

The City of New York

Commission to Combat Police Corruption

**Review of the New York City Police
Department's Recruitment and Hiring
of New Police Officers**

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I. INTRODUCTION

The Commission to Combat Police Corruption (“Commission”) was created by Mayor Rudolph Giuliani on February 27, 1995 by Executive Order No. 18. The rationale behind the Commission’s creation was to establish an independent agency to monitor the anti-corruption procedures, practices, and policies of the New York City Police Department (“Department,” or “NYPD”). Over the last six years, the Commission has fulfilled this mandate through, among other projects, studying the operations of the Internal Affairs Bureau (“IAB”), the Department’s disciplinary process, and the Department’s systems for monitoring “problem” officers.¹

During its six-year tenure, the Commission has also studied and monitored the hiring practices of the Department. In 1999, the Commission, citing the NYPD’s need to hire candidates of the highest integrity in order to maintain a Police Department intolerant of corruption, published a study reviewing the thoroughness of the Department’s background investigation process for those civilians who applied to become members of the service.² The use of background investigations is based upon the belief that the past conduct of an applicant is an important predictor of future behavior and character. The purpose of the study was to determine the thoroughness with which the

¹ A complete list of the published reports of the Commission is provided at the end of this Report.

² See the Commission’s Report, *Performance Study: A Review of the New York City Police Department’s Background Investigation Process for the Hiring of Police Officers* (January 1999), (hereinafter “*Hiring Study*”). The Commission undertook this 1999 study based upon the report issued by the Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department (“Mollen Commission”). That report found that Department criteria for employment was not sufficiently strict and background investigations for 88% of the officers that the Mollen Commission studied were not completed at the time these officers were admitted to the Police Academy. The Mollen Commission also found that many of the officers in its study who had been dismissed or suspended for corruption or serious misconduct had prior indicators in their backgrounds of character deficits, making them unsuitable for employment with the NYPD.

Department sought to discover applicants' prior actions that may have served as indicators of their suitability to serve New York City (the "City") in a law enforcement capacity.

For the 1999 study, the Commission interviewed Department managers and supervisors responsible for hiring police officers, reviewed standards set forth in the Department's investigative manual, reviewed statutes and rules which imposed hiring criteria for police officer positions, and examined 115 background investigation files. In its review, the Commission determined that while all candidates met the Department's minimum mandatory requirements for employment as police officers, additional screening processes to discover information about the candidates' characters were desirable. Specifically, the Commission determined that there was an over reliance on relatively uninformative written responses, and recommended that the Department engage in more personal contact with candidates' neighbors, prior employers, and the academic institutions that they attended in an effort to learn about the candidates' past behavior. The Commission recommended that this information be obtained prior to hiring each candidate and before their training at the Police Academy (the "Academy").³

Recent reports in the media⁴ have highlighted that police departments across the country are experiencing difficulties recruiting sufficient numbers of candidates to maintain current policing

³ The Commission also recommended more restrictive hiring criteria where a candidate possesses recent misdemeanor criminal convictions, prior driving violations, and/or youthful offender adjudications. *See id.* at pp. 7-8 for a more complete discussion of these recommendations and further recommendations made to improve the Department's hiring process.

⁴ *See, e.g.* "Police Departments Struggle to Find Recruits," The Detroit News, June 3, 2000; "Struggling to Find the Next Generation," USA Today, November 20, 2000; and "Booming Economy and Scandals Turn Away Police Recruits," Fox News, October 24, 2000.

levels and that the standards applied to select recent recruits has declined.⁵ The NYPD has also been experiencing challenges in maintaining its current policing levels through the hiring of new recruits.⁶ Therefore, the Commission determined that it would be appropriate to once again review the Department's hiring practices. In conjunction with this review, the Commission sought to expand upon its prior study by also examining the manner in which the Department recruits individuals to apply for positions. Additionally, the Commission examined how new officers, once they were hired, were trained at the Academy in integrity-related issues. The Commission also reviewed how officers at the Academy were disciplined. Another goal of this study was to determine which, if any, of the recommendations made by the Commission in the prior 1999 study and reiterated in its *Fifth Annual Report*⁷ had been adopted by the Department and the effects of these recommendations on the screening process. Finally, the Commission compared the most recent graduating class from the Academy to those that graduated in the last five classes in an effort to determine whether, in fact, there was an increasing number of disciplinary and/or academic issues with the present class.

II. CONCLUSIONS AND RECOMMENDATIONS

Due to a variety of factors including declining police morale and, at least until recently, the health of the economy, police departments across the United States have experienced difficulties recruiting and hiring qualified candidates for police officer positions. The decline in applicants is also being experienced by the NYPD. Additionally, this decline has led to speculation that the

⁵ See, e.g. "Flaws Seen in Effort to Fill Police Class," Flynn, Kevin, The New York Times, July 2, 2001. See also "Getting Backup: Twenty-One Steps Public Officials Can Take to Support Their Local Police," Moffit, Robert E. and Meese, Edward III, The Heritage Foundation Background, No. 1089 (August 6, 1996). But see "Running Out of Blue," Libaw, Oliver Yates, ABC News.Com (July 10, 2000) (Recruiters say that departments are unwilling to lower or modify their hiring criteria).

⁶ Statistics provided by the Department indicate that in the year 2000, 1100 members of the service retired and as of March 2001, 468 members of the service retired.

⁷ See the Commission's *Fifth Annual Report*, (February 2001), at pp. 55-63.

standards employed by the NYPD in the selection of applicants have been lowered. In meetings with Department personnel, the Commission found that the Department was engaging in thoughtful deliberations to attract more candidates and to better train these recruits once selected. During the course of researching this Report, several changes were made and others were being discussed in an effort to attract new candidates including waiving the fee to take the written Police Civil Service Examination (the “Examination”),⁸ offering the Examination more frequently, and offering the Examination on college campuses and military bases. There also is the possibility that the positive perception of police officers flowing from the horrific events of September 11 will assist in recruiting.

The Commission applauds the new methods that have been introduced by the Department to recruit and train candidates. However, the Commission still believes that the improvements to background investigation procedures recommended in its 1999 study should be implemented. For the most part, the Department has not instituted these changes. In part, this is because of its view that additional efforts will not produce materially more information. As a result, Applicant Processing Division (“APD”) investigators are still relying on telephone contact to complete neighbor reference checks and on written forms to verify the education and job history of candidates.

⁸ The Police Civil Service Examination is administered by Department Citywide Administration Services and consists of approximately 80-100 multiple choice questions designed to test the candidate’s abilities for written comprehension, written expression, memorization, problem sensitivity, number facility, deductive reasoning, inductive reasoning, information ordering, spatial orientation, and visualization.

There are still issues surrounding the timing of these checks and the receipt of the written materials back from third parties.

Furthermore, there still appears to be a lack of follow-up investigation by APD investigators when they either do not receive information or receive inconsistent or derogatory information. Additionally, the information that APD does collect does not appear to contain substantive information about the candidate. The Commission understands that employers may be reluctant to provide substantive information and academic institutions may not have personal knowledge about the candidates. Furthermore, given the transient nature of living in the city, neighbors may not know the candidate or possess little information about the candidate. Therefore, even the best efforts to gather substantive information about the candidate may not produce the optimum results.

In this study, the Commission reviewed statistical data from the last six classes to graduate from the Academy. Since only a small number of classes were compared, the Commission cannot extrapolate definitive conclusions from the data presented here. However, from this review, it appears that there has been a slight decline in the number of candidates who have successfully completed Academy training. While the failure rate of each class after the institution of the mandatory educational requirement initially decreased, this rate increased beginning with the March 2000 class. While the number of terminations of cadets in the Academy decreased in the July 1999, March 2000, and September 2000 classes, these March and September 2000 classes also saw significant increases in the number of recruits held back from Academy field training⁹ as well as increases in the number of disciplinary infractions in the form of material increases in the number

⁹ Cadets can be held back from the 30-day Academy field training for many reasons including poor academic performance, physical illness, physical injuries, disabilities, or pregnancy.

of demerits, command disciplines, and charges and specifications issued to members of these classes. While the Commission cannot draw definitive conclusions from these statistics, this plainly is a troubling trend warranting close attention by the Department.

Based upon these findings, the Commission makes the following recommendations:

- All investigative background steps should be completed prior to the candidate's appointment to the Department. While the Commission recognizes that the Department faces obstacles in obtaining information when prior and present employers and academic institutions do not complete verification forms in a substantive manner and return them in a timely fashion, APD needs to be diligent and make further efforts, including personal contact in order to retrieve these forms or make personal contact with the employers and schools to obtain the requested information orally when it is not otherwise forthcoming.
- While the Commission recognizes that obtaining substantive information on a candidate can be difficult, given the importance of background checks, the Commission believes that the Department needs to expand its efforts to identify problematic applicants so that they do not become problem officers. The Commission continues to recommend that APD make personal contact with neighbors as well as with employers and academic institutions. This is especially critical when inconsistent or derogatory information is obtained. Personal contact may, in many cases, produce more substantive information than formal written responses.
- Often, APD investigators count people who do not know the candidate or are only vaguely familiar with the candidate as neighbor reference checks. Such references can only provide minimal, conclusory information, if they provide any information at all. In order for these reference checks to be meaningful, the Department should make personal contact with three neighbors who actually know the candidate and are familiar with his lifestyle.
- In recognition, however, of the problems in acquiring information, the Commission also recommends that each candidate be required to provide his APD investigator with three references who know the candidate and can answer in-depth questions about him. Through interviews of these people - - who undoubtedly will almost always provide positive information - - APD can attempt to go behind the initial comments of the reference and also obtain the names of others who actually know the applicant. At least one of these references should be a present or former employer of the candidate and at least one of these references should be a present or former neighbor of the candidate.
- In conjunction with the above recommendations, APD investigators should receive additional training in interviewing techniques. This training should

enable them to ask questions beyond those that currently appear on the reference forms used by the Department. Furthermore, this training should instruct the investigators on how to ask appropriate follow-up questions and questions designed to gain substantive information.

- It is clear that many factors are contributing to the Department's difficulties in attracting qualified candidates. In light of this and the increasing number of candidates in recent classes who are experiencing difficulties in completing Academy training and the increasing number of disciplinary infractions which are being issued, the Commission recommends that the Department closely monitor future classes to determine whether a negative trend is emerging, and if so, determine what necessary changes in its hiring criteria and background investigations would be appropriate.
- During its observations of integrity-related classes taught at the Academy, the Commission observed, for the most part, enthusiastic and well-prepared instructors. However, some material presented to the cadets was dated, which may lessen its effectiveness. The Commission recommends that, where possible, the Academy utilize materials that are more recent, cases, and examples so that the cadets have some familiarity with the material and can incorporate what is being taught into their own frame of reference.

III. METHODOLOGY AND BACKGROUND

A. Methodology

In connection with this study, Commission staff met with Department personnel from three distinct units. The first, the Recruitment Unit, is responsible for recruiting people to take the Examination. The second, APD, conducts background screening of applicants. The third, the Academy, trains the newly hired officers. Additionally, Commission staff met with representatives from Department Citywide Administration Services ("DCAS"), a non-NYPD entity that creates

and administers the Examination, and supervisory personnel responsible for overseeing the administration of the psychological testing and interviews. The Commission also examined a sample of the background investigation files for a recent graduating class from the Academy¹⁰ and observed classes taught at the Academy that addressed police integrity issues. Finally, the Commission researched the procedures that other police agencies are using to address hiring difficulties, and reviewed certain comparative statistics for the past six Academy classes and the most current curriculum being used at the Academy.

1. Meeting with Department Supervisors

Commission staff met with the Commanding Officer of the Department's Recruitment Section, the Director of Training from the Academy, the Commanding Officer from the Academy,¹¹ and the Commanding Officer of APD. Commission staff also met with the Director of the Uniformed and Technical Examining Group Division of Citywide Personnel Services of DCAS, the Assistant Commissioner of DCAS, and the Director of the Psychological Services Unit of the Department. These supervisors discussed with Commission staff the role of their respective sections and the procedures their respective sections used to fulfill these roles. These individuals also spoke about their perceptions concerning the effects of certain employment criteria on the quality of new recruits, the reasons for the recent decline in applications, and Departmental strategies to increase the number and quality of individuals who apply to become police officers. Because much of this material and subject matter has not been reduced to writing, research by the Commission necessarily

¹⁰ This class entered the Academy in September 2000 and graduated in May 2001.

¹¹ Commission staff met with Academy personnel on three separate occasions. Between the first and second meetings, the Commanding Officer of the Academy was transferred to another division within the Police Department. At the time of the second meeting, the Commission only met with the Director of Training. For the third meeting, both the Director of Training and the new Commanding Officer were present. The Director of Training has since left his position at the Academy.

involved self-reporting by personnel from each unit interviewed.

2. Review of APD Background Investigation Files

To ascertain whether recommendations from the Commission's 1999 study had been implemented by the Department and to examine the qualifications and backgrounds of the May 2001 graduating Academy class, Commission staff reviewed 93 APD investigative files established and maintained by APD personnel. The Commission reviewed each file to determine if the initial investigation and any further investigative steps taken met the requirements set forth in the APD Manual (the "Manual").¹² As in its 1999 study, the Commission focused on five areas: residency; education; employment; arrest and summons history; and driving history. In connection with these five areas, the Commission reviewed: whether the critical documents associated with each candidate were sent to the required third parties;¹³ whether these documents were returned and the extent to which they were completed by the third parties; whether the information in these documents was accurate as measured by its consistency with information contained elsewhere in the investigation file; whether there was any derogatory information about the candidate in these documents; whether APD made personal contact with people who knew the candidate; and whether the investigator took appropriate follow-up investigatory steps and properly evaluated the information in the context of the Department's hiring criteria.

¹² The APD Manual sets forth the specific investigative steps to be followed in conducting a background investigation of a candidate for the NYPD. For further discussion regarding the investigative process as described in the APD Manual, see *The Hiring Study*, at pp. 24-25. Although APD reports that the Manual is being revised, the May 2001 Academy class was evaluated under the standards set forth in the old APD Manual.

¹³ Critical documents that APD sends to third parties include the School Inquiry Form (APD-16), Campus Security and Local Law Enforcement Inquiry (APD-45), and the Employment Verification Form (APD 19). In addition to these completed documents, college transcripts are also considered by the Commission and the Department to be critical to a complete and thorough investigation.

3. Review of Department Statistics

The Commission also requested and received comparative statistics for the last six classes that graduated from the Academy. The statistics included the number of recruits who began at the Academy and who completed the Academy, the pass/fail rate of each of these classes, the ethnic and gender makeup of each of these classes, and the disciplinary infractions recorded for each of these classes.

4. Observation of Academy Classes

Commission staff attended and observed seven Academy classes taught to the September 2000 class. These classes included courses on rooting out corruption and ethics. In observing the classes, Commission staff sought to evaluate the quality of the instruction, the relevancy of the materials being used during the class, whether the topics discussed were addressed in an appropriate and accurate manner, and whether the topics were appropriate and relevant to the issues of integrity.

B. Declines in Police Applications

As stated earlier, there is concern that police departments across the nation are lowering their standards in an effort to attract new recruits and fill vacancies. While the current economic environment may encourage additional applications to police departments, where once departments were wait listing qualified applicants, due to the decline in applications, these same departments have been struggling to attract desirable candidates. Many factors may be responsible for the decline in applications. Chief among these is the health, until recently, of the economy, the relatively low salary for police officers, the higher minimum age requirement, the college credit requirement, and highly publicized incidents involving police officers and members of minority communities. In addition to their generalized impacts, these factors may affect the morale of currently employed and

recently retired members of the service. As explained by one Department executive, the best recruitment device for the Department has always been the individual effort of the police officers themselves among their families and friends. When morale is poor, these individual officers are less likely to encourage their children, siblings, and friends to join the Department.

Although the reason for declining interest in police work is not the focus of this study, a report about the Department's methods to attract and discover qualified candidates to police service would not be complete without some discussion about the salaries being paid to New York City police officers as compared to the salaries of police officers in comparable departments. Comparing compensation levels is not always a simple task. Salary - - the easiest component of compensation to quantify - - is only part of an overall compensatory package. Benefits, pensions, sick days, and vacation days are other elements, and New York has generally been relatively generous in these areas.

Focusing solely on salary, however, a NYPD recruit's starting salary is \$34,970 annually.¹⁴ During the course of this review, the Commission researched the starting salaries for members of the service from other similarly large law enforcement agencies such as the police departments for Dallas, Miami, Chicago, Boston, and Los Angeles as well as for two of the Department's neighboring counties, Nassau and Suffolk. Only two of these agencies paid higher starting salaries.¹⁵ The salaries of two additional agencies; however, had greater increases after the first two years on the job than the increases received by New York City police officers.¹⁶ When a broader sample is

¹⁴ This is the salary paid after graduation from the Academy. The salary is lower for cadets still at the Academy. According to a NYPD recruitment brochure, this salary can be higher with the addition of overtime pay, holiday pay, and night differential pay.

¹⁵ The Suffolk County Police Department would not release salary information, so it is unknown whether its starting salary is higher. Therefore, for the purposes of these calculations, the Suffolk County Police Department was not included. The two agencies that paid higher starting salaries were Boston, Massachusetts and Los Angeles, California.

¹⁶ These agencies are Chicago, Illinois, and Nassau County, New York.

used, the salary numbers for the NYPD are worse. Of 67 law enforcement agencies reviewed by the Commission, 19 paid higher starting salaries than the NYPD.¹⁷ Perhaps most significantly, salaries paid in some neighboring suburban counties are materially higher than those paid in New York.

C. Overview of Hiring Process

The NYPD's procedure for selecting and appointing individuals to police officer positions is different from the methods used by private organizations to hire employees. Officers who work with the NYPD not only interact with the public on a daily basis, but are both armed and given enormous authority vis-à-vis civilians. They therefore must have upstanding moral character, good communication skills, and a sufficiently even-tempered disposition while still displaying characteristics of assertiveness, decisiveness, and courage. For this reason, each candidate who applies to the NYPD is required to undergo a battery of mental and physical tests, interviews, and background inquiries into his¹⁸ family, his education, and his life *before* he can be appointed as a police officer. However, even before a potential candidate can volunteer for such background scrutiny, that person must pass the Examination.

IV. RECRUITMENT

A. The Recruitment Unit

¹⁷ These agencies included the police departments of: Greenwich, Connecticut; Anchorage, Alaska; Madison, Wisconsin; Milwaukee, Wisconsin; Glendale, Arizona; Palo Alto, California; Minneapolis, Minnesota; Los Angeles, California; Phoenix, Arizona; Oxnard, California; San Carlos, California; Henderson, Nevada; North Las Vegas, Nevada; Las Vegas, Nevada; Kent, Washington; Bellevue, Washington; Boston, Massachusetts; and the Federal Bureau of Investigations. For one of these agencies, Palo Alto, California, salary was calculated using an hourly wage instead of an annual wage. For comparison purposes, this salary was translated into an annual salary based upon an eight-hour day, five-day work week, 52 work weeks per year. Of the 67 agencies reviewed, the Commission was not able to determine the starting salaries for 14 agencies. The Commission is aware that the cost of living among these cities varies and this variation does affect the economic benefits associated with these salaries. The Commission did not adjust the salaries to account for this variation.

¹⁸ The third person masculine pronoun will be used in conjunction with all police officers regardless of their gender.

The Recruitment Unit conducts presentations in colleges and other places where large groups of eligible candidates are present. To interest people in taking the Examination, presentations are done through tabletop displays manned by officers within the unit who provide information to potential recruits.¹⁹ In addition, the unit produces brochures about the benefits of joining the NYPD, and these are distributed to audiences who are potential candidates. Finally, the Recruitment Unit produces and places advertisements about the Examination in various forms of media. This includes print media,²⁰ radio, and billboards. Public service announcements and announcements made during local sporting events are also part of the recruitment strategy. In recent years, there also has been an increased use of formal paid advertising.

In addition to tabletop displays, advertisements, and personal contact, the Police Department maintains an Internet website which provides information to individuals interested in becoming members of the service.

B. New Recruitment Innovations

With the decline in applications for employment with the NYPD, a large part of the Department's recruitment effort has and must be directed toward persuading individuals to take the Examination. In the past, over one-third of the people who initially completed the Department application failed to actually show up on the test date. Now, in order to increase the number of people who take the Examination, the NYPD telephones these applicants at home prior to the test date to remind and encourage them to appear.²¹ The NYPD is also tracking those individuals who

¹⁹ These table top displays are used during career fairs, and at schools, military bases, and other special events. For instance, Recruitment personnel manned displays at the World Series and college sporting events.

²⁰ Advertisements are placed in 58 newspapers within the state.

²¹ Unfortunately, this strategy did not appear to make a recognizable difference based on the number of people who showed up for the 2000 Examination.

do not show up to take the Examination in order to determine why they chose not to take the test.²²

An additional change within the Department that is under consideration is the creation of a permanent Retention Unit. This unit would work with APD to identify those applicants who passed the Examination but did not complete the background investigation procedure. Once identified, these candidates would be contacted by the Retention Unit to examine their reasons for discontinuing their participation. Retention Unit officers then would try to address the applicants' concerns and would encourage them to reopen and complete their applications. This particular procedure was tested after the 2000 Examination when 17,000 applications became inactive.²³ At that time, the Recruitment Unit sent letters and telephoned these applicants and, according to Department supervisors, were responsible for re-activating at least 400 candidates.

One method of recruitment that the Department has available is the Cadet Corps. The Cadet Corps recruits at the high school level by sending the schools brochures and applications.²⁴ To participate in this program, the high school student, after receiving his high school diploma or GED, must register for college classes with a New York City or Long Island college. Then, the cadet will work part-time at the Department while he attends school. Upon completing two years of college, the cadet continues to work for the Department on a part-time basis and is also given an additional \$1000.00 per semester²⁵ to defray the costs of tuition. When the cadet graduates from college and passes the Examination, he is placed on a separate list that is given priority over the standard open

²² After the 2000 Examination, the Recruitment Section contacted one hundred people who had applied, but ultimately did not show up at the testing site, to determine the reasons for their absence. The most common reasons given were that the individual was required to attend work, was sick, or had an illness in the family. This was the case even where the absent applicant was given a series of choices to explain his absence, including that the position was not interesting or the pay was not sufficient.

²³ In this context, inactive refers to the candidate failing to continue to cooperate with the investigative process for any reason.

²⁴ Department executives report that high school career counselors, unaware of the 60 college credit requirement, appear to be steering the non-college bound students to careers with the Department.

²⁵ There is a maximum of \$4000.00 in college aid per cadet.

competitive list.

To further attract candidates, the City, itself, also implemented some changes in the administration of the Examination. At the time of the Commission's meeting with DCAS personnel, an application to take the Examination was not accepted unless accompanied by a non-refundable thirty-five dollar fee, which would only be waived if the applicant could prove that he was receiving public assistance.²⁶ In April 2001, the City, in an effort to attract more candidates, waived this fee. It has been reported that after waiving this fee, 7000 candidates applied to take the Examination, a significant increase from the number of applicants prior to the announcement and an increase in the number of applicants for the last examination.²⁷ However, although DCAS executives report that this examination only had a 50 percent turnout, the City waived the fee again for the next Examination on November 17, 2001.²⁸

Another change instituted by DCAS, at the request of the Department, is a longer application period for each Examination. According to DCAS supervisors, most open, competitive civil service examinations have an application period of twenty days. In the past, the Department would request that the application period for the Examination be extended beyond the twenty days when an insufficient number of individuals applied to take it. DCAS now uses a two-month application period for the Examination.

In addition to lengthening the application period, DCAS has increased the frequency with

²⁶ This fee was used to help cover the costs of devising and printing the Examination, hiring proctors for the Examination, scoring the Examination, and inputting information from the application into DCAS' computer system.

²⁷ See "Fee waiver pays off," *Civil Service*, Farrell, Bill, The Daily News, (May 9, 2001) and "Mail Balloting Set for DC 37 Pact," *Civil Service*, Farrell, Bill, The Daily News (April 18, 2001). However, on July 11, 2001, The Daily News reported that although the number of applicants increased for the June 2001 Examination, only slightly more than 50% appeared to take the Examination. "New Year of Job Tests Kicks Off," *Civil Service*, Farrell, Bill, The Daily News, (July 11, 2001).

²⁸ Additionally, at the request of the Department, the November 17, 2001 Examination is being offered on multiple test dates including two weeknights and a Sunday in an effort to make taking the Examination more convenient. Different forms of the Examination will be used on each test date.

which Examinations are administered. Prior to the mid-1990s, the Examination was offered only once a year. When offered only annually, there were approximately 30,000 applicants for each Examination. Currently, the Examination is being offered twice a year. Although there are still 10,000-15,000 applicants per Examination, there is a significant overlap as many applicants sit for the Examination every time it is offered.²⁹ In the next fiscal year, DCAS plans to offer the Examination at least three times.

Another change that is being considered is recruitment and administration of the Examination at “mustering out” military bases.³⁰ Military base Examinations would attract candidates who have the potential to meet the two-year military service requirement that is accepted as an alternative to possessing 60 college credits. Additionally, the NYPD is considering offering Examinations at other remote locations such as college campuses or via the internet. By offering the Examination on college campuses, it may be possible to attract more educated candidates, while on-line Examinations would provide convenient access to the Examination for interested candidates. This change would also permit people who are not currently present in New York City during the administration of the Examination to take the test at their current locations. The Department conducted its first set of on-site Examinations at a military base in North Carolina during the NYPD June 2001 recruitment campaign.³¹

Another recruitment idea under consideration is offering immediate testing on the same days that military personnel are being recruited. Offering the Examination on the day of these career fairs and seminars would be a departure from the current procedure in which the NYPD participates in

²⁹ Reasons to sit for the Examination more than once include, failing the Examination or attempting to improve the applicant’s score so he can advance on the certified list. An applicant can take the Examination an unlimited number of times until he passes it.

³⁰ Mustering out refers to the bases where servicemen are sent prior to their discharge from the military.

³¹ Only 28 people actually sat for the Examination at the Marine Corps base. See “Mail Balloting Set for DC 37 Pact,” *Civil Service*, Farrell, Bill, The Daily News (April 18, 2001).

events at these bases and returns at a later date to administer the Examination. A disadvantage of the current practice is that those who have expressed an interest in becoming a member of the service at the career fair may be unavailable due to a transfer to a different base when the Examination is administered.

From discussions with Department executives, the Commission and Department are in agreement that the application process needs to be expedited through shortening the length of time between the expression of interest in taking the Examination and the actual Examination.³² This delay may account for some loss of applicants throughout the hiring process. One such change is the open filing system or the use of rolling applications. Such a system would help prevent the loss of individual applicants who may have expressed interest in joining the NYPD during a closed filing period by allowing them to file an application whenever they choose instead of waiting for an undetermined date in the future when the filing period will open. Once sufficient applications are received to justify administering the Examination, one can be scheduled.³³ By expediting the application and examination process, the Department will at least shorten some of the delay between an individual's expression of interest in joining the Department and his actual appointment. Implementation of this, as well as other ideas, however, requires action by other, outside agencies, such as DCAS.

A final change implemented by the Department is the substitution of two years of service as a

³² Under the current system, individuals cannot apply to take the Examination until the filing system opens and the "Notice of Examination" is published. Interested applicants who wish to apply during closed filing periods receive a "business reply card" which, if completed and returned to the Department, adds the individual's information to the Department's mailing list. The individual then will be contacted to submit an application once the filing period reopens.

³³ However, presently, such a system is not feasible because it would necessitate the use of "continuous lists." Continuous lists would maintain all applicants who have passed the Examination in rank order regardless of which Examination date they attended. This idea has been rejected for two reasons. First, continuous lists would require that each Examination be sufficiently similar to allow a meaningful comparison among applicants who sit for different Examination dates. Furthermore, DCAS does not yet have the computer capability to generate continuous lists. A computer system is currently planned that would be able to generate and maintain continuous lists.

Traffic Enforcement Agent (“TEA”) or a School Safety Agent (“SSA”) for the requisite two years of military service or 60 college credits currently required for appointment. While in theory this may be perceived as a lowering of standards, this change has two clear advantages. First, the Department is in a position to evaluate the performance of these candidates in an enforcement type role and, second, it increases the pool of minority candidates available to join the Department.

V. CONSIDERATION OF APPLICANTS BY THE DEPARTMENT

A. APD

Once the Department receives the list of applicants who have passed the Examination, it begins a background investigation of every listed individual. This investigation, carried out by APD, involves several steps. APD meets with the candidate and investigates the candidate’s personal, academic, and employment history.³⁴ Each APD investigator generally handles 40 to 70 cases at a time. If a candidate is deemed qualified after the APD investigation, he will be called to participate in training at the Academy.

APD investigators who are involved with the candidate screening process are required to follow the Manual, which describes the specific investigative steps to be followed by the investigator when reviewing a candidate’s background. According to the Manual, there are thirteen core areas that an investigator must explore when examining a candidate’s background.³⁵ In the Commission’s 1999 study and again in its follow-up review,³⁶ the Commission specifically focused on whether

³⁴ While this investigation is being done by APD, the candidate must also undergo physical testing by the Medical Division and psychological assessments by the Psychological Services Unit.

³⁵ These are: personal data, residence record, family record, education record, employment record, arrest and summons history, driving history, license and firearm record, military service record, Selective Service record, debts/financial status, controlled substance/alcohol use, and miscellaneous information including any volunteer or auxiliary service records.

³⁶ See the Commission’s *Fifth Annual Report* (February 2001), at pp. 56-63.

APD was complying with the Department's policy of making personal contact with neighbors, and with obtaining information from academic institutions that the candidate attended and from employers for whom the candidate worked.

In the Commission's 1999 study, the Commission determined that in the majority of cases, the required investigative steps were being taken in a timely manner. However, there still were a significant number of cases where the steps either were not taken prior to the candidate's appointment or were not taken at all. In addition, the Commission noted that the Department was overly relying on written communication from previous employers and academic institutions for background information on candidates. In connection with the Department's requirements that APD contact three neighbors of the candidate for each of the candidate's residences during the five years prior to appointment, at the conclusion of the *Hiring Study* and in the subsequent follow-up report, the Commission also recommended that APD investigators initiate personal contact with these neighbors rather than relying on telephone contact. During the course of the Commission's second study of APD investigations, APD instituted field visits to neighbors of some candidates on a trial basis. In June 2000, however, the Department stated that this practice had not turned up any derogatory information in approximately 2000 field visits and discontinued its use.

At the conclusion of its second review, the Commission continued to recommend that field visits be made to three neighbors with actual knowledge of the candidate and that those neighbors lacking any knowledge about the candidate not be considered an adequate personal reference.

B. Overview

For this Report, the Commission reviewed 93 background investigations chosen at random from those candidates who were appointed to the Academy class that began in September 2000 and graduated in May 2001. As discussed earlier, the Commission focused on the same investigative

areas as in previous reports: whether the candidate met the mandatory requirements for employment, whether the candidate was subject to any of the in-house disqualifiers used by the Department,³⁷ the candidate's school record, employment record, criminal history, driving record, and the personal reference check through interviews with three neighbors. The timing of these investigative steps was also examined.

While the Commission found that in the majority of the files reviewed the investigative steps were being followed in a timely manner, there was still a significant number of cases where the investigative steps were not taken prior to the candidate's appointment or were never completed at all. Furthermore, in some cases, although the APD investigator requested the required information, it was never received and the APD investigator failed to take additional steps to obtain the information. As noted in prior studies, the Commission once again found that the forms utilized by the Department to conduct background investigations do not generally produce substantive information. While this is due, in part, to the reluctance of employers and others to provide meaningful information, there often is no personal contact by the Department to try to obtain more substantive input.

³⁷ The concept of in-house disqualifiers is discussed at pp. 23-25.

C. APD Folders from Most Recent Class

First, the Commission sought to determine whether APD investigators had followed the requirements for conducting a background investigation as set forth in the Manual. Initially, the Commission examined whether all of the mandatory requirements for appointment to the Department were met by each of the candidates.

In order to be considered a candidate for the Department,³⁸ an individual, at the time of hire, must: (1) be at least 21 years of age but no older than 35 years; (2) be a citizen of the United States; (3) possess a valid, unrestricted New York State driver's license; (4) reside in either one of the five boroughs of New York City or one of its six surrounding counties;³⁹ (4) have graduated from high school or possess an equivalent degree; and (5) have either completed 60 college credits at an accredited institution with at least a 2.00 grade point average; completed two full years in the United States Military; or completed two years as a TEA or SSA.

Even with the above qualifications, an applicant will not be appointed if he has been: (1) convicted of an offense that demonstrates poor moral character; (2) convicted of an offense which is punishable by one or more years in prison; (3) convicted of repeat offenses that demonstrate a lack of regard for the law; and/or (4) convicted of domestic violence misdemeanors. By operation of law, individuals who possess a felony conviction or dishonorable discharge from the United States Military are automatically disqualified from appointment to the NYPD.

All of the candidates in the Commission's sample appeared to meet the mandatory requirements. In ten of these cases, the Department appropriately held back files until all outstanding requirements were met. For example, one candidate only had his driving learner's

³⁸ The NYPD may change, revise, or otherwise qualify these requirements. Therefore, this information should be considered only as a general guide. Please consult the Notice of Examination for a complete listing of the necessary qualifications.

³⁹ These are Rockland, Putnam, Orange, Suffolk, Westchester, and Nassau Counties.

permit at the time he was investigated for hire. He was not approved until he passed his road test and received his interim driver's license. Another candidate applied to the Department in October 1999 but was not approved until he became a United States citizen.

The Commission also reviewed the files to determine if all of the candidates met the Department's in-house discretionary requirements. In addition to the mandatory requirements discussed above, the Department has developed a system of objective in-house disqualifiers, which, in furtherance of the recommendations contained in the McKinsey Report,⁴⁰ assist the Department to quickly eliminate those candidates that are not suitable applicants, thus freeing the investigators to concentrate their efforts on better-qualified candidates. These in-house disqualifiers⁴¹ are concentrated in three distinct areas: (1) employment; (2) arrests; and (3) driving records. Specifically, in the first category, an applicant is presumptively disqualified from employment with the Department if he has been dismissed from tenured government or public employment. In the second category, an applicant who has a specified number of misdemeanor convictions where the underlying charge was a felony⁴² or criminal court summonses⁴³ within a specified period of time is also presumptively disqualified. In the final category, disqualification is applicable if the applicant's

⁴⁰ The McKinsey Report was a study analyzing the overall hiring process of the Department and its effectiveness in hiring the most qualified and racially diverse individuals. See "Strengthening the Effectiveness of the New York City Police Department Applicant Processing System," McKinsey & Company, Inc., August 1993.

⁴¹ For a further explanation about how the in-house disqualifiers are applied, see *The Hiring Study* at pp. 18-21.

⁴² Specific disqualifiers are: more than two misdemeanor convictions where the underlying charge is a felony; more than one misdemeanor conviction where the underlying charge was a felony within two-to-five years prior to appointment; and one misdemeanor where the underlying charge was a felony within two years prior to appointment.

⁴³ A criminal court summons is a process issued by a local criminal court directing a defendant who has committed a violation to appear before such court at a designated future time in connection with the offense charged. A violation is an offense, other than a traffic infraction, for which a defendant cannot be sentenced to a term of imprisonment exceeding fifteen days. See Penal Law Sec. 10.00(3).

The specific disqualifiers are: the receipt of more than five criminal court summonses; more than three criminal court summonses within two-to-five years prior to appointment, or more than two criminal court summonses within two years prior to appointment.

driving history contains an excessive number of moving violations,⁴⁴ hazardous moving violations, license suspensions, or license revocations.⁴⁵ If an applicant is found to have, in his background, one or more of these in-house disqualifiers, he will be eliminated from the list of candidates, absent a decision by the Department to waive the disqualifier.⁴⁶

While the vast majority of the samples did not possess any of the in-house disqualifiers, seven who did were nevertheless hired. At issue in each of these seven cases were the driving records of these candidates. In the Commission's earlier 2000 study, three candidates from the sample reviewed by the Commission were hired despite the fact that they were presumptively disqualified due to their driving records. In that study, the Commission agreed with the Department's exercise of its discretion to hire these candidates. In the present review, the

⁴⁴ The Department makes a distinction in this category between moving violations accrued during the course of employment and those received outside of employment. Therefore, only moving violations received outside of the course of employment are counted as presumptive disqualifiers. This distinction does not apply; however, to hazardous moving violations.

⁴⁵ Specifically, the candidate is presumptively disqualified if he has more than seven moving violations on separate occasions, more than five hazardous moving violations, more than five suspensions on different dates, or more than one license revocation. Additionally, if the candidate has received more than four moving violations on separate occasions, more than three hazardous moving violations, more than two suspensions, or any license revocation within two-to-five years prior to appointment he is presumptively disqualified as are candidates who have received more than three moving violations on separate occasions, more than two hazardous moving violations, or more than one license suspension within two years prior to appointment.

⁴⁶ Candidates who possess an in-house disqualifier are reviewed by the "in-house" disqualifier board who will balance the positive aspects of a candidate's background against the negative aspects to determine if the presumptive disqualification should be overridden. All decisions are reviewed by and subject to the decision of the Chief of Personnel.

Commission only agreed with the Department's decision to override the in-house disqualifiers in three of the cases.

When a candidate is presumptively disqualified, the candidate's strengths are supposed to be weighed against the disqualification and any additional derogatory information about the candidate to determine whether the disqualifiers should be overlooked and the candidate should nevertheless be appointed to the Department. In two of the three cases where the Commission agreed with the decisions to hire the candidates, the only negative factors in their backgrounds were their driving records.⁴⁷ However, there were four candidates whom the Commission believes should have been rejected for hire. In one case, the candidate had a record of at least 30 moving violations. Although his most recent violation was from 1996, he had been expelled from the most recent college he attended due to his poor grade point average after being placed on academic probation. He had also been asked to resign from a job in 1997 when it was determined that he was not prepared to perform the duties associated with that employment. Additionally, although the candidate purportedly had held sixteen jobs prior to applying for appointment to the Department, APD failed to receive verification of the candidate's employment from five of his former employers, including two places of employment where the candidate was working at the time of his application. The remaining three candidates each had other negative information in their backgrounds, which should have further weighed against their appointments.

The Commission also reviewed whether there was evidence in the background files of the required contact with academic institutions, employers, and neighbors who knew the candidate. Specifically, the Commission checked to see whether the required forms were sent to all of the appropriate third parties, whether the information from the third parties was received by APD, and

⁴⁷ In the third case, the candidate had previously filed for bankruptcy, however, the candidate had a Bachelor of Science Degree and received good grades while at college.

whether there was follow-up by APD to get the information when it was not received or when APD received information that was derogatory or inconsistent with information in the possession of the investigator. The Commission also examined whether there were timely efforts by the investigator to get this information. In the case of contact with the candidate's neighbors, the Commission also looked at whether the neighbor actually knew the candidate or had any substantive information about the candidate.

The APD investigative process requires that a form be sent to every academic institution that the candidate has attended since the ninth grade. This form requests that the school provide information about the candidate's dates of attendance, any degrees obtained from the school, any school transfers, any disciplinary problems that the candidate experienced while at the school, and any other reason why the candidate would not make a good police officer. As in the sample reviewed by the Commission for its *Fifth Annual Report*, Commission staff found that for the vast majority of the files reviewed in this sample, reference forms were sent to all of the appropriate schools that the candidate attended, but usually the school would only verify the dates of the candidate's attendance. In some cases, the school would only send a transcript without completing the form at all. The Commission also found that in eleven cases a discrepancy existed between the dates the candidate reported attending a particular school with the dates provided by the school. In these cases, there was no follow-up by the APD investigator with either the school or the candidate to resolve the apparent discrepancy. This was also true in four cases where the school reported that the candidate had transferred from another school, yet the candidate had never indicated that he attended that particular school.

Similar issues were found with the forms sent to the candidate's employers. APD is required to send a form to the candidate's present employer and all of the candidate's prior employers. This form requests the dates that the candidate was employed, the candidate's position and salary, and the

reasons the candidate left that job as well as whether the candidate would be eligible for rehire at that organization. This form also asks yes/no questions about whether the candidate was sober, worked well with others, was honest, excessively late, or excessively absent.

The Commission is aware that when a prior place of employment changes ownership, changes addresses, goes out of business, or when employment is remote in time, it may not be possible for APD to obtain verification. However, in 55 cases in this review, some of the reference checks from employers were simply never received.⁴⁸ In an additional ten cases, at least one verification of prior employment was received after the candidate had been hired. There was no evidence in the file that the receipt of this verification was due to any ongoing efforts by the APD investigator to obtain the information. In four other cases, verification for at least one prior employer was not attempted until after the candidate was hired. Furthermore, in eleven cases, a prior listed employer stated that there was no record of the candidate working for that organization. In only three of these cases did the APD investigator make further attempts to reconcile this discrepancy by either contacting the employer by telephone or speaking with the candidate. In one case, for example, the candidate originally applied for a position with the Department in 1998 but his

⁴⁸ This number does not include those cases when the form was returned to APD as undeliverable because the employer was no longer at its previous address.

application was placed on hold after he failed the physical agility test. On his 1998 Personal History Questionnaire,⁴⁹ the candidate reported that he had served as an Auxiliary Police Officer⁵⁰ at a specific precinct. Although a verification of employment form was never sent to the Commanding Officer of that precinct, the APD investigator did call a supervising officer at that precinct three days before Academy training commenced in September 2000. That supervising officer reported that he had no recollection of the candidate ever serving at that precinct and that he did not believe that he had served. No follow-up action was undertaken.

Although most of the completed employer verifications contained only dates of employment, position, and salary, in eleven cases, a prior employer did include negative information about the candidate. Of these cases, there was follow-up through additional contact with the employer in only four cases. One candidate held several different positions prior to applying for work as a police officer. Although most of the employer verifications received contained positive recommendations about the candidate, an employer from ten years earlier wrote that the candidate was fired for fighting with another employee during work hours while on the premises. No personal contact was made with this employer, and the candidate was not confronted with this information. Clarifying the reasons for the end of the employment was especially important in this case because the candidate stated other, non-derogatory reasons for leaving that position in his Personal History Questionnaire. Another candidate's former employer reported that the candidate was fired in 1998 for judgment

⁴⁹ The Personal History Questionnaire is a booklet completed by the candidate which is similar to an application. In this booklet, the candidate lists his residences, prior employment, criminal history, summons history, driving history, educational background, and answers questions about drug and alcohol usage.

⁵⁰ The Personal History Questionnaire for the Department specifically asks whether the candidate has served in an Auxiliary Police Officer position.

reasons. On his Personal History Questionnaire, the candidate reported that he left this employment for better opportunities. Again, no attempts were made to reconcile this discrepancy or to contact the employer to learn what specific actions caused the candidate to be terminated.

One further issue arose in the area of employment verification. As discussed below, when the candidate appears for his psychological screening, he is given a four-page biographical data sheet, which is also sent to the assigned APD investigator. One area of inquiry on this data sheet is the candidate's employment history. In fifteen cases, the candidate listed additional employment on this biographical data sheet that was not included in his Personal History Questionnaire. In six of those cases, the APD investigator neither questioned the candidate about this additional employment nor contacted the disclosed employer.

As in the prior studies, Commission staff also examined whether APD investigators were contacting neighbors of the candidate to determine whether the candidate had a favorable or unfavorable reputation in the neighborhood. The APD manual requires investigators to contact three neighbors from the candidate's present address and three neighbors from every address where the candidate resided during the five years immediately preceding his appointment to the Department.⁵¹ Investigators use a personal reference report when speaking on the telephone to these neighbors which asks whether the person knows the candidate;⁵² for how long; whether the person has knowledge of any drug use or alcohol abuse by the candidate; whether the person knows the

⁵¹ APD recently revised its manual to require only that the investigator make telephone contact using the Coles directory with three adults who know the candidate. There no longer appears to be a requirement that those persons from previous addresses be contacted. Furthermore, personal, field contact is only required if the investigator is unable to contact anyone who is familiar with the candidate or if the telephone contact provides derogatory information.

⁵² This report is also known as an "APD-14."

candidate's friends, members of his household, or how he spends his free time; and whether the neighbor would recommend that the candidate be employed as a police officer. As discussed above, in past studies, the Commission recommended that investigators make field visits to the relevant neighborhoods and identify people who actually know the candidate. Such field visits may encourage neighbors to cooperate more fully with investigators and provide information that is more substantial. It would also allow the investigator to view the neighbor and better judge that person's overall credibility. While the Department required this type of contact on a trial basis, in June 2000, field visits were discontinued unless the Department could not reach by telephone an adult who actually knew the candidate or if derogatory information about the candidate was elicited during the telephone contacts. In nine cases, none of the people contacted by investigators knew the candidate. However, in all but one of these files there was no evidence which indicated that the investigator then attempted to conduct field visits.⁵³

Furthermore, in 23 cases, there was no evidence in the file that the investigator had done any neighborhood reference checks.⁵⁴ In an additional fifteen cases, investigators performed less than three required reference checks. Although APD's own manual requires neighborhood reference checks on prior residences, of the 46 candidates who resided at different addresses during the five-year period prior to appointment, 43 investigations did not include a neighbor reference check for at least one of the applicable prior residences. These prior reference checks are important because neighbors who no longer have contact with the candidate may be more forthcoming about the candidate's fitness for employment with the Department.

⁵³ In the present review, in most of the cases, the Commission was unable to determine whether contact was made in person or over the telephone.

⁵⁴ When an investigator completes a neighborhood reference check, he usually fills out the APD 14. Commission staff counted a neighborhood reference check as having been completed when there were either completed APD 14s in the file, a COLES printout in the file, or some other documentation indicating that the investigator spoke with an individual.

In previous reports, the Commission had disapproved of APD's practice of counting neighbors who do not know the candidate as a reference check.⁵⁵ As noted above, neighborhood contacts may be one of the few ways for the Department to gain meaningful information about a candidate's fitness to serve as a police officer. Reliance on neighbors who do not even know the candidate by name continues to be an issue. In its present review, the Commission found that even in the 53 cases where three reference checks were completed, in fourteen of those cases at least one of the persons spoken with had no knowledge of the candidate, and in an additional nine cases, none of the interviewed neighbors knew the candidate.

The Commission also explored the timing of these reference checks. Although in some cases, such as where the officer only moved to his present address days before his appointment, reference checks after the candidate's hire and while he is at the Academy may be appropriate,⁵⁶ the Commission believes, in general, that all hiring steps, including reference checks, should be completed prior to the candidate's appointment. This will save the Department the cost of conducting further investigative steps and training candidates who are later found to be unsuitable for public service. In this review, the Commission found eighteen cases where at least one reference check was done after the candidate was hired,⁵⁷ and in seven of these cases -- almost eight percent of the sample -- the reference checks were done almost a year after the candidate was hired and, in fact, after the candidate had graduated from the Academy.

As noted in the beginning of this section, the forms sent to employers, schools, and those

⁵⁵ See the *Hiring Study*, at pp. 35-39, 60-61 and *The Fifth Annual Report*, at pp. 60-63.

⁵⁶ Appointed candidates can be summarily terminated while at the Academy and in fact during their two year probationary period if the Department learns that they provided false information in their Personal History Questionnaire.

⁵⁷ The number of investigations where neighbor reference checks were conducted after the candidate's appointment may actually be higher as many of the personal reference forms were not dated. If a report was not dated, the Commission counted that reference check as occurring prior to the candidate's hire.

used to question neighbors are designed to generate information in a very conclusory form. Although, these forms request general and basic information, despite the Department's best efforts, at times the APD investigator cannot even obtain the requested information. Many schools and employers have policies which prevent them from supplying substantive information. Employers often wrote that they would only verify dates the candidate worked for them, his position title, and his salary. Academic institution forms are usually completed by a person with no personal knowledge of the candidate and only provide dates of attendance and the type of degree earned. Sometimes academic institutions will not even provide that much information and instead, just send the candidate's transcript. There clearly is a value to confirming with schools and employers the candidate's attendance or employment. However, with the forms that are utilized, information describing the candidate's character is generally not disclosed. The Commission recognizes that this reality is a result of the hesitancy or inability of employers and academic institutions to provide certain information due to policy or legal reasons, and is not the result of a lack of effort by the Department. While this reluctance to provide character information obviously complicates the Department's ability to gather information about the candidate, one method by which the Department may address this issue may be through personal contact with these individuals who may be more willing to speak with investigators, even if they are reluctant to commit their opinions to writing.

In the case of neighbors, in addition to counting as references people who did not know the candidate, APD also considered neighbors who knew the candidate but were unfamiliar with him, i.e., they did not know how the candidate was employed, in what activities he participated when not working, or who his friends were. This type of reference clearly fails to provide substantive information about the candidate's character. While the Commission understands that the Department is unable to control schools' and employers' policies regarding the disclosure of

information and understands that given the transient nature of city life, neighbors may not know each other, the Commission believes there are alternative methods for gathering substantial information through references provided by the candidate who can answer specific questions. A discussion of the benefits of this type of contact is further discussed in the conclusion of this Report.

Most critically, the Commission believes that the investigators must utilize better follow-up techniques coupled with personal contact when questionable information is received about the candidate. For example, one candidate had been previously considered for a police officer position in 1997. He was not selected when he failed to disclose prior employment with the Board of Education in 1989 and 1990. When APD contacted the Board of Education during this earlier investigation, they learned that the applicant had been fired for falsifying time sheets and forging a supervisor's signature. When the candidate re-applied to the Department in 2000, he disclosed his prior employment with the Board of Education⁵⁸ and the reason for his termination. When the APD investigator sent the required employer verification form to the Board of Education, the Board of Education initially replied that it had no derogatory information about the candidate. The investigator then made further inquiries from the Board of Education and received the requested information about the reasons behind the candidate's firing and the approximate number of time sheets falsified by the candidate. In the candidate's background investigation file was a letter from the candidate declaring that his life-long dream was to be a police officer and expressing remorse for his past mistakes at the Board of Education. The candidate attached to this letter several typewritten positive recommendations from various sources including from the supervisor from the Board of Education whose signature he had previously forged. There was no indication of any contact between the APD investigator and this supervisor to verify whether she had, in fact, written this

⁵⁸ This was a non-tenured position. Therefore, the candidate was not presumptively disqualified from employment with the Department through their in-house disqualifiers. *See infra* at pp. 23-25.

letter, and if so, the reasons that she was recommending the candidate for employment as a police officer. Despite other negative information that was disclosed by the candidate,⁵⁹ he was hired.

D. Recent Changes in APD Resources

Since the Commission's 1999 study, APD has undergone some changes that are designed to expedite the screening process, further ensure the accuracy of information received about the candidates, and improve APD's access to information about the applicants. APD investigators have recently been provided with access to several databases to make the investigative process easier and more thorough. First, they have a database that can be utilized to check whether any NYPD service calls were made to a particular address within the City. This allows the APD investigators to quickly ascertain whether the police have been called to the candidate's address in the past and the nature of that call. This may provide information about incidents in which the candidate was involved that did not result in a criminal case. Prior to the availability of this database, the only way APD could learn of these incidents was through self-reporting by the applicant or reports by those who knew the applicant.

Second, investigators may now access the PRISE system, which tracks the City Civil Service Examinations taken by any individual. This database is useful because it informs the investigator whether the candidate has taken any other City Civil Service Examinations. The investigator can then follow-up with the particular agency to see whether the candidate was offered a position. In the event that the candidate was rejected, the investigator can learn the basis for the rejection, which may reveal information about the candidate that was previously unknown.

One screening procedure that is widely employed by other law enforcement agencies is the

⁵⁹ The candidate had been fired from another position in 1995 due to excessive lateness. Additionally, the candidate had also previously filed for bankruptcy.

polygraph or “lie detector test.” During the Commission’s 1999 study, Department personnel reported that using polygraph examinations as a part of its selection procedures was under consideration. Without articulating a position about using the polygraph as a screening mechanism, the Commission recommended that the Department come to a final determination regarding the use of polygraph examinations within six months from the publication of its study. Presently, the Department does not use the polygraph examination as a screening tool; however, APD personnel reported that use of polygraphs is still under consideration. According to APD supervisors, using polygraphs as a pre-employment screening procedure may encourage accurate self-disclosure by applicants.

Despite the increased access to databases, further changes still need to be implemented. As discussed above, the Department is often unable to obtain substantive information from the applicant’s previous employers, schools, and neighbors. The Commission believes, as discussed in more detail in the conclusion, that more substantive and useful information could be obtained if the candidate was required to provide his APD investigator with the names of three references who could speak to the Department in depth about the candidate. Further, such interviews may also be a source of additional names of people who know the applicant. At least one of these references should be a present or former employer while one of the remaining references should be a present or former neighbor. This requirement should also be accompanied with increased training in interview techniques for the APD investigators so they can ask follow-up questions and probe beyond the self-serving information that will be received as a result of the candidate selecting his own references.

VI. PSYCHOLOGICAL INTERVIEW AND TESTING

A key component of the Department’s candidate screening process is the psychological screening that each potential officer must undergo before being hired. This psychological testing

consists of written psychological examinations⁶⁰ and an interview with a staff psychologist. Determinations of an applicant's fitness for the job are based upon the psychologist's assessment of the candidate's personality traits based on a combination of the profiles derived from the candidate's test scores and information disclosed by the candidate during the interview. According to Department personnel, every candidate must undergo this psychological screening before he can be hired. Psychologists use these screening devices to eliminate candidates who have demonstrated poor impulse control, poor judgment, hostility, problems with authority, and/or biases against

⁶⁰ During the examination period, each candidate is required to complete the Minnesota Multiphasic Personality Inventory -2 ("MMPI-2"), the California Psychological Inventory ("CPI"), the Draw a House/Tree/Person test, the Cornell Index, and the Police Candidate Questionnaire. All candidates are also asked to write a paragraph describing a stressful event they experienced and how they addressed that particular problem.

particular racial or ethnic groups.⁶¹ Approximately, 25% of all police officer applicants are disqualified for hire based on this psychological review.

Psychological screening occurs after the candidate passes his medical examination and a preliminary background screening. The candidate first completes the written examinations. During this process, candidates must also complete a four page biographical questionnaire in which they provide brief information about school and employment history, details of any fights in which they were involved, and information about other personal issues. APD receives a copy of this biographical information and is supposed to check for discrepancies with the information the APD investigator has independently obtained.

Once these tests are scored and evaluated, the candidate is interviewed by a staff psychologist. Each psychologist interviews approximately five candidates per day, four days per week. Immediately prior to the candidate's interview, the assigned staff psychologist reviews the results of the candidate's tests. During the interview, the candidate is asked about family, friends, hobbies, and his reasons for seeking employment as a police officer. Additionally, questions are tailored to address any issues that were revealed by the candidate's test scores. Also, if APD has noticed a discrepancy between its information and the biographical information obtained during the tests or if any other issue has emerged during APD's investigation, the investigator will ask the psychologist to explore that particular issue further during the interview.

If the psychologist suspects that a candidate is not being honest in his answers or about information in his Personal History Questionnaire, the psychologist will contact APD and inform the appropriate investigator of his suspicions.

Once the psychological interview is completed, the psychologist will make a determination

⁶¹ These assessments are also used to screen out applicants suspected of having a mental illness or substance abuse problem. Although rare, these assessments can also be used to detect psychosis in applicants.

about the psychological fitness of that candidate. This determination is based on all of the material obtained during the psychological screening. According to the Department, efforts are made to screen out those individuals believed to be overly aggressive, provocative, or uncommunicative. As it was not the purpose of this report to review the effectiveness of the psychological screening methods used by the Department, the Commission did not evaluate the performance of these tools.

VII. PERFORMANCE AT THE ACADEMY

Every individual appointed as a police officer by the NYPD is required to successfully complete a seven-month training⁶² program at the Academy. The Academy models its training and education around four core disciplines: behavioral science, law and police science, physical training, and tactics. In addition, cadets are taught about the use and maintenance of firearms at the shooting range.

As discussed earlier, recent media reports have called into question the quality of the recruits in recent Academy classes. As part of its effort to examine the overall quality of the most recent Academy classes, the Commission obtained data from the Department on the number of disciplinary infractions among the most recent six classes as measured by the number of demerits, command

⁶² The Department has examined training periods ranging from six-to-nine months and has determined that the current length of the Academy is the ideal time period for providing the necessary training. Candidates at the Academy are known as cadets.

disciplines,⁶³ and charges and specifications⁶⁴ issued to each of these classes. The Commission also examined Department data depicting the academic success of these cadets while at the Academy as measured by the pass/failure rate of each of the classes, the size of each graduating class, and the number of cadets held back from the Academy's field training.

A. Natural Attrition

Eight-to-ten percent of the cadets in each Academy class quit within the first week. According to the Department, most cadets who leave during the first week do so because they realize that police work is not what they expected. These available positions are filled by applicants who have met all the requirements and are awaiting a vacancy in the Academy. Historically, another ten percent of cadets resign prior to the end of the Academy.⁶⁵

As the chart below demonstrates, the Department has seen a slight but consistent decrease in the number of candidates successfully graduating. The only exception is the class of August 1998, which did experience an increase in the percentage of graduates from the prior class but a decrease in the percentage of graduates from the 1997 class.

⁶³ A command discipline is a “[n]on-judicial punishment available to a commanding/executive officer to correct deficiencies and maintain discipline within the command.” *See* Patrol Guide § 206-02. *See* §§ 206-03 and 206-04 for violations subject to command discipline and the authorized penalties under command discipline, respectively.

⁶⁴ Charges and specifications are the written charging documents used by the Department Advocate's Office to commence administrative proceedings against a member of the service. Charges designate the name of the offense and the specifications describe the specific misconduct charged.

⁶⁵ For those candidates experiencing professional or personal problems, a counseling unit is available at the Academy to help the candidate resolve his problems, if possible, to avoid interrupting his Academy career.

<u>CLASS START DATE</u>	<u># HIRED</u>	<u>#GRADUATED</u>	<u>% GRADUATED</u>
September 28, 2000	1341	1121	83.59
March 1, 2000	1594	1368	85.82
July 7, 1999	1379	1224	88.76
August 31, 1998	1531	1370	89.48
July 1, 1998	811	689	84.95
December 8, 1997	1124	1029	91.54

All dates used to describe the Academy classes are the dates that classes began. As noted earlier in this Report, Academy training lasts for seven months, so classes generally graduate approximately seven months after the start date. Thus, the September 2000 Academy class graduated in Spring 2001.

B. Academic Failure

In order to successfully complete the Academy training, cadets must attain an overall minimum grade score of 75% by the fourth examination quarter or face termination.⁶⁶ The Academy administers examinations to the cadets every quarter.

According to Academy personnel, it is usual for cadets to experience a high failure rate on the first Academy examination. While some recent media reports disclosed that one-third of the

⁶⁶ Each cadet must attain a minimum grade of 70% in each of the four core disciplines. In the past, cadets were permitted to re-sit for each of their examinations until they attained the required passing grade. However, this practice has been discontinued.

September 28, 2000 class had failed their first examination,⁶⁷ Academy executives stated that such results were usual and that approximately ten percent of each Academy class would not graduate due to either academic failure or resignation for other reasons.⁶⁸

Despite the requirement that all recruits must have completed 60 college credits,⁶⁹ there has not been a significant increase during the last five Academy classes in the number of recruits who pass the Academy examinations. According to Academy personnel, the difficulty of the examinations has remained constant despite the increased educational requirement.

According to the statistics provided by the Department, since the class of 1997, the final class that did not require candidates to have 60 college credits or two years of military service, the failure rate initially decreased. However, the failure rate in the last two classes has seen a steady increase and the September 2000 class had failure rates twice that of the December 1997 class.

<u>CLASS</u>	<u>CLASS SIZE</u>	<u>% FAILED</u>
September 28, 2000	1341	2.20
March 1, 2000	1594	1.04
July 7, 1999	1379	0.23
August 31, 1998	1531	0.69

⁶⁷ See "23% Can't Pass Class, Gym Tests," Marzulli, John, The Daily News (March 28, 2001).

⁶⁸ While some cadets decide to quit the Academy for personal reasons, others may do so in order to avoid academic expulsion. For example, if a cadet realizes that he is unable to reach an overall score of 75%, then he may decide to quit the Academy and ultimately re-take the Police Civil Service Examination with a view toward re-entering the Academy at a later date. Therefore, some self-selected terminations are actually a result of academic failure.

⁶⁹ 60 college credits are only required for those recruits who have not completed two years in the military or have not been employed for at least two years as a SSA or as a TEA.

July 1, 1998	811	0.45
December 8, 1997	1124	1.10

C. Field Training

The seven-month Academy training includes a field-training component. Academy field training lasts for a 30-day period and is an opportunity for cadets to obtain real field experience, under the strict scrutiny of field training officers. While the Department prefers that all cadets' experience field training while in the Academy, this 30-day period also is the only opportunity to provide intensive academic tutoring⁷⁰ to recruits who might not otherwise pass the Academy examinations. Therefore, the Academy often holds back those cadets who demonstrate a need for academic tutorials. Cadets may also be held back from field training for a variety of reasons which may not involve any academic issues. Reasons for not participating could include illness, a temporary disability, or pregnancy. Cadets may then graduate without any field training. However, even though a cadet may not attend the Academy field training, he will still have the opportunity to experience field training. Upon graduation from the Academy, each cadet undergoes a five-to-six month period in which he will be supervised closely by a field-training officer. During this period, he will undertake the same types of assignments he would have experienced while in Academy field training. After graduation from the Academy, all cadets are placed on two years of probation. During this probationary period, the officer may be terminated without any departmental proceedings.

In the September 2000 graduating class, approximately 255 out of 1341 cadets were held back from field training. This represents approximately 19% of the entire class. As the following

⁷⁰ The Academy provides voluntary tutorials for all cadets; however, these tutorials become mandatory for individuals with poor examination scores and/or classroom performance.

chart demonstrates, this class had a marked increase in holdovers. With the exception of the August 1998 class, the number of holdovers has consistently increased with each subsequent class.

<u>CLASS</u>	<u>CLASS SIZE</u>	<u># OF HOLDOVERS</u>	<u>% OF CLASS HELD OVER</u>
September 28, 2000	1341	255	19.01
March 1, 2000	1594	246	15.43
July 7, 1999	1379	146	10.59
August 31, 1998	1531	107	6.99
July 1, 1998	811	142	17.51
December 8, 1997	1124	70	6.23

D. Infractions

When a cadet behaves in a prohibited manner, there are two types of disciplinary actions that may be taken. If the behavior is deemed a minor infraction, the cadet will receive a demerit. A demerit is issued for very basic problems such as showing up late for class or having unshined shoes. At the Academy, there are no consequences for the receipt of a demerit unless a cadet accumulates five of them.

Most recruits will receive at least one demerit during their Academy careers. However, according to Academy personnel, the relatively high rate of demerits issued at the Academy neither suggests that cadets are more poorly behaved than officers in the field nor provides any measure of the quality of the cadets. According to Academy executives, the reason for the number of demerits is that they are issued more often in the Academy, primarily for minor transgressions, in order to

accustom cadets to working within the rigorous environment of a quasi-military organization.

While the Commission can draw no firm conclusions based merely on the number of demerits issued, as demonstrated by the chart below, there has been a significant increase in the number of demerits received by the classes of March 2000 and September 2000. This is especially interesting because in the Commission's discussions with Academy executives, there was no indication given that the criteria for issuing demerits had been changed.

<u>CLASS</u>	<u>CLASS SIZE</u>	<u>DEMERITS RECEIVED</u>
September 28, 2000	1341	3184
March 1, 2000	1594	4005
July 7, 1999	1379	2176
August 31, 1998	1531	2357
July 1, 1998	811	1309
December 8, 1997	1124	1500

When five demerits are accrued, a command discipline is issued. A command discipline is adjudicated by the designated Commanding Officer who will hear both sides of the issue and make a determination about the cadet's guilt and, if appropriate, issue a penalty.⁷¹ A recruit may not graduate from the Academy until all outstanding command disciplines have been adjudicated by the designated Commanding Officer or a penalty has been accepted by the cadet. There is no set

⁷¹ Common penalties include loss of vacation days and time.

number of command disciplines that automatically leads to termination, instead, Academy personnel examine the type of infraction committed by the individual as well as the timing of the incidents to determine the appropriate penalty.⁷² Academy personnel look for patterns of behavior that indicate the cadet may not make a good police officer.

As with the number of demerits issued, the number of command disciplines issued to the March 2000 and September 2000 classes also increased significantly after three classes of remaining relatively constant compared to the respective class sizes.

<u>CLASS</u>	<u>CLASS SIZE</u>	<u># COMMAND DISCIPLINES ISSUED</u>
September 28, 2000	1341	225
March 1, 2000	1594	328
July 7, 1999	1379	192
August 31, 1998	1531	214
July 1, 1998	811	121
December 8, 1997	1124	118

When a recruit has committed a serious terminable offense, he will not be permitted to resign but rather will be formally terminated. Resignation is not permitted if the Department has decided to terminate to ensure that the cadet does not attempt to re-enter the Academy on a future date. If such an individual does re-apply, this information is available to APD. The individual will then be declared ineligible for hire. The mechanics of terminating a cadet are handled by the Chief of Personnel. However, the final decision to terminate a cadet belongs to the Police Commissioner.

⁷² If a cadet incurred command disciplines at the beginning of his Academy career, the Academy might be more inclined to allow that individual to progress with his police education. However, an individual who received command disciplines throughout his tenure is more likely to be seen as unable to fit within the Department culture.

Since the amount of time it takes to decide to terminate a cadet can be lengthy, many times cadets will resign before the Department has completed its internal investigation or made a decision regarding the cadet's termination.

The chart on the next page demonstrates that the number of candidates terminated has seen a significant decrease with the last three classes.⁷³ This is true despite the fact that the numbers of charges and specifications against cadets at the Academy have nearly tripled in recent years.⁷⁴ Charges and specifications are generally issued for infractions that are more serious and carry more severe penalties than command disciplines and demerits. One possible penalty after being found guilty of charges and specifications can be termination of employment.

<u>CLASS</u>	<u>CLASS SIZE</u>	<u># OF CHARGES</u>	<u># TERMINATED</u> ⁷⁵	<u>% OF CLASS TERMINATED</u>
September 28, 2000	1341	5	3	0.22
March 1, 2000	1594	10	2	0.13
July 7, 1999	1379	3	1	0.07
August 31, 1998	1531	3	10	0.65
July 1, 1998	811	9	9	1.11
December 8, 1997	1124	0	9	0.8

⁷³ The Commission was informed that statistics reflecting the number of terminations per class are artificially low because most recruits, recognizing their imminent termination, will resign, if allowed, prior to being discharged.

⁷⁴ This excludes the class of July 1998 which had a higher ratio of charges and specifications issued in relation to the size of the class entering the Academy.

⁷⁵ According to Academy executives, the general reasons for termination are, academic or gym failures, as a result of an investigation, drug test failure, medical condition, or discipline problem.

According to Academy personnel, a cadet's disciplinary history will not affect his placement after graduation. In fact, the Command where a cadet is assigned is not made aware of a cadet's disciplinary history unless the Command specifically requests this information. The Commission believes that Commands should be notified of any significant disciplinary actions or patterns. This information would aid the Department with placing recent graduates in appropriate assignments and providing them with adequate supervision.

E. Commission Observations of Integrity Training

Commission staff observed several classes of the integrity segment of the curriculum that were taught in the Academy.⁷⁶ Although integrity issues are addressed throughout the entire curriculum, certain lessons focus specifically on this issue such as "What would make a good cop lie?" and "Police, Ethics, Integrity, and Professionalism." While the overall impression was one of enthusiasm and preparation, the Commission also found the materials to be somewhat outdated and witnessed, at times, a lack of formality in the interaction between the class and the instructor.

The freshness of the material presented, particularly when teaching ethical issues, is important. The material should, if possible, involve recent events so that entering cadets can relate to the material and put it within a frame of reference that they will understand. For example, one class used the video testimony of former Police Officer Michael Dowd that was provided to the Mollen Commission. While compelling, this material was more than ten years old, and therefore, given that the average age of a cadet is in the early twenties, a majority of the cadets may not be familiar with the criminal case involving Officer Dowd. Therefore, this material may not have the resonance with the cadets that cases that are more recent might have.

⁷⁶ The curriculum at the Academy is constantly evolving and is reviewed by a Board of Visitors, the Police Commissioner, and even Visiting Professors. However, the City Council must approve any curriculum changes and may visit and make recommendations concerning the Academy training.

The instructors must also give accurate and clear information to the cadets about the procedures for reporting integrity issues, the penalties associated with varying acts of misconduct, and their duty to report acts of corruption and/or misconduct. In one instance, the instructor assured cadets that they might report allegations anonymously using the Department's PRIDE line. However, this statement was undercut by a subsequent statement by the instructor which implied that the reporter might be identified despite the availability of anonymous reporting. This type of inaccurate instruction to newly recruited cadets undercuts the value of integrity training.

Finally, while many of the instructors that the Commission observed were enthusiastic and receptive to their audience, in some instances the instructors taught merely by rote and failed to follow-up on the questions and issues raised by cadets. The Commission believes that in order to adequately present information an educator must engage his students. Accordingly, while each instructor may not be dynamic, he should follow-up on students' questions and comments. For example, after watching one of the video tapes, the cadets had questions about the material including what exactly the officer did, how he began his life of crime, and how he was caught. However, the instructor did not answer these questions and instead, continued with the lesson.