's in June, 1973. The police were also restricted at some stores by permitting only police from one district to eat.

Q: Were there any restrictions on which police officers were eligible to receive the free food?

A: Yes.

Q: What were the restrictions?

A: They had to be in the twenty-second district.

Q: Was that adhered to?

A: Yes.

Q: How did you know which officers were in the twenty-second district?

A: Well, I had them sign a guest check. In other words, as long as they put something down there. Well, we would check the car number. You see, we were right on the borderline and the thirty-ninth district was on the other side of Lehigh Avenue. It would be very easy for one of their cars to come in.

Q: Did any officers ever pay for their food?

A: Yes, outside of the district. Because after a while they realized that we were only going to feed the twenty-second district.³⁸⁴

Q: Did anybody ever give you a hard time when you wouldn't give them the free food?

A: No, not really, because we just explained to them that it was part of our job and it was taking away from our bonus program.

Q: Right.

A: We always tried to have a good rapport with them because, like I say, we do depend upon them. We

³⁸⁴Apparently this policy was not strictly followed since a former policeman testified he used to eat for free at this Gino's while assigned to the 23rd District.

didn't want to turn them off, but yet, we didn't want to be taken advantage of.³⁸⁵

Despite the Crime Commission's investigation which has brought this practice to light, despite the illegality of police receiving free meals, and despite the large cost, Gino's continues to provide free meals to Philadelphia police officers. The company managers and executives freely admitted this and the testimony of Officer Weiner confirms it. In early December, 1973, he tried to buy two cheeseburgers and a bag of fries at Gino's. He testified, "I handed her my money and she didn't take it off the counter. I looked around, saw that she didn't take it and put it back in my pocket."³⁸⁶

Roy Rogers—Hot Shoppes

The Marriott Corporation operates a variety of inns and restaurants, including the "Roy Rogers" and "Hot Shoppes Junior" fast-food restaurant chains. The records of this corporation subpoenaed by the Crime Commission showed that there were five Roy Rogers and two Hot Shoppes Junior restaurants in Philadelphia. All were providing free meals to police officers.

There appeared to be no consistent policy or regular recordkeeping within this chain on free meals for police officers. An attorney at the company headquarters in Bethesda, Maryland, remarked after the subpoena was served that the management was surprised to discover what was going on at the store level and what it was costing the company. Because of the scantiness of records and the apparent variation in policy from one store to another, it was impossible to determine how many policemen have received free meals from this source.

The records provided by the corporation do include the names or other identifications of eight Philadelphia policemen who have received one or more free meals.³⁸⁷ Since these names were listed at only two stores—the Hot Shoppe Junior at Broad and Christian Streets, and the Roy Rogers at 6235

³⁸⁵Parker, N.T. 23-24.

³⁸⁶Weiner, December 5, 1973, N.T. 80.

³⁸⁷At the Hot Shoppe: Policeman John J. E. _____ (#3697). At the Roy Rogers: Policemen Howard S. L. _____ (#4222); William B. _____ (#9908); Stanley K. _____ (#2507); Ferdinand P. _____ (#4483); Bernard F. _____ (#2125); William C. _____ (#9743); and Emmett J. K. _____ (#1934), all from the 55th District, where the restaurant is located.

North Broad Street—it seems reasonable to assume that considerably more policemen have actually eaten Marriott food.

The services received by the Marriott restaurants in exchange for free meals appear primarily to be police presence and goodwill. However, the restaurants also received police escorts, a total of ten in five months, according to police records.

Horn & Hardart

Horn & Hardart operates a chain of cafeteria-style restaurants throughout the City of Philadelphia. Currently there are ten Horn & Hardart restaurants, although at one time there were forty-four. The company has been in business in Philadelphia for over eighty years, having been founded in 1888. It has always been a company policy that the "officer on the beat, and the sergeant" receive half-price meals at all Horn & Hardarts. Indeed, this is set forth directly in the company's official guidelines on "Internal Controls of Cash and Merchandise." In practice, this guideline is followed liberally. In many cases, policemen are charged nothing at all and little effort is made to determine an officer's assignment. No record of any kind is kept by Horn & Hardart on the number or cost of free police meals. Horn & Hardart was a relatively frequent user of police escort service. The company received a total of 206 recorded police escorts in a five month period from January to June, 1973. In at least one case, the "escort" service was more in the nature of a courier service. Policeman William S. _____ (#2137) was observed entering a Horn & Hardart at Bustleton and Cottman Avenues in Northeast Philadelphia with a cloth sack of paper money, which he then gave to the cashier.

Dewey's Coffee Shops

Dewey's operates a chain of fifteen luncheonette-restaurants, all but one of which are in the center city area. In an interview with Commission staff on July 31, 1973, the Assistant General Manager, Dewey Yesner, confirmed that every Dewey's in Philadelphia gives free food to Philadelphia policemen: orange juice or coffee to any policeman who asks, and a free lunch to the beat patrolman or the traffic cop on the local corner. Dewey's kept few or no records on these free meals for police. In addition to the free food, Dewey's makes cash gifts of \$5

each to a considerable number of policemen at Christmas time which are recorded on petty cash receipts.³⁸⁸

Mr. Yesner stated that the free meals and Christmas gifts were not made in return for specific services. He said that it was done because it "helps retain goodwill" and because "it's always been done." Mr. Yesner added that the present management of Dewey's inherited the policy, which has been maintained since 1936. Mr. Yesner was not aware that it is both illegal and against regulations for policemen to accept either free meals or Christmas gifts from merchants.

Other Restaurants

The Crime Commission also found free meals to exist at numerous other locations. For example, a Crime Commission agent observed two uniformed policemen take food without paying for it from Harvey's Pizza Shop at 910 Godfrey Avenue on November 2, 1972. Another Crime Commission employee observed Policeman John F. C. _____ (#3702), accept a discounted meal at the China Village at 917 Race Street.

Officer Robert J. Weiner, in his testimony before the Crime Commission on December 5, 1973, gave a policeman's eating guide to "F" sector in the 22nd Police District.

Q: While you were on 228 car, were there any business establishments that gave you either free merchandise or free meals or money or any special services?

A: There was a place at Bouvier and Susquehanna, it was a delicatessen type thing, and we got half-price for lunch. There was a place at Broad and Susquehanna, a restaurant, the name escapes me right now, he would give you like a nice meal for half-price. No place down there really gave you a free meal but there would be a break on the price. Got a free coffee.

* * * * *

This is something you find out after awhile. You start noticing cars that don't belong in this neighborhood, at Bouvier and Susque, are there at this

388 This was discussed further *infra* at 324.

delicatessen, so you start wondering what all these cars doing there. And you walk in one day, you buy a sandwich and you find out you get it for half-price. Same with Broad and Susquehanna. You could get a free sparerib sandwich at a place called Piggy's Barbecue, which I never received. I never quite trusted their food. That was at around Woodstock and Dauphin.

Another place, Twenty-second and Lehigh, Phillies Restaurant, would either give it to you half-price or free. I forget offhand. But they would give you a very nice platter for half-price or possibly free.³⁰⁰

Officer Weiner also testified that he was offered a free meal at a McDonald's restaurant at Torresdale Avenue and Hellerman Street. This incident occurred after it had become widely known that the Crime Commission had subpoenaed records from Gino's giving the identity of policemen receiving free meals:

I walked into a [McDonald's] last day work and I ordered two cheeseburgers and a bag of fries and when I went to hand the girl the money she handed me the receipt and she said, "Sign the back of it." And I said, "No way. Didn't you hear about the Crime Commission getting all the receipts from Gino's? And that Gino's is just feeding the policemen?"³⁰⁰

The Crime Commission did not undertake to subpoena records of the McDonald company but ascertained from Police Department records that the Philadelphia restaurants in this chain received a total of 82 police escorts from January to June, 1973.

Former Police Officer Felix Ruff also testified that he received free meals at Wimpy's at Broad and Girard Streets, at the Blue Jay at 29th and Girard Streets, and at a diner at Ninth and Girard Streets.³⁰¹

³⁰⁰Weiner, December 5, 1973, N.T. 28, 29.

³⁰¹Ruff at 27, 28.

³⁰²Ruff, December 31, 1973, N.T. Ex. 2, p. 34.

Supermarkets

There are, in the City of Philadelphia, four major chains of supermarkets. The Crime Commission examined company records and interviewed employees at each of them, as well as at one smaller chain.³⁰² As detailed below, two of these companies regularly paid the police for extra services, either supplying escorts or being present at closing time. Occasional payments to police were made by two other companies.

Supermarket A

Supermarket A is a large multi-state corporation which has done business in Philadelphia for many years. Overall, it does in excess of one billion dollars of business annually. At the present time, it operates 27 stores within the Philadelphia city limits.

Examination of the business records for this company for a six month period from October 1, 1972, to March 31, 1973, revealed that 25 of the 27 stores owned and operated by this corporation in Philadelphia were regularly paying for "police protection," while one additional store occasionally paid the police. The total amount of cash payments to police recorded on the documents examined was \$10,909. The records produced by the company were incomplete for two of the stores. Excluding those two and the occasionally paying store, the total amount of payments was \$10,593, or an average of about \$460 per store over six months. This can be projected to an annual average of \$920 per store, or about \$23,000 annually for all its Philadelphia stores. The amounts paid by individual stores varied considerably. The lowest recorded weekly payment was \$2, and the highest was \$57. In round numbers, the lowest weekly average for a store was \$9 and the highest was \$37 over the six month period. The average per week for all the stores was \$18.

³⁰²This Report will set forth the facts found at each of these five supermarket chains, but will identify them only as A, B, C, D, and E, as a result of negotiations between the Crime Commission and representatives of two of these companies at the early stages of the investigation. The Crime Commission attempted at first to seek voluntary cooperation from the businesses in question, and to that end, made contact by telephone and letter and did not issue subpoenas. At the meetings with attorneys and executives for these companies which followed, the companies (A and B) stated a willingness to cooperate but expressed fear that it would lead to adverse consequences through bad publicity or reprisals. Since the purpose of this study is to expose facts about the overall system rather than to single out individual businesses, the Crime Commission agreed not to identify any of these companies publicly.

Following examination of the documents, the Commission questioned a total of fourteen store managers under oath at a Crime Commission hearing. These managers collectively had managed a total of nineteen of the existing Philadelphia stores in this chain. Each of the managers confirmed that he or his employees was making payments of money to police officers.

The money used by the managers to pay the police was company money taken from the petty cash till at the store and accounted for on printed company forms. Each day petty cash was accounted for on a "Daily Petty Cash Audit" form which has a printed list of expenses including "Police." At the end of each week, the figures on the daily forms were transferred to another form called the "Weekly Cash and Sales Report."³⁹³ On the front of this form is a printed list of miscellaneous expenses with a blank for filling in

MISCELLANEOUS EXPENSES			
01	Cashier Shortages		
02	Tool Sharpening		
03	Postage		
04	Telephone		
05	Police Protection		
06	Store Emp. Disc.		
07	Non-Store Empl. Disc.		
08	Gas and Auto		
09	Sanitation		
10	Hauling		
11	Meating and Travel		
12	Car Pick-Up		
13	Truck Rental		
14	Store Supplies		SUR
99	Miscellaneous		LE
			LE
Enter on			TC
TOTAL MISC. line 19			

³⁹³Testimony of Joseph J. Marvasso, Eugene Cavacini, Frank Galik, and Samuel L. Davis before the Pennsylvania Crime Commission, July 24, 1973, N.T. 6, 7, 8, 34, 85-86, 121 [hereinafter cited as Marvasso, Cavacini, Galik, and Davis respectively].

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3 OF 10

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MISCELLANEOUS EXPENSES		LINE 18	
01	Cashier Shortages		
02	Tool Sharpening		
03	Postage		
04	Telephone		
05	Police Protection		
06	Store Emp. Disc.		
07	Non-Store Empl. Disc.		
08	Gas and Auto		
09	Sanitation		
10	Hauling		
11	Meating and Travel		
12	Cort Pick-Up		
13	Truck Rental		
14	Store Supplies		SUR
99	Miscellaneous		LE
			LE
Enter on			TC
TOTAL MISC. line 19			

³⁹³Testimony of Joseph J. Marvasso, Eugene Cavacini, Frank Galik, and Samuel L. Davis before the Pennsylvania Crime Commission, July 24, 1973, N.T. 6, 7, 8, 34, 85-86, 121 [hereinafter cited as Marvasso, Cavacini, Galik, and Davis respectively].

the amount. Included in this list as item number 05 is "Police Protection." A copy of this portion of the form is reproduced on page 270.

The individual payments to police officers usually amounted to \$2 each time a special service was received. the only variations from this were one store in Northeast Philadelphia which gave \$3 each time because the manager felt he handled a lot of money, and a few stores which occasionally gave coffee to policemen. From the testimony, it appeared that coffee was most frequently given to the police in the 12th District in Southwest Philadelphia. Unlike the payments of money, coffee was not given in return for specific services and usually was given as a result of some solicitation. One manager testified that he gave a couple of cans of coffee to the police in the "radio room" of the 12th District after a policeman came into the store and asked for it in a "round about way."³⁹⁴ A manager of a store in Frankford testified some policeman came in once to get free coffee for the "fellows" who were going to watch a football game on television.³⁹⁵

The services received by the managers of stores in the Supermarket A chain consisted for the most part of police escorts to the bank, either to pick up money or make a deposit. All nineteen of the stores managed by the witnesses who testified before the Crime Commission received police escorts at varying frequencies, and all nineteen paid for this service each time they received it. Over a five month period from January 23, 1973, to June 30, 1973, the stores in this chain received a total of 1,611 recorded escorts from the Philadelphia Police Department.

It was not difficult to arrange a police escort. In most cases, a manager simply called the Department, and a car was dispatched by radio to the store. A manager of a Girard Avenue store testified:

Q: Where do you call to get escort service?

A: I call the 26th District.

* * * * *

Q: Who do you ask for at the district?

³⁹⁴Galik, N.T. 87-88.

³⁹⁵Testimony of Paul Nollenberger before the Pennsylvania Crime Commission July 24, 1973, N.T. 68-69 [hereinafter cited as Nollenberger].

A: All I say is, "I am Mr. _____ from _____ and I would like an escort to the bank." They record that and ask me what bank I am going to.

Q: And how long is it before the police officer shows up?

A: It varies. It really varies.

Q: What's the range?

A: Anywhere from, I would say anywhere from 10 minutes to possibly an hour. That's why whenever I call them I usually make sure the deposit is ready for them instead of waiting, and I try to give myself ample time.³⁹⁶

Escorts also are occasionally requested and provided informally when police officers are in stores making routine stops to sign the store logs, or there may be private arrangements for an officer to simply be there at a certain time for an escort.

Under normal police procedures, when a police car is assigned by radio to escort duty, the car is "taken out of service," which means that the police radio room lists that car as not available for further assignment. An informal request for escort service in at least one case resulted in a police car not being taken out of service and which led to a rather dangerous situation in which the police car was sent on an assignment while the store manager was in the back seat. Fortunately, no harm came to the manager, and his mission was eventually completed, although somewhat delayed.

There typically is one police officer in the police car which arrives to take the store employee to the bank. The payment is usually made in or at the car, and the money is either handed to the officer or it is left on the seat. Discussion of the payment seldom occurs.³⁹⁷

The frequency with which a store asks for and receives police escort service varies widely. The reported company average was eight to nine times a week. One manager who used it 14 to 18 times a week testified he had been told by his district supervisor to "try to hold it down."³⁹⁸ Escorts were not necessarily called

³⁹⁶Davis, N.T. 122-123.

³⁹⁷Testimony of Leonard C. Leftwich before the Pennsylvania Crime Commission, July 24, 1973, N.T. 72-73; Marvasso, N.T. 5-6; Cavacini, N.T. 30.

³⁹⁸Testimony of Richard L. Tomasino before the Pennsylvania Crime Commission, July 24, 1973, N.T. 6, 17.

for on every trip to the bank. Although the employees of one store made fifteen to twenty trips to the bank each week, they only were accompanied by police six to ten times:

What I usually do, during the day, if I have to go morning or afternoon, I would send two employees to the bank instead of getting—like they may just be going for change or even they will take a deposit with them, but I will send two people to the bank instead of calling the police. Usually the police are called for the last despoit or earlier in the evening, or when the store was closing at 12:00 . . . to make a final deposit at that time at night, I would always insist on them in calling the police instead of the two employees going.³⁹⁹

Police escorts were used, however, even when the trip to the bank was a very short one. One store which regularly received escorts was described by the manager as being "across the street" from the bank. Another was a quarter of a city block away. A total of seven out of a sample of sixteen stores receiving escorts were within two city blocks of their banks, while ten were within five blocks. Managers also called for police escorts even though they had private guards on the premises:

Q: How far away is the bank that you go to?

A: Two blocks.

Q: Two blocks. Do you have your own store guard there?

A: Yes.

Q: Do you take him along with you on the escort to the bank?

A: No, I don't take him along.

Q: Do you feel it is necessary to have a police officer in addition to the store guard?

A: In my area, yes.

Q: Now, why would the store guard not be sufficient protection?

³⁹⁹Marvasso, N.T. 11.

A: Because I feel as though he has to be in the store to maintain the security of the store. . . .⁴⁰⁰

Several of the stores which were a mile or more from a bank had armored car service for getting money to or from the bank. At least two of the managers continued to call for police escorts occasionally because they felt the armored car service was not frequent enough.

Another special service received by some stores in this chain was the presence of a police officer at closing time to provide additional security. Four of the stores paid police officers for this service. At eight other stores, police officers were sometimes in the vicinity at closing time, though the supermarket managers testified they did not pay the policemen for being there. In some of these cases, the stores were part of shopping centers through which the police cruised at closing time. At seven stores, the police were never present at closing time, according to managers' testimony.

A number of supermarket managers feel there is a special need for protection at closing time. The manager of a store on Hunting Park Avenue in Kensington, who paid the police for being present at closing, testified:

Q: How is it that [the police] come by at closing time? Have you requested that service?

A: I have had more than one occasion when they take me to the bank which is approximately an hour or an hour and a half before closing and I will say, "If you are in the area when we are closing stop by because we can use all the protection that we can get."

* * * * *

Q: Now, why do you want them there at closing time?

A: Because we are vulnerable at closing time to hold-ups and so forth.

Q: Why are you particularly vulnerable then as opposed to other times during the day?

A: You have less people in the store. You are down to a minimum of just possibly the store manager and

⁴⁰⁰Davis, N.T. 123.

the office people. The people in the area that have normally been shopping during the day are gone and you are sitting there like a duck on a pond.⁴⁰¹

Supermarkets and some other retail businesses also received another special service from the police for which individual officers evidently did not receive regular payments of money, except possibly at Christmas. This service resulted from the requirement that police officers sign logs at individual stores. The log is intended to insure regular patrol by the officer on duty.⁴⁰²

The fact this supermarket chain regularly paid the police for escort service is corroborated by testimony from a police officer who participated in providing the service. Officer Robert J. Weiner, in his testimony before the Crime Commission on December 5, 1973, generally described the escort service:

You would receive a radio call, "Escort," and you would go over and the manager would come out in his private car and you follow him to the bank and he would make the night deposit. Well, to make sure he didn't get a bang over the head and all the money took

⁴⁰¹Nollenberger, N.T. 60-61.

⁴⁰²Signing of logs is a service that supermarkets receive in common with banks, drugstores, subway stops, liquor stores, and schools. Under an internal Police Department directive, the officer assigned to patrol a particular beat or sector is required to make a check at each of these businesses at intervals during his tour of duty. He is supposed to sign a log at the store to indicate he has done so. The directive formerly required "patrol supervisors" (sergeants) to inspect the logs periodically, but that requirement was omitted when the *Policeman's Manual* was revised and reissued in late 1973.

The practice apparently was established, at least with supermarkets, in 1958, when a committee from the "Food Distributors Association" representing all the major supermarkets in the City approached then Police Commissioner Thomas Gibbons. The committee was chaired by Monroe Van Sant, Esquire, who was asked in an interview on May 29, 1973, whether any thought was given to the possibility that store managers or owners might tend to feel obligated to make some sort of donations or tip to the police if this practice was begun. He replied that someone might have brought it up in passing, but it was not really discussed.

As originally set up, any complaints that individual stores had concerning the failure of policemen to sign the logs were passed up to the committee which discussed them with the Police Commissioner. The Commissioner would call the district commanding officer to remedy the situation. At the present time, the committee is no longer in existence and the signing of the logs appears as a practical matter, to be purely a matter for the discretion of the individual officer. No one from the department gathers or inspects the logs so far as the Commission has been able to determine.

off of him, he would show his appreciation and give you two dollars . . . Now, this is going back—today they don't do it. Since I have been back in uniform, this is desisted because of the State Crime Commission. But this was the very, very common policy when your chain store, the [Supermarket A, Supermarket C] whenever the manager was making night deposits you would get the radio call "Escort" and you go over there and do this.⁴⁰³

This policeman specifically confirmed that he escorted employees of one store in this chain and received money for it:

Q: Can you think of any supermarket in which you used to pick up the safe note; can you think of any by name in which you can recall picking up safe notes?

A: Yes.

Q: Which one?

A: There is one around Twenty-seventh and Girard. I am pretty sure that's a [Supermarket A]. That was one.

Q: Was this regular or . . .

A: No, at the time when I worked there that was routine type thing, and was just every night, you know. You call for the escort and if you were in service you got it, if you were out of service somebody else got it. . . .⁴⁰⁴

In a few instances, the managers of stores in this chain remembered and identified individual policemen they had paid for escort service.⁴⁰⁵ In six cases, managers testified that the policemen who signed the store logs were the same ones who had provided escorts and received money. The Commission examined the logs of five of these stores for a two to three month

⁴⁰³Weiner, December 5, 1973, N.T. 59-60.

⁴⁰⁴*Id.* at 92-93. See also *id.* at 60, 77.

⁴⁰⁵They were Policemen Welton A. _____ (#9302); Raymond B. _____ (#1679); Harold J. D. _____ (#4139); Robert F. F. _____ (#3389); and Chris S. _____ (#5419).

period and found a total of 40 names of police officers,⁴⁰⁶ some of which appeared much more frequently than others. Several names of police officers providing escorts were also found on the Police Department's Transportation Log examined by the Crime Commission. The identities of virtually *all* the police officers receiving money for this service can be obtained through close examination of police radio assignment records.

These police officers were far from being alone. At the other Supermarket A stores, managers testified that they each could recall an average of about twelve separate officers who had received money in the past few years. The Crime Commission also examined the police assignment sheets for January, 1973, which showed that a great deal of rotation occurred in personnel assigned to police sectors in which there were supermarkets. As many as 21 men were assigned to a particular sector in the course of a month, though the average was closer to ten to twelve officers.

Most police officers accepted the money. For example, one manager testified:

Q: What about in all the time that you have been a manager and making payments of money to police officers, has anybody ever turned you down or refused to accept the money?

A: No.

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Policeman Gilbert E. P. _____ (#6303)	Policeman Joseph F. R. _____ (#6809)
Policeman Anthony S. _____ (#4772)	Policeman Norman S. _____ (#5668)
Policeman George S. G. _____ (#3138)	Policeman Henry H. _____ (#6457)
Policeman John J. K. _____ (#3507)	Policeman Philip B. _____ (#9905)
Policeman Robert G. _____ (#6630)	Policeman Julius P. _____ (#6610)
Policeman George J. V. _____ (#2746)	Policeman Raymond D. S. _____ (#4616)
Policeman William S. _____ (#6907)	Policeman Howard E. _____ (#6227)
Policeman S. D. _____ (#2715)	Policeman Richard J. _____ (#6655)
Policeman G. T. W. _____ (#2193)	Policeman Michael C. _____ (#9870)
Policeman Raymond H. _____ (#7138)	Policeman John W. S. _____ (#3893)
Policeman Matthew G. _____ (#4541)	Policeman Theodore L. _____ (#2567)
Policeman John A. R. _____ (#7076)	Policeman Arthur F. C. _____ (#1397)
Policeman John H. J. D. _____ (#5945)	Policeman John C. M. _____ (#1887)
Policeman George J. B. _____ (#1381)	Policeman Steven M. _____ (#7173)
Policeman Raymond B. _____ (#1679)	Policeman George S. _____ (#6019)
Policeman John D. _____ (#4617)	Policeman Ed J. P. _____ (#2035)
Policeman Francis M. P. _____ (#6616)	Policeman James J. H. _____ (#4068)
Policeman John R. D. _____ (#2189)	Policeman John N. M. _____ (#4523)
Policeman John Joseph B. _____ (#9588)	Policeman Joseph F. _____ (#5767)
Policeman Thomas D. _____ (#3399)	Policeman Samuel M. _____ (#2724)

Q: In all these 27 years as store manager no one has ever refused to accept it?

A: No.⁴⁰⁷

Another testified:

Q: Had any police officer ever refused it?

A: Yes.

Q: Were you surprised?

A: I was. I really was, but he stated that was his job—

Q: Was that just one occasion?

A: One occasion.⁴⁰⁸

A total of four managers testified that they personally had never had an officer refuse to take money from them, although two knew of refusals made to their assistants. Seven managers testified that they were refused some of the time. The policemen who did not take money for performance of extra services were clearly in a minority.

Supermarket B

Supermarket B is also a very large chain of grocery supermarkets operating in many states. Company records produced for the Commission showed that donations of merchandise were regularly given to police officers for extra services at 23 of the company's 34 Philadelphia stores.

Over a six month period, the total value of Supermarket B's donations to policemen came to \$2,925, or an average of \$127 per store. The amount per store ranged from \$42 to \$313 over the six months. There is some reason to believe these figures understate the actual amount of payments to police. The figures are drawn from store "credit slips" which were submitted weekly by each store to the central office. Theoretically, each donation to a police officer (as well as damaged merchandise and petty cash expenditures) are required to be noted on these forms. However, one store manager estimated that three-fourths of the time he accounted for police donations by describing them as "store damage," which would not show up on the

⁴⁰⁷Testimony of Richard J. Shaw before the Pennsylvania Crime Commission, July 24, 1973, N.T. 155.

⁴⁰⁸Davis, N.T. 117.

credit slips. In addition, some credit slips submitted by store managers were lost or missing and thus not counted.

The kind of merchandise given by the managers of Supermarket B stores to policemen was usually cigarettes, according to the managers' testimony, although other items of merchandise were also given. The giving of cigarettes to police officers at this chain was virtually a tradition which had "always existed." No one could explain why cigarettes were usually given other than to say it was always done. There was a generally understood, but unwritten, rule that donations to the police were not to exceed two cartons of cigarettes a week, or its equivalent. One manager who had been averaging \$18 a week in police donations was told by his supervisor, "It is a little too high this week. You better cut the policemen back."⁴⁰⁹

The extra services received by stores in the Supermarket B chain consisted primarily of giving security at closing or quickly responding to calls for assistance. Escorts were also provided on an occasional basis at most stores, but no manager testified that he relied solely on the police for escorts.

At this chain, there was no systematic, City-wide reliance on police for extra services. The managers in this chain were left on their own to establish friendly relations with the police. At one store, in the Tioga section of North Philadelphia, the manager testified he went directly to the district headquarters and asked for police protection at closing hours:

Q: You said when you first got there you made a request to the district to have them come around every night, is that right?

A: That is right.

Q: Who did you call?

A: I went over to the station. I went to the [39th] District, 20th and Erie.

Q: Who did you talk to there?

A: I do not know who it was. It might have been the Captain. I do not know his name.

Q: What did you say?

A: I told him I was a new man up here and I would like to have police protection at closing hours. He said

⁴⁰⁹Testimony of Ralph R. Chiodo before the Pennsylvania Crime Commission, July 17, 1973, N.T. 165.

he would put it in the log and for frequent visits during the day.⁴¹⁰

At a store in the far Northeast, the arrangement was made by the manager with an officer in the sector car. A subsequent manager at the same store was told by the bookkeeper when he took over the store that the police were paid at night when the store was closed.

The timing of payments to police was also more flexible at Supermarket B. Some store managers gave something to police each time they appeared, others paid police once or twice a week and others paid on a completely random schedule dependent on when the manager thought the policeman had gone "out of his normal line of duty."⁴¹¹

Following the Crime Commission's contact with Supermarket B, the company made a decision to stop paying the police. This decision evidently was based in part on the impropriety of the payments and in part on the fact that the company was in tight financial straits. At about the same time, according to one manager's testimony, the Police Department became aware that the Commission was investigating this company.

The reaction of the policemen to the stopping of payments and the knowledge that the Commission was investigating was mixed. One manager indicated policemen came less frequently. Another manager said extra police protection stopped completely when he stopped paying:

The company just told us that we were not allowed to take any more credit for donations to police officers. The cigarette deals were all over with. That was the end of it. So, after that there, I mean, I have not had any police protection for the longest time.⁴¹²

Some managers testified, however, that the police continued to be present at closing and that the change in police services was "not really noticeable" when the police stopped receiving gratuities.

Only two police officers were clearly identified by name by the managers in this chain as having received donations.⁴¹³ More

⁴¹⁰Testimony of Leonard A. Baumann before the Pennsylvania Crime Commission, July 17, 1973, N.T. 190-191.

⁴¹¹Testimony of Thomas J. Leggett before the Pennsylvania Crime Commission, July 17, 1973, N.T. 144.

⁴¹²Testimony of Edward Skowronski before the Pennsylvania Crime Commission, July 17, 1973, N.T. 75 [hereinafter cited as Skowronski].

⁴¹³They were Policeman Patrick H. _____ (#7428) and Policeman Joseph

names could be found through diligent examination of store logs and police assignment sheets and correlating them with testimony. Refusals to accept donations of cigarettes from Supermarket B were even more uncommon than refusals to accept money from Supermarket A. Five managers out of ten said no policemen ever refused a donation of cigarettes. When a refusal did take place, it was likely to be because an officer did not smoke, as one manager testified:

Q: Did any officer ever turn it down?

A: Yes, sir. They did not smoke and they would say, "Thanks a lot."

Q: Did anybody say, "Thanks, but I do not take cigarettes."

A: Yes.

Q: How often did that happen?

A: Twice.

Q: In seven years?

A: Yes.⁴¹⁴

The managers' testimony does indicate that some officers would not take these small payoffs, whether they smoked or not. However, they are apparently a small minority as the following testimony illustrates:

Q: Did any officer refuse to accept any donations or anything from you?

A: Yes, at 5th and Pine I offered him something. I know I offered this one officer a couple of times and he turned me down. I forget his name.

Q: Was that because he did not smoke or because he did not take things on principle?

A: No, I am pretty sure he smoked but he did not take it from me. I wish I could think of the guy's name. He was one of the few that refused.

Q: Has there ever been anybody else that refused you?

S. _____ (#4552). A manager in Roxborough also identified "Sal" and "Tony" as police officers accepting donations of cigarettes.

⁴¹⁴Skowronski, N.T. 70-71.

A: Occasionally you run into an officer that would not accept anything.

Q: Is that the exception rather than the rule?

A: I would say, for the most part, yes. But there were some fellows that turned me down. They would say, "No, thank you." And that was it. But names and what period of time, I could not say.

Q: Can you give an estimate of the number that accepted?

A: That accepted?

Q: Yes.

A: It would probably be easier to give the few that did not. I do not know how many that would be. I am trying to visualize faces. I do remember there were some gentlemen who did not accept anything for their services.⁴¹⁵

Although there appeared to be somewhat less regularity in payments to police at this chain, it is still possible to make a rough estimate of the number of police who have received them in 1971-1973. The managers testified that an average of eight to ten policemen received cigarettes, which is comparable to the situation of Supermarket A. Since twenty-three stores regularly paid the police officers, the total receiving payments from this chain was apparently well over 200 in any given month.

Supermarket C

The Supermarket C chain is the largest of the four in Philadelphia, having forty stores, though the company itself is smaller than A and B, overall. Its payments to police were much fewer than those at A or B. The records of Supermarket C, which were subpoenaed by the Crime Commission, showed that only three of the forty Philadelphia stores were making regular payments to police. The total amount of the payments for the three stores for six months was \$552. A fourth store showed one payment for police protection, and a Christmas list was found at the company headquarters mailroom, which provided for Christmas presents for eleven police officers.⁴¹⁶ With the ex-

⁴¹⁵Testimony of Harry Nichols before the Pennsylvania Crime Commission, July 17, 1973, N.T. 101-103.

⁴¹⁶This situation is discussed *infra* at 324.

ception of the Christmas list, all of the police payments found in the records were recorded on "pay-out slips," which were used to account for various miscellaneous costs at the store level and submitted periodically to the central office.

The payments at one store consisted of a cash payment of \$20 per week paid on Friday night to whichever policeman would appear, in return for the police being present on Thursday and Friday nights at closing time. A second store gave either a carton of cigarettes or \$5 once a week to police in return for closing protection Thursday and Friday nights. The third store gave two dollars to the police each time the manager received an escort. The single payment to police recorded at the fourth store consisted of two turkeys given to two policemen in return for keeping an eye on a trailer-truck load of turkeys parked behind a store just before Thanksgiving.

The managers of each of these four stores confirmed the payments to police at a Crime Commission hearing. Four other managers from this chain also testified at this hearing. Of these four, three admitted under oath making occasional payments to police which were not recorded on pay-out slips. Police records indicate the Philadelphia stores in this chain received a total of only 27 police escorts in 5 months in 1973.

One of the managers who occasionally gave merchandise testified:

Well, it is really a little silly. I was pretty jumpy when I went [to this store]. In fact from all of the hearsay, I was scared to death. Maybe a week or so after I was there this one particular officer was always coming in, and he must be like a custodian, I don't know. He makes the coffee. He was buying coffee. He was buying three pounds of coffee. I said, "Look, do me a favor. I will buy a pound of coffee for you. Just put a little sign on the coffee pot to keep an eye on 25th and Reed." So, after he came in after that, I would give him a pound of coffee.⁴¹⁷

Another manager testified that he gave a carton of cigarettes to a policeman when the policeman helped him to board up a window and search the store after a window had been broken.

I would be lying to say that at one time or another that I didn't, you know, hand out a gratuity, for example, maybe a carton of cigarettes or something like that,

⁴¹⁷Testimony of Edward Payton before the Pennsylvania Crime Commission, June 20, 1973, N.T. 136.

nothing on a set pattern and nothing for consistent coverage or anything like that, and I can honestly make that statement . . . In other words, I might have felt that [the officer] did me a good turn, or something like that there. And I would say that that would be a human reaction if you were in the same position.

* * * * *

In other words, there is me and a policeman standing there by ourselves and the guy boarded up the window and he stayed with me. He went through the store, up in the men's room and everything else.⁴¹⁸

The relatively small number of payments to police at this chain seems attributable in part to a lack of need for extra police services and in part on greater inhibitions against paying the police. For example, there appeared to be little need for police escort service at the stores in this chain, since, as several managers testified, many customers paid by check or cashed checks at the store, and little cash was accumulated. Armored car service is also provided for most stores that need it.

The one store which regularly paid police officers for escort service was one which had had its armored car service removed. The store which had paid \$20 a week⁴¹⁹ had been held up several times. The manager of the store paying \$5 per week had been the manager of the former store when it was held up, and he consequently was nervous at night. One manager who testified he very seldom gave anything to the police said, ". . . my company doesn't condone that kind of stuff," and ". . . I don't want them guys [policemen] flocking around me like a bunch of beggars, either . . ." ⁴²⁰

None of the managers or employees of this chain could or would identify any police officers by name as receiving money. The number of police receiving money at the store which regularly paid for escort service was estimated to be twenty to thirty. Assuming the other stores had the average number of police providing services (about 8 to 10 per store for the other chains), it may be estimated that forty to fifty policemen periodically received a note for extra services at this chain.

⁴¹⁸Testimony of Paul Ritchey before the Pennsylvania Crime Commission, June 20, 1973, N.T. 69, 73 [hereinafter cited as Ritchey].

⁴²⁰It is now closed.

⁴²⁰Ritchey, N.T. 74, 75-76.

Supermarket D

Supermarket D, also a large multi-state operation, has thirty-five grocery supermarkets in the City of Philadelphia. The parent company also has diversified interests in other businesses in the Philadelphia area.

Supermarket D was found to make the fewest payments to the police of the four major chains. The reason for this appears to be that security in this company is more centrally and tightly controlled than in the other supermarkets. Armored car service is provided by the company for all stores, and several stores also have armed guards of their own. The armored car service costs an average of about \$40 per week for each store. Coupled with good internal security, there was in this company a strong disapproval of making gifts to police. The Security Director stated it was against store policy, adding, "I don't know how giving anything away could do any good."⁴²¹ The controller of the company said that a store manager could expend up to \$5 for "miscellaneous" items, but all requests for "donations" of any kind were to be referred to him. The attitude of the executives toward payments to police was effectively communicated to the store managers. In interviews, they generally cited company disapproval as a key reason for not paying police.

The company records disclosed only three isolated payments of \$5 each to policemen in a six month period. One of these, however, was at a store at 48th and Brown Streets in West Philadelphia which was known, according to one manager interviewed to always have a policeman outside. The manager of a store in Kensington also told a Crime Commission agent that late at night around closing time some police officers usually drop by. He said, "We take care of them, they take care of us." It was implied that small items of merchandise were given. The records for this store did not show any of these payments, however.

Supermarket E

When the investigation of supermarkets was commenced, the Crime Commission also subpoenaed certain records of Supermarket E, which has three stores located in the Northeast section of the City.

⁴²¹Interview with Security Director of Supermarket D on June 7, 1973. The Security Director of this company also expressed great disdain for the store logs which are signed periodically by police, and for the "protection" they provide. He said they were signed very irregularly, and he no longer paid any attention to them.

According to both business records and interviews, only one store was paying the police. Until about August, 1972, payments to police were made on a weekly basis, consisting primarily of cuts of meat. The manager stated that he gave the police "a few dollars worth" of meat each week, but on at least one occasion, December 27, 1971, he gave meat worth \$15.87 to four or five different policemen.⁴²² In return for the merchandise, the manager said policemen would be present each day when he opened the store and again when he closed it for the night. He had no need for any other services, since he had an armored car service to take deposits to the bank and a private guard inside the store at night.

The manager believed that giving meat to the police increased the chance that they would be present when he wanted them. He added that there was a "mutual understanding" that he would make these payments, and that he "didn't want to create ill-feeling" by refusing. Around August, 1972, however, his store was converted to an all-night operation, and the police were no longer needed as guards at openings or closings. They began to appear less and less frequently, and he, in turn, stopped the payments.

Jewelry Stores

"Jewelers' Row" is a name given to the heavy concentration of jewelry shops in the vicinity of the 700 block of Sansom Street. This area of the City receives a considerable amount of police protection. The former commander of the 6th District, Robert Frederick, has informed the Commission that during his tenure there was one uniformed policeman assigned to patrol Jewelers' Row on all three shifts, and one foot traffic man and one detective in plainclothes from Central Detective during day work (8 a.m. to 4 p.m.). Testimony of two jewelry store owners from Jewelers' Row indicates that police protection has increased in recent years. Both Charles Ludwin of Ludwin Brothers, and Jay Barsky of N. Barsky and Sons, testified there are now three uniformed men and two detectives each day.⁴²³

The police officers assigned to do steady day work on Jewelers' Row are always the same ones. This is a highly

⁴²²Interview with the manager of a Supermarket E store, August 16, 1973.

⁴²³Testimony of Charles Ludwin before the Pennsylvania Crime Commission, November 12, 1973, N.T. 6 [hereinafter cited as Ludwin]; testimony of Jay Barsky before the Pennsylvania Crime Commission, November 30, 1973, N.T. 4, 6-11 [hereinafter cited as Barsky].

covered assignment within the Police Department. According to one former police officer, you have to be really "in" to get it. Once an officer has that assignment he cannot be touched for another job. The policemen who patrol the area on the other two shifts are not steady, however. They are drawn from the normal pool and are rotated.⁴²⁴

The popularity of the assignment to patrol Jewelers' Row is not difficult to fathom. As with the other cases where police are assigned specifically to patrol a business, private arrangements between the police officer and the business are easily established. The Crime Commission was able to find evidence of some of the arrangements between jewelers and police officers with the assistance of Irvin Goltzer, a private citizen who cooperated with the Crime Commission investigation. Mr. Goltzer visited Mr. Ludwin and Mr. Barsky on June 6, 1973, and secretly recorded his conversations with them. Mr. Goltzer asked Mr. Barsky if he "took care" of the police. Mr. Barsky said, "Yeah," and was then asked why. He replied:

Barsky: I'll tell you why. I'll give you a perfect example. Take this cop out here. See this guy here? Joe [T_____ (#3566)] . . . Nicest guy you'll ever meet. Joe is Johnny on the spot. He sees two "schwartzes" on the street. Let's say they come in here. He don't like the looks of 'em. He lays right outside the window for 'em.

* * * * *

This guy is the type of guy that he's right there when you need him. You understand? He's worth to me what little he gets, cause he's right here . . .

Goltzer: But don't forget, that's his job.

Barsky: Irv, there's a lot of cops that have their jobs and are supposed to do their jobs and . . .

Goltzer: They don't do it, right?

Barsky: But when you've got a guy like that . . .

Mr. Barsky went on to say that although there are three shifts, he only "takes care" of the police who work in the daytime. They then discussed the amount of money the officers were paid:

⁴²⁴The steady uniform man assigned from the Sixth Police District is Joseph T_____ (#3566). The steady day work traffic man is John W. W_____ (#5082). The two steady detectives are Joseph Y_____ (#939) and Joseph G_____ (#812).

Goltzer: What do you have to give a guy like that?
\$5.00?

Barsky: No, I give him a sawbuck.

Goltzer: Ten a week? Gee.

Barsky: He's worth it to me, understand, for the traffic I get in here.

Goltzer: Whoo, if everybody gives them ten dollars a week . . .

Barsky: Nah, a lot of guys don't give 'em nothing.

Mr. Barsky stated that Officer T_____ (#3566) performed much better service than the detectives assigned to the block. He said: "A lot of times the detectives aren't around. You look for them and you can't find them. They are either upstairs or down. They are playing cards. They are doing something."

In his conversation with Mr. Ludwin, Mr. Goltzer discussed what the police assigned to the block did during the day:

Goltzer: These cops around here must have a hell of a job. Daytime job.

Ludwin: Nothing. They do nothing.

Goltzer: What?

Ludwin: Daytime job? There ain't no work; they stand against the wall. They don't give tickets. They don't bother anybody. It's the meter maid who might come along and give you a ticket, or the captain who drives by from the district, and will maybe stop the car. But the cops on the street will never give anybody a ticket. 'Cause they know. They cooperate with us.

Later in the conversation Mr. Goltzer expressed a concern over whether his car, which was parked outside, would be ticketed for illegal parking.

Goltzer: I won't get a ticket out there? You sure?

Ludwin: Yeah. You know, I could say Walt does it by car.

Goltzer: That guy there's Walt? He's a nice guy, yeah.

But he's Traffic, isn't he? He's a traffic cop.

Ludwin: Yeah.⁴²⁵

⁴²⁵Tape recording made by Irvin Goltzer, June 6, 1973, on file at the Pennsylvania Crime Commission (verified on September 24, 1973) [hereinafter cited as Goltzer Tape, June 6, 1973].

Several months after these recorded conversations, the Crime Commission invited Messrs. Ludwin and Barsky to appear at private Crime Commission hearings. Mr. Ludwin stated under oath that he only gave Christmas presents to the police.⁴²⁶ He testified that the patrolling police "keep some of the riff-raff moving that would bother the street," and attributed the lack of any robberies at his store to the police protection.⁴²⁷ Mr. Barsky acknowledged under oath the extra police protection he received and expressed great appreciation for it:

A: Well, I'll tell you the truth, I'm—as a business merchant now, I'm very, very satisfied with the police department, and I'll tell you why. This fellow Joe [Y_____ (#939)] and Joe [T_____ (#3566)] are two very, very sharp boys, and if they see a few "schwartzes" coming up the street, they're right up their back. They don't give them a chance to do anything. I am extremely proud. I can honestly say, and I've been associated on the street for thirty-two years, that these are two of the best fellows that we could have. If it were up to me, I'd ask the Crime Commission to put them up for a raise.

Q: If they saw a few what? What was that word?

A: "Schwartzes," negroes.

* * * * *

Q: Well, do they concentrate their attention on blacks, or do they concentrate their attentions on anybody that's suspicious?

A: Anybody that's suspicious, primarily. When you get the kids sixteen, seventeen, coming into the neighborhood, and they don't look right, Joe can sense it; and they sense him, especially since he's in uniform. Joe [T_____ (#3566)], and he's right on their back. They'll come into the store, he'll wait outside. In other words, he lets them know where it's at. Both Joes that goes for, as far as I'm concerned. And also undesirable characters that

⁴²⁶Ludwin, N.T. 3.

⁴²⁷*Id.* at 7, 9.

come around the street that they know by face or by picture. They're sharp.⁴²⁸

At the Crime Commission hearing, Mr. Barsky denied under oath that he ever paid any policeman and also denied ever discussing paying the police with anyone else. However, when the transcript of his conversation with Mr. Goltzer was read to Mr. Barsky, he acknowledged being acquainted with Mr. Goltzer and testified merely that he could not remember discussing it.

Q: But you're sure you never discussed paying the police?

A: I'm pretty, pretty, pretty sure.

Q: You're a little less sure now?

A: No. I'm not less sure, because I'm never less sure of myself—

Q: Do you think you would remember having talked about paying the police?

A: If it was a very, very important thing concerning my business, I'd say I'd be a hundred and one percent sure. I'm only a hundred percent sure.⁴²⁹

Insurance Companies

Payments by insurance companies to Philadelphia police officers are discussed to some extent in the section of this Report on stolen cars. One situation meriting special attention here is the payments to a substantial number of police officers by Insurance Company of North America (INA) for information from police files or other special services. The Commission subpoenaed all INA records showing any payments to Philadelphia police officers of any kind. In response to that subpoena, the company produced a number of petty cash receipts signed by James A. Keyser, a former Philadelphia police officer and now INA Chief of Corporate Security, covering the period 1970 to 1973. The documents were also initialed by Mr. Keyser's supervisor. These documents revealed payments of money to a total of 25 separate police officers. Individual

⁴²⁸Barsky, N.T. 12-13.

⁴²⁹Id. at 21.

payments ranged in amount from \$5 to \$150. The largest total amount received by any one officer was \$435.

Ten of the police officers were paid in return for specific services rendered.⁴³⁰ The services provided by the policemen receiving money from INA included training the INA security staff, consultation on INA security procedures, providing background checks on INA employees, and providing secret intelligence information. For example, the last memorandum to petty cash said:

March 30, 1973

To Petty Cash—

On Monday, March 26, 1973, the sum of \$20.00 was given to [Sgt.] John [F. _____] (#443) for Professional consultation in security procedures by the undersigned.

[signed] James A. Keyser

OK

DEH [signed]

Another memorandum dated October 30, 1970, indicates \$30 was paid to each of two police officers from the Police Academy who had given instruction in the use of baton tactics in riot control:

October 30, 1970

To Dale Hann, Manager Corp. Safety & Security—

On Saturday, October 31, 1970, Captain John [M. _____] (#27) and Lieutenant James [O'N. _____] (#204) of the Philadelphia Police Academy came to our Home Office Auditorium to teach our Security Guards in Crowd Riot Control and Defensive Baton tactics, for this service we paid the sum of thirty dollars each, for a total of sixty dollars.

[signed] James A. Keyser

OK

DEH [signed]

These consultation and training services were apparently rendered during on-duty hours, and some had the specific approval of the Police Commissioner, as a letter in the company

⁴³⁰The remaining fifteen officers received cash Christmas presents from the company. See *infra* at 325.

files indicates. Thus, these payments for training and consultation are traditional "clean notes."

The other services rendered to INA were clearly improper, however. For example, an October 20, 1971 memorandum from Mr. Keyser indicates that \$30 was paid to Sergeant John F. _____ (#443) for the "service of obtaining Police Record checks on fifteen employees of INA." Numerous other such payments were made to Sergeant F. _____ (#443) for this purpose. These police records are confidential and are not supposed to be available to the general public. The sum of \$175 was paid on June 3, 1971, to former Policeman Donald L. _____ (payroll #34840) for the same purpose.

Other police services paid for by INA involve even clearer instances of misconduct by police officers. Former policeman Donald L. _____ (payroll #34840), who was at the time assigned to the District Attorney's office as an investigator, received six separate payments of money between December, 1970 and May, 1971, for confidential intelligence information on "dissident groups" in Philadelphia, particularly the Philadelphia Resistance Organization. This information was sought in preparation for an INA Board of Directors meeting scheduled to be held on April 20, 1971, at which the Resistance Group planned to conduct a demonstration.

The list of the policemen receiving money from INA is set forth below. This list is incomplete because misspellings and difficulties in reading the handwriting make it impossible to be certain of identity in some instances. The highest ranking police officer named is then Lieutenant, now Supervisor, George F. _____ (#86) of the Civil Disobedience Squad, who received \$150 for "consultation service."

Supervisor George F. _____ (#86)
Captain John M. _____ (#27)
Lieutenant James J. O. _____ (#204)
Lieutenant John K. S. _____ (#297)
Sergeant John F. F. _____ (#443)
Sergeant James T. B. _____ (#488)
Corporal Frank P. _____ (#8003)
Policeman Donald L. _____ (payroll #34840)

This information was turned over to the Philadelphia Investigating Grand Jury on August 10, 1973. In its 10th Presentment issued on November 20, 1973, that body

recommended only that Donald L. _____ (payroll #34840), INA Corporation, and INA executive Dale E. Hann be prosecuted. The Grand Jury concluded that:

[L. _____ (payroll #34840)] collected and disclosed to INA Corporation such [intelligence] information in violation of District Attorney's Office policy and Police Department regulations designed to protect the right of privacy . . .⁴³¹

No mention was made by the Grand Jury of the other police officers who gave confidential police information to INA in return for money, nor was any mention made of the numerous policemen who accepted gratuities for their services to INA, although that action is clearly illegal under the City Charter.

Automobile Dealers

The Crime Commission received evidence of a few specific instances of automobile dealers paying police officers and also received indications that the practice was widespread in Philadelphia.

One such circumstance involved Wilke Volkswagen, at 6635 Frankford Avenue in the Northeast. This company sells new and used cars and maintains a service department.

A former employee, James Bracht, informed the Crime Commission on November 23, 1971, that he had observed police officers visit Wilke every Friday afternoon and receive money from either Saul Zalesne or Ivan Yacker, the new and used car managers, respectively. Mr. Bracht, who worked as a mechanic for Wilke, stated he thought the police were being paid to overlook traffic violations by Wilke employees, including exceeding speed limits, running stop signs, and driving without tags or inspection stickers while testing cars. Mr. Bracht stated the mechanics reached speeds of 60 to 70 miles per hour on City streets and had no fear of being caught by the police. Rightly or not, the mechanics felt that display of a Wilke ID card would be sufficient to prevent a ticket. Mr. Bracht was unable to say for certain what amount of money the police received but believed it was \$150 per week and that it came from a petty cash fund.

⁴³¹10th Presentment at 6.

On July 24, 1973, the Commission issued a subpoena to Wilke to produce any records of payments to police. Abe Zalesne, a partner in the business, appeared and testified on August 1, 1973. Mr. Zalesne admitted under oath that Wilke Volkswagen had been paying the police every Friday and that Saul Zalesne had made the payments. However, Mr. Zalesne maintained that the amount was \$10 per week and that it was a "tip." He said, "we used to give them about \$10 a week for lunch money if they would just keep their eye on our place and see that the kids don't congregate on the cars."⁴³² The petty cash receipts produced by Mr. Zalesne confirmed the amount and the weekly regularity of the payments. These receipts were consecutively marked 1 Squad, 2 Squad, 3 Squad, and 4 Squad. The records further indicated the payments stopped in January, 1972, shortly after Mr. Bracht's appearance at the Commission. Mr. Zalesne's explanation for the termination of the payments was that he had put a fence up around the lot and did not think it was necessary for the police to continue watching it.⁴³³

As with other police payoffs, the money apparently went to whichever officer was assigned to the sector on the day of the payment. The Commission has no clear reason to reject either Mr. Bracht's or Mr. Zalesne's explanation of the reasons for the payments. Both are credible and quite possibly both are partially correct. Both Mr. Zalesne and his counsel stated that company records showed no other payment to police. The records did not appear to be altered.

The other partner in Wilke Volkswagen, Herman Wilke, told the Commission in an interview on August 22, 1973, that the \$10 per week paid by his firm to police officers was "penny ante stuff," and added that such payments were common in his business. Some car dealers pay sums up to \$50 per week, he said.

The Commission did not pursue an investigation of other car dealers but came across one other situation where Ron Levitt, Inc. employed off-duty police officers as guards as discussed elsewhere in this Report.

⁴³²Testimony of Abe Zalesne before the Pennsylvania Crime Commission, August 1, 1973, N.T. 5

⁴³³*Id.* at 6.

Country Clubs

After receiving several allegations concerning payments by various recreational clubs in Philadelphia to police officers the Crime Commission decided to issue subpoenas to four clubs.

One of these clubs is the Bala Golf Club which occupies a large tract of land in the Overbrook section of Philadelphia, between City Line Avenue and Fairmount Park. The Commission found that this club had a practice of giving free meals to Fairmount Park Police. In interviews with various officers and employees of Bala Golf Club, the Commission learned that the club had asked the Fairmount Park Police for additional police protection following incidents in which club members had been harassed by neighborhood youths while playing golf. Rocks apparently were thrown at golfers at the eighth hole. Some representative of the club (no one remembered, or would say, who it was) called the captain of the Fairmount Park Police to request additional patrols around the summer of 1972. Since then, a mounted policeman has periodically ridden through the club grounds, and a horse occasionally could be seen tethered outside the kitchen.

Records found at the club showed that the free meals received were generally valued at \$4 each. In each case where a record was kept, the policeman signed the check which said "giveaway." Interestingly, these records were not kept until July 1, 1973, which was over a week after the subpoena was served. The reason for this was that a new manager, who was a retired Army colonel, took over on July 1st. One of his first steps was to require that a record be kept on all "giveaways," including those for employees of the club. Until these records were found in a drawer at the club all the persons interviewed stated that police were given, at most, a cup of coffee.

The Commission representatives visited Bala Golf Club on July 11, 1973, so only ten days of records were available. They showed nine free meals given to police officers in that period. The policemen whose signatures appeared on the receipts were Lieutenant Charles M. L. _____ (#223) (once); Sergeant John F. L. _____ (#595) (four times); Sergeant John W. S. _____ (#8629) (once); and Policeman Joseph T. _____ (#6328) (three times). All were listed in police records as being assigned to the Park Police.

The Commission also found at Bala Golf Club evidence of the results of solicitation by fund-raising groups on behalf

of the Fraternal Order of Police. The Golf Club employees displayed an elaborate certificate from the "Philadelphia Police Fireman & Park Guards, Lambskin Club" at 2105 East Allegheny Avenue, Philadelphia, indicating the club had paid \$35 for space in a publication. In return for the money, the Bala Golf Club also received a decal and a wallet-sized "sponsor card" which purports to certify that the carrier is "cooperating with the Police, Firemen & Park Police" and is a "Safe Driving Pledgee." A copy of the two sides of the card is reproduced on the next page.

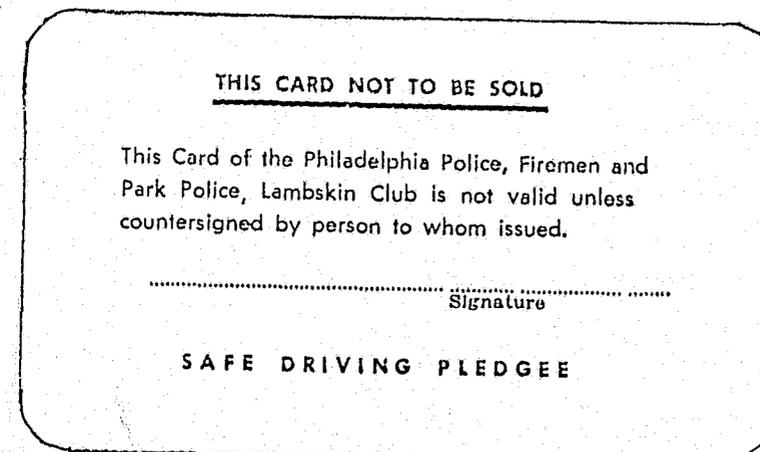
According to a professional fund-raiser the solicitation of funds for the "Lambskin Club" is evidently carried out by a professional group of charitable solicitors who operate on a commission basis, giving the organization for whom they are soliciting only 40% of the total proceeds.⁴³⁴ Organizations such as these generally operate on the fringes of the law, failing to register with state agencies.

The Commission also issued subpoenas to the Columbia Yacht Club and the Germantown Cricket Club, since it had received allegations that there was an unusual amount of police activity at each. The club records at these clubs showed no payments to police and the employees interviewed denied any were made. The only irregularity disclosed was that the Germantown Cricket Club had formerly employed an off-duty policeman as an assistant manager. This would be a violation of police regulations by the officer since the club serves liquor. The officer terminated his employment at about the same time the subpoena was served. The fourth club subpoenaed was the Philadelphia Cricket Club located in Chestnut Hill. No evidence of any payments to Philadelphia police officers was discovered, though the club made an annual cash payment to a suburban police chief in return for patrolling a club golf course in the winter.

Check-Cashing Agencies

Check-cashing agencies are small, individually owned businesses which cash personal or pay checks in return for a small fee. In general, such businesses are located in poorer neighborhoods where credit is scarce. Since they handle large amounts of cash, they are attractive to thieves. A number of

⁴³⁴Testimony of Lance Zeaman at Pennsylvania Crime Commission hearings on unethical and illegal charitable solicitation, June 11, 1973, N.T. 239-242.



these businesses receive extra police services in the form of escorts or guards. For example, on one occasion Crime Commission agents observed two patrol cars of the 16th District outside of a check-cashing agency at 40th and Market Streets, and the driver of one entering the agency. The driver came out shortly, followed by the operator of the check-cashing agency. She handed a roll of bills to one policeman, and they both drove off. According to police records, this agency received a total of 73 police escorts over a five month period in 1973.

The owner of a check-cashing agency at 1618 North Broad Street reported to a Commission agent that he, along with a jeweler and a furniture dealer in his building, employed an "off-duty" uniformed policeman to guard their businesses.⁴³⁵ The manager of a check-cashing service at 1544 Callowhill Street also stated he had a detective from Central Detectives to help him on paydays when he handled a large amount of money.

Some of these businesses apparently have very little contact with police. For example, the owner of Cambria Check-Cashing at 2544 South 28th Street, stated he uses an alarm service and an armored car service for security and had seen a police officer only once in a year. At a previous location in West Philadelphia, this man had requested a police lieutenant to set up a sign-in log but was turned down.

Even if businesses such as these were to pay police, it would be difficult to prove. Since they are quite small, record-keeping is likely to be minimal. If a small businessman such as this were dependent on police, he would be unlikely to antagonize them by admitting he pays them. Some evidence of such payments was uncovered, however. Former police officer Felix Ruff testified that the 22nd District usually sent an officer to an agency in the 1300 block of Girard at opening and closing. In return, the agency cashed checks for the entire district and also gave cash presents at Christmas.⁴³⁶ The owner of another agency at 1137 Spring Garden freely admitted he used to pay the police at Christmas but stopped because the police service was terrible. This man stated that when he wants police service the police "have their hands out." He offered one policeman \$10 to be outside his agency for fifteen minutes when he opened on Friday

⁴³⁵This is a violation of police regulations.

⁴³⁶Ruff, December 31, 1973, N.T. Ex. 1, pp. 33-34.

mornings (when he does most of his business), but the officer stayed only one day and never returned.

Miscellaneous Businesses

Other businesses which pay the police for extra services but are not classifiable in the above categories, also came to the Commission's attention. For example, Officer Weiner described a bowling alley and a roller rink which regularly paid him for extra services:

A: . . . in the Fifteenth there was a bowling alley on Frankford and Levick, called the Bolero. Well this guy used to have constant trouble with juveniles, teenagers and gangs. So to show his appreciation, every Friday, four to twelve, he come up with two dollars for you. . .

* * * * *

Q: . . . How did you find out about that particular two dollars, somebody tell you?

A: I was working by myself on the sector car and I got a call, I think, from police radio about a disorderly crowd. So I went there and dispersed the crowd and the white guy, dressed nice, he came out and said he was the manager and that he appreciated my vigilance. And he said, "Look, I don't know if you heard about it, but every Friday, four to twelve, I like to give you guys a couple bucks," and, you know, "Here it was."

And then there was another—like only four months—but another one was a dance at the Concord Roller Rink at Frankford and Princeton. I think it was every Sunday night, four to twelve, when the crowd would let out from the dance, the sector car would go up and just be there so when the kids got out they didn't raise Cain. And for this he used to give you two dollars.

Q: Now, did somebody come out and give it to you, or did you get it from somebody else in the Police Department?

A: This was the actual manager had come out. And I believe that particular deal, I was working with a guy, a policeman, where this was the normal thing. I have no idea what this guy's name was. I think I got that maybe once or twice. And then I was transferred out. But we had done our traffic thing and this type of thing and this guy come along and he give me a couple bucks and said, "This is normal," you know.⁴³⁷

Another example of on-duty police officers acting as regular guards at a business was described at a Crime Commission hearing by Mr. Jonathan Rubinstein:

... I remember an instance where a large company had a factory and they had a lot of problems with gangs. This factory was paying off local gangs to stay away from the loading zones. And at one point there was a stabbing on a loading zone and the owner of this factory, I was told, had very good political connections in State capital. And through those connections, through the Governor's office, I was told, they got the Mayor to intervene with the Police Commissioner to get a guard, police guard, stationed permanently. Which, by the way, is not unreasonable. I mean a specific problem in a specific location. Within a very short period of time this formally allocated beat had been turned into a note. The company was paying off the cops in goods, extensively, and also in money. Police don't live in a vacuum you know.⁴³⁸

In his book *City Police*, Mr. Rubinstein describes this factory as a bakery,⁴³⁹ although in neither place does he identify it by name.

In the course of another phase of this investigation, the Crime Commission subpoenaed police assignment sheets for the 26th Police District for various weekends in 1972. Those records showed that a police officer was consistently assigned to a foot patrol beat (called "Special Beat One") at Virnelson's Bakery located at Hutchinson and Thompson Streets. This discovery

⁴³⁷Weiner, December 5, 1973, N.T. 57-59.

⁴³⁸Rubinstein, N.T. 142-143.

⁴³⁹*City Police* 409.

came late in the investigation and was not pursued. The Commission was unable to determine whether the business is the same one referred to by Mr. Rubinstein.

Street Vendors

All of the businesses discussed thus far in this Report were paying police officers in return for extra police services. Businessmen also pay the police in order to avoid having the law enforced against them. In some cases, cash payments are voluntarily made, while in other cases they result from police harassment. In an individual case, it is sometimes a nice distinction whether a payment is bribery or extortion. The Commission found this to be particularly true in the street vending business where the businessmen are small, transient, and quite vulnerable to pressure from the police. As one vendor said:

"It's absurd," said Leon Matthews as he rocked back and forth in a lawn chair beside his jewelry stand, at 11th and Chestnut. "It's big people pushing little people around. This country supposedly believes in free enterprise. It's not right."⁴⁴⁰

Another vendor reported:

... Even though I sent for my license they gave me an abandoned vehicle citation. Even though they promised not to tow my truck away, they did tow it away. They promised to hold it until June 1st. They put my truck through the shredder, even though they knew the truck belonged to me. They didn't give me the opportunity to take my personal belongings out of the truck.⁴⁴¹

Street vending is as traditional in Philadelphia as the Mummers Parade. The corner pretzel man has been a familiar sight in center city for many decades, as has the fruit vendor in South Philadelphia. More recently, hot dog stands, ice cream wagons, and pushcarts of jewelry, wigs, leather goods, wallets, candles,

⁴⁴⁰*Philadelphia Daily News*, September 27, 1972.

⁴⁴¹Testimony of Adam Brozetti before the Pennsylvania Crime Commission, June 6, 1973, N.T. 27-28 [hereinafter cited as Brozetti].

and clothes have swarmed over the City streets in the warmer months. Many are doing a brisk business, and have aroused the anger of the more permanent merchants with whom the vendors compete.

Early in the Philadelphia corruption probe, a fruit vendor came to the Commission complaining that he was being forced to make regular payments to police officers to operate his stand. The Commission began an investigation of this and other incidents. As a result of its inquiry, the Commission found that in certain sections of the City, vendors are systematically shaken down by the police.

Fruit peddling is one of the most arduous of the vending trades. The vendors traditionally arrive at the Food Distribution Center at five in the morning and do not finish until seven at night. At the Food Distribution Center, the vendors buy with a skill that has been acquired over a period of years. Vendors often operate out of an old truck. On a good day, a vendor can earn upwards of \$50, but he also must cope with a host of economic problems.

The City's Department of Licenses and Inspections (L & I) and the Philadelphia Police Department both hold considerable power over vendors. Depending on the merchandise he intends to sell and the manner in which he intends to sell it, the vendor is required to purchase certain licenses. If he intends to sell food items, his cart or truck must be inspected by the Health Department before any licenses are issued. The cost of licensing has increased substantially over the past two years. Once a vendor is on the street, he is subject to close scrutiny by agents of the Department of Licenses and Inspections and by police. In certain sections of the City, some members of the Philadelphia Police Department use their position to extort money from vendors, whether or not they have the proper licenses.

One example of a vendor who was compelled to pay both inspectors from L & I and police officers was the case of Mr. George Guarracino. In testimony before the Crime Commission,⁴⁴ Mr. Guarracino stated that he had been operating a produce stand from a station wagon on Broad Street in South Philadelphia for ten to twelve years, most of that time without the proper licenses. For about five years, up until 1966,

⁴⁴Testimony of George Guarracino before the Pennsylvania Crime Commission, June 6, 1973, N.T. 72-86 [hereinafter cited as Guarracino].

he periodically paid \$60 to James M_____, an inspector from L & I. He stated he began paying police officers, beginning in about 1968, in order to conduct his business without interference. The total amounts he paid police officers ranged from \$100 to \$200 per month. He specifically identified in his testimony Policemen Charles L_____ (#6931) and Dominick D_____ (#7390) as officers to whom he had given money. He also stated that at one point he went to the police station at 11th and Wharton Streets to try to make arrangements to stop getting traffic tickets. He testified that he there spoke to Lieutenant Donald P_____ (#280), who said, "You owe me \$50."

Mr. Guarracino was called before the Special Investigating Grand Jury, and as a result of his testimony Policemen L_____ (#6931) and D_____ (#7390) were indicted and suspended from the Department, though they were later acquitted on the criminal charges. Lieutenant P_____ (#280) was not mentioned in the Grand Jury presentment.

The Crime Commission conducted a random survey of 19 street vendors in downtown Philadelphia. All the vendors interviewed had licenses. The vendors indicated that the police and the Department of Licenses and Inspections had cracked down on unlicensed vendors.

The worst example of corrupt officials and unresponsive government which the Commission uncovered during its inquiry into the problems of vendors concerned Mr. Adam Brozetti. In order to operate his fruit truck in South Philadelphia during the past twenty years, Mr. Brozetti has been forced to make regular payments to members of the Philadelphia Police Department. Over the years, he has repeatedly attempted to take his case before ward leaders, police commissioners, and mayors. All that he earned for his efforts was a reputation as a squealer and the wanton destruction of his produce truck.

Mr. Brozetti has sold produce at many locations.

Q: Now, would you say, in all the locations you have been you have had to pay the police?

A: In all the locations.

Q: And if you didn't pay were you arrested?

A: We were chased off the particular site and if we didn't move, we would be arrested.

Q: When you moved to a new location how did these series of payments start? What happened?

A: They would just park the red car near the stand and stay there for a while and naturally as the vendor, I would turn around and look at the car. I surmised why they were there. They would stay there until I would have to walk over to the car. Then a conversation would commence and he'd say, "You know you can't stay on that corner." In all probability I would just make the offer that if I took care of them could I stay. An agreement was reached and I paid to stay in that particular site.

Q: Did they then pass the word on to—

A: They passed the word on to the other cops who came on another shift and they in turn received the same payment.⁴⁴³

The payments involved substantial amounts of money. During the five years that Mr. Brozetti operated an unlicensed stand at 20th and Johnston, he paid at least \$60 a month and as much as \$75 a month. Each of the shifts was paid \$15—\$5 for the sergeant and \$10 for the two men in the sector car. He usually had to pay \$10 a month to an emergency patrol wagon, and occasionally he paid \$5 a month to the beat cop. Mr. Brozetti was not the only victim:

Q: Do you know anyone else who has also had to pay the police?

A: I believe everybody in my business has had to pay them one time or another.⁴⁴⁴

Mr. Brozetti did not accept the system docilely. At one time, he tried to operate a stand on the southeast corner of 20th and Johnston in front of a SEPTA office building. He paid rent to a real estate agent and obtained the proper licenses.

A: . . . I operated there for a period of approximately two years and during that time, although I was legitimate, I was repeatedly arrested by the police

⁴⁴³Brozetti, N.T. 20-21.

⁴⁴⁴*Id.* at 19.

department of Philadelphia, especially policemen from the 1st District.

Q: What were you arrested for? What were you charged with?

A: I was charged with illegally vending of fruit and produce.

Q: Even though you had a license and paid rent?

A: Even though I had a license and paid rent and was considered legitimate.

Q: At this time were you paying any members of the Philadelphia police force.

A: I was paying no members of the Philadelphia police force.

Q: At any time when you were arrested did a police officer tell you that the reason you were being arrested was that you were not making payments?

A: I can't be specific but I knew that was the reason.

Q: There was a definite implication?

A: Because I had paid the same policeman years before when six or seven hucksters applied their trade at that particular location.

Q: In other words the same policeman you paid in prior years was the one who was arresting you?

A: Right. Well, not exactly. They were sending policemen I had never paid to arrest me and it seemed strange to me why the ones that I previously paid weren't doing the arresting. That seemed to be their way—what do you call it—I wouldn't be able to say, "Well, I paid you before."⁴⁴⁵

After being arrested repeatedly, Mr. Brozetti relocated to the northeast corner of the intersection and resumed his payments to the police. Time and again he sought redress from City officials with disastrous results.

⁴⁴⁵*Id.* at 8-10.

Q: Did you ever make a complaint to the police department about having to make payments?

A: Yes, I made a complaint to my ward leader at first.

Q: Where did it go from there?

A: Well, the ward leader heard my story and he went to the then Commissioner Gibbons and then when I was working at Broad and Snyder, Commissioner Gibbons with a deputy officer came down to find out what was going on and I told him. Subsequently, they had eight policemen transferred from the 4th District and brought to Fourth and Snyder.

Q: Did anything happen to you as a result of making that complaint?

A: Yes, the police knew I made a complaint and word got around that I was a squealer. Repeatedly they gave me citations for breaking traffic laws which at the beginning I didn't break any traffic law. In one instance two particular policemen gave me 25 different citations within a period of two months. These citations were serious, driving without a license, driving without a registration plate, driving without a sticker on my license plates, and when my license was suspended by the Department of Traffic Safety at a hearing I tried to explain, how could two policemen give me 25 serious citations when no other policemen had so cited me. I had been driving the truck through the city streets. I'm sure another policeman would have noticed at least one of the infractions, driving without a license or tags or lights or inspection sticker. So now I feel that that hearing at the state building in Philadelphia, presided by an employee of the Bureau of Traffic Safety, my testimony wasn't taken completely and my license, because of the citations, have been suspended for a period of several years. Also when I tried to work certain corners after making these allegations against police corruption I was chased and stopped from working particular corners and at that time I went

to work for a period of two years at Market Street.⁴⁴⁶

Mr. Brozetti's only recourse was to maintain his payments to police officers. According to his testimony, the payments continued regularly until the Crime Commission began actively to investigate the police in July, 1972. The extortion did not stop completely even then. Occasionally, a police car would pull up and remind him that he had to pay. He made his last payment to an officer in October, 1972.

Mr. Brozetti's last and most dramatic confrontation with the Department came some eight months after he stopped making regular payments to the police. While the Commission was never able to verify any direct relationship between Mr. Brozetti's cessation of payments and his subsequent difficulties, it is not unreasonable to hypothesize that his reputation as a man unafraid to complain did not stand him in good stead. The incident concerned his fruit and produce truck—the vehicle which was absolutely essential to his livelihood. The registration for the truck was revoked by the Pennsylvania Department of Transportation due to an accident. Mr. Brozetti took the case to Community Legal Services because, in his view, the registration should not have been revoked.

In the meantime, he transferred registration of the truck to his wife and made application to Harrisburg for new plates, so that the truck could be operated legitimately.

Q: You sent for a title, is that correct?

A: On April 9th I went to Abate's Auto Tag Service and I sent for a title for my truck because I had lost the original.

Q: Did you ever tell anybody from the police department that you were sending for those?

A: On one particular day a policeman came to the fruit stand, I was selling fruit that particular day. He said, "You have a truck here without registration plates." I said that I knew but that I was waiting for tags and that I had a sign there.

Q: You had a sign on the truck?

⁴⁴⁶*Id.* at 22-23.

A: On the truck saying "waiting for tags." He said, "how do I know you are waiting for tags?" I told him I had a receipt that I sent for a title to my truck and with this receipt I'm going to change it over to my wife's name and then I will pay the sum needed to get the plates. The Abate's Auto and Tag place will give me a temporary tag while they send for the original registration plate. The policeman said, "Well I'm sorry I have to give you a ticket for an abandoned vehicle." He commenced to give me a ticket for an abandoned vehicle. I went to the phone and I called the first District and I spoke with a Sergeant Brooks. I explained the story to Sergeant Brooks, I had sent for the title and I was going to send for the tags as soon as I got the title back and that the truck wasn't an abandoned truck and within the meaning of the law because it did have new tires and it was a running truck.

Q: Were you using that truck every day?

A: Yes, I was using it. I had been using it for the past four or five years in that particular location.⁴⁴⁷

The truck had not had license plates during most of that period. Yet, not until April of 1973, was anything ever said about the violation.

Mr. Brozetti was able to forestall the confiscation of his truck that day by calling Sergeant Brooks. After hearing Mr. Brozetti's explanation, the sergeant questioned how he would know Brozetti was telling the truth. Mr. Brozetti offered to have his Community Legal Services attorney call the sergeant. The call was made, and Mr. Brozetti was informed by his attorney that Sergeant Brooks had promised the truck would not be towed. However, the settlement was only temporary:

A: . . . Three days later the truck was towed away. When I saw the truck wasn't in its location I went to the police pound where they keep cars and trucks that are towed away from being abandoned. My truck was on the highway and not within the pound. I asked for the return of my truck because I had a receipt for the title. The sergeant at the

⁴⁴⁷*Id.* at 28-30.

pound said I had to go to 26th and Master Street to get permission to get my truck back. He said I wouldn't need the title to the truck to show that I owned it. I went to 26th and Master, I spoke with two policemen that were in charge of the particular division of abandoned vehicles and they said that if I had the title they would give me back my truck. I told them I had no title but that I did send for the title to the truck through Abate's Auto and Tag place. They said, "Well, we can't give it to you without the title." I said, "But I have the receipt here." The two policemen called Lieutenant Denickoli (phonetic) and he said I couldn't get the truck unless I had the receipt from Abate's notarized. I went back to Abate's and got the receipt notarized and had the serial numbers of the truck put on the receipt. I went back to 26th and Master and showed the receipt with the serial numbers on it. The lieutenant called up the pound and asked for the serial number of the particular truck that I said was mine. They gave the lieutenant a serial number; to give you an illustration, if the serial number on my receipt said F12345678, the numbers given to the lieutenant were F1234567. He immediately said that it wasn't my truck, the numbers are different. I said to the lieutenant, "But haven't you noticed that there's only one number missing? Maybe the person taking the serial number missed one of the numbers." He said that I couldn't have it unless you bring the title, and the receipt was legitimate. He wouldn't give it to me so I asked what I could do. He told me they would hold the truck for one month.

Q: Did you have to pay him anything for holding the truck?

A: I told him, how would I go about getting my truck and he told me it would cost me \$18 to get my truck back. After May 1, it would cost me \$1.00 a day and they would hold the truck for a period of one month until June 1, hoping that by that time I would have received my title from Harrisburg. I take particular notice now that maybe I wouldn't

get a title from Harrisburg. I left and went back to Abates, the people who sent for my title, I asked them what was the hold up of my title. They said they received a notice from Harrisburg that said they had no record of my title. I said to the employee of Abate's, "I have a receipt here, a registration card with the serial number of the truck. They must have a record of my vehicle in Harrisburg." I didn't receive an application for 72, I thought it strange at the time. I asked if they got rid of titles and the employee said, "No, they hold them for a period of five to ten years." I told him to check into it and he said he would. Meanwhile, several days later, I went back to the car pound to get my personal belongings out of the truck so I could go back to work and work from my son's car. My son had a car and I could work Twentieth and Johnson from his car. I needed a car so I could put my scales, my bags, my umbrella and other paraphernalia that I need to run a fruit stand there overnight so I could open up the next day. I went into the pound to get my personal belongings out of the truck. They said I would need an okay from 26th and Master. I went back to 26th and Master which was a police district there and I asked the same two policemen that I talked to before if I could get my personal belongings out of the truck. They asked me if I got the title yet. I said, "No, but I still have the receipt and my owners card." I told him the title didn't come through from Harrisburg yet but I need my things from my truck. The lieutenant called the pound and he found out that while I was talking to the sergeant my truck had been put through the shredder and destroyed. The lieutenant said to the sergeant on the other end, "But you were supposed to hold it until June 1."

Q: Do you remember what date this was?

A: This was approximately about May 16. And then the lieutenant handed me my owners card and my receipt and simply told me there was nothing he could do. I said, "Well, you were supposed to hold

it until the 1st." He said, "There's nothing we can do, just forget about it."⁴⁴⁸

Mr. Brozetti was unable to "forget about it," however. His means of earning a living was destroyed, apparently without cause.

On the basis of information supplied by Mr. Brozetti, the Crime Commission subpoenaed three other witnesses: Mr. Vito Palumbo, Mr. Jerome Goldstine, and Mr. Carmen Tucci. Each witness was asked if he had been required to make payments to members of the Philadelphia Police Department in order to work as a produce vendor. At the hearing Mr. Palumbo invoked his right under the fifth amendment, Mr. Goldstine denied ever having paid the police, although he testified that he had been approached and he "surmised" that other people paid. Mr. Tucci said that he had been forced to pay at a location at 10th and Allegheny but not at 20th and Johnston or at "C" and Tioga. Mr. Brozetti looked at 144 pictures of men in the 1st District, 156 pictures of men in the 4th District, and 207 pictures of men in the 17th. He identified Sergeant Robert McC_____ (#406) and Policemen Thomas McA_____ (#4546) of the 1st District as policemen to whom he had made payments. He also identified Policeman Joseph S_____ (#3601) and Policeman Issac D_____ (#1898) of the 17th District as receiving payments. According to Mr. Brozetti, Policeman S_____ (#3601) was paid erratically from 1967 to 1971. Policeman D_____ (#1898) was paid erratically from 1967 to 1972. During that period, Mr. Brozetti worked the corner of Point Breeze and Reed Streets only on Saturdays. Policeman D_____ (#1898) demanded and received money for his meals.

In addition to his testimony, Mr. Brozetti agreed to participate in an undercover project. A Crime Commission agent obtained the necessary licenses to operate a fruit vending business. Together the two men purchased produce at the Food Distribution Center then proceeded to various areas throughout the City to sell the fruit or vegetables. The purpose of the project was to see if a member of the Philadelphia Police Department would approach the truck and ask for money. In the event of preliminary harassment in the form of arrest, both men were prepared to go through the entire judicial process. Although Policeman Roger B_____ (#1574) took a dollar's worth

⁴⁴⁸Id. at 30-33.

of peaches while the agent was operating at Frankford and Orthodox, Mr. Brozetti and the agent were never approached directly by police for payments. At the Frankford and Orthodox location, the agent was "protected" from police extortion by the manager of Rodger's Clothing Store and the proprietor of a delicatessen who said that they paid off the police with free suits and free lunches, respectively. In return for this protection, the manager and proprietor took some of the agent's produce. The value of produce taken by the manager of Rodger's store increased from \$1 a week to \$5 during the time the agent worked there.⁴⁴⁹

The fact that street vendors were forced to pay the police was corroborated by Officers Felix Ruff and Robert J. Weiner in their testimony before the Commission. Former Officer Ruff described a situation where officers in particular sectors had actually fought over where particular vendors would be located, so that they (the officers) could have the vendors on their beat.

Q: Did you ever come into contact with street vendors while you were working on the Twenty-third [Police District]?

A: Yes, I did.

Q: Did you ever get any notes from them?

A: Me personally, no.

Q: Do you know whether other people got notes from them?

A: I believe so. I believe other people did receive notes from the vendors.

Q: Can you describe some of the circumstances?

A: Yes, I can. There is from Broad Street to about Twelfth on Montgomery Avenue, and also Thirteenth Street, a number of vendors that supply food to students at Temple University. At various times the sector cars, I believe it's 234 and 223—which is the adjacent District in the Twenty-second District—would come up at arms about

⁴⁴⁹ Although payments were never solicited by members of the Philadelphia Police Department, the undercover activities did enable the agent to gain acceptance in four bars where numbers were played.

who was taking care, who was going to get money from whom in that area. And a couple times lieutenants and captains and inspectors would have to go over there and straighten it out, who would be allowed to park on what side of the street.

Q: You mean the vendors fight among themselves?

A: No, the police officers assigned to the cars.

Q: Would fight about who would get what?

A: If a new vendor truck would come into the block, and it's naturally no parking signs on both sides of the street, well it's up to the police to enforce who could stay where without receiving a ticket. And if there was space available on both sides and a new vendor came, it might cause some tension between two sector cars as to exactly who would be allowed to get them.

Q: Why would there be tension?

A: Well, because there is an understanding between the officers at the sector cars and the vending truck operators, you know, that officers will let them operate their trucks for either their food free or for a note once a month or for maybe a note once a week.

Q: So the officers in the different sectors were fighting over essentially who was going to get the note?

A: Yes, they were. I remember specifically in our squad it was [Officer George C_____ (#1495)] and he came into the District one day really emotionally upset because the officer from the Twenty-second District allowed a new truck to park on his side.

Q: Do you know how much those notes amounted to?

A: No, I don't.

Q: Those fights occurred both between sectors and between Districts?

A: That's correct.

Q: Who would settle it if it was between District, the inspectors would have to get into it?

A: If it is between Districts the captains would perhaps be called in. If the captains don't come to no agreement, would have to take it to the inspectors.

Q: Did the vendor have any say in it?

A: No, usually he was wrong from the start.

Q: He was wrong either side of the street?

A: Right.⁴⁵⁰

Officer Weiner recalled:

Q: What about fruit vendors, were they targets for notes?

A: Fruit, sell fruit?

Q: Yes, street vendors. I don't know whether they had them in the Twenty-second or the Twenty-third.

A: Occasionally any street vendor, you make a check and see if he had a license. If he hadn't, he give you a watermelon. . .⁴⁵¹

It might be argued that what happens to a few vendors is not worthy of public attention. However, the Commission believes that the corruption evils present in receiving notes from businessmen are present here in an even more opprobrious form. The vendors are not able to protect themselves, and are totally reliant on the police for permission to operate. The Commission discovered that in many locations, the police take advantage of this power, and actively extort money from the vendors. The vendors are too few in number to organize resistance too poor to be considered influential and, therefore, have little choice but to come to terms with the police.

⁴⁵⁰Ruff, December 31, 1973, N.T. 88-90.

⁴⁵¹Weiner, December 3, 1973, N.T. 81

Construction and Moving Companies

Another frequent source of "business notes" for police comes from companies who are engaged in construction or moving. These companies must use large equipment, and their activities inevitably spill over into the public streets and sidewalks, often in violation of a municipal ordinance or regulation. These companies also frequently need special permits in order to operate legally, and such permits are sometimes difficult or impossible to obtain.

If the police were to enforce strictly all the laws, ordinances, and regulations governing the activities of construction companies, it would cause much inconvenience for the companies involved. Because of pressures to get work finished, the companies are willing to pay the police and other public employees to avoid that situation. Although this type of note frequently involves the policeman actually overlooking activity that is illegal, it is still considered by police officers safe or clean since the payor is usually unlikely to complain and the activity protected is usually not a major crime.

The Crime Commission did not focus its investigative activity on this type of business note due to lack of time. It has, however, received some evidence of police corruption which is corroborated by other evidence found by the Special Investigating Grand Jury. The Commission received much of its information in this area from Mr. William Lewis, a small contractor in Philadelphia, who agreed to describe how the system of payoffs in construction worked. He does small jobs on his own and receives subcontracts from larger contractors.

Mr. Lewis stated flatly that a contractor cannot complete a building job in Philadelphia without special dispensations usually obtained through bribery.⁴⁵² One of the major problems small contractors have with police arises when the Department of Licenses and Inspections orders a work stoppage at a building site for a violation such as a lack of a permit. The police are responsible for enforcement of that order, so in order to continue work, the contractor must pay the police. Oftentimes, Mr. Lewis said he would pay the police \$50 to patrol elsewhere until he had finished the work. Mr. Lewis said police officers also may have to be paid if some materials of the contractor block the pavement, if a truck is double-parked, if lumber extends too far from the back of the truck, or if other businesses are antag-

⁴⁵²Interview with William Lewis, August 22, 1973.

onized by the construction work to the point of complaining. The rank of policemen receiving payments from Mr. Lewis went as high as sergeant. He estimated that the largest payment he made was between \$300 and \$500 and went to a sergeant.

The person who makes the payments and negotiates with the police officer on behalf of large contractors is generally a field superintendent. He usually gets a "kitty" from the main office, but he may pay out of his own pocket just to get the work moving. Large companies make records of payments to police but hide the expenditures in some fashion. The general contractor also usually makes arrangements with the police to allow trucks to park in no parking zones. The field superintendent will go to the police station to pick up temporary no parking tags and will give a certain amount of money to a police officer, usually \$50, but more if the job is large.

The president of Quaker Moving and Storage Company, George Bernstein, candidly admitted to a Commission interviewer that he would give \$5 to \$10 to any policeman who was of assistance in a moving operation—just like tipping a waiter. Mr. Bernstein said the cooperation of police was important.

One of the Commission's police witnesses confirmed the police interest in construction notes. He testified that:

... on Sunday, if a person is doing repair work and doesn't have a building permit, then you stop him and drag him down from the third floor where he is hanging dangerously and say, "Let me see your work permit, chief?" and if rain is coming and he wants to get his roof back on and he'd say, "I don't have a permit," "How about that." And he'd say, "Can I do something for you?" And oftentimes you work out an agreement, depending, you know, on how desperate—if it's early in the morning, the guy wants to get to work the rest of the day, you get a bigger note and if it is later in the day, if you came on four to twelve, you get not so much.⁴⁵³

Although the Crime Commission's investigative data in this area is somewhat limited, it is corroborated by the *10th Presentment* of the June Term, 1972 Special Investigating Grand

⁴⁵²Weiner, December 5, 1973, N.T. 81.

Jury, issued on November 20, 1973. The Grand Jury conducted a much more extensive inquiry into this type of police corruption, subpoenaing the records of twenty-eight construction firms, interviewing representatives from each, and taking testimony of twenty-two witnesses representing eight firms. The Grand Jury reported that "We found extensive cash payments to members of the Philadelphia Police Department."⁴⁵⁴ The Jury's report gives specifics on only two of the officers found to have received these cash payments. The police officers mentioned by the Grand Jury were Officer Raymond R. _____ (#4668) and Officer Robert J. _____ (#5366). Officer R. _____ (#4668) was a traffic policeman permanently assigned to the intersection of 16th and Market Streets in Philadelphia. The Grand Jury found that Officer R. _____ (#4668) received a total of \$3,765 in less than two years from Tishman Construction Company and Colony Bulldozer, Inc., to overlook traffic violations by the heavy equipment operators. Company witnesses testified that Officer R. _____ (#4668) approached the company. Payments from Tishman were \$150 a month and were recorded on company "petty cash" slips as "traffic control" or "parking expense."

Officer J. _____ (#5366) was one of fifteen members of the Sanitation Unit of the Police Department, which enforces the laws governing refuse, littering and snow removal. A total of twenty-two representatives of six construction companies testified they paid Officer J. _____ (#5366) a total of at least \$3,295 over a six year period in order to avoid citation or harassment for dirty streets in the vicinity of construction projects.

Unfortunately, the Grand Jury's presentment fails to inform the public of the total number of police officers found to be involved in such payments and the extent of that involvement. Nowhere does it say that the two officers named were the only ones.⁴⁵⁵

Although the Grand Jury Presentment was limited, the investigation the Grand Jury conducted apparently had a deterrent effect at least while the investigation was in progress. As soon as the Grand Jury investigation began several traffic policemen were reassigned and the sergeant in charge of the Police Sanitation Unit was replaced. Mr. Lewis reported in the fall of 1973,

⁴⁵⁴*10th Presentment* at 9.

⁴⁵⁵It is highly regrettable that either the District Attorney's office did not submit its evidence to the Grand Jury or the Grand Jury did not fully report on it. The Crime Commission believes the public has a right to know the full extent of public employees' involvement in corruption, and the Grand Jury has a duty to report its findings.

that things had tightened up and that the amount of payoffs had decreased since police were scared.

EXTRA PROTECTION GIVEN BY OFF-DUTY POLICE

Businesses in Philadelphia also pay for extra police protection which is given in the form of guard service while policemen are off-duty. Unlike the other business notes discussed above, these payments are not illegal. It is, however, against the regulations of the Department for policemen to work off-duty in a guard or security capacity. Although no concentrated effort was made to seek out evidence of such practices, a considerable number of policemen were found to be violating departmental regulations by accepting employment as security guards during their off-duty hours. Many of these policemen, moreover, consistently failed to report on their State income tax the often substantial amounts of money earned through this type of employment.

Philadelphia Police Department regulations governing off-duty employment are strict and clear. Prior to obtaining any such employment, the policeman must have "the written authorization of the Police Commissioner." Procedurally, this means that he must submit to his commanding officer a "Request for Authorization for Outside Employment" (form 75-429) in triplicate. Police regulations, as set forth in the *Policeman's Manual*, specifically prohibit policemen from obtaining "employment in a patrol, investigative, guard, or security nature, or any similar type of employment."⁴⁵⁶ The *Policeman's Manual* also specifies a penalty for violation of this rule: suspension ranging from five to thirty days.

It is a commonly held opinion among Philadelphia businessmen that this rule should be repealed, so that policemen can legally work as security guards while off-duty. Businessmen who have employed police officers as guards, both on-duty and off-duty, told the Crime Commission repeatedly that Philadelphia policemen make considerably better guards than the men provided by private security agencies. For example, Cloyd Fleming, the area manager with responsibility for most of the Gino's stores in Philadelphia, testified before the Crime Commission:

Q: Do you think that police should be permitted to perform guard service for private corporations on their off-duty time?

⁴⁵⁶*Policeman's Manual* 124.

A: Absolutely. I think they're more professional in their approach, and I think they know how to deal with people, where these other agencies do not train their people to do it, and they create more problems and hazardous conditions for everyone, while the police officers—I would pay, frankly, any amount of money that the police asked.⁴⁵⁷

Mr. Fleming's description of police guards contrasts with another Gino's manager's description of guards from one private security agency. He said: "[t]hey never did the job they were supposed to do. Most of the time the guards showed up half drunk, and most of the time they didn't show up at all."⁴⁵⁸ The contrast between private guard services and those provided by off-duty Philadelphia policemen is further illustrated by the testimony of Michael M. Brandeis, an officer of Ron Levitt, Ford, Inc., which used both types of guards:

Q: What kind of personnel did you have with Pinkerton, and do you have any observations to make about the quality of the people that you had working for you?

A: Pinkerton, Incorporated performed services for Ron Levitt, Incorporated, which was prior to even there being a Ron Levitt Ford, for approximately four years, and at the outset, the quality of security was, I would say—the type of security that you're paying for you were getting, it was satisfactory. This would be, I would have to say, approximately for maybe a year, year and a half of the conception date of the services.

Q: And when was that?

A: I believe approximately 1969. And approximately a year and a half, maybe two years later, there was—the quality of the services that were being performed diminished greatly as far as the men who were coming to the buildings being late, being found to be sleeping in offices during the course of

⁴⁵⁷Fleming, N.T. 22-23.

⁴⁵⁸Testimony of James Popelarski before the Pennsylvania Crime Commission, October 22, 1973, N.T. 13.

the night, and this was found strictly by there being thefts.

And in a couple of instances, the police department on their normal duties would be going by the property and seeing something wrong or something that they felt was wrong and stop and make inquiries and found that the guards—and the building is properly identified as far as with a sign stating that it was secured by Pinkerton, Incorporated, which is a security service—would bring these men out or get their attention and just—we were not being properly secured and that was found by the losses and also by our own personal inspections either by myself or other members of the company, the executives of the company going to the premises with keys and entering the building and finding that men were nowhere to be found—well, not to be found for the moment, but where they should have been.

* * * * *

Q: Did you ever have an occasion where one of these—we'll call them police guards for short, although we realize some of them are retired—did you ever have a situation where one of them did not show up as you had with the Pinkertons?

A: Never.

Q: Okay.

A: They're always punctual, which was almost never the case with Pinkerton of late, anyhow.⁴⁵⁹

In addition to having greater experience and reliability, police officers in uniform also provide a visible deterrent to potential criminals or unruly persons. The security director of Supermarket D felt that the sole value of a daytime guard in a supermarket is as a deterrent and that the deterrent value of a guard in a Philadelphia police uniform is much greater than that of one dressed in a private uniform.

Businesses employing policemen in security work while off-duty found by the Commission included Ron Levitt, Inc. and

⁴⁵⁹Testimony of Michael M. Brandeis before the Pennsylvania Crime Commission, October 24, 1973, N.T. 17-19, 24.

Funk's Hauling Service, Inc. From subpoenaed records and testimony, it was learned that Ron Levitt and Funk's had used essentially the same group of men. The names of 35 policemen identified as having worked at one or both of these businesses are listed below.⁴⁶⁰

Funk's Hauling Service first began employing off-duty policemen in 1969. It required twenty-four hour a day services by men who would not only guard the gate, but examine the trucks moving in and out. In 1973, Ron Levitt began using policemen as night watchmen. The men were not in uniform nor were they armed, although some brought their dogs with them. Their security duties were said to be limited to observation. If they saw anything, they were supposed to call the police.

According to the testimony of Mr. Brandeis of Ron Levitt Ford, the men who work as guards organize themselves in such matters as determining who will work what hours. These details were handled at different times by two men, Policemen Mario P _____ (#5562) and John J. R _____ (#5751). Policeman R _____ (#5751) appeared to be the prime mover and earned the largest amount of money: \$6,338 in 1972, which was not reported on income tax returns. Almost all the policemen who served as guards were members of the Hunting Park Guards District. All the evidence indicates that this was an open and widely known operation.⁴⁶¹

The effectiveness of the procedures by which the Department rules governing outside employment are enforced is questionable. There appears to be no attempt to ensure either that policemen describe their job adequately to their superiors or

⁴⁶⁰ Sergeant Leonard B. _____ (#360)	Policeman Richard G. _____ (#3732)
Sergeant Francis M. _____ (#8541)	Policeman Thomas G. _____ (#3597)
Sergeant Robert W. _____ (#8636)	Policeman Eugene F. G. _____ (#3710)
Policeman Arthur G. A. _____ (#1317)	Policeman Donald K. _____ (#4474)
Policeman R. B. _____ (#1779)	Policeman William M. _____ (#4782)
Policeman Joseph B. _____ (#2293)	Policeman John M. _____ (#4388)
Policeman William B. _____ (#1414)	Policeman John R. M. _____ (#5019)
Policeman Willie B. _____ (#1917)	Policeman Lawrence M. _____ (#5061)
Policeman Thomas J. C. _____ (#2905)	Policeman John M. _____ (#2867)
Policeman Thomas C. _____ (#2627)	Policeman Mario P. _____ (#5562)
Policeman Thomas C. _____ (#2716)	Policeman David C. R. _____ (#5652)
Policeman Patrick C. _____ (#7204)	Policeman James L. R. _____ (#5715)
Policeman William D. _____ (#2987)	Policeman John J. R. _____ (#5751)
Policeman Hugh J. D. _____ (#2997)	Policeman Fred A. S. _____ (#5774)
Policeman Ronald D. _____ (#3058)	Policeman John S. _____ (#5810)
Policeman Charles D. _____ (#3211)	Policeman John J. S. _____ (#5821)
Policeman Adam F. _____ (#3445)	Policeman Fred H. Y. _____ (#6898)
Policeman James E. _____ (#3523)	

⁴⁶¹The Crime Commission also uncovered policemen doing security work at Supermarket E and Marine Guard Service. The men were Sergeant Paul R. M _____ (#328) and Policemen Alfred E. F. _____ (#5948), and Francis S. _____ (#3708).

that they submit a request for outside employment in the first place. Of the thirty-eight policemen identified in this Report as having jobs in conflict with departmental regulations, the required forms for authorization have been found for only ten, and these forms were not submitted before the policemen in question actually began working. All but two of the men who worked for Funk's or Ron Levitt submitted their applications in late October or early November, 1973; the Crime Commission subpoenaed the records of these companies on October 15, 1973. All the forms submitted were approved perhaps, partly because the jobs are not accurately described. For example, Policeman James L. R. _____ (#5715), described his job for Funk's as: "Truck Checker—Write down number of trucks when they come in and when they leave."

As a general matter the outside employment forms appear to be routinely approved without close scrutiny of the job description. The Crime Commission has found a number of approved applications that described work in such a manner that further inquiry should have been made. Lieutenant Richard J. B. _____ (#161), for example, described his job thus: "After Nilon Brothers' Office is closed I will answer the telephones, take messages, and accept deliveries of meat, rolls, etc., delivered during the eight hours of my work." This clearly described a night watchman type of job which would seem to be security work prohibited by the regulations. Other policemen received approval for such questionable jobs as doormen in apartment buildings and a "gangway watch on ships." One policeman wrote on his application for outside employment, "I have worked here 7 years." Although this is tantamount to an admission that he violated the regulations by not getting permission before accepting the employment, his request was routinely approved.

CHRISTMAS NOTES⁴⁶²

Many of the notes paid by Philadelphia businesses were "Christmas notes" which were paid either once a year or as a bonus paid in addition to the regular or steady note. These notes exist under a different system and a different set of assumptions. In some police districts, there are typed lists of policemen that are sent out to companies so that the company can send a gift back to policemen. Officer Weiner described this system:

⁴⁶²This discussion of Christmas notes omits reference to ones paid by bars, clubs, or gamblers figures. They are discussed in the liquor and gambling sections of this Report.

Q: Did you ever see, at Christmastime, lists of men in the District, with amounts by it, sent out to companies for gifts to be paid?

A: I have heard about Christmas lists. When I got transferred the first time into the Fifteenth, that was like what, November '68 or something like that, one of the guys would get around to tell you "You're too late to make the Christmas list" . . . I have heard of Christmas lists where maybe a factory would have to make it a policy or have to get up X amount from people or X amount for people on this Christmas list. And these were picked by who knows who would actually put you on a list. But I had heard of these lists. I have never actually seen them but I had heard enough about them in my years in the Department to know that the Christmas lists do exist, which denotes that some policemen are put on Christmas lists and are entitled to Christmas, and the companies pay according to this list.⁴⁶³

One such Christmas list was found at the union hall for Laborer's Union Local No. 57 at 1367 Ridge Avenue in the 6th District. On October 22, 1973, the Commission received an anonymous message in the mail suggesting that the Commission contact Mr. William Foley, an official of this union who was alleged to give out "thousands of dollars" to the police at Christmas and who "would not lie to his mother." A Crime Commission agent was sent to interview Mr. Foley, who is a former Philadelphia policeman. Mr. Foley admitted in this interview on November 9, 1973, that Local 57 appropriates one thousand dollars in its annual budget for Christmas presents to be given to persons who render services to the union. This is a union policy which is approved by the membership of the local. This money and usually three cases of liquor are distributed by Mr. Foley to policemen, trash collectors, mailmen, and others. The presents are given in the form of cash, usually five to ten dollars, gift certificates of five or ten dollars, or a bottle of liquor. Of the allotted \$1,000, an estimated \$250 to \$300 is given to police officers each year. Mr. Foley said that these are the only payments he ever made to the police. They go to the beatman,

⁴⁶³Weiner, December 5, 1973, N.T. 91-92.

the sector patrol car, the sergeants, and the lieutenants covering the area of the union hall.

Mr. Foley said that when he first tried to decide to whom he should give the money he called the 6th District headquarters at Eleventh and Winter Streets and asked the corporal for a list of names of the policemen who worked in the area of the union headquarters. The list he received was typewritten on both sides of a sheet of paper and contained over 30 names.

Following the interview, Mr. Foley was contacted by an attorney for the Crime Commission and invited to testify before the Commission and to bring with him the records of the union relating to these police payments. The attorney for the union interceded, however, and refused to permit Mr. Foley to appear.

Another Christmas list was found in the mailing room of Supermarket C's corporate headquarters in the 9th District. The list, produced in response to subpoena, did not contain names in this case but summarized the number of policemen, as well as mailmen and parcel postmen, who were to get presents. The list provided for eleven policemen at \$5 each. The supervisor of the mailroom said the list had been in existence since at least 1966, when he became assistant supervisor. He said the policemen walked into his office around Christmas and picked up individual envelopes with the money and that he seldom saw them during the rest of the year. He could not identify them except to say the first names of three of them were Jim, Vince, and Chester.⁴⁶⁴

Another Christmas list was found at the Dewey's offices at 16th and Market Streets. This chain of center city restaurants paid \$5 each to 48 policemen who were mostly assigned to the Traffic Division. The list included lieutenants, sergeants, policemen, jeep drivers, and foot beat men. From the Dewey's records and police assignment records, seventeen of the recipients of the Dewey's Christmas note in 1972 can be positively identified.⁴⁶⁵

⁴⁶⁴Testimony of George Brown before the Pennsylvania Crime Commission, June 20, 1973, N.T. 3-36.

⁴⁶⁵They are:

Lieutenant Aquilla H. _____ (#176)
Lieutenant John P. K. _____ (#290)
Policeman Raymond R. _____ (#4668)
Policeman Joseph K. _____ (#3969)
Policeman Jerrett K. _____ (#7154)
Policeman Fred C. _____ (#3337)
Policeman Charles W. _____ (#2758)
Policeman Robert P. _____ (#4995)

The INA corporate headquarters at 1600 Arch Street in the 9th District also gave \$5 Christmas presents to police officers. The corporate security office each Christmas submitted a handwritten expense memorandum in which he listed the officers he paid that year. The lists produced in response to subpoena contained a total of fifteen names, some of which appear more than one year. Of the fifteen, seven can be clearly identified as police officers assigned to the 9th District, Foot Traffic, or Fire Rescue.⁴⁶⁶

Where regular Christmas lists exist, they are collected in various ways. In some cases, notes will be brought to the district headquarters by either the businessman or a police officer and distributed there. This especially helped a policeman who might have a day off or be assigned to the midnight shift on the day notes are distributed:

Q: Were any of these notes sent into the district?
We're talking about the Christmas notes.

A: Oh, yeah, well, see, the Christmas notes is a totally different system. You have quite a few businesses participating in Christmas notes . . . some places will give you notes just at Christmastime and no other time of the year. In the case of the 23rd, for example, the Dodge dealer at Broad and Master Streets. This was one of the businesses in the 23rd on the east end. The only time that they would consider giving notes would be at Christmastime. They would always give the radio patrol car, the wagon crew, the sergeant, the lieutenant, and

Policeman Norman B. _____ (#3693)
Policeman Jack E. _____ (#1342)
Policeman William F. M. _____ (#7043)
Policeman Robert M. _____ (#2519)
Policeman Steven S. _____ (#1967)
Policeman John M. K. _____ (#4045)
Policeman Peter D. _____ (#6983)
Policeman Stanley F. _____ (#2202)
Policeman Gustave W. _____ (#1920)

⁴⁶⁶They are:

Sergeant Thomas M. _____ (#444)
Sergeant Louis D. _____ (#553)
Policeman Kyran G. _____ (#3743)
Policeman Leon E. B. _____ (#6110)
Policeman Leland S. _____ (#4150)
Policeman Thomas G. _____ (#5889)
Policeman Vince M. _____ (#2830)

plainclothesmen as well as the captain and the inspector a turkey—sometimes a turkey, you know, and five dollars.

The bank at Broad and Columbia, Fidelity Bank next to Linton's, they used to give us five dollars; the sector car, and driver, crew, sergeant, and the lieutenant, five dollars, you know, for checking on the bank.

The clerks in some of the State Stores, for example, the one on Broad Street in the 1600 block, put in together and give the guys working the cars possibly a five dollar note.

First Pennsylvania Bank and Progress Plaza would usually come together and give the sector car driving crew five dollars.

The Christmas list that would be sent into the District, ah, we would either get them from one of the guys working inside or you might get them from the captain's secretary. You might get 'em from the sergeant or the lieutenant but, however, these are what you call the inside notes that would be in the District waiting for you.

* * * * *

Q: Who takes [the notes] to the District? Does somebody from the business take it down or does one person from the police district go to each of these places and pick it up and take it back?

A: It's been done in various ways. Some police officers—like I had occasion one year to pick up quite a few notes for members of the 23rd District and . . . gave it to the lieutenant or what I'd do, I would give it to one of the guy's partners, or you know, like it's done so many different ways.

Some businessmen, most businessmen, bring the gifts in. I know the Dodge dealers, some of them, would bring it in and whoever they wanted to have it would get it.

Let me explain. At Christmastime, it's usually all the gifts are given within a week of Christmas and some squads are off and some squads are working last out where they don't have access to those

businesses to pick them up. So they'll have them when they come back.⁴⁶⁷

Some businessmen prepare themselves to give Christmas presents to police but do not seek out the police or actively offer the presents. For example, Mr. Charles Ludwin, a jeweler located on Jewelers Row testified that just before Christmas he went to the bank and got fifty new one dollar bills and put \$2 each in 25 envelopes. He then gave an envelope to policemen and various deliverymen, but the presents went to "just the boys who were stationed on the block." Mr. Ludwin further testified that "We don't offer it. They say 'Merry Christmas' and we hand it to them."⁴⁶⁸ Mr. Ludwin also testified that all the merchants in his block pay the police at Christmastime, it being a custom, although he did not know how much the others give.

One store manager from the Supermarket B chain also indicated that policemen seek out Christmas presents. He testified:

Q: Do you know of any officer that solicited any payments from you?

A: Sometimes around Christmastime they would come in and I would give them the fruitcake.

Q: Did they ask for it?

A: No. It was around Christmastime they would come in and say, "Merry Christmas." You do not have to be hit over the head too hard.⁴⁶⁹

The testimony of Mr. Ludwin and the supermarket manager is matched by Officer Weiner's description from the police side:

Q: Did you receive Christmas notes in the Twenty-second?

A: Yes, they were very limited. About a month and a half before Christmas, suddenly every policeman in the City of Philadelphia suddenly signs their security logs every day to get the owners ready for you. And come the week of Christmas,

⁴⁶⁷Ruff, December 31, 1973, N.T. Ex. 1, pp. 24-25, 33.

⁴⁶⁸Ludwin, N.T. 11.

⁴⁶⁹Testimony of Harry Nichols before the Pennsylvania Crime Commission, July 17, 1973, N.T. 101.

you would start your rounds up and you would stop into your local drugstore and wish him a Merry Christmas, and most of the time they would give you—they range anywhere from two to five dollars.

Q: How did that go; what did you say; did they just realize you were there for a note?

A: We just put a big smile on your face and say, "Merry Christmas," and they just look at you and they go, "Oh yes, Merry Christmas" (indicating). And some would have an envelope for you, others wouldn't.⁴⁷⁰

Christmas also was an occasion in which there may be genuine expressions of gratitude by citizens to police:

In the Twenty-third one guy stands out in my mind, a gas station, Ridge and Girard. This guy had unfortunate luck with abandoned vehicles being parked right around his area. I was pretty concerned and I just would write up abandoned vehicles throughout the year, so when Christmastime came—and I used to talk to him consistently throughout the year and he liked me. So when Christmastime came, he'd look out and see me and came out with an envelope and he said—hand it to me and says, "Merry Christmas, Officer Weiner." And I opened it up and there were two dollars in it. So I said, "Well, thank you." He looked at it and said, "That one is not for you. Oh, my God." Run back with this other envelope. "You are special, you keep an eye on us throughout the year." And there was ten dollars in it. And then I was really happy and thanked him. He said, "Well, it's good to do something for you once a year. Oh, I'll give you one more thing," and ran in and give me a pint of some type of whiskey, you know. That was like one guy in particular. But most of your store owners and businesses come Christmastime normally, without you even soliciting it, give you something.⁴⁷¹

⁴⁷⁰Weiner, December 3, 1973, N.T. 82-83.

⁴⁷¹*Id.* at 83-84.

There can be a certain amount of cooperation between police officers in locating and collecting Christmas notes. Officer Weiner testified that he was obliged to let his sergeant know whenever he got a Christmas note so the sergeant could also get it.

Q: Was it always each man for himself, or were there some payments that were picked up, Christmas payments picked up and distributed around the squad?

A: Well, that it was, was basically you took care of your own sector as [opposed] to, like, somebody going to one company and picking up a box of envelopes and distribute it at the District. It was more or less if you went to the gas station, like I just mentioned, and he gives you a Christmas note, [he would say] "Make sure to tell your sergeant to come by, he'll get his." And the sergeant, you tell him, you know, "Routine patrol, guy over at Nineteenth and Girard, or Ridge and Girard, got a little Christmas present for you." And I assume they went over and got their Christmas present.

Q: Did that happen to you frequently?

A: Well, any place I stopped and got a Christmas present you have to tell your sergeant. It is the unwritten law. You don't take anything without the sergeant getting his.

Q: At Christmastime or always?

A: That's at Christmas and, like if a game was running, you know, you just wouldn't take it on your own to take a note and don't say nothing to nobody about it, you know. So "Routine patrol," you say, "game at Nineteenth and Ridge." Well then you never go around and witness him taking anything, but he is happy.

Q: And that happened regularly?

A: It happened, you know, whenever something what wasn't steady had occurred.⁴⁷²

⁴⁷²*Id.* at 84-85.

Receipt of Christmas notes was not limited to lower-ranking officers or to officers with street assignments. The above testimony of Officer Ruff indicates the captain of the 23rd District and the inspector of the North Central Division also received Christmas presents from businesses. In addition, Christmas notes were passed further up the line. Officer Ruff testified that while he was assigned to plainclothes duty in the Northwest Division he was required to share his Christmas notes with commanders and with the clerical personnel. Even more significantly, his testimony reveals that inspectors were required to share their Christmas gratuities with even higher level commanders. Since the inspector of the Northwest was considered to be honest and not to take notes, his men contributed to a fund to make up the duty the inspector had to pay.

A: At Christmastime we were indirectly required to make sure that the secretaries and the Captains and also the Inspectors were suited with a nice suitable gift by these plainclothesmen or the plainclothes squad itself.

There were indirect requirements that the Chief Inspectors, some of the Chief Inspectors and Commissioners, received different gifts from the Division, and it wasn't on the Inspector's expenses but it was on the plainclothesmen's expense.

Q: Could you elaborate on that?

A: Well, for example in the Christmas of 1970, demands were put on Inspector Harry [W____ (retired)] to supply liquor as a gift to police officials that were higher than him that attended the staff meetings at the Police Administration Building. And, I really don't believe Inspector [W____ (retired)] could afford to buy cases of liquor. I will cite this incident particularly. We, each unit, well, the black guys went out and they bought a case of liquor. Irish liquor, and, of course, so did the white guys, to put in the back of the Inspector's car to take down to [the] staff meeting.⁴⁷³

The total Christmas take an officer can get obviously varies

⁴⁷³Ruff, December 11, 1973, N.T. Ex. 2, p. 27.

considerably, depending on his location, assignment, experience, and other factors. Officer Ruff said his total Christmas notes were \$100 in 1968, his first Christmas as a full-fledged member of the Department; \$400 the second year; and \$400 to \$500 the third year. The fourth year he received nothing for Christmas notes because he was assigned to an administrative job in City Hall.

LOCATIONS OF BUSINESSES PAYING THE POLICE

The businesses which were found in this investigation to pay the police for extra services were found at 158 separate locations, which were spread through all twenty-two Philadelphia Police Districts. The locations are broken down by district and type of business in Table 4 on the next page.

COST TO THE PUBLIC OF PAYMENTS TO POLICE FOR EXTRA SERVICES

The reasons businessmen give money or merchandise to police officers for extra services are varied. In most cases the motivation is primarily an economic one. This is most obviously the case with Gino's and Supermarket A. At those corporations a management decision was made to employ police as part of the daily operation of the business, resulting in a significant cost saving. It cost Supermarket A approximately \$23,000 a year for police escort service. At the request of the Crime Commission, the company provided an estimate of what it would cost to use a private armored car pickup service for the duties performed by police. The estimate given was \$35 a week per store for a "limited number" of pickups. For twenty-five stores that would come to an annual \$46,500, about twice as much as using the police.

Gino's paid the police \$60,000 annually for on-duty guards at fifteen locations, seven days a week. One manager testified that the private guard service used by Gino's at some locations cost \$5.50 per hour. At that rate private guards for the fifteen locations would have cost \$240,000 a year, four times as much as the cost of the police; yet less than the cost to the taxpayers for the police salaries.

Where payments to police occur, businessmen's motivations represent a mixture of direct economic incentive, gratitude, desire to establish good personal relations, and fear. This is

The attitude of supermarket managers toward giving police merchandise for extra security was best articulated as follows:

A: The police officer, in my opinion, could be anywhere else. He did not have to be there at the store to see me secure that store because I have a State Liquor Store next door to me and they usually get out a little earlier than I do. He sat out there and waited until I secured the store and locked the door and waited until I got in my car and pulled away.

Q: Now, is giving the cigarettes something to show your appreciation?

A: Yes, sir.

Q: Do you have some intention in mind of encouraging them to continue to do that?

A: Well, I will tell you, in my opinion, I mean, that police officer could be any place on the beat because he has a pretty big territory to cover. And where I am [Richmond and Bristol Streets], I am in a desolated spot. It is a dark spot back in there. Anything could happen to me. I have been broken into many times.

Q: So you want him to be there every night, is that it?

A: That is what I say, I would appreciate having an officer there when [I am] closing.

Q: Do you feel that giving him the cigarettes helps to insure him to be there when you close?

A: Well, I do not know. To me, two packs of cigarettes was nothing as far as I was concerned. Two packs of cigarettes would not mean anything to me. But, I mean, he was out there actually. You would not say he had to be there because it was his duty. His duty was to cover his territory. He could be anywhere in his territory. In my opinion, it is like giving a tip to a waitress for good service. To me that was a service in his line.

After all, it is his duty but it is not his duty to be there.⁴⁷⁶

As this manager pointed out, a policeman assigned to patrol a sector has a certain amount of discretion where he may be at any given time in his tour of duty. Although payments of a couple of dollars or a few packs of cigarettes are small, they do in fact influence the actions of many police officers. When the Supermarket B chain stopped giving merchandise to police on orders from the upper management, extra police services slowed down or were discontinued entirely at several locations.

Having an on-duty police guard present at fifteen restaurants for eight hours a day, seven days a week, cost Gino's, Inc., approximately \$60,000 a year in cash.⁴⁷⁷ Michel Phillips, the Gino's Corporate Field Employment Manager, was highly pleased at this. In his words, "it was cheap at the price."⁴⁷⁸ This view was echoed by other Gino's officials, and a similar view was expressed by jeweler Jay Barsky.⁴⁷⁹ They were right. By any standards, the full-time services of on-duty police acting as guards is a bargain at those prices.

Gino's received 5475 man-days of police services a year in covering its fifteen locations. Since a typical policeman works 250 days a year, this represents the equivalent of about twenty-two men working full-time. Keeping twenty-two policemen on the police force costs the public about \$264,000 a year in salary alone, not counting equipment, training, fringe benefits, and other overhead costs. Jewelers' Row receives the services of six full-time policemen every day. To provide that service, allowing for days off, calls for eight men, at a cost of \$96,000. Virnelson's Bakery at Hutchinson and Thompson Streets in the 26th District, which has received a twenty-four hour a day guard for a substantial period of time, costs the public \$48,000 annually.

Although an on-duty police guard assigned to guard a business is obviously a good deal for the businessman, even if he has to pay a tip to the officer, it is not a bargain for the public. Someone has to pay for the policemen and that someone is the taxpayer. For the above three situations, a total of thirty-four full-time police officers, at an approximate annual cost of

⁴⁷⁶Skowronski, N.T. 66-67.

⁴⁷⁷Not counting free meals, which would have been given away.

⁴⁷⁸Interview with Michel Phillips, July 6, 1973.

⁴⁷⁹See discussion *supra* at 287-289.

\$408,000, are required. The services these men would ordinarily provide to the average citizen are completely lost.

Crime in Philadelphia, as in the rest of the United States, is a major and increasing problem.⁴⁸⁰ On this point numerous studies, commissions, and experts are in agreement. This increase in crime is a matter of serious concern to many citizens. By the late 1960's, "crime and lawlessness" became the domestic issue of first priority for the greatest number of Americans.

The task of dealing with the immense problem of crime falls to a very large extent on the shoulders of police departments. Because of their difficult assignment and their limited resources, police departments have a serious responsibility to insure that those resources are deployed in the most efficient and effective manner. Deployment of limited police resources is complex and made more difficult by a relative dearth of research or studies which give guidance. Despite that difficulty, it is clear that the regular assignment of police to Gino's restaurants was an abuse of discretion.

The crime statistics detailed above clearly show that police guards were, in fact, largely ineffective in preventing crime at Gino's. Even if they had shown greater effectiveness, the deployment would still have been highly questionable since the police guards were performing a very limited function in guarding one business. Police officers in Philadelphia are too highly trained and paid to waste on such limited duty. The function of a private guard can be more economically performed by a private agency.

The most disturbing factor in the deployment of police guards at Gino's is that officers were supplied for money and not because of a decision by a police commander on the basis of actual need for such a service. The fact that the commanders of ten of the twenty-two police districts at least knew of, if not actually participated in, this arrangement is a shocking commentary on the approach taken by police commanders to their public responsibilities. In effect, at least ten police captains and forty police lieutenants approved of a scheme to cynically "rent out" police services to the highest bidder.

Regrettably, Gino's is not an isolated example. The bakery described by Rubinstein, in which police are assigned as guards to satisfy a request made through political channels, is equally questionable. The same is true of Jewelers' Row. The Commis-

⁴⁸⁰The latest statistics released by the Philadelphia Police Department show a slight decrease in the crime rate, which is contrary to the trend in recent years.

sion has certainly not discovered all the instances of this type of police behavior. There must be many others.

Individual decisions by police officers to give special attention to businesses at certain times during their patrol are also a matter about which there must necessarily be a certain amount of discretion. The officer who lets that discretion be influenced by petty bribes should also be condemned, although it is difficult to expect him to behave otherwise in an atmosphere in which such bribes widely exist on a higher level.

EFFECTIVENESS OF EXTRA POLICE SERVICES IN PROTECTING BUSINESSES

Businesses are, of course, entitled to receive their fair share of police protection. They may even be deserving of special police attention in some circumstances such as where a particular business may be the target of repeated robberies, or where a business becomes a hangout for potentially unruly or disruptive groups of people. Assignment of police officers to protect individual businesses must be made, however, on objective consideration of needs, competing demands for services, and potential effectiveness of the police service requested.

The Commission has analyzed data on the incidence of crimes at the major business chains which received extra police services in return for money paid to individual officers. The conclusion which clearly emerges from this data is that assignment of on-duty police officers as full-time business guards, as escorts, or part-time guards had at best a small measurable effect on the reduction of crime, which was not comparable to the cost of paying the police for extra protection.

The businesses for which data was obtained are Gino's and four supermarket chains. In October, 1973, the Commission requested the firms to produce the date, time, location, and type of offense and amount lost for each crime committed at each of the stores or units in each chain from January, 1972, to the present. Each company voluntarily complied.

The Gino's data is especially revealing, since data was received from that chain concerning fifteen locations which paid police for an extra on-duty guard and nineteen which did not. In four police districts, comprising defined geographical areas, there were both "paying" and "non-paying" Gino's restaurants. Some Gino's restaurants paid for police protection during only part of the period, January, 1972, to June, 1973. Because of the

Crime Commission subpoena, Gino's stopped paying the police for extra guards entirely as of June 28, 1973. Thus, a number of interesting comparisons can be drawn.

In the period January 1, 1972, to December 31, 1973, the period for which data on both crimes and police guard service at Gino's was obtained, the restaurants which did not pay the police (nineteen in number) operated for a total of 471 "restaurant-months." The Gino's restaurants which did utilize police guards (fifteen in number) had guards a total of 243 "restaurant-months" and did not have guards for 123 "restaurant-months."⁴⁸¹

In this same period, the 35 Gino's restaurants in Philadelphia suffered a total of 12 burglaries and 85 robberies. The monetary losses from these crimes came to a total of \$36,147. These crimes can be broken down into the following time and location categories as shown in Table 5:

TABLE 5
Gino's Crime Statistics
January 1, 1972—December 31, 1973

	Restaurants With Guard Service (243 R.M.)	Guarded Restaurants Before and After Receiving Guard Service (123 R.M.)	Restaurants Without Guard Service (471 R.M.)
Total Number of Burglaries	2	0	10
Burglaries per "Restaurant-Month"	.008	.00	.021
Total Number of Robberies	11	13	61
Robberies per "Restaurant-Month" ⁴⁸²	.045	.105	.130
Total Crime Losses	\$ 4,776.00	\$10,940.00	\$20,431.00
Losses per "Restaurant-Month"	\$ 19.65	\$ 88.23	\$ 43.38
Total Cash Payments to Police	\$89,057.00		
Payments per "Restaurant-Month"	\$ 366.00		

The data in this chart indicates that the frequency of both burglaries and robberies was greater at Gino's locations which did not employ police guards. The difference in the number of incidents was a magnitude of 200%. There was also a difference in the total dollar losses from crime, although the difference was smaller—only about 115%.

⁴⁸¹Some restaurants had police guards for only a part of the 18 month period from January, 1972, through June, 1973.

⁴⁸²Includes larcenies and "till-taps."

In terms of dollars, the average monthly loss from crime at each restaurant which did not have police guards was only \$43, while at the restaurants which did have police guards the average monthly loss was about \$20. Presumably, the police guards were responsible for this lower crime loss rate. The actual dollar savings, therefore, attributable to police guards was \$23 per month for each restaurant. The saving of \$23 per month per restaurant translates to a saving of \$4,140 per year. This is absurdly miniscule when compared to the \$60,000 annually spent by Gino's for this service, plus the cost to the City of Philadelphia of at least \$264,000 for the regular City salary of these men.

It could be argued that the above reasoning is invalid because the Gino's with guards were not in the same locations as those without guards, making it impossible directly to compare them.⁴⁸³ However, the conclusion is also supported if one analyzes the crime rates at just the Gino's which employed police guards. Nine of the 15 Gino's which had police guards had them for only part of the period January 1, 1972, to June 28, 1973. The months in that period they did not have guards total 33 "restaurant-months." In addition, all Gino's police guard service was terminated as of June 28, 1973, while the crime report data received by the Crime Commission extended through December 31, 1973, the date of the last report received. This gave crime data for an additional 90 "restaurant-months" for restaurants which once had guards.

The incidence of crime at "guarded" restaurants in months when they were not guarded is summarized in column two of Table 5. Although the data base is somewhat limited, it shows that the number of robberies is 133% higher at "guarded" stores in months when the guards were not present.⁴⁸⁴ The monetary crime loss increases by a much larger percentage from an average of \$19.65 per month, to \$88.23 per month, an increase of over 400%, although this dollar increase is primarily attributable to one extraordinarily large robbery of \$5,174. The average loss per robbery or burglary at Gino's is less than \$500.

Even assuming that \$88.23 is approximately the average monthly crime loss that can be expected at Gino's restaurants after losing police guards, it still does not match the relatively

⁴⁸³In reality the locations of "guarded" and "unguarded" Gino's were not very different. Seven of the "guarded" Gino's were in the same police district as one or more "unguarded" ones.

⁴⁸⁴The incidence of burglaries decreased to zero, however.

enormous cost of the police guards. That figure of \$88 would indicate the restaurants lost an average of an additional \$69 per month when police were not present. By comparison as Table 5 shows, Gino's paid \$384 per month for these guards. On an annual basis, a savings of \$69 per month for all stores would be \$12,420, compared to the cost of \$60,000 plus \$264,000 in public salaries.

In order for the cost of police guards to be economically justified, even from Gino's narrow point of view, the crime loss rate would have to be at least five times as great as it is now.

The clear conclusion to be drawn from the statistical data on crimes at Gino's is that the incidence of crime had a small inverse relationship to the presence of policemen, which was not justifiable when compared to the high cost of the police guards.

The futility of paying the police substantial sums as a means of reducing incidence of crimes also can be seen by looking at individual cases. Gino's restaurant number 04-046, located at 11th Street and Allegheny Avenue, paid the police \$100 every six days throughout 1972, and January, 1973. The last payment was made on January 30, 1973, the same day on which it was robbed for the fourth time in nine months, bringing its total losses to over \$2,000. The restaurant was not held up again during the rest of 1973, through October 13. Crimes at this store thus occurred at times when police were paid for extra protection.

On the other hand, one can take Gino's number 04-042, at Broad and Noble Streets in North Philadelphia, which began regular payments of \$75 to the police on June 4, 1972, two weeks after a gunman took \$1,939. The restaurant was untroubled by crime the rest of the year, and it discontinued paying the police for guard service at the beginning of 1973. It was held up to the tune of \$908 on February 1, 1973, whereupon payments began again on February 3, 1973, and continued until the general stoppage on June 28, 1973. The police guard service failed to prevent a \$366 robbery on May 26, 1973.

At the second store most crimes occurred when police were not present. Taken together, the experiences of these two Gino's locations supported the general conclusion that crime at Gino's is an unpredictable phenomenon which is largely unrelated to whether police provide extra protection at the restaurant.

It is significant, finally, that none of the Gino's managers or

executives was able to describe a single incident in which the presence of a policeman either prevented a crime or resulted in the prompt capture of the thief. The closest thing to such an incident was described by Gino's manager Nicholas Karamis, who said:

A: Five negroes entered the store and three of them positioned themselves at each door, and the other two went to the counter and stood in line.

Now, they would let the people behind them up so that they could stand there and watch. My assistant noticed this, and the policeman happened to be in the back, and he told him—which was Frank [C_____ (#5619)]. I believe Frank proceeded to go in the back of the store, and I think he called the police in the meantime. The two fellows that were up by the counter, as they were going to come up to the counter, by that time the police had come and froze it right there, nothing happened.

Now, about three months later another store had been robbed, the Gino's on Cheltenham, and the description was exactly the same—almost exactly the same as—

Q: You mean, the description of the people who had been arrested?

A: Right, who had been at my store, the same five or six fellows.

Q: So, you infer from that, that they were about to attempt to hold your place up?

A: Yeah, I would say so.⁴⁸⁴

In this situation the policeman was not in a place where he was visible to the customers, so he was not a deterrent and was not in a position to observe and prevent anything himself. The only action he took when informed of the developing situation was to do just what any citizen could have done: call the police.

In the one incident in which policemen did interrupt a holdup at a Gino's, a regular police stake-out team, rather than a police guard, was assigned to the restaurant. The Gino's at 57th and Walnut Streets had been the site of a long series of petty rob-

⁴⁸⁴Karamis, N.T. 30-31.

beries, leading the manager to ask the police to help. The next time the robbers struck, the stake-out team emerged from the back of the store with guns drawn. A shoot-out ensued, in which both a police officer and a suspect were wounded.⁴⁸⁵

In contrast to the guard service, the assignment of the stake-out team seems to be a clearly justifiable use of police resources. It was in response to a specific threat, was for a limited tenure, accomplished its main objective and was then terminated. The police did not have to be paid extra for the service.

The crime statistics at the supermarket chains also tend to show that paying police officers for extra police protection does not reduce the incidence of crime. The cumulative data for all four major chains is contained in Table 6. The crimes referred to are only those involving money or merchandise at specific Philadelphia stores, omitting such things as warehouse thefts, hijacking, and crimes at the central office.

This Table shows that the Supermarket A chain, which regularly paid police for escort services and had the highest rate of payments of police, also had the highest incidence of crime by a wide margin in this period. By the same token, Supermarket D, which did not pay the police at all, had the lowest incidence of crime in this period.

It is impossible to say, from the limited data available to the Crime Commission, why Supermarket A's incidence of crime was so much higher than the others. The stores in that chain do not, in general, appear to be in neighborhoods which have higher crime rates than the competitor stores' neighborhoods. There are Supermarket A stores in seventeen of the twenty-two police districts. In all of these districts, there is also one or more stores of the competing chains.

Within each of the chains there appears to be little relationship between the amount of payments to the police and the amount of crime losses. At Supermarket A, in which all but one store made cash payments to the police, six stores had no losses at all in the period, including the two stores with the largest amount of payments. The one store which made no payments had much lower than average losses.

At Supermarket B, in which twenty-three or thirty-five stores gave merchandise, a store in a higher crime bracket was somewhat more likely to be giving them than stores in low crime brackets. However, after the company ordered the managers to

⁴⁸⁵Philadelphia Daily News, October 11, 1973.

TABLE 6
Crime Statistics at the Four Major Supermarket Chains
In Philadelphia

	January, 1972—October, 1973 (22 months)					Average Losses per Store	Total Amount Paid Police (6 months) Oct. 1972—March 1973
	Number of Stores	Number of Burglaries	Number of Robberies & Larcenies	Burglary Losses	Robbery Losses		
Supermarket A	27	42	19	\$31,178	\$66,123	\$97,301	\$10,909
Supermarket B	35	35	18	\$27,122	\$14,272	\$41,414	\$ 2,925
Supermarket C	38	20	10	\$17,484	\$23,692	\$41,446	\$ 553
Supermarket D	35	1	14	\$ 260	\$19,570	\$19,830	\$ 0

stop giving merchandise there was no increase in crime at the stores which had previously received extra services.

At Supermarket C, only three of thirty-eight stores regularly made payments of money to police for services, so that data is limited. However, it showed that paying stores had slightly greater frequencies of crime but much lower average loss.

The supermarket statistical crime data shows in summary, that there is, at best, very little relationship between extra police services such as escorts and police present at closing, and the incidence of crime. At worst, there is a direct inverse relationship.

The above analysis of criminal activity at Gino's is admittedly somewhat narrow in scope. It deals only with the quantifiable aspects of that activity—how many burglaries and robberies took place, and how much they cost. The Commission's analysis does not deal with less tangible benefits of extra police protection—the greater ability of police to invoke respect from unruly persons and the related, but more general, psychological reassurance felt by both employees and customers as a result of police presence. Numerous employees at Gino's and other businesses testified that they were motivated to pay the police by the belief that the police would have such effects.

Conceivably, these effects could be quantifiably measured by relative employee turnover rates and sales volume. However, no attempt could be made to correlate this data to extra police protection since several supermarket companies flatly refused to provide sales data to the Crime Commission for fear the information would wind up in competitor's hands.

The quantitative data on crime is a valid basis in itself, however, for measuring the efficacy of police protection. It is a clear indication of the relative usefulness of the services businesses receive from the police in return for "clean notes." It can be strongly argued that it is the only legitimate index against which the competing demands of other segments of society for police services should be measured. Stores with high levels of serious crimes—chiefly robbery—may have some claim to special police attention, but the use of on-duty policemen for the purpose of enhancing a company's profits is clearly improper. Finally, the crime statistics are relevant because they are presumably the basis on which the police themselves decide—or ought to decide—which businesses or areas of the City will receive police protection.

Therefore, the statistical data on the efficiency of police pro-

tection, while not all-inclusive, deserves to be considered as a realistic reflection of the actual results of police presence.

The statistical data on crimes at both Gino's and the supermarkets, in conjunction with the attitudes revealed by the managers' testimony, suggests that the purpose served by businesses paying police officers is not so much to increase actual safety but to increase the feeling of safety. In other words, it is largely irrational. The petty bribes to the policemen for small favors were a means of coping with this fear of urban crime.

CONCLUSION

The conclusions to be drawn from the facts concerning money payments and free meals given by businesses to police officers in Philadelphia are that they are systematic, widespread and open and that the Police Department has completely abdicated its responsibility to enforce the restrictions against these payments. Although one supermarket chain was paying police officers on a daily basis at twenty-five locations for escorts to the banks and although one restaurant chain was providing free meals to police officers at thirty-five locations and paying officers as high as lieutenant for on-duty police guards at fifteen locations, the Police Department was somehow officially unaware of it all and never bothered to assign anticorruption investigators to look into such things. As described in Chapter V of this Report, the Department also refused to cooperate with the Commission's investigation of this matter and failed to take any disciplinary action when results of the investigation were turned over to it.

This situation raises the question of what corrective action, if any, should be taken with regard to these business notes and the circumstances which give rise to them. Assigning a policeman to a full-time beat at a particular business location may be justifiable under some circumstances, and it cannot be said, as a general matter, that it should never happen. However, because of the potential for abuse, such assignments should be considered carefully and reviewed periodically to determine whether they should be continued. Assigning an officer to such duty in response to bribes is an egregious offense and must never be tolerated.

The other extra services which police officers provide to businesses, such as escorts or presence at closing, are not improper as a general proposition. The Police Department should exercise a service function to the community and should act to

prevent crime as much as possible. The problem here is twofold. First, the Department could not possibly provide these services to all on the same basis that they are offered to a few. If all the businesses or persons who were eligible to receive escort services actually asked for them, the Department would probably be quickly overwhelmed. On a smaller scale, there is usually more than one business in a particular patrol sector closing at any one time. Police officers cannot be present at all of them to provide security. Clearly an irreducible minimum of discretion is required of both the Department and of individual officers in allocating services. The second part of the problem is that there is some incentive on the part of businessmen to influence the exercise of police discretion by giving a "tip."

To try to solve this problem by entirely prohibiting policemen from providing these extra services is unreasonable. A better solution would be to provide clear guidelines for the providing of such extra services, accompanied by rigorous enforcement of prohibitions on payments for such services. In addition, the Crime Commission believes that the incentive for businesses to pay policemen in order to insure they get extra services should be countered by a clear statutory prohibition on such payments. At the present time, the Pennsylvania bribery statute prohibits paying or receiving "pecuniary benefits" given for the "exercise of discretion" of a public servant. (Pennsylvania Crimes Code, Act of Dec. 6, 1972, P.L. _____, 18 C.P.S.A. §4701). This would appear to cover the payments to police officers for guard service, but this arguably may not cover payments for escort service when an officer is assigned by police radio to give an escort and thus personally has not exercised his discretion. It also may not cover non-pecuniary payments such as free meals or merchandise even though they are directly tied to an exercise of discretion.

The Commission believes that these latter monetary payments generally known as gratuities where there has been no exercise of discretion in return should be prohibited, though not necessarily subject to the same serious penalties applicable to bribery. A sufficient response, insofar as Philadelphia is concerned, would be to amend Section 10-105 of the City Charter to cover the paying, as well as receiving, of compensation for acts in the course of public duties. That would make businessmen subject to conviction of a misdemeanor, punishable by a \$300 fine and up to 90 days in jail. In order to extend this provision statewide, the Commission believes the state Crimes Code

should also be amended to make it a summary offense, within the definition in the Crimes Code, for any person to solicit, accept, offer or pay any compensation or gratuity, in the form of money or otherwise, for an act or omission of a public employee in the course of his public work.

Given the strong demand for private security services, the comparative inadequacy of private guard services, and the deterrent provided by the visible presence of a policeman in uniform, one is also led to question whether existing departmental restrictions on police working off-duty as security guards should be relaxed. The primary reason for such restrictions on off-duty work is that work of that kind may entail use of the badge and uniform and exercise of police authority. This is objectionable in part because an employee would be making private gain from the unofficial use of his public position. More importantly a police officer in uniform acting as a guard in such a place as a restaurant, bar or store would have the interests of his private employer primarily in mind. This could and would influence his decision on how to respond in the event of a dispute between management and a customer or other citizen. A policeman should be neutral in all situations so he can objectively decide on whether to arrest or whether to take other appropriate action. Private employment could destroy that neutrality and lead to abuses of police authority.

This reason supports retention of restrictions on police working off-duty in uniform as guards. Police officers working off-duty out of uniform in security jobs such as night watchman or gate-checker (such as Ron Levitt, Inc. or Funk's Hauling Service, Inc.) pose a less severe problem. The Commission believes that such work poses little conflict with a police officer's public duties and should not be prohibited. To the extent that police regulations now prohibit it, they should be modified.

The most important corrective action to be taken in the area of business notes is firm and vigorous enforcement by the Police Department of the law and its own regulations. As a beginning, all those police sergeants and lieutenants who participated in the Gino's guard service should be prosecuted fully and dismissed from the Department. All of the policemen who actually performed the guard service should also be punished, though possibly less severely than their commanders. All the hundreds of officers who have received payments and free meals for other extra services should as a minimum be subjected to departmental disciplinary proceedings, and their commanders should

be officially reprimanded. Further offenses should result in dismissal.

The Commission also believes, as a general matter, that businessmen who pay the police for extra services are equally subject to condemnation and should be punished. Application of that principal in the cases here is troublesome since some of the companies, including Gino's, cooperated with the Commission to a great extent once the outlines of the situation were discovered. Corruption is essentially a conspiracy benefiting all the parties to it. In order to fully explore the limits of the conspiracy, the cooperation of one of the parties is often necessary. As consideration for such cooperation, the Commission believes that the cooperators should be given more lenient treatment than they would otherwise deserve.

Other Corruption CAR STOPS

In the course of their work, police officers on patrol frequently come into contact with motorists through stops of vehicles for various violations of the motor vehicle code. In these contacts, policemen are on the alert for any signs of criminal activity. Sworn testimony received by the Crime Commission indicates that cash payments frequently change hands in these situations in return for failure to issue a ticket or for ignoring such things as evidence of gambling, liquor, or drug law violations.

Bribes from motorists are one of the first temptations placed before police officers, and accepting them is the beginning of the erosion of an officer's integrity. This was described in the testimony of Jonathan Rubinstein before the Crime Commission:

... the first thing that generally happens to [a new policeman] is money is offered to him by drunk drivers. And it comes in really very, very large numbers. There are certain areas of the City where on a Friday or Saturday night, he could make maybe five or six drunk driving arrests or a lot of violations. People just start offering you money and they just come out of the car and offer it to you. No question about this or that. "How about fifty dollars; let me go."

Now, for a young patrolman that is a very compli-

cated issue. First of all, he may want the money but is afraid to take it; doesn't know if his sergeant will let him or doesn't know if he will get arrested. Generally what he does is, he just simply says no. Or maybe he is working with an older man who is less disinclined to let it go by and he will make the arrangements. But it's that kind of contract which essentially initiates a policeman into the world of graft . . .⁴⁸⁷

Former Police Officer Ruff testified from his own experience that he gradually became aware that his partner, Officer McH_____ (#6488), was systematically taking notes from motorists and finally decided to join in:

A: I used to notice things, like when car stops was made, I was asked to remain in the car, when the [normal] procedure is for me, like to, you know, to remain, if I'm the recorder, to remain at the right rear of the vehicle. I was asked by my partner, [who] was the driver, to remain in the car and then I was told to write up a car stop, you know, when there was violations involved. I began to suspect that my partners were making money on these car stops and at the same time period I was told by senior policemen in the Department about if one guy in a radio patrol car got caught taking a note both guys go.

Q: In terms of discipline?

A: Right. After a period of time working with these guys I would feel insulted and [I] wanted my fair share.⁴⁸⁸

As Mr. Ruff testified, he was placed under a certain amount of pressure to participate in "car notes" once he learned that his partners were involved. If his partner were caught it would be justifiably assumed that Mr. Ruff at least knew about the notes, and he could be punished for not reporting it. As in other areas of police corruption pressure to take notes arises from the suspicion and hostility directed toward an officer who will not accept them. This is again illustrated by Mr. Ruff's experience

⁴⁸⁷Rubinstein, N.T. 38.

⁴⁸⁸Ruff, December 31, 1973, N.T. Ex. 1, pp. 14-15.

when he began to fear the consequences of the conduct of Officer McH_____ (#6488) and decided to ask his sergeant for a new assignment:

Officer [McH_____ (#6488)] had the reputation in the Twenty-third Police District for being just about the worst thief there. And after working with McH_____ (#6488) for about, I think it was about a week to two weeks, and seeing him do some of the things he did with car stops and other things to make money, I became a little nervous because I thought I was going to jail. So I approached the sergeant and I asked the sergeant—I told the sergeant the problem and I asked him if I could be assigned to another moving vehicle to avoid possible arrest. And the sergeant said he would take care of it. From that day, until a year later, I had been placed on beats, fire details, details around the District, and what they—what the policemen call shit details.⁴⁸⁹

Taking notes from motorists is rationalized by some police officers as simply being a display of appreciation for something an officer might do on his own anyway—which is to give a motorist a break and not write a ticket.⁴⁹⁰ Some officers do not solicit the notes but, on the other hand, do not turn them down. Testimony indicates that in many cases the motorist is the instigating party:

[At a] routine car stop you usually bring up some very, you know, like devastating results. You might stop a car and if it's in the wintertime and the gentleman rolls down his window, you might smell an odor either of marijuana so you know that there's marijuana in the car so you know that a subsequent search or a thorough investigation is going to lead to marijuana. Or you might see a numbers slip on the front seat. Then that might have a repeat and you know that this gentleman is involved in numbers so therefore you must pursue your investigation, you know, until you get the product of what you are looking for.

* * * * *

⁴⁸⁹Ruff, December 31, 1973, N.T. 32.

⁴⁹⁰Weiner, December 3, 1973, N.T. 47.

Now, this is a car stop, now. What's supposed to happen—arrest is supposed to happen but a lot of times the people involved in these car stops are either big numbers people, big narcotics people, or big vice people period, and they offer you like money to either eliminate a certain amount of material that, you know, they are caught with. Or either they'll pay you not to arrest them, so this is what I mean by a car note.⁴⁹¹

Although many police officers no doubt, do not actively solicit car notes, many police officers are aggressive about stopping cars and develop refined techniques for extorting motorists. Mr. Ruff estimated that an aggressive patrolman could make sixty or more car stops during his regular six-day tour of duty, though not all would result in payoffs. He described the techniques of Officer McH_____ (#6488), who was said to be "totally fantastic" at extracting notes from motorists:

Well, he would stop a car; he would sight a vehicle coming down Ridge Avenue and in a short period of time he could assume X number of violations in his mind, and he would stop, you know, the car and ask for the gentleman's or whoever, you know, about driver's license and owner's cards and he would proceed to tell the driver that he had possibly \$85 or \$100 or \$150 worth of traffic violations, you know, that would have to be paid and he would, you know, like ask him in so many words if he wanted to pay the cost then.⁴⁹²

Officer Weiner also described a police officer he could not identify who practically made a "second job" out of catching motorists at one particular intersection by using a somewhat unfair method:

... I forget this bum's name—there was a stop sign at Twentieth and Berks. He would park the wrong way on Berks Street to catch a car coming to a stop [at] Berks Street. [The driver on Twentieth Street] would look this way, would look west because [Berks] Street was running east, so he would slow up at the stop sign

⁴⁹¹Ruff, December 31, 1973, N.T. Ex. 1, p. 10.

⁴⁹²*Id.* at 16.

and he would be looking west, wouldn't see no car, no police car, nothing, but this other guy would be sitting east of it and, see, the guy would be looking west and the guy just break the stop sign. Well this guy made a virtual, what would you say, fortune out there. . .⁴⁹³

Another specific variety of "car notes" involves trucks which travel through the City:

. . . Truck drivers violate all kinds of State regulations and Federal regulations regarding the amount of weight which they are allowed to carry. Trucking companies do this, it is alleged, continuously. And the really experienced policemen can tell, by looking at the axle of a truck, just how much weight it is carrying and whether there is money to be had. I know several policemen, for example, mentioned to me that when wide loads or special trucks are driving through the City, they are in fact given specific amounts of money; they are given an exact route to travel through the City. The routing manager knows exactly how many police districts he has to go through and [the driver] is given X amount of dollars to buy off those districts, on the assumption that if he makes it through without being stopped, he gets to keep that amount. But when they are stopped, there is no question there is going to be a certain amount of money. Now, for example, on police radio you sometimes hear near the expressway particularly, a call for a car, any car, you know, to accompany a wide load. And everyone is on the move, on the presumption of course that there's a few bucks there. That seems to be fairly widespread, particularly in districts where there are trucking companies located near the dock areas, where, you know, where the City's wholesale life is carried on.⁴⁹⁴

The shaking down of motorists was also described from the victim's point of view by Ms. X, who testified under a promise her identity would be withheld from this Report:

⁴⁹³Weiner, December 3, 1973, N.T. 48.

⁴⁹⁴Kubshutin, N.T. 157-158.

Q: How did you come to make acquaintance with Officer [Spencer C. _____ (#1629)]?

A: I was driving without a license and he stopped me and pulled me over and asked me for identification, and all I could produce was an owner's card. And after I talked to him, he asked me, you know, did I have the money to pay for the ticket right then.

Q: And what happened?

A: And I told him, "How much was the ticket?" So he told me, "Oh, about \$10." And I said, "Yes," and I gave him the money.

* * * * *

Q: Well, would you tell me the contact you had with this particular police officer [Earley D. _____ (#2106)]?

A: Yes. I was parked on the pavement on 60th Street this year, it was around about April—it was about April—and my registration had expired so he gave me a ticket for one thing and I paid him for not giving me a ticket for something else. I think he gave me a ticket for parking on the pavement but not a ticket for the expired registration.

Q: And how much did you pay him?

A: Ten dollars.

Q: Did he ask for the money?

A: Yes.

Q: Well, what did he say to you, if you remember?

A: He said, "You don't want a ticket, do you?" So I said, "No." He said, "What are you going to do about it?" Well, that's what I consider asking me for the money, you know.

Q: Well, what did you do then?

A: So I said, "Well, how much is it," that's all. He said, "What do you think it's worth?" So I gave him \$10.

Q: What did he say when you gave him \$10?

A: He didn't say anything.

Q. Did he even say thank you?

A: No.⁴⁹⁵

The total monetary value of car notes varies according to an officer's circumstances and predilections. Former Officer Ruff estimated that he received between \$500 and \$1,000 from motorists during his two and one-half years as a uniformed police officer.⁴⁹⁶ Another former police officer, Edward Mitchell, gave a much higher estimate. He stated that he averaged \$100 to \$125 per month in motorists' bribes while patrolling the 17th District in South Philadelphia.⁴⁹⁷

Taking payoffs from motorists is neither a recent innovation or unique to Philadelphia. One expert witness consulted by the Commission felt that this practice was no longer as prevalent in Philadelphia as it was once or as it still is in other cities.

... I have talked to people in the Department a long time and they usually talk about the days when sergeants would auction intersections to their patrolmen. Everyone had his own corner and you had to pay rent to your sergeant. And intersections were simply really evaluated on the basis of how much dough they could produce. This goes on in Chicago, absolutely, auction. I talked with the Police Department and they still do, they simply auction. And that means a patrolman has to produce X amount of dollars per week, or per month, to his sergeant in return for keeping that post. I don't believe that goes on in Philadelphia any more...⁴⁹⁸

Although the precise extent of the problem cannot be measured it is clear that it exists and that it is far from being unusual.

UNPROTECTED PROPERTY

Another variety of police corruption is taking money or valuables from premises or persons at moments when the valuables

⁴⁹⁵Testimony of Mr. X before the Pennsylvania Crime Commission, August 31, 1973, NT 12, 14-15.

⁴⁹⁶Ruff, December 31, 1973, NT Ex. 1, p. 11.

⁴⁹⁷Tape recorded interview with Edward Mitchell, March 30, 1972, tr. 33.

⁴⁹⁸Rubenstein, NT 23-24.

are unprotected. For convenience, this type of corrupt conduct has been divided into three categories: The first involves open buildings which are open and unoccupied, presumably because they have been broken into. The second involves property that is unprotected because it belongs to a person who is deceased, incapacitated, or under arrest. The third involves stolen cars which come into the custody of police officers.

Open Buildings

By the very nature of the offense, it is virtually impossible to determine whether or how frequently policemen take property from buildings that have already been broken into. However, the Crime Commission received sworn testimony from Officer Robert J. Weiner, a Philadelphia police officer, concerning several incidents of police burglary that he witnessed personally. One concerned Policeman Richard S. _____ (no longer in the Department) and a North Philadelphia warehouse:

... I remember Richard [S. _____ (no longer in the Department)]. Again, I was working 2200 wagon and there was, a, on Broad Street around Cumberland, there was some type of a big record warehouse where they had record players and tape cassettes, tape cassette players, record players, speakers, stereo tapes and records. And I can remember the wagon pulling up to the door that was broken into and standing there watching the policemen carry it into the wagon, before the sergeant got there. And, you know, off-hand I remember Richard [S. _____ (no longer in the Department)], he had a tape player in his car and, you know, arms full of tapes.⁴⁹⁹

At times the problem of police officers enhancing burglaries became a virtual epidemic:

... we were having a rash of bars that were actually being kicked in and vandals going in and stealing the liquor. And I can remember, you know, policemen again—put it this way, out of maybe the ten policemen that responded to the call, ten policemen came out with pockets shaped like whisky bottles. This was a

⁴⁹⁹Weiner, December 5, 1973, N.T. 51.

way of, you know, receiving merchandise, liquor, property.⁵⁰⁰

According to Officer Weiner's testimony, the problem of police taking valuables from open properties was extremely common throughout the Department. It was apparently done without any hesitation at all:

... it basically was if there was an open property and something in there you could put in your pocket, you put it in your pocket and took it home, is what it amounted to.⁵⁰¹

Officer Weiner also described the geographical ubiquity of the practice. "It's Citywide," he testified. "It's not restricted to one area or assignment."⁵⁰² It is extremely difficult to control the taking of valuables by the police if they are the first on the scene of a burglary, simply because there are no witnesses to their actions, as another incident illustrates:

There was a bar that was broken into and the [police officer] for some reason lifted up a cash register and found like a nest egg, I don't know, couple hundred dollars or something. He took the money, put it in his pocket and as it turned out the bar wasn't actually broken into. The door was left open. So when the owner came, he started raising hell that his cash was gone. Well—there should be a report on North Central Detectives' file, this is maybe 19— about a year after I was there. And he was interviewed as to what had transpired because he was the ~~best~~ man, the first man there. And he gave a statement about, you know, denying taking the money and whatnot. But he actually did take the money, but they couldn't ever really prove it.⁵⁰³

Police regulations in effect recognize the potential for such abuses by strictly and explicitly forbidding a single policeman to enter an open property "except in an emergency."⁵⁰⁴ While this

⁵⁰⁰Id. at 52.

⁵⁰¹Id. at 53.

⁵⁰²Id. at 76.

⁵⁰³Id. at 52-53.

⁵⁰⁴Policeman's Manual 87.

helps protect the policeman from dangerous situations, it also tends to lessen the risk that he can either take or be accused of taking movables from an open property. If that regulation had been followed in the case just cited, problems would have been avoided. Of course, the insufficiency of the rule is clear from the fact that in that case the policeman was not punished. Furthermore, it is clearly of no use when two or more policemen participate in the removal of valuables.

Closely related to the open property is the "drawer search" in which an officer conducting a search for narcotics or gambling paraphernalia finds a substantial amount of cash and takes it. Such taking is sometimes accompanied by an agreement not to report any evidence found, as the incident in the Northwest Division, described by former Officer Ruff, shows.⁵⁰⁵

It appears that little can be done to limit police burglaries of open properties except to tighten up existing procedures. Taking valuables from an open property is, of course, a criminal offense, and policemen caught in such practices should be prosecuted as well as dismissed from the force. In addition, it must be made clear to each sergeant, and through him to each patrolman, that such practices will not be tolerated.

Persons Taken Into Custody

When a person is stopped by a policeman and taken into custody, the policeman has a great deal of discretion with regard to the handling of the suspect. Of course, the policeman is permitted to search the suspect thoroughly for weapons. The Crime Commission has received evidence that considerable amounts of cash have been taken from suspects during the course of these searches.

Perhaps the situation most conducive to this type of practice occurs when the suspect is intoxicated. According to the testimony of the former Policeman Felix Ruff, the crews of patrol wagons are especially likely to "roll" drunks they may encounter, since the inside of the wagon provides a secluded area in which to do so:

A: If you are working the wagon, another thing, you have access to drunks. If you work in the radio patrol car you don't have the access. If you get somebody that's drunk and has money, you know,

⁵⁰⁵See section on narcotics corruption *supra* at 234.

like the average thing to do is like, you know, roll him or if you don't get him the turnkey will. Somebody inside will, so if you get a job over the radio, if you're riding down the street and you see a drunk, before you take him in you roll him, take him in for intoxication.

Q: Is this a common practice?

A: For wagon crew, yes, or even sector cars if they got to him first. First come, first serve.

Q: Was there, was it a competitive thing to pick up a drunk or a certain type of offense?

A: Sure. Sure. Well, see, certain drunks, according to where you got the drunk or what the drunk looked like. Take for example you were riding across Girard Avenue and you saw what would be considered a bum lying on the street, you know, almost, in fact, causing an accident. Nine chances in ten he doesn't have nothing so if you're doing something else, you just let him lay there until the radio gives the job [to someone], and he can either bag it off somebody else or he can handle it himself.

Q: What if he was well dressed?

A: If he was well dressed, then, you know, nine chances out of ten he had something on him.

Q: Why drunks?

A: Well, if a drunk is intoxicated, therefore his mind not functioning, you know, to the extent that it should, he doesn't know how much money he has or even if he has any, so you see, when he finally gets his head together, he doesn't know where his money went, you know. If he complains, then the complaint is on him simply because it was on him to get drunk, see.

Q: Would that be true of female drunks, too?

A: Ah, female drunks, I venture to say, yes. I would venture to say yes but you have to be skeptical about that because, you know, only thing she has to do is holler rape, you know, and you might have

a possible investigation and that's what you try to avoid when it comes to women.

Q: You handle them carefully?

A: Yes.

Q: Where would you roll the drunk at—in the district or in the wagon or on the street?

A: Well, usually it would be in the wagon. Anybody that's been out working in the police department for a while would never roll a drunk in the street. . . . I worked with a police officer that would, I don't care if he was standing in a—if the drunk was in a bank, he would roll him in the bank, you know, but it's common sense, you know, not to roll them on the street but put them in the back of the wagon and search them for identification and if you can, of course, the money.⁵⁰⁶

The way in which such irregularities can occur is illustrated by an incident related by a person who registered a complaint with the Crime Commission. The complainant, Herman J. Boerner, was picked up by 15th District policemen late one night as he was about to cross Frankford Avenue, allegedly because of a false fire alarm turned in by someone in the near vicinity. Mr. Boerner said that he had drunk four bottles of beer in the previous four hours, but probably appeared more intoxicated than he was because of a medical condition for which he was pensioned by the Navy. When the policeman who took him into custody asked for identification, Mr. Boerner gave him his wallet, containing over \$80. Mr. Boerner was then put into the back of a wagon. When they arrived at 15th Police District headquarters, the wallet was returned and Mr. Boerner was placed in a cell and held overnight. While he was in the cell, Mr. Boerner first noticed that the \$80 was missing. He was extremely upset by the missing money and registered complaints with the Crime Commission and the Police Department. He is certain that the police officers stole it, but like most people in that situation, is unable to prove it. He was never officially charged with anything. A police Internal Security investigation concluded that this report was "unfounded."

The Crime Commission has also received several other re-

⁵⁰⁶Ruff, December 31, 1973, N.T. Ex. 1, pp. 35-36.

ports of occasions in which policemen allegedly stole money from suspects in custody. For example, Michael Fedalen, an admitted drug-pusher, told a Crime Commission agent that on February 5, 1972, he was stopped by two detectives in Center City. He claimed that they kept \$3,600 of the \$5,600 in cash that he gave them when they searched him. He was then released without being held further or charged with a crime. "Lenny," an alleged gambler and loan shark, was reportedly taken into custody on November 11, 1972, although he was not formally charged. While in custody, police allegedly took \$100 of the \$300 in his wallet. Alan Briscoe, a defendant in a criminal trial, claimed under oath in court on December 4, 1972, that a policeman stole \$10 from him during a frisk. Henry Bradley, who was arrested for prostitution in center city on March 29, 1973, told a Crime Commission agent that police took \$51 from his wallet during the course of his arrest.

Although corroboration in specific cases is lacking, the frequency of these allegations, combined with the testimony of the former Policeman Ruff, leads the Crime Commission to believe that a substantial problem exists in this area.

Stolen Cars

The handling of stolen cars by the Police Department provides a further opportunity for corruption and misconduct. During the course of its investigation, the Commission found evidence of three types of police misconduct related to the handling of stolen cars. First, the Police Department occasionally uses for its own purposes private automobiles and automobile registrations which have been impounded. Second, there is a general lack of security in the handling of impounded cars which has resulted in an inordinate amount of stripping of impounded automobiles. Third, there are indications that as a result of the stripping of cars at the Police Auto Pound, insurance companies may have a practice of paying a "reward" to police officers for recovering cars and holding them at the district headquarters, instead of sending them to the Pound.

The Crime Commission's investigative efforts in this area were concentrated on direct surveillance of the Pound at regular intervals, hearings with five major insurance companies, and the investigation of individual complaints alleging irregularities at the Pound. Due to its isolated location, however, surveillance of the Pound was difficult and produced few results.

According to Police Department figures there were 17,845 automobile thefts in Philadelphia in 1971, which is approximately 49 per day.⁵⁰⁷ When a stolen automobile is recovered, it is normally taken to a police district headquarters where it is kept up to 48 hours pending transportation to the Auto Pound. The Auto Pound is located beneath the western end of the Penrose Avenue Bridge. It is bounded on the north by Mingo Creek, on the east by an old Philadelphia, Baltimore and Washington Railroad line, on the south by Penrose Avenue and on the west by East and North Roads. The Pound consists of

⁵⁰⁷This figure is probably too low. Officer Weiner's and former Officer Ruff's testimony indicates that the Department regularly understates the incidence of certain categories of crimes, including stolen car reports. Many stolen vehicles are reported as simply being lost:

Q: In your experience have you, and do other policemen generally, systematically understate the amount and type of crime that you see in the various districts you operate in?

A: I would say one category like stolen cars. You would take a stolen car report and—a person has the car parked out in front at one o'clock a.m. and six o'clock a.m. the car is gone. To me this is a stolen car but they would send us out to try and locate it. Try and locate is basically where a man maybe had too much to drink and forgot where he parked his car and you are out there trying to find it. So statistically, where you would have stolen cars, it shows up as "try and locate" so your number of stolen cars would go down. But actually, this type of classification is up to your operations room personnel and we don't really get too involved with them.

Q: But you do get instructions how to classify?

A: Yes, we get instructions like for thefts. Two hundred dollars was the limit where, if the amount taken out of a particular house during a burglary was under two hundred dollars it was classified as X type of—Part one was like a burglary or a major theft or something. Whereas if the amount taken was in excess of two hundred dollars that would be classified as more of a major crime. We were told basically to use our discretion, not to take the complainant's word for it that this article was worth X amount of money. But you try to keep it under two hundred dollars unless it was obviously more than two hundred dollars that was burglarized.

Q: Was it your understanding then that they wanted to keep the crime rate down and keep the major offenses as low as possible?

A: Yes, in certain areas. I don't know what they do in . . .

Q: But the areas you have been involved in?

A: With the stolen cars and I know with the thefts, that's about it. Maybe in a like-a pocketbook snatch where I think this is an out and out robbery, you classify it as theft.

somewhere between 32 to 50 acres.⁵⁰⁸ It is guarded by a shift of either two or three men, generally including a police officer, a sergeant, and a civilian watchman. Barbed wire partially encloses the Pound, and abandoned vehicles and natural embankments are also utilized to secure its perimeter.

Two types of cars arrive at the Pound: (1) cars seized as evidence, including stolen cars which have not been retrieved from the district station by their owners within the 48-hour period stipulated by the Police Department; (2) abandoned cars which have not been retrieved from the various towing stations throughout the City. Under Captain Sutor, the two types have been roughly separated, so that the newer cars are placed in greater proximity to the police trailers at the entrance of the Pound, and the older cars on the perimeter. The evidentiary section of the Pound is not set off from the abandoned vehicles section by any fence, however. A formal entry to the Pound lies between two cement pillars which support the bridge. Glossy new signs stating "No Parts" have been posted on both pillars since September, 1973. According to Captain Sutor, there is an electronic surveillance device sensitive to movement for miles.

Although it is not to be found in any formal written directive, there exists a strictly enforced policy of no cameras within the Pound. The reason for it ostensibly is to avoid holding Pound personnel responsible for the condition of the vehicles which are in their custody. The Pound also has a program whereby derelict vehicles are shredded by two compactors which are located nearby.⁵⁰⁹

During the course of its investigation the Commission discovered that the Police Department was probably using stolen cars for its own undercover activities. During one visit to the Pound, a Crime Commission agent observed a man removing parts from two different vehicles. He was operating a dark blue Chevrolet bearing Pennsylvania registration C 32 001C. A check of the registration showed that the tag had been issued to "Honest Frank's Auto Parts," 523 North Delaware Avenue, Philadelphia. No such address was listed in the telephone directory. A physical observation revealed that the business listed as "Honest Frank's" was nonexistent and that the property at 523 North

⁵⁰⁸Testimony of Captain Andrew Sutor before the Pennsylvania Crime Commission, November 29, 1973, N.T. 6. Captain Sutor replaced Inspector Paul Frankenfeld as commander of the Automotive Services Division in September, 1973.

⁵⁰⁹Although Captain Sutor stated that there was scant possibility that an actively operating vehicle would be mistakenly compacted and shredded, reference should be made to the case of Adam Brozetti *supra* at 303-311.

Delaware Avenue actually belonged to the Philadelphia Sanitation Department. A check by the Pennsylvania State Police with the Bureau of Motor Vehicles, Department of Transportation, established that the 21 license plates which had been issued to the fictitious "Honest Frank's Used Auto Parts" were assigned to the Philadelphia Police Department. These dealer licenses are interchangeable and can be placed on any car the Department chooses. Two of those tags were observed on cars operated by Lieutenant James F. _____ (#195) (assigned to Major Thefts) and Lieutenant Joseph S. _____ (#78) (assigned to Internal Security).

According to testimony given by Chief Inspector Frank Scafidi,⁵¹⁰ the Philadelphia Police Department does make use of cars "... [gotten] from Public Property, cars that have been unclaimed for a long period of time." When Captain Sutor was questioned on this point, he denied that cars from the Pound were currently being used as undercover vehicles, although he understood "that the idea is under study, as far as utilizing some of the more valuable pieces."⁵¹¹ When asked whether he had ever had a request from Internal Security for an undercover car, Captain Sutor stated that he had, but that the cars in question came from impounding lots rather than from the Pound itself.⁵¹²

In one instance, Commission agents discovered a plain-clothesman using an undercover vehicle with a license plate, which had either been lost by a citizen or stolen. The loss or theft was reported to the police in Doylestown, Pennsylvania, where the citizen lived, on April 27, 1972, at the time it was discovered. The Police Department subsequently recovered the license plate, but the rightful owner was never notified. Rather the plate was put on an undercover vehicle. The Commission discovered this situation during a surveillance of Policeman Anthony C. _____ (#4722), in the 15th Police District. When the Commission formally notified the Department of its discovery of the practice of using stolen plates on undercover cars, the Commission was informed the use of the Doylestown plate was a mistake and that a reprimand would be given to Officer C. _____ (#4722).

In virtually every auto theft case there is some damage to the

⁵¹⁰Scafidi, July 10, 1973, N.T. 84.

⁵¹¹Testimony of Captain Andrew Sutor before the Pennsylvania Crime Commission, November 29, 1973, N.T. 20.

⁵¹²*Id.* at 21.

car, if only a jimmed window or forced ignition lock. In most cases the damage is so extensive that insurance companies⁵¹³ estimate that they can salvage only 25% of the value of autos stolen each year. Not all of the damage to stolen automobiles occurs during the theft. There are strong indications that a great deal of stripping of automobiles has taken place within the Police Auto Pound. The Regional Claims Manager from Nationwide Insurance Company told the Crime Commission in an interview that once a car went to the Pound it would be completely stripped of tires, wheels, radio, battery, engine, front grill and chrome. Representatives of four other insurance companies concurred in the opinion that stripping of cars at the Pound was a serious problem, and they felt security at the Pound was very poor. One person testified that he had never seen anyone stopped at the guard house or challenged on his authorization to be in the Pound.⁵¹⁴ He testified that on his visits to the Pound he frequently saw people surreptitiously working on cars:

Q: When you saw some men working on a car, could you tell what they were doing? Were they moving parts?

A: All I know is they were working on a car. When they see somebody come in dressed up they stop whatever they are doing and they just stand around and wait until you disappear.

Q: So you really are not able to know what they are doing?

A: You cannot tell what they are doing.

Q: Is this something that has occurred to you more than once when you have been down there?

A: It occurs every time I am there.

Q: Every time you have been there there have been people working on cars?

A: Yes.

⁵¹³The companies are Reliance Insurance Company, State Farm Mutual Insurance Company, Insurance Company of North America, and Allstate Insurance Company.

⁵¹⁴Testimony of Joseph Anderson before Pennsylvania Crime Commission, July 27, 1973, N.T. 20.

Q: Does that ever cause you to wonder about what goes on down there?

A: No, I am not naive.⁵¹⁵

Insurance representatives testified that they were not permitted to take cameras inside the Auto Pound, even though photographs of damage to cars are important for adjustment of claims. They could think of no reason for this restriction.

Some specific incidents of stripping of cars in the custody of the police were brought to the Commission's attention. For example, the Reliance Insurance Company mentioned a stripping incident which occurred in July, 1973, involving Father John Francis Nees, a Catholic priest. The Commission interviewed Father Nees, who stated that a 1971 Chevy Impala, which he drove to his job at the Veteran's Administration, was stolen on June 27, 1973, from the Carlisle and Cherry Street area of Philadelphia. Father Nees reported the theft to the 9th District headquarters. On the 15th of July, at approximately 3:30 a.m., a police officer telephoned to notify Father Nees that his car had been recovered, but Father Nees did not receive the message until the next day. He then called the 9th District but was told they had no information about his car. Later that day Mrs. Nancy Wilson, an employee in the Veteran's Administration cafeteria and a friend of Father Nees, came into his office to inform him that her seventeen year old son had stolen his car and that she had just returned from court. Learning this, Father Nees called the 9th District again, but they still gave him no information about the car. Father Nees told the officer he spoke to that the 9th District had held his car for 37 hours and that he would give the 9th District an hour before he called Commissioner O'Neill. Twenty minutes later an officer at the 9th District telephoned to tell him his car was at the 19th District.

That night, Father Nees went to the 19th District, picked up his keys, and checked the trunk to see that two G78x15 Dual 90 studded snow tires were still in the trunk. He returned the next day with the rental car he was using and double parked beside his car to facilitate the removal of some personal items. When he opened the trunk, a police officer remarked that the snow tires were in good condition and that Father Nees should take them. Father Nees informed the officer that because the insurance company had settled the claim the car and its contents

⁵¹⁵*Id.* at 27-78.

belonged to the company. He took a picture of the car and tires in the trunk, locked the trunk, returned the keys to the district, and left the car to be retrieved by the insurance company.

The next day, when Father Nees spoke to the insurance company representative he asked how many tires were with the car when it was picked up. He was told there were only four—and no snow tires. The insurance company said it did not want to bother with the matter, but Father Nees called Inspector Thomas Roselli of the Juvenile Aid Division. He was told he would be contacted, but he never received any response.

A second incident involved Richard J. Marker, who bartends at night at 5100 City Line Avenue. In an interview on November 20, 1972, Mr. Marker stated that on Saturday, October 28, 1972, he lent his 1972 Oldsmobile Cutlass to Leroy Carter, a co-worker. Later that night his car was stopped and a gun was found on one of the four men in the car. All four were arrested for carrying a concealed deadly weapon and the car was searched at the station, though there was no other evidence of any criminal activity. Mr. Marker learned later that night that Mr. Carter had been arrested and proceeded to the police station at 61st and Thompson Streets to pick up his keys, at which time the runaround began. Mr. Marker asked the officer behind the desk whether he needed a release from anyone at the district in order to obtain the car. The desk officer called the 18th District station at 55th and Pine since the arresting officer, Detective Lewis O. _____ (#9095), worked out of that district. When the desk officer finished his phone conversation, he told Mr. Marker that the car was at the Police Auto Pound at 26th Street and Penrose Avenue and that Mr. Marker needed no release form. The conversation closed with Mr. Marker saying, "What the hell is the car doing down there?" The officer said that he did not know but that the car could not be picked up until Monday since the Pound was closed on weekends.

Mr. Marker waited until Monday morning, then went to the police garage at 26th and Master Streets in order to get a release form, which is the usual procedure. There, contrary to his previous instructions, he was told that he needed a release from the detective who had confiscated the car. Mr. Marker then went to 55th and Pine, arriving at about noon, only to find that Detective O. _____ (#9095) had gone off-duty at 8 a.m. and would not be back until Thursday. On Thursday, Mr. Marker went to the District again only to find the detective had taken the

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day off. At last, on Friday at 4 p.m. the detective arrived for his next tour of duty. Then, as Mr. Marker told it,

A: . . . [the detective] says, "You should have had the car on Monday." "There is no reason for you to get a release from me." I said, "Well, that is what they told me." He signed a release and I said, "Well, is there anything wrong with the car?" He said, "No. There is nothing wrong with it but you had a left front flat tire." I said, "Fine." So he gave me the release. And this is Friday at 4:00 o'clock. Now you know that the Police Pound is closed over the week-end and so I had to wait until Monday.

Mr. Marker went back to the Pound again, only to find the car had been devastated:

A: . . . So, the following Monday, I went down about 10:30 in the morning to get the car. I gave them the release and a man dressed in plain clothes (I guess it was a policeman) said that the car was parked in the back and to help myself. I went back there and there was my car. The hood was wide open. The two doors were wide open and the trunk was wide open. It was sitting on a frame and there were no tires on it, except for the flat tire on the left front.

* * * * *

. . . So I said "WOW!" . . . I went back to them and said, "What the hell happened?" They said, "That's your car." I said, "I refuse to take that car." And he said, "Why?" I said, "That was not the way that the car was delivered." And he said, "Yes, it was." I said, "I'm not taking it and you will hear from my insurance company." He said, "I don't care, you can do whatever you want with it." So I took the release from him again and went back to 55th and Pine because I wanted to find out what the hell was going on. He said the car was delivered that way [but] there is no way in hell a car is going to be delivered with the hood open, the trunk "broken into" by the way.

Q: Was it? . . .

A: Yes. The trunk was broken into and the doors were wide open. And by the way—for a few days it has been raining and everything was soaking wet. So I went back to the Police Station and this was on Monday and I had to wait until 4:00 o'clock in the afternoon for [the detective] to come back again. So I waited for him to come in and he came in. And I said, "What in the hell is it with the car?" And he said, "Why didn't you get it?" I said, "No, I refused to take it." So he said, "Why?" and I told him what had happened to it.

Q: The tires were off?

A: The tires were off of the car and the trunk was forced in and the whole underneath part under the dash board was ripped out and the radio was taken out and the battery was taken out—the radiator was gone and the side had dents in it that had not been there before.

Q: How long had you had the car?

A: I had it five months. It had ten thousand miles and I bought it brand new.

Q: Is that right—was the car in good shape when you got it?

A: It was BRAND NEW. There was not a dent on it. Nothing.

Q: What did [the detective] say when you told him?

A: He said there was no way in hell that he sent the car down there like that. He said, "I sent this car down with one flat tire and that was the only thing wrong with it." "You do whatever you want, get in touch with your insurance company and I will be happy to sign any statement saying that the car was sent down there and so on." So I asked him for his name and telephone number and he gave it to me. I went back and called up my insurance company and they gave me information that they would take care of

it. And then I wrote a few letters and you received one of them.⁵¹⁶

On December 20, 1972, two Crime Commission agents interviewed Detective O_____ (#9095) at 1 East Penn Square in Philadelphia. Detective O_____ (#9095) confirmed that the only damage to Marker's car, before being towed by the Police Department, was the flat left front tire. He was sure there were no pry marks on the trunk and no sign of any stripping. He said, "[t]here is no question in my mind—the car was stripped at the Auto Pound. This has happened in the past and will continue." The detective offered to provide a copy of his report, and arrangements were made to pick it up on December 26, 1972, at 1:00 p.m. Detective O_____ (#9095) was not available on the 26th. On the 27th, he said he could not release any further information, and that a copy of the report might be obtained by a formal written request to Commissioner O'Neill. The request was made but has not been granted as of the writing of this Report.

Another incident involved Mr. Harry Burke's 1964 Buick Wildcat which was stolen from in front of his residence in Yeadon in June, 1972. A few days later Mr. Burke was informed that the car had been recovered and towed to the Philadelphia Auto Pound. On June 21, Mr. Burke went to the police garage at 26th and Master Streets, then to the Pound and discovered the wheels and a set of tools had been removed. Mr. Burke left the car at the Pound and telephoned his insurance man. Three days later, Mr. Burke returned to the Pound to remove the AM-FM radio from the car, but was too late. Someone had already tried to remove the radio, and in the attempt, the radio had been damaged beyond repair. It hung from the dashboard. When Mr. Burke mentioned it to the officer who had accompanied him to the car, the officer said nothing. Mr. Burke left the vehicle and returned home.

Mr. Norman Gladdin's 1966 Pontiac was stolen on September 14, 1973, and was discovered the next day, though Mr. Gladdin was not informed that his car had been recovered until September 18. During the interim, he was told repeatedly by 3rd District personnel that the car had not yet been recovered. When he was finally informed that his car had been recovered, he was also told that his car was in good condition. Mr. Gladdin

⁵¹⁶Tape recording of an interview with Richard J. Marker, November 20, 1972, tr. 4-7.

then went to the district and signed a property receipt, but when he went out to the lot, he found his car completely stripped and not mobile. Gladdin took four pictures of the car and gave two to a lawyer and two to the District Attorney's office. Within the week, Mr. Gladdin also contacted the Crime Commission. In an interview with Captain McDonough of the South Division on November 7, 1973, Crime Commission agents were told that the City of Philadelphia would make restitution to Mr. Gladdin and that charges had been filed against the corporal who was operations room supervisor on the night that Mr. Gladdin's car was recovered.

Other incidents of stripping which came to the Crime Commission's attention followed this general pattern. In many instances, it was impossible to pinpoint exactly where the car was stripped. As one claims adjuster described the situation:

I used to go to 26th and Master a lot and talk to the police officers there and they always blamed it on the tow man. He would say the tow man came and if he was going to take the tires all he had to do was mark them missing. That is the knowledge they had of it. So, it was one guy passing the buck to the other, as far as I am concerned.⁵¹⁷

Because of the car-stripping which takes place at the Pound, insurance companies have some incentive to try to cut their losses by keeping cars from going there.⁵¹⁸ In the early stages of the inquiry into police handling of stolen cars, the Regional Claims Manager of Nationwide Mutual Insurance Company told a Crime Commission attorney in an interview on July 5, 1972, that insurance adjusters for his company in Philadelphia systematically paid officers in the Police Department to notify the company as soon as possible of recovered automobiles and to retain them at district headquarters. During this interview, the Regional Claims Manager called the District Claims Manager in Philadelphia on the telephone to confirm this fact. The Regional Claims Manager then said the District Claims Manager stated he had a draft for a payment of money to a police officer in

⁵¹⁷Testimony of Joseph McCullis before the Pennsylvania Crime Commission, July 26, 1973, N.T. 52-53.

⁵¹⁸An alternative method of attempting to correct the problem—complaining to the authorities—was rejected by one company (Nationwide) because it had a discount repair arrangement with a friend of Mayor Rizzo, Frank Brigidi. Company officials felt this discount repair arrangement would be jeopardized by formal complaints.

front of him that very minute. The Crime Commission later requested these men to repeat their statements under oath and to bring forward their evidence of payments to police. However, the District Claims Manager denied he had ever paid the police and the Regional Claims Manager backed him by saying the only conversation concerning the matter that he could recall was when the District Manager asked him what the company position would be if its representatives were approached by the police.⁵¹⁹ The Crime Commission attempted to search Nationwide's records for drafts made out to police officers, but the task proved too difficult without the aid of computers which were unavailable.

Representatives of the other four insurance companies all testified that they had not made any payments to the police officers in order to prevent cars from being sent to the Pound. These companies denied making any payments at all to the police, except for the payments made by Insurance Company of North America for employment background checks discussed above in the business notes section of this Report.

Former Policeman Felix Ruff was questioned as to his knowledge of such payoffs; but although he had heard of them, he had no direct knowledge or specific information:

Q: ... if you were a man on the street in a car or on the foot beat and you recover a stolen car you would transport it back to the District and leave it there?

A: That's correct.

Q: And it went out of your hands?

A: If the car was operable we would drive it into the District and we would leave it there by notifying the corporal that it was there. If it was not operable, the garage usually would tow it into the District.

Q: Do you know whether the corporal or anybody else at the District had some arrangement with the insurance companies to keep the car there?

A: No, I don't.

Q: You never heard anything like that?

⁵¹⁹Testimony of Charles W. Staudenmeier, Jr., before the Pennsylvania Crime Commission, July 26, 1973, N.T. 32.

A: I have heard of insurance companies, you know, paying rewards but I don't know anybody in particular that received one.

Q: What specifically have you heard: that you can get a reward from an insurance company if you recover a stolen car?

A: Yes, I have heard that.

Q: Does that happen in the majority of cases?

A: I had no personal contact so I don't know. But I believe and I heard that it does happen.⁵²⁰

The Crime Commission believes that the car-stripping incidents described in this Report are not merely indications of insufficient and unsophisticated security devices at the Police Auto Pound. In light of past abuses and the dubious practice of using stolen-abandoned vehicles for undercover activities, the Crime Commission recommends that the Philadelphia Police Department thoroughly review its procedures for handling stolen and abandoned vehicles. Stricter accountability should be established to assure that mistakes are not made with such valuable property.

As to the Pound itself, the best that could be said is that in the past it lacked adequate security. The new commander, Captain Sutor, apparently is taking steps to correct the situation by installing additional barbed wire and surveillance devices. He has also adopted a more vigorous policy towards trespassers and pilferers: the Pound has been posted, and five trespassers have been prosecuted. The Crime Commission recommends that some additional security measures suggested by Captain Sutor be instituted. These include: additional lighting, a double row of chain link fence with barbed wire on top, and sentry dogs to patrol the corridor between the rows of fences.⁵²¹ Captain Sutor has testified that these additional security measures would allow a reduction in the number of personnel assigned to the Pound. A reduction in the size of the shift would partially offset the substantial cost of the proposed security results. In addition to the security measures listed above, the Crime Commission recommends that the ban on cameras be abolished.

⁵²⁰Ruff, December 31, 1973, N.T. 86-87.

⁵²¹According to Captain Sutor, such a corridor is necessary to prevent the dogs from cutting their paws on debris and broken glass.

POLICE PERJURY

Although a police officer is sworn to uphold the law, much of his conduct can lead to perjury or offering false statements. The Commission found police perjury occurring in the following contexts: (1) swearing to false probable cause in search and seizure warrants; (2) falsifying the "evidence found" sections of search warrants; (3) planting evidence on defendants, primarily narcotics and numbers; and (4) providing false statements to protect against corruption investigations.

Pressure to commit police perjury, not related to corrupt acts, is created by the Department's system of vice enforcement which is based upon arrest quotas.⁵²² The Commission is not alone in this view. In the Report of the April, 1969, Philadelphia Grand Jury, the following characterization of police honesty in drug possession and numbers arrest was set forth:

The first specific series of situations which has aroused our concern is the recorded sequence of events which accompany an unusual number of narcotic and "numbers" arrests. In the police reports on these arrests there is an uncanny recurrence of acts of self-incrimination performed by the defendant. Most of these acts took the form of the observed attempted disposal of evidence by the defendant prior to his arrest or the discovery of a tiny glazed packet of narcotics *during the officer's frisk* (not search) for weapons on the defendant. The jury can understand a small number of these incidents; but from the frequency of the incidents, it is obvious that some officers are simply misrepresenting events preceding the arrest. In our review of these cases we have been obliged to regard as "facts" and "truth" the police reports. Because of this we did not try to overstep our rights and pass judgment on the true or false nature of these reports. Therefore, we advise our judges to review carefully these cases as they come before them. The Jury would like to see the causes for our complaints on this issue eliminated, and we suggest that the District Attorney's Office begin, immediately, a major large scale program of instruction to members of the police force on the finer points of the law.⁵²³ (Emphasis in original.)

⁵²²Arrest quotas are discussed in the corruption environment section *infra* at 409-411.

⁵²³Report of the March, 1969, Grand Jury, Philadelphia County, pp. 4-5.

The Grand Jury was correct but too polite—what officers often do is plant evidence on defendants.

Jonathan Rubinstein, in testimony before the Commission, described the perjury involved in these cases, and the reasons for this state of affairs:

Q: Is your description of the activity which you characterized as farming based on your own observations?

A: Yes.

Q: And how widely is that practiced?

A: It is very hard for me to quantify. I would simply say that in those areas where large numbers of arrests are made for gambling, common gambling, petty gambling, and for drug possession, it is very widespread. I would say it is endemic. And not just in this City.

Q: And the drug area. Tell us how that works; how it occurs?

A: Well it occurs in many different ways. When you have a situation where patrolmen are required to produce a certain number of arrests every month, whether you call it a quota or not they are going to make those arrests. And for a uniformed patrolman to make a legitimate arrest for narcotics is almost impossible. I mean, he is in a big car, wearing a uniform, riding around the block and is going to get to the corner. And there is this junkie at the corner dealing from an ashcan. He will see the cop, right? And very often he will swallow it; and he will see him do like this (indicating) all the time. And very often the policeman doesn't worry stopping and the guy very often is not swallowing it. It's very often a kind of game. Yes, it is very sad. It really is. It is a terrible situation. But that's a fact of life. In order to get someone with possession and make an arrest which will stand up and get through the Grand Jury requires conditions which are for the uniform patrolman almost impossible for him to meet. So what he does very frequently is simply plants evidence on

someone or claims that the guy was running away. The old story told in Philadelphia of the flying bag which I am sure you are all very familiar with. It is very common. It is very obvious. He carries, is obviously carrying, narcotics on him.

Q: I am going to ask where does the evidence come from to plant?

A: He withholds narcotics when he makes arrests. They keep part of it. . . .⁵²⁴

Former Officer Felix Ruff described the situation similarly, adding that farming also was used to insure the continuance of protection payments:

Q: All right, would you explain how it [farming] works and what's involved? And when it is used and why it is used?

A: Number one, the statistical makeup of the police department is based from the amount of arrests made the prior years, prior two years, and when there's a demand for, you say, for example, 601 and

Q: That's numbers arrests?

A: That's numbers arrests, right. You might go out with a series of warrants looking for numbers and you come up nil and you might have two or three days before the period ends that you have to bring the statistics up. Then quite a few policemen resort to farming. You have someone write up a slip of numbers and carry it into the place and follow them in with the warrant. Find the numbers and lock up the person that you know that lives in the place or who operates the business. Or you burn some because someone may be under. In other words, they stop paying a note. There is just, still got the operations going but it's not in ready access to the police department. And if the man has an operation going on, a lot of times they'll farm numbers on him. Or if there's a principal that has to be arrested and he doesn't volunteer to

come in, a lot of times, farming is used as a method to arrest him.⁵²⁵

Relating to farming of evidence and the subsequent false testimony in court, is the presence of widespread perjury in obtaining search and seizure and arrest warrants.

Jonathan Rubinstein put it as follows:

. . . you have policemen who are constantly taking out search warrants which are based on false information, which are based on lies, which are sworn before a judge, which are perjury. Now, everyone knows a perjury has been committed and everyone knows that's a very serious offense potentially.

* * * * *

. . . But, you know, when you go to get a warrant, for example, you talk; you fill out a warrant application, maybe two or three policemen together and you are discussing what has to go into the warrant. I have written about that. You have read it, I am sure. That kind of discussion is fairly widespread. I mean the fact that policemen lie to get warrants, for example, is simply just accepted. I mean that is perhaps the most widespread form of corruption, in a true sense, that exists in this Police Department and most others in this country.⁵²⁶

Former Officer Ruff also described the practice of falsifying complaints and search warrants as widespread, reaching 85% of the warrants issued in Philadelphia:

Q: Have you had any experience with police officers swearing out false complaints or search warrants?

A: Sure.

Q: Is that a common practice?

A: Sure. If someone, for some reason that someone has to be busted for any reason at all, you know, maybe because of some information that they had

⁵²⁵Ruff, December 31, 1973, N.T. Ex. 2, p. 38.

⁵²⁶Rubinstein, N.T. 51, 61.

given or a position that they had taken, then this method would be used as a retaliation.

Q: Have you seen that happen? Yourself?

A: What, farming?

Q: No, swearing out false warrants and complaints?

A: Oh, you mean the surveillance, oh, it happens all the time. I would venture to say, ah

Q: The probable cause?

A: The probable cause, I would venture to say, I won't say. Maybe 85 percent of the warrants taken out by Philadelphia uniform and plainclothes personnel in the City of Philadelphia, the probable cause is invalid.

Q: You mean warrants for vice?

A: Yeh, for vice. . . .⁵²⁷

The case of *Commonwealth v. Clyde Reeder*,⁵²⁸ is noteworthy because there an officer inadvertently admitted his own perjury. Officer William W_____ (#7540) admitted that what he wrote in the probable cause section of a search warrant and swore to was false. After being informed and made to realize he had behaved improperly, Officer W_____ (#7540) addressed the court and the judge responded:

A: . . . I just thought that was the standard way to make a warrant. I didn't know.

Q: Unfortunately, it is, Officer; it is the standard way to make a warrant. And I think you're being very truthful. And I will say that on the record. Unfortunately, what you did was put down false information as a result of what other people were apparently suggesting to you. And, unfortunately, this is a concern that this is what may be happening, not as far as you're concerned, as far as others are concerned.⁵²⁹

⁵²⁷Ruff, December 31, 1973, N.T. Ex. 2, pp. 39-40.

⁵²⁸*Commonwealth v. Clyde Reeder*, May Sessions, 1970, No. 1026, Philadelphia County.

⁵²⁹*Id.* at 28.

During the course of its inquiry, the Commission investigated several cases of perjured warrants. On October 16, 1972, at 2:30 a.m., four officers of the narcotics squad, Sergeant Willie B _____ (#319), Policeman John M _____ (#3862), Policeman Robert D _____ (#1766), and Policeman Samuel D _____ (#9406), raided the apartment of James and Joan Fiorile, 125 South 21st Street, #9, with search warrant #145903, issued October 15, 1972, specifying Opium, Opiate Derivatives, Morphine, Heroin, Cocaine, Codeine, Marijuana, LSD, Methedrine, and/or any other pills, capsules, powders, or liquids classified as Controlled Substances as the "Property to be Seized."

The warrant signed by Officer John M _____ (#3862) cited as probable cause:

On 10-14-72 in the afternoon hours, I received information from a reliable informant who in the past 5 months has given me such information that has led to 8 arrest with 3 convictions and the rest awaiting trail, that on this date he was inside the above location along with other males and females when he did observe sum [sic] of these people give money to the person known to him only as MRS. FIORILE and the man known to him as MR. FIORILE would returne [sic] from another room of the above location with manila envelopes that contained a green weed that was refered [sic] to by all that were involved as marijuana. They were also selling to those people peices [sic] of hard brown substances that was refered [sic] to as HASH. On 10-15-72 between the hours of 2:15 AM and 3:00 AM, I set up a surveilence [sic] at the above location and did observe numerous persons enter the above location, stay a short period of time, and leave. Three of these persons I believe are drug abusers. Beleiving [sic] the information true, I believe the above named couple are using [sic] the above location to store and Dispence [sic] drugs.

This warrant is an example of the standard language employed in warrants by police officers wishing, for any number of reasons, to conduct a raid on a certain location when in fact they lack valid probable cause or reasonable grounds for the search. Similar language was used in the Clyde Reeder incident.

The entire "probable cause" is directly contradicted by the sworn testimony of the Fioriles, who were at Mr. Fiorile's father's home in New Jersey during the time period referred to by Officer John M _____ (#3862). In addition the warrant was wrongfully returned stating that nothing was found or seized.

With regard to the "reliable informant, who in the past five months has given me such information that had lead to eight arrests with three convictions and the rest awaiting trail," Policeman John M _____ (#3862) testified on May 7, 1973, (seven months later), "I don't even recall the job so I would not possibly be able to recall the informant." Policeman John M _____ (#3862) could not "remember the name of any informant who had the exact status of eight [arrests] and three [convictions]." In fact, he had no recollection at all of the incident. In this case, it appears that either Policeman M _____ (#3862) had an informant who gave him the wrong name and apartment number, or Policeman M _____ (#3862) fabricated the entire probable cause section of the warrant. At any rate, the raid failed to turn up the heroin the officers said they were looking for.⁵³⁰

Mr. Fiorile testified that he gave the officers all the marijuana they had, which was less than half an ounce for personal use.⁵³¹ He then testified that at the conclusion of the search:

... He [the police officer] sat down with a dazed expression himself as if it was at this point that he realized what had happened was a mistake, and that the kitchen canister where our small quantity of marijuana was, was not what he was looking for. He was quiet for some minutes as his men came out of different parts of the apartment that they were searching, and gathered around him in our living room. He was sitting on the couch, and we were all standing in front of him. It was then that he said that I am going to take this with me.

* * * * *

... [A]s far as I'm concerned this is not marijuana, I am going to take this and we may come back. I'm going to keep this and if we find out it is marijuana, we can

⁵³⁰Testimony of Officer John M _____ (#3862) before the Pennsylvania Crime Commission on May 7, 1973, N.T. 18, 33, 37, 41-42 [hereinafter cited as John M _____ (#3862)].

⁵³¹Testimony of Joan and James Fiorile before the Pennsylvania Crime Commission, December 12, 1972, N.T. 12, 18-21, 24.

come back any time up to a month and arrest you then . . .⁵³²

Although in some cases he was able to tell whether a substance was marijuana by sight and smell.⁵³³ Officer John M. (#3862) refused to acknowledge the substance confiscated at the Fiorile's was indeed marijuana, even when Mrs. Fiorile insisted it was. Nothing was, in fact, reported as seized.

A numbers banker, Joseph Narcisi, 823 Atwood Street, had been associated with Policemen William K. (#3987) since he had entered the gambling racket. In return for various amounts of money, Policeman K. (#3987) refrained from arresting Narcisi and on occasion provided him with assistance in protecting his operation.⁵³⁴

In September, 1973, Narcisi became suspicious of one of his numbers runners, who was in fact an undercover State policeman, operating under the name of "Andy." According to Narcisi, "[Andy] asked too many questions all at once."⁵³⁵ Narcisi contacted Officer K. (#3987) and "they checked out the tag number and couldn't find nothing on the tag number, that was suspicious."⁵³⁶ Narcisi suggested to Officer K. (#3987) that a raid be conducted in which Andy would be arrested by Officer K. (#3987), who could then find out if Andy was, indeed, a State policeman. Officer K. (#3987) agreed to the setup⁵³⁷ and obtained a warrant in which he swore that he received certain information:

. . . from a reliable informant, who in the past (4) months has given me information that has led to (3) arrest for this type of violation resulting in all (3) being held for court with physical evidence being confiscated. On 9-24-73, at approx. 12:30 pm., my informant had cause to be inside the "Chippy's Bar", located at 6400 Vine St., and did place with the bartender two-horse bets and 3-numbers bets, the bartender is known to him as "Joe" . . .⁵³⁸

⁵³²Id. at 23-24.

⁵³³John M. (#3862), N.T. 51-52.

⁵³⁴Testimony of Joseph Narcisi before the Pennsylvania Crime Commission, October 29, 1973, N.T. 28-32 [hereinafter cited as Narcisi].

⁵³⁵Id. at 39.

⁵³⁶Id. at 39.

⁵³⁷Id. at 42-44.

⁵³⁸Search warrant #151598, issued September 27, 1973, Philadelphia County.

The raid was conducted according to the plan, and Andy was arrested. It is evident that the "reliable informant" was actually Joseph Narcisi, who was named in the warrant. From Narcisi's testimony before the Crime Commission, it is clear that he had not given Policeman K. (#3987) any information that could have led to any other gambling arrests.

When search warrants are served they must be returned to the issuing court indicating whether or not materials were seized and, if anything were seized, a description of what was taken. Obviously, in cases where evidence is planted, the return on the warrant is false. One situation where this occurred was described by former Policeman Ruff:

A: . . . My partner really wanted this guy busted so we went in to search, right. So my partner conveniently comes up with the pinch. I looked at—it looked so much like his handwriting that I said, "Man, you're doing a bad thing because if you get caught, that's your handwriting, number one. If you're going to attempt to do something like that, you cannot have it associated with yourself." He locked the guy up, and it was his arrest. I was there. I conducted the raid and I know that I didn't find any numbers in the place. My partner found numbers and I really believe that they [were my partner's] numbers. I know that my partner wrote the slip.

Q: Did he later testify in court about this?

A: Yes, he did, because I was standing with him.

Q: He prepared himself on the basis of that evidence?

A: Yes, he did.⁵³⁹

The converse of these false statements is also present. That is, officers do find materials subject to seizure under the warrant and wrongfully report that nothing was found or report less confiscated than discovered. The Fiorile incident, described above, is an illustration of this type of conduct. The reasons for this type of false statement may be to insure a dismissal, to use the drugs seized to pay informers, to sell the drugs seized, or to keep the drugs for personal use. Very frequently, plainclothes-

⁵³⁹Ruff, December 31, 1973, N.T. Ex. 2, p. 39.

men do not turn in all of the drugs seized so that they can use them to pay informants. Former Officer Ruff estimated that based on his experience as a plainclothes officer this happened in the majority of cases.⁵⁴⁰

Such a case was investigated and summarized in the *1st Presentment* of the June, 1972, Special Investigating Grand Jury:

On August 23, 1971, at the trial of Dennis Virelli the Court sustained a demurrer and discharged the defendant of all criminal liability.

At the above trial Officer [McN_____ (payroll #69154)], who was the sole Commonwealth witness, falsely testified under oath that Dennis Virelli was present in the apartment when the officers entered and that no one else was present. Officer [McN_____ (payroll #69154)] testimony was an unqualified assertion of fact given with the full knowledge that the assertion was absolutely false. Officer [McN_____ (payroll #69154)] also testified falsely to the same effect at the preliminary hearing on March 2, 1971, before the Honorable George J. Woods, Judge of the Municipal Court. We, therefore, recommend the indictment of Officer [McN_____ (payroll #69154)] for perjury.⁵⁴¹

In this case leading to the perjury offense, the narcotics officers involved [Policemen Hugh McN_____ (payroll #69154), Lawrence G_____ (payroll #102458), Michael S_____ (payroll #101925), and Nicandro I_____ (payroll #99880)] had allowed a suspected drug dealer to substitute an associate, Dennis Virelli, to be arrested instead of himself (Michael Fidelibus) in return receiving \$5,000 as a bribe. The high amount is accounted for by the fact that the seizure was more than 1 lb. of methedrine, of which only 9 ounces were turned in as evidence. All of the officers involved were dismissed from the Department.

Protection of fellow officers accused of improper or illegal conduct is a natural tendency in the Department.⁵⁴² While natural, it constitutes unlawful and improper conduct in itself. A

⁵⁴⁰*Id.* at 31-32.

⁵⁴¹*1st Presentment* at 4-5.

⁵⁴²Ruff, December 31, 1973, N.T. 82-83.

striking example of this is found in the experience of former Officer Ruff. In the fall of 1969, former Officer Ruff saved another officer's job by saying he had not witnessed the officer's shooting of a retarded child, when, in fact, Mr. Ruff had seen the incident and knew that the explanation of the incident given by the officer who shot the child and later by the Police Department was a false one.

Mr. Ruff responded to a call in the 1600 block of North Bouvier Street involving a retarded juvenile. By the time Mr. Ruff got there, another officer, William B_____ (#2894), had already arrived. Mr. Ruff saw the child run toward Officer B_____ (#2894) wagon with a knife in his hand, heard a shot ring out, and saw the child fall. He had been shot in the face.

The version told by Officer B_____ (#2894) and the Police Department was that the boy had run over to the wagon brandishing the knife; Officer B_____ (#2894) allegedly tried to talk to him and shot him only as a last resort after being threatened. However, Mr. Ruff testified before the Crime Commission that he saw the child approach the wagon with a knife, but the knife was held down at the child's side, and he was not directly threatening Officer B_____ (#2894) with it. This is a significant difference since it undermines the purported justification for the shooting, which was self-defense.

Mr. Ruff and his partner agreed not to become involved, although they had both seen the incident, by saying when they arrived the child was on the street, already shot. This removed them as witnesses so they would not be placed in a position of accusing a fellow officer and so they would not tell "a contrary story from what the Department was presenting."⁵⁴³

In another incident, Officer Ronald C_____ (#6678) filed false information in a report of an off-duty arrest of two black males who attempted to rob the Gaslight Lounge on September 29, 1972. In his report of the incident, Officer C_____ (#6678) stated the two suspects had been subdued by himself and one male companion. Officer C_____ (#6678) later admitted that he was also assisted in the arrest by an off-duty police lieutenant who was working as a bartender in the bar. Further, Officer C_____ (#6678) admitted that he had spoken with the lieutenant and had told him his name would be omitted from the report of the attempted robbery and subsequent arrests, since

⁵⁴³*Id.* at 33-41.

it was against regulations for a police officer to work as a bartender.⁵⁴⁴

Other incidents of perjury include filing false police reports in order to cover corrupt activities. For example, a policeman's visit to a gambler in order to collect a note is often covered by the officer executing a complaint and incident form 75-48.

Q: How would you account for contacts with these people when you made—when you picked up your money?

A: The complaint and incident form of the Philadelphia Police Department known as the 75-48.

Q: In other words, you would make out a 48 for investigation of persons or premises?

A: That is correct.

Q: And said that you were there investigating vice activities. Is that correct?

A: That is correct.

Q: And naturally it would be negative?

A: That's right.⁵⁴⁵

Substantial evidence indicates that perjury by police officers occurred in testimony before the Crime Commission in this investigation. One example is the testimony of police officers regarding the Gino's guard service, discussed above.

It is evident that Police Department officers are committing perjury as an integral part of their conduct for corrupt purposes. It is also apparent that false statements on search warrants, false reporting of incidents, and perjured testimony have become standardized, though unofficial, methods of law enforcement, especially in the area of vice activity.

While elimination of the quota system for vice arrests would reduce the perceived need of otherwise honest and well-intentioned policemen to falsify reports and statements, it would have little effect on those officers who engage in these practices for corrupt purposes such as the blackmailing of narcotics addicts and gambling figures.

⁵⁴⁴Statement of Officer Ronald C. _____ (#6678) to Staff Inspector Charles Fragassi, November 15, 1972, made at the Staff Inspector Headquarters.

⁵⁴⁵Ruff, December 31, 1973, N.T. Ex. 2, p. 23.

In any case, the perjury and falsification of reports and statements by officers of the Philadelphia Police Department is a problem that demands the immediate attention of the Department and the courts which are called upon to judge the veracity of police performance.

THE CORRUPTION ENVIRONMENT

The Crime Commission's investigation has shown that systematic corruption exists in the Philadelphia Police Department. That is not new. Investigation after investigation has grappled with its existence; yet, it continues. The answer to why corruption continues is complex and not entirely clear. The Commission's study reveals a number of factors which contribute to the problem of systematic police corruption, including the role of the police, departmental attitudes toward the corruption problem, vice enforcement policy of the Department, various societal pressures on individual police officers, and the reaction of other parts of the criminal justice system and the public to corruption.

Police Role

The work of policing an urban community is often misunderstood by the general public. A policeman's job is often both tough and thankless. Individual patrolmen, many with inadequate training, are confronted with complex human situations, uncontrolled discretion, and no adequate guidelines for the exercise of that discretion. To the public, the policeman on patrol embodies its concept of law and order. Yet, these goals of law and order are not consistent and the dichotomy between them is rarely recognized. The policeman's job would be substantially easier if his goal were that of maintaining order; but the degree of order required by our society, tempered by our concepts of law and justice, creates many difficulties for police. These competing interests produce tensions which have substantial impact on the quality of police services delivered in any urban community.

The conflict between law and order can be viewed operationally from the police point of view by considering the demands of legality on one hand and the demands of order and efficiency on

the other.⁵⁴⁶ Policing would be a much less complex task if maintenance of order without regard to legality were all that was required. Of course, that is not a reasonable alternative in a democratic society. However, the dichotomy does serve to focus attention on the competing forces at work within our system of justice where the rule of law prevails. At a time when the task of maintaining social order is becoming more complex and difficult, it is important to understand the burdens placed upon urban police forces and to realize that these burdens are the product of a compromise of competing values.

A policeman's role is a unique one. The policeman works alone and exercises wide discretion in important matters in an environment that is often apprehensive and sometimes hostile. The agents of various other governmental organizations may display one or two of these characteristics, but almost none display all in combination. The police function by its very nature requires that the employee at the lowest level on the organizational ladder be a highly independent operator.

As recently said by Chief Justice Burger:

It is often overlooked that no public officials in the entire range of modern government are given such wide discretion on matters dealing with the daily lives of citizens as are police officers. In the broad terms of public administration, I think it would be a safe assumption that the scope of discretion enlarges as we look upward in the hierarchy of government. In other words, the higher the rank, the greater is the discretion. But this is not true in police work. The policeman on the beat, or in the patrol car, makes more decisions and exercises broader discretion affecting the daily lives of people, every day and to a greater extent, in many respects, than a judge will ordinarily exercise in a week. . . .⁵⁴⁷

⁵⁴⁶See J. Skolnick, *Justice Without Trial* 6 (1966) [hereinafter cited as Skolnick]; H. Packer, *The Limits of the Criminal Sanction* 4 (1968). Mr. Packer characterizes these conflicting demands as the dichotomy between the efficiency in crime suppression and "the protection of the individual in his confrontation with the state." The resolution of this conflict determines the quality of law enforcement that our system of justice is capable of obtaining.

⁵⁴⁷Address of the Honorable Warren E. Burger, Chief of Justice of the United States, to local and state police administrators, quoted in American Bar Association Project on Standards for Criminal Justice, *Standards Relating to the Urban Police Function* 2 (Tent. Draft 1972).

The implementation of the police officer's role is accomplished largely through responding to citizen complaints, patrolling around an assigned area, and stopping to check buildings, to survey possible incidents, to question suspicious persons, or simply to converse with residents who may provide intelligence about the neighborhood.

Most police work takes place under isolated conditions, often involving only the police officer and the citizen. The infinite variety of circumstances that might be present in any one contact is unpredictable. Calm and intelligent reaction to situations as they arise and speed in decision making are often essential. A police officer is expected to exhibit personal courage in the face of dangerous situations. He must maintain objectivity while dealing with a host of special interest groups and the worst side of human nature.

The President's Commission on Law Enforcement and Administration of Justice, which conducted the most comprehensive study of the police that has been undertaken in recent years, reported that "[p]olice department records rarely reveal what proportion of working time policemen spend on what activities. . . ."⁵⁴⁸ In acknowledging the wide array of duties for which the police are responsible, the Commission made the following observation:

A great majority of the situations in which policemen intervene are not, or are not interpreted by the police to be, criminal situations in the sense that they call for arrest with its possible consequences of prosecution, trial, and punishment. This is not to say that the police intervene in these situations mistakenly. Many of them are clear public nuisances that the community wants stopped: Radios blaring or dogs barking at 3 o'clock in the morning, more or less convivial groups obstructing sidewalks, or youths throwing snowballs at passing motorists.

Many situations involve people who need help whether they want it or not: Helpless drunks out in freezing weather, runaway boys who refuse to go home, tourists in search of exciting night life in a dangerous neighborhood. Many of them involve conduct that, while unlawful, cannot be prevented or de-

⁵⁴⁸President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* 98 (1967).

tered to any great degree by means now at the disposal of the criminal justice system: Using narcotics, prostitution, gambling, alcoholism. Many situations, whether or not they involve unlawful conduct, may be threatening: A sidewalk orator exercising the right of free speech in the midst of a hostile crowd, a midnight street corner gathering of youths whose intentions are questionable, an offer by a belligerent drunk to lick any man in the house.

All of these situations could involve the violation of some ordinance or statute. All of them could lead to a serious breach of public order, or for that matter to a serious crime. Much of police work is seeing to it they do not lead to this extreme. This means becoming involved in the most intimate, personal way with the lives and problems of citizens of all kinds.⁵⁴⁹

Since publication of the President's Commission report, there have been several efforts to develop more detailed data descriptive of the police function. In exploring the role of a policeman, Professor James Q. Wilson undertook to analyze citizen calls transmitted to police cars by the Syracuse Police Department for a period of one week. He reported:

... About one fifth required the officer to gather information . . . about an alleged crime for which no suspect was thought still to be on the scene. The patrolman's function in this case is mainly clerical—he asks routine questions, inspects the premises, and fills out a form. About a third of the calls were for services that could as easily be provided—and in many cities are—by a different government agency or by a private firm. Only about one tenth of the calls afforded, even potentially, an opportunity to perform a narrow law enforcement function by stopping a burglary in progress, catching a prowler, making an arrest of a suspect being held by another party, or investigating a suspicious car or an open window. In fact, a very few of these will result in arrests—there will be no prowler, except in a woman's imagination, the open window will signify an owner's oversight rather than a thief's entry,

the "suspicious" car will be occupied by a respectable citizen, and the burglar, if any, will be gone. Almost a third of all calls—and the vast majority of all nonservice calls—concern allegations of disorder arising out of disputes, public and private, serious and trivial.⁵⁵⁰

Several other studies arrived at similar findings. In 1966, a survey of the Kansas City Department revealed that patrol officers devoted only 32 percent of their time to criminal matters.⁵⁵¹ An analysis of calls received by the Chicago Police Department in a twenty-four hour period from a section of the City containing approximately one-twelfth of the City's population revealed that, of the 394 calls received, 16 percent consisted of reports of crimes in progress or crimes that had already occurred; 44 percent consisted of reports of incidents that could have involved a criminal action (e.g., a disturbance or an intoxicated man), but which experience has indicated most frequently require no more than a warning, informally resolving conflict, or the providing of some form of assistance; and 40 percent consisted of requests for various forms of service and for information.⁵⁵²

The findings of these studies and others conducted in recent years have led Professor Gordon Misner to conclude that enough data has been collected to show clearly that "uniformed policemen in large urban areas typically spend less than 30 percent of their working time dealing with crime or other enforcement duties." Most often the officer is engaged in activities which should properly be classified as "public service."⁵⁵³

Police discretion is paradoxical. It appears to flout legal commands; yet, such discretion is necessary, given the limited resources that are available, the oftentimes ambiguous language and breadth of the substantive criminal law, the continuance on the books of obsolete laws, the informal expectations of legislators, and the often conflicting demands of the public.

The broad and ambiguous language used in the statutes and charters of many jurisdictions provides a foundation for much of

⁵⁵⁰J. Wilson, *Varieties of Police Behavior* 19 (1968).

⁵⁵¹The President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police* 121 (1967).

⁵⁵²H. Goldstein, "Police Response to Urban Crisis," 28 *Pub. Admin. Rev.* 417, 418 (1968). Somewhat similar findings were reported by Elaine Cumming, Ian Cumming, and Laura Edell in their studies of the police as a "support agent;" Cumming, Cumming, & Edell, "Policeman as Philosopher, Guide and Friend," 12 *Social Problems* 276, 278-285 (1965).

⁵⁵³G. Misner, "Enforcement: Illusion of Security," 208 *The Nation* 488 (1969).

what the police do, but it provides little basis for deciding on the propriety of some specific aspects of police operations. It provides no basis for setting priorities among different objectives when one or more conflict. To the patrolman, the law is one resource among many that he may use to deal with disorder, but it is not the only one or even the most important. Beyond that, the law is a constraint that tells him what he must not do but is peculiarly unhelpful in telling him what he should do. Thus, he approaches incidents that threaten order not in terms of enforcing the law, but in terms of "handling the situation." The officer is expected by his colleagues as well as his supervisors to "handle his beat."⁵⁵⁴ This means keeping things under control so that there are no complaints about his conduct. To handle his beat, the law provides one resource, the possibility of arrest and a set of constraints; but it does not supply to the policemen a set of guidelines for the exercise of his powers.

In the absence of adequate guidance from his supervisors and the written law, the tendency of an individual police officer is to attempt to meet the varied demands made upon him through a very personal form of improvisation. Confronted each day by frequently recurring situations, the officer tends to develop his own informal criteria for disposing of matters coming to his attention—depending heavily upon his imagination and resourcefulness. He employs as well the informal criteria which have, over the years, developed within the agency of which he is a part. Thus, what poses the problem is not police discretion, but the frame of reference which governs the way it is exercised. Police judgments are often based on sound empirical generalizations; however, police often tend to see society through the lens of very limited experience, perhaps meager education, and in terms of their knowledge of people very much like themselves.

The expectations generated by the generally understood proposition that teenagers, blacks, and lower income persons commit a disproportionate share of all reported crimes serve to complicate the policeman's daily task. Moreover, the constitutionally guaranteed equality of all persons in the eyes of the law seems less obvious to the policeman due to the peculiarities of the criminal situation. Policemen on such occasions see people in stress situations, when they appear anything but equal to the officer. To the policeman, the distinction between decent people and bums, victims and suspects, wise guys and cooperative

⁵⁵⁴A. Niederhofer, *Behind the Shield: The Police in Urban Society* 60 (1967).

people, is obvious. This problem is only further exacerbated when the participants in the incident are of radically different subcultures—for example, a white policeman and a black suspect or victim. What evolves is a self-perpetuating dilemma, where the officer's premature suspicions or skepticism is communicated, consciously or unconsciously, to the suspect or victim as unjustifiable hostility. This serves only to antagonize the already irritated suspect or victim of crime who might express his annoyance in some manner. This apparent resentment displayed by the suspect or victim might likely be interpreted by the police officer as animosity. This sense of not being supported by the community dictates a defensive stance by the police and a general distrust of outsiders. What eventually develops is strong police solidarity, a fierce loyalty to the system uniting the police against their critics.

Thus, the policeman's discretion is often exercised in an emotional, apprehensive, often hostile environment. Police-citizen contacts in any but routine matters are likely to leave both parties dissatisfied. Even when the police officer is acting correctly, the minority community is quick to see improper conduct because of long-accumulated distrust and hostility toward the police. In lower class areas with an increased frequency of crime, there is even a greater likelihood that the citizen and the policeman will form an unfavorable impression of each other.

Police are often placed in situations where they are either confronted by hostility and abuse, or attractive offers to be dishonest. These factors create both pressures and opportunities for abuse of police authority. No other agency in government offers, by the nature of its operations, greater opportunities for its employees to engage in wrongdoing than does a police department.

The range of activities which constitute wrongdoing or misconduct are hard to categorize and are difficult to evaluate in terms of the corruption hazard facing policemen operating at the street level. Seemingly commonplace abuses of police authority include both the over and under exercise of legal authority for some desired end result. Many police responses may appear fair and practical yet in fact be an abuse of legal authority. Thus, the scope of opportunities which tempt and, in some cases, dictate misconduct on the part of the police are almost limitless. Being exposed to public immorality and often to the failure of the criminal justice system to respond fairly, a policeman easily develops a cynical attitude towards his work. This cynicism,

coupled with limitless opportunities to either take or refrain from taking action, creates the situation where, without active support from departmental leadership, the policeman learns to manipulate the law in the name of expediency.

Departmental Attitudes

The Department's leadership has failed in a number of material respects to deal with the systematic corruption which currently exists in the Philadelphia Police Department. Their failures are particularly apparent in the Department's refusal even to acknowledge the existence of systematic corruption, its failure to provide adequate training at the Police Academy to prepare policemen for the temptations that must be faced on the street, and the establishment of unrealistic vice enforcement policies which contribute to the corruption hazard. Each of these three areas are discussed below.

REFUSAL TO RECOGNIZE THE EXISTENCE OF SYSTEMATIC CORRUPTION

On November 16, 1971, according to reports in local newspapers, Commissioner Joseph F. O'Neill was asked about charges of systematic corruption in his Department. He responded: "I wouldn't be surprised. Every large business has a few bad apples."⁵⁵⁵

When asked for records by an outsider, he refused with the comment: "We feel it's police business to investigate police officers."⁵⁵⁶ On the same day, in a written statement, the Commissioner assured the Philadelphia community:

When our investigation proves corruption exists among any members of this department, I will act swiftly to take the necessary action to remove them from the department and prosecute where the evidence exists.⁵⁵⁷

Commissioner O'Neill's comments show that he is subscribing to the so-called "rotten-apple theory" of police corruption. According to this theory, any policeman found to be corrupt must swiftly be denounced as a bad or rotten apple in an organi-

⁵⁵⁵*Philadelphia Inquirer*, November 16, 1971, at 7.

⁵⁵⁶*Id.*

⁵⁵⁷*Id.* at 1.

zation that is otherwise free from taint. The emphasis is on individual responsibility and avoids any admission that the corruption may be systematic within the Department. This theory is based on the view that the public image of the police and their effectiveness require Department leaders to deny any possibility of systematic corruption within the Department. In accordance with the theory, the morale of the Police Department would be severely damaged if Department officials recognized that there was systematic corruption within the ranks, even though practically all members of the force are aware of extensive integrity problems. An example of the Police Department's concern with morale occurred recently with Mayor Frank Rizzo's response to then District Attorney Arlen Specter's assertion that there is systematic police corruption in Philadelphia. Mayor Rizzo declared that he was "concerned about the morale of the Police Department. . ." and that he was ". . . not going to stand by and let them smear an entire department."⁵⁵⁸

The "rotten-apple" theory is an obstacle to meaningful reforms. In many ways, Department leadership reinforces and even gives some respectability to the "code of silence" by voicing the rotten-apple theory of corruption. If the leadership thinks that the image and morale of the Department would be hurt by public disclosure of the extent of corruption, then officers at every level are inhibited from disclosing corruption and can rationalize their silence. As to system changes, it is extremely difficult for any officer to suggest or demand major changes to deal with corruption problems if the official view is that the corruption exists in only individual and isolated cases. A refusal to acknowledge that integrity problems are not isolated prevents commanders from realistically dealing with the corruption problem. With the rotten-apple theory, there can be no need for system reforms to root out corruption.

The rotten-apple theory is also self-perpetuating since it prevents use of one of the most effective investigative techniques for dealing with any criminal conspiracy, that of persuading one of the participants to provide evidence against his partners in crime. If corruption is viewed as an isolated, individual activity, there is no reason for not swiftly exposing the corrupt policeman immediately upon his discovery and not making any effort to "turn" the officer or enlist his aid to provide evidence against others in the corrupt system. Only if the Department acknowl-

⁵⁵⁸*Evening Bulletin*, November 27, 1972, at 1.

edges that corruption is widespread and systematic in some areas can it justify the utilization of the so-called "turned officer." In Philadelphia, the Police Department does not use this technique.⁵⁵⁹

The Crime Commission concludes that the justifications for accepting the "rotten-apple" theory are unwarranted. There is no reason for fearing that public acknowledgment of systematic corruption will destroy the effectiveness and image of the Police Department. A more realistic appraisal is that it will enhance the Police Department's credibility. Large numbers of residents of New York City had experienced problems with corrupt police for many years, and a good faith and realistic effort to eliminate corruption was well received by the public. As for the morale within the Department, the official denial of conditions known by every policeman to exist undercuts the confidence that members of the force have in the command structure. A police officer will not have pride and confidence in a department that refuses to recognize its problem. In New York, the Knapp Commission found that men could only conclude that the Department's leadership was corrupt or naive and incompetent in not recognizing the existing conditions.⁵⁶⁰

Not only can adherence to the rotten-apple theory encourage corruption, but so can the actions of the Department which speak louder than formal declarations of policy. For example, in the area of safe notes or gratuities, Chief Inspector Frank Scafidi, who heads the Department's efforts to police itself, testified at a Crime Commission hearing that, "... I am opposed to all notes, clean and dirty, and I think that any kind of involvement with notes opens the door for further involvement, and we are opposed to it. We are opposed as a Department. I am opposed as a person. I don't like the practice. I never did. I don't condone it, tacitly or openly. I don't think it does the Police Department or policemen any good."⁵⁶¹ Despite Inspector Scafidi's strong expression of policy, he testified that he could not recall ever assigning any of his men to investigate payment of money or merchandise to police from businesses. Although Chief Inspector Scafidi has had his present job for five years and has over fifty men working for him supposedly investigating

⁵⁵⁹Scafidi, July 10, 1973, N.T. 138-139.

⁵⁶⁰Commission to Investigate Allegations of Police Corruption and the City's [New York's] Anti-Corruption Procedures, *Commission Report 7-8* (December 26, 1972).

⁵⁶¹Scafidi, July 10, 1973, N.T. 118-119. Chief Inspector Scafidi commands the Department's Internal Affairs Bureau.

corruption full time, he testified that he had no specific knowledge of any police officers receiving payments of money from businesses and was not aware of any particular restaurant or restaurant chain in the City of Philadelphia that provided free meals to police officers. In light of the evidence turned up by the Commission's investigation with very limited resources over a very short time, it is apparent that Chief Inspector Scafidi and the rest of the Police Department commanders have made a conscious decision to look the other way and to refuse to take action on conditions they know or should know exist.

A police officer testified before the Commission that he did not consider the Department's internal security operations as any threat or restriction on his note-taking. In questioning why this was so, he explained that:

Well, it's [note-taking] a way of life. It's an accepted fact that this type of activity exists and it just happens day in and day out, and so many people [are] involved with it.⁵⁶²

In his view, the entire Department was aware that it went on or it would not exist.⁵⁶³ He understood that internal security operated about 90% of its time on the basis of written complaints, and he had little fear of investigation of formal complaints. Interestingly, he said that in his view and that of his fellow officers, internal security represented more of a problem now because of the Crime Commission's investigation.⁵⁶⁴

Likewise, the Department's failure to hold supervisors responsible for the corruption in their area can only encourage corrupt activities. In Philadelphia, Chief Inspector Scafidi testified that in some circumstances a superior would be held responsible for the conduct of his men, but he could not remember that happening recently.⁵⁶⁵ According to Mr. Rubinstein, it is inconceivable that a man can accept a steady note without his sergeant or supervisor being aware of the situation.⁵⁶⁶ Policemen who have testified before the Crime Commission in private sessions support Mr. Rubinstein's view. At Christmastime, "[i]t is an unwritten law. You don't take

⁵⁶²Weiner, December 5, 1973, N.T. 108.

⁵⁶³*Id.*

⁵⁶⁴Weiner, December 5, 1973, N.T. 109-110.

⁵⁶⁵Scafidi, July 10, 1973, N.T. 140-41.

⁵⁶⁶Rubinstein, January 2, 1974, N.T. 16.

anything without the sergeant getting his."⁵⁶⁷ Likewise, if a policeman would catch a gambling game that did not run regularly, he would notify his sergeant about the game after he received a note. The officer did not see what his sergeant would do, but he knew that the sergeant was "happy" about receiving the information.⁵⁶⁸ In particular, this officer recalled pressure from Sergeant Vincent M. _____ (#499) to develop notes. The conversations were oblique but it was clear to the officer what Sergeant M. _____ (#499) wanted. In the 23rd District, Sergeant M. _____'s (#499) reputation was that "[h]e would steal the teeth out of a dead corpse's mouth if they were gold. . . . He would take what he could."⁵⁶⁹ Supervisors must be aware, as are the men in the district, of ongoing centers of illegal activity. When supervisors do not move to have these eliminated, they must either be involved in the protection of the activity or be incompetent and naive.⁵⁷⁰

INADEQUATE TRAINING

The Department's attitude of unwillingness to confront realistically its corruption problems is reflected in the training provided at the Police Academy.

The integrity of an urban police department depends to a great degree on the attitude toward corruption within the force. Training and continual education are important factors in the motivation and attitudes of individual policemen. From the time a policeman enters the Department until he is first confronted with a temptation to take a note, his original integrity can either be reinforced by police ethics, cognizance of corruption pitfalls, and competence in his police skills, or it can be eroded by peer group pressure and a general attitude of cynicism toward his role. Unrealistic training of a recruit is an important factor in the development of cynicism towards the proper functions of a policeman and is detrimental to the development of professionalism within the Department. If an officer regards time at the Police Academy as a meaningless joke, he is not likely to value any special instruction he may receive on integrity or ethics during his time there. If his training at the Police Academy is inadequate, once he is assigned to the "street" he

⁵⁶⁷Weiner, December 5, 1973, N.Y. 85.

⁵⁶⁸*Id.* at 85-88.

⁵⁶⁹*Id.* at 88-89.

⁵⁷⁰Rubinowitz, N.Y. 28-29.

will be so dependent on experienced officers that he may well be pressured into less than exemplary practices.⁵⁷¹

As one former officer in Philadelphia testified:

Q: . . . In retrospect, do you think that the training that you got in the Police Academy adequately prepared you for the problems you ran into on the street, taking notes?

A: Well, looking at hindsight, no. I don't think they adequately prepared me.

Q: What do you think they should have done?

A: Well, I think it should have been a more serious approach, you know, not only to gratuity, graft, corruption, but to the job itself, you know. See, being a policeman now to me means you have to put yourself into the community to become basically a servant of the community because you work for the people.⁵⁷²

At the Police Academy, there is only one hour of formal training in the integrity area. According to Chief Inspector Richard Bridgeford who is in charge of the Academy, every instructor touches upon the subject of integrity during the course of the training.⁵⁷³ This type of informal integrity training has been the tradition in most police departments and is in accord with the widely held proposition that integrity is a matter of individual conscience.⁵⁷⁴ As far as formal training on integrity

⁵⁷¹E. Droge, *The Patrolman: A Cop's Story*, 32 (1973) [hereinafter cited as Droge].

⁵⁷²Ruff, December 31, 1973, N.T. Ex. 1, p. 3.

⁵⁷³Testimony of Chief Inspector Richard Bridgeford before the Pennsylvania Crime Commission, August 23, 1973, N.T. 61-62 [hereinafter cited as Bridgeford].

⁵⁷⁴The Crime Commission sought to determine if this accepted proposition is, in fact, true. There exists little in police science on the effects that an individual's background and training have on predicting his tolerance for corruption, although there are sociological studies peripheral to this issue. See L. Savitz *Socialization of the Police* 119 (1971) [hereinafter cited as Savitz], a study done during the late 1960's and early 1970's with the cooperation of the Philadelphia Police Department. In order to study the effects that an individual's background and training have on predicting his tolerance for corruption, the Crime Commission utilized the services of a consultant to devise a questionnaire similar to one done by the New York City Rand Institute under a grant from the National Institute of Law Enforcement and Criminal Justice. That massive study used multiple regression analysis to predict "the average performance levels for officers having specified combinations of background characteristics and to identify the background characteristics which make the greatest contribution to explaining variations in performance among officers." When the Crime Commis-

is concerned, Philadelphia ranks considerably below the other major cities in the country. Table 7 below was compiled from information supplied by police departments, and is not intended as a rating of police departments, but rather as a representation of what training provisions are made by these cities.

TABLE 7

City	Hours of Integrity Training	Total Hours of Training
		910
New York	30	880
Los Angeles	4	704
Dallas	4	592
Detroit	4	480
Washington, D.C. ⁵⁷⁵	3.8	720
Chicago	7	640
Houston	2	576
Philadelphia	1	562
Cleveland	1	

In response to the Knapp Commission Report, the New York Police Department has instituted what has generally been considered the most extensive training on integrity in the country. That training is designed to describe corruption hazards as a departmental problem that exists and must be dealt with intelligently and includes group discussions, role-playing situation problems, tape recordings of Knapp Commission hearings of police corruption and six hours of talks by a chaplain.⁵⁷⁶ The New York Department has also printed a corruption control manual for its supervisory personnel which includes a detailed description of common corruption hazards and warning signals.

In contrast to New York, the Philadelphia Police Department spends little time on integrity training, does not deal with actual corruption hazards, and sets no clear guidelines for recruits.

During Crime Commission observation of Academy training at the Temple Center for the Administration of Justice, an instructor directed the class discussion to what happens to a

⁵⁷⁰ sought permission to circulate its questionnaire anonymously among the recruits at the Academy, the office of the Police Commissioner denied the request. See Appendix E.

⁵⁷¹ Washington, D. C. has an innovative training program which allows each recruit to progress at his own speed.

⁵⁷² Letter from Lieutenant Louis Sbrocchi, Assistant Personnel Supervisor, Recruit Training Unit of the New York City Police Department, September 10, 1973.

police officer once he leaves the Academy and goes "on the street." There were discussions of problems of peer pressure and the problem of taking bribes. While there was universal agreement that taking cash from a gambler was wrong, there was considerable controversy over free meals and money from businessmen. The lecturer did a good job of raising the issues; however, there appeared to be general confusion among the recruits about what was permissible under Department regulations.

The Commission found the diverse views of the recruits reflected in the testimony of Chief Inspectors Scafidi and Bridgeford. Chief Inspector Frank Scafidi testified before the Crime Commission that even the smallest gratuity or free food violates Departmental policy.⁵⁷⁷ However, Chief Inspector Bridgeford, who is in charge of training at the Police Academy, testified that in accordance with the City Charter, the Department prohibits an officer from accepting any gratuity or gift, but he admitted that there was an unofficial guideline to be followed in determining what constitutes a gift or gratuity. The unofficial guideline was less straightforward. He explained this as follows:

The Department policy is you don't take anything, but then you get into the area of what is expected in return for anything that a person gives you, whether a cup of coffee or what have you.

We say this is Department Policy. You are not supposed to take any gift or gratuity.

Use as a guideline is something expected in return for this?

They say to the policeman, "I am expecting you to perform or not to perform." Performance or nonperformance, that is the key.

Say, "When in doubt, don't take anything." This is what you try to stress.

Again, being human beings I don't think you will ever stop it. Some people insist they won't put coffee on the bill for a policeman. . . . I don't think it is a bribe in itself if they deduct the coffee from the bill or what have you. If that policeman gets a job to do, I think he will do his job.⁵⁷⁸

⁵⁷⁷ Scafidi, July 10, 1973, N.T. 119, 160.

⁵⁷⁸ Bridgeford, August 23, 1973, N.T. 65-66.

The confusion of the recruits about departmental policy discussed above is understandable when the Commander of the Internal Affairs Bureau and the officer in charge of the Police Academy cannot agree on the proper guideline. Certainly, Department policy regarding bribes and gratuities must be clear if it is to be effective and enforceable. Departmental regulations which are periodically violated or ignored only foster an attitude of disrespect for rules and law in general. One of the major challenges facing the Department today is to develop reasonable, fairly rigid definitions of what constitutes corrupt action. Unless recruits receive this training at the Police Academy, it is ludicrous to expect them to develop these distinctions once they are assigned to a district.

Philadelphia's Police Academy not only devotes little time to integrity training, but what time is devoted does not deal with the actual corruption hazards the officer will face on the job. One Philadelphia police officer expressed it as follows:

Q: . . . Do you think that while you were at the Academy you got a true picture of what life would be like later on the street?

A: No, I don't.

Q: In what respect was it deficient?

A: Well, the recruits were not taught about the vice world on the street. We were given like short pithy statements about your hands being in the cookie jar, but no one went into any great detail to explain to us that we would definitely be approached as police and what we could do to, you know, ward it off.⁵⁷⁹

Chief Inspector Scafidi, at a Crime Commission hearing, was asked for recommendations for improving the integrity of the Department. After indicating that he thought that the integrity training was adequate, he did suggest that ". . . all of the possible pitfalls should be pointed out."⁵⁸⁰ This statement is consistent with the former Philadelphia policeman's complaint that he was not warned about the environment he would face "on the street." To make such an improvement, the Department must

⁵⁷⁹Ruff, December 31, 1973, N.T. 81.
⁵⁸⁰Scafidi, July 10, 1973, N.T. 157.

recognize the potential corruption hazards facing the policeman. He must be told that there are corrupt officers in the Department and what should be done to avoid the pitfalls. Certainly ". . . the traditional homilies about not selling your soul for a bowl of porridge"⁵⁸¹ are not sufficient.

The Department, through its program at Temple University, has had some success with the role-playing-situation-problem technique which utilized professional actors in skits to give real life illustrations. By utilizing this technique in family crisis instructions, recruits become aware of the psychological effects of their own attitudes on others. These techniques can similarly be used to alert recruits to the corruption hazard and to help them understand the seriousness and the magnitude of the problem. The Department should develop more realistic and detailed training in the integrity area. An officer should be prepared for the street situation as it actually exists and the corruption hazards of specific situations which can be made clear through role-playing and group discussion. Of course, no one set of guidelines will cover all possible corrupt practices. However, one goal of corruption training should be to teach police officers to recognize the corruption hazard on their own and to be aware of Departmental policy. Certainly where possible, the Department should establish realistic regulations which can be incorporated into the formal training at the Academy.

UNREALISTIC VICE ENFORCEMENT POLICY

The vice enforcement policy of the Philadelphia Police Department is ineffective as a means of suppressing vice activity; it requires police officers to try to enforce laws which are largely unenforceable. This policy has the practical effect of serving as a shield for the Department leadership against charges of corruption while ironically encouraging improper conduct by forcing officers to rely on perjury and unconstitutional conduct and by exposing them to temptations to take bribes.

The official vice enforcement policy of the Philadelphia Police Department is set forth in its Directive 8, revised May 1, 1967.⁵⁸² This directive is a twelve page order entitled "Vice Reports and Arrest." Only the first paragraph deals strictly with policy, while the remaining portions describe how to prepare

⁵⁸¹City Police 401.

⁵⁸²See Appendix F.

and distribute the many reports required. The policy statement, in its entirety, is as follows:

It is the policy of the department that all police personnel, regardless of rank or assignment, shall take immediate action to apprehend, and/or formally proceed against all persons engaged in any illegal activity, including vice.

At least in theory, the policy for vice enforcement is the same as the policy for enforcement of other criminal laws. The official policy is very general. It does not state what priority should be given to vice enforcement as compared with other police work; it does not suggest or state what enforcement techniques can or should be used; it says nothing about expense money which may be available to pay informants; and it does not even define "vice" or a "vice offense."

At Crime Commission hearings, a number of ranking officers from the Department alluded to Directive 8 as their official criteria for determining vice policy and for effectuating vice enforcement activities. Yet when asked about vice policy in terms of specific enforcement or nonenforcement situations, their answers were ambiguous except in ultimately shifting the burden of decision to the shoulders of the individual officer by his own interpretation of the intent of Directive 8. Thus, the individual officer on the street has no workable guidelines for his exercise of discretion in vice enforcement.

A brief examination of Directive 8 discloses that there are six different reports for vice activity: (1) an immediate report by police officers below the rank of captain to their captain of any vice conditions or suspected vice conditions of which they gain knowledge; (2) a weekly report by commanding officers of all units to the Deputy Commissioner listing all vice arrests made by the units during that week; (3) a confidential semi-annual evaluation of vice conditions in each police district submitted by the district captain to the Commissioner; (4) intelligence reports prepared by commanding officers of districts for each arrest for lottery, poolselling, and bookmaking processed in their district; (5) an intelligence report for each person arrested for loansharking, lottery, poolselling, and bookmaking whether or not formal charges are placed against them to be prepared by police officers for the Organized Crime Unit and the Chief Inspector's Squad; and (6) a semi-annual report by all police

officers below the rank of captain to the Commissioner of vice conditions or suspected vice conditions.

If properly prepared and used, these six reports could provide the Police Department with a tremendous amount of information and intelligence on vice operations. However, several Police Department witnesses testified that vice reports were not evaluated in any way which resulted in the intelligence information being transmitted back to the police officers who actually enforce the vice laws.⁵⁸³ Rather they are routinely compiled and disseminated throughout the Department hierarchy to meet the proper requirements of Directive 8.

The Commission's investigation has revealed that many of these reports are prepared in such a manner that they are almost useless as a law enforcement tool. They may have some utility as a means to protect ranking officers of the Department and to make it appear that something is being done.

The Commission studied some of the vice reports of two districts which were found during the investigation to be high in vice activity. The districts studied were the 17th in South Philadelphia and the 19th in West Philadelphia.⁵⁸⁴ The arrest reports studied were submitted in 1971 and 1972, while the semi-annual vice reports covered 1969 through 1972.

An analysis of the semi-annual reports evaluating vice conditions in the 17th District beginning with the report of May, 1969, and ending with the report of May, 1972 (7 reports), reveals that there was virtually no change in the names or numbers of the people listed on the reports. See Table 8.

A total of only five people were deleted from the list over the three year period studied, while thirteen people were added. Ninety-four people appeared on every report, and a total of only 111 people appeared on all seven of the reports. Thus, the 17th District captain indicated in his evaluation that there was virtually no change in vice activity in his district. Virtually all of these people were listed as being involved in gambling offenses, and none was listed as involved in narcotics.

In 1971, according to the weekly reports of vice arrests made by district personnel, a total of 813 vice arrests were made.⁵⁸⁵ Of

⁵⁸³Testimony of Captain Elwood R. Korn before the Pennsylvania Crime Commission, October 10, 1973, N.T. 19, 23-24, 29-32 [hereinafter cited as Korn]; Orbell, August 17, 1973, N.T. 4-5, 16-18.

⁵⁸⁴These studies are based on data supplied by the Police Department.

⁵⁸⁵These figures do not include arrests made by divisional vice squads (inspector's men) or Chief Inspector's Squad (a City-wide vice enforcement unit).

TABLE 8
Semi-Annual Vice Reports in the 17th Police District

Report Number	Report Date	Number of People Listed on Report
1	5/1/69	99
5 people added		
2	10/30/69	104
3 persons added		
3	5/1/70	107
3 persons added, 1 person deleted		
4	11/1/70	109
1 person deleted		
5	4/29/71	108
1 person added, 1 person deleted		
6	11/2/71	108
1 person added, 2 persons deleted		
7	5/4/72	107

these, 270 (33%) involved gambling, while the remaining 543 (67%) were non-gambling offenses, primarily narcotics. Of the 270 gambling arrests, only 18 were of people listed on the semi-annual vice report—about 7%. Thus 93% of the gambling arrests were of persons who were not listed on any of the semi-annual vice reports.

The results for 1972 are similar. A total of 479 vice arrests were made, 208 of which (43%) were made for gambling. Only 7 of the gambling arrests (3%) were of people listed on the semi-annual vice reports. The 7 arrests were made against six individuals. Thus, 97% of the gambling arrests were made against people not listed on the semi-annual vice reports. A comparison between those listed on the semi-annual vice reports and all arrests would, of course, be more striking because the bulk of non-gambling arrests are for narcotics (which are not listed at all).

For the two year period, only 12 different persons arrested were also listed on the semi-annual vice reports. They were arrested a total of 25 times. Five of these 12 were over 70 years old and were arrested 14 times.

Directive 8 requires that the weekly report of vice arrests indicate when an arrest is a "major arrest" or is made against a "notorious vice character" or "problem club." No arrests in the 17th District were so marked.

In 1971, of the 270 gambling arrests made in the 17th District, 199 (74%) were made by uniformed police officers and 71 (26%) were made by plainclothesmen. In 1972, uniformed police officers made 160 (77%) of the 208 arrests while plainclothesmen made 48 (23%) arrests.

Other units concerned with vice enforcement operate in the 17th District. The plainclothesmen assigned to divisional headquarters (inspector's men) made 36 arrests for gambling offenses in the 17th District in 1971 and 77 gambling arrests in the 17th District in 1972.

The other unit operating in the 17th District with respect to gambling offenses, the Chief Inspector's Squad (CIS), made 28 gambling arrests during 1971 and 19 gambling arrests during 1972.

Combining the figures for CIS, inspector's men, captain's men, and uniformed police officers, there were 334 gambling arrests in the 17th District in 1971. Only 36 of those 334 arrests, or approximately 11%, were made against people listed on the semi-annual vice reports; these arrests were of 19 individuals, or approximately 17% of those listed on the semi-annual vice reports. In 1972, these units made a total of 304 gambling arrests in the 17th District. Eighteen of these arrests, or approximately 6%, were of persons listed on the semi-annual vice reports; and the 18 arrests were of 12 individuals, or approximately 11% of those listed on the semi-annual vice reports.

The reports do not appear to be used effectively by any unit as a guide to who should be arrested; and as an evaluation of the vice conditions in the 17th District, they are virtually useless, as can readily be seen from the arrest statistics.

Similarly, an analysis of the semi-annual reports of five conditions in the 19th District beginning with the report of May 1969, and ending with the report of May 1972 (7 reports), reveals that there was virtually no change in the people listed on those reports. See Table 9

As can be seen from Table 9, few people were added or deleted, although more than in the 17th District. A total of 22 different people were deleted from the list over the three year period studied, while 42 different people were added. Seventy-four people appeared on every report, and a total of only 133 people appeared on all seven of the reports. Virtually all of these people were listed as being involved in gambling offenses, and none were listed as involved in narcotics. This is in

sharp contrast to the arrests which were actually made, as the vast majority of the non-gambling arrests were for narcotics offenses.

TABLE 9
Semi-Annual Vice Reports in the 19th Police District

Report Number	Report Date	Number of People Listed on Report
1	4/24/69	91
20 people added, 12 people deleted	10/23/69	99
2		
1 person added, 1 person deleted	4/20/70	99
3		
0 persons added, 0 persons deleted	10/26/70	99
4		
18 people added, 9 people deleted	5/4/71	108
5		
0 people added, 0 people deleted	11/1/71	108
6		
3 people added	5/1/72	111
7		

In 1971, according to the weekly reports of vice arrests submitted by the district, a total of 1,147 vice arrests were made.⁵⁸⁶ Five hundred seventy-four (50%) of these involved gambling; the remaining 573 arrests were non-gambling offenses, overwhelmingly for narcotics offenses. Of the 574 gambling arrests, only 64 were of people listed on any of the seven semi-annual vice reports—approximately 11%. This means that 89% of the gambling arrests were of people who were not listed on any of the semi-annual vice reports. These 64 arrests were of 32 individuals, or approximately 24% of the individuals listed on any of the semi-annual vice reports.

The results for 1972 are similar, but not nearly as many vice arrests were made. A total of 503 vice arrests were made, 253 (50%) of which were for gambling. Only 19 (8%) of the 253 gambling arrests were of people listed on any of the seven semi-annual vice reports. Thus, 92% of the arrests were made against people not listed on any of the semi-annual vice reports. The 19 arrests were made against 13 individuals, or 10% of the

⁵⁸⁶These figures do not include arrests made by the divisional plainclothesmen or the Chief Inspector's Squad.

133 people on any of the semi-annual vice reports for the three years.

Directive 8 requires that the weekly report of vice arrests indicate whenever an arrest is a "major arrest" or is made against a "notorious vice character" or "problem club." Eighteen (16%) individuals out of 111 were so marked at one time or another, accounting for 38 arrests during both 1971 and 1972.

In 1971, 520 (91%) of the 574 gambling arrests made by 19th District personnel were made by uniformed police officers; 54 (9%) arrests were made by plainclothesmen. In 1972, uniformed police officers made 191 (75%) of the 253 arrests, while plainclothesmen made 62 (25%) arrests.

Of the other units concerned with vice enforcement in the 19th District, the inspector's men made 65 arrests for gambling offenses in 1971. During 1972, they made 66 gambling arrests in the 19th District, one more than the previous year. The Chief Inspector's Squad made 27 gambling arrests in the 19th District in 1971, and during 1972, CIS made 31 gambling arrests in the 19th District, four more than the previous year.

Combining the figures for CIS, inspector's men, captain's men, and uniformed police officers, there were 666 gambling arrests in the 19th District in 1971. Only 90 of those 666 arrests, approximately 14%, were made against people listed on the semi-annual vice reports, and they were made against 40 individuals, or approximately 30% of those listed on any of the semi-annual vice reports. In 1972, these units made a total of 350 gambling arrests in the 19th District. Fifty-four of those arrests or approximately 15% were of persons listed on the semi-annual vice reports, and the 54 arrests were of 29 individuals, or approximately 22% of those listed on any of the semi-annual vice reports.

From examining these reports, it is evident that the Department does not often arrest those people whom it identifies as being known vice characters. For instance, in 1971, in the 17th Police District, only 8 (7%) of the over 100 people listed as known vice figures on any semi-annual vice report were arrested by units under the command of the district captain, and a total of only 19 people listed on the semi-annual vice reports were arrested by all units for gambling. The figures are even worse in 1972. In 1972, only 6 (5%) of the over 100 people listed on the semi-annual vice report were arrested by district personnel, and only 12 by all units.

Often, however, if an outside unit, such as CIS makes a vice arrest in another unit's territory, the local unit will immediately arrest the same individual. Many policemen and gamblers interviewed by the Commission reported this phenomenon and explained the follow-up arrests were necessary to avoid embarrassment within the Department. For instance, in 1971, in the 24th Police District, Raymond Haas was arrested by the Chief Inspector's Squad during the week of June 21, 1971. He was then arrested by men from the 24th District on July 12, 1971, and by the East Division inspector's men during the week of July 19, 1971. Similarly Fred Maier was arrested by the Chief Inspector's Squad during the week of June 28, 1971; the East Division inspector's men arrested him during the week of July 12, 1971. Albert Trombetta had a similar experience. He was arrested by the Chief Inspector's Squad during the week of November 1, 1971, and by the district men during the week of November 8, 1971. In 1972, Marlen McMaster was arrested by the Chief Inspector's Squad during the week of July 3, 1972, and by the 24th District men during the week of July 22, 1972. In the 17th Police District, James Lambright, was arrested by the Chief Inspector's Squad during the week of May 15, 1972. He was then arrested by men from the 17th District during the week of May 22, 1972, and by the inspector's men during the week of May 29, 1972.

A gambler told the Commission that if an outside enforcement unit arrested him, he would expect to be raided and arrested by the district and division plainclothesmen to show vice enforcement activity on their part.⁵⁸⁷ This competition between units does not result in effective vice enforcement. The only explanation for the technique seems to be that it prevents intradepartmental embarrassment.

Police officers "know that if they do not make arrests, there will always be someone—a local group, a state politician, possibly a federal agency—to hint at corruption and immorality in the police department. . . ."⁵⁸⁸ Former Police Officer Felix Ruff also confirmed that this was the basis of the Police Department policy. He said follow up raids are made:

Simply because you were supposed to have your situation totally under control and the operations are not

⁵⁸⁷Interview with Anthony Faschetti, March 9, 1973.
⁵⁸⁸ *City Police* 384.

supposed to be exposed enough for an outside unit to come in. . .⁵⁸⁹

This appearance of vice enforcement which is fostered by competition between the units is important to the Police Department. The reason is simple: it helps keep the public from understanding the intricacies of the payoff system established by gamblers and police. That system forms a virtual partnership between the operators of illegal gambling businesses and the police. The police are paid for protection from harassment and, in general, arrest. However, the arrangement allows police officers to arrest a gambler when a pinch is needed either for statistics or because an outside unit has made an arrest. It is well understood that the police officers' testimony concerning the arrests or the quantity of gambling work seized will be such that the gambler can be assured that the case will be thrown out or only a small fine imposed. One numbers banker, whose identity the Commission agreed to keep confidential, told Commission agents in a tape recorded interview that the police would tell him when they wanted an arrest and make arrangements where to pick up the person to be arrested. The organization would provide a person to be arrested with a small amount of gambling work in his possession, and provide him with a lawyer if that were necessary.

While the official intent of encouraging competition between units is to maintain the integrity of the various police units involved in vice enforcement, its actual effect is clearly divergent. Not only is vice information not shared among members of the same unit,⁵⁹⁰ but also information is not exchanged among units. The vice reports have little or no relation to actual vice problems. The report may assist the Department in not facing its corruption problem, but it certainly has no bearing on vice enforcement.

Although officially denied, the Commission found that there are vice arrest quotas in the Philadelphia Police Department. Chief Inspector Frank Scafidi stated at a Commission hearing that there were no vice quotas as such but did admit that vice arrests were a performance evaluation factor.⁵⁹¹ Policemen who have testified before the Commission admit that there is pres-

⁵⁸⁹Ruff, December 31, 1973, N.T. Ex. 2, p. 18.

⁵⁹⁰*City Police* 62.

⁵⁹¹Scafidi, July 10, 1973, N.T. 110-113.

sure to make arrests and that the pressure is for each squad to make at least one arrest per week.⁵⁹²

A former policeman testified flatly that there were arrest quotas for vice offenses. He said:

A: Well, it would be according to the demand of the district or the squad. If you were low statistically on liquor pinches as a uniform squad and you got it, then the sergeant would give time off because he would iterate at roll call what he needed and you would know what to look for when you went out.

Q: In other words, did you interpret this as a quota system?

A: Yes, I did.

Q: He told you at roll call if you wanted a certain number of—a certain kind of pinches.

A: Well, at roll call, the sergeant, or either sometimes it would be the inspector or the captain, would come in for the roll call or the lieutenant and tell us, "Look, men, two squad from the 23rd district is down on 601. Last year at this time two squad made 123 pinches. According to our statistics now we only got 98; we need 24 pinches. I depend on two squad to get, you know, the majority of pinches for me so, men, I'll tell you this is what I'm looking for."⁵⁹³

He also detailed the types of vice arrests for which the quotas were imposed:

Q: What kind of arrests did you have quotas on?

A: 601, which would be numbers, 607, which would be horses, 501, which would be prostitution, ah, liquor, I think it was 412, the code number for liquor, I'm not sure, but liquor.

Q: But nothing on narcotics?

A: No, no interest was on narcotics.⁵⁹⁴

⁵⁹²Testimony of Officer John P. Gallo, Jr., before the Pennsylvania Crime Commission, November 14, 1973, N.T. 46-47.

⁵⁹³Ruff, December 31, 1973, N.T. Ex. 1, pp. 27-28.

⁵⁹⁴Ruff, December 31, 1973, N.T. Ex. 2, p. 30. The numbers 601, 607, 501 and 412 are Uniform Crime Report classification numbers.

Jonathan Rubinstein who worked in the Police Department for two years, also stated flatly that there are quotas for vice arrests:

Each platoon has its own quota. . . . Although no distinctions are formally made in the kinds of vice arrests computed, the most important are the gambling. An increase in the number of narcotics arrests, for example, is not an acceptable substitute for the required volume of number pinches.⁵⁹⁵

A police officer's assignments and advancement in the Department frequently depends in large measure upon the vice enforcement activity he creates for his squad. Mr. Rubinstein recounted the following incident:

There is absolutely no doubt in the mind of district patrolman about how serious the vice arrests, particularly for gambling, are regarded by his superiors. He may not know what other value they have, since the more experience he acquired in making vice arrests, the clearer it becomes to him that gambling is not deterred by them; he does understand that the Department does want a lot of them.

During one nightwork roll call, the Sergeant requested two men to come forward to receive letters of commendation from the department for their part in the arrests of some men who were burglarizing a warehouse. He congratulated them warmly, and as they returned to their place in line, he continued, grinning, "Of course, none of this police work counts for much. Only vice pinches count." The men laughed in appreciation and wondered whether they were behind in their obligations.⁵⁹⁶

Police officers take their obligation to produce for the vice quota very seriously. Indeed, they take it so seriously that whenever there is an opportunity, police officers will "create a pinch."

. . . When policemen from a special unit bring their prisoners into the district for processing, the opera-

⁵⁹⁵City Police 51.

⁵⁹⁶*Id.* at 52.

tions crew must handle their paperwork and report the arr. . . . If any kind of vice violation is involved, the men are sounded out about the possibility of allowing some of the district men to go on the pinch. This is never done with the Captain's men or a downtown squad since they are in direct competition with the district and they are not supposed to know anything about each others work. But patrolmen who work in crime-suppression units are often willing to trade a narcotics arrest, for example, with a district man who had made a "gun pinch," or failing anything worthy of trade, they may allow the corporal to add a name along with their own as a way of encouraging good relations with district personnel. Once there is agreement, the corporal simply writes in the name of one or two men from the platoon who work the end where the arrest occurred; they are then formally credited with an arrest and their platoon gets a vice pinch. Men do not appear in court or participate in any way in a legal process initiated by the arrest. The corporal's action is entirely an internal matter. . . .⁵⁹⁷

The quota requirements are for arrests; there is no pressure for vice convictions:

The district policeman is well aware of the department's "official" policy toward vice, but he also knows that its purpose certainly is not the eradication of gambling or illegal drinking. All vice activity is computed on the basis of arrests, a policy that is not designed to encourage men to make quality arrests.⁵⁹⁸

Therefore, a corrupt officer can arrest a member of an organization paying him for protection as long as the arrest does not result in a conviction. The conviction statistics, which show conviction rates of less than 8% for both 1971 and 1972 for gambling offenses,⁵⁹⁹ support the testimony received by the Commission that this "accommodation" arrest procedure occurs repeatedly.

⁵⁹⁷*Id.* at 51.

⁵⁹⁸*Id.* at 377.

⁵⁹⁹Compiled from the 1972 Annual Report of the Philadelphia Common Pleas and Municipal Courts.

In this manner, police officers can have their cake and eat it too, since their performance is measured only by arrests and not by convictions. Former Police Officer Felix Ruff testified about such arrests when he and other police were being paid off:

Q: Why would you hit them if you're letting them operate?

A: Why would they be hit? Well, various reasons. At times, different times, it was the policy for plainclothesmen to put vice figures on the books simply to—for statistics sake and for arrest sake. For example, if you have—if my career was just spotted for locking up the little man then I wasn't a very good plainclothesman and this would be a substantial reason for sending me back to uniform. And you would occasionally have to put these figures on the books.

Q: Did they know that you had to do that?

A: Yes, they did. Usually you would make arrangements with them that whenever—maybe we would get word from downtown that somebody's operation was just, you know, too forward and there would have to be arrests made. We would call them up or either stop by and see them and let them know that they would have to take a bust and they would inform us which time was most convenient and we would pick them up and have the paperwork ready.

Q: Who downtown would give you the word?

A: Well, we'd get the word through either the inspector, Captain [K. _____ (#56)] or some plainclothesmen.

Q: You mean the order would come down information received that there was a wide open operation and you'd have to do something about it?

A: Yeah, that's correct.

Q: It wouldn't be through the grapevine; it would be a formal order?

A: It would definitely be a formal order.⁶⁰⁰

⁶⁰⁰Ruff, December 5, 1973, N.T. Ex. 2, p. 16.

When asked if such arrests led to any convictions, the officer responded:

A: Usually no, because they were out within the hour and then when the case would come to court it would be thrown out. Insufficient evidence or some other reason similar to that.

Q: This would be done purposely so that it would be discharged?

A: Basically.

Q: And what was the idea of putting a vice figure on the books besides increase your arrest record and give your arrest record credence?

A: Well, it would also justify our purpose in plainclothes, for being in plainclothes. The reason that we were there was not only to hit the little man but the big guy as well.

Q: Was there any other reason why you'd arrest people that were willing to payoff, besides the usual arrangements?

A: To also show or give us an argument if we're accused, not physically accused, but accused through accusation of taking money from a particular vice figure. You could say, well, we locked him up on such and such a date at such and such a time.

Q: You were protecting yourself?

A: Right.⁶⁰¹

The Department does not support its official vice policy with substantial financial resources. In 1973, the Police Department had \$31,000 for all undercover and vice enforcement expenses.⁶⁰² All money for narcotics purchases comes out of this fund. Many witnesses appeared before the Crime Commission and testified that the amount of money available to plainclothesmen working on vice was inadequate.⁶⁰³ For instance, one dis-

⁶⁰¹*Id.* at 17.

⁶⁰²Orbell, August 17, 1973, N.T. 130-131.

⁶⁰³E.g., testimony of Captain Guy Gordon Kates, before the Pennsylvania Crime Commission, December 17, 1971, N.T. 125; testimony of Captain Francis O'Shea

trict captain testified that his men received an average of only \$20 per month for expenses and that they had to spend a great deal more than that in order to do their job properly.⁶⁰⁴ Felix Ruff, a former plainclothesman, testified concerning the payments he made to informants and the amount of money available for that purpose from the Police Department:

Q: . . . How much money did you pay informants?

A: It varied.

Q: How did it vary?

A: All right, it would vary with the informant simply because of the information and the inquiry and the information he was giving me.

Q: What was the range?

A: Sometimes it would be 25, sometimes 50, in some cases if the pinch was worth it, 70, \$75.

Q: How did, how were the payments made? Did you put this money out yourself or did

A: I put it out myself with the money that I received for my regular notes.

Q: All right, what did the city, what did the police department give you for a month of expenses?

A: \$12. It varied from—well, our squad was one of the healthier squads in the divisions in the city. We got between 9 and 15. It varied, you know, from month to month.

Q: Well, could it be reasonably expected that you could maintain informants on this kind of informant's allowance?

A: No, it could not be reasonably expected. For the work we were doing, number one, it was totally impossible.

Q: In other words, aside from going back, you had to

before the Pennsylvania Crime Commission, December 17, 1971, N.T. 83; testimony of Captain Edwin Boehm before the Pennsylvania Crime Commission, December 17, 1971, N.T. 91.

⁶⁰⁴Testimony of Captain Martin J. McNish before the Pennsylvania Crime Commission, February 17, 1972, N.T. 16-17.

go in bars and drink sometimes and this wouldn't pay for your liquor bill on certain evenings?

A: No, it would not pay for our liquor bills.

Q: But you got what, anywhere from \$9 to \$15 a month to sustain vice investigations, is that correct?

A: That is definitely correct.

Q: And you consider this unrealistic?

A: Definitely unrealistic because there are other things that must also be taken into consideration.⁶⁰⁵

Jonathan Rubinstein also testified that informants had to be paid in excess of the Departmental allowance:

Q: Concerning the cash, does that come from departmental funds or from personal funds?

A: Not my knowledge. There is departmental—there is buy money in every Police Department. Detectives have, in various units, have it. As far as I know, policemen receive no money whatsoever for information. They are simply buying it out of their own pockets. Where they are getting the money is another matter.

Q: That was the next question. Those that buy information out of their own pockets, are there generally officers who are taking notes?

A: Oh, I would think so. That's my impression. Always. That's my impression.⁶⁰⁶

An even more serious problem was paying informants with heroin:

Q: What did you average on an informant?

A: Well, it varied with the informant. Some informants I had were junkies and they required heroin.

Q: You mean you paid informants off in drugs?

A: Any way that I could secure my information.

Q: Was that a common practice with other members of your squad?

⁶⁰⁵Ruff, December 31, 1973, N.T. Ex. 2, p. 26.

⁶⁰⁶Rubinstein, N.T. 148-149.

A: Other members of my squad and plainclothesmen in the City of Philadelphia.

Q: How do you know that?

A: Simply because I've worked, as uniform I worked in plainclothes units. Some of my informants in uniform were also informants of plainclothesmen.⁶⁰⁷

As to the source of those drugs, the officer testified:

Q: Well, when you or other members of the squad made arrests of people for possession and sale of narcotics, did anybody ever keep any of the drugs?

A: Sure. The reason that we would keep the drugs was because it was, number one, one way to pay some of our informants. Usually the information that we would receive on the drugs, we just couldn't—see, it's a very closed operation in narcotics. If we received information of police dealings in a large amount of drugs, out of the number of whatever, the quantity of whatever we would get in the arrest, we would pick out a certain amount for the information, ah, the informant that gave us the pinch.

Q: How much would you take out?

A: It would depend. Sometimes if we, say we get ten bundles of skag or heroin, we might give the informant two or three bundles. That way the informant deals himself off some heroin. And, he makes money and uses the rest for himself.⁶⁰⁸

Not only is little money available to support the Department's vice policy, but good undercover vehicles are essentially unavailable, and plainclothesmen are expected to use their own private vehicles for which they receive a substantial gas allowance.⁶⁰⁹

With the unrealistic pressure for vice arrests and little effective support for vice enforcement, it is not surprising that police officers resort to illegal methods to obtain their "vice pinches." The need for illegal activities in order to produce the vice quota is, according to Rubinstein, recognized by supervisors:

⁶⁰⁷Ruff, December 31, 1973, N.T. Ex. 2, p. 26.

⁶⁰⁸*Id.* at 31.

⁶⁰⁹Korn, October 10, 1973, N.T. 40-41. See also testimony of Officer Leonard Indelicato before the Pennsylvania Crime Commission, November 9, 1973, N.T. 8, 21-22.

The constant demand for vice arrests and the violations of the law that men must practice to get good arrests makes it nearly impossible for the sergeant to prevent some of his men from indulging in practices that are blatantly criminal.⁶¹⁰

In fact, the importance of meeting the quota is such that, according to former police officers and impartial observers, police often engage in illegal practices in order to meet the quota.

... The policeman recognized that he indulges in shameful and illegal practices to produce vice activity, pressuring people for information by threatening them with arrest on false charges, illegally searching persons for "gambling work;" but there is no public outcry. The patrolman knows only that he must get vice activity, and nobody seems to care a great deal about how he gets it. . .⁶¹¹

In order to meet quotas, police officers commonly use illegal acts such as planting evidence or farming, as described above in the perjury section of this Report. Planting of evidence is often followed by perjury when an officer testifies in court about what he allegedly found during a search. This conduct was far from unusual:

Q: Now, do you say that [perjury] was a common practice in the department?

A: A common practice.

Q: You ran across it in the 23rd District when you were in it?

A: Sure. I wouldn't go for it.

Q: You ran across it plainclothes in northeast division?

A: That's correct. My whole police career I ran across it.⁶¹²

Rubinstein agrees. He flatly states:

⁶¹⁰City Police 387-388.

⁶¹¹City Police 265

⁶¹²Ruff, December 31, 1973, N.T. Ex. 2, p. 39.

There are policemen who are not only willing to search suspects illegally for evidence in order to make an arrest or to obtain information but are also willing to manufacture evidence in order to establish the basis for an arrest. "Farming," the planting of evidence, is practiced throughout the department.⁶¹³

Besides farming, other illegal activities, such as the illegal searches referred to above by Rubinstein, are used. Former officer Felix Ruff testified under oath that it was common practice for false warrants to be taken out by members of the Department.⁶¹⁴

Rubinstein confirms that such practices are used:

Everybody involved—the policeman, his sergeant and lieutenant, the captain who approves the warrant application, the assistant district attorney who approves it, and the judge who grants him the warrant—knows that the policeman is perjuring himself. The patrolman has no choice, and if the department does not want this to happen, it must select a different strategy for enforcing vice laws.⁶¹⁵

In fact, Rubinstein believes that the pressures for vice enforcement are too great for a police officer to resist illegal activities.

The honest patrolman who is determined to advance in his platoon cannot long resist involvement in these practices. They offer him the only substantial chance to make the arrests that bring him the credit he seeks. . . He sees that illegal searches and fake warrants are the only way to make vice arrests.⁶¹⁶

With all the resulting problems, one might wonder why the Police Department imposes quotas at all and then denies their existence when questioned. The answer, according to Mr. Rubinstein, is fairly simple. If there were not quotas, most police officers would not make any vice, and particularly gambling, arrests. He testified that there was almost complete cynicism in the Police Department with respect to vice enforcement. Thus, without quotas there would be no enforcement of the vice laws; corrupt police officers would be content merely to collect their payments from those who run illegal vice

⁶¹³City Police 388.

⁶¹⁴See text accompanying note 526 *supra*.

⁶¹⁵City Police 385.

⁶¹⁶*Id.* at 391.

activities.⁶¹⁷ If there were no quotas, the fact that many police officers are now receiving those same payments would become obvious to the public. At the moment, corruption is somewhat hidden from the public by the large number of vice arrests. Police Department officials seem to be aware of such a public reaction. Chief Inspector Frank A. Scafidi expressed the fear that ". . . if there is a lack of vice activity, it might be an indication of laxity or possible corruption. . ."⁶¹⁸ In another respect the existence of quotas for vice activity is not unknown by the perpetrators of vice crime, giving them extra added incentive to attempt to coerce an officer to cooperate, despite the cost, in order to protect and maintain their operation.

The Commission believes that the Department should adopt a realistic vice enforcement policy. The current policy maximizes opportunities for corruption in the Department. If the Department is to insist that an effort be made to enforce the vice laws, necessary resources and proper supervision must be committed to the project. More importantly, the Commission recommends that legislative changes be made in the vice area to remove police from the traditional areas of corruption. As former New York City Police Commissioner Patrick V. Murphy has said: "By charging our police with the responsibility to enforce the unenforceable, we subject them to disrespect and corruptive influences, and we provide the organized criminal syndicate with illicit industries upon which they thrive."⁶¹⁹ Pressure for vice enforcement breeds corruption because individuals are exposed to many opportunities for graft and are confronted with enforcing laws that are designed to limit the supply of goods and service demanded by the public. From the point of view of dealing with integrity problems, a combined program of administrative regulations and criminal sanctions should replace the current vice laws.⁶²⁰ Simply legalizing certain conduct in the vice area will not answer society's problems. There must be an effort to utilize prohibitions and regulations to meet the societal dangers, taking into account the costs and collateral consequences of intervention by law enforcement officials. Any debate on the determination of what should be covered by the criminal law should consider the costs of enforcement. Many

⁶¹⁷Rubinstein, N.T. 51, 86-87.

⁶¹⁸Scafidi, July 10, 1973, N.T. 112.

⁶¹⁹Quoted in Morris, *Philadelphia Inquirer*, April 1, 1973, at H-1.

⁶²⁰N. Morris and G. Hawkins, *The Honest Politician's Guide to Crime Control* 1-6 (1970).

aspects of human behavior could be regulated by fear of criminal sanction, but the material and social cost of successful enforcement may far outweigh any benefit gained through the action.

The criminal law cannot successfully enforce a moral code to which society is not willing to subscribe; drunkenness, gambling, and the sexual relations of consenting adults, cannot be successfully prohibited by the criminal law. Large regiments of the public does not consider such conduct criminal. Being habitually intoxicated is symptom of illness, not criminality. Gamblers are not outcasts and making a bet is not morally decried. To suggest that police enforcement of vice laws can alter ideals, behavior or attitudes in these areas is naive.

Vice cases yearly account for more than half of all arrests and the time spent on investigations of vice crimes is substantial. The question is should the dollar allocated for law enforcement be spent investigating and preventing serious crimes or on time-consuming and debasing investigations in the vice area.

Societal Pressures: "A Policeman's Lot"

Other important factors which encourage systematic corruption are the various societal and peer group pressures. It is difficult to specify or isolate all the various pressures which confront an individual policeman on a daily basis. A number of the more apparent pressures are discussed below.

Most police recruits are not dishonest when they join the Department. Although there are recruits who even at the Academy quickly indicate to all that they will be "bandits,"⁶²¹ there is substantial evidence that the vast majority of policemen tend to be far less extortionists and far more victims of a pervasive system of graft. As was said in New York City, "There were thousands of cops who wanted to be honest, and the system did not let them."⁶²² In Philadelphia, the rookie policeman is immediately introduced to the system of "taking." There is an attitude throughout the Department that a policeman has a peculiar right entitling him to a special "break."

. . . [H]e first learns where he can go to have lunch, where he eats; where he could eat for nothing or eat for half price. . . .

* * * * *

⁶²¹Rubinstein, N.T. 37. Mr. Rubinstein testified that when he went through the Police Academy, fellow students and instructors quickly realized that certain members of the class would be "bandits" as soon as they were assigned to a street unit.

⁶²²P. Maas, *Serpico* 188 (1973) [hereinafter cited as Maas].

. . . It's the first thing a rookie is told. You don't wait—someone comes into a district, you don't wait, you know, you have to eat so you go to eat here, . . . there. And a couple days later you get your uniform cleaned here. That's not anything. That's just a service that is rendered and not necessarily in exchange for anything. . . .

* * * * *

. . . They learn where they can get their car fixed quickly. Very often policemen would get into minor accidents with the car, police car, and they have a garage where they go and get it fixed right away. . . . They get their car fixed and it's just an exchange. For example, garages park cars illegally on the streets and the police can give them summonses, all the time. But they don't.⁶²³

This idea of getting a break leads from minor indiscretions to out-and-out shakedowns. The step from first getting a break on food or merchandise to that of a shakedown can be small and almost unnoticed.

Often, after being softened up by special breaks, a police officer is confronted with the "safe note" or "clean note."⁶²⁴ This is no more than what might be considered in the business community as tips or monetary payments. It may take the form of cash payments to police for providing extra services to business establishments, or Christmas or vacation bonuses by well meaning merchants who want to be sure of an officer's attention. When the young police officer is not trained at the Academy to appreciate the hazards and pitfalls of the safe note, it is very easy to move from the free meal to payoffs from gamblers and then payoffs from drug dealers.⁶²⁵ This is especially true when a police officer becomes dependent on the extra income.

⁶²³ Rubinstein, N.T. 38, 155-156, 39.

⁶²⁴ In Philadelphia, police use the term "safe note" to refer to a ". . . note where you don't specifically permit anything illegal going on; this is just a service to someone." Weiner, December 5, 1973, N.T. 59. In contradistinction, the term "dirty note" is used to describe the situation where the police officer doesn't enforce the law; as described by a Philadelphia policeman, ". . . the dirty note is the dangerous one. You know, that's the one where you don't go for two dollars, you go for five because you putting your job on the line. So you put three more dollars on and that's for your job. This was the difference, where you actually closed an eye to the operation and didn't take any enforcement, this is the dirty note." Weiner, December 5, 1973, N.T. 61.

⁶²⁵ Droge 15.

A police officer soon comes to see special breaks and safe notes as a normal reward for police work; he relies on the extra money. As one police officer testified before the Commission, at first, he felt good that people showed their appreciation by giving police special prices. However, shortly, he realized that when a merchant did not give him a break, he felt "animosity" towards him.⁶²⁶ This led him to feel as if he were not getting his share of things and led him to look for assignments which would produce free meals or extra income. He found himself beginning to pressure merchants in his sector to become more generous. This can be done in a number of ways. He might harass merchants with citations for violations of the law that were not normally enforced. To the merchant, this situation becomes little less than extortion. The police officer might attempt to rationalize his action as one which allows him to participate equally in the rewards which he may see as incidental to police work.

In short, the habit and attitude he develops lead him from the clean to the dirty note. As was expressed by a Philadelphia police officer⁶²⁷ in sworn testimony:

The minute you take something, safe note, clean note, the free cup of coffee, this is the start of your deterioration. Because this, in your mind, the guy that gave you that free cup of coffee or the guy that gave you a pack of cigarets, small as it is, you associate him as a friend and anybody that doesn't do it to you, give you something, is an enemy. And once you start all of a sudden your mind is slanted, you know, you are getting the wrong outlook on this. And from the time you take that first free cup of coffee, it's just a constant cycle that happens, unfortunately, to most policemen. And that's the way they feel you out first. They feel you out first when you take a free meal. Right, the kid will take a free meal. Will he take that two dollars from the Pantry Pride? Well, he'll take a couple bucks. Suddenly you start noticing vice activity and start questioning about it. And now it's either push or shove. They got to take their chance on you and next thing you know you are made aware the fact that if you don't take this little note that's coming down, you working the

⁶²⁶ Weiner, December 5, 1973, N.T. 30-31.

⁶²⁷ See Scaffidi, July 10, 1973, N.T. 118-120, where he agrees with Officer Weiner's description of the problem.

sector, you going to get blamed for it anyhow. It's there, you may as well take it.

* * * * *

It's there if you want it. If you don't take it and try to remain good and honest, you just going to be an out-cast, going to be the black sheep. So in order to be accepted, you start taking a little money and next thing it's like a snowball rolling down the hill and where does it stop.⁶²⁸

One of the traditional pressures on police officers to engage in corrupt activity has been low police salaries. Today that is not true. In Philadelphia, the starting salary for policemen at \$11,441 is certainly adequate to attract high quality personnel.⁶²⁹ This salary will rise \$2,000 by 1975.

Of course, once a police officer becomes dependent on the extra income, it is very difficult to do without it. However, not all policemen who are "on the take" become dependent on the income. The policeman who takes merely his share, as distinguished from the more greedy who actively seek out opportunities for notes, usually uses his notes for small purchases rather than major changes in his style and mode of living. This probably happens because the amounts of money available through such notes are not large for the policeman that merely goes along with the system. The more serious situation occurs where the policeman utilizes his notes to change his standard and style of living. He and his family may become dependent on the extra income for their normal expenses. If his circle of friends within the Department are aggressive "money men," the step from having a little extra spending money to having a need for larger monthly income for a higher style of living is easy to make.⁶³⁰ With dependence on extra income, policemen must continually look for ways to develop "notes." If such an officer is transferred from a district where there are many clean notes and gambling payoffs available to an area of the City with, for example, more narcotics notes and fewer notes from the more traditional sources, he may quickly find that his dependence on the extra income makes the money from narcotics dealers more acceptable to him.

These situations, of course, vary greatly from individual to individual, and it is difficult to generalize on the basis of the

⁶²⁸Weiner, December 5, 1973, N.T. 151-152.

⁶²⁹This is further supplemented by generous benefits such as sick time, insurance, pensions, overtime, and retirement provisions. See Chapter III *supra* at 63-64.

⁶³⁰Weiner, December 5, 1973, N.T. 46-56.

limited data available. However, there is sufficient factual data available from the Commission's study in Philadelphia and former studies of other urban police departments to warrant the conclusion that the current attitude toward and habit of taking even safe notes or "police prices" creates a situation demanding immediate action by the Police Department. It is no longer sufficient to rationalize this conduct on the basis of low salaries and the dangerousness of the job.

There is no one single way in which an officer begins to take dirty notes. One thing that seems fairly clear is that it usually takes a period of several months before a rookie or a new officer in a district is taken into the confidence of the other men and participates in the systematic receipt of money. For example, Officer Weiner testified that, after being subjected to breaks and safe notes and not reacting strongly to slight hints of improper conduct, he was assigned to a permanent sector. Shortly thereafter, he began to notice peculiar things happening in his area. He became aware of what was happening in the street. He began to realize how a numbers operation or gambling operation was conducted. For example, he noticed that in the 1900 block of West Susquehanna, there was a confectionery store known as "Piggy's." He did not recall ever seeing any merchandise on the shelf; and yet, he saw a tremendous number of people walking in and out of the store and staying a very short time. They were not inside long enough to buy anything, and they came out without any additional packages. Similarly, he noticed a large amount of activity at a dry cleaning establishment in the area of 20th to 21st and Berks Street. The shop was very busy but seldom did he see anyone bringing clothes in or out of the shop. One could see maybe fifteen people every ten minutes going in and out. After a short while, his curiosity got the best of him, and he started to ask questions. The first officer, whose name he could not recall, that he spoke to said that he would take care of the matter and that he should not worry about it unless he wanted a bad assignment. Shortly thereafter, he received notes from the squad's bagman, Officer John R. _____ (#8073), for both of these places about which he had inquired.⁶³¹

This same officer testified that it was incumbent upon the individual officer in his territorial assignment to recognize illegal activity. The bagman picked up a certain amount of money to cover his unit. If an officer within the unit did not recognize

⁶³¹*Id.* at 12-17.

the activity and bring it to the bagman's attention, then the bagman would pocket that note himself. For example, this officer testified that if he noticed a lot of activity around a place, he would just indicate that to the bagman and say that he thought it was a certain type of illegal activity. All of a sudden, he would be getting an additional amount of money each month to cover that activity.⁶³²

As to the number of men accepting safe and dirty notes, this same officer testified before the Crime Commission that although he did not have personal knowledge of the entire system, it was his understanding that on the district level virtually everyone was involved from captain down either by participating directly in the acceptance of notes or intentionally looking the other way. He felt it very difficult to understand how the part of the system about which he did have personal knowledge could exist without a large portion of the officers in the district being involved. A knowledgeable officer cannot be familiar with his territory without being aware of vice activity. If it continues, and there is no effort to abate the activity, there can be only one explanation—it is being protected.⁶³³

Understandably, there are many pressures on a young police officer when he first joins a unit to be accepted and trusted by the older members. When a new policeman is first assigned to a district after leaving the Police Academy, he will know very little about what to expect, except the reputation of the district. In Philadelphia, the new policeman is not likely to receive an especially warm welcome at the district.⁶³⁴ Quickly, the new policeman realizes that the sergeant is a very powerful figure in the operation of the district so far as the individual patrolman is concerned. His job assignment will depend on the sergeant's evaluation of him. Generally, a permanent sector assignment is awarded to the men the sergeant likes and trusts. For example, the patrolman quickly realizes that the sergeant reserves positions on the patrol wagon for men he trusts completely.⁶³⁵ Although the young officer will understand that vice arrests are very important, he will be frozen out of meaningful information which would increase his effectiveness. Supervisors are constantly getting information about vice operations but do not readily share their information with members of their

⁶³²*Id.* at 18, 21.

⁶³³*Id.* at 23.

⁶³⁴*City Police* 28-29.

⁶³⁵*Id.* at 38.

unit other than their most trusted confidants. In fact, sergeants do not seek to increase the effectiveness of their units by encouraging a general exchange of vice information. In short, ". . . new men are told only what is absolutely necessary to maintain the unity of the platoon."⁶³⁶

Quickly, the new man realizes that the sergeant of his unit will strongly affect his chances of a good assignment and advancement. Often, the sergeant will switch regular men from a wagon to allow a new man to work on the wagon. This will allow the sergeant and the other men in the unit to make an informal appraisal of the new man's character and his inclinations.⁶³⁷ From sworn testimony given before the Crime Commission and from Mr. Rubinstein's experience, the Commission learned that this testing of new men to determine their inclinations and attitudes towards a variety of police problems is viewed as a very important aspect of introducing a rookie policeman to a district operation. Generally, new men do not participate in any payoffs until they have a permanent sector assignment.⁶³⁸ However, this differs in the case of isolated acts, such as shaking down a motorist. An example of this testing was reported by Mr. Rubinstein when he related an incident which occurred where an expensive car was abandoned in the middle of a street in Philadelphia. The car had been broken open and cassette tapes of popular music had fallen onto the street. The wagon man, after being on the scene with a new rookie for awhile picked up several of the tapes and gave them to the young officer with a suggestion that he take them home to his family. The young man did nothing immediately, according to Mr. Rubinstein, but the wagon man watched him carefully. Finally, the young policeman accepted the tapes and the wagon crew went back to work.⁶³⁹

Not only are rookie officers tested to see if they can be trusted, but when an officer is transferred to a new district he is carefully watched for his reaction and, if possible, he is "checked out" by talking with officers in his old unit. Officer Weiner explained his experience when he was transferred from CIS to the 15th District. He first noticed that men in the 15th District were not very friendly or open about the activity in the district. He discussed this reaction with Policeman Greg K. _____ (#4998) who also had been recently transferred into the 15th

⁶³⁶*Id.* at 62.

⁶³⁷*Id.* at 39.

⁶³⁸*Id.* at 395-396.

⁶³⁹*Id.* at 441-442.

District. Policeman Greg K. (#4998) responded that everyone was watching him closely because there was no other way to check on his trustworthiness since he had come from CIS. With Policeman Greg K. (#4998), the men in the 15th District could check on him by calling officers they knew in his old district. Policeman Greg K. (#4998) said that consequently no one would "open up" to Officer Weiner until he had proved himself. This conversation indicated to Officer Weiner that there was a payoff system in the 15th District, as he had witnessed when he was in uniform in the 22nd and 23rd Districts. In addition, Officer Weiner witnessed 15th District police taking money and had conversations which supported his conclusions. For example, he testified that on January 22, 1974, when he was working the midnight to 8:00 a.m. shift in radio patrol car #159 with Officer John D. (#1693), James Busk gave Weiner \$20 when he was away from the patrol car. When Officer Weiner returned, Officer John D. (#1693) asked for his half of the money. That same night Officer D. (#1693) explained to Officer Weiner that on every 12 to 8 shift a "note" came out of the J. R. Club at 4718 Frankford Avenue for the lieutenant, sergeant, sector car, and wagon. Officer D. (#1693) said he normally received \$5. Just as had been explained, patrol car #159 got a call to meet Sergeant James J. LaS. (#8568) at Frankford Avenue and Arrott Street. Officer D. (#1693) was called away from the car by Sergeant LaS. (#8568). Officer Weiner saw the sergeant hand Officer D. (#1693) something; when he returned to the car Officer D. (#1693) said that Sergeant LaS. (#8569) had given him his \$5 note.⁶⁴⁰

There were other conversations that Officer Weiner had with other officers in the 15th District that supported his conclusion that there was systematic corruption in that district. For example, Officer John N. (#6380), who was regularly assigned to #158 car with Officer Roger B. (#1574), said that Officer B. (#1574) picked up all the notes for Lieutenant F. (#110) in the lower end of the district. Although Officer Weiner had no firsthand knowledge of systematic corruption in the 15th District, his conversations and observations led him to believe that it would only be a matter of time before he would have been part of the system.

⁶⁴⁰Weiner, February 6, 1974, N.T. 74-75.

The young officer begins to realize that one who does not participate in corrupt activities is ostracized. One officer in New York who did not participate in taking money described the system as follows:

. . . To other police officers your participation [in taking money] was another strong link in a chain of fraternity and had no reflection whatsoever on your honesty. Conversely, your refusal meant certain ostracism and a cross-eyed look as someone not in full possession of all his mental faculties. It cannot be emphasized enough that taking money was such a tradition, such a habit, and was so common all around, that the police officers I talked with did not think of it with any more regard than the habit of smoking—you know it's bad for you and you shouldn't do it, but you do it anyway. . . .⁶⁴¹

In Philadelphia, police officers have similarly described the peer pressure with which they were confronted. A member of the Philadelphia police force testified before the Commission that after he noticed vice activity at certain locations within his sector, he talked to an older officer who said, "Don't worry about it, kid; I'll be taking care of it. Or you walk a beat." Unfortunately, what could the younger officer do? He testified that, ". . . if you don't go along with the program you get the worst assignments and details that there is in the District. So it's either go along with it and keep your mouth shut or just be walking a beat on the subway right down the third rail."⁶⁴² This reaction was typical. This officer had had visions of being a good policeman, and all of a sudden he was on the take; but he didn't think about being on the take ". . . too much because the prospect of walking this beat in a predominantly black neighborhood, being a white officer—you got to fit in with the rest of the fellows, the old timers; you want them to trust you, you want to go along. . . ."⁶⁴³ This reaction is understandable, particularly when one realizes that the corrupt officer must constantly proselytize. When other members of his unit are involved in similar activities, he is safe. He tends to feel more comfortable when working with fellow officers who also take notes. It is very easy

⁶⁴¹Droge 100.

⁶⁴²Weiner, December 5, 1973, N.T. 16.

⁶⁴³*Id.*

for him to encourage the new unit member to participate in the "easy money" and "fast life" and to indicate many different ways that the officer who does not go along with the system will end up with the poor and dangerous assignments.

Another policeman's experience when he first joined the 23rd District was similar. He stated, for example:

Well, Officer [McH. _____ (#6488)] had the reputation in the Twenty-third Police District for being just about the worst thief there. And after working with [McH. _____ (#6488)] for about, I think it was about a week to two weeks, and seeing him do some of the things he did with car stops and other things to make money, I became a little nervous because I thought I was going to jail. So I approached the sergeant and I asked the sergeant—I told the sergeant the problem and I asked him if I could be assigned to another moving vehicle to avoid possible arrest. And the sergeant said he would take care of it. From that day, until a year later, I had been placed on beats, fire details, details around the District and what they—what the policemen call shit details.⁶⁴⁴

There are also pressures created by the danger involved in police work. As one officer testified, he wanted to make sure that his fellow officers liked him and didn't take "the long way around to back you up" when on assignment. He felt that if one were disliked, one was likely to find oneself all alone when in a dangerous situation. He had rationalized his predicament—. . . So, when I first took the money, I felt that I was being in with the crowd, everybody was doing it. And I just felt, well, for survival in the Police Department this is what you have to do.⁶⁴⁵

The same point was made by another officer in this manner:

Well, once you become a policeman, in order for you to function—because you are out there by yourself sometimes and every now and then you might need help from other officers. If you didn't take the note or take payoffs, the other guys looked at you as possibly being a threat to their position. And if you needed help sometimes you couldn't find it. If you wasn't a part of the note-taking team then you wasn't a full-fledged

⁶⁴⁴Ruff, December 31, 1973, N.T. 32.

⁶⁴⁵Weiner, December 5, 1973, N.T. 17.

member of the Department or the area that you were working at.⁶⁴⁶

In the recent investigations in New York, there were incidents which indicate that these conditions are common to urban police forces. A police officer who was ostracized for not participating was told by fellow police officers that "everybody does it. You know that."⁶⁴⁷ If he would take the money, "it would make everybody feel better."⁶⁴⁸

In Philadelphia, Jonathan Rubinstein found that in the Police Department:

Policemen who know themselves to be honest invent distinctions between 'good notes' and 'bad notes' to rationalize their own misconducts. They compare the petty violations they commit against the acts of men who are really on the take, and secure for themselves a modicum of honor. They know that the only way a policeman can be honest in the exacting sense required by his oath of office is to resign. A policeman does not want to quit, so he makes little compromises, which bring him a few dollars and more importantly solidify his relationships with his colleagues, and he continues to do his job.⁶⁴⁹

Another interesting aspect about the police system and the development of corruption is that police corruption has very little effect on the acquisition of the skill necessary to be a good police officer. This is particularly true in the vice area. Police officers, and particularly young officers, take pride in doing their job well. The types of skills which make a policeman a good vice officer can be developed and utilized in corrupt activities. The young officer often sees outstanding vice officers with the requisite instincts, patience, and techniques to ferret out illegal operations utilize their skills for corrupt activity. An interesting example of that occurred in the career of a police officer in New York, where some of the most corrupt plainclothesmen were talented and professional vice officers. They were able to crack illegal operations no matter how carefully concealed; to him, ironically, the officers' purpose was that of extortion of money.⁶⁵⁰

⁶⁴⁶Ruff, December 31, 1973, N.T. 29.

⁶⁴⁷Maas 188.

⁶⁴⁸*Id.* at 192.

⁶⁴⁹*City Police* 400.

⁶⁵⁰Maas 169.

These peer pressures create solidarity among police officers, which contributes to another phenomenon which is important in understanding police corruption; that is the so-called code of silence that exists within the Department. This code of silence among police officers is very much like the "understandable reticence" or "conspiracy of silence" among doctors who refuse to testify for plaintiffs in medical malpractice suits. The term, code of silence, may be misleading if interpreted literally; it includes group solidarity and the complicated phenomenon that exists where there is great reluctance, if not unwillingness, for even honest officers to report dishonest behavior of fellow police officers. Even the officer caught in illegal conduct is very reluctant to talk about other corrupt activity involving police. That does not mean that on occasion some officers will not report other officers or that some police officers will not make anonymous calls about misconduct. However, the term, code of silence, does describe the generally understood and accepted standard of behavior.⁶⁵¹ As a result, officers who are unwilling to participate will react strongly against even the slightest hint of improper conduct in order to place their fellow officers on notice that they do not want to be involved in any way. The attitude of supervisors and the nature of supervision contributes to this phenomenon. For example, a witness testified before the Commission that he heard a sergeant at roll call warn his squad about internal security operations in their territory.⁶⁵² Likewise, as would be expected, information was passed among policemen about internal security operations and about Crime Commission agents being in their territory.⁶⁵³ Some police officers see this code of silence in effect around the station house in their everyday work.

One policeman described to the Commission the types of conversations among police officers concerning the distribution of money by the bagman:

... there would be the type of conversation like, 'John saw me. He will want to see you.' That's the vernacular for 'John gave me mine, make sure you see John. He'll give you yours.' The money. Everything is done very discreetly; very secretive as they can put it, other than policeman to policeman.⁶⁵⁴

⁶⁵¹Scaidi, July 10, 1973, N.T. 131-135.

⁶⁵²Rubinstein, N.T. 87-88. See also *City Police* 61.

⁶⁵³Weiner, December 5, 1973, N.T. 101.

⁶⁵⁴*Id.* at 22-23.

Yet, this officer testified that he did not speak about taking notes with all police officers but did discuss it with those with whom he worked regularly:

... It would be like taboo to say something if you working four squad to say anything to anybody at three squad. Because maybe four squad is getting something and three squad isn't, so you don't want to ruin anything. Because you get your little bit yourself and maybe things in three squad or four squad wasn't getting. So everybody was pretty secretive about it other than the policemen that you could trust. . . .⁶⁵⁵

There is also locker room chatter about notes but only among those known to be trustworthy. For example, after a tour of duty, it is not unusual for a policeman to brag about large notes that he received, though this would only happen among officers who knew and trusted each other.⁶⁵⁶ One policeman testified before the Crime Commission that on the basis of these types of conversations any man assigned to a steady car for a period of three or four months would be involved in the system, either by raking his share or not reporting what was happening. According to him, it was impossible for a man who had been in the district for a period of time not to realize what was going on and not to start asking questions at some point.⁶⁵⁷

As would be expected, the amount of discussion about corruption will vary from place to place. Each police district in Philadelphia has a reputation about the amount of corruption within it.⁶⁵⁸ For example, the 24th District has the reputation within the Department for being the most valuable district so far as notes are concerned because there are many bankers and writers (gamblers) in that area. A lieutenant or captain would really "clean up" with an assignment to the 24th District.⁶⁵⁹

It is not unusual in some urban departments to hear police officers talking about "scores" that were made on the street, as if there were no chance that another officer would report them.⁶⁶⁰ However, police officers in New York City were

⁶⁵⁵*Id.* at 45-46.

⁶⁵⁶Ruff, December 31, 1973, N.T. Ex. 1, p. 12.

⁶⁵⁷Weiner, December 5, 1973, N.T. 23.

⁶⁵⁸Rubinstein, N.T. 31-35.

⁶⁵⁹Weiner, December 5, 1973, N.T. 72.

⁶⁶⁰Droge 53. The term "score" has been used to describe an isolated instance of a payoff as distinguished from the systematic payoff or "steady note."

shocked, according to all reports, when Patrolman Phillips first testified at the public hearings of the Knapp Commission.

. . . no one was quite prepared for the shock of the first witness, Patrolman William Phillips, a fourteen-year veteran of the force. . . . His statement, 'Every plainclothesman in the City is on the pad' shocked not only the public, but also the thirty-two thousand members of the department. The fact came as no surprise to most police officers—they knew—rather they were surprised at the spotlighted revelation by another police officer, a break in the code of silence. . . .⁶⁶¹

In short, the code of silence means that generally the honest police officer will look the other way or go out of his way to avoid finding out specific details of payoffs or other corrupt activity while dishonest police officers understand, that if caught, they are to be "good little soldiers" and keep their mouths shut. When this is coupled with the department's and the individual officer's strong desire not to wash their dirty laundry in public, there exists a virtually invincible shield to rooting out police corruption.

To further complicate matters, even during off-duty hours, the police officer is rarely able to forget he is a policeman. The result is a tendency for police officers to become socially isolated from other elements of the community. The principal cause of this can be attributed to the negative public attitude toward the police which prevails in all elements of the community, in the social as well as the working environment. Even before the rookie personally encounters this public reaction, he is prepared for it by the Police Academy. Many of the films shown depict police as a separate segment of society which is generally misunderstood. The public is portrayed as demanding, quick to criticize, and never complimentary. The recruit is told that the police must respond to situations where a psychologist, a sociologist, a cleric, or a lawyer should be present, but these classes of individuals choose not to provide their services. As a result, police receive the assignment by default and any error is certain to evoke criticism.

Another explanation for this isolation is the unusual work schedules. For a majority of police officers, the Philadelphia Police Department maintains a four platoon work schedule featuring a forty-hour week with rotation shifts every eight days.

⁶⁶¹*Id.* at 221.

Police officers on rotating shifts work six days on and two days off with an additional two days off every eight weeks to maintain a forty-hour week. Such deviation from the normal forty-hour work week, necessarily limits the amount of socializing that police officers can do with non-police persons and their families.

In addition to the negative attitude which he encounters daily in the performance of his job, there are forces exerted upon the police officer in social situations which very quickly discourage him from socially interacting with persons other than police. In his study of the police socialization process, Leonard Savitz discovered that "63% of all white officers and 84% of black officers had more close policemen friends [after three years on the force than during the first week]."⁶⁶² There are serious tensions imposed on the relationship between police and non-police friends, especially when non-police friends are unsympathetic to police problems. This relationship is further complicated by the ". . . widespread belief that the police are corrupt. . . ."⁶⁶³ In testimony before the Commission, a former Philadelphia policeman described his experience:

. . . [T]he policeman's friend is another policeman. I was under the impression that when you became a policeman that the people you grew up with and were very close to you, they kind of became skeptical of you and they don't know if you going to lock them up or going to put their business in the streets or if you would cause them some undue pressure. . . .⁶⁶⁴

Another source of conflict in the social relationship between police and non-police is the inhibiting influence that they exert upon one another:

Many people feel constrained in the presence of a police officer. There are frequent jokes about the doing of illegal things. If he does become friendly with his neighbors, someone will eventually ask a favor of him which he cannot grant or make a complaint to him about the conduct of some policemen.⁶⁶⁵

Aware that he is under constant observation, the police officer is expected to conform to the norms of public morality which his job espouses.⁶⁶⁶

⁶⁶²Savitz 46.

⁶⁶³*City Police* 435.

⁶⁶⁴Ruff, December 31, 1973, N.T. 28.

⁶⁶⁵*City Police* 434-435.

⁶⁶⁶Skolnick 56-57.

The policeman may be likened to other authorities who prefer to violate moralistic norms away from on-lookers for whom they are routinely supposed to appear as normative models. . . The whole civilian world watches the policeman. As a result, he tends to be limited to the company of other policemen for whom his police identity is not a stimulus to carping normative criticism.⁶⁸⁷

The dynamics of social isolation can be viewed in terms of a response to public criticism as well as to the structure of the occupation. Since support and approval are generally obtained only from other police officers, policemen develop an affinity for one another which functions both as a defense and as a refuge.

If there is the slightest suspicion about an officer's attitude, he very quickly becomes the subject of ostracism. Such was the experience of Crime Commission Agent Albert B. Risdorfer, a former member of the Philadelphia Police Department for seventeen years. Mr. Risdorfer's involvement in the Crime Commission's investigation of corruption in the Police Department has not only been perceived as a "betrayal," but has caused so much resentment among some members of the Department that an attempt was made to expel him from the Fraternal Order of Police. The ultimate effects of such an expulsion would be the loss of an insurance policy and possible loss of pension benefits. Future employment opportunities could also be affected. More immediate, however, is the unnecessary embarrassment and harassment suffered by Mr. Risdorfer and his family as a result of this incident.

On September 28, 1972, Agent Risdorfer received a letter from the Grievance Committee of the FOP stating that two officers of the Philadelphia Police Department requested his expulsion from the FOP because his involvement in the Greg Walter case was a direct attempt to embarrass members of the Police Department. The expulsion effort was started as a result of a letter from Police Officers Anthony C. _____ (#4722) and Vincent L. _____ (#6475). The letter stated "[w]e believe that Greg Walter was writing an article about police corruption in Philadelphia and that both Albert Risdorfer and Mr. [Christopher J.] DeCree was working along with this reporter to embarrass us and brother members of the lodge." In short,

⁶⁸⁷*Id.* at 58.

any sincere effort to root out corruption in the Department warrants expulsion from the FOP.

Agent Risdorfer was notified of the impending hearing and was permitted to be represented by counsel who had to be "an active member in good standing in Philadelphia Lodge #5, FOP." When he requested a list of counsel who were then current members, he was told that the FOP had no members who were attorneys. He then stated that he would be represented by his own counsel and was told, "We'll not listen to any outsiders." Mr. Risdorfer was permitted representation only by an officer of the Police Department or a member of the FOP.

During the hearing on November 17, 1972, Mr. Risdorfer's attorney was denied entrance into the hearing. His father, however, a retired Philadelphia police officer of thirty years service and a FOP member, was permitted to attend.

Questioning primarily concerned Mr. Risdorfer's work in connection with the investigation of the Police Department, and there was a deliberate attempt to intimidate and harass him by asking questions about confidential matters which he was not permitted to answer. The hearing was eventually continued until after the trial of Barbara Dunagan⁶⁸⁸ because it was felt that Mr. Risdorfer would be more cooperative in answering questions at that time. Prior to adjournment, he was asked whether he would pursue the matter further if expelled from the FOP to which he answered "positively." There has been no further action in this matter.

The systematic corruption or victimization of policemen who succumb to pressures within the police force does not occur in a vacuum. Illegal conduct by fellow officers has a destructive impact on an individual police officer trying to perform honestly a complex and difficult job, especially when his superior officers act as if they were above the law that they are empowered to enforce.

In Philadelphia, policemen have seen the Police Commissioner act as if he can disregard the laws of this country with impunity. In October, 1972, the police, in direct and "blatant

⁶⁸⁸The hearing for Barbara Dunagan which was scheduled for November 18, 1973, was continued. She was arrested in March, 1972, by Officers Anthony C. _____ (#4722) and Vincent L. _____ (#6475) on charges of bribery and corrupt solicitation in connection with Greg Walter's investigation of police corruption.

disregard" of an order of the United States District Court⁶⁶⁹ arrested some 40 persons for carrying signs at Independence Hall on the occasion of a visit by President Nixon. Such contempt for law by police officials creates an indifference towards lawful conduct by subordinate police officers and erodes the standards of and respect for the police. As Chief Inspector Frank Scafidi testified, "You have to look to your leaders, who set the tone." Continuing, he said, "I think it is the quality and substance of the personnel who lead the organization and the quality of the input into the organization are the most important thing."⁶⁷⁰

It is difficult to quantify the impact on the force of the conduct and statements of Department leadership. Even joking, off hand remarks have an impact. Former police officer Ruff testified about the impression made on him by remarks of the former police commissioner concerning note taking. Former Officer Ruff purchased a ticket to a political fund-raising affair for Mayor Rizzo in October, 1971. During the evening, the former police commissioner and "Mike Todd" (aka, Gilbert Groce, a reputed gambler with four vice arrests and one conviction for illegal lottery) visited the table at which Ruff and a number of other policemen were seated. There was a lot of drinking and joking. During the conversation, the former police commissioner warned the "policemen . . . to be alert and constantly watch [their] back . . . against any possible picture being taken. . . ."⁶⁷¹ There were also joking remarks between the former police commissioner and Todd about note taking in the old days before the federal authorities had jurisdiction over police corruption. Even though these were casual remarks with perhaps no relation to reality, they made a strong impression on Ruff. The overall context of the remarks indicated to Ruff that corruption problems were not taken seriously by the Department leadership.⁶⁷²

The obvious failure of Department leadership to take action against open and notorious violations of police regulations has a corrosive effect on the Department. The fact that the Police Department responds on a high level to demands by businesses

⁶⁶⁹*Farber v. Rizzo*, 363 F. Supp. 368 (E.D. Pa. 1973). Police Commissioner Joseph P. O'Neill and Inspector George Fencel were held in contempt of court for their actions at Independence Hall.

⁶⁷⁰Scafidi, July 10, 1973, N.T. 159.

⁶⁷¹Ruff, November 3, 1973, N.T. Ex. 3, p. 14.

⁶⁷²The report of a polygraph examination on this incident administered on January 12, 1974, revealed that "no deception is indicated" in Mr. Ruff's statements.

for extra services, such as was done in the case of Gino's, leads individual police officers to justify their own behavior. Commanders in the Department must have known that the supermarkets and Gino's, in particular, were paying the police for extra services. Supermarket situations existed for over 25 years and the Gino's situation touched almost half of the Department's district commanders. The failure to take action on this open and widespread problem at a minimum creates an unhealthy tone or atmosphere within the Department. The rank and file were well aware that there was little threat of punishment for taking safe or clean notes. As one former Philadelphia officer testified:

Q: Was there a fear of discipline if you got caught taking a safe note?

A: I would say not really. The reason I would say that is because if you were doing something and you had occasion, somebody wanted to give you something, you wouldn't—nine chances out of ten your superiors wouldn't punish you or wouldn't take disciplinary action against you if you received it. And maybe they sent a letter, a commendatory letter into the Department for the services you rendered because it makes the Police Department look good, and the people are happy.

Q: Do you know of any instances where clean notes or safe notes did come to the attention of the police commanders?

A: I've heard stories. I can't remember any specific incident but I have heard stories in my police career about people sending letters in, possibly to the commissioner or captain or inspector about services that a police officer had rendered, and they took it upon themselves to give the officer a reward.

Q: And no disciplinary action was taken against the officer?

A: Usually a verbal reprimand.⁶⁷³

⁶⁷³Ruff, December 31, 1973, N.T. 50-51.

Furthermore, when patrolmen see high officials attempting to get the "police price" on such things as a \$400,000 house,⁶⁷⁴ it is very understandable that pious warnings about fighting corruption fall on cynical and deaf ears. Apart from the legality of any individual transaction, responsible governmental leaders must realize that the appearance of impropriety inevitably establishes standards for lesser government employees. The experience derived from corruption probes of many urban police departments indicates that attitudes or perceived attitudes of police leadership towards corruption have a significant impact on the actual integrity of a police department.

The police officer notices quickly that influence can be of benefit. Policemen see members of the Department who have had reputations being promoted and see City leadership supporting their indiscretions. Such actions as these have far greater impact on the actual integrity of the Police Department than the threat of internal security operations.

The police officer is not always sure that the influence for the private benefits involves payoffs for it might involve only campaign contributions. An example is recounted by Mr. Rubinstein in his book, *City Police*, as follows:

"When I came to this district, I was really gonna do a job, you know," a captain said. "No favors and no deals. Well, I found out. You know the place over on Elm Street? All the trucks parked everywhere during the day. It's really dangerous during the rush hour. Well, I told my supervisors that I wanted it cleaned up, to ticket all the trucks and force them off the street. Lieutenant Johnson just laughed at me; he said I was kidding. I told him I wasn't, and they started putting on the tickets. Well, it went on for a few days, and then I got a call from downtown, you know, and I was told to lay off. There's plenty of people who think I'm gettin' a note out of it, maybe you do, but it just ain't true. And those trucks are gonna be parked there until someone burns down the terminal."⁶⁷⁵

Police officers must notice such incidents. Another example occurs with traffic tickets; it is not unusual for an officer to be

⁶⁷⁴The alleged purchase price of the Mayor's new house was to be \$114,000; yet knowledgeable contractors said that the house could not be built for less than \$400,000.

⁶⁷⁵*City Police* 410

told to issue tickets for a few days at certain locations and then told to stop. Pretty soon the officer wonders why he should turn down ten dollars from a motorist not to issue a traffic ticket, because his experience has been that the man will not pay the fine.⁶⁷⁶

Another interesting example of the environment in which police officers work is related by Mr. Rubinstein as follows:

"Goddamn it, the captain calls me at home last night and tells me that the heat is on Jason, you know, the beer distributor. He tells me to be sure to be here early in the morning and to go directly there and to make sure everything is tagged." The place in question was that of a major beer distributor in the city whose facilities were centralized at one location. In addition to maintaining its own parking lots, the company routinely left its trucks on the street while they were being loaded. This violation of city ordinance and state law was regularly ignored until the captain was called by his inspector and told the company had become involved in a political dispute with the mayor and the order was out to enforce every regulation to the letter.⁶⁷⁷

Policemen generally believe that the minor judiciary, liquor board agents, and other inspectors are often corrupt.⁶⁷⁸ They see many violations that go uncorrected and assume that the explanation is that someone is being paid off. In the Crime Commission investigation, no effort was made to obtain information on other enforcement agencies; however, in connection with the main undertaking, examples of such activity were uncovered. These examples illustrate that the belief of policemen is not totally unfounded.

⁶⁷⁶It is common knowledge in Philadelphia that any person with any sort of "connections" who wants to fix a traffic ticket can do so, although it may require more "pull" to fix a moving violation than a parking ticket. In the fall of 1972, a representative from the Attorney General's office made a study of Traffic Court procedures. During the probe, the investigator discovered that persons who normally would have been able to have large batches of traffic tickets fixed were unable to make the necessary "arrangements." For example, two highly placed public office holders told the investigator that it was impossible for them to get tickets fixed so long as a representative of the Department of Justice remained on the scene. In addition, the discharge rate in the Traffic Court fell dramatically during the time that the Justice Department investigation was being conducted.

⁶⁷⁷*City Police* 410-411.

⁶⁷⁸Rubinstein, N.T. 123, 150. For this reason, as the Commission discovered, policemen feel they are unfairly singled out as corrupt.

One of the bar owners cooperating with the Commission, Mr. Irvin Goltzer, found that it was not only necessary to pay police but also other government officials. These payments were not strictly for protection of the illegal operation but were necessary to keep his bar running without additional problems. Not only did Mr. Goltzer pay the police to speed up the process when he or his employees were arrested, he also slipped money to a Municipal Court judge on occasion. When Mr. Goltzer was arrested in July 1972, he gave Morris S. _____, the Municipal Court judge sitting at preliminary arraignments, \$100 for helping him get out quickly:

Q: How do you know that it was he that caused you to get through in a short amount of time?

A: Because he called downstairs and told them that I was down there.

Q: Did you contact him?

A: I called him from the Tank on the public phone and told him I was down here and could he please get me up and out fast, and he said, "Yes."

Q: Had you known him prior to this time?

A: Yes.

Q: How long did you know him?

A: Well, just years and years.

Q: Was it a social acquaintance?

A: Yes, more or less.

Q: And after he helped you to get through the process in a hurry—

A: I put \$100.00 in his pocket.

Q: Why did you pay him that money?

A: I just felt it was a courtesy that I should give it to him for helping me get out quickly.

Q: Is payment of money for those kind of services an accepted thing to do?

A: Oh, yes.

Q: Is there any expectation that there will be the same type of service in the future if that money is paid?

A: Oh, yes.⁶⁷⁹

When one of Mr. Goltzer's bartenders was arrested for permitting employed females to solicit drinks, he gave the judge at the preliminary arraignment, Edward Q. _____, \$100 because he discharged the case at that point. The money was paid through Jules Seretsky who later confirmed paying the judge in a taped conversation. Judge Q. _____ did not solicit the money, but Mr. Goltzer thought "it would be a nice thing to give him a little present."⁶⁸⁰ Of course, Mr. Goltzer expected that he would get similar treatment in the future because of the "little present." Although such payments as these are not solicited, they are rarely refused. Indeed it has been the Commission's experience that the individuals involved in corruption-related activity know when and to whom to make payments for favors; and they also know that government officials remember who has and who has not expressed his gratitude monetarily.

Mr. Goltzer made a similar payment of \$50 to Enforcement Officer George J. G. _____ of the Pennsylvania Liquor Control Board (PLCB). According to PLCB records, Agent G. _____ removed bottles from the Why Not Lounge on August 24, 1972, for chemical analysis to determine if the bottle contained the liquor named on the label. The chief chemist for the PLCB determined there were no violations, and the bottles were returned. No money was solicited, but Goltzer offered Agent G. _____ the \$50 which he readily accepted. When asked if this type payment was a practice among bar owners, he responded, "Yes, I would say so, if you want a favorable outcome at your next time."⁶⁸¹

Although Mr. Goltzer did not own the building in which the Why Not Lounge is located, he had an interest in seeing that there were no problems with it which would interfere with his operation. Therefore, on October 4, 1972, he paid Housing Inspector Martin B. _____ \$50 to overlook various building violations. The meeting was filmed and tape recorded. Inspector B. _____ went through the building and found numerous violations. Mr. Goltzer gave him \$50 and asked him to forget the

⁶⁷⁹Goltzer, August 22, 1973, N.T. 16-17.

⁶⁸⁰*Id.* at 18.

⁶⁸¹*Id.* at 30.

whole thing and not turn in a report. Inspector B_____ accepted the money but warned Mr. Goltzer.

The only thing I can do is to forget the whole thing, which is not a permanent thing. Every year we go through this. Someone is either going to complain or they are going to know why it wasn't inspected. I'm going to leave it go for awhile. A year from now it comes back again . . . if it is a year from now or six months from now I cannot guarantee anything. . . We will worry about it then. I want you to understand that I have no guarantees. If anyone ever went through there they would declare the building unfit. . . .⁸⁸²

Another bar owner who was cooperating with the Commission at one point, John Hollawell, informed the Crime Commission that on March 9, 1972, he had given payments to four employees of the Liquor Control Board and had been approached by a fifth employee. Hollawell said LCB agents G_____ and C_____ had served a citation on the club, at which time he gave each \$10. He said the payments did no good however, since the citation resulted in a suspension of his license. Hollawell also stated that he had paid \$50 and \$300 to LCB employees K_____ and S_____ to get his case cleared. Hollawell charged that G_____ of the LCB wanted \$100 for favorable testimony, but Hollawell refused to pay him. In Hollawell's ledgers⁸⁸³ there are two references to payments to Liquor Control Board employees. On May 1, 1970, there is a notation "\$50 liquor control" which Hollawell said went to Martin K_____. On December 21, 1971, there is an entry "\$50 LCB (Christmas)." There are also two references in the ledger to payments of \$50 to building inspectors. These were on May 1, 1970, and April 6, 1971.

Court Disposition of Police Corruption Cases

The criminal justice system's response to corrupt police officers is wholly inadequate in terms of the ultimate effect on the morale and integrity of the Department as well as upon the

⁸⁸²Goltzer, August 22, 1974, N.T. Ex. 3, p. 2.

Subsequent to the payoff, members of the Pennsylvania State Police assigned to the Commission inspected the premises. They discovered eight violations; some of these were fire hazards and others involved the warning and escape systems in case of fire. The Pennsylvania State Police may function as ex officio building inspectors and are trained to do so.

⁸⁸³See the explanation of Hollawell's bookkeeping system, *supra* at 148.

public's confidence. Custodians of the public trust should be held to an even higher standard of conduct than the ordinary citizen. One would expect the Police Department and entire criminal justice system to react harshly against any member who has betrayed the Department or the system of law enforcement. Philadelphia has witnessed just the opposite reaction. For reasons not entirely clear, the Police Department, the FOP, and the criminal justice system have sought in many complex and sophisticated ways to protect any member accused of betrayal. The same reaction was detected in New York City during the investigation by the Knapp Commission. Philadelphians should be aware of what happened in New York City; it may happen here:

Whether out of a misguided loyalty, an instinct to preserve the good name of the department or some kind of collective guilt, policemen generally try to assist their errant brothers in every way possible. Cases against policemen, compiled by other policemen, have an extraordinary tendency to collapse in court. In-criminating statements are passed over, affidavits for wiretaps are inaccurately drawn, search warrants become inadmissible and the evidence gathered faulty.

* * * * *

There are many reasons why crooked cops have been able to cop out with such regularity. Cops in trouble are almost always supplied with the best defense attorneys available through the political muscle and, sometimes, the financial assistance of the Patrolmen's Benevolent Association. Long court delays help, too. Prosecution witnesses become less certain . . . Such helpful delays may occur in other cases but seem almost routine in cases involving cops. Judges in overcrowded courts feel a greater urgency to dispose of cases in which defendants are in jail and unable to raise bail. Cops are, in 95 percent of their cases, freed on their own recognizance while awaiting their trials.

But even if a policeman should finally be convicted, judges are still reluctant to sentence him to a prison cell . . .⁸⁸⁴

⁸⁸⁴N. Pileggi and M. Pearl, "What Happens When Cops Get Caught," *New York Magazine*, July 23, 1973, at 23.

In Philadelphia, during the six year period between 1968 and 1973, an average of seven policemen per year have been arrested on charges of corruption. In view of the pervasive corruption which the Commission has uncovered, the number of arrests is very low. Almost one-half of these arrests actually resulted from the statement by Policeman Carl Johnson on September 9, 1971, concerning police corruption in the 17th Police District.⁶⁸⁷ Johnson was arrested on charges of possession of narcotics; and in his testimony before the Special Investigating Grand Jury, he implicated a number of policemen who allegedly accepted payoffs from vice figures in South Philadelphia. The number of policemen arrested on corruption charges in other years was substantially lower: in 1968, five policemen were arrested on corruption charges; 1969, two; 1970, five; 1971, nine; and 1973, two.

From January, 1968, to October, 1973, 43 policemen have been arrested on corruption charges according to data provided by the Philadelphia Police Department and the District Attorney's office. While 18 police officers have been convicted on charges of corruption since 1968, only seven were sentenced to jail; and four of those defendants are currently free on bail pending final disposition of their appeals. Thus only three policemen have served time in jail for corruption convictions. Of the remaining cases, seven were sentenced to probation and two were given suspended sentences. As of October, 1973, two were awaiting sentence.

In view of its sentencing record, the judiciary has clearly demonstrated its reluctance to take a strong stand against the police offender in corruption cases. An example of the way in which one judge perceives the corrupt policeman is demonstrated by the statement of Judge Thomas M. Reed when he sentenced three veteran police officers to three years probation. They were convicted by a jury of accepting payoffs over a six-year period:

If these were ordinary people and not police officers and they were first offenders they would be placed on probation . . . But I see no purpose to be served in sending them to prison. The alternative is probation. They have lost their jobs and can never return to the Police Department. That is punishment enough.⁶⁸⁸

⁶⁸⁷Philadelphia Daily News, May 22, 1972, at 4.

⁶⁸⁸Philadelphia Inquirer, June 9, 1973.

In an interview, Judge Reed further stated that the probation sentence was entirely appropriate because the nature of the crime was non-violent.⁶⁸⁷ By this, the Judge inferred that these offenders did not deserve harsh punishment because they did not commit a crime which caused direct harm to anyone. The example set by Judge Reed is reprehensible. A probation sentence is an inappropriate response to a police officer who conspires to extort money from a drug peddler.

Oftentimes, a plea of guilty and the exchange of information will result in a lenient sentence. Such was the case of Officer Russell M. S_____ (payroll #98920) who was indicted on charges of extortion, bribery and blackmail. He received three years of non-reporting probation for one charge and a suspended sentence for two other charges. Such sentences are appropriate if the information provided enables the prosecutor to root out significant unlawful conduct.

The courts should not overlook the fact that the imposition of a jail sentence can be an effective deterrent to crime among law enforcement agents. It has been the experience of the Crime Commission that law enforcement agents are horrified by the possibility of going to jail. This feeling emanates from the fear of harsh treatment as well as the humiliation and embarrassment suffered. During the Commission's intensified phase of on-street investigative activity, agents for the Crime Commission were instructed to maintain their identity whenever possible, even if arrested and placed in jail. During initial discussions with the investigators concerning the possibility of their arrests, they expressed great reluctance to conform to such requirements. Only a small number agreed, without reservation, to maintain their identity at the risk of spending time in jail, although they were very concerned about the amount of time they might have to spend there.

The Commission received the same reaction from police officers. When dealing with Philadelphia police, cooperation could be obtained when the officer became convinced that there was a real likelihood of him going to jail. One of the officers who cooperated with the Commission commented on many occasions that only after he heard his voice on a tape recording of a shakedown did he believe jail was a possibility; that terrified him. He even said that one of the luckiest things that happened to him was that the Commission's evidence was so strong that

⁶⁸⁷Philadelphia Tribune, June 1, 1973.

he immediately realized that he might go to jail. He felt that any policeman would do just about anything to avoid a jail sentence. The officer talked in very emotional terms about avoiding a jail sentence.

There are serious implications resulting from a criminal justice system which holds policemen above reproach. The failure to apprehend and punish criminal police officers erodes integrity in the Police Department and results in the loss of public support, cooperation, and respect—all of which present serious obstacles to effective law enforcement.

Conclusion

The utter bankruptcy of the present system and the necessity for legislative reform could not be better illustrated than by the following account of Officer Weiner at his frustrations of vice enforcement and how he came to accept notes. The transcript is quoted at length, for it affords a well articulated explanation of why systematic corruption exists:

A: Well, there's a number of frustrations involved in working vice. You spend hours and hours trying to set up a job with a gambler and you devote a lot of effort in the field, you feel you are doing a good job and you finally get a numbers office person with the work, which is remarkable in this day and age with the new soluble paper. So when you finally do get fortunate enough to make a decent arrest and get the work and you go in the court with the thing and the judge out and out tells you, "Oh, it's only a numbers case," you know, "Ain't no big deal; what's wrong with numbers?" And you go up there and all the heart is out of you already because of this attitude, and you testify and case after case after case after case of anybody of a sizeable nature is found not guilty. It seems the only ones that maybe found guilty was the little, tiny guy, the little black guy you get with maybe fifty, sixty plays. He is found guilty and given maybe a fifty dollar fine.

Maybe once in awhile you get an entire case where there is no way the judge can throw it out; maybe they will be found guilty and given a fifty dollar fine. I had arrested, oh, an individual named

Mike Venuti who ran a numbers bank for Lou Esposito and was myself and Chris DeCree and we had just gotten lucky and everything just went our way. And when we knocked on the door and announced ourselves, we heard Mike get up and ready to run. So we gained entrance and Chris was yelling something like "Gotcha Mike, I got you Mike" and Mike got so nervous he forgot all the rice paper with the number action and ended up dumping his hand instead of the work. So we scoffed up the work, so there was one day's activity, ten thousand number plays. And you feel tremendous about this type of hit. And you get them into court and you go through suppression hearing and nothing suppressed on you. So you finally go to trial and Mike Venuti gets a hundred dollar fine. You know. And you exposed to this time after time after time after time. You lock up a man, Peppy Finelli, who himself is a number banker, works around Mildred and Fitzwater, got a lot of black action down there. And I had locked up Peppy personally myself but he had dumped the work. I tried a couple times to get him but each time he dumped the work. One time we got him and he dumped the work, but the work wasn't written on rice paper but written on bonded paper. And he dumped it in water, rolled it up in a ball. I grabbed him at the top of the steps while he was outside and he threw the ball into the yard. But my partner ran down and retrieved this wet, sappy ball and we took it to the lab, and they were able to process it, open it up and get something like eight hundred number plays. Well, when you get Peppy Finelli with eight hundred plays, that's something to jump up and down about. You get him to court and testify and there is no defense other than the judge find him not guilty because of litter hazard in that area and maybe that wet numbers ball of work blew into the yard.

So, you know, you constantly exposed to this. After awhile you just get disgusted. You here all the time you trying to sit on a surveillance and the whole neighborhood is telling the numbers writer

that police down there looking at you. And it just gets very frustrating after awhile. So after awhile you say, you just say to yourself, "What the hell is all this about?" So you get engaged in conversation with a man, for instance Joe McMonigle. I had arrested, or a member of my team had arrested Joe McMonigle for having out of state alcohol. So while he had him in the office, Joe was telling me that he would like to give me information. So this started out, he gave me a guy's name, Eddy Conlan who was an ex-policeman. So another guy and myself, my partner and myself, worked on him. Officer [I _____ (#5649)], got him into this office and just got lucky and got the man with like seventeen thousand number plays for two days activity.

So Joe was starting to give us some pretty good information. So one time, while I was there along with Joe, and he had been giving me information for awhile, he said to me, "Bob, you are never going to get me." He said, "I am locked behind this cage and there is no way you can ever get me." So I said, "Oh Joe, as long as you giving me information," I says, "no reason." So he said, "Well it's kind of silly for just wanting information." And then I started thinking, the man is right, I can't get him behind a cage; he is giving me information. So about four months ago, five months ago, maybe four months ago, back in August, right before I went on vacation I had made mention to him that I was going on vacation. So he said, "Can't you use a little extra spending money?" I was going to Florida, take the kids to Disney World, so I said, "Oh man, I could always use a little extra money." So Joe gave me an extra hundred dollars. So that's when it started.

Q: About when was this; you said just about when you went on vacation?

A: Either about the end of July—the end of July this year. Joe gave me a hundred. So I went on vacation and when I came back I had told my partner who, along with me, was getting very frustrated and fed up with the job. And I said, "Joe Mick give me a

hundred dollars for vacation." And Fred said, "He did?" I said, "Yes." And I said, "Christ, the man is giving me information."

So, I had to go back, unfortunately, a month later because he was having—we didn't set anything up yet, but I had to go back, he was developing some information for me for an office girl for Tommy Wilson. So I went back to ask him about this office girl and I had mentioned to Joe, you know, that was nice, that extra money and and so Joe give me two hundred dollars. Because he said, "How's your partner?" I said, "I been working with him quite awhile." I said, "He's all right." So he give me a hundred dollars for me and a hundred dollars for Fred. So I told Freddy—when it happened Freddy wasn't with me then either and I give him a hundred dollars. So this went on for, oh maybe a total of four months, from July, August, September, October—not even October—July, August and September. Three times.

Q: Let's see, what year are we talking about?

A: We talking about this year.

* * * * *

A: This was after that. Well, to backtrack a little bit because there wasn't a whole hell of a lot of people I did get involved with. But the ones I did; a fellow in our unit named Jimmy [M _____ (#2825)] and I had made a big number arrest with some major figures at West Philadelphia, the West End Golf Club. I locked up Jimmy Maletteri—James Maletteri—and Ralph Mangene and John LaRosa.

Q: Now, when was this? Try to date this.

A: This was around May of '73.

Q: May of '73?

A: May of '73.

Q: Okay. Go ahead.

* * * * *

A: Right. I made the arrest in March of '73, I locked up the individuals I previously mentioned. So

shortly thereafter, Jimmy [M. _____ (#2825)] had been talking to my partner, Freddy [I. _____ (#5649)] about money and were we doing anything, accepting any notes. And Fred said, "No, we not doing nothing. Bob Weiner's scared but I think he would like to," and this type of thing. And Freddy was telling me that he had this conversation with Jim. So Jimmy [M. _____ (#2825)] had mentioned that Teddy Perry, who is a major figure in the North East Division, had been running a crap game in the City of Philadelphia somewhere and he was getting a yard, which is a hundred dollars, a week or a month for this crap game.

Q: This is Jimmy [M. _____ (#2825)] telling your partner?

A: Right.

Q: And your partner is telling you?

A: He is relating this to me. And would we be interested in getting in with this Teddy Perry. So I had said, "What do you think, Fred?" And Fred said, "It's up to you." And I said, "Christ, I don't care." I said, "I am so disgusted, who cares anymore. . . ."

* * * * *

. . . and, let's see, well we got the taste of it, we got the extra money in our pockets, we felt it was safe and we wanted more. . . .

* * * * *

Q: You have in effect said to us directly and in a number of other ways that from your experience when you were in the Districts that the majority of the policemen were on the lookout for a note.

A: Yes.

Q: Why do you think that exists?

A: I'd say this stemmed years and years ago where the policeman was making a very poor salary and in order to supplement his income he would look for extra money. And because gambling is a victimless

crime, nobody really gets hurt about it, that they found this was an easy avenue to gain money. Years ago when the cop wasn't making anything in order to survive, and I think a pattern started years and years ago of taking money from racket people and any other source you can get, to the present day when even though you are making twelve thousand dollars a year that you still got policemen, many policemen out there taking. It is there. It is the way of life, you know.

Q: Well, are you saying among other things that the habit of taking money from any source is bad and leads you further and further into this whole system that you have just described?

A: It is the system really. It is the system where the money is there and if you don't be one of the guys and take a note you are an outcast. You are ignored, given the lousiest assignments. And the first thing a new policeman wants to do is fit in because this is his livelihood. So until you take that first buck, nobody trusts you. Once you take that first buck and somebody knows you took that first buck, now they got you on something.⁶⁸⁸

⁶⁸⁸Weiner, December 5, 1973, N.T. 120-127, 129, 148-149.

V

INTERNAL CONTROL OF THE PHILADELPHIA POLICE DEPARTMENT

INTRODUCTION

The primary responsibility for taking action to punish and prevent corruption and other misconduct by Philadelphia police officers is given to the Police Department itself by the Home Rule Charter of the City of Philadelphia, which states:

The Police Department shall have the power and its duty shall be to perform the following functions:

* * * * *

(b) *Maintenance of the Philadelphia Police.* The Department shall train, equip, maintain, supervise and discipline the Philadelphia Police.¹

Other law enforcement agencies, such as the Philadelphia District Attorney's office and, to a lesser extent, the United States Department of Justice, have jurisdiction to investigate and prosecute criminal acts by Philadelphia police officers. However, those agencies have for the most part allowed the Police Department to investigate itself with little outside scrutiny.² The results of this institutional reliance on the Police Department to keep its own house in order has been described at length in the findings of this Report. In summary, systematic corruption in the form of bribery, extortion, and other serious misconduct has flourished.

¹Philadelphia, Pennsylvania Home Rule Charter, §5-200 (1959).
²See Chapter IX, *infra* at 807-819, for a detailed discussion of the role of the District Attorney in dealing with police corruption.

Close examination of the internal control mechanisms in the Philadelphia Police Department shows that they are weak and ineffective. Responsibility for investigating police misconduct is split between the centralized Internal Affairs Bureau and individual commanding officers, but there are no written guidelines spelling out the relative disciplinary roles of the Bureau and the commanders, and there is much overlap. The Internal Affairs Bureau appears to have the primary responsibility for investigating the most visible cases of corruption; it is greatly hampered by its small size, inadequate training and investigative techniques, and lack of independence.

It is a serious mistake to rely solely on the Police Department, or any other governmental agency, for discipline or punishment of its members. For that reason the Crime Commission recommends elsewhere in this Report that a permanent Office of Special Prosecutor be created. This does not mean, however, that all efforts at internal reform of the Police Department should be abandoned. On the contrary, strong institutional safeguards within the Department and enlightened, courageous leaders are equally, if not more, necessary for a healthy police agency to emerge with renewed integrity.

EXISTING INTERNAL CONTROL MECHANISMS

Line Commanders

The official disciplinary procedure of the Police Department, as set forth in Directive 79, theoretically places responsibility for both investigations and disciplinary action on commanding officers, who are usually district captains and heads of special units. Directive 79 provides, in substance, as follows:

II. INVESTIGATION AND REPORTS

A. The Commanding Officer of police personnel accused or suspected of violations of the Penal Code and/or departmental regulations shall conduct a thorough investigation and submit a complete report.

1. The Divisional Commander shall be notified immediately when the charge involves an indictable offense and/or a violation of departmental regulations shall conduct a thorough investigation and submit a complete report.

2. The Chief Inspector concerned shall be apprised daily of progress and/or new developments.

3. The Commanding Officer of the accused shall make the decision to arrest and shall be the arresting officer.

a. When members temporarily detailed to another district or unit commit infractions, the Commanding Officer of permanent assignment will conduct the investigation and prefer charges on the complaint of the Commanding Officer exercising temporary jurisdiction.

b. The temporary commander will submit a complete report of the dereliction to the Commanding Officer of permanent assignment.

* * * * *

5. The Commanding Officer of the accused shall prepare statements from complainants and witnesses, and memoranda in triplicate, unless otherwise specified, as follows:

a. Obtain statements from civilian complainants and witnesses.

b. Advise complainants and witnesses that their appearance before the Police Board of Inquiry may be necessary at a later date.

Refusal of complainants and/or witnesses to appear shall in no way relieve the Commanding Officer of the responsibility of conducting a thorough investigation and submitting a complete report.

c. Obtain a detailed written report of the incident from the accused.

If this report is unsatisfactory, take a statement from the accused.

d. Obtain a written evaluation of the member's work performance, character and reputation from his immediate supervisor.

e. Submit a summary of your investigation which will include your evaluation of the member's past work performance.

B. When necessary, or upon orders of the Chief Inspector concerned, the Inspector will supervise the investigation.

C. The Commanding Officer of the pertinent Detective Division shall collaborate in the investigation

when the offense is normally investigated by the Detective Bureau.

This Directive explicitly requires a commanding officer to conduct the investigation of an accused police officer and gives him the authority and responsibility to arrest the accused should an arrest be necessary. Directive 79 is reinforced by Directive 127, which states that:³

All complaints against police officers received by members of this department shall be recorded and referred to the Commanding Officer of district/unit for investigation.

* * * * *

Complaints received will be brought to the attention of the Operations Room Supervisor. Complaints shall be recorded on a Complaint and Incident Report (75-48). A district complaint number shall be assigned each complaint received. These reports shall be coded 2703 "COMPLAINTS AGAINST POLICE."

The "Complaint and Incident Report" form 75-48, is the same form used throughout the Department for all matters which require police action, whether involving another police officer or not.

When a line commander receives an allegation against a police officer, or becomes aware of a possible infraction, he generally assigns the lieutenant or sergeant in charge of the accused to investigate, though he may, of course, supervise the investigation himself. These investigations are generally limited to interviewing the parties involved. When possible, the line commander discusses the incident with the complainant and attempts to straighten out the situation informally. Many complaints are disposed of at this point, with a notation on the investigation report that the complainant was satisfied by the officer's explanation. When the investigation is complete, it is reported on an

³This Police Directive is currently one of the focal points of federal court litigation over the handling of citizen complaints against police officers. A United States District Court has ordered the Police Department to adopt a vastly revised Directive 127, but the Department has appealed the order. See *COPPAR v. Rizzo*, 357 F. Supp. 1289 (E.D.Pa. 1973). The revised Directive 127 contains many extremely worthwhile reforms. The Directive constitutes a model procedure for handling citizen complaints which any police department could employ. The full text of the revised Directive is printed as Appendix G to this Report.

investigation report form, number 75-49, which is forwarded up the chain of command.

As part of the investigation procedure, the line commander decides whether to recommend formal disciplinary action. The line commander may carry out informal disciplinary action himself, consisting of reprimands, warnings about misconduct, or lectures when appropriate. When necessary, he may instruct a police officer to offer an explanation for his actions and an apology for his actions to a complainant. These informal disciplinary measures very often satisfy the complainant thereby removing the pressure for the line commander to request formal disciplinary action. If formal disciplinary action is recommended, it is reviewed by the Police Commissioner who determines whether to drop the matter or refer it to the Police Board of Inquiry.

The Department's directives set no limits on the type of matters which line commanders investigate. In theory, line commanders appear to be responsible for investigating all types of misconduct by officers under their command. In practice there are limitations, since many cases are investigated by the Internal Affairs Bureau.

Internal Affairs Bureau

The Internal Affairs Bureau is a centralized Bureau within the Department, reporting directly to the Commissioner, with responsibilities in the area of investigation which frequently parallel or supersede those of the line commanders. The *Policeman's Manual* describes the function of the Bureau as follows:

I. INTERNAL AFFAIRS (A) INSPECTIONS DIVISION

Personnel attaining the rank of staff inspector have been designated to conduct:

Investigation of complaints against policemen, inspection of police practices or procedures, surveys, and special assignments, including command replacement.

(B) INTERNAL SECURITY

Relieves and conducts investigations in the field of probity among the Department's members.

(C) POLICE BOARD OF INQUIRY

Receives and collates misconduct charges against

Department members; schedules and attends hearings before the Police Board of Inquiry, and forwards the findings, with recommendations to the Commissioner for his approval and action.⁴

The Internal Affairs Bureau is a relatively recent innovation in the Department, having been formed in 1968, when the existing Staff Inspectors Unit, Internal Security Unit, and Police Board of Inquiry were organized under one commander. It currently has a total of 58 officers working in it, according to Chief Inspector Frank A. Scafidi, head of the Bureau.⁵ It is difficult to describe with precision the functions and role of the Internal Affairs Bureau and the respective duties of the subunits of the Bureau since, apart from the above description in the *Policeman's Manual*, there are no written guidelines:

Q: [Are the duties and responsibilities of the Internal Affairs Bureau] written out any place, in a directive or anything of that nature? In other words, are you charged with some duties some place?

A: In a very broad sense, in that I serve as Commanding Officer of the Internal Affairs Bureau, and I serve as a member of the Commissioner's staff. I believe in the Duty Manual—no, I don't believe it is written in the Duty Manual, the current Duty Manual. No, I believe not.

Q: So there is no place that specifies the functions of the Internal Affairs Bureau?

A: Probably fragmented in the various directives. Directive [127], the right to make complaints on the part of police officers, the investigation of complaints, which specifies certain reports will go to the Internal Affairs Bureau, but I don't believe in our Duty Manual the specific responsibilities are set forth.⁶

Despite the lack of written guidelines, the Bureau has a wide range of duties centering on internal investigation and fact-gathering. These duties were extensively described by Chief Inspector Scafidi as follows:

⁴City of Philadelphia, *Policeman's Manual* 4-5 (1973).

⁵Testimony of Chief Inspector Frank A. Scafidi before the Pennsylvania Crime Commission, July 10, 1973, N.T. 14, 22 [hereinafter cited as Scafidi, July 10, 1973].

⁶Scafidi, July 10, 1973, N.T. 17-18.

Q: Now, since the time of the merger, when you have been the Chief Inspector, what have been the functions of the Internal [Affairs] Bureau?

A: Well, we work at the pleasure—we serve at the pleasure of the Police Commissioner, and you might say our investigative responsibility is in several areas dealing with corruption. We deal with the more serious kinds of brutality allegations. The scope of our investigations is wide, at the pleasure of the Police Commissioner. We make inspections. We conduct surveys. We handle most of the important Court suits which are directed against the Philadelphia Police Department. We prepare Interrogatories at the direction of the City Solicitor's office. We conduct a wide variety of miscellaneous investigations. We do a lot of interviewing. I would say that the scope of our investigative responsibility is from A to Z, at the pleasure of the Police Commissioner, but I would say primarily our investigative responsibility is in the area of brutality and corruption.⁷

* * * * *

Q: When you said you make inspections, what kind of inspections are you talking about?

A: All kind of inspections. Again, at the pleasure of the Police Commissioner or at our own initiative. Equipment inspections, compliance with departmental procedures—

Q: Records inspections and things of that nature?

A: Yes.

* * * * *

Q: You stated that the scope of the investigations were as wide as the Police Commissioner desires.

Could you give us some example of some type of investigations you have done in the last year outside of the corruption, brutality and inspections?

⁷*Id.* at 8-9. Chief Inspector Scafidi later testified that only 20 to 25% of the Bureau's investigations in 1972 were devoted to police corruption. *Id.* at 129.

A: Well, you might say that the investigation may be an allegation of wrongdoing, not incorporating corruption or brutality, police misconduct of some kind, even serious discourtesy or verbal abuse complaints.

Q: Isn't that normally handled by the Field Commanders?

A: Generally I would say the majority of those complaints are handled by the Line Commanders, but we do get some of them.

Q: Why would you get—

A: Possibly because of the notoriety of the complaint or the sensitivity, and whatever other reason the Police Commissioner might have for sending it to us.

We make investigations of alleged wrongdoing outside of the city by Philadelphia Police Officers, regardless of what it might be. Generally falling in the category of conduct unbecoming an officer generally comes to us.

We make all FBI investigations. Any complaint made to the United States Department of Justice flows through the local FBI and comes to me for investigation.

Q: You mean complaints made by the FBI to you?

A: That is right, and they may take the form of any kind of allegations of violation of Constitutional rights, . . .

Q: Do you handle the complaints which come from such agencies as the FBI and B.N.D.D. [Bureau of Narcotics and Dangerous Drugs], about corruption or misconduct on the part of the Philadelphia Police?

A: Generally, yes.

Q: Would any of those types of complaints go out to a Field Commander?

A: Some have in the past, as I recall. Yes. I can't really recall. Anything that flows through the FBI goes to

the Police Commissioner and is given to me for investigation. Now, I may not know the original source of the complaint. It may have stemmed from one of the Federal agencies, through the FBI, or from some civilian complainant.⁸

As described by Chief Inspector Scafidi there is a clear overlap between the investigating responsibility of the Bureau and that of the commanding officers. This is made even more clear by the following description of the flow of complaints against police officers through the various levels of the Police Department:

Q: . . . Why don't you take a complaint and run it through the process of your operation, and if it would make any difference, the source the complaint came from or the type of complaint it was, would you indicate that?

A: Surely. But I can't really show accurately the flow of the complaint until I specify certain things about it, the form it was received in, who received it, from whom it was received—

* * * * *

. . . Let me do it this way. First, let's talk about the sources of the complaints. I would say the majority of complaints against police are made at police installations, field installations, district station houses. In that case, the Receiving Officer is obliged to fill out a 7548 and to initiate an investigation.

The investigation may originally be initiated by a Lieutenant or a Sergeant. The Commanding Officer is apprised of the complaint, and a copy of the 75-48 comes to my office. They generally make the investigation.

If it is an investigation that takes on serious proportions, it is quickly known through the chain of command, and the Commissioner may shift the investigation to me or may involve me in the investigation jointly.

⁸*Id.* at 10-14.

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5 OF 10

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⁸*Id.* at 10-14.

Now, upon completion of that investigation, a 75-49 Investigative Report is prepared, and it flows up through that particular chain. If it is a complaint against a detective, it flows up through the detective chain. If it is a complaint against a uniformed officer, it flows up through the uniform chain, up to the Deputy Commissioner of that particular area of command.

A copy of the 75-49 comes to me. A copy goes to our Records Control. It is given a uniform crime reporting number, 2703, Complaints Against Police.

As I said, a copy of that 49 comes to me after going through its respective chain of command. It comes to me and I review it. I classify it. I may send it back for further investigation, but ordinarily these are—I use the word advisedly—the frivolous type of complaint or minor type of complaint, which is adjusted at the district or divisional level or unit level. It is classified, entered on our log and filed and cross-indexed by name of complainant and by name of involved or accused police officer.

Now, there are many other ways that complaints are received. They come from various agencies, the FBI, the Commission on Human Relations, the District Attorney's office, the Lawyers' Committee for Civil Rights, the N.A.A.C.P., the American Civil Liberties Union. Most, if not all of these, are in some written form. They go to the Police Commissioner's office where they are logged and given a Commissioner's complaint number.

The Commissioner decides who the investigating authority will be. As I previously indicated, I get all of the FBI investigations. I get a sizeable portion of the District Attorney complaints, and I get some of the C.H.R and A.C.L.U. complaints, but not very many of those.

They flow down—in this case, they are going downward rather than upward. If the Commissioner decides that the investigation should be

made by the Line Commander, it flows through the Deputy Commissioner of uniformed forces to the Chief Inspector of Patrol or Special Patrol, down to the Inspector, and generally the Commissioner may designate the investigating authority, the Inspector or the Captain, and likewise with the detective chain.

Now—or he may simply give it to me for investigation, in which case the report, if it is given to the line chain of command, flows back through the line to the Police Commissioner to me, again for classification and filing.

Many investigations—I will say many—percentagewise not very many, but numerically many—investigations evolve from phone calls to me, to a Deputy Commissioner, to the Police Commissioner's office, to one of the various Chief Inspectors, and again that procedure is started. If it is to a high ranking officer, it flows downward. In all cases, the report flows back through the respective chain of command and eventually to me.

Now, let's assume that an investigation results in formal disciplinary action. It flows back to the Police Commissioner, through the chain for various approval at various levels, and then goes from the Police Commissioner to my Police Board of Inquiry for filing, but in that case, a 3 x 5 card is prepared and put in my file, also. So we have a Police Board of Inquiry file and we have an Internal Security file.

I don't know if that is clear or not.

Q: All right. I think it is.

Then you make out the 75-48 or one is supposed to be made out wherever the complaint is received?

A: I don't follow you.

Q: Well, if a complaint comes in to a district, they are to make out a 75-48?

A: That is correct.

Q: All right. If it comes in at the Commissioner's office—

A: Yes.

Q: He assigns it a C number and a 75-48 is made out?

A: It is made out at the investigating level.

Q: At the investigating level, but before any work is done on it?

A: That is correct.⁹

From the above, it can be seen that the Internal Affairs Bureau has plenary authority to enter and take over any investigation at any stage. If a complaint or allegation is initially received at the Police Commissioner's level, the decision will be made immediately whether it is an Internal Affairs matter. If the case arises at a district or unit level, the Bureau may enter at a later stage. It appears, however, from Chief Inspector Scafidi's description, that the decision to assign Internal Affairs to a case is always either made or concurred in by the Police Commissioner directly:

Q: Now at any point, can you take over an investigation on your own initiative?

A: Yes, generally. Of course, I will consult with the Police Commissioner.

Q: Does every investigation that you do have to have his approval or be assigned to you by him?

A: I guess in a technical sense, yes, but frequently I go to him and say, "I have this kind of information or that kind of information, and I am going to investigate it," and he will concur.

Q: Are there any written guidelines for the Commissioner to use to determine what Police Department agency will actually investigate a complaint?

A: I don't know.

Q: Are there any written guidelines for you when you are making a decision to take over a case?

⁹*Id.* at 51-57.

A: No, it is generally a matter of mutual agreement.

Q: What sort of guidelines or standards have you set for yourself in taking a case into the Internal Affairs Bureau?

A: Those cases that may result or have already resulted in some litigation, either civil suit or criminal action against the police officer.

Q: Well, for example, do you take all corruption cases? Do you handle all the corruption cases?

A: I would say presently I handle most of them.

* * * * *

Q: Are there any instructions to district stations that they should contact someone in your unit in all corruption cases?

A: No, because they report the corruption upward. We have a night command structure. If it appears it is a serious case and requires a need for Internal Security people, the Commanding Officers or the night command, in consulting with their Deputy Commissioner—they will call him any hour of the day or night, and he will talk to the Police Commissioner and a decision will be made, maybe four o'clock in the morning, to bring my people into the act, which has occurred.

* * * * *

You must keep in mind, the nature of most complaints that occur two or three o'clock in the morning—you might liken it to a complaint of a drunk saying he lost ten dollars when he was arrested, you see. You don't get the continued, ongoing type of corruption complaint at three o'clock in the morning.

Q: Can you be called in without someone consulting with the Commissioner?

A: Well, it would be a breach of protocol, but I have done it and then consulted with the Commissioner afterwards, but generally speaking, I serve at the pleasure of the Commissioner.

Q: In other words, any request for your services should go through him?

A: That is correct, but we have enough response and enough mutual cooperation that if the Commissioner is not immediately available, we will get into the act, and there will be no subsequent chastising of anybody.

Q: Phone calls to the district—are these handled in the same way as an oral or written complaint?

A: Yes, the firm policy of the department is investigate all complaints, even those which are anonymous.

Q: If someone calls your office, a phone call comes into your office, does that call go through the Commissioner's office or do you send it directly down to the Field Commander?

A: Yes, occasionally I may send a frivolous type of complaint which comes to my office. I may call the Inspector and say, "Call this person and start an investigation." Yes, I have done that in the past.

Q: Is there anyone else besides you and the Commissioner who makes a decision as to what kind of complaint is handled by the Field Commander or by Internal Security?

A: No one, except the two Deputy Commissioners may suggest to the Commissioner that it is the kind of complaint of investigation that needs my services, and generally he will concur. They have complete entree into his office, and it is simply a matter of saying, "Commissioner, I think this should go to Scafidi," and it does.¹⁰

The Internal Affairs Bureau appears as a practical matter to have assumed the responsibility to investigate "the more serious cases" of corruption or brutality—those with "notoriety" or "sensitivity" or those cases which may result in some civil or criminal litigation against a police officer.

¹⁰*Id.* at 59-64.

Although the line commanders still retain official responsibility for investigating all transgressions by police officers and still have the task of preparing formal charges, their investigative responsibility apparently now is largely limited to relatively minor citizen complaints such as injuries at arrest, unnecessary force, abuse of authority, discourteous behavior, ethnic slurs, missing or damaged property after arrest, procedural irregularity, or improper behavior on or off duty. They also handle infractions of regulations such as sleeping on duty, lateness, improper uniform, eating at other than prescribed time, insubordination, and fighting with another officer.

These distinctions between the types of cases which the Bureau and the commanders handle are far from clear, however, and there are no hard and fast rules. From Chief Inspector Scafidi's testimony it is clear that handling of internal police investigations in Philadelphia is a rather loose process with decisions on who to assign to a case made on an individual *ad hoc* basis after considering a number of different factors. One of the factors which influences decisions on who investigates a complaint is the seriousness of the charge. The source of a complaint or allegation of police misconduct, the place it is initially received, and its potential for embarrassing the Department appear to be equally important factors. Information transmitted by other law enforcement agencies, such as the Federal Bureau of Investigation and the District Attorney's office, appear to receive the highest priority, while information from citizens, public agencies such as the Commission on Human Relations, and quasi-public agencies such as the American Civil Liberties Union or the Lawyer's Committee for Civil Rights is given relatively lower priority.

The place where a complaint is received also has an obvious bearing on who investigates it. If it is received at the police district level, the Internal Affairs Bureau may not learn of it until days later when the flow of paper work is complete. In the meantime commanding officers may have already completed action on the matter.

The assigning of cases to Internal Affairs which are sensitive, notorious or potentially an embarrassment to the Department is illustrated by an incident which occurred in the course of the Crime Commission's investigation. While looking into gambling in South Philadelphia, agents of the Commission observed a uniformed police officer enter a restaurant which the Commission had learned was a payoff location for gamblers and

the police. The same officer was also seen in another location of an illegal gambling operation and was overheard talking about horsebetting. The Commission wrote what it thought was a routine letter to the Police Commissioner giving the officer's badge number and asking for his name and squad. Shortly thereafter, the Commission received a letter in which Chief Inspector Scafidi explained that the officer was in the restaurant selling tickets to the police-sponsored Thrill Show. The officer apparently was interviewed by the Internal Affairs Bureau concerning his activity, and that action by the IAB served as a warning to him. Commission agents did not see the officer in the area after that.

Case Evaluations

When an investigation by either the Internal Affairs Bureau or a line commander is completed the case is evaluated and classified in one of four ways: "unfounded," "action justified," "not sustained," or "sustained." The meaning of each of these classifications is explained as follows:

We have four classifications within the Internal Affairs Bureau that are applied to the disposition of the results of the investigation, that is, unfounded, it never did occur in our judgment—the investigation discloses that it didn't occur. For instance, if a man says that he was beaten and we find he wasn't beaten, it is unfounded. If a man says he was beaten and we find that there was some force used but it was justified, we call it Action Justified. If we cannot prove sufficiently the allegation or disprove it, refute it, we call it Not Sustained; and if we can prove it happened, we call it Sustained.¹¹

If a case falls within any of the first three classifications no *formal* punishment is administered. The decision whether a complaint against an officer should be "sustained" (and in effect whether there should be disciplinary action) depends in part on the weight of the evidence in each case.

Q: Do you operate under a standard of proof? How much evidence do you feel you have to have in order to sustain an allegation?

¹¹*Id.* at 74.

A: I most respectfully say it would depend on each and every case. In criminal matters, we always consult and discuss with the District Attorney. That is a routine policy, procedure. Departmental, it is a just a matter of experience and the weight of evidence.

Q: Is there any type of violation that—

A: It may also depend, I might add, on the willingness of the civilian complainant to cooperate in an investigation and/or a formal disciplinary action, because we can't sometimes prove the case without the testimony of the civilian complainant.

Q: In situations where there is sort of a one-on-one situation, the testimony of the complainant against the officer, how do you make a decision in that case?

A: Well, it would depend on the contingent or attendant circumstances. We have had cases where we have formally disciplined people on a one-on-one basis, and we have had other cases where we have not disciplined people on a one-on-one basis. You would have to discuss specific investigations.

Q: Would you look at his background to determine whether or not—

A: That may be a factor. It is certainly a consideration.¹²

The decision to sustain or not sustain a complaint appears also to be influenced by consideration of whether informal disciplinary action is deemed sufficient to handle a situation. This may occur where a citizen complainant is satisfied through conciliation or remedial action or where the officer may have a reasonable explanation for his transgression.

Q: In other words, there is formal disciplinary action taken for every violation of a Directive?

A: No, I would say not. You are speaking about relationships out in the field, and I don't know [if]

¹²*Id.* at 75-76.

there are formal disciplinary actions taken for every infraction or breaking of a departmental regulation. I really don't know.

* * * * *

Q: All right. Now, what standards do you use to determine what recommendation you are going to use?

A: I would refer you, again, to the Duty Manual and to the Directives. For instance, if a man violates a sick leave directive, it is almost always a Police Board of Inquiry hearing.

Q: Does the Duty Manual say the man should be referred to the Police Board of Inquiry?

A: The Duty Manual sets forth the nature of the violation and the suggested sanction.

Q: What types of incidents would lead you not to follow the suggested recommendation?

A: I would have to characterize those as errors of judgment without malice. It can take many, many forms. A man may have failed to check a State store, which is required to do during his tour of duty, and it may develop that he had a touch of dysentery and never did check the State store and it was burglarized that night.

We may decide his explanation is true and not formally bring charges.

Q: You said there were cases where a man may be informally chastised or disciplined, perhaps, through a lecture by his Commander, but there is no formal recommendation or disciplinary action?

A: That is correct. They would normally be contained within the report, the action taken by the Commanding Officer.

Q: That report would be officially an unfounded incident?

A: It may not be unfounded. It may be classified as not sustained. We have a classification which we

title Not Sustained, where there is inadequate or insufficient evidence to prove that the allegation is true or completely disprove the allegation.¹³

Police Board of Inquiry

If a complaint or allegation against a police officer is found by investigation to be "sustained" it results in either arrest or formal disciplinary action or both. All formal disciplinary action within the Police Department is referred to the Police Board of Inquiry, which is a quasi-judicial tribunal composed of three members of the Police Department, usually one captain, one lieutenant, and one policeman. Members of the panel rotate, and no member of the panel may be of a lower rank than the accused officer. Board hearings follow a specific procedure. There is a list of cases which are handled according to the schedule. The charges are read to the accused officer who enters a plea of either guilty or not guilty. The Commissioner's Advocate, a police lieutenant, acts as prosecutor and develops the testimony. All witnesses against the accused testify, followed by the accused, then all witnesses for the accused. Each member of the Board may question witnesses. The commanding officer of the accused testifies about the accused's record and ability. Short summations are presented by both the advocate and the counsel for the accused, then the Board privately renders a decision and recommendations are submitted to the Police Commissioner.

The accused officer may be represented at Board hearings by counsel of his own choice, or by counsel provided by the Fraternal Order of Police. If he chooses to be represented by counsel of his own choice, he must assume the responsibility for the cost. Private witnesses, including complainants, are not allowed to be represented by counsel.

In the event that principal witnesses are not able to attend the hearing at the scheduled time, it may be postponed. If the witnesses do not appear at the rescheduled hearing, the case may be dismissed, or heard if the circumstances warrant it. However, often an automatic verdict of not guilty will be entered in favor of the accused officer.

Since the Police Board of Inquiry is a "creature of the Police Commissioner,"¹⁴ the Commissioner may decide at any time to

¹³*Id.* at 69-74.

¹⁴*Id.* at 70.

cancel a hearing and drop the charges. If a case does go to a hearing, the Board makes findings and recommends final disciplinary action to the Police Commissioner. It has no power to impose discipline. Although the Commissioner often imposes the recommended penalty, he may disregard both the findings and the recommendation and is not bound by anything the Board does. Once the Commissioner determines what he feels is the proper disposition, the results are made known to the accused.

The Police Commissioner appears to refer to the Board only those cases in which either he has already made up his mind about guilt or in which the evidence is extremely strong. In 1971, according to a resume of the year's activities compiled by the Police Board of Inquiry, the Board disposed of 325 cases. Out of that number there were only 29 not guilty verdicts, of which 24 were a direct result of the civilian complainant not appearing for the hearing. In 1972, in a similar resume, the Police Board of Inquiry reported that it had disposed of 550 cases. Of those, 37 resulted in a not guilty verdict. Of those 37, 13 not guilty findings were the result of the civilian complainant not appearing for the hearing. Thus, where the case reached a hearing on the merits, only 29 of the 875 cases (3%) resulted in an acquittal. These statistics support the view of many police officers that the Board is not an impartial tribunal but rather an administrative rubber stamp. A United States District Court found as a fact in a recent case that "[i]t is generally believed within the Department that the Commissioner refers cases to a board of inquiry for trial only if he is already convinced that the accused officer is guilty and should be disciplined."¹⁵ If the Commissioner should disagree with the Board's conclusion he retains the discretion to ignore its recommendation.

IMPROVING THE INTERNAL CONTROL SYSTEM

The internal control mechanisms of the Philadelphia Police Department are severely deficient in a number of respects. First, the overall organization of internal discipline is fractionalized, with no consistency in handling of investigations and little control over handling of allegations of misconduct received at the district level. Second, the police agency with ostensible prime responsibility for investigating police corruption performs a

¹⁵*COPPAR v. Rizzo*, 357 F. Supp. 1289, 1293 (E.D. Pa. 1973).

number of unrelated functions. Third, the police officers assigned to do internal investigative work are given little specialized training and no independence. Fourth, the Department is not committed to aggressively seeking out evidence of corruption and has failed to utilize a number of essential investigative techniques.

Organization of the Internal Control System

The Philadelphia Police Department has been slowly evolving away from the concept of leaving arrest or discipline of police officers up to individual commanders. However, the situation is still far from ideal. Taking the responsibility for investigating corruption cases away from individual commanders is an essential step, particularly where corruption is systematic and participated in by a large number of police officers in a district. The chances are that in such a case the commanders are already at least aware of, if not joining in, many corrupt acts.

Although under the existing organization the Internal Affairs Bureau can theoretically take over the investigation of allegations of corruption, in practice its powers are greatly limited since it or one of its members is not always the actual recipient of the allegations or information. Many allegations are currently made at the police district level. When that happens the allegations are required to be immediately referred to the attention of the commanding officer for investigation. In such a case the Internal Affairs Bureau would not necessarily be immediately apprised of the allegation, and an opportunity for a coverup is created.

The way in which this can happen is illustrated by the incident described by former Policeman Felix Ruff in the narcotics corruption section of this Report.¹⁶ An allegation was made against him to the effect that he had shaken down a citizen who was the subject of a search warrant. When the citizen complained at the district station house, the matter was immediately "investigated" by the district captain and divisional inspector. Although Mr. Ruff was under suspicion, he was given an opportunity to arrange a deal for the return of the money taken from the citizen, in return for the citizen's ostensible inability to identify Officer Ruff as the guilty policeman. The deal was consummated using another police officer as an intermediary to carry the

¹⁶See Chapter IV, text accompanying note 319, *supra*.

money. There is reason to suspect the captain of the district knew of the arrangement since the intermediary was a plainclothesman working directly under the captain. The citizen complaint in this case was a serious charge of corruption by a police officer. Had it been handled in a proper manner, with the complainant identifying Mr. Ruff before he had an opportunity to arrange the deal, prosecution might have taken place. Instead, Mr. Ruff went free with only a disciplinary action for filing incorrect reports.

The fact that complaints against police officers are received and handled by ordinary line officers also means that in many cases the complaint will simply never be recorded and the Internal Affairs Bureau will never know of its existence. This is particularly true of oral complaints by citizens. The federal court in *COPPAR v. Rizzo* found as a fact that:

As a general practice, no record is made by the Police Department of any civilian complaints, unless submitted in writing. There are no forms available to citizens for filing such complaints. When a written complaint is filed, it is supposed to be recorded by the police on a "complaint and incident report" form (No. 75-48); but the general practice at the district level is not to record such complaints.¹⁷

Although the court in the *COPPAR* case was addressing itself primarily to the handling of police brutality complaints, there is no reason for the finding to be different for corruption cases.

The fact that complaints are not always recorded may result in a failure to take proper action in a particular case. The lack of consistent and uniform records of this type means that a valuable source of data about individual and unit performance is lost. Statistical trends in such data, although sometimes subject to manipulation, can provide a valuable indication of the relative success of any reforms or changes that may be instituted.

In order to resolve this defect in internal control procedures, the Crime Commission recommends that the following steps be taken. First, clear written guidelines should be established setting out the matters which may be investigated by line commanders and which will be investigated by the Internal Affairs Bureau. All responsibility for investigating any matters relating

¹⁷*COPPAR v. Rizzo*, 357 F. Supp. 1289, 1292 (E.D. Pa. 1973).

to possible violation of any criminal laws by a police officer should be taken away from the line commanders and given exclusively to the Internal Affairs Bureau. Line commanders and the Internal Affairs Bureau should have joint responsibility for investigating possible violations of departmental regulations. The authority to arrest police officers or to prefer departmental disciplinary charges should be given to the Chief Inspector of the Internal Affairs Bureau.

Second, a new police form should be created to be used exclusively for allegations or complaints of misconduct by police officers. A strict requirement should be imposed and rigidly enforced that these complaints or allegations be immediately recorded in writing.

Third, in conjunction with an expansion of the number of personnel in the Bureau, there should be a member of the Internal Affairs Bureau assigned at least to each divisional headquarters during peak hours each day to record and follow up on complaints or allegations against police officers. The Internal Affairs Bureau should be reorganized along the lines of the existing Detective Bureau, with a central or headquarters, division and a field division.

Fourth, while the Commission recommends that the responsibility to investigate allegations of criminal violations by police officers should be taken away from commanding officers, there should be increased emphasis on the accountability of commanders for the misconduct of their subordinates. When an investigation by Internal Affairs of an incident is completed, a report of the findings should be given to the commander with a demand for an explanation of what action he is taking to correct the situation which permitted the corruption to occur. Repeated acts of corruption or other serious misconduct by police officers should constitute clear evidence of neglect of duty which should result in punishment of the commander.

Accountability of commanding officers is a key to any program of eliminating police corruption. Police commanders who have risen through the ranks, as all commanders in Philadelphia have done, are no doubt quite familiar with the general patterns of misconduct by men under their command. A stern attitude on their part can do much toward reducing, if not eliminating corruption. That such an attitude is not prevalent today is manifested by all the facts revealed in this Report.

Taking internal criminal investigative responsibility away from commanders does not reduce their ability to control their

subordinates, since they retain the administrative disciplinary power as well as the power to initiate Internal Affairs investigations. In any event, command responsibility should begin well before the stage at which criminal investigations are necessary.

Concentration of the Internal Affairs Bureau on Corruption

The Internal Affairs Bureau is the one central agency in the Philadelphia Police Department with overall responsibility for controlling corruption. However, the Bureau spends only an estimated 20-25% of its time investigating corruption in the Police Department and performs numerous other unrelated tasks. The Bureau conducts surveys, interviews, and inspections for the Police Commissioner and handles preparation of answers to requests for discovery of Department data in conjunction with major court litigation involving the Police Department. In addition, the Bureau has engaged in a significant amount of non-Police Department investigative work:

Q: You said one of the primary responsibilities was investigating corruption.

Is that just corruption within the Police Department or would it go beyond the Police officials?

A: It is within the Police Department.

Q: So that none of your men would then be investigating corruption charges against, say, public officials?

A: Going from recollection, I would say over the five years, we may have had two or three investigations of other city departments.

Let me amend that to say that we have, in the past, made investigations of alleged housing frauds. My unit was charged with that responsibility. I believe it was in 1969. We had an investigation of the housing situation in Philadelphia, all facets of the housing situation.

We are presently—I have presently people on loan or assigned to special investigation in that area right now. So you could include that, I would assume, under investigations of corruption elsewhere.

Q: And you say you currently have some people on loan in that area right now?

A: That might be a wrong phrase. They are working in that particular area.

Q: Do they report to you or do they report to someone else?

A: They report to me.

Q: And to whom in turn do you report about this specifically?

A: The Police Commissioner.¹⁸

This housing fraud investigation referred to by Chief Inspector Scafidi¹⁹ consumed a substantial amount of the resources of the Bureau. Of sixteen staff inspectors listed as being assigned to the Bureau, five were said to be working on the housing fraud investigation on July 10, 1973. Examination of Bureau records later indicated that as many as seven staff inspectors may have spent substantial amounts of time on that assignment.

Investigations of fraud or corruption in other City agencies is an important task and maybe one in which the Police Department should take part. However, the Internal Affairs Bureau of the Police Department should not have that responsibility. Internal investigation of police corruption is a highly specialized job, and the officers assigned to it should limit their efforts to that job alone.

The Internal Affairs Bureau also wastefully spent a great deal of time and manpower closely scrutinizing the efforts of the Crime Commission in this investigation. One example of this is the interview of the officer seen in the gambling establishment described above. Another example involved Commission agents who were investigating gambling and possible police corruption in West Philadelphia. Once the Police Department learned that the Commission had agents in the area, Internal Affairs personnel appeared on the scene and began interviewing persons who had been called to Commission hearings. The

¹⁸Scafidi, July 10, 1973, N.T. 10-11.

¹⁹There is some question about the precise nature of this investigation. See *Philadelphia Inquirer*, August 5, 1973, at 1; *Sunday Bulletin*, August 5, 1973, at 1; Special Grand Jury, June Term, 1972, Philadelphia County, 18th Presentment.

questions of the Internal Affairs personnel were not directed at police corruption, but rather at what the Crime Commission wanted to know from the witnesses. One gambler was reminded by an Internal Affairs interviewer that the Crime Commission would soon be "leaving town" and that the Police Department would be around for a long time. To the extent that these actions by Internal Affairs were directed at finding police corruption they were somewhat duplicative since the Crime Commission was planning to turn over all information found to the Department or other appropriate officials. To the extent they were motivated by a desire merely to prevent possible embarrassment of the Department, they were highly improper.

Internal Investigative Personnel

According to the testimony of Chief Inspector Scafidi there were approximately 58 police personnel working for the Internal Affairs Bureau, as of July 10, 1973, which represents an increase of about ten over the previous eighteen months. This total is a mere 0.7% of the entire Police Department. There is, of course, no magic number of personnel needed to do the job, but the number in Philadelphia appears to be inadequate. By way of rough comparison, the Internal Revenue Service of the federal government assigns approximately 2.8% of its more than 72,000 personnel to the Inspection Service Division, a ratio four times greater than that of the Philadelphia Police Department. The Crime Commission believes the Police Department should greatly increase the number of policemen assigned to internal investigations.

Chief Inspector Scafidi testified he obtained most of his men for the Bureau from the uniformed patrolman ranks. His first consideration was that the man have integrity:

Q: But what kind of man are you looking for?

A: I am looking for an honest and loyal man who will say to me, "I am going to do the job, and if you say get so and so, I am going to get so and so if he is gettable." That's all. I am looking for that kind of man, with, of course, the attendant ability, in my judgment, to do these things.²⁰

²⁰Scafidi, July 10, 1973, N.T. 43-44.

The Chief Inspector indicated he specifically did not get very many men from the plainclothes ranks. Although he did not expressly say so, the reason for not taking officers from plainclothes into Internal Affairs evidently is that officers in those units have historically had the greatest opportunities for involvement in corruption and hence the greatest likelihood to have been actually involved. The result is that the Bureau receives men with little or no experience in undercover work. Unfortunately, the Bureau also has no provision for specialized or in-service training in undercover techniques. Chief Inspector Scafidi testified that the only training his unit receives is on-the-job training. When asked whether he provided his men with written material, he responded:

No, there is no material that I present them with, but I personally, in most cases, show them the system, explain the system to them, the records, the hours of operation, the equipment, the investigations, the type of assignments, what I expect of them. I put them with my best people, my long-term people, and they gradually work their way into the operation.²¹

The only discussion of investigative problems or techniques occurs on a specific case basis. A new man is often put on a case with an older member of the unit, and there will normally be discussions about the case with Chief Inspector Scafidi.

The lack of undercover experience or training for Internal Affairs personnel appears to be a definite handicap, particularly since they are often called upon to investigate other officers who do have such experience. The limited effectiveness of the Bureau members as undercover investigators is indicated by the testimony of the Commission's two police witnesses. As Felix Ruff put it, "When Internal Security is in a District . . . everybody knows it." When asked how everyone found out, he responded:

Simply by, everybody, well, I knew the two guys one time that worked Internal Security that worked the street and if I would see them, I knew that there was some kind of activity going on. If one policemen sees, all see. There were codes, for example, in the 23rd

²¹*Id.* at 39.

District that Internal Security was seen in the district. You would give Ridge and Ginadoo. Someone would come on the radio, say 2312; their response would be by radio: 2312 have 23A meet me at Ridge and Ginadoo. Ridge and Ginadoo was for everybody in the district to shape up because Internal Security could see them. . . .²²

Officer Robert J. Weiner also testified that he was aware when the Internal Affairs Bureau was in the area. He recalled undertaking a surveillance of a major gambling figure, Joe McMonigle, and alternatively watching the gambler's location and the Internal Affairs Bureau surveillance team which was watching him.²³

Internal Affairs Bureau officers are also forced to use surveillance equipment which "sticks out like a sore thumb." Former police officers have told the Commission that the surveillance vehicles of the Police Department are normally black or gray van trucks, and policemen can tell what they are because they always have one-way glass in the truck so that no one can see inside the truck. It was recalled that one had the lettering, STAYROC, on the side, and the O in ROC would open up so that a surveillance camera could be utilized from the inside.

The investigative personnel in the Bureau are composed of sixteen staff inspectors and approximately 38 other police officers. Staff inspector is a special rank between captain and inspector which is limited to the Inspections Division of the Internal Affairs Bureau. The men in this rank have no command or line responsibility. The other officers performing investigative tasks in the Bureau, those in the Internal Security Unit, have ordinary police ranks with no special pay or status. The present personnel policy in the Bureau, according to Chief Inspector Scafidi is that officers are assigned to the Bureau on a quasi-permanent basis. They do not regularly rotate back to the ranks and are permitted to remain in Internal Affairs indefinitely.

Q: What is the length of the normal tour in the unit?

A: My men, as far as I am concerned, can stay with me as long as they are willing to stay there.

²²Testimony of Felix Ruff before the Pennsylvania Crime Commission, December 31, 1973, N.T. Ex. 2, p. 29.

²³Testimony of Robert J. Weiner before the Pennsylvania Crime Commission, December 5, 1973, N.T. 109-110.

Q: Do you have any—

A: I have long-term people.

Q: What is the turnover rate in the unit?

A: Very low. I believe, let's say, in the last year—I believe one man has left the unit.

Q: What is the average length of service?

A: I have some people who were there that I inherited, and I have, I would say, about half of the unit who are people that I brought in.

* * * * *

Q: Do you have any men that revolve in and out on occasion, that work for you and then go back to the ranks and then come back?

A: No.

Q: Does an individual police officer make a career out of being in the Internal Security Bureau or does he generally have in mind going back to the ranks at some point?

A: I don't know. I can't speak for the men. They have no contact, let me put it that way.

Q: What has been the practice?

A: The practice has been that if they do their jobs, they stay as long as they want to stay. . . .²⁴

The policy or practice of retaining internal investigators in a special unit on a permanent basis is a sound one since it gives the investigators greater personal security and independence which enables the investigators to be more effective. That policy should be extended on an official basis to all personnel in the Internal Security Unit, placing them in a status equivalent to the staff inspectors. Internal Security investigators should not have to risk being transferred out of the Bureau if their investigations displease a powerful or influential police commander. They also should not have to anticipate that they may later be required to serve alongside or under police officers they have investigated. This would contribute to a greater sense of professionalism and

²⁴Scafidi, July 10, 1973, N.T. 29-31.

concentration on doing the special job of internal investigation. To make internal investigative work more attractive to qualified personnel and to give such work greater status, all internal security personnel now at the level of policeman should be promoted to a new special rank equivalent to corporal or detective with a new title such as "investigator." All future assignments to Internal Security should be made at this rank or higher.

The recommendation that Internal Affairs Bureau assignments be permanent is subject to two qualifications. First, officers should retain the option to seek promotion to openings outside the Bureau. Second, the Bureau should retain the authority to utilize some police officers on a temporary basis in undercover assignments. These reforms of the Internal Affairs Bureau should be accompanied by a substantial increase in the number of internal investigators and improvements in the training of new investigators.

Investigative Techniques

The effectiveness of the Internal Affairs Bureau in rooting out corruption internally is crippled by the almost complete lack of the use of aggressive investigative techniques. Nearly all investigations of corruption in the Department are done in response to complaints or allegations received by the Police Department. Little effort is made to initiate investigations, to expand investigations, or even to follow them up in the most aggressive manner. This is most clearly illustrated by the total failure to use two of the most effective corruption investigative techniques: "turning" a corrupt officer and requiring police officers to submit to polygraph examinations.

AGGRESSIVE INVESTIGATIONS

Since systematic police corruption is a highly organized conspiracy, it is extremely difficult to either apprehend all those involved or even to determine the full scope of the situation without the active cooperation of a participant. This is particularly true of higher-ranking officers, since they are frequently able to isolate themselves from direct involvement by receiving payoffs through intermediaries. One of the most successful techniques in combatting this situation, used by both the Knapp Commission in New York City and the Crime Commission, is apprehending a member of the corruption conspiracy with ir-

refutable evidence, then convincing him to become an undercover agent. The "turned" officer is then released to go about his normal routines equipped with electronic devices which record his conversations with others. In this manner, legally admissible corroborating evidence may be obtained against large numbers of other conspirators. This technique can be used not only to probe the limits of a particular system of payoffs but can lead to discovery of the scope and extent of other corruption incidents.

Despite the obvious need for the use of this investigative technique the Philadelphia Police Department has never used it and evidently has never even considered using it:

Q: Do you ever, when you have caught a policeman involved in a corruption situation—do you ever attempt to turn that policeman, to have him work as an informant for you in an attempt to uncover a system of corruption?

A: No, I have not, but that is not my judgment to make.

Q: Who would make that judgment?

A: I would presume the Police Commissioner.

Q: Have you ever approached him with that idea?

A: I don't recall doing it.

Q: Has the District Attorney's office ever suggested doing that?

A: I don't recall them ever suggesting it.²⁵

According to Chief Inspector Scafidi, the Internal Affairs Bureau does utilize some affirmative investigative methods in attempting to deal with corruption. These methods consist primarily of gathering information, surveillance, and conducting terminal interviews of resigning officers.

Q: In investigating complaints, do you handle—do you just investigate complaints or do you initiate your own?

A: We initiate our own.

²⁵Scafidi, July 10, 1973, N.T. 138-139.

Q: What type of investigations originate from your office?

A: Well, in a couple of ways, information received by my people, which is not a formal kind of information. My people have their antennas up at all times. They report to me suspicious situations or suspicious activities, and we initiate our own investigation. On routine situations, we have locations through the city where we establish surveillance from time to time.

Q: Are they basically on a case-by-case approach? In other words, you say you have your antenna up.

A: Yes.

Q: In other words, you do not initiate any activity until you get some report or some indication?

A: Oh, no. No, as I have indicated, we go out looking for wrongdoing. Let me put it that way.

Q: And what do you do when you say you go out looking?

A: We are generally watching certain locations or certain people or certain installations.

Q: Are these people that have a reputation within the department for being bad people?

A: Locations primarily, and people from outside of the department who are engaged in illegal activity.

A: Like what kind of locations? Could you give us an example?

A: Locations that are known to us where there has been a history or experience of vice activity primarily or narcotics activity.

Q: In other words, where there are ongoing centers of vice activity, that is an area where you would—

A: It may not be ongoing, but we have known it to have been an active vice area.

Q: If it is ongoing, is that any indication to you that there is some problem of performance of the police in that area?

A: It might or it might not be. . . . It is very difficult to characterize a street situation.

Q: Sure. I understand that.

From your experience, what would you say, your judgment on the matter? Is that an indication of problems in the police service in that area?

A: I would say if it is a blatant and flagrant operation, there is an indication of some, at the very least, police laxity.

Q: What else could it be?

A: It could also be corruption, collusion.

Q: Anything else? In other words, nonenforcement for some reason or corruption—

A: It could be that the police are too tied up on other matters, service calls and crime calls, in closing hydrants, to possibly give that particular condition the attention it merits. Each and every situation is a unique one and has to be judged by its own circumstances.

Q: All right. Are there any other types of locations other than the vice centers where you would initiate surveillance?

A: Yes, we watch the police districts, the police installations.

Q: You mean the actual district houses?

A: That's correct. That is right. We check—when I am able to do it—when I am not burdened with Court suits and various things of that nature, and compiling records for the State Crime Commission—we make patrol inspections. I generally have Staff Inspectors do that, to check for many things, supervisory involvement, patrol response, staying on your sectors, staying awake, eating at the proper time, compliance with departmental policies such as two men in a car or one man in a car, congregating at certain eating places, more than one vehicle. We do this kind of thing.

Q: With what frequency do you engage in this, other than case-by-case—

A: It is hard to say, because it depends on whatever the current burden of my work is.

Q: Well, let's take the last six months.

A: Not very much in the last six months. I have made some sporadic inspectional services, but we used to do it very regularly.

Q: That is inspectional services?

A: That's right.

Q: What about other surveillances?

A: Oh, that we do all the time.

Q: With what frequency?

A: I have men out today watching locations without a specific assignment, without specific information.

Q: Is there any officer or officers which do that on a regular basis as opposed to investigating specific cases?

A: No, I do with what I have available.

Q: In other words, whoever is not working on a case?

A: That is correct.

Q: Is there any other activity other than surveillance which you just mentioned where you seek to uncover corruption?

A: Well, as I indicated, we watch certain vice figures or vice locations.

Q: Or phrased another way, is there any other investigative technique that you would utilize on your area where it is other than a case-by-case method, other than the surveillance?

A: Sure. We talk to a lot of police officers. We have a terminal interview technique where we question every police officer leaving the Police Department for any reason, as to any knowledge of wrongdoing, collusion, corruption, noncompliance, anything that he is willing to tell us.

Q: Anything else other than the terminal interview and surveillance that would fall into activities where you seek to uncover corruption?

A: I can't think of anything.

Q: When did this terminal interview procedure start?

A: I would say at least a couple of years ago.

Q: Prior to '70?

A: I don't think it was prior to '70. I think it would be somewhere in 1970.

Q: What types of records do you keep of the terminal interviews?

A: I keep a file, a terminal interview file.²⁶

While the investigative procedures described by Chief Inspector Scafidi, if followed, are of some value in investigating corruption, they are far from sufficient. Since police corruption is a very difficult problem, aggressive and imaginative approaches must be used. One such approach, used successfully in New York City, is to have "citizens" turn in a number of wallets with varying amounts of cash in them to check whether police officers will turn in the money or keep it. Others would be to place an apparently stolen and abandoned car on a street and observe what happens when the police pick it up; to put an undercover person in a situation which has all the earmarks of a drug operation (such as a hotel room with scales, glassine bags, and a large amount of cash) and anonymously call an officer suspected to be corrupt to see if he will attempt a shakedown or extortion, or to plant an officer in a police district or a plainclothes unit and simply see what approaches are made to him.

The Philadelphia Police Department not only does not utilize approaches such as these, but it fails to perform efficiently even the most routine and obvious corruption investigation tasks. Thus, the Internal Affairs Bureau was somehow completely unaware of any specific restaurant or business in the City which gave cash or free meals to police officers, did not assign anyone to investigate such matters, and apparently has

²⁶Scafidi, July 10, 1973, N.T. 78-84.

never brought disciplinary charges against an officer for accepting such cash payments or free meals from businesses.

Q: Do you know of any case in which a police officer has been the subject of charges with regard to free meals?

A: I can't recall any, but that doesn't preclude the possibility. There may have been several cases with other circumstances involved, but I don't recall a pure case of that.

Q: You mean in addition to meals?

A: Yes.

Q: Are you aware of any particular restaurant or restaurant chains in the city that do provide free meals to police officers?

A: I know of no particular chain or specific circumstance.

Q: By adding the word specific, do you imply that you know there are some that do provide meals?

A: I don't know. I don't know.

Q: Do you have the impression that some do?

A: I think it is quite possible, even probable.

Q: Do your men take any effort to ascertain any information along those lines, or do you assign them to this relatively—what many people consider to be a minor area, but which is an area as you have described as a problematical one?

A: I have not. I have not. We would act on a complaint in that case.

Q: What about some other areas considered to be clean notes? Do you have any knowledge that any police officers receive payment of money or other merchandise for services rendered to business establishments such as security checks or security services?

A: I have no specific knowledge.

Q: Do you have any general knowledge of such practices?

A: I have no knowledge that I could operate on, specific store or specific chain or specific market or specific officer.

Q: Again, the same question as before, have you ever assigned any of your men to investigate that type of activity?

A: I can't recall.

Q: To your knowledge you have never assigned any men to investigate that?

A: Not to my recollection.²⁷

As indicated in the section of the Report on business notes, free meals and cash payments to police officers are a rampant practice in Philadelphia. Hard evidence of police officers receiving them was obtained in some cases by the Crime Commission simply calling some businessmen on the telephone and arranging an interview.

USE OF THE POLYGRAPH

The Philadelphia Police Department utilizes polygraphs, or lie detectors, during the course of many of its routine investigations of crimes committed by citizens. It also often administers polygraph examinations to citizens who file complaints against police officers. It does not, however, require police officers to submit to polygraph examinations, as a result of a combination of resistance by the Fraternal Order of Police and inaction by the Police Commissioner.

The polygraph is a method of evaluating the truthfulness of persons on specific questions by recording and then analyzing changes in various body functions of the person being questioned.²⁸ It is extremely useful in investigations as one tool to be used in conjunction with other evidence in pursuing leads

²⁷*Id.* at 125-127.

²⁸The theory behind lie detectors and many of the arguments pro and con are discussed in Reid and Inbau, *Truth and Deception* (1966); Skolnick, "Scientific Theory and Scientific Evidence: Analysis of Lie Detection," 70 *Yale L. Rev.* 794 (1961); and Shattuck, Brown, and Carlson, "The Lie Detector as a Surveillance Device," *ACLU Reports* (1973).

and evaluating credibility. Although the process is still occasionally attacked as unreliable, it is winning increasing acceptance by the courts as evidence in criminal trials. The states of New Jersey, Arizona, Iowa, and California now permit lie detector results to be introduced at a trial, on agreement of the parties, and one United States District Court has ruled polygraph results would be admissible on motion of the defendant.²⁹

The Philadelphia Police Department makes extensive use of lie detectors in its criminal investigations. The Department has four polygraph devices and two rooms specially designed for polygraph examinations at police headquarters.³⁰ There are thirteen police officers assigned to the Polygraph Unit, not counting Inspector Love, each of whom regularly administers polygraph examinations. In addition, there are other Philadelphia police officers who have received training in polygraph examination but who are not assigned to the Polygraph Unit. The unit administers an estimated 250 to 300 tests each month.³¹ The tests have been used "in almost any investigation that you could name."³² They are given both to persons suspected of having committed crimes and to prospective witnesses.³³

One of the primary uses of lie detectors in criminal investigations is as an adjunct to the interrogation of suspects. The object of such interrogation is to obtain a confession. The noted authorities on lie detectors, Professors Reid and Inbau, specifically recommend this practice:

. . . if the results [of an examination] are indicative of deception . . . the examiner should proceed to interrogate the subject with a view to obtaining an admission from him with respect to his deception regarding the matter under investigation. . .³⁴

²⁹*State of New Jersey v. McDavitt*, 62, N.J. 36, 297 A.2d 849 (1972); *State v. Valdez*, 91 *Ariz.* 274; 371 P.2d 894. (1962); *State v. McNamara*, 252 *Iowa* 19, 104 N.W.2d 568 (1960); *People v. Houser*, 85 *Cal. App. 2d* 686, 193 P.2d 937 (Dist. Ct. App. 1948); *U.S. v. Ridling*, 350 *F. Supp.* 90 (E. D. Mich. 1972).

³⁰Testimony of Inspector Lawrence H. Love, Jr. before the Pennsylvania Crime Commission, October 30, 1973, N.T. 89 [hereinafter cited as Love]. Inspector Love is head of the Polygraph-Voice Print Unit of the Philadelphia Police Department.

³¹*Id.* at 85-92.

³²*Id.* at 92.

³³*Id.* at 92-93.

³⁴*Truth and Deception, supra*, note 28, at 236.

This recommendation is followed by the Philadelphia Police Department, as Inspector Lawrence Love's testimony indicates:

Q: Now, if a person in the opinion of the examiner is not telling the truth, is there any effort made by the examiner to find out what the truth is by interrogating him further?

A: Yes.

* * * * *

Q: . . . when a person is confronted with the opinion of the examiner that he has not told the truth, what effect does that have on the person?

A: Many times it results in him then telling the truth or at least giving some explanation for why [deception is indicated].

Q: Do you find that results in confessions to crimes in many cases?

A: Yes.

Q: Do you have any estimate about how frequently that occurs? Say, in the 25 percent of the people found to be not telling the truth, about how many of those wind up confessing to a crime?

A: That's a tough one. I'd say maybe 60 or 70 percent.

Q: Sixty or 70 percent of the 25 percent?

A: Yes.³⁵

Despite the Police Department's enthusiasm for administering lie detector tests to citizens involved in criminal acts in some way, it very rarely gives these tests to police officers. Although numerous complaints of various kinds are made against police officers each year, fewer than ten police officers have taken a lie detector test since Inspector Love took command of the Polygraph Unit in February, 1972.³⁶

³⁵Love, N.T. 96-97. Warnings are given prior to the test that anything the suspect says may be used against him. An example of the use of these interrogation techniques by the Department in a recent case is described in "A Reasonable Doubt," *Philadelphia Magazine* (January, 1974), at 156-164.

³⁶Love, N.T. 113-117.

The failure of the Police Department to administer polygraphs to its own personnel ostensibly is the result of the policy of the Fraternal Order of Police (FOP) to refuse to provide free legal assistance to a member police officer if he takes a lie detector test. This policy is drilled into the members through prominent signs at the FOP hall and frequent reminders published in the local FOP newsletter. Because of this FOP threat, most police officers refuse to take lie detector tests. Police officers cannot be compelled to take such tests under existing civil service and Police Department regulations, so there currently is no penalty for not taking the test.

The Crime Commission invited the FOP to send a representative to a Commission hearing to answer questions about the reasons behind the policy on lie detectors and the effects of the policy. The FOP agreed, and a hearing was held on November 2, 1973, at which Thomas Garvey and Thomas McCarey appeared. Mr. Garvey, the chief spokesman, began by agreeing that the lie detector was a valuable investigative aid. He said that ". . . as an investigative tool, my feeling is that it's [the lie detector] a useful item to be used by our members of our department in the investigation of a criminal incident."³⁷

Mr. Garvey stated, however, that the FOP discourages police officers from taking the test when they themselves are being investigated in connection with a crime. The reasons he gave are that the polygraph ". . . is not a scientifically precise instrument, and it is subject to human errors;" and that the instrument ". . . can never be of value to him but can certainly cast suspicion on him or possibly bring in other policemen. . ."³⁸ He explained that:

A: For instance, in a departmental investigation, should a member fail the lie detector test, there's a strong possibility that it will be used against him, in that the suspicion would be much more heavier on him that he was somehow involved in whatever the charge may be. Had he passed the lie detector test, then it has no value at all and naturally is not used in his defense, if he should pass.

Q: Why does it have no value if he passed it?

³⁷Testimony of Thomas Garvey before the Pennsylvania Crime Commission, November 2, 1973, N.T. 7 [hereinafter cited as Garvey]. Mr. Garvey is a member of the Legislative Committee, Lodge #5, Fraternal Order of Police.

³⁸Garvey, N.T. 10, 16.

A: Well, they're not interested in finding out who is doing things right; they're interested in people who do things wrong.³⁹

While Inspector Love indicated in his testimony that it is often to a person's advantage to take a lie detector test since persons are found to be telling the truth 75% of the time and since passing a test helps divert suspicion away,⁴⁰ the FOP spokesmen refused, under close questioning, to admit that there is any benefit to police officers arising from taking polygraph tests.

Besides contending that taking a polygraph test cannot help an individual police officer clear himself of charges, the FOP spokesmen expressed a great fear that in the course of post-test interrogation a police officer might implicate other police officers either in the specific incident being investigated or in other incidents of which the first officer may have knowledge. This is illustrated by the following testimony:

Q: . . . you agreed that, if you did pose the question narrowly: "Did you take money from Joe X on a certain date at a certain place at a certain time for the reason of protecting him?" and the officer said no to that question and there was no deception indicated, that would help him, though?

A: What do you mean—"would help him"?

Q: Well, it would clear him. It would tend to show that he was telling the truth. And if he was telling the truth, that would mean that he didn't do the thing that he was charged with.

A: Well, before you reach that point, as I stated earlier, too many other factors are involved before that question would have any validity, in my opinion, to be of a very direct question and answer, because I think there's too many factors aside from that effect taken.

To carry it further, the next question to an individual like that—and let me finish—

Q: Go ahead.

³⁹*Id.* at 11.

⁴⁰Love, N.T. 95

A: —is that, if you said to him, "Do you know of any other police officers, then, that are involved in this situation?" or "Do you know if Officer so-and-so was also involved with that?"—

Q: Yes.

A: —and then you, in turn, actually relinquish the rights of that other policeman, if he should fail the question, because it then casts suspicion on another individual who has, up until the latter occasion, not been involved with the situation in any way whatsoever. So you do waive that other policeman's right by, through an instrument, having a suspicion of guilt placed on him.⁴¹

This concern of the FOP is even more clearly brought out in the following exchange:

Q: . . . Now, I'd like to ask you a couple of questions about the effect of the policy of the FOP on lie detector tests. Doesn't it, in effect, discriminate against an innocent police officer who wants to take the lie detector test and clear himself or at least use that to help establish his innocence because, if he does take it, he will automatically lose his legal counsel?

A: Well, as I stated earlier, it never proves innocence.

Q: I realize that.

A: The weakness of it in that context is that it may prove his innocence, but it only maybe throws guilt to somebody else who really had nothing to do with it earlier.

* * * * *

Q: . . . [O]ne of the things that you're concerned about, from what you said, I guess, a couple of times now, is that, even though a police officer may establish to the satisfaction of the investigator that

⁴¹Garvey, N.T. 14-15.

he was not involved in a particular offense that's being investigated, he might have knowledge of others who are and answers may be drawn from him which would lead to other people.

A: (Mr. McCarey) I don't believe that's so.

A: (Mr. Garvey) No, that's not the context that I meant. What I meant was you asked me a direct question—

Q: Yes.

A: —that, even if you have a policeman who is guilty of something and you desired to put him on a lie detector to his benefit, if he takes it and fails, his guilt remains or his suspicion of guilt remains. If he's guilty and, for some reason, it doesn't show on a lie detector and he passes, other factors may still prove his guilt.

But suppose that he is guilty and, through the lie detector test, they find other people may be involved with the situation he was involved in, he, in essence, has waived their right by taking a lie detector test and has incriminated them through his own taking of the lie detector test in the first place.

Q: Well, if somebody knows some information about someone else's involvement in a crime, doesn't he have a duty to tell that information?

A: Yes, he does.

Q: Well, that applies to police officers, too, doesn't it?

A: That's correct.

Q: So that shouldn't be any consideration, should it?

A: That he envelops other people?

Q: Yes.

A: Not if he does it in the normal investigation interrogation. But when he does it through an instrument which we don't guarantee is true in any way, shape or form, but other people are drawn in simply because of the results of an instrument, then

we feel that it didn't benefit anybody, it took other people in.

Q: Well, doesn't it benefit the public?

A: Not if those policemen were completely innocent, to begin with, and, through something an instrument said, they were drawn into an investigation. Then it never should have been done in the first place.

Q: You mean that you may have some police officers who weren't suspected, to begin with, and then you have, through a lie detector test, someone who may give some statements that implicate someone else?

A: Yes, through—

Q: That does not benefit the public?

A: No, because the public gains through the proving of someone's guilt. And when you're saying that, if you're attempting to prove one policeman guilty by a lie detector test which, through error, through human error, through any way at all, other policemen may be brought into it who are totally innocent, then you only circumvent normal interrogation and bring people into it who may have nothing to do whatsoever with the incident.

* * * * *

Q: . . . you're worried about bringing other police officers into something when they weren't otherwise in there prior to giving them a lie detector test, right?

A: I'm sorry. I missed the first part.

Q: Well, one of the bad side effects that [the] FOP is worried about in giving a lie detector test is that other officers who weren't previously mentioned in the investigation might be brought into it.

A: Well, I think that, when you use the total systems in an investigation and you were to make the lie

detector one of them, then, as a representative or as a lawyer, I would have to recommend that the policy we have is a good one, simply because, in any given investigation, there may come a time when that lie detector could be used to bring in other people as a result of what he said and, from a legal viewpoint, even if Officer so-and-so may have committed a crime and the Statute of Limitations is out and over with for a criminal charge, he could still be brought for departmental charges and be fired, so that, even though, in a criminal sense, he may have a clear bill of health due to a Statute of Limitations or other factors—

Q: And that's bad?

A: —he could still be fired.

Q: and that's bad from your point of view?

A: Well, if I'm to defend the policeman's rights, anything is bad which may hurt them in a sense of any investigation to prove their guilt.

Q: So it sounds to me, and correct me if I'm wrong, that your policy, in effect, protects dishonest police, people who have committed offenses?

A: No, I'll be glad to correct you because you are—

Q: Okay, correct me.

A: Our policy is to give the best benefits to our members that we can give, and we are totally against the lie detector box simply because, in no way, shape, or form has it been shown to us or to anybody, to my knowledge, that it is an instrument that is not subject to human error, that is not subject to be twisted, that is not subject to be used against a man who is totally innocent, if he should fail. That's why we're against it.

Q: For police taking it.

A: If that day should come that it could be utilized or proven to me that any instrument is not subject to human involvement of error, then I would have to reconsider my own thinking on it.⁴²

⁴²Id. at 30-34, 38-40.

There is little doubt from Mr. Garvey's testimony that the intended effect of the FOP policy on lie detectors is to protect police officers who are not being tested from criminal charges or disciplinary actions resulting from statements made by other police officers during or following lie detector tests. The FOP reasons that taking and even "passing" a test (being found to be truthful) does little positive good for an individual officer accused of an offense. Since lie detectors are not judicially admissible in Pennsylvania, the results cannot be used in his defense at a hearing if he passes the test. Furthermore, passing a test would not necessarily prevent a prosecution if there is strong evidence against an officer.

While passing a lie detector test does little to "help" an individual officer, "failing" a test (having been found to be deceptive) can have a number of negative implications both for the officer taking the test and for other officers. Failing a test may focus suspicion on the officer and make prosecution more likely. It could also lead to revelations of other misconduct and to implication of other police officers as the officer responds to interrogation or attempts to explain his apparently deceptive responses during the examination.

In view of this reasoning, the FOP policy is understandable and possibly even justified strictly from the narrow FOP standpoint. However, the view of the Department should not depend on the view of the FOP. The FOP policy is completely inconsistent with the notion of protecting the public by ridding the Police Department of corruption.

Although Chief Inspector Scafidi admitted in testimony before the Commission that the polygraph would be a valuable aid in the investigation of corruption,⁴³ the Police Department has failed to take simple steps within its power to implement mandatory polygraph testing. The rationale adopted by the Police Department for not requiring officers to submit to polygraph examinations is that it may not legally do so under the decision of the Pennsylvania Supreme Court in *DeVito v. Civil Service Commission*.⁴⁴ In that case, the court ordered the reinstatement of two Philadelphia policemen who had been fired for refusing to take a polygraph. The Court's decision hinged, however, on the fact that there was no written civil service or Department regulation giving the Police Commissioner direct authority to require taking of a lie detector test. The Court said:

⁴³Scafidi, October 30, 1973, N.T. 121.

⁴⁴404 Pa. 354, 172 A.2d 161 (1961).

The Philadelphia Civil Service Regulations provide (in) §17.02: "An employee in the civil service may be dismissed for just cause at any time by the appointing authority. . . ." "Just cause" is not defined. However, nowhere in the City Charter, the City Ordinances, the Civil Service Regulations, or the Police Department regulations is there a provision which authorizes the Police Commissioner or the Civil Service Commission, expressly or by implication, to force a city employee to submit to a polygraph test or authorizes a dismissal for refusal to take such a test. For this reason neither the Police Commissioner nor the Civil Service Commission had the authority to require the test nor to discharge appellees for refusal or failure to take the test. It follows that both the Commissioner and the Civil Service Commission exceeded their powers to dismiss for "just cause."⁴⁵

The fact that there is no regulation or directive requiring a Philadelphia police officer to submit to a polygraph is simply a result of inaction by the Police Commissioner. He has the inherent authority to issue such a directive. The Pennsylvania Legislature has implicitly given police departments the authority to issue such regulations by passing §7321 of the new Crimes Code. It provides:

§7321. Lie detector tests

(a) Offense defined.—A person is guilty of a misdemeanor of the second degree if he requires as a condition for employment or continuation of employment that an employee or other individual shall take a polygraph test or any form of a mechanical or electrical lie detector test.

(b) Exception.—The provisions of subsection (a) of this section shall not apply to employes or other individuals in the field of public law enforcement or who dispense or have access to narcotics or dangerous drugs.⁴⁶

⁴⁵Id. at 360, 172 A. 2d. at 163.

⁴⁶Act of December 6, 1972, P.L. _____, No. 334, §1; 18 C.P.S.A. §7321 (1974).

Judicial decisions in other states also support the concept of requiring law enforcement officials to submit to lie detectors.⁴⁷

The Pennsylvania State Police on May 15, 1973, adopted Regulation 1.47 "Submitting to Polygraph Examinations," which states:

Upon the order of the Commissioner a member will submit to a polygraph examination when such examination is relevant to a particular internal administrative investigation or inquiry. Only questions relevant to the internal administrative investigation or inquiry will be asked.

The maximum penalty for violation of this regulation is dismissal.

Polygraphs may be used by the Police Department not only in investigating particular allegations of misconduct, but also scrutinizing candidates for promotions, particularly to sensitive police positions. For example, the new Superintendent of the Chicago Police Department recently ordered 72 top officers in that department to take lie detector tests in order to determine whether any had participated in or condoned acts of corruption. The results reported were that seven officers failed all four questions and nine failed at least one. Resignations of all 72 were reportedly demanded, and decisions were being made on who to reinstate, as part of a massive shakeup of the department.⁴⁸

The Crime Commission strongly recommends that the Police Commissioner immediately issue a Directive similar to State Police Regulation 1.47 requiring all police officers to submit to a polygraph examination during the course of any internal investigation and to give serious consideration to regularly utilizing such tests as an aid in screening candidates for promotion.

THE INTERNAL CONTROL SYSTEM IN OPERATION

The manner in which the Police Department and the Internal Affairs Bureau investigate allegations of police corruption is

⁴⁷See *Roux v. New Orleans Police Department*, 223 So. 2d 905 (La. App. 1969); cert. denied 254 La. 815, 227 So. 2d 148 (1969); cert. denied 397 U.S. 1008 (1970); *Coursey v. Board of Five and Police Commissioners*, 80 Ill. App.2d 31, 234 N.E.2d 339 (1967); *Fibera v. State Personnel Board*, 217 Cal. App.2d 613, 32 Cal. Rptr. 159 (1st Dist. Ct. App. 1963); *Contra, City of Miami v. Jervis*, 139 So.2d 513 (Fla. App. 1962).

⁴⁸*Time*, February 25, 1974, at 21.

dramatically illustrated by the handling of two matters which arose during the Crime Commission's investigation. In the spring of 1973, the Commission undertook an inquiry into the extent of payments by Philadelphia businesses to police officers. On June 20, 1973, Police Commissioner Joseph F. O'Neill wrote to the Chairman of the Crime Commission stating he had "received information that the Crime Commission is in possession of information relative to chain stores allegedly giving gratuities to the police." The letter went on to state:

If any of this information is sufficient to sustain departmental charges or criminal actions against any member of this department, I am requesting that you advise me so that this department can initiate appropriate action.⁴⁹

On June 25, 1973, the Chairman wrote in reply that it would be premature to turn the information over since the investigation was incomplete. The letter promised to turn the information over at the completion of the investigation and asked, in the meantime, for assistance in the form of providing police documents such as car logs, duty logs, and radio call logs. There was no reply to the June 25 letter. The Executive Director of the Commission later tried to pursue the request for documents by calling Commissioner O'Neill on the telephone, but Commissioner O'Neill referred him to the City Solicitor's office. On or about July 5, 1973, the Police Commissioner wrote letters to several chain store executives asking for information about payments to police, though there was apparently no follow-up on the letters.

By August 10, 1973, the Commission had gone nearly as far as it could go with the investigation of several businesses without having access to Police Department documents. Therefore, on that date the Commission turned over to the Police Department and to the District Attorney identifications of 183 policemen who had apparently received cash payments of money from businesses for extra police services. Only 77 of these officers were clearly identified by name and badge number, with the remainder identified by initials or assignment. Thus, reference to police documents was needed for further identification. The Commission emphasized it was turning the information over, in

⁴⁹Letter from Police Commissioner Joseph F. O'Neill to Attorney General Israel Packel, June 20, 1973.

response to the Police Department's request, so that the Department could institute departmental or criminal action. The Commission requested that it be informed of any action taken. The information turned over included sworn testimony and copies of documents as well as an extensive summary of evidence.

The Police Department has apparently taken no disciplinary or prosecutive action on any of this evidence of "business notes." The only response from Commissioner O'Neill directly was a terse acknowledgement that he received the evidence and a statement that: "Each and every instance of alleged wrongdoing on the part of any member of this department will be investigated thoroughly and appropriate action will be taken based on facts developed."⁵⁰

Six weeks later, on October 1, 1973, Staff Inspector Howard Schultz of the Internal Affairs Bureau, along with Assistant District Attorney Charles Haddad, met with a Crime Commission attorney at Messrs. Haddad and Schultz's request, ostensibly to discuss the evidence. During this meeting, Inspector Schultz stated, in response to a question, that he or his staff had interviewed "some" of the police officers in question, but he refused to discuss the interviews. When the Commission attorney expressed surprise at his non-cooperative attitude, Inspector Schultz said he was not too familiar with the matter since he had recently taken over for someone else who was sick. This statement was later contradicted by Chief Inspector Scafidi, who testified that Staff Inspector Schultz had been assigned to the "business note" investigation from its beginning.⁵¹

Chief Inspector Scafidi testified on October 30, 1973, that the Police Department coordinated its investigation of the business note evidence with the District Attorney's office. The District Attorney's office apparently took the task of questioning company witnesses, while the Department questioned police officers. Chief Inspector Scafidi estimated that 30 files on separate police officers had been opened, but testified that not all of the officers identified in the August 10 letter had yet been interviewed, and that he did not know if anyone had checked the police radio room for logs showing the identity of policemen

⁵⁰Letter from Police Commissioner O'Neill to Lawrence T. Hoyle, Jr., August 20, 1973.

⁵¹Testimony of Frank A. Scafidi before the Pennsylvania Crime Commission, October 30, 1973, N.T. 5-6.

giving escorts to businessmen in return for cash payments. (Such logs were later found.) When questioned about whether the Police Department had interviewed any company employees, Chief Inspector Scafidi flatly refused to answer except to say, "We have consulted with officials of these various organizations."⁵² In fact, neither the Police Department nor the District Attorney's office attempted to interview witnesses or examine additional documents at the supermarket chains mentioned in the evidence presented.

As of October 30, 1973, the Police Department had instituted no action on any of its men, and as of the date of this Report, the Commission has not been advised by the Department of any disciplinary action taken as a result of the evidence of payments from businesses to police.

When it became apparent to the Commission that neither the Police Department nor the District Attorney was thoroughly or vigorously investigating the evidence turned over to them, the Commission decided to try once again to obtain the corroborating Police Department documents. A letter detailing the precise records wanted, with dates and individuals' names, was sent to Commissioner O'Neill on October 16, 1973. The documents requested consisted of records of assignments of particular police officers on specific dates and any logs showing their activity on the dates mentioned. The most important of these records were the "patrol logs" which are maintained by each individual officer and by regulation must contain an account of all activities during his tour of duty. These records were important since they could possibly have been used to corroborate the performance of guard service at Gino's.

The October 16, 1973, letter eventually received a cryptic reply from the City Solicitor's office to the effect that the request was not specific enough. A subpoena was then issued, which the Police Department ignored. A petition to enforce the subpoena was duly filed in Commonwealth Court, and was heard on December 14, 1973, in Harrisburg. At the hearing the Department conceded the Commission's right to all of the requested documents and agreed to produce all of the ones still in existence. It was pointed out at the hearing, however, that all patrol logs were routinely destroyed after a period of six months. Since all the records requested by the Commission were for 1972, they were no longer available.

⁵²*Id.* at 11-13.

Immediately after the December 14, 1973, hearing, the Commission wrote to the City Solicitor's office stating, in part, the following:

The Crime Commission turned over to the Police Department on August 10, 1973, the names of many police officers alleged to have taken money. We assume that the Department will have refrained from destroying the patrol logs of the individuals named so that their activities could be properly investigated. Therefore, patrol logs for those individual officers should exist from the period February, 1973, to the present, since February is six months before August.

The Crime Commission requests that the Police Department produce for inspection the patrol logs of the police officers named below for the period February, 1973, through the end of July, 1973. . . .

The Commission has never received either an answer to or an acknowledgment of this letter.

On December 27, 1973, the Department produced for examination the police assignment sheets requested by the Commission. However, the Commission's investigation was effectively finished by then, and the Commission had begun the process of preparing its Report. Only limited examination and use of the documents could therefore be made.

From the above, it is obvious that the Police Department displayed at best a half-heartedness toward following through on the clearest possible evidence of widespread graft by its members. At worst, the Police Department conspired and acted to obstruct the Commission's investigation. The effect of the Police Department's refusal and delay in producing these documents was that the most detailed and revealing documentary evidence of the daily activities of police officers was irrevocably destroyed.

The internal control mechanism, as seen from the point of view of one police officer who was the focus of an Internal Affairs investigation, is given by Officer Robert J. Weiner. Irvin Goltzer, who had worked as a Crime Commission informant for over a year gave the District Attorney's office a general outline of what he had done for the Commission, shortly before leaving the country for a time. A Deputy District Attorney sent a memorandum of Mr. Goltzer's statements to the Inter-

nal Affairs Bureau, which then began an "investigation." As Officer Weiner's testimony makes clear, the Bureau handled the matter in a completely ridiculous way, with the officer being given ample opportunity to get his "story straight" and with the "investigators" assuring the persons being investigated that they really need not take the investigation seriously. Officer Weiner's description of the process is given here in his own words:

Q: Would you tell us about the problems which you had with Internal Security concerning one Irv Goltzer and the Why Not Lounge?

A: In October, 1973, myself and Officer [Fred I. _____ (#5649)] were called into my commanding officer's private office, Lieutenant Rahinsky. Lieutenant Rahinsky, at this time, was very upset. He stated to me that he had received a call from the staff inspectors of Internal Security, specifically, Staff Inspector Kennedy and Staff Inspector Reh-fuss. Lieutenant Rahinsky at this time had told us, in response to this telephone call, that he was told that the staff inspectors wanted to see us in reference to a memorandum which they had received from the D.A.'s office, and I believe the D.A. specifically was [Paul Michel].

The memorandum had stated that specifically, in regards to Fred and myself, that they had received information that the State Crime Commission had statements from Irv Goltzer, the owner of the Why Not Lounge at 1305 Locust Street, and in conjunction with the statements, in which Irv Goltzer alleges that he had paid Fred and myself off, that Irv Goltzer had taped conversations of the transactions.

He asked us was this, in fact, true. Well, of course we denied it. We told him we didn't know anything about it. So he immediately called Staff Inspector Kennedy and Reh-fuss and, due to the lateness of the day, Inspector Kennedy and Reh-fuss wanted to see myself and Fred the following day in the a.m.

So the following morning at approximately 10 o'clock a.m. myself and Fred did go down to 3rd

and Race Streets where the staff inspectors for Internal Security were located.

Q: Let me interrupt you for a moment. Did you take any action before you went down to Internal Security to find out what was involved?

A: Okay. Upon hearing this—

Q: "This" means your conversation with your commanding officer?

A: Right. After the conversation with the commanding officer, Fred and I left the office and we started home and we were quite concerned. I had gone home and had told my wife who, at this point, did not know of any of my activities, and told her what had occurred and the truth as to what my actions had been in the last few months.

Later that same evening Fred had come to my home and had told me that he had tried to get in touch with his dad, but his dad wasn't available so he had gotten in touch with his brother-in-law. He is a former Philadelphia policeman. His brother-in-law was Mike Raposelli. Mike Raposelli was a former lieutenant that worked in the South Philadelphia area. He is currently retired from the police department and is now the head of security at St. Luke's Hospital.

Fred had told me that he had gone to see his brother-in-law, Mike, and had told his brother-in-law exactly what these allegations were against us. So Raposelli immediately called up a fellow who Fred told me was Zeke. Fred had explained to me that Zeke was—he didn't know who Zeke was personally either—but Mike had told him that he was the main money man in the Locust Street area. Raposelli wanted to find out whether or not the Crime Commission had Irv Goltzer under wraps. Zeke at this time told Raposelli that he knew for a fact that the Crime Commission did not have Goltzer under wraps but that he had fled from the Philadelphia area and possibly wound up in Florida somewhere. So Fred told me that "It looks like we don't have too much to worry about if the state

doesn't have Irv to testify against us." He also stated to me that Raposelli had called Inspector—Chief Inspector Scafidi trying to find out what they had on us, but Scafidi wasn't home. Raposelli does not call Scafidi at home personally. Scafidi feels that his phones are being tapped and that it is not safe for him to talk over his own home phone. They call through a drinking buddy who I don't know.

Raposelli had told this drinking buddy of our particular situation and to relay the message to Scafidi and to see if Scafidi can help us out in this particular situation.

* * * * *

At this time we did not know there were other policemen involved other than Fred and myself. During our conversation, we got our stories straight and we were ready for the staff inspectors the following morning.

* * * * *

Q: Will you continue telling us what happened when you went to internal security the next day?

A: Well, the next morning myself and Fred, while driving to 3rd and Race, had agreed on our story, which was basically to deny everything, to completely deny even knowing this Irv Goltzer and just hope that if Irv does have tapes that they are not very clear, and if they were clear, we would just have to deny that those were our voices. I told Fred it was kind of shaky, but he said, "What else do you want to do?" So we agreed to stick with this story of complete denial and "don't know what you are talking about" attitude.

So surprisingly enough, when we got to 3rd and Race and we saw Staff Inspector Kennedy and Rehfuss, the normal policy would be to separate us and discuss separately what our stories would be. But they kept us together. At this time they had related to us—they had the actual memorandum in front of us—and told us that they had received this memorandum from the D.A.'s office and that the

memorandum states that, "There have been statements and taped conversations made by and through Irv Goltzer of payoffs within the police department." There were 12 other policemen involved in this thing besides Fred and myself.

About at this point in the conversation, Inspector Rehfuss was called out of the room and when he returned after a very short period of maybe a minute, he just looked over at Fred and said, "Do you know who that was?" Fred said, "I know who it was." He said, "Well I talked to him on the phone." And I didn't know what they were talking about at this time.

Q: Did you later find out what the reference was to?

A: Later I found out it was Raposelli who had called down to Scafidi, but Scafidi wasn't around so he talked to Rehfuss, who talked to Raposelli. Rehfuss has told Raposelli that they, internal security, didn't have anything solid on us and at this stage of the game, there wasn't too much for us to worry about. This was what I later found out.

Q: How did you find out?

A: Fred told me later.

During our meeting there with the staff inspectors, they first of all told us of the allegations and asked if we knew anything about it. Of course, we said no.

They showed us a picture of Irv Goltzer and asked us if at any time we ever had conversations with this Irv Goltzer, and we both looked at the pictures and said, "No, we don't know him." Here, they became just a little annoyed and I believe it was Rehfuss who stated, "Look, fellows, we don't want any embarrassment; the police department does not want to be embarrassed by anything and if you have any association or connection with this man or have ever had any conversations with this man, that possibly we could disprove any kind of tapes. We want to know about it now." We said, "No," so they said, "Are you sure?" We said, "No, we don't know this man." They said, "Just re-

member the department doesn't want to be embarrassed," knowing to myself that if I, at this point, told them that I did know the man and did converse with him, that they would have turned around and locked us up before the state did.

Also during the interview with the staff inspectors they showed us pictures of another bartender in the Why Not Lounge who I didn't recognize—I believe it was a picture of Samuel Barber, but I'm not sure—and asked us as to whether or not we even knew this man or received any money from him. We told them no, so they left us, at this point, go and I told him, "If you hear anything more on it, do you want to give us a call?" He said, "Don't worry about it; if we hear any more about it, we will come see you." So I said, "All right."

We immediately went to [the Chief Inspector's Squad] headquarters at this time because I felt at this point that it wasn't fair to our new commanding officer, Marty Rahinsky, to have guys like us really working for him. So I told Fred, that, "I'm going to tell Marty I want a transfer." Even though we told him it wasn't true and he believed us—he said he would back us up—I said, "I don't feel right about doing this and it's not fair to the man." So he agreed.

We went back to the office, we told Marty Rahinsky and Marty said, "Well, if you didn't do it I will give you 100 percent backing and we will ride this thing out together." He talked us into staying.

At this point, we went to St. Luke's Hospital to speak with Mike Raposelli as to what had transpired at the staff inspector's headquarters. The conversation was very short.

Q: Were you present during this conversation?

A: Yes, I was present during this conversation. The conversation was very short. He said that he checked—I believe at this time it was with Scafidi—and that Scafidi said that they didn't really have anything solid on us, just these allegations and not to really worry about it. Raposelli advised us to get a good lawyer. So we left Raposelli and

went to the F.O.P. on Spring Garden Street and we talked to—I believe his name was Tom Carey or McCarey, who is on the board of the F.O.P. We told him of our situation, of these allegations, and he immediately called up Chief Inspector Scafidi.

Q: This was in your presence?

A: Yes. He called up Scafidi and he asked Scafidi something about did they take away our charter. I didn't quite understand what that was all about. Over the phone he had said, "Well, 12 other people involved? You don't really have nothing on the guys. They will probably die a natural death." So when he got off the phone he said that Scafidi had told him that they didn't take our charter away, whatever that meant, and that there were 12 other policemen involved, there was no solid evidence, and we didn't have too much to worry about and in all probability it would die a normal death. But he wanted to take our names and addresses down in the event that it didn't die and we need legal aid.

* * * * *

So we left the FOP and then we went to Fred's father's, Michael [I_____], to his home. I was present during our conversation.

Q: Mike [I_____] is a former police officer?

A: Yes.

Q: Continue.

* * * * *

... [W]e went to his house and Mr. [I_____] was there. Freddy told him the whole story. The only thing that Mike said was that, "If they got good tapes, you are dead. Get yourself a good lawyer. Did you guys go to the FOP? We said, "Yes,"

He said, "The only thing I can do is ensure that you get Chuck [Peruto]. He said, "Chuck is a good friend and I'll make sure that he represents you. Other than that, you have no recourse but the denial of everything."

So we left Mike [I_____]'s] and that was the

conclusion as far as the interviews with internal security.⁵³

It is obvious from the Internal Affairs Bureau's handling of these allegations that they were not interested in tracking down police corruption. The effect of the actions of Chief Inspector Scafidi and the Internal Affairs Bureau was to warn Officer Weiner and his partner that Irvin Goltzer was making allegations about them and to disrupt any ongoing Crime Commission investigation, as well as to destroy any real investigation the Internal Affairs Bureau might possibly have undertaken.

It is difficult to think of a rational explanation for this behavior. The key perhaps lies in the statement of Staff Inspector Rehfsuss: "Just remember the department doesn't want to be embarrassed." By calling the officers in for an investigation, the Department protected itself since the record will show they tried to investigate the matter. At the same time, giving all the available facts on the allegations to the suspects provided them the maximum opportunity to prepare their defenses against the charges, should they come later.

CONCLUSION

The internal control system of the Philadelphia Police Department is not aimed at aggressively attacking and eliminating systematic police corruption. The structure of internal control, the methods used and the results clearly indicate that the Department approaches corruption as an isolated phenomenon to be dealt with on a case by case basis. Furthermore, the Department's internal control system is not adequate even for dealing with particular corruption allegations as they arise.

The recommendations made in the above discussion, including expanding the size of the Internal Affairs Bureau, making the Bureau responsible for investigating all allegations of criminal violation, giving the Bureau increased status, increasing commanders' accountability, and improving investigative techniques, are essential reforms that must be adopted as soon as possible.

In the final analysis, however, institutional and procedural changes, both within and outside the Department, will be insufficient in themselves to accomplish the goal of ending police

⁵³Testimony of Robert J. Weiner, before the Pennsylvania Crime Commission, February 6, 1974, N.T. 60-70.

corruption. These changes must be accompanied by a change in the basic attitude of the Police Department. The traditional police agency view of the problem of police corruption is that it is something that should be suppressed from public view and not openly acknowledged because it tends to undermine public confidence in the Police Department and tarnishes the image of all police officers, honest or corrupt. That view is completely mistaken. People are in fact often aware of corruption when it exists, though they may not know all the details. Ignoring corruption and failing to take positive action to stop it has a much more insidious effect than openly acknowledging it as a serious problem. Corruption corrodes the values of people who are compelled to exist in the corrupt system and erodes the confidence of all citizens in their government. The Philadelphia Police Department should open its eyes to what everyone else clearly sees. The Department leadership must confront systematic police corruption and take the necessary and obvious steps to end it.

VI

PERSONNEL—SOME CURRENT ISSUES

The Crime Commission undertook a close scrutiny of three areas relating to personnel in the Philadelphia Police Department which are in great need of reform. The three areas are the status of minority groups, including women, in the Police Department, the Department's promotional practices, and the police pension system.

MINORITY GROUPS

Women in the Philadelphia Police Department

As a result of short-sighted and anachronistic attitudes of police commanders, women in the Philadelphia Police Department have been kept within a limited quota and have been largely restricted to narrowly defined duties. They are overtly discriminated against in hiring, promotion, and assignment. Despite a recognition in other police departments of the ability of women police officers, and an increasing trend toward giving them full status as patrol officers, in Philadelphia there have been minimal efforts to elevate the status, role, and number of women law enforcement officers.

Historically, police work throughout the United States has been strongly male-dominated. Women police have been few in number and until recently have had limited roles. The first women employed by the Philadelphia Police Department were appointed in 1884, and served only as police "matrons." They functioned essentially as welfare workers, caring for wayward women and children, as well as the sick and indigent, in

an effort to protect them from the ills of society which produced delinquency. One of their duties was to patrol and supervise places of entertainment and public recreation.¹ Women who did police-related work in the early 20th century were often drawn from social service agencies. Official recognition was first given to policewomen in 1911, when the position of woman police officer was placed under civil service in Los Angeles.² In Philadelphia, women were first given the title "policewomen" in 1939.³

The number of policewomen has never been large, especially in relation to the number of policemen. Nationally, in 1972, there were approximately 6,000 women police officers and over 400,000 male police officers.⁴ Women were about 1.5% of the total. In Philadelphia, as of February, 1974, there were 77 policewomen, compared to 8,226 policemen, a ratio of less than 1%. Only five of these Philadelphia policewomen are in supervisory positions: three sergeants, one lieutenant, and one captain.

The duties of policewomen throughout the country remained largely the same (handling of juveniles, women, and elderly) until 1968, when the City of Indianapolis became the first to assign women to regular patrol duty. Since then, there has been a greatly expanded utilization and acceptance of women as full law enforcement officials. By December of 1971, a survey conducted by the International Association of Chiefs of Police showed that fifteen out of the thirty-six law enforcement agencies surveyed utilized women on patrol assignments.⁵ Other duties assigned to women in the surveyed departments included vice and other criminal investigation and community relations. Since 1971, other agencies, such as the Federal Bureau of Investigation and the Pennsylvania State Police, have dropped their barriers to women. Women state troopers are eligible for the same assignments as men. Another survey in 1974, indicated that at least 80 police departments gave full status to a total of 500 to 600 women.⁶

¹C. Owings, *Women Police* 94-106 (1925).

²*Id.* at 102-105.

³C. Milton, *Women in Policing* 83 (1972) [hereinafter cited as Milton].

⁴*Id.* at 6, 5.

⁵"The Policewoman and Law Enforcement," *The Police Chief*, February, 1973, at 12.

⁶Interview with a staff member of The Police Foundation, Washington, D.C., January 29, 1974. See also *New York Times*, January 27, 1974, at 38.

Despite the national and state trends toward more enlightened and effective utilization of women, the Philadelphia Police Department has remained staunchly opposed to using policewomen on routine street patrol and in other areas of police work. These areas, which are open to male police officers but not to women, include major crimes investigation, undercover investigation, laboratory analysis, communications, research and planning, and "operations" or staff work. The Philadelphia Police Department still defines the duties of policewomen as concentrating on women and juveniles, as the following excerpts from the official job specification for "policewoman" show:⁷

This is police work at the full performance level enforcing laws and preventing crimes committed by or against females and juveniles, in an assigned section of the city on a rotating shift basis.

Work involves conditions which can only be partially controlled and moderate physical effort.

Examples of work set out in the specification include:

1. investigating complaints involving violations of criminal laws for ordinances affecting women and children;
2. interviewing complainants, juveniles, parents, suspects and witnesses to obtain information that will result in apprehension of criminals;
3. enforcing laws and ordinances relating to the criminal behavior or delinquency of women and children;
4. making arrests;
5. patrolling areas frequented by minors to enforce laws and to prevent crimes;
6. working with other police units in the investigation of commercialized vice involving girls or women; and
7. contacting community social or welfare agencies to refer problems for further corrective actions.

⁷City of Philadelphia Personnel Bureau, Specification No. 5001.

All of the women in the Philadelphia Police Department are administratively assigned permanently to the "Policewomen" squad which is within the Juvenile Aid Division⁸, even though they may work on cell block duty, the Labor Squad, the Civil Disobedience Squad, or the Community Relations Bureau. In each of these positions, there is contact with women or juveniles. Policewomen have in recent years also been employed temporarily on special assignments to help conduct surveillances and to participate in raids when female suspects may be present.

There currently is much demand by women for the few policewomen openings which occur each year. As of October, 1973, there were 150 women who had taken and passed the entrance examination and were awaiting appointment to the Police Academy. Openings only occur by attrition of the existing policewomen, so there are positions available for only a limited number of women. Because of the long waiting list, there has been no active recruiting of women by the Police Department for the past few years, according to Director of Administration Gerald Boyle, and testing of women was discontinued in 1973.⁹

Once in the Police Academy, women attend academic classes with men recruits and participate in the same programs. However, after the Academy women go directly to a specialized assignment while men are sent to what amounts to on the job training in patrol techniques in a police district.

Ostensibly, promotional opportunities for women within the Police Department are comparable to those for men. The same procedure is followed: when an opening is available an announcement is made and the examination schedule is posted. Promotions to sergeant and lieutenant are based on a written examination. In reality, however, the promotional opportunities for women are quite restricted and will remain so as long as women are given limited roles and specialized assignments.

The only promotion opportunities available to women are in the Juvenile Aid Division. Although some women are detailed to other units, as described above, when they are promoted the usual practice has been to transfer them back to the Juvenile Aid Division where they will supervise women and not men. One exception to this occurred when one woman was promoted to

⁸See Chapter III *supra* at 61.

⁹Interview with Gerald Boyle, October 4, 1973.

sergeant and remained for a time in the Civil Disobedience Squad. However, the current Police Commissioner has been quoted as saying he would never have allowed that to happen had he been Commissioner then, since he feels women should not supervise men and should not stay in a unit where they outrank men.¹⁰ This policy may have been changed recently, at least to a limited extent. In an interview on October 4, 1973, Director of Administration Gerald Boyle said the women lieutenants and captain in Juvenile Aid supervise men as well as women. There are no indications that this policy has been extended to permit women to supervise men in other assignments.

Within the limited sphere of the policewomen unit, promotion opportunities are very limited. There are only 3 policewomen sergeants for 72 policewomen, a ratio of about 1 to 24. By comparison there are 492 male sergeants for 6,651 policemen, a ratio of about 1 to 13. In addition, there are 498 detectives and 166 corporals, male police ranks higher than policeman for which there is no equivalent for women. A male police officer can be promoted directly from policeman to corporal, detective, or sergeant, producing an actual ratio of one next higher rank for every five and one-half policemen. Thus, there are over four times as many chances for policemen to be promoted as for policewomen. The lack of promotional opportunities for women also extends to higher ranks. The ratio of policewomen lieutenants to policewomen is 1 to 72. For policemen it is 1 to 25. The ratio for captains is now equivalent for men and women police officers, but this is a very recent development. The first woman police captain was provisionally appointed in the summer of 1973.

In order to rectify these promotional disparities, the Police Department should immediately promote or hire two additional policewomen lieutenants and three additional policewomen sergeants. The ranks of corporal and detective should also be opened to women.

There is no reason for discrimination against women in hiring and promotion other than simple prejudice. The reason most often expressed for not opening the full range of police work to women is that women are not big enough or strong enough to handle the dangerous situations they will encounter. There are several answers to this. In the first place, the situations where

¹⁰Milton 88; See also Today Magazine, *Philadelphia Inquirer*, July 15, 1973, at 8.

violence occurs are relatively infrequent. One study has found that 92 percent of all citizens are either civil or very deferential to police and only 8 percent are antagonistic.¹¹ Second, where violence to police officers does occur, the policeman is often caught by surprise and is defenseless. A study conducted by the International Association of Chiefs of Police in 1970-71 disclosed that:

... the most frequent cause of death to police officers across the nation was ambush. In Philadelphia, ... only one of the five officers killed on duty since 1970 ever saw his assailants, let alone grapple with them ... [T]hree [were] gunned down without warning, and one [was] run down by a car ... [They] had no control over the attack.¹²

Third, there are some grounds to believe that women on patrol may actually lessen the frequency of violence. Studies have shown that in a majority of complaints against police the complaints arose out of a defiance by a citizen of police authority. As a group, policemen tend to demand deference by citizens and to immediately rise to any challenges by citizens. It is anticipated that women would be less aggressive in demanding deference, which would result in fewer incidents of violence.¹³ Fourth, where physical force must be applied, size and weight are not necessarily determinative of the outcome. Agility, strength, fitness, quick thinking, training, and equipment are, on balance, equally if not more important.

Other arguments against the full utilization of women in the Police Department consist largely of social attitudes. Thus, the inspector in charge of the Juvenile Aid Division, who supervises most of the Philadelphia policewomen, is quoted as saying:

I can't really see a woman on patrol. My feelings are ... that we have ladies on this force. Let me put it this way. Our women are "ladies;" they are not "women of the world," so to speak. We take a different view of our women here. We want to keep them special.¹⁴

¹¹Milton 27.

¹²Today Magazine, *Philadelphia Inquirer*, July 15, 1973, at 11.

¹³Milton 27-28.

¹⁴Today Magazine, *The Philadelphia Inquirer*, July 15, 1973, at 10.

The same inspector is reported as suggesting that larger numbers of policewomen in new roles would result in the occurrence of some lesbianism adding "I think this is what we have to keep out."¹⁵ To repeat such statements is to demonstrate their absurdity.

The President's Commission on Law Enforcement and Administration of Justice has unequivocally recommended that policewomen be utilized throughout police departments. It stated:

Policewomen can be an invaluable asset to modern law enforcement, and their present role should be broadened. Qualified women should be utilized in such important staff service units as planning and research, training, intelligence, inspection, public information, community relations, and as legal advisors. Women could also serve in such units as computer programming and laboratory analyses and communications. Their value should not be considered as limited to staff functions or police work with juveniles; women should also serve regularly in patrol, vice, and investigative divisions. Finally, as more and more well-qualified women enter the service they could assume administrative responsibilities.¹⁶

Police departments which have given full status to policewomen have had uniform praise for their accomplishments. One report indicates that in 43 cities and counties women do as well as men when performing full police functions.¹⁷ The New York City Police Department conducted a year-long experiment in which 14 women were given the same assignments as men; they were so successful that an additional 220 women have been assigned to patrol.¹⁸ One New York police lieutenant stated that women officers "receive a greater level of cooperation and even assistance, from the people in the neighborhoods than the male officers."¹⁹ One entrance level civil service test is being

¹⁵The President's Commission on Law Enforcement and the Administration of Justice, *Task Force Report: The Police* 125 (1967).

¹⁶*Today Magazine, Philadelphia Inquirer*, August 19, 1973, at 23.

¹⁷*New York Times*, November 21, 1973.

¹⁸*Today Magazine, Philadelphia Inquirer*, August 19, 1973, at 3.

administered to all applicants, male and female, in New York, and the number of women admitted to the force is expected to increase sharply.²⁰

The situation is the same in Miami where great progress has been made in the past few years. Not only has the number of positions available for women been increased, but their role has been expanded. The department has stated officially that:

... although the "women in patrol" concept is still in a transition period... women have proved effective in all types of police work and in certain situations they are more effective than men...

* * * * *

... [F]emale officers perform the same duties and work in the same areas as male officers. Immediately after graduating from the police academy, in fact, women officers... begin rotating from unit to unit until they have had experience on every level of city police work. At present, over 30 female officers and two female sergeants are assigned throughout the Department in the Criminal Investigation Section, Strategic Information Section, Community Relations Section, Traffic Section and the Patrol Section.²¹

In 1972, the Metropolitan Police Department of the District of Columbia reassigned 27 policewomen and hired and trained 80 additional women for the purpose of testing the effectiveness of women on patrol. In so doing, Washington, D.C., set a precedent as the first city in the United States to assign women on a large scale to the same patrol responsibilities as men.²² The Police Foundation, in an account of the status of policewomen in the United States, reported that this Department utilized women "in a wider variety of functions... assigning them to all divisions and using them interchangeably with men... than in any other department known to the Foundation."²³

Closer to home, the Pennsylvania State Police in January of 1972, accepted fifteen women cadets. They met the same stand-

²⁰*New York Times*, November 21, 1973.

²¹"Female Officers On The Department: A Growing Trend in the City of Miami," Miami Police Department, 1973.

²²P. Block, D. Anderson, and P. Gervais, *Policewomen on Patrol* 1 (1973).

²³Milton 90.

ards, took the same tests, and underwent the same training program as the male candidates. They have been assigned to the same jobs which the men now perform. The State Police Captain in charge of Troop "K", headquartered in Philadelphia, is pleased with his women troopers. In an interview, Captain Stanley Kramer stated that he rated his troopers as "very good" and that they have been "something of a plus" to the overall troop operation. He said:

They're capable of doing everything a male trooper does. They patrol regular routes, do undercover work, narcotics work, everything. As a matter of fact, I think the men have come to really appreciate them because there are times when it is just helpful to have well-trained women on hand. I'm pleased because the women have added greatly to our overall potential.

* * * * *

... Our opinion is that women can do the job. The point is that they are doing the job and we're quite satisfied. I don't know what the plans are for the future, but I will say this: if I were given more troopers tomorrow I'd certainly welcome them here in Philadelphia.²⁴

The experiences of other police departments, as well as the Pennsylvania Crime Commission's own experience, clearly show that not only can policewomen do the job of policing, but they can often do more than their male counterparts. Women are extremely useful in undercover drug investigations²⁵ and may reduce the level of police violence by defusing hostile situations.²⁶

Changes in the law in recent years, particularly the Equal Rights Amendment to the Pennsylvania Constitution, the Pennsylvania Human Relations Act, and the Federal Civil Rights Act of 1964, place the discrimination against women in the Philadelphia Police Department under a growing legal cloud. One civil rights complaint by a woman against the Department

²⁴Today Magazine, the *Philadelphia Inquirer*, August 19, 1973, at 23. Confirmed in an interview on January 21, 1974.

²⁵Milton S.
²⁶Id.

was filed with the United States District Court in Philadelphia, on February 12, 1974. It is likely that eventually the courts will rule that being a male is not a bona fide qualification for being a police officer and that there is no legal justification for the Philadelphia Police Department's continued discrimination against women. The Police Department should not wait until it is under a court mandate to reform.

The Pennsylvania Crime Commission recommends that the Philadelphia Police Department make the following changes in its policy toward women:

1. The separate classifications of "policeman" and "policewoman" should be immediately abolished. A new classification called "police officer" should be substituted in its place.
2. There should be one set of entrance requirements for males and females alike. Female quotas should be dropped. Height and weight minimums should be reduced or eliminated. Instead there should be requirements that height and weight be proportionate and that all police officers and candidates pass a rigorous physical fitness test.
3. All police assignments should be routinely available to male and female police officers alike.
4. All detective, corporal, sergeant, and other higher police ranks should be opened to all applicants, male and female alike. In the interim, two new lieutenant and three new sergeant positions should be filled by women police officers.
5. Recruiting should emphasize opportunities for women in police work.

Racial Discrimination

Although over 33% of the population of Philadelphia is of the black or Negro race, the percentage of black police officers in the Philadelphia Police Department is only approximately 18% and has actually declined from 20.8% of the force in 1966. This is despite the fact that about 35% of the applications to the Police Department are filed by black persons.

A major federal court lawsuit alleging racial discrimination on the part of the Police Department in hiring and promoting

blacks and other racial minority groups has resulted in a finding by the court that the written examination given to applicants to the Police Department is racially discriminatory and illegal since nearly twice as many blacks as whites failed to pass the test, and the test has no demonstrable relationship to actual performance as a police officer.²⁷ The court further found that the background investigation of applicants resulted in rejection of more blacks than whites and that there was no evidence that it was a valid predictor of performance as a police officer.

In the area of police promotions, the court found that the percentage of black officers of higher ranks was progressively smaller the higher the rank, due to blacks having a higher failure rate on the promotional examinations. Again, there was no evidence that the promotional tests were a valid predictor of the performance on the job, so the test was found to be discriminatory.

The status of the lawsuit, as of the writing of this Report, is that a consent decree was entered on April 10, 1973, in which the Police Department agreed to employ the Educational Testing Service company to prepare tests which are related to police work; to reevaluate the background investigation procedures; to review the applications of all minority applicants who were rejected as a result of the background investigation since July, 1968; and to give seniority and back pay to all officers who are admitted to the police force as a result of this review of the background investigations. In addition, further testing has been suspended; and all hiring since April, 1973, has been from an existing "certified eligible" list. This has resulted in about 46 additional minority police officers being added to the force as of January, 1974. About 20 others are currently before an appeal panel specially set up for this purpose. The report on the new test from Educational Testing Service was due at the end of January, 1974.

PROMOTIONS SYSTEM

Outline of Procedures

The Philadelphia Police Department's promotional system is governed by the civil service regulations applicable to other

²⁷*Commissioners of Pennsylvania v. O'Neill*, 348 F. Supp. 1064 (E.D. Pa. 1972).

City jobs. The normal procedure is that when a vacancy in a position occurs the "appointing authority" (the Police Commissioner) is required to file a requisition with the City Personnel Director for certification of the names of two eligible persons. The Director then certifies the two persons highest in rank on the proper list, and the appointing authority makes a choice between the two.

The list from which names are certified are "eligibility lists," which are established in a competitive system which begins when the Personnel Director announces examinations in a "Promotion Opportunity" announcement. That document, which is posted on employee bulletin boards, includes a description of the position, the number of vacancies available, qualifications needed, medical requirements, the type of examination, and the deadline for application. If an employee's application shows he meets the basic qualifications, he is notified of the date and place for an examination.

For promotions to detective, corporal, sergeant, and lieutenant the examination is written. For captain and higher, the examination is normally part written and part oral.²⁸ If the testing is both written and oral, only those who pass the written examination are permitted to take the oral portion. The passing grade on the written examination is based on the number of vacancies and a rough scale which allows 70% of examination takers to pass. Written examinations are prepared by the City Personnel Department. Oral examinations are administered by an oral examination board, usually composed of three or four specially appointed individuals. These examinations generally last less than one hour. They are tape recorded for reference and appeal purposes. An appeal procedure is provided if an applicant objects to the test or any of the questions or answers.

The ultimate position of an applicant on a list is determined by a weighted total of the examination scores, seniority, and prior job performance ratings. The weight to be given each factor is stated in the initial announcement. Normally, seniority counts 10% and performance ratings count up to a maximum of three points.

²⁸In 1973, examinations which were entirely oral were given for promotions to several "supervisor" positions and for chief inspector. This is discussed in detail *infra* at 528-538.

The civil service regulations also provide for provisional appointments to existing positions when the Personnel Director cannot certify an eligible person. By express direction of the *Home Rule Charter*, provisional appointments are not to exceed 90 days in duration. Temporary appointments to temporary positions may also be made for up to six months. These positions may be made permanent but must then be filled through certification of eligibles. Persons who occupy provisional or temporary appointments may participate in the application process for the permanent position.

Of the 8,303 police officers in the Philadelphia Police Department, 8,292 have one of the standard ranks.²⁹ In general, the Police Department follows a practice of promoting men to specific permanent ranks, then placing them in positions which call for an officer of that rank. The rank that a position calls for depends on a number of factors including duties, responsibilities, and number of men supervised. In theory, all police officers of a given rank are interchangeable; one can generally perform the duties and responsibilities of any other. The advantages of this approach are that it gives the Department a great deal of flexibility and gives individual officers a wide range of experience. The assignments within the Department are not so technical or sophisticated that an officer cannot quickly learn whatever he needs to know in order to fill a new assignment.

Application of Promotion Procedures

Before the well-known "reform movement" in Philadelphia in the late 1940's and early 1950's, the Police Department's promotional system was generally considered to be rife with corruption. The late Richardson Dilworth, who was elected as District Attorney in 1951, and Mayor in 1955, wrote the following of that period:

... I had known that, after almost 70 years of one-party rule, corruption in city government was pervasive, but we had not realized how deeply it had penetrated.

²⁹They are policeman, corporal, detective, sergeant, lieutenant, captain, staff inspector, inspector, chief inspector, deputy commissioner, commissioner, and the four equivalent policewomen ranks.

For example: Payment had to be made to one's Ward Leader to get on the police force, or the Fire Department, and it was virtually impossible to get a promotion in the Police or Fire Departments without a substantial payment to the Ward Leader.³⁰

In regard to promotions, the Police Department has progressed since the 1940's. The Department now has a basically sound civil service promotion system and the Commission has found in this investigation no evidence or even allegations of bribes to obtain promotions. Despite this, however, the promotion system is still regarded with a measure of skepticism by many police officers. Evidence of this is found in the results of a sociological study of the Police Department conducted at Temple University. In that study, police officers who had been unsuccessful in the promotion competition gave as one of the reasons the fact that they did not know the right people.³¹ A former police officer also gave testimony to the Commission which illustrates the skepticism of police officers:

Q: ... do you think that promotions in the Police Department are made according to the ability of the officers?

A: Here I would have to say, in certain cases. The reason that I say certain cases is because by being in the Department the length of time that I was there, I had seen policemen [who] had book knowledge as well as experience [but] were still policemen [the lowest rank]. And I have had occasion to meet supervisors, sergeants, lieutenants, and captains, that don't possess the knowledge that some of these policemen do. I have never been approached with the answers to an exam, but I heard of times when the exam was available for—were available, the answers were available.

Q: How did you find out about that; did someone directly offer it to you?

A: No. One occasion that I am familiar with is the case where ... an inspector of North Central

³⁰R. Dilworth, "Politics: From Reform to Rizzo," *Philadelphia Daily News*, January 8, 1973, at 22.

³¹L. Savitz, *Socialization of the Police* 53, 82-83, 89-90, 155 (1971).

Police Division, had the answers to a sergeant's examination. It couldn't be determined why he had the answers—and a sergeant's exam was, you know, they were having a sergeant's exam at the time.

Q: How did you know that he had the answers, or the test?

A: It was public knowledge within the Police Department.

Q: Was there an investigation of that incident?

A: Yes, there was.

Q: Do you know of any other instances in which that happened?

A: I have heard old-timers in the Department speak of paying certain fees for certain exams, but I never pursued it any further than word of mouth.³²

A valid basis unquestionably exists for minority police officers' questioning the fairness of the promotion system, since the written promotional examination used by the Police Department has been found by a federal court to be racially discriminatory.³³ With regard to the system in general, the Commission has found that there is a margin within which opportunities exist for manipulation of procedures in order to promote particular people. Close scrutiny of four promotions which took effect in 1973, as well as the Department's oral examination practices, illustrates this point and reveals some specific areas where reforms may be instituted.

The promotions examined are those of police officers Robert W. Martin, George Fencl, Jack Auerbach (now deceased), and Rito M. DiMaio. As of April 4, 1972, these four officers held the positions, respectively, of "Firearms and Special Equipment Supervisor," Lieutenant in charge of the Civil Disobedience Squad, "Canine Unit Supervisor," and Sergeant assigned to Traffic Court Liaison. The two "supervisors," Martin and Auerbach, were given those titles in 1968. As far as the Com-

³²Testimony of Felix Ruff before the Pennsylvania Crime Commission, January 16, 1974, NT 15-16.

³³*Commission of Pennsylvania v. O'Null*, 348 F. Supp. 1084 (E.D. Pa. 1972). See *supra* at 523-524.

mission has been able to determine, that was the first time any police officers had been so designated. These two supervisor positions were equal in pay to police captain, and, although the officers technically were not captains, they assumed the badges and insignia of those ranks.³⁴

On April 4, 1972, the Police Department filed requests for certification of eligibility lists for the positions of "Police Inspector, Firearms and Special Equipment," "Police Inspector, Civil Disobedience," and "Police Inspector, Canine Patrol," along with requests for creation of these positions. No action was taken on these requests for several months. On August 24, 1972, a "Classification and Pay Appeal" was filed by the Police Department Personnel Officer requesting that the position of Traffic Court Liaison Officer be created. On September 19, 1972, a request for certification of an eligible list for this position was filed. It contained an entry indicating a position of police sergeant would be abolished and that the last holder of the latter position was "Rito DiMaio—to be promoted."

On September 22, 1972, the Personnel Officer filed "Pay Appeals" for the positions of Canine Unit Supervisor and Firearms and Special Equipment Supervisor, requesting that the positions be "evaluated in a pay range equivalent to that of police inspector." On October 11, 1972, a "Classification and Pay Appeal" was filed requesting that the position of "Police Lieutenant George J. Fencl, C.O., Civil Disobedience Unit" be upgraded to the equivalent of full police inspector.

On November 28, 1972, the Civil Service Commission approved the establishment of four new classifications of em-

³⁴There apparently was confusion among employees of the Personnel Bureau regarding these appointments. For example, a handwritten note dated January 29, 1968, in the file of Supervisor Auerbach states: "Promoted to Canine Unit Supervisor which according to Mr. Sullivan is equivalent to the rank of captain. Therefore, the badge issued is Captain #21." Officially, no decision has been made as to whether the "Supervisors" should wear the badges or insignia of the police ranks to which they are equivalent in pay. The Police Department's Director of Administration displayed a studied indifference to the matter in a taped interview with a Crime Commission investigator on August 3, 1973:

... if in fact Bob Martin, or George Fencl, or Turner came out in the uniform of an Inspector, I'm sure that we would have no objections. In fact, I'm sure that they probably have. Now, the reason for that is that they were policemen for many years; they recognize the image that is given over by an Inspector. And this adds to their ability to carry out their job—the image and the impression that they give over, to those people, both in their department, which they must deal with, and the outside groups that they deal with. So much the better. If they want to wear top hats and tails, I don't care.

ployees within the Police Department, which were "Supervisor, Civil Disobedience Squad;" "Supervisor, Firearms Training and Police Armory;" "Supervisor, Canine Training Program;" and "Traffic Court Liaison Supervisor."³⁵ These titles at some point were put on the original April 4, 1972, forms in handwriting above the "Inspector" titles, which were crossed out.

On December 8, 1972, a request for oral examination for each new position was filed. Finally on December 20, 1972, the initial April 4 requests for certification were acted upon and approved, and the above four officers were provisionally appointed to the respective new "supervisor" positions, effective January 1, 1973 (later postponed to January 15, 1973). Three of the new supervisor positions were equivalent to inspector in rank and pay, while the fourth (traffic court) was equivalent to lieutenant.

The net result of all these personnel actions is that four new classifications of jobs were created within the Police Department, each "class" having only one member. These jobs were exactly the same as the old jobs under the previous classification, but under Section 5.09 of the Civil Service regulations a new classification is considered to be a vacant position which must be filled through normal procedures. Therefore, on January 15, 1973, "Promotion Opportunity" announcements were issued for all four positions, listing a single vacancy in each position.

Each of these Promotion Opportunity announcements stated requirements for the new positions which were tailor-made for the incumbents. For example, the requirements for Traffic Court Liaison Supervisor included:

Three years of police experience, two years of which has been in a supervisory capacity and which has been in the examination and processing of traffic tickets prepared by police personnel, reviewing court dockets, and representing police by appearing and presenting testimony in traffic court.³⁶

The only police officer in Philadelphia who could possibly have met this requirement was Rito DiMaio, since he was cur-

³⁵Memorandum from Gerald P. Boyle, Director of Administration of the Philadelphia Police Department, to Foster B. Rose, Personnel Director of the City of Philadelphia, December 8, 1972.

³⁶City of Philadelphia Personnel Department, "Promotion Opportunity" circular for Traffic Court Liaison Supervisor, January 15, 1973.

rently in charge of processing tickets at Traffic Court. During his term, a new practice was begun in which he appeared and presented testimony on behalf of the officer writing the ticket. No other officer had been given that opportunity.

Similarly, the requirements for Supervisor, Civil Disobedience Unit, included:

Six years of police experience, three years of which has been supervising police personnel functioning on a city-wide basis and charged with responsibility for maintaining order and performing related investigations during a variety of civil disturbances.³⁷

The only Philadelphia Police officer who could satisfy this requirement was George Fencl, who for a number of years headed the Civil Disobedience Squad.

The promotion announcement also contained an unprecedented provision specifying an entirely oral examination. Prior to this, all police examinations were at least partly written and objective.

Two applications each were filed for both the Traffic Court and Civil Disobedience positions; but in each case, only one application was deemed to meet the requirements of the position. Not surprisingly, the approved applications were Lieutenant Fencl's and Sergeant DiMaio's. City officials would not permit the Crime Commission to see the disapproved Civil Disobedience Supervisor application, but upon questioning it was revealed that the application was submitted by a lieutenant in the Civil Disobedience unit. He was disapproved because he had no experience supervising police personnel on a City-wide basis. The disapproved application for Traffic Court Liaison Supervisor was rejected because the candidate allegedly had no experience in a supervisory capacity examining and processing traffic tickets and representing police by presenting testimony in Court. Upon questioning, the Deputy City Solicitor who supplied the reasons for disapproval said that the disapproved candidate was the police sergeant who handles the processing of traffic tickets at the Police Administration Building.

Nine applications were filed for the Canine Supervisor position. The reason for this larger number may have been the fact

³⁷City of Philadelphia Personnel Department, "Promotion Opportunity" circular for Supervisor, Civil Disobedience Unit, January 15, 1973.

that Supervisor Auerbach, the heir-apparent, died on January 17, 1973, two days after the Promotion Opportunity announcement.³⁸ Still, only one application received approval and consequently only one person went on to be tested. The approved application was filed by Captain Charles Turner of the Park Police. Only one application was filed for the Firearms Supervisor position—Robert W. Martin's.

The civil service regulations explicitly provide that "every examination . . . shall be competitive, uniform, and shall be designed to measure fairly the relative qualifications of competitors."³⁹ The examinations in these promotions make a mockery of the competition requirement since in each only one candidate was permitted to take the examination. Thus, instead of the examiners scrutinizing and choosing between two or more concrete choices, the examiners were reduced to interviewing the candidate to determine whether he was acceptable on some abstract scale.

It can be argued that since there were only two applicants for two of the jobs and only one for a third the lack of competition

³⁸The untimely death of Supervisor Auerbach on January 17, 1973, highlights another questionable area in these promotions and demonstrates the lengths to which the Police Department was prepared to go in order to promote these four men. At the time of his provisional appointment on December 20, 1972, Supervisor Auerbach was not qualified to pass the medical examination for promotion, which, on Personnel Bureau Form 73-111, requires that there be "No history of myocardial infarction. No organic heart disease." Supervisor Auerbach's medical history shows that on May 31, 1972, after initial paper work for his promotion had been completed, he was admitted to Pennsylvania Hospital with an acute myocardial infarction, in layman's terms a "heart attack." He had suffered a previous myocardial infarction between 1968 and 1971. He discharged himself against medical orders on June 12, 1972.

A "cardiac evaluation" was subsequently performed at Philadelphia General Hospital concluding that Mr. Auerbach had heart disease and recommending that he not return to the full active duties of a police captain. In spite of this report, Supervisor Auerbach was returned to active duty on August 7, 1972. On December 26, 1972, shortly after his provisional appointment was approved, Supervisor Auerbach was readmitted to Pennsylvania Hospital with severe chest pains and severe weakness. He again left against medical advice on January 7, 1973.

On January 8, 1973, he was determined to be permanently and partially disabled by myocardial infarction, which, pending appeal, leads to separation. On January 15, the Director of Administration of the Police Department, informed Mr. Auerbach in a written memorandum that his scheduled provisional appointment was withheld until further notice. He died on January 17, 1973, as a result of an "acute myocardial infarction with congestive heart failure and hypotension. . . ."

It is obvious that Supervisor Auerbach was suffering from heart disease and had a history of myocardial infarctions at the time his promotion was planned and at the time it was put into effect. He should have been retired from the Police Department at least as of June, 1972.

³⁹City of Philadelphia, *Civil Service Regulations* §9.012 (n.d.).

was not the fault of the Department or the Civil Service Commission. However, competition for the new supervisor positions was clearly discouraged in a number of ways. First, the basic circumstances were that certain police officers were already satisfactorily performing established jobs, the duties of which were not going to be changed. Although ostensibly a new position was being created, in fact, it was the same old one at a higher pay and status. Thus, from the point of view of a potential competitor, the new positions clearly belonged to the incumbents from the outset. In order to win the job, a competitor would have to prove he could do the job better than the incumbent—an unpromising prospect, to say the least. Second, to make things more difficult, the "qualifications" for the new positions were effectively cut to suit the favored incumbents, as discussed above. Finally, where more than one applicant did step forward, the extra applicants were summarily ruled out of the running without having been given an opportunity to take whatever test would be devised. It is particularly striking that only one applicant was permitted to take the Canine Unit Supervisor test though nine police officers applied.

The lack of rigor in the competition for these promotions is also evidenced by the nature of the test administered and by the makeup of the examining boards. Since the adoption of the present City Charter and the placing of police officers under civil service, all promotion examinations, until these, were at least partially in objective, written form. The written portion of the examinations was usually weighted at least 45% of the entire point total and covered "technical knowledge"—specific facts, practices, procedures, laws and ordinances. The oral portion of the examination was usually referred to as the "command judgment" section and covered such things as ability to verbalize ideas and judgments, communications effectiveness, and interpersonal relationships. In the case of these promotions, however, the entire test was, for the first time, oral.

The makeup of the examining boards in at least two of these promotions also raises doubts about the objectiveness of the examination process. In the case of Supervisor DiMaio, the examiners were one of his present co-workers in Traffic Court, a former assistant district attorney who had worked in Traffic Court, and a former police inspector now employed by the School Board. In the case of Supervisor Martin, all three of his examiners were employees of the Frankford Arsenal in Philadelphia and were in effect professional associates of Super-

visor Martin's. Unfortunately, there are no written provisions governing the makeup of oral examining boards, so the Personnel Department was free to exercise its discretion in this regard.

The details of these four promotions clearly indicate that the Police Department decided to raise the pay and status of four individual officers and set out to find a way to do it without forcing the officers to take the normal promotion examinations.⁴⁰ While there appears to be technical compliance with the letter of the civil service regulations, there is a clear contravention of the spirit and intent of the civil service system, which is to give every police officer a fair and equal chance at promotion.

The reaction among police officers to these promotions was one of bitterness, as indicated by the news story which first publicly revealed the promotions. On January 7, 1973, the *Philadelphia Bulletin* noted that unidentified "high-ranking officers" in the Department had expressed dismay at the method of promotion and attributed the action to long-standing close relationships between three of the officers and the Mayor (a former police commissioner).⁴¹ One officer is quoted as saying, "I worked hard and studied for years to get where I am, and he turns around and hands it to them." Another said, "It doesn't bother me, they're not taking my job. But I know a lot of younger staff inspectors, captains and lieutenants are griping about it. They don't think it's right."⁴²

The Police Department has put forth at least two separate rationales for these particular promotions. The initial response of the Police Commissioner, as reported by the newspapers, was that the men "no doubt" had received other job offers and the promotions were necessary to keep them.⁴³ This explanation is a tacit admission that there was no competition for the new positions and that the sole intent of the entire process was to promote these specific individuals. That explanation was followed up a day later with the statement that the Police Department needed specialists in certain positions.⁴⁴ During the Crime Commission investigation, there was further mention of the first

⁴⁰One of these four supervisors, Robert Martin, has never passed any regular promotional examination in his entire career.

⁴¹*Sunday Bulletin*, January 7, 1973, at 1.

⁴²*Id.* at 14.

⁴³*Id.*

⁴⁴*Evening Bulletin*, January 8, 1973, at 10.

explanation. The Director of Administration admitted that the Department's intention was to elevate the incumbents, and a Deputy City Solicitor said this was a case where a man was doing inspector's work, so they made him an inspector.

The explanation that there is a need for specialist positions may have some merit as a general matter, although it contradicts the basic policy of the Police Department. Conceivably, a job may be so technical that it is desirable to set it apart to attract specially qualified people.⁴⁵ However, the specialist position rationale makes little sense in this context since the Department was not seeking new specialists. It already had them, according to its own statements and actions. There was no attempt to get people from outside the Department, and the potential competitors within the Department were all disqualified. Since there was no need to get new people, there was no need to change the job title and pay.

It may well have been necessary to raise the pay of some of these officers in order to keep them from taking other jobs,⁴⁶ and it may be that some or all of them were doing exceptionally good quality work or doing work at a level higher than other persons of the same rank. These facts, if true,⁴⁷ would provide some objective justification for the promotions but are difficult to justify within the civil service system. There no doubt are many other police officers, in the force of over 8,000, who are in the same or similar positions, but who have not been singled out for special promotion. In addition, other police officers were not given an even chance at these specific promotions.

The precedent set by establishing entirely oral promotion examinations for the above supervisor positions was quickly followed on June 4, 1973, when it was announced that the examination for chief inspector, the highest civil service rank, was to be entirely oral, although still divided into the two sections of "technical knowledge" and "command judgment." All previous chief inspector's examinations, since the adoption of the City Charter, had been at least 45% written.

⁴⁵The Crime Commission does not here judge whether these particular positions are so technical as to require separate classification.

⁴⁶Individuals in the Department repeatedly claimed this was the case with Supervisor Martin, a weapons expert, although there was nothing in the Personnel files to indicate this was so.

⁴⁷The Crime Commission does not judge the individuals involved. The focus, rather, is on the promotion system.

An entirely oral civil service examination necessarily increases the amount of subjectivity involved in evaluating competitors, since personal considerations such as appearance and demeanor intrude throughout the test. Moreover, there will probably be less uniformity in the test since, in following up answers to questions, different areas may be covered in the examination. This makes comparison of results more difficult, which is a particular problem if there is an appeal.

The Police Commissioner rationalized the oral testing by stating in the request for the examination that the Department was "interested in determining whether [the candidates] are capable of verbalizing the policies and procedures of the Department as they may relate to a specific situation."⁴⁸ This rationalization is insufficient for completely abandoning written testing since the objective could be accomplished by keeping the traditional written examination as it was and dividing the oral portion into two parts: "command judgment" and "policies and practices." Alternatively, the Department could utilize a written essay examination which would insure uniformity and would eliminate some subjectivity since it would preserve anonymity.

The oral examining boards for chief inspector's examinations in the past were made up of at least two high police officials from other large cities. The new oral test covering "technical knowledge" would appear to require a departure from that practice if the technical knowledge relates to the specific facts and conditions in Philadelphia. If oral examiners must be drawn from present or former members of the Philadelphia Police Department, they may be more subject to pressure or influence than outside examiners. This is not entirely a foregone conclusion, however, since one former chief inspector said in an off-the-record interview that oral examining boards were made up by a Philadelphia officer calling up a "friend" on another police department. That procedure also lends itself to a not entirely objective result.

The actions taken by the Philadelphia Police Department on the chief inspector's examination reveal an institutional chafing at the rigidities of the civil service system. However, the tack followed by the Police Department in coping with the system's rigidity is unhealthy since it has attempted to manipulate the

⁴⁸Memorandum from Joseph F. O'Neill, Police Commissioner, to Foster B. Roser, Personnel Director, May 21, 1973.

system rather than to isolate problem areas and try to amend them.

Strong arguments could be made that the Department's promotion system is too rigid, especially at the top levels. In an organization of over 9,000 full time employees, there are only two who technically serve at the pleasure of the Commissioner and who can be counted on to support and implement his policies without resistance. By modifying the system slightly, more flexibility could be introduced without the disadvantages involved with manipulating or appearing to manipulate the system. One possible modification is simply to make all chief inspector positions non-civil service.⁴⁹ Another possibility is to make top police positions such as chief inspector a non-permanent rank. This would permit the Commissioner to appoint anyone from within the Department to that rank with the provision that the officer may go back to his old rank if or when his tenure as a chief inspector ends. In New York City, all police ranks above captain are non-permanent. An officer appointed to a higher position serves at the pleasure of the Police Commissioner and may be demoted at any time. This gives the Commissioner much greater control and enabled the New York department to implement strong new approaches to eliminate police corruption following the findings of the Knapp Commission. Such a change should be combined with opening the Department to persons from other law enforcement agencies.

The actions taken on the four specific promotions discussed above are an attempt to avoid institutional restraints which are important. The essential problem the Police Department had was what to do when there were four police officers who were evidently unable to pass the normal promotion examinations but who presumably had special skills that could be used by the Department. There is no easy answer. Specially promoting them through the device of reclassifying positions was an abuse of that provision of the Civil Service regulations. If widely followed, that practice could easily be used to promote other individuals who have no special qualifications and would undermine the entire system. On balance, the Police Department and the Civil Service Commission should not have taken that action. However, if specialist positions are deemed to be necessary, greater institutional safeguards could

⁴⁹There are currently twelve chief inspector positions in the Department. See *Policeman's Manual* 2.

be implemented, such as requiring that positions may only be upgraded in pay where the new duties will be greater, or specifying that the positions must be open to all police officers in Philadelphia and to police officers from other metropolitan areas as well.

The Crime Commission recommends that the Personnel Director not approve any further requests for supervisor or specialist positions unless the new positions are demonstrably different in duties than any existing positions and unless a thorough study has been made to support the need for such a new position. In order to obtain the most qualified person for such positions, they should be open to persons outside the Department and outside the City of Philadelphia.

There should be no entirely oral promotion examinations, the written portion should constitute at least 50% in every case, and essay type tests should be utilized where appropriate. Written standards governing oral examining boards should be drawn up, specifying that the boards be composed of at least two persons from outside the City of Philadelphia. If possible, examiners should be of a higher rank than applicants. They should be compensated for time and expenses.

PENSIONS

There are a number of reasons why a young man . . . takes a job as a policeman, nearly all of which are the pension.⁵⁰

* * * * *

Pensions for police officers are very important but have been subject to various abuses. This problem has been recognized nationally: Retirement systems are subject to various abuses. One of the most serious lies in the distribution of disability pensions. Certainly, those rightly entitled to such compensation should promptly receive their pension. However, due to the lack of safeguards in some disability retirement systems, unscrupulous employees are tempted to feign a job-connected injury and collect more on a disability pension than an individual retiring under normal conditions. The process for sorting out the

⁵⁰J. Breiba "The Policeman" in A. Neiderhoffer and A. Blumberg, *The Ambivalent Force: Perspectives on the Police* 120 (1970).

sincere applicants from the deceitful must have inherent safeguards against fraud and must be efficiently administered by authorities having no personal interest in pension decisions.⁵¹

The System

A sound disability payment and pension system, administered without favoritism, is critical to good morale within a police department and contributes to the enhancement of police professionalism. The modern urban policeman daily faces numerous physical risks. A significant factor in his willingness to continually assume such risks is the knowledge that should he sustain an injury, he will receive prompt and adequate medical care, and should his injury permanently or partially disable him, a fair disability payment and pension system will ensure that he is still able to support his family.

In the spring of 1972, the Commission received information concerning various alleged irregularities in the disability payment and pension area. The Commission believed the information significant enough to determine whether the allegations could be supported. The Commission found the system to lack adequate safeguards, proper files, and investigatory resources, and to have enormous potential for misuse. Specifically, the Commission found:

1. Some recipients of Regulation 32 payments, disability pensions, and other pensions have a corruption history or a disciplinary background which might prove an embarrassment to the Department. In at least one instance, an improper pension was awarded to a detective, presumably as a reward for not cooperating with the Commission and maintaining the "code of silence."
2. A "well connected" officer who becomes enmeshed in corruption problems can obtain favorable and expedited disability payment and pension treatment.
3. A significant number of the cases examined by Commission justify re-examination by the appropriate Medical Board.

⁵¹National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police* 510-11 (1973).

4. Insufficient safeguards exist to prevent and protect against the awarding of fraudulent disability and pension applications.
5. The Police Department wastes money and valuable manpower resources by not making use of experienced permanently and partially disabled officers who could perform many specialized tasks within the Department despite their injury.

Public understanding of the program protecting City employees, including policemen who are injured while performing public duties, is made difficult by the general confusion created by failing to distinguish between the Regulation 32 disability payment program governed by the Civil Service Commission of Philadelphia and disability pensions controlled by the City's Retirement System Ordinance. A brief description of each follows.

The Philadelphia Home Rule Charter required City Council to adopt a ". . . comprehensive, fair, and actuarially sound pension and retirement system covering all officers and employees of the City."⁵² That program is defined and controlled by the Retirement System Ordinance⁵³ which went into effect on January 1, 1957. The ordinance creates a municipal retirement system consisting of a Municipal Division, Fire Division, and a Police Division.

The Police Division is divided into two subdivisions: "Old," which includes members of the pre-existing Police Pension Fund Association, and "New" which includes all policemen entering on duty after January 1, 1957. The ordinance permitted any members of the Association (the "Old" subdivision) to transfer to the "New" coverage. However, transfer rights were only open for one year, except that transfer was possible up to five years after the effective date of the ordinance providing the employee made up the differences in his contributions to the system.

Administration and management responsibilities for the retirement system were vested in the Board of Pensions and Retirements which was created by the Home Rule Charter.⁵⁴ Decisions of the Board are appealable only upon a showing of an

⁵²Philadelphia, Pennsylvania, Home Rule Charter §1-600.
⁵³Philadelphia, Pennsylvania, Retirement System Ordinance, August 1, 1957, as amended (hereinafter cited as Retirement Ordinance).
⁵⁴Home Rule Charter §1-600.

error of law or abuse of discretion. The Board consists of nine members: four "management" representatives: the City Solicitor, the Managing Director, the Director of Finance, who acts as Chairman, and the Personnel Director; four employee representatives; and the City Comptroller, an independently elected official. They have monthly meetings and only a quorum of five is necessary to do business. The City officials may designate a deputy or assistant to sit in their place.

The Board appoints a Medical Panel, consisting of three physicians, who have the responsibility for conducting all medical examinations required under the provisions of the ordinance.⁵⁵ Under the retirement system ordinance, disability retirement benefits can be awarded only after the Medical Panel submits a report.

The large majority of police officers are members of Police-Fire-Coverage Plan 50, which entitles an individual upon retirement at age 50 to ". . . an amount equal to the product of 1/40th of his average final compensation multiplied by the number of years and fractions thereof of credited service; Provided, however, that such amount shall not exceed average final compensation."⁵⁶ The plan was adopted in 1966; and at that time, all police and firemen were given the opportunity to transfer into the system. According to Mr. Abraham Pilzer, Executive Director of the Board of Pensions for the past 20 years, the vast majority of police officers made the switch because it ". . . gave much better benefits either at the same cost or less cost."⁵⁷

Service connected disability retirement benefits are governed by Section 206 of the Retirement Ordinance. The section was recently amended on April 8, 1968, to provide that *any* employee, not just those eligible for service retirement, found to be permanently incapacitated from performing his duties due to an injury resulting ". . . solely from the performance of the duties of his position and was not caused by the employee's own wrongful conduct, shall be retired."⁵⁸

A recent amendment to the ordinance provides that an employee entitled to such a pension shall receive 70% of his final salary plus either a return of his contributions or

⁵⁵This is not the same three member medical board which reviews Regulation 32 disability payment applications.

⁵⁶Retirement Ordinance §202.4 (f).

⁵⁷Statement of Abraham Pilzer, Esq., before the Pennsylvania Crime Commission, November 15, 1973, N.T. 8 [hereinafter cited as Pilzer].

⁵⁸Retirement Ordinance §206 (emphasis added).

survivorship benefits, whichever option he selects. According to Mr. Pilzer, "final salary" may mean the "final rate of pay, including longevity" or "total earnings in the year immediately preceding separation without longevity."⁵⁹ At present, the service-connected disability pension has been ruled to be exempt from federal income taxes. No minimum service time is necessary to qualify for the service-connected disability benefits. A policeman could be injured his first day on duty and be covered.

There is also an ordinary disability retirement benefit for which an employee can qualify after ten years of service. This plan covers a non-service connected disability as long as it ". . . is not the result of dissipation, criminal habits or practices, or was not incurred in the commission of a crime."⁶⁰ The benefits are the product of 1/100 of the employee's average final compensation multiplied by the number of years of credited service, with a minimum benefit of 25 per cent of average final compensation.

Under the ordinance, each disabled member must be re-examined once each year as long as the member is younger than the minimum retirement age of his coverage plan. If the Board finds that the disabled member receiving service-connected disability benefits "is able to resume the duties of his former position or one of like status, salary and seniority with the City, and such member shall refuse or fail to accept re-assignment, reinstatement or re-employment by the City in such a position, then such benefits shall be discontinued."⁶¹

The ordinance disqualifies from benefits any employee who is found guilty in any court of the crimes of perjury, acceptance of a bribe affecting the performance of his duty, engaging in graft or corruption incident to his office, theft or embezzlement of City property, malfeasance, or conspiracy.⁶² The same disqualification also applies to anyone who refuses to answer questions under Section 10-110 of the *Home Rule Charter*, or who resigns having been charged with committing any of the above named offenses.⁶³

"Regulation 32" is a civil service payment program inaugurated in 1952 for uniformed personnel and in 1961 for non-

⁵⁹Pilzer, November 15, 1975, N.T. 6.

⁶⁰Retirement Ordinance §207.1 (c).

⁶¹*Id.* §208.2

⁶²*Id.* §217

⁶³*Id.*

uniformed employees to provide additional benefits for disabled City employees. It is *not* a retirement pension. In substance, Regulation 32 provides a program in which disabled employees may receive full salary for up to 3 years after being disabled or may be given alternate city employment in which they are guaranteed their full salary. The exact type of benefits received depends on which of three classes of beneficiaries, the employee falls: "temporarily disabled" employees, "permanently and totally disabled" employees, and "permanently and partially disabled" employees.⁶⁴

To obtain a Regulation 32, first, the Chief of the Municipal Medical Dispensary (the "Chief Surgeon") must determine the nature and extent of the applicant's injury. If the employee is dissatisfied with the medical ruling of the Chief Surgeon, he can appeal this decision to a Medical Board, which is a committee consisting of three physicians designated by the Philadelphia County Medical Society. Second, the employee's appointing authority (for a policeman, the Police Commissioner) must determine whether the disability is "service connected" by analyzing the applicant's service history, the circumstances surrounding the injury, the findings of the Chief Surgeon, and any other relevant evidence.⁶⁵

If the employee qualifies for a Regulation 32 and he is temporarily disabled, he is entitled to his "disability salary" which is his salary as of the date of his disability, plus any increments or earned pay step increases which he would have received subsequent to the disability had he not been injured.⁶⁶ During the period he is injured, a temporarily disabled police officer may be assigned to other duties consistent with his injuries. He has to be periodically re-examined, and he cannot continue in a temporarily disabled status for more than three years.

A "permanently and totally disabled"⁶⁷ officer is compensated at his "disability salary"⁶⁸ for up to three years from the date of his disability. He is subject to re-examination during this period, and entitled to medical care and hospitalization.

⁶⁴City of Philadelphia, *Civil Service Regulations* §32.012 [hereinafter cited as *Civil Service Regulations*].

⁶⁵*Id.* §32.03.

⁶⁶*Id.* §32.04.

⁶⁷*Id.* §32.05.

⁶⁸*Id.* §32.023.

When the employee is ruled "permanently" disabled, he is considered to be separated from the Department.⁶⁹

By far the greatest number of Regulation 32 applicants are classified as "permanent and partial." A permanently and partially disabled person receives his disability salary as of the date he is determined to be disabled. He also is referred to the Personnel Department for possible re-employment in a position compatible with his disability, skills, and aptitude known as a "secondary position."⁷⁰ The employee is paid in his secondary position in accordance with the pay rates for that position. His salary is then supplemented by the difference between his secondary salary and his disability salary⁷¹—the disability payments being tax free. If the employee is not placed by the Personnel Department, he is entitled to his benefits for a three year period.⁷² The supplementary pay ceases when an employee becomes eligible for retirement, or one year from the day of injury, whichever is later. Any employee who, in the opinion of the Director, refused to cooperate in the placement program can be separated from municipal employment, and he is entitled to receive payments for only one year from the date of his injury.

A policeman who is injured ostensibly must follow the procedures outlined in Directive 67, adopted August 15, 1968, in order to qualify eventually for Regulation 32 disability payments. Police personnel, except in cases of serious injury, are sent to Philadelphia General Hospital (PGH).

Following first aid treatment, the officer is referred to a compensation clinic for additional care. The employee must report to the compensation clinic for treatment within twenty-four hours after incurring a service-connected injury; otherwise, the officer must report in person to the Police Department Safety Officer.

The patrolman's commanding officer has the responsibility for investigating the injury and making the initial determination of service connection. Doctors at the compensation clinic determine whether the injured officer should be "no duty," "limited duty," or "active duty" status. Should the officer

⁶⁹Id. § 32.054.

⁷⁰Id. § 32.0611.

⁷¹If and when the pay for the secondary position equals or exceeds the disability salary, the supplementary pay shall cease." *Id.* § 32.06213.

⁷²Id. § 32.0612. At the end of the three years, the employee is separated from city employment. *Id.* In effect, the employee has three years to obtain his disability pension.

believe his disability has developed to the stage of permanent and partial or total disability, he must make a request in writing to the Safety Officer.

The types of injuries which have resulted in the awarding of disability payments or pensions to police officers are summarized in Table 1.

TABLE 1

Types of Injuries

Categories of Injury ⁷³	Number of Persons	Percentage
1. Neck and back injuries	168	50.0%
2. Body and limb injuries	88	26.3%
3. Chest and heart ailments	27	8.1%
4. Head injuries	20	5.1%
5. Gunshot wounds	14	4.2%
6. Nerve ailments	6	1.8%
7. Arthritis	3	0.9%
8. Multiple Sclerosis	1	0.3%
9. No diagnosis indicated	8	2.5%

⁷³A more detailed breakdown of the injuries follows:

1. Neck and Back Injuries—168 (50.0%)		
a. Low back disability	54	
b. Cervical sprain/strain	40	
c. Herniated disc	27	
d. Neck and back	10	
e. Neck injury	8	
f. Neck sprain	7	
g. Back sprain	6	
h. Disc syndrome	5	
i. Degenerative disc disease	3	
j. Cervical fracture	2	
k. Limited back function	2	
l. Cervical disability	1	
m. Spinal cord tumor	1	
2. Body and Limb Injuries—88 (26.3%)		
a. Knee	22	
b. Hand	21	
c. Elbow	9	
d. Finger	8	
e. Leg	8	
f. Shoulder	6	
g. Ankle	4	
h. Foot	3	
i. Arms	2	

Findings and Recommendations

REWARD FOR SILENCE

In reviewing the documents made available in connection with the disability area, the Commission did not have the material reviewed by medical authorities nor has the Commission examined the individuals in question. Hence, the Commission is not in a position to make any medical judgments about the propriety of any award. However, various individuals on Regulation 32 and subsequent disability pensions had potentially embarrassing disciplinary problems which circumstantially supports the validity of the original allegation

1. Thumb	2
k. Wrist	2
l. Abdomen	1
3. Chest and Heart Ailments—27 (8.1%)	20
a. Myocardial infarction	2
b. Arterio-sclerotic heart disease	2
c. Chest pains	1
d. Coronary artery disease	1
e. Coronary heart disease	1
f. Muscle strain of chest	1
4. Head Injuries—20 (5.9%)	14
a. Post concussion syndrome	3
b. Concussion-headaches	2
c. Skull fractures	1
d. Ear injury	1
5. Gunshot Wounds—14 (4.2%)	6
a. Legs and arms	2
b. Head	1
c. Abdomen	1
d. Chest	1
e. Face	1
f. Groin	1
g. Hand	1
h. Mouth	1
6. Nerve Ailments—5 (1.8%)	3
a. Post traumatic neurosis	2
b. Anxiety neurosis	1
c. Postural hypotension	1
7. Arthritis—3 (0.9%)	
8. Multiple sclerosis—1 (0.3%)	
9. No diagnosis indicated in file—8 (2.5%)	

made to the Commission. The Commission is here setting forth only some of the examples.

Policeman Michael P. _____ (payroll # 105652) was appointed to the Department in August, 1966. His background investigation disclosed he was a "chronic gambler" who was "hounded by bookies for payment." Nevertheless, his appointment was approved and he soon was assigned to the plainclothes unit in the 26th District. He was one of the two officers who originally arranged the "note" from John Hollawell, proprietor of the Croation Club. Shortly thereafter, he left the Department on a Regulation 32 due to an alleged three year old back injury. He subsequently applied for and received a service-connected disability pension.

Policeman Richard Z. _____ (payroll #103726) served five years on the Department. Between 1968 and 1970, he worked plainclothes in the East Police Division. During this period, two complaints were made against him on separate occasions, both stating he was accepting money from alleged numbers bankers Carol and Joe Nocentino. Internal Security records do not reflect the results of the investigation. Policeman Z. _____ (payroll #103726) was named by John Hollawell as one of the two original plainclothesmen, along with Policeman Michael P. _____ (payroll #105652) who originally forced him to begin making payments to the police. On April 27, 1970, Policeman Richard Z. _____ (payroll #103726) allegedly tripped on a curb. He applied for and received a Regulation 32 and subsequently a service-connected disability pension.

Policeman Anthony D. _____ (payroll #102658) entered the Department in 1966 and served with the Highway Patrol. He was found by the United States District Court for the Eastern District of Pennsylvania⁷⁴ to have illegally arrested a citizen and made racially derogatory remarks to a crowd. The Court also found that after he stopped a car and the driver had suggested that the officer had no right to frisk him, Officer D. _____ (payroll #102658) struck the driver in the knee and mouth with a blackjack. The federal District Court found there was no probable cause for the arrest, and found the conduct of

⁷⁴COPPAR v. Rizzo, 357 F. Supp. 1289 (E.D.Pa. 1973).

Officer D _____ (payroll #102658) ". . . was in flagrant violation of the law and the Constitution." He was also found to have used unnecessarily rough treatment and racial slurs in handling another citizen of a minority group. He was found to have used unnecessary force in other instances and was not subjected to any disciplinary action for any of the above. Most of the incidents occurred in 1969. Officer D _____ (payroll #102658) applied for a Regulation 32 on August 24, 1970. He subsequently received both that payment and a disability pension. His alleged injury was low back strain suffered while subduing a "prisoner."

Policeman Laurence C _____ (payroll #59995) was a policeman for twelve years, during which he had a disciplinary problem. He was found by the Department on several occasions to be guilty of disobedience, neglect of duty, conduct unbecoming an officer, intoxication, and insubordination. The most serious offense was his last, during which he allegedly was intoxicated, in uniform, off his sector, urinating on the highway and waving his revolver at passers-by. He was found guilty and notified of an intention to dismiss him from the Department. On June 11, 1969, a memorandum was placed in his file stating "By order of the Police Commissioner we are requesting that the intention to dismiss dated May 29, 1969 . . . be rescinded." Policeman C _____ (payroll #59995) was transferred at the time to another district. Four months later, Policeman C _____ (payroll #59995) reported a back strain and began the Regulation 32 process. The injury was accepted as the basis of a disability incurred in 1961, which allegedly occurred on duty but was "never reported." A service-connected disability pension was later approved.

Because of lack of detailed records of disciplinary proceedings in the personnel files, the Commission was unable to determine the nature of disciplinary notations, such as "neglect of duty" or "conduct unbecoming an officer." Such charges cover a multitude of sins.

The above profiles should not be interpreted as findings by the Commission that certain officers were in fact eased out of the Department on a Regulation 32 because their records were an embarrassment. There is just not enough data in the documents to support such a conclusion.

However, in one case, the Commission believes an improper pension was awarded to a detective who had refused to co-

operate with the Commission and taken his chances with "the system."

As noted elsewhere in this Report, John L _____ (payroll #15703) was a detective whom the Commission taped and photographed in the process of accepting a bribe for which he was eventually convicted. When he refused to cooperate with the Commission, he was taken to a district headquarters. The ensuing sequence of events is a good example of how a faithful employee can be rewarded by the system for his silence.

On November 10, 1972, Detective L _____ (payroll #15703) was taken by state troopers attached to the Commission to district headquarters. That same day he, and the man and women who paid him the money, were extensively interviewed by Staff Inspectors Raymond Kennedy and Robert Kopsitz, in the presence of representatives from the District Attorney's office. On the basis of these interviews and other facts, Staff Inspector Robert Kopsitz recommended, in a memorandum directed to Commissioner O'Neill dated November 15, 1972, that disciplinary action be taken against Detective L _____ (payroll #15703) immediately. A supplementary memorandum to the Commissioner from Inspector Kopsitz dated November 16, 1972, indicates that at 4:00 p.m. on November 15, 1972, Detective L _____ (payroll #15703) was ordered suspended effective immediately for 30 days. He was notified of the suspension and reportedly signed an acknowledgement of the fact.

The same day, November 15, 1972, Staff Inspector Raymond Kennedy swore out a criminal complaint for Detective L _____'s (payroll #15703) arrest, charging him with receiving a bribe, extortion, misfeasance, malfeasance, and nonfeasance in office. Detective L _____ (payroll #15703) was arrested at 3:50 p.m. on November 15, 1972. The date is important.

Section 217 of the Retirement Ordinance provides:

Section 217. Disqualification

217.1. Notwithstanding any other provision of this Article, no employee nor any beneficiary designated by or for any employee shall be entitled to receive any retirement or other benefit or payment of any kind except a return of contribution paid into the Retirement System, without interest, if such employee

(a) pleads or is finally found guilty, or pleads no defense, in any court, to any of the following:

* * * * *

(2) Acceptance of a bribe for the performance, or affecting the performance or for the non-performance of his official duties, or the offering or giving of a bribe to any other City employee or employee of the Commonwealth of Pennsylvania or of the United States for the performance or affecting the performance or for the non-performance of his official duties;

(3) Engaging in graft or corruption incident to or in connection with his office or employment constituting a violation of the laws of the Commonwealth of Pennsylvania or the United States;

(5) Malfesance in his office or employment;

(6) Engaging in a conspiracy to commit any of the foregoing;

* * * * *

217.2. Where an employee is dismissed for any of the foregoing reasons, or resigns while under such charges, no retirement or other benefit shall be payable pending the final disposition of any criminal proceedings and the expiration of any period for appeal, or appeal to the Civil Service Commission. . . .

Detective L. _____ (payroll #15703) was charged with crimes falling squarely within the prohibition of Section 217 of the Retirement Ordinance. Under the clear intent of the statute, he should not have received his pension. Yet he did. He was brought in for questioning November 10, 1972, questioned extensively by staff inspectors the same day, and suspended for 30 days on November 15, 1972. He was also arrested and ~~finally~~ charged on the 15th.

The following testimony from the First Assistant City Solicitor assigned to sit on the Pension Board by the City Solicitor and Mr. Abraham Pilzer, Executive Director of the Pension Board, confirms the Commission's understanding of Section 217.25

²⁵Unless otherwise noted, the answers are by Mr. Pilzer.

Q: Let me give you a hypothetical example. If an individual is coming up on twenty years of service and he is arrested for one of these crimes listed under Section Two Seventeen Point One A of the Retirement System Ordinance, would he qualify for a disability pension if he's ultimately convicted?

A: No.

Q: He would not. So, as long as he's been arrested, that's enough for him to be disqualified?

A: If he resigns before the case is resolved.

Q: If he resigns before the case is resolved?

A: Now, he's not disqualified. We hold it up.

Q: Pending the outcome of his case—

A: That's right.

Q: —the appeals, whatever?

A: That's right.

Q: But he receives no money until it's finally settled one way or the other?

A: That's right.

Q: What would the entry be if he had made application and it was then in the works? How would such a holdup be noted on this register?

A: It wouldn't be on the register.

Q: His name would not appear on the register?

A: No. What we do in a case like this is first the Department has to send us a separation.

Q: Yes.

A: Now, on a separation, it would say dismissed for cause, arrested, or whatever it is.

Q: Well, let's say they didn't dismiss him. Let's say they suspend him for thirty days.

A: All right, suspended. He isn't eligible for a pension unless he's separated. In other words, as long as

he's an employee he's not eligible for pension. He must either be resigned or separated.

Q: Let's say he's separated and there's an arrest outstanding against him that hasn't been acted upon by the court. Now, would this come to your attention?

A: We would ask. On the separation paper, it would appear that he was separated because he was arrested. The charges were brought. They have to send him notices and all that. It's a regular procedure for dismissing a man.

Q: Yes.

A: Now, when we get that, we ask them for a copy of the charges.

Q: Yes.

A: We then forward a copy of the charges to the Law Department, request their opinion as to whether or not this disqualifies the man. If the Law Department says that it does disqualify him, a copy of that is placed in his file, and he's advised that, pending clarification and finishing of his trial or whatever it is, his eligibility is suspended. And it just lies in the file until such time as something happened. . . .³⁰

Detective L_____ (payroll #15703) case was dismissed on February 6, 1973, due to the Assistant District Attorney's failure to employ basic trial techniques, such as subpoenaing the necessary witnesses for trial. He was rearrested in May, 1973, and ultimately convicted on July 26, 1973. To the best of the Commission's knowledge, the case is currently being appealed to the Common Pleas Court in Philadelphia.

During the entire period, Detective L_____ (payroll #15703) was receiving his pension, which the Commission believes was improperly awarded. November 15, 1972, was a busy day in Detective L_____ (payroll #15703) life. He was suspended for 30 days and arrested for Section 217 crimes. It also was to become the effective date of his pension.

³⁰Pdzer, NT 43-45.

He was placed on the pension payroll on January 31, 1973, one week prior to the first dismissal of his case. Since Detective L_____ (payroll #15703) was not formally charged until the afternoon of November 15, 1972, and his pension became effective the morning of November 15, 1972, arguably Detective L_____ (payroll #15703) does not come within Section 217. However, what of the 30 day suspension? How could Detective L_____ (payroll #15703) have been suspended, when he was no longer a member of the Department?

Detective L_____ (payroll #15703) Report of Separation is an interesting document. See p. 555. It bears a large stamp "Board of Pensions and Retirement Received Dec. 18, 1972." In the "remarks" section, appear the typed words "Apptd. 5/1/50, Pension eff: 12/14/72 11:59 P.M." Such a notation would be entirely consistent with Detective L_____ (payroll #15703) thirty-day suspension which he received on November 15, 1972. However, in the upper right hand corner of the form in the box headed Effective Date, "12/14/72 11:49 P.M." is typed in. Then, in handwriting, the "2" of the "12" is crossed out, and "1" marked over it, so that the revised effective date is 11/14/72 at 11:59 P.M., just a few short hours before Detective L_____ (payroll #15703) was suspended for 30 days, and arrested. The resignation was apparently submitted on November 29, 1972, which is the date beside Detective L_____ (payroll #15703) signature, and also is the date beside the Personnel Officer's certification that "the separation reported hereon is according to law, and is in accordance with the provisions of the Philadelphia Home Rule Charter and other applicable law, regulation or rule."

It is difficult for the Commission to understand how such a certification could be made two weeks after Detective L_____ (Payroll #15703) had been charged with receiving a bribe, extortion, and related offenses. If, in fact, the pension of Detective L_____ (payroll #15703) is legal, it means that Section 217 of the Retirement Ordinance is totally meaningless; an officer, after he is arrested, can submit his resignation, effective the day before he was arrested, and receive his pension.

Detective L_____ (payroll #15703) separation papers bear no indication that he was charged with bribery prior to his separation. Hence, the Board of Pensions never asked for an opinion from the Law Department on the legality of the pension, and none was received. As Detective L_____ (payroll

#15703) pension was not a disability, it was approved in a routine manner, and not even discussed at the monthly Board meeting.

This is not the first time the Crime Commission has raised the propriety of Detective L. _____'s (payroll #15703) pension. When the Commission discovered Detective L. _____ (payroll #15703) had obtained a pension despite the charges, and in conjunction with what the Commission had viewed as a sloppy prosecution, a letter of complaint was written to the Chief of Special Prosecutions in the District Attorney's office, Charles Haddad. On May 24, 1973, just after Detective L. _____ (payroll #15703) was rearrested in response to the Commission's inquiry, a letter was addressed to a Commission attorney from Mr. Haddad which stated, inter alia:

The last paragraph of your letter of May 9, 1973 is inaccurate and disturbing. It would seem that the time has come to stop the rhetoric, sarcasm and petty feuding . . . Regardless of your opinion or my opinion about the conduct of Mr. L. _____ (payroll #15703), his retirement was proper under the law. (Emphasis added.)

The Commission suggests the case be reexamined. Detective L. _____ (payroll #15703), who was the first officer the Commission attempted to turn was "rewarded" by the City for remaining silent. The altered separation papers, the disappearance of the thirty day suspension, the submission of resignation after the arrest lead to no other conclusion. Detective L. _____'s (payroll #15703) success with his pension was later to be thrown up to the Commission by other officers whom the Commission attempted to have cooperate with the investigation.

The case of Detective L. _____ (payroll #15703) illustrates the need for reform. The Commission recommends that the Retirement System Ordinance be amended so that any former employee found guilty of any of the crimes named in Section 217 arising out of conduct performed while the employee was with the City should be deprived of pension benefits. A situation where an employee can be arrested, and then subsequently resign effective the day before his arrest in order to preserve his pension is an absurdity. If the employee is found by a competent court of law to have violated his public trust, and used his office

REPORT OF SEPARATION

CITY OF PHILADELPHIA
PERSONNEL DEPARTMENT

DEPARTMENT AND ORGANIZATIONAL UNIT F 100 - G.D.D. 3/0		DEPARTMENT No. 11 Element 03		Sub. Ele. 02 Unit 02		APPOINTMENT HELD <input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Temporary	
EFFECTIVE DATE 11/14/72 11:59 P.M.		CLASS CODE Detective		CLASS CODE 5081		TIME RATE <input checked="" type="checkbox"/> Full <input type="checkbox"/> Part-Time	
LAST DATE WORKED 11/14/72		LAST DATE TO BE PAID 11/14/72		PAY RANGE NO. 201		PAY STEP NO. 4	
Member of <input checked="" type="checkbox"/> AFL-CIO		Member <input type="checkbox"/> Pol./Fire Med. Assn.		Member Assoc. <input type="checkbox"/> Hospital Serv.		Overpaid <input type="checkbox"/> Days	
No Terminal Leave Due <input type="checkbox"/>		Lump Sum Terminal Leave <input type="checkbox"/>		Days at Current Daily Rate			
NAME AND HOME ADDRESS (Include Zip Code) [REDACTED] Street Philadelphia, Pa. 19124				BIRTH DATE 1/5/22		EMPLOYEE NUMBER 15703	
				SOCIAL SECURITY NUMBER 178-21-1124			

1. RESIGNATION I hereby tender my resignation from the position named above. This resignation is executed by me voluntarily and I am free will, and is not given by reason of any Coercion, duress, or any undue influence by any person.	2. LEAVE OF ABSENCE WITHOUT PAY I request a leave of absence for the period from [REDACTED] to [REDACTED] inclusive REASON: SERVICE PENSION	TYPE OF SEPARATION (Check One only) <input type="checkbox"/> RESIGNATION (Explain in No. 1) <input type="checkbox"/> REJECTION (During Probationary Period) <input type="checkbox"/> DISMISSAL <input type="checkbox"/> ABANDONED POSITION (Explain in No. 2) <input type="checkbox"/> LAYOFF (Permanent or Probationary Employee Only) <input type="checkbox"/> LEAVE OF ABSENCE (Explain in No. 2) <input type="checkbox"/> COMPLETION OF TEMPORARY OR SEASONAL WORK <input type="checkbox"/> EMERGENCY APPOINTMENT TERMINATED <input type="checkbox"/> PROVISIONAL APPOINTMENT TERMINATED <input type="checkbox"/> DISABILITY (Explain in No. 2) <input checked="" type="checkbox"/> RETIREMENT (Explain in No. 2) <input type="checkbox"/> DEATH <input type="checkbox"/> OTHER (Explain in No. 2)
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DATE OF EMPLOYEE 11/29/72	DATE 11/29/72	SIGNATURE OF EMPLOYEE [REDACTED]	DATE 11/29/72
CERTIFICATION OF APPOINTING AUTHORITY I certify that the separation reported herein is according to law, and in accordance with the provisions of the Philadelphia Home Rule Charter and other applicable law, regulation or rule.		APPROVED BY PERSONNEL DEPT. [REDACTED]	

REMARKS
Emp'd. 5/1/50, Pension eff: 12/14/72 11:59 P.M.
Member of Pension Plan "B", Gen. paid, to Army, Voluntary forfeit of Accrued Sick Leave

PENSION CLEARANCE OR APPLICATION FOR BENEFITS

I am not a member of the Municipal Retirement System
 As a member (Beneficiary) of the Municipal Retirement System I hereby apply for (CONVERT LIFE INSURANCE TO PENSION GROUP)

WITHDRAWAL OF CONTRIBUTION CREDITS

SERVICE RETIREMENT BENEFITS

SERVICE CONNECTED DISABILITY RETIREMENT BENEFITS

ORDINARY DISABILITY RETIREMENT BENEFITS

SERVICE CONNECTED DEATH BENEFITS

ORDINARY DEATH BENEFITS

SEPARATION SERVICE (Age 55-64) AGE _____

OPTIONAL EARLY RETIREMENT

RETIREMENT - CONTRIBUTIONS CONTINUE UNTIL AGE _____ PER MONTH

OPTIONAL (Age 55-64) RETIREMENT BENEFITS

INSURANCE OPTION NO. [REDACTED] Employee's Initials [REDACTED]

DATE [REDACTED]

FOR INFORMATION ON SEPARATION BENEFITS CALL:

Life Insurance MU 3-2311

Health-Welfare and Medicare MU 6-2111

Pensions MU 6-2415

Workman's Compensation MU 6-5261

for personal gain, through bribery, graft, and extortion, it should not matter whether his misdeeds are discovered before or after he has been awarded his pension. If they arise out of his official conduct while he was a City employee, he should suffer a penalty.

The Commission also advocates amending the 217 penalty clause to provide for loss of only half of the pension benefits. The law, as presently written, is so severe that courts may hesitate to make findings of graft or corruption because of the enormous penalty entailed by the forfeiture of an entire pension. The Commission feels that a more realistic penalty commensurate with the crime will lead to a better deterrent situation.

A "WELL CONNECTED" OFFICER'S PROSPECTS

As in other areas in this investigation, the Commission had great difficulty in getting officers who had experience with the disability area to talk freely about the situation. Individual officers did not want to do anything to jeopardize lucrative pensions.

Fortunately for the Commission, one of its police witnesses had some contact with the disability area, having been injured in an automobile accident. His testimony paints a far clearer picture of the way the system works than any Commission summary could hope to do, and hence is presented here in some detail:

Q: Now, after you got transferred back to the Twenty-third District in May of 1971, did you become involved in an automobile accident while you were on duty?

A: Yes, I did.

Q: Do you remember the date of that?

A: I believe it was July seventh, 1971.

Q: And I believe you testified after that accident you were put on an injured status and given limited duty assignments, is that correct?

A: That is correct.

Q: And during those assignments you were still technically assigned to the Twenty-third District?

A: That's correct.

Q: The police surgeon subsequently certified that you were able to return to full active duty?

A: Yes, he did.

Q: And did you appeal that?

A: Yes, I did.

Q: What was the result?

A: The decision that came from the Civil Service Commission was in my favor. They agreed that because of medical evidence produced that I wasn't fit for uniform duties and the decision went against the Chief Surgeon.

Q: Did you have an attorney?

A: Yes, I did.

Q: Did you use any political influence in obtaining that decision?

A: Yes, I did speak with some people.

Q: And do you think the decision was a result of the conversations that you had?

A: I believe that it was.

Q: How did you know who to talk to?

A: Because of where I was being assigned on the limited duty status.

Q: Where were you assigned at that time?

A: In the Mayor's Office at Administrative Services.

Q: And did someone from the Mayor's Office tell you who you should talk to?

A: No, I spoke with someone in the Mayor's Office which in turn spoke with the Chairman of the Civil Service Commission, I believe, Mr. Ettinger.

Q: Can you tell us who it is that you spoke to?

A: Yes, I can. Is it necessary?

Q: Yes.

A: I spoke with Mrs. Faye Forman, the Director of the Mayor's Office for Administrative Services.

Q: Did you talk to anybody else?

A: In the office?

Q: Anywhere?

A: I possibly did. I spoke with—I know I spoke with Jim Johnson which is a policeman that is assigned to the Mayor's Administrative Office.

Q: Did you pay any of these individuals any money to get the decision the way you wanted it to go?

A: No, I did not.

Q: Did you offer to?

A: No, I didn't.

Q: Did they ask it of you?

A: No, they did not.

Q: Why did they do it?

A: I believe they did it because I had become a member of the team and at the time it was justified. I was afraid I wouldn't get a fair hearing unless someone spoke for me.

Q: Why were you afraid you wouldn't get a fair hearing?

A: Because of the power of the word of the Chief Surgeon. If he says I am prepared to go, that I am physically capable of going back to work, then then usually the Commission would go along with whatever his decision is.

Q: Did you think personally that you weren't prepared to go back?

A: I honestly believed personally that I wasn't ready to go back and also that the Chief Surgeon did not have an opportunity to examine me thoroughly himself to make a decision. At the time that he came down with his decision, he told me that the reason that I was out of work was more because

CONTINUED

6 OF 10

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A: I believe they did it because I had become a member of the team and at the time it was justified. I was afraid I wouldn't get a fair hearing unless someone spoke for me.

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A: Because of the power of the word of the Chief Surgeon. If he says I am prepared to go, that I am physically capable of going back to work, then usually the Commission would go along with whatever his decision is.

Q: Did you think personally that you weren't prepared to go back?

A: I honestly believed personally that I wasn't ready to go back and also that the Chief Surgeon did not have an opportunity to examine me thoroughly himself to make a decision. At the time that he came down with his decision, he told me that the reason that I was out of work was more because

of anxiety than a physical condition, and that the District and uniform would do me good.

Q: Do you know what procedure you have to go through in order to get a Regulation 32 disability pension?

A: I believe I do.

Q: What would you do if you wanted to get one?

A: Well, if my injury was justifiable it would be necessary for me to go to some expert physicians, to obtain the advice of a politician and to possibly in some cases put out a certain amount of money.

Q: Why would you get the advice of a politician?

A: Because the politician would have more favor with the Civil Service Commission than any other person. And if a politician with a strong influence spoke for you, then nine chances out of ten the Commission would come down in favor of you.

Q: Do you think you would have to pay the politician?

A: In some cases I believe you would. It would be according to who the politician was.

Q: Are there some politicians who specialize in that kind of activity?

A: I would say that your councilmen are more accessible to that type of activity than any other City politicians, besides the Mayor.

Q: Do you think you have to pay the councilmen?

A: Like I said before, it would depend on the councilman. If they possibly need a favor themselves or if you could in some way help them in the elections, they would probably do it for free.

Q: Do you know of any instances in which officers have given money to councilmen or anybody else to get Regulation 32 pensions?

A: I know of cases where policemen have received Regulation 32 after seeing their councilmen. If

they paid their councilmen, I don't know.

Q: Who were those policemen?

A: Danny [L_____].⁷⁷

Q: Who else?

A: Jack [L_____].⁷⁸

* * * * *

Q: Do you know whether the 32 is ever used as a way of helping somebody out who has a corruption problem; getting somebody out of the Police Department so that they are taken care of, so that they won't spill the beans on somebody else?

A: Yes, I believe that's a mechanism that the Philadelphia Police Department used to use for all plain-clothesmen and policemen that are somehow tied in with vice.⁷⁹

Mr. Jonathan Rubinstein, author of *City Police*, corroborated this testimony when he appeared before the Commission:

A: Well, at the time—I don't know when Regulation 32 came into force and I don't know if it was at any point amended. But there was a point in the late sixties, early seventies, when there seemed to be a very large increase in the number of Regulation 32's being granted. This was widely reported in the press. There were lots of policemen—you would hear policemen talk about someone going to go out on a 32. It was alleged informally, by many officers that 32's were used as a way of getting people out of the Department.

Q: These were discussions you had other than reading, for example, something in the *Inquirer*?

A: Conversations with policemen.⁸⁰

⁷⁷Officer Daniel L. _____ (Application No. 1084) received a service connected disability pension effective July 22, 1972, added to the pension payroll on August 31, 1972.

⁷⁸Officer Jack L. _____ (Application No. 1094) received a service connected disability pension effective July 22, 1972, added to the pension payroll on August 31, 1972 (the same date as Officer L. _____'s application No. 1084).

⁷⁹Ruff, December 31, 1973, 90-98.

⁸⁰Testimony of Jonathan Rubinstein before the Pennsylvania Crime Commission, January 2, 1974, N.T. 111.

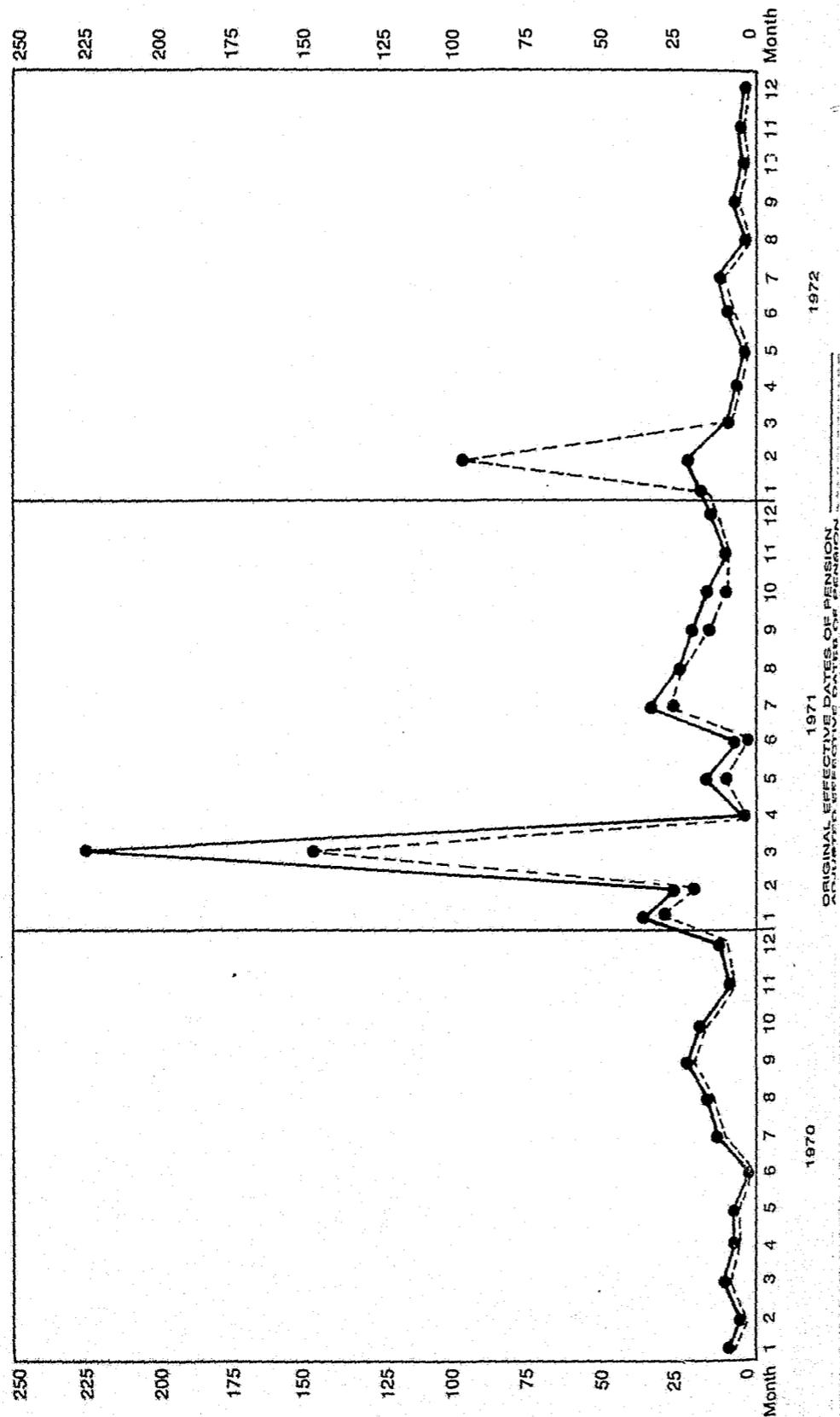
As Mr. Rubinstein testified, there was a large jump, in the Spring of 1971, in the number of pensions granted to police officers. See Table 2 and the graph on the following page. This jump was so severe that some of the pensions approved then were later revised and made effective the following year. Coincidentally, the Police Commissioner began running for Mayor in the spring of 1971.

An officer's future pension is one of his most important assets, and any inequities in the area can significantly affect morale of the men. To have a system bankrupt due to excessive generosity on behalf of various politicians is a true disservice to the men and women of the force who suffer serious injury defending the citizens of Philadelphia, and deserve just compensation for their sacrifice.

TABLE 2
Police Disability Pensions

	Original Effective Dates		
	1970	1971	1972
January	7	38	17
February	5	26	21
March	6	212	7
April	3	3	6
May	3	18	5
June	1	4	9
July	15	32	12
August	16	25	1
September	19	22	4
October	18	18	2
November	6	10	4
December	9	14	3

	Adjusted Effective Dates		
	1970	1971	1972
January	7	37(-1)	17
February	5	25(-1)	100(+79)
March	6	147(-65)	7
April	3	3	6
May	3	13(-5)	5
June	1	3(-1)	9
July	15	30(-2)	12
August	16	3(-22)	1
September	19	21(-1)	4
October	18	15(-3)	2
November	6	10	4
December	9	14	3



RE-EXAMINATIONS

The Commission investigation of the documents disclosed a large number of officers receiving disability pensions, who after receiving their pensions, obtained employment of a law enforcement nature which is seemingly inconsistent with their disabilities.

Detective Robert C. _____ (payroll #17276) served for twenty-two years in the Police Department. His last assignment, prior to separation, was as a polygraph operator. He allegedly sustained a back injury while lifting a polygraph machine and was awarded a Regulation 32 and subsequently a disability pension. Once out of the Department, Detective C. _____ (payroll #17276) went to work with Diamond Security Systems, Inc., for approximately five months. His duties were administrative, and he also conducted polygraph examinations. At present, Detective C. _____ (payroll #17276) is President of Polygraph Examination Association, and his business is to administer polygraph examinations in his office. Thus, Detective C. _____ (payroll #17276) is carrying on precisely the same duties outside the Department as he had within the Department while enjoying a "disability" pension. Yet instead of earning the normal 50% of his final salary due in a regular pension, he is earning 70% tax free on a disability.

Policeman Dominic M. _____ (payroll #17259) served twenty years in the Department. In 1969, he allegedly slipped in a cell room, injuring his lower back. A memorandum in his file from an Assistant City Solicitor notes that Policeman M. _____ (payroll #17259) was working at Sam's Appliance store on the date of his injury; and the day after the alleged accident. Notwithstanding, the injury was deemed to be service connected, and a Regulation 32 awarded. Subsequently, an injury pension was granted. On September 28, 1973, Crime Commission agents, in verifying employment at Sam's Appliance store, observed and photographed Policeman M. _____ (payroll #17259) singlehandedly moving a large appliance (washing machine) onto a truck.

Detective Ronald S. _____ (payroll #72661) served for nine years in the Department. He allegedly slipped on the ice in 1970, and was treated for an injured right foot. Within seven months, the injury was determined to be permanent and partial. He obtained a Regulation 32 and subsequently a disability pension on the basis of a strained right foot. He is presently em-

ployed as a parole officer. In 1971, he was interviewed for a position at the Pennsylvania Crime Commission by the Special Agent-in-Charge. In the summary of the interview the agent wrote "S_____ (payroll #72661) was unable to stand or wear a shoe on the injured . . . he was retired and after exercising the foot, mainly through swimming, it healed and is now entirely normal."

Policeman James R_____ (payroll #57246) served for thirteen years. In 1968, he allegedly fell from a defective chair and was treated for injuries to his lower back. On July 20, 1970, the injury was ruled permanent and partial. He was listed as totally disabled from August 15, 1969, until January 15, 1970. Besides being a policeman, James R_____ (payroll #57246) served as a staff sergeant in the Pennsylvania Air National Guard. He is currently a member of the 111th Tactical Air Support Group. During the period he was "partially or totally disabled," he reported for active duty with the Air National Guard, and he has continued to attend two week active duty training sessions even beyond his obtaining both a Regulation 32 and a subsequent disability pension. He now works full time as a security guard for the Willow Grove Naval Air Station.

A summary of some of the other cases where an officer received an injury resulting in a disability pension and then performed law enforcement type work follows:

<u>Officer</u>	<u>Injury</u>	<u>Employment</u>
Paul A_____ (payroll #102537)	Neck and back	Investigator, James A. Dolan Investigators
William A_____ (payroll #17269)	Back injury	Bank guard, First Pennsylvania Bank
James B_____ (payroll #49728)	Back injury	Investigator, Superior Investigation Service
John B_____ (payroll #100243)	Cervical strain	Bank guard, PSFS
John B_____ (payroll #101026)	Knee injury	Store detective, Strawbridge & Clothier
Philip B_____ (payroll #77326)	Back injury	Loss prevention investigator, Food Fair
John B_____ (payroll #36310)	Cervical strain	Chief of Security, Hyman Korman Building Corp.
Howard B_____ (payroll #60103)	Knee injury	Score detective, Strawbridge & Clothier

<u>Officer</u>	<u>Injury</u>	<u>Employment</u>
Eugene B_____ (payroll #69918)	Injured right index finger	Watchman for the waterfront, Edward J. Ring Detective Agency, Inc.
Carl C_____ (payroll #72605)	Post concussion	Security officer, Philadelphia Fresh Food Terminal ⁸¹
Frank C_____ (payroll #97299)	Injured right hand	Investigator, Defender Association
John D_____ (payroll #17327)	Back injury	Supervisor, uniformed security guards, Wackenhut Corporation
John G_____ (payroll #97324)	Post concussion syndrome	Investigator, James A. Dolan Investigators ⁸²
Carlo G_____ (payroll #101935)	Lumbo-sacral strain	Investigator, Burns International Security Systems, Inc.
Edward H_____ (payroll #40178)	Cervical strain	Investigator, Superior Investigation Serv., Inc.
William H_____ (payroll #37441)	Back injuries	Investigator, Burns International Security Systems, Inc.
William K_____ (payroll #51969)	Cervical strain	Guard, Liberty Bell Racing Association ⁸³
Walter K_____ (payroll #45131)	Neck sprain	Road surveillance manager, Food Fair
Benjamin K_____ (payroll #14558)	Coronary artereo sclerosis	Supervisor of uniformed guards, Globe Security
David K_____ (payroll #77018)	Left shoulder acromioclavicular prominence-knee injury	Parole Officer
Frank L_____ (payroll #43996)	Low back injury	Security, Sears-Roebuck
John L_____ (payroll #439298)	Unstable right knee	Guard, Hyman Korman, Inc.
Thomas M_____ (payroll #53014)	Low back disability	Guard, Provident National Bank
Harry M_____ (payroll #46245)	Back injury	Investigator, E. J. Charters, Inc.
Erwin N_____ (payroll #45149)	Right hand injury	Road supervisor, Food Fair

⁸¹Previously, he was a non-teaching assistant, maintaining order in the lunch room and study halls, etc., for the Philadelphia School District.

⁸²Last known employment. Resigned May 22, 1972.

⁸³Also worked for Continental Thoroughbred Racing Association.

<u>Officer</u>	<u>Injury</u>	<u>Employment</u>
Jerome P. _____ (payroll #94975)	Low back strain	Loss prevention supervisor
Salvatore P. _____ (payroll #77088)	Cervical strain	Security officer, Holiday Inn
James Q. _____ (payroll #35916)	Injured right wrist	Security guard, Liberty Bell Bell Race Track
James R. _____ (payroll #49832)	Cervical disability	Security officer, Provident National Bank
Leslie R. _____ (payroll #101015)	Cervical strain	Detective, Bonwit Teller
Edward S. _____ (payroll #16185)	Contusion, right elbow	Guard, Provident National Bank ⁸⁴
Donald S. _____ (Payroll #60078)	Fractured right hand	Watchman, Marine Guard Service
Anthony S. _____ (payroll #46253)	Post concussion syndrome	Investigator, Grady Detective Agency
Edward S. _____ (payroll #38078)	Contusion, left elbow	Guard, Liberty Bell Racing Association
Robert T. _____ (payroll #101268)	Post traumatic concussion	Guard, M & S Detective Agency
Richard Z. _____ (payroll #103726)	Herniated disc	Investigator, Pennsylvania Bureau of Consumer Protection

Most, if not all, of the above listed officers have worked at their jobs for a substantial period of time, at least six months.⁸⁵

The Commission recommends a meaningful re-examination program be instituted to evaluate whether any of the above-listed individuals no longer qualify for disability pensions.

To date, the Pension Board has not been successful in re-examining pensioners, despite a requirement of the Retirement Systems ordinance that:

⁸⁴Resigned July 14, 1972, after nine months.

⁸⁵On August 7, 1967, City Solicitor's opinion ruled that former policemen could not work for the School District of Philadelphia. According to testimony presented by Mr. Pilzer, the opinion was withdrawn in 1967 "... by Mat Bullock, who attended the meetings on behalf of Levy Anderson, and it was never reissued." Pilzer, N.T. 33. This is reflected in the Board's minutes. In 1972, subsequent to a series of articles published in the *Philadelphia Inquirer* concerning disability pensions, and raising an issue concerning the validity of 1967 opinion, a new opinion was issued, approving appointments to date, but prohibiting any future hiring of former city employees

Section 208. Reexamination and Reemployment of Disabled Members

208.1 The Board may, at any time and at its discretion require a disabled member, while younger than the minimum retirement age of his coverage plan, to undergo a medical examination by the Medical Panel: Provided, that each such disabled member shall be examined at least once each year. Examinations shall be made at the residence of the disabled member, or such other place as may be designated by the Board.

208.2 If the Board shall find that a disabled member receive service-connected disability benefits is able to resume the duties of his former position or one of like status, salary, and seniority with the City, and such member shall refuse or fail to accept reassignment, reinstatement or reemployment by the City in such a position, the such benefits shall be discontinued. Pending such reassignment, reinstatement, reemployment, or offer of the same, as herein set forth, or pending his securing other employment, such disability benefits shall nevertheless be continued.

without suspended retirement benefits. Several individuals were listed in the *Inquirer* series as working for the Board of Education. The Commission recently checked and discovered the following former police officers at the Board:

Non-Teaching Assistants

Name	Status
Harry C. _____ (payroll #15234)	Currently Working
Charles F. _____ (payroll #16438)	Currently Working
Abraham H. _____ (payroll #15438)	Currently Working
Melvin B. _____ (payroll #67789)	On Leave of absence for the past 1½ years.
Carl C. _____ (payroll #72605)	Resigned
Edward W. _____ (payroll #13876)	Substitute-not working
George P. _____ (payroll #25594)	Substitute-not working

Security Officers

Name	Status
John B. _____ (payroll #13086)	Currently working
Richard C. _____ (payroll #16870)	Currently working
James K. _____ (payroll #16497)	Currently working
Nathan R. _____ (payroll #14882)	Currently working
Ford S. _____ (payroll #40289)	Currently working
Salvator T. _____ (payroll #46315)	Currently working

The difficulty with re-examinations was explained as follows by Mr. Pilzer:

Q: Does the Board have, at the present, an active reexamination plan?

A: The plan is under, oh, I should say, review at the present time. We had a plan going for a long time when there were very few people. But as the members grew, the job became too big for our Medical Panel. Three men just couldn't do it. So, for a while, it was allowed to lag. Now, we're in the process of setting up a complete procedure as to how this should be handled, which will permit the Medical Panel to employ outside men to do the actual examining and so forth. The way the Ordinance is drawn, only the Medical Panel can determine whether or not the man is fit to go back to duty or make the recommendation to the Board. Now, we tried to use outside physicians to make an examination, make the recommendation, and we got called on it. And it was determined to be illegal. So we're now setting up an entirely new procedure—

Q: I see.

A: —for handling this.

Q: When you say it lapsed, how long a period did it lapse for?

A: I'd say about two years.

Q: All right. And then there appeared a series of articles in the Philadelphia Inquirer in September of 1972 that, I think, was critical of the lack of re-examination. Was it after that, those series of articles?

A: That serious work began on it?

Q: On instituting the re-examination, re-instituting the re-examination program?

A: That's right.

Q: You then received some very favorable editorials shortly thereafter.

MR. MC NALLY: We didn't see those.

Q: It was reported in the press about fifty percent of the applicants who were examined were found able to go back to work. Are you familiar with those re-examinations?

A: I'm familiar with those re-examinations.

Q: Did those employees indeed go back to work?

A: No, because, as I say, there was a legal question raised, because they were being examined by other physicians, other than on the Medical Panel, and it was ruled that the examinations were illegal. Now, we're setting up a whole new procedure to do the possible—

* * * * *

Q: Who ruled that there were illegal—the City Solicitor's office?

A: That's right.⁸⁶

The Commission was assured, however, that a new re-examination program would be instituted which could handle the backlog.

INSUFFICIENT SAFEGUARDS

Insufficient safeguards presently exist to prevent and protect against the awarding of fraudulent disability pension applications. Neither the Police Department nor the Board of Pensions have either the inclination or necessary resources to conduct any sort of investigative program designed to uncover instances where an officer is working in employment inconsistent with his disability.

Initially, Mr. Gerald Boyle, Director of Administration of the Department, indicated he had the capacity to conduct such investigations:

Q: Do you have any investigators who go out and try to determine whether—do you have the facility for doing that kind of thing, to determine whether individuals who are in this status, waiting to be

⁸⁶Pilzer, N.T. 23-26.

assigned jobs, whether they are in fact out driving trucks or—

A: We have the capacity to do so, yes.

Q: Do you, in fact, do it?

A: I don't know that any have been done while they were waiting placement. I do know, however, that we conducted some of these investigations, either into the period of time when they were being treated and an IOD, and even after they have been granted a disability pension, based upon complaints received.

Q: After they have been granted disability pension?

A: Well, the idea behind a disability pension is that they are not able to perform the duties of a policeman.

Q: So, you have investigated incidents—the disability pension that you're referring to is something that the Board of Pensions would award?

A: Yes.

Q: And if you receive a complaint after they are on disability pension that an individual is apparently doing something that would be inconsistent with his injury, you will investigate that?

A: Yes, sir.

Q: How many investigations of that type have you done?

A: Oh, I can think of about a half a dozen.

Q: Without going into the specifics of each case, did you find that any of the complaints were justified?

A: We found, as I recall, approximately two (2) of them, which were reported to the Board of Pensions.

* * * * *

Q: But there is no provision in the retirement ordinance, at the moment, that a person who is receiving a disability pension because he is

permanently and partially disabled, must report to the Board of Pensions—

MR. MC NALLY: No, because that requirement was removed by negotiation and arbitration within the past couple of years.⁸⁷

However, Mr. Boyle soon indicated that he did not believe this to be an area worthy of investigative action:

Q: Mr. Boyle, do you actively seek out these kind of investigations, or is—in other words, the half dozen that you have conducted, were they in response solely to complaints, or do you have kind of a spot check system, or something where you—

A: We have no spot check system.

Q: You have no active investigative unit in this area?

A: No.

Q: I think there was a series of articles in the Philadelphia Inquirer in the Fall of 1972 which had to do with the whole Regulation 32 area, and it purported to report various individuals who were working as security officers for the Board of Education, and such things.

Did you conduct any investigations on the basis of those articles?

A: No.

Q: Do you know of any—were there any other persons in the police department who was assigned to conduct investigations as a result of those articles?

A: No.

Q: Did anybody direct you not to conduct investigations?

A: No.

⁸⁷Testimony of Gerald Boyle before the Pennsylvania Crime Commission, October 23, 1973, N.T. 42-45 [hereinafter cited as Boyle].

Q: You didn't think there was anything in the articles that warranted investigation?

A: I remember reading the articles; I don't particularly remember the specific content. Very frankly, and let me express my opinions for the record, I thought somebody was trying to win a Pulitzer Prize for journalism.⁸⁸

Mr. Boyle went on to state he was openly opposed to any sort of investigation in this area, which certainly raised questions about the thoroughness of the investigations he had conducted.

Q: Mr. Boyle, do you feel that you have adequate investigative personnel to conduct the type of investigations that we talked about previously? In other words, to determine whether individuals who are on disability pension are in fact performing jobs inconsistent with their medical condition as far as City records disclose. Would you like to have more people to conduct those investigations?

A: Well, first, you would have to get me to agree that it's the police department's responsibility to conduct such a program.

Q: Do you think it is?

A: I wouldn't agree.⁸⁹

The inadequacy of the present safeguards, which consist of trusting the employee to voluntarily fill out a form indicating his present employment, soon became manifest.

Q: Do you think that the check of having him file a form with personnel is enough to disclose—to catch the people who might be working on jobs inconsistent with his disability?

A: Well, we have conducted such an investigation, to my knowledge.

⁸⁸*Id.* at 45-46.

⁸⁹*Id.* at 52.

Q: In other words, you have sufficient personnel to—

A: One of the things we do, we ask the individual to give us his social security number and make a routine check back to the social security board and find out what his earnings are. So, we have a mechanism to do it.

Q: Do you do it?

A: We've done it.

Q: In every case?

A: (No response)

Q: Do you do it in every case?

A: Yes, sir.

Q: So, in every case where an individual starts receiving Regulation 32 payments, since you have access, obviously, to social security, you check and see whether he's earning any other money.

A: We do.

Q: At what point do you check? In other words, do you check the day he stops his police work, or do you do periodic checks?

A: Well, in this particular case the individual was being separated from the department.

Q: Well, maybe I misunderstood you. I thought you said, 'In every case.'

A: In this particular case the individual was being separated from the department.

Q: Right.

A: We asked him to fill out a form, giving us his social security number, and he also provided us with certain information which made it obvious that he was working elsewhere.

Q: I thought you said that you did it in every case.

A: We have done it since last year sometime.

Q: At what stage in the proceedings does this check on the social security number occur?

A: At the point of separation.

Q: At the point of separation from the department?

A: That's right.

Q: So, he could have been—

A: He could have been an IOD for three (3) years.

Q: Right, but you would catch, at the point—if he has been an IOD for three (3) years, receiving 32 payments, and he has been out driving a truck, you would catch it when he separated?

A: Well, we caught it as this particular time.

Q: But you check in every case, so you would catch it—

A: Since then we have checked in every case.⁹⁰

Further questioning of Mr. Boyle revealed that in fact no active checking system existed, and that Mr. Boyle did not believe the issues were important, or the checks by investigation necessary:

Q: But there doesn't seem to be any active enforcement of that, other than if you happen to get a complaint from someone saying, "I think there's a policeman who is on Regulation 32 who is working as a plumber," for example.

A: Well, I would have to say, as an active program, I think the police department has other things to do than conduct internal checks on their employees.⁹¹

Subsequent questioning also revealed that little or no investigative work is done at the time the original Regulation 32 application is submitted. No consistent effort seems to be

⁹⁰Id. at 53-55.
⁹¹Id. at 57.

made to contact the individual's private physician to determine whether there was a prior injury of a similar nature.

Regulation 32 provides that if the individual obtains gainful outside employment while awaiting placement, he "must report such employment and any income derived from it shall be deducted from the payments to which he would be entitled under this regulation. Employees failing to report such earnings may be denied by the Director of Finance part or all of the benefits under this regulation."⁹² Yet, the above testimony of Mr. Boyle revealed that there is no effective ongoing program aimed at enforcing this provision.

The Commission addressed similar questions to Mr. Pilzer at the Board of Pensions. He indicated that not only did he have no investigators, but there is no longer any requirement that a disability pensioner report his employment.⁹³

Ostensibly, according to Mr. Pilzer, there is a different standard applied for granting of a Regulation 32 and a pension salary:

Q: What are the differences in the requirements?

A: Regulation Thirty-two only requires injury to be service-connected. For Service-connected injury pension, the injury must be due solely to the performance of duties to his position. In other words, you can get a Regulation Thirty-two benefit by aggravating, say, an old injury. With us, you wouldn't be entitled to a full pension for that.⁹⁴

Much of the information which the Regulation 32 officials have might be useful, yet there seems to be little communication:

Q: . . . [A hypothetical policeman] has a back injury. Then he takes a job carrying suitcases at the train station, involving heavy manual labor and a strain on his back, and this is all while he's on the Regulation Thirty-two payments. Then he comes and applies with the Pension Board for pension.

⁹²Civil Service Regulations 32.0643.

⁹³Pilzer, N.T. 19.

⁹⁴Id. at 14.

As the system presently works, is there any way that the Medical Panel could find out about that, his outside job would come to the Medical Panel's attention?

A: Not that they know of, except that they give him a physical examination. If they find nothing wrong, they find nothing wrong. But I don't know how his outside work would get to them.⁹⁵

Obviously, more stringent safeguards, and aggressive investigative program, and adequate record control should be instituted so that police officers presently on the force could have renewed confidence in the integrity of the Regulation 32 and Disability Pension Systems.

Specifically, the Commission recommends:

(a) A thorough investigation culminating in a written report should be conducted for every injury and be the basis for a Regulation 32. This should include investigation of the accident site and interviews with the applicant's private physician.

(b) All records should be maintained in the individual's personnel file, for purposes of control.

(c) The Administrator of Services and the Personnel Department should not only be notified of all outside gainful employment, but also have a vigorous ongoing investigation system to detect outside employment, and liaison with appropriate state and federal revenue and workmen's compensation agencies would facilitate such activity.

(d) The retirement system ordinance should be amended so that if a "disabled" person who is younger than the minimum retirement age, becomes gainfully employed and is earning more than the difference between his disability benefit and final compensation, then his disability benefit should be reduced so that the total equals his final compensation with appropriate allowances for cost of living increases.

(e) The Board of Pensions should have adequate investigative resources to monitor the system.

⁹⁵Id. at 21.

USE OF EXPERIENCED PERMANENTLY AND PARTIALLY DISABLED OFFICERS

The above sections have indicated that many disability pensioners are receiving a pension, yet are performing various law enforcement type tasks in the private sector. If the Department would modify its physical requirements, and permit specialization, hundreds of thousands of dollars would be saved and skilled and dedicated officers could finish out their careers in the Department. At present, all police officers must have a minimum height of 5'7", a minimum weight of 140 pounds, and 20/50 vision in each eye without correction and 20/20 vision with correction. To this end, the Municipal Medical Dispensary has a rigid set of physical standards against which applicants are measured. All sworn officers in the Police Department are expected to meet these same physical requirements throughout their careers and without regard to their current assignment.⁹⁶

A far more judicious use of personnel would be accomplished by having rigorous physical fitness and agility tests (rather than physical characteristic tests) for various job specifications within the Department. All men on patrol, or doing undercover work, or specialized tactical work such as stakeout should be required to pass these tests.⁹⁷ However, there are numerous tasks and skills within the Department which can be performed by persons who do not meet "street" or "combat" physical fitness standards.

The Commission has prepared the following suggested list of positions currently manned by able-bodied police officers which the Commission submits could be performed by most permanent and partially disabled employees, subject, of course, to medical approval:

Assignment	Description
Reception desk:	Located at police headquarters and other police installations. Directs visitors to persons with whom they have business.
Security guards:	Located at Municipal Services Building, City Hall, City Hall Annex. These men perform little, if any, actual police work. After the building closes, working hours usually 9 a.m. to 5 p.m., they are actually performing the duty of a guard.

⁹⁶The inappropriateness of rigid physical requirements in determining an officer's agility, stamina, strength, and ability to do the job are discussed *supra* at 64-65.

⁹⁷The International Association of Chiefs of Police has compiled a recommended agility test, see International Association of Chiefs of Police, *A Survey of the Police Department, Atlanta, Georgia* Appendix V (April, 1971).

Assignment	Description
Parking violations Center City:	Most of the Center City intersections are manned by traffic police on foot who are responsible for parking violations in the immediate vicinity of their stationary posts. (Broad Street, Spruce to Vine-Market Street, 8th Street to 17th). On the perimeter of these main streets covering an area from South Street to Spring Garden Street and from river to river traffic officers on foot enforce parking regulations (writing summons).
Clerical jobs:	Located at Criminal Record Room, Records Retention Section, Evidence Store Room, Reports Central Section. In some of these areas, lieutenants or sergeants of police supervise these operations. There are men of these ranks in the category referred to in paragraph one of this report.
Firearms investigations (Detective Bureau):	This entails a criminal records check interview of applicant and references, and submission of a report.
Sanitation Unit:	Inspect trash for proper packaging, lettering, and other unsanitary conditions, issue summons for violations.
Police Academy Investigative Unit:	Conducts background investigations of applicants (Reg. 32 Detectives).
Police Academy in-service training:	Ranking officers on Reg. 32 could conduct sessions.
Polygraph examina- tions:	There is at least one examiner on Regulation 32, others could be trained in this area.
Community relations area:	At the present time each district has a Community Relations officer who contact business people and residents in the area within the boundaries of the district. This is primarily a public relations function.
Police Athletic League:	Normally assigned to operate a Police Athletic League Center dealing with the youth in the police district area.

A closer study of the various operations would undoubtedly reveal other positions that could be manned by partially disabled police personnel. As Mr. Pilzer stated in response to a question concerning whether certain jobs in the Police Department are more strenuous than others:

I assume there are. I wouldn't know. Yes, they have clerical jobs. They have outside jobs. They have stake-out jobs. They have every type of job in the world in the Police Department.⁹⁸

The Department's physical requirements are not the only obstacles. As the Retirement System Ordinance is now drafted,

⁹⁸Pilzer, N.T. 22.

there are some difficulties with reassigning an officer on a disability pension to suitable work.

For example, relaxing the physical requirements in the Department for specialized, non-combat functions would also justify the remedy of re-examination suggested above. At present, even those requirements make a farce of the yearly re-examination. As Mr. Pilzer testified:

Q: Well, how about when you did that re-examination? Even though it wasn't legally upheld, the medical determinations of the ones you re-examined, fifty percent of those individuals were found qualified to work.

A: No. Now, wait. Now, there's where you're wrong.

Q: Okay.

A: There were found that they could take a job of equal status, salary, and seniority, even though a policeman couldn't be a policeman. Only, I think, eighteen out of about two hundred were found qualified to return to full police duty.

Q: But they could take a job with equal—

A: Equal job status and seniority. But they're still disqualified from being a policeman.

Q: But the standard in the Ordinance is a job of equal status and seniority.

A: All right. But to get the salary of a policeman, twelve thousand a year, at a desk job, we don't have too many jobs like that. Most jobs, when you get up to twelve thousand job bracket, it requires some training or something else.

Q: Wouldn't it be more fiscally responsible for the City? You're taking the twelve thousand dollars anyway, right?

A: No, we're paying him seventy percent.

Q: Well, seventy percent.

A: Maybe the six thousand a year he was earning when he left or eight thousand he was earning—

but remember, the salaries of a policeman have risen. Now, would you say you'd put a guy who is not qualified in a twelve thousand dollar job to save, say, if he was making fifty-six hundred dollars a year—see, it's a question of judgment.⁹⁹

While it may only be a question of judgment, the Commission believes there is an enormous untapped potential for manpower and financial savings. Police officers, who have spent many years in the Department, and then sustained some injury which might prevent them from filling some of the most physically demanding roles, could still remain with the Department, give the benefit of this experience to younger recruits, and perform many useful tasks. The Department does not now utilize these men as Mr. Boyle observed:

Q: Do you have any provisions within the police department to use—are there various clerical jobs and other jobs within the department that persons who are not completely and totally physically fit to perform their duties as an active patrolman on the beat might perform? Do you have such positions within the police department?

A: As such, no.

Q: In other words—

A: We don't budget for them.

Q: Well, let's say—

A: If we have a vacancy for clerical position, and the Chief of the Municipal Dispensary states that this man is not, at this time, physically fit for full active duty, he may recommend limited duty, and we would take and give him assignments which would not further aggravate his physical condition.

Q: Right. Well, for example, do you have—the police department give polygraph examinations; is that correct?

A: Yes.

⁹⁹*Id.* at 52-53.

Q: Do you have any idea as to how many polygraph examiners the department has?

A: How many we have?

Q: Right.

A: We might have a dozen, fifteen (15).

Q: Do they receive special training to become polygraph examiners? Is that a special Civil Service category?

A: No.

Q: Are the polygraph exams usually given in an office somewhere?

A: In an enclosed area, yes.

Q: For example if this [hypothetical officer] who we were talking about, had an injury to his hand which prevented him from shooting a service revolver and properly performing his responsibilities as an active duty policeman, but he had training as a polygraph examiner, and if there was an opening, would the department put him in as a polygraph examiner?

A: Well, the content in which you asked the question, the answer is no. If this individual had training as a polygraph examiner he wouldn't be out in the street, he would be working as a polygraph examiner.

If the chief surgeon or police surgeon or Director of Municipal Medical Dispensary put him back on limited duty, we would ask him if him if he could operate as a polygraph operator, and if he said "Yes," he would.

Q: Well, would the department ever train him—if he got back on limited duty would the department consider training him as a polygraph examiner if his personnel background and intelligence and everything seemed to warrant and show that he had an aptitude for that kind of employment?

A: We might.¹⁰⁰

¹⁰⁰Boyle, N.T. 13-16.

The case of Officer C_____ (payroll #17276) who worked as a polygraph examiner, retired with a disability, and became president of a polygraph examiner firm highlights the inadequacies of the current system.

The Commission recommends that both the Police Department and Board of Pensions take the necessary steps to ensure full utilization is made of permanent and partially disabled employees, where possible.

Conclusion

The Commission believes a sound disability payment and pension system is critical to any effective and professional police department. At present, the Philadelphia Police Department has practically exhausted its disability payment and pension capacities. Much of this is due to the inordinately large number of disability pensions which were granted during the spring of 1971.

The Commission wants to ensure that an effective pension system is continued. No one is more deserving of substantial disability benefits than the police officer who risks his life daily to make the city a safer place, and then, for example, suffers gunshot wounds in the performance of his duties.

At present, few or no safeguards are present, and the system is subject to abuse. The situation was summed up well by one of the Commission's two principal police witnesses:

Q: What about Regulation 32, do you know much about that, or anything about it?

A: You mean the disability?

Q: Yes.

A: The only thing I personally know guys talking that, you know, men were abusing it and cops always ruin a good thing. That is a shame for the guy that really, really gets hurt and disabled as opposed to the guy that is putting on the act and trying to get a 32. Because all this pressure suddenly came down and hurt the guys that were legitimately hurt as opposed to the guy, you know, faking it.¹⁰¹

¹⁰¹Testimony of Robert J. Weiner before the Pennsylvania Crime Commission, December 5, 1973, N.T. 153-54.

VII

DRUGS AND LAW ENFORCEMENT IN PHILADELPHIA

This chapter focuses on the following areas: the nature and scope of the drug problem in Philadelphia; the effectiveness of the criminal justice system in preventing the unlawful abuse of drugs; the quality of the Philadelphia Police Department's drug control performance; and the measures necessary to improve the quality of drug control law enforcement by the Police Department. These areas were considered through computer studies of the drug cases handled by the Philadelphia court system, field studies on drug use, research papers, intelligence gathering and analysis, the functioning of an undercover narcotics control unit, and an in-depth look at the Police Department's narcotics control philosophy, resources, and operating techniques.

The Police Department's performance is evaluated and recommendations are made within the framework of existing Pennsylvania and federal drug control statutes. This study is primarily one of Police Department performance, not whether the drug laws should be reformed or whether non-criminal approaches to drug abuse should be adopted. The question of reform of the drug laws is the subject of recent and major discussion and analysis by the Shafer Commission, the Consumer's Union, and the Ford Foundation.¹ These sources should be read by all interested in those aspects of the drug situation.

¹National Commission on Marihuana and Drug Abuse, *Marihuana: A Signal of Misunderstanding* (1972) [hereinafter cited as *Marihuana Report*]; National Commission on Marihuana and Drug Abuse, *Drug Abuse in America: Problem in Perspective* (1973) [hereinafter cited as *Drug Abuse in America*]; Breacher and

The Narcotics Control Strike Force conducted all of the law enforcement activities reflected in this chapter. The Crime Commission and its personnel carried out the investigations relating to the quality of law enforcement rendered by the Police Department. The recommendations for reform are a joint product. During the course of the investigation into drugs and law enforcement in Philadelphia a close working relationship between the two agencies was maintained. Rather than attempt to attribute more specific responsibility, the entire project will be referred to here as an activity of the "Strike Force."

THE NATURE AND SCOPE OF DRUG ABUSE IN PHILADELPHIA

Statistical Data

While most Philadelphians accept the fact that drug abuse is a "problem," many do not understand that in Philadelphia the problem differs in kind but not in intensity within various racial, ethnic, and economic communities. Open drug abuse today is no longer just a problem of the black ghetto or even of poor whites living in or near black areas of Philadelphia. Drug abuse has spread throughout the entire City.

The Strike Force's introduction to the Philadelphia drug scene began with an inquiry into the opinions of professionals in the field and into official documents used in planning drug abuse control. In undertaking this task, various city, state, and federal agencies were approached in order to obtain interviews and published materials relating to the scope of the drug problem in Philadelphia and the basis for their respective estimates. While, in general, individual government agencies did possess statistical records describing their specific participation in drug-related activities, there was a lack of published materials either coordinating this data with other statistical evidence or profiling drug abuse in Philadelphia. Most statistical data released by agencies was originally generated by the Coordinating Office for Drug and Alcohol Abuse Programs for the City of Philadelphia, and was found in its Comprehensive

Editors of Consumer Reports, *Licit and Illicit Drugs* (1972) [hereinafter cited as *Licit and Illicit Drugs*]; Ford Foundation, *Dealing with Drug Abuse* (1972) [hereinafter cited as *Dealing with Drug Abuse*].

Plan for Drug and Alcoholic Abuse Treatment and Prevention, 1973-74.²

The *Drug Plan* purports to represent "an assessment of the problem and a description of the City's response, within the very serious limitations that exist in available technology and resources. The Plan is designed to give the reader an overview of the problem of drug and alcohol abuse in Philadelphia and of the City's response to the problem."³

In addition to the *Drug Plan*, an independent study by Kirschner Associates, Inc. for the National Clearinghouse for Drug Abuse Information (NCDAI) and the Special Action Office for Drug Abuse Prevention (SAODAP)⁴ provided empirically documented statistical information. Adding to the published data were extensive interviews of professionals in both law enforcement and treatment elements of the drug abuse control community. While limited, the published data is basic to understanding the scope of the matter.

The Coordinating Office for Drug and Alcohol Abuse Programs estimated that at least 30,000 heroin addicts and 30,000 to 40,000 heavy abusers of other drugs now reside in Philadelphia.⁵ To arrive at the above figures, the Coordinating Office relied on the statistical information provided by the Medical Examiner's Office, law enforcement authorities, and treatment centers throughout the Philadelphia area. From this body of statistical data, several somewhat flexible formulae were used to estimate total addict populations.

One such formula postulates that there are 100 addicts for each drug-related death in Philadelphia. Statistics on narcotic-related deaths are collected by the Medical Examiner's Office. These include death by overdose, homicide, suicide, natural causes, accident, etc. A chronological listing of the total narcotics-related deaths for the years 1965 through the first half of 1973, shows a steady increase in the number of deaths per year up through 1972.⁶ See Table 1.

²Going to the experts provided the data to ascertain the parameters of the abuse situation but did not provide the necessary insight into the nature of the drug distribution system, its size, its effects, the various neighborhoods where drugs were prevalent, or the local perception of the problem.

³City of Philadelphia, *Comprehensive Plan for Drug and Alcohol Abuse Treatment and Prevention* (1973-74) [hereinafter cited as *Drug Plan*].

⁴National Clearinghouse for Drug Abuse Information and Special Action Office for Drug Abuse Prevention, *Community Profile Information, Philadelphia SMSA* (1972) [hereinafter *Community Profile*].

⁵*Drug Plan* 4.

⁶*Drug Plan* 8. Whether or not narcotics-related deaths can be deemed a re-

TABLE 1
Total Narcotics-Related Deaths

1965	1966	1967	1968	1969	1970	1971	1972	Jan-June 1973
12	18	42	109	114	187	274	356	135

Statistics generated from area drug treatment centers present another facet of drug-related activities. The formula used here postulates that 15-20% of all heroin addicts are represented in treatment center populations.⁷

A third formula used by the Coordinating Office in its estimates is based on data attained from law enforcement authorities relating to arrests for violation of narcotic drug laws and postulates that some 60% of all addicts become involved with the criminal justice system. However, the Coordinating Office mistakenly found a significant decrease in the number of arrests in 1972 as compared to the gradual increase in the number of arrests through the preceding years.⁸

TABLE 2
Narcotics Drug Law Arrests⁹

Type	1968	1969	1970	1971	1972
A	1885	2164	3903	4944	2838
B	925	1423	2187	1712	1278
C	30	29	85	69	32
D	207	212	437	462	262
Totals	3047	3828	6612	7187	4410 [8820]

Type A - Opiates or Cocaine
Type B - Marijuana
Type C - Synthetic Narcotics
Type D - Other Dangerous Drugs (Barbs., Amphet., etc.)

liable indicator of any addict population is at best debatable. This is due in part to the criteria used for considering a death which might be drug related. Such criteria included toxicologic findings, personal history, and external evidence such as "track marks" or veins scarred by protracted intravenous drug abuse. Excluded were deaths due to overdoses of barbiturates or other drugs taken with suicidal intent when there was no evidence of habitual use and positive findings of alcohol (even though many drug deaths are caused by mixture of the two).

It should be noted that drug abuse of certain drugs bears no relation to death. For these reasons and others, the resulting figures considered alone are suspect.

⁷As was the case with drug-related deaths, treatment center statistics alone are insufficient to characterize accurately Philadelphia's total drug problem. However, coupled with the findings involving drug-related deaths and viewed as one dimension of a more complete picture, these results take on additional relevance.

⁸Beginning in August, 1971, the District Attorney's office instituted a screening program which has deflated the arrest figure for 1972 by approximately 50%. A more realistic figure is twice 4410 or 8820. This program is discussed *infra* at 647-648.

⁹Drug Plan 9.

The final indicator utilized by the Coordinating Office is based on the recently instituted practice of requiring urine tests for drugs of adult and juvenile arrestees, and of inmates of Philadelphia's prisons. As the report states:

Preliminary data on adults indicate that about 12-15% of an average of 680 arrestees per week are positive for heroin (shown in urine as morphine), about 12% of 971 juveniles were positive for drugs of abuse in January, 1972, and about 50% are morphine positive on inmates. It is apparent that a significant number of juvenile and adult offenders are involved with drug addiction or abuse.¹⁰

While each of the individual indices of drug abuse quantification is subject to question, overall this picture appears to be accurate and is supported by other experts in this field.

The NCDAI-SAODAP study arrived at the following estimates of drug abuse from the various institutional elements involved in drug abuse control:¹¹

TABLE 3

	Drug	Population
Representative of Drug Treatment for the Common Pleas Court:	Heroin	20,000-30,000
	Hallucinogens	15,000-20,000
	Amphetamines	50,000-60,000
	Barbiturates	30,000
	Marijuana	300,000
Representative of Diagnostic and Rehabilitation Center:	Heroin	40,000
	Marijuana	over 300,000
Representative of Division of Addictive Diseases, Dept. of Health:	Heroin	20,000-25,000
	Hallucinogens	35,000-45,000
	Amphetamines	35,000-45,000
	Barbiturates	35,000-45,000
Representative of Therapeutic Center:	Heroin	20,000
	Hallucinogens	30,000-40,000
	Amphetamines	30,000-40,000
	Barbiturates	40,000
	Marijuana	100,000
	Methadone	10,000

¹⁰Drug Plan 10.

¹¹Community Profile 19-20. The estimates cited cover Chester, Delaware, and Montgomery Counties, as well as the City of Philadelphia.

Derived Consensus ¹² Estimates	Drug	Population
	Heroin	20,000-40,000
	Hallucinogens	15,000-45,000
	Amphetamines	30,000-60,000
	Barbiturates	30,000-40,000
	Marijuana	300,000 (10% of total population)

A similar study was conducted in 1973 also by Kirschner Associates for the Governor's Council on Drug and Alcohol Abuse. The updated statistics reveal comparable estimates of Philadelphia's drug user population:¹³

TABLE 4

Drug	Population
Opiate Use	31,534
Barbiturate Use	15,767
Tranquilizer Use	26,278
Amphetamine Use	18,395
Pill Use	39,418
Marijuana Use	139,275

In addition to these studies, Dr. Catherine Hess, then Narcotics Advisor to the Secretary of Health of the Commonwealth, in an interview conducted in March, 1973, estimated that Philadelphia may have as many as 160,000 users of the so-called "soft drugs"—non-opiate derivatives.

To explore in greater detail the nature and extent of drug abuse in Philadelphia, during May and June of 1973, the Strike Force conducted a survey of treatment centers and counseling facilities throughout the City, seeking specific information on use of drugs within each center's area of concern. The method used was to contact counselors, social workers, community organizers, psychologists, and other individuals who dealt personally with all ranges of drug problems¹⁴ and who, in the course of their day-to-day activities, gained a personal knowledge of drug use in their locality through their contacts with drug users, their families, and their friends.

This survey produced a picture of extensive drug use throughout the City of Philadelphia, with the type of drugs in principal use varying from community to community. While heroin continued to be the primary drug in some areas of the City, most drug users in Philadelphia appear to use amphetamines

¹²Community Profile 2.

¹³Governor's Council on Drug and Alcohol Abuse, *A Study of Prevalance and Intensity of Drug and Alcohol Use in the Commonwealth of Pennsylvania 19* (1973).

¹⁴A total of 19 persons were interviewed. All areas of the City were discussed with the exception of Catchment areas 6A, 6B and the extreme northeastern portion of Catchment area 3.

and barbiturates, and the illegal use of pills seems to be destined to supplant heroin as the drug of primary use throughout the City.

Alcohol and marijuana, unquestionably the drugs of choice for the greatest number of people in Philadelphia, are used in every section of the City, giving them an acceptance unmatched by any other drug. Identification of alcohol as the most popular drug and marijuana as next were made by every person interviewed. As a drug legally obtainable by any adult, alcohol use poses a quite different challenge to law enforcement and was not a focus of this inquiry. Those interviewed noted, however, that alcohol is frequently used in conjunction with other drugs and is most commonly the first drug experienced by all drug users.

Similarly, marijuana was described as the alcohol of the current generation and used by everyone. Marijuana and alcohol would appear to be the "bread and butter" of the drug using community; they are used by those on the outside of the drug scene as the sole source of the desired high and by those who use other drugs to enhance their high or to "fill-in" the gaps between the other drug-induced highs.

The facts set forth in the preceding pages are familiar to the experts in the drug control field and are probably not surprising to interested and informed citizens. These statistics and interviews do not reveal the community impact of drug abuse. Consequently, to discover the nature and scope of drug abuse from the community and user population perspective, a special six month project began in December of 1972. This project employed two "longhaired" legal assistants who, posing as graduate students at a local college, conducted a study of the drug scene in an area of Philadelphia known as Kensington. From a law enforcement perspective, this project achieved a unique insight into a specific community's exposure to drug abuse.

A Field Study: Kensington and Drugs

INTRODUCTION

To most Philadelphians Kensington means a stable, working class, white ethnic neighborhood with a long and proud history.

The studied community (see the map on the following page)¹⁵ represents approximately 4.4% of the total Philadelphia population and is predominantly white. It was chosen for study because four percent is a large enough sample from which to obtain representative and significant findings, and because the racial complexion of the sample (white) permits analysis of a more recent phenomena—the spread of drug abuse into heretofore insulated areas.

No similar study has been undertaken concerning Kensington. With the exception of U.S. Census figures, police records, and other governmental statistics, very little factual data was at the Strike Force's disposal.

To supplement this information base, Strike Force investigators, posing as graduate students in psychology in order to obtain more candid answers than an official of any governmental agency can expect, interviewed 163 people who live or work in Kensington. Those people spoke for themselves or organizations which deal with local drug problems, and included clergymen, parents, civic leaders, social service personnel, policemen, school teachers, counselors, social workers, rehabilitation staffers, and young residents of the community. Nearly half of the interviews were with individuals representing various organizations. The other 82 interviews were random "street" interviews, mostly with teenagers.¹⁶

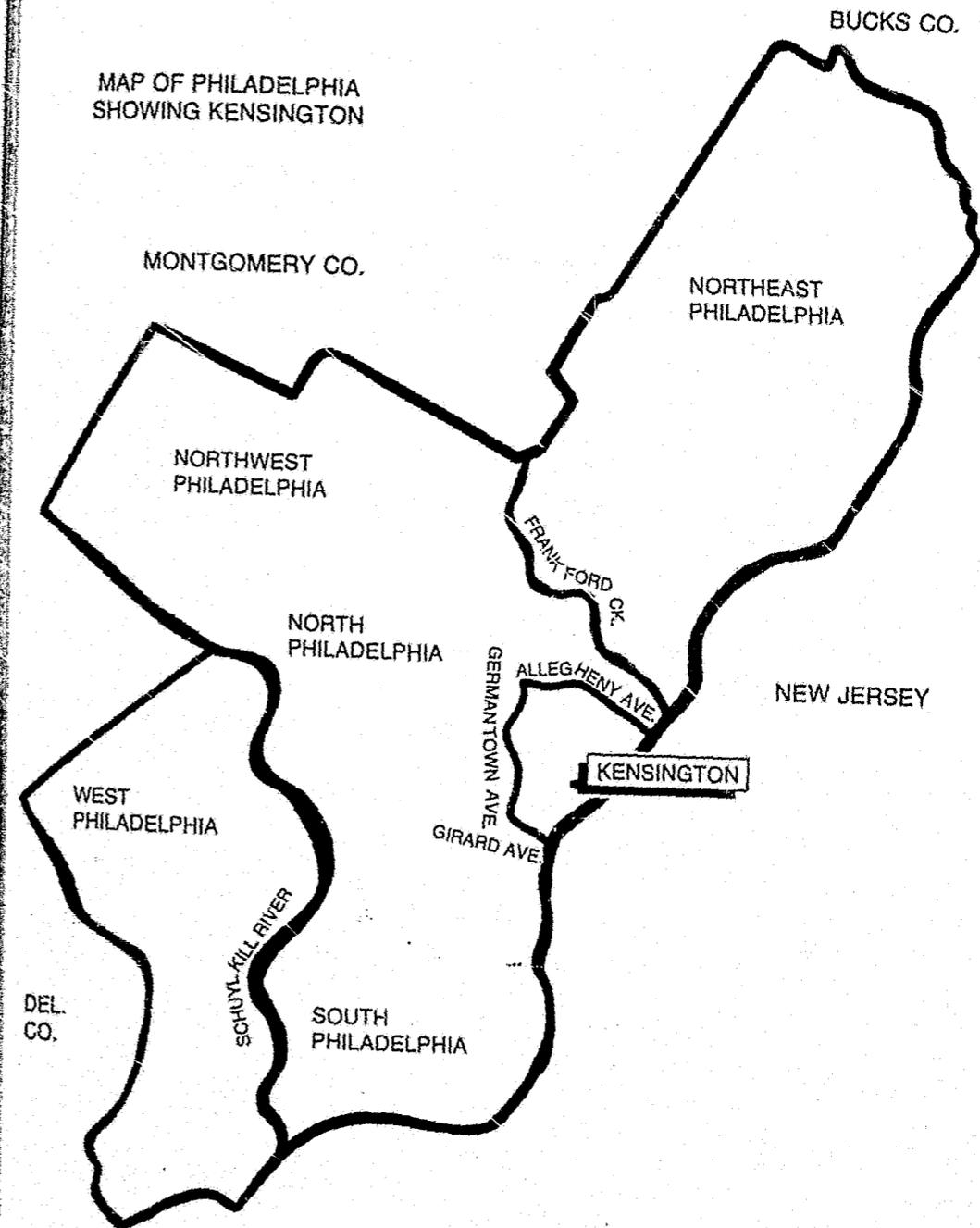
This study describes the drug situation in Kensington and hopefully will result in a broader consideration of remedial measures required.¹⁷

¹⁵For the purpose of this study the area referred to as "Kensington" is defined by Census Tracts 157-161 and 176-181 (1970).

¹⁶Students of the scientific method, having read this methodology, might view this project as marred from the outset due to its degree of dependence on personal interviews. However, this study combines the opinions of those interviewed with corroborative statements and keen insights of community professionals directly involved with the subject in an attempt to deal logically with the myriad aspects of a community's drug problem. Thus, more conclusions may be drawn than might be normally possible under such conditions.

¹⁷While the Strike Force has dealt only with problems of a specific area and has discussed these on a specific level, this study would not be complete without mention of several other, broader and more comprehensive studies and commission reports that have bearing on the drug problem in general and have helped greatly in the Strike Force's study and discussion of the specific problem in Kensington. The following contributed to the understanding and presentation of the problem of drug abuse in Kensington: *Marijuana Report*; *Drug Abuse in America*; *Licit and Illicit Drugs*; and *Dealing with Drug Abuse*. These studies and reports may explain many aspects of drug use and abuse, both legal and illegal and are recommended reading for anyone concerned with the drug problem.

MAP OF PHILADELPHIA
SHOWING KENSINGTON



DEMOGRAPHY OF KENSINGTON

The Whitetowner's row house is fourteen feet wide.

Five rooms on two floors with a postage-stamp yard out back. One of hundreds of small properties in a vast, dreary industrial landscape—clogged streets, drafty factories, fouled air, a noisy elevated line. Hardly a tree. And the few tiny parks are littered with broken bottles.

The Whitetowner was born and raised in this section and his parents still live near. They don't think of moving out. Neither does he.

The Whitetowner is a steady worker and a family man. He quit school in the tenth grade to get a job. His wife, also a native of the area, dropped out to marry him two months before her graduation. She was a better student than he was. She manages the family finances. Their house and car are paid for.¹⁸

In this manner, Peter Binzen introduced the reader of *Whitetown, U.S.A.* to his conception of the average white resident of the Kensington district of Philadelphia. He saw the area as "a Dickensian factory town" populated by "hard working, hard drinking and hard fighting" types. These people support Richard Nixon on most issues, but the man who most appeals to their basic interests is Frank Rizzo.¹⁹ As of 1970, the Kensington Whitetowner still believed that his area, when "compared to other sections, is a decent place to raise children and to live."²⁰

Kensington is an old, working class section of Philadelphia. Throughout the 19th and part of the 20th century, the area grew with the influx of immigrants from Europe. Like the Irish who worked on New York's Erie Canal, these people provided a cheap labor force for local projects and private industry.²¹ Local politicians also exploited this group for massive support at the ballot box. White residents of Kensington, often accused

¹⁸P. Binzen, *Whitetown, U.S.A.* 1 (1970) [hereinafter cited as Binzen].

¹⁹In 1971, residents of the 18th, 19th, 25th, and 31st wards cast 74% of their votes for Frank Rizzo as Mayor of Philadelphia (Rizzo won the election with a 53-47% majority). In the 1972 presidential election, Richard Nixon received 60.4% of the votes cast in the same Kensington area. McGovern, however, carried Philadelphia County with 56% majority.

²⁰Binzen 4.

²¹"America's growing economic machine needed unskilled manpower to dig canals, lay railroad beds, mine coal and iron, work as domestics, and fill the many low echelon service jobs in burgeoning cities." Binzen 15.

of being racists, have their own history of battling racial prejudice; immigrants, especially the Irish, were treated as the basest element of 19th century society,²² and have since literally fought their way out of that position. These people are rightfully proud of their community's heritage; but that pride, along with the neighborhood in general, is now suffering from erosion. Kensington today remains overwhelmingly white. See Table 5.

TABLE 5

	1970 Racial Breakdown ²³	
	Kensington	Philadelphia
Total population	86,618	1,948,608
White	82,075 (94.7%)	1,278,540 (65.6%)
Black	2,025 (2.3%)	653,735 (33.5%)
Spanish Speaking	2,533 (2.9%)	26,702 (1.4%)

Most white Kensingtonians are only a few generations removed from their ethnic roots in Europe. Indeed, over 22% of them are presently described as "foreign stock."²⁴ (See Table 6 for a detailed ethnic breakdown.) In many parts of Kensington, the "old world" language is still frequently used in local Catholic churches. These latter institutions wield considerable influence within their parish and serve to reinforce ethnic customs and lifestyles.

TABLE 6

	1970 Ethnic Breakdown	
	Kensington	Philadelphia
United Kingdom	2,366 (2.7%)	35,355 (1.8%)
Ireland	2,227 (2.6%)	38,552 (2.0%)
Germany	1,985 (2.3%)	37,453 (1.9%)
Poland	6,043 (7.0%)	46,642 (2.4%)
Czechoslovakia	172 (0.2%)	4,424 (0.2%)
Austria	707 (0.8%)	14,565 (0.7%)

²²"Just as Negroes are blamed for most of the urban crime and social unrest today, so were the immigrants a century ago. They were often ill-fed, ill-housed, illiterate—and rebellious. . . ."

"From 1830 to 1870, the Irish caused riots in nearly every major city. . . the natives viewed the immigrants' lifestyle with extreme distaste. They blamed the newcomers for the rise in pauperism, drunkenness and political corruption." Binzen 15-16.

²³Tables 1-8 were derived from Census Tracts 157-161 and 176-181 (1970).

²⁴The term "foreign stock" includes people who were themselves born abroad or have at least one parent who was born abroad.

Hungary	394 (0.5%)	7,681 (0.4%)
USSR	801 (0.9%)	78,799 (4.0%)
Italy	1,874 (2.2%)	103,784 (5.3%)
Other	3,073 (3.5%)	63,357 (3.3%)
Total foreign stock	20,404 (22.7%)	450,699 (22.0%)

More than half of the children in Kensington are enrolled in parochial schools. 1970 figures show that only 20.8% of all Kensington residents over 25 finished the equivalent of high school—just over half of the Philadelphia average (see Table 7). As is the case throughout the country, this figure is constantly increasing. But even today, nearly one-third of Kensington's 16-21 year old population has dropped out of school. In regard to higher education, fewer than 2% of those over 25 are college graduates.

TABLE 7
1970 Educational Level

	Kensington	Philadelphia
People 25 Yrs. & Older		
H. S. Graduate	20.8%	39.9%
College Graduate	1.4%	6.8%
People 16-21		
Dropout Rate	31.7%	18.3%

The white ethnic groups, as a whole, have managed to lift themselves from the bottom rung of the American socio-economic ladder.²⁵ While some of these immigrants and their descendents have known spectacular financial success, followed by a rise in social status, the vast majority of them in Kensington have yet to make it half way up the ladder. Thus, economically, Kensington emerges as a lower to middle class working neighborhood.

Table 8 shows the spread of family income levels, comparing Kensington to the whole of Philadelphia. Kensington has a

²⁵In 1850, 48 per cent of Boston's Irish were manual laborers and 15.3 per cent were domestic servants—almost two-thirds thus at the very bottom of the economic pyramid. As late as 1900, a study found that for every hundred dollars earned by a native-born worker, the Italian-born immigrant earned eighty-four dollars, the Hungarian sixty-eight, and other Europeans fifty-four." Binzen 15.

Today, census figures show that income for families in the white section of Kensington is significantly higher than the average in the black and Spanish-speaking neighborhoods.

greater portion of its families in the lower income brackets than does Philadelphia, and it has less affluence. Only 11% of Kensington families have incomes in excess of \$15,000, while 18.2% of all Philadelphians enjoy that level of income.

TABLE 8
1970 Income Breakdown

Total Number of Families Income	Kensington 21,141	Philadelphia 479,265
Under \$1,000	3.1%	3.1%
\$1,000 to \$1,999	3.5%	2.9%
\$2,000 to \$2,999	5.0%	2.9%
\$3,000 to \$3,999	5.7%	4.9%
\$4,000 to \$4,999	5.5%	5.1%
\$5,000 to \$5,999	6.6%	5.7%
\$6,000 to \$6,999	7.7%	6.3%
\$7,000 to \$7,999	9.3%	7.0%
\$8,000 to \$8,999	8.9%	7.9%
\$9,000 to \$9,999	7.6%	7.2%
\$10,000 to \$14,999	26.4%	27.2%
\$15,000 to \$24,999	10.4%	15.0%
\$25,000 and up	0.5%	3.2%
Median Income	approx. \$8,500	approx. \$9,366
Mean Income	approx. \$9,100	approx. \$10,431

On the other hand, Table 9 shows that Kensington also has less extreme poverty and more stability than the remainder of Philadelphia; that a lower percentage of its families receive public assistance, and that fewer of its low income families have female heads of family.

TABLE 9
Income Below Poverty Level, 1970

	Kensington	Philadelphia
Percentage of Families below Poverty Level receiving public assistance	33.7	34.7
Percentage of Families below Poverty Level with female head	42.4	53.2

Why, after all these years of hard work, do a high proportion of Kensingtonians remain on the lower end of the income spectrum? Table 10 helps to answer this with information on

labor force employment. In comparison with statistics for all of Philadelphia, an abnormally large segment (42%) of Kensington's labor force is employed by the manufacturing industries. As established industries leave the area, the Kensingtonian is severely limited by his lack of specialized skills for newly developing and profitable occupations. Education, or the lack of it, is a powerful factor here: those without a high school diploma are often, but not always, chained to some form of manual labor or left out of the labor force entirely. As of 1970, the Kensington unemployment rate of 5.9% was significantly higher than the City-wide rate of 4.4%.²⁶

TABLE 10
Occupations in 1970

	Kensington	Philadelphia
Total Employed	30,859	763,520
Construction	4.2%	4.6%
Manufacturing	41.6%	28.0%
Transportation	7.0%	3.7%
Utilities & Sanitation	2.5%	2.8%
Wholesale Trade	5.3%	4.4%
Retail Trade	14.6%	15.7%
Finance, Insurance and Real Estate	4.3%	5.7%
Business & Repair	3.3%	3.4%
Personal Services	2.2%	4.9%
Health Services	3.4%	6.3%
Educational Services	2.5%	6.2%
Other Professional Services	2.4%	5.0%
Public Administration	5.9%	8.0%
Other	0.5%	1.1%
Total	99.7%	99.8%

The housing stock of Kensington is dominated by two and three story red brick homes. In its northeastern section, known as Port Richmond, more attractive stone houses with porches may be found. Overall the housing is among the least expensive in the City. In 1970, the mean value of owner occupied units in Kensington was approximately \$6,500, compared with a City-wide mean of \$10,600 (See Table 11).

Kensington's houses are considerably older than those of the City as a whole as is clearly shown in Table 12. Virtually all (99.1%) of Kensington's housing was built before the national housing boom of the 1950's, and most of that was built before

²⁶Figures in this section were obtained from the U.S. Census Bureau, *Population and Housing Statistics* (1960 and 1970 eds.).

TABLE 11
1970 Housing Values

	Kensington	Philadelphia
Number of Owner-occupied Units	17,539	345,579
Under \$5,000	4,087 (23.3 %)	23,425 (6.8%)
\$5,000-\$9,999	12,335 (70.3 %)	133,453 (38.6%)
\$10,000-\$14,999	825 (4.7 %)	111,648 (32.3%)
\$15,000-\$19,999	52 (0.3 %)	46,572 (13.5%)
\$20,000-\$24,999	7 (0.03%)	17,447 (5.0%)
Over \$25,000	36 (0.2 %)	13,034 (3.8%)
Mean	\$6,500	\$10,600

1939. In comparison, 21.4% of Philadelphia housing has been built since 1950, and only about 70% (as compared to Kensington's 97.1%) of the housing in Philadelphia was built before 1939.

Abandonment is also a striking feature of Kensington housing. 15.1% of all standing units in Kensington are unoccupied, compared to a City-wide rate of only 4.6%. This is due to the age of the buildings combined with the fact that there is little urban renewal in Kensington in the form of new structures (only 30 since 1965, see Table 12):

TABLE 12
Year Housing Built

	Kensington	Philadelphia
Total Year-round Units	29,065	673,356
Years Built		
1969-1970	5 (0.01%)	5,587 (0.8%)
1965-1968	25 (0.08%)	24,545 (3.6%)
1960-1964	49 (0.2 %)	40,198 (6.0%)
1950-1959	177 (0.6 %)	74,224 (11.0%)
1940-1949	576 (2.0 %)	60,832 (9.0%)
1939 or before	28,233 (97.1 %)	467,970 (69.5%)

Unoccupied Housing, 1970

	Kensington	Philadelphia
Percent of all Units	15.1%	4.6%

While it is most evident in the western sections, all of Kensington is in a state of decline and physical deterioration. On both sides of Front Street, houses and cars are being abandoned at an alarming rate. Graffiti and litter abound in the Port Richmond section where cleanliness has long been a matter of community pride. According to an old neighborhood priest, this

development is bemoaned by residents more than the rise of drug abuse. Pollution from local industry and from heavy truck traffic has been settling on the area for years, giving it a drab gray appearance even on the nicest of days. An outsider is first struck by the physical state of the community and then by the psychological state of many of its inhabitants—they don't seem to care.

Actually, Kensingtonians do care very much about their community, or at least their immediate neighborhood. They defend its virtues before all critics and have done so for many years. Unfortunately, this prideful outlook has blinded them to the reality of their problems; with so much emotion involved in its defense, they cannot bring themselves to criticize publicly negative developments in the community.

Another factor inhibiting constructive activity is the political impotence of Kensington citizens. They can turn out a huge bloc of votes on election day for the candidate of their choice,²⁷ but that is the extent of their political involvement.

Because of this pride and political passivity, Kensington has traditionally not reached out for help from government and had made do with what it had, and perhaps for this reason Kensington has remained a tightly knit community.

DRUGS IN KENSINGTON

In recent years a new problem has swept into Kensington: drug abuse. Its coming was unexpected in this hard working, white ethnic community; its growth has been prolific.

Ten years ago, few would have or could have predicted the development of a drug problem in Kensington. The experts on drug abuse understood it to be a ghetto phenomenon. As such, it was of little concern to the white population, in general, and Kensingtonians, in particular. In retrospect, a resident of Kensington recalled reasoning that since his "kid didn't mix with colored, they wouldn't pick up their habits."²⁸ Recent history has shown his premise to be correct, but his conclusion woefully shortsighted. Fishtown remains almost totally white, and its residents are proud of that fact, but drug abuse is now rampant in the area.

²⁷In the November, 1971, Mayoral election, 79.4% of those registered in wards 18, 19, 25, and 31 voted. The turnout City-wide was a record 77.2%.

²⁸A white father of four children, interviewed in the predominantly white Fishtown section of Kensington.

It would be incorrect to state that there was no illegal drug use in Kensington ten years ago. A 36 year old white youth conservation worker, a native of Kensington, remembers smoking marijuana and taking "bennies," while hanging out on the streets of Kensington in the mid-1950's. He is quick to point out, however, that his "group was an unnoticed minority."²⁹ Drug abusers went unnoticed throughout the 1950's and half-way into the 1960's. In the past 6 or 7 years, the situation has changed drastically.

Kensington's history is consistent with development of drug abuse as a growing national phenomenon. According to the director of a local drug treatment center, marijuana and amphetamines became available on the Kensington market on a large scale around 1966. Up until that time, alcohol and glue³⁰ had been the most commonly abused drugs. These two were not replaced but, rather, joined by and mixed with the new additions. By 1968, the "mind" drugs, primarily lysergic acid diethylamide (LSD) and mescaline, had become popular with a still small segment of Kensington's youth. Many considered themselves to be "explorers" of the psychedelic realm and were quick to recount their adventures to interested peers. Within their own group of friends, most drug users found several others ready and willing to join the burgeoning drug culture.

The manner in which drugs entered and eventually spread throughout the community of Kensington is noteworthy. As stated above, there were no perceptible patterns of drug abuse 10 years ago. Thus, there were no older "heads" to influence and be emulated by the younger generation, as was the case in many black and Puerto Rican communities. The white youth of Kensington heard of and sought out these drugs during the mid-1960's; for some the initial contact was across racial lines in West and North Philadelphia. For example, several years ago the North Philadelphia corner of 19th and Wallace Streets became a bustling, fully integrated dope market. By 1968, however, drugs were readily available throughout the Greater Philadelphia area.³¹ With this development, the stigma of having to deal with blacks was removed. The white youth of Kensington could

²⁹Interview at the Youth Conservation Service office, Broad and Spring Garden Streets.

³⁰Users commonly refer to solvents as glue. The most common solvent abused is toluene, often called toluol.

³¹This situation was cited by David Scott, Youth Conservation Service North District Supervisor. Statements made by older drug users during interviews confirmed the widespread availability of grass, speed, and various pills at that time.

"cop" from schoolmates or friends from the Northeast and South Philadelphia, and then establish their own local market in Kensington to sell in order to support their use.

The important point is that the youth of Kensington sought out drugs. Initially, the more adventuresome may have had to deal with strangers, but they knew what they were after. Once introduced to the community, drugs were passed along through peer contacts. The popular conception of the "pusher" as an evil stranger passing out drugs to neighborhood children is false and misleading, at least in the Kensington situation. The vast majority of lower echelon dealers are at least known by, if not friends of, their customers. Quite often the eldest child in a family would "turn on" his younger brothers and sisters. The whole process was logically explained by a Kensington youth who had been through it all:

Now, you take a whole crowd of guys who get along great together—you know him, he knows you. You know he's pretty cool, he's got a good head. Now, if he's starting to get high, you say, "I know he's not strange. He's *seen* something. He's not a dummy." And ya wonder—what's he into? And then another guy wants to find out. Then it mushrooms.³²

Peer influence will be examined more closely *infra*. For now, suffice it to say that peer influence played a major role in the explosion of drug abuse in Kensington since 1968.

Injectable methamphetamine (speed) became popular between 1968 and 1969, according to the Director of the Lower Kensington Environmental Center (hereinafter LKEC).³³ Not only did this drug replace the weaker amphetamine pills, it virtually kicked open the door through which heroin entered Kensington. Having shot up speed, a youth is more susceptible to the lure of heroin—he has overcome his initial revulsion at the idea of putting a needle into his veins. The North District Supervisor of the Youth Conservation Service (hereinafter YCS) stated that the use of speed by white youth in Kensington reached near epidemic proportions by the end of the 1960's.

Heroin use sky-rocketed around 1970. Its exponential

³²An 18-19 year old white male from the Kensington and Allegheny section of Kensington.

³³This fact was also mentioned by many youths, particularly those interviewed in the Fishtown section where speed is one of the most popular drugs.

growth rate over the past two years has amazed even the addicts themselves. McPherson Square, a grassy knoll, is known locally as "Needle Park." A drug counselor familiar with that area states that "on any given night, 60% of those on the Square are junkies."³⁴ Similar estimates are given for areas in Fishtown and Lower Kensington.

With the rising popularity of heroin, the Kensington drug culture is now reorientating itself toward the "downer" drugs; "red devils," "Seconal," and highly addictive "Quaaludes" have to a large degree replaced LSD and speed.

However, no drug type has been totally removed from the local market. According to knowledgeable sources, Kensington's drug problem is compounded by widespread indiscriminate use and multiple addiction. If the source of one drug dries up, most users simply seek out another means of getting high.³⁵

The Nature and Scope of Drug Abuse in Kensington

The nature of drug abuse in Kensington is common knowledge among rehabilitation counselors, gang workers, and, naturally, youths on the street. "Huffing" glue or solvents is generally considered to attract the youngest element of the drug culture. Eight to twelve year old children will break into industrial stockyards and siphon up to five gallons of the desired substance into buckets. Should this source be closed off, most children can afford the cost of a tube of glue. Huffers rarely continue with this activity past the age of 15 or 16. At that age, they either quit altogether or are generally able to afford other drugs.

Marihuana use is prevalent in Kensington, as it is throughout Philadelphia.³⁶ Many students start smoking in junior high school and most continue as they go on to other drugs.

³⁴This counselor is an ex-addict currently on methadone maintenance. He is a young white male and quite familiar with the area.

³⁵The Lower Kensington Environmental Center (LKEC), drug rehabilitation center, reports the following rates of multiple addiction or abuse for its residents: Heroin—85%, Methedrine—59%, Barbiturates—28%, LSD—30%, Cocaine—13%, and Glue or Solvents—8%.

³⁶Seventy-four out of 83 youths interviewed felt that the majority of their age-group peers had smoked marihuana. According to a study by three Temple University researchers, 55% of high school seniors surveyed at a high school in the Northeast had smoked marihuana. This study, based on a questionnaire survey, may have underestimated the extent of use to some degree, assuming, as is only natural, that some students would prefer not to admit using drugs, even anonymously. Further-

Pills of every kind are available in Kensington: amphetamines to pep one up, barbiturates to bring one down, and hallucinogens to send one away. Combinations of all three provide a steady but generally short-lived diet for some hard-core abusers.³⁷

As mentioned before, speed and heroin are readily available on the local market. The rise in popularity of heroin can be partially attributed to the availability of methadone. Until recently, addicts were exploiting methadone maintenance programs through multiple registration at local clinics.³⁸ The additional quantity of methadone obtained in this manner could be sold to others or used to cut the expense of a large heroin habit. Cocaine may also be procured, but it is generally too expensive for the Kensington drug culture.

Kensington has a highly flexible, multiple-use, drug environment. As one youth put it, "[w]e see how much bread [money] the corner can put together . . . then we go out and buy what's available in our price range." Basically, everything is available in Kensington, once you know to whom and where to go.

Turning to male-female differences in Kensington drug abuse, only 16% of those arrested for drugs in Kensington in the first six months of 1972 were females. An even lower percentage of females is found in treatment centers. However, drug use among teenage girls in Kensington is on the rise. It is estimated by various sources that the percentage of females having tried drugs is growing close to that of males. The major difference appears to be the extent to which they become involved with drugs. Heroin addiction among females is just beginning to surface. Barbiturate addiction and amphetamine dependency are cited as graver concerns for females than males by local rehabilitation workers. The Director of LKEC felt that barbiturates were the "most dangerous because of poor education about their effect."

more, authorities estimate and the Strike Force's experience indicates that drug abuse is greater in Kensington than in the Northeast. Victor, Grossman, and Eisenman, "Openness to Experience and Marijuana Use in High School students," 41 *Journal of Consulting and Clinical Psychology* 78 (1973).

³⁷According to these same youth sources, the availability of particular pills is irregular. In the words of one admitted user: "The guy [dealer] will tell ya, 'this stuff will be around for about a month.' So ya stock up a little and when it runs out ya go see what else he has."

³⁸Three white males, currently enrolled in methadone maintenance programs, cited personal experience in support of this statement. One said that the problem was further compounded by indiscriminate prescription procedures on the part of private physicians in this area.

Determining the number of drug users in Kensington proved to be a difficult pursuit. No federal, state, or city agency has conducted such a survey, although this information is essential for any comprehensive approach to drug-related issues.

The Director of LKEC was comfortable in estimating that 70% of Kensington's 13-21 year-old population had some personal experience with drugs. The Supervisor of YCS for Kensington suggested that a 50/50 (user/non-user) breakdown would be accurate, based on reports from his street workers. A staff counselor for Telerap, a local youth "hotline," cited a 60-75% range for drug experience in his section of the community, which includes "Needle Park." A social worker did not care to make an estimate but stated: "if you live the 'street scene' in Kensington, you live the 'drug scene'—a great number of youths live the 'street scene' in Kensington." A junior high school nurse involved with drug education in the Fishtown section based her 40% figure for 9-13 year-olds on personal contact with the youth in her school. She felt the percentage would be higher if drop-outs and perpetual truants were taken into consideration.

In general, nearly every person contacted who had some professional involvement in drug-related issues voiced the opinion that drug use was a majority phenomenon within Kensington's 13 to 21 year old population. Out of 82 random interviews conducted with youths on the streets of Kensington, only eight estimated that drug use within their age group was below 50%. Many cited considerably higher figures.

What do these estimates mean? On one level, they mean little since they are estimates based on experience and are not based on statistical data. However, the consistency and source of 50% plus responses cannot be ignored. The Commission believes the 50% figure to be a conservative assessment. This is not to say that every second teenager in Kensington is an addict. Most youthful users stick to marijuana as their staple and are prone to experiment with other drugs only on occasion.³⁹

There does exist, however, a core of hard drug abusers and addicts. The size of this core is nearly impossible to calculate. If one talks to an addict, most of the addict's contacts are likely to have been with other addicts. In contrast, a clergyman's contact with junkies is usually limited. A few things can be said, however, concerning the general scope of heroin addiction in Ken-

³⁹This is true even with heroin. By shooting-up only once or twice a month, "chippers" can avoid serious addiction problems.

sington. The rate of addiction is not at all constant across the community. There exist areas, such as McPherson Square, Kensington and Allegheny, and 3rd and York, where large numbers of addicts hang out or live nearby. In these areas seemingly one-half of Kensington youth is addicted to heroin; obviously this is not the case although the number is still rising. Heroin addiction appears to be a fact of life for between 8% and 15% of the youth population.⁴⁰

Barbiturate addiction is a relatively new development in Kensington, and its present scope cannot be determined with any accuracy.

Community Perceptions of the Problem

It is recognized by most segments of the community that Kensington has a drug problem. However, views on its scope are widely divergent.

Church

Ten clergymen from Kensington were contacted, nine of whom were Roman Catholic since that is the dominant religion in Kensington.

Most of these clergymen seemed unaware of the recent appearance and present magnitude of the problem. For example, one Catholic priest, speaking of drug-taking by students in the parochial school where he worked, said, "We've looked for it, but there's just no evidence of drug use among our children."

A young priest in a Polish area said:

We really don't have much of a problem here. The combined influence of the Church and the Polish family unit keeps the kids pretty straight. . . . When they turn 18, then a lot of them rebel against their church and parents. . . . I suppose some of them get messed up with drugs.

An old priest in an area where huffing glue is prevalent said simply, "We have no problem. This is a nice neighborhood."

Despite their lack of specific knowledge, some clergymen are concerned about the development of a drug problem in Ken-

⁴⁰Leon Alexander, Director of LKEC, stated that this would be his most conservative estimate.

sington. One priest whose parish included one of the largest huffing sections of Kensington, disclaimed the existence of a drug problem in that neighborhood but was concerned over the spread of drugs from nearby areas into his parish. Some priests expressed a desire to assist in fighting the spread of drugs, but others took a contrary view. One priest who has done occasional work with Telerap said: "It's unfortunate that the Church can't get more involved. . . . It appears that much drug-taking is related to a spiritual drive." An old priest, however, discounted the role of the church, saying, "There are other people to handle this problem."

Only two of the ten clergymen had been actively involved at any time with local drug programs. According to a source from outside the church, one young priest was entirely frustrated in his attempts to run a local youth program by parents who didn't like all the attention he was giving their kids. A few years ago the priest left to go into social work in another area.

In general, the Kensington clergymen interviewed have a limited perception of the problem.

Schools

The attitude of public school administrators toward drug use has in the past been to avoid confronting the problem. Daniel Falco, Director of the Philadelphia Drug Abuse Education Program, said in an interview that: "[P]rincipals have their own little empire to protect. If they know about a drug problem in their school, they're not going to let on. Especially to the press."

As of Fall, 1970, Philadelphia public schools were required to present some form of drug education to their students. Drug counselors-to-be were offered a paid training course. Any teacher could become a drug counselor, but most of those who took the course and became counselors were physical education instructors or nurses rather than guidance counselors. The seven public junior and senior high schools in Kensington were contacted for this Report. Only five of these allowed their drug counselors to be interviewed. Parochial schools do not have such counselors.

For a number of reasons, the current school drug education programs in Kensington are not succeeding. One major problem is that some administrators still do not actively support the development of drug education programs. They reason that mandatory hygiene courses can handle the issue adequately.

Given this situation, only a truly dedicated teacher will go out of his way to deal with the problem.

In some cases, school administrators gave no direction to the drug counselors. A young teacher who had been her school's Drug Coordinator for three months stated, "They gave me the title, but they haven't told me what to do yet. We really have no program." Another counselor said: "We have a six-man drug staff and a room available for use as a youth center. But the staff has run no program and the room is unused."

Where drug programs have gotten underway, there still seems to be reluctance to confront the problem directly. One counselor at Conwell Middle Magnet School said,

We don't treat it as a drug problem. We'll counsel them when it's necessary, but the whole idea of "open classrooms" and "team teaching" is based on the concept that kids can work out their own lives and problems in the proper environment. We try to give them the cognitive tools necessary for making decisions, and we try to make school life interesting enough so they don't go looking for alternatives like drugs.

Another defect in the schools' approach toward drug education is that it is usually an isolated presentation, although occasionally the subject is discussed in other classes such as social studies. Rarely will anyone other than the designated counselors get involved with a student's drug problem. A school nurse at Penn Treaty High School said: "[d]rug education will be a failure as long as it's confined to part of a six-week hygiene course. Parents have to get involved and so do other teachers."

An even more fundamental problem is that many of the teachers who act as drug counselors have only a limited perception of the drug problem. While all of the persons contacted at the schools were aware of a growing drug problem, only one perceived it to be a majority phenomenon, and each could cite only a few instances of drug abuse on school property during class hours.

The greatest limitation on a teacher's perception of the drug problem seems to be his lack of knowledge of "street problems" in general. No one can be expected to perceive the true scope and nature of the drug problem from inside the classroom. In one school where the average truancy rate was approximately

25%, one teacher-counselor said he knew there was a problem in the community and assumed it was drugs, but could not say so because he had had very few cases of drug abuse brought before him at school.

Youth Workers

Youth workers are the professionals closest to the reality of street life among youth in Kensington. They know what is going on in the realm of drug use and abuse. Most have accepted the reality of drug use by young people and prefer to view the problem as use versus abuse. An ex-social worker said:

If you live the street-and-corner scene in Kensington, you live the drug scene. We can't stop the drugs—they're all over. Our job is to find alternatives for kids and maybe turn them on to a different life.

A twenty-four year old former probation officer expressed a similar view, saying:

I can't, in all honesty, tell these guys to stop doing dope. Especially grass—everybody does grass. I think we just have to wait until society starts moving in a positive direction. Then these kids might want to get involved.

Youth workers explain that the majority of kids at least smoke marijuana and few, if any, have problems handling that form of drug experience. They give higher priority to helping those on harder drugs. They consider themselves to have succeeded when they help such a youth find or redirect his lifestyle.

The biggest problems facing youth workers are their limited numbers and their total lack of authority in the community. Everyone cited a basic lack of community support for their endeavors. A 35 year old YCS worker in the Fishtown area of Kensington said: "I'm only with a kid for a short period of time. Whatever I accomplish in that time is usually negated when he goes back home or to his buddies." Another YCS worker pointed out that most gang activity in Kensington centers around stealing to buy drugs. The importance of the home environment was heavily stressed:

Ya know who's the problem? It's the parents. They just need a good kick in the ass. . . . I know it's not the 'liberal' thing to do, but we need a strong parental responsibility law. That'll get mom and dad away from the tube and watching little Johnny on the street.

Rehabilitation Workers

Rehabilitation center workers also know what's going on in the drug world. In the case of Kensington's rehabilitation centers, many of the professionals and most volunteers grew up and still live in the community. They are guided in their perceptions of the drug problem by past experience, case work, and a steadily growing collection of statistical data. As a group, they view Kensington's drug problem as one of considerable magnitude and still growing. They also criticize the lack of community support for their efforts. Some of their specific comments follow.

Joseph Crahre, Director of LKEC's rehabilitation program said:

Parents want us to discipline their kids. Overt behavioral control, without any concern for deeper problems, is their thing. If that's how they raise these kids, I can see why they wind up here.

These kids don't have a drug problem—they have a living problem. Some of them will come here and say "man, everything else was OK, but I just couldn't handle heroin. . . ." What we do here is forget about drugs, and go on to learn how to live in society. All the important little things: how to interact with others; how to cope with problems; how to bring things out into the open so they don't burn inside 'til you crack or blow up. We could help alcoholics, reckless drivers, or compulsive workers. But we're into drug work right now and that's what this community needs.

John Thomas, M.D., of the Episcopal Hospital Mental Health Center said:

One trait common to many Kensington residents is their inability to postpone gratification, a sign of psychological immaturity. They get married at a young age. They quit school early to earn a quick buck. These

things often backfire in the form of unhappy marriages and lower earnings in the long run. For the present generation of young people, this trait has manifested itself in the form of drug abuse. Drugs get them high, and they can temporarily transcend the Kensington environment. They don't stop to think that they could finish school, earn some money, and leave the place permanently.

Police⁴¹

The police are charged with the responsibility to enforce all the narcotics laws in the community and to arrest individuals who violate those laws. Unfortunately, the police in Kensington have had little effect on the drug scene, except perhaps to harass users they happen to spot, and will never have much impact on drug abuse until major changes are made in Department policies and procedures.

There are three police districts which cover the area studied. The leaders of the 24th, 25th and 26th Police Districts (comprising the East Police Division) were interviewed to obtain their perception of the problem. The Strike Force concluded that the police leadership was largely uninformed about the scope and extent of drug abuse in these areas and reflected the traditional views of Kensington's older community leadership. The police leadership had limited understanding of drug traffic and was ignoring the wealth of information available from drug counselors and rehabilitation workers, as well as the youth of Kensington.

The following excerpts from interviews with the district captains reflect this:

Dealers of heroin are on the fringes [of Kensington] and operating on a smaller scale than a year ago. . . . Black and Puerto Rican areas are the only place that I know of where you can get heroin around here.⁴²

* * *

⁴¹The police performance in the area is analyzed *infra* at 649-666, in an in-depth study, of those persons arrested for drug law violations within the East Police Division during the first six months of 1972, and the data and conclusions contained in this section are drawn from that analysis.

⁴²Interview with Captain John J. Clark, 25th Police District.

My area [24th District] is pretty much all white and I would say we have, compared to other areas of the City, very little of the hard drugs. . . . Only a nominal number of kids are really involved with drugs.⁴³

The police captains were quick to point out the lack of manpower available in any given district to deal effectively with drugs. The 24th Police District, which serves most of Kensington with 123 officers, has only two plainclothesmen assigned to vice work, which includes horsebetting, prostitution, and numbers rackets as well as narcotics. The Captain indicated that an additional eight plainclothesmen assigned to vice in the East Police Division, which also includes the 25th and 26th Districts, sometimes operate in his District. Even with the cooperation of the City's Narcotics Unit, there is such a shortage of undercover and plainclothes manpower that the bulk of narcotics law enforcement falls on the uniformed officer, whose uniform limits him to sight arrests of users, out-in-the-open transactions, and some information gathering.

The police leaders in Kensington clearly do not view drug abuse as a primary concern—although whether this is because they are unaware of its indigenous existence or because they refuse to acknowledge its magnitude is not clear. Evidence of this lack of knowledge and interest is reflected in the small number of arrests made for drug violations within Kensington. Within a sample period of January 1, 1972, through June 30, 1972, only 24 drug arrests were made by all units in the 24th Police District—the district primarily serving Kensington. The statistics show that the bulk (70%) of these arrests (17) were "sight" arrests by uniformed officers of the 24th District, and only 30% of the arrests (7) were made by vice officers. None were arrested by the Narcotics Unit. In only two of the cases (8%) were search warrants issued. In other words, in half a year, only seven people were arrested as a result of narcotics investigations in the 24th Police District. The remaining seventeen were picked up by chance on the street.

Since the police base their understanding of and policy regarding the drug problem primarily on arrest rates, and since the arrest rates here bear no relationship to the scope of the drug problem, it would seem that Kensington's law enforcement leaders are simply unaware of the nature and extent of drug abuse within their jurisdiction.

⁴³Interview with Captain James Campaignile, 24th Police District.

Parents

The range of parental attitudes toward the drug problem in Kensington is divergent, varying from total ignorance and complete apathy to genuine, active concern.

The most typical response among those parents interviewed was "Yes, I know the community has a drug problem, but, thank Heaven, it's not my children."⁴⁴ Parents who believe they know their children sometimes cannot recognize symptoms of drug abuse. Often, even when they do, they refuse to admit it, even to themselves.

I think all along I knew something was wrong with him, but I kept telling myself that it wasn't drugs. Not my boy. Then one day I found his pills . . . even then I wasn't sure until I saw him on the corner with those hippies.⁴⁵

Another woman said: "I though she had a cold for the longest time. I can't ask her about things like that anymore, she's too old. I can't tell what's wrong with her."⁴⁶

Any parent is naturally hesitant to believe evil things of his offspring, but here, in addition, we find a startling lack of communication and an ignorance that is a major part of the drug problem in Kensington.

Many parents refuse to accept any responsibility for the problem and will not take any action to help. They feel it is the job of the police to stop drugs in the community.⁴⁷ Parents claim they lack any real authority. They perceive drug abuse as a criminal problem, not something they can or should handle, often to the point of denying their own children parental guidance. Failure to assume parental responsibility in individual terms follows the inability to perceive drug abuse as a community problem with which the parents, as citizens, ought to be involved. When a

⁴⁴Street interview with mother of three.

⁴⁵Woman interviewed on the street, speaking of her son who had recently run away.

⁴⁶Woman speaking of her 15 year old daughter, who still exhibits symptoms of drug abuse, and "will not listen to her mother."

⁴⁷This was the primary concern of parents at a police-sponsored community relations meeting in the 25th District attended by a Strike Force investigator. This concern was reinforced in subsequent interviews both in homes and on the street. Letters from Kensington residents published in the *Penn Treaty Gazette*, a local newspaper, also emphasized a desire for intensified law enforcement efforts aimed at curbing the drug problem.

parent in Kensington does attempt to fulfill his responsibility to his children, an approach frequently employed is physically beating the child.⁴⁸

I told him not to mess around with pot. When he comes home high, I let him have it. I'll beat the shit out of him every time he comes in high, and if he ever dares to bring dope into my house, by God, I will kill him.⁴⁹

Such an attitude may prove useful in some families, but more often than not it serves only to drive the child further from his parents, back into the streets, and deeper into drugs.

Some parents displayed an attitude of understanding or acceptance of the problem as a natural development in their environment. Considering the lack of alternative entertainment, the boredom, and the general trend of the times, one father was not surprised that youths were turning to drugs. Longtime Kensingtonians frequently referred back to the days of their own youth and the wide variety of entertainment possibilities then, especially movies and dances, and sympathized with the bored youth of today. Most of the movie houses have closed down and dances are almost non-existent, while they used to be twice-weekly events for most teenagers. These parents were concerned with the situation and would like it to change, but few of them felt they are in a position to do much about it.

Unfortunately, of all the parents who are aware of the problem, which is probably the majority of the parents in Kensington,⁵⁰ there are very few who are concerned enough to do anything about it. As a YCS counselor put it, "[a]ll the movers and pushers have moved out."⁵¹ He did not mean drug movers and pushers. Fortunately, there still are parents actively involved in doing what they can about the community's problems, some of whom were interviewed for this study. They would

⁴⁸This impression, drawn from parents' responses to questioning in home interviews, is detailed in R. Blum and Associates, *Horatio Alger's Children* (1972), which describes the role of the family in the origin and prevention of drug abuse. Kensingtonians, by and large, fit the "low risk" sector of the study, as people who prefer physical discipline and punishment to withholding privileges and verbal discipline.

⁴⁹A beer-drinking father, speaking of his 17 year-old son.

⁵⁰Of all parents interviewed, only 3 asserted that Kensington had no drug problem, and 2 of these 3 said they could see one coming.

⁵¹Interview with a YCS worker, a lifelong Kensington resident.

agree that they lack the numbers and the support to get much done. Thus, the Strike Force concluded that there are fewer people concerned for the community as a whole than there were in the past and that the community has suffered.

As Kensington has slowly deteriorated, many of the activists in the community have moved up to the Northeast or out into the suburbs. Some maintain ties in Kensington, returning daily to work, shop, or just visit, but others leave completely. Thus, many of the social threads that have traditionally bound Kensington together are being withdrawn, hastening the decay.

The community activities and organizations that have been part of the core of Kensington social life have dwindled in scope and attractiveness to Kensington youth. There are fewer adults willing to organize the youth in a community that today needs it more than ever. Today, many of the activists that remain are either afraid to speak out for fear of reprisal⁵² or are discouraged by the overwhelming size of the problem compared to the number of those willing to do anything about it. It appears that as the doors of Kensington get locked more frequently at night, those who believe something should be done become less prepared to act or speak out. Those who do actively combat the drug tide face a problem of huge dimensions and an inert body of parents who are scared, apathetic, or have put their heads in the sand. Few young people are involved in organized activities and those who are not are left to their own devices, which are often drugs.

Youth

Eighty-two interviews were conducted with randomly selected youths in Kensington. Typical comment included:

I like to get high. All my friends like to get high.⁵³

* * *

The harder stuff may disappear, but grass is here to stay.⁵⁴

* * *

⁵²In an interview with a group of interested and active parents, one woman was concerned about threats made to her by the gang on the local corner because she called the police to evict the corner hangers who were not from the neighborhood.

⁵³A 16 year old female.

⁵⁴Twenty year old male, currently on methadone maintenance.

There's nothin' else to do here. Beats sittin' around home.⁵⁵

* * *

Whadya mean "drug problem"? I ain't got no problem. I just like to get stoned.⁵⁶

* * *

Everybody here's a follower. All it takes is one person to try something, then everybody follows. If you don't do drugs now, you might as well forget it socially.⁵⁷

* * *

When we started, it was a "mind" thing. We felt like explorers or something. The latest group of kids just jumped right into heroin and I don't think they thought about it at all.⁵⁸

* * *

I like to ball high.⁵⁹

There's nothin' to stop ya—cops don't do nothin'. Yeh they do. They take ya to the cemetery and beat the piss out of ya.⁶⁰

* * *

Maybe if they'd let us drink beer in our own place. . .⁶¹

Young people do know what is going on, but they know of few alternatives to drug use. Their perceptions of the scope of drug use were the highest of any community group. In part, this stems from the fact that drug users generally seek out and "hang" with other users. The mere fact, however, that they

⁵⁵High school age youth, sitting on doorstep of abandoned house.

⁵⁶A senior at Mastbaum Vocational High School.

⁵⁷A 17 year old male.

⁵⁸Ex-addict from McPherson Square.

⁵⁹A 15 year old female.

⁶⁰Two 9th grade females.

⁶¹Male drop-out, discussing what to do about the drug problem.

perceive drug use to be so prevalent has far-reaching implications.

Why Kensington Youth Get High

In many ways the development by Kensington youth of the need to get high on drugs parallels, or exemplifies, a national trend. Discussion of these parallels will be kept to a minimum and an attempt will be made to focus on the factors influencing that development that are in some way special to Kensington.

Most communities in America experience continual change in values, attitudes, and life styles as each generation grows up and to some extent rejects or revises the values of the parent generation. The extent of this rejection depends on many factors.⁶² There have always been communities where there has been little change in values and life styles and where each generation is a very close reproduction of its parent. Kensington was formerly such a community. It was a tightly-knit, working class neighborhood where various ethnic groups lived side by side, worked at the same factories, and enjoyed the same type of relaxation. Kensingtonians were fairly happy with the security they had developed,⁶³ and most of their children stayed in Kensington when they grew up and had families of their own. Many parts of Kensington are still like this, but even the residents of these areas admit Kensington is not the Kensington of 50, 30, or even 15 years ago. More and more families are moving out, and more and more youths leave and never come back. As a result, the population of Kensington is decreasing and becoming more fluid. Houses are being abandoned, the crime rate is going up, and the area is deteriorating.

Only fairly recently has it become the rule in Kensington, as it is in most communities, that the younger generation really rejects much of what its parents value. The blatant alienation between parents and children that characterized much of the country in the late 1950's and the 1960's did not hit Kensington until later. Indeed, there are still some parts of Kensington it has not reached. While 10 years ago the whole family was likely to

⁶²Most of these factors fall under the description "changing times." The extent to which the younger generation is aware of, and receptive to, changes in the outside world, coupled with the reaction of the older generation to these changes, determines the width of the generation gap and the alienation between parent and child.

⁶³Most Kensingtonians have owned their homes for quite a while and worked the same job for even longer. They disdain the use of credit with the indebtedness it entails, and pay cash whenever possible.

be outside most evenings, today the parents and "protected" children remain inside, largely as a result of a growing fear of drug-related crime.⁶⁴ Teenagers and children of less concerned parents still spend most of their time outside, corner-hanging and getting high. While 10 years ago parents were part of the street scene and reasonably well informed about their children, today they remain inside, often oblivious to or frequently frustrated by what their children are doing. There are still families who enjoy an evening of television together, but in most families when the parents tune in their shows the children are apt to head out to get high. The interest of parents and children have so diverged in many families that the children feel neglected and unwanted and, therefore, in need of a substitute. Today many parents in Kensington do not know where their children are at night, and all too often they do not care. The result of this apathy, frequently termed "permissiveness," can only be further alienation.

It has been pointed out that many of the younger children on drugs, the habitual huffers, and those most deeply involved in drugs, come from broken homes or have alcoholic parents.⁶⁵ There can be little doubt that many children find the street a happier home, feeling driven away from their house by habitually drunk parents and in need of a substitute. Other children focus on alcohol and the major role it plays in their parents' lives, and either drink or turn to drugs. Kensington, like most working class ethnic neighborhoods, is a community that drinks hard and often, and the alcoholic rate is high.⁶⁶ It is obvious that alcohol in

⁶⁴The parents that were interviewed expressed a common fear of street crime, especially crime against their property. Kensingtonians now lock and bolt their doors, not only when they go out, but also when they are at home, whereas ten years ago they never locked up except when they went on vacation. Burglaries are the main cause of this fear, and these burglaries are attributed to youth seeking money for drugs. Some people also feared reprisal from drug-centered gangs that had been asked to leave the area.

⁶⁵Although the Strike Force did not have the resources available to study this situation in depth, this statement is based on interviews with those directly involved with young drug abusers. A YCS worker who concentrates his efforts on the huffing problem stated emphatically, "You show me a huffer or addict and you'll find an alcoholic father waiting for that kid at home." The Director of LKEC did not go quite that far, but did state that, "[t]he majority of the kids that end up here started off from an alcoholic or broken home."

⁶⁶According to the Philadelphia Office of the National Institute of Alcohol Abuse and Alcoholism, there are an estimated 2,000 to 2,500 alcoholics in this portion of Lower Kensington, 15% of whom are on welfare. This appears to be an underestimation, since the Office of Alcohol Abuse of the City's Department of Probation reports that over 2,000 of their 10,800 alcohol-related cases in 1972 came from this area. Lower Kensington Crisis Center, "Alcoholism Resource Survey" (1973).

Kensington is one of the factors which influences young people to use drugs.⁶⁷

As anywhere else, peer pressure plays a large role in the development of the Kensington youth to use drugs. The "pocket effect" bears this out quite clearly. It has been pointed out on numerous occasions that while a group on one corner may be very seriously into drugs, another group just down the street may be very anti-high, sports minded, or (less often) of a hostile nature. Often the need for emotional release that results in drug abuse in one group of boys will result in a militant, aggressive street gang in another group, and rarely are the two compatible. With the possible exception of speed, drugs tend to reduce aggressive urges.⁶⁸ The less intellectual and more hostile a gang, the more likely its members are to shun drugs as a release and view them as emasculating and harmful to their fighting abilities.

Contrary to popular belief, it is a rare occurrence for a child to be turned on to drugs by a stranger. The older pusher who preys on younger minds and bodies does exist, but he is not usually the one who introduces children to drugs. The idea that it is outsiders who turn children on is widely held in Kensington, as it is in other places where parents refuse to admit that their own child might be abusing drugs. The child reflects the parent, and most parents prefer to think that their innocent child was exploited by

It should be pointed out that the bulk of the Center's caseload comes from the area south of Lehigh Avenue, generally considered to be the worst part of the area in terms of deserted houses, filth in the streets, and general decay. Their clientele is not strictly skid row, and the Center also noted the problem of alcoholics in Kensington.

Dr. John Thomas, a psychiatrist with Episcopal Mental Health Center, stated that: "[a]lcoholism is by far the biggest problem facing the Kensington community. It not only surpasses drug abuse in magnitude, but may very well breed the latter phenomenon. . . . When parents bring in their drug-using kids, I generally find that I can be more effective by dealing with the adults' problems, which are frequently alcohol-related."

⁶⁷In other areas of the City and especially in the suburbs, prescription drugs taken from parents are an important source of drugs for young drug abusers. The child is likely to view these "scrips" as weaker, and therefore they are often taken in combinations that can have very serious side effects.

While this type of drug abuse is relatively rare in Kensington, Strike Force investigators did encounter a case where a boy stole his uncle's tranquilizers and, with the help of a friend consumed the whole bottle. Both became extremely ill and were taken to a hospital. This was the first knowledge the boy's father had that his son was "involved in drugs."

⁶⁸David Scott, North District Supervisor of YCS, stated that "[d]rug-oriented gangs are just not inclined to engage in acts of violence. Their principal purpose in coming together is to help each other in the procurement of drugs or to steal for drugs. . . . You might say that the drug user is inwardly aggressive, destroying himself, while the street fighter directs his hostility against others."

a stranger, rather than turned on by his own friends or his own brother. The fact of the matter is that most youths are turned on by friends, siblings, and others whose words are trusted when they say: "Come on, try it. Believe me, it's a neat thing." Once a corner hanger has been introduced to drugs by his older (or younger) brother,⁶⁹ it is just a matter of time until the rest of the youths on the corner try it out. Youths are aware of what is happening in the world, and curiosity develops keenly in peer groups. Once a drug (or a movie, for that matter) has been tried and recommended by a trusted member of one's peer group, it is likely that others will experiment with it. Some groups try huffing for a while, or tripping (experimenting with hallucinogenic drugs) for a while, and then get turned off (by a bust, a bad trip, or an overdose) and leave the drug scene forever. Most, however, find it fun, cheap, and concealable entertainment and continue.

For a variety of reasons, Kensington youth are gradually turning away from sports, the traditional form of emotional release. Rather than spending the afternoon and evening playing ball, they are apt to be down at the railroad yards, or in some empty house, huffing toluene or otherwise getting high. Yet the competitiveness that is a mark of Kensington athletics is not absent from the young drug abusers. Competition of the sort "who can get higher?" (huff more "T", pop more pills, take an extra large shot) often results in overdoses, decidedly adverse reactions to pill mixing, and alcohol-barbiturate poisoning. Especially among the younger, less sophisticated drug abusers, ignorance of the consequences of mixing and ignorance of individual drug properties take their toll in bad trips and overdoses. The lessons of such experiences are often dismissed by the victim's friends as they seek out the source of more potent, more "exciting" highs.

In attempts to explain the trend of their youth toward drugs, many Kensington residents believe the lack of alternatives to be the major factor in the development of a need to get high. City facilities are few and far between, close at 5:00 p.m., and provide little that would attract most of the area's youth. Civic and neighborhood associations that provide night activities and organized athletics, such as the Lighthouse, are currently overcrowded and understaffed by the few concerned and involved

⁶⁹Quite frequently, this occurs after one brother discovers the other's "stash" of drugs, or notices changes in his behavior. A short talk usually follows, including a sales pitch, and the non-user is almost always turned on.

parents, and they cannot provide facilities for increased numbers. School yards are locked most of the time, and the police do not allow youths to congregate freely, since those facilities that do attract youths also serve as passing and distribution points for drugs. Since most Kensington children are, according to their parents, limited by very small allowances, commercial alternatives such as movies are out of the question, especially since many of the commercial establishments have been closed down. One parent pointed out that in his day, he had the pick of ten local theaters and weekend dances, while today he understands youth turning to drugs—they are bored to death because there's nothing to do. His suggestion was state-subsidized movies and other activities to attract kids off the street into more "wholesome" pastimes.

The lack of alternatives within the community, coupled with the fact that Kensington is a closed society (Kensingtonians, young and old, rarely leave Kensington to go downtown or to any other area of the City)⁷⁰ produces a stagnant, trapped feeling in the youth of Kensington that is part of the drug problem. This is not the sole cause of drug abuse since not all of Kensington's youth would rather play basketball than huff toluene, but surely if there were more alternatives for them, fewer youths would go so deeply into the drug scene.

Finally, there are some outside pressures. As shown above, the outside activists who come into Kensington, promote drug abuse, and entice the local youth to sample their happy lifestyle is largely a myth. There is, however, some contact with and awareness of the outside world that is inevitable: people move in and out, read newspapers, and see television. This no doubt has some impact on residents, though it is impossible to measure.

The view of the outside world held by some Kensingtonians, particularly the young, is one of resentment—"it is better out there and we're stuck in here,"⁷¹ and for them the urge to escape may take the form of drug abuse. Their exposure to America's

⁷⁰Parents and community leaders all emphasize the closed nature of Kensington social life. One lady said she hadn't been "downtown" for 3 years—and by "downtown" she meant 8th and Market—where she could walk right off the subway into the department stores. Although the youth of Kensington may be more mobile, they rarely leave the area, even for the purchase of drugs, usually relying on the local supply and only occasionally sending someone to "cop" in other parts of the City.

⁷¹This attitude was evident in interviews with local youth on the street in March, 1973, with an ex-heroin addict now on methadone maintenance who was working on the staff of Telerap, a community phone-in crisis center, and with an addict interviewed at the Youth Paradise House in March, 1973.

youth, particularly on TV, heightens their perception of a drug oriented world. Instant relief, instant energy, and instant euphoria are all suggested many times a day in commercials and this too increases receptivity to drugs.

Once a youth feels the need to get high, there are certain factors which heighten the attractiveness of drugs. For one thing, drugs are readily available in Kensington. Most users know several sources from whom they can obtain a variety of substances. Occasionally certain drugs will disappear from the market temporarily, but something is always available. Since many Kensington youths do not discriminate between drugs, this means that they can get high anytime they want to, provided they can afford it.

The cheapness of certain drugs is another advantage of the drug-induced high. Toluene can be stolen or else purchased for the price of "approximately \$1 for two inches in a Coke bottle."⁷² Marijuana costs \$20 an ounce, or approximately 50¢ per "joint." Most amphetamine and barbiturate capsules can be purchased for 25¢ to \$1. In each of these cases, getting high is far cheaper than would be possible with alcohol. The prices of LSD and mescaline are competitive with that of hard liquor and less than it would cost to see a movie. Consideration must also be given to what you get for your money. Whereas a drunk can no longer function after a few hours, the user of high quality LSD can get 12 hours of entertainment for his money. Cocaine, at \$10 for a 3 to 4 hour high, is reserved for special occasions.⁷³

Each of the above prices can be reduced by buying in quantity. While most individuals cannot afford to do this, the corner gang can, and usually does. Dealers of drugs do not pay anything for their highs. They generally operate their business by selling enough to break even or make a set profit, and keeping the rest for personal use.

For those users who must be seen by their parents or other "straight" types (many go to school or even Saturday night Mass stoned) the concealability of drug effects is an advantage. Most learn to modify their outward behavior in such situations and a few drops of Visine or Murine will eliminate the tell-tale red eyes for marijuana smokers.

⁷²Twenty five year old YCS worker who is involved with huffers.

⁷³The above information was obtained from those youths, interviewed on the street, who were willing to discuss it.

Most drugs are also fairly easy to hide—from parents, police, or those who might want the drugs for themselves. A small vial or plastic box, easily carried in a pocket or stashed away in an abandoned house, is almost impossible to discover. It is certainly far more concealable than a six-pack of beer or bottle of wine.

The greatest advantage of drug-induced high seen by drug users, however, is the quality of the experience. In terms of duration and intensity, the drug high leaves the competition far behind.

Whether desired as an escape from a depressing, frustrating reality, such as the ghetto, or as a consciousness-expanding experience as it is often termed on college campuses, the high induced by what are today called drugs is considered, by those who indulge in them, a superior mind alteration to the high of socially approved drugs such as alcohol or tobacco.

The youth of Kensington are finding that drugs satisfy their needs more easily, cheaply, and conveniently than traditional, socially approved substances. The effortless manner in which the high is obtained (by popping a pill, for example) is part of the quality aspect in that it permits convenient, surreptitious intoxication. If the danger involved is overlooked, as it is by most users, the advantages of availability, cheapness, concealability, and quality are often too good to pass up.

Investigatory Data

The final method utilized by the Strike Force to develop data on the nature and scope of drug abuse in Philadelphia was the more traditional law enforcement appraisal. The Strike Force sought to develop information about the drug distribution systems in the City by using actual undercover operations and analyzing the resulting intelligence data. During the Strike Force operations within Philadelphia and its adjoining counties, a total of 170 undercover drug buys were made leading to arrest warrants being issued for 127 individuals. The undercover operations were structured to study the distribution system and its operatives. Agents were not permitted simply to make random buys of narcotics.

From August, 1972, until the end of the undercover project on September 13, 1973, the overwhelming majority of purchases took place in the three target areas: South Philadelphia—

63 buys, Northeast Philadelphia and the near suburbs—43 buys, and West Philadelphia—41 buys, for a total of 147 of the 170 buys made. As shown in Table 13, 137 buys were made from January 14, 1973, until termination of the undercover operations. In the Northeast and suburbs, methamphetamine (speed) purchases constituted 36 of the 43 buys. In West Philadelphia (including the Southwest Police Division) 14 of the 15 purchases were of heroin. Finally, in South Philadelphia, various types of drugs were purchased. These included heroin and dilaudid (38 buys), speed (10 buys), marijuana and hashish (6 buys), and methadone (1 buy).

These three areas illustrate the differing nature and scope of drug abuse and the different techniques necessary for law enforcement agencies to curtail different types of drug distribution.⁷⁴ In South Philadelphia, the undercover operations sought to obtain data which could reveal to the general public the widespread, concentrated, and open distribution of hard narcotics at numerous street corners.

The second area, the far Northeast and a section of lower Bucks County, was discovered to be the home of major speed (methamphetamine) use and sales. The Strike Force actions there were designed to illustrate that drug traffic and drug abuse has reached middle and upper class areas of Philadelphia and that drug control there required adoption of different law enforcement techniques.

The third neighborhood included the black areas of West Philadelphia. The specific end sought here was to infiltrate the multibundle and higher level hard drug dealers who sell drugs but are not drug addicts. In this connection, the Strike Force had no hope that it could eliminate the drug traffic but sought to show that with appropriate investigatory techniques, manpower, and money, significant arrests could be made of large quantity, high level, hard drug dealers who are non-addicted and who are the businessmen of the drug traffic in Philadelphia.

DRUGS IN SOUTH PHILADELPHIA

The South Philadelphia discussed here encompasses Bigler Street on the south, Dickinson Street on the north, Fourth Street on the east, and 23rd Street on the west. It is one of Philadelphia's oldest neighborhoods and is a stable white ethnic community which is heavily Italian in makeup. Trooper Robert

⁷⁴The techniques used by the Strike Force are discussed *infra* at 724-727.

TABLE 13
Drug Buy Locations

Locations where narcotic buys were made, indicating the number of buys made and the types of drugs purchased from January 14, 1973 to September 13, 1973.

Philadelphia Police Division	Heroin	Metham- phetamine	Morphine	Cocaine	Mari- juana	Hash- ish	Pento Barbitol	Phency- clidine	Metb- aqualone	Phendi Metrazine	Meth- adone	Total
South	11	10	27		4	2					1	55
Central	3	2	1						1			7
West	10			1								11
Southwest	4											4
East	9	2										11
North												
North Central	3				1		1					5
Northeast	1	28						1				30
Northwest				1								1
TOTAL (Phila.)	41	41	28	2	5	2	1	1	1	0	1	124
Suburbs												
Sharon Hill	2											2
Levittown		1										1
Andalusia		1										1
Ben Salem		1										1
Feasterville		3			2					1		6
Cornwells Hgts.		1										1
Oaklyn, N.J.		1										1
TOTAL (Suburbs)	2	8	0	0	2	0	0	0	0	1	0	13
OVERALL TOTAL	43	49	28	2	7	2	1	1	1	1	1	137

Prior to January 14, 1973, a number of narcotics purchases were made from street level dealers and small quantity dealers which resulted in the purchase of: 25 bundles of heroin in bundle lots; 96 bags of heroin in bag lots; 20 bags of marijuana in bag lots; and 1 bag of cocaine. These purchases are not reflected in the chart breakdown, but have resulted in the arrest of 5 dealers. As of February 1, 1974, one of these dealers had been convicted, and four others were awaiting trial.

E. Dorman, a six year veteran of the Pennsylvania State Police with only limited drug control experience, spent from early May to the end of August 1973, in this area. As shown on the map on the next page, his activities resulted in 55 purchases of drugs, 48 of which involved heroin, morphine (dilaudid), and methamphetamine, and led to arrest warrants being issued for 45 drug dealers.

Trooper Dorman began his activities on May 2, 1973, when he met an individual who offered to introduce him to the drug scene in South Philadelphia. His method of operation was simple and open:

We just got in the automobile . . . supplied to me and drove around. We would meet the people on the street corner or see them in other cars driving. But generally they would be just standing on corners throughout the geographic area. . . We would approach them either on foot or pull up in the car and start conversing with them.

* * * * *

. . . Nobody seemed to be paranoid about my presence. I gave them a phony story . . . I told them I lived in Delaware County in the Darby area and nobody questioned that.

* * * * *

. . . I told . . . a few I used the stuff myself, but eighty percent of the people I told the stuff was for resale.⁷⁵

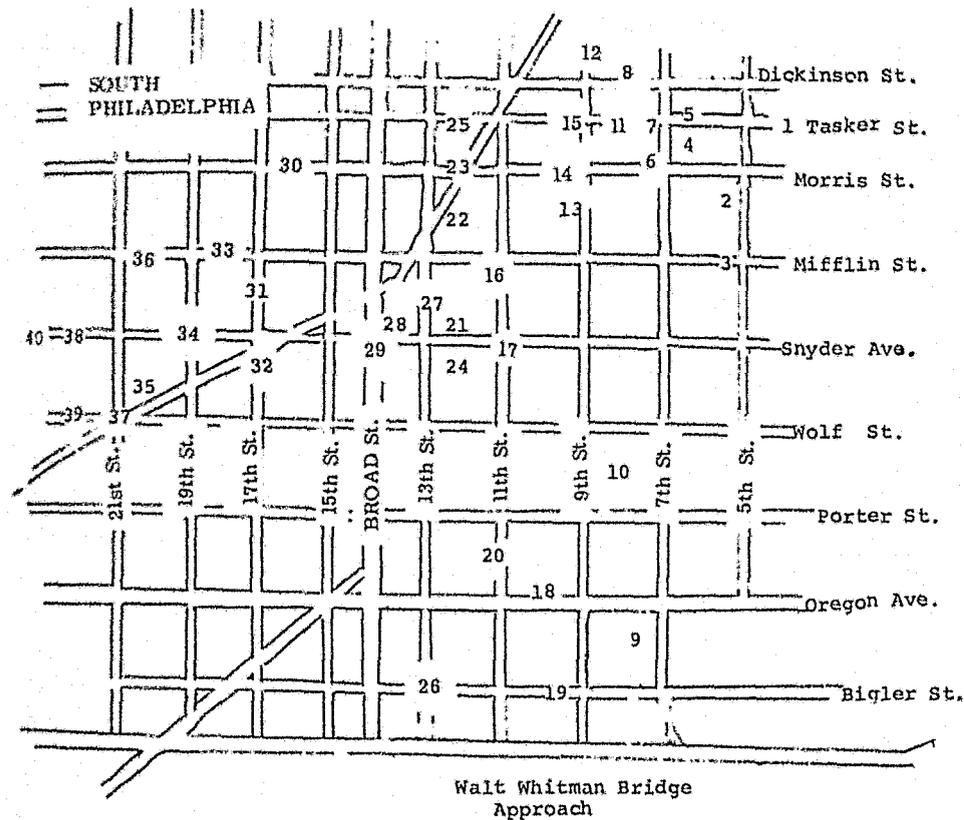
It did not take Trooper Dorman long to be accepted, as he made four purchases of drugs on the first day he appeared in South Philadelphia. As he described that day:

Every one [purchase] was made in broad daylight on the street corners in that area. I made one purchase of eighteen bags of heroin from one person. I purchased twelve bags of heroin from another. Three bags of heroin from the first. And I purchased five Dilaudid tablets involving a male and female that day . . . We

⁷⁵Testimony of Trooper Robert E. Dorman before the Pennsylvania Crime Commission, November 27, 1973, N.T. 8-9 [hereinafter cited as Dorman].

South Philadelphia Drug Buy Location Map

(reprinted from the Philadelphia Inquirer, September 14, 1973)



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Trooper Dorman's drug purchases were as follows:

Type of drug	Number of buys	Quantity	Cost
Heroin	11	66 bags; 8 bundles	\$1,208.00
Morphine (Dilaudid)	27	194 tablets	2,396.00
Methamphetamine	10	1 teaspoon; 45 grams	3,096.00
		1 1/2 ounces	200.00
Hashish	2	2 ounces	100.00
Methadone	1	1 bottle (8 oz.)	250.00
Marijuana	4	1 1/4 pounds	
Total Cost:			\$7,244.00

didn't have to go hide anywhere. It was all on the streets. Right out in the public's eye.⁷⁷

This open and visible selling of drugs was typical of South Philadelphia:

... the whole time I was down there I believe I was in a residence maybe two or three times . . . Other than that it was either standing on the street or sitting in a car parked on a City street.⁷⁸

Not only was the market wide open, but it was a large volume, full line market, with long hours:

... You can go down there to about the busiest street corner in South Philadelphia, the intersection of Broad Street and Snyder Avenue, directly across the street from the major high school in the area, and on occasion I would find maybe four or five different pushers standing on the same corner.

I used to . . . ask them why they don't pick another area . . . they used to explain that there was enough business right at that corner to handle half a dozen sellers and nobody harassed any of the other pushers to take over the corner. They would either be dealing to the high school population [or persons in] . . . vehicles with New Jersey license plates. Broad and Snyder is only approximately about ten to fifteen minutes from the Jersey border by bridge and . . . the flow of automobiles would come in with Jersey tags with young people and then they would go straight to Broad and Snyder and contact these individuals.

* * * * *

They used to explain that they were around at night as well as in the daytime. Usually around 10:00 p.m. they would explain that people would start leaving the streets. So that would give you a twelve hour day, from 10:00 in the morning until 10:00 at night.

* * * * *

⁷⁷*Id.* at 10-11.

⁷⁸*Id.* at 11.

In the few months that I was in the area the drug scene just seemed to be overwhelming. The drugs were overwhelming. I personally purchased several different types, including heroin, Dilaudid, which is the morphine base, methamphetamine, hashish, methadone, which you are only supposed to get at the clinics, marijuana, methaqualone. It's a highly abused drug today. It is in pill form. We had bought those.

So the drug scene down there seemed to be running the whole spectrum of drugs that you could find anywhere. Just about anything you wanted was available with very little difficulty.⁷⁹

In addition to Broad and Snyder, similar street-corner distribution enterprises were widespread. In a period of less than four months, Trooper Dorman made open drug purchases in this area at 40 similar locations.⁸⁰

The typical dealer was a native of the area and not a "foreign" pusher. He was ". . . [in his] early twenties, Italian descent, probably a couple years of high school education and no more."⁸¹ However, there were others not typical:

... I made heroin purchases from an eight year veteran of the Philadelphia Police Force. He served on the force from 1963 until 1971, and is presently on a

⁷⁹*Id.* at 12-13, 14-15, 33.

⁸⁰ Buys were made in the South Philadelphia area encompassing Bigler Street on the south, Dickinson Street on the north, Fourth Street on the east, and 23rd Street on the west, at the following locations. The number in parenthesis indicates the number of buys at the location.

4th & Tasker (1)	9th & Moore (2)	Broad & Snyder (2)
5th & Moore (1)	9th & Tasker (5)	16th & Morris (1)
5th & Mifflin (1)	10th & Snyder (2)	17th & McKean (1)
6th & Morris (1)	10th & Oregon (1)	17th & Passyunk (1)
6th & Fernon (1)	11th & Mifflin (1)	18th & Mifflin (2)
7th & Morris (3)	11th & Shunk (1)	19th & Snyder (2)
7th & Tasker (3)	12th & McKean (1)	20th & Jackson (1)
8th & Dickinson (1)	12th & Moore (1)	20th & Mifflin (1)
8th & Oregon (1)	12th & Morris (1)	21st & Passyunk (1)
8th & Ritner (1)	12th & Snyder (1)	22nd & Snyder (1)
8th & Tasker (2)	12th & Tasker (1)	22nd & Wolf (1)
8th & Wharton (1)	13th & Bigler (1)	23rd & Snyder (1)
9th & Bigler (1)	13th & McKean (1)	
9th & Morris (2)	Juniper & McKean (1)	

Note: As a result of contacts made in South Philadelphia buys were made in Center City at 20th and Chestnut Streets and 22nd and Chestnut Streets.

⁸¹Dorman, N.T. 15.

disability pension for a supposed sprained wrist. . .

Another person was a housewife, a mother of four children, addicted to Dilaudid, who used to deal in the area.⁸²

In the Trooper's eyes, drug selling in South Philadelphia was as lucrative as it was open. One example involves a rags to riches fairy tale:

. . . In May I met a guy. The first occasion I met him he didn't have a dime to make a telephone call. He made a contact for me and did get drugs for me, methamphetamine. I ran into him approximately three months later and wanted to make another drug purchase from him. I offered him the money. [He . . . took] out a roll of approximately three thousand dollars from his pocket and showed it to me.

I ran into him again in a couple of weeks and he was driving a Lincoln Continental Mark IV and he told me that he just purchased the car and he paid cash for it.⁸³

Citizen and police response to this situation was surprising. With respect to the average citizen, Trooper Dorman found that "everybody knew what was going on:"

. . . You would have to be very naive not to know. Nobody hid the fact; nobody hid the drugs or the money or the conversation. The conversation was loud enough for anybody passing by to hear exactly what was going on. And the word heroin was used . . . nobody used code names or went into doorways or anything. They would just stand right on the corner. If four or five people were there they would just stay there, nobody moved to get away from them.⁸⁴

The police apparently differed little from the average citizen in their reaction. As he explained:

When I was in the area I would see the police every day. The uniformed police would be in the area, patrol

⁸²*Id.*

⁸³*Id.* at 19.

⁸⁴*Id.* at 21-22.

cars, people on foot, people on horseback. They were always there, but they never seemed to bother us during our deals.

I purchased drugs on one occasion at the intersection of Broad and Snyder and the uniformed policemen within eight to twelve feet from us and the conversation was purposely loud enough for anyone within twenty feet to hear exactly what was going on. And with this the man was standing on the corner, turned and walked to the opposite corner away from us.

Many times I was doing deals on the corner and would see patrol cars going by and the police would look over at us. I would get paranoid, but the people that I was dealing with just shrugged it off as an every day occurrence. You may see the same car five, six, or seven times pass the same area. These people were always there and didn't seem to be bothered at all about this activity going on.

* * * * *

The money is good enough to keep them from working; to keep their habits, if they have one; and to give them the money that they need for their daily business. And the risk is just that slight that they are not afraid to get involved.⁸⁵

DRUGS IN THE FAR NORTHEAST

Drug abuse in the far Northeast section of Philadelphia is different in style and drugs than in South Philadelphia but is equally serious and destructive.

Pennsylvania State Trooper Edward G. Long spent from the beginning of July until Labor Day weekend 1973, in the far Northeast, living in a rented apartment, driving a 1973 Cadillac, and being seen with a female who was providing assistance to his efforts. His experience reflects the drug scene in one of Philadelphia's newest residential areas, bordered by the Lower Bucks County line on the north, Bustleton Avenue on the west, Cottman Avenue on the south, and Interstate Route 95 on the east.

The people involved in this drug market are similar to, yet

⁸⁵*Id.* at 22-23, 24.

different from, the street corner dealers in South Philadelphia:

The people that I was involved with were all white. They ranged in an age group from the youngest in their early twenties to some in their middle thirties. They always had money, but it didn't appear that they exposed their wealth. In other words, they didn't live elaborately, but they always did have substantial funds on them. To my knowledge, they were all high school graduates. All seemed to have some type of employment.⁸⁶

As in South Philadelphia, the market was lucrative:

It's very easy to make money on the speed traffic up there. It's very profitable.

It just seems like every time I turned around, I would run into another reasonable sized dealer. By "reasonable sized," I refer not merely to ounces, but quarter pounds and up.

A quarter pound of speed, depending on the quality, would sell anywhere from eighteen hundred dollars up to and including twenty-five hundred dollars . . . [while] one ounce would cost you anywhere from five hundred dollars up to and including eight hundred dollars.⁸⁷

Reflecting its profitability was the availability and intense demand for speed:

They never seemed to have any problems with disposing of the speed. In other words, they sold it with no problems. And whenever they had a substantial quantity, they didn't seem to have any problems getting rid of it. . . They seemed to have a very good access to it.⁸⁸

In contrast to South Philadelphia, however, the operating techniques and wealth of the dealers differed. While street sales are the method of operation in South Philadelphia, expensive apartments are the primary distribution locales in the far

⁸⁶Testimony of Trooper Edward G. Long before the Pennsylvania Crime Commission, December 1, 1973, NT 5 (hereinafter cited as Long).

⁸⁷*Id.* at 7.
⁸⁸*Id.* at 103.

Northeast, with shopping centers often used as the street corner drug transfer point.

Since the Northeast has a reputation for being relatively free from crime, it might be expected that police would control illegal drug distribution. This is not the case, at least in the eyes of drug dealers who operate there:

I didn't encounter any particular fears of being busted, or arrested by the Philadelphia Police Department from persons that I had dealt with. . .

. . . There didn't seem to be any basic concern for being arrested. Most of them felt that if they were arrested that they would have no problem getting off the hook.⁸⁹

Thus, as in the case of South Philadelphia, the plague of drug sales was widespread, lucrative, and without apparent deterrence by the police presence.

WEST PHILADELPHIA AND MAJOR DEALERS

Extensive drug traffic in urban black communities is an accepted public belief and a standard law enforcement conclusion. Since it is undisputed that a large percentage of heroin addicts are black, the presence of addicts and small-addicted drug dealers in black West Philadelphia was expected and found. Consequently, the Strike Force placed major emphasis on the non-addicted suppliers, as they are indispensable to perpetuating drug abuse. This emphasis on quality rather than quantity investigation provided an additional insight into the drug situation, for one major dealer supplies hundreds of addicts with drugs.

The best example of upper level distribution the Strike Force encountered involved State Trooper Arnold Smith working with an informant to gain the confidence of a volume dealer of heroin and cocaine. In addition to purchasing bulk cocaine and heroin from the dealer, this agent became involved in a potential major interstate transaction involving the purchase of one kilogram of "market pure" heroin in New York at a cost of \$38,000—having a street sale value of over \$600,000.

The prospective dealers were very sophisticated and security conscious. The purchase plan involved extended deliberation, and the Strike Force used sophisticated recording devices in

⁸⁹*Id.* at 9.

order to protect its agent and record the Philadelphia dealer's exact description of the proposed transaction.

When the possible transaction evolved, the Strike Force urgently sought local federal assistance in planning the purchase, providing technical manpower (a chemist), and partially financing the purchase. This assistance, strangely, was refused. Thereafter, knowing that the actual seller was a New York resident, the special New York State narcotics prosecutor of the state's Special Investigative Unit was contacted by phone. In contrast to the federal response, skilled narcotics officers arrived in St. Davids within a matter of hours, and began a coordinated inter-jurisdictional attempt to arrest two major distributors. Upon intense analysis, the proposed transaction was terminated upon the advice of the New York authorities who feared a "rip off" (theft of the purchase price). However, this incident provides an example of both the sophisticated nature of the non-addicted professional drug seller and the need for equal ability on the side of law enforcement.

INTELLIGENCE UNIT DATA

Finally, the Strike Force intelligence unit data afforded significant insight into the pervasive character of drug abuse in Philadelphia by identifying hundreds of operating drug dealers. The following Tables and explanations provide an overall view of narcotics distribution identified by the Strike Force in the Philadelphia metropolitan area (Table 14),⁹⁰ the City of Philadelphia by police divisions (Table 15), and the four police divisions with the greatest number of drug dealers (Table 16). The data upon which these tables are based is derived from "substantiated" and "unsubstantiated" information. Substantiated information is that which results from active investigation, including drug buys or observations of buys by Strike Force personnel. Unsubstantiated information is that which encompasses information which has not been verified, *i.e.*, informants, some citizens' complaints, sworn information obtained at Crime Commission hearings, and information from other law enforcement agencies.

Obviously, the three Tables do not represent all narcotics dealers in these geographical areas, but only those encountered

⁹⁰The data relating to suburban counties was acquired through this investigation. Those dealers identified as suburban generally have a commercial relationship with Philadelphia's drug market.

TABLE 14

Philadelphia Metropolitan Area

	Race			Sex		Heroin	Methamphetamine	Cocaine	Pills	Marijuana & Hashish	Unspecified
	(W)	(B)	(O)	(M)	(F)						
Philadelphia County	185	163	100	386	62	240	65	24	12	17	119
Bucks County	17	—	2	18	1	4	11	—	1	2	2
Chester County	3	—	2	3	—	1	1	—	1	—	—
Delaware County	4	—	3	2	2	4	—	—	—	—	—
Montgomery County	28	3	10	26	2	11	2	1	5	3	6
Innerstate	23	5	16	18	5	16	3	2	—	—	2
Totals	525	224	182	453	72	276	82	27	19	22	129

TABLE 15
City of Philadelphia by Police Division

	Total DEALERS	Race			Sex		Heroin	Metham- phetamine	Cocaine	Pills	Marijuana & Hashish	Unspecified
		(W)	(B)	(O)	(M)	(F)						
Northeast	71	55	11	5	61	10	13	38	1	2	2	15
Northwest	23	17	4	2	14	9	10	—	—	5	—	8
North	22	3	11	8	20	2	8	2	2	1	3	10
North Central	33	1	23	9	26	7	21	1	2	1	1	15
East	65	26	13	26	54	11	39	4	—	—	1	22
Central	29	13	9	7	27	2	13	2	1	—	1	12
South	108	61	25	22	99	9	71	11	7	3	6	15
Southwest	39	7	22	10	32	7	23	2	6	—	1	12
West	58	2	45	11	53	5	42	5	5	—	2	10
Totals	448	185	163	100	386	62	240	65	24	12	17	119

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TABLE 16

Four Police Divisions with Greatest Number of Drug Dealers, by District

	Total Dealers	Race			Sex		Heroin	Methamphetamines	Cocaine	Marijuana & Hashish	Unspecified	Pill
		(W)	(B)	(O)	(M)	(F)						
Northeast Division												
2nd	3	3	—	—	2	1	—	1	—	—	2	—
7th	49	44	1	4	44	5	4	34	1	1	7	—
15th	19	8	10	1	15	4	9	3	—	1	6	2
Northeast Division Totals	71	55	11	5	61	10	13	38	1	2	15	2
East Division												
34th	6	5	—	1	5	1	4	—	—	—	2	—
25th	18	9	3	6	14	4	10	2	—	1	5	—
26th	41	12	10	19	35	6	25	2	—	—	15	—
East Division Totals	65	26	13	26	54	11	39	4	0	1	22	0
South Division												
1st	23	18	4	1	21	2	13	7	1	—	2	1
3rd	17	11	3	3	14	3	11	—	1	3	2	1
4th	35	27	—	8	35	2	20	3	3	2	6	1
17th	33	5	18	10	31	2	27	1	2	1	5	—
South Division Totals	108	61	25	22	99	9	71	11	7	6	15	3
West Division												
16th	30	1	22	7	27	5	21	—	3	2	5	—
19th	28	1	23	4	26	2	21	5	2	—	5	—
West Division Totals	58	2	45	11	53	5	42	5	5	2	10	0
Northeast Division	71	55	11	5	61	10	13	38	1	2	15	2
East Division	65	26	13	26	54	11	39	4	0	1	22	0
South Division	108	61	25	22	99	9	71	11	7	6	15	3
West Division	58	2	45	11	53	5	42	5	5	2	10	0
Total	302	144	94	64	267	35	165	58	13	11	62	5

635

by the Strike Force over the last 18 months. However, the Strike Force believes that these Tables furnish a workable index to the drug distribution spectrum in Philadelphia and the related surrounding areas.

Table 14 reflects investigative results as well as raw intelligence data gathered by the Strike Force since May, 1972, regarding 525 narcotic dealers. It should be noted that some of these 525 known or suspected dealers are "multidealers," dealing in more than one drug; consequently a total of 555 narcotic dealers is shown as measured by drugs sold.

Information and evidence was developed on 23 interstate dealers (New York, New Jersey, and Delaware) and one international dealer (Canada). The majority of these were black (16), male (18), and dealt in heroin (16). With the exception of a few, these dealers had Philadelphia locations as their main base of operation.

Although the center of investigative activity was the City of Philadelphia, general trends were discovered in Bucks and Montgomery counties. A total of 19 dealers were identified in Bucks County, and 28 in Montgomery County, of whom 32 were white and 44 male. Heroin (15) and methamphetamine (13) were the most heavily trafficked narcotics. In most instances, these 47 dealers were tied into operations in the geographically convenient Greater Northeast section of Philadelphia.

Table 15 breaks down 448 narcotics dealers by area of operation, within the nine geographical divisions of the Philadelphia Police Department using substantiated and unsubstantiated information. On a City-wide basis, 386 or 86% of the 448 dealers and suspected dealers were male; 185 or 41% were white; and 240 or 53% were dealing in heroin. Heroin dealers were found mostly in the Southwest (23), East (39), South (71), and West Divisions (42), while methamphetamine dealers were prevalent in the Northeast (38) and South Divisions (11). The Strike Force figures reveal that the four most heavily trafficked divisions by all discovered dealers were South (108 dealers), Northeast (71 dealers), East (65 dealers), and West (58 dealers). See Table 16. Taking these four of the nine police divisions, the Strike Force identified or received information on 302 narcotic dealers or 67% of the total City results.

Strike Force manpower was concentrated in the Northeast, South, East, and West Divisions, with the purpose of covering widely dispersed areas which would be representative of the

diverse communities within the City. Table 16 reveals that about half of the drug dealers in these four Divisions are white males and that heroin sellers predominate. This is not to say that most heroin dealers are white males; most heroin dealers are identified as being either black or "others." Major concentrations of heroin dealers were found in the 26th District (East Division), 25 dealers; 16th District (West Division), 21 dealers; 19th District (West Division), 21 dealers; 1st District (South Division), 13 dealers; 3rd District (South Division), 11 dealers; and the 4th District (South Division), 20 dealers. Methamphetamine dealers identified were concentrated on the 7th District (Northeast Division), 34 dealers, and the 1st District (South Division), 7 dealers. The South Division was highest in cocaine dealers with 7, followed by the West Division with 5 dealers. In the East Division, there was an abnormally high reporting of "inspecified" drugs, with an unusually high percentage of female dealers, nearly 20%, most of whom were located in the 26th District.

Thus, whether viewed by the official reports, the eyes of Strike Force investigators and undercover agents, or through the periscope of intelligence data, drug abuse is widespread and wide open in Philadelphia.

EFFECTIVENESS OF THE CRIMINAL JUSTICE SYSTEM

The open drug traffic in Philadelphia raises questions concerning the performance of the criminal justice system. This section considers only one aspect of the criminal justice system, the police. It highlights a generally overlooked cause of the present situation; the poor quality of law enforcement rendered by the Philadelphia Police Department. Both the actual policies of the Department and the quality of its performance as evaluated by the District Attorney and the courts are discussed. The data and analysis are based in part upon computer studies of the Department's performance which offer an example of the potential for creative use of available data for law enforcement evaluative purposes. The data compels the following major conclusions:

1. The Police Department arrests large numbers of individuals, primarily addicts and addicted small-volume sellers, the overwhelming number of

- which are male, black, have some history of prior criminal arrest, often drug-related;
2. Most arrests are effected by uniformed officers who are limited to employing "sight arrests" as their primary narcotics law enforcement tool;
 3. The Department has not infiltrated the higher levels of the drug trade in Philadelphia;
 4. The court system hears only a small number of drug sales cases, and the importance and quality of the sales cases reflect the Department's poor performance;
 5. Over one-half of the Department's drug arrests are deemed not worthy for a prosecution by the District Attorney's office based, in part, on its determination of poor or unconstitutional conduct by the arresting officers; and
 6. The courts are forced to appear as a revolving door, since less than 50% of those approved for prosecution by the District Attorney result in conviction—only 25% of the original case load. Since the vast majority of cases are based upon small quantity possession charges, less than 5% of those originally arrested by the police go to jail.

An Analysis of Drug Case Dispositions By The Philadelphia Criminal Justice System

Assembling meaningful data about the numbers of persons arrested, the grounds for the arrests,⁹⁰ and cases generated was difficult because of the changes in the drug control statutes, changes in the jurisdiction of the various criminal courts within the system, and the institution of a screening program by the District Attorney's office which has resulted in far fewer cases reaching the official court records. Notwithstanding these difficulties, the Strike Force has assembled what it believes to be complete data for the drug arrests made by the Philadelphia Police Department from January 1, 1969 through March 31,

⁹⁰The term "arrest" will be used in a nonlegal sense to include only those instances where persons were "booked" for alleged violations. It will not include instances where people were detained on the street and released, or where people were taken into a district station house and held for a period of time without being booked.

1973 (court records for one month in 1969 could not be located).

The data set forth is based upon a simple percentage analysis of the drug cases⁹¹ disposed of by the Philadelphia Municipal and Common Pleas Courts from January, 1969, through March, 1973, and the drug arrests evaluated by the Legal Counseling Division of the District Attorney's office from the inception of that program beginning in August, 1971, through March, 1973.⁹²

AN OVERVIEW OF THE PERFORMANCE OF THE ENTIRE SYSTEM

From January 1, 1969, through March 31, 1973, the criminal justice system of Philadelphia handled 28,235 cases involving

⁹¹The word "case" as used herein requires special definition because of the data coding and processing employed by the Philadelphia Court Administrator's office. Generally speaking, a case reflects an incident resulting in a disposition of an individual for a violation of the drug laws. A single case, however, may include more than one drug law violation charge. The charges picked up by the computer employed by the court system identify drug cases in inverse order of their importance, e.g., if an individual is charged in one incident with possession and delivery of drugs, the case will be listed as one case involving possession with the sales case omitted. Thus, in the overall total of cases, the number of sales cases is under represented. In addition to this, because drugs are often confiscated or involved in the context of other arrests which are considered more serious by the computer, e.g., murder or robbery, the drug charge is not reflected as a case. In summary, the overall case data under-reflects sales cases and all drug cases arising out of other serious crimes.

To meet this void in the data, the Strike Force requested and obtained special computer runs of all sales cases whatever the context of the arrest, and included in this section is a special analysis of sales cases. Thus, the overall data includes most possession cases and some sales cases, while the special run offers insight into the most serious drug charge, that of selling drugs.

⁹²While the functions of the courts are clearly judicial, there may be some question with regard to including the cases dismissed by the District Attorney's office in addition to those cases actually brought into the judicial system.

The office of the District Attorney, through its Legal Counseling Division, has been screening Philadelphia drug arrests since August, 1971. The performance of the screening program is discussed *infra*, but it is relevant here that in screening the police arrests brought to the Narcotics Unit headquarters, the District Attorney is judging these police arrests and has rejected an increasingly large percentage of them for prosecution. The intent and apparent effect of this effort is to reduce the number of cases in the court system and to concentrate the system's efforts on cases which can support convictions. Therefore, arrests rejected for prosecution by the District Attorney's office are included in the following figures because to exclude them would distort the true picture of the criminal justice system from police booking to ultimate disposition. Thus, the 7,087 "D.A. Screenouts" which never reach the judicial system are included in the data.

violations of the Controlled Substance, Drug, Device and Cosmetic Act [hereinafter the Controlled Substance Act].⁹³ See Table 17.

TABLE 17

Case Disposition—Entire System			
Total Cases Dismissed or Acquitted		19,692	70%
Total Cases Guilty as Charged	6,087		22%
Total Cases Guilty of Lesser Offense	837		3%
Total Cases Guilty		6,924	25%
Transfers ⁹⁴		1,619	6%
Total Case Dispositions		28,235	100%

Of these 28,235 cases, 19,692 (70%) resulted in pre-trial dismissal or acquittal.

Beginning in August, 1971, the District Attorney began rejecting cases for prosecution prior to further proceedings at the preliminary arraignments held at the Police Administration Building. These rejections involved 7,087 of the 28,228 cases.⁹⁵ See Table 18.

TABLE 18

Case Disposition Locations	
District Attorney Screenouts	7,087
Municipal Court Dispositions	6,803
Common Pleas Court Dispositions	14,345
	<u>28,235</u>

If a case succeeded in reaching the preliminary arraignment stage, the matter could have been terminated by the District

⁹³Act of April 14, 1972, P.L. 64, 35 P.S. §780-101 *et seq.*

⁹⁴Included in the figure of 1,619 transfers were approximately 170 cases from June, 1972, through March, 1973, which were given probation without verdict under Section 17 or a disposition in lieu of trial under Section 18 of the Controlled Substance Act. Since the individual being tried who wants a Section 17 must plead *not guilty* to the charges, it could be considered a conviction. However, since upon completion of the probation, usually drug related and medically supervised, the individual's criminal record is expunged, these 170 cases have been considered as medical transfers rather than convictions.

⁹⁵While this is only 25% of the total, the figure is misleading since the screening program began midway in the data base. In fact, during the period of its operation, the screening program has caused the dismissal of approximately 50% of the Police

Attorney's withdrawing prosecution or by a dismissal by the court.

If the offense was not indictable within the Philadelphia system,⁹⁶ the case could have been dismissed based upon pre-trial motions by the defense or by a request for dismissal by the District Attorney's office; thereafter at trial, the defendant could be acquitted of the offense charged or the case dismissed for various reasons.

If the offense were an indictable one, and destined for the Common Pleas Court, dismissal could have taken place at the preliminary hearing in the Municipal Court where the Commonwealth was under an obligation to present a *prima facie* case. If the indictable offense survived the preliminary hearings and the Grand Jury, it was then subject to the same dismissal as a case in the Municipal Court as well as acquittal by the court or jury.

6,087 or 22% resulted in guilty as charged dispositions at trial. An additional 837 or 3% resulted in a finding of guilty of lesser offenses,⁹⁷ for a total conviction rate of 25%.

In addition to those cases resulting in dismissal, acquittal, or conviction during this period, medical treatment for drug addiction was introduced as an alternative disposition of cases involving some drug-dependent defendants. Of the original 28,235 cases, 1,619 (6%) cases were diverted from the trial process primarily to medical treatment facilities and drug rehabilitation and re-education programs.

Turning to those 6,924 cases resulting in convictions, less than one-fifth (1,350) or 19% resulted in jail sentences. Additionally, some jail sentences were undoubtedly for time already spent in jail because the defendant could not post bail prior to trial. Looked at another way, only 1,350 or 5% of the 28,235 people arrested received a jail sentence for violation of the drug control laws.

Department's arrests. The 25% figure thus reflects the lack of screening from January, 1969, to August, 1971. Had the program been in effect for the entire period, almost 14,000 cases would have been screened out. The effect of the program on increasing the conviction rate will be discussed *infra* at 647-648.

⁹⁶In Philadelphia, drug cases destined for initial trial in the Municipal Court do not require indictment and do so only if the defendant appeals his conviction to the Common Pleas courts. In the rest of Pennsylvania, all drug cases still require indictment.

⁹⁷The presence of lesser offenses not recorded in the data base as a case is evidenced by these cases which appear only as a conviction on a lesser offense.

Table 19 summarizes the sentences imposed.

TABLE 19
Sentences Imposed
Municipal Court and Common Pleas Court

Sentence	Percentage of Convicted	Percentage of Arrested
Jail	19%	5%
Probation	72%	24%
Other	8%	3%

The most important drug charges are sales charges, which involve the arrest of drug dealers. 1,351 drug sales charges were disposed of by the entire system.⁹⁸ Of these, 620 (46%) cases resulted in acquittals; 529 cases (39%) in a verdict of guilty as charged; and 70 cases (5%) in a verdict of guilty of a lesser offense. The total conviction rate was 44%. Thirty-nine percent of those convicted, or 231 individuals, were sentenced to jail, a figure amounting to 17% of those actually tried. Of the 231 individuals sentenced to jail, 117 were sentenced to more than two years in jail while 114 were sentenced to less than two years.

THE MUNICIPAL COURT CASE DISPOSITIONS

The jurisdiction of the Municipal Court underwent substantial changes between January 1, 1969, and March 31, 1973. From January 1, 1969 to July 1, 1971, the jurisdiction of the Municipal Court was limited to offenses that provided a maximum prison sentence of two years. This jurisdiction was expanded on July 1, 1971, to offenses providing a maximum prison sentence of five years.⁹⁹ Since then, if more than one offense arising out of the same incident is charged, the case is handled in Municipal Court if the maximum sentence which may be imposed for any of the offenses charged does not exceed five years. In the Municipal Court, the defendant has no right to a trial by jury but does have the right to appeal for a trial *de novo*, including the right to a trial by jury, in the Court of Common Pleas.

⁹⁸These figures were obtained from a special computer data run supplied by the Court Administrator's office.

⁹⁹Act of Oct. 17, 1969, P.L. 259 §18, as amended by Act of July 14, 1971, P.L. No. 45, §1, 17 P.S. §711-18 (Supp. 1973).

As a result of these jurisdictional limits, prior to July 1, 1971, all hard drug¹⁰⁰ possession cases were tried in the Common Pleas Court inasmuch as such violations were felonies and provided a maximum prison sentence of five years for first offenders, ten years for second offenders, and thirty years for third offenders. Likewise, all hard drug sales cases were tried in the Common Pleas Court as the prison sentences provided therein were greater than those in the possession cases. During this same period, soft drug¹⁰¹ cases involving first offenders were tried in the Municipal Court, since such violations were misdemeanors for which a maximum prison sentence of one year was provided. Second offenders in soft drug cases were tried in the Common Pleas Court since the drug law provided a maximum sentence of three years. From July 1, 1971, with the expansion of Municipal Court jurisdiction to offenses involving a five year maximum sentence, until June 6, 1972—the effective date of the Controlled Substance Act—all drug possession cases were tried in the Municipal Court, while sales cases remained in the Common Pleas Court. As was the case prior to June 6, 1972, cases involving prescription and synthetic drugs were tried in the Municipal Court.

Since June 6, 1972, all possession drug cases under the new drug law have maximum prison sentences of less than five years and, therefore, are tried in the Municipal Court. Additionally, delivery cases for first offenders involving soft drugs, *e.g.*, pills, methamphetamine, and marijuana are tried in Municipal Court, as prison sentences for such violations do not exceed five years. Hard drug delivery cases, *e.g.*, heroin, morphine, and dilaudid, and second offenses in soft drug sales cases remain in the Common Pleas Court System.

Turning to the actual dispositions in the Municipal Court, from January 1, 1969, through March 31, 1973,¹⁰² 20,033 drug cases were considered by Philadelphia Municipal Court judges. Of these cases, 13,230 involved the Municipal Court functioning as the preliminary hearing court prior to consideration for indictment by the Grand Jury and disposition in the Common Pleas Court. Of these 13,230, 5,541 were dismissed at preliminary hearings and 7,689 held for the Grand Jury, a

¹⁰⁰Hard drugs include heroin, morphine, and, during this period, marijuana and hashish.

¹⁰¹Soft drugs include prescription and synthetic drugs such as tranquilizers, speed, and LSD.

¹⁰²Court records for one month in 1969 could not be located.

dismissal rate of 42% of these cases. The vast majority of these cases will be considered in the section of this chapter dealing with the Common Pleas Court. Therefore, these 13,230 are subtracted from the 20,033 cases, leaving 6,803 cases listed for trial in the Municipal Court system. See Table 20.

TABLE 20

Municipal Court Caseload	
Municipal Court Cases Considered	20,033
Cases Held for Grand Jury	7,689
Cases Dismissed at Preliminary Hearing	5,541
Actual Municipal Court Dispositions	6,803

Of the 6,803 actual dispositions, 2,823 (41%) resulted in acquittals or dismissals. In 2,122 cases (31%), the accused was found guilty as charged, while an additional 239 cases (4%) resulted in a conviction for a lesser offense. The total conviction rate was 35%. There were 1,619 cases (the remaining 24%) disposed of without trial, primarily by use of medical treatment programs for drug dependent defendants. See Table 21.

TABLE 21

Municipal Court Dispositions			
Total Cases Dismissed or Acquitted	2,823		41%
Total Cases Guilty as Charged	2,122	31%	
Total Cases Guilty of Lesser Offense	239	4%	
Total Cases Guilty	2,361	35%	
Transfers	1,619	24%	
Total Case Dispositions	6,803	100%	

Of the 2,361 cases resulting in conviction, 599 convictions (25%) resulted from guilty pleas. The remaining 1,761 cases (75%) resulted in conviction after trial. Of the 2,361 convictions, 121 (5%) resulted in prison terms of more than two years. An additional 306 cases (13%) resulted in prison terms of less than two years. Suspended sentences accounted for 91 dispositions (4%) of the total. Fines or court costs were imposed in 89 cases (4%). The remainder of the cases, 1,770 (74%), resulted in probation sentences. See Table 22.

TABLE 22

Municipal Court Sentences			
Sentences	Number of Cases	Percentage of Those Convicted	Percentage of Those Tried
Jail	425	18%	6%
Probation	1,770	75%	26%
Other	166	71%	3%

In summary, slightly less than two-thirds of cases involving drugs in the Municipal Court have resulted in dismissals, acquittals, or transfers. Of 6,803 cases brought to trial since 1969, a mere 6% (425 cases) have resulted in prison terms.

The acquittal rate has declined slightly over the past few years. In 1968, 65% of Municipal Court drug cases resulted in acquittals or dismissals, and only 3 out of 186 (2%) cases resulted in prison sentences. By 1971, the acquittal rate was down to 44%, although prison terms were only imposed in 7% of the 1,446 cases tried. In 1972, reflecting the beginning of the District Attorney's screening program, the acquittal rate dropped to 30% of 2,754 cases tried. Still only 9% of the cases tried resulted in prison sentences. In the first quarter of 1973, 873 cases were heard, 41% of which resulted in acquittals. Another development can be seen in the court's increased propensity to divert drug cases from the trial process to treatment and related programs. By 1972, nearly 25% of all cases were being handled in this manner:

While the acquittal rate appears to be falling, in 1971 the District Attorney began to screen out substantial numbers of cases destined for the Municipal Court; and if these cases were added to those actually disposed of by the court, the apparent decline in acquittal rate would disappear.

THE COMMON PLEAS COURT CASE DISPOSITIONS

Prior to July 1, 1971, the Common Pleas Court had jurisdiction over all hard drug cases which, at that time included marijuana and hashish, as well as cases involving second offenders with soft drugs.

From July 1, 1971, until July 6, 1972, all drug sales cases were tried in the Common Pleas Court. Since July 6, 1972, delivery (sales) and possession with intent to deliver cases in the Common Pleas Court have been limited to those involving hard narcotic drugs and second offense soft drug cases.

There were 14,345 drug cases disposed of in the Court of Common Pleas system between January 1, 1969, and March 31, 1973. Included in this number were 8,803 cases directly disposed of within the Common Pleas Court system and 5,541 cases destined for ultimate disposition within the Common Pleas system but dismissed at a preliminary hearing in Municipal Court during the same period. In addition, there were a few cases originally decided in the Municipal Court from which an appeal had been taken by the convicted defendant.¹⁰³ See Tables 23 and 24.

TABLE 23

Common Pleas Defendant Dispositions			
Total Cases Dismissed or Acquitted	9,782		68%
Total Cases Guilty as Charged	3,965	28%	
Total Cases Guilty of Lesser Offense	598	4%	
Total Cases Guilty	4,563		32%
Total Case Dispositions	14,345		100%

TABLE 24

Common Pleas Cases Dismissal Or Acquittal Dispositions		
Total Cases Dismissed at Preliminary Hearing	5,541	57%
Total Cases Dismissed Without Trial	1,971	20%
Total Cases Acquitted or Dismissed at Trial	2,270	23%
Total	9,782	100%

Of the 14,345 drug cases, 68% of 9,782 cases resulted in dismissal or acquittal. Verdicts of guilty as charged were rendered in 3,965 cases (28%), while 598 cases (4%) resulted in convictions on reduced charges. Of those 9,782 acquittals or dismissals, 5,541 (57%) were dismissed during preliminary hearings, 1,971 (20%) were dismissed without trial. There were 2,270 cases (23%) acquitted or dismissed in the course of non-jury trials, and ten more were found not guilty by juries.

Of the 4,563 cases resulting in conviction, 2,112 cases (46%) were disposed of by a guilty plea; 54% of these cases (2,433) were decided after a non-jury trial. Only 16 cases resulted in a jury verdict of guilty.

¹⁰³This creates a small problem of double counting, since the same case is reported as a Municipal Court disposition as well as here. However, the number is only a small percentage and does not impair the validity of the data.

Sentencing followed the pattern of the Municipal Court: 277 cases (6% of those convicted; 2% of those tried) resulted in prison terms of more than two years; 648 (14% of those convicted; 5% of those tried) resulted in prison sentences of less than two years. The total prison sentence rate was 20% of those convicted and 7% of those tried. 345 cases (8% of those convicted; 2% of those tried) resulted in suspended sentences; and 3,242 cases (72% of those convicted; 23% of those tried) resulted in probation. See Table 25.

TABLE 25

Common Pleas Sentencing		
Sentence	Percentage of Those Convicted	Percentage of Those Tried
Jail	20%	7%
Probation	72%	23%
Other	8%	2%
	100%	32%

Again, there are indications that the conviction rate has risen. During the first three months of 1973, only 28 out of 68 cases (41%) resulted in acquittals or dismissals, and 29% of those convicted were sentenced to prison terms.

With respect to sales charges, the Common Pleas Court disposed of 836 cases (including 125 Municipal Court dismissals at preliminary hearings). Of these, 369 (44%) resulted in acquittal, 400 (48%) were found guilty as charged while 53 (6%) were found guilty of a lesser charge. The total conviction rate was 54%. Fourteen cases (2%) were transferred; 189 resulted in a jail sentence (42% of those convicted, 23% of those tried), and 250 were put on probation (55% of those convicted, 30% of those tried).

EFFECT OF THE DISTRICT ATTORNEY'S SCREENING PROGRAM

In the above sections, a statistical "improvement" in the performance of the judicial system is reflected if measured by acquittal rates and the percentage of cases resulting in jail sentences. The cause of this statistical change at the judicial end of the criminal justice system rests with the activities of the Legal Counseling Division of the District Attorney's office. As will become apparent, it does not result from improved police performance.

Since August of 1971, the Division of Legal Counseling of the District Attorney's office has been "screening" arrests made by the police. In an effort to reduce the load on the court system and increase the efficiency of the law enforcement agencies, representatives of the District Attorney's office have reviewed the facts and details of all narcotics arrests prior to transporting those arrested to the Police Administration Building for preliminary arraignment. At this stage, the District Attorney's office has released or caused their release at the preliminary arraignment by withdrawing prosecutions of those individuals who were arrested on questionable grounds, whether arrested illegally, with insufficient evidence, or insignificant amounts of controlled substances in their possession.

The primary effect of this program, as noted above, has been to increase the "quality" of cases brought before the courts. By "weeding out" cases instituted by the Police Department that would otherwise result in dismissal of charges, the District Attorney's office has removed a large part of the potential and wasteful caseload from the courts.

In addition, the screening program serves as a measure of the "quality" of the arrests made by the police, since a rejected arrest is one not considered either serious enough or likely to result in a conviction.

In 1971, the overall arrest approval rate in drug cases was 52%, i.e., slightly over half of those individuals picked up on drug charges went into the system. In 1972, the rate dropped to 46%, and in 1973, through March, it has dropped even lower to 43%. Thus, at present, the District Attorney's office seems only a little better than four in ten drug arrests adequate to process for judicial consideration.

CONCLUSIONS

The overwhelming majority of those persons arrested by the Police Department are individuals simply in possession of controlled substances. The police rarely arrest individuals involved in the unlawful sales of controlled substances. This fact, and the large and increasing number of cases diverted to treatment, indicates that most police arrests involve addicts.

The volume of police generated cases is very high, 28,228 cases from January 1, 1969, through March 31, 1973. They are, however, often based on unconstitutional or improper police conduct, insufficient evidence, or an inadequate quantity of drugs involved. This is demonstrated by the pre-trial dismissal

rate, as well as by the District Attorney's program of prearrest review of all detentions by the Police Department which has resulted in the current dismissal rate of over one-half of all police arrests prior to formal charges being filed against the potential defendant.

The overall conviction rate of approximately 25% of the cases instituted by the Police Department indicates an inefficient and poor allocation of the criminal justice system's resources.

An Examination of Police Drug Law Enforcement in the East Police Division

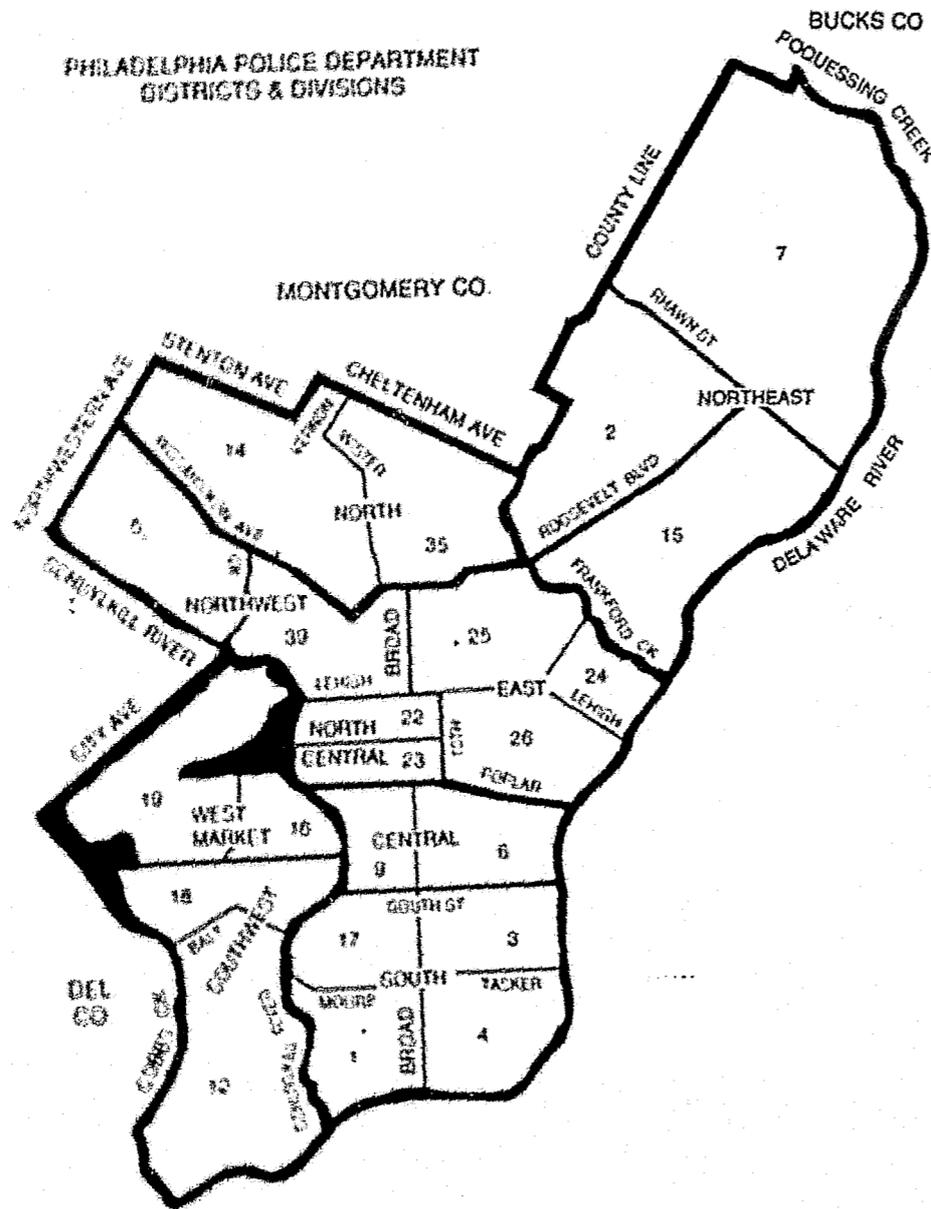
A case study was made of the Philadelphia Police Department's narcotics control performance within the East Police Division in order to gain insight into the Department's performance as reflected in its arrests, the types of people arrested, the drugs and quantities involved, the techniques used in drug arrests, and what happens to those arrested when the Department's cases are disposed of in court.

PROCEDURE

The 24th, 25th, and 26th Police Districts which comprise the East Division serve part of Philadelphia's Lower Northeast, sections of North Philadelphia, and virtually all of Kensington. The area includes residents of black North Philadelphia, working class white ethnics who have been the long established residents of Kensington, and middle class whites and some blacks who live in the relatively more recently developed area of the Lower Northeast. See the accompanying map for the relative geographic location of these districts.

The area is defined roughly by Census Tracts #144 through #181, which, in 1970, had a total population of 151,556. 72.8% of the population of the area was white, 25.6% black, and 1.6% was of recent Spanish extraction. These percentages compare with City-wide percentages of 65.0% white, 33.5% black, and 1.4% Hispanic. The area covered by the three districts in 1970, had an unemployment rate of 4.9%, close to the City-wide rate of 4.8%. However, the average family income of approximately \$8,000 was significantly lower than the \$9,500 City-wide average, demonstrating the lack of high-income residents among the hard working population of the area. However, with the exception of high-income residents, the study population is close to a cross-section of the population of the City.

PHILADELPHIA POLICE DEPARTMENT
DISTRICTS & DIVISIONS



The study population includes only the 265 adults who were arrested and prosecuted for violation of the drug laws in any of the three police districts under study, and adult residents of the three districts who were arrested for drug law violations in other areas of the City during the first six months of 1972.¹⁰⁴

For each of the 265 individuals,¹⁰⁵ court records and criminal

¹⁰⁴It was anticipated that some sort of sophisticated statistical summary of drug conditions in the sample area would be available, or at least obtainable, from existing criminal justice records systems. This was not the case, however, since the current non-police department systems lack the efficiency and inter-connections needed for even the analysis presented; also at the time this study began, the Philadelphia Police Department would not give the Strike Force voluntary access to its computer.

Thus, it became necessary to extract information from several sources, combine, and code it before any analysis was undertaken. This process led to the discovery of deficiencies in current record maintenance systems that hampered the progress of the project and, more seriously, indicated basic weaknesses in current data systems utilized by the courts, and, as later discovered, reflected similar defects in the Police Department's own computer system utilization.

The study population originally was to include all individuals, juvenile and adults, within the study area who, during the first six months of 1972, were arrested for violation of the Controlled Substance Act by the Philadelphia Police Department. Unfortunately, it was impossible to obtain complete information with respect to the cases involving each of these individuals due to the low quality of data storage and record maintenance systems employed by the Philadelphia criminal justice system. This situation made it necessary to glean and assemble as much information as possible from individual sources, including the offices of the Court Administrator, the Clerk of Quarter Sessions, and the District Attorney.

Juveniles arrested for drug violations in the study area or living in the study area and arrested for drugs in other areas of the City were also to be included in the study population; however, due to special restrictions on Family Court data, it was not possible to obtain most of the data called for regarding the juvenile element of the study population. Therefore, it was not possible to perform a statistical analysis of the younger segment of the area's drug using population.

In addition to those individuals formally arrested by the Police Department and prosecuted, the study population was to include individuals arrested by the police but released on the basis of a review of the case by the District Attorney's screening program, which, since 1971, has reviewed all drug arrests before an individual is formally charged. Unfortunately, the data contained in the screening program's files did not contain sufficient information about the arrests rejected to identify every individual who should have been included in the study population, let alone all the data required for the statistical analysis performed on the study population.

On the basis of the District Attorney's overall City-wide drug arrest rejection rate of 54.2% for 1972, the number of individuals "screened out" may be even higher than the total of those actually arrested, prosecuted, and included in the study population.

At least 260 juvenile cases are not included in the analysis below, and at a minimum another 110, perhaps as many as 275, individuals who were detained by the police and released by the District Attorney could not be included in the study population because of inefficiencies in the existing record systems.

¹⁰⁵The vast majority of the 265 adults arrested were arrested for conduct in the three districts. See Table 26 *infra* at 652.

extracts were examined. In addition to the identifying data for each individual, information pertaining to details of the arrest, prosecution, and disposition of each case was recorded and later coded for analysis by computer.¹⁰⁶

The coded information for each case was transferred to a computer card. The resulting deck of 265 cards was then processed and analyzed utilizing the Statistical Package for the Social Sciences, a computer program used widely to analyze various population characteristics.

THE INDIVIDUALS ARRESTED

Between January 1, and June 30, 1972, approximately 377 adult individuals were arrested for some violation of the drug laws within this three district sample. Of these, some 112 persons' cases (29.7%) never reached the court system because of the District Attorney's rejection during its screening program.

A district by district breakdown of the 265 arrests (Table 26) reveals a clear disproportion in the distribution of number of arrests within the combined data sample.

TABLE 26

District of Arrest	District Breakdown of Arrests vs. Census		Population (1970 Census)	Percentage of Population Sample
	Number of Arrests	Percentage of Total Arrests		
24th	24	9.1%	27,882	18.4%
25th	80	30.2%	41,659	27.5%
26th	109	41.3%	82,015	54.1%
Other	18	6.8%		
Not Recorded	34	12.8%		
Total	265	100.0%	151,556	100.0%

As is clear from Table 26, over 41% of the arrests made occurred in the 26th Police District, whose population accounts for approximately 54.1% of the sample's total. A somewhat higher ratio of arrests in a less populated district is evidenced in the 25th District where 30.2% of all arrests were recorded within 27.5% of the total population. The 24th District, the

¹⁰⁶Due to the incompleteness of many of the files and the irregularity in which they were maintained, it was not possible to obtain all of the information needed in every one of the cases. This has resulted in apparent statistical differences causing the computer to produce different totals and percentages when different variables are employed.

smallest in geography and populace (18.4%), had only 9.1% of all arrests.

More than five times the number of males than females were arrested for drug offenses, as only 15.5% of the total number arrested were female.¹⁰⁷ See Table 27.

TABLE 27

	Sex Breakdown		
	Male	Female	Missing
Number	222	41	2
Percentage of Sample	83.8%	15.5%	0.7%

The age distributions for the total population were broken down into five distinct age groups as is reflected in Table 28.

TABLE 28

	Age Breakdown					Missing
	10-17 years	18-22 years	23-27 years	28-32 years	33+ years	
Number	1	126	72	37	25	4
Percentage of Sample	0.4%	47.5%	27.2%	14.0%	9.4%	1.5%

The largest concentration of individuals arrested fell within the 18 to 22 year old age range. The average age of the sample individuals was approximately 23 years. While relative youth seemed to prevail in this study, 6 persons (24.9% of the total) were 28 years of age and above.

The race or ethnic origin of those arrested was divided into white, black, and other (usually reflecting Puerto Ricans) categories. See Table 29.

TABLE 29

	Race Breakdown			
	Black	White	Other	Missing
Number	117	116	30	2
Percentage of Sample	44.2%	43.8%	11.3%	0.7%

¹⁰⁷This fact, however, should not necessarily lead one to conclude that women seldom abuse drugs. Rather, it reflects the enforcement techniques employed to apprehend narcotics offenders and the failure to use policewomen.

Given that 43.8% of these arrested were white, the percentage of blacks arrested does not appear unusual, except when viewed in relation to the population census for the area in question. Only 25.6% of the combined population of the 24th, 25th, and 26th Districts was black. This finding can be more clearly illustrated by breaking each district into its racial components. See Table 30.

TABLE 30

	Race by District ¹⁰⁸			Percentage Black Population
	White Arrests	Black Arrests	Other Arrests	
24th Division	23 95.8%	1 4.2%		4.63%
25th Division	36 46.2%	31 39.7%	11 14.1%	34.7%
26th Division	42 38.5%	55 50.5%	12 11.0%	32.6%

The 24th District, having only 4.63% black inhabitants, reported only one arrest involving a black. The 25th and 26th Districts supporting somewhat larger black communities (34.7% and 32.6% of their populations respectively) accounted for the remaining 86 arrests involving blacks as compared to 78 white arrests in these same districts.

Of striking significance is the sample's high incidence of previous involvement with the criminal justice system. See Table 31.

TABLE 31

	Total with Record	Total Without Record ¹⁰⁹	Criminal Record			Total Missing
			1-2 Arrests	3-5 Arrests	6-9 Arrests	
Previous Arrests	195	68	67	54	74	
Previous Drug Arrests	74.1%	25.9%	25.5%	20.5%	28.1%	
Previous Drug Convictions	134	129	82	34	18	
Previous Drug Convictions	51.0%	49.0%	31.2%	12.9%	6.8%	
Previous Drug Convictions	87	176	66	20	1	
Previous Drug Convictions	33.0%	66.0%	25.0%	7.6%	0.4%	

¹⁰⁸In addition to the data contained in this Table, there were 64 cases with insufficient data available to be included in this Table.

¹⁰⁹The figures in this column result from a failure to find a criminal record in the Philadelphia Police Department's record system.

CONTINUED

7 OF 10

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	Total with Record	Criminal Record			Total Missing	
		Total Without Record ¹⁰⁹	1-2 Arrests	3-5 Arrests		6-9 Arrests
Previous Arrests	195 74.1%	68 25.9%	67 25.5%	54 20.5%	74 28.1%	2
Previous Drug Arrests	134 51.0%	129 49.0%	82 31.2%	34 12.9%	18 6.8%	
Previous Drug Convictions	87 33.0%	176 66.9%	66 25.0%	20 7.6%	1 0.4%	

¹⁰⁸In addition to the data contained in this Table, there were 64 cases with insufficient data available to be included in this Table.

¹⁰⁹The figures in this column result from a failure to find a criminal record in the Philadelphia Police Department's record system.

Looking first at the complete arrest histories of the subjects, 74.1% of all those arrested had a history of some previous criminal arrest; 28.1% had over six previous arrests. Of these 195 persons with arrest records, 134 (68.7%) had been arrested for some previous drug violation. Furthermore, 64.9% of these 134 persons had been convicted at least once on a drug charge.¹¹⁰

The findings reveal that arrest victims are most often young males, usually within the 18 to 22 year old age range, disproportionately black, and have some prior criminal record, very often drug related.¹¹¹

THE DRUGS SEIZED

As Table 32 shows, heroin was the drug most frequently seized by the Department. In 171 cases, over 64% of all cases, and 117 more instances than the next closest competitor,

¹¹⁰Although there is disagreement over the nature of the connection, there is certainly a connection between crime and addiction. To become an addict one must have access to drugs; and, outside of the health professions, drugs are available mainly through contacts with criminals. Some prior contact with criminality is therefore a necessary condition of addiction for most addicts. Authorities agree that there is also a causal connection in the opposite direction. At least three ways in which crime results from addiction have been suggested. First, drug addiction *per se* causes a relentless destruction of character and releases criminal tendencies. Others hold that it is the laws and attitudes of society that are responsible for the increase of crime associated with addiction: first by defining as crime the behavior which is part of addiction (e.g., possession of heroin), and second by making drugs expensive so that addicts are forced by their need of money to commit crimes they would not have committed in a different social situation. Others argue that many addicts were criminals before they became addicts and imply that they would have continued to commit crimes whether or not they had become addicts. While these theories fail to clarify this dilemma, they certainly support the contentions that there is a flourishing association between drug use and crime and that basically the criminal law approach practiced in Philadelphia appears to have little impact in stemming its continuation and growth.

¹¹¹While neither black nor white arrests predominated numerically, the ratio of black arrests to the black population far exceeded that of the white sample. The implications of these findings are unclear. However, they raise a question of police tendencies toward arrest of blacks.

Due further consideration are the questions of feminine involvement in the illicit drug scene and police performance in connection with women drug offenders. The high incidence of defendants having had previous involvement with the criminal justice system, especially drug related crimes, is most striking. This implies a serious failure on the part of the criminal justice system to discourage reinvolvement in the drug scene by previously tried and convicted drug offenders.

From a different perspective, inquiries into police practices are mandated. From the high number of repeat arrests, it appears that the police may maintain surveillance on individuals recently arrested or released from custody or, more disturbing may make "spot checks" of those who are familiar to them, which may involve unconstitutional searches or seizures.

TABLE 32¹¹²
Type of Drug Seized

Type of Drug Seized	Number	Percent of Drug Seizure Cases
Heroin	155	70.8%
Marijuana	24	11.0%
Solvents	13	5.9%
Methadone	1	0.5%
Dangerous Drugs	9	4.1%
Heroin and Marijuana	10	4.6%
Heroin and Dangerous Drugs	6	2.7%
Controlled Substance Act	1	.5%
Missing includes use charges	46	

heroin was the substance seized. On 24 occasions, (9.1%) of all arrests, marijuana was the incriminating evidence. The other drug of consequence was industrial solvents (toluene). While there were only 13 cases in which solvents were actually confiscated, charges of illegal use of solvents were brought against 42 defendants.¹¹³ See Table 33.

TABLE 33
Industrial Solvents Users
(where drug was seized)

Age	Race		
	White	Black	Other
10-17			
18-22	11		
23-27			2

Surprisingly few arrests for possession of marijuana were recorded within the three district sample.¹¹⁴ Only 9.1% of the total number of arrests involved marijuana, but even those

¹¹²The array of drugs delineated in the table is indicative of some of the drugs available in the area though is not necessarily all inclusive nor an accurate representation of drug abuse. The categories are generally self-explanatory with the possible exception of "dangerous drugs." Hallucinogens, barbiturates, amphetamines, and other pills fall into this division, although no significant amounts were actually seized. The subdivisions, "heroin and marijuana" and "heroin and dangerous drugs" will be consolidated with the category "heroin" to afford a more complete picture for subsequent comparisons.

¹¹³The illegal use of toluene (industrial solvents), or huffing as it is known to users, poses a serious threat primarily to the younger white inhabitants of the Kensington community. Continued use, say medical researchers, may result in gradual brain damage and ultimately death.

¹¹⁴The low percentage of marijuana arrests results from the large number of these detentions terminated at the District Attorney's request during screening.

cases which did lead to formal charges resulted largely from seizures of small amounts. See Table 34.

TABLE 34

Marijuana Arrests—Amount Seized				
1-5 doses	5-15 doses	1 oz.	More than 1 oz.	Amount Missing
11	4	2	5	2

While heroin use knows no boundaries, be they geographical, economic, or racial, and represents the very cornerstone of the illicit drug market, Table 35 which breaks down heroin arrests by district reveals some differences between the three districts.

TABLE 35

District	District Breakdown—Heroin Arrests		
	24th	25th	26th
No. of Heroin Arrests	11	53	73
% of Total District Arrests Where Drug Seized is Known	57.9%	71.6%	84.9%
Population	27,882 (18.4%)	41,659 (27.5%)	82,015 (54.1%)
Total Population = 151,556 (100%)			

As Table 35 shows, there is a simple incremental increase in the number of heroin arrests, proceeding from the 24th to the 25th to the 26th Police Districts, consistent with the population differences between the respective districts. However, the percentage of heroin arrests within each district differs widely.

Examination of district statistics by race shows that in the 25th District, where 39.7% of all those arrested were black, 50.9% of the persons arrested for heroin were black. See Table 32. Similarly, in the 26th District, where 50.5% of those arrested for all drug crimes were black, 63% of the individuals arrested for possessing heroin were black. Of the total of 171 heroin arrests in this study, 95 arrests (55.5%) were of blacks. Moreover, of the 117 black arrests in this study, 81% were for heroin involvement.

A situation similar to that of the blacks in this study is present in regard to the race classification "Other (primarily Puerto Rican). Of the 30 cases involving persons within this category, 24 (80%) were arrested for heroin.

TABLE 36

District	Heroin Arrests for Blacks		
	24th	25th	26th
No. of Arrests	11	53	73
% Pop. Black	46.3%	34.7%	32.6%
No. of Black Arrests	—	27	46
% of Blacks Arrested	—	50.9%	63%

Table 37 reveals that rarely were any significant quantities of drugs seized by the Department in connection with arrests.

TABLE 37

Number of Doses	Amounts Seized in Dosage Units ¹¹⁵						Missing
	1-5	5-15	15-50	50+	Marijuana 1 Oz.	Marijuana more than 1 oz.	
Number of Arrests	90	45	41	21	2	5	61
Percentage of Cases Where Amount of Drugs Seized was Recorded	44.1%	22.1%	20.1%	10.3%	1.0%	2.5%	

Sixty-one of the police arrest files lacked data on the quantity of drugs seized. Of the remaining 204 arrests, approximately 66.2% yielded minimal seizures (1-15 doses) and two-thirds of the cases below 15 dosage units involved from one to five doses.

The correlation between the amounts of drugs seized and the race of the defendant is interesting and is set forth in Table 38.

TABLE 38

No. of Doses	Amount Seized by Race			
	1-5	5-15	15-50	50+
White	36	16	11	4
Black	42	25	28	7
Other	11	3	2	10

Evaluating the larger seizures (15 to 50 and more doses), 22.4% of the whites arrested were found holding relatively

¹¹⁵For heroin, 25 units (known as bags) generally equal 1 bundle, which sells for \$100 to \$135 per bundle. When sold individually, a unit or bag can sell for \$8 to \$10 each. The unit price for marijuana is \$5 a bag, and it is the same for methamphetamine (speed).

large quantities of drugs; 34.3% of the blacks arrested were found holding amounts exceeding 15 doses. Surprisingly, 46.2% of the others charged (primarily Puerto Ricans) possessed large quantities of drugs, usually heroin. Furthermore, of the 21 instances recorded where amounts exceeding 50 doses were captured, 10 cases involved Puerto Ricans, while only 7 blacks and 4 whites were arrested.

Overall, relatively few cases were recorded involving drugs other than heroin. Marijuana and industrial solvents arrests accounted for only a minimal percentage of the total number of arrests. Furthermore, rarely were any significant quantities of any drugs seized.

ARREST DATA

This subsection will consider the nature of police action as reflected in the sample cases. Table 39 indicates that non-uniformed and uniformed police officers were almost evenly divided in the number of arrests made.

TABLE 39

	Units of Arresting Officers	
	No. of Arrests	Percent Total
Uniformed	127	47.9%
Non-Uniformed	115	43.4%
Missing data	23	8.6%
	265	100%

However, each district reflects a different arrest pattern situation. Table 40 presents a district breakdown of arrests by whether the officers making those arrests within their representative districts¹¹⁶ were in uniform. Beginning with the 24th District statistics, 69.6% of all arrests were made by uniformed police officers. Only 8.7% involved district undercover personnel, with 21.7% of the arrests attributed to the Police Department's Narcotics Unit.

In the 25th District, 46.3% of all arrests were effected by uniformed patrolmen, while district undercover men accounted

¹¹⁶Records were often incomplete, especially in regard to the amounts of drugs seized during arrests and the unit of the officer making the arrest. The tables in this subsection reflect these missing cases. Thus, the percentages listed were calculated from the total number of cases which contained the necessary data and not the actual number of cases.

TABLE 40

Unit of Officer by District of Arrest	26th District		
	24th District	25th District	26th District
Uniformed	16 (69.6%)	37 (46.3%)	48 (44.0%)
Non-Uniformed	2 (8.7%)	18 (22.5%)	38 (34.9%)
Narcotics Unit	5 (21.7%)	17 (21.3%)	14 (12.8%)
Other Uniformed Commands		5 (6.3%)	9 (8.2%)
Missing		3 (3.7%)	
Total	23 (100.0%)	80 (100.1%)	109 (99.9%)

for some 22.5% of the total. Another 21.3% of the total arrests in this district resulted from the actions of the Narcotics Unit and five arrests (6.3%) were carried out by uniformed officers assigned to other district commands.

A slightly greater degree of involvement by district undercover personnel is evidenced in the 26th District statistics, where plainclothesmen made some 34.9% of all drug arrests. Regular officers, however, still accounted for the greater percentage of arrests, 48.4% of the district total. Surprisingly, in this district, which boasts the greatest number of arrests within the combined sample, the Police Department's Narcotics Unit participated in relatively few arrests: only 14 (12%). Uniformed officers of other districts arrested 7 more persons (6.4%) in the 26th District.

The third arm of narcotics law enforcement in Philadelphia is the Narcotics Unit, operating throughout the entire City. The statistics indicate that this unit was responsible for some 18.5% of the total number of arrests made. In the 24th and 25th Districts, they accounted for 21.3% of the drug arrests in each area, while in the 26th District they were involved in only 12.8%.

The critically important factor in evaluating police performance is the quality of arrest as measured by the type and amount of drugs seized and conviction rate of those arrested. Table 41 provides a breakdown of the arrests made by uniformed and non-uniformed officers according to the amount of drugs seized per arrest for the entire sample.

Although undercover personnel accounted for larger drug seizures (15-50+ doses), the difference is rather insubstantial (30 for non-uniformed vs. 27 for uniformed) and provided little basis for hypothesizing any qualitatively better per-

TABLE 41

Dosage Units	Amounts Seized by Arresting Unit			
	1-5	5-15	15-50	50+
Uniformed	41	18	20	7
Non-Uniformed	44	26	17	13

formance by undercover units. What does emerge, however, is the finding that in general neither uniformed nor non-uniformed officers fared well in confiscating large quantities of drugs. Fifty-nine of the 86 arrests carried out by uniformed police and 70 of the 100 arrests effected by undercover agents resulted in minimal quantities being seized.

Table 42 represents a district by district breakdown of arrests by specific units within each district, and the amounts confiscated by these units in the course of their arrests. Looking first to the 24th District data, 66.7% of the total number of arrests brought minimal amounts of drugs (1-15 doses), while five arrests (27.8%) involved slightly more substantial quantities (15-50 doses). Table 42 also discloses that 9 of the 10 arrests reported as being made by uniformed officers yielded relatively small amounts of drugs.

Proceeding to the 25th District, in 67.6% of all arrests only 1 to 15 doses was confiscated. Uniformed patrolmen seized small quantities in 79.2% of their arrests, while in 82.4% of the arrests in which undercover personnel participated only minimal amounts were taken.

TABLE 42

District of Arrest by Unit by Amount of Drugs	1-5		5-15		15-50		50+	
	Cases	%	Cases	%	Cases	%	Cases	%
24th District	11	61.1%	1	5.6%	4	22.2%	1	5.6%
Uniformed	8	80%	1	10%	1	10%		
Non-Uniformed	2	100%						
25th District	27	39.7%	19	27.9%	9	13.2%	9	13.2%
Uniformed	14	48.2%	9	31%	4	13.7%	2	6.8%
Non-Uniformed	8	47.0%	6	35.4%	3	17.7%		
26th District	35	43.8%	14	17.5%	21	26.3%	8	10%
Uniformed	12	44.4%	5	18.5%	9	33.3%	1	3.7%
Non-Uniformed	20	60.6%	5	15.1%	7	21.2%	1	3.3%
Narcotics Unit	14	30.4%	15	32.6%	5	10.8%	12	26%

The above trends continue in the 26th District, where 61.3% of all arrests yielded amounts not exceeding 15 doses. In 62.9% of the arrests carried out by uniformed police and 75.7% involving undercover men only small quantities were confiscated.

Although the Police Department's Narcotics Unit also arrests a number of comparatively small quantity drug dealers and

users, it did demonstrate a greater measure of success in seizing larger quantities of drugs. In 17 cases, 7 more than the closest rival, amounts ranging from 15 to 50 and above doses were seized. Moreover, in 12 of these 17 arrests, drugs exceeding 50 doses were seized.

The formal charges brought against those persons arrested by the 24th, 25th, and 26th District police are primarily possession charges. Table 43 provides a breakdown of arrests by the unit of the officer making the arrest in each particular district and the charges resulting from those arrests.

TABLE 43

Unit of Officer by Crimes Charged

	24U*	24NU**	25U	25NU	26U	26NU	Narc. Unit	Other U
Poss.	8	1	25	15	22	24	35	16
Sales	1		1			3	1	1
Sales & Poss.		2	3	2	3	10	11	2
Other	8		6		22	1		1

*U—Uniformed

**NU—Non-Uniformed

Starting again with the 24th District, 10 of the 11 cases initiated by uniformed officers resulted in a charge of illegal possession. Only one charge involving illegal sales was recorded. The arrests by non-uniformed police operating out of the 24th District brought one charge of illegal possession and two charges of illegal sales and possession.

Both the 25th and the 26th Districts recorded a similar overwhelming number of possession charges, regardless of the units making the arrest. Possession charges predominated in those arrests made by the Narcotics Unit as well. This Unit did, however, record the greatest percentage of sales charges with respect to the total number of arrests in which they participated; 12 of their 47 arrests were based upon sales charges.

TABLE 44

Crimes Charged

Poss.	Sales	Sales & Poss.	Controlled Sub. Act	Ill. Use Solvents	Missing
164	7	43	4	42	15
61.9%	2.6%	16.2%	1.5%	15.8%	1.9%

As can be seen in Table 44, 61.9% of all charges brought against the defendants were for illegal possession alone. Only 50 cases (18.8%) involved a charge of sales.

Table 45 demonstrates that charges of illegal possession also resulted largely from seizures of small quantities of drugs.

TABLE 45

Crimes Charges by Amount Seized

	Possession	Sales	Sales and Possession
1-5 doses	58	6	22
5-15 doses	34	1	4
15-50 doses	31		5
50+ doses	14		5

Other indicators of police policy and performance quality are the law enforcement techniques used by the police in effecting arrests. Search warrants and undercover buys were used with relative infrequency, leaving sight arrests as the predominant law enforcement tool. See Table 46.

TABLE 46

Search Warrants

Used	Not Used	Missing
41	156	68

Finally, the statistics in Table 47 depict the time of day when the arrests occurred. As is obvious, there is a considerable difference between the number of arrests made in the daylight hours and those taking place at night. 39.5% of the arrests in which time was recorded were made between the hours of 6 a.m. and 6 p.m. 43.7% of these arrests actually occurred between 6 p.m. and 12 p.m., and only 16.7% of these arrests were made between 12 a.m. and 6 a.m.

TABLE 47

Time of Arrest

	12 a.m.—6 a.m.	6 a.m.—12 p.m.	12 p.m.—6 p.m.	6 p.m.—12 a.m.
Missing	50	36	25	60
	16.7%	11.6%	27.9%	43.7%

The findings of this section illustrate the actual nature and quality of the Philadelphia Police Department's drug law enforcement objectives.

The majority of arrests made within each respective district were carried out by uniformed officers. The conspicuousness of a uniform or a patrol car must to some extent limit the potential capabilities of the police officer, suggesting that many arrests, had to be "sight arrests." As might be expected in street arrests, the officer's actions yielded minimum quantities of drugs. Consistent with these seizures of primarily small amounts is the high incidence of illegal possession charges and the absence of many sales charges.

Undercover personnel participated in a significant number of arrests; however, they too demonstrated an inability to confiscate larger amounts of drugs or bring about charges involving illegal sales.

The Narcotics Unit fared somewhat better in making larger seizures and arrests leading to sales charges but still recorded a great percentage of smaller amounts seized.

The similarity in the performance of uniformed and non-uniformed police indicates a consistent police policy towards combating drug abuse. Search warrants and undercover sales tactics are seldom used with sight arrests remaining the predominant law enforcement technique for all units.

COURT DATA

Table 48 represents a breakdown of Municipal Court cases into sub-groups described by specific crimes charged¹¹⁷ and their disposition.

Looking first at those persons charged with illegal possession alone, some 54.2% were found guilty. Of these 83 convicted defendants, 78 (94.0%) were sentenced to probation terms not exceeding two years. Only three persons were given prison sentences.

On the charge of illegal sales alone, not one person was found guilty; however, three individuals were convicted of both sales and possession. Of these, only two have as yet been sentenced, both resulting in probation terms: one of two years and the other of more than two years. The final category represents persons charged with illegal use of solvents. Twenty-two of the 41 defendants were found guilty. Of these, 14 were sentenced to less than one year probation. Six persons were sentenced to terms of one to two years probation and one individual to a term of more

¹¹⁷In this section, the number of cases is approximately 70% of the potential number because of the District Attorney's screening program.

than two years probation. No sentence was imposed in the remaining case.

TABLE 48
Municipal Court Disposition & Sentences by Crimes Charged

	Guilty	Not Guilty	No Disposition	Miss.	Less 1 yr. Probation	1-2 yr. Probation	More 2 yrs. Probation	Less 1 yr. Prison	1-2 yrs. Prison	More 2 yr. Prison	No Sent.	Missing
Poss.	83	57	8	5	32	41	5	2	1		4	4
Sales		3	1	3								
Sales & Poss.	3	7	24	7		1	1					
Other (solvents)	22	17	1	1	14	6	1				1	1

Forty-eight cases reached the Common Pleas Court by way of appeal or direct action. See Table 49. Of these, 26 resulted in convictions. In 7 out of the 18 possession cases, there were convictions; probation terms were imposed in 4 out of the 7 cases, while one defendant was sentenced to less than one year in prison, and the remaining two were not yet sentenced at the time of this study.

TABLE 49
Common Pleas Disposition and Sentences by Crime Charged

	Guilty	Not Guilty	No Disposition	Miss.	Less 1 yr. Probation	1-2 yr. Probation	More 2 yrs. Probation	Less 1 yr. Prison	1-2 yrs. Prison	More 2 yr. Prison	No Sent.	Missing
Poss.	7	9	2	2	2	2		1			2	
Sales	3	1				1	1				1	
Sales & Poss.	14	4	3			4	6		2	1	2	
Other	2	3			1				1			

There were four sales cases heard in Common Pleas Court, three of which brought guilty verdicts. Defendants in two of these cases were sentenced to probation while the other was not yet sentenced at the time of this study.

On the charges of sales and possession, 14 out of 21 persons were convicted. Ten of these individuals were placed on probation, up to two years maximum. Three others received prison sentences.

Only five solvents cases were decided at this level, returning two guilty verdicts. One probation term and one prison term were imposed.

Overall, 118 of the 134 defendants convicted on various charges received probation terms of various durations, some of which demanded attendance at medically supervised drug rehabilitation programs.

CONCLUSIONS

The findings presented in this study are similar to the overall historical court disposition data discussed above and provide a

basis for questioning the nature of police policy and the quality of police performance in drug matters.

Recurring throughout these statistics is the finding that regardless of who made the arrest, generally, the amount of drugs seized was small. This indicates that the Philadelphia Police Department is carrying out a drug law enforcement program directed at the lowest levels of the drug trade hierarchy. Since uniformed police make most arrests, the Department's officers are likely to make "sight arrests" which are unlikely to yield a significant amount of drugs or lead to the arrest of anyone else.

The infrequency of employing standard law enforcement tools, such as search warrants and undercover sales operations, serves further to explain the Department's failure to arrest major drug dealers.

Turning to the disposition data, the court system is quite often singled out as the villain in the drug law enforcement system. Its proclivity to impose probation terms, as opposed to other sentences, is considered by many to be responsible for the ineffectiveness of the of the criminal justice system in dealing with drug abuse. However, judicial dispositions are contingent on the performance of the police and the District Attorney. Since most arrests involve small quantities of drugs and result in more charges of illegal possession, judges by and large have justifiably chosen to impose probationary sentences when defendants are convicted. From this reality, the question of proper police drug control policy and emphasis becomes critical.

The issues raised here are based upon statistical data. The answers to these questions are more difficult to ascertain. The next section will provide some answers, as it analyzes the Department's actual narcotics control effort.

THE DEPARTMENT'S NARCOTICS CONTROL EFFORT

Policy

The basic narcotics control policy of the Department is disarmingly simple. As Captain Joseph W. Orbell, director of the Department's Narcotics Unit, said, the policy is the "suppres-

sion of crime and apprehension of criminals."¹¹⁸ In theory, this includes the apprehension of all violators of the Controlled Substance Act.

This specific policy has been in effect with respect to drug law enforcement since at least the beginning of 1970. On January 28, 1970, the Deputy Commissioner for Uniformed Forces issued Order No. 70-4 providing that all drug law violators are to be thought of as equally important and that the Narcotics Unit of the Department was not to be the exclusive law enforcement unit concerned with drug control:

1. You are reminded that it is the responsibility of *all police personnel* to be constantly alert for, and *take action against*, all violations of the Narcotics Drug laws.

* * *

4. You shall make it emphatically clear to all plain-clothesmen and uniform personnel that narcotics enforcement *will not* be left to the Narcotics Squad exclusively.¹¹⁹

While this official policy of indiscriminant arrest of all alleged drug violators has continued to the present, it does not embody the actual narcotics control efforts of the Department. The actual effort is based on a slightly more selective theory of drug control law enforcement which Captain Orbell phrased as follows:

. . . The primary targets of the Philadelphia Narcotic Unit are the street level drug pusher and the street level drug possessor. With the present manpower, equipment and monies allotted to the Philadelphia Narcotic Unit, it is felt that the flow of drugs can be

¹¹⁸Testimony of Captain Joseph W. Orbell before the Pennsylvania Crime Commission, August 17, 1973, N.T. 69 [hereinafter cited as Orbell, August 17, 1973].

¹¹⁹Memorandum dated 1/28/70 from Robert J. F. Selfridge, Deputy Commissioner, to the following: The Police Commissioner; Chief Inspector, Patrol Bureau; Chief Inspector, Special Patrol Bureau; Chief Inspectors, Command Inspections Bureau; Commanding Officers—Central, North Central, South, East, West, Northwest, Northeast, Traffic and Tactical Division; Police Radio; and Research and Planning (emphasis in original). On June 16, 1971, a year and one half later, a similar memorandum was again authored by Deputy Commissioner Selfridge and widely distributed.

suppressed by elimination of the street level source and possessor.¹²⁰

This priority, that of the arrest of low level users and addicted pushers, permeates the entire Department and has done so for quite a while:

Q: Is that [addicts and street level drug pushers] also the primary target . . . of all the other policemen in Philadelphia?

A: I would say that's probably correct, yes. They probably do much better at the street level drug possessor than the street level pusher, but certainly, when an occasion arises that they can arrest a pusher, they do.

Q: To the best of your knowledge how long has this been the basic policy of the Department in dealing with the drug problem?

A: I don't know. It seems to me that this has always been the policy of the Police Department, but I'm basing that strictly as my opinion, I'm basing it on what they had done prior to my coming in there and what they have done since my being there.

Q: Now, do you have this policy and goal as a result of restrictions placed upon you because of lack of money, or is this a goal which you would have even if you had money necessary to, say, go higher up on the chain?

¹²⁰From a statement of Narcotics Unit operation responsibilities prepared for Police Department use by Captain Orbell, Commander of the Narcotics Unit. Other Department management personnel do not necessarily agree with this. For example:

Q: Do people usually do time related to sales cases or related to possession cases, or is there any difference?

A: I would say it is in favor of sales.

Q: So a sales case is more likely to lead to jail sentencing if there is a conviction?

A: That is right.

Q: Would you say that that should be the basic goal of a police department's Narcotic Unit?

A: Yes I would say so, yes."

Testimony of Captain John J. Clark before the Pennsylvania Crime Commission, October 10, 1973, N.T. 128-129 [hereinafter cited as Clark].

A: No, I do not think the policy would change even if we had more money and more manpower.¹²¹

Not only is the police effort directed at low level sellers and addicts, but it is almost exclusively directed that way:

Q: All I'm trying to find out is whether or not, on the basis of the numbers you supplied, that you really are in any systematic way involved with the middle to upper levels of the drug traffic, and the way I read these numbers, I don't see how you could be.

A: Well, I'll agree with that. I think I said that, I think I said that our primary targets are the street level possessor and the street level pusher.¹²²

Moreover, even within the policy, there is a sharp distinction between possessors and small dealers. The overwhelming number of drug cases involve simple possession rather than sales. As Captain Orbell put it, "I guess there would be a much higher percentage of possession cases than there would be sales cases."¹²³ Further, a member of a service squad of the Narcotics Unit indicated that not only did the majority of cases involve possession but that most district arrests involved marijuana or hashish¹²⁴ even though narcotics agents think hard drugs such as heroin are more important.¹²⁵

The accuracy of the above description of departmental policy is reflected in even a cursory glance at representative data supplied to the Commission during its investigation. In 1972, the Department made a total of 4,682 drug arrests of which only 977 (20%) initially involved sales charges.¹²⁶ Moreover, while occasionally sales violations are alleged and charged, this charge

¹²¹Orbell, August 17, 1973, N.T. 71.

¹²²*Id.* at 127. A member of the Captain's unit was unaware of this policy. He allegedly thought that the unit's policy was concentrated at big distributors. Testimony of Officer John A. Sharkey before the Pennsylvania Crime Commission, November 14, 1973, N.T. 11 [hereinafter cited as Sharkey].

¹²³Orbell, August 17, 1973, N.T. 51.

¹²⁴Sharkey, N.T. 56.

¹²⁵*Id.* at 52, 54.

¹²⁶These figures do not include arrests which the District Attorney screened out and refused to prosecute. These figures are based on written information supplied by the Department to the Pennsylvania Crime Commission pursuant to Commission requests of August 2, 1973, and October 29, 1973 [hereinafter cited as Pennsylvania Crime Commission requests of August 2, 1973, and October 29, 1973, respectively].

often is not based upon undercover buys by police officers, but sight arrests where sales were allegedly viewed.¹²⁷

Another example, in connection with the Department's buy program aimed at drug dealers, is that from January 1, 1973, to August 15, 1973, of the 3,004 persons arrested by the Department for violation of the Controlled Substance Act, only 723 persons were arrested for sales. Of these 723, almost all involved street level purchases of minute quantities. The total amount of money spent by the Department for making purchases of drugs from drug dealers (including informant fees) was a mere \$16,307, of which only \$3,273 was supplied by the City. Moreover, of the \$16,307, \$8,900 was used in two purchases, leaving \$7,407 for the remaining sales cases.¹²⁸ The low level nature of drug purchases is reflected in Table 50 which sets forth a breakdown of the drug purchases made by the Narcotics Unit using City funds from 1972 through August 15, 1973.¹²⁹

TABLE 50
Drug Purchases by the Narcotics Unit From City Funds

Purchase Price in Dollars	1972 Number of Buys	January, 1973 to August 15, 1973
0-8	67	11
8-20	149	84
20-100	47	27
over 100	0	0
	263	122

Furthermore, even counting federally supplied funds, with the exception of the two large purchases previously mentioned, the average purchase price during 1973 was only \$10.¹³⁰

The testimony of the captains of the 24th and 25th Police Districts at hearings before the Crime Commission supported Captain Orbell's view of the current policy of the Department. For example, Captain Clark of the 25th District did not think that law enforcement had reached the multi-bundle dealer level in connection with hard drugs.¹³¹

¹²⁷Testimony of Officer John P. Gallo, Jr., before the Pennsylvania Crime Commission, November 14, 1973, N.T. 30-31 [hereinafter cited as Gallo].

¹²⁸Pennsylvania Crime Commission requests of August 2, 1973, and October 29, 1973.

¹²⁹*Id.*

¹³⁰See also Orbell, August 17, 1973, N.T. 126.

¹³¹Clark, N.T. 79-80. Additional evidence of the Department's policy is reflected in the analysis of police drug control performance in the 24th, 25th, and 26th

In summary, then, the Department, as a matter of policy, overwhelmingly expends its efforts on the arrest of those persons, usually addicted, who are allegedly in violation of the Controlled Substance Act by possessing and occasionally selling small quantities of drugs.¹³²

It is difficult to set forth the rationale of the Police Department's narcotics enforcement policy since the Department's witnesses and its internal documents exhibit confusion about it. When confronted with the plain fact that the courts do not and will not incarcerate user-possessors, suggesting that perhaps an attempt to arrest higher level dealers would be more productive, Captain Orbell first offered "popular pressure" as a basis for the Department's policy:

I would have to say again, I do not believe that the people of the City of Philadelphia would let the Philadelphia Police Department "go after the high level dealer," and forget about the low level dealer. The people are interested in what's happening to their kids and they want us to lock up the guy that's selling their kid the dope. I don't believe that they would stand for us not doing everything in our power to lock up that guy.¹³³

When asked about adequate resources to go after both levels at the same time, the Captain stated that, "I don't think any law enforcement agency would say they had adequate resources."¹³⁴

Districts, *supra*. In the 25th District, in the first six months of 1972, 80 fully processed drug arrests were made of which only 14 involved sales charges. Of these 80 cases, the quantity of drugs involved was small, with 68% involving less than 15 doses of heroin and 40% involving fewer than 5 doses.

¹³²It should be noted that there is present in Philadelphia, staffed in part by Philadelphia police officers, a federally funded and managed law enforcement effort which originated as a part of the United States Justice Department, Drug Enforcement Agency Task Force (DEATF).

This operation specializes in purchases of illegal drugs from middle level dealers. By all estimates, it has been successful. While Philadelphia police officers are detached to this unit, Philadelphians should take little comfort and pride in its performance since it is federally managed and arrived because of a failure of local law enforcement to perform adequately (Orbell, August 17, 1973, N.T. 128-130.) Moreover, this federal operation basically has limited its activities to heroin distribution primarily in black areas of Philadelphia and has little effect on the non-heroin and the white drug traffic.

¹³³Orbell, August 17, 1973, N.T. 117.

¹³⁴*Id.*

Captain Orbell eventually stated that the policy resulted not from any theoretical base, but from a lack of money available:

Q: So again, we come down to the point that as a matter of priority within the Police Department there is not a sufficient amount of money available for you to adequately do it [purchase drugs] out of your own funds?

A: Right, I'll agree with that.¹³⁵

Captain Orbell summarized his views in this colloquy:

Q: So, what you're really saying, within the present [wire] tap laws; within your present budget, which I think you referred to earlier,¹³⁶ you can't be everything to everybody, in other words, you can't do really both, go after the high level and go after the low level?

A: Yeah, I guess that's a pretty fair statement.

Q: And you adopt it for the low level street approach in response to what you consider the public demand?

A: That's right.¹³⁷

However, Captain Orbell previously testified that, "... I do not think the policy would change even if we had more money and manpower."¹³⁸ Captain Orbell also offered another theory as support: the theory that mass arrests of the addict-possessor would remove thieves of "some sort or another" from the streets.¹³⁹ Another theory supporting mass arrests (which Captain Orbell thought reflected the thinking of the Commissioner)¹⁴⁰ amounts to using the Department as the net

¹³⁵*Id.* at 129.

¹³⁶ Q: But in fact, isn't the approach of going after the street level drug pusher and the street level drug possessor... pusher and possessor—isn't that, in terms of a cash flow, necessary to run the operation cheaper?

A: No, no. It's probably got something to do with it, undoubtedly has something to do with it. However...

Orbell, August 17, 1973, N.T. 72-73.

¹³⁷*Id.* at 147.

¹³⁸*Id.* at 71.

¹³⁹*Id.* at 83.

¹⁴⁰*Id.* at 84.

to require compulsory treatment of addicts upon incarceration. As he put it:

A: ... If we arrest somebody four or five or six times in a year, or 12 times in a year as to one particular individual who just came to my mind, yes, I would like to see him get a jail sentence substantial enough that he would get the proper treatment in a situation removed from society where he might be possibly cured.

Q: So, what you're saying is for those cases you would like to see the criminal justice system used as a compulsory treatment system?

A: Yes, that's probably what I'm saying, yes.¹⁴¹

The present policy is also justified by the removal of drugs from the street even if the means by which this is accomplished are unlawful. In the Department's view, mass arrests for possession have the beneficial effect of reducing the supply of drugs—the constitutionality and cost of such a program notwithstanding:

... I think the assumption you have to make is that the police officer is trying to do his job, he's trying to get drugs off the street. If there's a fracture of the legality that occurs while he's doing that, I'm sure he's sorry it happened, *but I'm sure he's more pleased with the fact that he got ten bags of heroin off the street.*¹⁴²

A uniformed police officer put it this way:

A: Well, sometimes they're not warrants. If a guy tells us that this guy's selling dope right now and he's a reliable informant, well, we're not going to get a warrant for him. By the time we got back to the District and got the warrant typed up by the Judge and approved by the ADA, it would be an hour or

¹⁴¹*Id.* at 82-83. Without adequate coordination between the police, the District Attorney's office, and the courts, such a system could not work. At present, there is no such police coordination, which had led to the situation described in this Report.

¹⁴²*Id.* at 90-91 (emphasis added).

so. And if the man's standing there on the corner selling narcotics, we want to get him off the street, so we'll go up—acting upon the information of the informant—we'll grab him, search his person. If he has contraband on him, he'll be arrested.

Q: How many convictions do you have on the 75 [arrests you have made]?

A: I would say about 40 percent.

Q: Forty percent convictions?

A: Yes, sir.

Q: Why are the other 60 percent blown out?

A: Well, because the laws of the Supreme Court the way they handle them.¹⁴³

Indeed, Captain Orbell estimates that 30 percent of the arrests dismissed by the District Attorney are based upon unconstitutional conduct,¹⁴⁴ yet he had no personal knowledge of any Police Department internal discipline for making unconstitutional arrests involving drugs.¹⁴⁵

In another context, Captain Korn, commander of the 25th District, exhibited the same penchant for large numbers of instant arrests to remove drugs from the street:

Can we let this person, knowing a certain person is selling narcotics, to get above him, let him dispense it, or should we get him immediately off the street? I think we have to get that man off the street.¹⁴⁶

¹⁴³Gallo, November 14, 1973, N.T. 30, 69 (emphasis added).

¹⁴⁴Orbell, August 17, 1973, N.T. 79-80.

¹⁴⁵*Id.* at 85.

¹⁴⁶The Captain had not thought of a technique which would result in removal of drugs from the street but still allow for reaching higher level drug dealers. This absence of creative thought supports the Commission's conclusion that some of the Department's leadership lack imagination.

Q Isn't one of the techniques that can be used is to use more than one undercover policeman dealing independently with the same seller, in the sense that if one of the two policemen ends up pinching the seller, assuming that the seller will be out on bail within 24 hours, the other policeman's cover is not blown? Do you follow what I mean, and he can continue to work up the chain and you get the best of both worlds. You get the pinch at the street level and you still have him working to go up the ladder.

Less obvious but equally influential in departmental policy is the internal, system-induced, pressure for low cost and high volume of arrests. Vice arrests are the steps to career advancement and esteem in the Department. Narcotics arrests in Philadelphia are vice arrests, and hence the pressure to make these arrests—whether they are sustained or not.¹⁴⁷ For example, one officer testified:

It's more or less expected that—you know whether it be that one policeman makes it or a squad as a whole gathers information all together and goes out, and you know, one particular policeman makes an arrest. But they would like to try and get, you know, a vice arrest a week, I would say approximately. I mean they don't come up to you and say, "We need a pinch, kid, go out and get one." They don't say that to you.¹⁴⁸

Captain Orbell's over-reaction to raising the issue provides evidence of the existence of this pressure:

Q: Have you ever heard talk of there being a quota for number of arrests made by members of your Unit?

A: Never, absolutely never.

Q: How about for members of the Police Department with respect to drug arrests?

A: Absolutely not. I never heard any such talk.¹⁴⁹

A: Good technique. I think it would be worth trying.

Q: Do you know whether anybody in your District has ever tried that technique?

A: No, I don't."

Testimony of Captain Elwood R. Korn before the Pennsylvania Crime Commission, October 10, 1973, N.T. 116 [hereinafter cited as Korn].

¹⁴⁷After a study of the Philadelphia Police, Jonathan Rubinstein concluded: "Arrest quotas are rigidly enforced for vice arrests, however, and continuous competition among platoons and individual officers is encouraged by threats and reward to assure production. J. Rubinstein, *City Police* 50 (1973) [hereinafter cited as *City Police*]. See *infra* at 714-719, for a consideration of the issue of internal evaluation of police narcotics control performance and the conclusion that there is no meaningful evaluation of arrest quality.

¹⁴⁸Gallo, 1973, N.T. 47.

¹⁴⁹Orbell, August 17, 1973, N.T. 143 (emphasis added).

A related element underlying the Department's policy is the felt need for instant results. This demand is satisfied most readily from sight possession arrests and low level, large numbers of "buy and bust" cases. Illustrative of this motivation is the following comment by Captain Orbell:

Q: Even if you get the guy above that off for selling it, there wouldn't be anything for the guy in the street to sell.

A: That may well be true, but first of all, you're talking about a month long investigation where during those months of investigation those pushers are still selling that poison on the street.¹⁵⁰

Another source of pressure for instant results is that officers often finance their own buys. As one narcotics officer testified:

A: Okay. A small buy I would finance myself or attempt to.

Q: And would you—what do you consider a small buy?

A: Well, under \$25.00 I would attempt to finance it myself, working on a buy-bust principle.

Q: With the goal in part of recouping the \$25.00?

A: You betcha.

Q: That would certainly preclude you from working up the chain [of distribution]?

A: Yes.¹⁵¹

A final influence is the ease and low cost of the present policy. It requires fewer detailed, long-term investigations, fewer authentic undercover agents, lower overhead expenses, less risk to the personal safety as well as honesty of police officers, less imagination, and lower quality leadership.

In sum, the Department's policy, while aimed at eliminating drug traffic through user and addicted-seller arrests, rests on

¹⁵⁰*Id.* at 116.

¹⁵¹Shutkey, N.T. 40-41.

disorganized reasoning, inconsistencies, and reflects a lack of concentrated consideration of the issues confronting an urban police force and drug control.

Moreover, the Department's policy is doomed to failure since it is in open conflict with the drug control policy of the District Attorney's office. Captain Orbell testified as follows:

Q: In 1971, the overall arrest approval rate in drug cases was 51.6 percent; in 1972, the rate dropped to 45.8 percent; in 1973, it has dropped even lower to 43.1 percent. In other words, . . . 57 percent never get to 8th and Race Streets because the District Attorney, to use the slang expression, "blows the cases out" at 22nd and Hunting Park. Now, are you familiar with those kind of figures?

A: No, I'm not. I have not seen those figures.

Q: Do you have any knowledge of what the blow-out rate is at 22nd and Hunting Park?

A: Only as a guesstimate. I read the summary sheets daily and I know which cases are cleared and which cases there are arrests caused by.

Q: What's your guesstimate?

A: My guesstimate would be somewhere around 30 percent.

Q: Are what?

A: Are exceptionally cleared.

Q: That means "blown out," to use the slang?

A: Yeah, okay . . .

Q: . . . would you feel that there's something in conflict between your approach of arresting possessors and arresting street corner pushers and what the District Attorney is doing with all the arrests you make?

A: There sounds like there's a contradiction there, yes.

Q: Wouldn't you feel that would be a contradiction even at 30 percent?

A: Yes. But I feel that they're wrong and I'm right.

* * * * *

A: I think that the District Attorney's office probably feels that they don't have the manpower, the time, the money, the judges to try all of the cases that are brought in, not only by the Narcotics Unit, but by the entire Police Department. And since they don't have the manpower, the money, the judges, the time to try them, they're being too critical of the initial case when it's being brought in.¹⁵²

The conflict is further reflected in a disagreement over the quantity of drugs seized necessary to sustain an arrest:

Q: Now, what is your view about the District Attorney's policy of not permitting formal arrests, so to speak, down at 8th and Race where the quantity doesn't reach what he considers to be an adequate quantity?

A: I disregard it.

Q: But in fact, the people that you bring through the process just walk out the door of your headquarters if they're caught with a lower quantity than the District Attorney thinks is sufficient to justify prosecution.

A: Right.

Q: Even though it's clear that it's a violation of the Controlled Substance Act?

A: That's why we disregard it.

Q: In continuing with the arrest of the same person over and over again?

A: That's right.¹⁵³

¹⁵²Orbell, August 17, 1973, N.T. 76-79.

¹⁵³*Id.* at 91-92.

The Captain admitted that this system was not functioning efficiently,¹⁵⁴ but he had no personal knowledge of any serious analysis of this problem within the Department.¹⁵⁵ When confronted with the inescapable conclusion that the judiciary and the District Attorney would not incarcerate the small quantity possessors of drugs, he could merely state: "Well, I think it would do the judiciary a world of good to be a cop for a couple of years."¹⁵⁶

In conclusion, present policy is misguided, doomed to failure, and results in contempt for the police, waste, and inefficiency; yet, nothing is being done to change it. The Commission believes basic policy changes are necessary in the priorities of the narcotics control effort of the Department.

Organization And Resources

The three major components of the Philadelphia Police Department's narcotics control effort are the uniformed forces,¹⁵⁷ the district and divisional vice squads which operate under the district captains and the divisional inspectors respectively, and the Narcotics Unit.

The Narcotics Unit is the only unit in the Department which has enforcement of the narcotics laws as its primary goal. The Unit is also responsible for processing all suspects arrested for narcotics offenses anywhere in the City by Philadelphia police officers. This processing involves a great deal of time, paperwork, and the majority of the Unit's personnel.

UNIFORMED FORCES

Of the 3,705 arrests for possession of narcotics in 1972, the vast majority—3,092—were made by officers not assigned to the Narcotics Unit. For the period January to August 15, 1973, the proportion of possession arrests made by the uniformed forces is even more dramatic, 2,132 out of 2,281, with only 149

¹⁵⁴*Id.* at 101.

¹⁵⁵*Id.* at 102.

¹⁵⁶*Id.* at 104.

¹⁵⁷The term uniformed forces will refer to the uniformed police officers who work out of the 22 police districts in the City of Philadelphia and to all the other uniformed officers in the Department with the exception of the district and divisional vice squads and the Narcotics Unit.

by the Narcotics Unit.¹⁵⁸ Almost all of those possession arrests by the uniformed forces are sight arrests.¹⁵⁹

While a recruit, each police officer receives eight hours of narcotics training at the Police Academy¹⁶⁰ which includes instruction on recognizing narcotics, the problems of narcotics addiction, and investigative techniques.¹⁶¹ Recently, the Department began sending three different police officers from each district to an eight day education program, in part on dangerous drugs, at Temple University.¹⁶² There is occasional roll call instruction on narcotics law enforcement,¹⁶³ and sometimes the Department distributes literature concerning narcotics to all police officers, such as when Pennsylvania's new drug law became effective in June, 1973.¹⁶⁴

Each member of the uniformed forces has principally non-narcotics related duties, and must spend the vast majority of his time on his other, primary responsibilities. Another major limitation on how much uniformed forces can accomplish in the area of narcotics control is their uniform—they cannot make undercover purchases of drugs but, at most, may witness the sale or possession of illegal narcotic drugs.

The only special equipment normally available to the uniformed forces is binoculars, which are available at the district station house upon request. Although special electronic and photographic equipment is theoretically available to uniformed officers upon appropriate request through channels, they are not normally in a position to use it and rarely, if ever, do so.¹⁶⁵ The special fund available for payments for contraband and information is rarely used by the uniformed forces but is used by

¹⁵⁸Pennsylvania Crime Commission requests of August 2, 1973, and October 29, 1973. The 3,092 figure includes some arrests by district and divisional vice squads, but the vast majority were by uniformed forces; for instance, in the 25th District, 14 arrests were made for possession or use of drugs during 1972 by the district vice squad. Clark, N.T. 59. The 2,281 figure also includes some arrests by district and divisional vice squads, but the vast majority were by uniformed forces.

¹⁵⁹Korn, N.T. 20; Gallo, N.T. 27, 29.

¹⁶⁰Document supplied by Philadelphia Police Department pursuant to Pennsylvania Crime Commission subpoena dated March 15, 1973 [hereinafter cited as Narcotics Subpoena Compliance].

¹⁶¹Korn, N.T. 38.

¹⁶²Clark, N.T. 105-106.

¹⁶³Korn, N.T. 37-38.

¹⁶⁴Narcotics Subpoena Compliance.

¹⁶⁵Korn, N.T. 43. Captain Clark, commanding officer of the 25th District testified that in the 19 months he commanded the district he had only one occasion to use such equipment. Clark, N.T. 9, 83.

the vice squads and the Narcotics Unit, as will be discussed below.

Whenever a member of the uniformed forces receives information relating to narcotics which he cannot investigate himself, his instructions are to give it to his captain in writing. The captain will then determine whether the investigation should be handled by his district vice squad, the divisional vice squad, or the Narcotics Unit, and will transmit the information to the appropriate unit.¹⁶⁶ The uniformed forces rarely have occasion to contact other local, state, or federal law enforcement agencies.

DISTRICT AND DIVISIONAL VICE SQUADS

The men in the district and divisional vice squads are ordinary patrolmen who are assigned specially to the district or divisional commanders. Their primary responsibility is vice enforcement. Other than the members of the Narcotics Unit, these men are the only policemen regularly assigned to plainclothes duty who do narcotics work. However, only a portion of the time and effort of these vice squads is spent on narcotics control, as these squads are also charged with responsibility for violations of all vice laws. Thus, depending on the commander's view and the men's view of the problems in that geographical area, as well as the ease of detecting certain vice offenses, more or less time will be spent on narcotics control in various districts and divisions.¹⁶⁷

These plainclothesmen, also known as captain's or inspector's men, are responsible for the majority of all of the sales and some of the possession of narcotics cases, other than those developed by the Narcotics Unit. In 1972, 241 of the Department's 977 arrests for sales of narcotics were made by non-Narcotics Unit personnel, while in 1973, until August 15, 1973, 242 of the Department's 723 arrests for sales were by non-Narcotics Unit personnel.¹⁶⁸ For example, in the 25th District, five arrests were made by the vice squad for sales in 1972, and three in 1973, until August 15, 1973.¹⁶⁹

A typical district, such as the 26th, has two plainclothes vice men or captain's men.¹⁷⁰ The inspector's men have jurisdiction

¹⁶⁶Korn, N.T. 16; See also Gallo, N.T. 28.

¹⁶⁷Some testimony was received which indicated that captain's men make fewer narcotics arrests than inspector's men. Gallo, N.T. 74.

¹⁶⁸Pennsylvania Crime Commission Requests of August 2, 1973. Some of these sales arrests were sight arrests by uniformed personnel where they allegedly witnessed what appeared to be a sale of narcotics. Gallo, N.T. 31.

¹⁶⁹Clark, N.T. 59.

over their entire division, while the captain's men are limited to their own district. Although the captain's men and the inspector's men work independently, the inspector's men are available to help the captain's men in those situations which require more manpower to do the job.¹⁷¹ There is no special training required or given to those who are selected for these plainclothes squads.

The plainclothesmen are kept in that capacity for varying lengths of time, according to the view of their commanding officer. In the 25th District, one plainclothesman has been in that position for a year and one-half and is still there, while another was taken off his assignment after a year and four months.¹⁷² When asked about the problem of his men having to work in an undercover capacity for such long periods of time, Captain Clark replied:

Well, I feel that you have to judge plainclothesmen on their individual merits. Some really—and this is only my impression—are sort of nondescript, and I feel they can fit in anywhere and then there are other plainclothesmen, I feel, they would be made the first time they went out whether they made an arrest or not. It's just my impression, and I just always felt that way.¹⁷³

The district and divisional vice squads supply their own clothes until they have been in plainclothes a certain period of time; they then receive a clothing allowance of \$125 per year instead of uniforms.¹⁷⁴ They are not supplied undercover automobiles but are expected to use their own, for which they receive a gasoline allotment.¹⁷⁵ Binoculars are available to them, as they are to uniformed officers. Special electronic and photo-

¹⁷⁰Korn, N.T. 15; Testimony of Officer Leonard Indelicato before the Pennsylvania Crime Commission, November 9, 1973, N.T. 6 [hereinafter cited as Indelicato].

¹⁷¹Korn, N.T. 16-17.

¹⁷²Clark, N.T. 59-60. An inspector's man from the Northeast Police Division testified that he has been in that position for a year and four months and that of the 16 district and divisional vice squad members, six have been in their positions at least that long. Indelicato, N.T. 7-8.

¹⁷³Clark, N.T. 61.

¹⁷⁴Korn, N.T. 41.

¹⁷⁵*Id.* at 40-41. See also Indelicato, N.T. 8. The gasoline allotment is discussed more fully *infra* at 689.

graphic equipment is available upon request through channels, although this equipment is apparently rarely used.¹⁷⁶

There are special funds available for use by vice squads to purchase information and contraband, including narcotics. However, since the district and divisional vice squads do not have a revolving fund as does the Narcotics Unit, in order to spend any police money, the policeman must either use his own money and apply for reimbursement or go to the Finance Office in the Police Administration Building and attempt to get the money in advance.¹⁷⁷

Information received by plainclothesmen who cannot investigate it themselves is given to their commanding officer who decides whether it should be investigated by the divisional vice squad or turned over to the Narcotics Unit. Theoretically, the inspector's men, with their superior manpower, can often assist the captain's men with jobs too big for them. Likewise, the Narcotics Unit can assist both, when specialized knowledge or unfamiliar faces are necessary.¹⁷⁸ In addition, all of the captain's men and inspector's men in a division meet weekly to receive instructions from the divisional inspector.¹⁷⁹ As was true with the uniformed forces, these vice squads rarely have occasion to contact other local, state, or federal law enforcement agencies.¹⁸⁰

NARCOTICS UNIT

Contrary to popular belief, the role of the Narcotics Unit is chiefly one of providing a service function to the Police Department by processing those arrested by other units of the Department, rather than performing undercover work. However, the Narcotics Unit is the only unit in the Philadelphia Police Department which has narcotics control as its primary function. It is also the unit which makes most of the Police Department's arrests of alleged drug sellers.

¹⁷⁶Captain Korn, commanding officer of the 26th District, testified that in the eight months he commanded that District, his men had never used any electronic equipment, that he was not even sure what was available and that as far as he knew his men had no training in how to use such equipment. The situation was similar for photographic equipment. Korn, N.T. 41-43. Captain Clark, commanding officer of the 25th District, testified that he knew what was available but had no occasion to use it for his undercover men in the past 19 months. Clark, October 10, 1973, N.T. 9, 83-84.

¹⁷⁷Indelicato, N.T. 21-22.

¹⁷⁸*Id.* at 22.

¹⁷⁹Korn, N.T. 28; Indelicato, N.T. 7.

¹⁸⁰Korn, N.T. 52-53; Clark, N.T. 85.

The Narcotics Unit was organized in the early 1920's because of a rash of opium use in Philadelphia's Chinatown. It was then commanded by a captain. In 1930, it was disbanded because the Department believed that the narcotics problem was under control. After the passage of the federal Harrison Narcotics Act in the mid-1930's, the Unit was reactivated under the command of a lieutenant. In 1956, the Narcotics Unit was part of the Robbery Squad in the Detective Bureau. In 1957, a sergeant was made commanding officer of the Unit, but he was promoted to lieutenant in 1958. In 1960, the Unit was transferred to Uniformed Forces from the Detective Bureau. In 1967, the Narcotics Unit was again made part of the Detective Bureau, reporting to the Major Crime Unit; and in 1972, a captain was made commanding officer.¹⁸¹

Today the Narcotics Unit is one of a number of specialized units which are under the command of the Inspector, Headquarters Division, Detective Bureau. The Narcotics Unit is commanded by a captain, who reports through the chain of command to the Deputy Commissioner for Investigation and Training, who in turn reports to the Commissioner.¹⁸²

Along with the growth in drug abuse, this Unit has grown in size from six men in 1953, to 14 in 1956, to 22 in 1960, to 24 men as of January 1, 1967, and steadily since then to its present strength of 96 in August, 1973.¹⁸³

The current organization of the Narcotics Unit is shown on Table 51. The Narcotics Unit is divided into an administrative platoon, a so-called undercover squad, often called the number five squad, and four "line" squads. The administrative platoon, according to its commanding officer, spends approximately 30 to 40% of its time on secretarial and clerical work, and the remainder on lectures, teaching, interviews, and investigations.¹⁸⁴

The undercover squad, consisting of a lieutenant, a sergeant, and fifteen policemen, is the section of the Narcotics Unit which is primarily responsible for making narcotics buys. That responsibility extends throughout the entire City.¹⁸⁵ In addition to their narcotics buying responsibilities, they conduct follow-up

¹⁸¹Narcotics Subpoena Compliance.

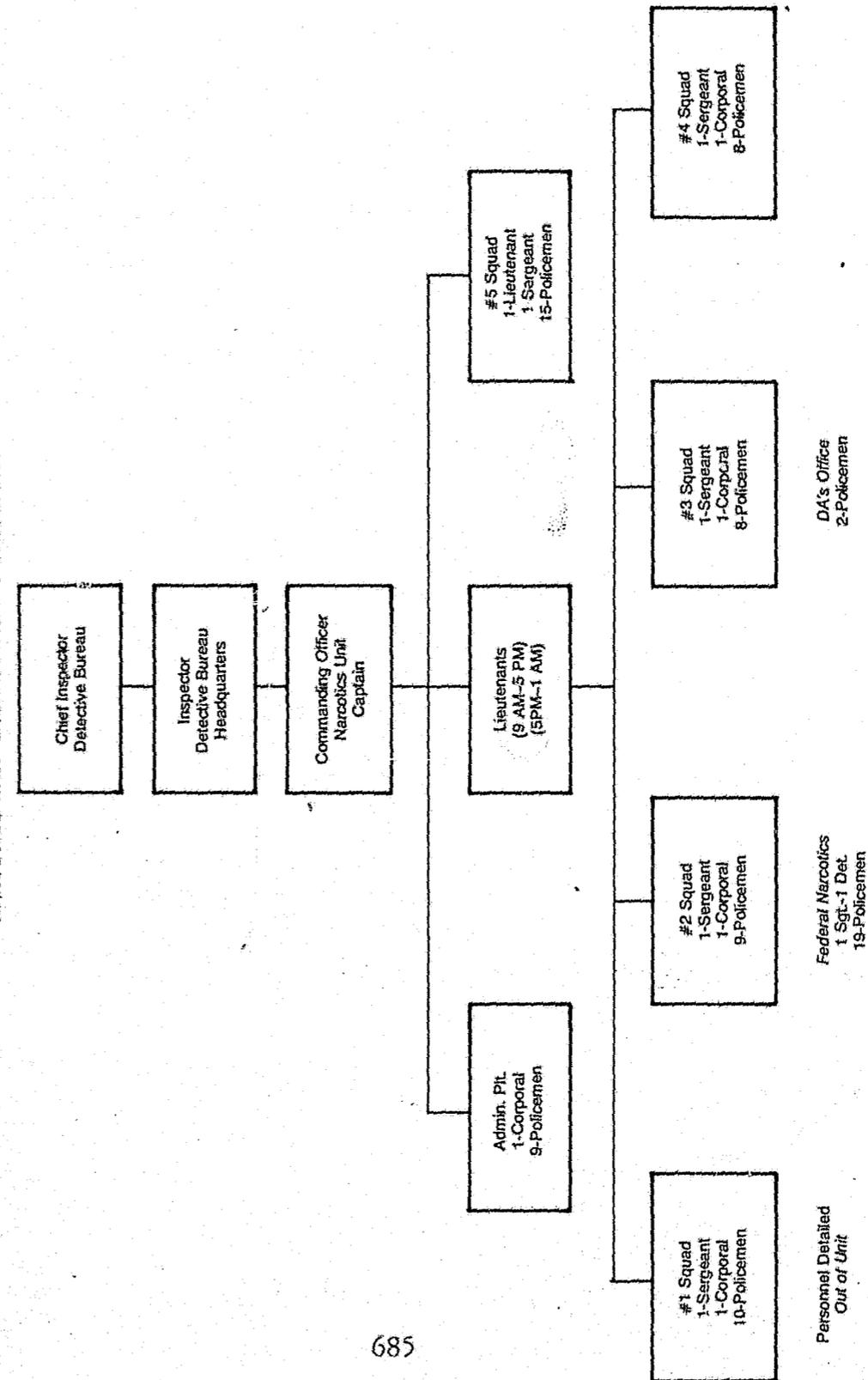
¹⁸²Orbell, August 17, 1973, N.T. 21-22, Narcotics Subpoena Compliance.

¹⁸³Orbell, August 17, 1973, N.T. 23, Narcotics Subpoena Compliance.

¹⁸⁴Orbell, August 17, 1973, N.T. 25-26.

¹⁸⁵*Id.* at 30, 35, Narcotics Subpoena Compliance.

TABLE 51
NARCOTICS UNIT ORGANIZATIONAL STRUCTURE



investigations on information received by the four line squads, and they serve most of the Unit's search warrants.¹⁸⁶

The four line squads all perform the same duties, but they work on rotating shifts around the clock. Their primary responsibility is to interview and process, *i.e.*, prepare paperwork, all those suspects detained for narcotics offenses throughout the City.¹⁸⁷ Thus, overall, the Narcotics Unit performs chiefly a narcotics-related service function rather than a law enforcement function.

Over the years, men have been transferred in and out of the Unit. As of August, 1973, one policeman from the Juvenile Aid Division and one detective from the Organized Crime Unit were assigned to the Narcotics Unit.¹⁸⁸ At the same time, the detective and 20 other police officers were assigned to the Drug Enforcement Agency Task Force (DEATF) as the local contribution to a coordinated federal-local attack on street level drug sellers.¹⁸⁹ Although the 21 men detailed to DEATF were engaged in narcotics work, partly in Philadelphia, their numbers inflate the size of the Department's Narcotics Unit. Only five of those men were in the Narcotics Unit before being assigned to DEATF, and the others were assigned to the Unit for the purpose of being reassigned.¹⁹⁰ At least 16 of them were never assigned to the Unit except on paper.¹⁹¹ Two police officers were also assigned from the Unit to the District Attorney's office to assist the Grand Jury's investigation of narcotics traffic.¹⁹² The Narcotics Unit therefore contains 73 men for the entire City.

Of these 73 men, 43 have as their primary duty processing alleged narcotics offenders apprehended by all City police officers.¹⁹³ Of the 30 remaining, 10 are in the administrative platoon and 3 are supervisors. That leaves 15 policemen and 2 supervisors in the undercover platoon, who have as their pri-

¹⁸⁶Orbell, August 17, 1973, N.T. 30.

¹⁸⁷*Id.* at 33-34. If they have any time remaining, the men in the line squads are to assist the other members of the Narcotics Unit by serving search warrants and making buys, if they are able to do so. Orbell, August 17, 1973, N.T. 33.

¹⁸⁸Narcotics Subpoena Compliance.

¹⁸⁹Narcotics Subpoena Compliance; Orbell, August 17, 1973, N.T. 39.

¹⁹⁰Pennsylvania Crime Commission requests of August 2, 1973, and October 29, 1973, statement of Captain Joseph Orbell to Crime Commission, attached to letter of November 9, 1973, to Stanley R. Wolfe from John M. McNally, Jr.

¹⁹¹Thus it appears somewhat misleading to tell the citizens of Philadelphia that their Police Department has a Narcotic Unit of 96 men.

¹⁹²Narcotics Subpoena Compliance; Orbell, August 17, 1973, N.T. 39.

¹⁹³Subpoena Compliance; Orbell, August 17, 1973, N.T. 33-34.

mary responsibility the day-to-day undercover narcotics law enforcement for the entire City of Philadelphia.¹⁹⁴ Thus, at any one time, the Narcotics Unit has on duty one line squad and an average of one-quarter of the remaining personnel assigned to the Unit, or only a total of 18 officers on duty for each eight hour shift.

The Narcotics Unit does not have any women officers assigned to it, even though the commander believes that policewomen could be very valuable in undercover work.¹⁹⁵ The Narcotics Unit contemplates assignment of policewomen to its Unit only on special occasions.¹⁹⁶

The Narcotics Unit also has only one Spanish speaking officer to serve Philadelphia's large Hispanic community.¹⁹⁷ There were 36 black officers as of November 9, 1973.¹⁹⁸

The Narcotics Unit essentially has no civilian support personnel. Although the ten police officers in the administrative platoon spend a large amount of their time on secretarial and clerical duties which could be performed by civilian employees¹⁹⁹ and the 43 police officers in the four line squads spend up to 50% of their time on processing arrestees,²⁰⁰ there is only one civilian employee, a clerk, attached to the Narcotics Unit,²⁰¹ and she functions as Captain Orbell's secretary.²⁰²

While one might think of employment in a Narcotics Unit as dangerous, sophisticated, and requiring great integrity, thereby requiring careful selection, there are absolutely no formal requirements for selection for duty in the Narcotics Unit.²⁰³ Police Department policy requires that all requests for transfer, whether initiated by the employee or his superior be submitted on a form and sent through channels to the Commissioner.²⁰⁴

¹⁹⁴Narcotics Subpoena Compliance. As recently as March, 1972, there were only 9 men, exclusive of supervisors, in the undercover platoon.

¹⁹⁵Orbell, August 17, 1973, N.T. 26, 43, 110.

¹⁹⁶Orbell, August 17, 1973, N.T. 110.

¹⁹⁷Pennsylvania Crime Commission request of October 29, 1973.

¹⁹⁸*Id.* In May, 1973, it had only approximately 10 blacks and no Spanish speaking members. Testimony of Officer John Marcolongo before the Pennsylvania Crime Commission, May 7, 1973, N.T. 18 [hereinafter cited as Marcolongo].

¹⁹⁹Orbell, August 17, 1973, N.T. 27. Captain Orbell testified at one point that it was Departmental policy not to use policemen for clerical duties when it could be avoided, and at another point that it was Departmental policy to have very few civilian clerks. Orbell, August 17, 1973, N.T. 28, 113.

²⁰⁰Orbell, August 17, 1973, N.T. 113-114.

²⁰¹*Id.* at 26.

²⁰²*Id.* at 43-44; Sharkey, N.T. 73. The base salary of a civilian clerk is \$7,357 while the base salary of a policeman is \$11,441 or a difference of \$4,084 per employee.

²⁰³Orbell, August 17, 1973, N.T. 105; Marcolongo, N.T. 20.

²⁰⁴Police Department Directive 118.

Captain Orbell emphasized that everyone in the Unit is a volunteer.²⁰⁵ The Captain personally interviews those who have submitted the requests for transfer and attempts to determine their knowledge and interest in narcotics and their background.²⁰⁶ If he is satisfied with the individual after the interview, he then requests a background investigation, the purpose of which is to determine the individual's past integrity and performance.²⁰⁷ Then Captain Orbell may select him for the Narcotics Unit and request his assignment to the Unit.²⁰⁸ However, there are no requirements for experience of any kind, including undercover work, serving search warrants, or conducting surveillance.²⁰⁹

The training provided for those chosen is limited. In addition to the eight hours of training on narcotics at the Police Academy,²¹⁰ members of the Narcotics Unit receive an additional 14 hours of narcotics related training,²¹¹ as well as occasional in-service training lectures.²¹² This training is given by a supervisor in the Narcotics Unit and takes place inside the Narcotics Unit headquarters over a two week period.²¹³ The topics covered concern the work of the Unit. At this time, the new member of the Unit is given a copy of "The Philadelphia Narcotics Unit Training Manual" to study. The Manual gives a description of the various types of narcotics and the effects of addiction to them, narcotics laws, and investigative techniques.²¹⁴ The most significant and substantial training received by any member of the Unit is that which has been provided by outside agencies, such as the Federal Government's Bureau of Narcotics and Dangerous Drugs Police Training School and the local St. Luke's Hospital Drug Program. Unfortunately, only about 30% of the personnel assigned to the Unit,

²⁰⁵Narcotics Subpoena Compliance, Testimony of Captain Joseph W. Orbell before the Pennsylvania Crime Commission, June 18, 1973, p.m. N.T. 71 [hereinafter cited as Orbell, June 18, 1973, p.m.]. It should be noted that at one point Captain Orbell testified that he might request a particular officer. Orbell, June 18, 1973, p.m., N.T. 70.

²⁰⁶Orbell, August 17, 1973, N.T. 106; Narcotics Subpoena Compliance.

²⁰⁷Orbell, August 17, 1973, N.T. 106-107; Narcotics Subpoena Compliance. It should be noted that a thorough background check is performed on every recruit before he is accepted into the Department.

²⁰⁸Narcotics Subpoena Compliance.

²⁰⁹*Id.*

²¹⁰*Id.*

²¹¹*Id.*

²¹²*Id.*

²¹³*Id.*; Orbell, August 17, 1973, N.T. 132; Marcolongo, N.T. 20.

²¹⁴Orbell, August 17, 1973, N.T. 131-132; Narcotics Subpoena Compliance.

including supervisors, have received outside training.²¹⁵ These outside courses involve several weeks of intensive training, much more in-depth than the 14 hours provided by the Philadelphia Police Department to its Narcotics Unit.²¹⁶

Having been chosen by the captain and largely trained by the Unit, the length of an officer's assignment to the Narcotics Unit is also determined by the captain, who maintains the view that there should be no fixed term of service even for members of the undercover five squad.²¹⁷

Promotions of officers, however, is not within the captain's control. The promotions policy of the Narcotics Unit is part of the Department-wide policy. All those "who qualify may take the pertinent Civil Service examination" for whatever rank is appropriate.²¹⁸

Equipment available to the Narcotics Unit includes nine "undercover" vehicles which are used for surveillances, patrol, and serving search warrants.²¹⁹ They are cars of various ages, painted in normal, as opposed to police colors, and they are radio equipped.²²⁰ These vehicles, however, are not appropriate for real undercover work.²²¹ The Philadelphia Police Department allegedly has other vehicles which do not have radios and do not look like unmarked police vehicles which are available to all units upon request.²²² Requests apparently are infrequent. The men in the Unit are expected to use their own cars in the course of their official duties and for compensation receive up to 100 gallons of gasoline free per month without regard to the amount of use.²²³

The Narcotics Unit does not have any sophisticated photographic or electronic equipment assigned to it. If they want to use such equipment, they can process a request through channels and hope that the request is approved before the need disappears.²²⁴

Police officers assigned to the Narcotics Unit are subject to the same uniform and clothing regulations as are other members

²¹⁵Narcotics Subpoena Compliance.
²¹⁶*Id.*

²¹⁷Orbell, August 17, 1973, N.T. 109.

²¹⁸Narcotics Subpoena Compliance.

²¹⁹Narcotics Subpoena Compliance; Orbell, August 17, 1973, N.T. 60-61, 63.

²²⁰Narcotics Subpoena Compliance; Orbell, August 17, 1973, N.T. 61-63.

²²¹Orbell, August 17, 1973, N.T. 64.

²²²Narcotics Subpoena Compliance; Orbell, August 17, 1973, N.T. 61-63.

²²³Testimony of Captain Joseph W. Orbell before the Pennsylvania Crime Commission on June 22, 1973, N.T. 34-36; Orbell, August 17, 1973, N.T. 61-63.

²²⁴Orbell, August 17, 1973, N.T. 60.

of the Department, and they receive the same clothing allowance, \$125 each year, in lieu of uniforms. Apart from the gasoline allotment, this is the only personal assistance a member of the Narcotics Unit who must work in plainclothes receives from the Department.²²⁵

The cost incurred in the Department's effort against drug abuse is substantial. The base salaries alone of the one captain, three lieutenants, six sergeants, five corporals, eighty patrolmen, one detective, and one civilian clerk amount to \$1,136,389. This figure does not include any step or yearly increases or the value of the substantial fringe benefits received by all City employees. In addition, Captain Orbell estimates that "just about every man in my Unit makes at least a thousand dollars over-time per year²²⁶ which adds up to approximately another \$100,000. Add the value of the vehicles and some office supplies, a conservative estimate of the cost of maintaining the Narcotics Unit exceeds \$1,250,000 per year.²²⁷ This figure is approximately 1.0% of the Police Department budget of \$124,484,236 for the fiscal year which ended on July 1, 1973.²²⁸ This means that little more than 1.0% of the Police Department budget is devoted to the manpower and equipment costs of the unit with primary responsibility for narcotics law enforcement in Philadelphia.²²⁹ Moreover, it must be recalled

²²⁵*Id.* at 147. Moreover, the standard office equipment provided the Narcotics Unit is merely traditional equipment. There is no dictating equipment and no computer terminal available. Sharkey, N.T. 74; Narcotics Subpoena Compliance.

²²⁶Orbell, August 17, 1973, N.T. 62-63.

²²⁷In response to a question whether the Narcotics Unit has adequate resources to do a good job in narcotics enforcement in Philadelphia, Captain Orbell said in part: "I would love to have a million dollars. . . ." Orbell, August 17, 1973, N.T. 11. He has more than that, although much of it is applied to the service rather than the law enforcement function.

²²⁸City of Philadelphia, *Supporting Detail for Fiscal 1974 Operating Budget*, Section 68, page 1.

²²⁹Captain Orbell testified:

Q. In other words, are you saying to me that if you were the Police Commissioner and you could divide up the money internally, that you would not add money and manpower to the Narcotics Unit compared to other sections of the Police Department?

A. I personally would, yes. *Had you asked me that question a year ago I probably would have said, no. A year ago I didn't recognize much about the narcotics problem.*

Q. Do you think the present Police Commissioner has any knowledge of the real scope and extent of the drug problem?

A. I certainly do. But I have to add, and I don't know how I could factualize this, but I found it to be true in my own case and I found it to be true in cases of other police personnel that I'm acquainted

that only a small fraction of that 1.0% is spent directly on narcotics law enforcement, as only 15 men and two supervisors of the 96 men in the Unit have narcotics law enforcement as their primary duty.

While the Department incurs substantial direct manpower costs and limited equipment expenses, it spends almost no money on operating costs for its narcotics law enforcement function. The entire Police Department has \$31,000 to use for undercover purposes, including narcotics buys.²³⁰ From January 1, until August 15, 1973, the Narcotics Unit spent only \$3,273 of that money.²³¹ That low figure is somewhat misleading, for, including money supplied by federal authorities, the Philadelphia Police Department spent \$16,307 in its undercover narcotics effort, including payments to informants.²³² Most of the money spent on undercover narcotics work by the Narcotics Unit, both the Department's own money and federal funds, was spent on low level and low cost buys, although some money was paid to informants.²³³

A few additional areas remain to be mentioned before discussing the substantive quality of the Narcotics Unit's efforts in drug control.

The first concerns contact with other units both within and without the Department. Apart from contact with the districts and divisions, the Narcotics Unit has contact with the Department's Central Intelligence Unit which handles all intelligence information including narcotics data. Narcotics information is obtained by the Intelligence Unit from incident reports which uniformed police officers submit to their commanding officers.²³⁴ From the Intelligence Unit, the data theoretically is forwarded to the Narcotics Unit for "evaluation and for infor-

with, *unless you are there involved in that particular field yourself on a day-to-day basis and see it yourself on a day-to-day basis, you can't recognize the problems.*" Orbell, August 17, 1973, N.T. 119-120 (emphasis added).

²³⁰Orbell, August 17, 1973, N.T. 130-131.

²³¹Narcotics Subpoena Compliance.

²³²*Id.*

²³³Of the Department's \$3,273, only \$716 was spent for informants and \$2,557 for buys. The Department was unable to give a similar breakdown of the federal funds they spent. Narcotics Subpoena Compliance. The Strike Force spent over \$50,000 for buys in eight months of 1973. Captain Orbell testified that the average expenditure per buy was \$16. Orbell, August 17, 1973, N.T. 126. At that time, one bag of heroin sold for approximately \$8.

²³⁴Orbell, August 17, 1973, N.T. 5.

marional purposes."²³⁵ Information generated from the work of the Narcotics Unit is forwarded to the Intelligence Unit.²³⁶

The Intelligence Unit's function is limited to serving as a storehouse for all information. Although it utilizes computerized data banks, it performs no analysis of the data. Analysis of drug-related information is the responsibility of the Narcotics Unit.²³⁷

Operating Techniques

THE BUY PROGRAM AND INFORMANTS

The Department's drug purchases program is aimed at the arrest of the dealers who are engaged in the lowest levels of Philadelphia's drug trade. For the captain's and inspector's men, drug control is only a small portion of vice control work. Thus, the buy program as presently constituted depends overwhelmingly on the performance of the Narcotics Unit and its number five squad.

According to Police Department data, for the period January 1, 1972, to August 15, 1973, 1,700 persons were arrested for sales of narcotic drugs; 1,217 of these persons were arrested by the Narcotics Unit, representing 74% of the sales arrests made by the Department. In 1972 only \$3,895.15 of City money was used by the Narcotics Unit to make 736 arrests²³⁸ at an average cost of approximately \$5.25 per buy. This simple arithmetical calculation is confirmed by the Department's statement that: "[I]n 1972 there was a considerable number of one bag of heroin buys."²³⁹ According to data supplied by the Department,²⁴⁰ Table 52, the picture improved somewhat in 1973. This improvement coincided with the arrival of federal funds.

While the amount of money spent has grown, the thrust of the street level pusher attack has remained. For example, taking the total amount of money utilized for buys, \$15,591 and subtracting the two largest purchases, which total \$8,900, leaves \$6,691

²³⁵*Id.*

²³⁶*Id.* at 6.

²³⁷*Id.* at 4-5.

²³⁸Pennsylvania Crime Commission requests of August 2, 1973, and October 29, 1973.

²³⁹Pennsylvania Crime Commission request of August 2, 1973.

²⁴⁰*Id.*

TABLE 52

Narcotics Unit Purchase Information
January 1, 1973 to August 15, 1973

a.	Total amount of federal money utilized	\$13,034.00
b.	Total amount of City money utilized (Philadelphia Narcotics Unit only)	2,557.00
c.	Total amount of money to informants (local money only)	716.00
d.	Total amount of money utilized	16,307.00
e.	Lowest purchase (marijuana) 1 bag	5.00
f.	Largest purchase (Cocaine) 3 ounces	2,400.00
g.	Largest purchase (Methamphetamine) 1 pound	6,500.00
h.	Largest seizure made (Heroin) as a result of the purchase	212 bags (4½ bundles)

spent for the remaining buys. Using 723 sales arrests for the entire Department, this amounts to \$9.20 per buy.²⁴¹

Further confirmation of the Department's buy policy is reflected in Table 50, which indicates that since January 1, 1972, Philadelphia Narcotics Unit agents have not made any large purchase of drugs using City money.²⁴² Captain Orbell confirmed that the typical buy was small, usually about two bags.²⁴³ The total amount spent on buys by the Department, including federal grants, would not allow for the purchase of even one-half kilogram of heroin or 160 bundles of heroin.²⁴⁴ If nothing else then, it is apparent that the Department is attempting to carry out its policy of the arrest of the street level pusher. However, the fulfillment of even this limited drug control goal is defective and precludes any attempt at infiltrating high level drug dealer organizations.

²⁴¹Assuming that the Narcotics Unit made the overwhelming number of actual narcotics purchases and that sales charges by non-narcotics unit officers were primarily sight arrests, the average purchase was two bags.

²⁴²Pennsylvania Crime Commission request of August 2, 1973. See *supra* at 670.

²⁴³Orbell, August 17, 1973, N.T. 126.

²⁴⁴Moreover, while Orbell testified that there were some bundle buys of heroin made by his unit, he admitted that there had been no raw heroin or piece (1 oz. or more) buys made. Orbell, August 17, 1973, N.T. 127.

It is obvious that the success of any undercover buy program depends, in part, on the number of police officers assigned to infiltrate the drug trade, as opposed to those assigned to observe the drug scene and make sight arrests. The small number of undercover Philadelphia police officers trained in drug control work and practicing it full time is startling.

The captain's and inspector's men are only partially involved in drug work. For example, Captain Korn could remember only one undercover buy made by his plainclothes officers since he took over as precinct captain and that involved one ten dollar purchase of two five dollar bags of heroin.²⁴⁵

Captain Clark of the 25th District also utilized his plainclothesmen only marginally in undercover drug control work. They had created only eight sales cases—the largest involving \$20 for the purchase of three or four bags of heroin.²⁴⁶

Turning to the Narcotics Unit itself, of its 96 members only the five squad and its 17 members (including 2 supervisors) can be considered undercover agents. Moreover, some of the five squad's 17 officers are not involved in undercover buys.²⁴⁷

The low activity of the undercover personnel in the Narcotics Unit is revealed by the fact the 17 officers made a total of 481 arrests in 8½ months, an average of one arrest per man each week.

In addition to the lack of personnel, other defects exist in the buy program, including but not limited to (1) inadequate funding, (2) inadequate use of informers, (3) known identity and poor security of the alleged undercover police officers, (4) lack of women and Spanish speaking agents, and (5) a poor intelligence system. Equally as important as the above is the additional fact that the Department's leadership reflects a lack of imagination or experimentation in its attempts to reduce the drug trade.

The lack of adequate funding is often blamed by government agencies for their poor performance. Whether money alone would improve this Department's efforts is questionable because they believe they have adequate funding to pursue their policies, and they believe that their policies are doing an "adequate job" in narcotics law enforcement in Philadelphia.²⁴⁸

Without an increase in the financial resources available, neither the present policy nor an altered policy directed towards

²⁴⁵Korn, N.T. 29.

²⁴⁶Clark, N.T. 59.

²⁴⁷Orbell, August 17, 1973, N.T. 36-37.

²⁴⁸*Id.* at 120.

high level drug traffic can succeed. The total budget for undercover money available for use by the whole Department is only \$31,000.²⁴⁹ At \$1,500 per ounce of heroin, this entire police budget would permit the undercover purchase of only 20 ounces, assuming no other expenses. Twenty ounces of heroin may seem substantial, but Edward Cassidy, Chief Investigator of DEATF, estimates that over 150 individuals within Philadelphia can execute that size sale.²⁵⁰ It is obvious that this small amount of available funds has the effect of reducing the size and number of buys made by his Unit.

The hampering effect of the lack of money on the Department's efforts is illustrated by the following testimony of Captain Orbell:

Q: You're saying that a local Police Department, using its own manpower and resources would be almost totally ineffective against [high level dealers]?

A: No. I wouldn't say that either, because we did it last night, as I said. We made a \$6,500.00 purchase last night. We would not probably have been able to do it without the assistance of the federal authorities.

Q: Is that because of money?

A: Yes.

Q: So again, we come down to the point that as a matter of priority within the Police Department there is not a sufficient amount of money available for you to adequately do it out of your own funds?

A: Right, I'll agree with that.²⁵¹

A uniformed officer's testimony bluntly supports this:

Q: Now aren't most of the buys that even the narks make really low levels, small-quantity buys?

²⁴⁹*Id.* at 131.

²⁵⁰In contrast, Captain Orbell could not even offer an estimate of the number of piece dealers nor even bundle heroin dealers operating in Philadelphia. Orbell, August 17, 1973, N.T. 123-125.

²⁵¹Orbell, August 17, 1973, N.T. 129. See Orbell, August 17, 1973, N.T. 20, 21; Sharkey, N.T. 20-23.

A: Only because of the money that the police department gives them.

Q: I didn't ask that, I asked, aren't they basically low-level buys?

A: What do you mean by low level, under a bundle?

Q: Oh, yeah, definitely under a bundle.

A: Under a bundle? Yeah, the majority of them that I know of are, that I've had dealings with.

Q: Aren't the majority of that even . . . under ten bags?

A: That I know of? Yeah.²⁵²

This near toxic shortage of money is further reflected in the method of financing purchases. Incredibly, police officers from captain's men through Narcotics Unit personnel usually must advance buy money from their own pockets and await approval and repayment by expense vouchers pursuant to Directive 72 regarding reimbursable expenses. That police officers have to invest their own salaries and even pool money to finance buys is hard to believe, yet generally accepted in the Philadelphia Police Department:

Q: How does an agent on the Narcotics Unit arrange for the financing of a buy?

A: If it's a small buy you can use your own money and then put a voucher in to be reimbursed. If it's a big buy you submit a voucher ahead of time to the Captain who takes it through some process and then he obtains the money and gives it to you to make the buy.²⁵³

Captain Korn testified similarly:

Q: You said that one of your people has made a buy. How did he go about obtaining money to make the buy?

²⁵²Gallo, N.T. 63
²⁵³Statement of Officer John Marcolongo at Staff Inspector's Headquarters, August 7, 1973, at 2

A: He used his own money and then put in a request for a voucher for return of the money by the Department. As for sales it was three or four bags of heroin. At most, it would have been \$20.00 involved at one transaction.²⁵⁴

Captain Clark agreed:

Q: Where did that money come from?

A: Myself and the two plainclothesmen.²⁵⁵

Even the Narcotics Unit itself has almost no cash available to it without having to go through channels to secure funds. Indeed, the total revolving fund of the Narcotics Unit is only \$300 which, when transmitted to Captain Orbell by his predecessor in December, 1972, had only \$118 available for drug purchases and informant payments. Thus, each time the Narcotics Unit seeks to make a number of purchases, or on the rare occasion when it seeks to make a higher cost buy, it depends on line officers digging into their pockets or going "upstairs" in the Department.

Finally, in spite of general rhetoric about the war on drugs, the financial situation in the narcotics operation is not an accident, but reflects the Commissioner's priorities:

Q: But then, you're talking about the Police Commissioner just setting priority as he sees them, and he gives to you what he thinks he could give to you based on what he thinks the priority should be.

A: That's correct.²⁵⁶

In summary, it is obvious that the Department's manpower allocation to and funding of the buy program even to arrest lowest level drug sellers is grossly inadequate.

While the total number of undercover narcotics officers is small (17), even these officers are not truly undercover, reflecting poor management and further minimizing the effectiveness of the existing program or any proposed changes. For example, the 5 Squad reports on a shift basis to their official headquarters

²⁵⁴Korn, N.T. 2.

²⁵⁵Clark, N.T. 28-29.

²⁵⁶Orbell, August 17, 1973, N.T. 121.

at the 35th District Headquarters at 22nd Street and Hunting Park Avenue. There they are exposed to view by the drug community since all narcotics arrests are processed through this headquarters:

Q: Under that system, how do you keep the undercover people really undercover in terms of their recognition by the drug community?

A: We have a special room within the Narcotics Unit that is somewhat divorced from the rest of the unit, and they are not accessible to the general narcotics users that are coming in on a day-by-day basis. *They are, of course, accessible to those people that are arrested.*²⁵⁷

As one narcotics officer admitted, an individual could station himself near the entrance to the Narcotics Headquarters and observe each Narcotics Unit member including the 5 Squad.²⁵⁸

Moreover, when agents appear in court their conduct in and around City Hall leaves much to be desired. Rather than remaining hidden until they must testify and then quickly departing from the courtroom, the hallways outside of the drug courts in City Hall (Rooms 285 and 146A) are often filled with Narcotics Unit personnel awaiting court appearance, thus providing extended opportunities for drug dealers to identify these officers in every way.²⁵⁹ The continued existence of this situation reflects Captain Orbell's indefensible view of the nature and intelligence of drug traffickers:

A: *And I must also say that most of the people out there selling drugs are not that bright, and in a period of seven or eight or nine months they know that fellow, but they don't remember where they know him from. There is no real strict concern to identification, because they see them in Court anyway at the time of the Court case, and all of the junkies are sitting there in the Courtroom and there is my guy standing up there testifying, "I bought off him, and I bought off of him," and three days later he may*

²⁵⁷Id. at 31 (emphasis added).

²⁵⁸Sharkey, N.T. 20-21.

²⁵⁹Id. at 21, 72.

very well go out and buy from one of those people sitting in that Courtroom.

Q: You're not saying that the entire strata of the drug trade lacks any brains, I think you're talking about a certain level of the drug trade that doesn't have enough intelligence; aren't you? You're really talking about the small sellers?

A: No, I'm not, No, I don't believe that. *I believe that up through mid-level they do not show very much planning in their activities and I don't believe that they're that intelligent.*²⁶⁰

On the positive side, others in the Department recognize the importance of confidentiality of undercover narcotics officers:

Q: Would it be accurate to say that you think that to get above a certain level you essentially have to put people really undercover?

A: I think so, yes. We find this even in our minimum level that the men have to make appearances.²⁶¹

An even sharper criticism of Captain Orbell's theory is reflected in the testimony of a police officer who has knowledge of drug control work:

Q: . . . How can an undercover nark who's made arrests in your District really be considered to be undercover if he sits in Room 285?

A: . . . Now, if they happen to be sitting in a Courtroom and the guy testifies, I imagine an average person would remember, well, this guy's a cop.

I've known for a fact that on a couple occasions where police have been trying to make buys, another junkie in the crowd will come walking out and say, "hey"—you know, pull the guy aside and say, "this guy's a cop, you know, get out of there."²⁶²

²⁶⁰Orbell, August 17, 1973, N.T. 32 (emphasis added).

²⁶¹Korn, N.T. 108.

²⁶²Gallo, N.T. 62.

A Pennsylvania State trooper who participated in the undercover buy program of the Narcotics Control Strike Force in South Philadelphia reported the same phenomena:

... a lot of the different dealers and users down there used to know the policemen by name, they knew them by last name. They were that familiar. They would say like Joe Jones is working the area. I saw him on 10th Street this morning. It seemed like they were familiar enough to know who was working their District.²⁶³

Moreover, in addition to "blowing their cover" while in headquarters and City Hall, undercover narcotics agents have little in the way of cover even while they operate. With respect to automobiles supplied for Narcotics Unit personnel, they are radio equipped and consist of three Ramblers, five Plymouths, and one Ford, ranging in model year from 1964 to 1973²⁶⁴ used for surveillance and transportation. When asked about the existence of any Department-supplied truly undercover vehicles such as Thunderbirds, Cadillacs, and Imperials, Captain Orbell indicated that the Department had an inventory of these, but one rather limited at best:

Q: But the Department itself, as a matter of a lined inventory item, doesn't have for your use three '73 Cadillacs, five Imperials, four Thunderbirds that you could just write off a memorandum and say, "Give me a Thunderbird, I need it for a week."

A: We have several of those type vehicles, and they can be used by my Unit on an as needed basis. Not anywhere near the numbers you mentioned, [12] but we do have some of those type vehicles.²⁶⁵

What results from this situation is that narcotics officers doing undercover work are expected to use their own autos. Captain Orbell believes that these are satisfactory arrangements and that honest police officers can afford these and are willing to use them for their work:

²⁶³Thornan, N.T. 23

²⁶⁴Narcotics Subpoena Compliance

²⁶⁵Orbell, August 17, 1973, N.T. 63.

Q: Well, put it this way, have you found the need to use Thunderbirds and Cadillacs and Imperials and Monte Carlos and Corvettes and those kind of vehicles in the course of your functioning of the Narcotics Unit?

A: Members assigned to my unit own most of the type of vehicles that you just mentioned, and they do use them as part of their duties.

Q: Do most of the people assigned to your Unit, are they independently wealthy?

A: No, sir, they're not. The Philadelphia policeman makes a very adequate salary.

Q: Well, I mentioned cars like Cadillacs, and—

A: You didn't say, '73. No, several members of my Unit own later model Cadillacs, later model Chryslers, later model Thunderbirds.

Q: Did that ever raise any suspicion in your mind about their honesty?

A: It would have ten or twelve years ago, but today a young man in the Police Department today, as most of my fellows are young men, have no trouble at all buying that type of automobile. They make somewhere around \$12,000 regular salary, and I would guesstimate that just about every man in my Unit makes at least a thousand dollars overtime per year.²⁶⁶

However, at present, by using their own cars, these officers are further exposed to identification as police officers. The undercover narcotics officers of the Department do not have confidential license plates or false driver identification, and drive their vehicles home after each duty shift:

Q: Is there any arrangement been worked out with the Department of Motor Vehicles so that your police officers can have the confidentiality of the ownership of those vehicles maintained?

A: No, sir, not to my knowledge.

²⁶⁶*Id.* at 62-63.

Q: So, if in fact I was a sophisticated drug operator with some good connections somewhere, and I had suspected that the person I was dealing with was a Philadelphia policeman, if I traced that guy's ownership I might come up and find out he was a Philadelphia policeman.

A: I guess that's possible, yes.²⁶⁷

Related to this, Philadelphia police officers also are not assigned false identification, e.g., credit cards, voter registration identification, in the event that they are forced to identify themselves by drug dealers or even gas station attendants. Moreover, Philadelphia's narcotics officers live at home. Thus drug dealers with any ingenuity can easily identify them.²⁶⁸

Finally, and not surprisingly, Captain Orbell has no service time limit imposed upon members of his unit. As far as he is concerned, agents do not lose their abilities to perform undercover as long as they are doing their job.²⁶⁹ Others have a somewhat different view. Captain Korn testified that he thought 18 months was a maximum undercover period for a narcotics agent in his district.²⁷⁰

Other factors relating to the buy program involve the nature of the personnel themselves. The Philadelphia Police Department has no policewomen assigned to the Narcotics Unit. As Captain Orbell testified, the unit has not utilized any women officers in undercover work since he took command in November, 1972, nor do women work with captain's men.²⁷¹ Moreover, the Narcotics Unit has one Spanish speaking officer to work in Philadelphia's sizeable Hispanic community.²⁷²

While it is universally recognized that informants are indispensable to a successful buy program, the number of informants working for the Department is small indeed, and the informants are not paid much, if anything, for their services; only \$716 of

²⁶⁷*Id.* at 64, in this regard Rubinstein has written, "... information on car registrations is available to anyone for a price." *City Police* 224 n. 5.

²⁶⁸In addition, tactically, having the officers living at home rather than in the areas in which they work makes it more difficult to infiltrate the local drug market.

²⁶⁹Given the lack of systematic and empirical evaluation of each officer's performance, it is difficult to see how the captain can evaluate his officers.

²⁷⁰Korn, N.T. 39-40.

²⁷¹*Id.* at 114. See also Orbell, August 17, 1973, N.T. 110.

²⁷²As the Commission will point out below, female agents are of great assistance in a drug buy program, as are agents who can appear indigenous to the Spanish speaking population.

City money was used for informant payments through mid-August of 1973:

Q: But you have an idea of approximately how many informants you have supplying you information as of today?

A: I can only give you an estimate.

Q: Could I have that estimate?

A: I would estimate 12 to 15. Now, let me enlarge on that. I would estimate 12 to 15 informants who we are paying money to. We might have 40, 50, almost any number of people giving us information who we are not paying for that information.²⁷³

Not only are the numbers few and the total payments small, but the individual payments made are also meager:

Q: How do you come about figuring out what you're going to pay the informant?

A: We pay the informant ten bucks unless he comes up with a considerable amount of drugs for us. If he comes up with a considerable amount of drugs we pay him more than \$10.00, up to, maybe \$50.00.

There may be an occasion where the information would be so good and a seizure so large that we would pay him more, but I would then have to get an approval from my supervisors.

Q: Do you know whether O.D.A.L.E., [now DEATF] in its operation paid money as a greater percentage than you do now; like you said, \$10.00, and a maximum of \$50.00?

A: Right, yes.

Q: Do they have available more money to pay informants?

A: I believe so, yes.

²⁷³Orbell, August 17, 1973, N.T. 136.

Q: Do you have any informants who are, more or less, working full time for you, four or five days a week, trying to make good connections for you?

A: Yes, I believe we do.

Q: And they're willing to do that at these wages?

A: That's right.²⁷⁴

Informants do not provide information just for money:

Q: Are these people in any way involved in criminal actions where your intercession would be of some benefit to them?

A: These people may have an open narcotics case against them, some of them, one or two of them, I don't know off the top of my head. I know that since I have been in command of the unit there has been one or two occasions where people who have been cooperating with us have had an open narcotics case.

Q: . . . [H]as part of the compensation that's been discussed, been favorable disposition of that case?

A: No, no.

Q: Do you ever—

A: Part of the compensation has been that we would make the District Attorney aware of his cooperation.²⁷⁵

The use of paid informants by district officers is even more limited:

Q: Since you have been the Captain of the Twenty-fifth District, have any informants received any money for services rendered?

A: Not that I can recall.

* * * * *

²⁷⁴*Id.* at 137-138. Apart from not paying or using informants sufficiently, the intelligence gathered from informants is not systematically utilized.

²⁷⁵Orbell, August 17, 1973, N.T. 138-139.

Q: Have you ever had any occasion where you thought in connection with a narcotics investigation that it would be advisable to pay money to an informant?

A: No.

Q: Have you or your men, in connection with narcotics investigations, ever used informants?

A: Yes.

Q: To the best of your memory, what is the compensation or the benefit resulting to the informant, if any, from cooperating with you people in the cases you have used an informant?

A: Peace of mind.²⁷⁶

In fact, Captain Clark has dealt only with citizen complaints:

Q: I am talking about other kinds of informants, people who are part of, what I would say, either the drug trade or other criminal activities who, rather than being observers and giving you information, are often participants and give you information.

A: I don't deal with people like that. I haven't, let's put it that way.²⁷⁷

Yet, even he recognized the valuable role of paid informants in moving up the chain of drug distribution:

Q: Would I be accurate in saying that the higher up you were to go within the drug trade, the more important those kind of people would be?

A: To get to the next higher, yes.²⁷⁸

Thus, paid informants are not utilized adequately by the Philadelphia Police Department at either the highest or the lowest level of undercover drug work related to a buy program.²⁷⁹

²⁷⁶Clark, N.T. 74.

²⁷⁷*Id.* at 78.

²⁷⁸*Id.* at 79.

²⁷⁹A contrast may be found in the discussion of the Narcotics Control Strike Force activities *infra* at 720-727.

Related to the use of informants is the intelligence evaluation and utilization employed in a buy program. The Philadelphia Police Department and even the Narcotics Unit itself is grossly deficient in its intelligence gathering and utilization function, as it lacks any systematic intelligence operation and mechanism for the dissemination of information it does acquire.

To summarize, the Department appears to lack the drug control leadership necessary to carry out a creative buy program. The narcotics control philosophy of the Department almost compels the results achieved. The buy program, as presently administered is improperly aimed, under financed, and inadequately staffed.

NARCOTICS ENFORCEMENT INTELLIGENCE

It is axiomatic that narcotics control through law enforcement can succeed only if the sources of drug supply, its storage areas, the financiers, the dealers, their organizations, and the locations of sales are known to the police, and if the police utilize this information to intercede and destroy the manufacture, storage, and distribution mechanisms for controlled substances.

Of critical importance to the entire narcotics control effort of a police department is the gathering and use of information concerning these many faceted elements of the drug trade and activity, otherwise known as the "intelligence function" of a department.

This section is concerned with the Department's performance in developing a useful and productive intelligence system and its utilization of intelligence in narcotics control. Interrelated with the purpose of the intelligence function is the need for intelligence information in the internal evaluation of the *quality* of narcotics law enforcement rendered by the Department itself. That evaluation of police performance requires an analysis of the arrests made, the individuals involved, and the disposition of the cases resulting from the enforcement effort.

The Intelligence Function

The Department's intelligence function is pursued in accord with the Department's drug law enforcement policy, which generally speaking, is specific case oriented and is directed toward "making cases" against persons in the lowest levels of the drug trade. The Department's basic intelligence information is

gathered by uniformed policemen in the course of their normal duties and by plainclothes officers and undercover agents working on specific investigations. It includes patrol observations, citizen complaints, information obtained from informants, and facts discovered during the course of other investigations not necessarily narcotics-oriented. This intelligence is limited in that it is primarily derived from individual situations. In most instances, its use is also limited to the one situation to which it directly relates.

Captain Korn, Commander of the 26th District, described the process as follows:

If they receive information that they as uniformed policemen, . . . cannot accurately investigate, then they are to give it to me in writing, which I will sign if it is the type that can be handled [make an arrest] through our plainclothesmen. If, through our investigation, we find that we cannot accurately investigate, need more facilities than available to me, I would confer with my Inspector, and he would assign some of his men to assist it or take over the investigation, and also possibly contact the Narcotics Squad and either turn the entire investigation over to them or receive assistance.²⁸⁰

Within the Narcotics Unit itself information is received through channels from the district, division, and other units as well as that which is received independently by the Unit.

Independent information is received from citizens complaints, interviews with detained individuals processed through narcotics headquarters, informants in the service of the unit, and general contacts within the drug community. However, even within the Unit itself information obtained is treated on a specific case-oriented basis.

For example, a long-time member of the Unit described the treatment of citizens' complaints as follows:

Q: Now, you say people call up on the phone and tell you names of dealers and places where drugs are being dealt with. Is that any—are there any police officers within the unit that are specifically

²⁸⁰Korn, N.T. 16. In any event the district commander would send a copy of the uniformed officer's written report pertaining to narcotics information through channels.

detailed to collate that kind of information that you get and distribute it to other members of the unit so in effect sometimes they don't run into each other? Do you follow what I mean?

A: Yes. Normal procedure is with telephone information, to turn it over to the supervisor, and he evaluates it and distributes it as he sees fit.

Q: But the supervisor then would be—would there be one supervisor for each squad?

A: Yes. You mean a central man for the entire Narcotics Unit?

Q: Yes.

A: Not on telephone information, no, sir.²⁸¹

Informant information generated by unit officers is treated similarly:

Q: . . . You have a number of one or more informants who discuss with you things relating to drug conditions, is that correct?

A: Yes.

Q: All right. The information that you get from that person, is any of that information as to identity, location, operating procedure of a drug dealer, transmitted to anyone else within the Narcotics Unit?

A: Yes, it's transferred to my immediate supervisor, he's kept abreast of any information I receive.

Q: But you don't know that there is any formal or informal transmittal of that information from your supervisor to other supervisors within the unit, do you?

A: Not to my knowledge, no.

Q: Do you ever receive either in writings or at meetings summaries of information that have been

developed with respect to the drug situation in other sections of the Narcotics Unit?

A: No.²⁸²

Captain Orbell confirmed this confidentiality of informant information within the Narcotics Unit:

Q: . . . Does the information from the informant go through this intelligence sorting network [through the Intelligence Unit] that you outlined before?

A: No, it does not.

Q: Is it kept purely inhouse in your unit, so to speak?

A: With one exception. It's kept purely inhouse with the exception that my Chief Inspector is aware of informant fees and to whom they're paid.²⁸³

Thus, this type of information generally reaches only those officers who are to be directly involved in the continuing investigation of the specific case and their superior officer. While the reports which are filed in connection with each case do reach the Department's Intelligence Unit, the Intelligence Unit itself performs no evaluative and analytical support function to the operating units concerned with narcotics law enforcement:

A: I would say that they [Intelligence Unit] have at this disposal all available intelligence information.

Q: Do they perform any analysis function of that intelligence information?

A: No, not to my knowledge.

Q: So, we could best say that they are more or less a conduit and a storehouse rather than an analytical body?

A: To the best of my knowledge.²⁸⁴

The most "sophisticated" level of the Department's performance in this regard was described by Captain Orbell:

²⁸² *Id.* at 35-36.

²⁸³ Orbell, August 17, 1973, N.T. 140.

²⁸⁴ *Id.* at 6.

Q: How many people would you say that you have working full or part time on intelligence analysis?

A: That's a very difficult question to answer for this reason: Almost all my personnel are required to make sure the flow of information goes. I have three or four men who, as part of their regular duties, preparing specific intelligence information as it becomes available.

Q: . . . Is there anybody within your unit that would, say, analyze the drug traffic in Bridesburg, for example, and say, "Here are the major pushers, here are the major locations, and I base all of this and put it together in a report based upon the information I've analyzed" in your unit?

A: No, not specifically. I have meetings with my supervisors, and it's part of their duty to do this. *We sit down with our supervisors and we try to look at different geographical areas and see who is there and how we're doing in that area and what's happening in that area.*²⁸⁵

In addition to the narrow case approach to intelligence use there appears to be little inter-unit contact for exchange of information even on an informal basis. A clear illustration of this is found in Captain Korn's testimony:

Q: Well, if I understand your earlier testimony, those people [East Police Division undercover officers] get their information from you?

A: Plus on themselves. They get information from me that I feel I don't have the adequate manpower or whatever reason I can't accurately investigate, but they also do their own investigating, go out on their own and seek information or make sight arrests or work on information they might receive.

Q: Is there any line of communication working the other way? In other words, if the eight people [from the East Police Division] came upon some

²⁸⁵*Id.* at 7-8 (emphasis added).

situation within your District, are they required to notify you that they are investigating something within your District?

A: No. . . . basically, although my plainclothesmen do meet with all other plainclothesmen in the Division and the Inspector at least once a week. He gives his instructions as to vice enforcement, which would include narcotic enforcement, with his plainclothesmen, mine and the others. So they dispense information back and forth among themselves. Of course, what he gives to them, he also gives to us.

Q: Are representatives of the Narcotics Unit present at those meetings?

A: No, not that I know of.

Q: *So at least with respect to two elements, the Narcotics Unit and East and yours, there is no standard interchange of information and relationship?*

A: *That's correct.*²⁸⁶

An example of the poor results originating with the existing intelligence collation and transmittal system is reflected in the testimony of Officer Sharkey of the Narcotics Unit:

Q: Do you know whether the Narc Unit has a separate intelligence section which takes all of the intelligence gathered with respect to narcotics and evaluates it and analyzes it and then turns around and gives it back to people in the Narc Unit?

A: Not to my knowledge, no, sir.

Q: Do you know whether there is any such unit in the entire police department?

A: I would only be guessing if I said major crimes or our Intelligence Division itself, it would only be a guess.

Q: But have you ever been the beneficiary in terms of your job of such kind of intelligence information?

²⁸⁶Korn, N.T. 26-28 (emphasis added).

A: No, sir.

Q: Well, can you characterize for me what, if any, intelligence operation the Narc Unit runs?

A: There is something wrong with the communications between the two of us I'm apparently missing. Are you talking about what information or paperwork do I have available to me upon receipt of information concerning different parties involved in narcotics? Is that what you're—

Q: That's the lowest level of this kind of information. I'm talking about more, I'm talking about—

A: You're talking about receiving it back from a unit saying Joe Blow, Harry Bockela and so ever, are all engaged—apparently engaged within the same organization?

Q: That's right, and the connection line appears to be—

A: Leading toward so and so.

Q: —so and so and they generally operate in this location and they have when who are carriers—I'm talking about real intelligence.

A. No, sir.²⁸⁷

The weakness of drug control management likewise is reflected in the lack of creativity in connection with obviously valuable, yet missing, intelligence functions. The Department makes no analysis of the quality of its buy program:

²⁸⁷Sharkey, N.T. 25-27. In this respect it is noteworthy that many functions necessary to perform the above intelligence functions are not performed by the Department. For example:

Q From a narcotics law enforcement point of view, I think you testified earlier that the quality and quantity of drugs is an interesting—an important index of who you are dealing with.

A On a specific case by case basis, yes.

Q Is it not also relevant to measuring the quality of arrests being made by all of the policemen on the street?

A On a case by case basis, yes.

Orbell, August 17, 1973, N.T. 49-50. Yet the Department provides no analysis of the quality of drugs seized or purchased.

Q: Have you ever thought about the value of such an analysis [by drug, amount, money spent, etc.] of what you're really doing?

A: Frankly, I have not. All buys come into me, all buys come into me, I get the reports on every buy. Probably, maybe, should have instituted something like that but I kept it in my head. I know pretty well in my own mind what we're doing and how we're doing it. I know, for instance, that we have increased the average [quantity of money spent on a buy] from last year at least threefold.²⁸⁸

The Narcotics Unit does not even have a statistician or analyst:

Q: . . . You don't, at the present time, have any police officer whose part-time duty it is to be a kind of statistician and analyst of these kind of things?

A: No, I do not.²⁸⁹

The Department performs no collection of data to evaluate the drug dealers and their importance:

Q: With the exception of . . . gross numbers . . . what analysis, if any, does the department make, to your knowledge, with respect to the quality of an important significance in terms of drug law enforcement of all the volumes of arrests that are made? . . . the volume of drugs, for example, the volume of the dealer is another example of quality. I think the Captain understands what I mean.

A: Yes, well, I'm not aware that we do any such analysis. . . . It may well be that the Research and Planning Unit has done some such analysis, but I frankly doubt it, because, for one thing, it has not been the practice in the Philadelphia Police

²⁸⁸Orbell, August 17, 1973, N.T. 54.

²⁸⁹*Id.* at 54.

Department to keep any records of weights of narcotics or quality of drugs seized.

* * * * *

Q: Approximately how many piece dealers, individuals selling pieces of heroin, meaning one ounce or more, do you think there are in the City of Philadelphia?

A: I couldn't answer that.

Q: Any expert view of about how many there might be?

A: No, I couldn't offer any figure on that.

Q: How many bundle dealers do you think there are?

A: Again, I have no statistics I could use to give me any kind of realistic figure. *I would have to be making a guesstimate, and, mine would be as good as yours.*²⁰⁰

The Quality Function

The second type of intelligence generated by the Philadelphia Police Department consists of statistics and lists obtained from police detentions for drug law violations produced by the computer of the Research and Planning Unit of the Department. Arrest totals, listed by charge, and lists of persons arrested, detailing age, race, and sex, are assembled by the Narcotics Unit, which investigates every drug arrest made, and are submitted to Research and Planning. On a delayed basis, various levels of police management receive computer printouts of semi-annual arrest figures and various lists of persons arrested. Statistics on court cases are kept by Research and Planning, conviction and jail rates are also calculated. While this raw data is supplied to the Research and Planning Unit of the Department, its use is limited by the failure to analyze it or even distribute most of it to the narcotic related units. For example, that which is available to Captain Korn is described by him as follows:

A: Well, there is a computer printout that lists persons arrested, that is supplied by the Statistical Unit, that live in my District. It would give their

²⁰⁰ at 18-19, 123-124 (emphasis added).

name, address, charge, date arrested. This is updated on a periodic basis through the Statistical Unit, but strictly narcotics, no. They have a narcotic printout that is supplied. It is names of persons living within the Twenty-sixth District that have been arrested anywhere in the City but resided inside the District.

Q: But you would not get . . . people who resided in the Twenty-fourth District who were arrested in the Twenty-sixth for drugs?

A: No, the ones we get is the ones living in the District.

Q: Is it accurate to say that there is no detailed analysis of the nature of the arrest, the amount money, the amount of drugs?

A: No, it is strictly the name, description as to age, race, residence at the time of arrests, location where arrested, and I think their photo number and the date of the arrest.

Q: Is the disposition on it, too?

A: No, I don't think it is. It is made up from the arrest records, not from dispositions.

* * * * *

Q: So that you do not get any overall figures of how your people are doing in terms of conviction rates?

A: No. I would know whether it was held for Court or not. Past that point, I would not know.²⁰¹

Captain Orbell also obtains limited benefit in evaluating his Unit's operations from the computerized services of the Department:

Q: . . . Do you have any individual or section within your unit which is responsible for evaluating the unit's operations; in other words, successful arrests, convictions, sentences, analyzing what

²⁰¹Korn, N.T. 30-32, 44.

happens to all the people that go through 22nd and Hunting Park?

A: Again, that's a very difficult question to answer. We are aware, our computer section, our research and planning section does keep statistics on Court cases; how many of our sales cases, for instance, result in conviction, how many convictions result in prison sentences. So, to that degree we are aware, yes.

I don't think we have any kind of comparative—to compare against, actually, as to whether we're doing a fair job or an excellent job, as opposed to who, I don't believe we have that.²⁹²

Similarly, Captain Orbell received little analysis of the disposition of arrests made by men in his Unit:

Q: . . . Has your Unit, or the Department itself, done any analysis of the disposition of arrests made by the Courts of the District Attorney's office?

A: I believe that the Research and Planning Unit has done some analysis of these cases; how complete it is, I don't know. I talked to the Commanding Officer of the Research and Planning Unit yesterday and he, for instance, gave me some figures which show the percentage on sales of narcotics cases from January 1, of 1971 through April 30th of 1973; the number of guilty sentences and the percentage of total cases; the number of those guilty sentences which resulted in suspension; and the number of guilty sentences which resulted in prison terms, and then, a breakdown of lengths of the prison term.²⁹³

Thus, the total extent of overall program evaluation based upon analysis of arrests and dispositions is extremely limited:

Q: Does the Department run any evaluation of your particular Unit on an annual or semi-annual basis? Do you get a report from some other unit within

²⁹²Orbell, August 1st, 1973, NT 16
²⁹³*Id.* at 38-39

the Department saying, "You've done a good job, you've done a bad job, you ought to do this and you shouldn't do that?"

A: We get a yearly report that reflects figures, such as, the total number of possession arrests, total number of use arrests, total number of sales arrests, as compared with the previous year. It does not say, "You've done a good job," or, "You've done a bad job," you draw your own conclusions.

However, I'm sure that if there was any kind of marked discrepancy somebody would be ripping my back off about it.²⁹⁴

This raw information is not used to measure the quality and constitutionality of an individual police officer's activities. Captain Clark admitted to this total absence of modern data use when asked whether arrests were analyzed in any way other than simply their total number:

Q: Do you not think that it would be very helpful to know the box score of your policemen who made a fair number of possession pinches, in order to evaluate whether or not the pinches they were making were standing up?

A: Well, yes, but you would have to know the whole scope of things, too, how did he make these pinches, did he make them through routine police work or did he do it through his own investigation and use an improper search warrant. If he did it this way, then there is definitely some need for training. If he did it the other way, by stopping a car for whatever and finding some narcotics through an improper search, that's another thing.

Q: . . . Isn't it true that there really is no mechanism within a Department right now to make those kind of evaluations?

A: I would have to assume you are right.

²⁹⁴*Id.* at 142.

Q: There is none that you operate under?

A: I don't know of any.²⁹⁵

Another example of this lack exists with respect to searches. Captain Orbell admitted that no computer analysis was made to uncover the presence of any officers who habitually had their arrests dismissed because of the police officer's conduct:

Q: Nobody has really made any systematic analysis within the Department to prototype the classic situation of unconstitutional arrests . . . Second of all, nobody in the Department has done any real analysis to find out whether the same officer appears over and over again [regarding unconstitutional arrests]. You know it can be done, because the District Attorney has a short form indicating the arresting officer, the Unit he's attached to, and a short summary of the facts involved in each case.

A: Right . . . we have much more detailed forms of that case. . . I believe that the Sergeant on duty in my Unit would be aware of a particular individual if that was occurring.²⁹⁶

Additional areas demanding use of scientific analysis to improve the quality of law enforcement abound.

No use is made of an empirical analysis of prior arrest performance of candidates for service in the Narcotics Unit:

Q: Have you ever statistically reviewed the conviction rate of the candidate's prior performance in evaluating whether somebody would be a good member of your [Narcotics] Unit?

A: No, I have not done that.

Q: Do you think that would be a relevant criteria for the efficiency and quality of the person's worth?

²⁹⁵Id. at NT 80.

²⁹⁶Orbell, August 17, 1974, NT 88-89.

A: I don't know if it would be, or not.²⁹⁷

The enforcement policy of low level attack is predicated, in part, on taking addicted criminals from the streets, which allegedly will reduce the number of other crimes. While this is the theory, the Department has never utilized its data bank to investigate the reality of this theory:

Q: Have you done or do you know whether the Department has done any study examining the relationship between drug arrests and other criminal activities, other than the general rhetoric about drugs leading to crime?

A: I know of no formal study. I haven't done one, except, like you say, relating in my own experience through the Department of a person, past record, do they have drugs related to it, but I don't know of any formal study.²⁹⁸

Thus, the conclusion is inescapable that the Department is failing to utilize the data that it has at its disposal, fails to collect appropriate data, and pays insufficient attention to the intelligence function in connection with its attempt at the control of Philadelphia's drug situation.

THE MEASURES NECESSARY TO IMPROVE THE QUALITY OF DRUG CONTROL LAW ENFORCEMENT WITHIN PHILADELPHIA

Thorough changes in the drug control performance of the Philadelphia Police Department are required to reduce drug abuse in Philadelphia. While improved law enforcement will not produce an end to drug abuse, it should utilize its resources as effectively as possible to limit the spread of the drug problem. In evaluating the Police Department's performance, the Strike Force was aided by the methods it employed in the operation of its experimental unit as well as the results achieved. What follows is a brief description of the Strike Force as an experi-

²⁹⁷Id. at 107.

²⁹⁸Korn, N.T. 52.

mental unit with specific emphasis on the critical elements of organization and operating techniques employed to achieve its arrest and conviction record.

Recommendations for reform of departmental operations are presented. They must be read in the context of the entire Report to grasp fully the indisputable need for these changes and their relative ease of implementation.

The Strike Force as an Experimental Unit

INTRODUCTION

From the outset in October, 1972, it was recognized that the Narcotics Control Strike Force would never attempt to, nor could it ever equal an urban police force in size and manpower. However, it was thought that the Strike Force could be used to develop specific law enforcement techniques and organizational and operational methods which could result in an efficient, successful drug control operation. From this, it was envisaged that the Strike Force would test the hypothesis that law enforcement units could make a meaningful contribution to the control of drug abuse by removing drug dealers from the streets and, thereby, provide better protection against the scourge of drug abuse and related crimes than was presently the case.

In November, 1972, the Strike Force planned an undercover drug buy program within selected areas of the City with a view toward eventually arresting all those persons from whom drugs were purchased. The areas of the City in which the Strike Force concentrated were neighborhoods in South Philadelphia, the Far Northeast, and West Philadelphia.²⁰⁰

²⁰⁰Using the manpower available to it, and relying on its then limited knowledge of drug traffic in Philadelphia, the Strike Force originally chose three separate neighborhoods in Philadelphia in which to locate its undercover activities. These three areas were West Philadelphia, Kensington, and a small section of North Philadelphia.

However, with the exception of West Philadelphia, these initial efforts did not prove entirely successful both because of the nature of the manpower assigned to the Strike Force, the insularity of Kensington, and the limited size of the North Philadelphia area. Upon recognizing the limited potential of the initial areas, evaluating intelligence information about other areas, and undergoing changes in manpower levels and personnel, the Strike Force shifted locations of its undercover activities.

Replacing Kensington was a somewhat similar Philadelphia neighborhood—a section of South Philadelphia inhabited primarily by Italian and Irish communities and located between Dickinson Street on the north, Bigler Street on the south,

In October, 1972, when the Strike Force began operating as an adjunct to the overall Philadelphia investigation, the investigators, 11 in number, were drawn from various state agencies, including one Pennsylvania State policeman. By the end of January, 1973, a group of Pennsylvania State Policemen, many of whom were experienced in narcotics control, were assigned to the Strike Force. The arrival of these state troopers and others in March, 1973, provided the Strike Force with an appropriate nucleus of agents which is reflected in the undercover buys beginning in April.

As a result of this January expansion, the unit grew to its largest size—17 agents, 13 of whom were Pennsylvania State Policemen. Additional reorganizations took place through April. These led to a reduction in the size of the unit to 11 agents, which remained constant until the end of July when the unit was further reduced to 7 undercover agents, 5 white and 2 black. Overall, the unit size averaged 11 agents, with a high of 17 and a low of 8.

THE RESULTS OF THE EXPERIMENTAL OPERATION

In carrying out the buy program, Strike Force agents made numerous undercover buys from over 125 individuals. Table 53 sets forth the cost and value of the drugs purchased, the number of buys, and the quantity and cost range of the purchases indexed by drug. These figures illustrate the enormous profit available from the point of manufacture or harvest of raw materials to their ultimate retail sale.

Turning to the individuals subject to arrest, Table 54 identifies those persons as accurately as possible.

As of February 8, 1974, 93 individuals had been arrested by the police and criminal proceedings begun. Also as of February 8, 1974, final dispositions have been reached in 55 of 79 individual cases (often involving multiple charges) within the

4th Street on the east, and 24th Street on the west. North Philadelphia was eliminated and a new area of investigation was opened in Philadelphia's Far Northeast bordering on and including nearby sections of lower Bucks County, an area which is white middle class and relatively recent in development. The third area of activity continued to be West Philadelphia. With establishment of operations in these areas, the pace of the operations quickened, with each of the new agents and those remaining from the original detail becoming well accepted in the various communities within which he operated.

TABLE 53
Street Sale Value of Narcotics
Purchased During Period of Investigation
January 14, 1973 to September 13, 1973

<i>Narcotic</i>	<i>Quantity & Cost Range</i>	<i>Street Sale Value</i>
<i>Heroin</i> Number of Buys 45	1 Bag at \$5 to 1 Ounce at \$1,500	\$58,460
<i>Methamphetamine</i> Number of Buys 50	1/4 Teaspoon at \$25 to 3 1/2 Pounds at \$8,000	\$708,110
<i>Cocaine</i> Number of Buys 2	2 Ounces at \$1,000 to 1/8 Kilo at \$3,000	\$15,400
<i>Morphine Diluted</i> Number of Buys 28	1 Tablet at \$13 to 25 Tablets at \$225	\$3,880
<i>Other Drugs</i> Number of Buys 14	1 Bag at \$5 to 1 Pound at \$200	\$4,840
	TOTAL COST \$57,119	TOTAL STREET VALUE \$790,690

TABLE 54
Race, Ethnic Group and Sex
From Whom Purchases Were Made

	<i>Male</i>	<i>Female</i>	<i>Total</i>
Black	19	1	20
Puerto Rican	4	—	4
White ³⁰⁰	90	13	103
Italian	—	36	
Irish	—	9	
Polish	—	2	
Jewish	—	3	
Not known	—	52	
Total	113	14	127

jurisdiction of the Philadelphia Municipal and Common Pleas Courts. Fourteen other individual cases have resulted in indictments in suburban Courts. See Table 55.

Although it is not possible to draw final conclusions from these incomplete court results of the Strike Force's effort, an examination of the results available does reveal a trend in conviction rate that reflects the quality of the performance of the Strike Force.

³⁰⁰Description by group is based upon last name and residence locations.

TABLE 55

Narcotics Control Strike Force
Case Status to February 8, 1974³⁰¹

Cases dismissed	8
Cases convicted	47 (cases sentenced 31)
Total cases disposed	55

The individuals whose cases have been tried in the Philadelphia Courts were charged with 122 violations of the Controlled Substance Act and 32 violations of other criminal statutes which violations were directly related to drug dealing.³⁰²

Of the 55 individual cases disposed, 47 (85.5%) have resulted in convictions and only 8 (14.5%) have resulted in dismissals. Of the 47 convictions, 38 were found guilty and 9 were convicted by pleading guilty or nolo contendere under Section 17 of the Controlled Substance Act and were placed on conditional probation.

Sentences have been handed down in only 31 of the 79 individual cases. Of these thirty-one, 20 were probationary sentences, 8 were sentences of mandatory residential treatment, the violation of which may result in a jail sentence, and three were jail sentences. Sixteen cases resulting in convictions have not yet been sentenced. Thus, 20% of the disposed cases have resulted in incarceration. See Table 56.

TABLE 56

Narcotics Control Strike Force
Sentencing to February 8, 1974

	<i>Number of Sentenced Cases</i>	<i>Percentage of Sentenced Cases</i>
Incarceration: 0-2 years	10	32.3%
2 plus years	1	3.2%
Probation	20	64.5%
Total Cases Sentenced	31	100.0%
Fines/Cost	10	32.3%

³⁰¹Twenty-five cases are pending in Municipal Court, 14 cases are pending in suburban courts, and the majority of the Common Pleas cases are still pending.

³⁰²More specifically, the criminal drug charges included: 49 charges of unlawful delivery of a controlled substance; 28 charges of possession with intent to deliver a controlled substance; and 45 charges of unlawful possession of a controlled substance.

For purposes of evaluation and comparison, the rate of conviction can be estimated and compared to that of the Philadelphia Police Department. Since the Strike Force concentrated on sales cases, the following table reflects only cases where a sales charge was brought.³⁰³

TABLE 57

Philadelphia Municipal and Common Pleas Courts
Cases With Sales Charges
Dispositions

Philadelphia Police Department Narcotics Control Strike Force
January 1, 1969-March 31, 1973 January 15, 1973-Sept. 13, 1973

	Cases	Percentage of Those Tried	Cases	Percentage of Those Tried
Dismissed	620	45.9%	6	12.2%
Convicted	731	54.1%	43	87.8%
Total	1351	100.0%	49	100.0%

Transfers to medical treatment are considered convictions for the purpose of this table.

These statistics amply support the contention that a unit with an adequately funded, properly managed undercover narcotics control operation can achieve success under the existing Controlled Substance Act.

OPERATING TECHNIQUES

In evaluating the Strike Force operation, three distinct elements stand out: (1) the availability of adequate personnel, finances, equipment and their imaginative use; (2) the creation of an adequate intelligence gathering and financial management system; and (3) the decision not to arrest immediately upon completion of undercover purchases.

Until the very end of April, 1973, the Strike Force operated with inadequate and often no funds. Money, like personnel, however, is not the sole determinant of a successful unit. The uses to which the funds are put is also determinative of success. In the early period of the investigation, there were no suitable automobiles available for undercover work. In fact, some

³⁰³It should be pointed out that the Philadelphia Police Department does obtain a higher conviction rate in sales cases than in all its drug cases.

"undercover" agents were driving easily identifiable state vehicles. In addition, officers worked essentially normal duty shifts since the only residential accommodations available were located in the George Washington Motor Lodge which functioned as the operational headquarters for the Philadelphia investigation. To overcome these obstacles to a successful operation, appropriate investigatory tools, primarily automobiles and apartments, were acquired for selected officers. In January, 1973, the unit acquired a limited number of automobiles which, while not ideal, at least removed the agents from visible identification as state employees. In May, 1973, the Strike Force rented two autos, a 1973 Ford Thunderbird and a 1973 Cadillac, and assigned each to an agent detailed to a specific area of Philadelphia. In retrospect, the initial desire to obtain such automobiles proved valid and critical in infiltrating certain drug circles. From the Strike Force's experience, an agent using such a vehicle appears so similar to other drug dealers that agents were never thought to be Philadelphia policemen or members of any other law enforcement organization.

Beginning in July, 1973, the Strike Force rented apartments in various neighborhoods in order to have the agents who were operating as drug dealers in these areas appear to live in the area where they bought drugs. This technique likewise was foreign to the drug dealer's experience; and, combined with private telephones and luxury automobiles, these private residences further insulated the agents from association with law enforcement.

An additional related advantage of apartments was the removal of these agents from the area of the George Washington Motor Lodge which had become widely known as the local home of the state police investigators. Adding to automobiles and apartments, clothing allowances were provided to selected agents in order that their attire would be consistent with big city drug dealers.

Finally, agents were given adequate funds for use as pocket money to illustrate to drug sellers that the agent had adequate resources and to allow the agent to take advantage of purchasing opportunities as they arose.

A further asset to the unit was the use of female agents through which access to drug dealers was greatly accelerated. Because the Philadelphia Police Department does not use women law enforcement personnel in narcotics work, the pres-

ence of women increased the acceptance of agents within the drug distribution rings in which they operated.

A few examples of the use of these techniques illustrates their value. In connection with the infiltration of the middle class drug traffic involving methamphetamine (speed) in the Northeast, the Strike Force placed an agent, equipped with a 1973 Cadillac, in a luxury rental apartment near the Liberty Bell Race Track and had him appear to live with a woman who was an informant paid by the Strike Force. Because of the "front money" he always carried with him, the 1973 Cadillac, and his apparent lack of fear of the police, he was accepted as a very important buyer by major sellers in the Northeast. His cover story was simple and credible—he was a bulk speed dealer reselling his purchase at retail at the New Jersey shore during the summer. In addition, the fact that he was not addicted and always had cash in his pocket eventually lured scores of potential sellers to contact him with resulting sales to him leading to 45 arrest warrants.⁵⁰⁴

In South Philadelphia, where mass street purchases were the goal, initially, an informant was used. In this operation, the agent also posed as a dealer purchasing drugs for resale at the New Jersey shore at a higher price. He too succeeded in convincing the sellers he was neither an addict nor a police officer. He dressed appropriately, drove a fancy car, always had money to spend, and often was accompanied by a woman employee of the Commonwealth. Once he had made his initial purchases, he continued to purchase and introduced other agents without requiring an informant's services. This limited program led to the issuance of arrest warrants for 45 drug dealers.

A third example involves the infiltration of the non-addicted black drug trade in Philadelphia. Here a black state trooper was provided with a 1973 Thunderbird as well as with the required clothing and directed to establish drug connections with the highest level heroin and cocaine dealers possible. This agent succeeded and made an extremely important connection with a major heroin dealer.

These examples provide illustrations of the basic ingredients

⁵⁰⁴This agent and State Trooper John Schaler were the two agents involved in the Canadian Connection. This operation involved the purchase by these agents of 31 1/2 lbs. of methamphetamine in Montreal, Canada. They were accompanied by two Philadelphia drug dealers who provided the introduction to the Canadian supplier. The two Philadelphians were arrested for conspiracy, convicted, and sentenced. The convictions are now being appealed.

necessary for a successful drug control operation: personnel, money, and imagination.

In addition, a related and basic issue is the proper development of an intelligence system and its use. From the inception of Strike Force activities, its basic intelligence retrieval and filing system was identical to and integrated with that of the overall Philadelphia investigation. However, with respect to identification of drug dealers, locations, and other specific drug related information, an independent identification and background information system was implemented.

The Strike Force obtained photographs and police records of each of the individuals with whom an agent had contact with or was interested. In addition to this, the intelligence section of the unit investigated automobile identifications, voter registrations, and used other traditional information gathering tools in order adequately to identify those involved in the drug trade. This information was collated, sorted, and returned to the respective agents in order to increase the efficiency of their operation on the street.

Equally important but less glamorous is fiscal management of a drug control unit. All expenses and accounting were handled in a systematic manner based upon written requests for funds and written confirmation of the amounts that were spent along with a detailed narrative report of the activities which generated the expenditure of money and which were in any way related to the drug investigation.

Finally, the Strike Force initially decided not to make any interim arrests unless an agent's continued undercover performance was made impossible and his disclosure would not threaten the "cover" of his fellow agents. The willingness to continue investigations without premature arrest resulted in deep infiltration of the drug scene. It improved greatly the ability and efficiency of the agents and attracted other dealers to the agents, since they became convinced that the agents were not law enforcement personnel. Obviously, had arrests been made immediately after the individual purchases, no infiltration would have been possible, and rather than 127 persons subject to arrest, it is likely that no more than 17 persons would have been arrested for illegal drug sales. In the Commission's view, delay after sales is worthwhile from a law enforcement perspective in light of the efficiency and capability a unit such as the Strike Force may reach over time.

Proposed Reforms

As documented in this chapter, the investigation of the drug situation in Philadelphia and the police response to it creates a sense of dismay bordering on outrage.

The recommendations below are based upon the assumption that drug dealers should be arrested, the source of drugs cut off, and the abuse of drugs made more costly. Using these assumptions, it is difficult to understand how the Philadelphia Police Department can operate the way it does with respect to drugs. To improve this performance and to create reality from the Department's rhetoric, seven major recommendations are set forth below.

POLICY

The Department's drug control policy should place greater emphasis on infiltrating higher levels of the drug supply system in order to reduce the supply of drugs available to the addict users and low-level sellers who are presently the primary target of the Department. In connection with the altered policy, the funds available for drug control should be vastly increased, especially with respect to the buy program aimed at the arrest of drug sellers.

All elements of the drug chain—users and dealers alike—are a matter of concern to all drug enforcement agencies. However, considering the scope of the problem and the limited resources available with which to counteract it, long-run efforts are certain to meet more success if concentrated upon a specific level of the distribution chain. Theories of experts and the actual operations of successful agencies are in agreement.

The theory of a member of the Professional Standards Division of the International Association of Chiefs of Police, for example, stresses the importance of concentrating on drug suppliers. The basis of this theory is that if supply is diminished, the price will increase to such a point that young people who would normally experiment with drugs will no longer be able to afford them.³⁰⁵ Likewise, the Illinois Legislative Investigating Com-

³⁰⁵Kochetz, "Drug Abuse Prevention, A Challenge of the Present," *The Police Chief* April, 1972.

mission concluded that police administrators have the responsibility of shifting their maximum efforts to higher targets within the drug chain. The Commission acknowledged that this approach may result in fewer arrests per year but asserted that the net effect on the drug crisis will be greater.³⁰⁶ The New York State Commission concurred in this theory subsequent to finding that in New York, similar to the Philadelphia drug situation, low-level arrests failed to have any meaningful effect on the City's narcotics traffic.³⁰⁷ Once such a policy change is made, optimum effort should then be devoted to familiarizing all concerned departmental personnel with the policy and the rationale behind it.

Finally, to ensure the success of any Police Department goal, but particularly one of this nature, the coordination and cooperation of all elements of the criminal justice system and of other drug enforcement agencies is critical. A drug control policy of infiltrating higher drug supply levels is certain to correct the existing situation of the poor drug arrest approval rate by assistant district attorneys.

Inter-agency cooperation remains an essential ingredient of a successful drug law enforcement program, serving to prevent overlapping activities and wasting of resources. In order to maximize the benefits of such cooperation, the regional approach of combatting narcotics traffic should be adopted. One example is Toledo, Ohio's Metropolitan Drug Unit. The objective of the unit is regional concentration on drug traffickers rather than users and low-level distributors. "The Unit has created a centralized intelligence system which builds upon the experiences and capabilities of each of the participating jurisdictions and yet, is under the well-defined leadership of local officials."³⁰⁸

PERSONNEL TRAINING

In-service training should be expanded.

Narcotics training is part of the Police Academy's curriculum for all Department recruits and 14 additional training hours are provided upon assignment to the Narcotics Unit. According to

³⁰⁶Illinois Legislative Investigating Commission, *The Drug Crisis, Report on Drug Abuse in Illinois* 125 (1971) [hereinafter cited as *The Drug Crisis*].

³⁰⁷The New York State Commission of Investigation, *Narcotics Law Enforcement in New York City* 46, 111 (1972).

³⁰⁸International Cities Management Association, "Local Governments Unite to Stop Drug Traffic," *Bulletin of "Successful" Projects Funded by the LEAA* (1972).

training guidelines established by the International Association of Chiefs of Police, however, a minimum of 80 hours of specialized training should be provided.³⁰⁹ At present, only about 30 percent of the Unit's personnel receive training of this extensive nature from the Federal Government's Bureau of Narcotics and Dangerous Drugs Police Training School and the St. Luke's Hospital Drug Program.

The Department and Narcotics Unit would benefit by a reexamination and evaluation of their existing programs and their philosophy and content in light of new police drug training programs, such as that conducted at San Jose State College. The philosophy of this program is to:

Develop an officer who knows why he performs as he does and understands the total system affecting law enforcement. . . This kind of officer who is trained in more depth is able to adapt his performance to changing conditions and to alter his performance as the system changes.³¹⁰

The program emphasizes discussions and includes minimal formal sessions. Adopting a common approach in graduate education, the program includes plans for trainee involvement in the design of projects, selection of field activities, and evaluations of student performances, the faculty, and the program itself. Also, meetings are planned at six-month intervals after each program to enable the trainees to discuss how they put their training into practice and how well they are meeting the goals of their job.³¹¹

If police training programs are to be more effective, they must be made more relevant. Specifically, police recruits must be provided, as a part of their training, with much more in the way of guidelines and policies that reflect carefully-thought-through administrative determinations as to how commonly recurring situations are to be handled. . . . Secondly, police must be taught that they will be expected to exercise discretion. They must be encouraged to assume individual

³⁰⁹International Association of Chiefs of Police, *Standards for the Staffing and Organization of Municipal Narcotics and Dangerous Drugs Enforcement Units* 9 (1970) [hereinafter cited as *IACP Standards*].

³¹⁰Miller, "Narcotics Enforcement Officers Training Programs," 15 *Police* (no. 5) 34 (1971).

³¹¹*Id.* at 36-38.

responsibility and be equipped to function autonomously. They must be impressed with the importance and complexity of the decisions which they must make. They must be acquainted with the processes involved in evaluating situations and in selecting from available alternatives for dealing with them.³¹²

Moreover, the training process must be a continuous one. The President's Commission on Law Enforcement and Administration of Justice, for example, cited the value of short daily training sessions for police officers supplemented by an annual intensive in-service training program.³¹³

IMPROVING THE QUALITY OF THE DEPARTMENT'S DRUG ARRESTS

The quality of drug arrests should be improved and the number of possession arrests reduced by placing less emphasis on sight arrests and giving full support to the District Attorney's screening program in order to weed out cases destined to acquittal or dismissal.

Accompanying a change in law enforcement goals should be a program aimed at the improvement of the quality of arrests made by Unit personnel. At present, as the facts in this Report illustrate, the large number of low-level possession arrests made by officers have a negligible effect on the City's drug traffic. Only 43% of the arrests are approved by the District Attorney's screening program, and of these, only 25% result in convictions. Each day, a tremendous amount of resources is wasted, not only police resources, but resources of all elements of the criminal justice system as well.

Increased supervision over unit personnel and periodic analysis and evaluation of arrest performance, particularly the ultimate disposition of the arrest, is imperative:

Supervisors should be held responsible for the activities and conduct of their subordinates and should

³¹²American Bar Association Project on Standards for Criminal Justice, *Standards Relating to the Urban Police Function* 209-210 (Tenr. Draft 1972) [hereinafter cited as *ABA Standards*].

³¹³President's Commission on Law Enforcement and Administration of Justice, *Task Force Report: The Police* 140 (1967) [hereinafter cited as *Task Force Report: The Police*].

periodically rate the performance of subordinates. The NDD [Narcotics and Dangerous Drugs] supervisor should have authority to review subordinates' activities and require that their work meet specific quality standards. The supervisor should have the authority to suspend subordinates temporarily and should have some influence in the transfer of officers who do not perform adequately.³¹⁴

Once such a change in policy and practice is effectuated and Narcotics Unit personnel are presented the opportunity to appreciate the meaningfulness of the job they are doing in terms of the impact on drug traffic, employee morale and incentive is apt to be an additional benefit.

REORGANIZATION OF PERSONNEL

Women and Spanish-speaking officers should be assigned to the Narcotics Unit, and civilian personnel should be utilized in clerical functions.

The testimony of the Narcotics Unit commander included the admission that a significant number of unit members were forced to spend up to 40 percent of their time performing clerical functions, clearly a waste of trained Unit personnel. Such tasks could more economically be performed by civilians working for lower salaries, thus leaving unit officers with significantly more time for law enforcement activities. The elimination of clerical functions from an officer's duties may also be expected to attract more qualified personnel who might otherwise be deterred by the prospect of spending nearly half their working day performing clerical duties. The President's Commission on Law Enforcement and Administration of Justice recognized the need to employ trained personnel effectively:

If patrol officers, investigators, and other field personnel are to be fully utilized, a force should consider implementing a system whereby reports may be dictated without requiring personnel to leave their patrol area. . . . One way to accomplish this is to install dictation equipment either in each vehicle or at headquarters so that an officer or detective may "call" his report onto a tape. Clerical employees could then transcribe

³¹⁴IACP Standards 10

reports and the officer could quickly resume his field duties.³¹⁵

The advantage of including women officers in drug law enforcement work was demonstrated by the actual experience of the Narcotics Control Strike Force's experimental unit. The President's Commission is in concurrence:

Policewomen can be an invaluable asset to modern law enforcement, and their present role should be broadened. . . . Their value should not be considered as limited to staff functions or police work with juveniles; women should also serve regularly in patrol, vice, and investigative divisions.³¹⁶

Finally, the scope of the drug problem in Philadelphia speaks for itself in demanding the assignment of additional officers to the Narcotics Unit. In evaluating the current manpower of the unit, the men detailed out of the unit and the actual time devoted by the officers to law enforcement duties must be considered; both factors reduce the actual strength of the unit's manpower well below the 96 men assigned. This is significantly below the IACP standard of assigning from 1 to 2 percent of the Department's manpower depending upon the crime rate in the city.³¹⁷

UNDERCOVER OPERATIONS

Existing undercover operations should be improved by providing greater security for undercover agents; rotating undercover personnel so that undercover operations last no longer than 18 months or a certain number of arrests; employing officers willing to live undercover in the areas in which they work; supplying undercover agents with appropriate vehicles and financing; and employing paid informers in greater numbers and for more money.

In order to reach high-level drug dealers, the Department, as well as the Narcotics Unit must devote its personnel, financial resources, and imagination to the development of a sophisti-

³¹⁵Task Force Report: *The Police* 56.

³¹⁶*Id.* at 125.

³¹⁷IACP Standards 10.

cated undercover operation. The description in this Report of the successful operating techniques adopted by the Strike Force's experimental unit may serve as a model.

In order to prevent identification of undercover officers, false licenses and registrations should be provided. Also, the Narcotics Unit should carefully review its present policy of assigning both undercover and search duties to its five squads. The inability of the drug community to recognize the officers in a courtroom might well be underestimated.

The rotation of undercover personnel is highly recommended by drug law enforcement authorities because of the following advantages: (1) rotation into other assignments may result in improved drug enforcement performance of other units; (2) it would prevent loss of perspective of basic police goals by narcotics specialists with many years of association with drug problems and drug traffickers; and (3) it would prevent isolationist attitudes toward the remainder of the Police Department and attempts to operate outside of the Department's framework.³¹⁸ An answer to the argument that rotation would result in loss of information is that "newly assigned specialists can cultivate new informants who may actually open previously untapped areas of information."³¹⁹

Employing agents willing to live undercover in the areas in which they work and providing them with appropriate vehicles are techniques recommended by law enforcement authorities and have proven to be extremely valuable.

Finally, the greater use of informants would provide more useful information with which to combat drug sellers.

INTELLIGENCE SYSTEM

A functioning intelligence system for drug control work should be established which must include the assignment of specifically trained personnel to perform this function; use of existing computer services and their expansion as required; and periodic and systematic distribution of the information to all segments of the Department involved in drug control work.

Under the existing Police Department system, narcotics information is centralized in the Department's Central Intelli-

³¹⁸See IACP Standards 9-10.

³¹⁹IACP Standards 9-10

gence Unit and is available to the Narcotics Unit. Much of its potential value is lost, however, because the data is not regularly assembled and analyzed to provide the Unit with a direction for future enforcement efforts. The data can only be most effectively used if it is analyzed by individuals trained and experienced in such work, and by individuals able to devote their full energies to this task.

Efforts in this direction must begin with police training:

Adequate reporting of information about the incidence and types of addiction in a community should be a major part of improving the information flow between various state and local agencies and the federal government. Therefore, police education should not only take the form of how to make an arrest and get to court, but also an appreciation of the necessity and value of data and research for the programming of enforcement efforts.³²⁰

Statistical reports of the Los Angeles Police Department Narcotics Unit have been rated as the best in the country and may be used as a model. These statistical reports include the following information:

1. Number of arrests for narcotics violations and breakdown into misdemeanors and felonies, and juvenile and adult arrests;
2. number of felonies developed by the buy program;
3. narcotics charges and dispositions;
4. number of buy cases taken to trial and convictions obtained;
5. racial breakdown of buys;
6. cost per defendant of making buys; and
7. drug seizures per year, with breakdown of specific drugs.³²¹

The Police Department should also encourage prompt realization of the proposed Central Data Bank, which will provide for sharing of intelligence information by a number of law enforcement agencies. This can be instrumental in significantly improving drug law enforcement by directing efforts in a more realistic and efficient manner and by eliminating overlapping efforts by more than one enforcement agency.

³²⁰Arthur D. Little, Inc., *Drug Abuse and Law Enforcement* 83 (1967).

³²¹1972 Statistics supplied by the Los Angeles Police Department.

INTERNAL EVALUATION

Systematic internal quality evaluation and control must be established. The intelligence system should provide the data base for evaluating both the quality of the Department's drug control performance and the basis for improvements in performance.

The necessity of regular and dedicated attempts at evaluation and improvement of the performance of any task is obvious. Specifically,

... law enforcement's function as the first line of defense against drug abuse makes it imperative that steps be taken to measure its efficiency and calculate the success of its operations. Without this type of measurement law enforcement could become a directionless force with no means by which to maximize the effects of its efforts.³²²

In Philadelphia, the predominant means of evaluating drug law enforcement efforts continues to be the number of arrests made annually. This criteria, however, has been the subject of attack, because it fails to take into account the cases lost because of police violations of constitutional rights, the level of the violator, the amount or quality of drugs involved, or the final disposition of the arrest.

Standards prepared by the American Bar Association offer additional insight into the proper performance of this essential function:

Planning and research efforts must be broadened to include a concern for the end product of the daily operations in which the police are engaged. The research staff must be concerned with the goals of the agency, with the methods employed in achieving these goals, and with the relative success of each method. They must develop new procedures and policies and supervise experiments in which such procedures and policies are tested.

* * * * *

The effectiveness of the police should be measured generally in accordance with their ability to achieve the

³²²The Drug Crisis 126-127.

objectives and priorities selected for police service in individual communities . . . [p]olice officers should be rewarded, in terms of status, compensation, and promotion, on the basis of criteria defined in this section which directly relate to the objectives, priorities, and essential principles of police service.

* * * * *

One of the obstacles to basic and essential change within police departments is that the criteria currently used to evaluate the performance of police officers typically inhibits, rather than stimulates, necessary change. Regardless how many statements have been or will be made by police administrators or municipal executives about new directions in policing, police officers (like any other group of employees) will react less to public statements or directives than to the realities of their job and to how they are really judged by their superiors and their peers. If, for example, a police administrator states publicly that his officers must begin to give high priority to referring those in need of help to community resources and to protecting the constitutional rights of citizens, but no provision is made to evaluate how officers handle such matters and no incentives are given for appropriate handling (and, in fact, officers are promoted or rewarded on other bases entirely), it is doubtful that the administrator's statement will have any effect on police performance. In other words, necessary changes in the performance of police personnel can only be expected if performance is judged and decisions on personnel advancement are made on criteria which reflect the necessary objectives, priorities, and overriding principles of police service.³²³

Admittedly, an extensive evaluation effort may be complex and time consuming and necessitate numerous changes in operations, but it appears evident that, in the long run, the effort will pay off with more efficient and successful performance on the part of each individual officer and the unit as a whole.

³²³ABA Standards 237, 277-278.

VIII

THE CORRUPTION INVESTIGATION EXPERIENCE

A corruption investigation of a police department is undoubtedly one of the most difficult investigative tasks which any investigatory agency can undertake. The Crime Commission has devoted a significant measure of its energies and resources during the past one and one-half years to such an effort. It is the most ambitious and sophisticated project which the Commission has completed in its brief existence. Thus, it was a learning experience, and the lessons which have been learned, some of them painful, should materially assist any agency that conducts a large-scale police corruption probe in the future.

In this chapter, the Commission reaches five conclusions concerning the inception, administration, and progress of a corruption investigation. As supporting data, many of the details and history of the Commission's Philadelphia effort will be presented. The Commission is thereby fulfilling its duty to share its experiences so that, at the very least, those who follow will not only avoid making the same mistakes, but also will be able to overcome the myriad obstacles which will obstruct their endeavors.

The Commission has made five fundamental conclusions concerning a corruption probe:

1. Recognizing that corruption is essentially conspiratorial, a corruption investigation must have as its object the breaking of the conspiracy by obtaining the cooperation of one or more of its members and must employ imaginative investigative techniques, particularly when the unit under

investigation is another law enforcement department familiar with standard operational techniques.

2. A corruption investigation must begin without publicity and be free from political overtones. Any attempt to use the investigation for political purposes must be resisted and full independence maintained.
3. At the outset, the agency should be prepared for a long run effort and have all the necessary resources and administrative support, as well as trained agents of its own to carry out the mission; amalgamating a force from various outside agencies creates complex administrative and morale problems.
4. The investigating agency should have clear and undisputed legal authority to carry out its mission and sufficient power so that its subpoenas or summonses, when lawfully issued, can be enforced within a reasonable period of time.
5. In a corruption investigation, the cooperation of the head of the agency being investigated, as well as the relevant governmental administration, can make a significant difference in the ultimate success and time necessary to complete the investigation.

From the Commission's experiences, the validity of these conclusions becomes apparent. Nevertheless, failure to adhere to them does not necessarily foretell failure; to varying degrees, the Commission did not adhere to most of them and yet was able to expose widespread and systematic corruption involving more than one hundred and fifty police officers ranging from inspector to policeman. However, adherence to the conclusions will significantly increase both the prospect and the ease of ultimate success.

INVESTIGATIVE TECHNIQUES

All law enforcement officials quickly admit that corruption investigations are complex and difficult, primarily because of the conspiratorial nature of corruption offenses. When another law enforcement unit is the target of the investigation, there

are additional problems for the investigators. As discussed elsewhere, police are very protective of each other, and law enforcement units are exceedingly reluctant to investigate other law enforcement units.

The Commission's initial corruption information was that payoffs to policemen occurred on the first and fifteenth of every month. Payoffs came primarily from organized vice figures, and a squad's bagman would make the rounds on the first available daywork shift picking up the money. The Commission was soon to discover that the days of visible payoffs had long since passed. Whether the massive publicity concerning police corruption in the last few years has acted as a deterrent is difficult to say. The corruption is there, but the more traditional vice enforcement procedures are unlikely, by themselves, to produce probative evidence of the problem.

Above all else, the corruption system is in reality a conspiracy. A private citizen, whether he be a member of organized crime, a businessman, an individual entrepreneur, or merely a motorist, is either willingly or unwillingly paying police officials for a service—usually for the nonenforcement of certain laws. This fact, coupled with active police resistance to the Commission's investigation in the form of agent harassment, denial of documents, and open hostility, required the Commission to resort to different investigative techniques in order to develop its information. As a group, police officers have extremely intense organizational loyalty stemming from a number of factors including the dangers to which they are constantly exposed. Policemen depend on each other more than most professions. From this group loyalty emerges a suspicion and hostility directed to any outside interference with the department. Emerging from this combination of loyalty and pride comes a code of silence which is a serious roadblock to any successful attack upon internal corruption within the Department.

Because it dealt with essentially a conspiratorial relationship, the primary objective of all investigative methods used by the Commission was to develop reliable and sound informants both within and without the Police Department, who would give accurate information concerning the corruption payoff system. Where possible, the Commission was determined to corroborate the information through direct observation, tape recording, or any other independent evidence permissible within the present confines of law. The Commission strongly believes an investigating agency can not resort to methods beyond the bound-

aries of legal investigative techniques. Hence, absolutely no illegal methods were authorized or utilized. The Commission did, however, make extensive use of tape recordings made through use of walking bugs or microphones placed in rooms with the consent of one of the parties. The Commission believed such tape recordings were critical in developing informants, particularly police informants, and a corruption investigation has little prospect of success without them.

The Knapp Commission in New York placed great reliance on the immunity system for gaining information. That Commission felt it had been seriously hampered by the lack of the "weapon which is probably the most useful one in investigations of this sort—the power to compel testimony by granting immunity from prosecution."¹

The Crime Commission did have access to immunity, but soon came to realize that the system is not foolproof. In Pennsylvania, the immunity laws are controlled by the 1968 Immunity Act which affords a witness transactional immunity.² Transactional immunity precludes prosecution for any transaction concerning which testimony is compelled, regardless of the source, whereas use immunity forbids further use of compelled testimony or its fruits, but still permits prosecution for the same transaction if the evidence was obtained independently from the compelled testimony. See *Riccobene Appeal*, 439 Pa. 404, 268 A.2d 104 (1970). An agency obtains immunity for a witness by persuading the Attorney General to file a petition for the grant of immunity in an appropriate court. Immunity can only be granted after a hearing at which the Attorney General has established a need for the immunity.³

An agency making use of immunity petitions must be aware of two separate problems; immunity does not guarantee gaining someone's testimony; moreover, it does not, by itself, ensure the truthfulness of the testimony thereby obtained.

In gaining the testimony of a hostile witness, the Commission must first serve a subpoena. If the witness ignores the subpoena, the Commission can file a petition in court seeking enforcement. If, after a hearing, the subpoena is enforced, the Commission then can order a witness to appear. If the witness appears, and refuses to answer any questions on the basis of

¹Commission to Investigate Allegations of Police Corruption and the City's [New York's] Anti-Corruption Procedures, *Commission Report 44* (December 12, 1972).

²Act of Nov. 22, 1968, P.L. 1180, 19 P.S. §640.1 *et. seq.* (Supp. 1973).

³*Id.* §1, 19 P.S. §640.1.

his fifth amendment privilege, the Commission must then seek immunity for the witness. Even if that is granted, and a court orders the witness to appear and testify, the witness may still refuse. The Commission must then return to Court and file a petition for a finding of contempt. If the Court is reluctant to enforce its order, the Commission may never receive the sought after testimony.⁴

However, the question of whether the testimony is truthful is even more critical. Unless the agency has sufficient evidence, either in the form of previous testimony from the witness or independent corroborative evidence produced through investigation, it will not be able to prevent falsified immunity testimony with the threat of a perjury charge.

The Commission also found that for immunity to work successfully, the witness had to believe that cooperating with the Commission is a superior alternative to "taking one's chances with the system." In most cases, he has to believe that unless immunity is granted, his prosecution will be vigorous and immediate, and that if he lies, he will be prosecuted for perjury.

Besides seeking to develop informants through immunity, the Commission also attempted to gain assistance and information through more conventional means, such as past friendships, money, and other favors.

Additionally, the Commission conducted a variety of overt operations which were critical to the overall intelligence gathering system. Straightforward approaches and pleas for assistance were attempted with members of the business community, current and former members of the Police Department, individuals engaged in illegal activities, residents in high crime areas, and all citizen complainants against police officers. Even an advertising campaign was instituted which induced some citizens to telephone on their own.⁵ This is time-consuming

⁴The case of John Hollowell is instructive. See *infra* at 777-780.

⁵A display advertisement was inserted in seven Philadelphia area newspapers on a weekly basis, in the *Philadelphia Tribune* on a bi-weekly basis, and in the *Philadelphia Inquirer*, *Daily News*, and *Evening and Sunday Bulletin* sporadically. Placement of the advertisement was continued to the early part of May, 1973, at which time the program was terminated. The Commission also submitted a public service announcement to nineteen radio stations in the Philadelphia area during the early part of the summer. By early May, the Commission had received over 135 responses both by mail and by telephone. The majority of complaints pertained to drug traffic, some pertained to illegal gambling, and others to allegations of police corruption. Many also called to voice dissatisfaction with police services; "The police just ride by, but they don't do anything," was a frequent comment.

work, but in many ways is the backbone of any investigative effort.

Additionally, liaison was attempted with other law enforcement agencies, informing them of the mission of the Crime Commission and soliciting their assistance and cooperation. The Crime Commission was not enormously successful in these efforts, finding that a jealous proprietorship over information exists within most agencies. Moreover, the Commission found a tremendous reluctance on the part of other law enforcement units to cooperate in any way with a corruption probe of a "brother" law enforcement unit.

The Commission also issued numerous subpoenas and spent long hours searching documents. The investigation of cash payments made by certain businesses to the police was accomplished almost entirely through this method.

The Commission's successful and unsuccessful efforts to obtain informants concerning corruption are detailed below.

Non-Police Department Informants

At the beginning of the intensive phase in July, 1972, the Commission resolved to do a brief crime profile of various areas of the City. The underlying strategy was to uncover ongoing centers of criminal activity which were operating in the open, seemingly impervious to law enforcement efforts. It was felt that if the Commission could locate this activity in a short period of time with a limited number of men, there had to be some reason the Police Department was permitting such activity to continue.

Within a matter of months the Commission established numerous locations of ongoing violations of gambling, liquor, and prostitution laws. Similar progress was made in the narcotics area. However, the Commission made little progress on an informal basis in persuading any of the bartenders, bookies, number writers, prostitutes, bust-out joint operators, or narcotics dealers to talk.

It was then decided to bring many of the individuals who the Commission believed had direct knowledge of the situation before the Commission for hearings. The Commission turned over its information at certain times to the State Police, who conducted various raids. They were coordinated with Crime Commission investigative efforts, and Crime Commission sub-

pueñas would be served along with court papers; in many instances individuals were never arrested.

Acting on information supplied by the Commission, the State Police conducted three principal raids involving gambling machines, prostitutes, and narcotics dealers. In general, while the Commission gained much useful information about substantive criminal problems, which tended to be confirmed by the testimony of the witnesses who agreed to talk, the raids did not produce significant amounts of direct information on actual police corruption payoffs.

The Commission sustained numerous failures. In the undercover area, Commission investigators spent endless hours in bars and after-hours clubs placing bets and attempting to talk to the people concerning police corruption in an effort to pick up new leads concerning the present system of payoffs. One former Commission informant, John Hollawell, eventually refused to cooperate with the Commission because he believed the tide had turned in favor of the City. Many of the individuals apprehended had previous criminal records, knew the criminal justice process, and were not easily scared. Over and over again, the Commission would come across an individual engaged in illegal conduct, and the Commission would have incontrovertible evidence of the conduct in question, yet when offered a chance to cooperate with the Commission in exchange for immunity, the individual preferred to take his chances "downtown." In many instances, that individual benefited from his decision.

For example, undercover Commission agents bought multiple bundles of heroin from Robert Mengini, 178 Melrose Avenue, East Lansdowne, Pennsylvania, and Lloyd L. Manly, Island Road, Philadelphia, Pennsylvania. Both were given an opportunity to cooperate with the Commission prior to being turned over to the District Attorney's office for prosecution. They refused and were subsequently arraigned and prosecuted. Mr. Mengini was indicted on the basis of two separate transactions with Strike Force agents, one involving five bundles of heroin and the other involving six bundles of heroin. Although he was not an addict, he had a long criminal record and had pleaded guilty to one count of possession with intent to deliver and two of conspiracy. The psychiatric evaluation recommended imprisonment. Yet Judge Thomas N. Shiomos sentenced Mr. Mengini to a probation term only.

Another illustration can be found in the case of James Lyles, Jr. who was arrested on May 2, 1973, for delivery (sales) of heroin. At the time of his arrest, Lyles was offered favorable consideration in exchange for cooperation. Lyles was interrogated about a policeman known as "Sam the Cop." He refused to talk, indicating that he would take his chances with Philadelphia city justice. Thereafter he was confronted by federal agents, and he agreed to talk seeking assistance in the Federal court. He testified before a federal grand jury concerning Philadelphia Police Officer Samuel W. _____ (#4406) and his drug dealings. This testimony was later incorporated in the 7th Presentment of the June, 1972, Special Grand Jury, Philadelphia County. This officer was the same one that the Commission had investigated during the fall of 1972, and about whom Lyles had refused to provide essential information in May, 1973.

The Commission's greatest success with informants was in developing one-to-one relationships with individuals. The Commission's most productive non-Police Department informant was Irvin Goltzer, proprietor of a Locust Street bust-out operation, the Why Not Lounge. He agreed to work for the Commission in part because of an old relationship he had with the Commission's investigation coordinator, Mr. Goltzer, during the period of a year, made innumerable tapes in his office at the Why Not Lounge and carried body bugs during police payoffs. These tapes were later critical in developing the Commission's best Police Department informant.

Another informant, a former professional gambler who made several tapes for the Commission concerning a wide system of police payoffs, was developed through contacts Commission investigators had had with the individual in the past. Through money and preservation of anonymity, the individual agreed to give information concerning the gambling and police payoff situation in Philadelphia.

Police Department Informants

The ultimate goal of the Commission's investigative efforts, even with non-Police Department informants, was to develop as many reliable informants as possible within the Police Department who could testify concerning the ongoing present-day corruption problem. Much of the Commission's investigative time was spent in attempts to enlist the cooperation of a

policeman. The Knapp Commission in New York had some success inducing police officers to testify, and the Commission sought and received the advice of various members who worked on that effort, primarily Mr. Nicholas Scoppetta, an Associate Counsel of the Knapp Commission and presently Commissioner of the Department of Investigations in New York City.

Because of the police code of silence, most officers will not come forward with corruption information, especially to an outside investigating agency. In this investigation, the only way to induce an officer to cooperate was for the Commission to catch him in some illegal activity, preferably corruption-related, and then see whether in return for immunity protection, the officer would agree to work within the Department, making tapes and otherwise verifying corrupt activity. The Commission was unsuccessful in gaining the assistance of a police officer until a few months prior to the end of the investigation. From the Commission's experience, there are honest members of the Philadelphia Police Department who are disturbed and disgusted by the corruption in the Department. The Commission believes that with the establishment of appropriate anti-corruption machinery, some honest officers will come forward to assist with undercover investigations.

The Commission's first attempt met with no success. Commission investigators had discovered a Philadelphia Police Lieutenant, John O'C. (dismissed December 11, 1972, payroll #61822), working as a bartender at the Gaslight Lounge. Not only was he moonlighting in violation of Departmental regulations, but on occasions when Commission agents were present in the bar, the door would be locked, and obscene shows would be performed by the "dancers." These occasions only happened when "John" was on duty. Lieutenant O'C. (payroll #61822) was asked to cooperate not only because of the Commission's evidence of his illegal activity, but also because he was an acquaintance of one of the Commission's investigators. Furthermore, on one occasion when undercover troopers had been in his establishment, the troopers had successfully prevented a robbery attempt and possibly saved Lieutenant O'C.'s (payroll #61822) life.

After having witnessed three or four obscene shows, an approach was made to Lieutenant O'C. (Payroll #61822). The Commission ran into a blank wall. Despite all the risks, he preferred to take his chances "with the system," feeling that with the present power structure in Philadelphia, he would

have a good chance to come out of the whole matter with little more than a reprimand.

The Commission was having security problems during this period. Lieutenant O'C. (payroll #61822) was arrested by the Philadelphia Police Department before the Commission had a chance to develop fully its approach. Later attempts to contact Lieutenant O'C. (payroll #61822) in February 1973, after charges against him had been allowed to die because of lack of evidence were equally fruitless.

The Commission's next effort to persuade a police officer to cooperate concerned Detective John L. (payroll #15703, presently retired). On November 10, 1972, a Commission informant, Robert Russell, indicated that he had been contacted by Detective L. (payroll #15703) concerning the payment of money for the quashing of a criminal charge. Commission investigators obtained some marked money and set up a film and audio surveillance of the payoff location. The payoff occurred, and the Commission obtained films and a tape recording of the occurrence. As the officer returned to his car having received the payment, two Commission agents approached him and stated that they had the whole transaction on both film and tape and requested him to come to the Commission for an interview. The detective was advised he was not being placed under arrest. The agents were only concerned with getting information on corruption within the Police Department. Detective L.'s (payroll #15703) reaction was one of outrage. He demanded to be taken at once to the 20th and Pennsylvania Avenue police station saying, "You can't talk to me like that. I'm a Philadelphia policeman."

Commission agents had no choice but to turn Detective L. (payroll #15703) over to the Philadelphia Police Department. Prosecution was placed in charge of a young Assistant District Attorney who failed to take the rudimentary step of issuing subpoenas to insure attendance of witnesses at trials, and therefore prosecution was dismissed without prejudice. At Commission insistence, a rearrest was made and Detective L. (payroll #15703) was eventually convicted. In the interim, however, he was awarded an apparently improper pension presumably for his years of "faithful service."⁶

⁶The District Attorney's distribution of resources is interesting in this regard. When a reporter who had been investigating police corruption was prosecuted in an unusual and questionable interpretation of the wiretapping statutes, Richard Sprague, the First Assistant District Attorney, was assigned to the case; in contrast, a clear case of police corruption was assigned to a young assistant.

The Crime Commission also approached two of the police officers who were apparently involved in the payoffs at the Croatian Club but encountered the same reaction. As stated above, Crime Commission agents reported observing Policeman Robert S. _____ (#4857) actually receive money on one occasion and also observed him present when another officer was paid. In addition, Mr. Hollawell reported that Officer S. _____ (#4857) brought the new transferees into the club to be introduced to the payoff system.

On August 26, 1973, in the evening, a Commission agent staked out Officer S. _____'s (#4857) home and spoke to him when he arrived. The agent identified himself, told Officer S. _____ (#4857) he would like to talk to him about the Croatian Club, and indicated that if he cooperated the Commission could help him. Officer S. _____ (#4857) absolutely refused even to discuss anything, stating he would have to report the contact with the Commission to his supervisors. The Commission agent thereupon subpoenaed Officer S. _____ (#4857) to testify at a private hearing at the Crime Commission on August 29, 1973. Officer S. _____ (#4857) appeared, represented by counsel provided by the Fraternal Order of Police, and refused to testify on the basis of his fifth amendment privilege against self-incrimination. The Commission Hearing Officer repeated at the conclusion of the hearing that the Commission was interested in seeking Officer S. _____'s (#4857) cooperation, in return for possibly seeking immunity from prosecution for him. Officer S. _____ (#4857) anxiously said to his attorney "[L]et's see what they have to say," but the attorney would not discuss it. A Crime Commission attorney later called Officer S. _____'s (#4857) attorney twice to inform him that the Commission felt that there was a strong case of bribery against the officer but that the Commission would apply to the courts for immunity in return for full cooperation.⁷ Officer S. _____'s (#4857) attorneys

⁷During these phone calls the question of the conflict of interest on the part of the attorneys hired by the FOP for its members was discussed. The Commission is strongly of the view that any attorney regularly employed by the FOP cannot adequately represent an individual police officer in this situation, since the interests of the individual are opposed to the interests of other policemen and the group as a whole. In this situation, a single policeman can help himself by giving evidence about the system of corruption, which would probably implicate other policemen, and might in the eyes of the FOP, reflect badly on all policemen. An attorney who regularly represents policemen on retainer from the FOP would be strongly motivated to protect the interests of the overall organization, as defined by the leadership, simply in order to keep his retainer. When the interests of the FOP

simply did not respond and did not return Commission telephone calls.

The Commission tried again with Sergeant Henry J. G. _____ (dismissed April 21, 1972, payroll #69931). Sergeant G. _____ (payroll #69931) was one of those named by Mr. Hollawell as regularly participating in the payoffs up to January, 1972, at which time he was transferred to the adjacent 25th Police District. Shortly after the transfer, Sergeant G. _____ (payroll #69931) was arrested by the Police Department for shaking down and taking money from a bar owner in the 25th District who had complained to the District Attorney. Sergeant G. _____ (payroll #69931) pleaded guilty, was sentenced to probation, and was dismissed from the Department. He was approached by a Commission agent as he left work at his new job. The Commission agent identified himself as a former FBI man now working for the state Department of Justice. Sergeant G. _____ (payroll #69931) was told he had a problem concerning the Croatian Club and that the state would like to discuss it with him. Sergeant G. _____ (payroll #69931) appeared to be very nervous and said he was willing to meet and talk, but said he had to take his mother to the hospital that evening. Another date was set for a meeting, but on that day G. _____ (payroll #69931) called and said "I got nothing to say to the Crime Commission." He was then subpoenaed but at the Commission hearing he was represented by an FOP attorney and he "took the Fifth."

Coupled with the foregoing "turning" efforts, the Commission instituted several other operations, during the course of the investigation, the ultimate goal of which was to obtain police informants. Many involved extensive undercover operations. Prior to each, numerous staff meetings were held to discuss and educate investigators on problems of entrapment, undercover techniques, and resources available for the investigation—par-

conflict with the interests of the individual policeman, there is at least a good possibility that the individual would take second place.

Such conflicts of interest are prohibited by the code of ethics governing attorneys and when placed in such a conflict an attorney is obligated to withdraw. See American Bar Association, Canons of Professional Ethics No. 5.

The FOP counsel for Officer S. _____ (#4857) conceded the potential of a conflict of interest, but in his mind the conflict arose after a police officer has decided to cooperate with the authorities. The Crime Commission totally disagrees with that view. The question of whether to cooperate with the authorities is a complex and delicate one, requiring the weighing of many competing considerations and risks. The Commission is convinced that an attorney professionally aligned with the FOP cannot objectively and fully discuss these matters with an individual policeman and cannot therefore adequately represent an individual police officer in this situation.

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The Commission's most successful undercover operations occurred in the narcotics and gambling area. The narcotics effort has already been discussed in detail above. Two separate Commission agents established themselves as dealers in the upper levels of heroin and speed markets. In the speed market, one agent was able to make purchases without the assistance of his informant. Measures were taken to insure a verifiable background identity. Another undercover agent posed as a buyer from Lancaster and was equipped with the necessary trappings—Thunderbird, fancy clothes, and two or three Commission agents coming in and out at periodical intervals so that the semblance of an ongoing drug operation could be maintained.

In the gambling area, two extremely talented and experienced state troopers took apartments in West Philadelphia and were able to establish themselves as number writers for two sizeable gambling operations. Again, the Commission maintained the illusion of numbers activity by having the investigators take "action" from other Commission investigators. The troopers never actually filed numbers bets taken from anyone other than a law enforcement officer. Each had an apartment and various credit cards so that they were able satisfactorily to maintain undercover identity. As has been related elsewhere,⁸ one of the troopers was eventually arrested as part of the collusion between police and the gamblers to discover whether or not he was in fact a state police officer. He had maintained his identity, however, for several months and was able to gain a good understanding of the operations of this particular gambling organization. Since the police payoffs were made at a higher level, he never actually witnessed these payoffs, although they were much discussed.

Certain other undercover plans and tactics were carefully considered by the Commission but never executed because of lack of manpower or risks generated by the ongoing security leak. The first of these was an undercover arrest plan. According to Commission information, the most prevalent source of

⁸See the section of perjury in Chapter IV, *supra* 380-381.

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⁸See the section of perjury in Chapter IV, *supra* 380-381.

corruption in the drug area involved the stealing of drugs and/or money from persons subject to search and seizure warrants or detention. The Commission made plans to establish an agent in a motel with a new car with out-of-state license plates, and have someone call a specific officer with information concerning possession of large quantities of drugs in the room. After the call was made, agents who appeared to be dealers and users would frequent the room to provide justification for the anonymous tip. The room would be wired to record all events which might transpire when the police arrived. Rather than drugs being present, the agent would be in possession of a large sum of money, which would be subject to a possible "rip off." Consideration was given to having various drug paraphernalia around, but ultimately it was decided that only a small but accurate scale would be included. Other Commission agents were to have rooms on the same floor, and a female agent was to make the ultimate call to the police officer. Plans for the arrest of the agent and following the police vehicle in question were also conceived. The plan was never put into effect, but the Commission believes it to be a good method to discover police involvement with narcotics dealers. Many variations of the scheme can be effectively utilized. If the undercover agent has drugs in his possession, the drugs may be stolen by the police officer. The Commission did not consider using this latter approach because the active cooperation of the Department's leadership would have been necessary to prevent the drugs from reaching the market.

Another plan which was developed but never implemented was to take a car and report it lost or stolen. This was for purposes of verifying information which the Commission received that (1) officers expected to be paid for the recovery of a car and (2) additional amounts of cash had to be paid if the owner wished to have the recovered vehicle remain at the district station rather than be transported to the automobile pound, where it would inevitably be stripped. An agent was to come in from out of town and stay at a motel overnight, park the car in a tow-away zone, then report he had lost the car. Again, because of security problems, the Commission never put the plan into action. Careful study was also given to whether such a plan would violate provisions of the new criminal code forbidding filing of false reports to law enforcement officers. In the Commission's view, the plan would not have been entrapment, nor would it have been actionable violation of criminal law, because

of the same law enforcement privilege which allows an undercover agent to purchase and possess narcotics.

Another technique considered by the Commission and never implemented was to have various agents pose as motorists who would commit numerous traffic violations. When they were stopped, they were going to hand a ten dollar bill out the window with their license.

Each of the plans were carefully studied for its legality. The Commission believes that all of the plans or variations thereof can be used with success by any agency developing ongoing corruption control programs.⁹

Ultimately, the Commission was successful in gaining the active assistance of two Philadelphia police officers. The first, Felix Ruff, had been arrested for receiving stolen goods, and called the Commission looking for assistance with his case. The Commission had withstood such a large number of failures, false information, dead ends, and persons who made grandiose representations about their knowledge, but could never produce any evidence, that Commission personnel were obviously skeptical about former Policeman Ruff's capacity to deliver. However, he cooperated and testified fully. He also agreed to attempt to make tapes with acquaintances still in the Department.

The Commission's other police witness, Robert J. Weiner, was developed through successful adaptation of the technique used by the Knapp Commission. Through its investigation, the Commission obtained a clear and lengthy tape during which Officer Weiner, then on the Chief Inspector's Squad, shook down a bar owner for a note. After considerable planning, Officer Weiner was met by Commission officials when he went off duty one day. He listened to the tape, and discussed the situation with the officials. He eventually became convinced of the seriousness of the Commission's investigative effort and resolved to assist in gaining evidence against other officers.

For the next ten weeks, Officer Weiner wore a body bug as he continued his normal duties. He made several tapes. Prior to the Commission approaching him, he had been transferred back to uniformed forces. He cooperated fully with the Commission, and was eventually given immunity. He was prepared to testify

⁹An example of imaginative investigation recently occurred in New York City. The Internal Affairs Bureau of the New York Police Department conducted an operation in which undercover agents turned over wallets containing \$20 or more allegedly found on the street to fifty-one policemen. Twenty-nine percent of the policemen did not turn in the wallets to the Police Department as required by departmental regulations. *New York Times*, November 17, 1973, at 1.

extensively at three weeks of public hearings which had been scheduled by the Commission. When the hearings were canceled, Officer Weiner resigned from the Department.

The Commission is convinced, and Officer Weiner has admitted, that the tape was critical to his agreeing to cooperate. He had known he might be in trouble, and he was sure he could simply deny that it was his voice on the tape, especially if it was unclear. However, the tape was of good quality. Additionally, the Commission officials brought Officer Weiner directly to the Commission offices and obtained a lengthy and detailed statement from him, covering all aspects of his involvement in various payoff schemes, as well as his knowledge of other corruption in the Department. It was made clear to him that he was free to leave at any time. It took a certain courage to do what Officer Weiner did. His life has been disrupted, and possibly jeopardized. He was particularly nervous about the Department's reaction. The Commission is recommending changes in the Police Department's handling of police officers who have come forward with corruption information. For example, in New York City, Patrolman Edward Droge, who worked as an undercover agent with the Knapp Commission, was allowed to resign in good standing after his work was completed.

It is difficult to make generalizations concerning handling of informants. Each is an individual having individual problems, needs, and expectations. Some desire money, others desire reduction of charges; still others may be motivated by a public spirit or the excitement of being involved in the quasicover operation. It is the unusual informant, however, who provides information for nothing.¹⁰ Any agency serious about attempting a corruption probe must have adequate funds with which to provide informants reasonable monetary reimbursement for

¹⁰The informer-informed relationship is a matter of exchange in which each party seeks to gain something from the other in return for certain desired commodities. From the informer, the policeman receives information that assists him in the enforcement of the law. . . . [They] typically cooperate with police because they have been caught doing something illegal and want a reduction in charges or some sort of break in the criminal process. As Harney and Cross say: It is almost the universal practice of the police, prosecutors and courts to recognize the valuable assistance to law enforcement in this attitude of the informer. This recognition is usually translated into a practical matter as a recommendation for a lesser sentence, a more favorable consideration for parole or probation, the acceptance of a plea to a lesser count in the indictment or through some other favorable action within the discretion of the prosecution." L. Harney and J. Cross, *The Informer in Law Enforcement* 33 (1960) quoted in J. Skolnick, *Justice Without Trial* 124 (1966).

their information. The Commission found an informant relationship worked best if one person was assigned to deal with the informant and he was available on a 24-hour basis. The Commission ran into trouble when it did not keep tabs on its informants and when they were passed around from person to person; the informant lost confidence in either the confidentiality or desire of the Commission to work with him. Such relationships are built on a type of trust, and any guidelines set down by the informant or operation agreed to by the investigating agency must be strictly followed. If the informant's identity is to remain unknown, it should in fact remain unknown. All informants should be given a code name or number so that their real names are never mentioned in casual talk. Any serious corruption investigation is going to be subject to numerous attempts to infiltrate its operation, ranging from wiretapping to double agents. Security must be a constant safeguard of the investigation.

PUBLICITY

The initiation of a corruption probe sets in motion forces over which the investigating agency at times has little control. A corruption investigation should begin with no publicity and be free from political overtones.

The Commission violated this principle at the outset of its Philadelphia effort and was never able to remove completely the taint of conducting a politically inspired investigation as far as certain segments of the public were concerned. Such charges hurt the Commission's ability to develop informants and to build a staff committed to the investigation. Future efforts would do well to begin their work unheralded. The circumstances surrounding the institution of the Commission's effort provide some illumination.

On May 7, 1971, an article appeared in the *Evening Bulletin* stating that the then Attorney General, J. Shane Creamer, in an interview with the *Bulletin's* editors on May 6, 1971, had announced that the Crime Commission was planning hearings into reports of serious corruption in the Philadelphia Police Department. According to the *Bulletin* account, Mr. Creamer stated that the corruption occurred not under the present Commissioner, Joseph F. O'Neill, but rather under the previous administration, which was that of mayoralty candidate Frank L. Rizzo.

Mr. Creamer had not intended that the interview be published

at that time.¹¹ However, the story was out. At the time of Mr. Creamer's "announcement," there was no formal Commission resolution authorizing such an investigation. No Commission investigators or resources were in any way being devoted to an investigation of corruption within the Philadelphia Police Department.

The proposed investigation drew an instant barrage of criticism from District Attorney Arlen Specter, who stated that he had been prosecuting corruption cases for some time and that Creamer's investigation was a political move. Mayoralty candidate and former Police Commissioner Frank Rizzo had some equally critical remarks.

Unfortunately, Mr. Creamer's interview broke in the news the same day as Governor Milton J. Shapp announced his support of William Green for mayor in the Democratic mayoralty primary against Mr. Rizzo. Thus, the charge that the Commission was conducting a politically motivated investigation was voiced at the first public announcement of an inquiry in Philadelphia into police corruption, and little progress would ever be made in dispelling that image.

In June, 1971, two former Philadelphia City Police officers, a lieutenant and a corporal, joined the Commission's staff as Special Agents. They were hired for purposes of working on the as yet undefined Philadelphia investigation. During the summer, they made several reports directly to the Attorney General concerning allegations of corruption within the Police Department which they gathered from various informants and also filed approximately one dozen reports with the Commission. Because of the lack of manpower, no attempt was made to follow up their information.

In early August, the agents began working on problems of the Locust Street Strip and Delaware County.¹² Then in September, 1971, a third former Philadelphia policeman, another lieutenant, joined the Commission staff, and he began work on Delaware County and the Locust Street Strip. While only one report was filed during the month of October, the investigators did engage in some activity on behalf of the Philadelphia investigation which was not included in formal reports.

Renewed interest in the Commission's effort was sparked

¹¹Spokesmen for the *Bulletin* disagree, and their recollection is that the information concerning the investigation was in no way "off the record" or confidential.

¹²For a more detailed description, see Pennsylvania Crime Commission, *1971-72 Report* 65-89, 150-171 (1973).

when, on November 16, 1971, the first of a series of articles appeared in the *Philadelphia Inquirer*, charging that a widespread system of corruption payoffs existed within the Department.

Commissioner O'Neill vehemently denied the existence of widespread corruption. He took refuge in the "rotten apple" theory, stating "[E]very large business has a few bad apples." Commissioner O'Neill also indicated that the only people qualified to investigate police are policemen of the same force.¹³

Mayor-Elect Frank Rizzo also strongly attacked the series, branding the articles as "irresponsible journalism."¹⁴

On November 22, 1971, in response to the *Philadelphia Inquirer* series, Governor Shapp stated he was ordering the Crime Commission to begin an investigation into corruption of the Philadelphia Police Department in which the Commission should cooperate with local officials, consider using a national expert, and conduct an investigation which would go to the root of the problem and include meaningful proposals for change.

There was no mention by the Governor of the fact that ostensibly such an investigation was already underway. No Commission spokesman indicated otherwise, and Mr. Creamer's administrative assistant was quoted in the press as stating, with respect to the corruption investigation announced in May, that the Commission "... just never got around to it."¹⁵ The Governor's sincerity was instantly attacked.¹⁶

In the month of December, 1971, two more agents were assigned to the Philadelphia project. Also, a series of hearings was held at which Philadelphia police division and district commanders testified concerning vice procedures and the level of corruption in the Department. The responses of all these members of the Philadelphia Police Department were extraordinarily identical, obviously reflecting careful adherence to prior briefings.

The increased Commission activity, spearheaded by Attorney General Creamer, who from the outset had been committed to doing a complete and professional investigation, was met with mounting criticism from the District Attorney's office and the Mayor. The District Attorney himself stated he had sole authority to prosecute cases in Philadelphia, and a Crime

¹³*Philadelphia Inquirer*, November 16, 1971, at 7.

¹⁴*Id.* November 18, 1971, at 7.

¹⁵*Id.* November 23, 1971, at 4.

¹⁶*Id.* November 23, 1971, at 1.

Commission investigation was unnecessary. The Mayor criticized the Governor for ordering the investigation. First Assistant District Attorney Richard Sprague called talk of police graft "baseless."¹⁷

On January 1, 1972, the Police Department completed its own investigation of allegations of police corruption and found no evidence to substantiate them other than one minor violation of a Department regulation.

More Commission hearings were held later in January and February, 1972, which covered ground similar to those of December, 1971.

Investigative activity intensified after December. A few good cases arose where the information supplied by citizens and informants was verified. Techniques included surveillance, interview, and financial profiles on individuals about whom the Commission had received information. The profiles were performed on both policemen and known racketeers.

Based upon the above-described investigative activity and hearings, the Commission issued an "Interim Report" entitled "Preliminary Investigation into Allegations of Corruption within the Philadelphia Police Department." According to the report, the purpose of the investigation to date had been to determine whether patterns of corruption existed within the Department. The report reached three fundamental conclusions: (1) patterns of corruption exist within the Department; (2) the patterns are systematic rather than random or isolated; (3) the patterns are not restricted to low level officers. The Commission concluded that a full scale, in depth investigation should be undertaken.

The report was greeted with unified opposition from Mayor Rizzo and District Attorney Arlen Specter, both of whom rushed to the defense of the Philadelphia Police Department. The Mayor demanded that it was time to "investigate the investigators" and called the Attorney General an "opportunist," and stated that if Mr. Creamer worked for him "... he wouldn't last five minutes."¹⁸ The Mayor strongly attacked the report for lack of specifics with regard to dishonest police officers. "The Report ... should name names. That is the way it's done in the American system of justice."¹⁹

¹⁷*Evening Bulletin*, December 6, 1971, at 3.

¹⁸*Philadelphia Inquirer*, February 6, 1972, at 1; *Evening Bulletin*, February 6, 1972, at 1.

¹⁹*Id.*

The District Attorney likewise criticized the report, saying that it "served no useful purpose," and made "sweeping, smearing conclusions" making thousands of policemen and their families "cringe this Sunday and have many uncomfortable days in the future for no good reason."²⁰

Two days later, Mr. Specter's grand jury²¹ issued a presentment on police corruption closely tracking the Pennsylvania Crime Commission report. Mr. Creamer, in contrast to Mr. Specter's performance earlier, praised the presentment.

A good corruption investigation depends on the development of informants.²² Conducting an investigation in an illuminated fish bowl renders informant relationships difficult, to say the least.

The publicity surrounding some of the more celebrated aspects of the investigation, namely the feud between Arlen Specter and J. Shane Creamer, the Greg Walter affair, the Caldonetti incident, and the wiretapping case, unquestionably damaged the Commission's ability to investigate. While these incidents will be covered in more detail in the section concerning cooperation, some of the effects of the news coverage should be covered here.

The "feud" manifested itself from the start of the investigation. Apparently two conflicts underlay the problems: differing philosophies of law enforcement and competing interests. The public was bombarded almost daily with headlines, such as "DA Defends Police Against Criticism,"²³ "Shapp Finds Enough Cause to Probe Police,"²⁴ "DA Claims Exclusive Jurisdiction,"²⁵ "Specter and Rizzo Question Shapp's Sincerity on Probe,"²⁶ "Rizzo Charges Shapp's Probe Is Political,"²⁷ "Police Complete Their Own Probe, Find No Evidence of Corruption,"²⁸ "Specter Calls Police Report 'Smear;' Rizzo Says Creamer Is 'Opportunist,'"²⁹ "Rizzo: 'Probe the Probers,'" "Specter: 'Report Useless,'"³⁰ "Specter, Creamer Spar on Probe of

²⁰*Philadelphia Inquirer*, February 6, 1972, at 16A.

²¹The so-called Narcotics Grand Jury, not the grand jury Mr. Specter was later to convene to investigate allegations of police corruption.

²²See discussion of investigative techniques, *supra* at 743-754.

²³*Evening Bulletin*, May 21, 1971, at 14.

²⁴*Philadelphia Inquirer*, November 22, 1971, at 3.

²⁵*Evening Bulletin*, November 22, 1971, at 1.

²⁶*Id.* November 23, 1971, at 4.

²⁷*Id.* November 23, 1971, at 1.

²⁸*Id.* January 2, 1972, at 1.

²⁹*Id.* February 6, 1972, at 1.

³⁰*Philadelphia Inquirer*, February 6, 1972, at 1.

Police,"³¹ "Creamer Blasts DA on Police Corruption,"³² "Specter Responds In Anger,"³³ "Rizzo Blasts Creamer, Calls For His Ouster,"³⁴ "Creamer, Specter Still Feuding."³⁵

The Commission cannot, and does not wish to, fault the media, for the events which the headlines and stories described happened. In fact, the news media properly took a strong stand against the feud.³⁶ When the new intensive phase of investigation began in July, 1972, the Commission staff and investigators did not have a complete understanding of the extent to which the investigation had been politicized. When the feud was coupled with the later events which occurred, hardly a week went by, until January, 1973, when the Commission's investigation was not in the newspaper.

The high water mark of the publicity was the wiretapping at a King of Prussia motel where State Police officers attached to the Commission discovered that the telephones leading into many of their motel rooms had been tapped. The subsequent resignation of Attorney General Creamer and firing of State Police Commissioner Urella are all too familiar.

As the new Commission and the Commission's staff tried to pick up the pieces, a conscious effort was made to begin operations anew without any publicity. A few articles appeared concerning the makeup and background of the new commissioners, and then public interest in the Commission finally died down.

However, the Commission was only beginning to realize the damage which had been done to its investigation. For example, when the investigation began anew in January, 1973, one informant, John Hollowell, from whom the Commission had obtained information concerning payoffs to over 40 policemen at his "Croatian Club," finally decided he did not want to talk further with the Commission, in his view "the tide was changing."³⁷ The Commission had similar problems during this

³¹*Id.* March 3, 1972.

³²*Sunday Bulletin*, June 4, 1972, at 1.

³³*Id.*

³⁴*Evening Bulletin*, June 5, 1972, at 2.

³⁵*Reading Times*, June 28, 1972, at 20.

³⁶Such editorials as "Philadelphia Police Corruption: There's No Need for Squabbling," *Philadelphia Inquirer*, February 9, 1972; "Punk Politics and Police," *Philadelphia Daily News*, June 7, 1972, at 21; "Means & Ends," *Id.* September 27, 1972, at 31; "Throwing Mud Pie," *Id.* October 10, 1972, periodically evaluated the situation.

³⁷The story of the Commission's relationship with Mr. Hollowell, and the extensive legal battle to get him to testify is contained, *infra* at 777-780.

period with other informants. Some, fortunately, such as Irvin Goltzer, proprietor of the Why Not Lounge on Locust Street, were persuaded to continue the project.

The Commission was not always successful in maintaining its new low profile posture. On Wednesday, April 11, 1973, and Thursday, April 12, 1973, WPVI, Channel 6 News, in Philadelphia televised a two-part series criticizing the Crime Commission for spending, according to its news reporters, in excess of \$40 million in 1973 on the Philadelphia investigation and having no convictions to show for it. Also, the Commission was attacked for having investigative work done by an allegedly unreliable individual, namely, Sergeant Matthew Hunt of the Pennsylvania State Police.

Channel 6 did permit Attorney General Israel Packer to make a brief rebuttal on April 13th during which the following points were made: The total budget of the Commission for fiscal 1972 was approximately \$1.1 million, and that figure included funding for all four state-wide offices; criticizing the Commission for not having any convictions was unfair because the Commission does not have the power to arrest, indict, or prosecute and is a fact-finding agency. As a matter of fact, there had been convictions as a result of Commission information earlier in the year. As to Channel 6's impugning of the investigative methods used by Sergeant Hunt, Mr. Packer pointed out that the Attorney General and the Commission, as well as officials of the State Police, completely reviewed Sergeant Hunt's activity and found that it was entirely proper and in accord with investigative techniques used at every level of the criminal justice system, including the Federal Bureau of Investigation.³⁸ Additionally, the activity in question did not concern the Philadelphia investigation but rather activity in Delaware County some years earlier.

The Commission's most serious concern with Channel 6 publicity was not the adverse attacks on the Commission, but rather the fact that the television station, unknown to the Commission, had made several video-tapes of agents in the vicinity of the George Washington Motor Lodge, where they

³⁸Nicholas Scopetta, former Associate Counsel with the Knapp Commission and presently Commissioner, Department of Investigations, City of New York, reviewed Sergeant Hunt's conduct, and stated: "I have read the Wellendorf report . . . and I am surprised, and a little mystified, at the criticism leveled at Sergeant Hunt's attempts to enlist the cooperation of a corrupt official in order to further his investigation . . . it is a time honored and perfectly legitimate law enforcement approach." See discussion of investigative techniques, *supra* at 739-754.

were reporting for new assignments. A few of the undercover agents had worked their way up into high levels of criminal gambling and narcotics activity through a process of many months of painstaking infiltration. Many of those accomplishments were threatened by the news broadcast, for the station, despite Commission protest, televised the pictures with the agents' faces in view.³⁹

Other matters beyond Commission control continued to bring it into public focus. A House Legislative Committee of the Pennsylvania General Assembly had begun an investigation into the criminal justice system shortly after the wiretap incident was made public. The Committee held hearings during May, 1973, and subpoenaed several Crime Commission investigators to talk about the incident.

The Attorney General ordered the five troopers attached to the Commission not to honor the subpoenas, maintaining in a letter to the House Committee that the Commission had a right to hold information in confidence "until a report is made by the Commission." The House unit voted to hold one of the troopers, Sergeant Matthew Hunt, in contempt. Eventually, the matter was resolved between the Attorney General and the Committee.

The Commission was created to investigate and to publicize weaknesses in the criminal justice system so that the General Assembly, the Governor, and other appropriate officials may take the necessary respective legislative and administrative action to correct the situation. However, a corruption investigation, whether it be by a Commission or a prosecutor, should begin without fanfare. Aside from creating informant and credibility problems, unwarranted publicity alerts those being

³⁹As a result of the Channel 6 charges concerning the Commission's budget, LEAA, the Law Enforcement Assistance Administration, decided to do an audit of the Commission. The audit was headed by Christopher Martin, Pennsylvania State Representative on the Regional LEAA Council. He was assisted by Edwin S. Schriver, an LEAA police specialist and a former Philadelphia policeman who has been the LEAA official who has most actively pursued the investigation. This was the third audit started on the Commission activity during this period. For the previous two or three months, auditors from the Pennsylvania Department of Justice and the Auditor General's Department had completely reviewed the Commission books. Dealing with all three audits was a significant drain on Commission time and energy during these critical months. The Commission went to great lengths, however, to make all the necessary books, records, and documents available to all auditors so that every agency involved could have the necessary documents with which to make a fair and factual analysis of the Commission's financial situation. Although the Auditor General's Department has published a report, there has as yet been no report from the LEAA officials of their audit.

investigated to be on their guard. Routines of the payoff system were altered due to fears concerning the Commission's overly publicized efforts, thereby making detection that much more difficult.⁴⁰

STAFF AND SUPPORT

A successful major corruption investigation into a police department and the delivery of police services cannot be accomplished in a few weeks, or even a few months. As is evident in the discussion of investigative techniques above, success to a large measure depends on piercing the traditional wall of silence and persuading participants in the system to cooperate with the investigation. Such an effort takes dedicated, experienced agents, and considerable administrative support. It also takes money. If the investigative agency does not possess all three in abundance and in advance, it probably should not undertake a police investigation.

For a long time, the Crime Commission had neither the manpower nor the administrative resources necessary. It had to fight intensively to obtain these resources, and throughout the investigation much of the time of the supervisory personnel at the Commission was spent attempting to provide the necessary support, rather than on the substantive problems of the investigation.

As the previous section indicated, when the Commission's Philadelphia investigation began, it had no agents, administrative support, or equipment with which to accomplish the job.

The quality of investigators used in a corruption investigation is absolutely critical. A good investigator, besides having traditional law enforcement virtues of bravery, integrity, leadership, etc., needs a dedication to eradicating corruption, and above all, must be imaginative, self-reliant, and able to function responsibly without supervision. One or two good investigators can accomplish far more than fifty mediocre ones.

Ideally, the investigative agency should have sufficient resources to develop an investigative staff of its own. The Commission was not able to do this, and thus had to turn to other agencies for assistance.

Of the few agents hired by former Attorney General

⁴⁰The Commission also received, particularly near the end of its effort, intelligence reports that various officers could not wait for the Commission's investigation to end so that "things could return to normal."

Creamer, four were former Philadelphia police officers. The Knapp Commission strongly recommended against hiring former employees of the agency under investigation. The Crime Commission was fortunate in obtaining the services of some above average investigators, who, by the end of the investigation, had provided valuable background knowledge of the Department and were instrumental in developing the Commission's two best police witnesses. However, any agency choosing to hire former officers of the Department under investigation should be aware of the potential hazards. A corruption probe assignment given to an investigator with former ties with the Department under scrutiny places the investigator in a potentially difficult and vulnerable conflict position. Unfair pressures can be brought to bear, because many of the investigator's friends and family may have ongoing relationships with the unit under investigation.⁴¹ It is unrealistic to demand that the investigator turn and actively investigate these friends.

This is not to say that the Commission's agents who were ex-Philadelphia police officers did not perform well. To the contrary, they successfully accomplished some of the most difficult and sensitive investigative work of the entire effort, and also provided good administrative support. However, during the investigation, the Commission became aware of the unique and difficult pressures on these men, and an agency starting anew should also be aware of the difficulties.

The "intensive phase" of the Philadelphia investigation began in July, 1972, with an effort to assemble a staff. Fortunately, the investigation had obtained the assistance of a 25 year veteran official of the Federal Bureau of Investigation as a consultant to organize the effort. He established a reporting system for agents that was to stand the Commission in good stead throughout the investigation. He later was to assume overall control of the street investigation.

Not having enough trained agents of its own, and not being able to obtain the necessary financial resources, the Commission turned to the Pennsylvania State Police for manpower. In retrospect, the wisdom of this move is questionable. The Commission obtained its most capable undercover personnel from the State Police. In employing an existing quasi-military force with

⁴¹For example, one of the Commission's investigators had a son who went through the Police Academy and joined the force during the investigation. Actions were taken to expell another Commission investigator from the Fraternal Order of Police because of his work with the Commission.

ongoing law enforcement responsibilities, the Commission likewise placed the State Police officers in a difficult position. On assignment with the Commission, they were investigators for a fact-finding, investigatory agency with no prosecuting power. Such questions as how far they should go to preserve their identity, when they should cease undercover activity and carry out more traditional police roles, and to whom they were responsible, the State Police or the Commission, were injected into the investigation.

Upper echelon State Police leadership, including Commissioner Barger, prided itself in the notion that the State Police will work *with* anyone, but will work *for* no one but other State Police. There was a state police 'way' of doing things, and men were encouraged to maintain this identity.⁴² Such esprit, a good quality in most situations, created morale problems in the Commission's investigative force as a whole. The idea of state Police taking orders from non-State Police personnel was actively resisted.

Under the circumstances, the performance of Sergeant Matthew Hunt, who had primary responsibility for on the street investigation for the State Police during the investigation was exceptional. Always cooperative, and able to motivate his men, Sergeant Hunt made great progress in overcoming the inherent incompatibility. Trooper John Schafer performed equally well with the narcotics unit.

Additionally, most of the State Police officers made significant sacrifices by being attached to the Commission. They were made to feel they were on an assignment away from the mainstream of State Police affairs, both before and after the change of State Police Commissioner. Promotions were unduly delayed in the view of members of the State Police detail assigned to the Commission. When one Trooper was returned to his unit because his identity had been inadvertently discovered and usefulness as an undercover agent in Philadelphia had ended, he was given the most undesirable assignments in his unit. Another Trooper, who was particularly accomplished in narcotics, and had spent 35 hours at a time in a highly dangerous situation, arranging large transactions of narcotics with major, upper level drug dealers, was subsequently returned to his unit and placed on traffic detail. Another Trooper who had performed very

⁴²This is not a "bad" characteristic; it is admirable. However, it is incompatible with a corruption investigation of an urban police department being run by an agency other than the State Police.

well, pleaded with his Commission supervisor not to place a letter of commendation in his file, because he was afraid of the consequences once he returned to the State Police. Yet another, who had spent five months growing his hair and assuming an undercover appearance, was returned to traffic duty and ordered to shear his locks.

Undoubtedly, the State Police leadership had good and sufficient internal reasons for making such moves, and the Commission is not here questioning their wisdom. However, such personnel practices did hurt the morale of those men who remained with the Commission and contributed to a feeling of being out of the mainstream of State Police matters. Also, such episodes were something the Commission was unable to control. The Commission obtained some invaluable undercover work from individual State Troopers, particularly in the gambling and narcotics areas, and on the Locust Street Strip; yet the Commission could not reward the men. Their careers were controlled by another agency. Future corruption investigative bodies must have agents of their own.

The work of the "intensive phase" began on the street on August 1, 1973. At that time, the Commission had ten special agents, fourteen Pennsylvania state policemen, five investigators from the Department of Justice, and one from the Bureau of Weights and Measures, for a total of thirty.

Some of the investigators had prior undercover investigative experience, but none in the corruption field. The Crime Commission agents came from many agencies, including the Federal Bureau of Investigation, Internal Revenue Service, Office of Special Investigations—U.S. Air Force, Military Intelligence—U.S. Army, and urban police departments. Those agents who were newly appointed were assigned to work with experienced personnel.

During the course of the investigation, the Commission reorganized the investigative staff several times in an attempt to adjust to emerging leadership traits, changing personnel investigative demands. Men operating in teams and individually, in large and small numbers, were tried. At the high point of the investigation, in terms of manpower, the Commission had 58 agents for a two to three month period. It was also one of the least productive investigative periods, since many of the most talented agents became swamped with administrative tasks.

Before leaving the staff question, one other difficult subject should be mentioned. Agents who have enough nerve to do

effective longterm undercover work, and live on their own as they infiltrate upper level criminal activity, are likely as not to be free living individuals, whom strict disciplinarians might classify as disciplinary problems. While a corruption investigation cannot condone any impropriety and must deal sharply with any breaches, an effort should be made to deal intelligently with the problems.

Undercover work is materially advanced by the use of women agents. A drug dealer, for example, is accepted more readily if he is working in conjunction with a woman. Traditionally, law enforcement agencies have been very reluctant to utilize male-female teams because of alleged temptations to extend working relationships. The Commission's experience was that this problem can be avoided by promoting and maintaining a realistic level of professionalism. The advantages from these teams are worth the extra administrative burden which may ensue.

The same care and planning concerning a staff should be taken with respect to equipment, and the agency should not be dependent on other agencies for the necessary materials. For example, one of the necessary tools for the Commission's investigation was undercover vehicles. The first fleet of "undercover cars" provided by the State were uniformly four door, black sidewall, Matador sedans (the current state fleet car), with no radios, no exterior trim, a large "Please report all accidents promptly" sticker on the front dashboard, and the same color. No station wagons, trucks or other vehicles were available, let alone the more expensive cars necessary to carry out successful narcotics undercover operations—such as Cadillacs, Continentals, or Thunderbirds. When the Commission protested that the cars were dead giveaways as State vehicles, assurances were given that they would be replaced and the replacements would never be detected. The replacements turned out also to be the fleet cars, except three years older, and in far worse mechanical condition and an even more obviously institutional color. It took approximately six months to purchase a few second hand cars which might pass as non law enforcement vehicles.⁴³ Then the Commission was confronted by the demand that undercover agents use state gasoline credit cards to purchase fuel—a practice which if followed would totally destroy any ability to maintain an undercover identity.

⁴³For example, one of the early "undercover" vehicles was parked in employees Lot C behind the State Capitol in Harrisburg, in a group of several hundred cars. A law enforcement official, looking out the window, was able to pick out the vehicle in a matter of seconds.

Similar problems confronted the Commission's attempts for support in other areas. For example, during the Philadelphia investigation, the Commission needed a small office in Center City where witnesses could be interviewed and hearings held, without bringing people all the way to St. Davids, which in some cases would immediately signal the fact that the individuals in question were cooperating with the Commission. The Executive Director located suitable space in August, 1972. On October 3, 1972, the lessor returned leases executed on its behalf to the state, with the lease term beginning on October 15, 1972, at the Executive Director's request. The lessor painted the office, stripped and waxed the floors, and generally made the office ready for occupancy. More than two months later, the State had not executed the lease. In December, 1972, the lessor wrote the State Treasurer, demanding to know whether the Commonwealth was still interested in the premises. The lease was finally executed by the appropriate officials in Harrisburg at the end of December, 1972. The Commission, however, had to pay rent from the beginning of the lease term in October, therefore, paying an extra \$1,500 for space it was not even permitted to use.

At other points in the investigation, the Commission wanted to rent apartments for one or two months, so that undercover agents could have a place to take informants, as well as be able to establish a meaningful identity in this neighborhood of operation. Persons living out of motels, or who have no visible place of residence are immediately suspect as law enforcement officials. The Commission was to discover it is impossible, through normal State government channels, to make such an arrangement.

The Commission also met obstacles in obtaining cameras, tape recorders, and communications equipment. It took several months for the Commission to secure a walking bug. It had to be personally approved at the highest levels of government. The Commission was also continually faced with lengthy delays in reimbursing agents' expense accounts, which created a morale problem throughout the investigations. Finally, the state wanted undercover agents to use state vouchers for travel and subsistence.

Fortunately, in some instances, the Commission was able to improvise. The Commission and the Narcotics Control Strike Force wanted to conduct a computer analysis of case dispositions within the Philadelphia criminal justice system. Initially,

Commission and Strike Force officials met with the Chief of the Judicial Statistics Division of the Department of Management Services of the Governor's Office. While Management Services offered some technical advice, they took the position that the contemplated analysis of the 24th, 25th, and 26th Police Districts was too expensive and would take too long to arrange through state computer facilities. They estimated an internal budget of a few thousand dollars and at least a six month delay period. To avoid this, they suggested sorting the data that the Strike Force provided by a simple card sorting device. The Strike Force obtained the use of a card sorter at the University of Pennsylvania, which eventually broke down and destroyed the cards. The Strike Force then discovered a standard computer package offer by Unicoll, located at the University City Science Center, which could perform the analysis required at a minimal cost and almost immediately. The total cost of computer time was approximately \$250 and included technical advice from the Unicoll staff.

An investigation into the operations of a police department is difficult enough in the best of circumstances. Any unnecessary administrative and staff problems compound the task, and divert valuable time and energy to solving problems which should not have existed in the first place.

LEGAL AUTHORITY

An investigative agency should have the necessary legal authority to accomplish its mission. The Commission is a comparatively new entity. The Philadelphia investigation is the most advanced effort attempted to date. It was bitterly contested in the courts, and ultimately the lawfulness of the Commission's very existence had to be passed upon by the Pennsylvania Supreme Court. The Commission prevailed in all its major litigation and was successful in upholding its procedures and purposes before a variety of challengers, the most formidable and persistent of which was the combined and united attack of the Philadelphia Police Department and the Fraternal Order of Police.⁴⁴

This section is designed to give an overview of the litigation which occurred during the course of the investigation and draw some conclusions concerning the Commission's legal powers.

⁴⁴In New York City, the Knapp Commission had the complete cooperation of the Mayor and the Police Commissioner, and thus had access to any document requested.

The Commission instituted eight separate lawsuits against the Department. The particulars of one or two of the most active litigation files are being set forth here in detail, for they dramatically illustrate the shortcomings of the Commission's present legal framework.

Litigation Against the Philadelphia Police Department

ORIGINAL SUBPOENA

On August 25, 1972, a letter was addressed to Commissioner O'Neill asking that a variety of documents be produced voluntarily. The documents requested included items relating to the Department's Internal Affairs Bureau, the Pension System, and various background data, such as the names, working assignments, and photographs of all policemen. The request was not made public for, as noted above, the Commission had resolved to avoid unnecessary publicity.

The reaction to the letter was part of a pattern which the Commission was to see over and over again during the course of its investigation; the District Attorney's office instantly came to the defense of the Police Department. Upon delivery of the letter, the Commission was initially informed by Commissioner O'Neill that Mr. Richard Sprague, First Assistant District Attorney, was "counsel" for the Police Department. When contacted by the Commission, Mr. Sprague asked for a written request listing the documents, despite the fact that a copy of the Commission's letter to Commissioner O'Neill was already in the District Attorney's office. Mr. Sprague's final response, which was one that the Police Commissioner was to reiterate habitually was that if the Commission asked for the records of a particular individual, it could review the desired documents downtown in his office. The Police Commissioner offered to provide the photograph of any policeman only if the Commission asked for it by name and indicated why the photograph was sought.

From the Commission's viewpoint, such a method of operation was totally unacceptable. If a request was made to the Department or to Mr. Sprague for a picture of a police officer, it would be an immediate tipoff of the identify of the person under investigation. Many informants stipulated they would give information to the Commission only if the Commission would not go to the police. ~~Additionally, often~~ citizens and agents came to the Commission with information that a police-

man had engaged in criminal activity. They did not know his name but said they could recognize his picture. Photographs were a critical investigative tool for purposes of identification of or elimination of suspects.

It soon became apparent that the documents⁴⁵ would not be forthcoming voluntarily. On September 22, 1972, the Pennsylvania Crime Commission served a subpoena for them on the Department directed to Commissioner O'Neill. The subpoena was returnable on October 2, 1972.

On Friday afternoon, September 29, 1972, the last working day prior to the scheduled Crime Commission hearing, the Commission received a copy of a Motion to Quash its subpoena filed by Commissioner O'Neill in the Philadelphia Court of Common Pleas. The motion was accompanied by a rule to show cause why the subpoena should not be quashed, and contained a broad stay against all Commission proceedings. The essence of the Police Commissioner's motion was that while they would agree to supply directives, curriculum, vice reports, and some of the internal security unit documents, other items on the subpoena would be an undue harassment and burden upon the Police Department or else had been placed in the custody of the District Attorney's office for presentation to the investigating grand jury and, therefore, would not be submitted to the Crime Commission.

On the same day, the Crime Commission learned through the media that Commissioner O'Neill had been preliminarily enjoined from appearing before the Crime Commission with documents by action of the Fraternal Order of Police. Both orders were signed by the same judge, and dated the same day, leading to speculation that the opposition to the Commission's subpoena was a carefully orchestrated effort.

The FOP's complaint in equity was a broad attack on the Crime Commission and its enabling legislation, arguing that the Commission was acting beyond the scope of its statutory authority in investigating the Philadelphia Police, that the Crime Commission was an unconstitutional body in the way it operated, in that it did not provide witnesses with a full panoply of rights that they would be accorded in a criminal trial. The FOP also alleged that the Commission was embarked on a fishing expedition and that the rights of privacy of individual policemen would be harmed if the Commission's

⁴⁵The documents group themselves around two problems: the operation of the Internal Affairs Bureau and the disability payment and pension system.

investigation were allowed to proceed. In addition, the FOP maintained the subpoena was illegal because one of the commissioners who signed the subpoena was a judge.⁴⁶

The Commission responded on October 12, 1972, by filing a Petition for Writ of Prohibition in the Pennsylvania Supreme Court.⁴⁷ That same day the Pennsylvania Supreme Court stayed the hearing scheduled by the Philadelphia Common Pleas Court and directed the lower court to explain why the Commission's petition should not be granted.

On October 24, 1972, the lower court filed an answer in the Supreme Court in effect admitting all of the Commission's allegations and stating that it would respectfully await the decision of the Supreme Court whether the scheduled hearings before the Court of Common Pleas and the motion to quash and the temporary injunction should be heard. Simultaneously, two petitions to intervene were filed in the Supreme Court on behalf of Commissioner O'Neill and the Fraternal Order of Police. The Commission responded by filing an answer in opposition.

On October 12, 1972, the same day the Crime Commission filed its petition for writ of prohibition in the Supreme Court, it also filed an enforcement petition in the Commonwealth Court.⁴⁸

On November 16, 1972, the President Judge of the Commonwealth Court issued an order in the Commission's enforcement action against Commissioner O'Neill setting a hearing date for the petition of December 11, 1972. A copy

⁴⁶The injunction was issued without any notice to the Commission. In the Commission's view, it was an illegal order because, until the Commission proceeded in court by filing an enforcement petition against the Police Commissioner requesting that the court order the enforcement of the Commission's subpoena, there was nothing over which any court had jurisdiction. All the arguments that the Commissioner and the FOP were raising could be heard at the time the Commission filed its enforcement petition.

⁴⁷The Commission argued that the FOP's action was in reality a ruse. The Commission was the interested party, as the injunction was against a Commission hearing and a Commission subpoena. Yet, the FOP and the court had not even informed the Commission of the action; rather they had chosen Commissioner O'Neill as a straw party, whose defense to the injunction would be less than rigorous. If such circumvention tactics could work, bypassing the Commission, the Commission's effectiveness as an investigatory body would be nil.

⁴⁸In the Commission's view, under existing Pennsylvania law it clearly had the option of filing its enforcement petitions in the Commonwealth Court. See *Petition of Pennsylvania Crime Commission*, 446 Pa. 152, 285 A.2d 494 (1971), and only with the filing of the enforcement petition did a legal "action" commence on which a court could assume jurisdiction.

of the order was duly served upon Commissioner O'Neill, as directed by the Court.⁴⁹

A hearing was held as scheduled before the Commonwealth Court on December 11, 1972. Counsel for Commissioner O'Neill was present but no representative of the FOP appeared at that time.⁵⁰ After hearing extensive testimony, the Honorable Theodore O. Rogers ruled from the bench that all the items requested by the Commission were relevant and that the Commission was entitled to all of the documents for investigative purposes. The Court further directed in this order that none of the documentary material produced be disclosed to anyone other than an authorized employee of the Pennsylvania Crime Commission. The order was entered on December 12th.

Immediately after entry of the December 12th order, the Commission made repeated requests of the City Solicitor's office and the Police Department for the documents. A variety of excuses were offered for not producing them.

Then, on December 29, 1972, the Fraternal Order of Police filed a petition in the Pennsylvania Supreme Court alleging that they had never received notice of the December 11th hearing before the Commonwealth Court and that they had a vital interest in the matter and should be heard. The Pennsylvania Supreme Court issued a rule to show cause upon the Commission why the FOP's petition should not be granted. The Commission filed an answer arguing that the FOP was estopped from intervening because of their unnecessary delay, urging that the FOP in fact did know of the matter before the Commonwealth Court, and also arguing that the FOP did not possess the requisite interest to intervene in the Commission's enforcement proceeding.

On February 5, 1973, the Supreme Court remanded the matter to the Commonwealth Court for a determination of whether the FOP was a real party in interest and had standing. If

⁴⁹Although the FOP was aware of the action in the Commonwealth Court, as evidenced by reference to the enforcement petition in this intervention petition in the Supreme Court, they chose not to intervene in the Commonwealth Court at this time. A factual dispute was to arise over whether the Commission had notified the FOP of the December hearing.

⁵⁰A stipulation was entered into by the parties concerning certain of the documents requested by the Commission, and the court heard testimony and argument about the remaining items at issue. The main areas of conflict settled around the relevance of various documents, particularly the photographs of the Philadelphia policemen, as well as the issue of grand jury secrecy.

the court did determine that the FOP possessed sufficient standing, a hearing on the merits was to be held.

Pursuant to that order, the Commonwealth Court set another hearing date of March 9, 1973. The hearing was held as scheduled. At that proceeding, both the FOP and the Crime Commission presented numerous witnesses who testified on the issue and the merits of standing.

On April 19, 1973, Judge Rogers issued an opinion and order concluding that the FOP should be permitted to intervene but that the intervenors had presented no evidence which compelled the court to withhold enforcement of the Crime Commission's subpoena. Judge Rogers, therefore, ordered the Police Department to produce the requested documents.

On April 26, 1973, the FOP took an appeal from the Commonwealth Court order to the Pennsylvania Supreme Court. The FOP also made an oral application to the Commonwealth Court for a supersedeas. The FOP's application was denied by the Commonwealth Court. The FOP filed a petition for supersedeas in the Supreme Court.

On May 3, 1973, the Crime Commission filed an answer to the petition for supersedeas and also took a cross appeal from the April 19, 1973, order of the Commonwealth Court. This was done because, in the Commission's view, the Commonwealth Court erred in permitting the FOP to intervene. On May 9, 1973, the Pennsylvania Supreme Court, on its own motion, directed that the appeal and cross appeal be argued together in the May, 1973, session of the court in Harrisburg. On May 10, 1973, the Pennsylvania Supreme Court denied the FOP's petition for supersedeas. Shortly thereafter, the Commission began to obtain a few of the documents.

At the argument before the Pennsylvania Supreme Court on May 21, 1973, the FOP launched a broad based attack against the very viability of the Commission, challenging established procedures and rules of the Commission as violative of individuals' fourth, fifth, and first amendment rights as guaranteed by the United States Constitution. They charged the Commission was out on an unconstitutional fishing expedition, was abusing its discretion, and acting far beyond the scope of its lawful authority as delineated by the legislature in the legislation creating the Commission.

The Commission responded by contending that the FOP did not have the requisite standing to intervene in this administrative subpoena action against the Police Department since the

FOP did not have the necessary interest in the records; rather the records were those of the Department, not the Fraternal Order of Police. The Commission defended its procedures and rules under well established decisions of the United States Supreme Court, arguing that the Commission was an investigative, fact-finding, non-accusatory body. The Commission also urged that no first, fourth, or fifth amendment rights of the FOP and its members had been violated and that the FOP had demonstrated no injury to themselves which would justify the court's determination that the Commission should not receive the documents.

The Court took the case under advisement. Then on September 19, 1973, the Court handed down its opinion upholding the Crime Commission's position in every respect. The FOP was denied intervention, and the subpoena power, the procedures and very constitutionality of the Commission were upheld. See, *In Re Pennsylvania Crime Commission*, 453 Pa. 513, 309 A. 2d 401 (1973).

OTHER LITIGATION

When it became clear that the original subpoena case would become enmeshed in complex litigation and that cooperation was fruitless, the Commission decided to proceed with other subpoenas in hope of being able to obtain a sufficient headstart to obtain all the necessary documents before the end of the investigation. Because the issues were predominantly the same as those in the original subpoena case, only brief synopses of the litigation follows. Throughout, the Commission was confronted by a Department which would give technical names to documents and files, and would often not include critical documents.

All told, the Commission instituted seven other actions against the Police Department. The first was on January 19, 1973, when the Commission subpoenaed various promotion records. When the Department refused to obey the subpoena, the Commission filed an enforcement petition on February 1, 1973, in the Commonwealth Court. A hearing was held on March 9, 1973, at which counsel for the Police Department appeared and agreed that the Department would produce all the subpoenaed documents except Civil Service promotion examinations.

Relying on those representations, the Court did not enter an enforcement order. However, the Commission did not

obtain all the documents requested and filed a petition for enforcement because of noncompliance. On April 23, 1973, the Commonwealth Court ordered the Department to surrender the documents and no appeal was filed. Nevertheless, despite repeated telephone calls to the City Solicitor's office, the Commission did not obtain the missing records. Finally, after the Commission obtained a date for their production, the Department stated it would not produce the documents because of the FOP's petition for supersedeas which had been filed in the original September 22, 1972, subpoena case. As the FOP was not a party to the promotions suit case, and no connection existed between the two actions, the Commission filed a petition requesting Commissioner O'Neill be held in contempt of court for failing to comply with the April 23, 1973, Commonwealth Court order. At the contempt hearing, Department representatives stated all documents would be produced. The Court continued disposition of the contempt petition pending compliance with the order. Compliance was finally completed at the end of the summer.

On March 15, 1973, the Commission subpoenaed documents concerning the history and operation of units responsible for narcotics matters in the Police Department. A meeting was held a week after the subpoena was issued, and the Police Department surrendered a few of the requested items. The Commission advised the City Solicitor by an eight page letter dated April 19, 1973, of the nature and extent of the Department's noncompliance with the subpoena.

A new date was set for compliance with the subpoena. In the interim, the City and the Police Department assigned another attorney to the case. The day that compliance was to be made, the Commission received notice from the Department that there would be no compliance or production of documents because of the petition for supersedeas filed by the FOP in the September 22, 1972, subpoena litigation. On May 22, 1973, the Commission filed an enforcement proceeding because the FOP's petition for supersedeas had no relevancy to the narcotics subpoena.

On June 28, 1973, the Commonwealth Court ordered that the hearing be continued pending further effort of the parties to resolve the issue. The Court simultaneously directed the City Solicitor promptly to identify for the Commission the names of individuals in the Police Department who had responsibility for compiling various narcotics materials. The

Commission eventually obtained the necessary documents later in the summer.

The Commission's fourth subpoena to the Department was issued on April 5, 1973, and requested various documents concerning recruiting policies. The Department predictably refused to comply, and an enforcement petition was filed on May 22, 1973. A hearing was held in the Commonwealth Court on June 28, 1973. Again, an oral order was issued directing that the parties personally get together to resolve the matters.

The fifth subpoena was issued April 6, 1973, and concerned working conditions in the Department. The Department did not comply with the subpoena, and an enforcement petition was filed on May 22, 1973. A hearing was held before Commonwealth Court on the same day of hearings on the narcotics and recruiting subpoenas, and the court issued a similar oral order.

The sixth subpoena was issued on July 20, 1973, and concerned one of the many instances when the Department's technical interpretation of document classifications worked to delay the Commission's investigative effort.

The Commission believed it had all the relevant internal security documents as a result of its victory in the original September 22, 1972, subpoena case. When the Commission examined the files in question, it developed that most of the important cases concerning police corruption investigated by the internal security squad were reported in so-called "white papers" which were not included in the "case files" requested by the Commission. In essence, the Commission had properly and generally described the relevant documents, but had not made use of the proper slang terminology. A hearing was held on August 29, 1973, and the Commonwealth Court ordered on September 19, 1973, that the Commission receive all case files of any investigations concerning police officers.

The seventh and eighth subpoenas were served on Commissioner O'Neill on October 12, 1973, and November 1, 1973, respectively. The October 12 subpoena requested data concerning total arrests for major crimes in Philadelphia by police sector, and the deployment of regular, special, and tactical patrol forces, while the November 1 subpoena asked for patrol logs, tapes, records, and reports concerning the activities of eighty-one individual police officers on specified dates, the logs of fourteen patrol vehicles for specified periods,

and identity of officers on duty at certain locations at specified periods.

Initially, the Department once again refused to comply, and enforcement petitions were filed. However, prior to the hearing, the Department agreed to supply the documents.

The expenditure of public monies in the above-described litigation would have been entirely unnecessary had the Department seen fit to cooperate with the investigation, or had the Commission's process for obtaining records not been as drawn out.

Non-Police Department Litigation

The Philadelphia Police Department was not the only source of litigation for the Commission during this investigation, although it was certainly a primary source of legal conflict and undoubtedly the most important in terms of the eventual success of the Commission's effort. However, the Commission also had to file enforcement petitions against many individuals and companies who refused to obey Commission subpoenas. Additionally, the Commission petitioned the Commonwealth Court in selected instances for grants of immunity to persons whom the Commission believed would be helpful in giving a broad factual picture of various criminal conduct, particularly with respect to corruption in the Police Department. A discussion of the more important aspects of this litigation follows.

JOHN HOLLAWELL

As noted above, John Hollawell is the owner and operator of a private club in Philadelphia called the American Croation Singing Society, also known as the "Croation Club." The story of the Commission's efforts to obtain Mr. Hollawell's testimony is presented here, because it is a good example of the weakness of the immunity system when a court refuses to enforce its orders through contempt sanctions.⁵¹

For a period of time, Hollawell paid numerous Philadelphia police officers to operate the club. He eventually came to the Commission with allegations of corruption, and Commission agents worked with him for several months.

⁵¹The Knapp Commission in New York City placed great faith in the immunity technique as a way to gain testimony. While the Crime Commission had some success in the immunity area, when the Courts will not uphold an order to testify through a contempt citation, a witness can delay his appearance for a matter of years.

Hollawell had kept detailed records of the payoffs in a little black book which he showed at one point to both the Commission's Executive Director and the Director of Investigation. Then, in the beginning of 1973, Mr. Hollawell decided he no longer wanted to furnish information to the Commission. When all negotiations broke down, a subpoena dated February 21, 1973, was served on Mr. Hollawell requiring his appearance before the Commission at a hearing on February 28, 1973. Following a request by counsel for Mr. Hollawell for a postponement of that hearing, a revised subpoena dated March 7, 1973, was issued requiring Mr. Hollawell to appear at the Commission on March 15, 1973.

Mr. Hollawell appeared at the Commission, and on the advice of his attorney, Philadelphia County Commissioner Eugene E. J. Maier, refused to answer any questions posed by Commission counsel on the grounds that the answers might tend to incriminate him. Mr. Maier also refused to permit the Crime Commission to examine the documents required by the subpoena on the grounds that the subpoena was overly broad.

On April 2, 1973, the Commission filed an enforcement petition in the Commonwealth Court for a court order directing Mr. Hollawell that he produce the necessary documents, including little black books in which Hollawell had recorded the payments. The same day the Attorney General filed a petition for immunity with the Commonwealth Court requesting that Mr. Hollawell be given immunity from prosecution so that he might testify fully and completely about his knowledge concerning police corruption at a Crime Commission hearing. The two petitions were set down for simultaneous hearing on April 30, 1973, and the Honorable Genevieve Blatt ordered that the record of the matters be impounded.

On April 25, 1973, three working days prior to the scheduled hearing, Mr. Hollawell's counsel suggested the hearing be postponed due to his "heavy workload."⁵² The Commission objected to the request for a postponement, but Judge Blatt granted the request, setting a new hearing for May 22, 1973. No answer to the Commission's petitions was ever filed by Mr. Hollawell.

At the May 22, 1973, hearing, the Commission presented witnesses testifying in support of the petitions, while Hollawell presented no evidence. At the close of the hearing, Mr. Maier

⁵²As County Commissioner, Mr. Maier was responsible for coordinating elections, and the May primary was less than three weeks away.

requested a delay so that he could have time to file a brief. The court granted leave to file a brief and an additional five days to file a reply. For some inexplicable reason, the Commission did not receive a copy of Hollawell's brief until twelve days after it had been filed. On June 15, 1973, the Commonwealth Court granted both the Commission's enforcement action and the Attorney General's immunity petition.

On June 18th, the Commission sent Mr. Maier a letter setting a day for an appearance of Mr. Hollawell to testify. The day Mr. Hollawell was scheduled to appear, a telegram arrived asking for a continuance. The continuance was granted until July 2, 1973. On the appointed day, neither Mr. Hollawell nor his attorney appeared at the Commission and no explanation for their nonappearance was given. On July 10, 1973, the Commission filed a petition for contempt in the Commonwealth Court. On July 11, 1973, the Commission received notice that Mr. Hollawell had filed an appeal from the Commonwealth Court's order. On July 19th the Commission filed a motion to quash the appeal. On August 9, 1973, well beyond the five days allowed for an answer, Mr. Hollawell's attorney filed an answer to the motion to quash. That same day the Pennsylvania Supreme Court quashed the appeal. Between August 20 and 24, 1973, the Commission attempted to contact Mr. Maier without success. On August 24th, a letter was mailed to Mr. Hollawell and his attorney establishing September 5th as the date for testimony.

On September 5, 1973, Mr. Hollawell did not appear at the Commission. Later in the day, Mr. Maier called the Commission and stated that his client had congestive heart failure. On September 7th, the Commission filed an amended contempt petition in the Commonwealth Court accompanied by a motion for a physical examination.⁵³ The court established a hearing on the motion for physical examination on September 24, 1973. That day, Mr. Maier failed to appear for the hearing, and the court granted the Commission's motion.

On September 25th the Commission sent a letter to Mr. Hollawell and his attorney setting a physical examination for October 1st. On October 1st, the witness appeared at the doctor's office. He was told the doctor would see him in a

⁵³The Commission was somewhat skeptical of the claimed heart condition, because during the period of Hollawell's supposed illness, he was voluntarily testifying in court concerning corruption in the Liquor Control Board.

few minutes. Mr. Hollawell left without waiting to be examined. On October 4th, another letter was sent to Mr. Hollawell directing him to be examined on October 10th. He appeared, made sufficient threats to both the doctor and the nurses that they were in fear for their safety. Mr. Hollawell left without being examined. He was directed to reappear on October 11th, at which time two Pennsylvania State Policemen were stationed in the office for the safety of the doctor and the nurses. Mr. Hollawell finally permitted himself to be examined. As expected, no evidence of heart failure or any heart disease was discovered.

A contempt hearing was scheduled for October 25, 1973. On October 22, 1973, Mr. Maier filed an ex parte petition for continuance of the case until after the November election.⁵⁴ The Commission discovered on October 23 the petition had been filed when Judge Blatt's law clerk telephoned to ask what new date would be convenient. The Commission immediately requested a meeting with the Court to oppose the continuance. The conference occurred the same day, but a continuance was granted to November 15, 1973.

On November 9, 1973, the Commission was served with a petition to intervene by Hollawell's wife. The petition was denied by President Judge James Bowman of the Commonwealth Court on November 14, 1973, and the contempt hearing was held as scheduled before Judge Blatt on November 15. On November 26, 1973, Judge Blatt effectively continued the case without a finding of contempt, ordering Hollawell to appear on the 5th of December at the Commission.

Hollawell failed to appear on December 5 because of an injury to his thumb necessitating hospitalization. His doctors stated he would be released from the hospital by December 18th, and would be able to testify at that time.

The Court rescheduled the hearing for December 21, 1973. Hollawell did not appear at the appointed time because he was "confined to bed." He was scheduled to be re-examined by the doctors on December 26, 1973, and failed to appear.

The Commission then requested Hollawell's counsel to fix a date for a hearing at which his client would appear. A date has yet to be fixed at this writing.

⁵⁴Mr. Maier had filed a similar motion for a continuance three weeks prior to the May 15 primary.

GAMBLING MACHINES

On Monday, January 22, 1973, in conjunction with the Pennsylvania State Police raid in the City of Philadelphia, for purposes of confiscating numerous illegal gambling machines located throughout the City, the Pennsylvania Crime Commission served subpoenas on the operators and distributors of various machines. Four subpoenas were served upon John J. Bonk, dba Bonk's Cafe; James J. Fallon, dba Fallon's Bar; Frank J. Beatty, dba Sunhouse Tavern; and Robert C. Sadowl, dba Tri County Amusement Corporation, the latter being the largest distributor of the machines. Those subpoenas were served between January 22, and January 25, 1973, and required individuals subpoenaed to appear before the Crime Commission to testify and produce various documents in connection with the machines. None of the respondents appeared in answer to the Commission subpoenas.

On February 1, 1973, Messrs. Bonk, Fallon, and Beatty filed a petition to quash the Commission subpoena in the Court of Common Pleas for Philadelphia County. On that same day, the Hon. Ethan Allen Doty of the Philadelphia Court of Common Pleas, ordered the Commission to appear six weeks later in March in response to the petition and issued a stay in all proceedings. On February 2, 1973, Mr. Sadowl filed a similar petition in the Court of Common Pleas of Montgomery County, and Judge A. Benjamin Scirica of that court also ordered the Commission to appear to answer the petition and issued a stay in the meantime.

On February 9, 1973, the Crime Commission filed a Petition for Supersedeas and Writ of Prohibition against Judges Doty and Scirica in the Supreme Court of Pennsylvania, reiterating the theory which the Commission had advanced in the September 22, 1972, subpoena case against the Philadelphia Police Department, described above. In essence, it was the Commission's view that a motion to quash was an improper pleading and no court had jurisdiction until the Commission had actually filed an enforcement petition.

The Common Pleas judges did not file any formal answers to the Commission's petition in the Supreme Court, and on February 27, 1973, and March 1, 1973, the Commission filed motions for summary judgment in the Supreme Court against Judges Doty and Scirica.

Since there was no answer by the Supreme Court, the Commission, in response to Judge Dory's order, filed preliminary objections to the petition to quash brought by Bonk, et al. in Philadelphia Common Pleas Court. Judge McGlynn, who was assigned to the case, declined on March 14, 1973, to rule on the petition until the Supreme Court had acted. On March 15, 1973, the Commission filed preliminary objections to the Sadowl petition in Montgomery County Common Pleas Court.

Then, on March 19, 1973, the Commission first received notice that the Supreme Court had entered an order on March 14, 1973, which transferred both the above petitions to quash from the Philadelphia and Montgomery County Common Pleas Courts to the Commonwealth Court.

On March 28, 1973, the Commission filed petitions for enforcement of the subpoenas in the Commonwealth Court against respondents Bonk, Fallon, Beatty, and Sadowl. On April 9, 1973, the Commonwealth Court entered an order consolidating the transferred petitions to quash subpoenas with the petition to enforce subpoenas and set a hearing date of April 27, 1973.

On June 4, 1973, the Commonwealth Court entered an order granting the Commission's petition to enforce the subpoenas. Counsel for the witnesses promptly went on vacation for a two week period. The Commission sent counsel a letter setting July 3rd as the hearing date. Witnesses did not appear on July 3rd. As there was some question whether or not, since the witnesses' counsel had been on vacation, they had received adequate notice of the hearing, a second letter was sent to the witnesses rescheduling the hearing for July 12, 1973. The Commission then discovered that the witnesses had filed an appeal from the Commonwealth Court order on June 28, 1973, to the Pennsylvania Supreme Court. They also had filed a petition for supersedeas which was argued before Justice Robert Nix of the Pennsylvania Supreme Court on July 12th. The Commission filed an answer to the petition and a motion to quash the appeal. On July 19, 1973, the Pennsylvania Supreme Court dismissed the supersedeas petition and granted the motion to quash the appeal.

Before a new hearing date could be rescheduled at the Commission offices, the witnesses filed a federal court complaint on July 26, 1973. They filed an amended complaint on August 7, 1973. At that time, the Commission balanced whether the extended federal litigation the witnesses were attempting was

worth continuing, when compared with information which the Commission expected to receive. On August 9th, the Commission determined to withdraw the subpoenas. The Commission then turned the cases over to the State Police and the District Attorney for prosecution.

IMMUNITY PETITIONS

During the course of its investigation, the Commission came across various individuals who it believed were guilty of criminal activity but who, in the Commission's view, could supply useful information about patterns of corruption, particularly with respect to the Police Department. Usually they had had some direct dealings with the police in terms of payoffs. In some of these cases, the Commission requested the Attorney General to file petitions for immunity, out of a belief that if persons with direct involvement would cooperate, a more complete picture of the extent of the corruption problem could be obtained. In every case, the petitions were granted by the Commonwealth Court after hearing, except in three situations where the Commission withdrew immunity petitions because certain individuals agreed to cooperate voluntarily. Immunity petitions were filed and granted concerning the following individuals: Morris Abraham, Dr. Frank Amari, Robert Dallas (RDA Club), Caesar A. Gramenzi, Carl (LNU), John Doe, John Doe, Mary Jean Galasso, Martin Lessner, Joseph Martin, George Britton, Irvin Britton, Northwood Amusement Company, Thomas J. Neri, Donald S. Linton, John T. Rzemysk, Thomas Pasquale, Charles Thomas Landers, and others.

The Commission's litigation experience, particularly with the Police Department and John Hollawell, demonstrates that through legal maneuverings, it is possible to delay action on Commission subpoenas for months and even years. At present, the Commission must go through a three step process. First a subpoena is issued. If the individual fails to appear, the Commission must go to court to enforce the subpoena. If the subpoena is upheld, the Commission sets a hearing date. If the individual comes and takes the fifth amendment, the Commission must then return to court a second time and petition for immunity. If the petition is granted (and not appealed), the Commission then sets another hearing date. If the individual appears and refuses to testify, the Commission must return to court a third time and file a petition for contempt. Even if

that is granted ultimately (as the Hollawell case indicates, courts may be reluctant to make contempt findings), a contempt ruling can be appealed all the way to the Pennsylvania Supreme Court. If the investigation is of limited duration, a reluctant witness can usually outwait the investigating agency.

When the investigating grand jury subpoena is disobeyed, however, the official in charge can go straight to court for a finding of contempt.⁵⁵

NON-COOPERATION

In contrast to the Knapp Commission in New York, the Crime Commission did not have the cooperation of the Mayor or Police Commissioner in Philadelphia. While an investigation can succeed without such cooperation, the assistance of these officials can materially shorten the investigative effort. However, the delay is not the major obstacle posed by the lack of cooperation; rather it is the attitude of defiance and, "I'll take my chances with the system" which is telegraphed from the Mayor and Police Commissioner down through the ranks. On several occasions, the Commission confronted an individual officer with conduct which was an indictable offense. The officer's position was that his best alternative was to take his chances with the Department—that they had pledged to defend him.⁵⁶ The matter was complicated by the fact that the District Attorney's office continually went to the aid of the police.

Following, in chronological fashion, is an account of some of the Police Department's more blatant and celebrated opposition to the Commission's efforts.

Prior to October, 1972, the Department's campaign against the Commission's investigation was mainly verbal. The Mayor and the Police Commissioner, along with the District Attorney, had ridiculed the Commission's efforts and preliminary findings, calling repeatedly for Attorney General Creamer's ouster and denying the existence of any systematic corruption.

However, beginning in October, Police Department opposition became more active. Within the month, four Commission investigators were detained by the Philadelphia Police. One of the incidents received widespread publicity. The arrests led

⁵⁵The Commission will submit a report and recommendations at a later time on how its own powers should be strengthened.

⁵⁶The story of Detective John L. _____ (payroll #15703) is a good example of this phenomenon. Compare the situation of Patrolman William Phillips in New York City. See W. Phillips and L. Schacter, *On the Pad* (1973).

to a worsening of the already deteriorating relationship between the District Attorney's office and the Commission. Some of them dramatically illustrated how all the facets of the City—courts, District Attorney's office, and the executive could, and at times would, unite to protect a Philadelphia police officer.

On Wednesday, October 4, 1972, Trooper Anthony Caldonetti was on an undercover assignment at the Grog Shop, a bar in the concourse at 5 Penn Center. According to Trooper Caldonetti, he arrived at the Grog Shop on the night of October 4, 1972, at approximately 7:20 p.m. At approximately 8:15 p.m., he went to the men's room. The passageway was crowded, and as he was going down some steps, he heard someone say, "There's one of them." At that point, he was hit with a sharp instrument, probably a blackjack. He passed out. The next thing he knew he was on the concourse outside the Grog Shop and a uniformed Philadelphia policeman had his foot on his (Caldonetti's) chest. At this time, Trooper Caldonetti identified himself as an officer of the Pennsylvania State Police. The officer asked, "Who do you work for?" and in an effort to preserve his identity and also believing he would receive better treatment, Trooper Caldonetti replied that he was a State Policeman who worked for Mr. Specter. The questions persisted. The officers then placed him under arrest, handcuffed him and threw him into the back of a van,⁵⁷ where he came to rest on the floor. After being treated at Hahnemann Hospital, he was taken to the 9th District station, led to a cell, and handcuffed to a chair. He asked a non-uniformed police officer what he was being charged with and received no answer.

Trooper Caldonetti had been seriously injured, passed out several times on his way to the 9th District, and was in need of additional medical care. Sometime later, another State Police corporal appeared at the 9th District and identified Trooper

⁵⁷This is not an uncommon practice, as Rubinstein noted: "Almost all prisoners are transported in wagons after they are placed under arrest. Most trips in the wagon are uneventful, but they can be a most unpleasant experience, difficult to protest against. A wagon is simply an enclosed truck with benches running the length of its sides. The prisoner sits handcuffed on a bench. He has no handholds, and if the wagon is not full, there is nothing against which he can brace himself. It is really quite a simple matter for the driver to toss him around the back like a sack of potatoes. All he need do is speed up and slow down, hit and brake hard a few times, or drive over roads he knows are especially bumpy. Rarely is a prisoner injured by any of these methods, but anyone who runs when told to halt, swears or spits at a policeman, threatens him in any way may find himself chastened by these techniques. And how does a person complain that the handcuffs were too tight or that the driver of the wagon was not competent?" J. Rubinstein, *City Police* 329 (1973).

Caldonetti to the officers. Despite continued bleeding, Trooper Caldonetti was still chained to a chair and later to a metal bench, and was not released for several additional hours. He was repeatedly questioned about whom he was working for and what his assignments were with the Crime Commission. At approximately 10:00 a.m. on the morning of October 5, 1972, Trooper Caldonetti was taken to the Police Administration Building, Eighth and Race Streets, and appeared at Municipal Court for arraignment. He was then charged with indecent assault and assault and battery. He had never been notified prior to that time what the charges were against him.

After Trooper Caldonetti's release, Attorney General Creamer held a press conference protesting the trooper's treatment by the Philadelphia Police Department, especially the unnecessary handcuffing and inordinate delay in his processing.

The Attorney General's press conference touched off another barrage of attacks from the District Attorney and the Mayor. Mr. Specter immediately held a press conference of his own attended by the bouncer who struck Trooper Caldonetti and the waitress who had allegedly been pinched by the trooper. At that press conference, the waitress stated that while she believed Trooper Caldonetti had patted her bottom, she did not consider the touching in any way "indecent." District Attorney Specter quickly interrupted stating that it was a legal question as to whether the patting had been indecent.

The Commission conducted its own lengthy investigation into the incident. No evidence was ever uncovered which contradicted Trooper Caldonetti's version of the facts, and the Commission believes he told the truth. All criminal charges against Trooper Caldonetti were dropped and his civil suit against the Grog Shop was settled in his favor. His civil rights action is still pending.

The Caldonetti incident, which was to be in the press for the next month or so, was one more example of the District Attorney running to aid the Police Department. Mr. Specter was apparently far more concerned about what allegedly occurred in the Grog Shop rather than whether the Philadelphia Police had abused and mistreated Trooper Caldonetti.

Two more state policemen assigned to the Commission were then detained by the Philadelphia Police Department. On October 6, 1972, between 2:20 and 3:00 a.m., Troopers Fitzpatrick and Ziegler observed a woman spend 40 minutes with a Philadelphia policeman who was on duty in the area of 19th and Arch

Streets. The policeman met the girl in a restaurant. After some conversation, they left the restaurant together and walked north on 19th Street to a black Cadillac. The white female entered the car on the driver's side while the officer stood along the car on the driver's side, facing the car, with the door slightly ajar. The woman lay down on the front seat to the point where her head was not visible with the officer standing right next to her. They stayed in that position for approximately ten minutes. At approximately 3:00 a.m., the officer left the Cadillac and returned to his van.

As Commission investigators had received information that certain policemen on night duty received sidewalk sexual service from prostitutes, the investigators decided to follow the unknown female. She drove south on the Expressway to Passyunk Avenue where she turned around and started to drive back north on the Expressway. She then exited at University Avenue and drove to 34th and Grays Ferry where she pulled up beside a blue police car and spoke with the officers.

The Crime Commission agents made a U-turn a short distance away and were stopped by the officers. The officers took the investigator's operator's license, registration card, and then went back to their car. After a few minutes, the officers returned to the agents and asked to see the manufacturer's serial number on the car. The Commission agents asked whether there was any problem. Two more police officers arrived on the scene in a police van. The agents were then told they were going to the station house because there was something wrong with his operator's license.

At the station, both the investigators and their car were searched although the police had no warrant authorizing such action. At that point, the troopers finally decided to tell the Philadelphia policemen they were special State Police officers working undercover. They did not indicate they were working for the Crime Commission. The troopers were then transferred to another district and detained for almost two hours by the Philadelphia Police before being released.

On October 19, 1972, another trooper was arrested and beaten while in the custody of the Philadelphia Police Department. Trooper Donald Lee Auman was on assignment on surveillance in the 9700 block of Jeanes Street. After he was on the site for approximately one and one-half hours, a Philadelphia Police Department patrol car driven by an Officer O'Neill approached and parked behind Trooper Auman's vehicle. At

this time, Trooper Auman was sitting behind the driver's seat doing a crossword puzzle. Officer O'Neill approached the vehicle and requested Trooper Auman to produce his identification, which he did in the form of a driver's license and registration card. Within minutes three other police cars pulled up and blocked in Trooper Auman's vehicle. Officer O'Neill then told Trooper Auman to get out of his car, place his hands upon the roof of the car; and after being frisked Trooper Auman was told he was to empty his pockets. He then was allowed to place his wallet inside the glove compartment of the car and he locked the glove compartment. Trooper Auman was asked what he was doing in the neighborhood, and he advised the officers that he was waiting for a friend. He was then informed that his story would have to be "checked out."

Trooper Auman was handcuffed with his hands behind his back and was taken to the 7th District station on Bustleton Avenue. He was placed in a small cell with a 14 year old boy. After he had been in the cell for a few minutes, Trooper Auman realized his car keys had been taken from him in the stationhouse by Officer O'Neill. Trooper Auman rapped on the door of the cell and asked for Officer O'Neill. He was told that Officer O'Neill was out. The trooper explained the problem about the keys. Another officer with a mustache yelled, "f--- him, close the door." The door was slammed shut in Trooper Auman's face. He kicked the door and shouted, "Big mouth." Thereupon, the police officer who had yelled the obscenity came in and said, "Are you calling me?" Trooper Auman replied, "Only if your name is 'Big mouth.'" Trooper Auman was standing near the door with his hands in his front pants pocket. The Philadelphia police officer then hit him on the left cheek of his face causing a large abrasion, a cut, and bleeding in his mouth. After the officer left, the 14 year old boy said to Trooper Auman that if he was smart he would not talk back to the policemen because, "They'll kick the s--- out of you if you don't---uh---cooperate."

The trooper was released after approximately two hours. When he returned to his car, he discovered that the car and the glove compartment had been searched extensively while he had been detained in the police station. No warrant or cause for the search existed. No further mention was made of anything being wrong with the trooper's license or registration.

The subsequent events related to the beating of Trooper Auman by a Philadelphia police officer, and the efforts of the

Commission to do something about the situation are noteworthy, for they aptly demonstrate the lengths to which the City will go to protect one of its own.

The Commission resolved to have a criminal complaint filed against the offending officer. Trooper Auman arrived back at his motel at 9:00 p.m. on October 19, 1972. Within the hour, two State Police investigators, Sergeant Matthew Hunt and Corporal Charles Todd were at the 7th District headquarters, Bustleton and Boler Streets, to try to interview the fourteen year old boy, as well as district personnel, concerning the assault. Sergeant Hunt asked the arresting officer whether Trooper Auman had ever been placed under arrest, to which the officer replied, "He was told he was being taken in [for] an investigation." The State Police officers attempted to ask further questions, but were told by a corporal: "I have told you too much already and you'll have to wait for the inspector."

When Inspector Di Williams arrived, Sergeant Hunt explained he had three questions: (1) What means were used to gain entry into Trooper Auman's car? (2) Was Trooper Auman's conduct respectable and proper while at the 7th District? (3) Did anything unusual happen at the 7th District between Trooper Auman and anybody else? After waiting two hours, the State Troopers were told by Chief Inspector Bennett, who had appeared on the scene, that no information concerning the events at the police station would be given to them. The troopers were assured a complete investigation had been made and a report would be given to Commissioner O'Neill.

On October 22, 1972, an affidavit and criminal complaint for aggravated assault and battery were prepared. State Police officials and the Deputy Attorney General in charge of the Philadelphia Regional Office of the Pennsylvania Department of Justice went to the Municipal Court. The Court refused to accept the complaint until the District Attorney's office had been notified. Arrangements were made for a meeting with First Assistant District Attorney Sprague later in the afternoon. At the meeting, Mr. Sprague stated that the investigation was still in progress. The State Police officers noted that the Police Department had concluded its investigation in the early morning of that same day. All parties then met with the court, which refused to issue the complaint and asked everyone to return to chambers at 10:00 a.m. on Saturday, October 21, 1972. The court requested that District Attorney Arlen Specter, Philadelphia Police Commissioner O'Neill, State Police Commissioner

Rocco P. Urella, Attorney General J. Shane Creamer, and Trooper Auman also be present.

The meeting started the next day in Mr. Sprague's office. First, Mr. Sprague, Chief Inspector Frank Scafidi, and Commissioner O'Neill were in the room. They were joined by Deputy Attorney General Dante Mattioni. Then the Judge arrived, shortly thereafter followed by District Attorney Specter. The Mayor telephoned on at least two occasions. Finally, after almost two hours of meeting, Sergeant Hunt, who was the affiant on the complaint, was finally brought in, and swore to the complaint.

In any other context, a State Police officer can fill out a criminal complaint and take it immediately to the court for approval. There is no legal requirement that the complaint be reviewed by the District Attorney, and certainly that had not been the practice in Philadelphia. The Pennsylvania Rules of Criminal Procedure provide that criminal proceedings may be instituted by a written complaint, containing certain required information, all of which the State Police provided. That the two top officials in the District Attorney's office, the Mayor, the Police Commissioner, the Chief Inspector, and the court all had to meet extensively before "approval" could be given to the complaint, indicates the difficulty of instituting an action against a Philadelphia police officer. As it was, the court took the complaint and affidavit under advisement, stating he would render a decision on Monday, October 23, 1972, as to whether a warrant would be issued.

It soon became clear that a question of identification was going to be raised. Conferences were scheduled on October 25. Trooper Auman was required to identify his assailant. Two lineups were held, and the trooper identified the man named in the complaint. He also noted another individual who may have been the assailant, if he had a mustache. A third lineup was held. The trooper identified the second man on the basis of his hands and protruding eye teeth. The Police Department then revealed the officer in question had shaved his mustache, and also had confessed to the assault. A criminal complaint against the identified police officer was prepared. Had the State Police investigators assigned to the Crime Commission been allowed to ask questions the night of Trooper Auman's arrest, before any mustache had been shaved, the confusion over identity could have been eliminated.

On November 29, 1972, the case was transferred to an arbitration hearing, and the matter was ultimately settled by a formalized apology.

The continued pattern of harassment against Commission agents by the City police had two effects. While the investigators' resolve was hardened by the opposition, significant amounts of investigative and staff time were being devoted to combatting various crises created by the Philadelphia Police Department.

November was the high water mark of resistance against Commission efforts. On November 1, 1972, a special agent of the Commission was assigned to follow a 1957 Chevrolet, black body with a white top, Pennsylvania license number 67355Y. The vehicle was operated by plainclothesman Anthony C. _____ (#4722), who had been a crucial figure in the Greg Walter prosecution. He had been named by one of the prosecution witnesses, Lorraine Nyegio ("Peaches") as being involved in various corruption activities. However, the District Attorney's office had not chosen to proceed against him; rather they had decided to use his testimony as the basis for the prosecution of Mr. Walter.

The Commission had received information that car stripping and other irregularities were occurring with respect to recovered stolen vehicles in the possession of the Philadelphia Police Department. An agent was assigned to follow C. _____'s (#4722) car because it had a license plate which had been reported stolen several months earlier. The Commission had discovered the stolen plate attached to a vehicle parked in the parking lot of the 15th Police District. The car to which the stolen license plate was attached was not the vehicle described on the records of the Bureau of Motor Vehicles in Harrisburg.

The Commission agent, William Willoughby, lost contact with the vehicle and returned to his surveillance point at the 15th District station. Officer C. _____ (#4722) shortly drove up behind him. C. _____ (#4722) asked to see the agent's license and registration which were produced. Willoughby was also questioned about following a Philadelphia police officer. C. _____ (#4722) was wearing plainclothes at the time. The Crime Commission agent initially denied having followed C. _____ (#4722) and asked how he would know C. _____ (#4722) was a cop. The agent was told he was not being arrested, but he was taken in the side door of the district station. His car was illegally searched and a tape recorder under the front

seat of the car was taken into the station by C_____ (#4722). The tape player contained a cassette on which the agent had been making periodic surveillance reports.

Once inside the station, the agent and tape player were separated. The agent kept asking if he was under arrest, if he had committed a crime, or if following someone was against the law. He was told he was being detained for investigative purposes only. He was not permitted to make any telephone calls for some time. He was repeatedly questioned whether he was working with the State Police or the Pennsylvania Crime Commission. The registration and operator's license he had were in his real name, as he had recently joined the Commission. The agent was detained for approximately three hours. When he left the station, he was followed by two plainclothesmen whom he eventually "lost" on the Pennsylvania turnpike.⁵⁸ At no time was Willoughby ever told he was under arrest. He asked at least ten different times why he was being held, and on each occasion he was told "investigation." An illegal search was made of his car and his property was seized.

By this time, the Commission was gaining experience in dealing with the Philadelphia Police Department. All agents had a standard operating procedure which they were supposed to follow when they were arrested by the Philadelphia Police. However, extensive followup investigations were done on each incident, and hence valuable investigative time was lost by this, and the seven other incidents which occurred in less than a month.

During the month of November, the Commission became increasingly concerned about a continuing problem of security leaks. The Commission received intelligence from a number of sources that high officials in the Police Department were aware of "every movement the Commission made," and consequently were not worried about the investigation. Also, one of the troopers assigned to the Commission had been recently called to Harrisburg and questioned by Commissioner Urella's personal staff concerning all of the Crime Commission's activities. The trooper involved protested, for he did not want to be placed in the middle.

There also had been the repeated arrests and detentions of Commission personnel made by the Philadelphia Police De-

⁵⁸The Philadelphia police pursued Willoughby far beyond the territorial limits of the City.

partment. Many times the excuse for the detention was an improper driver's license and registration. Yet, the undercover driver's license and registrations which had been issued to the agents had been carefully checked over by the State Police and the Bureau of Motor Vehicles. It appeared to the Commission that the Police Department must have had a list of the undercover names used by Commission investigators.

On Monday, November 27, 1972, State Police attached to the Pennsylvania Crime Commission discovered that three of their rooms at the George Washington Motor Lodge had been wiretapped. The facts and circumstances surrounding the subsequent charges and countercharges, resignation of the Attorney General, and the dismissal of Commissioner of State Police, and the State's unsuccessful attempts to bring criminal charges against many of the individuals believed to be involved in the wiretapping, have received widespread publicity in the news media. Only the highlights will be covered here.

Initially, mention must be made of the relationship between a certain element of the State Police and the Philadelphia Police Department. Commissioner Urella had a close relationship with the Philadelphia Police Department and District Attorney's office; additionally, his relations with Attorney General Creamer had never been cordial.⁵⁹ When Colonel Urella assigned men to Mr. Creamer, he simultaneously gave a slightly larger number to Mr. Specter, with replacements available to Mr. Specter's unit if the men had court assignments. Commissioner Urella's relationship with Mr. Sprague went back over a number of years. The Commission was to discover from some of the reports filed by Commissioner Urella's special investigations unit,⁶⁰ that Commissioner Urella and Commissioner O'Neill had talked by telephone concerning the Crime Commission investigation, particularly an investigation occurring at the Gaslight Lounge, where a Philadelphia police lieutenant was alleged to be moonlighting as a bartender and permitting lewd entertainment.⁶¹

More importantly, the Commission and its investigation were to receive intensive public scrutiny for the next few months,

⁵⁹Mr. Creamer reportedly had opposed Mr. Urella's nomination as State Police Commissioner.

⁶⁰The reports were filed by Lieutenant Herman Faiola, and now are on file at the offices of the Pennsylvania Crime Commission, St. Davids, Pennsylvania.

⁶¹The extent of the split in the State Police will probably never be known. The Commission was informed that every trooper who came to work for the Commission was told not to take the assignment because it would hamper his career.

seriously disrupting all relationships with informants and any ability to conduct a successful undercover operation. Also, a whole new Commission and new Attorney General, as well as a new State Police Commissioner, were appointed as a result of the wiretapping episode.

Resistance from the Philadelphia Police Department to the Commission's efforts did not abate with the appointment of a new Commission. On March 4, 1973, there occurred one of the most serious confrontations between the Commission and the Philadelphia Police. Fortunately, due to the remarkable restraint exercised by the state police assigned to the Commission on the scene, no serious mishaps occurred.

For several months prior to March, 1973, the Commission had been investigating the activities of Eugene Linwood ("Tax") Thompson and two of his associates. Undercover agents of the Commission had purchased illegal alcohol from the suspect on several occasions between September, 1972, and February, 1973. As happened in many other cases during that time, shortly after Commission agents showed an interest in Mr. Thompson, the Philadelphia Police Department similarly increased their enforcement activities against him. At the time, one undercover agent received information that the trouble Mr. Thompson was having from the Philadelphia Police was puzzling Thompson because he had been "taking care of them [the police]." As had been done in other cases, an attempt was planned whereby Mr. Thompson would be afforded the opportunity to cooperate with the Crime Commission investigation. If he refused cooperation, information in the Commission's files was to be turned over to local authorities for prosecution. On the basis of the purchases made by undercover agents, a search warrant was obtained by the Commission on March 1, 1973, for Mr. Thompson's residence, 148 West Price Street.

On March 4, 1973, at 2:25 p.m., several troopers raided Mr. Thompson's residence. The raid was initiated when Mr. Thompson was observed standing on the sidewalk in front of his house. He was approached and advised that a search warrant was issued for his residence. Mr. Thompson then unlocked the front door; prior to entering a state trooper read him the contents of the search warrant and advised Mr. Thompson of his constitutional rights. The troopers then entered Mr. Thompson's residence and proceeded to search the premises. One trooper had been posted at the door. At approximately 2:45 p.m., three Philadelphia policemen approached the front of the building. The

trooper on guard in front presented his State Police identification card, introduced himself and asked whether he could help the policemen. Sergeant G _____ (#358) of the Philadelphia Police Department, stated that he was the sergeant in charge and demanded to know what the state troopers were doing there and also directed one of the Philadelphia patrolmen to take the names and badge numbers of all the State troopers on the raid.

The State policeman at the door responded by requesting the names, identifications, and badge numbers of the Philadelphia policemen. Though the Philadelphia policemen had been informed that a search warrant was in the process of being served, they proceeded to interrupt the search. As a trooper was attempting to interview Mr. Thompson, Sergeant G _____ (#358) came in, stated that he did not like the way they operated, that they were just a "bunch of clowns" and that they came into the City to "embarrass" the Philadelphia Police Department. He also requested to see a copy of the warrant, and after looking at it, he advised all the suspects that the warrant was illegal. Sergeant G _____ (#358) then told the other two Philadelphia policemen that whenever they "got a state trooper in his district, the trooper should be brought into the station house."

A large crowd began to gather outside of the house after the arrival of the Philadelphia police, and what had been a routine raid became a potentially explosive situation. Fortunately, no violence occurred. However, the Philadelphia police had interfered with the state police, who were in the process of the execution of a lawful search warrant duly signed by a judge of the Philadelphia Court of Common Pleas. A strong official complaint was made to Commissioner O'Neill; to the Commission's knowledge, no disciplinary action was ever taken against the individual policemen involved.

Needless to say, the Commission's efforts with Mr. Thompson proved of no avail. Mr. Thompson initially had seemed inclined to talk with Commission investigators; once the Philadelphia policemen entered the scene and made their disruptions and stated the warrant was illegal, Mr. Thompson refused to make any further statements and demanded to see his attorney. The warrant was entirely legal.

The Department's resistance was not limited to harassment of Commission investigators and lengthy litigation. During this period, Commission staff members had been attending a few classes at the Police Academy to attempt to gain an understand-

ing of the types and level of training provided. More importantly, the Commission hoped to gain some understanding of the correlation, if any, between an individual's background and character, including his training, and his tolerance for corruption.

An example of a possible statistical approach, applied to an area of police science other than corruption control can be found in a study done by the New York City Rand Institute under a grant from the National Institute of Law Enforcement and Criminal Justice. The massive study uses multiple regression analysis to predict "the average performance levels for officers having specified combinations of background characteristics and to identify the background characteristics which make the greatest contribution to explaining variations in performance among officers." In order to study the effects that an individual's background and training have on predicting his tolerance for corruption the Crime Commission had a consultant devise a questionnaire similar to the Rand Institute's. When the Commission sought permission to circulate the questionnaire anonymously among the recruits at the Academy, the office of the Police Commissioner denied the request, even though the results would have been made available to the Department by the Commission. Since a scientific approach requires a substantial statistical base what Commissioner O'Neill did, in effect, was to block the Crime Commission from determining the feasibility of predicting tolerance for corruption based on background characteristics. A copy of the questionnaire is attached as Appendix E.

Throughout the summer, policemen who were called as witnesses to private Commission hearings often refused to answer any questions. For example, on May 7, and June 5, 1973, the Commission held private hearings during which four members of the Narcotics Unit of the Philadelphia Police Department declined to answer on fifth amendment grounds 91 out of 121 questions put to them by Commission attorneys. The questions were narrow and specific ones concerning the performance of these officers' official duties and sought to elicit an accounting of their use of the public trust. The questions included: "Will you tell me your educational background?" "Have you ever seen heroin?" "Have you ever arrested anyone for illegal possession or sale of a controlled substance?" "Have you ever had any contact with an informant?" "Have you ever made an under-

cover purchase of narcotics?" To each of these and many similar questions, the officers declined to answer on the basis of the fifth amendment. The questioner, to illustrate the witnesses' total unwillingness to answer responsively, asked such questions as "Who was your commanding officer?" "Who is the Police Commissioner of the City of Philadelphia?" "Who was the District Attorney of Philadelphia?" and still the witnesses declined to answer on fifth amendment grounds.

The Commission then sent the transcripts of those hearings to Commissioner O'Neill accompanied by a letter requesting the Commissioner to take whatever action he thought was appropriate under the circumstances. Section 10-110 of the Philadelphia City Charter states that any City officer who willfully refuses or fails to appear before any commission authorized to conduct any hearing or inquiry ". . . or having appeared, shall refuse to testify or to answer any question relating to the affairs or government of the City or the conduct of any City officer or employee on the grounds that his testimony or answers would tend to incriminate him . . . shall forfeit his office or position, and shall not be eligible thereafter for appointment to any position in the City service."

Despite this provision in the City Charter, and despite his having taken action against individuals who had similarly refused to testify before an investigating grand jury the previous year, Commissioner O'Neill took no action against the individuals who came before the Commission. Eventually, the First Deputy City Solicitor for the City of Philadelphia asked the questions of the individual officers, without giving them their *Miranda* warnings, but issuing City Charter warnings—thereby insulating them from criminal charges. The Commission was sent a transcript of the officers' answers to the questions. This was obviously an unsatisfactory response, because the Commission was not allowed to follow up its own questions, and the Commission had, once the fifth amendment privilege had been exercised, asked only a question per subject matter as a basis for legal action. The pattern was unmistakable. The Philadelphia Police Department and the Fraternal Order of Police, who were advising the individuals in question, continued to oppose the Commission.

The Commission's attempts at obtaining cooperation from individual policemen met with the same response. While many individuals contacted were in sympathy with the Commission

investigation and thought much needed to be improved in the Department, they were unwilling to talk with the Commission because they did not believe the Commission would succeed in the long run. If the Commission failed, they were afraid there would be retributions within the Department for anyone who had cooperated with the Commission.

The Commission was also made aware that the Philadelphia Police Department's influence spreads far beyond the confines of City government. During July, 1973, the Commission and the Narcotics Control Strike Force began to have serious problems with the new Drug Enforcement Agency (DEA) of the federal government. The Commission had approached the agency to establish a working relationship on various undercover operations. Particularly, the Commission was interested in setting up a "kilo buy" of heroin.⁶² The Commission had made sufficient contacts in this undercover operation so that the kilo buy was a definite possibility. Not having any investigators or supervisory personnel who had been actually involved in a narcotics transaction of this magnitude previously, the Commission and Narcotics Control Strike Force went outside seeking assistance. The initial reception by DEA, represented by Mr. Joseph Dino, the Assistant Regional Director, was cautious. He did, however, agree that if the Crime Commission put up 50 percent of the money for the kilo buy, they would probably support its operation. However, Mr. Dino made it perfectly clear that he would not work with the Crime Commission on any case involving police corruption in the narcotics area.⁶³ He explained that they had a high regard for the Philadelphia Police Department and had to work with that Department on a day to day basis. He did not want to do anything to jeopardize the relationship.

As the kilo deal became finalized, however, DEA totally backed down from any cooperation with the Commission. It refused all money and would not even provide a black chemist to accompany Commission undercover agents on the purchase and confirm that the substance acquired was in fact heroin. Since the connection went into New York City, and since the Com-

⁶²A "kilo" is one kilogram of heroin, a large amount handled normally only by upper echelon dealers. No Philadelphia law enforcement agency has ever made an undercover purchase of this magnitude.

⁶³After the narcotics raid in the fall of 1973, Arthur Lewis, the local Director of DEA said that their previous position on police corruption would be abandoned and they would assist in cases concerning police corruption in the narcotics area.

mission had been totally rebuffed by federal agents in Philadelphia, contact was made with the office of Mr. Frank Rogers, Special Narcotics Prosecutor having city-wide jurisdiction in the City of New York. Mr. Rogers' office was extremely helpful.⁶⁴

The opposition by the Police Department continued until the end of the Commission's investigative effort. On September 27, 1973, an agent was arrested in West Philadelphia for possession of numbers.⁶⁵ The agent was in Chippy's Tavern, 6400 Vine Street, when two Philadelphia police officers entered, served a warrant on the owner of the tavern,⁶⁶ and then told every patron to empty his pockets. The agent had two numbers slips and a marked Armstrong racing form in his pocket. Both were deep inside the trooper's pocket, and not visible. The agent had a "walking bug" on during the entire arrest. He was handcuffed and taken first to the 19th District and eventually to the Police Administration Building.

The Commission was later to discover that the entire raid had been planned between the gamblers and the police to test whether the agent was, in fact, a state undercover operative.

At the Police Administration Building, the third frisk of the agent finally disclosed the walking bug but he was able to explain it away as a "weight reducing device" and allowed to retain the transmitter.

The same day the agent was arrested, Charles Haddad of the District Attorney's office telephoned the Crime Commission's Executive Director, stated the police had arrested Andrew Marino (the agent's undercover name), and asked whether he was one of the Commission's agents. The Executive Director

⁶⁴The New York authorities were both interested and thoroughly cooperative with the Commission's venture. They were particularly interested in the police corruption aspects of the kilo deal, for the Commission's agents, as they came out of New York City, were allegedly to be accorded police protection by a policeman who was a friend of the New York drug dealer. Within 48 hours, the New York special investigative unit was able to acquire the necessary currency in used dollar bills, mobilize helicopters and special trucks which could follow the homing devices to be located in taxicabs, and also to make an elaborate plan in connection with the railroad police whereby a portion of the journey which was to occur on the train could be carefully monitored and the train could be stopped in any of a variety of locations. In sum, the New York agents were helpful, imaginative, and thoroughly professional in the way in which they carried out their assignments.

⁶⁵For a more extensive report of his and another agent's successful infiltration of a gambling operation in West Philadelphia see the section on gambling, Chapter IV *supra* at 183-187.

⁶⁶The warrant was based on a possibly perjured affidavit.

neither denied nor confirmed, because the Commission had reason to believe the agent's undercover identity was still viable, the arrest could only enhance his credibility. Commissioner O'Neill, four days later, contacted Colonel James Barger of the Pennsylvania State Police, stated they had arrested the agent, and asked Barger who the agent was. After discussing the matter with the Commission, Colonel Barger informed Commissioner O'Neill of the entire operation, and requested O'Neill not to make any of the information concerning the agent's identity known to anyone.

While the Commission is sure Commissioner O'Neill did not knowingly inform anyone, within a matter of days word of the agent's actual identity had reached the gamblers. Either someone within the Police Department, or the Commission, or the State Police, had been guilty of a lack of discretion.

The Commission subsequently learned that the activity of Commission agents was often discussed by police officers, and even possibly the subject of Internal Security investigations, as Officer Weiner testified:

Q: . . . what type of communication and information has been passed around the Department about the Crime Commission investigation?

A: Well, it was basically dribs and drabs. You would hear conversation with other policemen who would say either "Chris DeCree was up at"—and at this time he was in some type of vehicle, Chris DeCree was supposed to be driving an oil truck somewhere in South Philadelphia. They saw Al Risdorfer at Coral and Lehigh one day. On Labor Day, I saw you, I passed that one around.

Q: Did you pass around the license number on the vehicle?

A: No, myself personally, I just—I had to work Labor Day or Fourth of July or something and I had made a fast arrest and I was on my way home and there was some type of parade and Al was standing on the corner waiting for the parade, I don't know. So I saw Al standing on the corner, I didn't know if he was working on anything, but at the time I didn't want to expose him really to what was going on. So next day, when I went, got to headquarters,

I said, "I saw Al Risdorfer." "Where was he?" I said, "Frankford and Lehigh." And they were wondering what he was looking at because a number writer worked right there and we had hit him a couple times and never got anything on him but maybe this bum is taking numbers. And we put more of an investigation on it but couldn't get anything out of the place. So I said maybe Al was just standing watching the parade.

Q: Who did you tell this to, your sergeant?

A: I told it to my lieutenant and, you know, just common conversation through the squad.

Q: Were you ever at rollcall or lineup in the morning where there were discussions of Crime Commission activity?

A: Not so much. You see, actually last few years I have been in just plainclothes and these would be just not actually formal that we seen Crime Commission here or we seen Chris DeCree there or Joe Morace was seen here—that was another spot. Maybe, a wagon would be transporting prisoners and would say, "By the way, we saw a guy, saw Al, or we saw Chris DeCree driving this kind of car". Even had Chris DeCree—where they don't know what Chris looks like—had Chris with a beard driving some kind of electric, some type of utility truck. They tried to stop him and Chris had driven up a alley way and ran into some house. You know how stories spread. We had heard some guy at Sixty-first and Vine Street, Tecco's Lounge, a bookmaker, was working for the Crime Commission. It was more or less, like, they are out there fellows, if any of you are doing anything God help you because you are on your own.

* * * * *

Q: Well, before the Crime Commission's investigation, I take it there was even less, you might say, fear or worry about Internal Security than currently?

A: Yes.

Q: Now, is it your understanding—from what you said I gather it is—is it your understanding that Internal Security is investigating Crime Commission activity?

A: I would say yes.

Q: What do you base that on; where did you learn that?

A: Again, I can't really be very specific.

Q: Be as specific as you can.

A: There is so much talk about Crime Commission and it just seems that if you hear of a location where the Crime Commission might be, you suddenly find Internal Security, you know. And to me, I just found it ironic that whenever Crime Commission was mentioned, Internal Security was there also. That's about really as specific as I can get. . . .⁶⁷

The above compilation of some of the more serious obstacles placed in the Commission's path by the Police Department is presented to demonstrate what a colossal amount of time the Commission was forced to spend combatting the Department and agencies in State government to accomplish its mission.

In this regard, a recent draft of the American Bar Association Project on Standards for Criminal Justice is both helpful and enlightening. It states:

Police should undertake to keep the community informed of the problems with which they must deal and the complexities that are involved in dealing with them effectively. Police agencies should cooperate with those who seek an understanding of police operations by affording opportunities for interested citizens to acquaint themselves with police operations and by providing access to the accumulation of knowledge and experience that the police possess.⁶⁸

⁶⁷Weiner, December 5, 1973, N.T. 101-103, 110-111.
⁶⁸American Bar Association Project on Standards for Criminal Justice, *Standards Relating to the Urban Police Function* §9.4 (Tent. Draft 1972).

The accompanying commentary perceptively analyzes police reluctance to disclose anything:

Part of this reluctance can be explained by the fact that the police are committed to generating an aura of omnipotence; that much of their effectiveness depends upon the commonly held impression which they are anxious to reinforce that the police are capable of handling whatever problems come their way. It follows that they desire to protect themselves from the kinds of inquiries that might lead to an exposure of their actual capabilities which, through no fault of their own, are grossly inadequate, given the magnitude and complexity of the problems for which they are held responsible. Most police administrators, therefore, feel that it is self-defeating to be frank in sharing detailed knowledge regarding police limitations and problems with the police.

Still another factor is the realization that many long established police practices will simply not stand examination under the light of day. Having struggled over the years to be everything to everybody, police agencies typically have made all kinds of accommodations and adjustments in their operations which may be defensible on some grounds, but which are indefensible when measured against a purely legal standard. Thus, police in large cities are generally vulnerable to criticism, for example, for their practices in the handling of drunks, street prostitutes, and petty offenders and for their methods of conducting field interrogations. This situation sets a cycle in motion. If the police adopt an open-door policy that affords individuals an opportunity to acquaint themselves with police problems, the police are left vulnerable to attack for misuse of their authority. . . . The closed door policy that results leads to a perpetration of the various systems of accommodations and, occasionally, to the development of new improvisations designed to meet new needs. Breaking this cycle is no easy task.⁶⁹

⁶⁹*Id.*

Had the Commission had the whole-hearted cooperation of a City Administration dedicated to uncovering and eradicating corruption from the Department, undoubtedly more could have been accomplished in less time.

IX

RECOMMENDATIONS

Corruption within the Police Department and government in general has been such a constant problem down through history that the Commission would be naive to suggest any single reform as a cure-all. Any progress that is made will have to come through a combined effort on many fronts to change attitudes, systems, and structures within and without the Police Department. However, the Commission believes the establishment of an independent prosecutor, who would institute a full-time, ongoing, active, and inventive integrity campaign is an extremely significant and necessary part of any reform program. Such an official could actively prosecute offenders and serve as a deterrent to future corruption.

Beyond outlining a program for the establishment of an independent prosecutor with special corruption responsibilities, the Commission will here draw together its specific recommendations for reform within the Department. Facts and analysis supporting the reforms have been presented in the body of the Report. It is useful, however, to have all the recommendations for change assembled in a single place, and this chapter is designed to fulfill that function.

AN INDEPENDENT PROSECUTOR

A local district attorney cannot properly investigate the very police upon whom he must rely for the day to day conduct of his job. Throughout its investigation, the Commission repeatedly witnessed examples of this phenomenon. The Commission does not ascribe a marked lack of incentive in the corruption area to

either the former or present District Attorney. Rather, the Commission believes an inherent conflict of interest exists and that no district attorney, no matter how dedicated, can properly perform this function. To a large extent, a district attorney must rely on the police as his investigators and, therefore, cannot be expected to conduct a thorough investigation of them.¹

To remedy the situation, the Commission proposes two solutions: one interim and administrative, the other long range and legislative. As an interim measure, the Commission recommends the Attorney General appoint a committee consisting of the Deans of Pennsylvania's six law schools as well as the Chancellors of the Philadelphia and Allegheny County Bar Associations and the President of the Pennsylvania State Bar Association to nominate three qualified people for the position and that he appoint one of the three as a Deputy Attorney General to act as the Special Prosecutor. Because of the need for continued public confidence, the Special Prosecutor should have the greatest degree of independence to organize, select, and hire his own staff of attorneys, investigators, and supporting personnel in such numbers and with such qualifications as he may reasonably require. The interim special prosecutor should not be removed from his duties except for extraordinary improprieties on his part. He should have jurisdiction over police corruption investigations and prosecutions in Philadelphia. The interim special prosecutor would be armed with common law powers and should be authorized by the Attorney General to convene special investigating grand juries if necessary and to conduct any prosecutions arising out of his investigation.

Permanent reform can only be accomplished, however, through action of the Legislature in creating an Office of Special Prosecutor with a staff of attorneys, investigators of its own, and an adequate budget. The Special Prosecutor himself should have a six year term of office and be prohibited from holding elective office in the State for a period of four years subsequent to his term. His selection must be in such a manner to insure his independence. A possible way to accomplish this task is discussed below. He should be removable only upon conviction of misbehavior or crime, or by the Governor for reasonable cause, after due notice and full hearing, on the address of two-thirds of

¹As the Hon. Whitman Knapp, Judge of the U. S. District Court for the Southern District of New York, and Chairman of the Knapp Commission remarked: "The District Attorney has to be in partnership with the police, and it is absolutely impossible to suspect your partner." *New York Times*, August 8, 1972.

the Senate. The Legislature should not permit his removal from office at the pleasure of the appointing authority.²

The permanent Special Prosecutor would be responsible for any and all corrupt acts and omissions by a public servant or a former public servant serving within the criminal justice system in the Commonwealth of Pennsylvania, and any acts committed to hinder such investigations and prosecutions. He should have full authority for investigating or prosecuting cases of bribery, perjury, theft, embezzlement, or other illegal taking of public funds, conspiracy, misfeasance, malfeasance, nonfeasance in office, or any other cases of graft or corruption incident to or in connection with the criminal justice system.

Before evaluating this proposal, the case concerning the inherent inability of a local district attorney to investigate his own police department should be presented.

A District Attorney's Conflict of Interest

The Commission, from the outset, was confronted by a District Attorney's Office which consistently went to the aid of the Philadelphia Police Department when police conduct was challenged by the Commission.

When Attorney General Creamer first announced the Commission's police investigation, District Attorney Specter released figures which he said "totally refute" Creamer's charge of widespread corruption.³ When, several months later, a former police captain made charges of corruption within the Department, First Assistant District Attorney Richard A. Sprague went to the Department's defense. "He's told us nothing we can really hang our hats on, and I think he's wrong in indicting an entire force which is basically hardworking, fearless and honest."⁴

When the Governor requested the Attorney General to direct the Crime Commission to embark on its investigation of the Police Department in November, 1971,⁵ both District Attorney Specter and Mayor Rizzo questioned the sincerity of the probe. When the Commission released its Interim Report in February, 1972, concluding evidence of systematic corruption

²Such a limitation is entirely proper. See Pennsylvania Constitution, art. VI, §1.

³"DA Defends Police Against Criticism," *Evening Bulletin*, May 21, 1971.

⁴"Sprague Calls Talk of Police Graft Baseless," *Evening Bulletin*, December 6, 1971.

⁵See Chapter VIII *supra* at 756.

within the Department existed and calling for an in-depth inquiry, the District Attorney again came to the Department's aid, asserting the report had "no useful purpose" and "Eight thousand policemen and their families will cringe this Sunday and have many uncomfortable days in the future from this broadside attack for no good reason."⁶

The above incidents, however, largely represented verbal sparring and were to a certain extent manifestations of the "feud" mentioned previously.⁷

The first manifestation of the inherent conflict came in the spring of 1972. On May 25, 1972, investigative reporter Greg Walter of the *Evening Bulletin* was arrested and charged with illegally recording telephone conversations between himself and four other people without their consent. Two of the persons were agents of the Crime Commission. Mr. Walter, at the time, was involved in investigating allegations of corruption within the Philadelphia Police Department; and, according to the District Attorney, he had been working with the two Crime Commission investigators.

The arrest of Mr. Walter was based on information provided to the District Attorney by Ms. Barbara Dunagan and Ms. Lorraine Nyegio, two alleged prostitutes. That arrest came, however, more than a week after the Attorney General had given the District Attorney other evidence obtained under oath from the same two witnesses which implicated a large number of Philadelphia police officers in a system of payoffs and involvement in prostitution. One of the officers implicated, Anthony C. (#1722), was later to be one of the Walter prosecution's principal witnesses. On June 2, 1972, the Attorney General sent a letter to Mr. Specter pointing this out and asking why the District Attorney chose to prosecute Walter and not to prosecute the police on the basis of these same witnesses' evidence. That letter was released to the public with a copy of the corruption evidence with names of the police officers omitted. The Attorney General also charged that the arrest was unwarranted and raised serious questions concerning freedom of the press.

The District Attorney responded immediately, and with apparent anger, defending the Police Department, and terming

⁶ Specter Calls Police Report Smear. *Evening Bulletin*, February 6, 1972. Mayor Rizzo was equally vociferous in his criticism of the report. See *Philadelphia Inquirer*, February 6, 1972, at 1.

⁷ See Chapter VIII *supra* at 58-59.

Creamer's letter a "libel" because it "impugns every single person in the Police Department."⁸ Mr. Specter and his first assistant, Richard Sprague, also both privately and publicly countered that in their view, agents of the Crime Commission had engaged in a conspiracy with Mr. Walter and had been involved in illegal wiretapping.

The Attorney General believed the arrest of Greg Walter and the District Attorney's allegations against Crime Commission agents were an attempt to intimidate the Commission's investigation into police corruption. The District Attorney believed the Commission was engaged in an unwarranted interference in Philadelphia. Part of the difference between them was opposing law enforcement policies. Mr. Creamer advocated continuing an undercover operation on a protracted basis until as many patterns as possible had been discerned. Mr. Specter believed in making an arrest upon discovery of the first violation.

The Commission has never received or uncovered any evidence which would indicate that its agents ever engaged in illegal wiretapping, although an extensive investigation was conducted. The charges against Mr. Walter were eventually dropped by the District Attorney's office. It should be noted that the prosecution, which was based on a technical and highly questionable interpretation of the wiretapping statute and was the first of its kind, went through Municipal Court before being abandoned and was personally handled by the District Attorney's most effective and successful prosecutor, Richard Sprague. Mr. Sprague never handled any of the few police corruption cases brought during the period of the Commission's investigation either by the District Attorney or upon information supplied by the Crime Commission.

The next dramatic instance of the District Attorney assisting the Police was when the Commission began negotiations with the Department for the first group of documents at the end of August, 1972. The Commission was soon informed by Commissioner O'Neill that First Assistant District Attorney Sprague was "counsel" for the Department, and any requests had to go through him. The prospect of a Department's "counsel" responsibly investigating the Department runs counter to our criminal justice system. A counsellor defends his client; he does not investigate him.

⁸ *Evening Bulletin*, June 4, 1972, at 1. The Mayor echoed the District Attorney, calling Creamer a "double-crosser" and demanding his ouster. *Id.* June 5, 1972, at 2.

The Caldonetti episode provided additional evidence of the District Attorney's siding with the police. Throughout the affair, Mr. Specter was far more concerned about what allegedly occurred in the Grog Shop rather than the Trooper's treatment at the hands of the Philadelphia police. The District Attorney also actively opposed the Trooper's initiation of criminal charges against the Grog Shop's bouncer.⁹

Then in the Auman affair, the District Attorney's office inserted itself as a censor over the Trooper's complaint, siding with the Department in the attempt to have assault charges abandoned.¹⁰

Another vivid example of the conflict occurred with the handling of an informant named John Peters. For some months, the District Attorney had pressed for access to all Commission investigative reports and files in the name of a "joint" investiga-

⁹ DA Fights Arrest of Bouncer," *Philadelphia Daily News*, October 17, 1972, at 7.

¹⁰Relationships between former Attorney General Creamer and former District Attorney Specter deteriorated greatly during this period. All the local newspapers ran columns and editorials about the "feud" between the District Attorney and the Attorney General.

Attorney General Creamer was very concerned about the problem, for he realized that it was seriously detracting from the Commission's ability to conduct a responsible investigation. A plan was formulated to supersede District Attorney Specter with respect to the police corruption aspects of the grand jury's investigation. The supersession would in no way interfere with Mr. Specter's management and direction of the grand jury as it inquired into official misconduct within state government or elsewhere.

Underlying the supersession was the basic conflict of interest existing in the day-to-day working relationship that must exist between the District Attorney's office and the Police Department for the District Attorney to perform his prosecution duties properly. Such institutionalized cooperation forecloses any possibility of an objective investigation by a District Attorney into allegations of corruption concerning the very same policemen he must count upon day in and day out to testify in court. Also, supersession in the Attorney General's view was believed to be necessary because of the public furor, which had periodically flared up between the District Attorney and the Attorney General, and posed a serious threat to the quality of law enforcement in Philadelphia. In fairness to every Philadelphia policeman and because of the cloud hanging over the Department, the Attorney General believed that a thorough and complete investigation was essential to clear the air, and public feuding and personalities should not stand in the way.

The Commission's choice to lead the grand jury's police corruption probe was Nicholas Scoppetta, who had served with great distinction on the Knapp Commission and with the United States Attorney's office under Whitney North Seymour. Mr. Scoppetta accepted the job with the reservation that if he were selected as Commissioner of New York City's Department of Investigations by Mayor John Lindsay he would not come to Pennsylvania. Shortly thereafter, Mr. Scoppetta was appointed Commissioner. Since another national expert could not be found at that time, the plans were tabled.

tion. Attorney General Creamer objected, primarily on the basis of the differing philosophies of law enforcement.¹¹

When it became apparent that a complete exchange was impossible, efforts were made to work together on a few specific cases. One of these cases¹² was John Peters. The move for cooperation was short-lived. Mr. Peters came to the Commission alleging corruption, including involvement with prostitutes, payoffs, and shakedowns, among various police officers. The Commission interrogated him at length and took a statement. An exchange of information with the District Attorney's Office was recommended. However, the Commission recoiled when Mr. Specter, in questioning Mr. Peters, had the inquiry conducted by one of the very officers Peters was accusing.¹³

The next example of the conflict occurred with the case of Detective John L. _____ (payroll #15703), which has been detailed in the section of the Report on pensions. An inexperienced Assistant District Attorney was assigned to the case,¹⁴ and rudimentary trial procedures, such as subpoenaing necessary witnesses, were not utilized. The result was that the case was dismissed at the first hearing. Only after the Commission objected was the officer rearrested, tried, and convicted. The District Attorney subsequently endorsed the legality of L. _____'s (payroll #15703) pension, which, to the best of the Commission's knowledge, was illegal.

¹¹The differing philosophies were that Mr. Creamer believed in fully developing an undercover situation to move up the ladder, while Mr. Specter advocated moving on individual instances of corruption virtually as soon as they were exposed, thereby foreclosing the possibility of exploring the full extent of the corrupt system.

¹²Another was the case of George Guarracino, a fruit peddler in South Philadelphia who allegedly was being shaken down by the police. It provides a good example of the different law enforcement approaches. The peddler ostensibly was being shaken down by five Philadelphia police officers ranging in rank from policeman to lieutenant. The District Attorney's office discovered him shortly after Crime Commission investigators interviewed him. He was immediately brought before the grand jury, thereby foreclosing any development of the situation, or any possible understanding of the extent of the problem. The Commission had wanted to see if any other peddlers had the same problem, and how extensive the shakedown system was. The District Attorney's office told the Commission that they had investigated the matter, and it was impossible to develop it any further. The witness himself was so terrified at having been put "out front" he refused to even talk with the Commission again. The Commission found it difficult to believe that only one peddler in all of Philadelphia was being forced to pay money. Eventually, the Commission was able to develop the situation as indicated elsewhere in this Report. Over Commission objection, the District Attorney went public with a presentment against two policemen based upon the fruit peddler's testimony. No mention was made of the lieutenant; rather, blame was fixed on the low ranking officers.

¹³*The Philadelphia Inquirer*, June 11, 1972, at B-1, 3.

¹⁴Compare Mr. Sprague's handling of the Greg Walter prosecution.

Later in the summer of 1973, when the Commission announced its discoveries in the area of illegal payments of cash to police officers for supplying additional police services, Mr. Sprague again went to the defense of the Police Department. He was interviewed by a radio station and quoted as saying that the Crime Commission should "get its own house in order" before making accusations against other law enforcement agencies. Using the established tactic of "investigate the investigators," he stated that the Commission had tried to "bribe" two county detectives.¹²

The actions of the District Attorney's office, following the presentation to it of the Commission's evidence of payments by businesses to police, provide another illustration of the ineffectiveness of that office in prosecuting police found to have engaged in illegal acts.

The Crime Commission turned over to the District Attorney the same summary and testimony that it turned over to the Police Department on August 10, 1973, followed by additional documentation and testimony. This action was taken in order that consideration could be given to possible criminal prosecution of those involved. In the Crime Commission's view, much of the data turned over was so shocking that it merited immediate presentation to the grand jury.

The Crime Commission's own investigation of some business payments to police was still incomplete, since the testimony of company witnesses had not yet been put on record. Gino's was, however, voluntarily cooperating with the Commission investigation. In addition to supplying subpoenaed records promptly, the company was circulating a list of questions about the payments to the police. The questions were prepared by the Commission and were to be answered by the unit managers. At the time the information was turned over to the District Attorney, there was every reason to believe the company would continue to cooperate.

The District Attorney's response was surprising and profound in its impact. An employee of INA, the company found to have been paying the detective assigned to the District Attorney's staff, was quickly summoned by the District Attorney's office, interrogated for several hours, and then taken before the grand

¹²The Commission was understandably irritated at this attack, for in its view, the whole matter had been resolved between the District Attorney, the Attorney General, and the Commission's Executive Director more than two months previously when the District Attorney had concluded that *his county detectives had lied*. No bribe attempt had occurred.

jury with a warning that he was a potential defendant. At the same time, the District Attorney himself was publicly quoted as saying that he was "also concerned about businessmen offering and giving money and other things of value [to the police]."¹⁶

Despite the fact that the Special Investigating Grand Jury was empaneled specifically to investigate police corruption, within a few days an assistant district attorney was "making loud noises" to an INA attorney about prosecuting three INA employees. This INA attorney came away from the District Attorney's office with the strong impression that the INA employees would in fact be prosecuted. This attorney told the Commission it was his view that prosecuting the business people would have the immediate effect of squelching the investigation since they would no longer cooperate, and that he had communicated his view directly to the District Attorney himself.

The District Attorney's office followed up its questioning of the INA employee by quickly subpoenaing the manager of the Broad and Lehigh Gino's. By coincidence, the attorneys representing INA also represented Gino's, and they were now forewarned of the intentions of the District Attorney's office. The Gino's employees were, therefore, advised to refuse to testify on the basis of their fifth amendment rights. Motions to quash the grand jury subpoenas were filed, and the Gino's matter came to an eventual stalemate. The District Attorney's office took no action whatsoever to investigate further the evidence that other businesses paid police for extra services. It made no attempt to examine original business records of Gino's and made no contact at all with the supermarket corporations identified in the information. Finally, it made no attempt to interrogate any police officers or to examine any police records.

Whatever its purpose, the practical effects of the posture adopted by the District Attorney's office were two-fold. First, further cooperation from Gino's quickly ended. The company refused to turn over the results of the questionnaire it circulated and employees were advised to refuse to testify before the Crime Commission, as well as before the grand jury.¹⁷ Second, since testimony from the company witnesses was not forthcoming for self-defense reasons, the police involved could also not be prosecuted.

The Executive Director of the Commission wrote to the

¹⁶*Evening Bulletin*, August 10, 1973, at 4.

¹⁷Testimony from a small number of witnesses was eventually received following grants of immunity from prosecution.

District Attorney on September 27, 1973, questioning his threats to prosecute the businesses which had, up until that time, been cooperating with the Commission. The letter, quoted in substantial part below, sets forth the Commission's view of prosecution in this case:

As you yourself have observed, one of the most difficult obstacles to rooting out corruption is finding individuals who will come forward and give evidence to the proper authorities. In this case, there is every indication of the existence of a long-standing and deep-rooted practice of Philadelphia businesses paying police for extra services, coupled with an utter failure of police officials to confront and eradicate the problem. Solid evidence of the nature and extent of this practice has been courageously provided by a number of the businesses involved. Without the cooperation of these businesses and the evidence they provided, the practice would have remained hidden.

Certainly, those who have participated in making illegal payments to police are in the wrong and deserving of criticism. The Commission has so stated in the past and has recommended that the City Charter expressly make such payments punishable.

However, by voluntarily coming forward with evidence admitting involvement in such acts, the companies and employees in question here have performed a public service. Their production of evidence should lead to the termination of the insidious practice. On balance, therefore, these particular companies are more deserving of praise than condemnation. We do not say that other companies which have not cooperated should be immune from punishment.

The actions of your office, as reported to my staff, indicate an avowed intention to prosecute these cooperating companies and their employees. Such threatened prosecution is extremely shortsighted and ill-conceived. It cuts off any further investigation which could lead to others involved. Moreover, it sends an explicit and clear message to anyone else who would be so public-spirited to cooperate in a probe of official corruption. It makes very sure that private citizens will not stick their necks out in the future, and

that there will be no more cooperation with investigating authorities.

The Commission received neither an acknowledgment nor a reply to this letter, and the District Attorney's position remained the same.

Ultimately, the grand jury did issue a presentment dealing with payments by businesses to police, but mentioned only the INA facts and facts surrounding construction company payoffs to police which were uncovered by the grand jury's own deliberation. No mention was made of Gino's or any of the other businesses which paid the police, and the grand jury disbanded without taking any action on those facts.

The introduction to the *10th Presentment* contained an attempted rationalization or justification of the position taken on prosecuting businesses and police. It is here quoted in full.

We report on these cases in the same Presentment because they illustrate the widely diverse ways in which corporate business entities, through their employees, have become either participants or victims of police misconduct. In the case where the corporate entity has been the initiator and willing payor of money to a policeman in order to get something the corporation is not entitled to, we believe that the corporate entity and its employees, like the police officer, are criminally responsible. In the case where the police officer has initiated the request for money under an atmosphere of coercion, we have decided to recommend, at this time, that indictments be returned only as to the policeman who has made the coercive demands.

We now call on any other businessmen or corporations, who have made any such payments, to come forward and voluntarily disclose such payments. For those who do not, after this public demand, then we would favor prosecuting both the paying businessman and the corrupt public officials where there is sufficient evidence to prosecute both without giving immunity to one party or the other.

The last sentence of this statement of the grand jury is extremely puzzling. It ignores the central problem in any corruption investigation, which is to get witnesses to come forward to testify about it. Where there is bribery, the participants are both guilty of crimes. In order to expose the corruption in the

broadest manner, usually some form of immunity must be given to at least a few actors. The action is particularly mystifying in the Gino's context because the company had admitted its error and was ready and willing to cooperate fully. Such cooperation is rare and invaluable in a corruption investigation. Typically, witnesses disclose as little as possible even after being granted immunity and ordered to testify.

The statements of the grand jury in the 10th Presentment are even strange when compared to the recommendations made in that presentment and with the actions taken by the District Attorney and grand jury in investigating non-police corruption. Although the grand jury explicitly said it "favored" prosecuting only where it did not have to give immunity, it recommended indictment of INA and former Policeman Donald L. _____ (#1302) while recommending that the INA employee who made the payments not be prosecuted "because his testimony is necessary." In effect, immunity was granted. Similarly the grand jury used testimony and documents from Tishman Construction Company to recommend indictment of a traffic policeman who was being paid off by Tishman to avoid getting ticketed for traffic violations at a construction site. Tishman's acts seem to constitute bribery, for which the grand jury does not recommend indictment, thus effectively giving that company immunity.

In contrast, the District Attorney's use of the immunity statute to attempt to compel testimony from a participant in a cigarette-smuggling scheme has been widely reported and is well-known.

It should also be reiterated here that the District Attorney and grand jury recommended indictments of only one police officer in the INA case and two in the case of construction payoffs. Many more actually received illegal payments from INA and from construction companies.

It must inevitably be concluded that the District Attorney's office treats allegations of police corruption more leniently than corruption on the part of other public officials. The Commission does not impute any evil motive on the part of the grand jury or District Attorney's office; rather the above are simply manifestations of an inherent conflict.

Another example of the institutional bias of the District Attorney's office can be found in the case of John Hollawell. His service as a Commission informant, and subsequent efforts to avoid testifying before the Commission because "the tide is

changing" have been detailed in Chapter VIII *supra* at 777-780. However, it should be recalled that while Mr. Hollawell was refusing to testify before the Commission on the basis of "congestive heart failure," he was a witness before the grand jury concerning corruption in the Liquor Control Board. Yet, no serious attempt was made by the District Attorney to require Hollawell to testify concerning his extensive knowledge of police corruption—the subject the special investigating grand jury was originally convened to examine.¹⁸

A final example of the inability or unwillingness of the District Attorney's office to investigate police corruption properly is the case of former police Sergeant Henry J. G. _____ (payroll #69931) who was named by John W. Hollawell as being involved in systematic payoffs at the Croation Club in the 26th Police District. On March 14, 1972, shortly after Sergeant G. _____'s (payroll #69931) transfer to the adjacent 24th District, a bar owner went to the District Attorney's office to complain about being forced to make monthly payments to the police. The response of the District Attorney's office was to contact the Police Department Internal Security Squad and establish a joint investigation. Surveillance was established and the bar owner was given a tape recorder and marked money. On March 24, 1972, Sergeant G. _____ (payroll #69931) was caught in the bar with the marked money in his possession.

Up to this point there is little to criticize. However, instead of trying to seek the Sergeant's cooperation by giving him an opportunity to testify about the involvement of other police officers and to work undercover for a period of time, the District Attorney and Police Department immediately arrested him. The commander of the Internal Security later admitted that the Department had never tried to "turn" a police officer and that the District Attorney's office had never suggested that it try to do so.¹⁹ As discussed elsewhere in this Report, "turning" an officer is one of the most effective anti-corruption investigative techniques. After the Sergeant was convicted, a belated attempt was made to bring him before the grand jury which was investigating police corruption, but he refused to provide any information.

The above was intended as a brief synopsis of the facts in the

¹⁸The fact that Hollawell had information concerning police corruption was public knowledge. See *Evening Bulletin*, August 14, 1973, at 22.

¹⁹Testimony of Chief Inspector Frank Scafidi before the Pennsylvania Crime Commission, July 10, 1973, N.T. 138-139.

present investigation which the Commission believes justified its finding of an inherent conflict of interest between a District Attorney's performance of his duties and investigation of the police. The Crime Commission's finding on this issue is supported by the Knapp Commission in New York, which concluded that:

A basic weakness in the present approaches to the problem of police corruption is that all agencies regularly involved with the problem rely primarily on policemen to do their investigative work. The Department relies exclusively on its own members. The District Attorneys in the five counties and the Department of Investigation, although they have a few non-police investigators, depend primarily upon policemen to conduct investigations. In the case of the District Attorneys, there is the additional problem that they work so closely with policemen that the public tends to look upon them—and indeed they seem to look upon themselves—as allies of the Department.

At the present time a citizen wishing to complain about a policeman knows that his complaint will ultimately be investigated by other policemen. This discourages complaints, because many New Yorkers just don't trust policemen to investigate each other.

We saw much evidence of this distrust. Many people—sometimes represented by experienced lawyers—brought the Commission evidence of serious corruption which they said they would not have disclosed to the police or to a District Attorney or to the City's Department of Investigation. Even today, complainants who call the Commission and are told that the investigation has ended often refuse to take down the phone numbers of these agencies. It makes no difference whether or not this distrust is justified. The harsh reality is that it exists.

This distrust is not confined to members of the public. Many policemen came to us with valuable information which they consented to give us only upon our assurance that we would not disclose their identities to the Department or to any District Attorney.²⁰

²⁰Commission to Investigate Allegations of Police Corruption and the City's [New York's] Anti-Corruption Procedures, *Commission Report* 13-14 (December 12, 1972).

Similar conclusions were reached by Professor Louis B. Schwartz of the University of Pennsylvania Law School in a study he made of the resolution of complaints of violence made against the Philadelphia police officers. Professor Schwartz concluded that the District Attorney's office has not been, and in the nature of things, could not be, an effective instrument for controlling police violence, because "it is in a hopeless conflict of interest position."²¹

The Crime Commission believes that sound principles of law enforcement dictate that prosecutions should be conducted by those who conduct the investigations. A dual system is inefficient, partly due to the usually unhealthy "competition" between law enforcement agencies, and partly because of the prosecutor's lack of familiarity with the case. Thus, if the District Attorney cannot conduct the investigation, he should not conduct the prosecution. Before turning to the specifics of the Commission's proposal for an independent special prosecutor, mention should be made of the institution of a special investigating grand jury.

The concept of an investigating grand jury is an integral part of the special prosecutor's ability to perform his mission. While an investigating grand jury is ostensibly an arm of the criminal courts, convened when there has been a breakdown of normal law enforcement agencies, see *e.g.*, *Commonwealth v. McCloskey*, 443 Pa. 117, 277 A. 2d 764 (1971), in practically every instance it is under close control of the district attorney, who chooses the witnesses, directs the questions, and prepares the presentment. Thus, the same conflicts of interest which the Commission has referred to above are carried over to an investigating grand jury supervised by a district attorney. The recent Investigating Grand Jury, which ended January 7, 1974, was convened especially to inquire into widespread corruption within the Philadelphia Police Department. Yet, in all its 21 presentments, it recommended the indictment of only fifteen present and former police officers.

Interim Measures

As an interim measure, the Commission recommends that the Attorney General appoint a Special Deputy Attorney General

²¹Schwartz, "Complaints Against the Police: Experience of the Community Rights Division of the Philadelphia District Attorney's Office," 118 U.Pa. L. Rev. 1023, 1024 (1970).

and give him jurisdiction to investigate and prosecute instances of police corruption in Philadelphia. The potential funding difficulties and the need for rapid action in Philadelphia has led the Commission to recommend that jurisdiction be limited to police corruption in Philadelphia.

It is absolutely imperative that the Special Prosecutor should have not only the greatest degree of independence possible under the law but also should be selected in such a manner that the public will have confidence in the independence of the Special Prosecutor. Consequently, the Commission recommends that the Attorney General appoint a committee consisting of the Deans of Pennsylvania's six law schools and the Chancellors of the Philadelphia and Allegheny County Bar Associations and the President of the Pennsylvania State Bar Association to nominate three qualified people for the position and that the Attorney General select one of the three as the Special Prosecutor. In order that the selection committee can do its job properly, the Attorney General should publicly announce that the Special Prosecutor will have jurisdiction over police corruption in Philadelphia, that the position should be comparable in salary to cabinet level offices in the Commonwealth, and that the funding for the office will be supported by the Governor's Justice Commission at an appropriate level. In view of the importance of the Special Prosecutor being independent, the Commission strongly recommends that the selection committee seek to find people from outside of Pennsylvania who will not be seen as a representative of one side or another. The Special Prosecutor should be assured that he has absolute authority to hire his own staff of lawyers and investigators without any consideration of political affiliations. The Commission urges this to be done immediately, so that the Commission's work can be evaluated from the point of view of prosecutions.

The power of an Attorney General to appoint a special prosecutor is supported both by common law and the Administrative Code of 1929. With the proper exercise of quasi-judicial discretion, the Attorney General may conduct investigations, either independently or as a supplement to a grand jury, and initiate and conduct criminal proceedings either in cooperation with or in supersession of a district attorney.

The foremost analysis by the Pennsylvania Supreme Court of the broad powers of the Attorney General in criminal matters was made in the seminal case of *Commonwealth ex rel. Miner v.*

Margiotti.²² There, a proceeding was brought to challenge the authority of the Attorney General to appoint himself as a special attorney to supersede the District Attorney. Information by the coroner charged an assistant county detective and two members of the State Police with murder of an individual being held in custody. The District Attorney petitioned the President Judge of the judicial district to request the Attorney General to retain a special attorney to represent the Commonwealth in the case. The President Judge made the request and the Attorney General, after investigation, found that the District Attorney and other officials might be implicated. Pursuant to the request of three judges in the district and at the direction of the Governor, the Attorney General appointed himself special attorney; in that capacity he prepared the indictments, and presented evidence before the grand jury, resulting in the indictment of the District Attorney and others for murder.

In upholding the Attorney General's action, the Supreme Court went beyond the narrow question of defining his authority in that case. Rather, the Court embarked upon a lengthy analysis of the common law authority of the Attorney General in criminal cases, and concluded that the legislative creation of the elective office of District Attorney did not withdraw that common law authority:

... Prior to the Act of May 3, 1850, P.L. 654, 16 P.S. sec. 1691, the attorney general was represented in each county by his deputy who conducted criminal prosecutions by that statute the office of district attorney was created and that officer was charged with the performance of the duties theretofore performed by the deputy attorney general. Thereafter the prosecutor was elected instead of appointed, *but the power of general supervision vested in the attorney general over the performance of a district attorney's duties in the county was not taken away; that power remained.* . . .²³

After a complete and exhaustive review of the common law, the Court summarized its findings:

²²325 Pa. 17, 188 A. 524 (1936).

²³*Id.* at 30, 188 A. at 529-530 (emphasis added).

We conclude from the review of decided cases and historical and other authorities that the Attorney General of Pennsylvania is clothed with the powers and attributes which enveloped Attorneys General at common law, including the right to investigate criminal acts, to institute proceedings in the several counties of the Commonwealth, to sign indictments, to appear before the grand jury and submit testimony, to appear in court and to try criminal cases on the Commonwealth's behalf, and, in any and all these activities to supersede and set aside the district attorney when in the Attorney General's judgment such action may be necessary.²⁴

The common law authority of the Attorney General to supersede the District Attorney and to investigate and prosecute criminal actions, on his own initiative, with or without the request of a President Judge of a judicial district has been upheld on numerous occasions. Perhaps the most important explication on that authority came in *Margiotti Appeal*.²⁵ A grand jury investigation was instituted in Allegheny County concerning misuse of public property and labor by employees and officials of the City of Pittsburgh. The Attorney General superseded the District Attorney and petitioned to revoke an order summoning the grand jury. The petition was dismissed and the Attorney General was ordered to proceed with the grand jury investigation. The Attorney General appealed and the Supreme Court reversed.

The Supreme Court cited with approval as "established law" the case of *Com. ex rel. Miner v. Margiotti, supra*. With respect to the Attorney General's discretion the Court stated:

Whether or not the Attorney General's discretion was *wisely* exercised is not for us to determine; it is *his* discretion which governs, not that of the court; the court is concerned only with the question whether its exercise was within the limits of the Attorney General's *power* and was not an abuse of that power. It is our conclusion that it did *not* constitute such an abuse.²⁶

²⁴Id. at 30-31, 188 A. at 330 (footnote omitted).
²⁵365 Pa. 440, 75 A.2d 456 (1950).
²⁶365 Pa. at 339, 75 A.2d at 469 (emphasis added).

The Court held further that supersession of a local elected official was not an infringement on the principle of home rule.²⁷

There can be little question today that the Attorney General is clothed with all his common law powers with respect to investigation and prosecution of criminal cases. As one court observed:

The basic principles concerning the Attorney General's common law powers to appoint special assistants to supersede, *to work in conjunction with or independently of District Attorneys, have so often been affirmed that there can be no question about their validity.*²⁸

These common law powers are reinforced by statute.

The Administrative Code of 1929 makes it abundantly clear that the Attorney General has the primary responsibility for law enforcement in the Commonwealth. Section 704 of the Code provides:

The Attorney General shall be the legal advisor of the Governor, in the performance of his official duties, and *the chief law officer of the Commonwealth.* (emphasis added)

He shall exercise such powers and perform such duties as may now or hereafter be vested in or imposed upon him by the Constitution and laws of this Commonwealth.²⁹

²⁷Id. at 339, 75 A.2d at 469. For additional instances in which the Attorney General's power of supersession has been upheld, see *Commonwealth ex rel. Margiotti v. Orsini*, 368 Pa. 259, 81 A.2d 891 (1951) (confirming Attorney General's powers in criminal investigations but holding that the Attorney General is without subpoena powers in conducting such investigations); *Commonwealth v. Fudeman*, 396 Pa. 236, 152 A.2d 428 (1959), *cert. denied* 361 U.S. 902 (upholding authority of Attorney General to sign indictments); *Commonwealth v. Wheeler*, 200 Pa. Super. 284, 189 A.2d 291 (1963) (Deputy Attorney General, when delegated by Attorney General, may exercise the powers of the Attorney General in superseding a District Attorney, without taking the oath of office of the District Attorney); *Commonwealth v. Marmon*, 210 Pa. Super. 202, 232 A.2d 236 (1967) (reaffirming authority of Attorney General to investigate and prosecute criminal acts without being requested to do so by the President Judge pursuant to Section 907 of the Administrative Code); *Coughlin v. Specter*, 85 Dauph. 74 (1966) (sustaining preliminary objections and dismissing taxpayer's suit seeking to enjoin investigation by Special Assistant Attorney General Arlen Specter into actions of Philadelphia Magistrates).

²⁸*Coughlin v. Specter*, 85 Dauph. 74, 78 (1966) (emphasis added).

²⁹Act of April 9, 1929, P.L. 177, art. VII, §704, 71 P.S. §244 (1962) (emphasis added).

Additionally, Section 904 of the Code provides:

The Department of Justice shall have the power, and its duty shall be, with the approval of the Governor:

(a) To investigate any violations, or alleged violations, of the laws of the Commonwealth which may come to its notice,

(b) To take such steps, and adopt such means, as may be reasonably necessary to enforce the laws of the Commonwealth.³⁰

In addition to the broad statutory authority conferred by Sections 704 and 904, the Attorney General has specifically been granted the authority to intervene and supersede a district attorney, through appointment of a special assistant, in the conduct of criminal proceedings when so requested by the President Judge of the judicial district having jurisdiction thereof.³¹ These sections have been construed necessarily to confer authority upon the Attorney General, on request of the President Judge, to supersede a District Attorney by appearing personally or through a regular Deputy or Assistant as well as by appointment of a special assistant.³² The District Attorney may be superseded in all his duties as well as in specified cases.³³

The constitutionality of Section 907 of the Administrative Code permitting the Attorney General to supersede an elected prosecutor was upheld in *Commonwealth ex rel. Attorney General v. Irtm*.³⁴ The Administrative Code thus augments and in no way curtails the Attorney General's prosecutorial powers.

Permanent Reforms

As the Commission conceives the permanent Office of Special Prosecutor, it will have statewide jurisdiction in cases of corruption in the criminal justice system. As the necessary legislation is being studied, the Commission suggests that the General Assembly consider expanding the jurisdiction of the Office of Special Prosecutor to all governmental corruption. On

³⁰Act of April 9, 1929, *supra*, 71 P.S. 4291 (1962).

³¹Act of April 9, 1929, *supra*, 71 P.S. 297, Act of May 2, 1905, P.L. 351 §§1 and 2, 71 P.S. 8817, 818 (1962).

³²*See v. Commonwealth ex rel. Munsel v. Margiotti*, 325 Pa. 17, 32-33, 188 A. 822, 846 (1946).

³³*Commonwealth v. Ryan*, 136 Pa. Super. 306, 188 A. 764 (1937).

³⁴100 Pa. Super. 487, 168 A. 526 (1932).

the long range, there appears to be no justification for limiting the jurisdiction to corruption in the criminal justice system. Separately staffed and funded, the permanent Special Prosecutor will be able to convene special investigating grand juries whenever necessary. The Special Prosecutor could be selected a number of ways. The guiding principle must be to insure the selection of a competent and independent man who will not attempt to use his office as a platform for political gains. The ultimate decision is, of course, that of the General Assembly; nevertheless, the Commission recommends that the enabling legislation create a panel consisting of the Chief Justice of the Pennsylvania Supreme Court, the President Judge of the Commonwealth Court, the Chief Judge of the Pennsylvania Superior Court, the Speaker of the Pennsylvania House of Representatives, the President pro tem of the Senate, the Chancellors of the Bar Associations of Philadelphia and Allegheny Counties, the President of the Pennsylvania State Bar Association, and the Attorney General to nominate three people to the Governor for appointment as Special Prosecutor, and that if the Governor does not make the appointment within 30 days of submission of the nominations, the committee be required to select one of the three nominees as Special Prosecutor.

The Special Prosecutor should serve for a term of six years and should not be eligible for elective office in Pennsylvania for four years after completion of his term of office. He should be removed from office for cause only with a vote of two thirds of the Senate unless he himself is convicted of misfeasance in office. The legislation should provide adequate funds for the Office of Special Prosecutor. The Special Prosecutor will need a staff of investigators to assist him. The Commission's experience clearly indicates that the Office of Special Prosecutor cannot rely on a borrowed staff or rely upon internal security units of various police departments to do the investigative phase of its work. The employees should have civil service status. However, there should be provisions made to allow the Special Prosecutor to employ a small part of his staff without civil service requirements. The Commission's investigative experience indicates that in a corruption investigation there arises need for particular talents and individuals that cannot be effectively selected by a civil service mechanism.

The Special Prosecutor should also have an adequate budget to staff offices throughout the state and to employ competent lawyers to assist him in his work.

OTHER REFORMS

As indicated at the outset, no single reform will eliminate corruption from the Police Department. Aside from an independent prosecutor, the Commission believes the following measures can contribute to reducing corruption and developing an atmosphere where true professionalism can prosper within the Police Department. These recommendations are made from the viewpoint of dealing with integrity problems in government.

Legislative

Vice Laws: Many studies, e.g., Morris and Hawkins, *The Honest Politician's Guide to Crime Control* (1970), and James F. Ahern, *Police in Trouble* (1972), have concluded that the criminal law cannot enforce a moral code to which society is not willing to subscribe. The Commission believes that it is now time for the Pennsylvania Legislature to reconsider the vice areas. In the re-evaluation, the costs to society in terms of integrity problems and law enforcement corruption should be weighed. There may be other competing values which outweigh or cause some compromise in the legislative approach to dealing with integrity problems in government. However, the Commission feels it is important to understand the costs of these competing interests in terms of integrity in government. For example, present efforts to combat victimless crimes are totally ineffectual and supply the underpinning for systematic police corruption. Consequently, the Commission recommends that it is inappropriate to utilize our police to enforce most vice laws, with narcotics being an exception to this view. This is not a mere assertion that simple legalization is the answer. On the contrary, the Commission recommends the use of different methods of regulation supported in some areas by criminal sanctions. However, the police should not be charged with this regulatory or criminal enforcement responsibility. The immediate response may be that the Commission has only changed the identities of who is corrupt. To some extent that may be so; but by removing the source of most corruption from police departments, police departments could concentrate their efforts to protect society from physical violence and other agencies of government, such as the recommended Office of Special Prosecutor, could be charged with the anti-corruption responsibility. The Commission believes that such a change would materially improve the quality of government in the urban community.

Gambling: If progress in reducing police corruption is considered a primary goal by the General Assembly, the present policy of regulating gambling through the criminal laws and the police should be re-evaluated and revised. Gambling should be regulated by the state. Fraudulent gambling practices should be criminal, and disobeying the appropriate state regulations should also be punishable. The state regulation should consist, however, primarily of taxing gambling proceeds, so that organized crime's greatest source of revenue will be significantly reduced, if not eliminated. Gambling profits should be utilized for the benefit of society as a whole. Police should not be involved in the enforcement of the state civil regulation of gambling.

Liquor Laws: The Commission notes that various legislative committees in Harrisburg are considering changes in the Liquor Laws, such as lengthening hours of operation of bars and after hours clubs and revision of the drinking age.

The Commission believes that while the sale of alcoholic beverages, like gambling, is appropriate for state regulation, police officers should be relieved from enforcing liquor laws as far as possible. Only if a threat to order exists, or if the regulatory agency involved so requests, should an on duty police officer even enter a tavern, after-hours club, speakeasy, or bar. The Commission is not, by this, recommending any change of the criminal laws prohibiting the operation of a motor vehicle while under the influence of alcohol.

Prostitution: Again, as with gambling, if progress in reducing police corruption is considered a primary goal by the General Assembly, the present policy of regulating sexual conduct between consenting adults should be re-evaluated and revised. The state unquestionably has an interest in protecting children from sexual exploitation by adults, as well as protecting society as a whole from violent sexual attacks, and certain types of fraud. However, using police resources to curb prostitution and homosexuality not only is ineffective and wasteful; it also produces a greater moral problem than the one it is seeking to cure, namely corruption.

Narcotics: The Commission has made a variety of specific administrative recommendations concerning drug law enforcement, which are considered below. The Commission did not undertake an examination of the drug laws themselves, only present law enforcement techniques. The Commission found a

much stronger attitude in the Police Department against narcotics corruption. While the Commission is aware of compelling evidence developed in New York of corruption hazards in narcotics law enforcement, the Commission believes any proposals for non-criminal regulation of various narcotics is premature. While the Commission uncovered narcotics related corruption, the Commission has little evidence of a systematic problem, other than possibly "farming." Hence, at this time, the Commission believes Pennsylvania's new drug laws should be afforded a chance, and the various proposals for improving drug enforcement be implemented. Then, if these measures are inadequate, consideration can be given to more extensive legislative reforms.

Payments by Business: The Commission's investigation disclosed widespread corruption in this area. To try to solve this problem by entirely prohibiting all policemen from ever providing extra services is too extreme. A better solution is to establish clear guidelines for the provision of such services accompanied by rigorous enforcement of the prohibitions on payments for such services. Any payment that is considered justified in terms of cost should be made to the City, rather than any individual policeman. Cash payments to individual police officers should continue to be prohibited, and a public accounting and disclosure of extra service and escort duty rendered by the Police Department should be made at the end of each fiscal year.

As a legislative matter, the Pennsylvania bribery statute already prohibits paying or receiving "any pecuniary benefit" given for the "exercise of discretion" of a public servant.³⁵ Hence, both the police officers who received money and the individuals and businesses who paid for guard service or the overlooking of a law are covered.

The bribery statute may not cover "gratuities," however, where a line officer is assigned by police radio to give an escort and thus has not exercised his discretion. The bribery statute may also not cover non-monetary "gratuities," such as merchandise or free meals, even though they are directly tied to an exercise of discretion.

The Commission believes that monetary payments, even where there has been no exercise of discretion in return, should be prohibited though not necessarily subject to the same serious

³⁵Act of December 6, 1971, PL _____ No. 331, §1, 18 C.P.S.A. §4701 (a) (1973).

penalties applicable to bribery. The Commission does recommend that the Legislature enact an amendment to the Municipal Corporation Law authorizing any municipality which discovers any business association, partnership, corporation, or individual paying the police improperly for extra services to proceed against said business or individual in a civil suit for treble damages.

The Philadelphia City Charter should be amended to prohibit the paying, as well as receiving, of compensation for acts by public officers in the course of public duties. Additionally, section 10-105 should then be fairly but aggressively enforced. Disobedience of the Charter section would then subject both businessmen and police officers to conviction for a misdemeanor, punishable by a \$300 fine and up to 90 days in jail.

In order to extend the ban on gratuities to law enforcement officials State-wide, the Commission also recommends that the Pennsylvania Crimes Code be amended to make it a summary offense to solicit, accept, offer, or pay any compensation or gratuity.

Administrative

Internal Control: The Police Department's Internal Affairs Bureau should be greatly expanded in size and responsibility. At the present time only 58 police officers, out of over 8,000, or 0.7%, are given the full time task of "policing the police." Only three of these work undercover full time. By comparison, the Internal Revenue Service has about 2.8% of its personnel assigned to its anti-corruption unit, the Inspection Service division.

The duty of investigating any allegations of corruption or serious misconduct by police officers should be taken away from line commanders and centralized in the Internal Affairs Bureau. The Bureau should be immediately informed of all such complaints as they come in, rather than wait for the complaints to flow up the chain of command, as is now often the case.

The Internal Affairs Bureau should be reorganized along the lines of the Detective Bureau with one Headquarters Division and nine geographical divisions. A team of Internal Affairs investigators should be assigned to each police division and should have the responsibility of immediately evaluating and investigating all allegations of police misconduct received at the police division or district level. This group should also have the responsibility of continually monitoring the compliance of police

officers with standard regulations and procedures. The officers in this group should report to the chief inspector of Internal Affairs, rather than to the district or division line commanders.

Line commanders should be given a summary of all completed investigations and should be required to report on the actions they took as a result of the findings. The line commanders should also be required to describe any steps they are taking to prevent recurrence of misconduct by other officers. Line commanders should continue, of course, to enforce all regulations, but should immediately report any evidence or allegation of corruption, perjury, bribery, excessive use of force, or other serious misconduct to the Internal Affairs Bureau for investigation.

The Internal Affairs Bureau should be given a separate professional status within the Department. A new permanent police rank of "investigator" (equivalent to detective) should be created for members of the Internal Affairs Bureau. The job would consist entirely of internal investigations. Assignment to the Internal Affairs Bureau should be made permanent, so that an "investigator" need not fear ever being assigned to work under an officer he has previously investigated, except the "investigator" should retain the option of choosing to seek promotion to positions outside of the Internal Affairs Bureau.

Although the Crime Commission has found direct surveillance to have only a limited effectiveness in apprehending corrupt police officers, surveillance should be continued since it constitutes a deterrence to blatant corrupt acts. The undercover activities of the Internal Affairs Bureau should also be expanded. The techniques of "planting" an Internal Affairs officer in an ostensibly regular duty assignment should be utilized. The planted officer should be equipped with electronic equipment which would record conversations and provide corroborating evidence of any corruption or misconduct found.

Financial Reports: Police officers of the rank of sergeant or above should be required to file annual financial reports, verified under oath, with the Office of Special Prosecutor. The reports would be a useful anti-corruption control device, and such a system has recently been implemented in the District of Columbia.

Command Responsibility: Line commanders within the Department should be held strictly accountable and responsible for corruption or other misconduct by officers within their units.

Repeated findings of such misconduct should constitute proof of neglect of duty, resulting in the demotion or dismissal of the commander. Commanders must not look for "rotten apples" but must actively look for signs of systematic corrupt activity. Holding commanders administratively responsible for any corruption within their units would be a significant step in promoting concern about corruption at all levels of the chain of command. For the honest officer, it should not be enough merely to look the other way, as happens now. All members of the Department must move together to restore meaningful professional attitudes towards corruption hazards.

Vice Quotas: The present policy of enforcing vice laws through arrest quotas should be abandoned if the Legislature decides the police should still be responsible for regulating victimless crimes. The emphasis in vice arrests should be on quality rather than quantity.

Vice Contacts: Detailed reporting of all contacts, telephonic or personal, between any police officers and gambling racketeers, narcotics dealers, bar and club owners or operators, and prostitutes, should be required and strictly enforced.

Records: Police Department personnel and internal investigative records were found to be scattered and incomplete. For example, in the internal control area, serious corruption incidents are not reported on the normal forms, but are "white papered," which means that any report made of the incident is put on plain sheets of white bond paper, and often not made a part of an individual's file. A federal court also found that letters of praise for a police officer from private citizens were filed, but letters of complaint were not. Many other records examined by the Commission were in a state of disarray, with crucial sections of the file missing.

The Crime Commission recommends that all reports of investigation should be made on standard numbered forms, rather than blank sheets of paper, so that control over the reports may be maintained. Furthermore, one copy of all personnel documents relating to the status or performance of a particular police officer should be kept in one central file. These requirements should be strictly enforced.

Photographs: Recent photographs of police officers are an indispensable tool for any investigation of corruption incidents, both for purposes of identification of suspects and elimination of

innocent persons. One photograph of each police officer should be on file with the Special Prosecutor's Office, and every three years new photographs should be provided.

Treatment of Cooperative Police Officers: To the Crime Commission's knowledge, the Philadelphia Police Department has never attempted to gain the active assistance of a corrupt officer and have him continue to work so that the extent of the corrupt activity can be uncovered. Additionally, there is circumstantial evidence to suggest that the Department attempts to discredit any officer who comes forward publicly with evidence of corruption. This happened with Carl Johnson, Edward Mitchell, and Captain Robert Fredericks, and character assassination was certainly one of the fears expressed by the Commission's cooperative police witnesses.

The Commission recommends that an officer who cooperates with the Office of Special Prosecutor, or any other law enforcement agency investigating police corruption, be considered for an honorable discharge from the Department after the completion of his work, with full pension rights, provided the Special Prosecutor certifies that the officer has fully cooperated. Such a procedure would help to persuade reluctant witnesses to come forward with information.

Lie Detector Tests: Police officers in Philadelphia seldom submit to a polygraph examination, although citizens who make complaints against officers or who are witnesses against officers are often encouraged to do so. Although the results of lie detector tests are not considered sufficiently reliable in Pennsylvania to be admissible in court, they are widely and justifiably regarded as a valuable investigative tool. They may be used to narrow a list of suspects, to develop leads, and to evaluate the credibility of witnesses, among other things. They have also been used to help determine whether police commanders have had any involvement in corruption.

The fact that Philadelphia police officers are not required to take polygraph examinations is the result of resistance by the Fraternal Order of Police and the inaction of the Police Commissioner. The Police Commissioner has the power, along with the Civil Service Commission, to issue regulations forcing reluctant officers to take such examinations. The Police Department and Civil Service Commission should immediately pass regulations requiring all police officers to submit to polygraph examinations during the course of any internal investigation, when

ordered by the Commissioner. Refusal to submit should result in immediate dismissal.

Minority Groups: The Police Department has been found by a federal court to be racially discriminatory because of unfair entrance and promotional examinations. Those examinations must be revised as quickly as possible, and all other necessary steps must be taken to ensure equal treatment for racial minority group members.

The Department also discriminates against women although the experiences of other police departments, as well as that of the Pennsylvania Crime Commission, clearly show that not only can policewomen do the job of policing, but they can often do more than their male counterparts. Women are extremely useful in undercover drug investigations and may reduce the level of police violence by defusing hostile situations.

Changes in the law in recent years, particularly the Equal Rights Amendment to the Pennsylvania Constitution, the Pennsylvania Human Relations Act, and the Federal Civil Rights Act of 1964, place the discrimination against women in the Philadelphia Police Department under a growing legal cloud. One complaint by a woman against the Department was lodged with the United States District Court in Philadelphia on February 12, 1974. It is likely that eventually the courts will rule that being a male is not a bona fide qualification for being a police officer and that there is no legal justification for the Philadelphia Police Department's continued discrimination against women. The Police Department should not wait until it is under a court mandate to reform.

Minimum height requirements for police departments have been brought under close scrutiny in recent years because they tend to have a discriminatory effect against women and males of some minority group races. In official opinion No. 57, dated August 9, 1973, the Attorney General of Pennsylvania ruled that the Pennsylvania State Police 5'6" height requirement was unconstitutionally discriminatory. The opinion reviewed available data and found that the height of a police officer had little impact on his ability to do police work. It therefore concluded that minimum height is not "job-related." In March of 1973, the Law Enforcement Assistance Administration (LEAA) directed all local police agencies to remove minimum height standards unless they can prove them to be job related. Failure to do so in Philadelphia will mean loss of millions of dollars in federal funds.

The rationale behind minimum height requirements is that police officers should have enough physical strength to handle attackers in various situations. It is obvious, however, that physical strength and size are not necessarily synonymous. Furthermore, coordination, agility, endurance, and speed are at least as important as strength. These physical attributes are not difficult to measure with minimum standards. A simple test involving pull-ups, standing broad jump, and a hundred yard dash has been devised by the International Association of Chiefs of Police.

The Pennsylvania Crime Commission recommends that the Philadelphia Police Department make the following additional changes in its policy toward women and other minority groups:

1. The separate classifications of "policeman" and "policewoman" should be immediately abolished, with a new classification called "police officer" substituted in its place. Female quotas should be dropped.
2. All police assignments should be routinely available to male and female police officers alike.
3. All detective, corporal, sergeant, and other higher police ranks should be opened to all applicants, male and female alike. In the interim, two new lieutenant and three new sergeant positions should be filled by women police officers.
4. Recruiting should emphasize opportunities for women in police work.
5. Height and weight minimums should be reduced or eliminated; requirements that height and weight be proportionate and that all police officers annually pass a rigorous physical fitness test should be substituted.

Promotions: Arguably, the Department's promotion system is too rigid, especially at the top levels. In an organization of over 10,000 people, there are only two who technically serve at the pleasure of the Commissioner and who can be counted on to support and implement his policies without resistance. By modifying the system slightly, more flexibility could be introduced without the disadvantages involved with manipulating or appearing to manipulate the system. One possible modification is simply to make all twelve chief inspector positions non-civil

service. Another possibility is to make chief inspector a non-permanent rank and to permit the Commissioner to appoint anyone from within the Department to that rank with the provision that the officer may go back to his old rank if or when his tenure as a chief inspector ends. The latter possibility should be combined with opening the Department to persons from other law enforcement agencies.

The actions taken on the four specific promotions discussed in the body of the Report are an attempt to avoid important institutional restraints. The essential problem the Police Department had was what to do when there were four police officers who were evidently unable to pass the normal promotion examinations but who presumably had special skills that could be used by the Department. There is no easy answer. Specially promoting them through the device of reclassifying positions was an abuse of that provision of the Civil Service regulations. If widely followed, that practice could easily be used to promote other individuals who have no special qualifications and would undermine the entire system. On balance, the Police Department and the Civil Service Commission should not have taken that action. However, if specialist positions are deemed to be necessary, greater institutional safeguards could be implemented, such as requiring that positions only be upgraded in pay where the new duties will be greater, or specifying that the positions must be open to all police officers in Philadelphia and to police officers from other metropolitan areas as well.

Specifically, the Crime Commission recommends that the Personnel Director not approve any further requests for supervisor or specialist positions unless the new positions are demonstrably different in duties from any existing positions and unless a thorough study has been made to support the need for such a new position. In order to obtain the most qualified person for such positions, they should be open to persons outside the Department and outside the City of Philadelphia.

There should be no entirely oral promotion examinations, the written portion should constitute at least 50% of the test in every case, and essay type tests should be utilized where appropriate.

Written standards governing oral examining boards should be drawn up, specifying that the boards be composed of at least two persons from outside the City of Philadelphia. If possible, examiners should be of a higher rank than applicants. They should be compensated for time and expenses.

Pension: A sound pension system for police officers is essential and should be maintained and strengthened. At the same time the Commission believes that police officers who abuse their office by engaging in corrupt acts should lose all or part of their pension. The risk of such loss should provide a substantial deterrent to corrupt activity. To accomplish these goals, the Commission recommends that the following changes be made in the police pension system.

A thorough investigation, culminating in a written report, should be made of every injury alleged as the basis for disability payments or pensions. This should include visiting the accident site and interviews with witnesses and the applicant's physician. All pension or disability payment records should be maintained in the applicant's personnel file for purposes of control. The Police Department's Director of Administration should have an active investigation system which would uncover possible abuses of the system, particularly by disability pensioners.

The retirement system ordinance should be amended so that a "disabled" person, who is younger than the minimum retirement age, becomes gainfully employed and is earning more than the difference between his disability benefit and final compensation, his disability benefit should be reduced so that the total equals his final compensation with appropriate allowances for cost of living increases.

A number of persons identified in the body of the Report appear to have jobs which are inconsistent with their disability payments or pensions. A meaningful reexamination program should be instituted to evaluate whether those individuals still qualify for disability benefits.

Some persons receiving disability pensions are working in the private sector at jobs, such as polygraph examiner, which are very similar to police work. The Police Department and Board of Pensions should take the necessary steps to ensure that full utilization is made within the Department of permanent and partially disabled employees.

The Retirement System Ordinance should be amended to provide that any former employee found guilty of bribery, graft, extortion, or any of the other corruption crimes named in the Retirement System Ordinance, arising out of conduct performed while the employee was with the City, should be deprived of one-half of his or her pension benefits. The present system should be modified so that the pension forfeiture should

not depend on whether the misdeeds are discovered before or after the employee left office.

Lateral Entry: All Philadelphia police officers must now enter the Department at the lowest rank. Commanders must work their way up through the system. Various personnel restrictions, such as the one year pre-employment residency requirement, the maximum age of 35, and the civil service regulation calling for filling promotion vacancies from within, make it impossible for a highly qualified person with experience in another law enforcement agency to "laterally enter" the Philadelphia Police Department at a supervisory or administrative level.

The Crime Commission recommends that these restrictions be modified or removed in order to allow qualified persons to join the Police Department at ranks of lieutenant and higher. This change will have the beneficial effect of allowing an infusion of "new blood" into the Department. Commanders brought in from the outside will be more able to implement anti-corruption measures since they will be less likely to have the reputation of having been involved themselves in corrupt activities.

Residency Requirements: The one year pre-employment residency requirement should be abolished for all police officers. The requirement serves no valid purpose and serves to reduce the number of qualified persons who would apply for positions in the Department. It poses an artificial barrier to persons from other cities and suburban and rural areas.

Education: The lack of any minimum education requirement for police officers in Philadelphia goes against the grain of findings and conclusions of a number of recent police study commissions, including the President's Commission on Law Enforcement and Criminal Justice, the National Advisory Commission on Criminal Justice and Goals, and the American Bar Association. For example, the ABA states in *The Urban Police Function* that:

Police agencies need better educated men. It is generally recognized that years of formal study beyond high school contribute toward making a person a better informed individual with a more adequate background for understanding and functioning within our complex society. College graduation has long been

required for those who wish, for example, to be elementary school teachers, welfare workers, probation officers, and F.B.I. agents. The responsibilities of a municipal police officer are no less difficult and no less complex.

"It is nonsense to state or to assume that the enforcement of the law is so simple that it can be done best by those unencumbered by a study of the liberal arts. The man who goes into our streets in hopes of regulations, directing or controlling human behavior must be armed with more than a gun and the ability to perform mechanical movements in response to a situation. Such men as these engage in the difficult, complex and important business of human behavior. Their intellectual armament—so long restricted to the minimum—must be no less than their physical prowess and protection."

Police agencies need personnel in their ranks who have the characteristics which a college education seeks to foster: intellectual curiosity, analytical ability, articulateness, and a capacity to relate the events of the day to the social, political, and historical context in which they occur. . .³⁶

The Crime Commission concurs in the view that a college degree should be a prerequisite to service as a police officer, although it recognizes that it is unrealistic to hope for immediate implementation of that requirement. As a minimum, it should immediately be required that police applicants have at least one year of college studies. This requirement should be gradually raised over the next five years to a college degree.

Drug Law Enforcement: The recommendations of the Crime Commission on measures to improve the Department's program of drug law enforcement are discussed in detail in Chapter VII. They are summarized as follows: The Department's drug control policy should place greater emphasis on infiltrating

³⁶American Bar Association Project on Standards for Criminal Justice, *Standards Relating to the Urban Police Function* 212 (Tent. Draft 1972). See also National Advisory Commission on Criminal Justice Standards and Goals, *Report on Police* 86-87 (1973), quoting Tamm, "A Change for the Better," *Police Chief* 5 (1962).

higher levels of the drug supply system in order to reduce the supply of drugs available to the addict users and low-level sellers who are presently the primary target of the Department. In connection with the altered policy, the funds available for drug control work should be vastly increased, especially with respect to a buy program aimed at the arrest of drug sellers.

In-service training of Narcotics Unit personnel should be expanded. There should be less emphasis on sight arrests of narcotics possessors. Full support should be given to the District Attorney's screening program in order to weed out cases destined for acquittal or dismissal. Women and Spanish-speaking officers should be assigned to the Narcotics Unit and civilian personnel should be utilized in clerical functions.

Existing undercover operations should be improved by providing greater security for undercover agents; rotating undercover personnel so that undercover assignments last no longer than 18 months or a certain number of arrests; employing officers willing to live undercover in the areas in which they work; supplying undercover agents with appropriate vehicles and financing; and employing paid informers in greater numbers and for more money.

A functioning intelligence system for drug control work should be established which must include the assignment of trained personnel to perform this function, use of existing computer services and their expansion as required, and periodic and systematic distribution of the information to all segments of the Department involved in drug control work.

Police Legal Advisor: The Crime Commission found that the Police Department's investigative effort in two areas which the Commission examined closely, internal security and narcotics law enforcement, was deficient in that it lacked effective investigative planning and use of imaginative techniques. The Commission's experience in both areas strongly indicates that advance planning with an investigative attorney, or legal advisor, is necessary for any wide success in either area. The Commission also believes that advisors would be useful for other investigative units.

The Police Department rarely uses the advice of attorneys before an investigation has reached the stage of securing a search warrant or appearing in court. At those points, the investigation is largely complete; errors of constitutional magnitude or the

use of poor or ineffective techniques are already made, and the attorney's advice is too late. The Commission's experience in investigating police corruption, which is comparable to the internal security function, indicates that attorneys are far more useful when consulted at the beginning of the investigation than at the end. Federal strike forces utilize a similar concept, as did the Knapp Commission.

The police legal advisor can perform a number of other important functions within the Department. The first of these is in-service training. The police legal advisor would closely follow developments in the law and inform the Department by memorandum of any changes or developments in the law which may affect police practices.

An additional function of the police legal advisor is a liaison with other agencies, particularly the legislature, the City Council, and the courts. The legal advisor not only can keep track of any bills or ordinances which might affect the Department, but he can prepare witnesses to testify on the Department's position or testify himself, thereby strongly urging the Department's position which might otherwise not be known. Before the courts, the legal advisor can appear as a friend of the court to press the Department's position in those cases where particular Police Department policies and procedures are at issue. This can be very important, because these issues can often arise in a context where the policy or procedure is not necessarily important to the District Attorney's office.

Finally, the police legal advisor can assist police administrators in policy formulation. The lack of legal advice is possibly a major factor in the failure of the Police Department to articulate important policies concerning such things as corruption, selective enforcement, and informants.

Training: The Commission recommends that an intensive course on corruption hazards containing a minimum forty hours of instruction be instituted at the Police Academy. The course should be similar to that recently introduced in the New York City Police Department, so that a recruit would become familiar with indications of ongoing corrupt activity, as well as be familiar with the proper corrective measures to be taken if corruption is encountered.

The Commission also recommends that the Police Academy utilize a role-playing approach to part of the course, similar to that presently in use in the family-crisis intervention portion of training.

APPENDIX A

PENNSYLVANIA CRIME COMMISSION

RESOLUTION

Now, this 26th day of February, 1972, in a meeting duly called upon notice to all the members of the Pennsylvania Crime Commission, the undersigned members of the Pennsylvania Crime Commission resolve as follows:

(1) That throughout the past year and continuing to the present date we, the commissioners, have had formal and informal meetings among ourselves and with the staff of the Commission, and have had conversations by telephone, at which times we approved the official actions of the Commission, including the initiation and conduct of investigations, the holding of hearings in furtherance of these investigations, the seeking of judicial immunity and subpoena enforcement orders, the public release of information and reports, and the amendment of the Rules of the Commission. We have also been informed, through informal meetings and by telephone, of the progress of various investigations and of the actions taken by the Commission staff in furtherance of these investigations.

(2) That the fact of these formal and informal contacts among ourselves and with the staff of the Commission, and the substance of these contacts, have in most instances not been reduced to writing.

(3) That to avoid unwarranted challenges of particular past actions of the Commission with which we were and are fully in accord, the members of the Commission hereby formally express their approval of the investigation of the Commission described as follows:

(i) An investigation into (a) allegations of payments and other favors given to members of the Philadelphia Police Department and other Philadelphia public officials and politicians,

by or on behalf of persons involved in syndicated gambling, systematic violations of laws governing the operation of establishments licensed to sell alcoholic beverages, organized prostitution, violations of laws controlling narcotics and other dangerous drugs, and other organized crime and racketeering, in the Philadelphia area, in return for failure to fully enforce laws against such offenses, assistance in committing and concealing such offenses, information concerning plans for enforcing laws against such offenses, and other favors to persons involved in such offenses; (b) allegations of other influences by persons involved in committing such offenses upon the staffing, organization, and activities of the Philadelphia Police Department; (c) allegations of other relationships between persons and groups involved in such offenses on the one hand, and government and political units and organizations and business in the Philadelphia area on the other hand; (d) the identities and criminal activities of the persons and groups conducting such organized criminal activities and racketeering; (e) the degree of success of law enforcement in preventing and punishing the criminal activities and corruption referred to in (a), (b), (c) and (d) above; and (f) measures which could be taken by the Commonwealth and the City and County of Philadelphia to improve the administration of justice involving such crimes and corruption and their prevention.

(ii) In furtherance of the above described investigation, private hearings were held by the Commission on December 10, 17, 1971; January 6, 13, 18; February 3, 10, 1972 at St. Davids. A public hearing was held by the Commission in furtherance of this investigation on December 3, 1971, in Philadelphia. In connection with these private and public hearings approximately 48 witnesses were subpoenaed or invited by the Commission to testify.

(iii) In connection with the private hearings of the Commission, mentioned in paragraph (ii) above, immunity has been sought by the Commission from the Commonwealth Court for Michael Garber and Mary Bucci.

(iv) On February 5, 1972, the Commission publicly issued an interim report concerning its preliminary investigation of allegations of corruption within the Philadelphia Police Department.

(4) That the investigation described in paragraph (3) above has been conducted by the Commission and its staff since ap-

proximately November of 1971 with the full knowledge and unanimous approval of the members of the Commission. In order to avoid unwarranted challenges to that investigation, the members of the Commission unanimously ratify and approve all of the past official actions taken by the Commission and its staff in furtherance of this investigation, as if this approval had been recorded formally at or before the initiation of such actions.

(5) That the continuance of the investigation described in paragraph (3) above is unanimously approved by the members of the Commission.

J. Shane Creamer, Chairman

William C. Sennett

Charles Wright

Harold Rosenn

APPENDIX B

Commonwealth of Pennsylvania
GOVERNOR'S OFFICE
EXECUTIVE ORDER



1973-1

Pennsylvania Crime Commission Investigations

BY DIRECTOR
Milton J. Skapp
Milton J. Skapp, Governor

DISTRIBUTION

B

January 5, 1973

The Pennsylvania Crime Commission is involved in several investigations of alleged corruption which are of utmost importance to provide greater protection to all citizens and to improve the quality of life in Pennsylvania. Similar studies in urban areas in other states have been of great value.

It is important that the Crime Commission complete its work expeditiously with full support of other administrative departments, boards, commissions and agencies within State Government. Thus, if a request for materials, equipment, and information or any other item is directed to you from the Crime Commission, I ask that it receive highest priority treatment.

If for any reason any request from the Crime Commission cannot be fulfilled within twenty-four (24) hours by your department, you are instructed to immediately contact Norval D. Reece, Special Assistant to the Governor for Intergovernmental Relations.

PENNSYLVANIA CRIME COMMISSION

RESOLUTION

And, now, this 29th day of July, 1972, in a meeting duly called upon notice to all the members of the Pennsylvania Crime Commission, the undersigned members of the Pennsylvania Crime Commission resolve as follows:

(1) That the Pennsylvania Crime Commission Resolution of February 26, 1972, concerning the investigation of the Philadelphia Police Department is hereby amended as follows to reflect the addition of new sub-paragraphs (e) and (f) to Paragraph 3 (i). The amendments are indicated by underlining.

"(3) . . .

"(i) An investigation into (a) allegations of payments and other favors given to members of the Philadelphia Police Department and other Philadelphia public officials and politicians, by or on behalf of persons involved in syndicated gambling, systematic violations of laws governing the operation of establishments licensed to sell alcoholic beverages, organized prostitution, violations of laws controlling narcotics and other dangerous drugs, and other organized crime and racketeering, in the Philadelphia area, in return for failure to fully enforce laws against such offenses, assistance in committing and concealing such offenses, information concerning plans for enforcing laws against such offenses, and other favors to persons involved in such offenses; (b) allegations of other influences by persons involved in committing such offenses upon the staffing, organization, and activities of the Philadelphia Police Department; (c) allegations of other relationships between persons and groups involved in such offenses on the one hand, and government and political units and organizations and business in the Philadelphia area on the other hand; (d) the identities and criminal activities of the persons and groups conducting such organized criminal

activities and racketeering; (e) any other allegations or evidence of payments or favors or gratuities paid by citizens, corporations, or unincorporated associations to members of the Philadelphia Police Department, and other Philadelphia public officials and politicians, to influence or secure and obtain any special considerations with respect to the normal and prescribed duties of the police department and the administration of criminal justice, except as specifically authorized by Section 10-105 of the Philadelphia Home Rule Charter concerning gratuities; (f) allegations of misuse of pension funds, Police Department monies, unlawful personnel actions, and any other instances of corruption which might adversely affect the operation and fulfillment of public duty by the Philadelphia Police Department; (g) the degree of success of law enforcement in preventing and punishing the criminal activities and corruption referred to in (a), (b), (c), (d), (e) and (f) above; and (h) measures which could be taken by the Commonwealth and the City and County of Philadelphia to improve the administration of justice involving such crimes and corruption and their prevention."

J. Shane Creamer, Chairman

William C. Sennett

Charles Wright

Harold Rosenn

CONTINUED

9 OF 10

activities and racketeering; (e) any other allegations or evidence of payments or favors or gratuities paid by citizens, corporations, or unincorporated associations to members of the Philadelphia Police Department, and other Philadelphia public officials and politicians, to influence or secure and obtain any special considerations with respect to the normal and prescribed duties of the police department and the administration of criminal justice, except as specifically authorized by Section 10-105 of the Philadelphia Home Rule Charter concerning gratuities; (f) allegations of misuse of pension funds, Police Department monies, unlawful personnel actions, and any other instances of corruption which might adversely affect the operation and fulfillment of public duty by the Philadelphia Police Department; (g) the degree of success of law enforcement in preventing and punishing the criminal activities and corruption referred to in (a), (b), (c), (d), (e) and (f) above; and (h) measures which could be taken by the Commonwealth and the City and County of Philadelphia to improve the administration of justice involving such crimes and corruption and their prevention."

J. Shane Creamer, Chairman

William C. Sennett

Charles Wright

Harold Rosenn

APPENDIX C

RESOLUTION of the

PENNSYLVANIA CRIME COMMISSION

RESOLVED THIS 8th DAY OF JANUARY 1973 THAT:

1. The investigation into the quality of law enforcement in Philadelphia as delineated in the Resolution of February 26, 1972, amended July 29, 1972, will continue, be intensified, and receive the highest priority from the Commission's staff.
2. It is essential for the continuation and intensification of that investigation that the Commission's endeavor represent the single effort of all Commonwealth law enforcement agencies.
3. To consolidate the effort under the direction of the Crime Commission, State Police Commissioner Barger is requested to withdraw all state policemen assigned to the Philadelphia District Attorney for purpose of investigating police corruption and to make available to the Crime Commission's investigation in Philadelphia at least an equal number of state policemen plus any additional manpower necessary to complete its work expeditiously.
4. All citizens are urged to come forward with evidence of police corruption and any other criminal activity. The Commission here strongly reiterates its commitment to protect the identity of citizen complainants.
5. Consistent with its statutory charge, the Commission will, at the completion of the investigation or at any other appropriate stage, submit to the District Attorney evidence warranting prosecution.

Israel Packel, *Chairman*

Richardson Dilworth
(by Lawrence T. Hoyle, Jr.)

Ronald Davenport

George Barco

Russell J. O'Malley, Sr.

APPENDIX D

PHILADELPHIA INVESTIGATION SUMMARY OF EXPENDITURES

Period: November 1, 1971, to January 31, 1974

	Personnel	Operating	Fixed Assets	Total
St. Davids Regional Office:				
Salaries-Benefits	\$387,363.60			\$378,363.60
*Operating Expenses		\$475,041.43		475,041.43
Fixed Assets			\$16,264.28	16,264.28
SUBTOTAL	\$387,363.60	\$475,041.43	\$16,264.28	\$878,669.31
ADDITIONAL SUPPORT				
Narcotics Control Strike Force:				
Salaries-Benefits	\$201,578.17			\$201,578.17
Operating Expenses		\$144,310.45		144,310.45
Fixed Assets			-0-	-0-
SUBTOTAL	\$201,578.17	\$144,310.45	-0-	\$345,888.62
Pennsylvania Department of Justice:				
Salaries-Benefits	\$126,730.00	-0-	-0-	\$126,730.00
Pennsylvania State Police:				
Salaries-Benefits	\$477,441.24	-0-	-0-	\$477,441.24
SUBTOTAL	\$604,171.24	-0-	-0-	\$604,171.24
TOTAL COSTS	\$1,193,113.01	\$619,351.88	-0-	\$1,828,729.17

*The operating expenses for the additional support was provided by the Pennsylvania Crime Commission's Office in St. Davids. This additional support included operating expenditures incurred by Department of Justice (100%), Pennsylvania State Police (100%), and also indirect costs attributable to the Narcotics Control Strike Force operations.

PENNSYLVANIA CRIME COMMISSION ADMINISTRATIVE EXPENDITURES

July 1, 1972, to January 31, 1974

The following administrative expenditures were incurred by the Crime Commission at its St. Davids office to support its entire State-wide operations. The Philadelphia police investigation received some support from this administrative effort as did the other regiments of the Commission's work. It is impractical to allocate these expenditures to the various investigations. The Commission would have incurred these administrative expenditures regardless of the type of effort undertaken.

	Personnel	Operating	Fixed Assets	Total
Administrative Office:				
Salaries-Benefits	\$262,455.81			\$262,455.81
Operating Expenses		\$60,671.43		60,671.43
Fixed Assets			\$27,463.39	27,463.39
TOTAL	\$262,455.81	\$60,671.43	\$27,463.39	\$350,590.63

NOTE: Prior to July 1, 1972, the Philadelphia investigation was of such a minimal operation that administrative expenditures could not be allocated for the period of November 1, 1971, to June 30, 1972.

APPENDIX E

PROPOSED QUESTIONNAIRE FOR POLICE RECRUITS

Part I:

1. On this page there are some subjects which you have been taught at the Academy. We would like you to evaluate the instruction in these subjects that you have received at the Academy. For purposes of comparison, keep in mind high school, college, and military instruction you have received. Beside each subject taught at the Academy there will be a pair of words which describe the quality of instruction, i.e., poor-excellent. Each pair of words is separated by a line in which spaces are provided for you to place an "x." Think about the classes on that subject, then think about how your evaluation of that subject is best described by the pair of words and mark an "x" in the space between the two words that come closest to what you think about the subject. For example, suppose that you are asked to evaluate First Aid instruction at the Academy. Your answer might look like this:

(a) poor: : : : : :x:excellent
 or like this
 (b) poor:x: : : : : :excellent
 or like this
 (c) poor: : : : : :x: : : : :excellent

Answer (a) indicates that the First Aid was one of the best courses you have ever taken. Answer (b) indicates that First Aid was one of the worst courses you have ever taken. Answer (c) indicates that First Aid was a little better than an "average" course you have taken. There are no right or wrong answers, only opinions. Place only one "x" on each line. Please evaluate the following areas of instruction:

- | | |
|--|----------------------------|
| a. orientation instruction (rules & regulations, administrative directives, city government, etc.) | poor: : : : : :x:excellent |
| b. firearm instruction | poor: : : : : :x:excellent |
| c. driving instruction | poor: : : : : :x:excellent |
| d. city ordinances, criminal law and related subjects instruction | poor: : : : : :x:excellent |
| e. traffic instruction | poor: : : : : :x:excellent |
| f. arrest procedure instruction | poor: : : : : :x:excellent |
| g. social science instruction | poor: : : : : :x:excellent |
| h. physical instruction | poor: : : : : :x:excellent |
| i. patrol operations instruction | poor: : : : : :x:excellent |
| j. vice enforcement instruction | poor: : : : : :x:excellent |
| k. introduction to city agencies | poor: : : : : :x:excellent |
| l. introduction to state agencies | poor: : : : : :x:excellent |
| m. introduction to federal agencies | poor: : : : : :x:excellent |
| n. any other instruction (Please specify.) | poor: : : : : :x:excellent |
| o. overall | poor: : : : : :x:excellent |

2. Is there any part of the instruction which you think should be discarded? What? _____
3. Is there any part of the curriculum which you think should be given a major overhaul? What? _____
4. Below are listed some measures which might alter the quality of education at the Academy. Please indicate whether you think these measures would damage, improve or not substantially change the quality of education at the Academy.
 - a. More simulations, role-playing, and other participant-observer techniques.
Damage: _____ No Change: _____ Improve: _____
 - b. More field work during training.
Damage: _____ No Change: _____ Improve: _____
 - c. More instruction in the principles of democratic government and the growth of democratic institutions.
Damage: _____ No Change: _____ Improve: _____
 - d. More instruction in controlling police corruption.
Damage: _____ No Change: _____ Improve: _____
 - e. Language programs, such as Spanish or Italian.
Damage: _____ No Change: _____ Improve: _____
 - f. Greater relating of various parts of the curriculum, particularly social sciences to the other parts of the curriculum.
Damage: _____ No Change: _____ Improve: _____
 - g. More discussion of films and reading assignments.
Damage: _____ No Change: _____ Improve: _____
 - h. Greater selectivity in admissions.
Damage: _____ No Change: _____ Improve: _____
 - i. More training in police-community relations.
Damage: _____ No Change: _____ Improve: _____
 - j. More problem solving.
Damage: _____ No Change: _____ Improve: _____
 - k. More instruction in the martial arts.
Damage: _____ No Change: _____ Improve: _____
5. What do you consider the most important thing a police officer does? Please limit your answer to one or two sentences. _____

6. What is your educational background? Please check the highest level you have finished. Grade: 7: _____ 8: _____ 9: _____ 10: _____ 11: _____ High school graduate: _____ High school equivalency: _____ One year college: _____ Two years college: _____ Three years college: _____ Four years college: _____ More than four years college (Please specify.): _____
7. Did you serve in the armed services? Yes: _____ No: _____
8. If so, how does your training at the Academy compare with that which you received in the armed services? Please check the one statement below which most closely matches your feelings.
 - a. Academy training significantly better than armed services training: _____

- b. Armed services training significantly better than Academy training: _____
 - c. Academy training and armed services training about the same quality: _____
 - d. Impossible to compare Academy and armed services training: _____
9. Can you make any specific comparisons between Academy training and armed services training? Please use the space below and the back of this page if you need more space. _____
-
10. Your sex? Male: _____ Female: _____
11. Your age? _____
12. Are you married? Yes: _____ No: _____
13. When you were growing up, what class did you consider yourself to be a member of?

 Lower class: : : : : : Upper class
14. Is there an ethnic or nationality background you identify with or regard yourself as? If so, please state, e.g., Afro-American, English, German, Italian, Irish, Jewish, or none. _____
15. In your previous educational experiences such as high school you may have had women in classes with you. On the basis of that experience how do you think having more women at the Academy would affect the quality of training?
 Damage: _____ No Change: _____ Improve: _____

Part II:

Below are listed a number of situations which you might encounter on the street. On the basis of what you have learned at the Academy and your own judgment please try to imagine what your response to the situation will be.

- 1. a. You're the corporal and you ask a sector car to bring in a sandwich, assuming that you'll reimburse the sector man. He arrives at the station with sandwiches which Nick's Sandwich Shop has sent, free of charge, "for the corporal." What do you think of the sector man accepting the sandwiches for you? Please check *one* answer.
 - (1) A perfectly reasonable thing to do: _____
 - (2) Okay in itself, but it might lead to larger and dirtier considerations: _____
 - (3) Okay in itself, but Nick will probably be calling up to ask for a favor or two: _____
 - (4) An absolutely corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
 - (1) Let it pass: _____
 - (2) Tell the sector man that you're displeased: _____
 - (3) Tell Nick that you're displeased: _____
 - (4) Report this incident to your superior: _____
 - (5) Testify against the sector man if called upon: _____
 - (6) Testify against Nick if called upon: _____
- 2. a. At a roll call the sergeant tells you that you've got a good assignment. Instead of patrolling your sector you're to sit in the parking

- lot of an all-night restaurant that's been having problems recently. The sergeant also tells you that the manager regularly compensates you for this service with food and cash. What do you think of accepting the assignment and its benefits? Please check *one* answer.
- (1) Orders to be obeyed: _____
 - (2) Okay as long as it isn't publicized: _____
 - (3) Okay as long as surrounding sector men can cover for you in an emergency: _____
 - (4) Okay if you don't take the money: _____
 - (5) An absolutely corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Follow orders: _____
 - (2) Refuse cash: _____
 - (3) Request another assignment: _____
 - (4) Report the situation to Internal Security: _____
3. a. You walk in on a large numbers operation and you're offered \$2000 a month to keep quiet and to smooth over any difficulties that you can. What do you think of accepting the money? Please check *one* answer.
- (1) An unexpected benefit of your job: _____
 - (2) Okay in itself but likely to lead to dirtier arrangements: _____
 - (3) Okay in itself as long as it can be kept very private: _____
 - (4) An absolutely corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Keep quiet and accept the benefits: _____
 - (2) Refuse the money but omit mention of incident in your report: _____
 - (3) Report the incident to your commanding officer: _____
 - (4) Arrest the man who made the offer on the spot: _____
 - (5) Testify that the operator offered you a bribe: _____
4. a. The owner of Cy's Discount Appliances sees you after you've been on your assignment for about a month. He says, "You do a good job and it's a pretty thankless one. I don't want anything special but isn't there a benefit show or something?" He holds out money. What do you think of accepting the money? Please check *one* answer.
- (1) Simply one's duty as an officer: _____
 - (2) Fine in itself, but subject to misinterpretation by passersby and the store owner: _____
 - (3) Fine in itself, but the store owner is likely to expect special surveillance: _____
 - (4) A corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Thank the owner and accept the money: _____
 - (2) Thank the owner but refuse the money: _____
 - (3) Thank the owner and ask him to write a check instead of cash: _____
 - (4) Report the incident: _____

5. a. You help recover a stolen automobile. After everything's done the owner wants to hand you fifty dollars as a reward. What do you think of accepting the money? Please check *one* answer.
- (1) The proper response to the situation: _____
 - (2) Fine in itself but subject to misinterpretation: _____
 - (3) Likely to encourage excessive concentration on returning stolen autos: _____
 - (4) A corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Thank the owner and accept the money: _____
 - (2) Thank the owner but refuse the money: _____
 - (3) Ask the owner to write to the Commissioner: _____
 - (4) Report the incident: _____
6. a. You make a court appearance for a civil case involving an accident claim while you're technically on vacation. The lawyer wants to pay you more than witness fees. What do you think of accepting this additional money? Please check *one* answer.
- (1) Just what any other citizen would do: _____
 - (2) Fine in itself but subject to misinterpretation: _____
 - (3) A private matter between you and the lawyer: _____
 - (4) A corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Thank the lawyer and accept the money: _____
 - (2) Thank the lawyer but refuse the money: _____
 - (3) Report the incident to the Bar Association: _____
 - (4) Arrest the lawyer on the spot: _____
7. You arrest a street corner dealer with five bags of heroin on him. Your partner knows a place where a "plant" would be very effective in getting some cooperation from a known narcotics figure who's reputed to have important connections. Would you try the "plant" using the contraband drugs? Please check *one* answer.
- (1) Yes, if it's the only way you can get him: _____
 - (2) Yes, it's one's duty as an officer: _____
 - (3) No, it might not hold up in court: _____
 - (4) No, it's wrong: _____
8. You stop a car because one of his taillights is out. The six kids in the car are obviously giving the driver a rough time and when he hands you his cards there's a ten dollar bill with them. What do you think of accepting this money? Please check *one* answer.
- (1) An acceptable practice: _____
 - (2) One of the few compensations for the job: _____
 - (3) An unacceptable practice but not worth making a fuss about: _____
 - (4) An unacceptable practice worth making a fuss about: _____
9. You're pressed for time to get into an apartment that according to an informant contains a huge narcotics haul. You don't think that the judge will sign a warrant on the information provided by this man. What do you think of improving upon the informant's credentials? Please check *one* answer.
- (1) A routine procedure: _____

- (2) All right if authorized by superiors: _____
 - (3) A risk that has to be taken: _____
 - (4) A corrupt action: _____
10. a. You are told that a large department store regularly offers a 20% discount to members of the Police Department. What do you think of using the discount? Please check *one* answer.
- (1) As proper as accepting a reward from the Commissioner's office: _____
 - (2) Okay as long as it isn't publicized: _____
 - (3) Tends to weaken moral fiber of the Force: _____
 - (4) An absolutely corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Use the discount for family and friends: _____
 - (2) Use the discount only for your immediate family: _____
 - (3) Shop at the store but avoid the discounts: _____
 - (4) Boycott the store: _____
 - (5) Make a complaint to the Police Department regarding the store's policy: _____
 - (6) Write a letter to the newspaper protesting the store's policy: _____
11. a. It's Saturday night and you're patrolling your sector. You're checking out a bar. The manager meets you at the door with \$20 in hand and asks you to come back at closing to escort him and the day's receipts home. What do you think of accepting the money? Please check *one* answer.
- (1) A routine procedure: _____
 - (2) All right if it's a quiet sector: _____
 - (3) All right in itself, but bystanders are likely to misinterpret your action: _____
 - (4) All right in itself, but the manager may expect you to overlook violations of the liquor code: _____
 - (5) A corrupt action: _____
- b. In this situation what action(s) would you take? Please check *one or more* answers.
- (1) Accept the money: _____
 - (2) Escort the manager home: _____
 - (3) Tell the manager that you're displeased by his offer of money: _____
 - (4) Report this incident to your superior: _____
 - (5) Testify against the manager if called upon: _____
12. At present the City Charter states that "No officer or employee of the City and no officer or employee whose salary or other compensation is paid out of the City Treasury shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of his public work." Which of the following courses seems most reasonable and effective in controlling police gratuities?
- (1) Maintaining the present policy of prohibiting the acceptance of all gratuities by policemen: _____
 - (2) Additional legislation which would make the offer of gratuities or Christmas presents a crime with the person convicted of making the offer subject to large minimum fine and arrest: _____

- (3) Liberalization of Departmental policy so that police officers may accept free meals or other considerations which are offered to them provided that all such gratuities are reported and that any incidents of pressure to give gratuities, or any incidents or discrimination in the quality of services rendered are thoroughly investigated and disciplined. _____
13. As a police officer do you tend to think of your work primarily as a public service or as a job just like anyone else's?
public service: : : : : : job like anyone else's
14. How difficult do you think it is to replace a person with the skills of the average police officer in Philadelphia?
very easy: : : : : : very difficult
15. How important do you think it is that a police officer should enforce the law impartially?
very important: : : : : : not important
16. What percentage of the population in Philadelphia dislikes the police: _____
17. What percentage of narcotics abuse in Philadelphia do you estimate is caused by blacks: _____
18. Please give your opinion of the following statement: "The way a police officer thinks sets him apart from most people."
disagree very strongly: : : : : : agree very strongly
19. Do you think that a police officer has a moral responsibility above and beyond his legal one to make sure that public decency is maintained?
definitely he does: : : : : : definitely he doesn't
20. If everything goes well, what do you honestly feel will be the highest rank you will ever reach in the Philadelphia Police Department?
(a) police officer _____ (b) detective _____ (c) sergeant _____
(d) lieutenant _____ (e) captain _____ (f) inspector _____
(g) deputy commissioner _____ (h) unknown _____
21. Please give your opinion of the following statement: "Another thing about police work is that it's one of the few areas where an average man can really help people around him."
disagree very strongly: : : : : : agree very strongly
22. If you could choose your assignment what kind of police work would you like to be doing? _____
23. Do you consider your performance on your exams at the Academy to be an accurate measure of your abilities and interest in police work?
very accurate measure: : : : : : very poor measure
24. How good were your test results at the Academy?
(a) very good _____ (b) good enough _____ (c) not as good as they could have been _____ (d) not as good as they should have been _____ (e) poor _____
25. How difficult do you think it is to find a job in Philadelphia as interesting as being a police officer?
very easy: : : : : : very difficult

APPENDIX F

PHILADELPHIA POLICE DEPARTMENT

Directive 8
(3/24/72)

SUBJECT: Vice Reports and Arrests

- I. POLICY
- A. All sworn police personnel, regardless of rank or assignment, shall take immediate action to apprehend, and/or formally proceed against all persons engaged in any illegal activity.
- II. VICE REPORTS SUBMITTED BY ALL MEMBERS BELOW THE RANK OF CAPTAIN
- A. All police personnel below the rank of Captain, who have knowledge of any illegal activity, vice or suspected vice conditions, shall immediately submit a written report.
- B. DO NOT SUBMIT NEGATIVE REPORTS.
- C. Prepare Complaint or Incident Report (75-48) for each suspected violation.
- D. Do not use DC numbers.
- E. Report all available information:
1. Illegal activity and/or vice.
 2. Name of principal and top level associates.
 3. Location of operation.
 4. Method and time of operation.
 5. Other pertinent information.
- F. Distribution:
1. Original (white)—personally handed to the Commanding Officer by the submitting policeman.
 2. 1st Copy (yellow)—mailed by the policeman directly to the "Commanding Officer, Organized Crime."
 3. 2nd Copy (pink)—signed by the Captain and returned to the reporting officer.
- NOTE: When the illegal activity is such that immediate police action can not be taken, the Commanding Officer shall forward a memorandum to his appropriate Chief Inspector for transmittal to the proper command for action.
- III. WEEKLY VICE REPORT
- A. Divisional Inspectors, District Commanders, and the Commanding Officer of the Chief Inspector's Squad shall submit a weekly vice report. This report will cover from Monday, 12:01 AM to Sunday, 11:59 PM, and contain the following information and format:

District-DC# Defendants	Date and Location	Arresting Officers	Charge	Disposition
Rearrest 4th DC# 46978 John Doe 1899 S. 14th (Writer)	12/15/70 1899 S. 14th	Smith #3333 Jones #4444 (P'clothes)	PPC 601	Judge James \$300. Court 12/16/70
4th DC# 73176 John Doe (Prop. Gamb. House) 3 others	12/17/70 1999 S. 14th (inside) Same	Green #5555 Brown #6666 (Uniform) Same	PPC 605 Gaming	Judge James Discharged 12/18/70 Same
4th DC# 47416 *John Doe 2099 S. 14th (Fandering)	12/17/70 2099 S. 14th (inside)	Black #7777 White #8888 (P'clothes)	PPC 513	Judge James \$500. Court 12/18/70
Jane Doe (Prostitution) 3 others	Same Same	Same Same	PPC 512 Dis. Conduct	Judge James \$500. Court 12/18/70 Judge James Discharged 12/18/70

(*) Indicates Major Arrest, Notorious Vice Character or Problem Club

1. List the names of principals only.
 2. Separate each case by drawing a horizontal line.
 3. When a person is rearrested, indicate this information on the report.
 4. Record name, number and date of assignment of each plainclothesman at the end of report.
- B. This Memorandum (82-S-1), when submitted by the District Commander, shall be approved by the Divisional Inspector and forwarded each Monday, via Police Mail as follows:
1. Original and one (1) copy direct to the Deputy Commissioner, Uniform Forces.
 2. One (1) copy direct to the appropriate Chief Inspector.
 3. One (1) copy to Computer Statistics, Police Headquarters.

IV. CAPTAIN'S SEMI-ANNUAL VICE REPORT

- A. Commanding Officers of all numbered districts shall submit a semi-annual evaluation report of the vice conditions presently existing in their districts. The evaluation shall include personal observation, resulting from daily personal patrol of the district, together with information received from subordinates and private citizens. This report will be submitted on the 1st of May and the 1st of November each year.
- B. Reporting Format
1. **ILLEGAL LOTTERY-NUMBERS—601 PPC**
John J. Johnson is reputed to be the head of a numbers

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organization in this area; following is a breakdown on his organization.

Name, Address, Age, Color, PP# and Position	Total Arrests for 601	Date Last Arrest	Date Last Conviction	Location of Last Arrest
John J. Johnson, 45/W 3222 N. Front St. PP# 234567-Banker	10	1/1/70	1/4/60	2222 N. Front St
John J. Smith, 44/W 3320 N. Front St. PP# 234678-Office Man				
John J. White, 48/W 3218 N. Front St. PP# 289098-Pickup Man				
John J. Brown, 48/W 3216 N. Front St. PP# 987654-Writer				

John Smith is reputed to be the head, etc. . .
(Same Format as above)

2. **POOLSELLING AND BOOKMAKING ON HORSES—607 PPC**
(Same Format Illegal Lottery)
3. **MISC. 601-607 PPC INFORMATION**
(Same Format Illegal Lottery)
4. **PROSTITUTION AND ASSIGNATION—512 PPC**
(Same Format Illegal Lottery)
5. **TAPROOMS AND CLUBS—PLCA**
(Same Format Illegal Lottery)

C. Distribution

1. The semi-annual report shall be completed on Memorandum (82-S-1) and distributed as follows:
 - a. Original copy placed in an envelope, sealed and addressed to the Commissioner.
 - b. One (1) copy placed in an envelope, sealed and addressed to the Deputy Commissioner, Uniform Forces.
 - c. One (1) copy placed in an envelope, sealed and addressed to the appropriate Chief Inspector.
 - d. One (1) copy retained by Divisional Inspector.
 - e. One (1) copy retained by the District Commander.

D. Classification

1. These reports shall be **STRICTLY CONFIDENTIAL** and are subject to review or inspection by the above only.
2. These reports shall be delivered **PERSONALLY** by the Divisional Inspector to the weekly meeting on the First Friday of May and November.

V. VICE INFORMATION REPORTS

- A. The Investigator's Aid to Interview (75-229) shall be utilized as a vice information report.
- B. Commanding Officers of numbered districts shall prepare a vice information report in duplicate (including photographs) for individuals arrested for violation of Section 601 or 607 of the

PPC when:

1. The arrest occurs in their district regardless of the unit making the arrest.
 2. The individual arrested resides in their district.
- C. All applicable sections of this form shall be completed. In the section entitled "Modus Operandi", list the type of vice activity and the method of operation; in the "Frequents" section list the location(s) of operation.
- D. Distribution:
1. One (1) copy will be forwarded to the Inspector with the weekly vice report on Monday of each week. If photographs are not available, they may be sent at a later date.
 2. The original shall be placed in the District Vice Information File. The contents of this file are an integral part of the Commanding Officer's Administrative File and shall not be considered the personal property of the Captain. When Commanding Officers are reassigned, this file shall not leave the district.

VI. INFORMATION ON SUSPECTED VIOLATION OF 601, 607 PPC OR LOAN SHARK ACT

- A. When an individual is investigated or arrested for violation of Sections 601, 607 of the Pennsylvania Penal Code or for violation of the Loan Shark Act, the Investigator's Aid to Interview Report (75-229) shall be prepared in quadruplicate. Personnel preparing these reports shall ensure all blocks are completed. (Refer to Directive #126)
- B. Distribution:
1. Original copy retained in district.
 2. One (1) copy to Commanding Officer, Organized Crime Unit.
 3. One (1) copy to Commanding Officer, Chief Inspector's Squad.
 4. One (1) copy to the Division or Unit Inspector.

VII. VICE OR SUSPECTED VICE ACTIVITY REPORT

- A. All police personnel up to and including the rank of Lieutenant shall submit one or more Vice or Suspected Vice Reports in accordance with the semi-annual schedule. One (1) report will be submitted in quadruplicate for each individual. This information shall be recorded on the Investigator's Aid to Interview Form (75-229).
1. When preparing the semi-annual Vice or Suspected Vice Activity Report, use a ball point pen or type all information requested, including police officer's name. Ensure that the reporting officer's signature is affixed in the section of the 75-229 report entitled "Information Compiled By." Commanding Officers shall sign these reports in the space provided.
 2. The type of illegal vice activity shall be recorded in the "Modus Operandi" section. In the "Frequents" section, list the location of operation.

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3. Identify the subject by completing the appropriate section of the Investigator's Aid to Interview Report (75-229), name, alias(es), age, sex, race and photo number. Record license number and description of automobile(s) used in operation.

- B. Commanding Officers shall ensure that every member of his command appearing on the current D.A.R. submits at least one Vice or Suspected Vice Report. If for any reason a member identified on the register fails to execute a report for a designated reporting period, a logical explanation must be given on a separate memorandum signed by the Commanding Officer.
- C. Information regarding vice or suspected vice activity occurring outside the reporting officer's area of assignment, may also be submitted without regard for geographic boundaries.

D. Distribution:

Original—To Commissioner through channels

1st Copy—Divisional Inspector

2nd Copy—District or Unit Commanding Officer

3rd Copy—Retained by Originating Officer

E. Semi-Annual Schedule for each District and Unit:

January and July

1st, 5th, 6th, 12th, 22nd, Canine Unit and Airport District.

February and August

3rd, 9th, 16th, 25th, Foot Traffic, Sanitation, South and Central Detectives.

March and September

2nd, 4th, 23rd, 26th, Marine Unit, West and North Central Detectives.

April and October

7th, 14th, 18th, Accident Investigation, Transit Unit, East and Northeast Detectives.

May and November

19th, 35th, Chief Inspector's Squad, Highway Patrol, Stakeout, Northwest Detectives and Homicide.

June and December

15th, 24th, 39th, 17th, Major Crimes and Intelligence Unit.

VIII. VICE BRIEFINGS OR ORIENTATIONS

- A. Inspectors shall be responsible for the efficiency and integrity of all plainclothesmen under their command, including the District Captain's plainclothesmen.
- B. On the second Friday of each month, Inspectors shall personally address all plainclothesmen assigned to District Captains in their divisions and discuss the following:
1. Departmental policy relative to vice.
 2. Information relative to persons and locations in the division engaged in vice activity or suspected vice activity.
 3. Techniques of operators engaged in vice activity.

NOTE: Prepare a record of all such meetings, noting the date, time and place, persons present and the subject matter discussed. Forward promptly a copy of

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the record of each meeting to the Chief Inspector, Patrol Bureau.

- C. Commanding Officers, of all numbered districts must address each platoon, once a month at roll call and discuss the above topics. They shall record the date and time of such address on the Pulling Sheet.
- D. Paragraphs I and II of this Directive will be read by the Lieutenant to all subordinates at least twice a month. On the 1st and 15th of each month EVERY Lieutenant shall submit a report in duplicate to the Inspector through his Captain indicating the date and time the Directive was read. The Captain will retain the carbon copy and forward the original to the Inspector. In the absence of the Lieutenant, the Sergeant shall submit this report.
- E. The Sergeant of each platoon will instruct all his subordinates that any conversation, no matter how slight, with any known vice offenders or entering any bar or premises where vice activity is suspected will be recorded on a Complaint or Incident Report (75-48). These reports will be classified Investigation of Persons or Investigation of Premises.

IX. VICE, LIQUOR AND GAMBLING ARRESTS

- A. All vice arrests shall be reported on a Complaint or Incident Report (75-48) and Arrest Report (75-50). When arrests are made by uniformed personnel, any additional reports shall be typed by the Operations Room personnel from information supplied by the arresting officer. When an arrest is made by plainclothesmen, all necessary reports will be submitted by them to the District Operations Room Supervisor.
- B. Commanding Officers shall ensure that the arresting officer's signature is recorded on all necessary reports relating to Vice, Liquor or Gambling Arrests.
- C. When an individual is arrested for Vice, Liquor and Gambling violations, the arresting officer shall forward a copy of the Investigation Report (75-49) to the Divisional Inspector.

X. LIQUOR CODE VIOLATIONS

- A. A complete report of the investigation or arrest shall be recorded on the Investigation Report (75-49).
- B. When a licensed liquor establishment is involved, record the name of the establishment, the owner's name and address, the liquor license number and all applicable violations of the Pennsylvania Liquor Code on the Investigation Report (75-49).
- C. Seizures:
 - 1. When police personnel make a seizure for violation of the Liquor Code, notify the Pennsylvania Liquor Control Board Enforcement Office, State Building, Broad and Spring Garden Streets, as follows:
During business hours (Monday to Friday) telephone 238-7574. The names and telephone numbers of en-

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forcement officers to be called at other specified times are transmitted via tele-typewriter.

- 2. All vehicles, liquor or other contraband seized in cases involving transportation or possession of untaxed liquor may be released to the owner ONLY BY ORDER of the Quarter Sessions Court or the Pennsylvania State Liquor Control Board. All contraband connected with this type of case shall be turned over promptly to the Pennsylvania State Liquor Control Board.
- 3. Record the time, name and action taken by the Pennsylvania State Liquor Control Board Enforcement Officer notified on the Investigation Report (75-49).
- 4. When a vehicle is involved, record the license number, owner's name and address, if known, on the Investigation Report (75-49).
- 5. When Pennsylvania State Liquor Control Board Enforcement Officers participate, they shall be permitted to:
 - a. Interrogate prisoners at their headquarters prior to processing at the Police Detention Unit.
 - b. Confiscate the entire liquor or alcohol seizure. In such cases, they will submit specimens to Police Chemical Laboratory.

XI. TELEPHONES USED IN VIOLATION OF THE LAW

- A. Do not remove telephones. Service will be disconnected at the Office of the Bell Telephone Company.
- B. Record all phone numbers and locations of phones on premises.
- C. Relate specific use of phone(s).
- D. The following statement shall be typewritten on the Investigation Report (75-49):
 - 1. "We, the undersigned, have knowledge that the telephone service, herein described, is being used or will be used in violation of the law and request that service be discontinued."
- E. Investigating or arresting officer shall affix his signature, rank and badge number directly below the foregoing statement.
- F. Commanding Officer and/or Divisional Commander must endorse and affix his signature on the green copy of the Investigation Report (75-49) or Continuation Report (75-51) on which the above statement appears.

XII. EVIDENCE

- A. Property Receipt Forms shall be prepared for all evidence.

XIII. U.S. BUREAU OF INTERNAL REVENUE REPORT

- A. This report shall be completed in gambling cases (Lottery, Bookmaking, etc.) and forwarded in envelope provided.

XIV. DISTRIBUTION OF INVESTIGATION REPORT (75-49)

- A. White—Reports Control and Review
- B. Canary—District File
- C. Pink—Investigator's Copy
- D. Orange—Assistant District Attorney
- E. Green—See Below

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1. **Liquor Code Violations**
When an arrest is made in a licensed liquor establishment or for the illegal manufacture, possession or transportation of liquor, this copy shall be forwarded to the Deputy Commissioner, Uniform Forces. An original and three copies of a cover letter addressed to the Pennsylvania State Liquor Control Board shall be attached. This letter shall contain the DC number, location of arrest, liquor license number, if any, date of arrest, defendant's name and the charge. The letter shall be signed by the Divisional Inspector.
2. **Illegal Use of Telephone**
Security Office, Bell Telephone Company, 1835 Arch Street, after signature of approval of Divisional Commander.

F. Blue—Divisional Commander

XV. DISTRICT CORPORALS SHALL:

- A. Ensure that the Arrest Report (75-50) is prepared for each principal arrested.
 1. Include under "REMARKS" a brief report of the case.
 2. Ensure that the arresting officer(s) sign in the block marked "REPORT PREPARED BY."
 - B. Distribution of Arrest Report (75-50):
 1. White—Enter disposition. Forward to Reports, Control and Review.
 2. Canary—District File
 3. Pink—Police Detention Unit
 4. Orange—Assistant District Attorney
- NOTE: Prepare Group Arrest Report (75-50A) for group of arrested persons charged with Gaming, Disorderly Conduct, etc.

XVI. SALES OF INTOXICANTS TO MINORS BY PENNSYLVANIA STATE LIQUOR STORE PERSONNEL

- A. Under no circumstances is an arrest to be made.
- B. Police personnel receiving such a complaint shall prepare a Memorandum (82-S-1) in quadruplicate for the Commanding Officer's signature. This report shall contain:
 1. A complete report of the incident.
 2. Name, age and address of the minor.
 3. Location of the store and name of the clerk who made the sale.
 4. Name of manager in charge of the store at the time of the sale.
- C. Distribution of Memorandum—Four (4) Copies:
 1. Original—Police Commissioner, direct, via Police Mail.
 2. 1st Carbon—Appropriate Deputy Commissioner, direct, via Police Mail.
 3. 2nd Carbon—District or Unit Administrative File.
 4. 3rd Carbon—Divisional Commander

D. Further investigation will be conducted by Pennsylvania State Liquor Control Board Enforcement Officer.

BY COMMAND OF THE POLICE COMMISSIONER

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APPENDIX G

PHILADELPHIA POLICE DEPARTMENT
SUBJECT: Citizen's Complaints Against Police

Directive 127
[Proposed but
not adopted]

I. POLICY

- A. All citizens' complaints against police officers shall be received, investigated and disposed of in accordance with the procedures set forth herein, and complainants will be notified of the action taken by the Police Department.
- B. Copies of this directive and special pre-numbered complaint forms entitled "Citizen's Complaint Report" both published in separate English and Spanish language versions shall be supplied in quantity to all Police Districts and Units and each district/unit shall be accountable for the allocated numbers issued. Additional copies of this directive and of such forms shall be supplied in quantity to the Philadelphia Commission on Human Relations and to the District Attorney's office.
- C. A control log of sequential numbers shall be maintained in each Operations Room.
- D. The Internal Affairs Bureau shall be the central control agency for the Police Department in all cases of citizen's complaints against police.
- E. A Staff Inspector will be available to receive complaints from the nine police divisions on a 24 hour basis.
- F. Either upon specific request, or in the event that a person requests general information concerning the lodging of civilian complaints against police officers, all departmental personnel shall refer such person to the nearest location where copies of the Citizen's Complaint Report may be obtained.

II. PROCEDURE FOR RECORDING AND PROCESSING COMPLAINTS

- A. The Operations Supervisor in the district-unit receiving the complaint shall:
 1. Provide to the complainant a Citizen's Complaint Report and instruct the complainant to fill in the required information on the form and sign it. In no event shall any Departmental personnel attempt to discourage or otherwise influence any person from lodging his complaint.
 2. Record on the Control Log the Report Number, the D.C.

Number, the complainant's name and address, the date and time of the complaint, and the name of Staff Inspector notified.

3. Prepare a 75-48, completing all block headings and Code 2073, "Complaints Against Police".
4. Notify the Staff Inspector on duty and record his name, date and time of notification on the Citizen's Complaint Report.
5. Affix signature and badge number.
6. Distribute the completed Citizen's Complaint Report as follows:
Original—Chief Inspector, Internal Affairs Bureau
1st Copy—Staff Inspector notified
2nd Copy—District/Unit Commanding Officer
3rd Copy—Complainant
7. Distribute 75-48 as follows:
White—Reports control and Review
Yellow—District/Unit Commander
Pink—Staff Inspector notified

- B. The Staff Inspector on duty shall evaluate the complaint and if possible, interview the complainant by phone. If an immediate investigation is indicated, the Staff Inspector shall confer with the pertinent Chief Inspector who will ensure that a proper investigation is initiated.

III. COMPLAINTS RECEIVED IN DISTRICT OTHER THAN THE [DISTRICT] OF OCCURRENCE

- A. Complaints received in a district or unit other than the district or unit of occurrence shall be processed in the following manner:
 1. The Operations Supervisor in the district/unit where complaint is being reported shall:
 - (a) Have the complainant fill out a Citizen's Complaint Report as outlined in Section II of this directive.
 - (b) Obtain a D.C. number from the district of occurrence and insert on Citizen's Complaint Report and on the Control Log.
 - (c) Notify Staff Inspector on duty.
 - (d) Prepare 75-48 and distribute as follows:
Original—Reports Control and Review
Yellow—Pertinent District/Unit Commander
Pink—Staff Inspector notified

INVESTIGATION OF COMPLAINTS

- A. All civilian complaints concerning police misconduct which are filed within six months of the event giving rise to the complaint shall be received, investigated and disposed of in accordance with the procedures set forth herein. Complaints which are received more than six months after the occurrence of the event giving rise to the complaint may be so investigated and disposed of in the discretion of the Chief Inspector, Internal Affairs Bureau.
- B. Upon receipt of the citizen's complaint report, the Chief Inspector, Internal Affairs Bureau, shall immediately assign a mem-

ber of his staff who shall have responsibility for the investigation of the alleged incident. All such investigations shall be initiated by, and insofar as practicable carried out by, the staff of the Internal Affairs Bureau. The staff of the Internal Affairs Bureau shall have direct responsibility for all investigations. No such complaint shall be referred for investigation to the commanding officer of the police officer against whom the complaint is lodged, or to any other officer of the same command.

- C. The Investigation by the Internal Affairs Bureau shall include, but not be limited to, the following: interviews with the complaining witness, the alleged victim of police misconduct (if other than the complaining witness), and all other witnesses to the incident who are indicated on the complaint form; interviews with the police officer against whom the complaint is lodged and all other police officers witnessing or involved in the alleged incident; interviews with all other witnesses to the alleged incident who became known to the investigating officer as a result of his investigation; view and analysis of all physical evidence, if any, associated with the alleged incident; in the event that a criminal complaint has been lodged against any witness or participant in the event, a review and analysis of the investigation file compiled by the Police Department or the District Attorney's office in connection with such criminal complaint; such other investigative steps as may appear appropriate in the experience of the assigned investigator.
- D. The assigned investigator shall attempt to secure written statements from all participants in and witnesses to the alleged incident but, where any witness or participant is unwilling to make a signed written statement, the assigned investigator shall provide his own written summary of the oral statement, if any, provided by such participant or witness. No participant or witness shall be required or coerced into making an oral or written statement against his will. Where a written statement is given and signed by a participant or witness, the assigned investigator shall provide the person making such statement with a copy.
- E. All investigations shall be completed within 45 days from the date of the receipt of the complaint form by the Internal Affairs Bureau, except for extenuating circumstances stated in the file and approved by the Chief Inspector, Internal Affairs Bureau.
- F. 1. When a complainant is unable to identify the police officer against whom a complaint is lodged by name or badge number, the complaint shall be forwarded to the Internal Affairs Bureau and the investigation shall commence in accordance with the procedure set forth above. In addition to the procedures set forth above, however, the assigned investigator shall make every reasonable effort to assist the complainant in making a positive identification of the police officer.
2. Where sufficient facts are adduced by a complainant (e.g.

identifying number of police car, identity of other police officers in the vicinity and participating or witnessing the event, patrol sector, time and date, physical description and the like), the assigned investigator shall provide the complainant with the opportunity to view photographs of the population of the police officers most likely to include the officer against whom the complaint is lodged or, where possible, shall provide the complainant with other opportunity to make a positive identification.

- G. 1. Upon completion of his investigation, the assigned investigator will prepare an Investigation Report (75-49) and distribute as follows:
- Original—Reports Control and Review
 - Yellow—Chief Inspector, Internal Affairs Bureau
 - Pink—Pertinent Detective Division Commander (if investigation reveals a crime has been or may have been committed)
 - Goldenrod—Staff Inspector notified
 - Green—Pertinent District/Unit
 - Blue—Police Department's legal advisor (hold until investigation is completed and submit with copies of all related case material).
2. Together with the yellow copy of the Investigation Report (75-49) the assigned investigator shall forward the entire investigative file (which shall include the Citizen's Complaint Report, or other report of complaint and all investigative notes and statements) to the Chief Inspector, Internal Affairs Bureau.
3. The Chief Inspector, Internal Affairs Bureau, or a Staff Inspector assigned by him, shall promptly review the entire file and shall determine the accuracy of the Investigation Report provided by the assigned investigator. Upon completion of the review (including revision and redistribution of the Investigation Report if necessary or the completion of further investigation which the Chief Inspector may direct), the entire file shall be forwarded to the Police Commissioner together with a recommendation of the Chief Inspector, Internal Affairs Bureau, concerning the appropriate disposition of the complaint.
4. Except for extenuating circumstances stated in the file, the file and the recommendation of the Chief Inspector, Internal Affairs Bureau, shall be forwarded to the Police Commissioner within 50 days of receipt by the Internal Affairs Bureau of the Citizen's Complaint Report.

V. ANONYMOUS COMPLAINTS

- A. In all instances in which an anonymous complaint is received by a member of the Police Department concerning allegations of misconduct, the individual receiving the complaint shall notify the anonymous complainant of the availability of the procedures for lodging a formal complaint.

- B. Should the anonymous complainant persist in his desire to remain anonymous, the individual receiving the complaint shall elicit all facts which the complainant can provide and shall record and process the complaint in the same manner as outlined herein with the exception that the Operations Room Supervisor shall fill out the "Citizen's Complaint Form" and in space provided for complainant's signature indicate "anonymous complainant".
- C. Upon receipt, the Internal Affairs Bureau shall make such investigation of the alleged incident as is possible based upon the facts presented. Where the information permits the identification of the alleged victim of police misconduct or of any witness to the alleged incident, the investigating officer shall contact the alleged victim (or shall contact such other witnesses in an attempt to determine the identity of the alleged victim) and shall inform him of the opportunity to lodge a formal complaint.
- D. In the event that the alleged victim of police misconduct is identified, contacted by the investigating officer and informed of the formal complaint procedures, the failure of the alleged victim to execute a formal complaint shall be grounds for termination of the investigation. Where, however, the alleged victim cannot be identified but investigation of the facts adduced by the anonymous complainant provides supportive evidence for an act of police misconduct by an identified police officer, the investigating officer shall complete the investigation to the extent possible and shall submit his report in the manner herein provided.

VI. DISPOSITION OF FRIVOLOUS COMPLAINTS

- A. Where the facts alleged in the Citizen's Complaint Report, if accepted as true in all respects and interpreted in the light most favorable to the complainant or the alleged victim of police misconduct (if other than the complainant), disclose no improper behavior on the part of the police officer against whom the complaint is lodged, the assigned investigator may refer the complaint to the Chief Inspector, Internal Affairs Bureau, with the recommendation that the investigation be terminated and the file closed. If, upon review of the investigation file, the Chief Inspector concurs in the recommendation of the assigned investigator, the Chief Inspector may terminate the investigation and so advise the Commissioner in writing, at which time the Commissioner shall cause notice to be given to the complainant and to the alleged victim of police misconduct (if other than the complainant) or his attorney or other representative designated in the Citizen's Complaint Report.
- B. In all instances, the assigned investigator shall interview the complainant and the alleged victim of police misconduct (if other than the complainant [sic]) prior to forwarding a recommendation to the Chief Inspector, Internal Affairs Division, that the investigation be terminated as frivolous. In each such instance, the assigned investigator shall forward with his recommendation a

copy of the Citizen's Complaint Report, the written statement(s) of the complainant and the alleged victim of police misconduct (or if no such statement was voluntarily given, the assigned investigator's summary of any oral statement(s) given) or the statement of the investigating officer that the complainant and alleged victim of police misconduct were contacted and given the opportunity to make a statement, but refused to make a statement, whether oral or written.

VII. COMPLAINTS RELATIVE TO CRIMES

- A. If the complaint alleges a crime and subsequent investigation establishes the fact, the provision as outlined in Directive 79 shall be followed.
- B. In the event that the complainant or the alleged victim of police misconduct (if other than the complainant) and/or the police officer(s) charged with misconduct have been arraigned on criminal charges based upon the events upon which the Citizen's Complaint Report is founded, the investigation and disposition of the complaint will proceed in conformity with the procedures set forth herein, except that the complainant or the alleged victim of police misconduct (if other than the complainant) may elect not to give a written or oral statement either to the assigned investigator or before the Police Board of Inquiry, or both, until the final disposition, including appeal, of all such criminal charges. In the event the complainant or alleged victim makes such an election, the investigation will remain open until such criminal charges have reached final disposition, including appeal, and the opportunity given anew to the complainant or alleged victim to make such a statement. The institution of criminal charges against the complainant or the alleged victim of police misconduct (if other than the complainant) shall toll the six-month period of time in which a complaint must be lodged after the occurrence of the event giving rise to the complaint.
- C. No complaint shall be refused or not investigated where the facts indicate that criminal charges based upon the event giving rise to the complaint are pending against the complainant or the alleged victim of police misconduct.

VIII. DISPOSITION OF COMPLAINTS

- A. Upon receipt of the file and the recommendation of the Chief Inspector, Internal Affairs Bureau, the Commissioner of Police or a Deputy Commissioner assigned by him, shall review the entire file and determine the appropriate disposition of the complaint.
- B.
 1. In all cases in which the facts are not in dispute and the Commissioner determines that the accused police officer is guilty of misconduct, the Commissioner shall impose such sanctions upon the offending officer as he shall deem appropriate.
 2. In all cases in which the file discloses that the facts concerning the charge are in dispute and require resolution in order to determine whether the officer is guilty of improper

- conduct, the Commissioner shall certify the complaint to the Police Board of Inquiry ("Board") for a hearing.
3. In all cases in which the facts are not in dispute and the Commissioner determines either that there is no probable cause to believe that the police officer committed the alleged act or that the act complained of did not constitute improper behavior, the Commissioner may certify the file closed and the investigation complete and direct that no further action be taken in regard to the complaint.
- C. 1. The action of the Commissioner in disciplining the offending officer, in certifying the complaint to the Board or in terminating the investigation shall be communicated in writing, by certified mail, to the complainant and to the alleged victim of the police misconduct (if other than the complainant) or to the attorney or other representative of the alleged victim identified in the Citizen's Complaint Report. The action of the Commissioner shall also be so forwarded in writing to the officer against whom the charge was made.
2. Except for extenuating circumstances stated in the file, the determination of the Commissioner and the notice to the parties to the complaint shall be made within 60 days from the receipt of the complaint by the Internal Affairs Bureau.
 3. In those instances in which the Commissioner terminates the investigation without certification to the Board for hearing, the notice to the complainant and to the alleged victim shall include a summary of the investigative findings and the reason for the commissioner's action.

IX. HEARINGS

- A. Upon certification by the Commissioner of a complaint to the Board for hearing, the Board shall schedule a hearing to be held within 20 days from the certification of a complaint. Not less than 10 days written notice of the time and place of the hearing shall be given by certified mail to the complainant and to the alleged victim of police misconduct (if other than the complainant) or to his attorney or other representative designated in the Citizen's Complaint Report, and to the police officer charged with misconduct.
- B. Continuances or other delays in the scheduled hearing date may be granted only by a member of the Board or a duly authorized administrative assistant of the Board, in writing, for cause given by the party requesting such continuance or delay. Where a continuance is granted, the hearing shall be re-scheduled to be held within 10 days from the date of the first scheduled hearing, if possible, and notice shall be given to the parties by certified mail.
- C. Hearings shall be informal and strict rules of evidence will not be applied. The assigned investigator and any officers against whom charges have been placed shall attend. All parties may be represented by counsel or other representative and shall have the right to present evidence and to examine and cross-examine

- witnesses. A stenographic record shall be kept and shall be made available, at cost, to any party to the proceedings requesting same. All hearings shall be open to the public, except that hearings may be closed by the Board where necessary to maintain order.
- D. The Board, after hearing, shall make written findings of ultimate facts and based thereon shall find the police officer(s) against whom the complaint has been lodged either "guilty" or "not guilty" of misconduct. The failure of the alleged victim of police misconduct to appear and to present evidence may, in the discretion of the Board, constitute grounds for termination of the hearing and the entrance of a "not-guilty" finding. Copies of the Board's findings of fact and of the Board's recommendation, if any, to the Commissioner for disciplinary action against a police officer found "guilty" of misconduct shall be forwarded to all parties by certified mail and to the Commissioner of Police.
 - E. The Commissioner may approve or reject the findings and/or recommendations of the Board within 30 days following receipt of their written findings of fact and recommendation, if any. If rejected the Commissioner may modify the disciplinary action recommended by the Board or may reinstitute proceedings before the Board in accordance with existing departmental disciplinary procedures. The determination of the Commissioner to accept, modify or reject the findings and recommendation of the Board shall be transmitted in writing to all parties and to the Board.

X. MAINTENANCE OF RECORDS

- A. Following determination by the Commissioner of the final disposition of the complaint, or the termination of investigation of a complaint as frivolous, the entire investigative file or a true copy of the entire file and a copy of the written findings and recommendation of the Board, if any, shall be maintained at a designated location in the Police Administration Building and shall be made available to the public during normal working hours. All files, records, findings and recommendations shall be maintained permanently, and shall be made available for inspection as aforesaid for not less than two (2) years following the date of final disposition of the complaint by the Commissioner or termination of the investigation of a complaint as frivolous.
- B. At all times following completion of the investigation by the Internal Affairs Bureau, the entire investigative file, the Investigation Report, and all physical evidence, if any, shall be made available upon request for inspection by the complainant, by the alleged victim of police misconduct (if other than the complainant) or the attorney or other designated representative of the alleged victim.
- C. A copy of the final determination of the Commissioner shall be maintained in the personnel file of the officer or officers involved, together with the findings and recommendations of the

Board, if any. In those instances in which a complaint is terminated prior to a hearing, a copy of the complaint and of the determination of the Commissioner shall likewise be maintained in the personnel file of the officer(s) involved. The personnel file of the officer(s) involved shall not be available to the public.

XI. CIVIL SERVICE PROCEDURES

The within procedures shall be in addition to and not in derogation of the procedures existing from time to time for preservation of the rights of police officers pursuant to the Civil Service Code and Regulations of the City of Philadelphia.

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