



CITY OF PHILADELPHIA  
POLICE ADVISORY COMMISSION

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**ANNUAL REPORT**

**THE PHILADELPHIA POLICE ADVISORY COMMISSION**

**Fiscal Year 1995**

Pursuant to the Philadelphia City Charter, the Police Advisory Commission (the "Commission") submits its Annual Report for the fiscal year ending June 30, 1995.

## I. INTRODUCTION

Established by the Executive Order of Mayor Edward G. Rendell issued on October 29, 1993, the Commission has been given the vital task of monitoring and improving the relationship between the Philadelphia Police Department and the communities and citizens the Department is established to serve. To that end, the Commission has been empowered to investigate and publicly report on both individual allegations of police misconduct and abuse, as well as broader issues of police policy and procedure. Under the Executive Order, the Commission is authorized to conduct public hearings, subpoena witnesses and review police documents. The Commission's findings are then submitted to the Mayor, the City's Managing Director, the Police Commissioner and, after a three day waiting period, to the public. If warranted, the Commission is authorized to recommend to the Police Commissioner that disciplinary action be taken or that departmental policy be changed.

## II. THE COMMISSION MEMBERS

The Commission's fifteen members and four alternate members were selected by Mayor Rendell, with the input of City Council, to reflect the City's geographical, racial and ethnic diversity, as well as a broad spectrum of professional backgrounds. All share a common commitment to fulfilling the Commission's mandate. During this fiscal year, the Commission members included:

- W. Bruce Beaton -- a resident of Northeast Philadelphia and the president of a Philadelphia-based insurance agency.
- Irene Benedetti -- a resident of South Philadelphia and affiliated with Temple University Institute for Survey Research. Ms. Benedetti serves on the Mayor's Commission on Sexual Minorities and on the Board of Directors of the Crime Victims Services of South Philadelphia.
- Dorothy F. Cousins -- a Mt. Airy resident with more than thirty years experience in law enforcement, primarily with the Philadelphia Police Department where she retired with rank of Inspector and supervised investigations while assigned to the Department's Internal Affairs Bureau.
- William T. Cannon -- an attorney and Northeast Philadelphia resident who formerly served in supervisory positions within the Philadelphia District Attorney's Office and presently represents litigants in civil and criminal proceedings.
- Jane L. Dalton -- a Chestnut Hill resident and a litigation partner with the Philadelphia law firm of Duane, Morris & Heckscher.

- Eddie T. Graham -- a Mt. Airy resident and founder and coordinator of his neighborhood Town Watch.
- Charles V. Harris -- a Yorktown resident who served thirty-four years with the Philadelphia Police Department, including with the Civil Affairs Unit.
- Bruce W. Kauffman -- a Center City resident and Chairman of the Philadelphia law firm of Dilworth, Paxson, Kalish & Kauffman. Mr. Kauffman is a former Justice of the Pennsylvania Supreme Court and served on the MOVE Commission.
- Carmen M. Marrero -- a Hunting Park resident and a school counselor for the League of United Latin American Citizens. Ms. Marrero is a member of the National Association of Hispanic Journalists and a director of the Hunting Park Development Corporation.
- Kevin M. Pasquay -- a Port Richmond resident and a financial auditor and consultant.
- Juan F. Ramos -- a West Kensington resident and a superintendent with Cleveland Environmental Services, a member of the 26th Police District Advisory Council and founder and president of the Puerto Rican Alliance.
- Vivian Ray -- a West Mt. Airy resident, a former public school administrator and licensed psychologist.
- Paul M. Uyehara -- a West Philadelphia resident and an lawyer with Community Legal Services where he represents low-income clients in bankruptcy, mortgage foreclosure and child custody issues. Mr. Uyehara served as an assistant city solicitor and on the Mayor's Commission for Asian/Pacific American Affairs.

- Novella Williams -- a West Philadelphia resident and organizer of the Black Womens' Crusade Against Vice, Crime and Corruption in West Philadelphia.
- William Wood -- an East Falls resident and an owner of Woody's Bar and Restaurant in Center City.

The alternate Commission members during this fiscal year were:

- Ronald A. Burton -- an Overbrook resident and president of the Center for Social Welfare Concerns, a national consulting firm.
- Mary Ellen Krober -- an East Falls resident and senior lawyer with Buchanan Ingersoll who formerly served as an assistant City Solicitor and Deputy Attorney General
- Judith Savitt -- a Center City resident and a retired elementary school teacher.
- Rev. Jerome J. Cooper -- North Philadelphia resident and president of the Center for Social Welfare Concerns, a national consulting firm.

The officers of the Commission for the fiscal year were:

- Chair -- Jane Leslie Dalton
- Vice-Chair -- Novella Williams
- Secretary -- Juan F. Ramos

The Commission formed several committees to formulate policy and to advise the Commission on various issues. The Committees and their Chairs were:

<u>Operating Procedures Committee:</u>	William Cannon, Chair
<u>Investigatory Review Panel:</u>	Novella Williams, Chair
<u>Public Information Committee:</u>	Eddie T. Graham, Chair
<u>Personnel Committee:</u>	Carmen M. Marrero, Acting Chair
<u>Annual Report Committee:</u>	Justice Bruce W. Kauffman, Chair
<u>Budget Committee:</u>	Jane Leslie Dalton, Chair
<u>Mediation Committee:</u>	Charles Harris, Chair
<u>Legal Representation Committee:</u>	Paul M. Uyehara, Chair
<u>911 Committee:</u>	Juan F. Ramos, Chair
<u>Stress Committee:</u>	Vivian D. Ray, Ph.D., Chair

### III. REPORT OF THE CHAIR

During the 1994-95 fiscal year, the Commission took the steps to establish itself as an independent fact-finding Commission which was prepared to carry out its mission to effect significant improvement to police-community relations in Philadelphia and investigate allegations of police misconduct. Notwithstanding repeated attempts by the Fraternal Order of Police, Lodge 5, ("FOP") to obstruct the Commission's investigations and fact-finding processes, the Commission vigorously and successfully defended its need to conduct full and fair investigations and to hold public hearings when necessary.

In February of 1995, the Commission conducted its first public hearing regarding police stress. As a result of these hearings, the Commission prepared a significant report and continues to follow-up on the recommendations set forth in the report. The substance of the report and follow-up are detailed in Section V. below.

In the Spring of 1995, the Commission successfully defended its ability to have its own investigators question police officers named in civilian complaints filed with it. After court proceedings, the Commission obtained an order permitting it to conduct such interviews in a non-adversarial manner. Since then, the Commission's investigators have interviewed police officers regularly in connection with various civilian complaints.

The Commission also developed procedures for the conduct of public hearings. Those procedures were published for public comment, became effective in August of 1995, and were utilized effectively resulting in full and fair hearings in two matters.

In September of 1995, the Commission commenced its first public hearing on a civilian complaint in the matter relating to Moises DeJesus. Seven of the nine involved police officers initiated litigation to prevent their testimony in a public hearing. This litigation was resolved by stipulation and resulted in the police officers testifying under oath before the hearing panel established by the Commission. In accordance with its

mandate, the Commission has issued its decision in that matter, but has not yet received a response from the Police Commissioner concerning its recommendations.

The Commission continues to receive complaints, and conducts investigations to determine their merits. Now that the initial foundation has been established, we look forward to concluding many more cases in the forthcoming year.

#### IV. OPERATIONS AND INVESTIGATIONS

The operation of the Police Advisory Commission officially began on July 1, 1994 and was located on the 15th floor of the Cigna building at 1600 Arch Street. Between March 1994 and continuing until the selection and arrival of the Executive Director, Executive Assistant Peggy A. Haley secured furniture and equipment, organized the office space, designed the complaint form and stationery, and accomplished the myriad of tasks attendant to start-up. During this same period the full Commission conducted a series of public forums throughout the city. The first citizen complaint was received on July 20, 1994.<sup>1</sup>

Executive Director, Charles P. Kluge, Jr. officially began his duties on August 29, 1994, along with a newly appointed Special

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<sup>1</sup>. The Commission agreed to accept complaints for incidents which occurred on or after July 1, 1994.

Investigator, and began immediately to review citizen complaint forms already on file. Mr. Kluge is a native Philadelphian with twenty-four years of investigative and administrative experience with the Federal Bureau of Investigation including serving as Civil Rights Coordinator. When Mr. Kluge became Executive Director, there were eighteen civilian complaints on file including a complaint involving the death of Moises DeJesus, a City resident, on August 21, 1994 following an incident with police. A second Special Investigator reported for duty on September 6, 1994.

In late January 1995, the Commission's operating offices were moved to the second floor of the Cigna Building. This new and expanded space provides a large reception area to welcome citizens seeking the assistance of the Commission, as well as private office space where interviews are conducted. A small conference room is utilized by the several committees which meet frequently. A larger conference area accommodates the full Commission for its monthly meetings and has the capacity to also receive a limited number of the public who often attend the Commission's monthly gatherings. A private room has also been set aside for the resolution of cases through the mediation process.

Careful research has gone into identifying those locations where our complaint forms would be most accessible to the public. Aside from the Commission's office, the Commission's complaint forms are located at the Mayor's Offices for Community Services located throughout the city and in Room 143 City Hall, district and

City Hall offices of each member of City Council, the Mayor's Action Center, as well as at the offices of all Philadelphia State Legislators. A spanish language version of the Commission's complaint form can be found at the offices of the Police-Barrio Relations Project located at 2853 N. 5th Street.

During the fiscal year covered by this report (July 1, 1994 through June 30, 1995) a total of one hundred thirty-eight (138) citizen complaints against police were received by this Commission. Seventy five of these complaints were filed in person, while sixty-three were received through the mail. The status of the complaints received as of June 30, 1995 is as follows:

Closed . . . . .	33
Under Investigation . . . . .	79
Mediation Process . . . . .	7
Withdrawn by Complainant . . . . .	3
Pending <sup>2</sup> . . . . .	<u>16</u>
Total	138

The nature of the complaints received during this period are as follows:

Physical Abuse . . . . .	45
Verbal Abuse . . . . .	7
Verbal Abuse-Ethnic . . . . .	1
Custody Abuse . . . . .	1
Abuse of Authority . . . . .	57
Ethnic Intimidation . . . . .	4
Sexual Orientation . . . . .	3
Lack of Service . . . . .	19
Not Applicable . . . . .	<u>1</u>
Total	138

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<sup>2</sup>. The "Pending" category consists of the most recently received complaints which at the time had not yet been reviewed by the Investigatory Review Committee.

A breakdown of citizen complaints received by police district is as follows:

1st ...	1	12th ...	4	24th ...	4
2nd ...	3	14th ...	3	25th ...	24
3rd ...	1	15th ...	12	26th ...	8
4th ...	6	16th ...	0	35th ...	4
5th ...	1	17th ...	3	39th ...	5
6th ...	10	18th ...	9	90th ...	3
7th ...	0	19th ...	7	92nd ...	0
8th ...	5	22nd ...	11		
9th ...	9	23rd ...	4		

One complaint filed with this Commission alleges misconduct by an officer assigned to the highway patrol unit.

Following is a breakdown by race and gender of the citizens who filed complaints with this Commission during fiscal year 1995:

White Males . . . . .	22
White Females . . . . .	5
African American Males . . . . .	48
African American Females . . . . .	26
Hispanic Males . . . . .	19
Hispanic Females . . . . .	13
Asian Males . . . . .	1
Brown Males . . . . .	2
Haitian Males . . . . .	<u>2</u>
Total	138

A court order signed by Judge Joseph O'Keefe, Court of Common Pleas, on April 13, 1995 authorized interviews of police officers by the Police Advisory Commission. Nine such interviews were conducted, all of which attended solely to the DeJesus investigation. This favorable court decision clears the way for the Commission to complete its independent, unbiased investigative

process. We expect therefore to soon be able to conclude and resolve cases on a regular and timely basis.

#### V. POLICE STRESS INITIATIVE

By Resolution of November 17, 1994, City Council requested the Commission to conduct a comprehensive investigation concerning the sources of stress within the Philadelphia Police Department. City Council further requested the Commission to report its findings, along with recommendations [to resolve stress] to Police Commissioner Richard Neal, Mayor Edward G. Rendell, Council President John F. Street, members of City Council, and to the general public. The central concerns motivating City Council's Resolution included what was perceived to be an inordinately high suicide rate by police officers and whether officers were receiving adequate psychological and counseling services. City Council also requested the Commission to investigate whether pay levels, personnel levels, training levels, as well as the quality and condition of equipment, were also potential contributing factors to police stress.

Acknowledging the pernicious and destructive affects of stress experienced by police officers, the Commission welcomed the opportunity to investigate the causes of stress among police officers as a critical step in finding means to safeguard the

health and well being of officers, and to enhance their ability to serve Philadelphia citizens. The Commission viewed its task as a critical first step in its commitment to improving relations between the Department and the communities it serves.

In accordance with the authorization of the Executive Order of October 29, 1993 issued by Mayor Edward G. Rendell, and as set forth in the City Council Resolution dated November 7, 1994 the Police Advisory Commission conducted public hearings to solicit pertinent testimony relative to police stress. Twenty-one knowledgeable witnesses representing various segments of the law enforcement community provided seven hours of testimony. An array of stressors were identified with proposed strategies for effective stress management.

In addition, further investigation of diverse issues raised at the public hearings was undertaken. Designated Commission members examined and assessed relevant Department policy and procedure statements regarding provisions for employee assistance, conducted on-site interviews with key staff of the Employee Assistance Program (EAP) to assess the quality and adequacy of service delivery, and reviewed available documentation of status reports in regard to current and pending capital improvement projects and stress training programs for Department personnel.

Based upon the testimony presented at the public hearings and the information garnered from various additional sources, the

Commission recommended specific steps where progress in alleviating stress could be measured prospectively. The following conclusions and recommendations were presented in the Police Stress Report prepared by the Commission.

1) Deteriorating physical facilities which receive only minimal maintenance are highly detrimental to officers' morale and exacerbate the level of stress experienced by officers who work within such surroundings. It was recommended that city officials and citizens within the community served by the various District Police Stations become involved in effecting programs of clean-up, modernization, and refurbishing which would greatly enhance the environment in which officers work and make going to work a more positive experience for them.

2) The Employee Assistance Program (EAP) has been touted as a highly regarded resource available to all stress-afflicted officers when work related or personal problems prove overwhelming. An assessment of the design and operation of the EAP unit, however, revealed significant deficiencies which warranted the recommended remedial strategies:

- (a) Expedite the selection and employment of a full-time Stress Manager;
- (b) Develop a plan to promote increased officer utilization and instill greater confidence in the confidentiality and the independence of the EAP;
- (c) Hire professional mental health specialists to fill the long-

standing vacancies on the EAP staff.

3) Police manpower and equipment are reportedly at levels which are less than adequate to meet overall requirements for necessary services and to support a meaningful presence on the streets. Accordingly, recommended remedies in this regard were as follows:

- (a) Increase the numbers of officers assigned to the streets by decreasing the numbers assigned to desk jobs;
- (b) Reduce the cost of overtime resulting from practice of having police officers who are scheduled to testify remain in court for the entire trial;
- (c) Provide officers with proper equipment, including well-maintained police vehicles.

4) The responses of rookie officers to frequently encountered street confrontations may be more influenced by uncertainty and subjective reactions than by the objective and disciplined conduct training officers attempt to instill. To address this potential source of stress, it was recommended that the Police Training Academy initiate efforts to examine the effectiveness of its curriculum for officers in training through objective assessment of the knowledge base and post-academy performance of recent graduates of the program. Further, the Academy was urged to develop a comprehensive training program of

coping techniques to help recruits handle the stress inherent in police work.

5) Police officers need to feel that they are appreciated by the public and not looked upon with general disfavor by residents in the community. As the means to minimize this source of police stress, it was recommended that an expanded recognition program for the contributions of police officers, as well as the expansion of the school liaison program, be initiated, publicized and supported in every police district through community and police department involvement.

6) As a tribute and acknowledgment of appreciation, the Police Department was urged to expand its levels of support and assistance for disabled and retired officers, and also to the families of officers killed in the line of duty.

7) The lack of regularity and predictability of assignment for street officers constitutes still another source of stress which can be readily minimized by administrative measures. In this regard, it was recommended that the Department investigate the allegations that African American officers often spend years on the job without a specific assignment and without a regular assigned vehicle while their white peers are quickly assigned to a regular car and beat.

8) Spanish American officers are confronted by stressors which appear unique among ethnic segments of the Police Department. By increasing the level of Spanish American members in the

Department a number of stress related complaints could be eliminated or reduced. Consequently, the recommendation was made that efforts be made to augment the Department's Spanish American component to ensure a greater Latino presence throughout all areas of Philadelphia, rather than to assign these officers to Spanish speaking areas of the City.

As requested in the City Council Resolution, distribution of the Commission's report on public hearings and recommendation regarding police stress was made to appropriate city officials and the general public in June, 1995. Moreover, the Commission has set time frames for several recommendations and has continued to follow-up to ascertain the progress made in each of the areas identified.

#### VI. PUBLIC INFORMATION COMMITTEE

During this fiscal year, the Public Information Committee continued its outreach to various neighborhoods by holding community meetings at Thomas Jefferson University's Alumni Building, the Zion Baptist Church's Educational Center, and at the Friends Meeting House. Additional community meetings and outreach efforts will be scheduled in an effort to educate and inform the community of the existence, purpose and work of the Commission.

In its continuing effort to carry out its mission, the Public Information Committee formulated and implemented a media and advertising campaign which included the display of posters in SEPTA buses, trains and trolleys. The Commission acknowledges the contribution of Stephan Rosenfeld of the Weightman Group for their pro bono contribution to the SEPTA campaign. The Commission has secured on a pro bono basis the services of Reimel Carter, a public relations firm. With the assistance of Hugh Braithwaite of that firm, the Public Information Committee has begun a program to increase public awareness of the Commission's activities.

#### VII. REPORT OF COUNSEL

Counsel to the Commission serves on a pro bono basis. The law firm of Montgomery, McCracken, Walker & Rhoads has been appointed to serve as counsel to the Commission. During this fiscal year, James J. Eisenhower, III, of Montgomery McCracken, served as Chief Counsel. Mr. Eisenhower is a graduate of Antioch University School of Law and earned a Masters in Philosophy from Oxford University. Mr. Eisenhower served as judicial law clerk to the Honorable J. Sydney Hoffman of the Superior Court of Pennsylvania before commencing employment with the United States Department of Justice in Washington, D.C. in the Civil Rights Division. Mr. Eisenhower, a native Philadelphian, returned home in

1989 and joined the United States Attorney's Office for the Eastern District of Pennsylvania as an Assistant United States Attorney where he investigated and prosecuted violations of federal criminal law including civil rights violations. Mr. Eisenhower joined Montgomery McCracken in 1994.

In the summer of 1995, Mr. Eisenhower was appointed by President William J. Clinton to serve as a White House Fellow. Mr. Eisenhower then took a leave of absence from Montgomery McCracken. Richard L. Scheff, a partner with Montgomery McCracken and head of its white collar crime unit, then joined the Commission staff as Chief Counsel. Mr. Scheff, a 1981 graduate of Suffolk University Law School, served as judicial law clerk to the Honorable J. William Ditter, Jr., of the United States District Court for the Eastern District of Pennsylvania, and then became an Assistant United States Attorney in the same district for seven years. As a prosecutor, Mr. Scheff was the Chief of the Corruption and Labor section and was responsible for the investigation and prosecution of judges, labor officials and other politicians. Recently, Mr. Scheff served as a consultant to the Under Secretary of the Treasury for Enforcement who has responsibility over the Secret Service, United States Customs Service, Bureau of Alcohol, Tobacco and Firearms and other Treasury law enforcement agencies.

Counsel to the Commission works closely with the Chair, the Executive Director and other Commission Officers providing advice regarding procedures, regulations, and personnel issues and,

with respect to certain issues, serves as a liaison for the Commission with attorneys in the Office of the City Solicitor. In addition, counsel has represented the Commission in litigation described below which has been brought by the FOP and certain police officers in an effort to stop the Commission from conducting investigations in accordance with its mandate. The defense of these actions has been successful and is detailed below.

In the Spring of 1995, the Commission began to interview the police officers involved in the Moises DeJesus incident pursuant to a procedure agreed upon with the Internal Affairs Division of the Police Department. In an attempt to stop the interviews from proceeding, and thereby stop the investigation, the FOP filed a lawsuit in state court against the Police Advisory Commission challenging the legality of the Commission on a variety of bases ("FOP v. Commission"). In this lawsuit, the FOP sought a preliminary injunction and alleged, inter alia, that the Commission: 1) had been illegally created; and 2) impermissibly interfered with the Police Department.

In April 1995, the state court denied the FOP's request for an injunction, and permitted the Commission to continue interviewing police officers to the extent that the questioning was non-adversarial and non-accusatorial. Thereafter, the FOP amended its complaint to include constitutional claims for deprivation of the officers' due process rights. Having alleged federal claims, the Commission removed the action to federal court and filed a

motion to dismiss the FOP's amended complaint. While the motion to dismiss was pending, the Commission continued to conduct its investigations and interview police officers without incident.

In September 1995, the Commission began its public hearings in the matters relating to Moises DeJesus Complaint No. 940. Shortly thereafter, seven of the nine police officers involved in the DeJesus incident filed a lawsuit in state court seeking to enjoin the compulsion of their testimony at the public hearings ("DiPasquale v. City of Philadelphia, et al."). The officers, in this second lawsuit, alleged that their Fifth Amendment rights against self-incrimination would be violated because their testimony might be used against them in subsequent criminal proceedings. The state court enjoined their testimony pending further briefing on this legal issue. In response, the Commission removed the action to federal court.

In October 1995, the FOP voluntarily dismissed its lawsuit, FOP v. Commission, which attacked the legality of the Commission. At the same time, the federal court ruled in the second lawsuit, DiPasquale v. City of Philadelphia, et al., that the officers' testimony at the Commission's public hearings, under threat of employment discipline, could not be used against the officers in subsequent criminal proceedings. For this reason, the court concluded that no federal issue existed and remanded the action to state court.

Upon remand, counsel for the Commission and counsel for the officers agreed to a consent order, signed by the state court, which resolved the matter. Pursuant to the consent order, the officers testified upon receipt of a letter from the Police Commissioner compelling them to do so, which, under the law, served to immunize such testimony from being used against the officers in subsequent criminal proceedings. The officers testified at the Commission's public hearings without incident.

The FOP has again filed suit against the City of Philadelphia, the Mayor, and Police Commissioner seeking to dismantle the Commission and strip it of its authority to conduct effective investigations. The Commission, as a non-defendant, has filed a petition to intervene in order to protect its interests. The FOP's current Complaint repeats many of the allegations from FOP v. Commission that the Commission was created illegally and operates in a manner which exceeds its authority. Counsel for the Commission, if permitted to intervene, intends to file preliminary objections and otherwise vigorously defend these allegations.

#### VIII. PERSONNEL COMMITTEE

The personnel committee initially consulted with the Executive Director concerning hiring of the two investigators.

Thereafter, the committee has consulted with the Executive Director on staff performance and evaluation issues.

**IX. CONCLUSION**

During the 1994-1995 fiscal year, the Commission faced many challenges. It successfully overcame those challenges, consistently maintaining positions designed to preserve its independence and effectiveness. The Commission looks forward to expanding its effectiveness and activities in the next year.

Respectfully submitted,

  
Jane Leslie Dalton, Esquire  
Chair