



**POLICE ADVISORY
COMMISSION**
CITY OF PHILADELPHIA

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November 20, 2019

Commissioner Christine Coulter
Police Administration Building
750 Race Street
Philadelphia, PA 19106

Dear Commissioner Coulter,

During your September 10, 2019, testimony before Philadelphia City Council, you responded to direct questioning from a Councilmember regarding the Police Board of Inquiry (PBI). The questions dealt with several aspects of the PBI process, from public notice and accommodation, to the Police Department's internal case classifications and concerns about police participation in public view hearings. The Police Advisory Commission (PAC) noted the concerns below and makes the following recommendations:

PBI Hearing Schedule and Frequency

In response to a question about the scheduling of PBI hearings, you stated that PBI hearings are Monday through Thursday, and that many hearings can be heard on a single day. As you are aware, the PAC is customarily informed of the monthly schedule of PBI hearings 5-10 days before the first of the month. The PAC is rarely notified of more than five hearings in any given month. On 9/19/19 an Officer assigned to PBI notified the PAC that no Complaints Against Police (CAPS) were scheduled to be heard before the PBI in the month of October. On 10/25/19 the PAC was notified that there were also no hearings in November. We assume this means that all of the PBI hearings in the month of October and November are internal. This is concerning because, as you acknowledge in your testimony, cases classified as internal are shielded from public view.

Executive order 5-17 directs the PBI to schedule a hearing within 90 days of the case being referred and to provide not less than 30 days' notice to the complainant and the officer. You seemed to reference this in your testimony when you stated that that PBI hearings are scheduled a month in advance. Despite this, you stated that individuals interested in attending a hearing, would have to call the day of the hearing to determine if it was an internal.

Based on the above, the PAC received renewed interest from residents of the city regarding PBI hearing and the public access. The main issue which residents brought to the PAC was how hearings could be advertised to the public. In response, the PAC board of Commissioners has directed me to ensure that PBI hearings are listed on the PAC's online public calendar. We plan to begin posting the hearing schedule in December.

Public Accommodation

During the September 20th testimony, you acknowledged that you “could have a sampling of people” attend PBI hearings, but that the room itself is too small for more than one or two members of the public to attend a PBI hearing. The PBI hearing room has four seats available. In the PAC’s experience, two of these seats are reserved by members of the Fraternal Order of Police (FOP) or their attorneys. As a result, typically, only two seats are free and often a member of the Police Advisory Commission occupies one of those two seats. With these space limitations, we agree with your assessment that “increased public participation at PBI under the current circumstances will only result in frustration from both residents and the Department”. However, the PAC does not believe the solution is to dissuade attendance at a public hearing, but instead to immediately locate a larger space for PBI hearings.

Cases Classified as Internal

With respect to internal hearings, you highlighted that internal investigations could not be viewed by the public because of the need to shield the identity of complaining or cooperating officers. This seems to imply that the only reason the public cannot observe these cases is to protect the identity of officers.

Conclusion

The recommendations listed below are meant to guide the change which we believe is needed in the current PBI hearings. Broadly, the space of the room and the public notice are problematic as they severely limit the public’s ability to participate in or observe these public hearings. As we have noted, the rationale offered for why these hearings must be closed to the public seems incomplete and flawed. The PAC believes that you value transparency and the public’s faith that the Police Department can hold their officers’ accountable. We believe that the current state and secrecy of internal investigations and hearings only serve to undermine that trust and offer our assistance in resolving that issue for the good of the police officers under your command and the good of the residents of Philadelphia.

Finally, this issue was raised by several members of the public at our last public meeting on November 18, 2019. We would like to be able to update them on the progress of this issue on our next meeting. Therefore, the PAC is respectfully requesting a response to this letter by December 14, 2019 if not sooner.

Recommendations:

Recommendation 1: We recommend that the PPD provide a monthly PBI hearing list which includes internal hearings, to the PAC. This list should denote which hearings are public and which are internal. The PAC will make PBI calendars accessible through our website.

Recommendation 2: Secure alternative locations, including the Auditorium in the Police Administration Building, or other locations in the city where PBI hearings can be held.

Recommendation 3: Record and or live stream PBI hearings in order to make them more accessible to the public.

Recommendation 4: Open all PBI hearings to the public.

Recommendation 4.1: Allow for the investigator and/or Department advocate to request, on a case by case basis, that a hearing be closed to the public.

Recommendation 4.2 Create a list of specific criteria for a case to be classified as closed to the public. Note: If the Department's response is that public access will dissuade participation, please develop this rationale.

Recommendation 4.3: Provide clarification to the public and the City Council about how cases are classified as internal and highlight the specific policies which guide the process.

Recommendation 5: Notify the PAC, on a weekly basis, of all cases referred to PBI

Recommendation 6: Notify the PAC, on a weekly basis, of the outcome of all cases referred to and resolved by the charging unit or PBI.

Recommendation 7: Make public the stenographic record of every PBI

Pursuant to Executive Order 2-17, the Philadelphia Police Department must issue a written response to these recommendations within thirty days. Upon request, the PAC will extend the Department's response time by an additional fifteen days. The PAC will include the Police Department's response with the recommendation when it is released publicly.

Sincerely,



Hans Menos
Executive Director
Police Advisory Commission

Cc: Brian Abernathy, Managing Director
Tumar Alexander, First Deputy Managing Director
Vanessa Garrett-Harley, Deputy Managing Director
Ronda Goldfein, Chairperson, Police Advisory Commission



CITY OF PHILADELPHIA

Police Department

HEADQUARTERS, FRANKLIN SQUARE
PHILADELPHIA, PENNSYLVANIA

CHRISTINE M. COULTER
Commissioner

December 5, 2019

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

Re: Letter dated 11-20-2019 – Police Board of Inquiry

Dear Director Menos:

I have reviewed the recommendations you have offered regarding the current Police Board of Inquiry processes. While several recommendation appear to have merit worthy of discussions, others touch upon the working conditions of our employees and would be subject to negotiation with the FOP. Further, others seek clarifications that are clearly and satisfactorily set forth directly in Executive Order 5-17.

Nonetheless, the recommendations presented seek long-term changes to the existing PBI system. As acting Commissioner, I believe the next Police Commissioner should have the courtesy of making any final decisions regarding the disciplinary processes of the Philadelphia Police Department for the foreseeable future. As such, I am respectfully deferring, at this point, to make any final decisions. If appointed, I would be happy to revisit these recommendations as soon as possible. If not, I will properly advise the incoming Commissioner of the recommendations.

Sincerely,

A handwritten signature in cursive script that reads "Christine M. Coulter".

Christine M. Coulter
Police Commissioner