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## Half Empty: Tepper case a litmus test for Phila. justice



By Buzz Bissinger

For The Inquirer

Along with a recent Inquirer article on the shooting death of a 21-year-old with life ahead of him by an off-duty Philadelphia cop with trouble behind him, the chilling reality of preferential police treatment was illustrated by a story on the very same page.

It related the details of three men who had been charged with a homicide. The killings were unrelated, and the suspects had been arrested in close proximity to the actual time of the incidents. They were not allowed to keep their jobs - as the investigation dragged on and on. They were three black men of little consequence in a city, and a country, with so little hope for black men. Who really cared what they had to say, what the circumstances might have been? Tell it to the judge. Unless you are an off-duty cop. Then you can appear to be inebriated, apparently brandish a gun like a rodeo clown, with bullets instead of blanks, fire it into the chest of William Panas Jr., and get an immediate reward for your efforts:

You get the cushy assignment of desk duty. You answer the phones, and we, the taxpayers, still pay you \$58,610 a year for killing someone on the wobbly claim of self-defense.

Welcome to the beautiful world of 43-year-old Police Officer Frank Tepper, who continues to live a life of freedom while the father of the deceased, William Panas Sr., continues to sob over a son he called his best friend in the world.

Does it make sense for Tepper to be treated this way? Given that officers have the right to use deadly force, there are special procedures of investigation. But this is a revolting inequity, giving the public one more reason to believe police officers in this city can parade around like knights of the Roundhouse. If Tepper was a citizen without a badge, would he have been immediately arrested? Don't be stupid.

"There are plenty of cases of multiple witnesses with multiple varying accounts. The D.A. has no problem charging them," said Alan Yatvin, a lawyer whose firm specializes in police-misconduct cases.

On the face of it, Tepper violated at least four different policies for off-duty police situations as delineated in a 1998 memorandum from then-Police Commissioner Richard Neal. The policies say that an off-duty officer should in almost all cases take no action other than to be a witness and immediately call 911, should specifically resist involvement in family or neighborhood disputes, and should - especially if under the influence of intoxicants - call police emergency.

How was Tepper's batting average according to witnesses present that horrible night of Nov. 21 in the Port Richmond neighborhood where Panas and Tepper lived? He was drunk, hardly acted as a dispassionate witness since he jumped into the thick of a fight outside his house, got punched in the nose, then drew his gun and aimed it all over the place until he found his victim.

Should Tepper even still be a police officer? Not when an Internal Affairs investigator concluded seven years ago that he could have likely killed someone when he sprayed Mace at a group of children and drew his gun over the alleged bullying of his 8-year-old.

There is no consolation for what happened. All words are empty. But there is a police commissioner in town who actually wants to see quick and fair justice, even if it means a boot in the rear to outgoing District Attorney Lynne Abraham.

The hiring of Charles H. Ramsey is without a doubt the best thing Mayor Nutter has done since taking office, providing a ray of hope that the administration can succeed if the mayor hires good people, respects their expertise, and then runs political interference to let them do their job.

Ramsey has lowered the homicide rate 25 percent. And he isn't afraid of saying that the system of investigating police shootings in this city is a mess. The way it basically works is the Police Department's Internal Affairs Division investigates the incident; all available witnesses are interviewed, with the exception of the subject so his legal rights against self-incrimination are not violated. The file is then turned over to the District Attorney's Office, which determines if criminal charges should be pressed. In the meantime, action by the department against the officer does not proceed until the D.A. finishes. Why? Because as Howard Popper of the law firm Popper & Yatvin pointed out recently in an Inquirer op-ed piece, Abraham and the police have simply decided to maintain the practice.

Tepper has his stance of self-defense, and with the investigation ongoing, Ramsey will not pass judgment. He told me last week that Internal Affairs would not procrastinate and that he expected the D.A.'s Office to do something it rarely does in police shootings - stop lollygagging. That means Abraham's acting before she leaves office in January.

"I want it done before she leaves," Ramsey said, and he readily admitted that some other investigations of police shootings, like the one of Abebe Isaac, have taken ridiculously long. An officer shot Isaac, the father of three with no criminal record, inside the stairs of a home on New Year's Day in 2008. The D.A. had still not made a determination on criminal charges, a wait of nearly two years. "It didn't take the Warren Commission as long as some of these frigging cases," grumbled Ramsey. Abraham has apparently assured Ramsey that the Tepper case will not be delayed. But if the best predictor of future performance is past performance . . .

I should interview Abraham about this. But I can't bear it, that whiny clarinet of a voice. In 1972, Mayor Frank Rizzo called her "one tough cookie." Thirty-seven years later, she still believes it,

largely on the basis of an obsession with seeking the death penalty for indigent inner-city blacks that became obscene in the mid-1990s (it has thankfully decreased).

As for the Tepper case, she just passed it off to a grand jury. Such proceedings often take months, a coward's way of doing in all likelihood exactly what Ramsey feared - dumping it in the lap of her successor. As she does in controversial cases, the tough cookie went to pieces.

There is hope that Ramsey and incoming District Attorney Seth Williams will figure out a better, more streamlined way to handle police shootings. In the interim, Ramsey did have the decency to call William Panas Sr. and promise that the investigation of Tepper "will not be whitewashed."

Ramsey has the right to fire Tepper at any time. But he wants to see the investigation through, because of the number of witnesses and because reality is reality: He is dealing with a police force that, like all police forces, refuses to believe a fellow cop ever does anything wrong, and with a union with far too much power.

My intuition is that Tepper, if he somehow isn't prosecuted, needs to think about job-hunting. At long last, I believe, a Philadelphia police commissioner will tell Tepper the facts:

You are a disgrace to the uniform.

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