EXECUTIVE ORDER - I-80

CITIZENS' COMPLAINT PROCEDURE - PHILADELPHIA POLICE DEPARTMENT

I, William J. Green, Mayor of the City of Philadelphia, with the authority vested in the Office of Mayor under the Philadelphia Home Rule Charter, do hereby order the following:

I POLICY

All citizens' complaints of alleged police misconduct shall be thoroughly investigated and resolved in a prompt, impartial and open manner as provided for by the procedures set forth herein.

II PROCEDURE FOR RECORDING AND PROCESSING COMPLAINTS

A. The Police Department shall print complaint forms in English and Spanish and make these forms available in sufficient quantities at the Police Administration Building, all police districts and units, the Mayor's Office for Information and Complaints, the Philadelphia Human Relations Commission, offices of City Council members and, upon request, to any other agency or person.

B. Completed forms shall be filed at the Police Administration Building, any police district or unit, or in the Mayor's Office for Information and Complaints. The office receiving the complaint shall promptly notify the Internal Affairs Bureau of the Philadelphia Police Department of the existence of the complaint, the name of the complainant, the name of the alleged victim if different than the

complainant, the name(s) of the police officer(s) involved, and a brief description of the nature of the complaint. The Internal Affairs bureau shall record this information in a chronologically numbered log and assign the identical number to be noted on the complaint form. A log recording each complaint received shall also be maintained by each office noted in this subsection.

C. After the complaint form has been numbered, a copy shall be given to the complainant. The office receiving the complaint shall promptly forward the complaint to the Internal Affairs Bureau for filing and disposition in accordance with this Order, and shall retain a copy of the complaint form.

D. Within twenty-four hours of receipt of the complaint form, the Internal Affairs Bureau shall send a copy of the complaint form to the District Attorney.

III. PROCEDURES FOR THE INVESTIGATION OF COMPLAINTS

A. The Internal Affairs Bureau shall be responsible for investigating all citizen complaints of alleged police misconduct.

B. The ranking officer of the Internal Affairs Bureau shall assign a Staff Inspector to direct a thorough investigation of each complaint. The Staff Inspector may request the assistance of other police officers but may not delegate the authority to direct the investigation.

C. Investigators shall attempt to obtain interviews with all participants in and witnesses to the incident which is the subject of the complaint unless an exemption for good cause is granted by the Commissioner in writing.

D. The investigation shall be completed within 45 days of the recording of the complaint unless additional time is granted for good cause by the Police Commissioner, or a designated deputy, who shall notify the complainant and any police officer involved in the matter in writing of any grant of additional time and the reasons.

E. Within 5 days after completion of the investigation, the Staff Inspector shall prepare an Investigative Report, which shall include a complete summary of the investigation, a list of findings, and the names of all police officers assisting in the investigation with a clear description of their roles.

IV REVIEW AND DISPOSITION

A. The Staff Inspector shall promptly forward the completed Investigative Report and file to the ranking officer of the Internal Affairs Bureau. Within 20 days of receipt, the ranking officer shall make a recommendation for disposition, recording this recommendation and reasons in the Investigative Report, which shall then be promptly forwarded, with the Investigative File, to the Police Commissioner.

B. The Police Commissioner shall be responsible for discipline in cases of misconduct. In imposing sanctions, the Commissioner shall consider the seriousness of the misconduct and the employment record of the officer(s) involved. Prior to determination on a complaint, the Commissioner may refer the case to the Police Board of Inquiry for advice whenever there are substantial issues of credibility in cases involving serious bodily harm or death or in such other instances as the Commissioner shall deem necessary.

C. The Police Commissioner shall make a written determination on every complaint within 20 days of receiving the Investigative Report and File. If the Commissioner has referred issues to the Police Board of Inquiry for advice, this 20 day limit shall begin from the time the Commissioner has received that advice from the Police Board of Inquiry. If additional time is needed, the Commissioner shall provide written notification of the reasons for extension to the complainant, the police officer(s) involved and the Managing Director. Such an extension shall be limited to a maximum of twenty days.

D. Within five days following the determination on a complaint, the Police Commissioner shall send written notice of that determination and the reasons therefore, to the complainant, the alleged victim, if different than the complainant, the officer(s) involved and the District Attorney.

E. The Commissioner shall publicly announce the determination of every complaint involving charges of serious bodily injury or death and in every case where the sanction imposed is equivalent to, or greater

than, a 10 day suspension, within five days of the determination on such a complaint.

V THE POLICE BOARD OF INQUIRY

A. When the Police Commissioner refers to the Police Board of Inquiry, the Board shall schedule a hearing to be held within thirty (30) days of receipt of the Investigative File and Report. At least 20 days before the scheduled hearing date, the Board shall notify, by certified mail setting forth the time, date and place of the hearing, the complainant and his attorney, if any, as noted on the complaint, the alleged victim if different than the complainant, the police officer(s) against whom the complaint is filed and to all witnesses and participants who the Police Commissioner or Board believes may be helpful in resolving the questions before the Board.

B. Hearings shall be informal and strict rules of evidence shall not apply. Testimony shall be received under oath. Any party may be represented by counsel, present evidence, and cross-examine witnesses. A stenographic record shall be kept and made available upon payment of costs, to any person requesting same. All hearings shall be open to the public.

C. Within ten (10) days of the hearing, the Board shall forward to the Police Commissioner its written findings of fact and advice.

VI PUBLIC ACCESS AND MAINTENANCE OF RECORDS

A. All Investigative Reports and Files shall be indexed by the name of the complainant, the victim and police officer(s).

B. All Investigative Reports and Files shall be maintained for five years.

C. During and after the investigation, the Investigative Report and File shall be available for inspection by the complainant, the alleged victim if different than the complainant, the involved police officer(s) and their attorneys.

D. A copy of the Investigative Report and File shall be sent to the District Attorney within 72 hours following a written request, which sets forth the reasons for the request. The request shall be granted unless sought for improper purposes.

E. Upon final disposition, Investigative Reports shall be available upon specific request by a member of the public for inspection and copying during normal business hours at a designated location in the Police Administration Building. The person requesting copies shall pay reasonable duplicating costs.

Where the incident which is the subject of the complaint has resulted in criminal investigation or prosecution of any party, the

Investigative Report shall not be available until the criminal charges have been resolved or the investigation is concluded.

F. Upon request of a third party witness the identity of that witness shall be deleted from the Investigative Report but maintained in the Investigative File.

G. Semi-annually the Police Department shall publish statistics disclosing the number, type and status of complaints filed during the preceding six month period, and the number, type and resolution of investigations completed during the same period.

VII MISCELLANEOUS PROVISIONS

A. Anonymous Complaints: Anonymous complaints shall be processed in as normal a manner as possible under the circumstances.

B. Frivolous Complaints: Where all facts set forth in a complaint, if accepted as true, indicate little likelihood of misconduct by any police officer, a Staff Inspector may recommend at the outset that no investigation be conducted. This recommendation must be reviewed by the ranking officer of the Internal Affairs Bureau and if approved sent to the Police Commissioner for approval. If the Commissioner approves, the investigation shall be closed and written notification provided to the complainant, the alleged victim if different than the complainant, the police officer(s) involved and the District Attorney. If the Staff Inspector's recommendation is not approved, the complaint must be handled in the normal manner.

C. All internal investigations shall proceed as set forth herein, regardless of the pendency of a criminal investigation or prosecution, except,

(1) If a complaint involves an allegation against a police officer(s) of wrongful death or wrongful infliction of serious bodily injury (as defined in Pennsylvania Crime Code), the Commissioner shall decide whether and when to require the officer(s) in question to give the Staff Inspector a statement pursuant to Section 10-110 of the Philadelphia Home Rule Charter, giving due consideration to any requests by the District Attorney, regarding the timing or taking of such statements;

(2) If a criminal investigation or prosecution is pending against a complainant or alleged victim, the Staff Inspector shall notify the complainant or alleged victim of his constitutional rights and the Commissioner shall have the discretion to order that the internal investigation remain open until the completion of the aforesaid investigation or prosecution. If such an order is entered, all parties shall be notified promptly and in writing.

D. All complaints made within six months of the incident which is the subject of the complaint shall be investigated; all other complaints may be investigated at the discretion of the Police Commissioner.

E. An employee of the Internal Affairs Bureau shall be available to receive complaints and provide assistance on a twenty-four hour basis.

F. The Police Commissioner is authorized to promulgate rules and regulations necessary to carry out the provisions of this Order. Such rules and regulations must be approved by the Managing Director and Mayor before implementation.

G. This Order shall be effective in thirty (30) days.

William J. Green

WILLIAM J. GREEN, Mayor
City of Philadelphia

May 14th 1980

DATE