

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.