

Police Advisory Commission
April 16, 2012
8th Police District
James Ramp Memorial Recreation Center
3300-40 Solly Avenue

Excused Absences: Branson, Cavanaugh, Chaudhary, James

1. **Minutes of February 27, 2012:** reviewed and accepted by Commissioners subsequent to March 19, 2012 meeting. Changes presented by Commissioner Cavanaugh incorporated into minutes.
Review of Minutes of March 19, 2012 (attached)
2. **Sunshine Act Certifications** (Anderson)
Minutes from March 19, 2012 posted on Commission web site (_____)
Agenda for April 16, 2012 not posted on Commission web site
3. **Secretarial Report** (Volz) (5 minutes)
 - (a) we presently have 12 sitting Commissioners, 7 are needed for quorum purposes
 - (b) Chair will report on pending appointments
 - (c) Recommendation 2012-2 attached. We need vote of Commission to forward.
Once approved the Deputy Executive Director will circulate.
 - (d) It was not possible for the Secretary to redact and compile charts of closed cases from I.R.C. meeting. They will be provided to Commissioners via e-amil.
4. **Report of Chair** (Goldfein) (10 minutes)
5. **Report of Counsel** (waived)
6. **Report of Standing and Ad Hoc Committees:**
 - A. **Operating Procedures Committee** (Volz) (waived)
 - B. **Public Relations Committee** (Haynes)
 - C. **Investigatory Review Committee** (Cavanaugh) Given by Goldfein, Chair
 - D. **Personnel Committee** -- waived
 - E. **Mediation Committee** -- waived
 - F. **Annual Report Committee** -- update, Volz/Haynes
7. **Report of Executive Director** (Johnson) (5 minutes) (attached)
8. **Old Business**
9. **New Business**
10. **Public Comment**

Adjournment

Public Meeting

Margaret L. Recupido, Adm. Aide to Councilman Brian J. O'Neill, 10th Council District

POLICE ADVISORY COMMISSION

MINUTES

Monday, March 19, 2012

22nd Police District

1747 N. 17th St., Philadelphia, PA 19127



Present: Branson, Bronson, Cavanaugh, Chaudhary, Crumlish, Garcia, Goldfein, Haynes, James, Islam, Kung, Volz

Staff: Johnson, Anderson, Michael

Counsel: Hayes

Absent (Excused):

Absent (Unexcused): Burley, Castillo-Perez,

Chair Goldfein called the meeting to order at 6:40 PM

REGULAR SESSION

1. **Review of Minutes** – Minutes to be forwarded to Commissioners via email for approval..
2. **Sunshine Act Certifications** – Approved minutes from the January 23, 2012 Meeting were posted on the Commission website on February 23, 2012. The agenda for the March 19th meeting was posted on March 19th.
3. **Secretary's Report** – Secretary reminded Commissioners that meeting begin at 6:30pm on the third Monday. Still need biographies for the annual report from a few commissioners (4-5 sentences apiece). Any excused absences should be reported to the Secretary or the Chair.
4. **Chair's Report** – Chair Goldfein reported on the draft of a recommendation regarding allegations of officer-related thefts; Executive Director Bill Johnson described the issues involved in the upcoming panel hearing in the Minatee case, which involves the search of a passenger during a vehicle stop. Banks panel chair Crumlish noted the panel is still waiting for a transcript in the case. Exec Dir. Johnson noted that the court reporting service can't locate the transcript, but is still looking for it. Comm. Crumlish asked that the company be removed from consideration for additional hearings, and Johnson noted that this was already the case. There was discussion of audio recorded at hearings by Commission staff. Chair Goldfein reported on the last day of testimony from the subject officer in the Abrams Case.
5. **Report of the Executive Director** - Executive Director William Johnson reported that the Commission received three new complaint filings to date in March, bringing the total number of active complaints to 136. The IRC has recommended that the 30 open investigations from 2009 and 38 from 2010 be reformatted in a document that will better assist in helping the public to understand our case flow. Our current internal docket sheets are posted on the Wiggiog site. There are two outstanding opinions in the matter of K. Banks, and Anthony Abrams. The hearing in the Abrams cases concluded with testimony from the subject officer on Thursday, March 15, 2012. Our next Commission meeting is scheduled for Monday, April 16, 2012 Site TBA. The public hearing into immigration issues has been scheduled for

late May and a definitive date will be determined soon. We have met Internal Affairs and have resolved all remaining “No CAP” complaints. PAC Investigators will soon have a work station located inside of IAD at 7790 Dungan Rd. Councilman Curtis Jones introduced legislation on Thursday, March 15, 2012 to create a permanent Police Advisory Commission. There was general discussion of the Exec. Director’s initiative to videotape complaint interviews beginning by the end of May. Chair Goldfein asked that a protocol for videotaping, which includes discussion of informed consent in both English and Spanish be submitted to the IRC for consideration.

6. **Report of Counsel** – Counsel Hayes cautioned Commission members and Staff to adhere to the agency’s protocols when approached by news media. Hayes also reported that attorneys representing the Pittsburgh Complaint Review Board will be forwarding a Petition for Allowance of Appeal for consideration by the Commission.

Report of Standing and Ad Hoc Committees:

A. **Operating Procedures Committee** (Volz) – Waived.

B. **Public Relations Committee** (Haynes) – Deputy Director Anderson gave a brief update on the Commission’s website project, which is now in the Discovery Phase of the Dept. of Technology’s project management cycle. The next step is for Johnson/Anderson to meet with police department’s Deputy Commissioner for technology. Chair Haynes asked Commissioners to email any features they would like to see developed on the site. Commissioner Garcia suggested that we consider creating a few online tutorials based on training video on police-community relations from the former police-barrio relations project.

C. **Investigatory Review Committee** – Committee Chair Cavanaugh, Chair Goldfein and committee member Crumlish discussed efforts to reduce caseloads, and the simplified report intended to demystify the process for the public. There was general discussion of the automatic closure of cases, of which the committee chair notes he remains opposed. It was also noted that the procedure allows the Executive Director to keep cases open by providing an explanation for the reason to the IRC.

D. **Personnel Committee** - Report waived.

E. **Mediation Committee** – Report waived. Committee Chair Ed James noted the group will be meeting early in April to discuss a different approach to bring all parties to the table.

F. **Annual Report Committee** – Commissioners Volz & Haynes are working on a final draft of the 2011 report, which should be complete by April 1st.

G. **Old Business** – There was additional discussion of the Commission’s attempts to contract for a Spanish-speaking investigator through the Managing Directors Office. The Commissioners voted unanimously to authorize Chair Goldfein to request a waiver of the requirement for three vendors from the Managing Directors Office.

H. **New Business** –

I. **New Business Bilingual Investigator** – In response to questions from the Commissioners, Executive Director Johnson noted that funds allocated to hire a bilingual investigator are on hold until the city identifies three certified vendors to bid for the job. Chair Goldfein asked if the terms of the contract are public, or are under a Request for Proposal that

can be detailed on the Commission website.

The Chair publically thanked Commissioner Edward Kung (attending his final PAC meeting) for his service to the Police Advisory Commission.

7:10 PM – Business Meeting adjourned, Public Session started

PUBLIC SESSION

In attendance: 22nd District Captain, Community Services Officer; members of the local Police Chaplains, Police District Advisory Council and Town Watch, and a representative from State Rep. Michelle Brownlee's (D-195) Office.

Question: How does the Commission handle “cold” cases?

Answer: IRC Chair Cavanaugh and other commissioners explained the procedures for dealing with cases older than one year.

Question re statements from Prisoners: How does the Commission handle cases brought by prisoners? Can the Commission interview prisoners?

Answer: Executive Director Johnson explained that Commission Investigators will simply schedule an interview with prison officials if necessary.

Tim Cwiek re Nizah Morris: Gave the Commissioners a copy of a Computer-Aided Dispatch report which he claimed was not a part of the records given to the Commission during the investigation.

Question: Will the bill proposed by Councilman Jones make the Commission more effective

Answer: Several Commissioners noted that the effects of the Jones legislation are not known at this time.

The Public Session was closed and the meeting was adjourned at 7:31 PM

Proposed P.A.C. Recommendation 2012-2

A review conducted on November 16, 2011, by the Investigative Review Committee of the Police Advisory Commission (PAC) determined that the following cases be recommended for closure; however, all five [5] cases contained allegations against officers for taking money during the arresting process:

Wright	IAD# 08-491	PAC# 082113
Alston	IAD# 08-491	PAC# 082114
Randolph	IAD# 10-232	PAC# 102457
Brown	IAD# 09-483	PAC# 092368
Marquez	IAD# 10-095	PAC# 102442

Additionally, multiple allegations of missing property appear on the Internal Affairs database:

2012-date = 12 comps
2011 = 73 comps
2010 = 24 comps
2009 = 12 comps
2008 = 6 comps
2007 = 1 comp

There were no charges or discipline in any of these matters but **one**. In 2009, an officer was charged with neglect of duty, but was found not guilty at PBI hearing)

Directive 91 of the Philadelphia Police Department states the department's policy:

- (A) Any police employee, who receives or takes into custody any property or money, by any means or from any source, will immediately prepare a Property Receipt (75-3).
- (B) The person from whom the property is confiscated or received or his authorized agent, will immediately be issued a copy of the Property Receipt (75-3)
- (C) All Property Receipts (75-3) issued by any district/unit personnel will be entered into the computer in accordance with Computer Training Bulletin 91-07 (revised 9-97)

Directive 7 of the Philadelphia Police Department states the department's policy for dealing with items seized pursuant to an arrest or search warrant:

VI. (E) Seizing officer will perform the following:

- (1) inventory and record items seized on all copies of the search warrant
- (2) Complete in the presence of the person from whom items were seized or in the presence of at least one witness
- (3) give the blue copy of warrant, with listed items, to person from who taken or, if no one was present, leave in a conspicuous location
- (4) if items are seized, request the signature of person from who take or witness to seizure. If they refuse to sign, so indicate on warrant
- (5) Place his/her signature in appropriate block.
- (6) prepare property receipt 75-3 and distribute in accordance with Directive 91

It is obvious that the procedures established by the Philadelphia Police Department have not been strictly adhered to, particularly when officers need the complainant's signature on the "property tag" as well as the signature of the officer. The fact that the PAC has received so many diverse complaints on this item indicates that there is widespread noncompliance with firmly established police procedure. That also appears to be supported by similar matters reported on the Internal Affairs Database.

This is made all the more sensitive by the recent publicity surrounding the return to duty of Officer Joseph Sulpizio.

The Police Advisory Commission believes that the numerous allegations of police misappropriation of cash and other items of worth from people detained or arrested greatly erodes the relationship between the Philadelphia Police Department and seriously impacts the morale Philadelphia police department.

The Police Advisory Commission urges a renewed emphasis be placed on strict compliance with Directives 91 and 7.

IRC Meeting April 11, 2012
50 South 16th. 29th Floor
Elliott Greenleaf Offices
6:00 P.M.

PA Commissioners Present:

Ronda Goldfein, Chair, Presiding
Jim Crumlish, Secretary
Chuck Volz

Staff Present:

Bill Johnson, (By telephone)

Monthly Docket:

None Presented

Survey of 10 Newest Cases

None Presented

90 Day Status Report

None Presented

Call to Order by Chair

Minutes of March, 2012 Meeting adopted without objection.

Presiding Officer Goldfein (PO) opened the meeting with a discussion of the 2009-2010 cases already subject to closure pursuant to the PAC IOP Article 11. Late last Tuesday afternoon prior to the meeting, the executive director provided a spreadsheet of the cases affected by that closure. (Attached Exhibit "A" (complainant and officer names redacted))

The Chair lead a substantive discussion based on questions the IRC previously raised with the ED regarding PAC's ageing cases and what, if any, facts the ED could provide as an explanation or plan of making substantive progress on these cases.

The spreadsheet lacked substantive factual information as to why these cases continue to be unresolved. Cases dating back to 2008 and 2009 contained the notation that the "interviews" of the necessary officer witnesses were not yet scheduled, or in some instances finished. The spreadsheet offered no information on how these cases were going to be resolved in the future.

Based upon the lack of progress on these cases and the absence of substantive information specifically required to further evaluate the cases, IRC members present unanimously voted to confirm closure as required under the IOP Article 11 process.

The ED indicated that he did not recognize the IRC or the Commissioner's authority to make such a determination or the validity of the IOPs and that he would discuss this with other Commissioners and the Mayor's office. He further stated that he would not close the cases as he was directed.

Chair Goldfein indicated she would also contact the Mayor's office to seek assistance in resolving both the backlog of cases and the ED's continuing view and conduct that he is not subject to the supervision and policy determinations of the Commission.

The next agenda item was 12 unresolved "no CAP" cases that the ED had resolved with the head of the Internal Affairs Department. The ED had no report on the disposition of those cases and requested that he be allowed to present that information at the next IRC meeting.

The next agenda item was the required 90-day status reports of active PAC cases less than a year old. The ED had no report on these cases and requested he be allowed to make that required report at the next IRC meeting.

A discussion was held regarding the proposed policy to videotape PAC interviews with citizens. It was determined that the ED will provide at the next IRC meeting, a full proposal of what was envisioned by this proposal, costs and its impact on citizen complainant's privacy and security

The next item was the discussion of police-involved shootings. As the PAC is concerned with the best allocation of its resources, it has been repeatedly requested that the ED provide substantive information about the cases in terms of resolution and time spent. Shortly before the IRC meeting, the ED provided a narrative of his advocacy arguments for the PAC's continued handling of officer involved shootings. There are 5 current PAC cases that relate to officer shootings. The ED indicated that the PAC was unable to effectively participate in the investigation and resolution of these cases due to the objections of the PD and more specifically Deputy Commissioner Johnson, Commander Officer, Internal Affairs. The ED reported that IA will not permit the PAC to attend and participate in Internal Affairs interviews and as such the PAC cannot act to advance the case until IA has completed its investigation. The Chair suggested that in fairness to complainants, we should publically admit that the progress of these cases is in the hands of the Police department, instead of holding the PAC out as an avenue for resolution. This suggestion is consistent with the ongoing discussion as to whether the PAC resources should be refocused on matters that can be fairly and efficiently respond given the present resources and powers.

At the Request of Commissioner Cavanaugh, the Chair introduced his Motion to Propose changes to Article 11 D. It was noted that if the Motion were adopted, subsequent to its adoption by the majority of the IRC that it would be referred to the IOP committee for evaluation and recommendation to the Commission as a whole. The vote was called and, by written request to vote *in absentia*, of Commissioners, Garcia, James and Cavanaugh, their votes were recorded in support of the Motion, Commissioners Goldfein, Volz and Crumlish voted nay. The Motion failed to obtain a majority of the IRC and therefore will be recorded as defeated.

Commissioner Goldfein requested a status report of the "Theft of Currency" as requested by Commissioner Cavanaugh. The ED was unable to provide this information and requested that he provide a written status to Commissioner Cavanaugh and the IRC ASAP.

The meeting was adjourned.

ATTACHED, NAME REDACTED SPREADSHEET, NARRATIVE, PROPOSED REVISION.

Draft for distribution to all Commissioners

Recommended changes to I.O.P. 11D, Complaint Procedures

(based upon I.O.P. Article 14: AMENDMENT OF RULES: These rules may be amended from time to time or rescinded by a majority vote of the Commission. Any such changes in these rules shall be made public.)

Current Article 11D reads as follows:

The Commission shall complete all investigations, hearing and publish its final disposition of a matter. The Investigatory Review Committee will publish a status report within ninety (90) days of the filing and acceptance by the Commission of a complaint. The Investigatory Review Committee shall publish a schedule of deadlines as Addendum D. If a complaint is not disposed of within one (1) year of its filing and acceptance by the Commission, it will be deemed to have been closed by the Commission without comment. If a complaint investigation cannot be completed within the one (1) year time frame, the Commissioners have the authority to grant reasonable additional time upon application of the Executive Director after approval by the Investigative Review Committee.

Proposed changes to Article 11D:

The Commission staff shall complete all investigations and recommend the final disposition. The Investigative Review Committee will review each case recommended for closure and take appropriate action e.g. closure, return for additional information, specify disciplinary action where appropriate or . recommend for panel hearing.

The monthly docket sheet will serve as an administrative control of the status of open cases. Section V. Age of Active Investigations identifies the number of cases under investigation for each year. The Executive Director will advise the Investigative Review Committee of all cases over the one (1) year time frame specifying the reason for delay.

No case will be deemed closed automatically without review by the Investigative Review Committee. .

Prepared by Robert S. Cavanaugh, Chair, IRC March 12, 2012

**Agenda IRC Meeting April 11, 2012
50 South 16th. 29th Floor
Elliott Greenleaf Offices
6:00 P.M.**

Review and Approval of Minutes (circulated at Commission Meeting)

1) Specific request from ED to keep cases older than 1-year open

As we know, we have been discussing the 2009 and 2010 cases for weeks. In the absence of an approved request to keep any of these cases open, we will record and report them as closed.

See attached submitted by ED @ 5: 30 P.M. 4/10/12

2) Report on cases reviewed with Internal Affairs

The 2009 and 2010 lists contained cases the ED met and reviewed with IAB. We need a brief report on the status of those cases and recommended disposition.

3) Status of 90-day reports

Our discussion about the oldest cases has overshadowed our review of more recent cases.

4) Protocol for videotaping interviews

Before the PAC staff (city) purchases, acquires or otherwise obtains any video equipment, we need a report on how those interviews will be conducted.

5) Detailed report on resolutions of police-involved shootings

As we assess and set the PAC priorities, we need to assess the value of dedicating resources to these types of cases.

(6) Motion to Recommended revision to I.O.P. Article 11 (D)

See attached per Commissioner Cavanaugh.

(7) Status of letter to Chief of Police regarding "theft of currency" cases.