

THE CITY OF NEW YORK

COMMISSION TO COMBAT POLICE CORRUPTION

**REVIEW OF THE BACKGROUND SCREENING
PROCESS OF CIVILIAN EMPLOYEES**

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OVERVIEW AND METHODOLOGY

The Commission has previously reported on the background investigations of police officer recruits conducted by the Applicant Processing Division (“APD”) of the New York City Police Department (“the Department”) and made recommendations regarding the gathering of information during those investigations.¹ Due to the increasingly important and sensitive nature of the work performed by the Department’s civilian workforce, and the insight we have gained into the Department’s background review process for police officer recruits, the Commission decided to examine the screening process for civilian employees.

APD is responsible for conducting background investigations on all candidates seeking employment with the New York City Police Department. The Department employs two general categories of workers -- those with the rank of police officer or above and civilian employees. There are close to 38,000 uniformed members of the service and approximately 16,485 civilian employees. While there are different requirements for becoming a civilian employee, as will be demonstrated below, certain categories of civilian employees interact with the public and have access to confidential information. The potential for corrupt activity is therefore present among the civilian ranks and they, like the police officers with whom they work, should be subjected to a rigorous screening process prior to being hired.²

Experience demonstrates that candidates with a history of dishonesty, disrespect for authority, or poor prior work performance may be more likely to engage in corrupt activities in the future. Since a history of this behavior may not be readily apparent, thorough background investigations for civilian candidates are necessary. The general goal of the Commission’s study was to determine whether the applicant screening process provided information that was sufficient -- quantitatively and qualitatively -- to enable the Department to assess the integrity of applicants.

To accomplish this goal, the Commission reviewed investigative files of a random sample of Traffic Enforcement Agents (“TEAs”) and School Safety Agents (“SSAs”) appointed from December 23, 2003 to June 4, 2004.³ The sample selected for the study contained 156 files, 83 of which were for TEA applicants, and 73 of which were for SSA applicants.⁴

¹ See *Performance Study: A Review of the New York City Police Department’s Background Investigation Process for the Hiring of Police Officers* (January 1999); *The Fifth Annual Report of the Commission* (February 2001); *Review of the New York City Police Department’s Recruitment and Hiring of New Police Officers* (December 2001); and *Review of the Background and Screening Process of New Recruits* (February 2005).

² In 2004, the Department investigated approximately 1,000 allegations of corruption and misconduct against its civilian employees.

³ Traffic Enforcement Agents are responsible for maintaining a safe and efficient flow of traffic on New York City streets. Depending upon their assignment, TEAs may direct traffic, issue summonses for both parking and moving violations, tow vehicles, inspect trucks, and respond to motor vehicle accidents and traffic incidents. School Safety Agents ensure the safety of students, faculty, and visitors to the New York City Public Schools by performing patrol duties on school premises. SSAs verify the identity of students and visitors, escort them to appropriate locations, intervene in verbal or physical altercations between students, confiscate weapons or contraband and, when necessary, effect arrests. Other categories of civilian employees include Police Administrative Aide, Police Communication Technician, Criminalist, or Computer Programmer Analyst. The Commission’s study focused on

As a preliminary matter, the Commission reviewed whether the candidate possessed all of the minimum mandatory requirements for appointment to the position sought.⁵ Next, the Commission examined the steps taken by the APD investigators to check information supplied by applicants. The Commission specifically focused on the investigators' efforts to obtain information about the candidates' academic and employment histories, as they are two areas where investigators seek specific character information about the candidates. The Commission examined the investigators' attempts to obtain the information, the rate of success in obtaining substantive information, and whether the information obtained was derogatory in nature. In cases where derogatory information was discovered, the Commission determined whether any further efforts were made to obtain clarification or additional information. Finally, the Commission examined whether the candidate made false statements or omissions in his⁶ application, and whether the investigation was completed prior to the candidate's appointment.⁷

At the commencement of this study, the Commission requested information from Department executives about the guidelines that APD applies when screening civilian employees. The Commission was informed that APD does not have specific written instructions that an investigator must follow to complete the background investigation of a civilian applicant. The Department did, however, state that APD investigators conducting civilian background checks perform steps "similar" to those taken in the investigation of police officer recruits.⁸ To screen police recruits, the investigator must obtain information from all schools attended by the candidate since ninth grade; contact former employers for the five years prior to the candidate's employment; and conduct residence checks through interviews with the candidate's neighbors. Each of the civilian candidate files reviewed by the Commission contained school and employer forms. There was no indication in any of the files that neighbors of the civilian applicants had been interviewed. After commencement of the study, the Commission learned that, according to

TEAs and SSAs as they frequently interact with the public and therefore have greater opportunities to engage in corrupt activities than some other civilian employees. The Commission also sought to examine the files of Police Administrative Aides as they are involved in many of the Department's daily operations and have access to confidential information; however, the Department advised the Commission that only one PAA file was available for the time period selected for review.

⁴ The initial sample contained 160 files. Of these, four were excluded as they were too incomplete to provide any constructive information.

⁵ All candidates must have a high school diploma or its educational equivalent, and SSAs must reside in New York City at the time of appointment while TEAs have ninety days to obtain NYC residency. TEAs must also have a valid New York State Driver's license. SSAs must, in addition, be a U.S. citizen, 21 years of age at the time of appointment, and be eligible to obtain Special Patrolman status. To become a Special Patrolman, a candidate must be of good character and must not have any felony convictions or convictions for any serious offense against public order.

⁶ The third person masculine pronoun will be used in conjunction with all candidates regardless of their gender.

⁷ All of the candidates in the Commission's sample were appointed to the Department.

⁸ APD's guidelines for background investigations of police officer recruits consist of two binders containing sample forms and written instructions.

Department guidelines, interviews with neighbors of civilian applicants are not required. The Commission agrees that routine contact with neighbors is not necessary for every civilian applicant.⁹ However, neighbor interviews may be appropriate in cases where the background investigation would benefit from additional information about the candidate.

FINDINGS

1. Of the 156 candidate files reviewed, 153 met the minimum requirements for their position of appointment at the time of their background investigation.¹⁰ From the nature of the impediments for the three unqualified candidates, it appeared that they would soon become eligible for appointment. While the Commission recognizes that the Department appointed these candidates due to their presumably imminent qualification, the investigator should follow up within a specified period of time after their appointment to ensure that the requirement was met and to document this in the file.

2. To complete the candidates' educational background check, Department guidelines require that the investigator contact all schools attended by the candidate since the ninth grade. This is generally done by mailing School Inquiry Forms which are pre-printed with the candidate's personal information and dates of attendance, and contain a signed authorization from the candidate allowing the school to release the information. The forms request the dates of the candidate's attendance, whether the candidate received a degree, and whether the candidate had any disciplinary, truancy, or lateness problems. The form also asks the school to rate the candidate's dependability as well as his cooperation with and courtesy to others. There were a few cases where the investigator made personal contact with schools, but the majority of inquiries were conducted through the forms.

The sample reviewed by the Commission demonstrated that investigators were sending these forms in the majority of cases. By sending forms or initiating personal contact, the Department attempted to get information from 89% of the schools attended by all the candidates in the sample. When analyzed by individual candidate, investigators attempted to contact every school in 79% of the cases. Many of the schools that were not contacted were located in foreign countries, and while investigators did not contact every school in the sample, the basic education requirement of a high school diploma or its equivalent was documented in all cases. Aside from

⁹ In previous studies, the Commission noted that given the transient and somewhat isolated nature of city living, neighbors often do not actually know police officer candidates, or possess any substantive information about the candidate. See *Performance Study: A Review of the New York City Police Department's Background Investigation Process for the Hiring of Police Officers* (January 1999); *The Fifth Annual Report of the Commission* (February 2001); *Review of the New York City Police Department's Recruitment and Hiring of New Police Officers* (December 2001); and *Review of the Background and Screening Process of New Recruits* (February 2005).

¹⁰ Two of the three unqualified candidates were TEA applicants who had only learner's permits and not valid New York State Driver's licenses. They may have completed the licensing process before appointment; however, the files did not reflect that the licenses had been obtained. The third candidate, who was seeking a SSA position, was four months underage at the time of appointment.

the geographic obstacles, it appears that the investigators are making adequate initial efforts to obtain information from schools.

Although investigators made initial efforts to acquire information from the majority of schools, there were some cases where they failed to secure a response. Of the educational institutions contacted in the Commission's sample, 23% that did not respond were not contacted again. In 38% of the candidates' files, there was at least one failure to follow up with a non-responsive school. The Commission believes that it is important to follow up with a candidate's school whenever possible in order to verify his educational background.

3. In most cases where the investigator successfully obtained information from schools, that information provided no substantive information about the candidate's character. Of the schools that responded, 81% provided only the dates attended or the transcript or diploma of the candidate.¹¹ Only 19% of schools who responded provided substantive information about the candidate's performance or disciplinary history.¹²

The Commission recognizes that investigators are unable to obtain substantive information from schools for a variety of reasons. The information may be so old that no one at the school remembers the candidate, or the school may be too large to facilitate a personal response to each inquiry. Schools may also have their own policy of releasing only transcripts or diplomas earned by the candidate. If the value of information obtained from educational institutions cannot be improved, APD may wish to supplement the existing method by asking candidates to provide a personal reference from the educational institution. By contacting a person who was familiar with the candidate during his academic tenure, the investigator may be able to obtain more meaningful information about the candidate's educational background.

4. Based on the Commission's review of the candidate files, it appears that APD was consistently sending employment verification forms to each of the candidates' employers for the five years prior to appointment.¹³ The information requested on this form includes the identity and address of the employer, dates of employment, position(s) held, salary information, and the reason for the candidate's separation from that employment. The employer is also asked if the candidate was ever disciplined and for information relating to the candidate's honesty, sobriety, and dependability. Finally, the form asks whether the candidate is eligible for rehire and whether the employer would prefer to discuss the candidate during a personal interview.

¹¹ Where the candidate attended a foreign school and the credentials were verified by a credential evaluation service, the response was counted as a diploma or transcript.

¹² For the purposes of this study, any information outside of grades or dates attended was included as substantive information. Such information came from Department forms filled out by the schools, from disciplinary records provided to the investigator, and from personal contact.

¹³ Unless the candidate is currently employed by a government or civil service agency, he can request that his present employer not be contacted until after his appointment to avoid jeopardizing his current job.

The 156 candidates in the Commission's study held a total of 516 jobs in the five years prior to their appointment to the Department.¹⁴ In the vast majority of cases, APD investigators attempted to contact the candidate's previous employers by sending employment verification forms or by initiating personal contact with the employer.¹⁵ Contact was attempted with 91% of the 516 employers in the sample. Further, the Commission found that in most of the candidate's files, APD investigators attempted to make contact with each of the candidate's employers for the previous five years.¹⁶ As with schools, there were reasons why some employers could not have been contacted, such as when companies were no longer in business. Overall, the investigators appear to be making sufficient initial efforts to obtain information from prior employers.

As with the candidate's schools, the Commission found that, at times, investigators failed to follow up when an employer did not respond to the initial request. In some cases, the investigator ended his inquiry after mailing a form or making one attempt at personal contact with an employer. Thirty-two percent of all the employers who failed to return the verification forms were not contacted again.¹⁷ In 54% of the candidate's files, there was at least one example of an investigator's failure to follow up with an employer. If there were reasons for the investigator's failure to follow up, these details were not documented in many of the files reviewed. Without documented efforts, it is impossible to tell whether the employer was not able to respond, or whether further investigation would have provided verification of employment or substantive information about the candidate's character.

Overall, the response rate of employers was 68%. Some employers provided information after the investigator's initial inquiry, and others responded only after follow-up contact by the investigator. The Commission found that follow-up considerably improved the success of obtaining employer responses and was therefore an important step in the investigation. The Commission believes that increased follow-up will significantly improve the number of responses from candidates' former employers.

Before publication of this report, the Commission discussed its preliminary findings with the Department. It agreed that APD's ability to gather substantive information about candidates was often hampered by employers' reluctance to provide information. In an effort to rectify this

¹⁴ The Commission did not count the candidate's present employer in those cases where the candidates had requested they not be contacted.

¹⁵ In some cases, the investigator both sent the form and made personal contact via telephone, though there were files wherein no forms were used and the information came solely from personal contact. In the context of analyzing APD's initial efforts to gain information from employers, forms and personal contact attempts were counted interchangeably.

¹⁶ In 78% of files reviewed, the investigator made an effort to contact all of the candidate's employers for the five years prior to appointment. In the remaining 22% of files, there was one or more previous employer who was not contacted, which represented 9% of all employers in the sample.

¹⁷ If the file demonstrated that there was reason to believe that an employer had gone out of business, such as with World Trade Center employers, or there was some other indication that further efforts would be fruitless, that file was not counted as a failure to follow up.

issue, the Department does support legislation that would require an employer to disclose employment information to law enforcement agencies. In the 2005 legislative session, there were two bills pending before the New York State Assembly and Senate that addressed the background investigation of police officer candidates.¹⁸ However, these bills only required disclosure of records for police officer and peace officer candidates, such as School Safety Agents, and would not apply to other categories of civilian employees. The Commission believes that these bill's coverage should be expanded, but still support any legislation that would improve the Department's ability to obtain substantive information about prospective employees.

5. For the majority of candidates, former employers proved to be a better resource than candidates' schools. Most of the responses received from the candidates' present or former employers, approximately 64%, contained some substantive information regarding the candidate's performance or character.¹⁹ The remaining 36% of employers who responded provided only dates of employment and salary information.

When analyzed by candidate, investigators were able to obtain substantive information from at least one previous employer for 78% of the candidates screened. There were, however, several cases where investigators did not obtain any information, substantive or otherwise, from any of the candidate's employers. Fifteen candidate files, or 10% of the sample, contained no response from the candidate's current or former employers.²⁰

The Commission also observed that, in several cases, the investigator made personal contact with employers in lieu of, or in addition to, sending an employment verification form. Of the 203 employers who provided substantive information, 92 of them, or 45%, provided the information in response to personal contact by the investigator. Personal contact, usually through telephone calls to employers, also provided investigators with a faster response than sending forms. In addition, by having a conversation with a previous employer, the investigator may be able to obtain more detailed information and be able to conduct immediate follow up on any derogatory information. While telephone calls cannot replace the use of printed forms,²¹ it appears that increased use of personal contact would improve the efficiency and quality of the investigation.

¹⁸ The bill, S1272, had been passed by the New York State Senate at the time of the writing of this report and was referred to the Codes Committee of the New York State Assembly. A similar measure, A3421, was also before the Assembly Codes Committee, where both bills remained at the close of the 2005 legislative session.

¹⁹ Sixty four percent of employer responses gave substantive information about the candidate. In determining what answers were substantive, the Commission included those employers who gave any information beyond title, date of employment, or salary.

²⁰ Ten of those, or 6% of files, contained no substantive information from either employers or schools.

²¹ The Employment Verification forms contain a signed authorization by the candidate which most employers require prior to releasing information.

6. The substantive information obtained by investigators was not always positive. Derogatory information was obtained in approximately half of the investigations.²² While this is a significant percentage, in most cases the derogatory information warranted further investigation, but did not appear to be of the type that would preclude the candidate's appointment but that did warrant further investigation. For example, derogatory information included reports of candidates who had been placed on academic probation, who had been terminated from a prior job, or who had their driver's licenses suspended for failure to pay fines or answer summonses.²³ To determine whether or not derogatory information is indicative of more serious character issues, the investigator should make efforts to follow up on any such information received. Based on the documents found in the file, in 54% of cases containing derogatory information, it appeared that the investigator conducted as much follow up as was practical.²⁴ When the derogatory information came solely from schools or employers, the investigators followed up in 64% of cases.

While the majority of the derogatory information did not appear to be dispositive of the candidate's suitability for appointment, the questions raised by the information should nevertheless be resolved during the investigation. The Commission understands that time constraints and high caseloads may prevent the investigator from following up on older incidents, and a wealth of positive information may counteract the significance of an isolated, negative event. The Commission believes, however, that if the investigator decides not to explore derogatory information, the reasons underlying that decision should be documented.

7. While some candidates disclosed derogatory information in their applications, some others misrepresented or omitted negative acts.²⁵ Twenty eight percent of candidates made some form of omission or misrepresentation in their initial application, not all of which necessarily indicated the probability of deliberate concealment of information.²⁶ The candidates who made

²² Of the 81 candidates whose files contained derogatory information, 14% had negative information that related to prior schools or jobs; 37% had negative information in other areas, such as driving history, debt collection proceedings or criminal records; and 49% contained derogatory information from schools or employers in addition to another area. An example of derogatory information included TEA candidates with numerous moving violations, whereas most parking tickets or isolated moving violations were not counted as derogatory.

²³ One candidate had an outstanding judgment from the Department of Labor for unemployment benefits that had been wrongfully collected by that candidate; one candidate had been the subject of a bench warrant for a case that was later dismissed; another had failed to file income taxes; one candidate had been placed on probation for verbal and physical harassment of a fellow student; three candidates were terminated from prior jobs for absence without notice or explanation; and four candidates had defaulted on financial obligations to credit card companies.

²⁴ In files with more than one area containing derogatory information, the case was counted as successful for follow up if at least one of the sources was contacted. Similarly, cases were not counted as failures to follow up where there was no practical means to obtain additional information.

²⁵ Eighty percent of the candidates who omitted or misrepresented information also had derogatory information revealed during their investigation.

²⁶ Many of the omissions were of a failure to disclose receipt of Public Assistance. While these omissions were included for the purposes of the statistic, the Commission is reluctant to categorize such an omission as an act of deliberate dishonesty by the candidate. There are several reasons why candidates may not have disclosed this information. For example, candidates may not have distinguished between cash assistance and other forms of aid

omissions failed to disclose items such as previous employers, job terminations, the amount and nature of their debts, summonses issued to them, and the fact that they had been a party to litigation. In many files, the candidates provided a statement that corrected the facts misrepresented or omitted, but did not provide a satisfactory explanation for the initial omission or misrepresentation. In addition, it appeared that, in some cases, investigators failed to follow up on incomplete or unsatisfactory explanations for omitted information.

8. In most cases, the Department's investigation was concluded prior to the candidate's appointment.²⁷ There were a few cases, however, where forms had not been returned or issues such as outstanding judgments and summonses had not been fully resolved when the background investigation was approved. The failure to complete investigations in a timely fashion represents missed opportunities to obtain valuable information about candidates before the Department spends resources training them.

RECOMMENDATIONS

1. There were a significant number of cases where schools, employers, and computer checks did not provide the investigators with a complete or accurate depiction of the candidate's character. Therefore, the Commission recommends that APD supplement its existing format of candidate investigations with personal references. Personal references allow the investigator to obtain information about the candidate's background beyond the checklist of items requested by a verification form. By having a conversation with a person who is familiar with the candidate, the investigator has the ability to focus on specific areas where more information is needed about an individual candidate. Personal references can provide flexibility, variety and immediate feedback for the investigator.²⁸

The Commission previously made this recommendation in connection with background investigations of police officer recruits, and understands that the Department intends to implement the use of references in background investigations of police officer recruits.²⁹ The

such as the Food Stamps program, Medicaid, or aid solely for the support of their children. In addition, candidates may be reluctant to admit that they required such assistance. The Commission counted the failures to disclose Public Assistance because it is important that the investigator question the candidates about the reasons why they omitted receipt of benefits and to ensure that the candidate understands his responsibility to report his appointment and accompanying change in circumstances to the appropriate agency.

²⁷ Five files contained undated forms and therefore it was not possible to determine when those investigations were completed. Three of those files also included forms and computer checks that were dated in March 2005, which was the time of the Commission's review. As the candidates in the sample were all appointed in 2003 and 2004, the March 2005 documents could not have been part of the candidate's original background investigation.

²⁸ The Commission recognizes, of course, that personal or professional references provided by a candidate will likely be biased in favor of that candidate. However, a trained investigator should be able to evaluate the credibility of a personal reference.

²⁹ On April 18, 2005, in testimony before the Public Safety Committee of the New York City Council, Department officials responded to the Commission's February 2005 *Review of the Background and Screening Process of New*

Commission commends this effort and encourages APD to extend this requirement to the investigation of civilian employees.

2. While information was successfully obtained from most of the schools attended by the candidate, that information was of limited value in assessing the candidate's character. Most educational institutions are willing to respond to the Department's inquiries but provide only grades, degrees, and dates of attendance. The lack of information may be due to passage of time, unfamiliarity with the candidate's personality, or the policy of the educational institution. While it is necessary for the investigator to verify information about the candidate's educational background, the Department should re-evaluate the role of schools as a method of obtaining substantive character information. The Department should supplement their efforts in this area by requesting that the candidate provide the name of a person from the school who is familiar with him and who can be contacted for further information.

3. While a significant number of the prior employers who responded to APD's inquiries provided information about the candidates, the Commission noted that investigator follow-up significantly increased the response rate of former employers. The Commission also noted a trend towards personal contact with employers, either in conjunction with or in lieu of employment verification forms. The Commission believes that this is a positive trend as personal contact can provide a faster response, more detailed information, and the opportunity for immediate follow up on derogatory information. Overall, the Commission recommends that APD enhance their efforts to follow up with non-responsive employers and to increase their personal contact with them.

4. While APD follows a set of written guidelines for the investigation of police officer recruits, there is currently no comparable instruction manual for the investigation of civilian employees. The Commission recommends that APD set forth written procedures for the background investigation of civilian applicants.

During the course of this study, the Commission highlighted the lack of written guidelines for the background investigation of civilian employees. In a discussion with APD officials, APD agreed that such instructions were needed and stated that they were in the process of creating an instruction manual for civilian employee investigations that will reflect APD's current policies and will contain updated forms. The forthcoming guidelines will be modeled after the instructions for investigation of police officer candidates, with appropriate modifications for civilian employees.

5. Candidates who omit or misrepresent responses in application documents are, and should be, given the opportunity to correct those responses. By allowing revision, particularly during an in-person interview, the investigator permits the candidate to remedy innocuous oversights or misunderstood questions in his application. However, many of the files reviewed appeared to contain a statement of the facts misrepresented or omitted, but no satisfactory explanation for the candidate's initial omission or misrepresentation. Candidates who intentionally omit or

Recruits by stating that APD is instituting the Commission's recommendation that recruits provide three personal references for their background investigations.

misrepresent information to conceal prior misconduct should, absent exceptional circumstances, be denied appointment.

6. While the standard background investigation is usually sufficient, there should be additional investigative efforts made in those cases where substantial derogatory information is revealed. In many cases, although the information is not such that it would prevent a candidate's appointment, it nevertheless raises questions that should be investigated and answered prior to the candidate's appointment. The Commission recognizes that there may be reasons for not pursuing a particular piece of information; however, if the investigator decides not to explore that information, the reasons underlying that decision should be documented.

THE DEPARTMENT'S RESPONSE

Prior to publication, the Commission provided the Department with a draft copy of this report. After reviewing the Commission's findings and recommendations, the Department notified the Commission that the Department will be incorporating the first four recommendations into the civilian applicant review process.

CONCLUSION

While the background screening process used by investigators obtains some information about the character of most civilian applicants, there are areas that require improvement. Initial efforts to contact schools and employers are often successful but do not always yield substantive information. APD investigators should make additional efforts to follow up with previous employers and academic institutions who do not respond to initial contacts. Investigators should also document the extent of their efforts to obtain information, as well as their assessment of the significance and the intent underlying a candidate's omissions or misrepresentations where applicable. The Commission recognizes and supports the increase in personal contact between investigators and sources of information. Interviews with persons familiar with candidates can improve both the quantity and quality of information collected about that candidate. Finally, the Commission believes that adding the requirement that candidates provide personal references will enhance the screening process and allow the Department to make more informed decisions about potential candidates.