

Philadelphia Police Department Governance Study

The Committee of Seventy

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Executive Summary

The Committee of Seventy presents in this publication an analysis of the governance of the Philadelphia Police Department, including an overview of the current system, a review of its history, a survey of other major cities and how they structure their police departments, and the views of experts in this field, with whom Seventy conducted confidential interviews.

The Committee of Seventy surveyed the police departments of the twenty largest cities in the country in the hope that a comparison will demonstrate successful governance strategies and provide some lessons for Philadelphia. However, it is important to note that these cities vary greatly in size, history, and background, as do their attitudes and approaches towards law enforcement.

Every effort was made to represent all possible viewpoints on police governance. As a consequence, Seventy spent several months conducting confidential interviews with many elected officials, police officials, city officials, retired police and city officials, prominent attorneys, advocacy group leaders, labor officials, and former commissioners. These interview participants were first asked to respond to a working draft of the study, so that original research could be verified and points of emphasis confirmed. The police governance experts were then asked to evaluate the Philadelphia Police Department and offer their opinions and suggestions, if any, on how the governance of the department might be improved.

Their views are represented within this publication regardless of their content; at no point in this governance study will Seventy take a position on any of the issues. In this publication, the Committee of Seventy neither endorses nor opposes any of the proposals or opinions set forth. However, there was inevitable consensus among many of the experts on these issues, and the

these conclusions as the experts have vast experience and knowledge

The interviewees' recommendations for reform inevitably varied, but they did share some common threads. All of the experts stressed accountability, with most recommending giving the Commissioner the authority to hire more top managers outside of the civil service system to better enable him to implement his policies and initiatives. This can be accomplished by amending the Home Rule Charter to provide for additional exempt positions or by implementing a "detailing" system similar to New York City's, where high-ranking officers are promoted and serve at the discretion of the Commissioner while retaining their original civil service rank. However, most say that these changes are probably not politically feasible. Instead, the Commissioner or his nominee should administer the inspectors' and chiefs' oral exams, in order to have more control over the top manager positions. Further, the current system of using three outsiders as an oral exam board only evaluates candidates based on a brief interaction and not actual job performance.

The vast majority of experts suggested removing the requirement that applicants be city residents for a period of one year, or instead provide a waiver for applicants in active military service. Interviewees all agreed that officers should be residents of the city once on the job. Also, the minimum age of an applicant should be raised to at least twenty-two years old. Additionally, the department must be more aggressive in recruitment, and it must improve its entrance exam so that it can provide an accurate assessment of future performance.

The experts all stressed the need for management flexibility, and recommended decentralizing control and placing the tools of management directly into the hands of district captains whenever possible. It was deemed essential by everyone interviewed that performance must be clearly and accurately measured, and once done, outstanding officers need to be rewarded and clear demonstrative steps must be taken when performance is not acceptable. Promotions and departmental transfers must be conducted in a fair and impartial manner, and all efforts should be taken to develop the skills and training of every officer.

That the Fraternal Order of Police collectively bargains for every officer in the department is felt by many interviewees to be a clear conflict of interest when high-ranking officers need to discipline other officers.

Many say the process through which officers are disciplined or dismissed has become so cumbersome and time-consuming that most supervisors are unwilling to engage in it. Most agree that the lack of meaningful judicial review of arbitration decisions has been crippling to the department, and feel the Police and Law Departments need to do a better job preparing for arbitrations and generally need more cooperation in order to improve the criminal justice system.

A well-governed police department is essential to an effective city, and the consulted experts constantly stressed the urgency of addressing these concerns as immediately and constructively as possible. It is the sincere hope of the Committee of Seventy that the *Philadelphia Police Department Governance Study* will enable Philadelphians to evaluate their Police Department's governance in an informed manner and determine for themselves how these issues must be resolved.

Introduction

The Philadelphia Police Department is the fourth largest metropolitan police agency in the United States and Philadelphia's reported crime rate has historically been among the lowest of the nation's largest cities. The department defines its mission as: "to work with our fellow citizens of Philadelphia to enhance the quality of life in our city, and by raising the level of public safety through law enforcement, to reduce the fear and incidence of crime. In accomplishing these goals, service will be our commitment, honor and integrity our mandate."

However, as a 1987 Police Study Task Force stated, the Police Department has long "presented an undisciplined and unprofessional image" and is suffering under the burden of its own history. Early in the 1900s, it was held up as a national laughing-stock as the model for the silent movie series "Keystone Kops." As this century wore on, an image of incompetence gave way to that of brutality and corruption. A radical restructuring occurred with the Home Rule Charter of 1951, but the reforms that released the department from past political manipulation subsequently created a police force so independent that it has been able to resist many innovations sweeping other big city departments.

The people of Philadelphia are very concerned about crime. In response, Mayor Rendell has hired a new reform-minded police commissioner, former New York Police Department First Deputy Commissioner John F. Timoney, who is only the third outsider in the department's history. With an emphasis on change and new ideas, and with a new century looming, the time appears ripe to rethink the Police Department's governance structure.

The Committee of Seventy first addressed the structure and governance practices of the Philadelphia Police Department in 1986, with the publication of Seventy's *Personnel Practices Governance Study*. In 1987, Police Commissioner Tucker's Police Study Task Force relied heavily upon that publication to make recommendations for structural change to the department. Several of those recommendations were addressed by the Philadelphia Independent Charter Commission and were included in the proposed new Charter that was defeated in a referendum on the May 1994 ballot. The governance issues identified by the *Personnel Practices Governance Study* and the Tucker Commission provided the foundation for the research done in the *Philadelphia Police Department Governance Study*.

An effective police department is of extraordinary importance to Philadelphia. Few of the city's departments are as essential or fundamental to its daily operation. If the department is to function effectively, it must have a capable, qualified, well-run personnel system producing and overseeing its officers. Such a system should demand nothing less than the best from each officer, and should recruit aggressively, screen rigorously, train thoroughly, and monitor carefully. It must encourage initiative, recognize achievement, and reward excellence. At the same time, it must fight mediocrity and discipline non-performers. Only then can it possibly say that the department has done all preparation possible to fulfill its mission. That is why the Committee of Seventy has chosen in this publication to examine in-depth the governance of the Philadelphia Police Department.

Overview of the Department

The Police Department of Philadelphia, as in other cities, is a military-like organization in which each sworn officer holds a rank. Ranks begin with patrol officer and end with police commissioner. The job of managing and directing the department rests in the hands of the Commissioner, who reports directly to the city's Managing Director and ultimately to the Mayor. The Commissioner is appointed by the Managing Director with approval by the Mayor, and has no fixed term of office (Charter Section 3-206). The Charter allows for two Deputy Police Commissioners to be appointed by the Commissioner, as well as an executive secretary. In recent years several Deputy Managing Directors have been appointed to assist the Commissioner as well.

All of the members of the Police Department, except the Commissioner and his deputies, are civil service employees. Civil service as a system was adopted in Philadelphia in 1885 to recognize the capable, not just the politically connected, in the awarding of city jobs. Since that time, the system has been revamped three times, most recently in 1951, in an effort to bring it closer to its ideal. All sworn members of the force also belong to the Fraternal Order of Police, its collective bargaining unit. Police Department civilian employees (who are not sworn uniformed officers) are also protected by civil service and handle a great deal of administrative tasks for the department but are not members of the FOP.

Each of the Commissioner's deputies is responsible for different bureaus of the operations and administration of the department. Each bureau is commanded by a chief inspector, and most of the officers are within the patrol bureaus, which are further subdivided into nine geographical patrol divisions and twenty-three patrol districts to encompass the entire city. Patrol divisions are commanded by an inspector, and patrol districts are commanded by a captain. A patrol district is staffed by four platoons, each consisting of a lieutenant, two sergeants, and approximately forty officers.

According to the 1998 Philadelphia Five Year Plan, an impressive eighty-eight percent of the uniformed police officers on the force serve in the on-street bureaus, which include the twenty-three patrol districts and other special patrol functions, including mounted and canine units, airport and park protection, highway and traffic patrol, the stakeout unit, the detective bureau, special investigations, community relations and civil affairs, and emergency response.

Major off-street functions of the Police Department include the training bureau which operates the Police Academy; the communications bureau which manages radio and 911 operations; the staff services bureau which coordinates such functions as laboratory work, evidence tracking, and the maintenance of criminal records; the internal investigations bureau which is charged with ensuring the integrity of the police force; and other bureaus and units that provide administrative functions such as human resources, information systems, and research and planning.

Philadelphia, with approximately 6,900 uniformed police, has the fourth largest police department in the country. Philadelphia is also the fourth largest per capita among the twenty largest cities; in general, the older northeastern cities tend to have more police per capita than the newer cities in the south and west. Department sizes among major cities vary greatly, from Indianapolis with 1,030 to New York City with 36,800. Philadelphia's own department has fluctuated in size over the years, from a peak of 8,500 in the 1979 to just over 6,000 in the early 1990s.

Most of the experts interviewed expressed satisfaction with the current size of the department. As one ranking officer stated, "Realistically, we can't afford more officers, and we probably don't need them. We just need to use what we have more efficiently, and perhaps utilize more civilians in other areas."

However, many experts interviewed felt the department was "top-heavy," widely attributing this to the impossibility of removing commanders, especially those with thirty or forty years on the job. "If I were Commissioner, I'd immediately get rid of seventy-five captains and half the inspectors and chiefs, and replace them with more officers on the beat," one officer said. Several also expressed frustration with the

current deployment of officers, pointing out that it has been “way too long” since the districts were last reconfigured. The districts vary widely in terms of area, population, crime rate, and total number of officers. But each district has about the same number of command staff, while one district might have three times the crime rate as another district.

A History of the Philadelphia Police Department

Early Philadelphia Policing

Philadelphia has seen many approaches to law enforcement in its three hundred years. In colonial days, each of the city's wards appointed a constable, and each property owner took a turn as watchman at an assigned post. There was no coordination between the wards' constables, and while the watchmen did carry arms, they did not wear uniforms and did not even patrol throughout their ward until early in the nineteenth century. If a watchman did not appear at his assigned post on time, he was put in the stocks. Not until 1750 did constables or watchmen receive any compensation at all for their work, when the Mayor was able to hand-pick those who were to be hired.

The system's inability to deal with more sophisticated or violent criminals was exposed in Philadelphia in the 1840s. At the time, the entire City of Philadelphia comprised only what is currently considered Center City, with the County of Philadelphia encompassing another forty boroughs, townships, and districts, each swelling with residents and immigrants as Philadelphia's industry grew. The result was a logistical nightmare for law enforcement because any criminal could break the law in one district and quickly cross a boundary to escape punishment. Crowds and neighborhoods divided along ethnic and racial lines frequently broke out into riots, culminating in a particularly violent Kensington riot in May of 1844, when many houses, schools, and churches were burned down. The sheriff of the borough failed to gather a posse quickly enough to prevent the damage, and the Governor was forced to send in both the militia and the cavalry to quell the mobs.

Subsequently, restoring law and order was the first order of business for the region's public officials. In 1845 the Pennsylvania Legislature passed a law requiring the establishment and maintenance of a police force. Several more riots persuaded the legislature to go further, and on May 3, 1850, a bill was passed establishing a uniformed Philadelphia police district with authority not only in the city, but also in seven surrounding districts as well. Both of these acts implemented ground-breaking elements of the "modern" police department system already in place in London and New York: centralized authority with an emphasis on military-like supervision and the goal of crime prevention through constant territorial patrols.

Because of the riots of the 1840s and the inability of law enforcement to handle them, the local papers and civic groups had been calling for consolidation of the City of Philadelphia with the surrounding townships of Philadelphia County. This was finally accomplished when the legislature passed a new charter for Philadelphia in 1854, with specific language requiring one large professional police force for the entire city.

A New City Police Force

With the city-county consolidation, the size of Philadelphia grew overnight from 10 to almost 130 square miles and doubled in population to approximately 400,000. The size of the new Philadelphia Police Department was a thousand men strong, in brand-new blue uniforms and shiny tin badges. A telegraph system was established for the Police and Fire Departments, and each officer patrolled with a set of clackers, which he could use to make noise and alert other policemen if he needed assistance. Detectives and harbor patrol were added in the 1860s. A general decline in crime and lawlessness was widely attributed to these innovative methods of the new police force. Under the 1854 Charter, the Mayor had very few powers, but still was able to appoint all of the police officers, even though every one of these appointments was subject to the approval by City Council.

Unfortunately, in many neighborhoods, the authority of the new force was not immediately respected, and police officers were often forced to turn to the neighborhood political leaders for assistance in maintaining order. From the 1850s until the 1950s the Republican party controlled Philadelphia, holding almost every elected public office and for a time even installing Republicans to run the Democratic party. Through the rest of the nineteenth century the Police Department's association with the political machine grew, and it did provide some benefits to the city. Police stations served as soup kitchens to those without food or shelter, and a job with the Police Department offered economic opportunity to those who might otherwise

be disenfranchised, especially immigrants. Yet the department's effectiveness was severely limited because employment and promotions were eventually all determined by political loyalties rather than by merit, and officers were often called upon to punish the party's enemies and reward its friends.

New Charters and Civil Service Systems

The late nineteenth century brought new developments to policing. The Police Department installed telephone callboxes on street corners throughout the city for patrolmen to check in from their beat and for citizens to report crimes. Policemen patrolled the city on horses and wood-rimmed bicycles. Horse-drawn wagons transported criminals to police boats headed up the Delaware River to Holmesburg Prison, thus deriving the expression "up the river" for serving prison time. In 1876 the department hired its first black policemen, although assigned specifically to only black neighborhoods, and the first female officers were hired in 1886.

Up until this time, City Council controlled city employment by electing the city's department heads and requiring every new city employee to be approved by Council. In 1885 the Pennsylvania General Assembly attempted to limit the power of Council by enacting a new charter for the city, known as the Bullitt Bill, and introduced the city to the civil service concept of using competitive examinations for all city appointments or promotions. For the first time the Mayor was allowed to appoint his own department heads, including the Director of Public Safety, who oversaw the police force. However, City Council was responsible for enforcing the new system and soon effectively dismantled it, quickly passing a law that required each prospective applicant for the police examination to have the endorsement of both the Director of Public Safety and a ward leader.

By the turn of the century the Police Department was nationally ridiculed in silent movie director Mack Sennett's bumbling "Keystone Kops" capers. Famed muckraking journalist Lincoln Steffens scorned the entire city as "not merely corrupt, but corrupted" and "the worst governed city in the country." His nationally read columns gave detailed accounts of Philadelphia police systematically intimidating voters while permitting other citizens to vote many times, beating and arresting any election officials who attempted to stop them.

Police jobs and promotions were viewed by the leaders of the party as part of their lawful spoils to be used for rewarding the faithful and punishing the opposition. During the 1917 election, in the "bloody fifth" ward, a candidate at a polling place was badly beaten by a police officer who was then shot and killed by other policemen. The ensuing investigation ultimately led to the arrest of the Mayor and the head of the party. This incident sparked public outrage and demands for reform, but the party co-opted the reform movement by sponsoring yet another weak charter for Philadelphia.

This 1919 Charter did implement a more sweeping civil service system for the entire municipal government. Civil servants were prohibited from engaging in any political activities and soliciting them for political purposes was prohibited. Policemen and other uniformed personnel were not even permitted to make political contributions. Despite the reforms, the party machine guaranteed that City Council never appropriated funds for enforcement of the new regulations, and the patronage status quo was maintained, but through different mechanisms.

Prohibition and Organized Crime

No better example exists of the difficulties that have faced the Philadelphia Police Department, or the obstacles that prevent a commissioner brought from outside the city to enact reforms, than the short career of General Smedley Darlington Butler. A two-time Medal of Honor winner and a lifelong Quaker, the diminutive Butler is still legendary in the Marine Corps, having directed action in Cuba, the Philippines, China, Nicaragua, Honduras, Mexico, and Haiti. Butler's brief tenure as Philadelphia's Director of Public Safety lasted from 1925 to 1926.

In the 1920s in the City of Brotherly Love, Prohibition and organized crime severely impacted the city. The automobile opened up whole new methods for perpetrating crimes, while at the same time much of the police force's precious time was spent directing traffic. Philadelphia was to hold the National

Sesquicentennial Exposition in 1926 and Mayor W. Freeland Kendrick wanted to sanitize the city, so he appealed directly to President Coolidge to allow the celebrated General Butler to lead the cleanup. Butler took command on January 1, 1925, and within two days had ordered raids on more than nine hundred speakeasies and instituted vast shifts in police personnel. Soon Butler's war on bootleggers, prostitutes, gamblers, and corrupt cops was attracting national attention.

Butler is also remembered for some of his more unusual reforms. He had the roofs taken off the patrol cars to keep officers from sleeping through their shifts. In those days before traffic lights, he thought the City Hall tower could be used to control traffic on Broad Street. He installed bright spotlights on the tower and had men alternate red and green lights periodically. After four months of crashes caused by cross street drivers unable to see the lights, the plan was abandoned.

Unfortunately, General Butler did not have the cooperation of an uninspired police force still controlled by powerful political bosses and mobsters, so the speakeasies always reopened. Elected judges were not overzealous in their support of Butler either: of 6,000 people arrested during one campaign, only 200 were found guilty. Finally, he did the unthinkable, raiding and padlocking the Ritz-Carlton Hotel and the Union League, the preferred establishments of the social elite of Philadelphia. The next week the Mayor fired Butler for "overreacting." General Butler lamented that "cleaning up Philadelphia was worse than any battle I was ever in." Nonetheless, a City Hall plaque in his honor reads "He enforced the law impartially; he defended it courageously; he proved incorruptible."

Creating an entirely uncorrupt Police Department seemed a more impossible task, especially as organized crime assumed political power as the party machine weakened. A 1928 grand jury reported that police officers had taken graft totaling millions of dollars from the mob and the party, and 103 officers were dismissed and another 63 arrested, including one of the chief's deputies. Another grand jury in 1937 indicted a total of 348 people, including gambling operators, 52 policemen, various city officials, and Mayor Davis, but almost all were eventually acquitted.

Collective Bargaining and New Technology

In 1939 the city was facing its worst financial crisis ever, with nearly half of its entire revenue going to debt service. In response, City Council took the unusual step of reducing the salaries of all city employees, including the Police Department. As a result, the force unionized, signing an agreement with Lodge #5 of the Fraternal Order of Police. It was not until 1950, however, that the city granted exclusive recognition to the FOP for its collective bargaining. State legislative approval of Act 111 in 1968 formalized collective bargaining procedures, prohibited strikes by police or fire departments, and allowed for binding arbitration if parties came to an impasse. Since its passage in 1968, no FOP contract has ever been negotiated without binding arbitration. However, at various times since then, to protest perceived mistreatment by the city, the FOP has staged work slowdowns, ceased writing traffic tickets, and taken the city to court. These tactics helped the union win considerable salary and benefits increases during the 1960s and 1970s.

Technology has brought many advancements to police work, yet criminals have continued to become more sophisticated and violent. To better apprehend such lawbreakers, by the 1930s the department was patrolling the streets in red cars equipped with two-way radios. The advent of ballistic and forensic sciences considerably improved the ability to convict criminals. Yet despite the new advances, the force was still clinging to a more traditional era even in the 1950s: each beat officer had orders to carry a dime for a payphone, two handkerchiefs in case someone requested one, and a plastic whistle for emergencies. Not until the end of the decade was the selling of special police cards to citizens for personal privileges abolished.

Also in the 1950s, the development of interstate highways allowed many businesses and residents to move out of Philadelphia. Consequently, the city's population has been declining dramatically since 1950. At the same time, the composition of the population was changing, becoming older and much more diverse, presenting many new challenges for an unprepared police force and city.

Home Rule and Professional Policing

With the passage of the new Philadelphia Home Rule Charter in 1951, reformers were finally successful in removing the Philadelphia Police Department from systemic political manipulation. The new Charter finally overthrew the status quo and locked in the reforms with language that attempted to legislate forcefully against any and all possible future corruption. The civil service system was made more stringent, independent, and enforceable, and the Charter tightened the stipulations isolating the police from any political influence.

In 1953 City Council passed the requirement that all civil service employees must be residents of the city for at least one year prior to appointment. Mayor Clark was vehemently opposed, noting “no one expects the Phillies to get all of their players from within Philadelphia, yet these same people somehow feel that the city should find all of its employees within its own geographic bounds.” His veto was overturned.

Commissioners Tom Gibbons in the 1950s and Howard Leary in the 1960s did much to improve and modernize the police force under the new Home Rule Charter. It was renowned throughout the country as innovative and progressive, pioneering new detective methods and aggressively recruiting black officers. The department’s emphasis was on fighting serious crimes with large numbers of officers and a reliance on motorized patrols and rapid response. Unfortunately, the Police Department would later resist other reforms occurring elsewhere in policing. In the new Charter’s attempt to isolate the department from politics, the police force had turned into a closed system, seemingly responsive to no one.

With drugs, guns, and civil unrest sweeping the country, urban crime jumped dramatically, yet Philadelphia’s rate of crime remained much lower than that of other major cities. Even so, Philadelphia was one of the first cities to have a race riot, in August of 1964, which resulted in 2 deaths, 339 wounded, 308 arrests, and three million dollars in property damage.

The Rizzo Era

The growing bureaucratization of the Police Department had made it an independent political force to be reckoned with. The first police civilian review board in the country was created in 1958 to deal with complaints of police brutality and corruption, and it immediately became the focus of controversy. The FOP sued the city, and in 1967 a judge shut the advisory board down, only to have the Pennsylvania Supreme Court overrule that decision two years later. Mayor Tate, in the middle of a tough re-election contest, decided to dissolve the advisory board, settle lavish contracts with the FOP and other municipal unions, and publicly stated he would retain controversial Police Commissioner Frank Rizzo. As a result, Tate won a very narrow re-election.

Frank Rizzo was probably the best known and most controversial Police Commissioner in modern urban history. Rizzo was a fierce advocate of the department and urged an effective “zero-tolerance” crackdown on crime and disobedience. However, allegations of police brutality and racism grew, especially in the wake of a November 1967 School District demonstration when Rizzo led the force in dispersing 3,500 black high school students.

There were further riots and protests in 1969 and 1970, but Philadelphia did not have the type of disturbances most other cities did and Rizzo’s strong-arm tactics were widely credited for this. Rizzo rode his high profile and his law-and-order platform to two terms as Mayor, and during his tenure increased the size of the police force fifteen percent, from 7,400 officers in 1969 to 8,500 in 1979.

A state crime commission on the Philadelphia Police Department concluded in 1974 that “widespread corruption has been a constant problem which has plagued the department since its inception.” The commission stated that the “history of excessive use of arrests and failure to provide adequate protection for minorities” was because the department had become “a closed system in terms of responsibility and accountability.” However, it also noted that this was the fifth time this century that large-scale efforts had been undertaken to root out police corruption, and like its predecessors, this investigative report fell far short of its goal.

Recent Police History

Three lawsuits filed against the city in the 1970s had a more far-reaching impact. Each suit alleged that the city and the Police Department had systematically discriminated against hiring blacks, women, and Hispanics, and the city eventually agreed to a court imposed quota system for the hiring of minorities. As a result, the Philadelphia Police Department has become one of the most diverse in the country.

Numerous brutality lawsuits, a 1978 shoot-out with the urban cult MOVE, and an FBI probe that eventually convicted thirty police officers for corruption all badly damaged the Police Department's image. But the worst disaster of all was in May 1985, when the department bombed MOVE's West Philadelphia compound, and ended up burning down two city blocks. The national attention this incident garnered brought even more federal investigations into brutality and corruption.

Once again a mayor turned to an outsider to reform the department and improve its poor national image. In 1985 Mayor Goode appointed the former head of Philadelphia's Secret Service branch Kevin Tucker to be the new Police Commissioner. Tucker implemented many changes, including overhauling the upper ranks of the department and empowering a Police Study Task Force to create a blueprint for reform. However, he encountered political problems when he refused to transfer officers as favors and would not move into Philadelphia full-time.

One overdue strategy implemented by Tucker was a redefinition of the department's mission to incorporate the new philosophy of community policing, in which the police work closely with neighborhoods and citizens on crime prevention. This was a large paradigm shift for policing, moving the emphasis from reacting to and solving serious crimes to crime prevention and maintenance of order.

Willie Williams became the city's first black Police Commissioner in 1988. During his four year tenure, he expanded community policing while grappling with a surge in drug-related crimes. Williams and Tucker were also among the first of recent police commissioners that have had to struggle with austere budgets resulting from the city's ongoing fiscal crisis. Salaries and benefits have been cut back, as have the force's total number of police: in 1993 the department had 6,300 officers, compared with 8,500 in 1979 and 6,900 today.

Commissioner Richard Neal took over in 1992, continuing the reforms and low-key style that were being implemented. Unfortunately, a new scandal emerged: a federal investigation found that officers in the 39th District in North Philadelphia had framed, beaten, and robbed drug suspects, and then perjured themselves to obtain the convictions. Six officers have gone to prison, nearly two hundred criminal cases have been overturned, and the city has paid nearly five million dollars in wrongful arrest settlements to date. A civilian review board was once again established, and a 1996 lawsuit by the NAACP and others was settled with the city agreeing to a package of police reforms, including the appointment of an anti-corruption officer and careful monitoring of citizens' complaints and the use of force.

After Neal's resignation in March of 1998, and reacting to criticism over the city's stubbornly consistent crime rate, Mayor Rendell went outside the department for only the third time in its history and hired a new reform-minded police commissioner, John Timoney, former First Deputy Commissioner of the New York Police Department.

Relevant Police Governance Issues

Recruitment Procedures

The Police Department has a separate five officer recruitment unit with the specific goal of developing potential minority and female recruits. Recent exams have had several thousand applicants for about one hundred openings at the Police Academy, so some argue that recruitment has not been a necessary priority within the department. However, recent isolated incidents of police corruption, brutality, and incompetence have caused others to wonder if the department is doing all it can to find the best possible applicants. Some within the department argue that hiring requirements and court decisions have effectively prevented quality recruiting because they value certain aspects, like residency, race, or gender, more than the ability to do the job well. “Our hands have been tied by the courts and City Council,” one high-ranking officer explained.

Nonetheless, experts familiar with the department were critical of the recruiting efforts and the direction the recruitment unit is given by the department’s command. Recruiters receive little feedback regarding their effectiveness from either the top brass of the department or from the city’s Personnel Office, which administers the exam. Despite the constraints put upon recruiting, experts say there is little evidence that the department is trying to work effectively within those constraints and still recruit the best applicants. As one former commander put it, “they’re not throwing the hook into the water, much less putting bait on the hook.” Several provided anecdotal evidence of this, citing recruiters handing out applications at subway stops but not attending city college job fairs. Most of these interviewees felt strongly that the city must increase the resources and training available to the recruitment unit to signal a strong commitment to recruiting diverse yet quality applicants to the force.

Pre-Employment Residency

Section 30.01 of Philadelphia’s Civil Service Regulations requires all civil service employees, including police officers, to have been bona fide residents of the City of Philadelphia for a period of one year prior to their appointment. Ordinance of City Council, Bill 79, effective April 16, 1953, enacted pursuant to authority of Section 7-401u of the Charter, originated this requirement as a deliberate policy decision to ensure that “city jobs only go to city dwellers.” Philadelphia and Boston are the only major cities in America that require police officers to be city residents for a year before taking the exam.

One elected official who supports the pre-employment residency requirement explained that “it is unfair to Philadelphians to make them compete with the rest of the world.” Another rationale applied to the Police Department is that Philadelphians make better police officers. “People could theoretically be flying in from all around the world to take the (police) exam and our entire department could be filled with cops who wouldn’t even know their way around the city,” another official said. Supporters of this requirement also expressed satisfaction with the status quo. “Police officer is one of the most sought after jobs in the city, and we have more than enough qualified people taking the test.”

Nonetheless, most interviewed suggest that the pre-employment residency requirement should be either eliminated or modified. Nearly all of the experts felt that this requirement hinders the department’s ability to attract the most qualified applicants, including minorities. “Why should we feel threatened by outsiders?” asks one department official, “And why wouldn’t we want the most qualified police force?” Others pointed out that, at a time when Philadelphia’s population is rapidly diminishing, uncertainty over whether or not a job will be available may prevent some from moving into Philadelphia.

Many interviewees familiar with this issue pointed out that it has specific racial and political overtones. City jobs have historically offered some of the best available opportunities to minorities in Philadelphia and some fear that any change in the pre-employment residency requirement would be perceived as an

attempt to fill the Police Department with suburban white men. This requirement has also historically become a powerful political tool for elected officials, allowing them to promise voters an advantage (in applying for city jobs) over those who cannot vote for them. Thus, any elected official supporting a change could be portrayed as supporting suburbanites over his or her own constituents.

To eliminate the pre-employment residency requirement entirely, City Council would first have to amend its previous ordinance, and then modify the civil service regulations to reflect this change. However, the Civil Service Commission is allowed to waive the requirement with cause, so it is possible that the Mayor could instruct the Commission to grant mass waivers to certain classes of applicants, for example, applicants who are minorities or those serving active duty in the military. Alternatively, Council could introduce legislation to amend its previous ordinance to allow certain classes to be exempt from the pre-employment residency requirement. Such proposals have normally centered on allowing recruitment at military bases, universities (especially those with a historically high minority enrollment), or other law enforcement agencies.

Entry-Level Hiring Requirements

All applicants to the Philadelphia Police Department must be at least 19 years old and have a valid driver's license. They must pass a written test, a physical and a mental examination, a polygraph examination, a background investigation and "stringent drug screening." Veterans receive preference on the exam by having additional points added to their exam score.

Philadelphia's minimum age requirement of nineteen is lower than most other big cities. Chicago last year raised its age requirement to twenty-two for recruits and surprised its critics when there was no adverse impact on minority applications. In fact, through an organized recruitment campaign, the city attracted its largest and most diverse applicant pool ever. Statistics for the last ten years indicate that the majority of police officers who were dismissed for disciplinary reasons were between the ages of nineteen and twenty-five when they entered the Academy. Most experts interviewed felt that this was strong support for increasing the minimum age limit to at least twenty-two.

Despite federal age discrimination laws that would make it difficult to do so, several interviewees suggested creating a maximum age limit for the department as well, especially after an elderly recruit recently dropped dead at the Police Academy. Many experts stated that the physical fitness requirements need to be made more rigorous, and suggested giving extra points for physical fitness on the exam for those who passed, or even implementing annual physicals for the entire department. "We're getting into situations where the bad guys are outrunning our newest recruits, and that's just not right," one officer described.

In 1989 the Philadelphia Police Department began for the first time requiring a high school diploma in order to join the force; Philadelphia was the last major city to institute such a requirement. Most of those interviewed believed that the department should require at least an associate's degree or several years of college for police applicants, and that this would result in a more highly qualified and skilled police force less likely to break the law. However, some elected officials and civic group leaders expressed concern that minority recruitment would suffer, as minorities in Philadelphia historically do not enroll in higher education at the same rate as whites.

Across the country, many police departments have been raising their educational standards, which in many cities were already higher than Philadelphia's. Chicago, Indianapolis, and Tulsa implemented higher educational standards just last year. According to the Major Cities Chiefs, an association of North American large city police chiefs, twenty-five percent of its members require some higher education for new recruits, and a majority of its members offer incentive pay for those with college degrees. A 1987 survey commissioned by the Police Executive Research Foundation found that college-educated minorities are less likely to apply to be police officers if the positions do not require a college education.

Interviewees were critical of several aspects of the 'Police Officer Candidate Examination.' The single most identified issue was that the current exam does not appear to have any correlation with identifying those who would be the best officers. In addition, white applicants pass the exam more often than minority applicants do, leading to charges of an inherent racial bias in the examination.

Some interviewees suggested the department should consider allowing continuous testing, so as to be more convenient for potential applicants. Other exam elements that were widely disparaged by interviewed police officers include that there is no limit to the number of times an applicant can take the exam, and that a 'Pre-Examination Study Booklet' is distributed before the exam to provide the source of the exam's questions.

A separate unit of the Police Department is responsible for verifying that applicants meet the required qualifications. Several experts interviewed who were familiar with this process felt that the background investigation needs to be more comprehensive. "The people we hire now just don't have the mettle to do the job, and come to work with all kinds of bad work habits and domestic problems," one department veteran complained. It was suggested that the background investigators should utilize more information like academic records, credit history, and previous employers, as well as finding better tools to ascertain communication skills, integrity, and dependability.

The need to process huge quantities of applicants has clearly prevented more in-depth background investigations. Some within the force feel that the background investigation unit does not receive the resources and training it should. Others argue their efforts are just not utilized well; for example, a new investigation is conducted each time a candidate applies, even if they have applied and been investigated many times before, and in recent years less than a hundred have been appointed for every thousand applicants that were subjected to a background investigation.

Each applicant must pass a polygraph examination, although it is possible to appeal to take the exam again if the applicant fails to pass the first time. Very few major city police departments utilize a polygraph examination in their hiring processes and the Federal Bureau of Investigation is currently reconsidering its use. Long-time observers give examples of applicants who have applied many times to join the force, each time failing because they could not pass the polygraph examination, despite several appeals and reexaminations, only to pass it once after many attempts. These anecdotes invariably conclude with the new officer fired, in the hospital, or in jail.

Nearly all of the experts consulted believe that there is an over-reliance on the use of the polygraph, which they believe to be unreliable and particularly expensive, especially because of the possibility of multiple attempts. Most recommend eliminating its use entirely, while a minority of ranking police officials stated that they would prefer to keep the exam as an option during background investigations if necessary.

"Someone could have a Ph.D., but if he tried cocaine once twenty years ago, he couldn't get on the force today, and that's a shame," one elected official bemoaned. Many interviewees felt the department was too stringent on some rules in order to disqualify people quickly at the expense of quality applicants. Some critics feel that the emphasis on quantity has resulted in an over-reliance on rigid matrixes which automatically disqualify potentially desirable candidates, instead of using a meaningful assessment of the candidate's overall background and character.

In general, among the experts interviewed, there was a consensus that it is essential that the Philadelphia Police Department should do everything possible to hire the most qualified applicants. It was widely agreed that in order to do so, the department must thoroughly reassess all of its hiring criteria, including age, education, background investigation and the polygraph. It is especially important that in order to restore faith in the hiring process, a new and just examination must be implemented as soon as possible.

Judicial Consent Decrees

The Philadelphia Police Department has not always treated minorities as equals, especially in recruitment. As a consequence, there have been periods in the department's history when its ethnic and gender composition have not come close to mirroring the community it serves. In the 1970s the city agreed to a court supervised quota system for blacks, women, and Hispanics, to resolve lawsuits alleging systemic discrimination throughout the Police Department. The courts have recently allowed these consent decrees to expire, believing that department has fulfilled its required obligations, and now the Philadelphia Police Department can rightfully claim to be one of the most diverse in the country.

However, in 1990 the Guardian Civic League, an organization of African-American police officers in Philadelphia, filed suit against the Police Department on behalf of a group of rejected black applicants in Freeman v. City of Philadelphia. Based on the evidence that black applicants consistently pass the exam at a rate lower than that of white applicants, their suit alleged that the department has continued its discrimination in the hiring of blacks, that there is an inherent racial bias in the entrance examination, and that the exam has never been proven to be a genuine and reliable predictor of future job performance.

As a result of the Freeman case settlement, the city is currently developing a new entrance examination, and until a new one is validated and approved by the court, the city has agreed to a hiring formula in which the percentage of blacks appointed to each academy class must equal the percentage of blacks who took the entrance examination.

Prior to the Freeman consent decree, an exam was administered every two years and any applicant who passed the exam would remain on the eligibility list. However, the eligible blacks from one list are now usually depleted before the required percentage is achieved, thus causing another exam to be administered solely to achieve the first exam's required percentage.

Almost everyone interviewed was accepting of the current consent decree as a necessary evil. As one ranking officer characterized it, "we still have to pay the price for the prejudices of past commissioners." Most agreed that the department's hiring had not been reflecting its constituency, and that maintaining such a diversity should continue to be an important goal for the department. Several interviewees disagreed, pointing out that consent decrees in and of themselves are inconsequential and do nothing to prevent the brutality, corruption, and incompetence they see as the real problems of the department.

However, the unusual requirements of the Freeman decree did receive a lot of criticism. "It's all backwards – we're eliminating for quantity instead of selecting for quality," the head of an advocacy group declared. It was pointed out that an emphasis on numbers has severely strained the resources of the recruiting and investigation units, while at the same time it has failed to concentrate their focus on finding the best possible applicants. One top commander said, "We did something wrong, so let's fix it, just don't rig it. Instead of a numbers game, how about giving us some meaningful incentives for finding the most qualified minorities possible?"

Some members of the department have blamed the consent decree for a great deal of the department's problems, from its lackluster recruiting to its inability to reduce crime in the neighborhoods, while others concede that "the consent decree might make it slightly more difficult to find the best possible applicants that would do the best job fighting crime." Nonetheless, in the words of one expert, "the department still is not doing the work necessary within the margins of the decree to obtain the best minorities possible for the job."

Residency Requirement

Once they are hired, all civil service municipal employees, including police officers, are required to maintain residency within the City of Philadelphia during the course of their employment. This

requirement is encoded in Section 30.01 of Philadelphia's Civil Service Regulations and was enacted in the same 1953 City Council Ordinance that requires all civil service employees to be residents of the city for a year prior to appointment.

Exempt employees, those who work for the city but are not protected by civil service, do not have the pre-employment residency requirement, but Section 3-306 of the Home Rule Charter does require them to establish residence in Philadelphia within six months of appointment. The Mayor, the Personnel Director, and the Civil Service Commission have the authority to grant waivers to individuals or job classes from the residency requirement if they deem it necessary.

A small number of the nation's largest cities, specifically Chicago, Detroit, Phoenix, and Milwaukee, require residency for police officers upon hiring or soon thereafter (and Boston requires residency one year prior to appointment). Several other cities require officers to live within the county or immediate region, and there is currently discussion in New York about instituting a requirement to live within the city. The majority of the twenty largest cities have no residency requirement at all for police officers.

Many of the experts Seventy spoke to felt that this requirement occasionally prevents the city from hiring a more qualified applicant who, for various reasons, may be unwilling to move into the city. Moreover, there are some jobs, even within the Police Department, that are so specialized that a qualified professional is often unavailable in Philadelphia.

However, the experts interviewed were unanimously in favor of continuing to require police officers (as well as all other city employees) to live in the city after they begin their jobs. The rationale used by each was the same: even if the quality of the city's hires could be improved marginally, it is much more crucial for employees to feel they have a stake in the source of their paycheck. By living in the city, police officers are continually educated about Philadelphia and have more invested in keeping it safe, it was reasoned. Also, some doubted that the city is missing out on quality applicants. "If you can't find a place to live in Philadelphia, you must have some pretty goofy standards," said one. Finally, elected officials especially were quick to point out that since the city is continuing to lose its population, this is not the time to encourage others to move out as well.

Many interviewed felt it was important to draw a large distinction between the residency requirement during employment and the pre-employment residency requirement, with most experts feeling that the latter was unnecessary and cumbersome while the residency requirement during employment was sound municipal policy. As one interviewee summarized, "You need to expand the pool and get them in, but then you have to make them join the tax-base."

Collective Bargaining Agreement

There is one collective bargaining agreement for all of the sworn officers of the Philadelphia Police Department and they are required to become members immediately after leaving the Police Academy. The Fraternal Order of Police Lodge No. 5 has been the department's sole collective bargaining unit since 1950. Legislative approval of Act 111 in 1968 prohibited police department strikes, allowed for binding arbitration for contract negotiations, and mandated one collective bargaining unit for police officers. Every two years the FOP negotiates a contract with the city that governs all conditions of police officer employment, including wages, hours, work conditions, retirement, pensions, and benefits. It also represents its members, individually and collectively, in all disputes and grievances with the city.

Labor relations between the department and the Fraternal Order of Police have historically been better than the city's relationships with other municipal unions. The FOP has often advocated progressive policies that have benefited both the police force and the city. However, by definition the FOP is concerned exclusively with what is in the best interest of its members and occasionally that interest comes in direct conflict with the goals and needs of the department or the city. While police officers are prohibited from

striking, the FOP has a number of other tactics at its disposal to pursue its agenda, such as work slowdowns and litigation. The combination of its political power and the importance society puts on fighting crime has meant that the FOP has a very formidable role in setting departmental policy.

Philadelphia has the largest American police force with only one union for the entire department. In the majority of the twenty largest cities the upper management is separated from the rest of the department, either with non-union top ranks or with a different union for the command level. New York has five unions, one for each rank, from patrolman to captain. Last year in Chicago, the courts granted police supervisors the right to create their own collective bargaining unit. In San Diego in 1997, city negotiators were successful in removing the rank of captain from union representation. Two cities in Texas, Dallas and Houston, have several unions from which all officers can choose.

To eliminate perceived or real conflicts of interest, most interviewees have suggested that certain Police Department command ranks should be separated from the bargaining unit, or that another bargaining unit should be created specifically for those command ranks. As one official explained, "As it is now, any captain who disciplines an officer will end up having his union dues used against him when the FOP represents that officer in the grievance." Commissioner Timoney has recently implemented a plan designed to give captains more autonomy over their districts, and has publicly expressed concern over rank and file officers and their captains being part of the same union. Many interviewees went even further. "There is something very destructive to day to day management to have the FOP cover everyone."

In particular, many high ranking department officials made it very clear that they did not feel that the FOP represented them or was concerned with their best interests. Some said the FOP was constantly prohibiting them from doing their jobs and they resented paying into a system that perpetuated difficulties for them. However, most of these officials were also quick to point out that they did feel even the top command needed some type of collective representation, just not as part of the entire department.

Another criticism expressed of the Fraternal Order of Police is that its national bylaws allow all of its retirees to vote in its elections. Consequently, its officers may be more concerned with issues of pensions and benefits, and less concerned with the problems of newly hired officers.

The general consensus of the interviewees, except labor officials, was "I'm not against unions, just against everyone belonging to the same union." Possible solutions proposed include separating the ranks of captain and above (or inspector and above) from the bargaining unit. To do so, the city would have to request decertification by the Pennsylvania Labor Relations Board, and the Board would decide the case based upon whether they feel the city has demonstrated that those ranks act as managers and supervisors. Alternatively, another bargaining unit could be introduced, specifically for those command ranks, but if the FOP did not consent, this would require the General Assembly to amend Act 111.

The labor officials interviewed made it very clear that they would strongly resist any attempt to "weaken their representation," as one characterized it, "especially considering that Act 111 prevents us from doing much of what every other union can do." They maintained that one collective bargaining unit for the entire force was the only protection available from a return to the days of patronage and exploitation.

Performance Evaluations and Compensation

The terms of the performance evaluation system for the Philadelphia Police Department are carefully spelled out in the collective bargaining agreement with the Fraternal Order of Police Lodge No. 5. An evaluation system has been in place in some form since civil service was first introduced in Philadelphia in 1885. The Home Rule Charter (Section 7-401n) calls for performance ratings to be used as consideration in all personnel actions. In the past, ratings reflected graduated levels in the quality of performance, but ever since the FOP contract negotiations of 1974, this approach has been abandoned in favor of a system that simply certifies employee adequacy by giving either a satisfactory or unsatisfactory rating.

Evaluations are designed for use as a management tool to allow for early detection and progressive discipline in the event that employees are not performing. A properly functioning evaluation system would also facilitate promotions and salary increases based on merit and ensure against charges of favoritism. However, within the Philadelphia Police Department, the evaluation system is not utilized. Officers never get unsatisfactory ratings, except in extremely rare circumstances, and often supervisors do not bother conducting evaluations at all.

The district supervisors interviewed expressed concern that giving a negative evaluation produces little practical effect and will inevitably result in a time-consuming grievance. Furthermore, they do not believe that their superiors will support them if this happens, and they are concerned that their superiors might even critique them based upon the number of negative evaluations or grievances originating from their district. Several supervisors related anecdotes of new captains deciding to proceed with a negative evaluation, only to have the Commissioner's office or the Law Department overturn it through the grievance process. "It's just not worth the effort," one summarized.

Others within the department are unsure of what criteria and goals should be used to evaluate performance, and all felt constrained by having only two classifications available. "It's not fair to any officer to be limited to an all or nothing evaluation," one ranking officer lamented. Some of the experts interviewed also speculated that there is heavy pressure within the district to give satisfactory evaluations, as the captains may believe that to do otherwise would adversely affect morale and the camaraderie of the district.

Most of those interviewed agreed that the elimination of meaningful job performance ratings has made it much more difficult to discipline unsatisfactory officers. Those familiar with the city's efforts in grievance arbitrations describe countless cases that were lost because of evaluations that failed to document previously known problems. "You can't really blame arbitrators for reversing stiff punishments when the bad cop's ratings have always been satisfactory," explained an interviewee involved in the grievance process.

Labor leaders characterize the era of "meaningful evaluations" as a time when favoritism and patronage led to scandals involving bribery, sex and abuse in exchange for 'outstanding' evaluations. "To counter subjectivity and still weed out the bad cops, the department just needs to implement some real progressive discipline, not better evaluations," said one FOP officer. There was consensus among all the experts that supervisors need to receive more elaborate training on the performance evaluation system and its criteria, and those supervisors should then be held accountable for carrying it out in good faith.

Another criticism expressed by many is that even if the evaluation system were effective, it still would not heavily impact anything of consequence, like salary, transfers, or promotions. Thus, there are very few systemic incentives for an officer to choose to excel within the Police Department.

Many within the department cited a recent *Inquirer* article that highlighted how the Philadelphia Police Department's maximum base salary for officers lags behind that of most major cities and other police departments in this region. City officials interviewed acknowledged this, but point out that Philadelphia's fiscal crisis precipitated sacrifices by all city employees, including freezing police salaries for over two years early in the 1990s.

The FOP has followed the lead of several other cities and consistently tried to create material rewards for performance and salary increases for officers who receive bachelor's or master's degrees. Another proposal that has yet to receive serious consideration is to create salary differentials within each rank to reflect varying levels of responsibility, so that a chief inspector with several thousand officers under his or her command would no longer be paid the same amount as a chief inspector with five officers. Finally, one of many proposals that has been suggested to create more accountability for the department's top management is a reward system similar to what Detroit and several other cities do, where the high ranking officers operate under a pay-for-performance system that can add up to \$10,000 to their salary each year in return for excellent performance.

Transfer and Promotion Procedures

If a police officer would prefer another assignment in another division or unit within the Police Department, the officer is to submit a transfer request on a standardized form to his or her superiors. However, as one insider explained, “the transfer policy is not followed at all, and hardly any occur that way.” Instead, almost all recent transfers have occurred through the Commissioner’s office. A few experts interviewed defended this practice, arguing that it is in the Commissioner’s best interest to ensure that the right people are in the right districts.

However, most of those interviewed pointed out that such transfers are often politically motivated, done at the behest of a City Council member or other elected official. When transfers are based on connections and not on merit, the experts all agreed that this has a severe impact on morale and prohibits the department from reaching its full potential. There was unanimous consensus that departmental transfers need to be conducted in a fair and impartial manner to ensure that each officer can eventually pursue a career within the force most suited to his or her ability and interest.

Eligibility for promotion within the Police Department follows standard civil service procedures, and depends upon experience and passing a periodic promotional examination. For each of the ranks, ten percent of one’s score is awarded by seniority. For the upper ranks of inspector and chief inspector, the remaining ninety percent consists of an oral exam, and for the middle ranks of captain, lieutenant and sergeant, the test is evenly divided between a written and an oral exam. Police veterans from other jurisdictions form a three member panel which administers the oral exams. For the lowest ranks of corporal and detective, the exam is entirely written.

Everyone interviewed agreed that this system is flawed, and that ideally promotions would be based solely upon aptitude for the job and past performance. The previously mentioned concerns about the admissions exam were also expressed regarding the use of the civil service promotion exams. Further, the promotional examinations and interviews do not allow the Commissioner any input in determining the men and women who will implement his policies or how he can hold them accountable.

Having the oral exam administered by outsiders has been in place since the early 1980s, designed as a way to buffer the Commissioner from any criticism regarding promotions, as there was in several promotional scandals of the late 1970s. The outside experts are often not from major cities, and so their critics say they are not familiar with the type of policing needed for Philadelphia. All agree that outsiders are forced to make quick judgments of candidates based on brief interaction and without knowledge of what type of philosophy or style the Commissioner is promoting.

Many experts believe the top management of the Police Department should be appointed by the Commissioner by having the Commissioner or his appointee administer the oral exam for the ranks of inspector and above. The current system does not prevent the Commissioner from this policy, as civil service regulations stipulate that the personnel director can choose anyone to be on the oral examination board. Previous commissioners have indeed done so; for example, Commissioner Rizzo had a deputy commissioner on every oral exam board.

Some experts pointed out that such a change depends largely upon the strengths of each particular commissioner, and thus they are wary of making this an institutional policy. In the words of one long-time police official, “We’ve had some terrible commissioners in the past, and we will again, no doubt. This current guy’s great, but do we really want the next idiot to be able to pick our chiefs?” Despite the risks of subjectivity and ineptitude, it was widely agreed that the Commissioner does need the flexibility to promote those who he believes will best implement his policies, because ultimately the Commissioner is solely accountable for the performance of the entire department.

Once the exam is scored, the Personnel Director establishes an eligibility list in order of those who passed, and as vacancies occur, names of candidates are then certified to the Commissioner based upon the “rule of two,” as required in the Home Rule Charter (Section 7-401h). The Personnel Director must certify the names of two eligible candidates for a single vacant position, or when there is more than one vacancy, must certify a number of names equal to one and a half times the number of vacancies. Thus the Police Commissioner never has more than two people to choose from to fill any one position.

Many of the other major cities have at least a “rule of three” that allows their police chiefs greater latitude in promoting their officers. While interviewees who were familiar with this system felt it was a significant constraint on the management prerogative of the Commissioner, labor officials made it clear they felt changing this would allow a return to patronage. Thus it was widely agreed that to change the Charter for this particular issue would be a difficult political battle not worth the effort.

Discipline, Grievance, and Arbitration

Any police officer may be dismissed, demoted, or suspended for cause by action of the Commissioner, first by giving warning of the proposed discipline, and then through written notice stating the reasons for the action. Lesser disciplinary actions can also be taken if deemed necessary. If a supervisor decides to discipline an officer, and the officer feels that the disciplinary action is unjust or disproportionate, he may appeal the action through the civil service commission or, more commonly, file a grievance through the Fraternal Order of Police.

The same Act 111 of 1968 that allowed for binding arbitration in resolving contract disputes has, through various court rulings and contract language, extended arbitration to disciplinary matters. In a grievance of a disciplinary action, the arbitrators act in the same manner as judges, hearing both sides and issuing written decisions. The arbitrators are chosen from a list of names from the American Arbitration Association. Each side strikes the names of those it feels are unfriendly and the rest are ranked in order of preference so that whoever has the highest combined rating handles the case.

In Pennsylvania, arbitrators can reverse or soften any disciplinary action, and they often do. Further, there is no longer any ability to appeal the outcome of the arbitration to the courts. A 1995 Pennsylvania Supreme Court case, Pennsylvania State Police v. Pennsylvania State Troopers Association, Trooper James Betancourt, stated that Act 111 does not allow for judicial review of arbitrators’ decisions, except in very limited circumstances, such as when an arbitrator’s decision is tainted by fraud. Of the largest cities in the country, few have police departments where officers can take any type of disciplinary action to arbitration, and Pennsylvania is unique in not allowing for judicial review.

Most of the experts interviewed felt that the Betancourt decision should be negated by new state legislation. They believe that the case makes it very difficult to remove even the worst officers, some violent or unstable, from the police force. Some police organizations are pushing for new state legislation, and at least one bill has already been introduced. Police union leaders defend the ruling, arguing that arbitration provides finality to disputes and prevents the courts from being clogged with appeals.

Of the forty or fifty Philadelphia police officers fired for misconduct each year, an average of three officers are reinstated by arbitrators, and arbitrators have reversed or softened somewhere between sixty-five and eighty-five percent of all recent grieved disciplinary actions. Thus many supervisors expressed the opinion that “imposing discipline can be much more trouble than its worth.” This also results in officers much more likely to file a grievance with the FOP than with the civil service commission, which has a record much more in favor with the department. Moreover, some city officials indicated that disciplinary actions are often softened or rescinded because they anticipate losing in arbitration.

The explanations vary as to why the administration’s record is so poor with arbitrations. One labor official maintained it is entirely because “recent commissioners just don’t know how to fire people within the

contract guidelines” and that increasing the use of progressive discipline would improve the city’s record. Many city officials also conceded that the administration does a poor job preparing for the arbitrations. Unlike the FOP, the city does not attempt to investigate the arbitrators and hold their track records against them. Many experts believe that the entire system of picking professional arbitrators creates a mentality where the arbitrator is more concerned with avoiding being blacklisted than dispensing justice.

The city’s attorneys are from the Law Department and are often overworked and underpaid, while the FOP has many prominent lawyers available to work on its cases. Police officials interviewed were very critical of the Law Department, saying it never gives the police force any feedback which would allow the force to learn from its mistakes and implement corrective measures.

Other city officials say another reason is that officers and supervisors are often no longer willing to assist in disciplining a fellow officer when the time of the hearing comes around. Finally, a simpler explanation is offered by some: the FOP will only pursue the cases it thinks it can win, and often settles those which it realizes it might lose, while the city does not necessarily do so.

Command Level Civil Service Exemptions

All of the employees of the Philadelphia Police Department are hired and promoted according to civil service regulations and examinations, except the Commissioner and his deputies. The Philadelphia Home Rule Charter (Section 7-301c) allows two deputies and an executive secretary to be appointed in each department, and also allows the Managing Director (which oversees the Police Department) to appoint an unlimited number of deputies. Currently the Philadelphia Police Department has two appointed Deputy Commissioners, one civil service Deputy Commissioner, two appointed Deputy Managing Directors, and one appointed Executive Officer.

Besides Los Angeles and Columbus, Philadelphia has the least number of police positions exempted from civil service of the country’s twenty largest cities. Further, there is currently a movement to exempt the deputy chiefs in Los Angeles through charter revision. The other major cities have all of the ranks above captain/commander exempt from civil service, either through the city’s charter or a city ordinance. Nearly all cities have between .5% to 1% of their police force exempt from civil service, which would correspond to thirty-five to seventy exempt positions in the Philadelphia Police Department.

However, police departments across the country vary greatly; cities with smaller forces often have only an assistant chief/deputy commissioner rank between the chief and captain. Also, in Chicago, New York and Phoenix, the positions below deputy but above captain are not completely exempt, but instead serve at the discretion of the commissioner while maintaining their civil service ranking of captain. In New York, the police force describes these commanding officers as having been “detailed” from their previous civil service rank.

Many experts feel that more accountability would result if the Police Commissioner could appoint whoever he desired to the top management of the Police Department. They suggest that the current system does not allow the Commissioner any flexibility in installing as commanders those people sympathetic to his ideas and vision for the department. They describe this management constraint as a major reason why the Police Department has been very slow to respond to national policing reforms, and why previous police commissioners have been relatively unsuccessful in reforming the culture of the police force.

If the Police Commissioner were to be given the ability to appoint more of the top command of the department, the Home Rule Charter would have to be amended. Many experts suggested exempting from civil service all of the ranks within the Police Department above the rank of captain (which would currently involve about fifty positions), or even including the rank of captain as exempt (which could involve as many as 150 positions). Another proposal that has been circulated would create a certain number of exemptions for every civil service department in the city, based on the number of personnel in

the department. This is similar to the proposal included in the failed new charter referendum of 1994 and would not be specific to the Police Department.

The First Class City Home Rule Act of 1949 allows for the Home Rule Charter to be amended several ways, including a ballot initiative, a commission to create a new charter, or by city-wide referendum after City Council passes the proposed amendment by a two-thirds majority vote. Any eventual Charter changes would also require modifications to the existing collective bargaining agreement and affected civil service regulations.

Nearly everyone interviewed agreed that, at least in theory, exempting the ranks above captain would allow the Commissioner more control over the management of the department. However, there was also universal concern expressed that such a change could be perceived as a “patronage grab by politicians,” as one labor leader termed it. Only a few elected officials and ranking officers felt that the proposed exemptions should include captains, while most felt that “appointing fifty positions sounds like management prerogative, but 150 probably really would be patronage.”

Many interviewees, especially political leaders and elected officials, expressed severe reservations as to whether it was possible to sell any Charter change to the public at this point, because, as one described, “over the last twenty years we have convinced the City that the Charter is our Ten Commandments, and so first we’d have to convince them otherwise.” However, other interviewees were confident that this particular Charter amendment would pass in referendum if it were limited to the police force and described by the Mayor and the Commissioner as necessary to manage the department and effectively control crime in the city.

In place of changing the Charter, many experts have suggested changing the composition of the oral examination board for the inspector and chief inspector promotional examinations, so that the Commissioner could decide himself who would be promoted. However, those who support amending the Charter point out that using the oral exams does not create full accountability, as the Commissioner would still be unable to terminate under-performing commanders. Currently, if the Commissioner is unimpressed with a commander’s performance, he has little recourse except to transfer the commander. Recently, a district captain was allegedly submitting false crime statistics, and while several interviewees felt that a commander should be fired for this type of offense, this captain was instead transferred to the Command Inspections Bureau, a unit that includes others that have fallen out of favor with the Commissioner.

The use of deputy managing directors in other city departments has come under some criticism and has resulted in a lawsuit that is currently pending. While most felt that this is a manipulation of the system the Charter designed, they nonetheless agree that using deputy managing directors is currently the only way to appoint proved managers to a department in the face of a strict civil service system. This issue has already been resolved for the Police Department, as the FOP lost a 1995 lawsuit over the appointment of a deputy managing director to the force. Several of the experts interviewed stated that it would be “the worst case scenario” if the Charter were not changed and the city were to lose the deputy managing director lawsuit.

Coordination with Other Departments

The structure of city government in Philadelphia is unusually centralized compared to other cities. Many functions that are performed within a police department elsewhere are in Philadelphia handled by outside agencies, like the Personnel, Procurement, and Law Departments. While many applaud this particular aspect of the Home Rule Charter as ground-breaking, others believe it creates inefficiencies at best, and at worst inhibits proper management of the department.

The relationship between the Law and Police Departments is particularly contentious. Most of the largest cities’ police departments have an entire legal bureau or unit within the department; New York City has several hundred lawyers on the NYPD’s staff alone. In Philadelphia, several lawyers in the Law

Department are available to the Commissioner for legal advice, but are rarely assigned exclusively to the department.

Past and present high-ranking police officials felt strongly that the Police Department should have its own lawyers on staff to help the Commissioner determine departmental policies. As one put it, “the way the law is now you practically need a lawyer in every patrol car.” In particular, they were critical of the Law Department’s lack of feedback on police cases and hearings and its lack of respect for the Police Department’s needs. “We would put in a request that we thought was critical, and three months later the Law Department would return it with ‘Not Important’ written across it,” related one former police official.

Not surprisingly, Law Department officials and other city officials see it differently. They feel the system is designed very well and ensures that the entire city’s best interests are always central to any legal decision made for any department. “No department head should have a different lawyer than the Mayor,” one elected official stated. “There’s supposed to be conflict between the Law Department and the others, because what’s good for them isn’t always what’s good for the city.” Some interviewees related stories of when attorneys from the Law Department were assigned exclusively to the Police Department and ended up “going native” and becoming “cop dogs,” expressions they used for attorneys who had become advocates for the police force instead of the Law Department.

Other interviewees stressed that there were cooperation issues on both sides that could be easily resolved. Some suggested simply having the Law Department assign more lawyers to the Police Department’s cases. Others recommended allowing the Police Commissioner to have attorneys on staff, but all departmental policies, lawsuits, and grievances would still be directed through the Law Department.

There were often concerns expressed in interviews about the lack of coordination between the Police Department and other law-enforcement agencies as well. Apparently, the police force has not historically expressed any interest in working with state and federal authorities, much less with other city departments, and with so many different agencies involved in law-enforcement, such an attitude could obviously interfere with the pursuit of justice, the experts said.

The new Police Commissioner appears to be addressing this. The recently unveiled ‘Operation Sunrise’ is the first of a proposed series of joint operations that would end that historic lack of cooperation. ‘Operation Sunrise’ was described by the department as “the largest-ever contingent of federal, state, and local agencies mustered for an anti-drug initiative.” It involves the Police Department directing agents from the U.S. Drug Enforcement Agency, Federal Bureau of Investigation, Customs Bureau, Bureau of Alcohol, Tobacco, and Firearms, Immigration and Naturalization Service, U.S. Attorney’s Office, U.S. Marshals Service, Pennsylvania State Police, Department of Probation and Parole, Pennsylvania Attorney General’s Bureau of Narcotics Investigation, District Attorney’s Office, Streets Department, Health Department, and Licenses and Inspections, all in a massive strike to eradicate drug-dealing and violent crime from the neighborhoods of Kensington and Fairhill. The Police Department experts interviewed all expressed hope that ‘Operation Sunrise’ would also signal the dawn of a new era of cooperation among the different law-enforcement agencies.

Conclusion

The Committee of Seventy intends that this governance study serve as a springboard for informed public debate. If it fulfills this purpose, it will bring the subject of police governance into clearer focus and help transform divisive wrangling into reasoned and productive deliberation. In the near-unanimous opinion of the experts interviewed, the Police Department has much to be gained from meaningful reform of its management and personnel practices; the quality of the department is at stake and precious time has been lost already.

In choosing the group of experts to be interviewed, the Committee of Seventy exercised no pre-judgment of the views to be sought and entertained no preconceptions of the conclusions to be reached. All of the individuals were chosen on the basis of their prior interest and experience with the subject matter. We have endeavored to present all opinions faithfully as they were expressed in the interviews of those who consented to an interview.

Inevitably, the conclusions of the majority of experts on an issue received a greater proportion of space in this report, as they were articulated in more divergent manners by a consensus of the experts. These conclusions cannot be lightly dismissed as the experts have vast experience and knowledge of the subject. Yet, the perspectives of the minority should receive the same serious consideration, as a good solution is not necessarily a popular one, and a minority opinion of interviewees does not necessarily correspond with a minority opinion of the population at large.

Over its entire history, the Philadelphia Police Department has perhaps been one of the most over-analyzed organizations in the country, and has seen many mandates for reform and commissions for change and renewal. Currently the Police Corruption Task Force and the Integrity and Accountability Officer are reviewing the Police Department's recruiting and hiring practices, as mandated in the 1996 city settlement with the NAACP in response to the 39th District scandal. Further, the new Commissioner has called for a complete departmental review which will most likely include the governance issues examined here.

The Committee of Seventy by no means desires merely to add to this chorus of Police Department analysis. Seventy provides a unique perspective to this discussion, having spent the last ninety-four years with a solid reputation as a nonpartisan organization of concerned citizens dedicated to good government. Seventy's record of even-handed analysis of governance issues stretches back to the beginning of the century and encompasses all facets of governance in the region.

In the end, responsibility for determining the governance structures of the Police Department rests with the Police Commissioner, the Mayor, and ultimately, the citizens of Philadelphia. If the voters of this city feel strongly about these issues, they can make their voices heard and demand change. Of course, change comes slowly, regardless of its direction, but hopefully the Committee of Seventy's *Philadelphia Police Department Governance Study* will allow for greater deliberation regarding the best course to follow.

APPROXIMATE POLICE DEPARTMENT SIZE BY RANK OF THE TWENTY LARGEST U.S. CITIES

1771

<u>Philadelphia</u>		(16/20)	
Estimated 1996 Population	1,585,577 (5/20)		
Police Per 1000 Population	4.3 (4/20)		
* Commissioner	1		
* Deputy Commissioners	5		
Chief Inspectors	14		
Inspectors	32		
Captains	99		
Lieutenants	282		
Sergeants	554		
Detectives	525		
Corporals	209		
Officers	<u>5142</u>		
	6863 (4/20)		
<u>Baltimore</u>			
Estimated 1996 Population	736,014 (12/20)		
Police Per 1000 Population	3.3 (7/20)		
* Commissioner	1		
* Colonels	8		
* Lt. Colonels	1		
* Majors	26		
Captains	6		
Lieutenants	105		
Sergeants	367		
Detectives	411		
Officers	<u>1527</u>		
	2452		
	(9/20)		
<u>Boston</u>			
Estimated 1996 Population	574,283 (20/20)		
Police Per 1000 Population	3.5 (6/20)		
* Superintendent In Chief	1		
* Superintendents	5		
* Deputy Superintendents	12		
Captains	25		
Lieutenants	76		
Sergeants	273		
Detectives	260		
Officers	<u>1383</u>		
	2035		
	(13/20)		
<u>Chicago</u>			
Estimated 1996 Population	2,783,726		
	(3/20)		
Police Per 1000 Population	4.8 (3/20)		
* Superintendent	1		
* Deputy Commissioners	6		
* Chiefs	3		
* Deputy Chiefs/Commanders	78		
Captains	28		
Lieutenants	275		
Sergeants	1140		
Detectives	1491		
Officers	<u>10374</u>		
	13396 (2/20)		
<u>Columbus</u>			
Estimated 1996 Population	632,945 (16/20)		
Police Per 1000 Population	2.8 (13/20)		
Chief	1		
Assistant Chiefs	5		
Commanders	18		
Lieutenants	52		
Sergeants	202		
Officers	<u>1493</u>		
<u>Dallas</u>			
Estimated 1996 Population	1,007,618		
	(8/20)		
Police Per 1000 Population	2.8 (11/20)		
* Chief	1		
* Executive Assistant Chiefs	3		
* Assistant Chiefs	5		
* Deputy Chiefs	15		
Captains	11		
Lieutenants	78		
Sergeants	380		
Senior Corporals	1203		
Officers	<u>1141</u>		
	2837		
	(8/20)		
<u>Detroit</u>			
Estimated 1996 Population	1,027,974		
	(7/20)		
Police Per 1000 Population	3.9 (5/20)		
* Chief	1		
* Deputy Chiefs	5		
* Commanders	22		
* Inspectors	33		
Lieutenants	160		
Sergeants	558		
Investigators	155		
Officers	<u>3121</u>		
	4055		
	(6/20)		
<u>Houston</u>			
Estimated 1996 Population	1,637,859		
	(4/20)		
Police Per 1000 Population	3.2 (9/20)		
* Chief	1		
* Assistant Chiefs	11		
Captains	34		
Lieutenants	172		
Sergeants	880		
Officers	<u>4073</u>		
	5171		
	(5/20)		
<u>Indianapolis</u>			
Estimated 1996 Population	731,278 (13/20)		
Police Per 1000 Population	1.4 (20/20)		
*Chief	1		
*Assistant Chief	1		
*Deputy Chiefs	7		
*Majors	3		
Captains	17		
Lieutenants	74		
Sergeants	159		
Officers	<u>766</u>		
	1028		
	(20/20)		
<u>Jacksonville</u>			
Estimated 1996 Population	635,230 (15/20)		
Police Per 1000 Population	2.3 (16/20)		
*Sheriff	1		

*Directors	3
* Chiefs	11
Captains	5
Lieutenants	48
Sergeants	150
Officers	<u>1215</u>

(18/20) 1433

Los Angeles

Estimated 1996 Population	3,485,557
(2/20)	
Police Per 1000 Population	2.8 (12/20)
* Chief of Police	1
Deputy Chiefs	8
Commanders	19
Captains	66
Lieutenants	229
Detectives	1635
Sergeants	1047
Officers	<u>6800</u>
	9805

(3/20)

Memphis

Estimated 1996 Population	618,652 (18/20)
Police Per 1000 Population	2.7 (14/20)
*Chief	1
*Deputy Chiefs	3
*Directors	3
Inspectors	12
Majors	42
Captains	45
Lieutenants	137
Sergeants	222
Officers	<u>1199</u>
	1664

(17/20)

Milwaukee

Estimated 1996 Population	628,088 (17/20)
Police Per 1000 Population	3.3 (8/20)
*Chief	1
*Deputy Chiefs	4
*Commanders	2
Inspectors	5
Captains	25
Lieutenants	66
Sergeants	194
Detectives	244
Officers	<u>1551</u>
	2092

(12/20)

New York

Estimated 1996 Population	7,322,564
(1/20)	
Police Per 1000 Population	5.0 (2/20)
* Commissioner	1
* Deputy & Asst. Commissioners	10
+ Chief of Department	1
+ Bureau Chiefs	8
+ Assistant Chiefs	18
+ Deputy Chiefs	25
+ Inspectors	60
+ Deputy Inspectors	111
Captains	387
Lieutenants	1400

Sergeants	4200
Detectives	4100
Officers	

26500

36821 (1/20)

Phoenix

Estimated 1996 Population	984,310 (9/20)
Police Per 1000 Population	2.5 (15/20)
* Chief	1
+ Assistant Chiefs	6
Commanders	24
Lieutenants	72
Sergeants	306
Officers	<u>2007</u>
	2416

(10/20)

San Antonio

Estimated 1996 Population	959,295 (10/20)
Police Per 1000 Population	1.9 (17/20)
* Police Chief	1
* Deputy Chiefs	4
Captains	20
Lieutenants	41
Sergeants	194
Detectives	357
Officers	<u>1234</u>

1851 (15/20)

San Diego

Estimated 1996 Population	1,110,623
(6/20)	
Police Per 1000 Population	1.8 (18/20)
* Chief of Police	1
* Assistant Chiefs	7
Captains	16
Lieutenants	51
Sergeants	299
Agents	23
Officers II	1071
Detectives	374
Officers I	<u>158</u>
	2000

(14/20)

San Francisco

Estimated 1996 Population	723,959 (14/20)
Police Per 1000 Population	3.0 (10/20)
* Chief	1
* Deputy Chiefs	5
* Commanders	3
Captains	29
Lieutenants	88
Sergeants	291
Inspectors	182
Officers	<u>1564</u>
	2163

(11/20)

San Jose

Estimated 1996 Population	782,224 (11/20)
Police Per 1000 Population	1.7 (19/20)
* Chief	1
* Deputy Chiefs	5
Captains	11
Lieutenants	49
Sergeants	231
Officers	<u>1009</u>
	1306

(19/20)

Washington D.C.

Estimated 1996 Population	606,900 (19/20)
Police Per 1000 Population	5.9 (1/20)
* Chief	1
* Assistant Chiefs	4
* Commanders	8
* Inspectors	9
Captains	34
Lieutenants	140
Sergeants	450
Detectives	387
Officers	<u>2565</u>
	3598

(7/20)

- * indicates rank is exempt from civil service
- + indicates rank is a "detail" from civil service and serves at the discretion of the chief

(Numbers in parentheses indicate that city's ranking among the other cities in that category. All information was obtained through phone interviews with each city's police department. 1996 Census numbers were used for population figures as these are the most recent numbers available for all cities.)

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