

**The City of New York**

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**Commission to Combat Police Corruption**

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**First Report  
of the Commission**

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**Nicholas Scoppetta**  
**Chair**

**Arnold I. Burns**  
**Richard J. Davis**  
**Rhea Kemble Dignam**  
**Hon. Dennis Edwards**

**Gerald Harris**  
**Executive Director**



THE CITY OF NEW YORK  
COMMISSION TO COMBAT POLICE CORRUPTION

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March 25, 1996

Honorable Rudolph W. Giuliani  
Mayor  
City Hall  
New York, N.Y. 10013

Dear Mr. Mayor:

I am herewith submitting the First Report of the Commission to Combat Police Corruption which you created by Executive Order No. 18 on February 27, 1995. This First Report reflects the findings and recommendations of the Commission based upon approximately one year of monitoring the anti-corruption policies and programs of the New York City Police Department.

As you know, I ceased to have an active role with the Commission after February 12, 1996, when I assumed my position as Commissioner of the Administration for Children's Services ("ACS"). Gerald Harris, who served as Executive Director of the Commission, resigned on February 9, 1996 to become General Counsel for ACS. Mr. Harris had a substantial role in establishing the monitoring process and in the preparation of this Report.

I take this opportunity to thank you, on behalf of the members of the Commission, its staff and myself for the opportunity to serve you and our City in this most urgent and important endeavor.

Sincerely,

A handwritten signature in black ink, appearing to read "Nicholas Scoppetta", written in a cursive style.

Nicholas Scoppetta

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## I.

### OVERVIEW AND SUMMARY

Historically, the New York City Police Department has undergone alternating cycles of corruption and reform. Whenever serious scandal erupted, public outrage usually was followed by the formation of commissions, the conduct of highly visible investigations and the adoption of measures calculated to remedy the problems exposed. Then the commissions were dissolved, the attention of the public turned elsewhere and as time passed the problem of police corruption regenerated.

As a result, while the disease of corruption may be limited to small though immeasurable segments of the total Department, it has persisted like a low but chronic fever which sporadically flares up in the form of large-scale arrests, as happened in the 30th precinct and, more recently, the 48th precinct, and undermines the ability of honest officers who constitute the vast majority to perform their already difficult jobs.

Acting upon the recommendations of the Mollen Commission, Mayor Rudolph W. Giuliani, with the support of Police Commissioner William J. Bratton, determined to break the cycle of corruption by creating a permanent, independent commission to monitor and evaluate the anti-corruption commitment and activities of the Police Department. The creation of such an agency is consistent with the nearly universal conclusion that the most knowledgeable and effective investigator of police corruption is the Department itself, provided it has the resolve and commitment to make the effort and stay the course. It is the role and objective of the

Commission to Combat Police Corruption ("the Commission") to ensure that the Police Department does not waver in the discharge of that overriding duty.

To fulfill its mission, the Commission adopted a dual strategy. First, it set out to make itself omnipresent within the Police Department, and particularly within the Internal Affairs Bureau ("IAB"), so that representatives of the Commission could observe on a real-time basis the formation of anti-corruption strategy, and the effectiveness of ongoing investigations.

Second, the Commission has systematized a monitoring process, so that there exists a regular pattern of oversight of the entire corruption control mechanism, from daily review of the intake and classification of corruption allegations to an evaluation of the thoroughness of completed investigations.

The creation of this Commission, by an executive order of the Mayor on February 27, 1995, has been criticized by some. They have contended that an independent agency to monitor the Police Department's commitment to preventing and rooting out corruption, and the Department's performance of that mission, can only be effective if the agency is empowered to conduct its own parallel investigations in competition with the Police Department. We regard that contention as without merit. Indeed, we believe, and our experience has demonstrated, that the Commission's ability to effectively monitor the Police Department's anti-corruption activities has been enhanced substantially for the very reason that it does not compete investigatively with the Internal Affairs

Bureau, the Police Department's anti-corruption arm. Because it is a monitor, and not a rival investigator, the Commission has been able to gain unprecedented and extremely broad access to Police Department personnel, records, processes and strategy formation. At the same time, the Commission does have the ability, in extraordinary circumstances, to conduct its own investigation of specific allegations of misconduct.

As demonstrated in this report, representatives of this Commission are present at, and are able to question and assess, all significant Department actions as they relate to corruption control. Nor is this Commission lacking in authority to compel compliance with its request for access and information. The executive order which created the Commission directs the Police Department to make available to the Commission whatever documents or personnel the Commission deems necessary for the proper discharge of its duties. In practice, the Commission has not found it necessary formally to invoke that authority; rather the Police Commissioner, the Chief of the Internal Affairs Bureau and other top ranking officials of the Department have invited the scrutiny of this Commission, and we have taken full advantage of that invitation.

In fulfillment of its mandate, the Commission and its staff have examined, to varying degrees, a broad range of police measures to prevent and eliminate corruption including the recruitment and screening process, the training of new and experienced officers and IAB investigators, the administration of the disciplinary system

and the administrative trial process, the interaction with prosecutors, the reorganization, staffing and funding of IAB, the use of integrity testing, the effectiveness of intelligence gathering, the employment of drug testing, the response to police perjury and the implementation of policies of inclusion and command accountability.

The Commission has reviewed the anti-corruption strategy promulgated by the Police Commissioner and the Department and has monitored its implementation. This monitoring has included reviewing the hundreds of logs which reflect corruption allegations received by the Department, evaluating the manner in which these complaints are classified, listening to tape recordings of calls to IAB's Action Desk and observing the performance of its personnel, attending every briefing on corruption matters given to the Police Commissioner and other top Department officials, attending every meeting of the IAB commanders' group and every meeting of the IAB Steering Committee at which is discussed significant corruption investigations. The Commission currently also is reviewing and evaluating a substantial sampling of corruption investigations conducted by IAB in order to assess the diligence, thoroughness and competence with which they have been pursued.

In the course of its continuing review and audit of the Department's anti-corruption program, the Commission has found substantial changes and significant improvements in a system which the Mollen Commission found had virtually "collapsed". Most importantly it observed a clear-cut commitment of the Police

Commissioner and the commander of IAB to an effective anti-corruption program which has produced many positive results. Some of the key features of the corruption control program currently being implemented include:

- ◆ the adoption of comprehensive and thoughtful anti-corruption policies and strategies;
- ◆ increases in the age and educational requirements for police service;
- ◆ greater emphasis on integrity training both in the Police Academy and in in-service training programs;
- ◆ better qualified and more highly trained IAB investigators;
- ◆ reduced caseloads for IAB investigators;
- ◆ IAB focus on corruption and serious misconduct instead of petty violations;
- ◆ career incentives that reward service in IAB;
- ◆ improved reporting, both internally and publicly, of corruption data;
- ◆ adoption of more effective drug test techniques;
- ◆ substantially increased number of integrity tests; and
- ◆ greater attention to and adoption of plans to address the issue of police perjury.

While the Commission's overall view of the Department's anti-corruption program is positive, in some areas the Commission found deficiencies and need for further improvement. Some of the problems identified may be summarized as follows:

- ◆ the operation of the Action Desk at IAB and the supervision and training of Action Desk investigators requires attention and improvement;
- ◆ the introduction of pin mapping techniques to corruption control and the full utilization of the PRIDE computer system have been delayed;

- ◆ the lack of a formal mechanism to review command accountability needs to be addressed;
- ◆ consultation with prosecutors in designing targeted integrity tests is not always regular or timely;
- ◆ the extent to which arrested persons are debriefed about their knowledge of police corruption is uneven;
- ◆ certain elements of the intelligence gathering program could be more effective;
- ◆ the qualifications and training of Department prosecutors should be upgraded;
- ◆ some aspects of integrity training at the Police Academy can be improved; and
- ◆ there should be a broadened and improved program for training police officers to be more effective and accurate witnesses.

Apart from continuing to monitor the overall implementation of the Department's anti-corruption efforts, the Commission also has identified issues which require additional review. These issues, which the Commission has not yet fully examined, but which will receive careful consideration in the months to come, include:

- ◆ how complainants who come to precinct stationhouses are treated;
- ◆ how community groups perceive the existence and extent of police misconduct;
- ◆ whether there should be instituted a system of regularly rotating tours, partners and precincts;
- ◆ the extent to which officers are placed in precincts in which they have lived or spent significant time;
- ◆ whether administrative transfers tend to concentrate problematic officers in particular precincts;
- ◆ whether there is adequate supervision on all tours;
- ◆ whether IAB makes further progress in the self-initiation of investigations;

- ◆ whether the Department's policy with respect to limitations on the use of "turned" officers who have been apprehended for misconduct is effective and appropriate;
- ◆ whether integrity control officers are adequately trained and whether they are overburdened by administrative duties unrelated to integrity matters;
- ◆ the effectiveness of integrity tests;
- ◆ implementation of plans to address the issue of police perjury; and
- ◆ how the Department addresses the problem of alcohol abuse within its ranks.

Although the work of this Commission is still in an early stage, we believe that the groundwork has been laid for the effective and ongoing monitoring and assessment of the anti-corruption policies and practices of the Police Department. In the body of this report, the Commission describes in greater detail the work it has done, the observations it has made and certain preliminary conclusions which have been reached about the Police Department's commitment to and effectiveness in combatting corruption. In areas where deficiencies were found, the Commission has made recommendations for improvement. Overall the Commission finds that the Police Department has made a strong commitment to combat corruption, both in terms of the policies adopted and articulated and the measures taken to sharpen and strengthen its corruption fighting capabilities. The Commission intends to ensure that this commitment and course of conduct is made permanent by maintaining an ongoing presence at all integrity-related activities of the Department, by continuing and expanding its oversight of IAB investigations, by furthering its review of measures taken by the

Department relating to recruitment, screening, training and discipline, by evaluating the effectiveness of integrity testing, drug testing and intelligence gathering programs and by periodically recommending ways in which the Department can improve and strengthen its corruption control policies and practices.

## II.

### FORMATION AND AUTHORITY OF THE COMMISSION

The Commission to Combat Police Corruption was created by Mayor Rudolph W. Giuliani by Executive Order No. 18 on February 27, 1995. The Commission was created pursuant to a recommendation of the Mollen Commission<sup>1</sup> that there be established a monitor, independent of the Police Department, to review and evaluate Police Department anti-corruption measures, to ensure that the Police Department remains vigilant in combatting corruption and to assure the public that the Police Department is implementing and maintaining an effective anti-corruption program.

The Executive Order charges the Commission with the duty to monitor the performance of the Police Department's anti-corruption systems by conducting audits, studies and analyses to assess the quality of those systems. Among other things, the Commission is specifically directed to evaluate: the development and implementation by the Police Department of anti-corruption policies and procedures; the effectiveness of the Police Department's intelligence gathering and investigation of corruption; and the effectiveness of the Department's systems for command accountability, supervision and training and involvement of all Department members in combatting corruption.

It is also the duty of the Commission to audit and analyze

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<sup>1</sup> The Commission chaired by the Honorable Milton Mollen was formally named the Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department.

conditions and attitudes within the Police Department that may tolerate, nurture or perpetuate corruption and to evaluate the effectiveness of the Department's policies and procedures to combat such conditions and attitudes. In the performance of this function, the Commission is charged with maintaining a liaison with community groups and precinct councils and consulting with federal, state and local law enforcement agencies.

The Commission is also authorized to accept complaints or other information from any source regarding specific allegations of police corruption and is mandated to refer such complaints or information to the Police Department and such other agency as the Commission determines is appropriate, for investigation and/or prosecution. The Commission, to the extent it deems appropriate, may monitor the investigation of complaints which it refers to the Police Department.

The Commission may conduct its own investigation of specific allegations of corruption when the Commission and the Commissioner of the Department of Investigation, with the approval of the Mayor, determine that exceptional circumstances exist which require such action.

The Executive Order requires the Commission to report on its activities to the Mayor as he may request and to furnish to the Mayor a comprehensive annual report.

Contemporaneously with the promulgation of Executive Order No. 18, the Mayor appointed the five members of the Commission to serve for staggered terms, ranging from two years to four years. Each

member of the Commission has extensive experience in the criminal justice system.<sup>2</sup> The full Commission has been meeting on a nearly weekly basis while various members of the Commission have attended other meetings as described below. The day to day monitoring of the Police Department effectively commenced on May 1, 1995, with the employment of full-time staff. This First Report reflects observations and findings made to date which, owing to the relatively short span of the Commission's existence, are preliminary in nature and subject to ongoing review and further supplementation.

**A. Consultation with Prosecutors, Former Police Commissioners and Others**

The Commission, to be conversant with the structure, procedures and personnel utilized by the Police Department to formulate and implement its anti-corruption mission, conferred with a number of persons who, by experience and professional standing, are knowledgeable about and are acquainted with the policies, practices and procedures of the Police Department past and present, and, in particular, its approach to combatting corruption. Representatives of the Commission have met with District Attorneys Richard A. Brown, Charles J. Hynes, Robert T. Johnson, Robert M. Morgenthau, and William L. Murphy and their Chief Assistants, with Zachary W. Carter, U.S. Attorney for the Eastern District of New York and Mary Jo White, U.S. Attorney for the Southern District of

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<sup>2</sup> A list of the members of this Commission and a description of their backgrounds is annexed to this report.

New York.

Commission representatives also have met with prosecutors in the Southern and Eastern Districts of New York and with Assistant District Attorneys in Brooklyn, the Bronx, Manhattan, Queens and Staten Island responsible for the prosecution of official corruption. The Commission has also consulted with former Police Commissioners Patrick Murphy, Raymond Kelly and Richard Condon and former Deputy Commissioner Walter Mack, among others. The Commission has conferred with Judge Milton Mollen and former members of his Commission staff and has met with Lou Matarazzo, the President of the Patrolmen's Benevolent Association and with Hector Soto, the then Executive Director of the Civilian Complaint Review Board. Members of the Commission staff also have attended meetings of community-based precinct councils.

**B. Meetings with Police Department Management and Personnel**

The full Commission has met with Police Commissioner William J. Bratton, Chief Patrick E. Kelleher, Commander of IAB and Deputy Commissioner for Policy and Planning Michael J. Farrell. In addition, representatives of the Commission meet regularly with Commissioner Bratton, Chief Kelleher, First Deputy Commissioner John F. Timoney, Chief of the Department Louis R. Anemone, Deputy Commissioner for Crime Control Strategies Jack Maple, Chief of Personnel Michael A. Markman, Director of Training James O'Keefe, and other Police Department personnel.

Commission representatives, as further described in this

report, have attended all briefings of the Police Commissioner relating to integrity, all meetings of the IAB commanders' group and of the Steering Committee and have interviewed scores of supervisors, officers and recruits.

### III.

#### ASSESSING THE POLICE DEPARTMENT'S COMMITMENT TO COMBATTING CORRUPTION

The effectiveness and success of any anti-corruption program depends, in large measure, upon the commitment and dedication of the Police Department's top echelon, beginning with the Police Commissioner. Although virtually all Police Commissioners articulate an aversion to corruption, and an intention to combat it, the seriousness of that commitment, and the message which actually is communicated throughout the ranks of the Department, can best be discerned by examining the daily follow up, persistence and enforcement of that message, the degree of involvement of supervisors of all ranks and the manner in which corruption issues are treated at the highest levels.

To gauge the extent to which the Department has met these standards, and to assess the effectiveness of the measures taken to deter and eliminate corruption, the Commission and its staff have gained access to the mechanisms and inner workings of the Department's anti-corruption apparatus and strategy development to an unprecedented degree. In achieving this vantage, the Commission has been encouraged by the extent to which the Department, the Police Commissioner and many top ranking commanders have shared their views and strategies, have opened the Department's processes and files, and have cooperated with the Commission and its staff.

Representatives of the Commission are present when the Police Commissioner is briefed by the Internal Affairs Bureau on pending corruption investigations, corruption statistics and the status of

such proactive anti-corruption activities as integrity testing, use of confidential informants and intelligence reports. At these briefings, which are conducted approximately twice each month, the investigative groups from each borough appear on a rotational basis (each group reporting approximately every fifth session) and present the status and investigative details of the group's most significant cases. Present at these briefings, and actively participating in the questioning of the investigators, are all of the Department's highest ranking officers including, but not limited to, the Police Commissioner, the First Deputy Commissioner, the Chief of the Department, the Chief of the Internal Affairs Bureau, the Chief of Patrol, the Chief of Detectives, the Chief of the Organized Crime Control Bureau, the Chief of Personnel, the Chiefs of the Transit and Housing Divisions, and the Deputy Commissioners for Policy and Planning, Crime Control Strategies, and Legal Matters.

While there are legitimate concerns that the policy of "inclusion" reflected in these meetings increases the risk of leaks, the Commission believes that, on balance, the adoption of such a policy is a positive development. These briefings send a clear message that the subject of police integrity is a high priority, that the existence of corruption is acknowledged and openly treated and that the approach to investigating and eliminating corruption is a matter of concern to all of the Department's top managers -- not just to the commander of IAB -- who are expected to be knowledgeable about and contribute to the

Department's anti-corruption program.

The Department's commitment to corruption control is further evidenced by the promulgation, in June, 1995, of Police Strategy No. 7 which, in essence, is a plan of action to root out corruption and build organizational integrity. The Commission finds Strategy No. 7 to be a comprehensive and ambitious blueprint for organizational changes designed to apprehend corrupt officers, alter the climate which fosters corruption and deter its recurrence by improving the quality of new recruits and the training they receive.

The effectiveness of any plan, however well conceived, turns upon the extent to which it is vigorously and conscientiously implemented. To assess the implementation of Strategy No. 7, the Commission has identified those undertakings it deems central to the realization of the plan's stated mission "to create a police agency of unparalleled integrity" and to determine the extent to which such undertakings have been achieved.

In addition, the Commission has identified one aspect of the Department's anti-corruption approach, not addressed by Strategy No. 7, which requires specific further review. This involves the pursuit of a policy of generally not seeking to use in an undercover capacity officers identified as wrongdoers when they disclaim specific knowledge of misconduct by other officers. The Commission intends to scrutinize this policy and assess whether it is effective and appropriate.

#### IV.

##### THE MONITORING PROCESS

To monitor the anti-corruption efforts of the Police Department, the Commission has taken the following actions:

###### A. Analysis of Complaint Classifications

All allegations of police corruption, from whatever source and on a City-wide basis are channeled through the Action Desk at IAB where a description of each corruption complaint is to be recorded and a log number assigned. A computer printout of each log thus generated is reviewed by an assessment unit at IAB and by IAB's top supervisors on a daily basis, in order to classify each complaint. These classifications determine whether a given complaint is treated as: (i) an allegation of corruption or serious misconduct (a "C" case) which is then investigated by the IAB group with responsibility for the command involved; (ii) a less serious matter (an "M" case) which is delegated to the appropriate non-IAB inspections team for investigation; (iii) a minor infraction or violation of regulations (coded "OG") which is referred to the subject officer's command for determination and punishment if appropriate; (iv) unrelated to the Police Department which is referred to another agency; or (v) simply filed.<sup>3</sup>

The validity of this classification process obviously has a

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<sup>3</sup> Many of these logs merely reflect certain ministerial happenings, such as loss of a police parking permit, identification card or other police equipment and generally have no corruption significance. These logs are just recorded for informational purposes and filed.

direct bearing upon the accuracy of any statistical analysis published by the Police Department of the magnitude and trend of corruption complaints. Commission staff receives and reviews copies of all daily computer printouts (which range in number from approximately 40 to as many as 120 in any given day) and evaluates the validity of the classifications assigned to each log by IAB. If Commission staff questions the validity of the assigned classification, a copy of the log is made, a form ("Request for Information") identifying the log and setting forth the staff's questions concerning it are furnished to the IAB inspector who acts as liaison to the Commission and a weekly meeting is held between staff and the IAB liaison to discuss the additional information requested by Commission staff and the basis on which the classification was made. In most instances the staff is satisfied that there is a valid basis for the classification. On a few occasions the questions raised by Commission staff appear to have prompted a reclassification of a particular complaint, from an "M" to a "C" classification. The Commission has observed no pattern which would suggest any deliberate scheme to misclassify complaints.

All "C" logs are entered into the Commission's computer database. Using a program provided to the Commission by the District Attorney of New York County, Commission staff is able to retrieve information from its database which over time may suggest trends or patterns of corruption in specific commands, tours of duty, street locations or which involve particular police officers.

The Commission's ability to use this information effectively will be enhanced as the size of its database grows over the next year. The information thus obtained ultimately will be used to monitor the IAB's own use of patterns or trends to detect corrupt activity and to assess whether IAB initiates investigations with respect to the officers or areas thus identified. For example, if the Commission identifies a pattern of corruption allegations involving the same officers or geographic locations, it will then be able to determine whether IAB has spotted that same pattern, placed the officers on its special monitoring list and focused integrity tests in those locales or which target those officers.

#### **B. Monitoring Pending IAB Investigations**

Commission staff monitors the conduct of pending investigations on a real-time and historic basis. One prong of such current monitoring has been described already -- the daily review of logs and the Requests for Information which are submitted to IAB and discussed weekly with IAB liaison. At these weekly meetings IAB liaison transmits information obtained from the investigative groups or inspectional teams in response to the questions or issues raised by Commission staff. Often IAB liaison will furnish copies of memoranda prepared by the groups which describe the investigative steps already taken.

Another significant element in the Commission's monitoring of current cases is the regular attendance of Commission representatives at the weekly meetings of the IAB Steering

Committee. The regular members of the Steering Committee include the Chief of IAB, the Executive Officer, the head of the Criminal Investigations Division, the commander of the Support Services Division, the Inspector in charge of the Field Services Division, the commander of Zone I which covers the IAB groups in Manhattan and the Bronx, the commander of Zone II which encompasses the IAB groups covering Brooklyn, Queens and Staten Island, the commander of the Intelligence Unit, and the commander of the Corruption Prevention and Analysis Unit.

Every fifth week the IAB groups covering the precincts within a particular borough appear before the Steering Committee. The IAB commander of the reporting borough is present as are the captains who head the reporting groups together with some of their investigators.

The cases which are the subject of Steering Committee review are those which have been assessed by the group commander as involving serious corruption allegations which, if proven, are likely to result in a criminal prosecution and/or a termination of employment of the offending officer. In assessing which cases are appropriate for Steering Committee review, the group commander also evaluates the "solvability" of each case by assigning numerical points based upon such factors as a credible, identified complainant, positive identification of the subject officer, the availability of physical evidence and any history of prior allegations against the same officer or command.

A written summary of each case is made available to Steering

Committee members (and to Commission staff in attendance) which describes the allegations and sets forth the investigative steps taken or to be taken. The written summary is supplemented by an oral report of the group captain and the investigators directly involved.

The members of the Steering Committee question the investigators, discuss the investigative steps already taken or which remain to be taken and often make suggestions as to how the investigation may be advanced. Included in these discussions are assessments of any integrity tests conducted, ideas for structuring such tests, the most appropriate times for special surveillance, the possibility of "turning" potential witnesses and gaining their cooperation, the advisability of using electronic techniques, the procurement of telephone records and the conduct of a financial analysis.

Senior IAB management assists the borough and group commanders in evaluating the progress of each investigation and helps determine whether and to what extent the investigation should be pursued or whether it should be concluded.

At these sessions the involvement and input of local or federal prosecutors is also discussed and weighed. Group captains also update the Steering Committee on the three oldest cases still carried as open (even though those cases might not otherwise be appropriate for Steering Committee consideration).

Finally, group captains are asked to report on meetings held by them with the precinct commanders and integrity control officers

within their jurisdiction. These meetings are intended to alert precinct commanders to problems within their commands and solicit input from them that may be helpful to investigations being conducted by the group or which identify problem areas or officers who may warrant the group's attention.

By regularly attending these weekly meetings of the Steering Committee, Commission staff has been able to observe first-hand the evolution of each significant investigation and to gain important insights into the diligence and competence with which they are conducted and the oversight provided by IAB's top commanders. On the basis of this close-up and ongoing review, the Commission has been able to conclude preliminarily that, at least with respect to cases reported to the Steering Committee, the IAB generally investigates allegations of corruption and serious misconduct thoroughly and, when appropriate, with the use of sophisticated technology. It has also been observed that these investigations are conducted without preconceived notions of guilt or innocence and that gathering evidence to prove the allegations or establish their lack of merit appear to be of equal concern to the investigators.

It is also apparent that the Department's announced policy of inclusion is being implemented at the investigative level as demonstrated by the interaction and exchange of information occurring between the group commanders and the precinct commanders and integrity control officers ("ICOs"). Commission staff has not become aware of any investigation compromised by this sharing of

information, although aspects of some investigations have been withheld from commanders outside of IAB for periods of time and from time to time as the need for strict confidentiality may dictate. Of course, the possibility of leaks which may damage an occasional investigation cannot be ruled out definitively and the Commission will continue to be watchful for any such eventuality. Although some prosecutors express strong reservations about the policy of inclusion, as discussed above the Commission believes the potential benefits justify the risk of leaks inherent in the implementation of the policy.

#### **C. Attendance at the Bi-Weekly Meetings of IAB Commanders**

Every other week, the Chief of IAB, Patrick Kelleher, convenes a meeting of all IAB commanders. Present at these meetings are the Chiefs of Criminal Investigations and of Support Services, the Executive Officer, the commanding officers of the Special Investigations Unit and the Intelligence Section, the heads of the Investigative Support Division, the Field Services Division and the Corruption Prevention and Analysis Unit. Also in attendance are the IAB Borough and Zone Commanders and the commanding officer of each IAB investigative group (covering every precinct and special command throughout the five boroughs) and of each specialized group (e.g., groups dedicated to the conduct of integrity tests, surveillance, pursuit of police impersonators and the investigation of excessive force complaints).

At these meetings there is discussed the full range of IAB

business, encompassing such subjects as the outcome of major investigations, strategies for improved corruption control, personnel and budgetary matters, availability of new technology, record keeping, standards of conduct, methods of operation, enhancement of integrity testing, development of liaison with precinct commanders and an exchange of intelligence. Ministerial matters, common to the management of every organization, are also discussed.

The policies and expectations of the Police Commissioner with respect to integrity often are set forth and the participants are directed to communicate these mandates to those in their respective commands.

At the conclusion of each meeting, Chief Kelleher asks, by name, virtually every person in attendance whether they have any information to impart or any questions which require clarification. Usually, each of the highest ranking officers in attendance supplements the discussion or raises new issues, and often many of the group captains and others also contribute to the exchange of ideas and information.

The Executive Director and other members of the Commission staff attend every one of these meetings, obtain the written material distributed to the participants, ask questions when appropriate and are furnished the minutes of the meeting, as prepared.

It is the view of the Commission that these meetings of the IAB commanders, and the access accorded Commission representatives,

exemplifies a dedication, seriousness of purpose, openness and communicativeness which is consistent with the Department's announced commitment to an effective anti-corruption program.

#### D. Selection of Complaints for Follow Up Monitoring

At the same time that Commission staff reviews the daily logs to monitor the validity of the classifications assigned, particular complaints are selected for follow up monitoring of investigations conducted by the Police Department. Most of the cases chosen for such follow up are "C" cases, but a sampling of "M" cases are also included so that the Commission can evaluate the effectiveness of investigations conducted by the various inspectional teams which handle "M" complaints. As of December 31, 1995, 439 "C" cases and 68 "M" cases had been selected for follow up and entered in ledgers maintained by Commission staff for that purpose.<sup>4</sup>

In order to avoid interference with investigations being conducted by IAB groups and by the inspections teams, follow up by the Commission is deferred for approximately 90 days so that the investigations can be concluded. However, from time to time, the Commission has requested and received a full briefing from IAB investigators as to certain pending cases which the Commission deemed particularly significant or instructive of IAB

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<sup>4</sup> During the daily log review Commission staff may also determine that an extensive history of corruption allegations against a particular officer warrants an examination of the prior investigations involving that officer to learn how they were conducted and resolved. In several instances Commission staff has requested and has commenced a review of the case files of such earlier investigations. These reviews, which are intended to enable the Commission to contrast the effectiveness (or ineffectiveness) of past investigations with current investigations of the same officers, are still ongoing.

effectiveness.

Commission staff has formulated the following procedure for the follow up of selected cases. Each week written requests ("Request for Update") are made to IAB identifying five cases previously selected for follow up. Each request asks for the status of the investigation and, where concluded, for the disposition made and a description of the investigation upon which that disposition is predicated. The Commission began to serve Requests for Updates in November 1995. As of March 25, 1996, Commission staff has submitted 98 written requests for the status and disposition of selected cases and continues to serve such requests at the rate of five each week.

IAB uses the following terminology to describe the disposition of investigations which it conducts. "Substantiated" means that the accused employee (uniformed or civilian) was found to have committed all of the alleged acts of misconduct. If "Partially Substantiated", the employee was found to have committed some but fewer than all of the alleged acts of misconduct. Depending upon the nature and extent of the misconduct substantiated, an employee may be arrested, indicted or served with administrative charges and specifications.

A finding of "Unsubstantiated" means that insufficient evidence was found to clearly prove or disprove the allegations made.

If the IAB investigators determine that the accused employee was not involved in any misconduct, the employee is found

"Exonerated". Where the investigators conclude that the acts complained of did not occur or were not committed by employees of the Police Department the charges are termed "Unfounded".

In 1994 the IAB adopted still another category of disposition described as "Intelligence/Information Only". This designation is used to characterize allegations which the investigators deem to be vague or possessing "no investigative qualities". In this situation the information is recorded for possible future reference but the investigation effectively is discontinued.

When the Commission staff is informed of the disposition of a concluded case which was selected for follow up, a written request is made for copies of the memoranda prepared by the investigators summarizing the investigation and the basis for the disposition made. Based upon a review of these documents, Commission staff may ask for additional information or request that the entire investigation case folder be made available for inspection. After such an inspection, Commission staff may determine that, to evaluate the adequacy of the investigation, it is appropriate to interview the complainant or other witnesses, consult the prosecutor, if one was involved with the investigation, or question the investigating officers as well as the subject of the investigation.

It is the Commission's plan to evaluate a significant sample of concluded investigations, particularly those which were not substantiated, but also some cases that were substantiated, so that the Commission may make a judgment as to the diligence, competence

and effectiveness of the investigations and whether they were taken far enough. Where warranted, interviews of non-IAB persons (e.g., complainants or other witnesses) will be conducted as part of these reviews. Should the Commission determine that any investigation was not thoroughly conducted it shall refer such findings to the Police Commissioner and/or to the office of the prosecutor having jurisdiction for appropriate follow up.

## V.

### REORGANIZATION AND FUNCTIONING OF IAB

This Commission, as did the Mollen Commission before it, believes that the responsibility for investigating police corruption rests primarily with the Internal Affairs Bureau of the Police Department. There are other law enforcement agencies, including the District Attorneys' Offices of the five counties comprising New York City, and the two United States Attorneys' Offices covering the Southern and Eastern Districts of New York, which also have jurisdiction to investigate and to prosecute police corruption. These prosecuting offices have official corruption units which, in practice, often work together with IAB investigators to prepare criminal prosecutions against police officers found to be violating the law. Still, the largest role in uncovering corrupt officers and gathering evidence against them is assigned to IAB. Thus, the ability of the Police Department to successfully rid itself of corrupt officers depends, in large measure, on the dedication and effectiveness of IAB.

The Mollen Commission found that the predecessors of IAB, known as the Internal Affairs Division ("IAD") and the Field Internal Affairs Units ("FIAUs") became hopelessly inefficient, ineffective and disinterested in exposing corruption. As a consequence, the Department's internal mechanism for combatting corruption was, in the Mollen Commission's view, rendered virtually powerless.

The Mollen Commission also found, however, that recent changes

in the Department's leadership inspired confidence that the commitment required to root out corruption had been re-established and that the amount of time, effort and resources being devoted to strengthen corruption controls "signalled the Department's genuine commitment to fighting police corruption". Indeed, the Mollen Commission noted what it termed to be "a new era in the fight against police corruption".

This Commission is able to report that, on the basis of its initial oversight, the Department's anti-corruption commitment appears to have been further strengthened. The intensive and continuous review of IAB by this Commission engenders the preliminary view that IAB has been efficiently restructured and that the level of its leadership, skill, dedication and resources has been raised significantly, so that IAB now constitutes an effective corruption fighting unit.

The changes spoken of by the Mollen Commission began to be implemented in January 1993, when the Inspectional Services Bureau (including the IAD and the FIAUs) was dissolved. In its place was created the IAB, which was charged with directly administering and overseeing all internal investigations of corruption and serious misconduct. Cases of less serious misconduct were delegated to the various inspections units assigned to the borough commands and major bureaus.

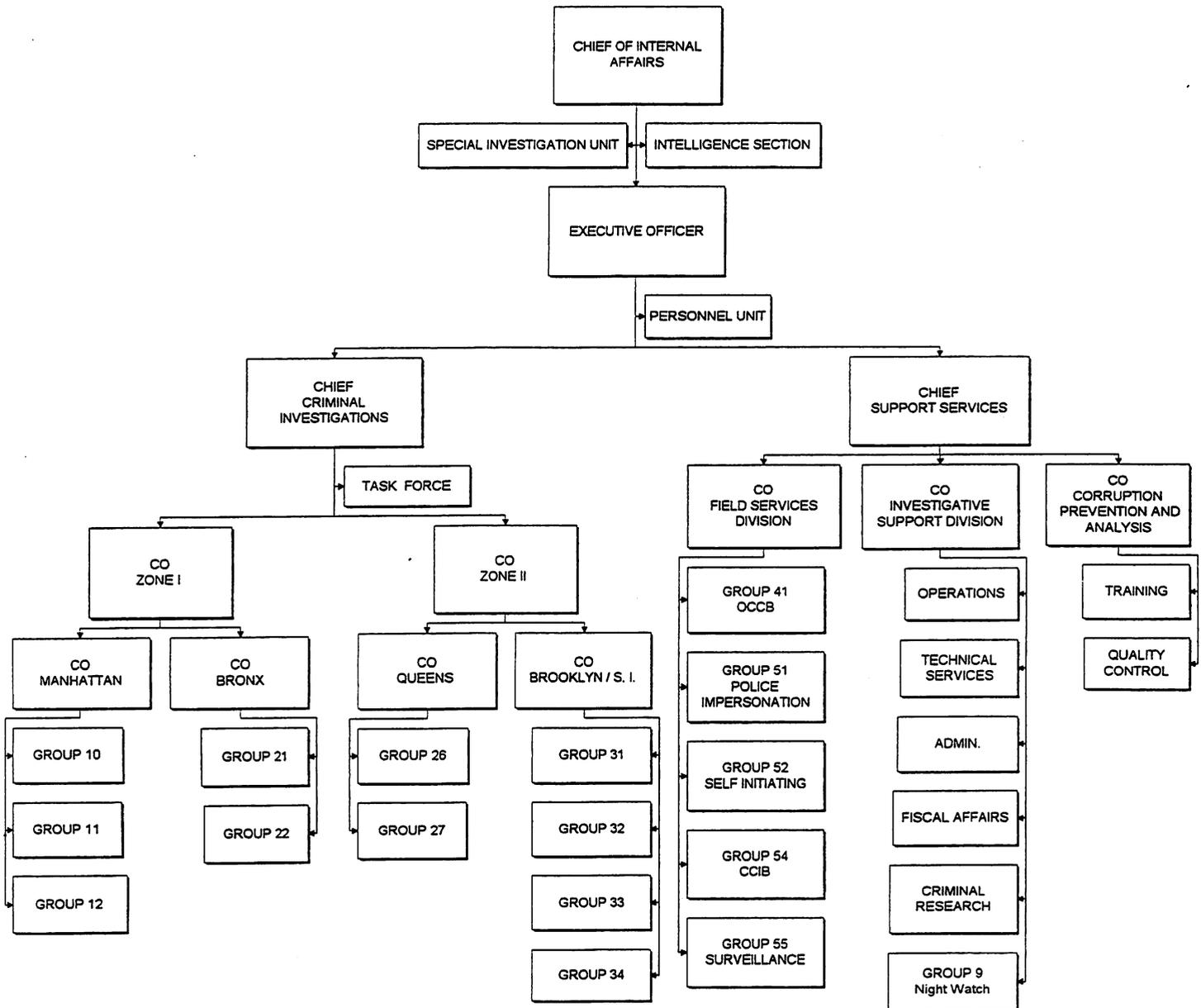
During 1995, IAB was further restructured with the announced intent to make the Bureau more streamlined and efficient. The investigative groups have been organized into two zones. Zone I

covers the precincts within Manhattan and the Bronx, Zone II encompasses Brooklyn, Queens and Staten Island. Each investigative group, which is comprised of from 13 to 34 investigators, is commanded by a captain and is overseen by the respective borough and zone commanders. The entire Criminal Investigations section is headed by a deputy chief. His counterpart is the deputy chief of Support Services. Support Services is comprised of the specialty groups<sup>5</sup> within the Field Services Division, the Investigative Support Division (which includes technical services and a night response team) and the Corruption Prevention and Analysis Unit (which compiles corruption data and attempts to identify patterns of corruption and corruption-prone officers). The two deputy chiefs report to the Executive Officer and to the Chief of the Bureau. The Chief of IAB reports directly to the Police Commissioner. The following chart depicts the current organizational structure of IAB.

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<sup>5</sup> These groups are Group 41 which investigates corruption within the Organized Crime Control Bureau (which includes, among other units, the Narcotics Division), Group 51 which investigates police impersonations, Group 52 which conducts integrity tests, Group 54 which is responsible for investigating excessive force complaints, and Group 55 which conducts special surveillance.

# Internal Affairs Bureau Organizational Guide JANUARY 1996



IAB has approximately 616 members, drawn primarily from the ranks of sergeants, lieutenants and detectives. This represents an increase of approximately 92 members over the past two years. Of this number, approximately 487 are engaged in investigative assignments. The number of investigators actually carrying case-loads is approximately 260.<sup>6</sup> The average caseload of each investigator is approximately six. This may be contrasted with the 18 to 40 cases carried by each FIAU investigator in the time of the IAD as reported by the Mollen Commission. IAB has concluded that the receipt of allegations affecting Bronx precincts has placed a disproportionate burden upon the two current groups covering that borough. To decrease the caseload in the Bronx, a third investigative group is being created to handle corruption allegations affecting Bronx precincts, now served by the two existing groups.

#### **A. The Decline in Corruption Allegations**

The Commission has examined the statistics maintained by the Police Department (and, in particular, by the Corruption Prevention and Analysis Unit of IAB) which reflect the number of allegations received by IAB which are classified either as "C" cases or "M" cases.

As of December 31, 1995, the number of allegations received in

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<sup>6</sup> The remainder of personnel deemed investigative includes supervisors, management, and those working in divisions such as Corruption Prevention and Analysis, Criminal Research, Surveillance, Technical Services and Night Watch.

1995 and classified as "C" was 1,872. This represented a decrease of approximately 17% from the 2,258 "C" allegations received in 1994. In comparing the statistics for these two years it must be borne in mind that the 1995 figures include the Transit and Housing Bureaus, which were merged into the Department early in 1995. The figures for 1994 do not include those Bureaus. Furthermore, the open cases which originated prior to 1995 and which were being carried as open by those Bureaus at the time of the merger, were also included in the 1995 numbers. Thus, the decline in 1995 "C" allegations is actually steeper than it appears to be. The number of allegations classified as "M" increased from 1,348 in 1994 to 2,018 in 1995, an upsurge of nearly 50%.<sup>7</sup>

Based upon its continuous review of the classification process, the Commission is satisfied that the reduction in the number of "C" allegations is not attributable to any systematic misclassification of allegations. Although, for a few weeks, and affecting only a few cases, IAB did not assign a "C" in every instance where an officer was arrested for off-duty misconduct by units other than IAB (usually out-of-city police departments), in response to Commission inquiries the practice was restored to that previously prevailing, namely assigning a "C" for statistical purposes to all logs which reported the arrest of a member of the service even when there was no need of IAB intervention.

There is no verifiable reason for the sharp reduction in the

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<sup>7</sup> In 1995 "OG" allegations numbered 1,366, a decline of approximately 52% from 1994.

number of corruption allegations in 1995. It is possible that increased integrity testing, a more effective IAB, a drug testing program which no longer gives advance notice of testing and incorporates hair testing for cause and the increasing use of job termination as a disciplinary penalty, has caused a reduction in the extent of corruption and, thus, fewer complaints. On the other hand, it could be hypothesized that the Department's reception of complaints (at the Action Desk and by the stationhouse desk officers) has not encouraged, or has actively discouraged, the making of complaints. Nor can there be ignored the possibility that the downturn in corruption complaints is aberrational or a temporary phenomenon. Just how meaningful is the current reduction in corruption complaints should be clearer over time. If the trend continues, especially after improvements are made to the operation of the Action Desk and after the Commission has examined more closely the treatment of complainants at the stationhouse, it may, indeed, signal that corruption within the Department is being significantly reduced.

A large proportion of the increase in "M" cases (accounting for over 26% of the overall increase of 50%) results from the fact that the Department, for the first time, is including in that category incidents of domestic violence not amounting to criminal misconduct which formerly were classified as "OG". Allegations of harassment or simple assault, usually off-duty, have also risen significantly as have allegations of abuse of departmental regulations. Presumably, some part of the increase is attributable

to the increased size of the Department post merger. The rise in "M" cases bears watching by the Commission, both to ensure that cases which should be "C" are not classified as "M" and to assess whether the Department takes measures to counter any continuing upward trend of less serious misconduct.

**B. The Increase in Arrests, Suspensions and Modifications**

If arrests, suspensions and modifications are viewed as indicators of corruption the results are ambiguous. The number of officers arrested in 1995 (167) represents an increase of 26 or 18% over the 141 officers arrested in 1994. However, the 1995 figures include arrests of Transit and Housing police officers. The merger of those agencies into the Department increased its size by approximately 7,000 officers. Most arrests in 1995 involved off-duty misconduct -- 123 off-duty, 44 on-duty. In 1993, 93 officers were arrested. Suspensions are up by 104 or 65% (161 in 1994, 265 in 1995) and modifications<sup>8</sup> are up by 74 or 43% (170 in 1994, 244 in 1995). Although these numbers can be viewed negatively -- there were more officers against whom such actions had to be taken -- the positive side is that the results may evidence more effective investigations and imposition of more severe sanctions or simply a larger personnel pool as a result of the merger.

In any event, the Commission is troubled by the not infrequent assertion in the media that the reported arrests of police officers

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<sup>8</sup> A modified officer usually has his weapons removed and is assigned clerical rather than street duties.

indicates that corruption is not being dealt with effectively. Indeed, such actions demonstrate that just the opposite is more likely to be true. First, given the large size of the Department, some degree of corruption is inevitable. Thus, the absence of arrests would make it far more likely that corruption was not being aggressively pursued and would hardly be a basis for complacency.

Second, interpreting the arrest of corrupt officers as a departmental failure sends the exact wrong message to police managers and suggests that the former practice of ignoring corruption and avoiding scandal is, indeed, the better way to go.

#### **C. The Number of Open Cases and Dispositions**

According to Mollen Commission data, the number of open corruption cases carried by IAD/FIAU at year end in the years 1988 through 1992 was close to 5,000 in each year. Almost all of these cases were delegated to the understaffed and poorly trained FIAUs (IAD retained only 5% of the cases and many of those involved petty offenses). As a consequence, each FIAU investigator carried an average load of 18 to 40 cases. The year studied by this Commission, 1995, ended with less than one-third as many cases. The average caseload carried by each investigator at IAB is now approximately six.

The Mollen Commission also concluded that statistics cited by IAD for the number of cases substantiated for the five years 1988-1992 were largely a sham; substantiation rates were inflated, inaccurate, inconsistent, defied common sense, reflected

substantiation of the petty portion of charges, or took credit for corruption investigations actually undertaken by other law enforcement agencies. Furthermore, the Mollen Commission reported that many of the cases closed by IAD as unsubstantiated were closed before all basic investigatory steps were taken.

In 1994, IAB closed 2,018 corruption cases, which originated in 1994 and prior years. Investigations were conducted in 72.8% (1,470) of these cases while 548 cases (27.2%) were closed and marked for information or intelligence value only. Of the cases closed after investigation, 781 (53.1%) reached conclusions; 145 cases (9.9%) were found to be substantiated; 31 cases (2.1%) were partially substantiated; 543 cases (36.9%) were determined to be unfounded; and in 62 cases (4.2%) the officers were exonerated. The remaining 689 cases (46.9%) were closed as unsubstantiated, meaning that the charges could neither be proven or disproven.

The results in 1995 were quite similar; 2,038 cases were closed, 1,475 (72.4%) were closed after investigation and 771 (52.3%) were closed with conclusive findings. Of the cases brought to conclusion, 139 (9.4%) were substantiated, 27 (1.9%) were partially substantiated, 511 (34.6%) were closed as unfounded and 94 (6.4%) resulted in exoneration. The number of cases closed as unsubstantiated was 704 or 47.7% of the total number of cases closed after investigation. When considered along with the fewer number of open cases, it appears that far fewer cases are subject to delays in investigation than in the past.

Although this Commission's tracking of case dispositions is

still in an early stage, based upon our follow up to date of cases closed and the observations made by Commission staff at the weekly Steering Committee meetings, the Commission believes that the number of cases reported as substantiated in 1995 is reliable and that these cases involved serious misconduct and often resulted in severe sanctions including arrest and/or job termination. It further appears that cases are not closed until an extensive investigation has been conducted and the decision to close a case is approved by the Group captain and the commanding officer of the Borough involved. Finally, it is the practice not to close any significant corruption investigation without the approval of the Steering Committee, made up of IAB's top managers and monitored by Commission staff.

As discussed above, however, the Commission's monitoring has only recently evolved to the point of making in depth analyses of the investigative steps taken in the cases selected by the Commission for closer scrutiny. Accordingly, a more conclusive determination of the quality of these investigations must await the completion of such analysis.

#### **D. Disposition of the "Tickler File"**

At its outset, the Mollen Commission requested that the Police Department turn over all of the files of the former Internal Affairs Division ("IAD"). Sometime thereafter, an anonymous caller told the Mollen Commission that IAD had a practice of concealing certain corruption allegations from other divisions of the Police

Department and from prosecutors. These cases, reportedly kept secret in a separate file nicknamed the "tickler file", were not among those turned over. In response to the call, the Mollen Commission requested and received the "tickler file" cases.

The Mollen Commission's review of the "tickler file" uncovered a number of cases from the previous five years that had never been recorded in IAD's records or sent to prosecutors. Half of those cases involved allegations against officers assigned to IAD, or high-ranking officers or their families. Many of the "tickler file" cases involved such serious allegations as sale and use of narcotics, accepting organized crime payoffs, protecting drug dealers and perjury.

After the Mollen Commission began its inquiry into the "tickler file", the Police Department informed them that it had been abolished. The Department assigned log numbers to all of the cases which had been in the "tickler file", and invited the five District Attorneys to examine those cases over which they had jurisdiction. Representatives of each of the District Attorneys reviewed the "tickler file" cases and concluded that none of the cases required any further investigation.

In order to avoid future investigations from being hidden from prosecutors, the Mollen Commission recommended that every allegation of corruption that is reported should immediately be recorded and receive a log number. The Internal Affairs Bureau has informed representatives of this Commission that its current practice is in full compliance with the Mollen Commission's

recommendations: all corruption allegations are immediately assigned a log number and officially recorded in IAB's records.

It appears from this Commission's daily review of the logs that IAB is in fact assigning log numbers to all allegations of corruption. On occasion, representatives of the Commission have noted the existence of logs with little or no detail concerning the allegation. In those instances, the Commission has requested additional information concerning the allegation. In response to our requests, the Commission has learned that these logs often involve a high-ranking member of the Department or an officer assigned to IAB, and contain little detail for security reasons (since the logs are accessible to IAB personnel). These cases are investigated by Group 1, the Special Investigations Unit, which handles all allegations against high-ranking police officers and officers assigned to IAB, and other sensitive investigations. In future months, the Commission intends to review those cases sent to Group 1 to insure that they are investigated fairly and thoroughly.

#### **E. Changed Quality and Perception of IAB**

While in the past, IAD investigators generally were regarded as lacking in competence, motivation and commitment, often failing to get to the bottom of serious corruption allegations and, instead, contenting themselves with the filing of petty charges, a very different perception of IAB now seems to prevail. This attitudinal shift was noted by the Commission in the course of numerous interviews of prosecutors, officers and supervisors and by

attending training sessions of new recruits, new IAB investigators and sergeants and lieutenants in line for promotion.

It appears that much of the change in perception is attributable to the manner in which IAB investigators are selected, trained and rewarded. The new breed of IAB investigator was generated by the adoption, on May 14, 1993, of Interim Order No. 39. Pursuant to that order, sergeants and lieutenants who apply for transfer or assignment to the Detective Bureau or the Organized Crime Control Bureau, and who are approved by the Supervisory Assignment Board<sup>9</sup>, may be "drafted" for service in IAB. Similarly, when a new sergeant or lieutenant is a candidate for assignment to any one of the Detective, Organized Crime Control or Internal Affairs Bureaus, and has been approved by the Supervisory Assignment Board, IAB is accorded the first selection and the selected candidate is required to accept the assignment. The Chief of IAB advises that, in practice, a certain amount of give and take exists among the three bureaus competing for candidates, but asserts that IAB gets more than its fair share of the best qualified. Based upon the Commission's observations as to the performance and quality of current IAB investigators, it would appear that the Chief's assertion is accurate.

After fulfilling a two year service requirement within IAB, supervisors who request transfer or reassignment to the Detective

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<sup>9</sup> The Supervisory Assignment Board consists of the following senior managers: Chief of Personnel, Chief of Detectives, Chief of Internal Affairs, Chief of Organized Crime Control Bureau and Chief of Patrol.

Bureau, the Organized Crime Control Bureau or other specialized assignments, if approved by the Supervisory Assignment Board and if consistent with Department needs, are given a preference over other supervisors who do not have IAB experience. The Commission has observed that IAB supervisors who have successfully fulfilled their two year commitment generally receive assignments from among their expressed preferences.

It appears to the Commission that, apart from insuring a stream of qualified investigators, Interim Order No. 39 has had the added beneficial effect of infusing the ranks of other Department bureaus and commands with IAB veterans who can assure heightened cooperation with IAB and help to mold a more positive image of the work done by IAB. Based upon discussions with officers, including candidates for promotion to sergeant and lieutenant and with Academy recruits, as well as other observations, the Commission finds that this secondary effect is occurring. Furthermore, the Commission has learned that the commanders of the Detective Bureau and the Organized Crime Control Bureau generally have been impressed with the skill and quality of investigators coming into their respective Bureaus from IAB.

The efficacy of IAB investigations, and the Departmental image of IAB investigators, also has been favorably affected by the investigative background which many IAB members, especially ranking officers and top management, bring with them to IAB and the special training given to all IAB investigators. Unlike many of the investigators who labored for the FIAUs and had no real

investigative experience, many of IAB's current group of top managers, group leaders and investigators already have served in investigative assignments. All IAB investigators also receive ten days of training in Basic Methods of Internal Investigation and are also required to attend other, specialized investigative courses which are offered.

Commission staff attended several of the training sessions offered to IAB investigators in their 10 day course "Basic Methods of Internal Investigations". Though classes were taught primarily by investigators within IAB and its training staff, representatives from the Legal Bureau, Detective Bureau, Crime Scene Unit, Organized Crime Control Bureau, and the Brooklyn District Attorney's office also contributed. Subjects covered included interviews and interrogation, surveillance, conducting hearings of police officers, use of confidential informants, case management, use of technical equipment, search and seizure issues, courtroom testimony, integrity tests, the conduct of special investigations involving special victims, auto crimes, use of force, and drug testing of officers suspected of using drugs.

One area of weakness noted in the training was the role-playing exercises conducted in some of the courses. As was the case in the Action Desk Training discussed in this report, these exercises, though well intentioned, were not as effective as they might have been, particularly when the investigators were critiqued by instructors on their performance. Effective role-playing can be a valuable method to demonstrate interrogation techniques and

creative approaches to reluctant or frightened witnesses. Trainers can make the role-playing exercises more useful by pointing out mistakes and by highlighting those techniques which were effectively used or which were neglected.

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The Commission has also examined whether IAB is being adequately funded and supplied with sophisticated equipment. On both counts, the Commission is satisfied that the Department has backed up its announced intention to emphasize an effective anti-corruption program. Of the Department's overall 1995 budget of approximately \$2.1 billion, approximately \$37.5 million has been channelled to IAB, the overwhelming part of which is expended for personnel. While the Department as a whole has been required to effectuate cost reductions amounting to approximately 35% of its operating expenses (expenses other than for personnel) over the past two years, the budget of IAB has been maintained at substantially the same level.

The Commission has reviewed the technological equipment used by IAB which includes state-of-the-art miniature video cameras, digital recorders, electronic surveillance vehicles, pen register systems, covert body transmitters, microwave transmission systems, vehicle tracking devices and other sophisticated devices designed for surveillance and/or interception. The Commission believes that the quality and quantity of IAB's technological equipment, including the expertise of its technical support personnel, demonstrates a serious and qualitative commitment to detection of

corruption.

In two specific areas, the Commission notes that IAB has not yet achieved its stated objectives. In its Strategy No.7 the Department anticipated utilizing computerized mapping technology ("pin mapping") in 1995 to identify patterns of police corruption and brutality allegations by time and place, in much the same manner as this technology is used to analyze external crime. Use of pin mapping to identify pockets of criminal activity and to guide deployment of countermeasures has been credited as a key element in reducing external crime. Unfortunately, that technology has not yet been put in place to combat corruption.

Similarly, Strategy No.7 forecasts that the new PRIDE computer system adopted by IAB will be fully operational by the end of 1995. This system is intended, among other things, to guide intake procedures to assure completeness of information, to flag related cases, alert investigators to patterns of corruption and interrelationships between officers, automatically cross-reference relevant materials and to give investigators broad access to other databases both within and without the Department. The PRIDE system has great promise as an important investigative tool but difficulties in creating an adequately functioning computer program have slowed its development and delayed its full utilization. The Commission urges IAB to make a special effort to get PRIDE debugged and online and to begin utilization of its pin mapping approach to fighting corruption.

## VI.

### COMMAND ACCOUNTABILITY AND THE POLICY OF INCLUSION

One of "the most pervasive managerial failures" of the Department in the past, according to the Mollen Commission, was the failure to maintain a system of command accountability. In substance, the Mollen Commission found that when corruption was uncovered, field commanders whose commands were involved might be punished, but no effort was made to assess whether they had attempted to prevent, detect or report the corruption. Nor were rewards given if a diligent commander helped to expose the corrupt officers within his command. As a consequence, commanders were given strong incentive to ignore or conceal corruption rather than root it out.

Commenting on more current events, the Mollen Commission observed that Commissioner Bratton was making considerable effort to revitalize genuine command accountability, publicly had admitted that scrutiny of supervisors has been lax over the past decade and had declared that police supervisors who turn a blind eye to corruption do so at great risk.

As discussed above, making a judgement that accountability can only attach where there is a sharing of information, Commissioner Bratton has adopted what is termed a "policy of inclusion". Finding that the secrecy and isolation which traditionally veiled internal affairs operations tended to undermine the effectiveness of investigations and the accountability of supervisors and investigators, Commissioner Bratton has decreed that IAB

investigators should inform and include in the investigative process the Department's top executives, precinct commanders and integrity control officers. The effect of this inclusion the Department expects, will be to make available the skill, experience and particularized knowledge of top management and the local commanders and, thus, make more effective the conduct of corruption investigations. Furthermore, the Department believes that the involvement of top management and local supervisors will demonstrate trust, create good working relationships between commanders and IAB and make corruption control everyone's responsibility.

The Commission has noted that, in furtherance of this policy, certain measures have already been implemented. As described elsewhere in this report, the Police Commissioner and all of the Department's top managers receive regular briefings from IAB investigators which detail the investigation of significant cases in each of the City's commands. At these briefings, the chiefs of the various bureaus often question the investigators and offer investigative suggestions. What is made evident to the IAB investigators, and to each of the bureau chiefs present, is that the Police Commissioner and the Department's top echelon are informed and concerned about specific corruption issues and the importance of corruption control generally.

The Commission is informed that, in addition, the Chief of IAB meets almost daily with the Police Commissioner to update him on pending corruption investigations, new allegations of corruption

and integrity test results.

In the past, and until very recently, the local precinct commanders, often together with their ICOs would come to IAB twice a year to receive a profile of corruption-related events in their commands and to discuss the commander's perception of problems within his precinct. In practice, these meetings were of limited utility since the information given by IAB was mainly historical and the information supplied by the precinct commander was often "boiler plate" and of little investigative value.

This formal procedure has been supplemented, since last year, by having the IAB group captains make periodic visits to precinct commanders to discuss current corruption concerns and to exchange information about suspect officers, possible corruption patterns within the command and other matters of mutual interest. The group captains are regularly queried by IAB Commanders at Steering Committee meetings about their execution of this function.

In January, 1996, the IAB announced the implementation of a modified procedure for exchanging information with local commanders (which will be formalized in the IAB Guide). Under the new plan, IAB group commanders will be furnished, by the Corruption Prevention and Analysis Unit, with semi-annual profiles of corruption conditions in each specific command. The group captains will meet monthly with local commanders to share this information and to solicit from the local commanders any information and insights they may have as to corruption prone locations or suspect officers within their commands.

Twice a year, group captains will be required to summarize these meetings and furnish descriptive memoranda to IAB management. The Commission intends to review a sampling of these reports to monitor the efficacy of the process.

The Commission has also observed that the policy of inclusion is being implemented in the course of individual investigations. Thus, Commission staff has been present when IAB investigators have recounted discussions had with precinct commanders or ICOs in order to enlist their aid in getting information about targeted officers or in getting those officers to the site of planned integrity tests. Furthermore, Commission staff has noted several occasions when investigations were initiated in response to information received from precinct commanders or ICOs.

Understandably, the disclosure of pending investigations to persons outside of IAB has caused concern about the risk of leaks which might jeopardize the success of an investigation. This concern has been expressed by some former IAB officials and by some prosecutors. The Police Commissioner candidly concedes that broader dissemination of confidences increases the risk of blown investigations but believes that the risk is minimal, since the disclosures are made to supervisors normally entrusted with confidential information in other areas of police activity. The Police Commissioner also contends that the increased risk is outweighed by such anticipated benefits of inclusion as enhanced ability to coordinate allegations against corrupt officers from various sources, the input obtained from highly skilled police

managers, the useful insights from local commanders and ICOs and the assistance of the precinct commanders in the conduct of investigations. Finally, the Department believes that inclusion makes local commanders allies of IAB in combatting corruption and better enables those commanders to exercise responsibility for corruption control within their commands. Whether they have properly discharged that responsibility can then be judged more fairly and they can more appropriately be held to account.

The Commission has noted that there is a consensus, even among most prosecutors and others who have expressed misgivings, that the Department should be given a full and fair opportunity to demonstrate that the policy of inclusion is viable and advances the anti-corruption program of the Department to an extent that outweighs its inherent risks.

To date, the Commission has not learned of any investigation that has been compromised as a result of information being shared with supervisors deemed by IAB to be appropriate recipients. The Commission intends to include in its detailed review of cases closed without substantiation, a search for any indication that the investigation was thwarted by wrongful disclosures.

In sum, it would appear that the Department has taken certain measures to rebuild command accountability. The Police Commissioner has promulgated the principle that commanders will be assessed by reviewing the entire record of actions taken by them, including the extent to which they gave proactive support to IAB and maintained strict confidentiality of ongoing investigations.

Adoption of the policy of inclusion may be another potential step in the re-establishment of effective command accountability.

However, the Commission believes that the Department has not yet gone far enough in instituting the changes necessary to make true command accountability a fully functioning reality. In particular, the Commission believes that there has not been put in place a mechanism which will insure that the principle of command accountability is being fully implemented. Such a mechanism was recommended by the Mollen Commission, which urged the creation of a special Command Accountability Review Unit. The proposed function of that Unit would be "to conduct post-corruption disclosure investigations to identify the supervisors and commanders who know or should have known about corruption within their commands and failed to take adequate measures [to detect] to prevent and report it, as well as those who performed diligently . . . and to determine whether commanders provided appropriate assistance to [IAB]". The Unit would also assess whether IAB effectively pursued information furnished by commanders and actively enlisted their assistance.

It was suggested that the Unit operate under the direction of the First Deputy Commissioner, include a representative from an external monitor, such as this Commission, and that its performance be overseen by that external monitor.

Although the format of such a reviewing body need not be precisely as the Mollen Commission prescribed, the Commission knows of no unit within the Department which has the responsibility or

discharges the function envisioned for the Command Accountability Review Unit. The Commission believes that the creation of such a unit, or its functional equivalent, should receive immediate attention.

## VII.

### THE IAB ACTION DESK

The IAB Action Desk is a major artery through which flow virtually all allegations of police corruption. Each day hundreds of calls, as well as letters and faxes, are handled by Action Desk investigators. Although public callers constitute a portion of the calls, the majority of calls received by the Action Desk are from police officers in local precincts and commands who are referring information obtained by them from complainants in their community or from debriefed prisoners (detectives are supposed to question persons arrested about any dealings with corrupt police officers or second-hand knowledge of police misconduct).<sup>10</sup> The Action Desk is also the conduit for ministerial reports advising IAB of the loss or theft of department identification or property. The information taken by Action Desk investigators usually results in the generation of a computer printout and is assigned a log number.

Depending on the information given to them, the Action Desk staff often adds additional information to each log, such as an arrest report, a list of prior allegations against an officer, prior allegations by the same complainant, or a roll call check of officers' names if the subject officer is not fully identified by the caller. IAB investigators in the field also call with updated

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<sup>10</sup> Based upon discussions with IAB investigators, other police officers and prosecutors and the daily review of corruption logs, it would appear that the practice of debriefing arrestees about knowledge of police corruption is inconsistent and spotty. Most often when it is done the inquirers are narcotics investigators. This raises an issue which the Commission intends to examine more closely.

information in those cases where an IAB response team immediately responded to a scene.

Because of its central role in the reception and processing of corruption allegations, the effective functioning of the Action Desk is an important element of the Department's anti-corruption apparatus. The Mollen Commission found that the Action Desk "operated in a manner that minimized the receipt of corruption information and actually discouraged complainants from providing information". While this Commission's review of the operation of the Action Desk found improvement, some of the weaknesses identified by the Mollen Commission persist.

The Commission's audit of the Action Desk consisted of listening to taped conversations between investigators and complainants (all calls are taped except those received on two of the seven telephone lines - those two lines are reserved for callers, usually police officers, who wish to remain anonymous); observing the actual operation of the Action Desk as it was occurring; interviewing Action Desk supervisors, investigators and complainants; reviewing the logs generated by the Action Desk and attending training sessions for Action Desk staff.

Our audit of Action Desk tapes revealed an uneven quality in the handling of calls. Some investigators were diligent and courteous, others were curt and even hostile. The performance of the same investigator sometimes varied from day to day. In a number of instances, investigators failed to promptly elicit the identity of the caller, expressed skepticism about the merits of

the complaint or put calls on hold without explanation and for long periods of time.

The Commission listened to conversations where logs of complaints were not generated when it appeared that they should have been. Sometimes the investigator engaged the caller in a debate of the merits of an allegation which resulted in a complainant giving up. Sometimes callers were told, "that is not an IAB matter" without adequate explanation. Occasionally callers trying to follow up an earlier complaint were told "I don't know what happened to your complaint, we just take them. It's being investigated - that's all I can tell you".

One complainant told the Commission that an Action Desk investigator doubted his allegation of money stolen from his apartment by an officer even though he witnessed the officer enter his bedroom and then allegedly found money missing after the officer departed. The IAB investigator suggested that the complaint was not valid since the caller didn't personally witness the officer taking the money from the complainant's drawer. The caller was placed on hold and later hung up.

Another complainant was treated with similar skepticism when she called to report that an officer had received free food at an eating establishment. The caller, clearly frustrated, also eventually hung up.

One Action Desk investigator was very thorough in his interview of a caller who did not witness a particular event. However, even though the caller furnished the location of the

incident and the identity of a witness, the investigator told the complainant to have the witness call back with more information, instead of taking the caller's name and address so that IAB field investigators could contact her directly.

Many calls also revealed a lack of uniformity in dealing with complaints potentially falling within the purview of the Civilian Complaint Review Board ("CCRB"). Some of these complaints were immediately transferred to that agency without callers being questioned about the severity of the force used or the extent of any injuries, factors which might make the complaint appropriate for the IAB group which investigates allegations of excessive force. Other calls of this nature were registered and forwarded by IAB to CCRB or given to an inspections unit within the Department to investigate. In still other cases, Action Desk investigators would give the option to the complainant as to where to make the complaint, which seemed to confuse most callers.

Commission staff attended a training session for Action Desk investigators most of whom had already served in that position for at least six months. Some of the officers had received previous training, others had only received "on the job" training. Given the experience and duties of the participants, the course needed to be specialized and specific to the requirements of the job.

Though the training team was effective in teaching communication skills related to sensitivity and professionalism when interviewing complainants, basics such as the importance of getting a name and telephone number from a caller before a call is

placed on hold, or determining which complaints should be retained at IAB rather than referred elsewhere, were not addressed. Commission staff found, also, that the training provided was not specifically designed to assist the investigators to make the "judgement calls" often required of them. Also, one of the lectures was given by a field investigator whose subject matter and expertise had nothing to do with the handling of telephone inquiries.

Though one session dealt with role-playing, this potentially effective exercise did not challenge the participants with an array of calls that require tactical communications skills and knowledgeable decision making. Only one scenario was used to instruct in the handling of an anonymous caller who was vague in his allegations. A greater variety of calls and problems needed to be discussed. Ideas for these types of calls easily could have been culled from actual examples found on the Action Desk tapes. Greater emphasis on role-playing would have more specifically exposed weaknesses in approach and provided insight for the participants as to improved techniques. Often, the participants were not made aware of their most common mistakes. Sometimes the lack of relevance seemed to frustrate the participants and some professed to have found the training of little practical use.

The Commission also found that the Action Desk seems to serve as a general switchboard for IAB and that the detectives and sergeants who staff the Action Desk process calls and perform other administrative tasks unrelated to their critical role - the intake

of corruption allegations. These ministerial calls and duties distract the investigators and dilute the performance of their primary function.

IAB management has acknowledged to the Commission that improvements to the operation of the Action Desk are needed and will be implemented on a priority basis. Indeed, the Commission has noted that IAB already has taken some steps to improve the operation of the Action Desk. Thus, when callers speak a foreign language the investigators are able to add an interpreter to the call pursuant to a language service contract which the Department has with AT&T.

IAB management states that it is addressing staffing needs of the Action Desk so that the Desk is better covered on all tours and more adequately supervised. Personnel transfers have been made and are contemplated as a means to improve performance. The appointment of a Captain to supervise the operation has been announced.

The training of Action Desk investigators is also a step in the right direction, although the quality of that training, as already described, needs improvement.

Even as the Commission began its examination of the Action Desk, IAB management itself initiated a series of test calls to evaluate the performance of the investigators. Ten calls were made, four of which required that the investigator utilize an interpreter. Other calls simulated complainants reluctant to give information. The placement of mock calls is an important

management tool and the Commission encourages IAB to continue this initiative, to broaden the scope of the qualities tested and to make such testing an ongoing feature of IAB's self-evaluation process.

IAB has addressed, in part, the administrative demands upon the Action Desk by positioning a receptionist at the entrance to handle routine calls and other ministerial matters and, thus, minimize distractions. IAB has also announced plans to relocate the Action Desk to a less trafficked and more hospitable environment.

While IAB management recently conducted a statistical analysis of the volume and nature of calls received by the Action Desk the Commission believes that there is a need for more detailed record keeping of calls on a regular basis. It is anticipated by IAB that the introduction of the PRIDE computer system, which has been delayed by technical problems, will enhance the ability of the Action Desk to record and retrieve information and generally make the operation more efficient. The Commission will continue to monitor the Action Desk and evaluate the implementation and success of measures taken to improve its performance.

## VIII.

### THE INTELLIGENCE SECTION OF IAB

In response to the Knapp Commission investigation in 1972, an intelligence program was developed within the Police Department whereby members of the Department volunteer to act as the "eyes and ears" of the Police Commissioner and discreetly report corruption and misconduct within their commands. This was the so-called "Field Associates Program". Twenty-two years later, the program was sharply criticized by the Mollen Commission as an under-developed and under-utilized, though potentially valuable, tool for fighting corruption. The Mollen Commission found that the Department dedicated few resources and little energy to cultivating undercovers or effectively developing their information to fight corruption.

Some restructuring of the present Intelligence Section of IAB has occurred. Now the three components of the Intelligence Section are the Voluntary Assistance Unit, the Operative Unit and the Liaison Unit.

#### A. Voluntary Assistance Unit

The Voluntary Assistance Unit (VAU), formerly known as the Field Associates Program, was created to enlist the assistance of uniform and civilian members of the Department in gathering and reporting intelligence information regarding corruption and misconduct. Coordinators of VAU recruit "agents" from the Police Academy while the officers are still in training. They rely on

establishing a mentor-like relationship with these officers which continues after graduation from the Academy to placement in their respective commands. VAU tries to place agents in all seventy-six commands in the City, on all tours of duty. The agents are expected to report problems and incidents of corruption to their coordinators on a regular basis.

Because of past problems with insufficient response to information and misunderstandings by agents as to their roles, all agents entering the program must now sign a "Memorandum of Agreement" setting forth their obligation to report corruption immediately and an acknowledgement that no special consideration is given to agents for their assistance. The Agreement also prescribes the procedures which must be followed if an agent is faced with the possibility of compelled participation in corrupt acts and is designed to prevent a recurrence of situations where an agent seeks to use his status as an agent to shield his own misconduct. Also, coordinators now meet monthly with agents and reports of all information provided by agents are recorded in log books, as well as in monthly and quarterly reports. Agents are anonymous and are registered in the Unit and referred to by code names only. There are no career enhancements or special considerations given in exchange for this information. Agents are instructed by their coordinators in how to spot various types of misconduct and corruption on patrol and they are versed in recognizing tell-tale signs of drug use and pay-offs.

Civilian employees are also recruited as agents. The Section

has high expectations of the value of information which may be provided by civilian employee volunteers, since they are often able unobtrusively to observe police activity within the precinct stationhouse.

#### **B. The Operative Unit**

The Operative Unit is also intended to gather evidence of corruption in the various commands but differs from the Voluntary Assistance Unit in that it uses tenured members of the Department rather than newly-appointed officers. Its method of recruitment also differs from VAU. An officer applying for an assignment to the Internal Affairs Bureau may be interviewed for possible service in the Operative Unit, as are officers who may have cooperated previously in an IAB investigation. Unlike the practice in VAU, the anonymity of the agents in the Operative Unit is not preserved. Thus, officers in the Operative Unit are expected to testify, when necessary, at criminal trials and administrative hearings.

It does not appear that this source of potential intelligence has been fully developed or been particularly successful in furnishing investigative leads or evidentiary support. In fact, the Mollen Commission's characterization of a "paper program" appears apt, although the reason may be due more to the difficulty of the goal than a lack of commitment by the Department. The Commission, however, has noted in the course of its daily review of corruption allegations, that it is not uncommon for members of the Department to supply information about corruption by making

anonymous calls to the Action Desk or writing anonymous letters to the Police Commissioner or to IAB. In that sense, there seems to be a growing cadre of unofficial "operatives" who are not part of a formal program but who take it as their duty to expose corrupt officers.

### C. The Liaison Unit

The members of the Department are permitted to reside in seven different counties in New York outside of New York City. The Intelligence Section's Liaison Unit seeks to establish and maintain personal contacts with state, local and federal law enforcement agencies in these counties and serves as a conduit of intelligence information to the Department. The Commission has observed that, by utilizing these contacts, IAB has been able to obtain on a timely basis information about misconduct on the part of officers committed in jurisdictions outside New York City.

\* \* \*

In this Commission's preliminary review of the current Intelligence Section of IAB, whose main function is as a resource for IAB investigations, we find that efforts are being made to correct some of the problems identified in the past, especially in the areas of reporting and accountability. In the past, some of the information about corruption was channeled to borough commanders who, it was found, were not often diligent in acting on the information and that IAB coordinators responsible for handling the volunteer assistants (formerly known as field associates) were

not effectively utilizing the information furnished. Now, significant intelligence information received by the coordinators is brought to the attention of the Chief of Internal Affairs by the commander of the Intelligence Section on a regular basis and recorded in a ledger, kept at the Intelligence Section, which Commission staff has examined. The entries in this ledger, which do not reveal the identities of the volunteer assistants, reflect the nature of the information, the date it is transmitted, whether it resulted in the initiation of an internal investigation and, if so, the ultimate disposition. Once a case is assigned a log, it is referred to the appropriate IAB group for investigation.

In some cases, information received by the Intelligence Section can augment an existing IAB investigation. The commander of the Section attends weekly meetings of the Steering Committee at IAB where the investigation groups update IAB commanders on selected investigations. There, Commission staff has observed, he occasionally is able to assist the groups by providing intelligence information on those cases, or he will be requested to canvass his sources for needed information. The Intelligence Section also receives direct inquiries from IAB group commanders, usually via telephone. All requests for intelligence information are hand-recorded in a log book kept by the Section's commanding officer which Commission staff has examined. By sharing the information directly with IAB's Chief, communication and accountability are enhanced, and greater utilization of the information is made more likely.

Over the past several months, Commission staff has attended several briefings given by the Intelligence commander to the Police Commissioner, to the commanding officers of IAB, and to outside law enforcement agencies. Commission representatives also have interviewed extensively the Intelligence commander and members of his staff, and have reviewed records kept by the Unit which reflect regular debriefings of volunteer assistants and quarterly summaries of the information given by each assistant, and acknowledged by the assistant's signature.

All of the Intelligence units are potentially valuable devices for early detection of corruption, as sources for self-initiated investigations and as tools for ongoing investigations. The Commission is encouraged by the changes which have been made to the program which include better documentation, more frequent and direct reporting to top IAB managers and the involvement of the section commander in Steering Committee deliberations. The Commission believes that the Intelligence Section can be made even more effective by giving career enhancement consideration to officers who serve in these units. The Commission will continue to monitor the performance of the Intelligence Section and to examine the extent to which it is adequately staffed and funded in the future.

## IX.

### THE DEPARTMENT'S INTEGRITY TESTING PROGRAM

The Mollen Commission found that IAB "must increase the number, regularity and quality of targeted and random integrity tests. These tests must be carefully administered under the guidance of a prosecutor, well devised and tailored to the type of corruption under investigation, and aimed at officers or commands exhibiting a reasonable basis for inspecting corruption".

The Department's response to this recommendation has been dramatic. In the past, the Department generally conducted no more than a handful of integrity tests in any given year and these were often simplistic and not well designed to uncover serious corruption. In calendar year 1994, the number of integrity tests increased to over 100 but still fell short of being statistically meaningful or an effective deterrent. However, in 1995, the number of integrity tests conducted by the Department was greatly increased. By the end of December 1995, the Department had conducted 565 tests which involved approximately 1,222 officers.

These tests have been both "random" and "targeted". Random tests usually address statistically identified corruption trends and are not aimed at specifically identified officers. Patterns of corruption allegations often dictate the location and nature of the random tests. The vast majority of tests conducted by the Department are random and most random tests are conducted by Group 52, the special unit within IAB constituted to devise and conduct integrity tests. In 1995, 465 random tests, involving 1,032

officers, were conducted. One failure was reported involving one officer. Sixty of the random tests involving 144 officers were deemed "inconclusive", a designation used when officers respond to the scene but do not engage in the testing scenario (e.g., search the undercover posing as a drug dealer but fail to find the planted cash or simulated drugs).

Targeted tests are used to test specifically identified officers, usually in response to particular allegations or a pattern of allegations against particular officers. These tests are most often conducted by the IAB group investigating the corruption allegations and are used as a tool to gather evidence in furtherance of the investigation. In designing targeted tests the IAB investigators are supposed to consult with and obtain input from the prosecutor's office having jurisdiction of the subject matter. However, some prosecutors report that compliance with this policy is uneven and that occasionally the inclusion of the prosecutor occurs at the eleventh hour and leaves little opportunity for meaningful contribution.

There have been 100 targeted tests conducted in 1995 involving 190 officers. Ten officers were found to have failed those tests while 23 tests involving 43 officers were deemed inconclusive. All of the remaining officers were found to have passed.

Although it may be suggested by these results that corruption is virtually nonexistent, such an assumption is contradicted by other indicators such as the number of complaints made and the

number of officers arrested or administratively charged with misconduct. These indicators evidence the existence of corruption not detected by integrity tests. Thus, a different rationale must be found to explain the nearly insignificant number of failed tests.

There may be two primary reasons that the tests yield so few failures, reasons which, in fact, may be interrelated. First, it is known that members of the Department are aware that a substantial number of tests are being conducted, a fact which has received wide public comment. Indeed, there is substantial anecdotal evidence to demonstrate that members of the Department are so "raised up" that many regard almost all on-duty encounters as potential tests engineered by IAB to gauge their integrity. Instances of "found property", involving items such as small quantities of drugs found in police cars or holding cells which are turned in and vouchered, are up approximately 60%. In the past, such items were often discarded, even by honest officers. In such a state of alert even habitually corrupt officers are likely to refrain from improper actions. As a consequence, officers who formerly may have engaged in corrupt activities may avoid detection because they have been "scared straight" and will not take the bait offered by the tests. This also means they may be scared straight when confronted with opportunities for corruption in non-integrity test situations. Thus, so long as the testing level remains sufficiently high and tests are conducted in a sophisticated and realistic manner, the testing program itself may be an effective

deterrent to the commission of corrupt acts.

Another possible explanation for the dearth of test failures, requires an evaluation of the nature and validity of the tests themselves. Although there are many facets of the testing process which must be analyzed to judge the validity and effectiveness of each test, the goal of such analysis must be to determine whether the test mirrors reality and adequately recreates the circumstances and conditions which underlie the suspected misconduct. For example, it may not be useful to test whether an officer will steal money or drugs from a drug dealer on the street if intelligence reports or complaints suggest that the officer's method of operation is to commit the theft in the course of apartment searches.

If the tests have been too simple, too easily detected (especially by trained police officers), too routinized (e.g., always initiated by a 911 call) or incorporate a discordant element (e.g., different partner or use of an undercover new to the neighborhood) then the result -- a passing grade -- may be preordained and useless as an indicator of corruption. All of these elements must be reviewed in appraising the effectiveness of any given test.

Representatives of the Commission have interviewed Captain William Crawley, commander of Group 52, have monitored presentations and training lectures conducted by Capt. Crawley and other Group 52 personnel and have reviewed the integrity testing procedures issued by IAB. Commission staff also has reviewed

integrity test case folders and monitored videos made in the course of actual tests.

In addition, Commission staff are privy to the details of targeted tests as they are recounted by IAB investigators reporting to the weekly meeting of the IAB Steering Committee.

Finally, Commission representatives have discussed the quality of IAB's integrity testing with prosecutors, former and current police officials, including high ranking IAB officials, and have had extensive discussions with persons at private auditing and investigative firms with substantial law enforcement experience. Members of the Commission and staff have also utilized their own background of law enforcement experience in evaluating the quality of those integrity tests which they have examined.

It is the initial and preliminary impression of the Commission that the integrity tests conducted by the Department -- especially those used to test specifically targeted officers -- are well conceived, planned and executed. The type of equipment used is highly sophisticated and state of the art. Elaborate scenarios are devised which incorporate the use of apartments furnished to appear as drug dens, stores set up as apparent "smoke shops" and undercover officers who realistically impersonate drug dealers, prostitutes and crime victims. The type of corruption alleged is reasonably recreated.

However, in order better to evaluate the validity and effectiveness of the Department's integrity testing program and more confidently interpret the results obtained, the Commission,

with the assistance of outside experts, will study and analyze an appropriate sampling of the integrity tests and evaluate their validity and effectiveness.

The Commission will conduct interviews of senior Department and IAB management to determine and clarify the objectives of the testing program. This study will also identify the standards and procedures adopted by the Department and measure whether the tests conducted satisfy those standards. An appropriate sampling of random and targeted tests will be analyzed, evaluated and compared with testing done by other law enforcement agencies. At the conclusion of the study a written report will be made with findings and recommendations.

In any event, for whatever reason, it would appear that integrity tests are not an accurate means of measuring the extent of corruption within the Department and are not the best or only way of exposing corrupt officers. However, another important goal of such tests -- deterrence -- appears to be met by the increased use of integrity tests.

Thus, the Department must continue to rely on other means of identifying and exposing corrupt officers. These means should include use of such intelligence sources as volunteer assistants, debriefing of complainants, arrestees and accused officers, use of confidential informants, undercover operatives and "turned" officers and an increased number of self-initiated investigations guided by patterns and trends developed from all sources.

## X.

### CREDIBILITY OF POLICE WITNESSES

Of all forms of police corruption, that which may be the most difficult to deal with is the lie under oath, whether in an affidavit or in testimony at a hearing or trial. Some people find it difficult to fathom why altering a few facts, given the vagaries of the law, what they may perceive to be the indifference of the prosecutor and the overwhelming guilt of the defendant, is deemed so heinous. Yet, this form of misconduct is extraordinarily corrosive of the criminal justice system.

Interviews of judges, prosecutors and defense lawyers, a review of trial results, and the public reports of trial jurors' comments, make clear that police witnesses, to an alarming degree, have lost credibility. Indeed, there was a time when jurors had to be cautioned that the testimony of police officers should not be accepted blindly, so solid was the public's belief in the honesty of their account. Now, jurors must be carefully screened and strongly instructed not to reject a witness' testimony merely because he is a police officer. And even when jurors are carefully chosen and well instructed, an increasing number of cases are lost by the prosecution when they depend primarily upon police testimony.

While identifying the reasons for this shift in public perception might require a comprehensive sociological study, it seems obvious that the loss of confidence in police witnesses can be traced to the plethora of disclosures about police perjury, of

which certain police testimony at the trial of O.J. Simpson is but the most recent and notorious example, as well as reports of other forms of police misconduct. Unfortunately, disclosures of such wrongdoing, wherever committed, tend to color public perception even in distant jurisdictions and, thus, may stigmatize all police officers however unfairly.

The extent to which New York City police officers testify falsely has not been established; what is apparent is that, whether deserved or not, they, too, have lost the trust of many jurors. In attempting to gauge the extent of police perjury in New York City, Police Commissioner Bratton has said that the truth probably lies somewhere between those who claim that perjury is pervasive and those who would contend that it is minimal. To support this thesis, Commissioner Bratton cites to the fact that only 25 allegations of false testimony have been received in response to a letter, sent by him early in his term, to all criminal court judges, the five district attorneys, the two U.S. attorneys, and the Legal Aid Society, asking them to report any instance of suspected police perjury. The Commissioner further reports that only 67 additional allegations of false testimony have been received from all other sources during that same two-year period, including defendants, informants and anonymous callers. Based upon the over six hundred thousand arrests made during that same period, the Commissioner concludes that the reported instances of "testi-lying" are remarkably sparse.

A statistical review by the Commission of police perjury

prosecutions is to the same effect. In all of 1994, there were 15 officers criminally charged with perjury and in 1995 the number of accused officers was also 15. In addition, 28 officers were served with administrative charges in 1994, involving mostly the making of false statements at departmental hearings. In 1995 the number of officers administratively charged totalled 44, reflecting perhaps, in part, the increased size of the Department after the merger.

Of course, it does not follow, necessarily, from the dearth of perjury prosecutions against police officers that the problem is not widespread. Indeed, some might argue that the low number of police perjury prosecutions demonstrates a departmental -- or indeed a criminal justice system -- tolerance or lack of supervisory oversight. The number of officers charged, criminally or administratively, with perjury or related wrongdoing, is not a statistic which the Department has maintained. It was only after a request by this Commission that the Department compiled the statistics which reflect the number of criminal and administrative cases brought against officers during the past two years for falsifying records or testimony. And there is still no separate corruption category for perjury allegations in the analysis of corruption allegations prepared by IAB in its published reports. Thus, the difficulty in assessing the breadth of "testi-lying" which actually occurs is compounded. In the Commission's view, perjury statistics should be separately categorized so that the problem may receive the attention and emphasis which it warrants. It will also send a clearer message to police officers that perjury

will not be tolerated.

Misstatements by officers might be said to fall into three general categories. One type involves false statements by which one officer relieves another of the burden of testifying, by purporting to possess the information actually known to the second officer, so-called accommodation perjury to facilitate "hand off" arrests. The Department is attempting to deal with this problem by promulgating clear rules of how arrest procedures are to be handled.

Another type of perjury involves testifying falsely to facts in order to make legal the illegal actions of the officer, and to make the arrest "stick". In these circumstances the officer does not personally profit from the misconduct. An example of this is testimony calculated to make a search legal, and the evidence obtained admissible, by claiming the contraband was in plain sight when, in fact, it was removed from the accused's pocket or from the glove compartment of his car without probable cause. This form of misconduct is rationalized as preventing the guilty person from using the idiosyncratic rules of law to avoid deserved punishment. The general perception is that this form of falsehood is the most pervasive type of perjury but, again, there is no reliable statistical indicia nor any dependable way of developing such data. As hereafter described, the Department is attempting to address this problem by more rigorous training both in the Police Academy and in the field.

Finally, there are instances when officers wholly concoct the

facts of wrongdoing, to cover up the misdeeds of the officer. Examples of this are the planting of drugs or weapons to support an arrest, accusing a defendant of resisting arrest to justify the use of force against him or reporting the recovery of less than the true amount of drugs or money to cover a theft by the officer. Again, there is no reliable measurement of the extent of this type of perjury. It can be combatted only by diligently investigating and vigorously prosecuting offending officers.

Although the dimensions of police perjury have not been established, and may not be susceptible of accurate measurement, the effect of public perception is seen regularly in the verdicts rendered by jurors who acquit defendants where cases turn upon the credibility of police witnesses.

#### **A. The Department's Response to the Perjury Issue**

In response to the problem of police perjury, Commissioner Bratton has requested that Chief Kelleher form a committee to recommend measures to insure the integrity, effectiveness and professionalism of police witnesses. The group, known as the Committee for Excellence in Testimony, is comprised of representatives from the Office of the Director of Training, the Patrol Services Bureau, the IAB, the Office of Management Analysis and Planning, the Disciplinary Assessment Unit, the Detective Bureau, the Chief of Department's Office, the Organized Crime Control Bureau, the Quality Assurance Division, the Housing Bureau, the Patrolmen's Benevolent Association, the Detectives Endowment

Association and the Special Narcotics Prosecutor. The Executive Director of the Commission regularly attends the meetings of the Committee.

The Committee has recommended the adoption of a program which would include the following features:

1. The expansion of the training given to recruits at the Police Academy relating to courtroom responsibilities. The Committee has formulated a comprehensive syllabus for a five day interactive training program to be given off-site and which would include a requirement that all recruits participate in mock trials and hearings. The course would include training in legal concepts, the importance of accurate record keeping and testimony, lectures by prosecutors, judges and defense attorneys, discussions of why police officers lie, the elements of good testimony and the pitfalls of cross-examination. The course would conclude with a final examination and recruits would be required to attain a minimum passing grade.

Currently, recruits at the Police Academy receive only ten and a half hours of training (out of an eight month program) dedicated to courtroom testimony and only three and one-half hours of that time involves mock testimony. Thus, very few recruits actually get to actively participate -- the bulk of the class merely observes.

2. The re-training of all uniformed members of the force up to the rank of lieutenant by merging integrity training with the tactical training now provided to police officers as part of a borough-based training program. The contemplated version, to be

known as "IN-TAC", may involve a four day cycle (two days in the Spring, two days in the Fall) which would first train officers in handling "real-life" scenarios in the field. The following day, there would be discussions, based on the previous day's activities, involving the integrity of the arrest process, the ramifications of perjury, the increased number of perjury arrests of police officers, issues of public trust and examples of perjury hazards. The trainees would be required to prepare complaints, arrest forms and memo book entries and the need for accuracy in such record keeping would be highlighted and tied to the problems of subsequent courtroom testimony.

In the second two-day cycle officers would be required to bring all paperwork pertaining to the arrests they made in the spring cycle to a mock courtroom. The interval of time between the spring and fall cycles would effectively correspond to the lapse of time experienced by officers when they must testify on an arrest made months before. Officers would then be divided into small groups and involved in mock trials and hearings, grand jury testimony and interviews with prosecutors.

3. The monitoring of courtroom performance of police witnesses. At present, this function is supposed to be performed by Integrity Control Officers from the arresting officer's precinct. In reality, this monitoring is not being conducted. The Committee is still formulating the monitoring program but one possible approach is to create a centralized monitoring unit whose function would include ensuring that police witnesses are present

as required and are properly attired. The monitor would also assess the demeanor and apparent truthfulness of the witnesses. The monitors would be expected to give constructive evaluations to the police witness and to precinct training sergeants and commanding officers so that future court appearances may be improved. The Committee is also considering a program to request periodic evaluations of the quality of police testimony from prosecutors and to seek feedback from presiding judges.

In furtherance of his announced intent to focus on the need for integrity in testimony, the Police Commissioner is planning to prepare a videotape addressing the subject. The tape will be shown to every member of the force and to all Police Academy recruits and will include dramatizations and instruction on courtroom testimony.

The subject of police perjury is also being treated in the various promotional training programs for those in line for promotion to sergeant or lieutenant. Indeed, the Chairman of the Commission, as well as the Head of the Manhattan District Attorney's Official Corruption Unit, have lectured to these groups on several occasions and have stressed the need for truthful testimony and the high price paid by police officers caught in the web of perjury.

#### **B. The Role of the Prosecutor**

No consideration of the problem of police perjury is complete without examining the crucial role played by prosecutors in the preparation and examination of police witnesses. Thorough

preparation of police witnesses by trial prosecutors would make police officers better, more confident and more professional in their testimony. Careful scrutiny of the facts as related by officers should enable the prosecutor to detect serious contradictions, inherently incredible circumstances and recurring patterns of testimony suggestive of contrivance or falsehood. There are indications that heavy caseloads and limited available time make thorough preparation, especially in misdemeanor cases, difficult if not impossible.

Furthermore, some police witnesses, whether mistakenly or not, infer that prosecutors do not welcome facts which may jeopardize the admissibility of evidence or the likelihood of conviction. Officers must be disabused of this notion. At times, less experienced prosecutors are not able easily to spot suspicious factual accounts or confident enough to challenge the veracity of the officers giving them. This raises issues of the need for more intensive training and closer supervision of prosecutors.

In the Commission's view, based upon interviews with judges, prosecutors and police witnesses, prosecutors must become more involved in the training process of police witnesses, attempt to increase the preparation given to such witnesses, drive home more forcefully the message that false statements will not be tolerated and be more willing to challenge questionable accounts of the facts before a witness is permitted to testify. Police officers must fully understand that the object of partnership with prosecutors is to obtain convictions based solely upon truthful testimony and

evidence legally obtained.

Because it views the loss of police credibility as especially grave, and because it poses a serious threat to the effective administration of justice, the Commission intends to continue and broaden its oversight of police testimony and perjury prosecutions. The Commission will continue to interview judges, prosecutors, defense attorneys and police officers and will monitor the efficacy of the training programs adopted by the Department.

XI.

DRUG TESTING AND ALCOHOL ABUSE

The Department has a standard of "zero tolerance" of illegal drug use by its members. If a member of the Department is found to have used illegal drugs, he or she is immediately suspended and dismissal procedures are commenced. In an effort to detect illegal drug use, the Department conducts thousands of drug tests, including random tests, tests of new employees, promotional tests and tests for cause. Each week, a list of names of persons to be tested is randomly generated by computer. Below are some statistics provided by the Department on their drug screening for the year 1995:

	# OF TESTS	# OF POSITIVE RESULTS
RANDOM (all)	7556	26 (0.34%)
PROBATIONARY, PROMOTION, TRANSFER AND OTHER	4802	9 (0.19%)
FOR CAUSE		
UNIFORM	36	14 (39%)
CIVILIAN	13	12 (92%)
PRE-EMPLOYMENT		
CADETS	4003	32 (0.79%)
CIVILIAN	4993	306 (6%)

The Department reports to have taken some steps to increase the effectiveness of drug screening. First, beginning in 1995, members of the department randomly tested for illegal drug use are

no longer given one day's prior notice of the test. This change was implemented to prevent drug users from cleansing or masking the presence of drugs or taking other steps to falsify results. Similarly, in the Police Academy, the screening schedule was predictable, allowing candidates to abstain from drug use in advance of known test dates, and avoid detection. The Department now administers random drug testing during different and unannounced phases of the Academy training.

Also, since June 1995, in addition to urinalysis, which tests for the presence of predetermined levels of drugs (established by state and federal guidelines), some officers tested have been required to submit to screening by hair analysis, which can detect past drug use dating back several months. Hair testing, at present, is used only in "for cause" and end-of-probation screening<sup>11</sup> mainly because it is expensive to administer. The Commission urges the Department to expand the use of hair testing to all of its random screenings to the extent financially feasible, since its use will enhance the likelihood of detection and serve as a more effective deterrent to drug use by members of the Department.

Since Department policy allows no leeway for illegal drug use,

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<sup>11</sup> In order to screen "for cause", the Department must have a reasonable suspicion that the person to be tested is using drugs and be able to articulate specific, objective facts and rational inferences to be drawn from those facts before subjecting that person to a targeted drug test. End-of-probation screening refers to the Police Department's practice of administering drug tests to all recently hired officers at the end of their two-year probationary period.

there are no counseling programs for members of the Department who may have a drug problem. This posture is in contrast to the Department's policy on alcohol use and abuse, the focus of which is treatment, not punishment. The Department relies on self-reporting and supervisory referral for alcohol treatment. Consequently, there is no screening policy for alcohol use or abuse.

It is widely held and acknowledged by the Department that alcohol plays a significant role in police misconduct, especially off-duty, and the Department has found that alcohol was involved in 80% of police officer suicides. The role of excessive drinking in police misconduct was also apparent at some of the administrative trials observed by the Commission. In one trial viewed, the partner and a supervisor of an officer charged with misconduct testified that, although they were aware of instances when that officer drank to excess and blacked-out, they did not consider it necessary or appropriate to discuss the problem with the officer, nor to report the problem to supervisors or to the Department's counseling unit. The officer's excessive consumption of alcohol eventually resulted in misconduct which seriously embarrassed the Department.

The misconduct of off-duty officers, which may result in allegations of assault, harassment, menacing and drunk driving, constitutes a form of corruption which is within this Commission's purview. Often this misconduct is alcohol induced. Therefore, the Commission intends to examine how the Department addresses alcohol abuse among its members, including the existence and adequacy of

efforts to deter, detect and treat problem drinkers and to educate supervisors to identify and refer officers who need help. As a first step, Commission staff has visited the Department's Counseling Services Unit and viewed the alcohol awareness training film shown to recruits at the Academy and to newly promoted supervisors. The Commission urges the Department to give a high priority and sufficient resources to dealing with the human and professional consequences of alcohol abuse. Furthermore, the Department should undertake a comprehensive review of the extent to which alcohol abuse is present in the Department, and adopt measures better calculated to prevent such abuse and to reach out to those members in need of treatment.

## XII.

### RECRUITMENT AND TRAINING

#### A. Requirements and Screening

Common sense dictates that corruption can be reduced if extra care is taken in the process by which new police officers are selected. Factors which have been identified as relevant to corruption avoidance are the minimum age at which persons may become police officers and the extent of their educational backgrounds. It has been postulated, by the Mollen Commission and others, that older recruits are more likely to have the maturity, confidence and experience needed to resist peer and other pressures leading to corruption. Recruits with at least some college education or military experience, they find, tend to be less susceptible to corruption perhaps because they are more mature, experienced and disciplined. Furthermore, by raising the age limit, a recruit is more likely to have had some work experience before joining the police force, or to have served in the military thus providing some testing ground to measure character and judgement. The increased work experience, driving history and educational background of older and better educated recruits provide investigators with more useful information and enable them to do a more rigorous review of the background of applicants.

Acknowledging the need to raise hiring standards, the Department has taken two important steps: beginning with the next entering class of recruits, the required minimum age will be twenty two, raised from the current age of twenty and the entering class

in 1997 will be required to have sixty college credits or satisfactory military service.

Currently, a recruitment drive is in place which will culminate in a police civil service exam scheduled for June 1996. Seven military bases and 82 colleges in the metropolitan area have been targeted for recruitment efforts. The recruitment staff has received training at the Police Academy and will visit the targeted sites to give presentations on a career in law enforcement. The recruitment unit also staffs tables at transportation hubs, housing developments, and other highly trafficked intersections throughout the boroughs in order to reach a wide cross section of New York's population. The 54 Community Boards have been asked to identify community groups and religious groups that would be willing to work with recruitment staff in setting up informational presentations in their neighborhoods. Recruitment staff is also responsible for advertising in newspapers and on radio and television as well as the videos and literature shown to interested candidates.

During the past several years extraordinarily large classes of recruits have been moved through the Academy. The current class has over 1900 members. These outsized classes were necessitated to rapidly fill the large increase in the size of the Department. The need to recruit, check and train such large groups effectively dilutes and weakens the process. As a consequence, two groups of recruits were being trained each year at the Academy making it difficult for the Applicant Processing Division to complete its investigations. The Mollen Commission found that 88% of recruits

being trained at the Academy had not been subject to a completed background investigation and 20% of police officers suspended or dismissed would not have been hired if those checks had been completed. The Mollen Commission also found that twenty-four percent of dismissed or suspended police officers had a prior criminal arrest record. The risk of such massive hiring, of course, is that many recruits and probationary police officers who normally would have warranted special monitoring or dismissal slipped through the cracks and might represent a prime source of future corruption allegations.

The Applicant Processing Division (APD), which conducts these investigations, was cited by the Mollen Commission as being understaffed and less than thorough in the processing of applicants. The Mollen Commission found that the standards used by APD would not have been acceptable to any other Departmental command. The Department actually encumbered its own background investigators by requiring all aspects of an individual's history to be explored even when disqualifying information found in one area would not have warranted any further investigation.

One former Police Commissioner interviewed by the Commission recounted the difficulties presented when he was suddenly advised that funds were available to recruit and hire several thousand new officers. The Department was compelled to hastily enlarge its recruiting and training units to accommodate the huge influx of recruits. Background checks were rushed and training for the large new classes going through the Academy was uneven. When all

budgeted positions finally were filled, many of the recruiters and trainers were reassigned to their former positions.

The Commission endorses this former official's recommendation that recruiting and training should be a continuing and ongoing process based upon predicted rates of attrition. This approach would allow the Department to develop a cadre of officers experienced in recruitment and training techniques, thus enabling the Department to benefit from the developed expertise of these officers.

Currently, only one class each year is being trained at the Academy. This year, out of 40,000 candidates who passed the 1993 exam, 795 will be chosen for the entering class in June, 1996. Since the college credit requirement was not in effect when the 1993 exam was offered, that standard can not be applied retroactively to the incoming class.

The Police Department has announced that background investigations will be completed for each candidate chosen before their entry into the Police Academy. Automatic disqualification now follows when there has been a prior felony conviction or a dishonorable discharge from the military. Although the Department has announced that it was expanding the guidelines for automatic disqualification to include dismissal from government employment, misdemeanor charges which have been reduced from a felony arrest, and a history of moving violations, exclusion for these offenses has not yet become effective.

## **B. Training**

With about 38,000 officers on New York City's Police Force, training at the Police Department represents a massive undertaking. Not only does the Department train new recruits, but it must perennially train those in line to become supervisors and reinforce the tenets of its mission to every officer each year through In-Service Training.

No one can dispute the importance of training when it comes to promoting professionalism and ethics in the Police Department's work force. Whether it be the temptations of the drug trade or the pressures of the street, perhaps no other profession presents so many pressures and opportunities for irresponsible and corrupt activity. In response to the growing concern over the preparation officers receive to confront such corruption-prone conditions, issues related to police integrity have been woven into the fabric of the training curriculum from recruit training to promotional and borough based training. To underscore the seriousness with which the Department regards the prevention of corrupt activity among its officers and acknowledges the corruption hazards endemic to police work, the Police Academy's recently selected Commanding Officer, Inspector Thomas Belfiore, was chosen in part for his experience as an IAB investigator who led the 30th Precinct investigation.

## **C. Police Academy Training**

The instructional staff at the Academy teaches the integrity block of training and the time devoted to such training has been

increased from 11 hours in 1991 to 13.5 hours currently. The training includes discussions of current trends of corruption, departmental monitoring systems, and how IAB investigates the allegations it receives. In addition, 99.5 hours of recruit training have been revised to include discussion points around both on-duty and off-duty corruption hazards. These include:

Law - 21 Hours. Covers Bribery, Unlawful Gratuities, Civil Liabilities, Courtroom Testimony, Drug Enforcement.

Social Science - 27 Hours. Covers Police Discretion, Police Cynicism, Institutions and Secrecy, Verbal Judo, Ethics Police Authority.

Police Science - 40.5 Hours. Covers Department Values, Sick Procedures, Prohibited Conduct, Disciplinary Process, Collecting and Preserving Evidence, Vouchering Property, Police Accountability.

Physical Education - 2 Hours. Covers Excessive Force.

Firearms and Tactics - 9 Hours. Covers Unauthorized Entry into Premises, Progression of Force, Police Regulations, Standards and Ethics.

Presently, Commission staff is interviewing recruits from the 1995-96 class to assess the impact and effectiveness of integrity training from their perspective.

In addition, standards at the Academy have been raised to assure a higher caliber of graduate officers. The academic passing grade has been raised from 70% to 75% overall and from 65% to 70% in any one subject. Recruits who fail are not held over as was once the practice. Though tutoring is available, recruits must pass all subjects at the time of graduation.

The Academy is also placing a greater emphasis on documenting the performance of its recruit officers. As disciplinary or

performance problems occur, the Police Academy has become more vigilant about terminating its marginal recruits. The 1995-96 class has already seen eleven recruits terminated.

Once training has concluded at the Academy, each recruit is assigned to a precinct and remains on probation for two years. If problems identified at the Academy do not warrant termination but require further oversight, the probationary police officer (PPO) is placed on a special monitoring list and a quarterly or monthly evaluation is required concerning the officer's performance.

Previously, the Academy failed to exercise its responsibility to document the activity of problematic recruits and to inform the PPO's field supervisor in the precinct. Often, the Department did not pursue termination of problematic PPOs apparently because of its investment in their training. Currently the Academy is documenting problems early to prevent a marginal PPO from gaining tenured status and precinct commanders should require the PPO's field supervisors to do likewise. In 1994, 148 PPOs were terminated in contrast to 32 in 1993. In addition, 46 PPOs resigned in 1994 in lieu of termination. Once the probationary period concludes, an officer may not be terminated without an administrative trial. Thus, the Commission regards early detection of problematic PPOs as an essential aspect of the Department's efforts to upgrade the quality of its personnel.

#### **D. Drug Testing**

Beginning with the 1996 class at the Police Academy, each new

recruit will not only be subject to a pre-employment urinalysis and random Dole tests, but will also be required to submit a hair sample for drug analysis. This should greatly enhance the Department's ability to check an applicant's drug history over the course of the previous several months or even years before admitting a candidate and investing in their training.

#### **E. Promotional Training**

Beginning in 1993, the Police Department selected a number of police officers to participate in focus group discussions. In an anonymous setting, officers were asked to candidly speak about the Department and the extent to which certain working conditions prevented them from doing their jobs.

During these sessions many officers expressed a lack of trust and confidence in their supervisors. Sergeants were criticized for their inexperience, favoritism, for not responding to call outs, and for negligence when complaints were made against their subordinates. When officers tried to relay information about the official misconduct of fellow officers, sergeants commonly replied, "Tell the duty captain".

Because police officers were previously allowed to apply for promotion after only three years on the force, first-line managers as young as twenty-three were allowed to supervise and were expected to earn the respect of those on their watch, some of whom were their own age or older. Police officers in the focus groups portrayed these sergeants as impotent in dealing with rogue

officers in their command and unable to lead a disciplined and organized unit. The weaker the sergeant, the less accountable these officers felt for their daily activities. The Department has learned that the promotional standards and training of its managers need to be overhauled, and is in the process of doing so.

The Employee Management Division (EMD) conducts reviews of the records of all candidates being considered for promotion. In the case of marginal candidates EMD prepares a folder for review by the Career Advancement Review Board (CARB) which consists of the Chief of Personnel, the Chief of Patrol and a rotating Assistant or Deputy Chief. Designated candidates are then brought before CARB and a profile folder containing the last three performance evaluations, a disciplinary record, a Civilian Complaint Review Board record, medical history, absence and tardiness record, an IAB report and recommendations from the member's Commanding Officer is presented by the Commanding Officer of the Performance Monitoring Unit.

Once candidates are recommended for promotion, they are required to complete their training and pass their promotional examination before they are allowed to become supervisors, not after, as was formerly the practice. Those applying for promotion to become sergeants will need to have five years on the force with at least three of those years spent on patrol. They must also have 64 college credits. Lieutenants will need to serve three years in the rank of sergeant and to have completed 96 college credits. Captains will need to fulfill three years of service in the rank of

lieutenant and to have completed a Bachelor's degree. Extensions will not be granted to complete each of these educational requirements as they frequently were in the past. Since the educational requirement has been increased for the 1997 class of recruits at the Police Academy to 64 college credits, requirements for supervisors will also be increased in upcoming years accordingly.

The Promotional Training offered to the supervisory ranks has been revised in light of the decision to stress integrity. Lieutenant candidates receive 33 hours of integrity related instruction. The Basic Leadership Course, or pre-promotional training, provided to sergeants now includes 76.5 out of 196 hours of instruction related to integrity, professionalism and public contact. The integrity block of training (4.5 hours) which has been attended by Commission staff is taught by top management from IAB and includes a discussion of recently closed investigations and surveillance videotapes which show first-hand the illegal activities of recently dismissed officers and the failure of supervision at the scene of those crimes. Other course topics include: Problem Solving, Cultural Awareness, Mentoring and Coaching, Critical Incident Management, Defense Attorney Panel, Bias Unit, Frank Discussions with Field Supervisors, Drug Awareness, Domestic Violence, CCRB Reduction Techniques, Leadership Video Critique, Tactical Supervision and Verbal Judo.

Promotional training for sergeants also includes presentations by the Chair of this Commission and representatives from the

Manhattan District Attorney's Corruption Unit who stress the need for vigilant supervision of patrol officers serving under their command. No matter how well designed the training given to new recruits, the practical education of most officers is delivered by their first line supervisors, the sergeants. Thus, it is imperative that sergeants be well chosen, well trained and made to understand the enormous responsibility they bear for the molding of honest and effective officers.

#### **F. In-Service Training**

All police officers and detectives in the New York City Police Department are required to attend Borough Based Training sessions each year to reinforce what they were taught at the Academy and to build upon that knowledge. These training sessions provide the Department with a valuable opportunity to readdress the ethical issues confronting its officers and the Department has made changes to the training in response.

The 1995 Spring Cycle of training included 1.5 hours of training on Drug Prevention with input from IAB. The 1995 Fall Cycle was designed in response to the reengineering efforts of the Department outlined in Police Strategy No. 7. Six hours were devoted to police professionalism and ethics. Rather than lecture on values, integrity and moral dilemmas, the Police Academy designed a training session where officers discussed morally ambiguous situations in a workshop setting. Field scenarios were presented to officers by instructors who facilitated group

discussions. Officers were given an opportunity to exchange views and concerns about the potential hazards of their profession, instead of merely listening to departmental policy. These sessions were well received by participants because of the interactive format. The 1996 Cycle, which will focus on courtroom testimony, will also use interactive methods of instruction by integrating tactical training in mock arrest scenes with police testimony based on those arrests.

#### **G. Use of IAB Instructors at the Academy**

One aspect of training under review concerns the Mollen Commission's recommendation that integrity training be taught by regular Academy instructors rather than representatives from IAB, thus making the point that integrity is the responsibility of the Department as a whole, not just IAB. In making this recommendation, the Mollen Commission may have been influenced by the sorry state in which it found the then Internal Affairs Division ("IAD") and because of the disrepute of many IAD investigators in the eyes of the police community.

However, since IAB has redefined its mission, acquired highly qualified investigators and gained a far more favorable reputation, the Commission is inclined to the view that some integrity subjects are better taught and more convincingly presented by IAB instructors. Discussions with officers who have received instruction from IAB in promotional training and observations by Commission staff suggest that using IAB instructors for integrity

training at the Academy would be more relevant and hard-hitting in that they could draw upon real investigations and actual experience in delivering their message.

#### H. For Further Commission Review

In addition to assessing integrity related instruction provided to recruits, supervisors, patrol officers and detectives, Commission staff expects to consult with precinct commanders to evaluate the quality of training received by those in their command. Since precinct commanders are held accountable for the integrity of their officers, they should be given the opportunity to evaluate and make recommendations for the training process.

Other areas for future Commission review include monitoring the training provided by IAB to integrity control officers, evaluating the selection standards used by the Employee Management Division and the Career Advancement Review Board for promoting Department supervisors, and assessing the thoroughness of background investigations.

### XIII.

#### CHANGES TO THE DISCIPLINARY SYSTEM

The Commission has begun to study how the Police Department classifies and punishes misconduct and corruption by its members. In response to the findings of the Mollen Commission and the recent public focus on police corruption, the Department has begun to make changes to its disciplinary system with the announced goal of a more focused, efficient system.

The main components of the Police Department's disciplinary system are made up of the Internal Affairs Bureau, which investigates and initiates the formal processing of misconduct cases within the Department, the Offices of Department Advocate and Special Prosecutor, which prosecute these cases, and the Office of Deputy Commissioner, Trials, which oversees plea negotiations, conducts trials and makes findings of guilt or innocence.

Since the Internal Affairs Bureau is discussed in detail in other sections of this report, this section will focus on the recent changes to and current state of the other components of the disciplinary system.

##### A. The Informal System

The Police Department's informal process of handling misconduct is referred to as command discipline. Command discipline is an administrative procedure designed to allow commanding officers to handle the less serious violations without resorting to the filing of formal charges and a trial. Recently,

the Department has given greater authority to commanders to discipline members of the Department for the less serious acts of misconduct and rules infractions. Examples of such misconduct include improper uniform or equipment, reporting late for duty, and failure to give name and shield number to persons requesting such information. The penalties which commanders are authorized to impose for these infractions range from a reprimand to loss of up to ten days vacation pay. A member of the service has the option of accepting such penalty or demanding that charges be formally drawn and a trial held. The categories of cases that can be handled at the local (command) level have recently been revised, potentially freeing the formal system to focus its resources on the more serious misconduct cases, and, the Department anticipates, expediting the processing of command discipline.

Under the former system, the Department Advocate was required to review and process a number of minor infractions. This resulted in delay in the processing of these cases, as well as burdening the formal system. It is expected that the newly revised and expanded authority given to commanders to discipline their charges will result in a greater number of disciplinary cases being handled at the local level and will help to improve the efficiency of the formal disciplinary process by reducing the volume of trial cases. These revisions went into effect October 13, 1995 and will be monitored by the Commission to assess their effectiveness.

## B. The Formal System

More serious disciplinary cases that do not fit within command discipline are either plea bargained or prosecuted at trial by the lawyers assigned to the Department Advocate or the Department's Special Prosecutor. About one thousand cases are processed through the formal disciplinary system each year. Below is a comparison of the numbers of cases processed by the system in years 1995 and 1994:

YEAR	1995	1994	% CHANGE
CASES RECEIVED BY THE ADVOCATE'S OFFICE	1040	989	+5
UNIFORM	891	837	+6
CIVILIAN	149	152	-2
DEPARTMENT TRIALS			
# ACTUAL TRIALS*	161	140	+15
CASES SCHEDULED FOR TRIAL	476	454	+5
CASES BROUGHT TO TRIAL	236	202	+17
# RESPONDENTS TERMINATED AFTER TRIAL			
UNIFORM	30	18	+67
CIVILIAN	6	2	+200

\*a trial can involve more than one case

source: New York City Police Department, Department Advocate's Office

The Department's statistics show an increase in the number of cases received in the formal disciplinary system in 1995 over 1994. For the year 1995, fewer than 23% of the cases received were actually brought to trial.

Further, according to the Department Advocate's Office, case resolutions decreased 19% from last year, and negotiated settlements were down in 1995 from 1994 by 27%.

An important function of the disciplinary system is to adjudicate cases quickly. It is in the best interest of the Department as well as its members to do so. A speedy disposition to a disciplinary case is desirable because, most importantly, it can expedite the termination of persons who are unworthy to serve in the Department. Under the current system, a member of the Department who is the subject of a disciplinary action remains in the employment of the Department until or unless he or she resigns or is terminated by the Police Commissioner. The Police Commissioner can only terminate employees (with the exception of probationary employees) after a finding of guilt, or a plea of guilty to departmental charges.<sup>12</sup> Thus, in cases where there is strong evidence of serious misconduct that likely will result in termination of employment, a speedy resolution is critical for the Department's fiscal well-being and morale and the restoration of the public's faith in the good order of the Department.

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<sup>12</sup> An Exception: Where there has been a conviction of any felony, or a misdemeanor involving misconduct relating to police duties, the Police Commissioner can terminate the employee without conducting an administrative trial.

As of October 1995, the Department had instituted changes in the formal disciplinary process intended to improve its efficiency. Time frames have been mandated or narrowed to ensure that, where feasible, disciplinary cases are more quickly resolved, and some of the bureaucratic processes have been simplified.

It also behooves the Department to act swiftly in the minor cases, referred for command discipline. The swifter the disposition, the sooner the member of the Department can get back to full duty. The most minor infractions are expunged from an officer's personnel file in one year, provided there are no new infractions or instances of misconduct. For those offenses that are deemed more serious by the Department, but not serious enough to merit formal disciplinary charges, an officer may apply, after three years to have the offense expunged from the file, provided there are no subsequent violations. This is important to officers who wish to advance in their careers, and, it is anticipated, will provide incentive to correct minor misbehavior.

The Commission is aware that attempts have been made recently to legislate changes to the disciplinary system which would strip the Police Commissioner of the authority to impose appropriate discipline and, instead, effectively delegate that authority to an arbitrator. The Commission believes that such legislation, if adopted, would irreparably impair the ability of the Police Commissioner to maintain appropriate and necessary discipline within the Department and preclude the Police Commissioner from taking the swift and decisive actions required to enforce and

maintain the heightened standards of integrity to which the Department has committed. The Commission believes it to be vital that this authority remain with the Police Commissioner.

### **C. The Disciplinary Assessment Unit**

In June 1995, the Department created the Disciplinary Assessment Unit (DAU) to monitor and coordinate the components of the disciplinary system and to assess the staffing levels and operating efficiencies of each component. One of the goals of the DAU is to promote a pro-active approach to rooting out corruption in the Department. At the time of this writing, the DAU had just begun to study the characteristics of the worst offenders within the Department to determine if there are behavioral indicators that can be identified and addressed before a member of the Department gets too far along in a corrupt career. While it is too early to assess, the Department seems to be moving in the right direction by examining the possibility that certain combinations of aberrant behavior may be indicators of corruption so that officers exhibiting such behavior can be monitored.

The Disciplinary Assessment Unit also has played an important role in devising changes to the disciplinary system and has the responsibility for monitoring their implementation and effectiveness.

### **D. Department Advocate and Special Prosecutor's Offices**

Also in June 1995, a Special Prosecutor's Office was created

within the Department to prosecute the most serious and high profile cases. This office which is headed by the Special Prosecutor has four attorneys, three investigators and a support staff. The Special Prosecutor is responsible for initially reviewing all cases involving the arrest of members of the Department and recommending to the First Deputy Commissioner, who makes the final determination, whether the Department Advocate or Special Prosecutor should prosecute a particular case.

To further expedite and prioritize serious misconduct cases, the Department is considering borrowing attorneys from the United States Attorney's Office for the Southern District of New York to assist in prosecution of certain disciplinary cases. The Commission believes that such an arrangement would enhance the quality of prosecution and reduce the workload carried by the Department Advocate and Special Prosecutor. The Commission is advised that the Department is currently attempting to work out arrangements for the rendition of such services and urges the swift culmination of such an arrangement.

#### **E. Trials**

The Police Commissioner has recently committed to increase the use of the Office of Administrative Hearings and Trials (O.A.T.H) to help improve the efficient disposition of disciplinary cases. O.A.T.H. is empowered under the City Administrative Procedure Act of the New York City Charter to conduct administrative trials referred by the agencies, boards, public authorities and

commissions of New York City. Pursuant to a collective bargaining agreement between the Police Department and the Patrolmen's Benevolent Association (PBA), the bargaining unit representing the police officers of the Department, the Police Commissioner may, in his discretion, send cases against police officers emanating from the Civilian Complaint Review Board (CCRB) to O.A.T.H. for adjudication. The CCRB-generated cases are those which involve allegations of brutality, discourtesy and abuse of authority. Cases of brutality and abuse of authority are distinguished from all other misconduct and corruption in the way they are investigated and processed. For example, complaints received by the Department concerning brutality and abuse of authority are referred, with the exception of some excessive force cases, to the CCRB for investigation.

It appears that the Department could expedite the processing of disciplinary cases by making greater use of the O.A.T.H. forum, especially given the backlog of cases pending trial before Trial Commissioners, of whom there are only three. The Commission is advised that the Police Commissioner will increase the use of O.A.T.H. as an alternative forum. Also, a special group within the Department Advocate's Office has now been designated to handle, exclusively, cases referred by CCRB.

The Commission's staff has observed a small number of Departmental trials prosecuted by the Department Advocate or Special Prosecutor which were presided over by a Trial Commissioner. While the Commission recognizes that many more

trials must be observed before firm conclusions can be drawn, as a preliminary matter, it would appear that some lawyers in the Department Advocate and Special Prosecutor's Offices could benefit from additional training in building prosecution skills. Some of the lawyers trying the Department's cases have little or no prior courtroom experience. The Commission is informed that a training curriculum is currently being developed. This training should include lectures, demonstrations, and mock-trial training by experienced trial attorneys with an emphasis on case preparation, direct examination and cross-examination skills (in these administrative proceedings there is often an opportunity for prosecutorial cross-examination).

#### XIV.

##### RECOMMENDATIONS FOR FURTHER IMPROVEMENT OF THE DEPARTMENT'S CORRUPTION CONTROL PROGRAM

In connection with its duty to monitor and assess the anti-corruption actions taken by the Department, the Commission believes that it can best fulfill its responsibility by making recommendations as to how the Department can strengthen and improve its corruption control program.

The Department has taken significant strides to improve its corruption prevention and corruption fighting capabilities. In the course of its review the Commission has noted that in some areas the Department can further enhance and make more effective the measures it has already adopted. The following recommendations are not to suggest any lack of commitment or failure by the Department; rather they are intended to assist the Department to identify and focus upon specific issues and operations which require further attention.

The Commission anticipates that the following summary will serve as a checklist or agenda for ongoing discussions with the Department at which the issues here identified may be more fully explored and addressed:

- ◆ the supervision, staffing, training and recordkeeping of the IAB Action Desk can be improved (the Commission notes that the Department has already begun to address this area - see Chapter VII);
- ◆ a mechanism for the formal conduct of command accountability review should be established;

- ◆ a comprehensive plan to improve the credibility of police witnesses and to prevent perjury should be adopted and speedily implemented (the Commission notes that such a plan is soon to be promulgated - see Chapter X);
- ◆ the statistical analysis prepared by IAB which reports the types of allegations of corruption should be revised to include a separate category for perjury allegations;
- ◆ utilization of computerized, pin mapping technology to sharpen corruption controls should be put in place as previously announced;
- ◆ a high priority should be given to perfecting and employing the delayed PRIDE computer system;
- ◆ consultation with prosecutors in the preparation and design of integrity tests should be expanded and made more timely;
- ◆ the role-playing aspects of the training given to IAB investigators should be made more relevant and realistic;
- ◆ consideration should be given to using experienced IAB investigators and managers as instructors of the integrity portions of Police Academy training;
- ◆ advocates responsible for prosecuting administrative charges should receive more comprehensive training in trial techniques from experienced litigators;
- ◆ the feasibility of establishing a program to utilize volunteer prosecutors to present Department cases should be explored (the Commission notes that consideration of such a program is underway);
- ◆ the extent to which arrested persons are questioned as to knowledge of police corruption should be monitored and the practice more rigorously enforced;
- ◆ the Intelligence Section of IAB should consider ways to attract more volunteer assistants and operatives, perhaps by offering greater career enhancement opportunities;
- ◆ consideration should be given to making random drug tests more effective by using hair analysis as is now done in tests given for cause; and
- ◆ a comprehensive review should be made of the extent to which alcohol abuse is present within the Department, the role it may have in the incidence of corruption, excessive force and police suicide and a more effective program to deter, detect and treat the problem should be developed.

## XV.

### CONCLUSION

In its role as the first permanent independent monitor of the Police Department, the Commission has undertaken an intensive and wide-ranging assessment of the anti-corruption program of the Department. The Commission has established the systems and procedures and developed the access to Department documents and personnel needed for ongoing review and evaluation of the Department's commitment to corruption control and the effectiveness of its efforts to deter, detect and punish serious misconduct.

The Commission has been staffed and functioning for less than a full year. Consequently, some elements of its monitoring are in an early stage and there remain issues which the Commission has identified but has not yet fully addressed. Nonetheless, the Commission's monitoring of the Department has been sufficiently extensive and detailed to permit certain confident conclusions. There is no question that the current Police Commissioner has made a firm commitment and given a high priority to the elimination of police corruption. The steps taken to make IAB a more effective and respected investigative unit have been significant. The IAB as currently constituted, staffed and led, and the manner in which it investigates allegations of corruption, make it far more likely than in the past, that corrupt officers will be identified and apprehended.

The steps taken and to be taken by the Department, in connection with recruitment, screening, training and discipline

have enhanced the prospect that officers entering the Department will be less susceptible to corrupt influences and remain dedicated to honest service.

Though more remains to be done, the Police Department is moving at a good pace in the right direction. This Commission will expand and continue its oversight to ensure that the momentum is maintained.

**COMMISSION TO COMBAT  
POLICE CORRUPTION**

Commissioners

Nicholas Scoppetta, Chair

Mr. Scoppetta has been a senior partner at the law firm of Scoppetta & Seiff. He has been the Deputy Mayor for Criminal Justice for New York City and the Commissioner of the Department of Investigation. He has also served as Associate Counsel to the Knapp Commission, as Special Assistant United States Attorney in charge of investigations of corruption in the criminal justice system, and as an Assistant District Attorney for New York County. He has also been a Commissioner of the Waterfront Commission of New York Harbor. Mr. Scoppetta has served as the President and the Chairman of the Board of Trustees of the Children's Aid Society. On February 12, 1996, Mr. Scoppetta assumed the post of Commissioner of the newly formed Administration for Children's Services.

Arnold I. Burns

Since 1988, Mr. Burns has been a senior partner in the corporate and litigation departments of the law firm of Proskauer Rose Goetz & Mendelsohn. Mr. Burns was a deputy Attorney General at the United States Department of Justice where he supervised the F.B.I., Immigration and Naturalization Service, Drug Enforcement Administration, Bureau of Prisons and Marshal's Service. He is Vice Chairman of the National Board of Directors of the Boys and Girls Club of America and has served as a member of the boards of other national not-for-profit organizations.

Richard J. Davis

Currently, Mr. Davis is a partner with the law firm of Weil, Gotshal and Manges. He was Assistant Secretary of the Treasury (Enforcement and Operations) between 1977 and 1981, and was Assistant Special Prosecutor for the Watergate Special Prosecution Force. In 1987 he was appointed to a Commission to review the operations of the Philadelphia Police Department. He was an Assistant United States Attorney in the Southern District of New York between 1970 and 1973.

Rhea Kemble Dignam

Ms. Dignam currently is a Vice President and Deputy General Counsel at New York Life Insurance Company. She is a former federal and state prosecutor, having served from 1976 through 1988 as an Assistant United States Attorney in the Southern District of New York (including service as Chief, Narcotics Unit; Chief, Public Corruption Unit; and Executive Assistant United States Attorney). From 1988-1989 Ms. Dignam was the Chief Assistant District Attorney in Kings County and served as the Executive Deputy Comptroller, City of New York from 1990-1993 in which position she gained extensive experience monitoring the work of City agencies.

Hon. Dennis Edwards

Judge Edwards was appointed to the New York City Criminal Court in 1965 and served until 1982. Between 1975 and 1982 he was assigned to Supreme Court as an Acting Supreme Court Justice. In 1982, Judge Edwards was appointed to the Court of Claims, and was assigned to the Supreme Court, hearing primarily felony matters. He retired from the bench in 1989.

Commission Staff

Gerald Harris, Executive Director (until February 9, 1996)

Mr. Harris has served as an Assistant District Attorney in New York County, as General Counsel to the New York City Department of Buildings and as the County Attorney and Chief Legal Officer for the County of Westchester. Before assuming his post as Executive Director, Mr. Harris was a senior partner and litigator with the New York City law firm of Rubin Baum Levin Constant and Friedman. Mr. Harris resigned from the Commission effective February 9, 1996 to become General Counsel and Deputy Commissioner of Legal Affairs of the Administration for Children's Services.

Thomas F. Hickey, Deputy Executive Director

Holly Catania, Examining Attorney

Rita Cumming, Confidential Investigator

Linda Lo-Gerry, Office Manager