

IN RE: : **CITY OF PHILADELPHIA**
Deborah Fortune : **POLICE ADVISORY COMMISSION**
: **No. 980436**

Before Cannon, Harris and Oh Commissioners

PANEL REPORT AND RECOMMENDATION

I. INTRODUCTION

On April 27, 1998, Mrs. Deborah Fortune filed a complaint with the Police Advisory Commission (hereinafter "the Commission"). The complaint alleged that on April 23, 1998, at approximately 6:00 a.m., police officers physically and verbally abused Mrs. Fortune and two of her children, Victor Workman and Maria Fortune, during the execution of a body warrant for her nephew, Quentine Fortune. The police officers involved deny each allegation.

On October 19, 1999, a panel of the Police Advisory Commission heard testimony from the complainant, Mrs. Fortune, and two witnesses, Victor Workman and Maria Fortune. Two days later, on October 21, 1999, three police officers involved in the execution of the body warrant, Lieutenant John Lacon, Sergeant Michael Corbett, and Officer David McWilliam, testified before the panel.

Based on all of the evidence, the Commission is unable to substantiate the allegations that the accused police officers engaged in misconduct. Therefore, no disciplinary action is recommended.

II. ALLEGATIONS

The complainant, Mrs. Fortune, alleged that on April 23, 1998, at approximately 6:00 a.m., police forced entry into her home in the execution of a

body warrant for her nephew, Quentine Fortune. In the process, the police, according to the complainant:

1. Physically abused Ms. Fortune when the police twice knocked Ms. Fortune into a wall, causing her “to have an asthmatic attack.”
2. Physically and verbally abused Ms. Fortune’s daughter, Maria Fortune, when the police pushed Ms. Fortune down onto the sofa when she attempted to get her mother an asthma pump. Additionally, in response to her statement that she would tell her father what happened, an unidentified police officer, allegedly responded “Fuck your Daddy”.
3. Physically and verbally abused Victor Workman when police pointed a gun close to Victor’s head and told him to “shut up, pissy boy” when the complainant’s son asked the police if they had a warrant.
4. Abused police authority when a police officer “threw” a copy of the body warrant at Deborah Fortune as the police were leaving the house.

III. TESTIMONY RECEIVED UNDER OATH

The panel heard sworn testimony from the complainant, Mrs. Fortune, and two of her children, Victor, now 16, and Maria, now 13, who were also in the house at the time of the incident. Three police officers testified, Lieutenant John Lacon #101, Sergeant Michael Corbett #8566, and Police Officer David McWilliam #9642. The panel reviewed the complainant’s medical reports from Temple University Hospital, in addition to the Internal Affairs Divisions’ (IAD) interviews and the Commission interviews. The panel also reviewed the various complaint forms, police incident reports, assignment sheets, police patrol logs, and a body warrant issued in 1996 for 18 year-old Quentine Fortune.

Testimony offered on behalf of the complainant alleged that on April 23, 1998, at approximately 800 a.m., police forcefully entered the home of Mrs. Fortune in the execution of a body warrant which had been issued in 1996 for 18 year-old Quentine Fortune. Approximately ten police officers assisted in the execution of the body warrant. An unspecified number of the police officers involved, including testifying Officer David McWilliam, remained outside the house for security purposes throughout the execution of the body warrant.

In her interview with then Commission investigator Samuel Carrasquillo, Mrs. Fortune stated that, with the aid of a walker, she went to unlock the front door. A white-shirted officer pushed the door open. However, the door swung shut again because there was a “bag behind the door”. The police officer then pushed the door open a second time, striking Mrs. Fortune and causing Mrs. Fortune to be knocked back into the wall. Mrs. Fortune then stated that she recognized the police officer with the white shirt by his rank to be a captain and asked “What is a captain doing here?”

Mrs. Fortune also stated that when her daughter, Maria, got up to get her an asthma pump to aid her breathing, an unidentified police officer threw Maria against the sofa in the living room. When Maria told police officers that she would tell her daddy what happened, one of the police officers responded “fuck your daddy”. As police officers began making their way upstairs, Mrs. Fortune stated that she stepped in front of the police officers on the stairs. In response an unidentified police officer pushed her aside, causing her to be knocked against a wall for a second time. As the police officers went upstairs, Mrs. Fortune could hear police officers talking to her son, Victor, in his bedroom. Mrs. Fortune heard her son say “They have a gun to my head”, and she further stated that she heard the police officers say “he’s a piss pot”. Finally, Mrs. Fortune stated that only when the police officers were leaving did the police officer in the white shirt throw a copy of the body warrant at her for her review.

Lieutenant John Lacon, badge #101, stated to then Commission investigator Samuel Carrasquillo, on January 28, 1999, that Mrs. Fortune did not

try to prevent police officers from going upstairs by stepping in front of the staircase. In addition, he stated that no one pushed or caused Mrs. Fortune to be knocked back into the wall. Lieutenant Lacon stated that Mrs. Fortune complained of an asthmatic condition, and that when police asked if she would like to go to Germantown hospital for treatment, she responded "I'm not going anywhere with you fucking people." According to Lieutenant Lacon, Mrs. Fortune made this statement while talking on the phone and smoking a cigarette.

On June 4, 1998, Maria Fortune made one brief statement, which was also to then Commission investigator Samuel Carrasquillo. Maria Fortune stated that police pushed their way into the house, causing her mother to fall backwards and bang her back into the wall. In addition, Maria Fortune stated that when she attempted to get an asthma pump for her mother, who was gasping for air after being knocked into the wall, she was pushed back down onto the couch. However, Maria Fortune did not state that she told police she would tell her father what happened, nor did she testify that any police officer said to her "Fuck your Daddy" in response.

Victor Workman was also interviewed on June 4, 1998. Victor Workman, 15 years old at the time of the incident, stated that when the police entered the house, he was in his bedroom sleeping. When Victor heard his mother hollering in pain, he stated that he came out of his room to see his mother pushed aside by police officers. However, in an interview with the IAD on July 3, 1998, Victor stated that he woke up when police entered his room and shook him and told him to get out of the bed. Victor stated that a police officer put a gun to the back of his neck, for about ten minutes, while he was against the wall. When Victor asked the police officers if they had a warrant, they told him to "Shut up, pissy boy." Finally, Victor stated that there were approximately six other police officers upstairs who were close enough to hear this remark. In his statement to IAD, on December 10, 1998, Lieutenant John Lacon stated that although police officers had their guns drawn, at no time did any police officer put a gun to anyone's head. Sergeant Michael Corbett, in his statement to IAD, also given on December 10, 1998, also said that no one put a gun to Victor's head.

IV. PANEL DETERMINATIONS

The panel makes the following determinations concerning each of the four allegations:

Allegation 1: Ms. Fortune was physically abused when the police twice knocked her into a wall, causing her “to have an asthmatic attack.”

The allegation is not sustained. The panel is unable to find that Deborah Fortune was twice knocked into a wall by police officers.

The panel asked Mrs. Fortune about the presence of a bag behind her front door, causing police to have to push the door open a second time. Mrs. Fortune previously stated that this bag prevented the door from fully opening. However, at the panel hearing Mrs. Fortune could not recall any bag behind the door. Moreover, Lieutenant Lacon stated to the panel that none of his police officers made any physical contact with Mrs. Fortune.

At the panel hearing Mrs. Fortune testified that she never tried to block the stairs leading up to Victor Workman’s room. However, in a statement to IAD investigators on July 30, 1998, Deborah Fortune stated that a white-shirted police officer told her to “get out of the way”.

The inconsistencies between Mrs. Fortune’s testimony before the panel, and her previous statements to the Commission and IAD leave the panel unable to conclude that Mrs. Fortune was knocked about twice by police.

Allegation 2: Police physically and verbally abused Mrs. Fortune’s daughter, Maria Fortune, when police pushed her down onto the sofa when she attempted to get her mother an asthma pump to aid her breathing, and that in response to her statement that she would tell her father what

happened, an unidentified police officer responded “Fuck your Daddy”.

The allegations are not sustained. The testimony does not substantiate the allegation that Maria was pushed down onto the sofa or that she was the subject of verbal abuse.

The testimony of Maria Fortune, Lieutenant Lacon and Sergeant Michael Corbett all indicate that Maria Fortune was able to get up and get her mother an asthma pump. In addition, Maria Fortune did not state before the panel, nor had she previously made any statement to the Commission that police officers had said to her “Fuck your Daddy”. When the panel asked Maria Fortune about this allegation of verbal abuse, Maria Fortune stated she could not recall it. Only Ms. Fortune’s mother alleges that police spoke to Maria Fortune in this fashion. Nevertheless, Mrs. Fortune failed to mention the alleged verbal abuse before the panel.

For these reasons, the Commission is unable to conclude that Maria Fortune was pushed down onto the sofa by police, or that the police verbally abused her.

Allegation 3: Police physically and verbally abused Victor Workman when police pointed a gun close to Victor Workman’s head and told him to “Shut up, pissy boy” when he asked the police officers if they had a warrant.

The allegations are not sustained. The testimony of Victor Workman before the panel does not substantiate the allegation because it was inconsistent with his prior testimony to both IAD and Commission investigators.

When Victor Workman appeared before the panel he was asked his date of birth, and indicated that he was still fifteen, even though over a year had passed since the date of the alleged incident. In addition, Victor Workman stated

to the panel that police had a gun pointed at his head for approximately twenty minutes.

Victor Workman stated before the panel that he awoke when he heard his sister Maria Fortune screaming. This contradicted his previous statement made to an IAD investigator in which Victor Workman said the police awakened him by shaking him and telling him to get out of the bed. When a panel member showed Victor Workman this statement, he said he did not recall making it. Moreover, Victor Workman was not able to remember the abusive names the police officers allegedly called him. Finally, Mr. Workman claimed to have seen his mother intentionally pushed, with both hands, by a police officer. However, Mrs. Fortune, his mother, did not testify before the panel, nor did she state previously, that she was pushed with both hands in the manner indicated by Victor Workman in his testimony.

Victor Workman's lack of credibility and the inconsistencies between his previous statements and his testimony before the panel, together make the panel unable to conclude that Mr. Workman was verbally abused or that he ever had a gun pointed at his head.

Allegation 4: The police abused their authority when a police officer "threw" a copy of the body warrant at Deborah Fortune as they were leaving the house.

The allegation is not sustained. This allegation was not substantiated because the testimony of Mrs. Fortune was inconsistent and was not corroborated by the testimony of Maria Fortune even as to approximately when Mrs. Fortune came into possession of the body warrant.

Mrs. Fortune had consistently contended, in prior statements to both the Commission and IAD investigators, as well as before the hearing panel, that she was never in possession of the body warrant until the time police were leaving her house, when a white-shirted officer "threw" it at her. However, Ms. Fortune testified before the panel that no more than thirty seconds passed after police entered the house when Mrs. Fortune was given a copy of the body warrant. In

addition, the testimony of both Lieutenant Lacon and Sergeant Corbett indicate that Mrs. Fortune was sitting on her stairs reading a copy of the body warrant while the police searched the house for Quentine Fortune.

Because of the inconsistency between the testimony of Mrs. Fortune and Maria Fortune as to when police first gave Mrs. Fortune the body warrant, the panel is unable to find that the body warrant was “thrown” at or otherwise given to Mrs. Fortune only as the police were leaving the house.

V. CONCLUSION

The allegations as raised are not substantiated. Complainant Mrs. Fortune and her witnesses have offered grossly inconsistent versions of the incident. In addition, there was extensive uncertainty between the complainant and her witnesses as to how many police officers were present and which police officers committed the alleged misconduct. The allegations in this case could not be substantiated without a clear and consistent recollection of the facts and positive identification of the police officers accused of misconduct. The panel was deprived of such proofs. The preponderance of the evidence reviewed by the Commission does not sustain the allegations made by the complainant.

VI. RECOMMENDATION

The Commission recommends that this matter be dismissed and no further action taken against the police officers involved.