

TESTIMONY OF
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THE MOLLEN COMMISSION

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I. MY TASK AND CONCLUSIONS

My task as I understand it, is to initiate the discussion of what should be done to deal more effectively with the kinds of corruption and misconduct that have been revealed through the work of the Mollen Commission and others.

Being an academic, I can only get to these conclusions by taking the long way around the barn.

So, bear with me for a few minutes while I try to put the problem and the possible solutions in a somewhat broader context of the history of New York City, and other national and international efforts to deal with the problem.

For those of you who can't wait for me to get to my conclusions, however, let me state them now and again later.

First, I am convinced that some form of independent agency should be created that can keep the attention of the public and the police department on police corruption and misconduct.

Second, to ensure that the ultimate authority and accountability of the Police Commissioner is not abridged, I think that the external agencies predominant, perhaps exclusive, responsibility should be to audit the Police Department's performance in controlling

corruption. It should not try to substitute for, or compete with, the Departments's won effort to control corruption. The Police Department is the agency responsible for controlling police corruption. The job of the external agency would be to warrant to the broader public the quality of their efforts.

Third, with respect to the internal arrangements for controlling corruption and misconduct, I believe it is important that operational commanders have the responsibility and the means to control corruption in their commands. This system of decentralized responsibility and accountability is essential to reclaiming the cultural commitment of the police department as a whole for those who resist corruption rather than those who tolerate it. It achieves this result by engaging much of the formal and informal powers of the Department's hierarchy in visible actions that show their intolerance of corruption.

Fourth, to make this system of "command accountability" work, it is important that central elements of the IAB make extensive use of aggressive investigative methods not just to develop evidence in cases when allegations have already been made, but also to try to develop new leads, and to probe for corruption in places where no allegations yet exist. Their findings can be used as the basis for discussions with operational commands about the quality of their efforts to deal with corruption.

It is also important that the overall investigative capacity focused on allegations of police corruption and misconduct--whether conducted centrally or by operational commands--be substantially upgraded. It ought to be possible to link cars to one another to help the Department find the "dangerous offenders" among the police as well as among the offenders. As a rule, the PD ought to be as aggressive (and as fair!) in investigating its own officers as it is in investigating citizens accused of crimes.

Finally, it is important to improve the Departments's ability to use the complaint processing system not only to initiate investigations, but also as the basis for aggregate analysis of the Departments's vulnerability to corruption and misconduct.

II. THE ANALYSES

Now let me tell you how and why I have reached these conclusions.

A. The Knapp Commission and Murphy's Reforms

The last time the public got a close look at corruption within the NYPD, and the Department's efforts to deal with it was 20 years ago in the Knapp Commission's hearing.

At that time, the corruption problems looked somewhat different (or at least it was framed somewhat differently)

No doubt, there were at the time, instances of police officers using their position to commit crimes such as theft, drug dealing, assault, and so on.

Yet, the Knapp Commission focused on public attention on a different part of the corruption problem: the problem of "pads" and "grass eaters" rather than "stings" and "meat eaters."

They did so for different reasons.

First, in many ways, this was the larger and more shocking of the problems they encountered. What was shocking about it was how pervasive, organizationally supported, and open it was. Many officers were involved. So were superior officers. So the behavior seemed "natural", and people were routinely recruited into the corrupt networks.

Second, the Knapp Commission believed that it was the "pads" and the "grass-eaters" that made it very difficult for the Department to get at the "stings" and the "meat eaters", for the complicity of the Department prevented many in the Department from taking aggressive action against the officers who were the worst offenders. Thus, they thought that it was at least necessary, and perhaps sufficient to clean up the "pads" to get at the other more serious instances of corruption--which, in individual instances, were often very serious.

Patrick Murphy, the newly appointed Commissioner, used the leverage supplied by the Knapp Commission's pressure, to make important reforms in the way the NYPD dealt with corruption.

He established the principle of Command Accountability, and organized and operated the Department to make it an urgent and vital theme in the Department's operations.

He changed the mission and task of the IAD from conducting ...

He authorized, developed and encouraged the use of aggressive investigative techniques: electronic surveillance

He worked on personnel selection and training.

And he altered police operations to make them more resistant to corruption (involving taking the PD out of some corrupting

businesses such as gambling outreach and street-level drug enforcement).

In doing so, he set an industry standard that remains an important one.

He also seems to have been effective in knocking out the organized pads--then, and perhaps even continues through today.

B. THE CONTEMPORARY PROBLEMS

As the work of the Mollen commission has made clear, however, the reforms were not successful in eliminating corruption and serious misconduct forever.

Moreover, the world has changed in some crucial respects since the days of the Knapp Commission.

The pressure on police corruption abated--as least until recently

The country faced an epidemic of cocaine use that made it imperative that the police go back into the business of street-level drug enforcement.

The city began shifting their department to a strategy of "community policing".

So, the challenge faced initially by the Mollen Commission and now through the agency of their hearing, the city at large are these:

One: How to go farther than Knapp and Murphy could go in routing out corruption and misconduct, and making the gains even more permanent.

Two: How to deal with the new forms of corruption that have become prominent today.

Three: How to integrate corruption control efforts with the new philosophy of community policing, and use the strategies of COP to help deal with corruption problems.

C. THE NEW FORMS OF CORRUPTION

Let me start by making some observations about the new forms of corruption.

What we face in these hearings looks different than the Knapp Commission.

Good news:

Smaller fraction of officers involved (but occurs in many places and involves more than one or two officers)

Less organizational support for the effort (no superior officers directly involved)

Less of a carte blanche for offender (officers are still trying to arrest, but to extort money)

Bad news:

Individual incidents are much worse--more vicious

Individual incidents are much more destructive of relations with community--particularly poor minority communities who need the police more than others.

One more piece of good news: May be easier to control

more dramatic

less shielded

Citizens as a potential ally in controlling it

In short, we face stings and meat eaters--now isolated from a general culture of support.

III. IMPLICATIONS FOR ACTION

I believe that my conclusions follow from the understanding of the historical context and the contemporary problems.

Need for external Agency

One thing history teaches is that it is difficult to keep the focus of attention on the problems of corruption and misconduct.

The reasons aren't hard to understand

Police commanders have to ask their troops to do dangerous things in ambiguous contexts

Troops want to know they will be backed

Particularly that they will be backed against bad allegations from bad people

It's hard to do the things one should: probe, investigate, discipline

Yet officers will use space to do wrong things--need some continuing pressure in the form of external accountability

One needs to plug the PD into a source of public concern that will keep sending voltage through the PD's corruption fighting system. Otherwise, they will slacken and fail to produce results. Indeed, one has to say that there was a failure of communication and focus; a failure to achieve excellence.

That is why I think it is essential that some on-going agency be created.

There is another reason as well: the boomerang probe

PD officials have to search actively

when found, are criticized

someone has to interpret for the public whether the corruption disclosed is indicative of success or failure

2. Presentation/Strengthening of Command Accountability

Even though PAD's have been eliminated, should not ignore wisdom and power of Murphy's reforms

Have to distribute the voltage widely through the Department as well as keep the voltage flowing

Return to principal of command accountability

In form of corruption now occurring, ought to be vulnerable to investigation

Therefore impose investigation--but at the center and in the operational commands

Not necessary to centralize to get high quality investigation though that often seems like the easiest way

3. Establish Principal of Accountability to Citizens

Use citizen complains more effectively

This is the domain in which commitment to CPS policing can prove helpful rather than harmful

In the past, quality control has depended on top--down controls and "defect finding"

Industry has found that a better approach to quality has been to focus attention on values and customer satisfaction

Peer and customers recruited to help guarantee quality, not just managers and supervisors

That holds pressure for satisfying both investigative and preventative system within the PD

Thank you for your attention and the opportunity to have worked with you.

The opportunity here is for the Department to embrace and the Mollen Commission to help establish a proper from of accountability that can measure and report on the Department's efforts to control corruption and serious misconduct.

Thanks for your attention.