MAYOR'S EXECUTIVE ORDER NO. 2-82

EXECUTIVE ORDER ON INCREASED MINORITY EMPLOYMENT IN THE PHILADELPHIA POLICE DEPARTMENT

WHEREAS, earlier this year, I appointed the Mayor's Task Force on Minority Employment in the Police Department to make recommendations to help increase the number of minority officers in the Philadelphia Police Department;

WHEREAS, I recently issued the Mayor's Report on Increased Minority Employment in the Philadelphia Police Department which accepts many of the recommendations of the Task Force and includes additional directives designed to increase the number of minority officers in the Philadelphia Police Department in a fair and legal manner;

WHEREAS, it is the policy of the City of Philadelphia to increase the number of minorities in the Police Department by emphasizing recruitment, training and the removal of illegal impediments in the hiring process should any be found to exist;

WHEREAS, I am entering this Executive Order to implement certain of those recommendations of the Task Force on Minority Employment in the Police Department and certain of those further directives contained in the Mayor's Report on Increased Minority Employment in the Philadelphia Police Department (hereinafter "Mayor's Report").

AND NOW, THEREFOR, I HEREBY ENTER THE FOLLOWING EXECUTIVE ORDER:

1. Compliance Group

I hereby establish a compliance group to evaluate and provide me with recommendations and advice concerning the implementation of this Executive Order. The compliance group shall consist of a representative from the Mayor's Office who shall chair the group, the Managing Director or his designee, the Personnel Director or his designee, and the Police Commissioner or his designee. All officials, departments and units fixed with responsibilities hereunder shall consult with the compliance group periodically and advise the compliance group of progress in implementing such responsibilities. Such consultation shall not be in lieu of regular reporting responsibilities of such officials, departments and units. The compliance group will report directly to the Mayor at least once every one hundred and twenty (120) days concerning progress in the implementation of this Executive Order. The compliance group, from time to time, shall solicit and consider the advice, recommendations and views of the Fraternal Order of Police, The Guardian Civic League and representatives, if any, of other groups represented on the police force.

2. Recruitment

I hereby direct the Police Commissioner, in consultation with the Personnel Director and compliance group, to

establish and administer a program of and a unit in the Police Department for the recruitment of members of minority groups to apply for the position of police officer in the Philadelphia Police Department.

In developing and administering its program, the recruitment unit shall follow the guidelines for recruitment contained in the Mayor's Report; shall consult and work with appropriate City officials, public relations experts and community leaders; and shall plan for the involvement by leaders of minority communities in recruitment efforts, the development of recruitment sources, the creation of new recruitment efforts, and any necessary staffing and budgeting.

3. Training

I hereby request the Personnel Director and the Police Commissioner in consultation with the compliance group to develop a pre-examination training program for applicants for the position of police officer in the Philadelphia Police Department. In doing so, the guidelines in the Mayor's Report concerning training shall be followed and there shall be solicitation of input of community leaders, institutions and minority groups or leaders. The training program should include, at a minimum, counselling and tutoring by minority groups or individuals, attempts to prevent attrition before

the written examination, and, if feasible, an intership program in the Police Department. Such a training program should be in place two months before the next entrance examination for the position of police officer in the Philadelphia Police Department.

4. Written Entrance Examinations

(a) I hereby request the Personnel Director and the compliance group to review the Personnel Department's differential item analysis of the 1980 police entrance examination and, if necessary, obtain another analysis and/or an independent evaluation of the results of that analysis. Depending upon the results of such analysis, the Personnel Department should take appropriate corrective measures, if any, for future entrance examinations.

(b) I hereby request the Personnel Director, in consultation with the compliance group, to budget and commit necessary funds to conduct, from time to time, validation studies of future written entrance examinations for the position of police officer.

5. Selective Factor Certification

I hereby instruct the Police Commissioner, in consultation with the compliance group, to determine within ninety (90) days whether the Police Department has need(s) for officers with special linguistic skills which could be satisfied by selective factor certification from among those

on the current eligibility list, to be chosen in relative rank order. The results of such analysis should be prepared in the form of a report (i) demonstrating the need for officers with special linguistic skills and the availability of persons on the eligibility list to fill any particular linguistic needs and (ii) recommending an appropriate time-table for the processing of candidates to fill such needs.

6. Medical Examination

(a) I hereby direct the Health Commissioner, Police Commissioner and City Solicitor or their respective designees to review the existing medical criteria for the position of police officer to determine whether such criteria are job related. These officials, in consultation with the compliance group, should prepare a report containing their recommendations, including proposals for changes in criteria, if any, in sufficient time to act upon such recommendations before the medical examination phase after the next written examination for the position of police officer in the Philadelphia Police Department.

As part of this review, the Health Commissioner shall cause to be conducted a case-by-case review of each applicant on the current eligibility list who has been rejected for medical reasons and, in consultation with the compliance group: (i) prepare an analysis of the types of and adequacy of the reasons for rejection, (ii) provide the compliance group with a report concerning whether, as a result of the case-by-case

review, there are applicants who should not have been rejected; and (iii) if so, provide the compliance group with a proposed timetable for the prompt resumption of processing of such applicants and a plan for the hiring of any such applicants who successfully complete such processing.

(b) I further direct the Health Commissioner, Police Commissioner and City Solicitor to develop a feasible proposal for the creation of a medical review panel to provide for a second medical opinion for applicants for the position of police officer in the Philadelphia Police Department who are rejected for medical reasons.

7. Psychiatric Examinations

I hereby direct and request the Health Commissioner, Police Commissioner, Personnel Director and City Solicitor or their respective designees to review the existing criteria used during the psychiatric examination phase of the current entrance examination for the position of police officer to determine whether such criteria are job related. These officials, in consultation with the compliance group, should prepare a report containing their recommendations, including proposals for changes in criteria, if any, in sufficient time to act upon such recommendations before the psychiatric examination phase after the next written entrance examination for the position of police officer in the Philadelphia Police Department.

As part of this review, the Health Commissioner shall cause to be conducted a case-by-case review of each applicant on the current eligibility list who was rejected at the psychiatric examination phase and, in consultation with the compliance group: (i) prepare an analysis of the types and adequacy of the reasons for rejection; (ii) provide the compliance group with a report concerning whether, as a result of the case-by-case review, there are applicants who should not have been rejected; and (iii) if so, provide the compliance group with a proposed timetable for the prompt resumption of processing of such applicants and a plan for the hiring of any such applicants who successfully complete such processing.

8. Background Investigation

I hereby direct the implementation of the following changes in background investigation procedures for the background investigation phase after the next written examination given for the position of police officer with the Philadelphia Police Department. I also am instructing the City Solicitor to proceed with the negotiation of a proposed Consent Decree in Commonwealth v. O'Neill, Civil Action No. 70-3500 which would contain similar sections concerning background investigation procedures and which will implement pages 33 through 35 of the Mayor's Report concerning the hiring of an additional 220 black officers on the police force. Upon the signing and

approval of such Consent Decree, that Decree will supercede Sections 8 and 9 of this Executive Order.

I hereby direct the following:

(a) The Police Department shall adopt the following procedures with respect to background investigations undertaken by the Police Department following the next written examination for the position of police officer:

(1) Investigative and supervisory staffing of the Police Department's background investigation unit or equivalent body shall include minority police officers at least in proportion to the percentage of such officers in the Department;

(2) The factors that shall be considered in the background investigation process in evaluating an applicant for employment as a police officer shall be as follows: (1) criminal record or conduct; (2) military service record; (3) prior employment record; (4) consumer credit record; (5) alcoholism or drug use; and (6) material and intentional falsification;

(3) All applicants for the position of police officer, shall be informed in writing, in advance of completing the Personal Data Questionnaire or its equivalent, that they are subject to polygraph examination by the Police Department during the background investigation process and, in particular, that such examination will be conducted with

regard to their responses to questions involving the use, sale or possession of any illicit drug, including marijuana;

(4) The use of the polygraph examination by the Police Department in the background investigation process shall be governed by the following procedures:

(i) The applicant shall be notified promptly in the event that in the opinion of the polygraph examiner, deception has been indicated in response to any question.

(ii) The applicant shall then be given an opportunity to make an explanation, denial, or admission of the indicated deception.

(iii) In the event an applicant denies the deception or presents, in the examiner's judgment, a satisfactory explanation for the indicated deception, he or she shall be informed of the right to request a second polygraph examination by a different polygraph examiner. If the applicant admits the deception, then he or she may be subject to disqualification for employment as a police officer.

(iv) If the results of a second polygraph examination indicate deception, the results may be taken to be final and conclusive, and the applicant may be subject to disqualification for employment as a police officer. If the results of the second polygraph examination do not indicate deception, and if no other disqualifying factors are

present in the applicant's background, the decision whether to hire the applicant as a police officer shall be made by the Police Department's review panel.

(v) The Police Department shall maintain a log or other record for each polygraph examiner reflecting the identity by race of each applicant to whom a polygraph was administered, the date of each examination, and the results of each examination.

(b) The Police Department shall engage the services of an independent, qualified organization or firm, to review the use of the polygraph by the Police Department in the background investigation to determine whether its use is, to the extent practicable, job related and non-discriminatory and to make any recommendations for improvement in its use. The report also should contain a description of the nature, extent, and procedures of the review conducted by such organization or firm.

9. Redressing Past, Proven Discrimination

This paragraph is intended to implement pages 33 through 35 of the Mayor's Report pending the negotiation of the Consent Decree referred to therein. Subject to the availability of qualified black applicants on the then current police officer eligibility list, and in addition to those who the City would otherwise hire, on a rank order basis as required by the Philadelphia Home Rule Charter and Civil Service

Regulations, and court orders, the City shall hire 220 qualified black applicants from the then current police officer eligibility list selected on the basis of their relative rank order, as part of the next 1,834 hires. In each new class of hires, that number of the 220 qualified black applicants shall be hired which most nearly apportions such 220 applicants over the entire 1,834 hires.

10. Promotions

(a) I hereby request the Personnel Director and Police Commissioner, in consultation with the compliance group, to advise as promptly as practicable on whether we should include an oral component as part of the examination process for one or more of the ranks of lieutenant and below. In preparing this report, I request that at a minimum, the questions set forth on pages 40 and 41 of the Mayor's Report be resolved.

(b) I hereby request the Personnel Department to continue performing differential item analyses on future written promotional tests for rank position in the Police Department.

(c) I hereby request the Personnel Department to review existing time in grade requirements for promotional examinations and determine whether such requirements are consistent with commonly acceptable national standards and, after consultation with the compliance group, prepare a report concerning the results of such review.