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Police Review Panel Is Confident in Mission to Be Objective

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Sharon L. McCarthy

The three lawyers tapped last week by New York City Police Commissioner Raymond W. Kelly to review the city's crime statistics say they are confident that they can provide an objective, independent analysis of how the NYPD gathers its data.

Critics have accused the NYPD of manipulating the crime reports. And some have expressed skepticism about whether the busy attorneys chosen by the department whose practices they are supposed to evaluate can get to the bottom of the controversy in the three to six months that has been tentatively allotted to the task.



David N. Kelley

Sharon L. McCarthy, a partner at Kostelanetz & Fink who is one of three members of the new Crime Reporting Review Committee, said in an interview that none of the attorneys has "any particular allegiance to the NYPD."

"The fact that the commissioner selected people who are independent of the police department shows he is looking for a honest appraisal, and that's what we intend to give him," she said.



Robert G. Morvillo

Ms. McCarthy, a former deputy chief of the criminal division and chief of the violent crime unit in the Southern District U.S. Attorney's Office, now handles a variety of matters, including white-collar criminal cases and tax fraud.

Another member of the panel is David N. Kelley, a partner at Cahill Gordon & Reindel who served as Southern District U.S. attorney from 2003 to 2005. Mr. Kelley's practice includes advising companies on business crime and investigations by prosecutors and government regulators, and he represents clients in litigation and congressional inquiries, among other matters.

The other member is Robert G. Morvillo of Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, a Law Journal columnist and chief of the Southern District's criminal division in the early 1970s. Mr. Morvillo is an expert in white-collar criminal defense.

The panel will receive briefings on the NYPD's crime reporting system and auditing functions; examine its public reporting of crime data; and attend or review meetings of COMPSTAT, an internal system the NYPD has used to geographically track crime data since 1994.

But Eli B. Silverman, a professor emeritus at the John Jay College of Criminal Justice and an expert in crime analysis and mapping, questioned how a panel, whose members were chosen by the police commissioner and which does not have subpoena power or an independent staff, could be considered independent.

Mr. Silverman is the coauthor with John A. Eterno, a former police captain, of [a study](#) that examines how pressures to cut crime in the "COMPSTAT era" have influenced the department's reporting.

Published last year in the International Journal of Police Science & Management, the study asked 309 retired captains if they were aware of at least one change in crime reports as a result of COMPSTAT. Of the 160 captains who responded in the affirmative, more than 75 percent said they knew of changes that were "highly unethical" and "moderately unethical."

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Mr. Silverman's study came months after the Associated Press reported that the NYPD had brought internal charges against a police commander and four officers accused of manipulating crime statistics.

Mr. Silverman also expressed doubts about whether the panel's members would have sufficient time to analyze crime statistics from a police department consisting of 76 precincts.

"Do you think these high-powered attorneys are going to work on this like a researcher would? This is a full-time job," he said.

Mr. Silverman added that most lawyers did not have the expertise to analyze crime statistics.

"You have to know what data to look at" and what data should be downgraded, he said.

"Lawyers are good at what they do and have good minds," but are not trained in social science research or statistical analysis, he said. "It would be like asking me to take a case before the Supreme Court. I am not trained. I can't do that."

He also insisted that the panel should be empowered to offer immunity from prosecution to officers who admit to fudging statistics, engaging in illegal quotas enforcement or anything else illegal.

"This is the only way that candid accounts will emerge," Mr. Silverman wrote in an e-mail.

A 'Misconception'

Paul Browne, an NYPD spokesman, called Mr. Silverman's criticisms of the panel "red herrings."

The police commissioner selected the panel's members after consulting with "a number of people whose opinion he trusts," and is confident that Messrs. Kelley and Morvillo and Ms. McCarthy "will give an independent review of how we compile and audit crime statistics," Mr. Browne said.

"These three attorneys are of the highest caliber, reputation, experience and independence. Some critics will second-guess no matter how qualified the panelists," he added.

He said the NYPD's internal affairs bureau, working with the city's prosecutors and two federal prosecutors, "routinely investigates serious allegations of police misconduct and where necessary seeks the prosecution of police officers. I'm confident that neither IAB nor the prosecutors would support immunity from prosecution" for illegal activity.

And while Mr. Silverman has raised questions about the reliability of COMPSTAT, Mr. Browne said that other academic studies have found its statistics accurate. (See [Managing Crime Counts: An Assessment of the Quality Control of NYPD Crime Data](#) and [The City That Became Safe: New York and the Future of Crime Control](#).)

Ms. McCarthy said criticisms of the committee may stem from a "misconception about what our job is." An entire audit of the NYPD might involve "spending every minute of the day going through the NYPD's files" and talking to every complainant who contends that their crime was not properly reported, she said.

"That's a huge task that I don't think the three of us are going to be able to do. We are being asked to review the NYPD's audit procedures and see if they are doing enough to make sure that crimes are being properly reported," she said.

Mr. Kelley said that the committee was "just getting under way" and "reviewing what the goals are and how best to accomplish those goals in the near future."

He said Mr. Silverman should "reserve his criticisms until he sees the [committee's] product."

As for the panel's independence, Mr. Kelley said that we are "talking about lawyers who are very conscious of their reputations" and have demonstrated their independence in past positions.

Mr. Morvillo agreed.

"Anyone who knows the three of us and knows that we are going to lend our names" and reputation to the project knows that "we are going to do it with integrity," he said.

But Donna Lieberman, executive director of the New York Civil Liberties Union, said that the stellar reputation of the committee's members did not mean their mandate was broad enough to identify systemic problems, such as allegations that officers refuse to investigate serious crimes.

While Ms. Lieberman said the appointment of a committee was "an implicit recognition that the police department has credibility problems," she questioned whether the panel was appointed to fix the NYPD's image or to "identify and solve problems."

Like Mr. Silverman, Ms. Lieberman expressed doubts about whether the attorneys on the committee have the "staff or resources or independence to do the job that is necessary."

"These are people with serious professional practices. They have full-time jobs," she said.

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Mr. Morvillo said that it "is absolutely true that we are busy attorneys and frankly, I think we are honest enough that if we don't think we can get the job done, we will go back" to the commissioner and tell him that.

"But none of us anticipates that's going to happen," he said.

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