

EXECUTIVE ORDER NO. 2-17

POLICE ADVISORY COMMISSION

WHEREAS, public safety and the public's relationship with the Police Department is of primary concern to all of Philadelphia's residents, businesses and visitors; and,

WHEREAS, the Police Advisory Commission was first established by Executive Order Number 8-93 and the City of Philadelphia wishes to recommit to the ideals of openness, responsibility and accountability first established by the creation of the Police Advisory Commission; and,

WHEREAS, the Police Department Community Oversight Board for the Implementation of the Presidential Task Force and Department of Justice Recommendations was established by Executive Order Number 1-15 to monitor and assess the implementation of the recommendations made in both the report of the President's Task Force on 21st Century Policing and the United States Department of Justice Office of Community Oriented Policing Services report entitled "Collaborative Reform Initiative: An Assessment of Deadly Force Policy and Practice in the Philadelphia Police Department"; and

WHEREAS, collectively these recommendations provide the framework to foster strong collaborative relationships between the Philadelphia Police Department and the communities it serves and further builds trust between citizens and their police officers so that all components of a community are treating one another fairly and justly and are investing in maintaining public safety in an atmosphere of mutual respect; and,

WHEREAS, open and transparent communication between the community and public safety agencies, especially the Police Department, is paramount to maintain strong community policing strategies and to maintain trust in and with the Police Department and the communities which it serves; and,

WHEREAS, the City's re-establishment of and recommitment to a civilian advisory commission will help improve communication between the Police Department and communities; will help translate complex policies for public review; will solicit public input on those policies; will help identify and resolve systemic concerns; and will promote confidence in law enforcement;

NOW, THEREFORE, I, JAMES F. KENNEY, Mayor of the City of Philadelphia, by the powers vested in me by the Philadelphia Home Rule Charter, do hereby order as follows:

SECTION 1. Establishment of Police Advisory Commission

There is hereby established a new Police Advisory Commission, as an advisory commission to the Mayor. The Commission shall be located within the Managing Director's Office.

SECTION 2. Composition of the Commission

A. The Commission shall be composed of thirteen (13) voting members who shall be appointed by the Mayor, as follows:

(i) Four members from a list of nominations provided by City Council, which list shall contain at least 10 names.

(ii) Four members from nominations provided by appropriate civic, advocacy, legal and law enforcement organizations, as chosen by the Mayor.

(iii) Five members at the Mayor's discretion, after consultation with relevant City agencies, including the Commission on Human Relations, the Office of LGBT Affairs and the Office of Public Engagement.

The Mayor may reject any list or nominee provided to him by any of the agencies set forth above, and, upon the Mayor's request, any such agency shall promptly provide the Mayor with an additional list or nominee. The Mayor shall use his appointments pursuant to paragraph (iii) to insure that there are at least two former law enforcement officials on the Commission.

B. The Managing Director or the Managing Director's designee shall serve as a non-voting member of the Commission. Other than the power to vote, the Managing Director or designee shall have all rights, powers and duties of other members of the Board, including, but not limited to, the right to attend any executive session of the Board.

C. Members shall serve for terms of two years each, spanning the first two years of a Mayor's term and the second two years of a Mayor's term. Members shall serve at the pleasure of the Mayor.

C. The Mayor shall appoint one member as Chair. The Commission may elect additional officers, at its discretion.

D. Members shall not be paid for their service on the Commission. Members may hold other City appointments.

E. Throughout their service, members shall be residents of or work in the City; and no member shall be an active law enforcement official.

SECTION 3. Operational Mechanics

A. The Commission shall appoint and hire an Executive Director, subject to the approval of the Mayor, and such other staff as may be necessary, subject to available appropriations.

B. The Law Department and Police Department shall jointly develop and provide appropriate training for all members of the Commission.

C. All meetings of the Commission shall be open to the public, except that the Chair may call an executive session to maintain the confidentiality of any internal Police documents, to protect the confidentiality of certain witnesses, or otherwise at his or her discretion. At all open meetings, the Commission shall allow for public comment.

D. Meetings shall be stenographically or otherwise recorded, and the recording (other than recordings of executive sessions) shall be made available for public inspection and copying. The Commission may impose a reasonable charge for transcription or copies.

SECTION 4. Responsibilities of the Commission

The Police Advisory Commission shall perform the following functions:

A. Policy review. The Commission shall:

1. Advise the Managing Director and the Police Commissioner on existing policies and proposed policy revisions, including revisions proposed by the Commission, with a focus on maximizing trust between the Police and the communities that they serve, all in a manner consistent with efficient, effective and lawful policing.

2. Provide periodic review of the Police Department's implementation of the recommendations contained in the May 2015 Final Report of the President's Task Force on 21st Century Policing; the March 23, 2015, recommendations of the United States Department of Justice's report entitled "Collaborative Reform Initiative: An Assessment of Deadly Force Policy and Practice in the Philadelphia Police Department"; and any other recommendations made by authoritative bodies as they may be issued from time to time.

3. Issue written reports setting forth any advice or reviews provided pursuant to paragraphs (1) and (2), above, or otherwise. The Commission shall make each report public, but only after the Police Department has been given an opportunity to provide a written response, per paragraph C.2., below, which response shall be included in any such report.

B. Community relations. The Commission shall:

1. Insure that major policy revisions which, in the judgment of the Commission, would materially impact the relations between the Police and the communities that they serve, be communicated appropriately to the affected communities.

2. Provide meaningful opportunities for the affected communities to give their input on existing policies and proposed policy revisions, including policy revisions proposed by the Commission or by an affected community.

C. Investigations. The Commission shall:

1. Perform such investigations of Police policy and practice as the Commission deems appropriate to fulfill the Commission's responsibilities set forth in paragraphs A. and B., above. Such investigations shall generally focus on perceived patterns of conduct or systemic issues.

(a) At the sole discretion of the Commission, investigations may be commenced, on the Commission's own initiative, upon a citizen's complaint or upon the request of the Police Commissioner, regarding police policy, practice or customs. The Commission shall forward citizens' complaints regarding individual police misconduct to Internal Affairs to investigate. The Police Department shall notify the Commission and the complainant(s) of the outcome of all complaints forwarded to Internal Affairs via the Commission. The Commission may also investigate such complaints, but only to the extent the Commission has reason to believe they are indicative of a policy, practice or custom that needs to be addressed.

(b) The Commission shall take all reasonable steps to minimize duplication of effort with respect to investigations performed by any other agencies.

2. Make recommendations regarding any policy changes that the Commission deems appropriate in light of any investigative findings. The Police Commissioner shall not be bound by any such recommendations but shall provide a written response to recommendations within 30 days. Upon request of the Police Commissioner, on a case by case basis, the Commissioner's response time shall be extended an additional 15 days. The Commission shall not in any way supplant or replace the Internal Affairs Division.

D. Annual report. The Commission shall produce an annual report setting out its material accomplishments and recommendations from the preceding year. The Commission shall provide copies of each such report to the Mayor, the Managing Director, the Police Commissioner, the District Attorney, the FOP, and City Council; and shall make the report available to the public.

SECTION 5. Powers of the Commission

In furtherance of any of its responsibilities set forth in Section 4, above, the Commission shall have the power and authority:

A. To review any relevant internal Police documents, including but not limited to any Internal Affairs Division files, subject to any necessary confidentiality arrangements requested by the Police Department.

B. To compel the attendance of witnesses and the production of documents and other evidence in support of any investigation, all as provided by Section 8-409 of the Home Rule Charter.

SECTION 6. Rights and Responsibilities of City Officers and Employees

Upon the request of the Commission, all City officers, employees and agencies, including but not limited to members of the Police Department, are directed to provide the Commission with their full, complete and prompt cooperation, including, but not limited to, by providing formal or informal testimony and producing any requested documents. Police personnel who are designated the subject of a related criminal investigation may elect not to appear before the Commission until after the conclusion of such investigation.

SECTION 7. Rescission

Executive Order No. 8-93, establishing the Police Advisory Commission, and Executive Order No. 1-15, establishing the Police Community Oversight Board, are hereby rescinded.

SECTION 8. EFFECTIVE DATE

This order shall take effect immediately, provided that Section 7 shall not take effect until the new Commission established by this Order is appointed by the Mayor.

1/12/17
DATE


JAMES F. KENNEY. MAYOR

M e m o r a n d u m

TO: Brian Abernathy, First Deputy Managing Director
FROM: Richie Feder, Chief Deputy City Solicitor /rf
DATE: January 12, 2017
SUBJECT: Executive Order: **Police Advisory Commission**

You have submitted for review a draft of a proposed Executive Order entitled:

Police Advisory Commission

This proposed Executive Order, a copy of which is attached hereto, is in proper form and there is no legal objection to its issuance by the Mayor. In accordance with customary practice, we have not been requested to review any factual premises upon which this Executive Order may be based.