
CITY OF PHILADELPHIA

IN RE : **POLICE ADVISORY COMMISSION**
MARLON BRANDON : **COMPLAINT NO. 000866**
:

Before Commissioners: Robert S. Nix, Esq. , Anthony Holloway,

and Carmen Marrero

Commission Counsel: Michael Butler, Esq.

OPINION

I. INTRODUCTION

Marlon Brandon filed a complaint with the Police Advisory Commission (the “Commission”) on December 1, 2000, alleging misconduct in the form of physical abuse and verbal abuse by Philadelphia Police Officers following his arrest on November 9, 2000.

The Commission has jurisdiction over this complaint because it alleges misconduct by Philadelphia Police Officers, and because it was filed within 180 days of the alleged misconduct.

The Commission investigated the complaint, and on February 12, 2002, recommended a hearing panel. The hearing panel took sworn testimony on May 16, 2002. After reviewing all of the available evidence, the panel concludes that the allegations are unsustainable because the officers’ behavior did not rise to the level of police misconduct.

II. ALLEGATIONS

Mr. Brandon alleges that, while in police custody for a summary offense of theft of taxi services arising out of a taxi fare dispute, he was verbally and physically abused, and that the basis for the alleged abuse was his sexual orientation.

Specifically, Mr. Brandon alleges that: 1) Sergeant Samarco threatened to break his fingers if he did not sign the summary citation, and then said, “Oh, I’m sick of those faggots down there”; 2) Officer Harrison punched him in the back of the neck; 3) Officer Harrison said more than once, “You faggots make me sick”; and 4) one or more of the officers retaliated against him for filing a complaint against the police by having his car towed and crushed without proper notice.

III. EVIDENCE

The evidence before the panel comes from two sources: the sworn testimony of witnesses appearing before the panel, and the investigative report prepared by the Police Advisory Commission (which includes Commission and Internal Affairs Division interviews, police documents, and Mr. Brandon’s hospital reports).

A. Hearing Testimony

The panel took testimony from six witnesses. The first witness, and the only civilian witness, was the Complainant, Marlon Brandon. The police officer witnesses who testified after Mr. Brandon were Officer Norman Harrison, Sergeant Anthony Samarco, Sergeant Michael Dougherty, Officer Twanda Thomas, and Officer Charlene Walton-Richardson.

1. Marlon Brandon’s Testimony

Mr. Brandon testified that on the evening of November 8, 2000, he was working in his family’s tailor shop at 1229 Sansom Street. He left the shop late in the evening, and went with several friends to a bar on 12th Street between Locust and Spruce. Mr. Brandon said he had two alcoholic beverages at the bar, and that they did not impair him.

At approximately 1 a.m., he got into a taxi cab outside of the bar, and asked the driver to take him to the intersection of Broad Street and Girard Avenue. Mr. Brandon testified that he frequently takes cabs from the 12th Street area to Broad and Girard. Because of this

routine, he testified that he knew that the fare for that trip normally ran between \$4.30 and \$5.00.¹ Mr. Brandon stated that when the cab pulled over to collect him, the prior fare exited the cab, but the driver left the meter running as if that party had not. The cab proceeded several blocks before Mr. Brandon alerted the driver to the meter problem.

According to Mr. Brandon, the driver responded in a foreign a language that Mr. Brandon could not understand, and then locked the doors to the cab so that Mr. Brandon could not exit. Mr. Brandon dialed 9-1-1 on his cell phone, and alerted the dispatcher that he was in a cab being held against his will. He asked the driver several times to allow him to leave the vehicle, but the driver refused to allow him to exit.

The cab driver passed Mr. Brandon's requested destination of Broad and Girard Streets by a little, and came upon a gas station convenience store with a police car in the parking lot. Mr. Brandon then demanded that the cab pull over into the parking lot and the driver did so. There, both Mr. Brandon and the driver exited the cab and approached a police officer later identified as Officer Thomas inside the gas station's convenience store. Mr. Brandon recalled that the cab driver left the gas station to talk with an officer, and that, at this point, Mr. Brandon heard the cab driver refer to him as a "faggot." Mr. Brandon believes that his treatment by the police changed at this point because of the revealing of his sexual orientation.

Mr. Brandon spoke with the officers about the fare dispute. However, to Mr. Brandon's frustration, as he understood it, the police appeared to believe that Mr. Brandon was the one to blame for the conflict for refusing to pay a fare. Mr. Brandon also recounted that, at this time, the same officers were handling some sort of problem with a teenage boy inside the convenience store. At some point, the boy gave one of the officers "the finger," and ran from the

scene. Mr. Brandon admits that he laughed at the incident, and he believes that he was arrested in part because of his reaction to the incident with the other young man.²

Mr. Brandon told the panel that he was not given an opportunity to pay the fare, and that he would have paid the fare that he believed was just, about \$5, if given the chance.³ He also complained that the officers did not explain the grievance procedures available to contest an unjust fare. Immediately after laughing at the young man's interaction with the police, Mr. Brandon was arrested. Officer Thomas, with whom he recalled getting along well, then drove him to the District.

At the station, the police wrote up a citation charging Mr. Brandon with theft of services, and asked him to sign it. He refused, thinking that signing the citation was an admission of guilt. Mr. Brandon admitted being uncooperative at this time because he was so resentful of being arrested. Mr. Brandon testified that Sergeant Samarco threatened him when he refused to sign the citation, saying, "You sign it or I will break your fingers." When Mr. Brandon still refused to sign, he claims that the Sergeant said, "Oh, I'm sick of those faggots down there. Lock him up."

Mr. Brandon stated that he was taken into a cell, and met by an officer who "asked him questions."⁴ He then was taken to another cell and met by a turnkey, who he later identified as Officer Harrison. Mr. Brandon testified that, at this point, he had to use the bathroom badly, and recalled running into the cell to which Officer Harrison had directed him. He claimed that Officer Harrison grabbed him from the back to yank him out of the cell, and held him. Mr. Brandon next testified that he was searched, and had to give the officer his shoe strings.⁵ According to Mr. Brandon, when he was searched, Officer Harrison went through his wallet and found a membership card to Woody's Bar.

Mr. Brandon recalled Officer Harrison expressing frustration at having to search him. Mr. Brandon quoted Officer Harrison as complaining, "I could be doing something else, and here I am with you. You faggots make me sick." He claimed that as Officer Harrison placed him back into the cell after the search, Harrison punched him in the back of the neck, causing Mr. Brandon to fall down and yell out.⁶ Mr. Brandon said that the punch was probably delivered with a closed fist. At the hearing, Mr. Brandon stated that this was the only physical abuse he suffered in the police station, and that this injury made him require therapy and biofeedback at a pain center.⁷ After being punched, Mr. Brandon recalled, that because of his scream, Officer Thomas and another officer came into the cell area.

He testified that, subsequently, other officers completed a form about his medical condition, although he refused to respond to their questions about previous medical conditions. Mr. Brandon did, however, complain to the officers that he was suffering pain. The officers then asked Mr. Brandon to sign the medical questionnaire, but he refused to do so.

Eventually, Mr. Brandon was released upon signing a document. He testified that he asked one of the officers what he needed to do to leave the station, and then signed whatever paper she gave him. Mr. Brandon recalled that when Officer Harrison released him, Harrison said again, "You faggots make me sick."

Upon leaving the police station and walking a few blocks, Mr. Brandon called 9-1-1. He told the dispatcher that he had been punched by an officer in a holding cell and wanted to go to a hospital because his head hurt. Mr. Brandon claimed that Police Car 23DC responded to his call, along with a fire rescue unit. Mr. Brandon explained the incident at the police station, and his symptoms to the Emergency Medical Technician (EMT). The ambulance driver told Mr. Brandon to get into the truck (ambulance), and then the police inexplicably told him to get off

the truck. Mr. Brandon flatly denied the suggestion that he refused to talk to the ambulance workers. Mr. Brandon then walked to St. Joseph's Hospital. At the hospital, Mr. Brandon recalled being examined by an emergency room physician. This physician referred him to his primary care physician, who in turn referred him to a pain specialist.

Finally, Mr. Brandon alleged that his car was towed in retaliation for filing a complaint with IAD about these events.⁸ According to Mr. Brandon, he always parked his 1989 Pontiac Grand Am on the side of the building where he resides. He complained that his car was towed from its usual spot, and then destroyed on the same day, without any opportunity for him to retrieve it. He also claimed to have received a letter from the Philadelphia Police Department Impound Unit telling him to retrieve his car, but that when he called to inquire about his car, he was told it had already been "crushed." Mr. Brandon conceded that his car was removed from the street around the time that the Mayor's Abandoned Car Removal Program was removing thousands of cars from the city streets, but argued that he still should have had an opportunity to retrieve his car. He also conceded that his car did not have a registration tag on it, because of his fear that the tag would be stolen. Nevertheless, Mr. Brandon believes that his car was crushed in retaliation for his filing this complaint and pursuing it.⁹

In the end, the citation for theft of services was dismissed. Mr. Brandon claimed to no longer be suffering any physical injuries from the events of November 9, 2000, but he is still sad and upset about them.

2. Police Officer Norman Harrison's Testimony

Officer Norman Harrison was the final witness to testify before the panel. He told the panel about his job responsibilities as a turnkey; the position involves checking in prisoners and monitoring them until they are arraigned.

Officer Harrison testified that he did not hear Mr. Brandon when he was in the Operations Room, after first arriving at the precinct. Like the other officers who testified, he described Mr. Brandon's demeanor as loud and upset. Officer Harrison recalled suggesting to Mr. Brandon that he read the citation and then make a decision, based on its contents, of whether he should sign it, and that Mr. Brandon refused to read or sign the citation.

When asked whether he had touched Mr. Brandon while he was in the cell, Officer Harrison responded, "That's my job. Yes." Officer Harrison denied striking Mr. Brandon, however. He did admit that he frisked Mr. Brandon, and that he probably pushed Mr. Brandon's foot with his foot in the course of the frisk, as had been his habit with many prisoners. He explained to the panel that he employed this method for his own protection, and that it was more of an adjustment than a forceful maneuver.¹⁰

The panel questioned Officer Harrison about his awareness of Mr. Brandon's homosexuality. Officer Harrison testified that Mr. Brandon mentioned he had a credit card from "Woody's," and that Mr. Brandon announced to everyone that he is gay.¹¹ He testified that Mr. Brandon asked him whether he goes to Woody's, and that Officer Harrison replied that he does not go there. Officer Harrison said that he knew that Woody's is a gay bar, and that he knew that Mr. Brandon is gay once he heard him mention Woody's. He denied making the statement, "faggots make me sick," or threatening Mr. Brandon in any way. He claimed to have simply told Mr. Brandon that it would behoove him to sign the summary citation. According to Officer Harrison, Mr. Brandon did not complain of pain or injuries, but he did yell and scream the entire time he was in the cell.

Finally, Officer Harrison testified that he heard about the abandoned vehicle being towed and destroyed from Lieutenant Walter Woltemate of Internal Affairs as part of the investigation of this matter, but that he knew nothing else about the incident.

3. Additional Officer Testimony

a. *Sergeant Anthony Samarco*

Sergeant Samarco testified that, on the night in question, he was called to the gas station to respond to a police request. When he arrived at the gas station, he came upon Mr. Brandon. He testified that Mr. Brandon was excited and using a lot of profanity. Sgt. Samarco tried to calm Mr. Brandon down and get him to pay the cab fare but Mr. Brandon continued to swear and argue. Sgt. Samarco recalled explaining to Mr. Brandon that he needed to pay the cab fare, or would be arrested. Sgt. Samarco recalled Mr. Brandon encouraging the other male in the gas station to run away from the police.

At the station, Sgt. Samarco explained to Mr. Brandon that signing the citation was not an admission of guilt, but Mr. Brandon continued to respond with hostility. Finally, Sgt. Samarco testified that he did not insult or abuse Mr. Brandon in any way, nor did he hear Mr. Brandon be referred to as a “faggot” by any other officers.

b. *Sergeant Michael Dougherty*

Sergeant Dougherty testified that he encountered Mr. Brandon briefly at the precinct. Mr. Brandon was brought to his attention because he was screaming and hollering, and furious about being arrested. Sgt. Dougherty recalled attempting to calm Mr. Brandon, and explained to him that the arrest was only for a summary citation and he would soon be released. He did not explain to Mr. Brandon that signing the citation was not an admission of guilt. Sgt. Dougherty testified that no officers yelled back at Mr. Brandon. Sgt. Dougherty claimed to know nothing

about Mr. Brandon's sexual orientation, and did not hear anyone refer to his homosexuality in any way. Sgt. Dougherty was not a witness to the events that took place in the holding cell.

c. Police Officer Twanda Thomas

Police Officer Thomas's testimony began with her account of the events at the gas station. She was already at the mini-mart when Mr. Brandon and the cab driver entered. According to Officer Thomas, Mr. Brandon's behavior was "rude," "loud," "mean" and "nasty." She had a conversation with him about the fare dispute, and he refused to pay the fare even when she explained to him that the dispute over the amount needed to be taken up with the cab company. Officer Thomas also recalled the other male at the store, and she believed that Mr. Brandon knew this other man and had encouraged him to run from the police. She also spoke to the cab driver, but did not recall him making any reference to Mr. Brandon's sexuality.

Officer Thomas testified that, in the car on the way to the district, she calmed Mr. Brandon down and spoke to him. She claimed to have paid close attention to him, and testified that in the car ride to the District, Mr. Brandon did not curse or lash out at her. She believed that this was because of the attention she gave him, while transporting him.

At the District, Officer Thomas recalled that Mr. Brandon reverted to his earlier behavior of being loud and rude. Officer Thomas was busy gathering the necessary paperwork to process him, but she did not recall Mr. Brandon being insulted at all by the other officers, nor was she aware in any way of his sexual orientation. She recalled the other officers making it clear to Mr. Brandon that he had to sign the citation to be released. She did not recall any officer grabbing or pulling Mr. Brandon.

Officer Thomas described Officer Harrison's general demeanor as "sour at times," and quiet. In response to inquiry about the interaction between Mr. Brandon and Officer Harrison,

Officer Thomas testified that she did not hear Mr. Brandon scream or see him on the floor. Mr. Brandon did not complain to her that Officer Harrison had struck him. She claimed to have reported injuries on his medical form because he responded affirmatively to her question on that matter, but he was vague about the injuries themselves. In other words, she was required to fill out a standard medical checklist as part of the required paperwork for a new arrest, and he responded 'yes' to her question about whether he was in obvious pain, but would not elaborate.

Officer Thomas reported that she knew nothing about the towing and crushing of Mr. Brandon's car.

d. *Police Officer Charlene Walton-Richardson*

Police Officer Walton-Richardson recalled being on patrol on November 9, 2000, and being called to back up Officer Thomas at the gas station. She testified that, when she arrived at the scene, she saw two passengers exit the cab, and then heard the cab driver conversing with Officer Thomas about two passengers who refused to pay the fare. Despite being told by the panel that she was the only witness who testified about *two* men being in the cab, the Officer insisted that there were two men, and that she in fact asked both of them to pay the fare.¹² She testified that the other male ran away from the scene and was not pursued.

Like the other witnesses, Officer Walton-Richardson testified that Mr. Brandon was upset and cursing. She did not recall any mention of his sexual orientation, nor did she witness any officer abuse Mr. Brandon, either physically or verbally.

B. Evidence Supplied by the Commission Investigative Report

The investigative report produced by the Police Advisory Commission includes a Commission interview of Mr. Brandon, his hospital record, his citation, and the transcripts of several Internal Affairs Division interviews.

Internal Affairs Lieutenant Woltemate interviewed Cory Bullock, a Philadelphia Fire Department E.M.T. Mr. Bullock stated that he responded to a call at 1220 N. Broad Street. At this location, Mr. Bullock recalled that a black male (presumably Mr. Brandon) climbed into the rear of the Medic truck and requested transportation to the hospital. According to Mr. Bullock, the man refused to answer any questions about his injuries and would not cooperate, and when the medics told him they could not transport him to the hospital unless he cooperated, he got out of the truck and left the scene.

The Internal Affairs Division interviewed Detective Angela Gaines. Detective Gaines was the Cell Block Attendant on call when Mr. Brandon was brought to the District. She did not recall Mr. Brandon at all. She did, however, testify that she never saw Officer Harrison touch any prisoner or call anyone a name while she was working on the cellblock with him.

Internal Affairs also interviewed Police Officer Edward Schoffler. He responded to a call to the scene of Mr. Brandon's arrest, but had no further involvement in the events, and did not recall any relevant information about the incident. Likewise, an Internal Affairs investigator interviewed Corporal Jennifer Nagy about the incident because she was working at the District on the night in question. She did not recall Mr. Brandon either.

Hospital records are attached to the Internal Affairs report. The Emergency Room Record acknowledges Mr. Brandon's pain, but does not report any evidence of wounds or internal injuries. This record indicates that the Emergency Room physician prescribed Motrin and Advil/Tylenol for pain.

IV. ANALYSIS

Regarding the interaction between the police officers and Mr. Brandon at the convenience store, the Panel finds that nothing rising to the level of misconduct occurred. The officers'

testimony is consistent in that they explained to Mr. Brandon that he had a choice between paying the fare requested by the cab driver, or being arrested for theft of services. The officers on the scene testified that this choice was made clear to Mr. Brandon, as was the fact that he had a right to contest the fare through the cab company. He refused to pay. His arrest for a summary offense for theft of services for refusing to pay the meter fare was proper. Mr. Brandon's statements to the Panel and to IAD about what the officers told him he could do to alleviate the situation, and completely avoid arrest are inconsistent.

As for the conduct of the officers at the District, the panel focused most closely on the interaction between Mr. Brandon and Officer Harrison in the holding cell area. Based on the testimony and demeanor of Mr. Brandon, and on the testimony and demeanor of Officer Harrison, and the fact that no other witnesses support Mr. Brandon's version of events that occurred as Mr. Brandon was searched and placed into a cell, the Panel concludes that Officer Harrison did not physically abuse Mr. Brandon.

Although physical contact between Officer Harrison and Mr. Brandon was necessitated by Officer Harrison's duty to search Mr. Brandon prior to placing him into a cell, the evidence does not support a finding that Officer Harrison punched Mr. Brandon.

Mr. Brandon's testimony before the panel seemed, at points, to be embellished and sensationalized. Details about an alleged "punch" were vague. It was also inconsistent at times with the statements he made to IAD. Moreover, by his own admission, Mr. Brandon was belligerent and uncooperative during his processing while at the Police District. He refused to answer questions by officers inquiring about his medical condition. Later, after he was released from custody, he refused to answer questions by the Emergency Medical Technician who had responded to his post-release cell phone call for an ambulance, and reportedly just walked away.

Mr. Brandon sought treatment at a hospital, but the medical records report that no injuries were found.

Officer Harrison admitted that he can be abrupt and physical during processing and searching, but states that he did not strike Mr. Brandon. While Mr. Brandon seemed to be embellishing his account with flair and drama, by contrast, Officer Harrison struggled to express himself coherently at all.

The Panel finds that even if Officer Harrison was not the most gentle of holding cell turnkeys, his actions in searching, processing, and placing Mr. Brandon into the holding cell did not rise to a level of physical abuse so as to constitute police misconduct.

Similarly, due to inconsistencies in Mr. Brandon's statements, along with his demeanor before the panel, and due to the demeanor of Sgt. Samarco, and the lack of corroborating testimony, particularly from Officer Thomas, the panel finds it more likely than not that Sgt. Samarco did not threaten to break Mr. Brandon's fingers if he did not sign the summary citation, or say, "Oh, I'm sick of those faggots down there."

Finally, for the reasons of credibility and demeanor as described above, and although recognizing the deficiencies in both the testimony of Mr. Brandon and that of Officer Harrison, the Panel tends, in this instance, to believe the testimony of Officer Harrison that he did not state, "You faggots make me sick."

Regarding Mr. Brandon's allegation that his car was towed and destroyed in retaliation for his filing the complaint, the panel finds this to be unsupportable. Mr. Brandon's registration was not displayed in the car window as required. The car was towed a full six months after the incidents of November 9, 2000. Further, it is more likely than not that his car was towed as part of the Mayor's initiative to rid the city of abandoned cars, the timing of which, during the Spring

of 2001, coincided with the removal of Mr. Brandon's vehicle. The fact that he received notice after the car was crushed seemed more attributable to a municipal bureaucratic snafu than a deliberate action singling out Mr. Brandon for "retaliation" for the filing of his complaint against the police. Finally, there was nothing in any officer's testimony or demeanor to suggest that they were lying or knew anything at all about the car.

V. CONCLUSION

Mr. Brandon's allegations can be summarized as: (1) Sergeant DeMarco threatened to break his fingers and said, "I'm sick of those faggots"; (2) Officer Harrison punched him in the back of the neck knocking him down; (3) Officer Harrison remarked more than once, "You faggots make me sick"; and (4) one or some of the officers retaliated against Mr. Brandon for filing a complaint by having his car towed and crushed.

The allegations against Officer Harrison essentially came down to Officer Harrison's word against Mr. Brandon's. Although Officer Harrison came across to the Panel, at times, as vague, inarticulate, or evasive; Mr. Brandon came across as exaggerated and sensationalized. Mr. Brandon also contradicted his statements to IAD on several occasions. Finally, Mr. Brandon's statements and testimony contradicted – at key points – the testimony of Officer Thomas, whom the Panel found to be generally very credible. For these reasons, the Panel finds that the allegations against Officer Harrison are not sustained.

The allegations against Sergeant Samarco are not sustained for similar reasons: Sgt. Samarco's version is corroborated by Officer Thomas. Sergeant Samarco, himself, came across as more credible than Mr. Brandon. Moreover, the coincidence of both Sergeant Samarco and Officer Harrison using both the words "sick" and "faggots" in the same one-line instances of verbal abuse, seemed contrived.

VI. FINDINGS & RECOMMENDATIONS

Accordingly, for all of these reasons, the Panel finds that the allegations of Mr. Brandon are not sustained. Although the Commission adopts the findings of the Panel and recommends no discipline for Sgt. Samarco or Officer Harrison, the Commission still recognizes the possibility that Mr. Brandon may have been made to feel uncomfortable about his sexual orientation while in the custody of police – even if any individual officer’s acts or words do not rise to the level of misconduct. Thus, the Commission would take this opportunity to generally recommend and encourage the implementation of more sensitivity awareness and training, particularly regarding the processing and detainment of members of Philadelphia’s gay, lesbian, transsexual, and transgender communities, from whom the Commission has received a number of complaints in recent years.

Footnotes

¹ In his 12/21/2000 interview with the Commission, Mr. Brandon described this fare as usually between \$5 and \$6.

² Mr. Brandon testified that he did not know the young man, and had never seen him before. Of the three police officer witnesses present at the convenience store, two thought Mr. Brandon encouraged the young man to flee, one thinking that Mr. Brandon and the young man knew each other. The third officer testified that she was positive there had been two passengers in the cab; Mr. Brandon, and the young man that ran away.

³ Contrary to this testimony, in both his 2/13/2001 interview with the Internal Affairs Division and his 12/21/2000 interview with the Commission, Mr. Brandon said that the officers told him he could pay the entire fare sought by the cab driver – a total of about \$9 – and then complain to the cab company or regulating agency afterward. Indeed, Brandon testified at the panel hearing that the officers advised him to do so in order to avoid arrest.

⁴ This officer's role and identity are unclear, though Mr. Brandon described the officer as a turnkey. From his testimony, it would seem that this officer was either teasing Mr. Brandon or administering some unusual form of sobriety test involving an assessment of the subject's acumen for geographical trivia; apparently he asked Mr. Brandon to name the capital of Wyoming, for instance. However, it does not appear that this officer's treatment of Mr. Brandon rose to the level of abuse or misconduct.

⁵ Mr. Brandon testified that he was "strip searched," but later conceded that he did not, in fact, have to remove his clothes.

⁶ In his 12/1/2000 interview with the Commission, Mr. Brandon described the physical abuse as much worse. He reported being thrown around inside the cell, and explained that he only signed the paper so he wouldn't be thrown around anymore.

⁷ In his interview with the IAD, Mr. Brandon complained that he also suffered a swollen thumb, but he did not mention this again at the panel hearing.

⁸ In his IAD interview, Mr. Brandon describes the towing incident as having occurred in January/February of 2001. Before the panel hearing, he testified that it occurred in May of 2001.

⁹ As further support for Mr. Brandon's allegation that his car was towed in retaliation, he offered testimony that he had received a parking violation made out to the old tags on his car, when he in fact had new tags put on under his mother's insurance policy. "It was obvious somebody was out to get me."

¹⁰ In his Internal Affairs Division interview, Officer Harrison did not mention using physical force with Mr. Brandon.

¹¹ Because Officer Harrison's testimony about his awareness of Mr. Brandon's homosexuality was particularly relevant to the panel's determination of whether he abused Mr. Brandon, it is reproduced here:

Q: Did you at any time mention his sexual orientation?

A: No.

Q: I'm going to – I don't know – excuse me again, if I say this, but did you or did you ever hear anyone say that he was a faggot?

A: Yes

Q: Who did you hear?

A: Mr. Brandon

Q: Mr. Brandon said that?

A: Yes

Q: Who did he say that to?

A: He announced it to everyone that he was.

Q: Did he use – I mean the word?

A: I don't.

Q: Or did he say "I'm a homosexual"?

A: He used the term that would, that the general popula – if you –

Q: The word I just used?

A: -- you would associate it with that particular – you know, orientation. I mean, I don't recall verbatim what he said, but however he announced it in so many words – in so many ways, that to me, the other member or the other prisoners that he preferred that orientation.

Q: So he was a homosexual?

A: Yes.

Q: And did any of the Police Officers comment on his –

A: No. I mean, that's – I mean – to me, it wasn't shocking or I wasn't offended by it. It's just – that's just okay. . .

¹² This testimony that there were two men in the taxi is consistent with her statement to the Internal Affairs Division. Presumably she saw Mr. Brandon and the other man in the gas station and believed they'd emerged from the cab together, and later remembered the story that way.

¹⁴ This Opinion represents the final disposition of the Police Advisory Commission concerning the complaint of Marlon Brandon, Commission Complaint No. 000866. The Commission discussed the panel's findings and recommendations during its monthly meetings on October 10 and November 14, 2002, and during the Executive Committee meeting on December 11, 2002. The Commission endorsed the findings and recommendations as set forth in this Opinion by action of its Executive Committee during the latter meeting. Pursuant to the Mayor's Executive Order, this Opinion will be hand-delivered to Mayor John F. Street, Philadelphia Police Commissioner Sylvester M. Johnson, and City Managing Director Estelle Richman. The Opinion will also be mailed to the Complainant on the same date it is delivered to the Mayor, et al. Also pursuant to the Executive Order, the Police Commissioner has thirty days from the date of delivery of the Opinion to respond to the Commission's findings and recommendations. The Opinion shall become a public document three business days after its delivery to the Mayor and other city officials.