

Mr. Chairman, we have that information compiled in the form of a chart. I would like to ask if that can be submitted in the record at this point.

CHAIRMAN FLEMMING. Without objection, that will be done.

MR. DORSEY. With respect to the imposition of discipline on the part of the commissioner for police misconduct, is there any specific regulation or policy which would limit the ability to make, take such disciplinary action from the standpoint of civil service regulations?

MR. D'ANGELO. Well, the only regulation that, to my knowledge, involves discipline procedures—this is not only with the police department, but it's with every city department—it's civil service regulation 17, which outlines the procedures to be taken for an employee to appeal a discipline that has been lodged against him by the department. It's civil service regulation 17.

MR. DORSEY. And that applies universally, is that right?

MR. D'ANGELO. I'm sorry.

MR. DORSEY. That applies uniformly?

MR. ALBERT. So the record is clear, that is the regulation that allows somebody to appeal discipline to the civil service commission.

MR. DORSEY. It does not have within it specific guidelines?

MR. ALBERT. No, no. If the discipline is not appealed, or if the discipline is less than a certain amount of days, the civil service commission would never even hear of the existence of that discipline action.

MR. DORSEY. Thank you.

Are you familiar with the approximate number of police appeals by year?

MR. D'ANGELO. I can only speak for the 4 years I was there. I believe I gave the statistics to Mr. Bell and Ms. Hoopes. My recollection is, and I think I took this out of our report, during the course of the year as far as discipline is concerned, I would say that we average in all departments about 100 to 150 appeals.

With regard to the police, I would say they are probably about 25 percent of that. You have the statistics in front of you. I'm not sure if I'm right exactly, but I would say perhaps 25 out of 100 cases that come before us involve policemen who are appealing to us discipline imposed by the department. And that's for every year again from '74 to the present. I can't say before then.

MR. DORSEY. The listing which I have before me, which was a compilation from the data you've submitted, indicates approximately 10 to 11 per year. Would that surprise you or accord with your recollection?

MR. D'ANGELO. If that's what I gave you, that's exactly what the figures are. Again, I said to you I'd be guessing. I don't remember. I don't think we've talked for about 3 months with anybody from your staff regarding the statistics. If you say it's 11 per year, that's right.

MR. DORSEY. Mr. Albert, I address this question to you.

With respect to the discipline taken by the department on police matters, police conduct matters, is there the sense on the part of the department that the civil service procedures of appeal, the civil service review of departmental actions, impose any limitations on the ability of the commissioner to take action?

MR. ALBERT. I don't know if there's that sense. I know that in the few cases I was personally involved in, we either lost them at the civil service level or we lost them on appeal of the common pleas court level. But insofar as the general policy, I don't know what the statistics show.

I know that in many major cases, especially where a policeman has been accused of theft, burglary, robbery, and things of that nature, we invariably seem—the ones that I've seen—invariably seem to lose them before the civil service commission or the common pleas court on constitutional grounds, false arrest, failure to give warnings, that type of thing.

I'd also like to add, too, if I may, that we lost a number of criminal convictions against police officers because of the charter statements that were taken from them, which subsequently the supreme court says we can't do anymore.

MR. DORSEY. So you've lost a number of cases on that?

MR. ALBERT. Number of convictions of police officers that were arrested, we had prosecuted, we have lost those convictions. Actually, the district attorney did the prosecuting. One was *Triplett*, I just happened to recall. Lost it at the commonwealth court level and then later affirmed by the supreme court because the courts have now said that we may not take a statement from a city employée, the fireman, policeman, clerical. Anything else under threat of them being fired, that's unconstitutional. And if any statement is taken by virtue of that, those statements cannot come into evidence. Where the conviction was predicated on that matter, it was reversed. But on an overall policy, I can't answer because I don't handle many of those civil service cases myself.

VICE CHAIRMAN HORN. Could we get cases—I'm sure you have them—probably a memorandum of the cases, in the record at this point?

MR. ALBERT. Oh, certainly. In fact, this is—now. I happen to believe as a constitutionalist—I happen to believe in these opinions. As an administrator, they're murder, and you have to understand that. But now it has reached a level of the Supreme Court of the United States. You may not coerce a statement from an employee no matter what their level, whether they're the lowest level job or the highest level job. A statement that's coerced is unconstitutionally obtained. Now, as I say, as a lawyer I happen to believe that's correct; as an administrator, it hampers us.

MR. DORSEY. You will make those cases available?

MR. ALBERT. If I might, briefly, the *Wallace* case, *Triplett*, *Hoopes* and all the others.

MR. DORSEY. Thank you.

If a spot may be reserved here—

CHAIRMAN FLEMMING. Without objection, they will be included in the record.

MR. DORSEY. That last statement of yours raises the issue that we briefly touched on when Commissioner O'Neill was testifying, and that was with respect to the availability of that kind of information to the district attorney's office.

My understanding of where we left it was that the commissioner's perspective was that based on your legal opinion, which legal opinion he was bound by as a matter of law, those statements could not be given to the district attorney?

MR. ALBERT. Or to any prosecuting agency.

MR. DORSEY. Or to any prosecuting agency.

MR. ALBERT. Please don't limit it to the district attorney, to any prosecuting agency.

MR. DORSEY. Could not be given to them?

MR. ALBERT. Could not. We are also the counsel for the police. The job of the city solicitor, let me be very candid, in many areas is not an amiable one, because I am not only the counsel for the executive branch of government, I'm also the counsel for the legislative branch of government. And by the charter, I am the individual counsel for every city employee with regard to his city business.

When I, as a lawyer, know that this statement has been literally illegally obtained, we cannot allow that to be turned over to an agency which may or probably would use that statement to prosecute somebody. They can have everything else, all the other evidence in the investigation and so forth, but not a statement which essentially is self-incriminatory or may be self-incriminatory and was essentially illegally obtained.

MR. NUNEZ. May I ask just one question here, just to be clear on this? The only statement that you withhold from the DA is the personal statement of the police officer, that's all in the file?

MR. ALBERT. Or anyone who may be or probably or likely will be the subject of incriminatory proceedings.

MR. NUNEZ. You're talking about personal statements?

MR. ALBERT. The statement that's elicited from them.

MR. NUNEZ. Ancillary statements from other witnesses—

MR. ALBERT. My understanding is that that is the sole vein of contention. When you narrow the personalities down and put all the romance aside, essentially, that's the problem. I'm not suggesting that in certain cases somebody may have gotten their back up one side or the other, but this is the real basic problem.

CHAIRMAN FLEMMING. To follow that up just a little further, am I correct in my understanding that testimony; that I think we received last night, that because of the court decisions there are situations now where police officers refuse to make a statement?

MR. ALBERT. Oh, yes, sir.

CHAIRMAN FLEMMING. And that you recognize that they have a right to refuse to make a statement?

MR. ALBERT. That's the law, now. And let me tell you where it has gotten to in New York. In New York, officers have refused to testify as prosecution witnesses in certain cases because they were pretty well convinced that their testimony would be later used against them, even though they were actually testifying as prosecuting witnesses. But that's going to be the next constitutional case in this area. But the law is just crystal clear now in the circuit courts and supreme courts in the United States.

MR. DORSEY. One of the issues that I was trying to isolate, if I can, is that generally speaking in a situation in which evidence has a question of validity or invalidity based on constitutional standards that determination is ultimately resolved by some judicial body.

MR. ALBERT. Except that I'm the lawyer for the officers and I have an obligation to them which I'm not entitled to waive. I don't have the authority to waive that obligation.

MR. DORSEY. So if I'm understanding you correctly, your inability to provide that statement is more as your representation of the individual officer than it is the department?

MR. ALBERT. No. I am saying that I have a—we're not talking about representation; we're talking about obligation. I have an obligation to the city employee to see that his constitutional rights are protected. That is a general obligation by virtue of my office. I have an obligation to the police department to see that they, in fact, do not volitionally turn over "illicit" evidence because I don't want them to be sued civilly later on. You don't realize what a vicious circle this has become.

You have no concept of the lawsuits that have grown out of all this stuff. If you don't turn it over, you're criticized; if you turn it over, you're sued. If you don't turn it over, you're violating your obligation to this department; if you turn it over, you violate your obligation to this individual.

MR. DORSEY. That's exactly the structure that I thought was true, and you have established it for me.

VICE CHAIRMAN HORN. Let me ask counsel, since you've described this relationship where you must represent the executive, the city council, plus the individual employees of the city—

MR. ALBERT. And all city wards commissioners.

VICE CHAIRMAN HORN. And all city wards commissioners. I understand that. Do you feel that as a lawyer in terms of the canons of the American bar that you do have a conflict of interest?

MR. ALBERT. No, I don't feel that I have a conflict but I think others might feel it.

VICE CHAIRMAN HORN. Let's face it. Anytime you've got to represent both management in an organization and also the employees in the organization whose conduct or behavior or interest might be op-

posed to those of management, haven't you really got a conflict of interest?

MR. ALBERT. No. Somebody else might; I don't feel that I do. But I go further in my job. I also represent the legislative branch as well as the executive branch.

VICE CHAIRMAN HORN. Has there ever been a clash between the two?

MR. ALBERT. Let me tell you.

VICE CHAIRMAN HORN. I mean, has special counsel been retained by—

MR. ALBERT. On two occasions, I have suggested to city council that they retain special counsel. On one occasion, I suggested to the mayor—in fact, I'm also the counsel for the board of elections and in a case where an elective issue involved the mayor, I asked the mayor to get special counsel because my representation at the board of elections was really different than his individual representations as a candidate.

MR. DORSEY. In addition, as I understand it, the charter gives you a law enforcement responsibility on top of everything else. Is that correct?

MR. ALBERT. That's true, too. Everything short of prosecution—interesting job.

MR. DORSEY. So in a sense, in the same identical situation, you might have a responsibility to the department, to an individual officer, and as a law enforcement agent of this jurisdiction.

MR. ALBERT. Correct.

MR. DORSEY. And as I understand it, despite the fact that the department could conceivably be engaged in an unlawful act, and the officer could conceivably be engaged in an unlawful on-duty act—acting under color of law—and conceivably you had information with regard to both of those, you would at the same time be expected to fulfill your legal obligation to all three; is that correct?

MR. ALBERT. Certainly. If our investigations, for example, indicated an officer did something wrong, then he did something wrong. If our investigation indicates that he didn't, then he didn't.

That has nothing to do with whether or not you turn over an incriminatory statement or an illegally—it doesn't have to be incriminatory, it's *ab initio*, just illegally obtained.

MR. DORSEY. Have you ever had occasion where your responsibility as a law enforcement agent conflicted with your responsibility to provide legal counsel—

MR. ALBERT. The minute an arrest is made—to solve your problem—the minute an arrest is made or an indictment returns; my department automatically, by my policy, pulls out of the matter. Independent counsel from then on for the individuals involved.

MR. DORSEY. The individual? What about the department?

MR. ALBERT. Well, the department—we automatically represent the mayor and the police commissioner. You have to understand when you go into civil cases, it is now standard to name everybody in the city as a defendant—officer, then the mayor, the police commissioner, the managing director, the personnel director, so forth and so on. Technically, we represent everybody, but actually, when you get right down to the civil cases against Officer A or Officer B, did he do something wrong or didn't he do something wrong? Criminally, there are no criminal actions against the department. If an officer is charged, or even a high ranking officer is charged, the moment he's charged, the moment he's indicted, the moment there's an arrest, my department steps away, because now you have an impossible conflict.

VICE CHAIRMAN HORN. Along that line, if an officer of the police department is acting beyond his scope of authority, you do not have to represent him?

MR. ALBERT. That's right. And there are many cases, and I haven't seen the charts that we submitted a little while ago, but I think there were a great number of asterisks, where we indicated even though we're the defendants we're not representing the officers.

MR. DORSEY. As you know, one of the issues of contention which exists in this whole area with respect to the Philadelphia Police Department and with respect to your office, the question of—a highly emotional question, I might add—of the amount of judgments and settlements by the department for conduct of its officers—

MR. ALBERT. I don't think it is really much of a question and I don't think that it's fair to say for the conduct of its officers, it's because lawsuits have been brought.

MR. DORSEY. I'm sorry. I didn't understand.

MR. ALBERT. I said it's not fair to say, "for the conduct of its officers," it's because lawsuits have been brought. One doesn't necessarily have anything to do with the other.

MR. DORSEY. The lawsuit does not necessarily involve the conduct of a police officer. Is that—

MR. ALBERT. Now, you know very well what I'm saying. What I'm saying is, you say that we make settlements or payouts because of conduct of our officers. Many times a settlement is made that has nothing to do with the conduct of the officer. It's an economic matter; it's a practical matter, so forth and so on.

MR. DORSEY. That is to say, what has been alluded to yesterday, and that is, the jury often returns settlements in a case which ostensibly is based on police conduct, but in actuality is based on other factors—

MR. ALBERT. If you mean returning verdicts, yes. A verdict is a fact of life as a trial attorney, and I was a plaintiff's attorney for 11 years before I became a defense attorney, in a sense. There are many factors that result in a jury verdict, or a possibility of a jury verdict. Just when you get right to the bottom line, in an economic situation, it really is not indicative of what an officer did or didn't do. On the other hand,

you can have—let me give you an example. An officer gets angry at a citizen, which he shouldn't do, and he slams the car door at a citizen, which he shouldn't do. On the face of a little thing, it's certainly not a gross or even a violation of any sort, just something that shouldn't have been done. But because of the location of the elbow and because of the location of the door and because of the physical mechanics involved, it turns into a very, very serious injury and you have a large settlement. That is not an indication of abuse.

On the other hand, we've tried many cases where juries have come back with a dollar, notwithstanding the allegations of the most horrendous things: people shot in the backs, so forth and so on. So as an attorney, one who is skilled in this field, there is just no relationship between a jury verdict and no relationship between a settlement and what may or may not actually have occurred. They boil down to economic situations.

Now, I don't know what you mean by bone of contention over the dollars. We were able to give you gross figures for 1 year, and I think accurate figures for 2 other years. We have what I consider the accurate figures for all the years and, frankly, for a city of essentially 3 million people residing here on any given day, a police force of 8,200, and 3 million police contacts a day, and considering that we have officers who may be negligent and thereby technically violate somebody's civil rights, not deliberately but negligently make a mistake for which the city is liable, the figures don't strike me as being that bad, neither do the record of the cases that we tried. I can go over them for you, if you'd like.

MR. DORSEY. Would you? Better yet, if you could submit them for the record, I'd appreciate it. But in light of earlier testimony which I know that you've heard before—

MR. ALBERT. You mean of millions and millions of dollars, that testimony?

MR. DORSEY. Yes.

MR. ALBERT. Yes, I heard that.

MR. DORSEY. It would be helpful to us, if in conjunction with the material you've already submitted to us—

MR. ALBERT. Yes, we've refined it since then. But let me just spend a minute, in light of the fact that you've alluded again to this millions and millions of dollars. There's a downward trend here: '76-'77, \$271,457; '77-'78, \$165,523; '78-'79, \$155,370. So, there's a downward trend there.

In the cases that we've tried, we've been successful in 77 percent. And we've tried 78 cases, at least as our records indicate.

VICE CHAIRMAN HORN. Over what time period?

MR. ALBERT. This would be '77, '78, and '79. This would go back to January '77; 78 cases which called for trial, 65 were actually tried. Of the 65 that were tried, 50 were verdicts for the city. Of the 15 that were lost, 2 have been appealed. At least 13—the total verdicts in

those 13 cases was \$63,404.40. Now 10 of the 13—the total verdicts for 10 of those 13 cases was only \$8,404.50. So 10 of the 13 that we paid, the average verdict was only \$840.40. Now, the two that were appeals, so you don't think I'm really fudging these things, they total \$73,500. I have no idea what's going to happen with appeal but even including them, the average total verdict was only \$7,600.

Now, we settled 13 cases at trial. Just to give you an example. The total settlements for those 13 here \$94,250. But 10 of the 13 settlements—the total was \$17,250. So for 10 of the 13, which is about 77 percent, the average settlement was \$1,725. And even with the two big ones, the average settlement was \$7,250.

Frankly, in a city this size that's the cost of doing business.

VICE CHAIRMAN HORN. Let me ask you, counsel, on the cases where you did settle, did the line command agree with the decision?

MR. ALBERT. I don't ask them.

VICE CHAIRMAN HORN. You don't ask them?

MR. ALBERT. I do not ask them. That's my responsibility.

VICE CHAIRMAN HORN. Okay. In my organization, the general counsel frequently wants to settle because the argument is that it costs more in the long run—

MR. ALBERT. When you do this for this many years, it becomes a fact.

VICE CHAIRMAN HORN. Yes, but my argument is, don't settle on most cases, let them take it to court because—

MR. ALBERT. Let me tell you something. The police commissioner tells me generally we shouldn't settle these cases; the mayor tells me generally that we shouldn't settle these cases; but this happens to be my particular responsibility, this is what I get paid for.

We try the bad ones. When I say the bad ones, I mean the ones that the allegations are just palpably false or where the damages are so great that we can't even sit down with the plaintiff and work something out.

The irony is that we win 76 percent of the cases that we try. But no city can try 100 percent of its cases. It's impossible.

MR. DORSEY. Let me clarify something with respect to the figures. Are the figures that you related to, roughly \$271,000, \$165,000, \$155,000, are these figures paid out by year?

MR. ALBERT. They are the total payouts with this caveat: They are the cases where, in fact, you're talking about police misconduct, police so forth and so on. They do not involve the case where a policeman and a fireman get in an altercation over where a fire truck is going to be parked, and somebody gets hurt very, very badly.

They do not include, for example, two cases where, in fact, officers—I don't want to really get into detail—but where officers were negligent, where somebody fell on his weapon, just something that should not occur; or where you have your classic innocent bystander case, where an officer just does, in fact, shoot the wrong person; but

crystal clear, by accident. Those cases are not included in those figures.

If you took—nor are cases before '76, because we did not have this kind of unit before '76. These were treated—we had like maybe 100 cases open:

In '74 we had about—'73—'72—we had about 100 cases involving the police department. We now have 622.

MR. DORSEY. These figures would be different, would they not, from entry of judgment figures?

MR. ALBERT. If you mean the entry of judgment might include counsel fee, entry of judgment might include—I really can't answer your question. I just don't know what you mean by entry of judgment.

MR. DORSEY. Entry of judgment is not necessarily when payout is requested or made; is that correct?

MR. ALBERT. Oh, yes; that's correct.

MR. DORSEY. So there may be some number of—

MR. ALBERT. It will always be picking up in the next year, the back fiscal year, but at the same time it still works because you're not paying out in that year, you'll be paying out in the next year. So it still stays essentially the same. But you can't jibe those figures, if that's what you're talking about.

MR. DORSEY. For example, if people were monitoring the amount of payout based on entry of judgment, they might in fact come up with a different figure than yours for a given period of time.

MR. ALBERT. Oh, certainly, certainly. Also, if they don't know what they're looking for, if they were just looking for cases where the police department was a defendant, our biggest police case was the hiring case. New exam that was all charged to the file—the new exam and everything else was charged to the file. That's a quarter of a million dollars right there. If you did not know it's a case against the police department—

MR. DORSEY. There is only one followup question, Mr. Chairman.

You provided us with a listing of names of cases with regard to our subpoena.

MR. ALBERT. I don't recall what I gave you, but I recall turning in those documents.

MR. DORSEY. Unfortunately, you gave the name, the case name in most cases, but not the case file number so that it was difficult to take that—

MR. ALBERT. No, I haven't looked at that.

MR. DORSEY. What I'd like to do is provide you with a list of those which we could not trace back so that you might provide us with the case number.

MR. ALBERT. Certainly.

MR. DORSEY. And with the permission of the Chairman, I'd like that inserted in the record when we receive it.

CHAIRMAN FLEMMING. Without objection, that will be done.
Commissioner Saltzman?

COMMISSIONER SALTZMAN. I'm sure you understand that we're trying to come up with some kind of recommendation that would provide police departments around the country with a model in reassuring and establishing the fact that the police department is sensitive to the problems of police misconduct, the concerns of minority communities around the country. I wonder whether—

MR. ALBERT. But I must say, no, sir. I don't agree that that's what you're trying to do, just so the record is clear.

COMMISSIONER SALTZMAN. What do you think we're trying to do?

MR. ALBERT. Well, I don't know, frankly, except that—

CHAIRMAN FLEMMING. Let the Commissioner continue his question.

MR. ALBERT. I thought you said, what do I think—

COMMISSIONER SALTZMAN. I'm sorry. I was responding to your interruption. But I would like if you have any recommendations to make to us in terms of our own recommendations to Congress and the President—what kind of processes in the handling of police misconduct cases and instances would help to alleviate some of the tension in the various communities around the country.

MR. ALBERT. The process is not going to help alleviate whatever tensions exist. The process is not going to alleviate that. The majority of the people who complain, and I'm sure not only in this city but in other cities, are going to complain regardless of what the process is. There is no—the process we have—and regardless of what you've heard from others, and I think our record shows it, considering the size of this city and everything else, we've got a process.

When, in fact, it looked like the public wanted something more and we had these council hearings, the commissioner said, "Fine, I'll adopt one of those," or in essence, "Adopt one of those ordinances and we'll make that the procedures." That is not going to satisfy anybody.

If somebody feels aggrieved by a policeman, he's going to feel aggrieved by a policeman. What we've done with all this, what we've done with these hearings, what we've done with all this publicity has made it impossible to arrest somebody without getting an allegation of police brutality.

What we've done by hearings and by all this publicity is put every officer's life on the line, because, in fact, people now think that they can back off a police officer with impunity, because all they have to say is, "The guy insulted me," or "The guy beat me," or "The guy attacked me." We have created a whole group of citizens, not only in this city but in all cities, who now take on the police department. We've taken whatever respect the police department has had in this city and other cities and taken it away from them for the simple expedient of having the commissioner say, "Now, sister Falakah Fattah said this. How do you answer that?" and, "So and so said this. How do you answer that?" and that's not right.

It reminds me of what occurred in the fifties. I have here in my hand 86 allegations. The simple fact of the matter is that when we're wrong,

we lose, and when we're right, we win. And that's the best system. The court is still the best system, not the newspaper, not public hearings, because you're not going to solve this problem, if it exists, the way we're going about it.

Is there any question that we have an officer who breaks the law? Certainly, no question about it; happens everywhere. You never read when we arrest an officer and turn him over for prosecution. You never read that, you never hear about that 7, 8, 9, 10, 11, 12 a year—every year automatically. You never read about the 40 or 50 or 60 that are suspended, never. You never read when we win a case in the newspapers. It is not the problem that you perceive and it's not the problem that your questions perceive and it's certainly not the problem that whatever that staff report that came out before these hearings, which I thought was a nice touch, perceive.

So, no, sir. I really do question the bona fides of these proceedings, and I've got to be honest with you. That doesn't mean I don't respect you for what you're trying to do, but I do question that.

COMMISSIONER SALTZMAN. So you have no recommendations?

MR. ALBERT. Not to this Commission, no, sir.

CHAIRMAN FLEMMING. Commissioner Horn?

VICE CHAIRMAN HORN. I am simply surprised that you think the process will not alleviate complaints. I would agree that some people in any area of the country always complain about—

MR. ALBERT. And they are the ones you're going to read about. You do not read about the 80 or 90 people who make a complaint and it's handled or it's, you know—even if it's not handled to their satisfaction, they know that it's handled. They may not be happy about it. But you will always read about the people who have a media bend, who have a way of getting on the radio—

VICE CHAIRMAN HORN. I understand your concern, but all I would say is, if your philosophy was carried out consistently, the original States of the Union would have never adopted the Bill of Rights.

MR. ALBERT. That's not true, Commissioner, Commissioner—

VICE CHAIRMAN HORN. You know, process—

MR. ALBERT. No, no. You're talking about—maybe you're talking about a different process than I'm talking about.

VICE CHAIRMAN HORN. I'm talking about due process.

MR. ALBERT. Oh, you didn't say that. I thought you were talking about things like directive 127. That's what I'm talking about. Due process must always be afforded every citizen in this country, whoever they are. There's no question about that.

VICE CHAIRMAN HORN. Now, let me ask you. We've had testimony here that the medical examiner, when asked to go into a conference with representatives of the district attorney before he filed the certificates on the type of homicide involved or the type of death involved, when it involved a policeman, I guess, only held that conference once, and they've never been held again. I realize that the

medical examiner does not report to you, but did you give the medical examiner any advice as to whether or not he should continue to hold those conferences?

MR. ALBERT. Not me personally. That does not mean that he did not—

VICE CHAIRMAN HORN. You or your office?

MR. ALBERT. Well, I can't answer.

VICE CHAIRMAN HORN. You're not aware—

MR. ALBERT. I'm not aware of the medical examiner contacting the assistant who might or might not be handling the advice of the department, but I'm sure that no one in the law department told the medical examiner that he should not. There might be a question that may have been asked, just hypothesizing. Does he have to? That's something else again. But I'm not personally aware of that. I wasn't aware of it until I read it in your little green book.

VICE CHAIRMAN HORN. Since you've been here this morning, I believe, as a matter of due process, that I should repeat the allegations that have been made and give people, in particular officers, an opportunity to respond.

MR. ALBERT. The problem with that is that the allegations are so broad that what occurs is that the headline is the allegation. What occurs, what everybody hears is the accusation. Nobody is interested in the answer. I think it's a disservice, frankly.

VICE CHAIRMAN HORN. Well, may I say that as a university administrator I've had many a headline work adversely to me. So I understand the emotionalism and sensitivity with which you're approaching the subject, and I can empathize—

MR. ALBERT. Sensitivity, not emotionalism.

VICE CHAIRMAN HORN. But let me raise the testimony of John Penrose, first assistant U.S. attorney. He noted that, I believe, that individual who had burned various police files was now being retained by the city solicitor's office.

MR. ALBERT. Burned various police files?

VICE CHAIRMAN HORN. I think that was the allegation. City solicitor staff member who had burned various police abuse records was now retained to defend—

MR. ALBERT. Well, I don't know anything about burning any records, and I dare say, without knowing about it, it never happened. I'm surprised that Mr. Penrose would even use that kind of word.

The simple fact of the matter is that I very assiduously, after he was discharged by the district attorney, recruited a very able young lawyer and he now works for me and he works for the police brutality unit. And I wonder if Mr. Penrose would be so concerned if this young lawyer was not—happened to be winning his cases.

VICE CHAIRMAN HORN. His testimony, now that I've found it, said that he felt that—in a case where the assistant district attorney who was removed because he burned police abuse records is now on the staff of the city solicitor.

MR. ALBERT. Now let me tell you one thing—now, that statement just there is not true.

VICE CHAIRMAN HORN. Okay.

MR. ALBERT. That is not why that young man left the district attorney's office.

VICE CHAIRMAN HORN. That's why we want your answer in the record because—

MR. ALBERT. That's just not true. But is he now working for me? Yes, sir, and is he winning his cases? Yes, sir.

VICE CHAIRMAN HORN. Now, you are appointed by the mayor, and I believe confirmed by the city council; is that correct?

MR. ALBERT. Yes, sir. After public hearings.

VICE CHAIRMAN HORN. After public hearings. You serve at the pleasure of the mayor?

MR. ALBERT. Certainly.

VICE CHAIRMAN HORN. Has the mayor ever called you or a member of your staff to advise as to what sort of sanction should be imposed and what sort of policy should be pursued by you in a police abuse case?

MR. ALBERT. The mayor?

VICE CHAIRMAN HORN. The mayor or a member of the staff.

MR. ALBERT. No, sir.

VICE CHAIRMAN HORN. Very good. That's all I have.

COMMISSIONER SALTZMAN. I'd just like to make a brief comment, Mr. Albert. I think this Commission has sought to be quite fair and objective in the conduct of this hearing. I think that in a free democratic society—and I'm not meaning to lecture to a person who is probably far more competent than I and well versed on the Constitution of the United States—but in a free society, there's necessarily going to be tensions between various and diverse elements, the press and other vehicles. I think the openness in which society operates, the openness, indeed, of the police department to scrutiny by a body such as ours, which seeks to have some oversight and be a court of last appeal, the court of conscience to some extent for the citizens of the Nation, it has a salutary effect in the end, not detrimental, and I hope that—

MR. ALBERT. If your premises were correct, then I'd agree with you. I do not believe that we have opened a free reporting of the city of Philadelphia. I think that most of the journalism when it comes to the police department has been corrupt and dishonest journalism. I've said so publicly, and I've addressed them publicly.

With regard to this Commission, I would have had a far different attitude had I not read in the newspapers for the past months that the conclusions had already been reached; that, in fact, there was police misconduct in the city of Philadelphia and, "We're going to get to the bottom of it," to quote one of your spokespeople. That, in fact, had your report not been published before these hearings even took place—so that's where I'm coming from. As long as you understand

that, I've got to emphasize that. It doesn't mean I don't respect what you're trying to do, but I think you're wrong the way you're going about it, and I disagree with you, sir.

CHAIRMAN FLEMMING. Mr. Nunez?

MR. NUNEZ. No questions.

CHAIRMAN FLEMMING. I think most of the questions that I was going to ask have been asked. I would like to ask this one question. We are a body that after we conclude this hearing, after we conclude the hearing in Houston, we will be drafting a report which will be the Commission report, which will contain findings and recommendations to the President and to Congress.

Growing out of your experience as a city official and out of the contacts that you've had with the Federal Government, are there any recommendations that you would like to make to us relative to recommendations that we should make regarding the Federal role in this whole area of civil rights within the administration of justice?

MR. ALBERT. I best submit to you in writing because there's not going to be enough time the rest of the day or tomorrow to get it all in.

CHAIRMAN FLEMMING. I would appreciate it.

MR. ALBERT. This is with regard to the role of the Federal Government, yes, sir, I'm well prepared to make those recommendations and suggestions.

CHAIRMAN FLEMMING. This would be very helpful to us and we'd appreciate very much if you would send it to us, and then we'll make it a part of the record at this point, without objection.

I'd like to thank both of you very much for being with us.

The hearing is in recess until 12:30.

Afternoon Session, April 17, 1979

CHAIRMAN FLEMMING. I'll ask the hearing to come to order. I recognize Mayor Rizzo, and I'll ask you to stand please and raise your right hand.

[Frank Rizzo was sworn.]

TESTIMONY OF FRANK RIZZO, MAYOR, CITY OF PHILADELPHIA

MR. DORSEY. Mayor Rizzo, I will ask for the sake of the record if you will please state your full name and your position.

MR. RIZZO. Frank Rizzo, mayor, city of Philadelphia.

MR. DORSEY. Thank you.

How long have you been the mayor of Philadelphia, sir?

MR. RIZZO. About 7 years and 3 months.

MR. DORSEY. Could you briefly describe for the record the relationship and the legal responsibility which you have with respect to the police department of Philadelphia?

MR. RIZZO. As the mayor I am responsible for all of the people in this government, including the police commissioner.

MR. DORSEY. Could you describe if you would, sir, the ongoing relationship which you exercise with respect to police administration in the city?

MR. RIZZO. I'm very, very fortunate that we have in the position of police commissioner one of the finest police commissioners in this country, and he requires very little supervision. And I know of no occasion where I've had to give Commissioner O'Neill direction.

MR. DORSEY. The issue that has been raised on a number of occasions before the Commissioners in the last day and a half has varied with respect to the presence or absence of a problem, if you will, if I may characterize it as such, of police misconduct in the city of Philadelphia. I wonder if you might give us your reflections on whether or not you see a pattern, practice, or problem with police misconduct?

MR. RIZZO. Absolutely not. And I am familiar with most big cities of this country, what their problems are, and what the problems are of living in large urban areas.

And if you are talking about a pattern of—police abuse absolutely does not exist in Philadelphia; it was media generated. I remember for weeks in this city the headlines in the *Philadelphia Inquirer* showed police brutality every weekend, and in not one instance—only one instance were any policemen convicted in a court of law. And I sincerely believe that in the great country that we live that every human being, including policemen, has his just day in court, not convicted in the press. And this is what your board represents, I understand, justice.

MR. DORSEY. Do you believe that the perception that has, as you've indicated, been generated—

MR. RIZZO. To sell newspapers, absolutely.

MR. DORSEY. Has that had an effect, in your view, on the community perception of police conduct—

MR. RIZZO. Well—

MR. DORSEY. —and has that influenced the department's ability to provide services?

MR. RIZZO. I believe that the Philadelphia Police Department has the greatest support of any police department in this country. Now, you're talking about the people, the antipolice people. In every board, in every hearing, at every tribunal, it's the same people who step forward. I can give you their names even before you subpoena them. The same people who have a positive antipolice approach. So there's nothing we can do about that—a democracy, they have their right.

For instance, today in the press, read the headlines and listen to the radio. Every person that's being quoted were people who took an antipolice position. Fortunately, in the press, the written press, they

showed what some of the people who believed that we have a great police department said. But read the headline. Who makes that decision on that headline?

And in my position, in my opinion, knowing a little bit about the operations of the press, with few exceptions in this city, most of the people that cover their positions are against police because of their personal philosophies, and there's nothing we can do about that. The bleeding hearts have control of the press.

MR. DORSEY. Mr. Chairman, I would ask at this time, just to ensure that we do have the ability to carry forth this proceeding quietly, that the audience be instructed that there will be no disruptions to the proceedings.

CHAIRMAN FLEMMING. First of all, may I ask that the doors be closed so that the noise from the corridor does not come in here. Then for the benefit of the members of the audience, may I reread a statement that was read by the Vice Chairman of the Commission at the beginning of this hearing where he covered the rules and procedures relating to a hearing of the U.S. Commission on Civil Rights.

With respect to the conduct of persons in the hearing room, the Commission wants to make clear that all orders by the presiding officer must be obeyed. Failure by any person to obey an order by the presiding officer will result in the exclusion of the individual from this hearing room and criminal prosecution by the U.S. attorney when required.

The Federal marshals stationed in and around this hearing room have been thoroughly instructed by the Commission on hearing procedures, and their orders also are to be obeyed.

Counsel may proceed.

MR. DORSEY. Excuse me. Sorry for the interruption.

We had testimony yesterday—I'm not sure whether or not you're aware of it—from business leadership in this community which has indicated to us its view of the circumstances. And one of the issues that was related to us, which I would ask for your comment on, had to do with something which, as I recollect, went sort of as follows: that there is a condition of considerable favorable crime control; that there is aggressive and effective law enforcement in this community; and that there may be a price to be paid for that in the form of the presence of some amount of police abuse and police misconduct; and that the leadership of the business community, at any rate, is satisfied that the trade-off between those two is such that they would accept, if you will, the degree of misconduct which occurs as a result of effective and aggressive law enforcement. I just wonder—

MR. RIZZO. Absolutely not. The business community don't run this police department. It would never be tolerated, police abuse, by this police commissioner.

MR. DORSEY. Have you had occasion during your tenure as mayor to consult with religious and civic organizations with respect to the issue that has arisen on police misconduct, and if so—

MR. RIZZO. Met with them many times over the years, and I see no problem in this city with police misconduct. Like any profession, like yours, counselor, misconduct by lawyers? Absolutely. A small percentage like in any organization; college professors, architects, you name them. Police departments are not utopia.

But I can assure you of one thing, that if policemen are guilty of misconduct, by that police commissioner, Joseph Francis O'Neill, they are punished.

Just let me further illustrate to you that the big cities of this country—and I see the movement that's in foot by a group of people who are screaming police brutality like they use the expression, "Give me back the land," which frightens me; you've got to work to get the land—and I know that their targets are police departments.

But I could tell you this. I don't know what city you're from. With your permission, if you'd tell me, I'd tell you a little about your city and crime; any of you. And I will tell you that while I'm the police commissioner—while I'm the mayor—

[Laughter.]

MR. RIZZO. While I'm the mayor—

[Applause.]

MR. RIZZO. Sometimes I wish that I was still the police commissioner because, with no disrespect to my colleague, I think that I was a better police commissioner then, okay? So—and that's the only guy he'll accept that from, I'm sure.

But you tell me your city and I'll tell you your problems. And I would not want to live in this city the day that some of the groups who oppose police could ever have political control of police, because in my opinion they do not represent the majority. If you look at the decay in our big cities, and some smaller cities, you know the reason for the flight of people from the big cities, the urban decay. Crime was the main issue—crime. And they ran—fortunately in Philadelphia because of the great police department that we have here we have reversed it, and people are moving back to our city.

And just let me say this to you, and I'll permit you to go on with your questioning. While I'm the mayor of Philadelphia, nobody, but nobody, will take advantage of policemen doing their job. And I hope, again—because that's the day I'll move—that any group, that some of the groups that have testified before your honorable body ever get political control of this police department, it frightens me to no end.

The day that policemen are put through the wringer like they have been in the past several years, maybe more than that, I will tell you this—and I am a professional in the area of police operations, and I'll take a back seat to no one—the day that the Philadelphia policeman or any policeman is concerned with his security because anarchists or

militants, call them whatever you want, can have them punished for doing their job—make mistakes of judgment. Don't have the advantages that you have, counselor, when you have a legal problem, to refer to your assistants, law clerks, or go through the law books. They have to make decisions of judgment.

And if they're out there in the early hours of the morning, or any day now—there's no time that people are safe in our big cities, or in a lot of other communities. We have a lawless element that has taken over the cities in some communities, but not Philadelphia, and they'll never take it over while I'm here. Where the law abiding are barricaded in their homes, afraid to leave in every neighborhood, afraid to walk the streets, afraid to leave their homes unoccupied, concerned with their families when they leave their homes. And this wasn't the way it used to be.

I remember when I was a young policeman, we'd ride for a week without getting a radio call, a week. Had one radio band. Now, we have 18—how many we have, Joseph? Sixteen radio bands. I remember when the city of Philadelphia was patrolled by 4,000 men. Now we have 8,300. I remember when we had, like, 100 police cars, now we have over 1,000. I remember when people could leave their doors unlocked and walk the streets in safety. And this is what caused the decay in the big cities, but nobody's got the courage to put it where it belongs, on the criminal element.

Rights of criminals? Every criminal deserves his rights, but in my humble opinion—and this is still a democracy—I believe that the criminals got the edge on us today because of the media, because of people who are against the establishment, not only police.

So I rue the day that a Philadelphia policeman—you know, nobody can make them hear a cry at night for help. Nobody can make them drive at high rates of speed to your home when you need help. Nobody can make them do anything. And the day that they believe that they're going to be taken apart for doing their job—and it's a tough one today, a lot tougher than when I was a young policeman—the day that that happens and they refuse to drive at high rates of speed or hear that cry at night, when they believe that they're being treated unjustly, that's the day we are in trouble in this city and in this country. And I just hope that it never happens.

If there's any misconduct on the part of the police, in this great country the courts are available. And I never heard of so many organizations that are available to take on police. They get their day in court like anyone else. I know some of them act sometimes improperly, but again, I repeat, show me a profession that don't.

I hear some of them talk about inservice training, our men are trained and trained well. Take your profession, counselor, respectfully, have you been back to any inservice training since you left law school?

MR. DORSEY. I'll be glad to answer.

MR. RIZZO. Answer it, counselor.

MR. DORSEY. In many jurisdictions, including the ones in which I am a member of the bar, inservice training, if you will, is required of a member to continue your legal license. But that's only an aside.

MR. RIZZO. Counselor, it don't happen, I know different.

MR. DORSEY. Well, I've been back. I won't speak for any member of my bar except for myself, okay?

MR. RIZZO. That goes with every profession, counselor. Police get more inservice training; I just hope the other professions would get the same type of training.

MR. DORSEY. I agree. To follow up on some of the issues which you very clearly stated. There has been a suggestion, if you will, in some of the prior testimony that many—and I believe the figure given, if my recollection serves me, is above 80 percent of the persons which purportedly have been subject to misconduct by police had no prior convictions. So that essentially, at least the allegation goes, that we are not talking about repeated criminals or persons with at least the identification of criminality. I was just curious as to whether or not, should that sort of statistic be borne out by continued research, whether that might reflect on your feeling about the existence or validity of the allegations.

MR. RIZZO. Absolutely not, counselor. Whether they're criminals or criminal repeaters or first offenders, that has no basis in law enforcement. Even criminals have rights, and as long as the courts in this great country are available, that's where it's decided; not by a policeman.

MR. DORSEY. You also mentioned that policemen doing their job—I believe that Commissioner Horn has on innumerable occasions reiterated his belief and mine also that that is perhaps the toughest job in our society, especially today, that doing their jobs should not be abused or subject to additional scrutiny or even held to a higher standard than anyone else with a difficult job doing that job. But what I am really trying to get a feel for is your reaction where, although the officer is clothed with the authority and responsibility of law, the actions taken by your standard, your standards as a previous commissioner—

MR. RIZZO. Our standards are pretty high.

MR. DORSEY. —and as the current mayor, are clearly outside of legitimate law enforcement behavior, and whether or not in those cases, even though the individual is on duty, even though the individual is attempting to do a difficult job, that the responsibilities for that job are so important that that kind of behavior cannot and is not condoned. I am trying to get a feel for your feelings on that area.

MR. RIZZO. Well, if I understood your question—I could ask you to repeat that question.

[Laughter.]

MR. RIZZO. But we do not condone police abuse. Our men are the best caliber of men available from the young men and women who live

in this city, and I myself, after serving many years as a policeman, realize their problems and know their problems. As far as abuse or misconduct, again, that will not be tolerated by me or the police commissioner and the high-ranking policemen who serve with that police commissioner.

We're talking again—you refer to me, you know, as a former police chief. Sure, I have stronger feelings, not only when I was a police chief, but my father before me was a policeman for 44 years in this city, and certainly my feelings are stronger. But they're no different than Joseph O'Neill's. Joseph O'Neill and I came through the ranks of the police department together and tolerate abuses or misconduct, no way. Our record will show that we don't tolerate it.

But again, if a policeman—and I expect even the bleeding hearts and the ultraliberals to say that if they make mistakes of judgment in doing their job under very difficult circumstances that we're supposed to extend that same kind of compassion that we extend to criminals to them. They are human beings; they have families; and they, again, perform one of the most difficult jobs in the society we live.

MR. DORSEY. You also indicated, I believe, that one of the factors which influences you in particular in terms of reactions of other people's allegations of police misconduct is that persons have their day in court just as police officers should and do have their day in court. One of the concerns that's sort of implicit in the testimony that we've received is that inherently, if you will, inherently, any review of police conduct has got to be based on information, investigation, records, activity, if you will, in its full spectrum, by other police officers, so that to the extent that that process, when it comes to police officers policing themselves, to the extent that that process is not open to some public view—not review, view—that that makes it difficult to maintain public confidence, if you will, in the validity of that since, as Commissioner Horn pointed out yesterday, it's fairly natural for people to wonder who's watching the watcher, that's a common sort of feeling. I just wondered if you could respond to it?

MR. RIZZO. Well, I would have to again refer to the other professions. They police themselves. Again, the honorable profession that you represent, counselor, lawyers police lawyers, doctors police doctors, engineers police engineers, and I could go on in every profession.

Now, that's not the case with the police. We have so many organizations investigating police. And the problem is, in my humble opinion, for instance, the news media. When they investigated some of the cases that I referred to—I was going to bring the press clips with me; it would have been this high, counselor. And I saw the investigations that they had conducted on street corners and asked an individual what he saw, and after he described it, it was written in longhand and the witness, so-called witness, signed it. You know, as a professional lawyer, that's not the way investigations are conducted.

And I can only tell you—and I think that this is very, very important and it will be available to you and the police commissioner will make it available or the city solicitor. In every instance—and this went on for weeks in this city; and it was unfair, so unfair; but maybe it'll be a little different now.

The Supreme Court of the United States just sent a ruling down, which warms the cockles of my heart, that the press can be sued for libel and they have to explain their positions. Men's photographs on the paper, front pages, men and women who have families and children. And when they were found not guilty in a court of law, they were not extended that same coverage. It was buried. But what did it do? It sold newspapers, sold newspapers.

And there's a power that frightens me, counselor. You say checks on mayors, checks on lawyers, checks on everybody. I agree with that. Everybody should have a check and have to answer to somebody. But unfortunately, there are no checks on the honorable media, none whatsoever. You get a reporter or an editor who has a philosophy—and most of them do, with all this respect to order—and I know a lot of them personally. Nobody can take them on. They scream the first amendment. What about the rights of the law abiding who live in these communities that are being murdered, robbed, you name it? They have rights also.

And I tell you this, that this city and this country will be in serious trouble, our crime problem is worse than any other free nation in the world. And if it continues they're going to have difficulty in hiring men to serve as policemen, men and women, and do their job.

But fortunately, there is the balance. We do have some judges who are not antipolice. We do have some newspaper people that are not unfair. All we want is justice. We want no breaks—never asked for a break in my life—and most policemen don't ask for breaks. They want fair treatment.

MR. DORSEY. There was testimony yesterday from certain members of the city council—

MR. RIZZO. I can tell you who they were, counselor, and I knew who was going to be here. The distinguished Dr. Allen and the distinguished councilwoman Beatrice Chernock. Well, I've heard their—I've heard everything they've had to say for years. And it sounds good to them and they think it helps them politically or they would not have been here.

So you know, if we could only—before a group, a distinguished group like yourself comes to a city or community—and it's not only yours, any of them—I will tell you before you issue your subpoenas—and by the way, you didn't have to subpoena me; I've been waiting for 7 years to come here, okay? And I can tell you who they are before they come. And between me and you, I'm tired of hearing from them, like they're tired of hearing from me.

CHAIRMAN FLEMMING. Counsel had a question. Do you want to ask?

MR. DORSEY. Why don't you—

VICE CHAIRMAN HORN. Are you finished?

MR. DORSEY. Yes.

CHAIRMAN FLEMMING. Vice Chairman Horn.

VICE CHAIRMAN HORN. Let me ask you, mayor, are you familiar with bill 1063?

MR. RIZZO. No, sir, I'm not. I used to be familiar with all of them.

VICE CHAIRMAN HORN. This is the one that is apparently before the city council that would have to do with specifying procedures with relation to police inquiries and how they might be conducted. Your office doesn't take a position on bills before the city council?

MR. RIZZO. We do, absolutely. I have to approve them, but I have to know more about the bill. I'm not going to—

VICE CHAIRMAN HORN. Perhaps your solicitor could advise you.

MR. ALBERT. I think, in fairness to the mayor, when a bill is introduced in city council at that level, the mayor himself, if it involves the police department—you have the police commissioner, the managing director are represented by the solicitor. The same for the health department. So it would not reach the attention of the mayor.

Mayor, so that you'll be advised of what they're talking about, they're talking about the bill which, while not having been passed, nevertheless, has been essentially incorporated in police directives 127 and 127-A, whereby we changed the standards for the internal investigations of complaints of abuse.

MR. RIZZO. It all depends on what the standards are, Mr. Albert. I don't know the—I haven't seen or read the regulation. I have great confidence in you as my lawyer—

[Laughter.]

MR. RIZZO. —Great confidence in the police commissioner. Do you agree with it? If you agree with it, that's usually the way you operate, counselor. Tell me you agree or you don't agree; I usually follow your dictates.

MR. ALBERT. Yes, but they don't believe that.

MR. RIZZO. They don't believe I'm as democratic as I am.

[Laughter.]

MR. ALBERT. They don't believe it. As a matter of fact, I think the record shows that essentially that was the ordinance that was incorporated into our new directives.

VICE CHAIRMAN HORN. Let me pursue another question, your honor, and I'm sure you're familiar with this one. Apparently, the Pennsylvania Legislature passed a statute relating to the use of deadly force in 1973; this is now 1979. As I understand it from listening to various witnesses, there has been no interpretation issued by the police department in consultation with whatever legal staff, district attorney, city solicitor, and so forth, that that might involve, so that officers on the beat would have some case examples or understanding of the law. So when they have to make these life and death, 1-second decisions, they would have some guidance as to what is acceptable practice according

to the Pennsylvania Legislature. Now, do you feel that a 6-year void in policy formulation or policy interpretation by the executive to carry out the statutes of the State of Pennsylvania is appropriate?

MR. RIZZO. Well, I would say that there are laws controlling the actions of police, statutes and laws that now exist. A policeman has no special rights. He is a citizen of this great country and he has to obey the law like anyone else, but the law differs just a little bit with policemen. They don't have to retreat to the wall. They don't have to—they can, you know, take a life in self-defense when they believe that their life might be in danger. Little bit of difference there.

But I would tell you this, that any Philadelphia policeman that doesn't know the legal uses of a gun, you give me their names if you know. I don't know of any. And I will tell you that they are the best trained because these again are decisions that you can't control by statute; it is generally the apprehension of an atrocious felon who cannot be apprehended in any other fashion, who the officer believes will flee and cannot be captured, or the policeman believes that his life is in danger. I know they seem like reasonable explanations.

VICE CHAIRMAN HORN. Just so I understand and get your judgment on this, let me pose to you an example and we will limit it to this example: that an officer is walking down the street, he hears a shopkeeper yell, "I've been robbed." A person runs out of that shop and down the street. The police yells, "Halt or I'll shoot." The person keeps running, does not seem to have a weapon on him, and the officer shoots and kills him.

In your judgment as a former police commissioner and police professional, do you feel that is an appropriate carrying out of the statute in terms of the use of deadly force?

MR. RIZZO. I could not answer that question. I'd have to know more of the facts.

VICE CHAIRMAN HORN. Well, that's all we know. That's what the officer knows. He's got to make a judgment in a second.

MR. RIZZO. All the policemen, the years that I served, with few exceptions, would most certainly want to be absolutely certain that a crime occurred. But—

VICE CHAIRMAN HORN. So, you wouldn't shoot.

MR. RIZZO. I might have.

VICE CHAIRMAN HORN. All right, that's all I want is your professional opinion.

Now, my concern on that 6-year void is that I think the question would be, if the police commissioner isn't solving the problem, or the district attorney over which you have no jurisdiction is not solving the problem, or the city solicitor is not solving the problem, doing what they ought to do to get a policy out, do you feel the responsibility, as chief executive of the city of Philadelphia, to sort of bang their collective heads together and say, "Folks, for 6 years this statute has been on the books. Why isn't there an interpretation out for the man on the beat?"

MR. RIZZO. Well, I believe there are interpretations, and I believe that at the inservice training—and they're raised throughout the police academy—constantly they are told about the illegal use of firearms.

Now, as far as the statute is concerned, I still don't know what you're referring to, but I would say that that's very, very difficult because I can give you the names of policemen who entered—came upon the scene and a guy was running and didn't know what he did, and that policeman is in a cemetery, and a lot of other people.

You know, it's not only the people, the police that get killed. I have the statistics here to give you the numbers of policemen killed. But the people who suffer in our society today are not the police, are the people who live within the law, the law abiding.

So I can give you the names of policemen, some of them that I worked with, that did not know a crime was committed and are not, no longer here, Mr. Horn.

VICE CHAIRMAN HORN. Now, let me ask you just so the record is very clear. In your role as mayor of the city of Philadelphia, the commissioner of police does report to you?

MR. RIZZO. He does not report to me.

VICE CHAIRMAN HORN. Well, he reports to the managing director?

MR. RIZZO. Exactly.

VICE CHAIRMAN HORN. The managing director reports to you?

MR. RIZZO. Yes, he does.

VICE CHAIRMAN HORN. You could dismiss the managing director?

MR. RIZZO. I could dismiss the police chief, too.

VICE CHAIRMAN HORN. That was the next one. Obviously, you can dismiss—

MR. RIZZO. But they'll be around, both, as long as I am.

VICE CHAIRMAN HORN. Now, the question then is, Have you ever or has a member of your staff ever given an instruction or a directive to the commissioner of police relating to a so-called police abuse case as to what the penalty ought to be, etc.?

MR. RIZZO. Absolutely not.

VICE CHAIRMAN HORN. Okay.

MR. RIZZO. The day that that happens, the day that the politicians can make a decision concerning the police, then we're in trouble again. This is the most—I'll just give you this: I know of no administration in this country that is less political than this one in police.

VICE CHAIRMAN HORN. Okay. Now, another office that reports, to the managing director and to you and whose chief executive you could dismiss, is, I believe, the commissioner of public health—

[Audience interruption.]

VICE CHAIRMAN HORN. Mr. Chairman, is there a problem here, or what?

MR. DORSEY. The mikes are off.

CHAIRMAN FLEMMING. Just a moment. We'll see if we can bring the mikes back.

VICE CHAIRMAN HORN. Is our own record being complete here? Are our own tapes working because there's no use holding this up. All right.

The office that reports to the managing director and through him to you and whose chief officer you could dismiss is the commissioner of public health. To the commissioner reports the medical examiner.

We have heard testimony from several sources that the usual procedure of the medical examiner of the city of Philadelphia was to—on cases where policemen had shot an individual—was that in deciding what should be entered into the certificate of death, a conference would be held that involved a representative of the police department and the so-called homicide binder that is pertinent to that case and a representative of the district attorney. And I am told that the district attorney wanted an opportunity to read these binders. There were difficulties then in making the binders available. Eventually, conferences on these cases stopped and the district attorney really didn't have access; the medical examiner went ahead and filled in the certificate. Now, do you feel, as a former professional police officer and chief executive of the city, that that's an appropriate procedure for the medical examiner to follow, that he fills out that certificate without the opportunity of the district attorney's representative to be present, and in any way, did you give any orders that the medical examiner could refuse to cooperate with the district attorney?

MR. RIZZO. Absolutely not, and I don't know whether that's the procedure or not.

VICE CHAIRMAN HORN. I'm saying all we know is what we've been told in this hearing.

MR. RIZZO. I don't know who gave you that information. I don't believe that that's the way it is. I can stand to be corrected, but I have no knowledge of that. You know, as you bring people before you and extract testimony from them, not knowing whether they're professionals or experts or what their personal motives are, that could be awfully dangerous too when we're deciding the innocence or guilt of anyone, not only a policeman.

I don't know what the procedure—I have never talked to the medical examiner or to the health commissioner. Never, and I don't know whether that's the procedure or not. I have no knowledge.

VICE CHAIRMAN HORN. Would you think it's a wise procedure that, when a police officer is involved in a shooting and the certificate must be filed on the individual victim that has been shot, that representatives of the district attorney's office be present during the discussion as to the type of death that should be entered on that death certificate?

MR. RIZZO. I would have no problem with that. That would seem proper to me.

VICE CHAIRMAN HORN. You wouldn't have any problems, okay.

One last question. Were you the police commissioner when the Black Panther incident occurred where there was a photograph taken of the members of the Black Panthers being stripped and photographed?

MR. RIZZO. Yes, I was.

VICE CHAIRMAN HORN. You were the commissioner.

We have testimony that stated that, in terms of one's dignity, serious questions could be raised about having a photograph such as that taken, that even though people might be accused of very serious matters, they've got certain rights to privacy and dignity, and why was a photograph permitted to be taken?

MR. RIZZO. Well, you'll have to ask the news media that. They were the ones that took the photographs, not the police department, and I would tell you that—

VICE CHAIRMAN HORN. I'm not familiar with the incident, so perhaps you could describe to me where it occurred.

MR. RIZZO. I don't know what happened out there. I was not personally there, and whoever the high-ranking policeman was there—that's been many years ago—made that decision, and if he's still around, I must have agreed with that decision.

I can understand why they looked into their clothing for weapons because we're not talking about a very peaceful group when we talk about the Black Panthers. In my opinion, they were anarchists, murderers, and you name it.

Again, they have all the rights under the great Constitution and Bill of Rights, but if that high-ranking policeman there felt that he was looking for weapons—I'm only now quarterbacking; I have no direct knowledge—I would find nothing wrong with that.

VICE CHAIRMAN HORN. Well, I don't think anyone found anything wrong with that.

MR. RIZZO. I would like to know about the dignity of the people who the Black Panthers did in.

VICE CHAIRMAN HORN. I don't think anyone would find anything wrong about strip-searching individuals looking for weapons and guns. The question is, Should the police encourage, permit, condone the taking of photographs—

MR. RIZZO. Just imagine, if we tried to stop the press from taking a photograph, you would hear the howl.

VICE CHAIRMAN HORN. Well, it depends on where you do the search.

MR. RIZZO. Well, it all depends on the circumstances, and I'm not familiar with them. I don't know what the circumstances were there. See, that's the difficult part of being a high-ranking policeman or a policeman, period. You have to make decisions. Sometimes they're proper; sometimes they're not. But it's easy to quarterback; it's easy to be a Monday morning quarterback. And I don't know the facts, and I would not even discuss what should have happened there.

But I tell you this, knowing the reputation of the Black Panthers, knowing the vicious, vicious crimes they were guilty of and convicted of, and fortunately, I think, that they are no longer around. There's some loose ends that have to be handled one day, I'm sure, by the law enforcement agencies, but fortunately, the Black Panthers have lost their steam because of the excellent work by police departments across this country.

So as far as the strip, I just couldn't answer that.

VICE CHAIRMAN HORN. Mayor, as you know, in the case of strip searches, there are now allegations with reference to the Chicago Police Department by individuals, women in particular, that strip searches have been made of them for such things as presumably minor traffic accidents.

MR. RIZZO. That don't happen in Philadelphia. They are frisked, because I can again give you the names of policemen that are no longer here that were killed as a result of a minor traffic violation, are no longer around. And they're frisked.

In Philadelphia we have a policy that females are frisked by matrons. They used to have them. Things changed so fast now, I don't know what the procedures are, but we used to have matrons; now we have policepersons that search females—I mean, a policewoman. But you have to be careful even how you throw that one around. I'm a person, policeperson. So we don't let male policemen search.

VICE CHAIRMAN HORN. Or observe?

MR. RIZZO. Or observe.

VICE CHAIRMAN HORN. Which is the other area—

MR. RIZZO. I'm sure that just don't happen in Philadelphia. I'd like to ask the commissioner, do you think that happens here, Joe? Commissioner O'Neill wouldn't permit that to happen.

CHAIRMAN FLEMMING. Commissioner Saltzman.

COMMISSIONER SALTZMAN. Mayor Rizzo, we've had testimony from some distinguished people over the last day and a half, Mrs. Grace Alpern, the Chairperson of the Pennsylvania Advisory Committee to the Commission on Civil Rights, and in her remarks she identified a report published by the Advisory Committee in 1972, and made a statement that these issues identified then are relevant still today. She pointed to four issues: the use of excessive or unwarranted force. The Committee also found, secondly, that while Puerto Ricans, some poor whites, and some youth did not enjoy equal or adequate protection of the laws, blacks in particular suffered to an inordinate degree. Three, they found that the Philadelphia Police Department operated as a closed system in terms of responsibility and accountability, immune to complaints of police abuse, with an attitude that the department is a law unto itself, and that only the police are capable of policing themselves. Four, the Committee concluded there was in fact no effective avenue of redress of citizen complaints.

Could you respond to that litany, if you would?

MR. RIZZO. Sure. Mr. Saltzman, I don't know who that distinguished lady is. Alpern?

COMMISSIONER SALTZMAN. Alpern.

MR. RIZZO. A-l-p-h-e-r-n?

COMMISSIONER SALTZMAN. A-l-p-e-r-n.

MR. RIZZO. I have no knowledge of her, but I would most certainly agree with her in some areas that the victims of crime in the city of Philadelphia, and in most urban areas, are the minorities, and I have the statistics here with me that I'll make available to you, sir. She is indeed accurate that the minorities are the victims of violent crime. And I would also give you the figures of the perpetrators, the numbers, the percentages—and I'll make available to you, and you can have them. I would agree with that. No question about that.

I'll go further than that. The poor people who live in our cities, without the police their lives would be a lot less constructive where they need help because it's the police—the police don't only arrest. I can go on to a litany of things that the poor positively would not get with help and would never have come to them if it wasn't for the compassionate policeman who delivered that service. For instance, there are very few cities in the United States that have ambulance service available within minutes to take the poor when they are sick or injured to hospitals. In other cities—I don't know what city you're from; you tell me the name of it, I'll tell you whether they provide it, Mr. Saltzman. But I remember many, many attempts to eliminate the so-called ambulance service in this city while I was the police commissioner, and I opposed it. Fortunately, it's still around.

Feed the poor, feed the hungry, provide them with care that they could never get afterhours. It used to be 4 o'clock, 5 o'clock nobody was available. And I say "used to be"? It's still that way. The experts and the social scientists that are supposed to deliver that service. So now it used to be on the weekends you couldn't find them. Now there's a new technique. Thursday they leave and they don't come back 'til Tuesday. So fortunately, we do have police departments that understand.

In fact, just the other morning I received a call from a friend of mine that told me that in another community a member of his family was seriously injured. He called the local police and the police refused, refused. He wanted to know whether that was proper to carry this injured person to a hospital. They had to wait for an ambulance. He said he would have bled to death, so I put him in my car and delivered him. It don't happen in Philadelphia.

Now, as far as the closed corporation, counsel, that's been kicked around all the years that I've been a high-ranking policeman. It's the most open organization; more people look at us than any other profession. I don't know your profession, Mr. Saltzman; are you an attorney?

COMMISSIONER SALTZMAN. No.

MR. RIZZO. That's one—

CHAIRMAN FLEMMING. Commissioner Saltzman is a rabbi of the Baltimore Hebrew Congregation.

MR. RIZZO. Rabbi. Rabbis are pretty learned men. They know the problems that exist as religious people, and I will tell you this, there's no other organization, Mr. Saltzman, more open to scrutiny than the police.

COMMISSIONER SALTZMAN. We received testimony from Mr. Anthony E. Jackson, the director of the police project—

MR. RIZZO. That's a real authority.

COMMISSIONER SALTZMAN. —Public Interest Law Center of Philadelphia, who said that the police misconduct problem in Philadelphia is growing more severe.

MR. RIZZO. That's—Mr. Jackson's opinion. And Mr. Jackson has been making that same statement for as long as I know that he's been around. You know what would be news? If Mr. Jackson ever said that we were—that the police were doing a good job. Then that would be a headline. I would expect no other statement but that from Mr. Jackson.

COMMISSIONER SALTZMAN. Dr. Rufus Cornelson, the executive director of the Metropolitan Christian Council of Philadelphia, testified that the religious community in Philadelphia has been concerned with the increasingly worsening police misconduct problem in the city for several years.

MR. RIZZO. Well, I happen to know Reverend Cornelson, and he's a distinguished member of the clergy, an individual that I have great respect for. I have met with him and some of his colleagues as a police commissioner, so they've been around a long time also. But I'm positive without any fear of contradiction that that is not the attitude of the great majority of clergymen in this city of all races and religion.

COMMISSIONER SALTZMAN. Spencer Coxe, the former executive—

MR. RIZZO. Now, that's a real gem.

COMMISSIONER SALTZMAN. —of the American Civil Liberties Union—

MR. RIZZO. He used to be. He's former director—

COMMISSIONER SALTZMAN. He's testified that the police department currently provides no effective avenue of redress.

MR. RIZZO. I would not expect anything else from Mr. Spencer Coxe, nothing whatsoever. And again, the way he could make a headline would be to say that the—he supports police. He is psychologically, and in every other way, against police.

COMMISSIONER SALTZMAN. John Penrose, the first assistant United States—

MR. RIZZO. I do not know Mr. Penrose, and Mr. Penrose most certainly is entitled to his opinion.

COMMISSIONER SALTZMAN. Well, what I'm getting to is—

MR. RIZZO. I can give you the names. You see, this is what happens, Mr. Saltzman, and it shows to me, respectfully, that you, respectfully,

have made your minds up already, that your decisions are all—you've already formed your opinion. And it's an amazing thing that on this distinguished Commission we don't have a high-ranking policeman, that we don't have a member of the establishment who is not on one side or the other. I've looked this distinguished panel over—and I've been around a long time and with few exceptions I don't think I'll be wrong—that, respectfully, that your positions—and according to my distinguished attorney that you already made your mind up and have issued a report; is this not what you mentioned to me, counselor?

MR. ALBERT. That is what I advised you.

[Simultaneous discussion.]

CHAIRMAN FLEMMING. Just a moment, mayor. This Commission was created by the Congress in 1957 as part of the civil rights act that was passed in that year. I happen to be acquainted with the history back of the Commission because the action of the Congress grew out of a recommendation by the late President Eisenhower, under whom I served as Secretary of Health, Education, and Welfare.

This Commission from the very beginning has recognized an obligation, as we put it, to stay out on the cutting edge of the issues in the field of civil rights, has recognized an obligation to study the basic issues in the field of civil rights, to do that by way of field study, by way of public hearings. We have been given the right by Congress to subpoena witnesses and to place witnesses under oath. We also have the obligation of monitoring all of the Federal departments and agencies that have any personal responsibilities in the civil rights area. We do this by way of field studies and also by way of hearings.

We are in the middle of a study dealing with police administration. We held a consultation at the national level where we listened to testimony of persons who have a variety of viewpoints on this issue, including persons who have had a great deal of experience in the field of police administration. We are conducting this study, holding this hearing. We are going to conduct a similar one in the city of Houston. When the hearings are finished, as members of the Commission, we will carefully evaluate the evidence and then arrive at findings and recommendations.

The report to which your attention was called by your solicitor is simply a staff report which has not been considered by this Commission at all.

MR. RIZZO. I would hope not. It shows, again, the prejudices are there by your—

CHAIRMAN FLEMMING. Well, just a moment. I won't comment on that because the Commission will be going through a long process of evaluating this evidence, and when we draft our report, when it's in draft form, we follow the practice of giving institutions that are referred to in that report the opportunity of commenting on the comments that may be in the draft report, and we consider those comments before we agree on a final draft of that report. If we don't agree

with those comments, we still include them in the report so that it is possible for the reader to understand that point of view.

We just issued an indepth oversight report on the enforcement of fair housing in this country within the past 10 weeks where that particular procedure was followed. I just want to assure you that the members of this Commission are probing with the idea of trying to get the facts. Then, on the basis of those facts, making their evaluation and making their findings and recommendations. We have not arrived at any conclusion.

MR. RIZZO. Thank you, doctor. I'm grateful, but I just was wondering if one day maybe it would not be a good idea for your distinguished body to go into big cities—and if you come here while I'm the mayor, you'll get all the cooperation you need—and let's study some other areas besides police. Let's study what is happening in urban areas crimewise, who's committing the crime, the criminal repeater, the recidivist, a small number of people that are terrorizing communities, and find out what can be done about that, not only the police. Let's study the criminals, find out whether or not that some of the recent decisions—not recent, they're beginning to change just a little—that have come down are not in favor of the criminal. That would be a very interesting study.

But let me just tell you this, doctor, in 9 months I will be unemployed. Would you accept me as a member of that—

[Applause.]

MR. RIZZO. Would you accept me as a member of that distinguished body?

CHAIRMAN FLEMMING. The members of the Commission are appointed by the President of the United States and confirmed by the Senate.

MR. RIZZO. Well, that was my only comment. The composition, the makeup of the people who serve on that honorable body, it would seem to me that people from my walk of life should be represented also.

CHAIRMAN FLEMMING. Commissioner, do you have any further questions?

COMMISSIONER SALTZMAN. No.

CHAIRMAN FLEMMING. I just have a couple of questions. Growing out of your experience, really, as a police commissioner—we received some testimony relative to the operation of the police board of inquiry. Now, my understanding is that, prior to the establishment of the police board of inquiry, there was another kind of an arrangement. I don't know whether it is fair to characterize it as a citizens' review board or not, but I assume that that other arrangement was operating while you were police commissioner and that the change probably took place while you were still police commissioner. And I would be interested in your views, as an expert in this area, relative to the merits, relative merits of the police board of inquiry, constituted the way the one is at the present time, as contrasting with the citizen review board.

MR. RIZZO. Well, doctor, I can tell you that the board did exist—and forgive me for not knowing the number of years. I wish I'd known you were going to ask me that question; I would have brought a letter I just received recently from a distinguished college professor, who served on that board and wrote me this letter as a result of what he read in the paper—some movement in an attempt to bring back a police review board—and he stated in his communication he was absolutely opposed to it. That—and I can only tell you from the position that I held during the years of the police advisory board as a deputy commissioner and commissioner, it was very, very boring to the people who served. There were some distinguished members of our community, and they could not find the misconduct or the abuses by police. The record will bear that out, and that could be made available to you by the distinguished city solicitor and the police department. And I would suggest you do that, Shelly, send Dr. Flemming a copy of that, the activity of that police advisory board. I think it will be very interesting.

MR. ALBERT. We will, of course, and the record will show that seldom, if ever, did the police advisory board recommend disciplining an officer.

CHAIRMAN FLEMMING. Then I, again, knowing your experience as a police commissioner, at any time, while you served as police commissioner, were you faced with a situation where a member of the police force had been convicted of a criminal act and had exhausted his appeals in the courts? Did you ever face that kind of a factual situation while you were a policeman?

MR. RIZZO. Oh, I'm sure I did, doctor.

CHAIRMAN FLEMMING. Do you have any recollection as to what action, if any, you took?

MR. RIZZO. Well, if he was convicted in a court of law and had exhausted appeals, I can assure you he was dismissed from the police department while I was the police commissioner, and I know Commissioner O'Neill—We obey the law, we don't like it a lot of times, we don't agree with it, but we always obey it. That's the difference between police and the criminals that have taken over our community.

CHAIRMAN FLEMMING. I did address a similar question to the police commissioner. I just wanted to get that on the record.

Mr. Nunez, do you have a question?

MR. NUNEZ. Just one question. Mayor Rizzo, after all you are no longer the police commissioner; you are, if I may, the political executive of this community, so that you have a slightly—a major, different role than you had in the past.

As the political executive of this community, are you not concerned with the perception that many citizens have—and I'm speaking here primarily of the minority community—that perhaps there is a major problem of police abuse?

Now, what I'm saying is, I don't want you to say there is none. I'd like for you to respond to me in terms of your role—

MR. RIZZO. You're not going to tell me how to answer the question, are you?

MR. NUNEZ. What I'm suggesting to you is, Do you feel that there is a role you could play as mayor of this community to assure the citizens that you are in fact doing everything in your power?

MR. RIZZO. Let me just say this to you, sir, that no one works harder at making this city safe for all the people. You referred to the minorities; I did not. I have these statistics that I'd like to make available to you to show you who the victims are of violent crimes and who commits the crimes in this great city. That would be very interesting, and I will give it to you and you can make it public.

That requires a lot of study. It's the poor who are barricaded, the minorities, the people who live in certain neighborhoods that are the victims of these vicious criminals. Me prevent it? My last wish would be that I could make this city safe for all the people to live in, that I could have a city where everybody has a job, where everybody could live in dignity, where everybody would have food and heat and shelter. I would almost give my well-being for that.

But there is no place in this world that that exists. And as far as the control of the media, I can't control that media nor should I or anyone else. But one day they're going to have to answer to someone for the misleading stories that are printed, that are portrayed, knowing that they're false.

Why do they do it? To sell newspapers. It's a competition in the news media today. To give you an example, someone called the paper and said that I had had a heart attack and died. They already wrote the obituary; didn't even check to see if I was alive.

[Laughter.]

MR. RIZZO. Fortunately, one of the reporters said, "Why don't we call him and see if he's there?" So they called me on the phone, "Hello, Tom, how are you?" "You're alive?" "Yes, I am, Thomas." I hung up.

So what I'm saying to you, you talk about competition in business, you talk about competition in any profession, their only objective today is to beat the other guy with the story. Facts go out the window. This is a threat to the well-being of our country and our city.

[Applause.]

CHAIRMAN FLEMMING. Counsel has one additional question.

[General audience reaction.]

MR. RIZZO. Those boos are coming from the MOVE organization.

[General audience reaction.]

CHAIRMAN FLEMMING. Just a minute. Mr. Dorsey?

MR. DORSEY. I just wanted a moment to clarify—I think you indicated that you do have available with you some statistics and we are interested in having them. As I understood it, you do have statistics with you on police officers killed, on the breakdown of victims of crime, and the breakdown on perpetrators of crime, and that you—

MR. ALBERT. We'll be happy to provide that to you.

MR. RIZZO. I have it all, counselor, and I think you would enjoy seeing it; if you want me to read them publicly, I'll read them to you.

CHAIRMAN FLEMMING. We'll be very glad to receive that information and it will be included in the record at this particular point.

MR. RIZZO. Good.

CHAIRMAN FLEMMING. Thank you very much. There being no further questions, may I express, Mayor Rizzo, our appreciation for you coming here and providing us with this testimony.

MR. RIZZO. It's been a real pleasure. I enjoyed it very much. Thank you.

CHAIRMAN FLEMMING. This hearing is still underway. I just announced that in a few minutes we will begin to hear the unscheduled witnesses who have signed up with the members of the staff. We'll take about 3 or 4 minutes to give some of those people who are on the outside and need an opportunity to get in.

CHAIRMAN FLEMMING. I'll ask the hearing to come to order, please.

Under the rules of the Commission, when we have finished listening to witnesses that have been subpoenaed, we take some time to listen to unscheduled witnesses under a 5-minute rule. The rules governing this part of our hearing were explained in detail at the opening session yesterday morning.

First of all, we stated that anyone who desires to be heard during this part of the hearing should go to members of the staff and indicate their desire, that we would then hear them in the order in which they were registered. We stated that we would be in a position where we could hear up to 20; 16 persons have registered. The time for registering has passed.

The attorney will call these witnesses in groups of four. They will come to the platform, the witness table, and will be sworn. They will be given a warning at the end of 4 minutes indicating that 1 minute—the attorney will provide a warning at the end of 4 minutes indicating that 1 minute remains, and a final signal at the end of 5 minutes. The sentence can be completed then, but that's all.

We ask each witness to adhere strictly to that, in fairness to all of the other witnesses. If a witness has a prepared statement and has not found it possible to complete the prepared statement in 5 minutes, we are very happy to have the witness provide us with that statement, and the statement in full will be included in the proceedings of the hearing.

Two persons have filed with us written statements and have not asked to be heard, but have simply filed the written statements with us.

During this part of the hearing, neither the attorney or the members of the Commission ask any questions. Here, again, this is in the interest of hearing as many as have expressed a desire to be heard.

I'll now ask counsel to call the first four persons on the list. Keep in mind that they're being called in the order in which they've signed up to be heard; not in alphabetical order, but in the order in which they've signed up to be heard.

MR. DORSEY. Carolyn Brister, Abdul Jon, Jeanette Knighton, Anthony King.

[Carolyn Brister, I. Abdul Jon, Jeanette Knighton, and Anthony King were sworn.]

MR. DORSEY. Would each of you, starting with Ms. Brister, please state your full name, title, and organization, if it's significant, for the record?

VICE CHAIRMAN HORN. Excuse me, are you going to do it as they speak? I'd just as soon get the name and the testimony one at a time.

TESTIMONY OF CAROLYN BRISTER

MR. DORSEY. Then starting with you, Ms. Brister, before you start your remarks, please indicate your full name for the record, your organization, if any, and your address.

MS. BRISTER. Carolyn Brister, People United Against Police Abuse, 1804 West Horten Street.

CHAIRMAN FLEMMING. Do you want to get all four?

VICE CHAIRMAN HORN. I just want one at a time.

MS. BRISTER. My husband was murdered. He was shot in the back of the head, his toes were shot off, and his lips were also beaten in. There has never been an inquest, no investigation, anything. I've done as much as I possibly could to try to bring it to the attention, and I have not received any help, none whatsoever. And this happened, I think, about 3 years ago; to be exact, about 3 years ago.

VICE CHAIRMAN HORN. Did you file with the police internal affairs division?

MS. BRISTER. I have papers here who I filed with. I can look and see.

VICE CHAIRMAN HORN. Are you going to leave a copy of the papers with us?

MS. BRISTER. Yes, sir, I'll leave them with you.

VICE CHAIRMAN HORN. Staff will then duplicate the papers. It seems to me, Mr. Chairman, as a matter of procedure, when we have various statements made by witnesses and allegations that we then ought to have the staff refer the documents to the appropriate department of the government in the city of Philadelphia and ask that a response be made for the record.

CHAIRMAN FLEMMING. That will be done. Have you completed your statement?

MS. BRISTER. I also would like to know, What can be done about this? What is going to be done? Because the black teenage children are afraid; they're afraid of the policemen here.

CHAIRMAN FLEMMING. As the Vice Chairman has indicated, the information that you provide the staff will now be referred to the appropriate department, and we will get a report, as far as I can know at this particular time.

MS. BRISTER. The police in the community should identify them.

TESTIMONY OF I. ABDUL JON

MR. DORSEY. Mr. Abdul Jon, could you please state your full name for the record and your organization and title, if any, and your address, please?

MR. JON. Right. My name is I. Abdul Jon, also known as Michael Jones. Organization as of this moment has no significance. All right, like in '60—

MR. DORSEY. I'm sorry. We do ask for the address and the reason is—

MR. JON. 6812 Clearview Street; I'm sorry.

All right, In '76 I was attacked and beaten by police officers from the 14th district. I have legal documents. I was charged with assault and battery, resisting arrest, and obstruction of the administration of law. I went to trial on that case. I was found guilty and given a suspended sentence and told by the judge that I had received enough punishment. I took that to a higher court and I took a jury trial, at which time I was found not guilty.

I have a medical record and what not. When I was beaten up, I was taken to Germantown Hospital and what not, and it has on here I have lacerations of the scalp, hemotosis of face and chest, examination X-rays of skull, facial bones, and both wrists.

And it says here, "Prisoner—patient is a prisoner and officer [deletion] refused to remove handcuffs so we could get blood pressure or enable us and physicians to examine."

MR. DORSEY. Excuse me. I do have to indicate to you—this does not count on your time—but I have to indicate to you that the actual names of the officers that you referred to will be stricken from the record in accordance with our mandate. So as you proceed, please do not refer to particular officers or their badge numbers.

MR. JON. Well, I have legal documents where I was brought on charges by those officers. I did not choose for them to put their names on these documents.

MR. DORSEY. I understand that. Those documents can be submitted to us, but they cannot be heard in open session. That's the only caveat.

MR. JON. All right. What I'd like to say, number one, within the city of Philadelphia the police department behave like barbarians and what not, savages. They run through our community, they beat us in the head, and act like we don't tell the truth on them, like everything we say is ridiculous, and what not.

I'm saying that these police have went uncontrolled, and it's just one of them syndromes of not my Johnny—I'm saying that they have not corrected their behavior; they have done nothing to try to correct this behavior that they've been dealing with.

[Inaudible] The organization that I went to in regards to my plight when I was beat up by the police took me to lawyers and what not. I have this well with me. I have photographs of different meetings—meetings in Chester, meetings downtown with the NAACP, with State representatives, and what not, where we spoke out in regards to what was going on in these situations, that in one case upon leaving this meeting I was once again accosted by a police. At one time sister Jeanette Knighton was coming to a hearing, or what not, where her evidence was stolen and she was beaten up by police prior to that.

I'm saying that the MOVE organization on May 20 found it necessary, due to the fact that the apathy and the disconcern by this system in regards to the police abuse that's going on in Philadelphia, had to take it upon themselves to guard and safeguard their safety in this city.

And I'm saying that due to the fact that we're not given any protection by the city, and what not, these people are allowed to behave in any manner that they want to. They're bona fide and allowed to carry guns. They're bona fide and allowed to carry sticks. They're bona fide and allowed to behave in any savage and sadistic manner that they wish to in our community.

And I'm saying that all black people ain't lying when they say what occurs in the community. I'm saying that I myself was stopped over a dozen times by the police because of a warrant that they had on so-called fugitives of law.

And I would like for right now, as one document where you pick up on, is the document of agreement that was brought about with this city in regards to the MOVE organization, that is right now in jail, which they violated. They attacked them on August 8 in regards to violation of a so-called agreement.

I'm saying that that agreement was not violated by Rhonda Africa, was not violated by Gayle Africa, who was in Virginia. The order said that they had to vacate the premises in 90 days. I'm saying that Rhonda Africa and Gayle Africa were found in Virginia. They were snatched and kidnapped—

MR. DORSEY. You have 1 minute, Mr. Jon.

MR. JON. They were snatched, drugged, and kidnapped back to Philadelphia in total contradiction of the agreement. I'm saying that this city is going on entirely too long, would allow this nonsense to go on. And we as a people in the city of Philadelphia, we have come to an understanding that the only way we're going to get any justice, any way we're going to get any protection is to protect ourselves.

And as of right now, let it be known that we are an institution of creating and building a family that will protect and secure ourselves in the plight that's going on with us in Philadelphia.

I'm saying, see, this whole thing of ignoring—I'm saying they've got PILCOP. This organization compiles information in regards to police abuse. You've got the FOP, and what not, running around talking about they don't know anything about it.

Alphonso Deal spoke out in regards to what happened in the beating of Delbert Africa, and he was charged by the FOP, I'm saying, and the Fraternal Order of Police is what it is. I'm saying fraternal—I understand what fraternity is, and I'm saying the underlying—

MR. DORSEY. Mr. Jon, your time is up.

MR. JON. —regard for—

CHAIRMAN FLEMMING. I'm sorry. If you want to submit anything further for the record, we'll be delighted to have you do it. Thank you. Next witness.

TESTIMONY OF JEANETTE KNIGHTON

MR. DORSEY. Jeanette Knighton, please state your full name, organizational affiliation, if any, and your address.

MS. KNIGHTON. Jeanette Knighton, 3207 Pearl Street.

I'd like to first state that I'm very upset that every flag is standing up here when police brutality is rampant on blacks. You have every flag flying up here except a black flag. I'd like the people to recognize the red, black, and green flag of the black people. And we do suffer police brutality rampant here in Philadelphia.

The people speak out against police brutality, as I myself have done since May 20 of 1977, as I witnessed the attacks of the police department on an organization of family known as MOVE. I have documents here from the *Inquirer*, the *Daily News*, and from people who were outside of MOVE headquarters on May 20, which states that the police did come out to attack the organization.

The organization on May 20, and after several years of children being stomped, kicked out of their mothers' wombs, 3-week-old babies' heads being crushed in front of their living quarters, the MOVE organization had to do which was necessary, and that was to stand up and defend its young, defend everyone in that house.

They asked on May 20, the people who just sat up here, nothing. I want to point out the so-called honorables that you had sitting up here. The Black United Front has taken up a petition stating that we demand the arrest of the so-called honorable Rizzo, which is dishonorable Rizzo, who sat here.

You all said if there was any disruption in here that the people will be thrown out. When Mayor Rizzo first came in and swore himself in, he started lying from jump street, and we seen it as a disruption. And when we spoke out about it, you all did exact same thing, which allows police abuse to go rampant in this neighborhood; you all turned to us.

Just like when Mayor Rizzo made that statement about the MOVE organization was making the boos in here, and when I spoke up about it, you all turned to me; you didn't turn to the criminal.

You heard testimony all day yesterday where people stated that this man is a sick, perverted misfit, a killer, a baby killer, a killer of all kinds of life. You all sat here and let this man go on for an hour and then tell us we got 5 minutes to tell it. Well, I can't tell it in 5 minutes.

But what I can say is that I know and everybody else in here know that this whole thing is a hoax; because each and every last one of you sitting on this board, you know that police brutality is rampant in this city, you know that Mayor Rizzo is the cause of it, you know that—

[Applause.]

MS. KNIGHTON. —the police commissioner here is the second cause of it. You know that these people didn't lie when they came up here. And to have him to sit up here and take control—that's what he did—he took complete control over your meeting. You no longer had control over it.

I'm saying if you're supposed to be here about ending police brutality, you cannot let the criminal come in and take an hour and lie and let the person, the victim—and I have been beaten up on several occasions, twice where I couldn't even walk for 2 weeks, by the hands of 6-foot, misfitted cops, perverted perverts.

I'm saying the sisters over there, they're going to talk about strip search and all, number one. When you brought up the question, Mr. Horn, about the people being stripped in the streets on the Panther days, that wasn't the issue, the taking of the picture. It was the act. Why was those brothers staying in the street stripped?

I'm saying that slave mentality is right here in the seventies. And Mayor Rizzo, Police Commissioner O'Neill, people where we have raised our voices strongly and stated, "These are the criminals," how do they wind up with an hour?

And this brother here was beaten to the point that his woman couldn't even recognize him, his child couldn't recognize him. Mayor Rizzo has never been through any of these things.

Cornel Ward, a brother who was shot in the back of the head, and the head was blown off while handcuffed, and Mayor Rizzo seen nothing wrong with that.

I'm saying everybody sat here and laughed at the so-called jokes that that misfit came out of this mouth—

MR. DORSEY. You have 1 minute.

MS. KNIGHTON. Like he was saying something funny. I didn't see a thing funny that Mayor Rizzo said. I want to submit, number one, here there's a picture of—I can't say the names. That's another thing I want to say. If you're talking about solutions to our problems of police brutality, how can you talk about a solution when you can't even mention the name of the person that beat you? I'm saying, if you're talking about taking this someplace else in order to get a solution, you've got to hear the whole problem.

When you go to take this wherever you're taking it, and they tell you that the problem is you've got to get rid of those misfits, then you

have to turn around and come back, put a whole board together again, and then ask those people to come back and repeat.

I'm saying it's painful; that's how come I'm not going into my beatings, because I have gone into them year after year after year after year, telling people how I was stomped and kicked in the streets to a point that I couldn't even walk.

Don't tell me about no 1 minute because I'm taking a little bit more, because the point has got to be made. Anytime Mayor Rizzo could stand up here an hour and lie—

VICE CHAIRMAN HORN. Ms. Knighton, your time is up.

MS. KNIGHTON. —anytime Mayor Rizzo can stay up here an hour and lie, you all got to stay up here and hear the truth.

MS. BRISTER. What are you going to do?

MS. KNIGHTON. What is the point if we can't say the names of the people that beat us?

MS. BRISTER. What are you all going to do? We've got the proof. We've got the documents. What are you going to do?

MS. KNIGHTON. That's right, speak about it. People got to know your husband's feet was shot off.

MS. BRISTER. You're going to let us be murdered?

MS. KNIGHTON. And the next mayor's sitting here who knows about police brutality. We have spoken up about it—

[Simultaneous discussion.]

MS. KNIGHTON. I'm telling you all what's happening. I'm saying—and you all don't live on another planet. You all know that it exists here.

MS. BRISTER. What can we do? You tell us.

[Applause.]

CHAIRMAN FLEMMING. You had your opportunity—

MS. BRISTER. I ask you for advice.

CHAIRMAN FLEMMING. Counsel will call the next witness.

VICE CHAIRMAN HORN. Let me just say this to clarify this. I think people can often have a misunderstanding as to what the powers of this particular agency are. And just because people can have that in innocence, since all of them go to city hall and talk to a city council and a city council can do something—it can pass an act, it can repeal an act, and provide money.

This Commission has simply one jurisdiction. It has no enforcement authority. It can only study a problem and make a recommendation to the President of the United States and the Congress. It is then up to the President and the Congress as to what they can do.

We cannot come into a city or State and right wrongs, real or imagined. We wish many times we could do that, because if we could, for 22 years we wouldn't have had some of these problems. But all we can do is listen. And until recent years we have usually followed the procedure you saw earlier today where various people in the governmental process were examined versus other people.

We have added the open session to get for the benefit of the Commissioners a better feel for the problem. So, all I would suggest is—while I can realize the emotion, it does little good to harangue the Commission. We are interested in learning about the problems; we cannot wave a wand and solve them.

MS. BRISTER. I appreciate that. That's more than—

MS. KNIGHTON. What we ask you to do is just uphold the law. We didn't write none of these laws. We didn't write the Constitution. We didn't write none of these laws where the criminals are supposed to be locked up. Mayor Rizzo is a criminal; Police Commissioner O'Neill is a criminal; so, I'm saying, all of them are criminals.

I'm saying, you know, we ain't asking you all to go outside the law. We're asking you to uphold the law.

MR. DORSEY. Ms. Knighton, you are making it impossible for other people who have signed up who also have something that they think is very important for us to hear and not be able to hear it.

MS. KNIGHTON. That's not true. That's not true.

VICE CHAIRMAN HORN. We do have a process.

CHAIRMAN FLEMMING. Counsel will call the next witness.

MR. DORSEY. Anthony King.

TESTIMONY OF ANTHONY KING

MR. BELL. Anthony King, will you state your full name, address, and organizational affiliation?

MR. KING. My name is Anthony King. I represent Freelon [phonetic] King Smith Productions, which is a production company, almost extinct in Philadelphia.

On or about the first of July, 1977, while making a television documentary series here in Philadelphia with connection with channel 6, who obviously has left, I was broken into at the Holiday Inn, beaten up by Philadelphia policemen, and thrown into detention center for the period of 4-1/2 months.

For the first 27 days I was not permitted a phone call. I was told that I was a security risk. The security risk I believe that these people were referring to was the fact that, at that time in Washington, Senator Kennedy was having a hearing of the Senate subcommittee on intelligence, on practices of mind control, of which I am a victim.

I have been absolutely suppressed in this United States since I came back from England in 1973 and was plunked into prison, railroaded into the system by Judge Arthur W. Garrity in Boston, and a police conspiracy program played between Boston, Springfield, Missouri, throughout this entire United States.

So, I charge that this whole problem is mind control, that this whole problem happens to deal with communications and the lack of it of our people. I charge at this particular point that this entire city is under microwave programs. I charge the school system itself and can

prove at this point—microwave systems are being used upon our school children to make sure they remain laggard, as is said by the apartheid forces in South Africa.

When I was in England doing my joint venture tuna fishing contract in west Africa, what essentially happened was I was jumped by the CIA. I was absolutely disenfranchised from any right that has ever been, at least assumed to be given to human beings.

I have here evidence which I will submit, if it will make any difference to the committee, having to do with the fact that I was railroaded into prison, on a statute that didn't exist, for 3 years; that I was put into Springfield, Missouri, so I could not make an appeal; that I was thrown into jail in 1977 so someone could switch my identities, since I was told I would in fact be lynched; that I am basically dealing with white power programs which indeed are running through the Fraternal Order of Police in Philadelphia; that the MOVE program itself was hatched out of the Central Intelligence Agency down in Virginia, in Quantico; that Charlie Manson and his entire thing has been going on since 1968 coming out of the RAND Corporation, is indeed a paramilitary takeover of this United States of America. And most of the attitudes and motivational behavior in the city of Philadelphia where I was raised is all part of this.

Now, if there are any questions about how it works or how you deal with mind control programs from remote microwave distribution or to read men's minds or to lock men up immediately so they can be bugged, drug people, or to take witnesses, for instance, and hypnotize them so that prosecutors can get answers back, I'm available, sir. Those are my charges.

[Applause.]

CHAIRMAN FLEMMING. Counsel will call the next witness.

MR. DORSEY. You may submit the documents which you want the Commission to consider at this time.

MR. KING. To whom, sir?

If I have not used my 4 minutes—have I at this point?

CHAIRMAN FLEMMING. No, you have some time left.

MR. KING. Oh, fine. Let me throw this out and at least finish my 4 minutes. I used to have a very interesting time in Philadelphia as a sort of street reporter here.

Mrs. Tucker's campaign, by the way, was completely blasted by the Central Intelligence Agency, and I'll prove that. She was blocked from every single phone call she made; they truncated her calls.

VICE CHAIRMAN HORN. I'm sorry, I missed the name, whose campaign?

MR. KING. It's okay. A political campaign, I should say. Pardon me, strike that. In Philadelphia where black people are concerned, they are being contained almost like tea in coffee cups or teacups. I'm saying that in the city of Philadelphia microwaves are being used to manipulate the polls. Microwave technology is being used to manipulate almost everything in this city.

I've also made a study—I wish Mr. Rizzo was here. This is his fiscal budget for 1980, which, if the city council of Philadelphia holds up for approximately 6 weeks, your bonds will fall in New York. This city has been absolutely raped by organized crime.

I am, at this particular point, able to name the individuals, but I shan't; I would like a further investigation, which is the reason why I'm here.

MR. BELL. Your time is up, Mr. King.

MR. KING. Yes, may I ask one question? Is this Commission capable of making sure that I can get these charges into a court of law in Philadelphia? Because I am not allowed, of course, you know, to go to court.

MR. DORSEY. The Commission is not empowered to do that. The Commission can gather your information and refer it to the appropriate Federal, State, or local agency for its action, but the Commission itself has no authority to do that.

MR. KING. How about the people? Can these people guarantee that I can get into court in Philadelphia without being killed? You see, my life has been threatened, so I might as well just put it all out here. I want to go to court so I can sue the city of Philadelphia for the civil rights violations of having been locked up without any charges for 4-1/2 months. Is that allowable in the United States with civil rights?

MR. DORSEY. Yes, it is.

MR. KING. Then why not, can I not go to court?

MR. DORSEY. I can't answer that.

MR. KING. Okay. Thank you.

MR. DORSEY. Clifford Warren, Charles Buford, Charles Bowser, Sylvester Grose. Will those witnesses please step forward? Clifford Warren, Charles Buford, Charles Bowser? Lucille Simms, Roy Leeds?

[Charles Bowser, Charles Buford, Ray Leeds, and Lucille Simms were sworn.]

TESTIMONY OF CHARLES BUFORD

MR. BELL. Mr. Buford, please state your full name, organizational affiliation, and address, please.

MR. BUFORD. Charles S. Buford, 4800 Grant Avenue, formerly known as Eaton Hall. Our family's case with the city of Philadelphia—to give a history of the case, we have been living in this neighborhood which is called Tarsdale for some 17 years. It's practically an all-white neighborhood. We have gotten along well within the neighborhood.

In '76 after the nuns of the religious order sold the property to the city of Philadelphia—which I had a job of groundskeeper with the home on the property—the city stated that they would retain the two people there, and a few months later they didn't want me, although I was cutting 80 acres of grass, saving the city \$60,000 a year. So we

formally told the city if they did not desire our services they would have to help us to relocate through the Department of the Interior for the Federal relocation funds. They said no. We refused to leave.

They took us into court on a complaint and a judgment. The judge in the litigation served the complaint and told them to go to a jury for trial. That has been 2-1/2 years or more. Since that time we have been harassed by the farm and park commission, the city managing director's office, and until recently, I'd say February of '79, we have had daily reports from the police. We have file pictures and everything; and harassment, humiliation, and even to the point where the word came out that we are a public nuisance.

We have tried to live in the neighborhood as good citizens, but the city administration and the school district of Philadelphia have made it so intolerable in their inhumane actions by using the police, now we must say—I must say here that with the policemen we have the great getting along. They never have abused us in that sense.

But this continuously appearance of a policeman, the harassment by the city sending them out every day—doing this, we're doing that wrong, we're doing things wrong—making in front of our house a public highway, taking the law and using the police as a means to an end. And this has been going on.

And I have a nervous disability which is service connected, and I have tried to in the years to raise six children. But when the law enforcement arm of the city use their police, then they are becoming too brutal; they are becoming psychological; they are becoming mental abusive to my children at home, who hates to go to school and hates to step out the door. Whenever a policeman pass by, they think they're coming there to say they have a complaint from the school board. And I think the records will show that the school board did write the district, the 7th district and the 94th district, a complaint that we are blocking them. We are demonstrating, if anything, and no one—we cannot get the police protection to see that our demonstration for safety is safeguarded.

And in all fairness to this Committee, and I know the manner in which you operate, but I realize that we may still get more repercussion because of my appearance here today. But I've had enough, and as I say, I'm from the South, Mobile, Alabama, and there my back was against the wall. And I guess my back will always be against the wall and I never bowed—one time.

I thank you.

[Applause.]

CHAIRMAN FLEMMING. May I just, before the next witness is called, refer again to a statement that was made by the Vice Chairman at the opening of our hearing yesterday. This applies to all witnesses.

Witnesses including those at the open session—that's this session—at Commission hearings are protected by the provision of Title 18, U.S. Code, section 1505, which makes it a crime to threaten, intimidate, or

injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. We consider this a very serious matter. We will do all in our power to protect witnesses who appear at the hearing. I just wanted you to know that.

[Applause.]

CHAIRMAN FLEMMING. Counsel will call the next witness.

TESTIMONY OF CHARLES BOWSER

MR. BELL. Mr. Bowser, will you state your full name, organizational affiliation, and address, please?

MR. BOWSER. My name is Charles Bowser. My office address is 1845 Walnut Street, and I'm here today as an attorney-at-law and a private citizen.

And I would like to, first of all, request that this committee consider extending its term in Philadelphia because there is much more which needs to be heard here for you to establish an adequate record. I really don't believe that you can begin to understand the depth of desperation, despair, the anger, and the fear which exist in this city in this 2-day term, and I would ask you to extend your term.

I would, in my limited time, refer you to reports which have already been done on the situation with regard to police abuse in this city, of our committees, of our State legislature, by this Commission itself, and by other private and public agencies, by the Federal grand jury, by the investigative reporting of several newspapers documenting many instances of brutality.

In my own law firm, I have established a section where we handle police abuse cases, and I think we are carrying some 20-odd cases now. And one of the things which disturbs me about the current trend of police abuse is that it no longer merely occurs on the street.

In the early sixties I was a member of the citizen review board here, appointed by former Mayor Dilworth, and 98 percent of the cases of police abuse which were referred to our board occurred because of encounters in the streets. Now, we're getting a rash of cases where homes are entered illegally, or without authorization, and every one in the house is beaten. In one instance, everyone from adults to children were beaten and dragged out of the house. This is a frightening and terrifying situation in this city.

I would refer you to today's newspaper regarding an incident that happened to me Saturday night. And I must say to you that there was a time on Saturday night, when 14 police cars descended on us with sirens and flashing lights to issue one ticket, that I thought I wasn't going to live beyond that incident, and I'm quite serious about that. And throughout the whole incident, I was recognized as, hopefully, as not being a criminal, yet it made no difference whatsoever to these individuals.

I would like to make some specific recommendations to your Commission. First of all, I would hope that you would encourage the President to tie LEAA funding to the absence of police abuse because we need some enforcement power. People need action; they really don't need information any longer about police brutality. And I would suggest that that kind of linkage might be persuasive on some communities to try to curtail abuse, which I would estimate occurs by a small percentage of officers.

I think that there ought to be some consideration to expanding Title VI, civil rights reviews, to include the behavior of police brutality in our police department and not just the actual operation of educational programs, housing programs, and other programs subject to the Civil Rights Act. I believe that if you do this so that there is a leverage on communities—certainly on Philadelphia—to conform, that police brutality can be abated if not ended in this city. But it is a very real problem. It is not imaginary. As I said, I experienced it personally, to some extent, on Saturday night.

And I would ask you to join us, if you can or some members of your staff, at the 14th police district tonight—

MR. BELL. You have 1 minute, Mr. Bowser.

MR. BOWSER. —where there will be a citizens rally resulting from the outrageous infractions of civil rights, of human dignity, and of personal safety by the police officers in that district. Community leaders of great reputation up there have been accosted, beaten, and thrown into jail. And if you want to get a real sense of what's going on in this town, some of you ought to come tonight and stand in the crowd and feel it and hear it and see it for yourself.

[Applause.]

MR. DORSEY. Mr. Chairman, before we go to the next witness, one of the individuals that I called, Sylvester Grose, I have here a written statement which I would ask to be inserted in the record at this time.

CHAIRMAN FLEMMING. Without objection, that will be done.

TESTIMONY OF LUCILLE SIMMS

MR. BELL. Lucille Simms, will you state your full name, organizational affiliation, and address?

MS. SIMMS. My name is Lucille Simms. I'm just a working housewife.

For about 4-1/2 years, almost 5 years, someone has had me under audio surveillance to communicate with me about what I think. Now, I went to all law enforcement offices, the police, State, and the Federal; no help. Now, I'm going to tell you just what has been happening to me.

I've been under surveillance and I've been tortured constantly. My legs are burnt, and I can take off my clothes, and my back is burnt. I have medical records to prove this. I've submitted everything to the police. The police tells me we need something electronically.

We went to New York and I bought this debugger to let everybody know I'm under electronics. Behind that, I have a statement from a coworker that her and her friend would stop harassing me. They wouldn't take that either. Plus I've had my medical record too. They wouldn't even take it. Right now crimes are being committed right here. I'm still under electronics, right at this moment. We're all being invaded right now.

My phone calls—I tried to make an appointment to see the district attorney. I can't get to see him. I go there; they refuse me. I go to the detective; they refuse me too. I go to the FBI. I go there and let the city handle it.

Now, what's going to happen? I have six children. One of my girls is 8 years old. She cries in the classroom, the teacher puts down on her report card, "for no apparent reason." I ask her; she says, "Mommy, I don't be crying for anything. My head and my stomach hurts." So I take her to a doctor, a medical doctor. He checks her out. There don't seem to be anything wrong with her. She seems in good health. Now, what is it?

My daughter's been touched with electronics too. My husband is a career war veteran. I have a granddaughter right now. Her father is over in Germany in the Armed Forces. My home has been terrorized with electronics because it's not seen. People are afraid to arrest those people that go where the electronics are used.

Now, what is it? I have documents here that refer me to go to the mayor. I have letters from his office that refer to the appropriate agency. Nothing happens. Is it because I'm black? It's got to be something. I'm a law-abiding citizen. I work. I try to raise my kids, try to send them to college. Something's wrong in the United States of America; that's where it's at.

That's all I want to say. I just want some help. I just want to be off of this surveillance for no apparent reason. And then the law of Pennsylvania say a person has to be told within 3 months who has them under surveillance. Well, what's wrong with the law? I haven't been told. A policeman come to my house, and they've been giving me a runaround. Why are they giving me a runaround?

CHAIRMAN FLEMMING. Thank you very much.

TESTIMONY OF ROY LEEDS

MR. BELL. Mr. Leeds, would you state your full name, address, organizational affiliation, if any?

MR. LEEDS. Yes, it's Roy Leeds. Address, two lockers in the YMCA in Philadelphia, center city, as a result of being evicted several weeks ago by one of the city departments referred to by the word "authorities," as a result of what is referred to as retaliatory eviction, as a result of not keeping mouth shut concerning illegality on the part of a number of government agencies which took place approximately

2-1/2 years ago when, among other things, many good houses were demolished violating, among other things, Federal law and several sections of the Constitution of the United States of America.

Considering, among other things, that there are documents, including this one here is a statement from registered architects stating, briefly—I'm not going to read it for time sake—that the buildings in this area are in very sound condition and it is a crime to knock them down, before the demolition.

Federal law was violated. The Department of Housing and Urban Development ordered the Philadelphia Redevelopment Authority to set up a project area committee, which is mandated by law. They did not do this. They did not take part in federally mandated relocation of displaced people.

Not too long before the demolition, a number of people across the street from one part of the block where most of the demolition took place signed a petition, which there's no time to read now, of course, but basically said we're against what's happening because we never even heard of it. We were never even asked our opinion even though we live across the street, and it's going to greatly hurt our lives and our families, and on and on.

And more recently the city of Philadelphia has spent millions of dollars—I have no idea of the exact figures. I saw different figures in different newspapers—but well over \$1 million. I heard over \$2 million for something that was the Palton blockade, which some people refer to as what was called the "MOVE blockade," and there was an organization referred to by the term the "MOVE organization." This organization still exists. I used to live around the corner from this organization. I never got to know very much about the organization, but what I do know, among a number of other things, is that some time ago the city of Philadelphia, after being requested from some other community groups, but mainly a community group represented legally by not only an attorney but a real estate attorney by the name which I cannot, I understand, mention. But this real estate attorney, besides being the son of a very big family of real estate people who have big holdings in center city, Philadelphia, where real estate is not cheap, and his partner in a small firm bought up the properties. Interestingly, these are the very people, who signed the petition, a couple years lived in.

These were the people, some of them senior citizens, some of them never missed their rent payment. These people during this Palton blockade, which millions of tax dollars were spent to put up, at the request of this attorney who happen to be one of the owners of these properties, these properties were inside the area which was blockaded.

Interestingly, this attorney being the real estate attorney that very often goes to real estate court, landlord and tenant court, understands that there are landlord—excuse me, tenant—

MR. BELL. One minute, Mr. Leeds.

MR. LEEDS. Thank you.

Tenant rights organization. Understanding this, it seems like it was an action that was very much in the interest of this attorney and this attorney's partner. I believe it can be referred to accurately as conflict of interest is the term sometimes used to get this city to put up this blockade. During the blockade all these people were removed. Some of them forcefully, had their water cut off, and millions of dollars were spent. Very few people in the city do know about that.

Okay, now, I'd like to go on and on about this. I don't have time to testify about these things, but there are a number of other things that I would have liked if this would have been set up differently. I'll just have a chance to mention a few of them. In fact, no, I'm not going to mention them. What I'm going to do is just refer to something—I'm going to respond to a couple of comments made—

MR. BELL. Your time is up, Mr. Leeds.

MR. LEEDS. I'm just going to end it in a couple of seconds by saying that I'm going to offer an exhibit to respond to the people that say there is no police abuse, and I'm going to offer exhibit anything—A, B, whatever anybody wants to call it.

CHAIRMAN FLEMMING. We'll be very happy to receive that.

MR. LEEDS. Some scars. Anybody wants to look at these scars—and there's no time to talk about it. This wasn't the most important thing I wanted to talk about. This head here connected to this body, this being, as is documented in some of this material here, was close to death for a considerable period of time in 1967, and that is not nearly as important as a lot of this other stuff that I wanted to speak about.

CHAIRMAN FLEMMING. Well, if you—we will be very happy—

MR. LEEDS. I agree with Mr. Bowser in that many citizens in this city would very much appreciate it and have high respect for this panel if the panel works and does somehow extend the time for more hearings in this city.

[Applause.]

CHAIRMAN FLEMMING. We will be very happy to receive from you any additional information, and we will include it in the record. Thank you very much.

MR. DORSEY. Everett Donald Yancey, Samuel J. Jones, Sr., Curtis Jones, Jr., David Fattah. Please step forward. Your name?

MR. YANCEY. Everett Donald Yancey.

MR. JONES. Samuel J. Jones.

MR. JONES. Curtis Jones, Jr.

MR. DORSEY. David Fattah?

[No response.]

MR. DORSEY. Orville Brittell?

[Everett Donald Yancey, Sr., Samuel J. Jones, Sr., Curtis Jones, Jr., and Orville Brittell were sworn.]

TESTIMONY OF EVERETT DONALD YANCEY, SR.

MR. BELL. Mr. Yancey, will you state your full name and address and organizational affiliation, if any?

MR. YANCEY. My name is Everett Donald Yancey, Sr. My address is 7404 Georgian Road, Philadelphia, Pennsylvania, 19138. I am Republican committeeperson from the 10th ward, 2nd division.

May I begin?

CHAIRMAN FLEMMING. Certainly.

MR. YANCEY. Good afternoon, Commissioners, press, and the audience at large. Gentlemen, the world and its people have known suffering since time immemorial. The law itself has been harsh in meting out justice. Because of this, in history, courts of chancery were set up to give the citizenry some relief and equity. But here in the city of Philadelphia, we have police brutality being practiced as an ongoing, day-to-day method of operation.

Brutality has a way of being accepted in its formative stages by the masses in general who are seemingly unaffected by it. Nevertheless, in every case that time allows it to spread, it is found to have no discretion. In other words, police brutality has to be controlled or it will run rampant, and when it does, it respects no color barriers.

The Philadelphia police have created in their ranks a wartime philosophy. They have created a situation which closely resembles South African tactics, and they have brought forth a reason for this Commission to be in session here today in the city.

Philadelphia police have created in their ranks an atmosphere resembling the old Marine Corps esprit de corps philosophy. This worked wonderfully well for the Marines fighting a common enemy on foreign shores, but let's face it, this esprit de corps philosophy is not practical for peace officers in the home cities of our Nation.

Philadelphia police may call for assistance so that they may swarm over victims. They function like unprofessional badge-wearing gangs of hoodlums. They rally to the aid of fellow officers, not for the purpose of assistance in most cases, but rather to have additional witnesses for the prosecution.

Citizens are rendered helpless in these situations. Today, the great majority of these audacious atrocities are being perpetrated against one segment of our society. But unchecked, tomorrow it will affect all of our society because there is a segment of the Philadelphia police who honor savagery with a passion.

If we, as a segment of our society, were to closely check the assertive actions being exerted against us, we could but not see a close resemblance of the U.S. of A., being America, and the U. of S. A., being South Africa.

Philadelphia police embarrass our foreign ambassadors on every level of diplomatic tenure. The Government of South Africa looks with great pride at our citizen soldiers in blue as they degrade the very existence of a people in front of the world.

But, thank God, the press has no immunity to truth. This dichotomy of law enforcement may be the legislative law in the U. of S. A., but it is the overlooked and nonenforced law of the U.S. of A., that is, in the streets of Philadelphia.

The hearing being conducted here before the Civil Rights Commission today must end this dilemma of unequal and brutal treatment being exerted against a segment of our society here in the City of Brotherly Love. This Commission must unchain itself from being symbolic and harness itself to being pragmatically functional.

It must be noted at this point how Frederick Douglass answered two questions put to him in August of 1857. The first—

MR. BELL. One minute, Mr. Yancey.

MR. YANCEY. —How long can our people be oppressed? And secondly, how long can a man stand being abused? He answered, "Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them. The limits of tolerance are prescribed by the endurance of those whom they oppress."

So you Commissioners must understand that it is not the tyranny of the police that you must answer first, but accordingly, it is the tolerance and endurance of the oppressed that is of immediacy.

I thank you.

[Applause.]

TESTIMONY OF SAMUEL J. JONES

MR. BELL. Samuel Jones, would you please state your full name, address, and organizational affiliation?

MR. S. JONES. My name is Samuel J. Jones. I have no affiliation with an organization. Formerly employed at the Philadelphia Shipyard for the past 30 years. While employed there, I was in the capacity of a complaints representative on equal employment opportunity. Unfortunately, after 30 years in Federal service, instead of receiving a 30-year Federal service pin, I received a 30-year boot with cause. And that action that I received there carries over to what I'll refer to as municipal corruption; that's not only the police, the guy who walks the beat, it's the DA's office, the court system, all the way down. Often people refer to it as a bureaucratic problem, but when you take on elements of conspiracy, it's removed from the bureaucracy that everybody wants to blame all the sins in the world on.

The matter that I'd like to discuss with you here today is an action which was taken by the police and the negative efforts by the DA's office and the court system of law, and I'll submit these documents to you before leaving this stage here, today.

The first case that I'd like to bring to your attention is a personal case, but it's not presented to you for any personal consideration. It just may expose you to a negative system that is in bad shape and needs drastically to be corrected.

On April 1, 1974—and I'll just refrain from giving any particulars of personal identification—a police officer submitted a fraudulent report to the police radio. It was dispatched to the street, the following: "Samuel J. Jones, Sr., did feloniously attempt to cause or intentionally, knowingly, or recklessly did cause serious bodily injury to a police officer making or attempting to make a lawful arrest."

That's one allegation, and this is still a fraudulent report that was put on the radio. On the same day, April 1, '74, "unlawfully did threaten to commit a crime of violence with intent to terrorize another or cause evacuation of a building—peace—place of assembly or facility of public transportation or otherwise cause serious public inconvenience or reckless disregard at the risk of causing such terror and inconvenience to others."

The third fraudulent allegation: "unlawfully did possess a firearm or other weapon concealed upon his person with intent to employ them criminally."

Now, gentlemen, what this here—and this is a grand jury indictment that was handed down on the results of that fraudulent police report. Now, what transpired here? John Doe and Mary Doe had a parting of the ways. John Doe, in his ridiculous effort to reconcile it, seen her on the street and start conversing with her. Mary Doe pulls a revolver out and shoots John Doe in the hand. Now, John Doe disarms Mary Doe, and in doing so, Mary Doe was free. She up and ran. John Doe took Mary Doe's pocketbook, hat, and the weapon that she employed criminally and took them into the county detective's office at city hall to submit a complaint.

When I got there, I was purposely directed to one specific detective. He refused to take my complaint. He refused to take the loaded weapon. He refused to take any statement. His words were, "If you know what's good for you, you'll get the hell out of here." I couldn't believe it, but I endured it. And another detective say—seeing me in my bewilderment there, what will I do next? He said, "Well, look—

MR. BELL. You have 1 minute, sir.

MR. S. JONES. He said, "Look, look at it this way. You have to go back to the area where the complaint arose and report it to that station." This required me to come from city hall all the way over to Ninth and Germantown and Hanes.

Now, with this erroneous report on the wire, they knew I was armed; they knew I had a loaded weapon; and these fraudulent claims that I did attack a police officer served more than justification to shoot me pointblank, and that would have been it, open and shut.

But I was fortunate with one thing, is that the car that I was using was not registered in my name; I borrowed a friend's car. And that's the only reason why I think I'm alive today. That's one incident.

Just quickly, another incident I want to bring to your attention. An individual was picked up off the street on his way home. He was taken into custody, taken to the police station, bounced off the wall, detained overnight, and the morning he was kicked out.

The individual reported to work the next morning, which, incidentally, happened to be hospital and complained of pain in his arm. Upon X-ray, it was found that the man had a broken arm.

MR. BELL. Your time is up, Mr. Jones. Thank you very much.

VICE CHAIRMAN HORN. Let him finish this, finish the thought.

MR. S. JONES. When he had the X-rays, it revealed that he had a broken arm. And here is a case where the police took a man off the street, incarcerated him, beat him, and put him out on the street with no charges logged. That was the second one.

Now, the third one is one that—I hate to exceed my time, but I think it's—

VICE CHAIRMAN HORN. Do you have any of this in writing?

MR. S. JONES. Yes, I'm going to submit all of this—I'm not going to submit all completely because I don't have it all. I am going to submit what I've just shown here, the documents I have here, because I have a copy. But the other one I wanted to do, and it's very personal to me, is how overzealous police can place life in jeopardy. As a result of this type of action, my son was shot and still carries a bullet in his head. Thank God, he's still alive today.

What had transpired—and forgive me. I beg your indulgence on this because I think it's something you should hear. My son and my daughter were coming from an automatic laundry. The police were in pursuit of a felon that they knew was carrying dope. They were in hot pursuit to the extent that when he approached my son and put the contents in his pocket, they seen it. They approached my son and told him, "Look, we know he did this," he said, "but we need your testimony." He said, "Now, if you don't testify that he did put the dope in your pocket, then we're going to charge you with possession." That put my son in a quandary; he didn't know what to do. So he tried to play it low keyed and not get involved.

Every day the police would see him and stop him on the street and be talking to him. This was common knowledge all through the neighborhood, which put the people on the mind that my son was informing to the police. About 3 days later the elements that belong to the drug world attempted to kill my son, simply because overzealous action by the police force that don't have no consideration or regard for an individual's life as long as they can make another record. And I thought that was so unfair.

I appreciate your indulgence. I'm sorry I exceeded the time.

CHAIRMAN FLEMMING. Thank you very much.

Counsel will call the next witness.

MR. DORSEY. Curtis Jones, Jr.

TESTIMONY OF CURTIS JONES, JR.

MR. C. JONES. My name is Curtis Jones, Jr., cofounder of Youth Movement to Clean Up Politics, and I'd like to preface my remarks

with this. I noticed and looked over this distinguished panel, and I see a lot of apathy and a lot of—this is just a job, but I'd like to express the fact that to these people in this room police brutality is not a gig, it's a way of life. So if you see emotionalism, that you should understand it for that; they live it.

And I'd like to also state that yesterday it was stated that the police had an active role in the gang problem that Philadelphia had, and I'd like to verify that with this: at one time in my life I was a gang member, and at that time, I recall, it was August 10, 1973, I believe, and it was the day of a concert and we were getting off a bus. And what we have in Philadelphia is called gang turfs, where you belong to one designated area, okay, and we were in another turf, so to speak. And what happened was we got off the bus and a cop saw us get off the bus and he recognized us for not being in that turf, okay. And what happened was he directed us to go down a certain street which is out of where we were going, 'cause we understood that to go the way he had suggested us to go meant you'd have to confront the other gang. All right. And what happened was we told him—we made it perfectly clear that for us to go down this street—which was Woodcrest Avenue—was to meet the opposition. And he said, "I know that. Go ahead down." And as a result, a friend of mine—which will remain nameless—was stabbed in the eye. That happened, okay.

Another incident—and I say these incidents to show a correlation between economics, because a lot of folks made a lot of money during the gang situation down at city hall, and to show that correlation to political affiliation.

The second incident was about 2 years when I was coming home from college on a weekend, and I happened to go through a red light. I should have received a citation, but I shouldn't have got what I got. Anyway, after doing so a cop pulled me over and he asked me in a kindly manner for my license and my owner's card and everything like that. I didn't have my license at that point in time; I had my owner's card. So he wanted some proof that I was who I said I was. So what I did was I showed him one of my work IDs. And at the time I worked for an organization called the House of Umoja—I volunteered my time on the weekends to tutor younger brothers—and I thought that might be a plus in my favor to show that. I was not just a criminal per se. Okay. And he said to me—and I'll say this just, you'll know, exactly what he said—he said, "If I knew you worked for that fat bitch, I'd have had you in handcuffs a long time ago."

And at that time he dragged me from the car and he put the handcuffs on me. Okay. Luckily, where he stopped me at was in front of a [inaudible] residence association where a lot of folks knew me and knew the kind of work I did. So a lot of folks began to come outside and verify who I was. So because of that, he let me go, but he didn't let me drive the car.

I cite those instances to show that because of certain political affiliations that did not agree or did not go along with the stuff that city hall was bringing forth, you had to pay the consequences when you were on the street. And that is a reality in the city of Philadelphia. And I don't—what Bózo said while we were in here, but I'm going to tell you what really happens in the city of Philadelphia. So, when you see folks come up here and they get a little bit emotional—

MR. BELL. One minute, Mr. Jones.

MR. C. JONES. Pardon me?

MR. BELL. One minute.

MR. C. JONES. All right. When they get a little bit emotional, understand, it's because they are living this nightmare. You heard people talking about getting up in arms, and that's a dangerous situation. You know it and we know it. But rather than be killed and shot with handcuffs on, it's better to do it that way. So I urge you to do something about the situation we have here in Philadelphia.

Thank you very much.

[Applause.]

TESTIMONY OF ORVILLE DALE BRITTELL

MR. BELL. Mr. Brittell, state your full name and address.

MR. BRITTELL. Orville Dale Brittell, 44-B South Union Avenue, Lansdowne, Pennsylvania, 19050, zip code.

I was listening to the radio, the early news report yesterday morning, and I heard that there was going to be a hearing on police brutality. Being of the beliefs that I am—I am not interested in trying to get money, monetary return out of what I'm doing today. In fact, I am losing a day's wages.

I believe that the Bible says that the powers that we are ordained of God, and I believe every word of it. I believe that it also says that if thou doest evil, be afraid, for he beareth not the sword in vain.

We all know what happens when a parent allows a child to get by, as we call it, with murder. We know what happens when a teacher allows a student to get by with murder. We know what happens when a man and a country allows people to get by with things that God counts as sin and wrong.

I have come to make constructive suggestions. I was in Africa for 26 years on a mission station. I had a nervous breakdown. I came to this country. I was treated by Dr. Diason [phonetic] at the University of Pennsylvania. I was given extremely high doses of lithium. Because of this, my stomach got to the place where it burnt like fire. Consult and verify all of my statements with the Buckons Looseleaf Record Company in Clifton Heights; that's where I worked when I went there off and on continually to try to get help.

I continued to pay 20 bucks a visit; I continued to pay a pharmacy cost, and I got worse. Eventually, I woke up one night with such a

blinding headache and a killing pain in my stomach that I decided that I was going to the University of Pennsylvania to have an X-ray and to tell them, "Look, here I am while it hurts; tell me what's wrong with me."

I sat there at the desk at the University of Pennsylvania—there are many other things I could tell you that precede this but I'm trying to be as brief as possible—and all of a sudden they didn't receive me. They played games. The reason was that I had been nearly killed by a doctor on a visited night once before there when I landed up in the Fitzgerald Mercy Hospital in Darby, and I woke up looking at my family at the foot of my bed and, so to speak, asking me what kind of a box I wanted to be buried in.

Fortunately, I was able to go to work the next day. But in the meantime, what happened when I came back this time, they did nothing. Hours crept on. Eventually, I walked out the door, and they had three or four uniformed policemen in and out. And I started walking into town. I got violently sick, and I wanted to vomit—excuse my English if that's not the right word to use. The point about it is I happened to be close to a hotel. I can show you the documents that I have. Since that time I talked with the manager of that hotel and asked him if I was out of my head dancing on his desk when the police came in and got me.

I went into the men's room. I looked shabby; I have no complaints—

MR. BELL. One minute, sir.

MR. BRITTELL. Okay, I was taken to the station by the policeman. A plainclothesman walked up to me and knocked me halfway across the room. Twenty-five to 30 policemen at the round house in Philadelphia were standing there watching him. As I walked out to the door down to the cell row, he backed me right in the back twice, and my back aches and I consulted with my doctor yesterday and he said, "Mr. Brittell, I would advise you to have that looked at again."

I was taken to Hahnemann Hospital; I was taken to Metropolitan Hospital. I was then sent out to Gatherford Hospital for 7 days. I was asked at the time that I was standing there, when about 25 people were lined up along a big long row of civilian clothes, "You're leaving, Mr. Brittell?" I said, "And?" The guy came around to me and said, "Do you mind staying for another couple of days?"

I was nearly frozen to death when I was there. Only some kind guy came in who called himself the plumber and said, "Mr. Brittell, if you'll stop up that toilet," and he said, "You push those buttons, you'll get hot water out of there."

In the meantime, doctor—so-called doctor—at the office, when I was taken up to the office, didn't give me medicine for my hands; he didn't give me the lithium that I was supposed to have for treatment. The tall man on the day of my dismissal stood up and said, "What about this? Will you please give this gentleman some medicine?" That doctor wrote down lithium, that I saw, and a number of other drugs

that I don't know what they were all about. But I'll tell you one thing about it—

MR. BELL. Your time is up, sir.

MR. BRITTELL. While I was sitting in there, I happened to be shoved into an office, and they opened the doors of a cupboard and there were—I couldn't count—so many little pills. What do they call them? Red devils, or something?

Thank you.

I have documents, and I want the documents verified to the Government. Now, there is only one suggestion that I make, that is that any policeman who takes a person in on a brutality charge; assault and battery, like I was—I had the black eye, I had the black arm, I had the nearly broken back. They must make that policeman sign his name and his number on that certificate. Then you can begin to put the screws on somebody. After he does that—if he and the police force refuse this, as one official told me they will do, they must do something else. They must make it compulsory for a hospital anytime a person is brought in by the police to take those facts.

Furthermore, I am working with trying to rehabilitate dope addicts that were evicted from the same street that I am on, there in Lansdowne. I have been out to the prison. What we need is something to help these people that get into prison to do something, rehabilitate them rather than saying they return to crime, they are repeaters.

CHAIRMAN FLEMMING. Thank you, sir.

MR. BRITTELL. I am sorry I overlapped.

CHAIRMAN FLEMMING. If you want to submit those documents, right there.

MR. BRITTELL. Right here?

CHAIRMAN FLEMMING. Yes.

MR. DORSEY. Helen Gagliardi, David Richardson, Juan Ramos, Sylvester Grose?

CHAIRMAN FLEMMING. Yes?

MR. EVANS. Mr. Chairman, I signed a statement, had it notarized and turned in, and I as—

CHAIRMAN FLEMMING. Could you come up and talk to a member of the staff, please? Is your name Sylvester Grose?

MR. EVANS. Thomas Evans.

MR. DORSEY. Excuse me for 1 second. I think I can help out.

Helen Gagliardi, David Richardson, Juan Ramos. Would the gentleman who was just speaking please come forward? Could you give your name, please?

MR. EVANS. Thomas Evans.

MR. DORSEY. And you wanted to testify; is that correct?

MR. EVANS. I was hoping I would get a chance.

MR. DORSEY. David Richardson?

I just wanted to explain that Mr. Evans was actually the first person to sign up, but he didn't—his name didn't get on the right list, and that's why it wasn't called originally. I'm sorry for that error.

[Thomas Evans, Sylvester Grose, Helen Gagliardi, David Richardson, and Juan Ramos were sworn.]

TESTIMONY OF THOMAS EVANS

MR. DORSEY. Mr. Evans, would you please state your full name and give your address for the record?

MR. EVANS. My name is Thomas Evans. I room with a couple at 1609 K Street, 19121.

MR. DORSEY. Please give your statement.

MR. EVANS. My statement. This is an attempt to bring some of the crimes committed under the guise of complying with the various laws enacted by the United States Congress to protect the rights of the worker.

When other devices for ridding the plant of Thomas Evans and other undesirables failed, they employed a hooker. I had purchased a home in west Philadelphia.

A couple of weeks earlier a policeman riding down North 17th Street had fired at random and killed a man and his sister. And this Democratic committeeman dropped in on my house and asked me about changing my registration from a Republican to a Democrat. But quite frankly, the neighborhood was fired up with this. I asked him how and-so-and-so could he ask me to change my registration when this policeman was so contemptuous of life in the black neighborhood that they whip out their gun and fire at random while the police car is moving and kill a man and his sister. And when the mother heard about her two children get killed, she dropped dead.

So from then on, I was a marked man. This woman I was hooked up with, she began to have a lot of business with the police. And one day she stopped the policeman, and when she left, I walked out on the corner and flagged him down and asked him what was her business with them so much. The policeman asked me, "Are you having family problems?" I said, "Yes, I am." He said, "See a minister." I said, "Well, I'm a Protestant and my wife is Catholic." He said, "See a priest; some of his best friends are Protestants."

Accordingly, I called this priest and made an appointment with him. When I went to him and told my story to him, he said, "Gee, she must not be a good Catholic." He say, "You tell her I say come to see me, and you bring her also, and we'll get this straightened out." But she refused to go.

Then she had me arrested, and I hired a lawyer and beat the case. Then I discovered what her game was. She was talking about running a madam's house. I told her if she want to run a madam house, "Go to your car, take that car and go rent yourself a house and run any kind of house you want, but," I say, "you can't run it here."

She said, "This is my house." I said, "This is my house. The car is yours and the house is mine 'cause the deed is in my name." So any-

way, she had me arrested a second time. When she did that, this bail bondsman talked her out of it. Then I discovered the place where she was working from, and since this police captain had been transferred to clean up the district, I said, "Well, this is a good place for you to start." I gave him this letter with this address on it and passed it to this police captain. After he took it he said, "I'm going to put a tail on that house."

She had done moved out of the home while I was there. He said, "I'll put a tail on this house." That Friday—that was on a Tuesday, I think—and that Friday morning I was late going home because I worked that night. When I got off the El at 56th and Market and I got the newspaper, they had a big headline there. They had shaken up the Philadelphia Police Department and transferred this captain and they transferred another man in his place.

MR. DORSEY. You have 1 minute remaining.

MR. EVANS. I beg your pardon?

MR. DORSEY. You have 1 minute remaining.

MR. EVANS. The station was only about four blocks from there, and I walked in there and asked them about this letter I had given this other police captain, and he told me that this captain took all that information with him. So, I went in to him and asked him for my letter. He told me he had lost it. And I told him my reason why I wanted it. She wanted to run a madam house. He said, "Let her have it." I said "Not in my house." He says, "It's better to let her have it than losing your life." I said, "I don't intend to lose that either." And I walked out on him.

So anyway, she moved out then for good, and she brought another charge against me, desertion and nonsupport. I had got sick, my hair had turned white as cotton, and a neighbor persuaded me to move out of the house or else I would have been dead.

MR. DORSEY. Your time is up, sir, please try to conclude.

MR. EVANS. I beg your pardon?

MR. DORSEY. Please try to finish up now. Your time is up.

MR. EVANS. Yes, I want to. But anyway, she just kept on until finally they framed me and put me in jail. And when I went to jail and found out what it was about, I ended up by running the president and his son out of the United States—the president of the company I worked for and his son—I drove both of them out of these United States.

MR. DORSEY. Thank you. Sylvester Grose?

TESTIMONY OF SYLVESTER GROSE

MR. GROSE. I'm a veteran of World War II. I came out of the army with an honorable discharge certificate and a gastrointestinal condition. I obtained employment at the Philadelphia Naval Shipyard. I worked as an electric [inaudible] intermittently for 14 years. At the shipyard I observed and once more was subjected to massive punctu-

ated racial discrimination—less and unequal hourly pay rates and duty assignments as to whites, blacks, and Puerto Ricans in that order. Being fresh out of the Army I asked myself why this had to be. And so I thought I had to fight once more for democracy and redeem my citizenship once again.

I have too much here to get into time limitations, so I'm going to skip some. The Philadelphia Naval Shipyard management did proceed to manufacture some nebulous and [inaudible] charges that I had threatened to do bodily harm to two of my coworkers.

My attorney at the time told me that the Navy had crossed their T's and dotted their I's as far as I was concerned. This case then proceeded to—my attorney withdrew from the case and proceeded to deny me due procedural process.

In 1976 the police came on another job that I had. Soon after their visit to this job, I found myself unemployed. My home was broken up; interference has been run on me to prevent me from securing employment. My mail is tampered with, alterations, mail diverted, withheld. My home is consistently and covertly searched, buggings in my home and my automobiles, seizures and purgings of my records from the Philadelphia Naval Shipyard case, the legal documents. Internal Revenue was set on me. And the police continuously harassed me by vehicle on the highways—say I'm coming home at night, get in back of me and flash their lights all the way home.

MR. DORSEY. You have 1 minute remaining.

CHAIRMAN FLEMMING. I notice you have that all written out. You know you can leave this complete statement with us.

MR. GROSE. Right.

CHAIRMAN FLEMMING. If you want to skip to the end, you can leave the complete statement.

MR. GROSE. Okay, then, I'd let somebody else—

CHAIRMAN FLEMMING. A member of the staff is right back of you there. He'll be glad to take it and we'll include the complete statement.

TESTIMONY OF HELEN GAGLIARDI

MR. DORSEY. Helen Gagliardi? Please state your full name for the record and your address, please.

MS. GAGLIARDI. My name is Mrs. Helen Gagliardi. I'm a widow. I am unemployed. I am unable to work. I've been under doctor's care for bad nerves and depression since my only child, my son, was shot to death by a police officer. My son was shot to death because of someone else sleeping on a porch. It wasn't my son. I was told by the homicide division it was not my son. They told me they were sorry. Didn't tell me what I could do about it.

After my boy was shot—which he was shot twice, once in the back and once under the left armpit—he was left there to lie for 2 hours

and 10 minutes. He was never taken to a hospital which was less than 5 minutes away.

The city called it justifiable homicide. I sued in Federal court. The case came up in 1975, took the whole month of July. I won in Federal court. The city awarded me—they found the officer wrong in the shooting death of my only child, my son—they awarded me a certain amount of money. The city appealed all the way to the U.S. Supreme Court. June of last year the Supreme Court turned down the city. October of last year the city paid me for the wrongful shooting death of my son. To this day, all I know is that the officer who killed my boy was just transferred; no disciplinary action was ever taken against this officer.

In my estimation, no amount of money can help me. But I feel the city had to pay me for the wrongful shooting death of my son. They had to pay for all those appeals which I'm sure cost quite a bit of money. The judges that heard the case in the Third Circuit Court of Appeals all the way to the U.S. Supreme Court in Washington—and no disciplinary action whatsoever has been taken against the officer. He is still on the police force; he was just transferred.

That's all I have to say.

MR. DORSEY. With your permission, Mr. Chairman, I would like to ask Ms. Gagliardi one question just for the record.

CHAIRMAN FLEMMING. Yes.

MR. DORSEY. At the time your son was shot, did, to your knowledge, he ever have in his possession a weapon?

MS. GAGLIARDI. No, sir, my son was unarmed.

MR. DORSEY. Thank you.

David Richardson?

TESTIMONY OF DAVID RICHARDSON

MR. RICHARDSON. My name is David Richardson, and I'm a State representative from the House of Representatives in Pennsylvania; and I'm also the chairman of the Black Caucus, Legislative Black Caucus of Harrisburg; I'm also cochairperson of the Black United Front, which is an organization in the community of interested people here in the city of Philadelphia.

I want to first start off by saying that I would hope that this Commission would grant additional time for hearings. I do not think that you can come to Philadelphia and in 2 days or 3 days find out what the problems are that face people here in the city of Philadelphia, particularly black, Hispanic-speaking people, and poor white people who have no control over the Philadelphia Police Department at all. And in order to get a fair and honest opinion of what goes on, it seems to me that you need to be here more than just the 2 days that you are here now.

VICE CHAIRMAN HORN. Could I say, if I might, at that point that the Commission will take all of this material under advisement and should further hearings be needed or followup, obviously the Commission will do it. But we have had our staff here for months in Philadelphia, going through various records and more months' work will still be in tow. So I don't think we should leave the impression that the Commission just came to town for 2 days.

MR. RICHARDSON. No, I understand that. My point—I know that the documents have been collected, but there's a number of people in the community who are not a part of documents that your staff has been doing, because your staff was also instrumental in what my next phase of this statement was going to be, with relationship to the hearing that was held by our subcommittee on crimes and corrections that dealt specifically with the police brutality here in the city of Philadelphia.

We have concluded those hearings and we also have put together a document that we've also submitted to your men who also have them. And as a result, I've indicated that the higher echelon of the city have really acted in a wrongful manner, and that until the higher echelon of the city is changed, that the police brutality and the situations of mass murder in our community where people are being shot down in the streets will continue to go on until that's changed.

The mayor of the city, who is in our estimation a sick individual who needs psychiatric treatment himself, has allowed this situation to get out of hand to the point that he condones every action of every police officer, whether it is pointed out that it is wrong or not. Not only did he not testify before our commission, but he grandstanded here, and I want to point that out. He refused to honor our subpoena to come before our committee to testify before our committee about the things that he testified about here today, and so did Commissioner O'Neill.

So I want to share with you that the beautiful picture that they tried to paint to you today is certainly not a beautiful picture.

VICE CHAIRMAN HORN. Can they get away with that, to refuse your subpoena?

[Applause.]

MR. RICHARDSON. Yes, they can because of the fact that the committee did not pursue the subpoena situation only because of the fact that if we had gotten into a long subpoena battle we would have never ever got on with the hearing because they would have tied us up—the city—in court by saying the committee was not a bona fide committee, and they stated they did not have to adhere to this committee. They said they would not come to any of our hearings. Letters were sent; they never answered them. And as a result, we wound up in a situation of where we made a decision just to go on.

VICE CHAIRMAN HORN. Was this an official legislative committee?

MR. RICHARDSON. Official as I'm a State representative sitting on this stage.

VICE CHAIRMAN HORN. Well, but I mean—was it a recognized committee of the house of representatives of the State?

MR. RICHARDSON. I'm saying as official as I can give it, counselor, that I'm a State representative; I sat on that committee; It was a bona fide committee of the house of representatives, a standing committee.

VICE CHAIRMAN HORN. What's the name of the committee?

MR. RICHARDSON. Subcommittee on crimes and corrections of the house of representatives, holding a special hearing on—at that time it was police corruption. It was organized corruption, organized crime in Pennsylvania, and police brutality and police violence.

We have that report, and we have turned it over to some of your men who have been in town. They have that report. If you don't have it, I will get another copy to you before you leave. The gentleman indicates that there is already a report that has been filed.

We just feel helpless in Philadelphia. And I say that as a State representative—because you've heard Mr. Bowser testify here earlier—we in the 14th district. Where my district is largely represented by black, white, and Spanish-speaking people will have a meeting tonight at the 14th district at 7:30, where the mayor of the city of Philadelphia and Commissioner O'Neill saw fit to cancel a meeting that was set up by Inspector Roche.

We're going to be there at that meeting. We're going to ask the Commission to come out and publicly see for yourself the irate actions of police, the vigilant attitudes of the police, and how they move and vamp [phonetic] on our people and our neighborhood for no reason at all, just because they would ask a question.

This matter is so serious, gentlemen and ladies, that I share with you that if someone doesn't come out there tonight somebody is going to get hurt. We're going to go on with our meeting, but we're going to be there in the spirit of the fact that the meeting was called to iron out these problems that go on on a daily basis.

Last week I was a witness to a police officer kneeling a young man in his groin while he was handcuffed behind his back, and nobody can say we didn't see it. We were there on the scene with three other witnesses that were there, and the officer picked this young man up and threw him bodily into the police wagon.

We asked that we file a complaint. We filed the complaint and we asked for some specific help from the sergeant who was the sergeant on duty. He laughed at us and said, "You mean nothing to us, you being a representative. I know who you are, but it doesn't matter."

The same situation happened last week when Mr. Bowser and I—Saturday night when they said that they had a violation, that two of the men were driving two different vehicles, that these vehicles were on the highway. They put in an assistance call of officer. The cops came running with their guns drawn, night clubs in their hands, not even knowing what the situation was about. And had it not been for the fact that there was no milling around, the people were just standing there, they would have moved on the next mayor of the city of Philadelphia, right here, Mr. Bowser, and beat him up.

But I share with you that unless something is done about the serious problem that has been noted time and time again about the person who testified before this Commission, that unless somebody gets in here—and I'm not talking about a study where you take this back and go into your homes and read it over and then wait for a year and then take it to the Congress; I'm saying that we can't wait in Philadelphia that long. Either something happens now or we're going to wind up in a situation where you're going to find people in the streets taking matters into their own hands and resolving the problems themselves.

[Applause.]

VICE CHAIRMAN HORN. You've heard me say the jurisdiction of the Commission—the fact is we're not an enforcement commission; we're a study commission. And the fact is you're an elected representative; you're a member of the House of Representatives of the State of Pennsylvania. They have the subpoena power. Why in Heaven's name can't the House of Representatives of the State of Pennsylvania go in and enforce its own subpoena power? This Commission, which has no enforcement authority, would go into court if a witness did not appear and violated his subpoena. We would and we have. Why can't you do that?

MR. RICHARDSON. Two reasons: one, because it took a year to get the resolution passed; we were at the end of our session. If we had gone through the procedures of trying to enforce that, the entire house of representatives would not have met until 1979, which would have meant they would have never ever had any hearings at all.

We had several community meetings out in the community, where people had an opportunity to present their case before the body, and as a result, it came up with a document that we did come up with. Unfortunately, and I share with you again, we could have taken the subpoena power route to have gotten Rizzo here, but we would never ever have gotten to go to court; we would never have gotten him to face the committee because the bureaucratic system allows so many Robert's Rules of Order so that by the time he would have been brought before the committee, it would have been 1979. We're in a new session now. This is a new legislative session.

VICE CHAIRMAN HORN. I must confess that I just find it very difficult to see how a legislative body—

MR. RICHARDSON. You need to live in Philadelphia.

VICE CHAIRMAN HORN. No. This isn't Philadelphia; it's the State of Pennsylvania legislative body—how you can't enforce a subpoena on the mayor of Philadelphia.

MR. RICHARDSON. I will share with you that you don't understand. Mayor Rizzo is a gangster. I'm going to tell it. I'm not afraid to say it, what has to be said. Mayor Rizzo is a cold-blooded gangster in Philadelphia, and the control that is used in this situation is the same control that he used in talking to this Commission today. They come in with his entourage. They give the impression that they are lawful-

abiding citizens, that they condone all the actions. They never, ever once have said that the killing of Winston Hood, Artis Ray, the cab driver, Cornell Warren [phonetic], and all the other incidents that we have proven beyond any reasonable doubt, that these are people who were handcuffed and shot down cold bloodedly in the streets, and the mayor has not done anything about it.

And we are saying to you, Mr. Commissioner and counselor, that unless something is done in this city, that regardless of whether we use the house of representatives—their subpoena which seems to have no weight or no power because of the ties with [organized crime]—that unless we get some orders in from the Federal Government to do something about this problem, you're going to see blood spilled in the streets of Philadelphia.

[Applause.]

CHAIRMAN FLEMMING. May I make this statement because it bears on the comments that you have made and others have made—and when we've listened to the last witness—this hearing will not be adjourned; it will be recessed. We do have a matter pending in the courts involving our subpoena, as far as certain files that we want to look at. There may be other matters that we will want to look into. So your testimony has been very helpful.

MR. RICHARDSON. Thank you very much, Mr. Chairman. I want to understand that very seriously, if you're having the same problems with the litigation of getting subpoena power as we had, you'll find that it takes a long time. If we could have gotten it automatically, we would have had them subpoenaed and before the house of representatives. But we couldn't do that because of the time restraints under our last session.

CHAIRMAN FLEMMING. Thank you.

MR. DORSEY. Juan Ramos.

TESTIMONY OF JUAN RAMOS

MR. RAMOS. Yo quiero saber si puedo proveer un interprete. [I would like to know if I can have an interpreter.]

MR. NUNEZ. I will make an attempt to translate for you. [Inaudible.]

MR. RAMOS. I think that it's sad that the U.S. Civil Rights Commission comes into the city of Philadelphia and does not bring in an interpreter to hear those Puerto Ricans that have been brutally beaten up by the Philadelphia police.

[Applause.]

MR. RAMOS. Give it that you did not bring an interpreter, I will suggest that you extend the hearings, the U.S. [Commission on] Civil Rights hearings because I think that you are violating the civil rights of the Puerto Ricans that I represent.

My name is Juan Ramos. I am president of the Philadelphia Puerto Rican Alliance. I am not an elected political official, but I am the only

Puerto Rican in this city that was elected by the Puerto Ricans to represent them. So, I speak here in behalf of my people, and I do that with a whole lot of pride.

[Applause.]

MR. RAMOS. It's kind of ironic that these hearings are taking place at Third and Spring Garden because right across the street from here there's a firehouse, and 2 years ago a cross section of Puerto Rican leaders asked to meet with Police Commissioner O'Neill and what we refer to as top brass to talk about the problems of police brutality in the Puerto Rican community.

This meeting was held in May 1977. At that time we brought in approximately 10 Puerto Ricans that stated a case. That case was that they were in a tavern in north Philadelphia. The police came into that tavern at that time and harassed, broke the cigarette machine, pushed around the lady that was cooking at that bar, and closed the bar down, and did not find the person they were looking for.

Those people came to present their gripes to the police commissioner. He alone brought all those police captains that had Puerto Rican residents in their district; we presented an obvious account of police brutality. When the police commissioner was further questioned on what he was going to do about police brutality, he responded to a group of Puerto Ricans that we read the newspapers too much and that was a bunch of baloney.

Now, from May of 1977 to July of 1977, one, a Puerto Rican fellow by the name of Hergardo Ortiz was—his right of home privacy was violated. Police came into his house, beat him up, handcuffed him, his pants fell down, and beat him over his head.

Two weeks after that happened, July 2 of 1977, a Puerto Rican fellow is killed by a police officer by the name of [deletion by order of the Chairman] in front of his step. All this occurred from May of 1977 to July 2 of 1977. In May, a month and a half before Jose Reyes was killed, we came to talk to the police commissioner of what they were going to do to quell police brutality in the Puerto Rican community. What were they going to do to stop police brutality?

The question that the Puerto Rican community has is, What did Police Commissioner O'Neill tell his brass, what did he actually tell them when a month and a half the situation got worse? We in a recent convention stated—and this was approved by over 500 members of the Puerto Rican community—that the police district of the 24th and 25th police district in this city, which is located at Front and Westmoreland, conspired to kill a 26-year-old Puerto Rican by the name of Jose Reyes. There's two indications of that conspiracy.

And we had attorneys at our convention. They had no problems with that resolution. One, that Jose Reyes was arrested every single time for supposedly assaulting a police officer, and two, the two police officers that were on—that came on the scene, one who did the shooting and his friend—and those that came afterwards up to today refuse

to testify. They have all pleaded the fifth amendment, which is against the city charter.

That policeman that killed a Puerto Rican is still working in the police department and nothing has been done.

I'm not done yet.

We petition the Civil Rights Commission to take seriously the Jose Reyes case. Please do, because it's going to mean a whole lot of trouble if this police officer by the name of [deletion by order of the Chairman] gets out of—

MR. DORSEY. That's your second reference to the name. I was waiting until the end of your testimony, but we will have to strike it from the record because we are not able to deal with that testimony in open session.

CHAIRMAN FLEMMING. But we will take that into consideration.

MR. RAMOS. Let me just make my final points. There's a double standard in the police department. To give you an example, right around the time that Jose Reyes was killed, July 2, 1977, a Puerto Rican fellow was out on his doorstep, a fellow by the name of Angel Barrero. There was a problem on the block. He was just standing on his block; he was shot in the back by a police officer.

He took that police officer to court, and that police officer was found guilty. Today, that police officer is still working in the police department. But, yet, a Puerto Rican cop in this city is found in the midst of a basement cock-fighting ring—those are two roosters fighting. Mr. Nunez knows about that because he's Puerto Rican also—now, let me just say, this Puerto Rican cop is arrested; he is suspended from the police department because he was involved in a cock fight. Yet, the police department knows that a Puerto Rican is killed by a cop and he says it's immoral to kill a cock, but it's not immoral to kill a Puerto Rican.

[Applause.]

MR. RAMOS. I rest my case.

CHAIRMAN FLEMMING. Thank you very much.

This hearing is in recess. Thank you.

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