



CITY OF PHILADELPHIA

Police Department
HEADQUARTERS, FRANKLIN SQUARE
PHILADELPHIA, PENNSYLVANIA

SYLVESTER M. JOHNSON
Commissioner

January 23, 2002

William Cannon, Esq., Acting Chair
Police Advisory Commission
P.O. Box 147
Philadelphia, Pennsylvania 19105-0147

RE: Matter of Carmen Feliciano
Police Advisory Commission Number 000728

Dear Mr. Cannon:

The Philadelphia Police Department ("Department") is in receipt of the Police Advisory Commission's ("PAC") opinion regarding the above referenced matter. On March 23, 2000, the Department received a complaint against police from the Police Barrio Project. Ms. Carmen Feliciano filed a complaint which made the following allegations: (1) On March 18, 2000, at her residence of 3446 Reach Street, Police Officer Zaqueo Valez (badge number 5644) acted improperly, harassing her during a child custody dispute with her ex-husband, Billy Feliciano; (2) on March 19, 2000, Police Officer Sandra Russell (badge number 3216) harassed her when Officer Russell came to Ms. Feliciano's residence regarding a child custody dispute; and (3) on August 7, 1999, Police Officer Wayne Hunter (badge number 7334) and an unknown Black male officer physically abused her during a child custody dispute at her residence. The Internal Affairs Division ("IAD") assigned Lieutenant Robert Hall (badge number 397) to this investigation. IAD investigation file number 00-106 was started. PAC also investigated the above-mentioned alleged incidents.

On January 31, 2001, the IAD investigation concluded that, with regard to the allegations made by Ms. Feliciano, Officer Velez and Officer Russell were exonerated, the allegation of physical abuse by Officer Hunter was sustained, and the allegation of physical abuse by an unknown Black male police officer against Ms. Feliciano was unfounded.

Based on the IAD investigation, Officer Hunter was charged with the following violations:

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ARTICLE I – Conduct Unbecoming An Officer

Section 1.11 – Failure to cooperate in a Departmental administrative investigation.

Section 1.12 – Making a false statement in response to an official Departmental investigation.

Section 1.45 – Using rude or insulting language or conduct offensive to the public while on duty.

ARTICLE V – Disobedience of Orders

Section 5.39 – Unauthorized persons in police vehicle.

The Police Board of Inquiry (“PBI”) convened at Police Headquarters, Room L-3, to hear charges preferred against him under PBI file number 01-110. The hearing commenced at 10:47am and concluded at 2:02pm. As a result of the fact finding disciplinary hearing, PBI found Officer Hunter guilty of violating sections 1.11 and 1.12 and recommended a ten-day suspension for each violation. PBI found Officer Hunter not guilty of all other charges. On July 23, 2001, the Police Commissioner implemented and Officer Hunter served the twenty-day suspension without pay.

PAC’s opinion only deals with Ms. Feliciano’s complaint in connection with the altercation that allegedly occurred at Ms. Feliciano’s home on August 7, 1999 with Officer Hunter. Ms. Feliciano’s PAC complaint alleged physical abuse and abuse of authority. The August 7, 1999 incident was precipitated by a dispute between Ms. Feliciano and her former husband, Billy Feliciano, over custody of their nine-year-old daughter, Carmen Feliciano. Mr. Feliciano and Ms. Feliciano allegedly each claim to have a protection from abuse order against each other.

PAC further alleged that on June 28, 2001, PAC heard testimony of five witnesses including the testimony of Mr. Feliciano and Ms. Feliciano. On advice of his (“FOP”) attorney, Officer Hunter allegedly refused to answer any questions from PAC members or attorneys other than to confirm the truthfulness of the prior answers given by Officer Hunter to I.A.D. The FOP attorney for Officer Hunter allegedly wanted to delay the proceedings until after July 9, 2001, to permit the PBI proceedings to be completed (see footnote number one in the Carmen Feliciano PAC opinion).

The PAC opinion, with its findings and recommendations, addressed both the merits of Ms. Feliciano’s complaint and Officer Hunter’s refusal to testify at the PAC Hearing. PAC’s opinion recommended that Officer Hunter receive: (1) a suspension for a period of time to be determined by the Police Commissioner for Officer Hunter’s “refusal to testify on June 28, 2001” and (2) a twenty-day suspension from duty, without pay, and supplementary training for his conduct in handling the situation with Ms. Feliciano.

The Department conducted an extensive, thorough, and comprehensive IAD investigation. The IAD investigation resulted in a PBI fact-finding hearing that recommended a twenty-day suspension without pay. The Police Commissioner imposed that twenty-day suspension without pay. Based on the aforementioned, the Department will not impose any additional discipline.

The mistaken position taken by the FOP attorney in this case is similar to the mistaken position taken by the FOP attorney in the In re Alexander Kuilan matter – the pending PBI hearing meant that the Department was still investigating the incident and that officers could not be required to testify before PAC until the Department had concluded its investigation. PBI is not and has never been an investigative part of the Department. Consistent with and pursuant to the Department's response to the In re Alexander Kuilan matter, the Department will not discipline Officer Hunter.

Based upon the foregoing, the Department declines to follow PAC's findings and recommendations.

Respectfully yours,

Sylvester M. Johnson
Police Commissioner

By:



Daren B. Waite
Special Advisor to the
Police Commissioner

DBW:mm

cc: The Honorable John F. Street, Mayor
Estelle Richman, Managing Director
Nelson A. Diaz, City Solicitor
Michael Butler, Esq., Commission Legal Counsel
Hector W. Soto, Esq., Commission Executive Director