



PPD and PAC Communications

May 2019

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Introduction:

October 2017, The Police Advisory Commission (PAC) operates under Executive Order 2-17. In summary, the Executive Order calls upon the Police Advisory Commission to focus on improving the relationship between the Philadelphia Police Department (PPD) and the community by offering recommendations which relate to the policy, practice, and customs of the Department.

Despite working towards these goals and working within the parameters of the Executive Order, without exception, the PAC has recently learned that on at least two occasions the following order has been issued to all police officers:

“ALL PERSONNEL ARE REMINDED THAT ANY REQUESTS FROM THE POLICE ADVISORY COMMISSION FOR DATA, INFORMATION OR ANY MEETINGS WITH DEPARTMENTAL EMPLOYEES MUST BE COORDINATED THROUGH THE COMMISSIONERS SPECIAL ADVISOR, STAFF INSPECTOR HEALY

TO BE READ AT (3) THREE CONSECUTIVE ROLL CALLS”

II. PAC Objection

The PAC objects to this order for the following reasons:

1. **Contradiction of Executive Order 2-17:** As noted above, the order issued to PPD personnel contradicts executive order 2-17, specifically:

Section 6. Titled “Rights and Responsibilities of City Officers and Employees” reads:

Upon 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 related criminal investigation may elect not to appear before the commission until after the conclusion of such investigation.”

Section 5. Executive Order 2-17 grants the Police Advisory Commission the right 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*”

The Police Department’s direction to contact the Office of the Commissioner rather than providing “*their full, complete and prompt cooperation*” is a clear contradiction of the Mayor’s Executive

Order. Further, the PAC, despite numerous efforts, has not received any confidentiality requirements from the Police Department.

2. **Inconsistency:** This order issued to PPD personnel is inconsistent with communication the Police Department has had with the Police Advisory Commission since October 2017. In the winter of 2017, the Police Department requested that the PAC seek information through the Office of the Commissioner. Specifically, through the Office of the Special Advisor to the Commissioner. The PAC stated that this would not be feasible because it would hinder relationship building and make the PAC reliant upon Police leadership.

Consistently, via email, the Police Department has represented the involvement of the Special Advisor as a facilitator who is charged with easing the flow of information. Clearly, an order which directs that no information be sent to the PAC without coordination with the Special Advisor's Office does not accomplish this goal. Further, the Police Department represented that communication through the Special Advisor was a temporary protocol necessary for a short period of time and would gradually fade away as relationships were built. Again, the phrasing of the order sent to police department personnel does not reflect this and the repetition of any command is a tacit suggestion that this order must be followed without question.

3. **Investigations of Police Leadership and Whistleblower Protections:** The PAC will not confirm or deny that there are any ongoing investigations which relate to senior leadership. However, this order indicates that any police officer who did wish to speak to the Police Advisory Commission about the actions of the Special Advisor, the Commissioner, Deputy Commissioners, or other leadership would need to first inform senior leadership of their intentions. An officer in this situation would likely be intimidated out of this communication and their options to report malfeasance without violating an order would be limited. This is a clear contradiction of Police Directive 8.10. This directive is titled "PREVENTING CORRUPTION WITHIN OUR RANKS - CREATING A VALUES DRIVEN ORGANIZATION. This directive quotes the Whistleblower law which states "B. The Act protects the making of a "good faith" report of any instance of wrongdoing or waste, or participating in an investigation, hearing, or inquiry held by an appropriate authority.

Because the Police Advisory Commission is an accepted authority on issues relating to the Philadelphia Police Department, any suggestion that cooperating with the PAC requires coordination and approval from a higher level is seemingly in contradiction of the Police Department directives and possibly in contradiction of state whistleblower law.

4. **Hierarchical Organization:** The Philadelphia Police Department, like all other Police Departments, has a hierarchical command structure. As the PAC has reviewed the disciplinary process for police officers, we have had numerous conversations with Police Commanders at the ranks of Captain through Deputy Commissioner. All have highlighted that one extremely effective aspect of "command level discipline" is that it requires an officer of a lower rank to interact with an officer at the rank of Inspector. As described to the PAC, this type of interaction is impactful because it is unusual for an officer to interact with an inspector for any reason and this interaction is something most officers of lower ranks believe signifies a very serious issue. Despite this, the Police Department has on at least 2 occasions ordered all lower ranking officers to ensure that they contact the Office of the Commissioner when engaging the PAC. In any organization led by a

Commissioner this would imply that the PAC is an organization to be wary of. However, in an organization which admittedly relies on contact with certain ranks to impact other communications with officers, it undoubtedly has a deleterious effect on the perception of the PAC

5. Investigations of Practice and Customs: Since receiving a new Executive Order and hiring a new Executive Director in 2017, the PAC has forwarded six reports to the Police Commissioner. All six of those reports relied on communication with Police personnel which did not occur through the Office of the Special Advisor. During these communications, the PAC assured Police personnel that they were not violating any rules by speaking with the PAC. These meetings resulted in stronger PAC reports and contributed to the creation and subsequent acceptance of recommendations to the Police Department. The order recently issued to PPD personnel requiring coordination with the Special Advisor's Office, especially the repetition of this order, signals that the Police Department wishes for these communications to end, which would diminish the ability of the PAC to carry out its mission.

6. Selective Enforcement: The order issued to all PPD personnel singles out the Police Advisory Commission, therefore framing the PAC as a troublesome organization. This order did not include personnel to coordinate with the Special Advisor's Office for interaction with other city government organizations which might have some interest in the Police Department, such as the Office of the Inspector General, the Philadelphia Commission on Human Relations, the Mayor's Commission on African American Males, the Mayor's Commission of Persons with Disabilities, The Mayor's Commission on LGBTQ Affairs, or the Office of Immigrant Affairs. Further, the PAC has not been made aware of any orders which proscribes the process for conversation between other members of City Government and the Police Department. Finally, this order lowers the PAC to be considered less trustworthy than community members or the Press. This is extraordinarily troubling and has a negative impact on the PAC's ability to fulfill its mission.

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13. **Harm to Existing relationships:** The Police Advisory Commission works daily to solve problems in real time through their partnership with the Police Department. For example, the PAC has helped victims of domestic violence contact district leaders when they were not being serviced appropriately, has assisted families of homicide victims get in touch with lead detectives, and has helped various other people in crises get the information they need. Often, these communications with Police leaders such as Captains, Lieutenants, and Sergeants present the opportunity for the PAC to clear up misperceptions held by members of the public. These communications can also result in these same police leaders reviewing a citizen -police interaction, determining if it was problematic, and taking action for prompt remediation. This process results in a net win for the PPD, the PAC, and the City of Philadelphia. The relationship built after working together to solve a problem is a significant factor in resolving subsequent problems if they occur. This recent order has already, on at least five occasions, been communicated to the PAC by personnel to not speak to them directly. Therefore, the order to not to speak to the PAC without coordination with the Special Advisor's Office is already harming existing relationships leveraged to help Philadelphia residents in real time

III: Philadelphia Police Officers' Perceptions on the PAC

The modern Police Advisory Commission, created in February of 2017, with new staff and a new mission, hoped for the free and unrestricted flow of information and access to police personnel, in accordance with Executive Order 2-17. However, a representative from the Commissioner's Office stated, in sum, that the Special Advisor's Office involvement in interactions was to ameliorate officer discomfort with the PAC. The PPD felt that in the past, The PAC had damaged its reputation amongst police officers as it unfairly or unjustly investigated officer misconduct, which led to deep mistrust amongst police personnel and leadership.

To speak broadly of how the PAC functioned over the last 20 years or so, the maximum of three investigators which were operating over the last 20 years could review approximately 1% of the complaints investigated to internal affairs if they were truly focused on this task. In reality, they reviewed far less than 1% for over a decade. That of course does not include the 0% of the most serious cases typically classified as "internal" and shielded from PAC review. That said, prior iterations of the PAC did require a small number of Police Officers to appear in public, to answer for allegations of misconduct. While the modern PAC was created in 2017 and operates in a distinctly different fashion than prior iterations, the PAC accepts that some officers may have felt wronged by the PAC and a liaison may need to exist, on a case by case basis, as we build relationships and trust for the future.

Almost two years have passed and the PAC, via the numerous interactions with police leadership, midlevel supervisors, and line staff, have proven the concerns of the past are not a significant influence on the relationship between Police Officers and the PAC. The quality of the PAC's public work and the now positive relationships with police personnel of all ranks should place the concerns of the past, firmly in the past, and allow the PAC and PPD to move forward. It is now incumbent on Police leadership to educate personnel on the realities of the modern PAC and dispel the concerns about the past, not reinforce them as this recent order does. The PAC is an ally and partner to the citizens of Philadelphia and the Police Department not an adversary. The recently distributed order is a relic that draws on the past, impedes ongoing and future progress.

IV: Recommendations

Recommendation 1: The PAC recommends that the Philadelphia Police Department rescind the order to coordinate all communication with the PAC through the Special Advisor's Office.

Recommendation 1.2 Officers should be informed that the PAC is to be fully, completely, and promptly cooperated with, without any need to inform superior officers, as stated in EO 2-17. We also recommend that this order be repeated at roll call monthly for 1 year.

Recommendation 2: The PAC recommends that the Philadelphia Police Department amend Directive 8.10 to specifically include the Police Advisory Commission as an agency departmental personnel are required to cooperate with unless they are the subject of an investigation. PPD personnel should feel empowered to speak with the PAC and to contribute to meaningful change within their organization.

Recommendation 3: The PAC has, for over two years, attempted to work with the Philadelphia Police Department to establish necessary confidentiality requirements over certain documents such as internal investigations, 75-48A data and EEO investigations. The PAC recommends that the PPD forward a draft of a general Memorandum of Understanding to include all provisions they are requesting.

Recommendation 4: The PAC recommends that the Philadelphia Police Department allow time for the PAC to train new recruits on why civilian oversight of law enforcement is important and that cooperation with the PAC is something to be valued and embraced. If the goal is to undo a negative perception of the PAC, this training will surely be more effective than the existing order.

V: Conclusion

The Police Advisory Commission values its work and its mission. The PAC strives daily to improve the relationship between the Police and the community. The PPD's most recent order that all meetings, communications, and information must be coordinated through the Special Advisor's Office interferes with the goal of improving community-police relations. Most importantly, to the rank and file officers, it implies a level of distrust between the leadership of the Police Department and the Police Advisory Commission. The PAC does not believe this distrust exists, values open and honest communication with the PPD, and hopes positive contact with the PAC would trickle down throughout the organization. As noted, this recent order only detracts from these goals.



CITY OF PHILADELPHIA

Police Department

HEADQUARTERS, FRANKLIN SQUARE
PHILADELPHIA, PENNSYLVANIA

Richard J. Ross, Jr.
Commissioner

April 29, 2019

Hans Menos
Executive Director
Police Advisory Commission
1515 Arch Street, 11th Floor
Philadelphia, PA 19107

Re: PPD/PAC Communication Report

Dear Director Menos:

The Philadelphia Police Department has reviewed the above report. Please find below our response to each of your recommendations.

Recommendation 1:

While the Police Department respectfully disagrees with the recommendation to rescind the order to coordinate all communication with the PAC through the Special Advisor's Office, the Department will clarify the order to make clear that its overriding purpose is to ensure an open, transparent, and orderly process for the PAC to receive the information it seeks in a timely manner. We do not agree that centralizing these requests through the Special Advisor's Office would somehow hinder the PAC's effectiveness by creating bureaucratic roadblocks. On the contrary, this process is intended to have the opposite effect and has allowed the PAC to complete more than six reports in the last two years. PAC has been provided unprecedented access to the PPD and its officers and such access has been established as a direct result of the process set forth by this order.

This order does not require approval by the PPD to access information. Rather, the order is intended to establish an orderly coordination process to ensure that information flows freely to the PAC. This coordination structure has been instrumental with internally facilitating most of the informational and interview requests the PAC has made to date. The Special Advisor consistently assures police personnel that they are free to speak candidly with the PAC and will continue to do so.

The intent of the order is to have the Special Advisor coordinate information between agencies, and I believe that decision has served both agencies well. However, the Department recognizes that the wording of the order may not state this intent as clearly as it should. The Department will clarify the wording of the order to make it clear that the Special Advisor's role is to coordinate a prompt and timely response to information requests, to coordinate with all commanding officers

to make personnel available for any interviews requested by the PAC, and that personnel are free to report any concerns they may have directly to the PAC.

Recommendation 1.2:

As stated above, the intent of the order is to ensure that the PAC receives the full, complete, and prompt cooperation of police personnel. However, the Department respectfully disagrees with other aspects of this recommendation. As you know, roll call is a very short period of time at the beginning of an officer's shift where duty assignments and important crime information is disseminated. This time is also used for training or refresher training on substantive matters necessary for the officers in performing their duties. The PPD is unaware of any complaints from the PAC that any officer or specific units have refused to cooperate or share information. Thus, the PPD does not see the pressing need to address this matter at roll calls. Nonetheless, Executive Order 2-17 will be uploaded onto the Departmental website and the order regarding communications with the PAC will be clarified as discussed previously. Thus, all personnel will be aware and expected to comply with this Executive Order.

Recommendation 2:

The Department respectfully disagrees with this recommendation. Directive 8.10, "*Preventing Corruption within our Ranks Creating a Values Driven Organization*" creates an affirmative duty on all police officers to proactively report corruption, misconduct and other acts negatively affecting the Department. This document identifies multiple mechanisms for officers to self-report such corruption or misconduct. This policy does not mandate officers to cooperate with any specific unit of the Department or other government agency. Therefore, "adding" the PAC to this policy, as recommended, would be inappropriate. Our Disciplinary Code adequately addresses the responsibility of officers to participate in Departmental investigations.

That said, the PPD believes that it is the best interest of the PPD and the community to have as many mechanisms for officers to report corruption or misconduct as possible. So, if willing, the PPD would welcome adding the PAC as an additional mechanism for officers to make such reports, with the understanding that any reports received would be forwarded to Internal Affairs immediately for the proper investigation. Once the investigations are completed, the PPD would be happy to share the results with the PAC.

Recommendation 3:

The PAC is well aware that the PPD and the PAC have been in ongoing discussions, through the Law Department, regarding the safeguarding of personal identifying information in our car stop and pedestrian stop reports. As we have discussed, while the PPD has a responsibility to share information with the PAC, we also have an equally important responsibility to protect the confidential, personal identifying information of the citizens we encounter. The PPD will continue to work with the PAC and the Law Department on how to balance these responsibilities and will continue to negotiate in good faith on this issue.

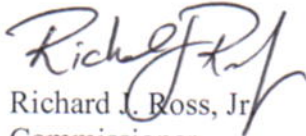
Recommendation 4:

The Department believes that this recommendation is already incorporated into Academy training. Currently, time is allotted to review all Mayor's Executive Orders relevant to the police

officers and city employees in general. Furthermore, Executive Order 2-17 will be posted on the Departmental website and all employees are expected to comply with the Order.

With respect to negative perception of the PAC within the PPD, this can be addressed by continuing to treat officers with respect and constantly drafting balanced, fair and unbiased reports that help to improve the Department and demonstrate the true mission of the PAC.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Ross, Jr.", written in a cursive style.

Richard J. Ross, Jr.
Commissioner