POLICE ADVISORY COMMISSION
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October 14, 2020

In June 2019 a group known as "The Plainview Project" released a database which cataloged the publicly available Facebook posts of Police Officers around the country. The Philadelphia Police Department had over 300 officers implicated in this database. As a result, the residents of the city and the Police Advisory Commission (PAC) took an interest. Attached is our initial report which outlines an effort which spans approximately 14 months. The PAC recognizes that most of the response and decision making did not occur under the leadership of Commissioner Outlaw. However, the issues remain and are worthy of serious consideration.

Background:

The PAC began to work on a review of the Plainview Project (PVP) and the Philadelphia Police Department's (PPD) response as soon as the database was made publicly accessible in early June 2019. The PAC submitted a formal request for information to the PPD in September 2019, but this request went unanswered until the PPD informed the PAC that the request would be held until the search for a new Police Commissioner was completed.

In February and March 2020, the PPD provided spreadsheets which included Internal Affairs investigation results and discipline outcomes for officers named in the PVP database. These spreadsheets raised additional questions about investigations and discipline. The PAC went back and forth with the PPD after receiving these spreadsheets in order to obtain all relevant PPD documents and answers to the many questions that remained. While these requests and conversations continued, the PPD withheld documents, information, and access to PPD personnel for an interview.

The PAC began to receive some requested materials in July 2020, but a small number of requests are still pending. While the PAC has requested a large quantity of documents, the release of this information continued to occur at a slow pace. This was due to staffing and capacity concerns, as well as impacts related to Covid-19, within the PPD and the Law Department. While some delay is understandable, 14 months have passed since the PVP database was published, and during that period, the PAC faced numerous administrative hurdles regarding access to information, personnel, and documents.

A primary reason for PAC being denied access to some but not all information in recent months has been based on legal issues raised by the Law Department with PPD. Specifically, the Law Department advised the PPD that production of certain information to the PAC could waive privilege or had potential to jeopardize ongoing discipline cases, pending arbitrations and litigation. We acknowledge that PPD's and the Law Department's stated priority was making sure that FB PVP disciplinary decisions are upheld when litigating disciplinary arbitrations —namely, that fired police officers stay fired because they violated the public's trust. Nevertheless, PAC believes that solutions existed which would have addressed any such concerns of the Law

Oversight is public safety

Department, while at the same time allowing for the prompt disclosure of PPD materials necessary for PAC's review. The delay in response and production was an affront to oversight, that we hope will not be repeated.

These initial reports are meant to begin to explain this scandal and the many impacts of it to the residents of Philadelphia and offer preliminary recommendations to the PPD. With this release, however, the PAC reserves the right to update these reports or publish additional reports as new information is received. Updates and supplemental reports will be subject to review and redaction by the Law Department, in compliance with any confidentiality agreements in place.

Sincerely,

Hans Menos
Executive Director

In June of 2019, a group called the Plain View Project (PVP) released a database to the public online. The database was the result of work done by attorneys in Philadelphia after they discovered that some local police officers had publicly viewable Facebook posts that "appeared to endorse violence, racism, and bigotry."[1] PVP team members took screen captures of any Facebook posts and comments that could undermine public trust and confidence in police to include in the database.[2] The database included over 300 active Philadelphia Police Department officers, along with numerous former officers.[3]

The year that has passed since the public release of the PVP database has seen several scandals and major events within the Philadelphia Police Department. These include the resignation of one Commissioner and the selection of a new one, changes in leadership across the Department, and now, a national conversation that has focused on systemic racism, police brutality, and increased accountability within police departments. Included in this conversation are assertions from both community members and government leaders that we must seize this opportunity for reform. It remains to be seen what actions will come out of this conversation, but there are many aspects of the PVP database content and the PPD's response to it that demonstrate where reforms are needed.

- After an initial request in September 2019 and follow-up requests in subsequent months, the PAC did not receive any data about the PPD response to the PVP project until February 2020.

- The PAC's exclusion from this process speaks to a larger question of how truly empowered the PAC is to conduct meaningful oversight of the PPD. As City leaders determine the future of civilian oversight of police in Philadelphia, this scandal should serve as an example of why independent oversight with full access to PPD documents, information, and personnel is necessary in order to foster community trust and build legitimacy.

- The processes that the PPD used to respond to the PVP database lacked transparency. By classifying the investigations as internal, the PPD kept almost all information about IAD investigations, discipline outcomes, and decision-making shielded from the public – despite intense public interest.

- The PAC reviewed over 1,800 Facebook posts and comments from the PVP database and from officers' profiles. These posts and comments were categorized into one or more themes to better analyze the content.

- The most common themes present in the officers' Facebook content were Islamophobia (358 instances), making light of use of force (284 instances), mocking opposing viewpoints (253 instances), and coded racist language (231 instances).

- A high-level PPD leader who had influence over the PPD response to the PVP database speculated that the PVP database was intended to ostracize officers who hold more conservative political views. This is one example that highlights the importance of outside oversight to ensure that controversial or polarizing events receive a balanced response.

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[1]   https://www.plainviewproject.org/about
[2]   https://www.plainviewproject.org/about
[3] https://www.injusticewatch.org/interactives/cops-troubling-facebook-posts-revealed/

- The limited information provided by the PPD in February 2020 only raised more questions. For example, the PAC found an instance in which one officer received an incomplete review. Had the PAC been included in an oversight capacity, concerns about consistency within the disciplinary process and data cohesion could have been addressed in real time.

- The PAC learned that confidential information prepared by the law firm Ballard Spahr to guide the PPD in disciplinary decisions was inappropriately shared with the FOP. The PPD maintains this was done inadvertently.

- The PPD lost at all 7 of the first disciplinary hearings that occurred for PVP officers. These 7 hearings resulted in not guilty findings and no discipline for those 7 officers. After this, the discipline charges for the remaining officers had to be rewritten. This delayed the completion of discipline for PVP officers and demonstrates that administrative processes such as charging require attention and oversight to ensure efficiency and accuracy.

- The PPD Disciplinary Code and legal precedents may have allowed for more serious discipline for more officers. The PPD used a less serious charge (5-§011-10) related to disobeying the social media directive for all but the most egregious officers, rather than a more serious charge (1-§023-10) related to discriminatory communications. This choice sidesteps the impact of this scandal because it is the content of the posts and comments that matters here, not simply the fact that the officers may have violated the PPD social media directive.

- Themes present in posts and comments are damaging and disruptive to policing. Investigations that focused solely on whether the content violated the PPD's social media policy may have failed to account for public perception and the impact to community relationships. Damaging effects impact residents of Philadelphia and Philadelphia Police officers alike.

- While disciplining individual officers for conduct such as social media posts found in the PVP database is important, it alone falls short in fixing the harms done. It is important to understand this scandal and the PPD response to it in the context of police culture, transparency, and accountability if the goal is to create systemic change within the PPD.

The report includes a series of recommendations to the PPD:

Recommendation 1: The PAC recommends that the PPD engage an outside body to conduct a review of all aspects of PPD culture, with a special focus on racism and sexism.

Recommendation 2: In accordance with Executive Order 2-17, the PPD should grant full and timely access to documents, information, and personnel as requested by the PAC and any future oversight body. Confidentiality agreements may be utilized as needed but should not delay the timely release of requested documents or access to personnel via interviews.

> **Recommendation 2a:** The PPD should draft and publicize a clear policy that outlines the process for determining how investigations are deemed internals. This policy should include a process for appealing this determination and timetable for when internals may be declassified and available for public review.

Recommendation 3: The PAC recommends that the PPD decentralize charging decisions and include external reviews of administrative processes for investigations related to large-scale or sensitive events.

Recommendation 3a: The PPD should draft a clear policy that requires personnel working permanently or temporarily in the charging unit to recuse themselves from making charging decisions about officers with whom they have personal relationships or with whom they are familiar.

Recommendation 3b: The PPD should immediately begin to formally document internal investigative guidance, metrics related charging decisions and how the metrics were devised, and any other internal processes surrounding large-scale or sensitive events.

Recommendation 4: The PAC recommends that the PPD utilize the formal reconciliation process created by the National Initiative for Building Community Trust and Justice at John Jay College to publicly acknowledge the harm caused by the PVP database content created by PPD officers.

Recommendation 4a: The PPD should create and publish on the "accountability" page of the PPD website a plan related to their participation in truth and reconciliation efforts. This plan should include a timeframe and instructions for public comment that will set expectations for the process, and updates related to progress on the plan should be made publicly available as the process unfolds.

Recommendation 5: The PAC recommends that the PPD use PVP database content for Department-wide and unit-level analysis and to focus training efforts related to cultural competency.

Recommendation 6: The PAC recommends that the PPD incorporate social media and lessons from the PVP database into new officer wellness initiatives.

In accordance with Executive Order 2-17, the PAC looks forward to the PPD's response to the recommendations.

A REVIEW OF THE PHILADELPHIA POLICE DEPARTMENT'S RESPONSE TO THE PLAIN VIEW PROJECT

POLICE ADVISORY COMMISSION
CITY OF PHILADELPHIA

VOL. 1: DATA AND RESEARCH METHODS

CITY OF PHILADELPHIA

POLICE ADVISORY COMMISSION

POLICY REPORT

Title:	Type of Report
A Review of the Philadelphia Police Department's Response to the Plain View Project	☒Final ☐Supplemental

Subject:	Police Advisory Commission File Number
Policy, Practice, and Custom Report	19-05

Introduction

In June of 2019, a group called the Plain View Project (PVP) released a database to the public online. The database was the result of work done by attorneys in Philadelphia after they discovered that some local police officers had publicly viewable Facebook posts that "appeared to endorse violence, racism, and bigotry."[1] In the fall of 2017, the PVP team requested and obtained full rosters from eight police departments across the United States, and searched for public Facebook profiles that corresponded to the listed officers. If the officers identified themselves as police officers in any way in their profiles, PVP team members took screen captures of any posts and comments that could undermine public trust and confidence in police to include in the database.[2] The database included over 300 active Philadelphia Police Department officers, along with numerous former officers.[3]

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[1] https://www.plainviewproject.org/about
[2] https://www.plainviewproject.org/about
[3] https://www.injusticewatch.org/interactives/cops-troubling-facebook-posts-revealed/

Distribution	No.	File Number:	Signature of Analyst Making Report:
Police Commissioner	1	19-05	Janine Zajac
Managing Director	1	**Signature of Person Reviewing Report:**	
Mayor's Office	1		

Other *(Specify):* **City Solicitor** **Deputy Managing Director for** **Criminal Justice and Public Safety**	2	Title: Executive Director	Date of Report: 8/21/2020

Residents of Philadelphia were quick to react to the posts and comments revealed by the PVP database. There were numerous protests[4], community meetings[5], and opinion pieces[6]. On one end of the spectrum of responses were individuals who were not surprised at all by the Facebook posts made by PPD officers and saw them as just another example of the inherent racism of the PPD. Some contended that the posts were possibly protected by officers' right to free speech, and others said that the officers responsible for the most obviously reprehensible posts are a few bad apples that do not represent the PPD as whole.

When news of the PVP database broke, the Police Advisory Commission (PAC) hoped to partner with the PPD to understand the complex issue of culture within the PPD and determine to what degree the data included in the PVP database spoke to gaps in training, recruitment, and inclusion within the Department. The PAC hoped to bring a civilian perspective to the table to make progress in repairing the damage done and help the Department move forward in building, or in some cases, creating for the first time, trust and legitimacy. As reported in various news outlets, the PPD categorized the investigations into the PVP database content as "internal", and the PAC was not given access to the process as the PPD began to deliver discipline. The PAC began its own review of the data in the PVP database to ensure that someone outside of the PPD had a full understanding of the posts and their potential effect on the ability of Philadelphia residents to trust the PPD moving forward.

In February of 2020, the PPD shared information with the PAC about their disciplinary decisions related to the PVP database. This project, however, aims to show that the Facebook posts revealed by the PVP database have impacts that go beyond the matter of officers facing consequences for breaking Departmental rules. The PVP database revealed that some officers advertise beliefs that negatively impact their ability, or the public's perception of their ability, to police equitably and carry out the PPD oath to serve with honor, integrity, and respect. Aside from the many obvious harms done, when the public loses trust in the police, it only makes a police officer's job more difficult and less safe.

The PAC, as stated in Executive Order 2-17, is empowered to perform investigations into police policy and practice that relate to perceived patterns of conduct or systemic issues. The posts revealed by the PVP database presented what appeared to be a systemic issue related to culture within the PPD – specifically, how that culture affects not only trust from the community but also Departmental morale, officer safety, and PPD administrative processes.

Volume I of this report explains how the PAC reviewed the PVP database data, the standards of review used by the PPD, and provides a brief overview of the PPD response since the release of the PVP database in June 2019. Volume II of this report, which begins on page 13, goes into further detail about the PPD response, identifies deficiencies in the response, and lists recommendations to the PPD. A spreadsheet that includes all the data gathered and reviewed by the PAC will be posted on the PAC's website as an accompaniment to this report.

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[4] https://philadelphia.cbslocal.com/2019/06/07/philadelphia-police-rally-for-justice-plain-view-project/
[5] https://www.inquirer.com/news/one-small-victory-community-gathers-after-firings-philadelphia-police-officers-offensive-facebook-posts-20190729.html
[6] https://www.inquirer.com/opinion/editorials/philadelphia-police-facebook-posts-plain-view-project-racist-20190605.html

Data Collection

The PAC received all posts and comments created by current and former officers that were collected by the PVP in PDF form, which totaled 3,975 PDF pages. PAC staff transferred the text of the posts and comments created by current officers into a spreadsheet to better categorize and analyze the database content. This spreadsheet is posted on the PAC website for public viewing.

PAC staff also reviewed the Facebook accounts of all current PPD officers included in the PVP database. This was done because many of the posts included in the Plainview Project database were captured in the spring or summer of 2018, as indicated in the "date captured" field on the page for each post in the database. Even after the public release of the Plainview Project database, some PPD officers maintained completely public Facebook profiles. This allowed PAC staff to review many PPD officer Facebook accounts linked through the PVP database for new posts made after the PVP data collection stopped.

Further, PVP staff missed some posts that were of local significance, such as posts that referenced PPD officer-involved incidents. The PVP database also did not capture posts with 100% consistency. For example, some videos and images were added to the database for one or more officers, but the same posts were not included for other officers. PAC staff identified 108 officers in the database who had 1 or more additional posts or comments that were not captured by PVP staff. Their additional posts were added to the spreadsheet and include a notation that they were not captured by PVP.

The PAC identified 15 additional officers who were not included in the PVP database, but who clearly identify themselves as PPD officers in their public Facebook profiles. If these officers made posts or comments that met the criteria of the PVP, or were otherwise misogynistic or discriminatory, they were added to the spreadsheet and their posts were marked on the spreadsheet as 'not captured by PVP.'

In deciding which posts to capture in addition to those captured by the PVP, the PAC followed the same guideline as PVP staff: any post or comment that could undermine the public's trust. As residents of Philadelphia, PAC staff members were able to approach the posts from a local civilian perspective: "If I, or a loved one, had an encounter with a PPD officer and then saw their posts, would the integrity of that police encounter be called into question?" For example, could a female identifying resident of Philadelphia receive a ticket from a PPD officer, view a misogynistic or sexist Facebook post or comment from that officer, and question the officer's motivations during the interaction? Or, viewed through the lens of internal Departmental morale, could a coworker who identifies as a member of a group disparaged in an officer's post or comment be justified in filing a complaint? On March 23, 2020, PAC staff forwarded a complaint to Internal Affairs that included all the additional posts and comments not captured by the PVP database. The Internal Affairs investigations are open as of the date of this report.

Data Classification

While reviewing each post and comment in the database and in officer profiles, common themes stood out and PAC staff developed a categorization system to classify the posts and comments. Individuals may disagree with the categories created by the PAC, or which category certain posts and comments belong in. However, it was important to classify the posts and comments by theme in order to understand trends and identify topics that the PPD should focus on as efforts are made to repair the harms done.

The PAC recognizes that the posts and comments created or shared by PPD officers fall on a spectrum. Even within a theme category, posts could arguably be organized from least offensive to most offensive, leaving some at the low end of problematic, but this type of categorization would differ based

on who was doing the categorizing. Despite any disagreements about themes and which posts are the most problematic, the most important point to make is that language matters. For example, an officer may have used a homophobic slur in a post to tease a friend, or called a rival football team "gay", in a way they considered light-hearted or unserious. Even if these officers did not have hateful intent, their words can have the same effect as a targeted homophobic post.

The PAC attempted to use only one category for each post, but in some instances, it was necessary to apply more than one category in order to describe all the themes present. The PAC followed the following guidelines to determine how posts would be classified. Note: the examples listed are meant to clarify the categories and are not exhaustive in describing the types of posts included in each category.

Category Title	Category Description
Anti-immigrant/Anti-refugee	Examples include shared meme that state that immigrants in past generations were better because they learned English and assimilated to American culture, claims that a vast majority of refugees are terrorists or invaders, posts that suggest immigrants and refugees are responsible for horrific violence
Anti-LGBTQ	Any post or comment that denigrates members of the LGBTQ community, including jokes at their expense. Most commonly, posts in this category questioned the legitimacy of trans identities, included slurs like "fag" or "dyke," or called someone "gay" as a joke.
Anti-Semitic	Any post or comment that indicates hostility or prejudice towards Jewish people. Only one post fell into this category.
Coded racist language[7]	Very few posts or comments used racial slurs or overtly racist language. However, other language can indicate racial bias or racist attitudes without using slurs. Derogatory uses of words like 'thug,' 'savage,' 'animal,' 'ghetto' and 'hood' qualified a post or comment to be place in this category.
Dehumanizing language	Some examples include the use of offensive words such as "retard", "cunt," and "toad." Also included were uses of language such as, "scum" "scumbag" "POS" or "piece of shit" that demonstrate an us vs. them mentality, euphemisms such as "productive member of society."
Demonstrated disdain for constituents	Any post or comment expressing clear disdain for people the officer encountered, or comments about groups of people based on their perceived nationality, their neighborhood, etc.
Expressing opinion	A post or comment that states an opinion without including disparaging language or any other problematic content.
Extra-judicial justice/lack of due process	Any post or comment that suggests a person does not deserve the rights afforded to them by the United States Constitution. One major theme of this category is that anyone who disagrees with police tactics or who protests police brutality does not deserve police assistance during an emergency. Other posts in this category include comments about individuals who do not deserve Miranda rights to be read, assertions about suspects who deserve immediate and extreme punishment, and desired consequences for defense attorneys who defend certain individuals.
Extra-judicial violence	Any post or comment in which an officer expresses a belief or opinion that suspected or proven perpetrators of crimes should be beaten, shot, or deserve other physical punishment. These posts

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[7] It should be noted that many contend that there is no such thing as 'coded' racist language, and coded racist language is actually just racist language. Most posts and comments categorized as 'coded racist language' could just be categorized as 'racist'.

	promote violence by government actors in response to acts by private citizens or wishing violence or death upon suspects as additional punishment for their crimes, such as getting beaten up in prison.
Islamophobic	Any post or comment that indicates hostility or prejudice toward Muslims and/or Islam. Most commonly, posts in this category asserted that Islam is inherently violent or evil, that Muslims should not be permitted to wear religious garb or openly practice their religion. Some posts also associated Muslims with bestiality and other sexual violence.
Making light of rape/DV allegations	Any post or comment that treats rape or domestic violence allegations as a laughing matter. Examples include posts that indicate a woman could not have been sexually assaulted because she is not attractive enough and jokes about hitting or beating women. This category includes jokes about prison rape.
Making light of use of force	Any post or comment that makes light of uses of force by police officers specifically during law enforcement encounters. Examples include jokes about injuries sustained to prisoners while in custody ("Looks like he fell") and jokes about using a Taser to make someone dance.
Misogynistic/sexist	Any post or comment that indicates prejudice against women, and any content that potentially violates the City of Philadelphia's sexual harassment policy. This includes sexual or explicit language. Includes use of "pussy", descriptions of sexual acts, and descriptions of private body parts.
Mocking civilian complaints	Posts that indicate that police departments should not be subjected to reviews such as DOJ reviews or outside reviews of uses of force. Posts the suggest opinions of anyone outside of law enforcement are not valid or make light of real or potential civilian complaints against police.
Mocking opposing viewpoints	Posts and comments that disparage, villainize or explicitly mock political beliefs, police critics, and organizations such as Black Lives Matter, among other things, were included here.
Mocking socio-economic status	Any post or comment that denigrates or makes assumptions about individuals who receive government assistance. Includes claims that recipients of government assistance are lazy or undeserving of rights such as voting.
Racist	Examples include language denigrating a specific race, humor at the expense of a specific race, and posts that contained white pride themes. This category also includes any content that compares a race to animals. Comments that include common slurs or derogatory phrases denoting specific ethnicities such "potato head", and posts about 'white slaves' intended to discredit ongoing harms caused by the legacy of slavery in America.
Racist symbol	Symbols that, although the meaning is debated by some, are often associated with racist ideologies, or have historically been perceived to represent racist ideologies. Most commonly a confederate flag, but also includes racist drawings.
Shared post – no commentary	Any post or comment that is a neutral sharing of information via a link, article, video, etc.
Vigilante justice	Any post or comment that encourages citizens to take the law into their own hands. Examples include commending someone who beat up a suspected rapist, an image that reads, "shoot your local heroin dealer,"

Violence against protestors	Any post of comment that condones or makes light of violence against protestors, such as suggesting that protestors who block roads should be run over, or that protestors need to be beaten up in order to learn a lesson.

There were many instances when an officer simply shared a post without adding any original text. In these instances, it became necessary to determine whether the officer was merely sharing something such as a news story of local significance, or if the mere sharing of the content indicated something further. For example, many images include text overlays that expressed Islamophobic content. In those instances, although the officer did not create any new or original text to accompany the image, the mere sharing of it meant that the officer's page included bigoted and prejudicial content. In short, the PAC did not view original content as different than content that an officer shared, regardless of how the content was included in the post.

Shared Post- No Commentary

In some instances, it was not possible to classify a post into the categories above without making assumptions about why an officer shared a post. For example, an officer shared a video titled, "Security guard super-slams loudmouth troublemaker…. Did he go overboard with the WWE wrestling move?" With no other text to refer to, it cannot be determined if this post is encouraging or discouraging excessive force. This post is therefore classified as "shared post – no commentary."

PAC staff was left to view a post or comment in the context of other content and use discretion in deciding how to categorize it. For example, an officer who shared many posts shared a link titled "'I am a Muslim too,' NYC mayor says at rally". This officer shared other content that was explicitly Islamophobic, and therefore PAC staff inferred that the officer was not simply sharing this article from a neutral perspective. Given the context of the officer's other posts, the PAC concluded this was shared with Islamophobic intent and not as a neutral current event.

Part 2: PPD Standard of Review and Discipline Results

In the wake of the release of the Plainview Project database, the PPD was tasked with making difficult decisions about how to respond to the Facebook content. They enlisted the help of Ballard Spahr, a private law firm based in Philadelphia with offices in 15 cities nationwide, to examine the posts to determine if the speech contained in them was protected by the officers' First Amendment right to free speech. If speech within a post was determined to be not protected, officers were then eligible for discipline based on the content of their posts. For more information on this legal standard, see Part II of this report.

The PPD developed a metric to decide whether an officer's unprotected content in the PVP database made them eligible for serious discipline. Anyone holding the rank of police officer was eligible for serious discipline if they had 10 or more posts. Anyone holding a supervisory rank was eligible for serious discipline if they had 5 or more posts. In addition to this metric, the content of the posts and comments was also considered.

The PPD utilized two Departmental charges to discipline officers. The first comes from the section titled "Neglect of Duty":
- **5-§011-10 –** Failure to comply with any Police Commissioner's orders, directives, memorandums or regulations or written orders of superiors.

- o This charge carries a wide range of potential discipline outcomes, ranging from a reprimand, the least severe discipline option within the PPD, to a dismissal for repeated offenses during a "reckoning period."
- o All officers facing discipline for their Facebook content received this charge.

The second, and more serious, charge used to discipline officers for their content included in the PVP database came from the section titled "Conduct Unbecoming"[8]:

- **1-§021-10** – Any incident, conduct, or course of conduct which indicates that an employee has little or no regard for his/her responsibility as a member of the police department.
  - o This charge carries a much more severe punishment, as an officer can receive a 30-day suspension or dismissal for their first offense.
  - o A small selection of officers eligible for more serious discipline based on the volume of their posts received this charge.

In the early weeks and month following the release of the PVP database, former Police Commissioner Richard Ross used "Commissioner's Direct Action" (CDA) to dismiss 15 officers for their Facebook content. Eleven of the officers Commissioner Ross dismissed opted to retire. Commissioner Ross also used a CDA to give out a total of nine 30-day suspensions.

Aside from the officers who received the most serious discipline possible of a dismissal or a 30-day suspension, there were a number of other possible discipline outcomes for officers charged with 5-§011-10 – Failure to comply with any Police Commissioner's orders, directives, memorandums or regulations or written orders of superiors:

- Command level discipline – suspension (typically 1 or 2 days)
- Command level discipline – reprimand
- Training and Counseling - this is not discipline, but is meant to be a training enhancement and does not appear as discipline on an officer's record.
- Not Guilty - the officer had a disciplinary hearing with the Police Board of Inquiry (PBI), and they were found not guilty at their hearing.

Additionally, many officers received no charges at all because IAD did not sustain any allegations of misconduct, or because IAD sustained an allegation but subsequent reviews determined they were not eligible to be charged. As of April 3, 2020, IAD's investigation results for officers named in the Plainview Project database are:

- IAD initiated a total of 343 investigations
- IAD sustained findings for 203 of those investigations
- IAD had findings of unfounded or no departmental violations for 132 investigations.
- IAD had 8 open cases

The PPD also provided a spreadsheet maintained by the PPD Charging Unit that listed discipline outcomes as of March 19, 2020. This spreadsheet listed a total of 338 investigations by IAD. The PAC inquired about the discrepancy in numbers and is awaiting additional information. According to the PPD Charging Unit:

- IAD initiated a total of 338 investigations
- 12 investigations are not complete.

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[8] One officer received a third charge, 1-§009-10, related to lying during a Departmental investigation. This officer was dismissed.

- Of the 326 completed investigation, 154 officers received no charges. This includes some officers for whom IAD sustained findings, but charges were removed based reviews by Ballard Spahr and/or the Law Department.
- 36 officers received training and counseling, which is not discipline.
- 136 officers received disciplinary charges, but 3 have left the PPD since charges were filed.

As of March 19, 2020, the discipline outcomes for the 133 current PPD officers who received charges are as follows:

Type of Discipline	Total
Dismissed	4
Dismissed/Retired	11
30-Day Suspension	8
30-day Suspension + Transfer	1
2-day suspension	2
1-day suspension	5
Reprimand	14
Not guilty @ PBI	7
Pending PBI hearings	81

The officers with pending discipline are facing one charge of **5-§011-10 –** Failure to comply with any Police Commissioner's orders, directives, memorandums or regulations or written orders of superiors. Therefore, the numbers of 1- and 2-day suspensions and reprimands, as well as not guilty findings at PBI hearings, will change as these officers proceed through the disciplinary process.

According to information provided by the PPD through the Law Department, the Fraternal Order of Police (FOP) has filed grievances for all the dismissals and at least 6 suspensions that occurred as a result of PVP database content. Additional grievances may be filed in the future as the discipline process continues for the remaining officers.

Re-writing Discipline Charges After PBI Losses

Only 7 PBI hearings occurred as of April 3, 2020 . All 7 of these hearings resulted in a not guilty finding. After these initial PBI hearings, the PPD charging unit rewrote the charges for the remaining officers in order to make the charging language more specific to each case. For more information on this, please see volume II of this report.

The following word cloud and chart represent the frequency of post themes in the PVP database, with the larger words occurring most frequently and the smallest themes occurring least frequently.

Theme	Total
Islamophobic	358
Making light of use of force	284
Mocking opposing viewpoints	253
Coded racist language	231
Extra-judicial violence	211
Dehumanizing language	181
Vigilante justice	179
Violence against protestors	132
Misogynistic/sexist	126
Racist	112
Anti-immigrant/Anti-refugee	80
Mocking socio-economic status	78
Extra-judicial justice/lack of due process	78
Anti-LGBTQ	76
Demonstrated disdain for constituents	72
Making light of rape/DV allegations	49
Mocking civilian complaints	35
Racist symbol	27
Anti-Semitic	4

The following table shows the number of PPD officers from each unit that appeared in the PVP Database[9]. If a District or Unit had no officers in the database, they are not listed here.

PPD Unit Name	#	PPD Unit Name	#
9th District	15	South Detectives Division	3
2nd District	14	Bomb Disposal Unit	3
15th District	14	Audits	3
24th District	13	16th District	3
25th District	12	Southwest Detectives Division	2
7th District	12	Community Relations Unit	2
26th District	12	Records and Identification Unit	2
14th District	11	Narcotics Field Unit	2
8th District	11	Narcotics Bureau	2
1st District	10	Evidence	2
Highway Patrol	10	Special Victims Unit	2
Center City District	10	Major Crimes	2
6th District	10	Neighborhood Services Unit	1
Firearms Training Unit	9	5th District	1
19th District	9	Marine Unit	1
Safety	9	Department Advocate's Office	1
35th District	8	External Services	1
Traffic	8	Reports Control	1
22nd District	7	Evidence Custody	1
Internal Affairs	6	Recruit Background Investigation	1
Airport	6	Impound Lot	1
SWAT	6	Document Examination Unit	1
Radio	5	Aviation Unit	1
Northeast Detectives Division	5	Advanced Training Unit	1
3rd District	5	Deputy Commissioner Patrol	1
18th District	5	Police Board of Inquiry	1
Narcotics Strike Force	5	Mobile Comm.	1
39th District	5	Police Athletic League	1
17th District	5	PPD2020	1
12th District	5	Intensive Drug Investigative Squad	1
Canine Unit	4	Court Liaison	1
East Detectives Division	4	Regional Operations Command North[10]	1
Northwest Detectives Division	4	Automotive Services	1
Crime Scene Unit	4	Command Inspections Bureau	1
Recruit Training Unit	4	Firearms Identification Unit	1
?[11]	4	Audio Visual Unit	1
Homicide Unit		Philadelphia Crime Information Center	
Counter Terrorism Operations	3	Delaware Valley Intelligence Center	1

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[9] A spreadsheet from IAD also included 12 officers who were not listed in the PVP database. IAD included these officers because the PVP site mistakenly identified their badge numbers as belonging to other named officers. IAD investigations revealed no departmental violations for all except 1 officer. As this was not in the database and the content of their posts/comments is unknown to the PAC, they do not appear on the PAC spreadsheet.

[10] This command no longer exists but was listed in a spreadsheet provided by the PPD as an officer's assignment.

[11] This table will be updated as the PAC continues to receive information from the PPD.

As demonstrated by the previous table, the units that had the highest number of officers included in the PVP database are patrol Districts, which interact with members of the public much more frequently than specialized or administrative units.

Reading the Spreadsheet

Each line of the spreadsheet represents an individual officer's contributions to a single post. If Officer X authored a post and also made comments to that post, all of Officer X's content related to that post is in a single row. If Officer Y also made a comment on Officer X's post, Officer Y's comment is contained in a separate row.

Red text indicates the officer received serious discipline and was either dismissed or received a 30-day suspension. Lines highlighted in yellow indicate some posts and comments that the PAC found particularly troubling.

Name on Profile - The name listed on the officer's Facebook profile.

Rank - The rank of the officer. This information was included in the PVP database and was updated as needed based on information provided to the PAC by the PPD (through the City's Law Department) in February 2020.

Officer Name - The name of the officer and their badge number.

Current/Former - This column indicates whether an officer is still employed by the PPD. "Fired" indicates the officer was dismissed as a result of their Facebook activity. "Fired/retired" indicates the officer was dismissed but opted to retire from the Department instead.

District/Assignment - Each officer's assignment is based on information provided to the PAC by the PPD (through the City's Law Department) in February 2020. If PAC staff is awaiting further information about an officer, a question mark is listed.

# of Posts - The total number of posts created by the officer, including posts not captured in the PVP database.

Type of Post - The type of post indicates whether the officer shared a post, created original text to accompany a shared post, made a 'status update' with original text, made an update to their profile, etc., or if they commented on another officer's post. Instances when an officer commented but did not create the post are indicated with "comment only" in this column.

Text of Post or Image/Caption - This column contains the exact text of each post. If the post was an image or a video, the image or video is described, and any accompanying text, such as a caption or text overlay, is also included here. This was done to give as much information about the post as possible.

Post Theme - PAC staff categorized each post using the theme categories listed above.

# of Comments - Total number of comments made by the officer, including those not captured by the PVP database.

Text of Comment - This column contains the exact text of each comment made an officer.

Summary of Original Post - To give context for the comments made by officers, the post on which they made the comment is included as well. This allows a reader to see the type of content an officer engaged with and to better understand the nature of the officer's comment. It is noted here if the officer commented on their own post or on someone else's post.

Comment Themes - PAC staff categorized each comment using the theme categories described previously in this report.

PPD Policy Violation - This column lists the administrative Departmental charges the officer received as a result of the IAD investigation into their Facebook activity. This column reads "none – no sustained findings" if the officer received no charges. If the IAD investigation sustained an allegation but the charging unit did not apply any charges, this column reads "sustained – no charge."

PPD Discipline - The disciplinary outcome for each officer is listed here. As of the date of this report, discipline is still pending for many officers and that is reflected in the spreadsheet. Definitions for the various outcomes listed in the column are below.

- CDA-DIS: Commissioner's Direct Action – dismissal. This indicates the officer was dismissed by the Police Commissioner.
- CDA-30 days: Commissioner's Direct Action – 30-day suspension. This indicates the officer received a 30-day suspension from the Police Commissioner.
- CLD-# days: This indicates the officer received a command level discipline, with the number of days representing the suspension days the officer received.
- CLD-reprimand: The officer received a command level discipline reprimand, which is the least severe punishment option available.
- Training and Counseling: Training and counseling is not discipline. It is meant to be a training enhancement and does not appear as discipline on an officer's record.
- Not Guilty: The officer had a disciplinary hearing with the Police Board of Inquiry (PBI), and they were found not guilty at their hearing.
- Pending: The officer has not received any discipline yet, as their discipline is pending.
- None: The officer was not disciplined.
- ?: If the status of an officer's discipline is unknown and PAC staff is awaiting further information, a question mark is listed in this column.

Volume 2 of this report presents the PAC's findings about the content of the PVP Database, how it impacts the PPD and the residents of Philadelphia and discusses the PPD's response to the PVP Database.

A REVIEW OF THE PHILADELPHIA POLICE DEPARTMENT'S RESPONSE TO THE PLAIN VIEW PROJECT

POLICE ADVISORY COMMISSION
CITY OF PHILADELPHIA

VOL. 2: ANALYSIS & RECOMMENDATIONS

Volume I of this report detailed the methods used by the PAC to collect and review the data contained within the PVP database. The data itself, including discipline decisions made by the PPD, is posted in a spreadsheet on the PAC's website. Volume 2 of this report is the PAC's analysis of that data, as well as an analysis of the PPD's response to the PVP database. The aim of this volume is to discuss what the data may mean and explain why the PAC believes the effects of this scandal will be long-lasting. Most importantly, the PPD must use this as an opportunity to improve. Therefore, this second volume presents critiques of the PPD response to this scandal, but also offers recommendations to build from this experience.

When community groups and residents expressed their rightful outrage about the PVP database content created by PPD officers, the PAC saw an opportunity to bridge a gap and partner with the PPD to move forward from this scandal. The PPD classified their investigation related to the PVP database as "internal", as the investigation did not originate from a civilian complaint against police but rather was brought to their attention by PVP staff and reporters. Internal investigations are kept confidential within the police department and are subject to external review only as approved by the PPD. Given the intense public interest in this issue, and trust-destroying potential of the scandal, the PAC saw a critical missed opportunity for police oversight and transparency in Philadelphia.

At least one other city included in the PVP database agreed with this perspective. For example, a City Councilmember in Dallas, Texas, suggested to the Chief of Police that the police oversight entity there be brought in to review the departmental investigations of PVP database content. The Dallas Chief of Police agreed to do so, "in the interest of unbiased investigation and checks and balances."[12]

In contrast, the PAC made repeated requests for information between June of 2019 and early 2020 about the PPD investigations. These requests went unanswered, and eventually the PPD formally declined to respond to the requests for information until a new Police Commissioner was selected. It must be noted that between June 2019 and February 2020, the most information the PAC received about the PPD response to the PVP database was from a public City Council hearing on September 10, 2019, during which Acting Commissioner Coulter provided some information about the number of posts that made officers eligible for serious discipline.[13]

As the PAC began to draft this report in February 2020, anticipating that the requested information would not be provided, the PPD provided spreadsheets of officers listed in the PVP database, the results of the IAD investigations, and what discipline had been given out to date. This only created more questions about how the investigations were done and how discipline decisions were made, and the PAC made additional requests. In July 2020, the PPD, through the Law Department, began to produce additional requested documents. Certain requests are still pending as of August 1, 2020.

It is better to receive documents and information late than never, but by not being included in the City's response to this scandal, the PAC's only option is to critique the response after the fact rather than contribute to it. The PAC's exclusion from this process speaks to a larger question of how truly empowered the PAC is to conduct meaningful oversight of the PPD. There are various critiques of the PPD response to the PVP database that will be made in this report, but this point about communication, access to PPD documents and personnel, and partnership in oversight must be considered as City leaders determine the future of civilian oversight of police in Philadelphia.

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[12] https://www.dmagazine.com/frontburner/2019/08/this-is-what-can-happen-to-an-investigation-when-the-police-chief-leaves-unexpectedly/

[13] City Council Resolution 190622 authorized the Committee of the Whole to hold public hearings related to the Plainview Project. The video recording of the hearing on September 10, 2019 can be found at https://www.youtube.com/watch?v=oJ8cQr_COl0,

PPD Disciplinary Process

To understand how the PPD disciplined officers named in the PVP database, it is necessary to understand how their disciplinary process works in general.[14] Generally, if a resident makes a complaint against a police officer it is assigned to an investigator at the PPD Internal Affairs Division (IAD). The investigators at IAD are all police officers and are members of the same union as the officers they investigate. They typically hold the rank of sergeant or lieutenant. Internal investigations that begin for a reason other than a complaint from a resident are also assigned to IAD investigators. Once the investigation is complete, the investigator writes a report that explains the evidence, and an IAD supervisor makes the final determination about the allegations.

In any IAD investigation, there only a few different outcomes that are possible for an allegation of misconduct. The following findings are some of the most common results of IAD investigations.

IAD Finding	Definition
Unfounded	The investigation determined the alleged act did not occur.
Exonerated	The investigation determined the alleged act did occur, but the act was lawful and within PPD policy.
Not Sustained	The investigation could not determine, based on the evidence, whether the alleged act did or did not occur.
Sustained	The investigation determined the alleged act occurred and was not within PPD policy.

Only sustained allegations move forward to the disciplinary process. Once an allegation is sustained, the related IAD case is forwarded to the PPD charging unit, which reviews the case and decides which charges from the PPD disciplinary code to apply based on the specifics of the case. The PPD charging unit is currently staffed by one Inspector who makes the charging decisions, and a corporal and an aide who assist with administrative duties. The charging unit then creates the formal disciplinary charges, known as 75-18s, which are forwarded to the officer being charged and their commanding officer.

Each charge listed in the PPD disciplinary code has a pre-set range of possible discipline. If the discipline range for a charge is a 5-day suspension or less, it can result in command-level discipline. For charges that allow for command-level discipline, an officer's supervisor is permitted to offer a punishment within the discipline range in exchange for the officer's guilty plea. The officer can plead guilty and accept the discipline offer from their supervisor or plead not guilty and proceed to an administrative disciplinary hearing.

If the penalty range for a charge exceeds the command level discipline range, the officer must still plead guilty or not guilty to the charge. If the officer pleads guilty, a Commanding Officer or Deputy Commissioner makes a recommendation for discipline based on the severity of the charge and the process ends. Just as with command level discipline cases, the officer can plead not guilty and proceed to an administrative disciplinary hearing.

Administrative disciplinary hearings are heard by the PPD Police Board of Inquiry (PBI). At a PBI hearing, the PPD's Department Advocate acts as a prosecutor and presents the case against the officer to a rotating panel of three sworn PPD members of varying ranks. The accused officer is typically represented by an attorney from the FOP, who serves as a defense attorney, and argues why the officer is not guilty and/or why they should not be disciplined. After a PBI hearing, the panel members vote to

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[14] See the PPD Directive related to the disciplinary process https://www.phillypolice.com/assets/directives/D8.6-DisciplinaryProcedure.pdf

determine whether the officer is guilty or not guilty of the charge brought against them. The Police Commissioner can also enforce discipline at any point by taking a Commissioner's Direct Action (CDA). If the Commissioner decides to utilize a CDA, the officer is not entitled to a PBI hearing.

Training and Counseling

If the PPD charging unit believes that formal charges are not appropriate based on the officer's complaint history and other factors such as their time on the force, they have the discretion to authorize "training and counseling" for an officer instead of formal charges. The charging unit prepares a counseling memo that informs the officer that a similar offense in the future will result in discipline. According to PPD Directive 8.9 titled "Police Department Counseling Form for Sworn Personnel",[15] training and counseling is not considered discipline. Instead, it is meant to enhance an officer's training. The charging unit sends the counseling memo to the officer and their commanding officer who review the memo together and then sign it. The signed memo gets returned to the charging unit and is maintained by the Department but does not go into the officer's personnel file. A counseling memo can be referenced later to show that an officer was put on notice about a performance issue.

Part II: Facts about the PPD response to the PVP database

PPD's Initial Response

In February of 2019, PVP representatives sent a letter to PPD leadership to alert them that they had uncovered problematic social media posts and named 7 PPD officers but did not provide screenshots of the posts. PVP also sent this letter to the officers they named. On February 18, 2019, PPD opened an Internal Affairs (IAD) investigation. IAD investigators reviewed the social media profiles of the named officers but found no evidence of problematic posts. Presumably, the officers deleted the content or otherwise made their profiles unavailable upon receipt of the letter from PVP. IAD investigators interviewed 6 of the 7 named officers, and they all denied posting the content. The final officer was on long term injured-on-duty status, and therefore could not be interviewed. The case was left open, as is procedure when involved officers are not on active-duty status. The case was slated to be finished when the final officer returned to active duty. Before that occurred, PVP released their full database to the public in June of 2019.

The posts of the original 7 officers were then available to be viewed online by IAD investigators. Because the original IAD case was still open, the 6 officers were re-interviewed and presented with the screenshots of their posts. One of these 6 officers, Sgt. Michael Melvin, was eventually charged with lying during an official PPD investigation. The remaining officers listed in the database were added to a new IAD case, and IAD investigators began the process of going through the posts in the database and reviewing all the named officers' Facebook profiles. Most of the IAD investigations related to the PVP database were initiated within the first two weeks of June 2019, with a handful of additional investigations initiated in late June 2019 and July 2019. IAD investigators found some posts that were not captured by the Plainview Project, but many officers deleted or made their profiles private by the time the IAD investigations began. While the investigations proceeded, PPD leadership decided to pull 70 officers from duty based on their posts. These 70 officers were the "most egregious", based on the volume of their posts and the content of their posts.

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[15] https://www.phillypolice.com/assets/directives/D8.9-PoliceDepartmentCounselingFormForSwornPersonnel.pdf

Free Speech Concerns, Legal Standards, and Outside Law Firm Review

Shortly after the public release of the database, the PPD engaged an outside law firm, Ballard Spahr, to determine if the posts made by the officers were considered protected by the officers' First Amendment right to free speech. This was an initial step in the disciplinary process, as it was first necessary to determine if the posts were cause for discipline in the first place. Ballard Spahr reviewed a spreadsheet that contained content from the PVP database. After their review, Ballard Spahr created a document that outlined their findings regarding which posts were protected as free speech and which posts were unprotected and therefore eligible to be considered for discipline. The determinations made by Ballard Spahr were the first step in sorting the content in the PVP database and were the basis for the disciplinary decisions made by the PPD.

According to the City's Law Department and information provided by high-ranking PPD officials, Ballard Spahr's considerations related at least in part to a United States Supreme Court case, Pickering v. Board of Ed. of Township Highschool Dist. 205 ((391 U. S. 563 (1968). This case remains a standard guideline for understanding the limits of free speech for public employees, but other cases have refined this standard over time. In *Pickering*, a public school teacher in Illinois was fired after he wrote a letter to the local newspaper that was critical of the school board's decisions to allocate funding within the school district. The constitutionality of his termination was appealed to the United States Supreme Court. In deciding the case, the court balanced the rights of the teacher (a public employee) to comment on a matter of public concern (school board funding) against the state's (public employer) interest in promoting efficient public service. In *Pickering,* the court found that the termination violated the teacher's First Amendment right to free speech.

Courts have distinguished between speech made as a private citizen, which is generally protected, and speech made in the course of official duties, which is generally not protected. If Ballard Spahr determined that officers were speaking as citizens in their PVP Database content, they then had to determine if the officers were speaking about a matter of public concern. Matters of public concern are defined broadly, as anything that "can 'be fairly considered as relating to any matter of political, social, or other concern to the community,' or when it 'is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public.'" (Snyder v. Phelps, 562 U.S. 443, 453 (2011)) Courts look at the "content, form, and context" of the speech (Connick v. Myers, 461 U.S. 138, 147–148, 103 S.Ct. 1684, 75 L.Ed.2d 708 (1983)), and also take into account the employee's motivation, "as well as whether it is important to our system of self-government that the expression take place" (Munroe v. Central Bucks Sch. Dist., 805 F.3d 454, 467 (3d Cir. 2015)).

Even if an employee speaks as a private citizen about a matter of public concern, this does not automatically ensure the officer is safe from discipline. This is because public employers have "legitimate 'interest[s] in the effective and efficient fulfillment of [their] responsibilities to the public,'" including "'promot[ing] efficiency and integrity in the discharge of official duties,'" and "'maintain[ing] proper discipline in public service.'" (Lane v. Franks, 573 U.S. 228, 242 (2014) The public employer's interest in fulfilling their responsibility to the public must be balanced with the importance of the speech made by the employee. The more substantial the matter of public concern, the stronger the public employer's interest must be to permit it to take adverse action such as discipline.

The Ballard Spahr review was intended to serve as guidance to the PPD as they made disciplinary decisions about individual officers. Essentially, officers cannot be punished merely for posting content that some could find offensive. That type of punishment could be classified as retaliation for engaging in offensive, but constitutionally protected, speech. If the PPD takes disciplinary action against an officer, they must be able to prove, according to legal standards and precedents, that discipline is justified. Ballard Spahr used the legal standards listed above, and some others, to determine which posts were protected by the constitution and which were not. PPD then made determinations about discipline based on the unprotected posts. The PAC learned that this guidance created by Ballard Spahr was shared with the FOP at some point after the PPD received it, which means that FOP attorneys had access to it. The PPD

maintains this was done inadvertently, and no one has been disciplined in connection with this release of information.

PPD Disciplinary Process for Officers Named in PVP Database

Once Ballard Spahr delivered the results of their review to the PPD, the charging unit proceeded with formal disciplinary charges to officers, or training and counseling memos as deemed appropriate by the charging unit. The Inspector at PPD who is normally responsible for charging decisions for PPD discipline was named in the Plainview Project database, and was therefore not permitted to do the charging for the involved officers.

Serious Discipline for the Most Egregious Officers

According to information provided by high-ranking PPD officials, the most important factor in determining whether an officer was eligible for serious punishment (a 30-day suspension or dismissal) was the number of unprotected posts they made. A senior PPD leader told the PAC that the Chief Inspector called in to handle charging decisions related to the PVP database developed a numeric benchmark that was used to determine which officers were eligible for serious discipline. A police officer became eligible for serious punishment if they made 10 or more unprotected posts. A supervisor became eligible for serious punishment if they made 5 or more unprotected posts. The same PPD leader noted that the number of unprotected posts was the most important factor in deciding discipline because the PPD disciplinary code section that refers to conduct unbecoming an officer requires that a course of conduct be demonstrated. Another PPD leader later clarified that the content was also taken into consideration – not just the number of posts or comments. Officers who met these thresholds were eligible to receive the following charge from Section 1 of the PPD Disciplinary Code titled "Conduct Unbecoming":

1-§021-10: Any incident, conduct, or course of conduct which indicates an employee has little or no regard for his/her responsibility as a member of the Police Department. The penalty for a first offense of this charge is a 30-day suspension or dismissal.

A total of 15 officers were dismissed directly by Commissioner Ross via Commissioner's Direct Action. Of these 15, a total of 11 opted to retire. An additional 8 officers received a 30-day suspension via Commissioner's Direct Action, and 1 of these officers was also transferred.

Command-Level Discipline

Officers who did not meet the threshold for serious discipline based on the number of their unprotected posts were still eligible for discipline, but they received the following charge from Section 5 of the PPD Disciplinary Code titled "Neglect of Duty":

5-§011-10: Failure to comply with any Police Commissioner's orders, directives, memorandums, or regulations; or any oral or written orders of superiors. The penalty for a first offense is reprimand to 5 days.

This penalty range, according to PPD Directive about discipline, allows for the option of command-level discipline. According to a PPD leader, if an officer was recommended to receive command level discipline, that officer's commander went to PPD headquarters to review the files for the officer in question. The commander was then tasked with making a decision regarding the severity of discipline the officer would receive. This decision then went up through the chain of command, so that a higher-level supervisor could determine if that level of discipline was appropriate for that particular officer. This is an extra level of oversight than normally applied within the PPD disciplinary process and

is therefore not in line with the PPD directive regarding discipline. The PAC has inquired about this diversion from standard PPD procedure and is awaiting a response as of the date of this report.

As of April 19, 2020, a total of 21 officers accepted command level discipline, with 14 reprimands, 5 one-day suspensions, and 2 two-day suspension.

PBI Hearings and Re-Writing of Charges

At some point between August 2019 and October 2019, PBI hearings began for the officers included in the PVP database who had not been offered or had not accepted command-level discipline. However, according to a high-ranking PPD official with whom the PAC spoke, the language in the 75-18s was not specific. As the language in the charging documents was not tailored to each individual officer or their specific Facebook content, successful prosecution of the cases was difficult, and the PPD lost several cases in a row at PBI hearings. The discipline information received by the PAC shows that 7 officers received a not guilty verdict after their PBI hearings, and 0 officers received a guilty verdict.

After these losses, the PPD consulted with the City's Law Department for guidance about how to successfully prosecute these administrative cases. After this consultation, the PPD approached the FOP to arrange to rescind the charging documents for 86 officers who were awaiting their PBI hearings. A corporal within the charging unit amended the 75-18s to make the charging language specific to each officer and their posts. The goal of reworking the charging documents was to make the case against each officer stronger from the onset. These remaining PBI hearings have yet to occur.

Training and Counseling

According to a spreadsheet maintained by the PPD charging unit, 4 officers were initially recommended for training and counseling. At some point after the Ballard Spahr review, the charging decisions for 32 additional officers changed from formal disciplinary charges to training and counseling, meaning that a total of 36 officers received training and counseling for their PVP database content. According to a senior PPD official, the Ballard Spahr review regarding the gravity of the posts was considered when determining who was eligible for training and counseling, as well as the number of unprotected posts. For example, an officer with over 10 posts in the database was found to have only 1 unprotected post, so he was diverted to training and counseling rather than discipline.

Non-Discipline Steps Taken by the PPD

While residents of Philadelphia were affected by the posts revealed in the Plainview Project, officers within the PPD were also affected. For example, Muslim officers must now work alongside officers who have demonstrated Islamophobic views in their posts. As a result, while IAD investigations proceeded, the PPD hosted healing forums that were meant to be spaces for officers to openly communicate with one another, without commanders being present, about these sensitive topics. By scheduling these events, PPD leadership acknowledged the negative impact these posts and comments had one some PPD officers.

The events, which were paid for by local Police District Advisory Councils (PDACs), were run by outside monitors and had varying degrees of success. The high-ranking PPD official who spoke with the PAC said that the culture of certain PPD Districts had a negative impact on some sessions. Districts in which leadership did not take these forums seriously had the least amount of success with healing forums, as the negative attitude of leadership filtered down through the ranks. The healing forums are intended to be an ongoing effort. Representatives from the Pennsylvania Human Relations Commission will be coming in to assist with these forums and will provide some funding to support the program.

The PPD also contacted Dr. Bryant Marks of the National Training Institute on Race and Equity (NTIRE). NTIRE has worked with the Los Angeles Police Department on implicit bias training that includes a version of anti-racist training. The PPD intends to have Dr. Marks give this training to PPD officers in the near future.

After informal conversations and request for information, the PAC made an initial formal request for documents and information on September 5, 2019. Numerous follow-up requests were made. As noted previously, the PPD did not share information with the PAC about discipline for officers named in the PVP database until February 2020 when they shared two spreadsheets that listed IAD investigation outcomes, charges, and discipline results. These spreadsheets provided detailed information, but also raised more questions, such as how the 5/10 metric for serious discipline came to be, details about the re-drafting of charges, and how the PPD charging unit applied discretion when charging officers, to name a few. The PPD is committed to accountability[16] in some obvious ways, but in working on this project and being refused access to information and personnel, the PAC has experienced the PPD's commitment to accountability as selective and unpredictable.

City of Philadelphia Executive Order 2-17[17], which governs the existence of the PAC, must be mentioned here. The sections that relate to the PAC's authority to conduct a review such as this, and the level of access that the PAC has to documents and personnel, are clear:

> **Section 5: Powers of the Commission**
> In furtherance of any of its responsibilities set forth in Section 4, above, the Commission shall have the power and authority:
> a. 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 Departments.
> b. To compel the attendance of witnesses and the production of documents and other evidence in support of any investigation, all as provided by section 8-409 of the Home Rule Charter.

> **Section 6: Rights and Responsibilities of City Officers and Employees**
> Upon the 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 a related criminal investigation may elect not to appear before the Commission until after the conclusion of such investigation.

When the PPD does not cooperate with Executive Order 2-17, the PAC has no authority to hold them accountable for their failure to do so. While the PAC continues to demand access to documents and personnel, the outstanding questions about this scandal remain. The PAC is not able to provide a full accounting of the PPD's response to the PVP database without access to documents and personnel. Below are some aspects of the response that the PAC was able discern with limited access.

Investigation Oversight and Errors

When the PPD eventually shared their discipline information with the PAC, reviews only raised more questions. For example, Officer Joseph Gillespie has 21 entries in the PVP database and received training and counseling, which is not discipline, while other officers had fewer posts, or similar posts, and

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[16] https://www.phillypolice.com/accountability/index.html#

[17]

https://www.phila.gov/ExecutiveOrders/Executive%20Orders/eo3217%20Police%20Advisory%20Commission.pdf

received discipline. When asked about PO Gillespie's discipline, Deputy Commissioner Dennis Wilson replied that there were only 14 entries for PO Gillespie on the spreadsheet that was reviewed by Ballard Spahr, and only 1 of those posts was determined to be unprotected. Because PO Gillespie only had 1 unprotected post, he received training and counseling. Again, PO Gillespie has 21 posts in the PVP database, not only the 14 that were reviewed by Ballard Spahr.

This is just one small example, and the PAC does not intend to analyze the discipline received by each individual officer. However, this raises additional questions about the information that Ballard Spahr reviewed. Were there any other officers who did not receive a complete review by Ballard Spahr? The PPD based their disciplinary decisions on the guidance they received from Ballard Spahr's review. Had the PAC been allowed into the process and response to the PVP database, these questions could have been asked much earlier, at a point where errors such as PO Gillespie's posts within the information Ballard Spahr reviewed could have been fixed.

Further, in reviewing the PPD spreadsheets, the PAC found that the IAD spreadsheet had 343 names and the charging unit spreadsheet had 338 names. There were a few names listed in the PVP database that did not appear on either spreadsheet. There were 28 names that showed sustained findings at IAD, but no charges from the charging unit, and no indication on either spreadsheet as to why charges did not follow for these officers. An email exchange began in order to get answers regarding the PPD's process and the discrepancies present in the spreadsheets, but ultimately, the PPD referred the PAC to the Law Department for any additional information. The PAC is awaiting answers to these questions as of the date of this report. Again, had the PAC been included in the review and response in an oversight capacity, concerns about consistency within the disciplinary process and data cohesion could have been addressed in real time.

The disclosure of the Ballard Spahr guidance to the FOP is an aspect of the PPD response to the PVP database that must be addressed. As stated previously, by the time PBI hearings began on this matter, FOP attorneys had access to key information that would be used to build disciplinary cases against their members. The PPD sent a formal request to the FOP to have them return the Ballard Spahr document to the PPD, but this return has not occurred. The PAC requested a copy of the Ballard Spahr document, as the FOP had received a copy, inadvertently or not. PAC was referred to the City's Law Department, who denied this request on the grounds that the document is protected by attorney client privilege and in order to protect their strategy for upcoming discipline grievance arbitration and PBI hearings.

The PPD has declined to tell the PAC exactly how the Ballard Spahr document was shared with the FOP. The PPD official who shared it may have done so without realizing it was inappropriate, or inadvertently, as the PPD maintains. Or, they may have intended to make the Department's cases against the officers weaker by revealing PPD charging strategies. The exact circumstances of this disclosure are beside the point, though, because the appearance of impropriety remains. Context matters when mistakes occur, and fairly or not, people jump to conclusions and assume the worst. What is known is that the only officers who faced a PBI hearing for PVP content were found not guilty. If there is trust that the discipline process is legitimate from start to finish, these 7 not guilty verdicts are unfortunate but acceptable. However, the disclosure of the Ballard Spahr document to the FOP, paired with the questions that remain about how the Chief Inspector drafted charges, and the lack of oversight of the process in general, call the legitimacy of the process in question. The response to PVP database then begins to look like a continuation of the pattern that has led to recent public calls for increased accountability within the PPD.[18]

The PPD's position of wanting to withhold information is understandable to a degree, but what can get lost is that the PPD and the PAC are on the same team. Both agencies have different responsibilities, but both also have a stake in making the PPD better. All PAC reports are reviewed by

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[18] https://www.inquirer.com/news/larry-krasner-malcolm-jenkins-keir-bradford-grey-philadelphia-police-commissioner-contract-20191217.html

PPD leadership and the Law Department before they are released to the public. In the absence of a legitimate reason, the PAC does not expose sensitive information to the public and has agreed to redact sensitive information in reports in the past. Internal processes, such as the PPD response to the PVP database, need external oversight to ensure accountability. Errors, even if they are inadvertent, identify opportunities for improvement, and thus need to be exposed and then remedied.

As of the writing of this report, the PPD's priorities appears to be winning discipline appeals for PVP officers at arbitration and giving discipline to officers who have yet to receive it. These priorities align with some functions of the PPD, but they fall short. The flaws within processes that funneled these cases toward discipline and arbitration in the first place, as well as the larger culture problem that likely contributed to this scandal, have yet to be addressed.

Part 4: Beyond Discipline – Why Police Culture Displayed in the PVP Database Content Matters

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The internal processes involved in the PPD response to the PVP database were not created in a vacuum. The PPD response to this scandal was necessarily influenced by internal perspectives, and every part of the response reveals something about Departmental values. Perhaps most tellingly, almost a year after the PVP database went public, a senior PPD leader positioned over some of the units most responsible for the PPD's response expressed his belief that the database was a political witch hunt meant to criticize only those officers who hold conservative political beliefs. Additionally, another senior PPD leader told the PAC that the individual assigned to draft the charges for the officers named in the PVP database did not agree with punishing officers for their social media posts, and in some cases, fought hard to prevent certain officers with whom he had personal relationships from being disciplined. This information came from a credible PPD insider, but the PAC recognized that this was a single source and that there was no other immediate corroboration to this claim. The PAC intended to interview the individual who made charging decisions to get their perspective on this claim. This individual declined to be interviewed by the PAC, and the PPD did not permit the PAC to compel an interview with him.

While we cannot assume that these individuals speak for the entire PPD, their actions and words do chip away at the public perception of accountability within the PPD, especially given their leadership status within the Department. The effects of this reach not only out to the community but inward to Department personnel. If officers see discipline applied inconsistently, for example, trust in their employer is diminished. If it appears that even one officer got less discipline for an unfair reason, the integrity of the entire disciplinary process can fairly be questioned, which only lessens officers' sense of internal procedural justice and morale.

These examples highlight the importance of outside oversight to ensure that controversial or polarizing events receive a balanced response. The officials cited above had a great deal of influence over the PPD response to the PVP database. Their comments and actions displayed a lack of understanding about the impact of the content revealed in the PVP database, but also hint at a larger area of concern: the culture within the PPD.

To address questions and concerns about the culture within the PPD, the PAC followed City protocol to draft a request for proposals (RFP) to find a qualified entity to conduct a culture review of the PPD. This goal of the RFP and the project to be completed by the selected entity was to determine the extent to which the PVP database content indicates a negative culture within the Department and identify steps for improvement. The PAC submitted this RFP through the proper channels and continued to follow up through February 2020, but it was never finalized or posted.

Workplace Culture and How it Impacts Policing

Despite the national attention given to the PVP, police departments involved in this scandal have failed to address the problematic aspects of their organizational cultures that may lay at the root of the content in the PVP database. They have instead limited their response to discipline of individual officers. This strategy leaves untouched the institutional aspects that may have created space for officers to feel comfortable posting this content while providing protection for like-minded others that may be present.

The PPD's response has mainly focused on discipline and planning for discipline appeals, but as noted previously in this report, the PPD hosted healing forums to allow officers to discuss the effects of the PVP database. A senior PPD leader, however, acknowledged that the culture of certain divisions within the PPD negatively impacted the success of these events. This acknowledgment is only the first step, because without further examination, the negative aspects of PPD culture will continue undisturbed. The PAC is not suggesting that changing or even diagnosing the culture(s) within the PPD will be simple, but any well-intentioned efforts at reform, such as the PPD's planned anti-bias and anti-racist training by NTIRE, may fall short without a deeper examination of why police officers exhibit certain behavior patterns in the first place.

Workplace culture, also known as occupational culture, encompasses the unwritten customs of a workplace, and is separate from formal workplace policies. Workplace culture can be defined as "the attitudes, values, and norms that are transmitted and shared among groups of individuals in an effort to collectively cope with the common problems and conditions members face."[19] All workplaces have unique cultures, including police departments. Police workplace culture is complex and can vary within a department as large as the PPD but can generally be defined as key beliefs and assumptions about police work held by law enforcement officers and departments.[20]

A key negative component of police culture that researchers have highlighted is isolation. Police officers become less likely to trust people outside of the police force and more likely to become suspicious of the community members that they serve.[21] Further, police training often has a strong focus on officer safety and often pits police officers against the community members.[22] Training can present the community as "the enemy", and the reward structure does not always acknowledge officers engaged in "community building" but rather can prioritize data such as number of arrests made.[23]

This sense of isolation or separateness from civilians is evident in a figure from Pew Research, which states that 86% of Police officers feel that the public doesn't understands the risks and challenges they face on the job.[24] A department's culture can grow comraderie and loyalty among coworkers in an often unpredictable and dangerous profession, but the isolating nature of law enforcement can create an "us versus them" mentality that encourages an adversarial relationship between police officers and the communities that they serve.[25]

This divide between civilians and law enforcement came up repeatedly in the PVP database content created by PPD officers. Inherent in this content is the belief that civilians cannot understand what it is like to be a police officer, and therefore civilians are not qualified to have opinions about policing. If

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[19] Eugene A. Paoline III & Jacinta M. Gau (2018) Police Occupational Culture: Testing the Monolithic Model, Justice Quarterly, 35:4, 670-698, DOI: 10.1080/07418825.2017.1335764

[20] Valore, Jace, "Police Culture Now, But not Forever," *Medium*, May 17, 2018, https://medium.com/the-new-leader/police-culture-now-but-not-forever-10e4e0f903fc.

[21] Paoline, Eugene, "Shedding Light on Police Culture: An Examination of Officers' Occupational Attitudes," *Police Quarterly*, vol. 7 no.2 (2004): 205-236.

[22] Jane Miller and Reshawn Ray, "Highlight: Improving Police Culture in America," Brookings, November 4, 2019, https://www.brookings.edu/blog/up-front/2019/11/04/highlights-improving-police-culture-in-america/.

[23] Ibid.

[24] Rich Morin, Kim Parker, Renee Stepler and Andrew Mercer, "Police Culture," *Pew Research Center*, January 11, 2017, https://www.pewsocialtrends.org/2017/01/11/police-culture/.

[25] Cohen, Ryan, "The Force and the Resistance: Why Changing the Police Force is Neither Inevitable, nor Impossible," *University of Pennsylvania Journal of Law and Social Change*, vol. 20.2 (2017): 106-123.

it is true that this impenetrable divide exists, then it is also possible that there is something about being a civilian that officers cannot understand or lose sight of after being a member of law enforcement. This creates the possibility that some within the PPD are too enmeshed in police culture to fully appreciate the visceral reactions that community members had to the PVP database.

Decades of research have found several other characteristics that are present in police culture in departments across geographies, such as power and hypermasculinity, a crimefighter or "warrior" mindset, suspicion and isolation, and loyalty or covering for one another (sometimes referred to as the "blue wall of silence").[26] These aspects of police culture, all of which were present in PVP content created by PPD officers, can have negative and positive impacts on policing. For example, loyalty and a crimefighter mentality are necessary to a degree for successful policing.

All aspects of the beliefs and assumptions about policing present in a department's culture, though, directly impact an officer's decisions and behaviors, such as how they write reports to justify their actions, whether they issue a warning rather than ticket or arrest, or if they will lie under oath.[27] In addition to contact with civilians, peer to peer relationships are also impacted. This pervasiveness is why examining police culture, and taking steps to counteract negative aspects of it, is crucial for fostering better community relationships and building positive departmental morale. The PVP database provides a unique look at how PPD officers view their jobs and the people in the communities in which they police, as well as how they conceptualize certain topics. Disciplining officers for their posts and comments is one important aspect of the PPD response but could ultimately prove meaningless without a deeper examination of the workplace culture in which those officers are immersed.

Part 5: Defining Disruption to Policing

The PPD disciplinary code provides PPD leadership with great power to severely punish officers for conduct such as was displayed in the PVP database. The section that relates to conduct unbecoming an officer has a wide range of charges, but this section of the code was very narrowly utilized here – a charge from this section was applied only to the 15 officers designated by the PPD as the most egregious. This charge was used dismiss all 15 of these officers. A high-ranking PPD official noted that a course of conduct was necessary to apply a conduct unbecoming charge, but the language of the charge is broader than that. It indicates that a single incident could qualify an officer to receive this severe charge with a maximum penalty of dismissal: "Any incident, conduct, or course of conduct which indicates an employee has little or no regard for his/her responsibility as a member of the Police Department." The PPD disciplinary code, then, would have allowed for a much more severe response to the posts revealed in the PVP database. Further, there is a charge within the "conduct unbecoming" section of the disciplinary code that relates specifically to discriminatory language:

> **1-§023-10**: Inappropriate communications based on race, color, gender, religion, national origin, age, ancestry, sexual orientation, disability, or gender identity conveyed in any manner. The penalty for a first offense is ranges from a reprimand to a 15-day suspension. The penalty for a second or third offense ranges from a reprimand to dismissal.

This charge, however, was not used in the disciplinary process for the PVP database. Instead, the PPD used a less serious charge (5-§011-10) related to disobeying departmental directives for all but the most egregious officers. This choice completely misses the point about the impact of this scandal because it is the content of the posts and comments that matters here, not simply the fact that the officers may

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[26] Paoline & Gau (2018)
[27] Valore, 2018

have violated a the PPD social media directive. For example, the officer responsible for this post is awaiting a disciplinary resolution for his charge of disobeying departmental directives:

   If the above charge related to inappropriate communications based on religion was not applied in this instance, why else does this charge exist within the disciplinary code? What exactly must an officer do to receive this charge? The PAC understands that the officers in the PVP database ranged from officers who had only 1 or 2 benign entries to officers with dozens of horribly bigoted posts. A heavy-handed response to every officer in the database would not have been appropriate, but a stronger response from the Department, with more officers punished more severely for discriminatory language, would have sent a stronger message to the residents of Philadelphia about what will and will not be tolerated by PPD leadership. The charging options available in the PPD disciplinary code would have allowed for more serious discipline for additional officers.

   The PAC has reviewed legal issues, including the summary of Ballard Spahr's First Amendment analysis provided by the Law Department that was discussed in part 2 of this report. This analysis was done as a result of the First Amendment considerations that arose in the context of the PVP database to determine which content was protected by the officers' First Amendment rights to free speech. In initial conversations with PPD leadership and Law Department leadership, the degree to which content was "disruptive to departmental operations" was repeated as a main factor in determining what content made officers was eligible for serious discipline. As discussed in part 2, other factors help define the limitations of what actions a public employer can take against employees as a result of their speech. This concept of disruption to policing, as highlighted in a case related to an NYPD officer, however, provides a clear path for severe disciplinary action. In this case, the New York City Police Department dismissed an officer who anonymously disseminated racially offensive material. The court upheld this officer's termination and wrote:

> "The effectiveness of a city's police department depends importantly on the respect and trust of the community and on the perception in the community that it enforces the law fairly, even-handedly, and without bias … If the police department treats a segment of the population of any race, religion, gender, national origin, or sexual preference, etc., with contempt, so that the particular minority comes to regard the police as oppressor rather than protector, respect for law enforcement is eroded and the ability of the police to do its work in that community is impaired. Members of the minority will be less likely to report crimes, to offer testimony as witnesses, and to rely on the police for their protection. When the police make arrests in that community, its members are likely to assume that the arrests are the product of bias, rather than well-founded, protective law enforcement.

And the department's ability to recruit and train personnel from the community will be damaged." (Pappas v. Giuliani, 290 F.3d 143, 151 (2d Cir. 2002)).

We can apply this logic to the PVP database content created by PPD officers and relate it to the social and demographic issues present in the communities in which these officers work.

- Philadelphia is a Welcoming City, but officers expressed a belief that refugees and immigrants are violent invaders.
- Philadelphia prioritizes equality for LGBTQ residents, but officers shared content that mocked trans identities or used homophobic language.
- Philadelphia has a large Muslim population, but many officers shared Islamophobic content.
- Philadelphia is a racially diverse city, where the largest racial group is Black.[28] Communities of color have historically fraught, and, at times violent, relationships with law enforcement, but officers expressed that racism is not an issue in policing.
- Philadelphia has been ravaged by the opioid crisis, but officers mocked individuals suffering from addiction.
- Philadelphia is the most impoverished big city in the nation, but officers expressed that recipients of governmental assistance are lazy and do not deserve rights afforded to them by the U.S. Constitution.

The PAC believes that *Pappas* provides an analogous legal precedent that would have supported more serious discipline outcomes for more officers. The Ballard Spahr review was done on behalf of the PPD to help the City prevail in discipline appeals or lawsuits. This review was necessary, but the PAC believes the discipline that has occurred indicates that the review failed to address how the content harmed police legitimacy and therefore disrupted police operations in Philadelphia. Further, using anticipated appeals to guide discipline strategy from the outset of an incident such as this deprioritizes justice for the residents of Philadelphia. When lawyers that represent the City and employees of the PPD charging unit are tasked with defining what is disruptive to policing and deciding how many offensive posts is too many, other important perspectives are lost. While any ultimate losses of discipline appeals at arbitration in these cases would be disheartening, at least the Department would have demonstrated a strong stance on officer conduct.

The following sections discuss the content of some posts and comments in detail to demonstrate why some seemingly innocuous content is potentially as disruptive to policing in Philadelphia as some of the most obviously biased and hurtful content made the most egregious officers who were dismissed. As noted previously, the PAC kept in mind the following standard when reviewing Facebook content created or shared by officer: "If I, or a loved one, had an encounter with a PPD officer and then saw their posts, would the integrity of that police encounter be called into question?" This question, along with Philadelphia-specific social and demographic issues mentioned previously, gets to the heart of the disruption to policing in Philadelphia caused by these social media posts.

Additionally, a disruption to policing, however it is caused, goes beyond just the feelings of community members. The net result of incidents that disrupt policing is that a police officer's job can become more difficult. If community members do not trust police officers to police equitably, or if a police officer does not trust that their coworkers support them because of their religion or their gender, employees of the Department suffer as well as community members.

Some of the categories created by the PAC to analyze the posts in the PVP database are detailed below. While the PAC cannot go back in time and influence the reviews conducted by the PPD and

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[28] According to the 2010 census, the racial breakdown of Philadelphia residents was 44.1% black, 35.8% white, 13.6 Latino, 7.2% Asian.

Ballard Spahr, this section of this report is meant to explain why the PAC believes some of the language used by officers is more disruptive to policing than other reviews may show, and also indicative of internal culture concerns that may need to be addressed. The PAC believes it is important to highlight why this language is troubling to those of us who are not members of law enforcement and show the impact to policing that these posts could have in Philadelphia.
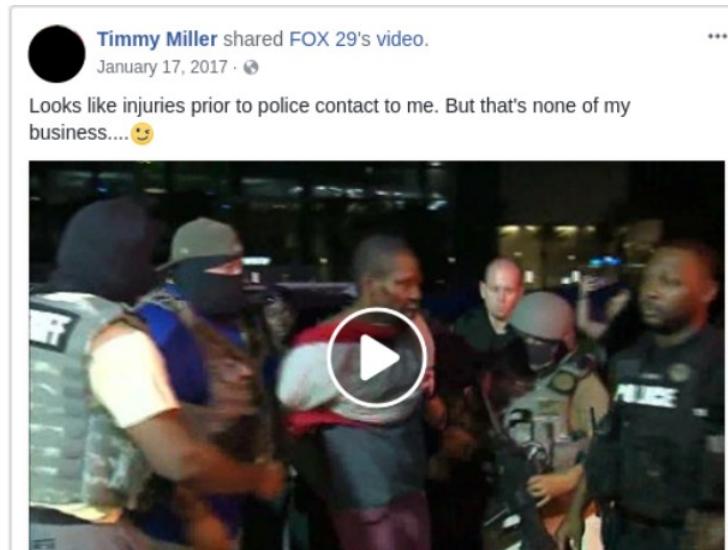
Making Light of Use of Force, Extra-judicial Violence

Of the 20 theme categories created by the PAC, making light of use of force was the second most common, with 284 posts and comments that fell into this category. Extra-judicial violence was the fifth most common, with 211 posts or comments that fell into this category. This content is important to highlight because of the singular place that law enforcement holds in our society. Police officers have the authority to use physical force when necessary against individuals they encounter. They must be trusted to use that authority properly and within the bounds of the law.

However, when an officer expresses that an individual suspected of a reprehensible crime deserves to be beaten or receive other physical harm, for example, it calls into question that officer's ability to lawfully interact with suspects. Any suggestion that an officer's feelings could influence their treatment of a suspect, however deplorable the crime they may have committed, creates space for civilians to question the integrity of law enforcement encounters. When a police officer endorses, however casually, extra-judicial violence for those they find personally reprehensibly or anyone else, that officer's legitimacy is diminished. Three officers shared post related to the shirt depicted in the next image, and none of these instances were included in the PVP database but were included in the PAC's complaint referral to IAD regarding the posts and comments that were not captured in the database. The officer responsible for the post below was dismissed for his PVP database content.

As another example, several officers commented on the capture and arrest of Markeith Loyd, a man alleged to have shot and killed a police officer in Florida in 2017. Markeith Loyd's face was badly injured and bandaged in the videos and images shared and commented on by the officers. The officers commented that Markeith Loyd "must have slipped" or that he must have sustained his injuries prior to police contact. Officers made similar comments on posts related to other injured suspects.

Timmy Miller shared FOX 29's video.
January 17, 2017 · 🌐

Looks like injuries prior to police contact to me. But that's none of my business.... 🙂

These posts and comments are compounded by real incidents in Philadelphia. In June of 2019, Sgt. Jason Reid arrested an individual and claimed that the individual's head injury occurred when he slammed his own head against a car window. In December 2019, Sgt. Reid was arrested[29] when body worn camera footage revealed that this did not occur. Instead, the footage showed that Sgt. Reid punched the individual, who was handcuffed and seated in the back of a police car, in the face at least twice.[30] Sgt. Reid's egregious use of force, and his attempted cover-up, provides a real-world example of the conduct described in posts that promote extra-judicial violence.

Police officers are trusted to uphold the law, even when interacting with individuals suspected of committing terrible acts. Anything that calls into question an officer's ability or willingness to do so chips away at the public's ability to trust the PPD to fairly do their jobs.

Extra-judicial Justice/Lack of Due Process

The posts related to extra-judicial justice/lack of due process present the same problem posts that promote or make light extra-judicial violence. Police officers are gatekeepers to the criminal justice system. The choices they make based on their own discretion, such as whether to stop an individual, can have downstream consequences that can dramatically change a person's life. This is why officers must be trusted to take seriously their responsibility to do their job truthfully while upholding the law and protecting the rights of everyone. Some posts in the PVP database, however, such as a post stating that certain people should not have their Miranda rights read to them, or that someone who supports protests about police brutality does not deserve police assistance in an emergency, confirm some of the public's worst fears about police. If individuals have reason to believe officers will not treat them fairly, trust can never be established. In the following instance, a detective commented and made light of an officer's ability to falsify a police report if they disagree with a victim. Detective Ray McGough received a reprimand.

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[29] https://www.inquirer.com/news/pennsylvania/philadelphia-police-sergeant-jason-reid-arrest-da-larry-krasner- 20191211.html
[30] https://www.inquirer.com/news/philadelphia-police-excessive-force-sergeant-jason-reid-20191101.html

These posts and comments do more than diminish the trust that society must have in the police. They also impact an officer's ability to carry out some of their duties, such as testifying in court, because prosecutors are required to reveal any evidence that might exonerate the accused. A real world example of this occurred in September 2019, when a Philadelphia judge overturned a conviction based in part on a Facebook post.[31] In the arrest in question, PPD Officer Seigafuse was the only officer who allegedly saw the defendant give a large amount of crack cocaine to others. His credibility came into question based on a Facebook post in which he made a flippant statement about lying under oath:

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[31] https://whyy.org/articles/philly-judge-tosses-conviction-after-testifying-officers-facebook-post-flagged-in-database/

It must be noted that this is a potential consequence for any number of posts and comments in the PVP database – not just those that relate directly to an officer's duty to truthfully testify in court. In a US Federal District Court case in Oregon, a state Department of Human Services (DHS) employee was terminated based on comments she made on social media, including derogatory statements about low-income populations. The court held that since the employee regularly testified on behalf of the DHS, the termination was justified because her biased posts could be used by any opposing counsel to attack her credibility as a witness, thus hampering current and future cases.[32]

Civilians sometimes live in fear that officers will abuse this power based on their personal beliefs, and if this abuse of power occurs, an officer will not be held accountable for their actions. Posts that promote extra-judicial justice are extremely disruptive to police legitimacy because they give residents no reason to trust that officers will uphold or respect their own basic responsibilities as members of law enforcement.

Mocking Opposing Viewpoints

It is not necessarily problematic for a police officer to hold certain political views, nor is it necessarily problematic for an officer to disparage views with which they disagree. Posts or comments that mock opposing viewpoints become problematic when they indicate that an officer lacks an understanding of their position within society, and more specifically, within a city that has a troubled relationship with law enforcement. For example, there were numerous posts in which officers expressed confusion over the fact that communities protest, sometimes violently or disruptively, after officer-involved shootings, but they do not protest after other types of gun violence occurs within their own communities. The following post was not captured in the PVP database. The officer's discipline is pending.

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[32] https://cdn-files.nsba.org/s3fs-public/file/11_FINAL_Hartley_Nguyen_Facebook_Firings_Paper.pdf?F363FeYwclbsGBRwwsKxvAXUnUKHo2rg

This line of thinking is not only flawed but demonstrates an oversimplified and unempathetic view of communities plagued by gun violence. This type of post assumes that individuals that live in communities affected by gun violence are unmoved by shootings in their neighborhoods. It assumes that a failure to protest equals apathy. This thinking demonstrates a lack of understanding regarding the complexity of gun violence and why it plagues some communities but not others. Considering the role police are charged with when it comes to violence, it is imperative that they comprehend the pervasive economic and social issues that have accumulated over time and that are woven into the fabric of a neighborhood. A disregard for the complexity of the problem and the complexity of community feelings of fear, anger, and sadness regarding a pervasive problem like gun violence is problematic for any Philadelphian. It is unacceptable for a police officer.

An officer-involved shooting is a singular event with a clear power dynamic and a linear path through other infamous instances of police brutality and government-sanctioned racism. Fairly or not, one officer-involved shooting becomes another tick mark in the column of historic harms levied upon communities of color by law enforcement and the government writ large. This is one possible reason why an officer-involved shooting awakens such powerful anger and can lead to destruction and violence in some instances. Officer-involved shootings and community gun violence generate different emotions and different reactions from communities because they are different events. By attempting to show there is hypocrisy inherent in these different reactions, an officer creates more distance between their department and the communities they serve. Further, this type of post highlights a lack of critical thought about who is policed, how they are policed, and why they react to some police actions as they do. This is worth noting because the language of these posts exemplifies how far the PPD must go to build trust with Philadelphia residents.

Officers do not have to agree with their critics, but they should acknowledge that their viewpoints exist and deserve more than immediate dismissal. A clear message is transmitted when police dismiss anyone who kneels during the national anthem in protest of police brutality as deserving of injury, or when they refer to a person of color as an idiot for being afraid of the police. That message is that anyone who feels anything less than 100% in support of police without question is inferior. It also presents PPD officers as willfully ignorant of the complex history within Philadelphia and the issues that deserve nuanced consideration if the department ever hopes to make progress in building trust and good will with Philadelphia residents.

Sharing content that mocks opposing viewpoints, then, is more complicated than simply disagreeing with a political group or a certain ideology. This type of content at times displays a fundamental misunderstanding of the place that police officers hold historically in communities of color, and further reinforces the "us vs. them" mentality that destroys any positive gains made by the PPD in police-community relations.

Dehumanizing Language, Demonstrated Disdain for Constituents
The "us vs. them" mentality is similarly displayed in these categories. Certain words and phrases stood out during the review of the many posts and comments created by officers: "Scumbag" or "scum", "POS" or "piece of shit" were the most commonly used terms, but the list also includes "trash" or garbage", "toad", "retard", "pig" and others. The policing profession is inherently tied up with ideas of good and bad, and value judgments are necessary for police officers to determine what law enforcement actions to take in any given scenario. The casual usage of these terms tells us something about the internal and external vocabulary that officers use to describe people with whom they interact.

> **Brian Dougherty**
> October 20, 2011 · 🌐
>
> Why do scumbags always wanna shake hands with the cops. What makes them think its a good idea to place there filthy ass hand in mine.
>
> ➦ Share

While high-level PPD leadership clearly sees the value of building relationships through community policing given the attention they have paid to it in recent years, the language used by officers responsible for doing community policing tells a different story (Lt. Brian Dougherty's most recent assignment according to the PPD is 35th District, an assignment that likely involves some aspect of community policing). Dehumanizing language strips humanity from individuals, which diminishes empathy and can make room for a person to justify negative action against those individuals. This is well documented in studies about large-scale events like genocide,[33] but this idea translates here as well. Dismissing these posts as harmless or not worthy of punishment serves to condone the dehumanization of Philadelphia residents accomplished by this content.

Islamophobic, Anti-immigrant/Anti-refugee
It must be highlighted that the theme that occurred most frequently in the PVP database content created by PPD officers was Islamophobia, with 358 occurrences. Of the 338 officers investigated by the PPD, 95, or almost 30%, had Islamophobic content. This is clearly unacceptable in a City that includes two Muslim holidays on the school system's calendar, and where the estimate of the Muslim population ranges from at least 1% of the City's population to as high as 15% of the City's population.[34]
Individuals are entitled to opinions about border security and related political topics. Regardless of an officer's opinion on those matters, they are still required to police within a Welcoming City while upholding Departmental values of honor and integrity. Moreover, in a Welcoming City, it is incumbent on police officers to accept that undocumented immigrants are vulnerable populations which are more likely to be law abiding residents, more likely to be victimized and less likely to engage law enforcement because of their status and fear of deportation. The posts and comments that fall into these categories

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[33] https://journals.sagepub.com/doi/abs/10.1177/0261927X11425033
[34] https://www.pewforum.org/religious-landscape-study/metro-area/philadelphia-metro-area/,
https://billypenn.com/2016/01/29/what-its-like-for-muslims-in-philly-mecca-of-the-west/

reinforce negative opinions that these populations may already have of the PPD and further separate the Department from some of the communities it serves.

Racist, Coded Racist Language, Racist Symbol

Even if some do not agree with certain perceptions or interpretations of words/symbols, it cannot be denied that words like "thug" and "savage", or symbols like the Confederate flag, carry harmful racist connotations in our society. This language only builds barriers and reinforces community suspicions that officers hold certain beliefs about community members they may encounter. Aside from the use of charged words, there were also posts that required perhaps a deeper analysis to understand why they are problematic. For example, there were eight posts related to white people being enslaved in history. Officer Thomas Kuhn, who shared the following post, received training and counseling instead of discipline. Another officer shared three similar posts (one of which was not captured in the PVP database) also received training and counseling.

A strict reading of this post could be that this officer was presenting a perspective on the history of slavery around the world. This type of post, however, exemplifies the need for a more nuanced review of the PVP database content. Aside from presenting false information and displaying a fundamental misunderstanding of race in America, a basic internet search shows that this type of content has been used by white supremacists[35]. The intent of this type of post appears to be to discredit the lasting effects of slavery in the United States and devalue the history of oppression endured by black Americans. Communities of color, locally and nationally, have expressed concerns about systemic racism within the criminal justice system, the very system from which police officers derive their authority. While these types of posts do not include explicit racial slurs, they do indicate ignorance of the reality of race in the criminal justice system and this country at large. By not dismantling racism these posts empower racism, and this is disruptive to policing almost beyond words.

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[35] https://www.splcenter.org/hatewatch/2016/04/19/how-myth-irish-slaves-became-favorite-meme-racists-online

The PPD's response to the PVP database was handled internally and was mostly completed before the PPD shared details about their response with the PAC. Ideally, an oversight perspective would have been included as the Department made decisions about which content was most disruptive and deserving of discipline. While those decisions have long been made within the PPD, the PAC feels it is important to acknowledge aspects of the PPD response that the PAC would have handled differently. By presenting these points, it is the PAC's hope that the PPD will see the value of including outside voices when faced with critical incidents in the future.

Broader Discipline Based on Disruption to Policing and Budget Concerns
Once Ballard Spahr completed their review, officers were disciplined based on the number of unprotected posts as well as the severity of those posts. The PAC believes, however, that the number of posts should not have been a determining factor at all. Of course, a large volume of posts can indicate that an officer is committed to sharing their views, but it also does not indicate that they believe more strongly than other officers. One officer who posts the phrase "towel heads" just once is as disruptive than an officer responsible for a greater volume of content.

Further, measuring disruptiveness by the number of posts misses the point – does the degree to which an officer harms community trust really matter? Harm is done, whether the officer is responsible for just once instance or many. The cut-off numbers for posts used by the department to determine who was eligible for serious discipline appear to be arbitrary. For example, any post or comment categorized by the PAC as making light of use of force, promoting extra-judicial violence, promoting extra-judicial justice/lack of due process, or promoting violence against protestors demands more scrutiny because, as noted previously in this report, these types of posts and comments undermine officers' authority and position of trust in communities.

As detailed in the previous pages, the PAC believes the PPD took too narrow a view of what the terms "disruptive to department operations" and "conduct unbecoming an officer" mean. Judicial venues ranging from the Philadelphia Civil Service Commission to the Pennsylvania Supreme Court have expounded on the notion that "conducting unbecoming an officer" is a well-defined standard. It includes "any conduct which adversely affects the morale or efficiency of the bureau to which he is assigned", and "also any conduct which has a tendency to destroy public respect for municipal employees and confidence in the operation of municipal services" (*Fabio v. City of Philadelphia Civil Service Commission,* 414 A.2d 82 (Pa. 1980)).

Beyond the concerns of how the PVP content affected residents and PPD officers, there is a practical budgetary concern here as well. In addition to district-level efforts and individual officers tasked with being liaisons to the community, the PPD receives over a million dollars in grant money earmarked to" improve the quality of life in all neighborhoods while expanding problem solving efforts and community collaborations throughout the city."[36] The funding, personnel, and other resources allocated to community engagement represents the importance that PPD leadership places on building relationships with Philadelphia residents. These posts demonstrate not only a lack of buy-in from some rank and file officers, but moreover, these officers effectively wasted those budget dollars and efforts by PPD leadership by setting back progress made in this area.

Disruption to PPD community engagement strategies has the potential to impact many parts of the PPD because when community members do not trust the PPD they will not work as partners in public

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[36]https://www.phila.gov/finance/pdfs/budgetdetail/Mayor's%20FY%202020%20Operating%20Budget%20Detail%20-%20Book%20II.pdf

safety. It is not a far leap to assume that statistics such as the low clearance rate for homicide investigations in recent years are impacted by the relationship between the PPD and communities. The PAC believes that, in this sense, and in ways described in previous pages of this report, the content in the PVP database is disruptive on many levels and is therefore broadly actionable as conduct unbecoming an officer.

More Attention to Sexual Harassment

Given the sexual harassment scandals within the PPD that were brought to light in 2019,[37] further attention should have been paid to Facebook posts and comments, including any not captured in the PVP database, that relate to sexism, misogyny, and potential violations of the City of Philadelphia's sexual harassment policy. The tone of a workplace is set by the language that is used among coworkers, and language that is not explicitly condemned is implicitly condoned. There were 126 examples of misogynistic/sexist content and 29 examples of making light of rape/DV allegations in the PVP database. PAC staff found 75 examples of content that was misogynistic/sexist or made light of rape/DV allegations not captured in the PVP database. Lt. Sean Dandridge's post below was included in the PVP database. His discipline is pending. PO Michael Crowe's post below was not included in the database. He received a 2-day suspension for his PVP database content.

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[37] https://www.inquirer.com/crime/inq/carl-holmes-philadelphia-police-sexual-assault-female-cops-larry-kranser-20191205.html, https://www.inquirer.com/news/richard-ross-resigns-philadelphia-police-commissioner-gender-racial-sexual-harassment-20190820.html

Considering the allegations that the PPD has mishandled some sexual harassment complaints in the recent past, the PAC took an interest in posts and comments that contained misogynistic or sexist themes. When reviewing officers' Facebook profiles, PAC was able to view posts through the lens of the City's sexual harassment policy.[38] Namely, if a coworker or superior made this post on their profile, could that conduct be prohibited? Posts of a sexual or misogynistic nature that were still viewable to a member of the public were doubly concerning, as the civilian perspective mentioned previously in this report still applies: "If I, or a loved one, had an encounter with a PPD officer and then saw their posts, would the integrity of that police encounter be called into question?" The PAC felt it was important to highlight this content as it relates to the larger idea of the culture within the PPD as well as encounters with residents.

A related theme that was similarly troubling was posts that made light of rape or domestic violence allegations. These posts often demonstrated that some officers are not sensitive to extremely common behaviors displayed by victims of sexual assault or domestic violence, or at worst, felt that a woman they do not find attractive could never be credible as a sexual assault victim because she was not attractive enough to be assaulted. These attitudes and beliefs, particularly coming from officers who work assignments that may bring them into contact with victims of sexual assault, are disheartening. There number of posts and comments that fell into this category was relatively small compared to some other categories, but this type of content in any number is very troubling. PO Michael Fahy's post below was included in the database. He received a sustained finding from IAD but received no charge and no discipline.
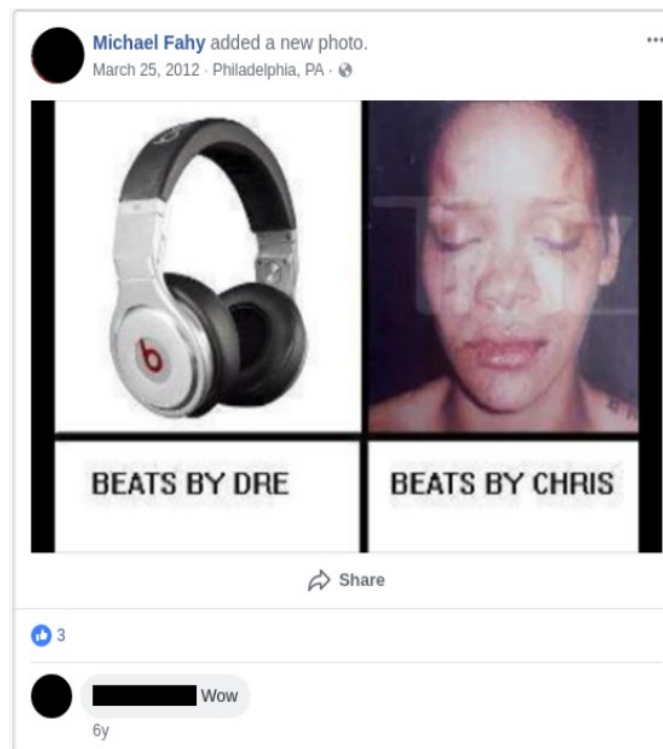
Law enforcement is a unique profession in that it is traditionally male and is inherently beholden to power dynamics, both internally by rank, and externally with communities. The Department needs to send a clear message that language that constitutes sexual harassment as defined by the City of Philadelphia will not be tolerated, and it starts with zero tolerance for jokes and offhand remarks such as ones made in some of the PVP database content and the content found by PAC staff that was not included in the PVP database.

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[38] https://www.phila.gov/personnel/pdfs/SexualHPrev.pdf

While most of the current PPD leadership team was not involved in designing or executing the PPD response to the PVP database, the response nevertheless revealed many opportunities for improvement regarding transparency, accountability, and oversight. Ultimately, the PPD response to the PVP database should go beyond the discipline of individuals officers. If the PPD hopes to improve trust from the community it must commit to improving the internal processes that hold officers accountable. Further, this scandal revealed additional opportunities for the PPD to examine the culture of the Department. As with any critical policing incident, the PPD and the City must use this incident as an opportunity to improve. The following recommendations relate to how the PPD can build from this event. If the only result of this scandal is discipline for individual officers, the PPD will have missed some important opportunities for introspection and reform.

> **Recommendation 1:** The PAC recommends that the PPD engage an outside body to conduct a review of all aspects of PPD culture, with a special focus on racism and sexism.

As discussed in Part 4 of this report, police culture is pervasive and can impact all parts of a police department. It is, arguably, the foundation upon which all efforts and actions of a police department rest. Social media content created by PPD officers is only one symptom of the Departmental culture present within the PPD. The words and images shared by officers in PVP database content provide a rare glimpse of officers' candid thoughts that would otherwise be inaccessible. This should be used as an entry point and opportunity to examine the culture of the PPD.

Shortly after the public release of the PVP database, the PAC created a request for proposals (RFP) with the goal of finding an outside entity to do just that. This RFP was never finalized or posted by the City. One intent of the proposed review was to determine, through access to personnel, documents, EEO investigations, and other materials, whether the PVP database content represented negative aspects of PPD culture. A similar review occurred in San Francisco after 14 bigoted text messages between San Francisco Police Department officers were uncovered. This review included interviews of over 100 officers and other personnel, as well as extensive document reviews. The report from San Francisco states that the primary research questions was, "Was the racial and homophobic bias so clearly demonstrated by the offensive texts a reflection of institutionalized bias within the SFPD and, if so, to what extent?"[39] The PPD has focused on disciplining individual officers for their PVP database content. This is important, but larger questions such as the one asked in the San Francisco Police Department must also be asked in order to create systemic change.

Despite the resources dedicated to reviews such as the one that occurred in San Francisco, a main criticism is often that they lack data and policy analysis that could lead to evidence-based solutions to the problems identified. The goal of engaging a vendor to similarly examine PPD culture would not be to reiterate the benefits of anti-bias training or improved recruitment strategies. These have already been identified as potential next steps for the PPD. While these are worthy avenues to pursue, a review of PPD culture would ideally identify specific ways to shift PPD culture through codified policies that impact officers each day.

It is difficult to theorize exactly what policy changes could be made to further the goal of culture change, but the successful precedents of the PPD's past provide a good reference point here. As an example, the PPD was very successful in recent years at driving down the number of officer-involved shootings. This decrease came after a Collaborative Reform Initiative with the United States Department of Justice that

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[39] https://sfdistrictattorney.org/sites/default/files/Document/BRP_report.pdf

resulted in 91 recommendations related to the use of deadly force. Training was certainly a part of the recommendations, but specific policy changes were also recommended in order to decrease officer involved shootings across the Department.

The disciplinary process for the over 300 current PPD officers named in the PVP database has been an ongoing effort since June 2019, and it has faced significant delays due to the Covid-19 pandemic. It is understandable that the PPD has focused on this disciplinary process, but as of the writing of this report, the PAC is not aware of any other efforts at the PPD to address the underlying aspects of PPD culture that may have contributed to this scandal. It is crucial to thoroughly examine the culture of the Department in order to understand how to build a positive work environment and equitably police in Philadelphia. The PAC would embrace the opportunity to assist the PPD with this project.

> **Recommendation 2:** In accordance with Executive Order 2-17, the PPD should grant full and timely access to documents, information, and personnel as requested by the PAC and any future oversight body. Confidentiality agreements may be utilized as needed but should not delay the timely release of requested documents or access to personnel via interviews.
>> **Recommendation 2a:** The PPD should draft and publicize a clear policy that outlines the process for determining how investigations are deemed internals. This policy should include a process for appealing this determination and timetable for when internals may be declassified and available for public review.

The PPD response to the PVP database demonstrates key areas of concern that must be considered as PPD moves forward into the post-George Floyd era of policing in Philadelphia. In order to be responsive to community concerns about accountability, the PPD must see civilian oversight as a necessary component of law enforcement and proactively turn to the PAC or any future oversight entity for assistance and input when large-scale events or scandals occur. As noted in this report, the PAC did not receive any information about the PPD investigations or discipline related to the PVP database until February 2020, and some requests for information are still pending. Further, the PAC was denied the opportunity to interview key personnel. When the PAC requests access to information, documents, and personnel, the PPD's should grant full and timely access, with confidentiality requirements in place as needed. Aside from the fact that Executive Order 2-17 requires this cooperation, utilizing outside input when scandals arise demonstrates a commitment to integrity and accountability within Department operations and investigations.

With the limited information about the PVP project officers granted to the PAC, the PAC found some errors in the review process. For example, an officer had 21 entries in the PVP database, but Ballard Spahr only reviewed 14 of his entries. The PPD based discipline decisions on the guidance from Ballard Spahr, but Ballard Spahr's review for this officer was incomplete. This error went unnoticed until the PAC brought it to the attention of PPD leadership. The PAC also learned that the FOP improperly received a copy of the legal guidance prepared by Ballard Spahr that was meant to help the PPD discipline involved officers. The future PAC body should be empowered to help set standards for these types of investigations, monitor the investigations as they proceed, and review data in real time. Bringing the PAC in to assist in this manner in the future would help to separate the role of the FOP and create more organized and transparent processes.

The PPD classified their investigations into the PVP database as internal, which effectively shut out the public and the PAC from understanding how officers would be held accountable. Recent scandals

related to internal investigations[40], plus data about IAD investigation outcomes[41], left the PPD vulnerable to criticism regarding the rigor of internal investigations. The PAC saw the PVP scandal as an opportunity for the PPD to change course, given the level of public interest. The classification of this matter as internal, however, has delayed any deep review of the PPD's processes related to the PVP database and has only prolonged the PAC's inquiries into the investigations and discipline.

The PAC has previously recommended changes to how the PPD designates investigations as internal, and the current administration appears interested in moving forward with these changes. The PPD should draft and publicize a policy for determining what investigations are internal and include procedures for appealing this determination.

> **Recommendation 3:** The PAC recommends that the PPD decentralize charging decisions and include external reviews of administrative processes for investigations related to large-scale or sensitive events.
> **Recommendation 3a:** The PPD should draft a clear policy that requires personnel working permanently or temporarily in the charging unit to recuse themselves from making charging decisions about officers with whom they have personal relationships or with whom they are familiar.
> **Recommendation 3b:** The PPD should immediately begin to formally document internal investigative guidance, metrics related charging decisions and how the metrics were devised, and any other internal processes surrounding large-scale or sensitive events.

As discussed in a previous section of this report, the charging unit within the PPD is an extremely small unit, with one high-ranking officer responsible for making all the charging decisions for discipline within the Department. The PPD conducted 338 investigations related to the PVP database, and over 200 officers had sustained findings. That meant that, based on how the PPD charging unit works, one individual would be responsible for deciding how to apply charges (or who to divert for training and counseling) for over 200 officers. It is unclear if these decisions were reviewed or approved by anyone else before they were finalized, but the sheer volume of cases suggests a review process would be necessary to ensure accountability, consistency, and accuracy. The PAC recommends that the PPD include a robust external review process prior to finalizing charges for incidents such as the PVP that receive intense public interest and media coverage.

For officers named in the PVP database, a different Chief Inspector was brought in to write the charges. A credible PPD insider told the PAC that this Chief Inspector did not agree with punishing officers for their social media posts, and in some cases, fought hard to prevent certain officers with whom he had personal relationships from being disciplined. The PAC does not know as of the writing of this report if these statements are true, but if they are, there is not currently a PPD policy that would require the Chief Inspector to recuse him from making charging decisions about officers he knew. The PPD should draft a clear policy about recusal to ensure that charging decisions cannot be vulnerable to criticism related to impartiality.

Although the charging process for PVP officers is completed, the PPD is now conducting investigations into many complaints related to high-profile protest events that occurred in June 2020. To increase transparency and to prepare for the eventual inquiries into PPD processes surrounding these events, the PPD should take all necessary steps to memorialize internal guidance for investigations and any metrics used when making charging decisions. This information need not be immediately available to the public in all instances but should be recorded and made available for oversight bodies to review in real time as investigative and administrative process occur. This will ensure that any errors are caught while they can still be fixed and demonstrate the Department's commitment to transparency and oversight.

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[40] https://www.inquirer.com/crime/inq/carl-holmes-philadelphia-police-sexual-assault-female-cops-larry-kranser-20191205.html
[41] https://www.cityandstatepa.com/content/complaints-show-philly-police-escape-discipline-violent-misconduct

These recommendations relate directly to the PPD's response to the PVP database and therefore should be noted here, but the PAC is scheduled to begin working with the PPD on a collaborative reform project regarding charging and PBI hearings in August 2020. The PAC acknowledges that these recommendations may be better addressed when the PPD charging and hearing processes are thoroughly examined during that project. The PAC will accept a response that postpones some decisions about these recommendations until the collaborative project occurs.

Recommendation 4: The PAC recommends that the PPD utilize the formal reconciliation process created by the National Initiative for Building Community Trust and Justice at John Jay College to publicly acknowledge the harm caused by the PVP database content created by PPD officers.

Recommendation 4a: The PPD should create and publish on the "accountability" page of the PPD website a plan related to their participation in truth and reconciliation efforts. This plan should include a timeframe and instructions for public comment that will set expectations for the process, and updates related to progress on the plan should be made publicly available as the process unfolds.

As noted earlier in this report, the PPD contacted a leader in anti-bias and anti-racist training to develop a training program for the PPD after the PVP database was released to the public. Planning to conduct this type of training is a positive step, but the PAC believes that this does not go far enough. This belief is informed in part by disagreement within the PPD about the nature and scope of the problems illustrated by the PVP database content. Without a formal and public reconciliation, it is unclear how the PPD will be able to create and build community trust or attract diverse recruits to be the next generation of police leaders in this city.

Reconciliation is a process by which an institution formally and publicly acknowledges harms for which they are responsible. After this acknowledgment, a process of dialogue occurs to build trust and buy-in from community members and other stakeholders.[42] When Commissioner Outlaw first took office in Philadelphia, the PAC submitted a package of short papers on potential areas for reform with the PPD, including this truth and reconciliation process. The PAC believes truth and reconciliation as a formal process is a powerful tool for building community trust in general, and the Plainview Project is just one specific incident that should be addressed through this process.

In June of 2020 the City announced a new reconciliation task force of community and faith leaders that will be focused on listening. Philadelphia District Attorney Larry Krasner also announced a truth, justice, and reconciliation commission to address the impact problematic conduct at the hands of law enforcement in communities of color. The details of the work to be accomplished by these groups are not yet determined or not yet publicly available. The PPD will undoubtedly participate in the reconciliation commissions already formed by the City, but the PAC recommends that the PPD take a proactive step to initiate truth and reconciliation for the harms done by the PVP database content specifically. An important part of this process will be a publicly visible plan for receiving community input related to reconciliation and a timeline for the reconciliation process. This plan should be accessible on the PPD website's accountability page and should include regular updates on the process as it unfolds.

Recommendation 5: The PAC recommends that the PPD use PVP database content for Department-wide and unit-level analysis and to focus training efforts related to cultural competency.

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[42] https://s3.trustandjustice.org/misc/National_Initiative_-_Reconciliation_Process_Overview.pdf

Despite the large number of PPD officers listed in the PVP database, the PAC recognizes that they represent just a fraction of the total number of sworn PPD personnel. However, it is important to remember that the content in the PVP database represents only the content that was publicly viewable to researchers at the time they gathered data. The large number of PPD officers included in the database precludes the option to view these officers as outliers, and it must be assumed that additional similar content existed or continues to exist on social media profiles of officers. Content that is not visible to the public, though, still reflects negatively on the PPD and contributes to negative aspects of PPD culture. Social media is an entry point but is only one aspect of police culture, which is why the PAC recommends a more holistic review of PPD culture, described above in Recommendation 1.

In addition to a holistic review, PPD leadership should utilize the wealth of data available in the PVP database. Volume I of this report included a table that listed all the PPD units and Districts that were represented in the PVP database. The following excerpt from that tables shows the 14 PPD units or Districts that had the highest number of officers included in the database:

PPD Unit Name	#	PPD Unit Name	#
9th District	15	14th District	11
2nd District	14	8th District	11
15th District	14	1st District	10
24th District	13	6th District	10
25th District	12	Highway Patrol	10
26th District	12	Center City District	10
7th District	12	Firearm Training Unit	9

Patrol districts/units accounted for the entirety of the top 13 units. The 9th District had 15 officers included in the PVP database, 11 of whom had sustained findings from IAD (though not all received charges). 2 officers from the 9th District received serious discipline: PO Daniel Farrelly was dismissed, and PO Kristine Amato received a 30-day suspension. Given these numbers from the 9th District, there is an opportunity at the District level to understand contributions to the PVP database. What is the culture of that District? How is morale? Are community relationships positive? What priorities are set by District leadership? Facebook posts and comments are a glimpse of officers' candid thoughts which otherwise may be inaccessible. Regardless of disciplinary results for individual officers, the PVP database content can shed light on District or unit-specific challenges that leadership can use when identifying challenges specific to their purview, such as building effective community policing, improving officer wellness and morale, and departmental culture.

Further, the themes present can assist PPD leadership in determining opportunities for additional education. As noted in other parts of this report, Islamophobia was by far the most common theme in the PVP database. Related themes, such as anti-immigrant or anti-refugee sentiment, surely relate to the daily work that officers do in a diverse Welcoming City. While a cultural competency component exists in PPD academy training, the PVP database could give PPD leadership a sense of topics that may need additional attention in order to prepare PPD officers who may not have experience with diverse populations prior to their law enforcement careers.

Ultimately, the PVP database provides a deep dataset about a relatively small selection of PPD officers but it is not reasonable to believe that the database represents the totality of officers that subscribe to the beliefs on display. For example, the PPD should not assume that because younger officers have a different understanding of social media or have private profiles that their beliefs and language patterns (online or in real life) are different than those represented in the PVP database. The PAC understands that the PPD cannot and should not tell their employees what to think, but it is a responsibility of the Department to ensure that officers are fully prepared with accurate and complete information about different cultures in order to equitably police in all communities. Cultural competency has always been important, but in this moment

when police departments are being called upon to deepen their understanding of the communities in which they police, the PVP database provides a starting point for the PPD to reinvigorate this aspect of training.

Recommendation 6: The PAC recommends that the PPD incorporate social media and lessons from the PVP database into new officer wellness initiatives.

In the weeks and months after the PVP database was released, some posited that the content exemplified the need for officers to vent by engaging in gallows humor. Gallows humor, or dark humor used as a coping mechanism, can be useful in enhancing bonds between coworkers. It can also mask the effects of traumatic events. A study of how investigative task forces that work on child exploitation use gallows humor showed that while it can help mitigate stress, an increased use of gallows humor should serve as a warning sign for diminishing psychological wellness.[43] Aside from gallows humor serving as a possible indicator for wellness, it is important to note the distancing effect that gallows humor can have on those who are on the outside of the joke. For example, PAC staff found the following homemade logo on an officer's public Facebook page:

This logo is an example of gallows humor that might resonate with insiders, but it also has the potential to distance the Department from the communities they serve. To an outsider, it displays a flippant attitude and turns victims at crime scenes into a punchline. It is insensitive and disrespectful to any Philadelphia resident who has lost a friend or loved one to violence. Even if this type of logo is only intended for internal use, it was publicly available on an officer's page.

If the argument is that an officer experiences stress on the job and then shares disrespectful content as a result of that stress, an intervention is needed to prevent the need for this type of coping mechanism. The PAC is not suggesting this will be easy to accomplish. As noted by a senior PPD leader, the healing circles hosted by the PPD after the database was released were intended to help officers discuss the effects of the PVP database content but they were met with mixed results This was likely due to negative attitudes of local police leaders that trickled down through the ranks. This, again, speaks to the culture of the PPD and how it can negatively impact the Department's efforts to support officers and improve after events such as this.

The healing circles example also highlights an area where the PPD could benefit from bringing in outside assistance. It is commendable that PPD leadership recognized the need for internal dialogue among officers after the PVP database, but by their own admission, the healing circles were not entirely successful. It is possible that by moving too quickly to host these events, without enough time, resources,

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[43] https://www.researchgate.net/publication/264430998_The_Use_of_Humor_to_Cope_with_Secondary_Traumatic_Stress

and expert assistance, the Department missed an opportunity for more impactful discussion between officers about the sensitive topics raised by the PVP database.

The PAC has worked in recent months on a separate project about PPD officer wellness. This project includes recommendations for institutionalizing wellness in a way that enhances coping mechanisms and allows for officers to decompress from the daily stress they face. The PAC is also aware that the PPD will soon participate in the Active Bystandership for Law Enforcement (ABLE) training program, which is meant to help prevent misconduct, avoid police mistakes, and promote officer health and wellness through peer intervention[44]. Active bystandership connects directly to the PVP database content, as officers saw fellow officers sharing and creating PVP database content but did not report it.

It is important that PPD leaders keep the PVP database in mind as wellness efforts continue. Not only is the PVP database a recent example of missed opportunities for active bystandership, it provides a clear example of how officers' efforts to decompress can serve as indicator of their own well-being but also impact relationships with the residents of Philadelphia. Paramilitary organizations may not be known for emotional support initiatives, but if stress was a motivating factor for any of the PVP content, the PPD should use this opportunity to find an intervention to ensure officers have space to vent their stress in a healthy way in order to minimize the effect it has on them personally and professionally. The PVP database highlights how wellness and active bystandership must be present in all aspects of officers' lives, starting with casual daily actions such as social media use.

Part 8: Conclusion

The year that has passed since the public release of the PVP database has seen several scandals and major events within the PPD. These include the resignation of one Commissioner and the selection of a new one, changes in PPD leadership across the Department, and now, a national conversation that has focused on systemic racism, police brutality, and increased accountability within police departments. Included in this conversation are assertions from both community members and government leaders that we must seize this opportunity for reform. It remains to be seen what actions will come out of this conversation, but the connection between the harms caused by the PVP database content created by PPD officers and the current calls for change is a clear one.

The PVP database captured only the Facebook content that was visible to the public. Given the sheer volume of content included for current and former PPD officers, it must be assumed that similar posts are present on the private Facebook profiles of other officers, and that other officers have similar thoughts and opinions that they do not post on social media. It is simply not possible that the content captured in the PVP database represents the entirety of the problem. Disciplining individual officers for their conduct is important, but it falls short in fixing the harms done. Discipline related to the PVP database is ongoing and may not be concluded for many months depending on how many appeals are made. While the discipline and appeals processes unfold, it is important to understand this scandal and the PPD response to it in the context of police culture if the goal is to create systemic change within the PPD.

The PPD was slow to inform the PAC about their response to the PVP database, but it is not too late to incorporate external oversight into PPD processes that have traditionally been shielded from the public. Rather, the national and local conversations around policing and oversight demand that this is the moment for the PPD to address the status quo within departmental culture and processes, such as those related to discipline.

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[44] https://www.law.georgetown.edu/innovative-policing-program/active-bystandership-for-law-enforcement/

CITY OF PHILADELPHIA

10-13-2020

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

      Re: PAC PVP Response Letter

Dear Director Menos:

Commissioner Outlaw has requested that I respond to you on her behalf regarding the Police Advisory Commission's ("PAC") Plainview Project's Facebook Report. I would like to begin by thanking the PAC for compiling such a detailed report regarding the underlying conduct and events and the Department's response. This was clearly a case of first impression, not just for the Philadelphia Police Department ("PPD") but for all law enforcement agencies across the country.

These officers – and any others with hateful, racist and sexist beliefs - have no place in the PPD. Such comments and beliefs undermine the integrity, respect and mission of the PPD. It adversely affects the trust we strive to build with all of Philadelphia's communities and creates dissension with our ranks. This is the very reason the Philadelphia Police Department took such swift and decisive action. The officers whose FB posts and comments were the most egregious have been fired and are no longer police officers in this City. The PPD continues to defend its decision to terminate and/or discipline all the offending officers, who have grieved their discipline. These facts should be not lost in the details of this report.

That said, please allow me to respond to reach of the recommendations represented in your report.

Recommendation 1: The PAC recommends that the PPD engage an outside body to conduct a review of all aspects of PPD culture, with a special focus on racism and sexism.

The PPD has engaged Dr. Marks and his team from the NITRE Center[1] to conduct Implicit Bias Training for all sworn and civilian personnel, with the first class starting on October 28, 2020. Inherent in this training is the social and cognitive science behind implicit racial biases, but also other implicit biases that impact decision making. The purpose of this training is to open the minds of our officers as to why and how implicit biases can impact an individual's decision making. The

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[1] https://www.ntire.training/

ultimate goal is to change the culture of the PPD by having our officers make better decisions in the field when dealing with individuals in our diverse city.

As mentioned above, the PAC recommends that the PPD engage an outside body to conduct a review of all aspects of PPD culture, with a special focus on racism and sexism. The PPD would like PAC to acknowledge that PPD was deliberate in prioritizing Implicit Bias Training, worked diligently to identify the appropriate training entity and secured the necessary funding to make this training a reality. Recognizing the importance of the PAC recommendation, this comes as an unfunded mandate. The PPD agrees with the intent, significance, and impact of this recommendation; we believe we have training scheduled that will directly impact our culture in a positive manner. Based upon our limited resources, the PPD will consider this recommendation, but will not be able to implement this recommendation due to insufficient resources at the time of this response.

Recommendation 2: In accordance with Executive Order 2-17, the PPD should grant full and timely access to documents, information, and personnel as requested by the PAC and any future oversight body. Confidentiality agreements may be utilized as needed but should not delay the timely release of requested documents or access to personnel via interviews.

The PPD is able to comply with both the intent and the letter of Executive Order 2-17. As discussed during the PAC presentation to the PPD Executive Command on 10/1/ 2020 and indicated above, the FB PVP presented several complicated issues of first impression and of lasting consequences. Much time, attention, and deliberation by PPD and its counsel, the City Solicitor's Office, were required to not only ensure Executive Order 2-17 was met, but also to ensure appropriate training of PPD officers, disciplinary decisions were appropriately defended, and the community relationships were improved.

The FB PVP exposed hateful, racist, sexist, and/or Islamophobic comments made by men and women of the PPD. PPD needed to take deliberate and decisive action, but had to balance the First Amendment rights of the offending officers, while addressing the pain and distrust experienced by the communities we serve. Internally, we needed to address the PVP within the PPD's ranks, which included a thorough complete and fair investigation, along with developing and implementing specific training. This was a complicated legal issue of first impression. PPD could not benefit from guidance or precedent from any other large jurisdiction or police agency in the country. As such, the PPD relied on the advice of our counsel, the Philadelphia Solicitor's Office. The law firm, Ballard Spahr, was hired to conduct a constitutional analysis of each officer's post to determine whether or not the social media posts were constitutionally protected.

All of the foregoing shows that PPD sought to defend and uphold any and all disciplinary decisions before Police Board of Inquiry ("PBI") or grievance arbitrators. Premature release of this information could compromise the City's legal position, which would cause further distrust and angst to affected communities and within PPD ranks. Ensuring that disciplinary action is upheld is in the best interest of the community and the other officers in the Department. Given that PAC fully understood the complex nature of this specific set of instances between the City Solicitor, outside counsel, and PPD discipline process, PPD would like to highlight the context in light of the inaccurate characterization that PPD was unwilling to comply with Exec. Order 2-17.

Recommendation 2a: The PPD should draft and publicize a clear policy that outlines the process for determining how investigations are deemed internals. This policy should include a process for appealing this determination and timetable for when internals may be declassified and available for public review.

The policy that outlines the process for determining how investigations are deemed as *"Internal Investigations"* as opposed to *"Complaint against Police Investigations"* was set forth by Mayor Kenney in Executive Order 5-17. While the PPD is currently exploring methods to be more transparent with Internal Investigations, within the parameters of Executive Order 5-17, the notion of developing an appeal process regarding the classification of investigations is worth further exploring. The PPD would be happy to meet and discuss with PAC representatives and the Law Department to discuss this option or amending the existing Executive Order to provide specifically for such an appeal process.

Recommendation 3: The PAC recommends that the PPD decentralize charging decisions and include external reviews of administrative processes for investigations related to large-scale or sensitive events.

Centralized charging was implemented under former Commissioner Timoney to ensure fair and consistent charging of PPD employees regardless of assignment. Prior to the centralization of this process, officers being charged with the same violation from different districts or units discipline were often charged differently. The PPD determined this was patently unfair and was not procedurally just for our officers. We want our officers to treat the community fairly and consistently, and we must mirror that same behavior internally. The PPD has considered the PAC recommendation, but will continue to centralize charging decisions. The PPD and the PAC have taken extraordinary steps to work collaboratively, as evidenced by our work with the Mediation Process and the ongoing collaborative review of the Police Board of Inquiry.

With respect to the external reviews of administrative processes for investigations related to large scale or sensitives events, regardless of the scale or sensitivity, the PAC has full access to this information, including the ability to review Internal Investigations at Internal Affairs. The limitations surrounding the PAC's access to the PVP investigative materials should not be inferred as the standard operating practices between our two agencies. Our collaborative work is incredibly important and the community and the PPD are better for it. We welcome the PAC's inclusion in reviewing our administrative processes.

Recommendation 3a: The PPD should draft a clear policy that requires personnel working permanently or temporarily in the charging unit to recuse themselves from making charging decisions about officers with whom they have personal relationships or with whom they are familiar.

The Inspector assigned to the charging unit, is part of a chain of command and reports directly to a Deputy Commissioner of Investigations. All decisions and other actions of the Inspector are reviewed by the Deputy Commissioner of Investigations to ensure fair and consistent charging. Additionally, the PBI Charging Unit is responsible to the Deputy Commissioner of Internal Affairs regarding the charging of any sustained allegations determined by Internal Affairs. The PPD believes that these safeguards protect against any actual impropriety at the charging level, but also the appearance of any impropriety as well. As you know, the entire PBI process is currently being

reviewed by the PAC and PPD collaboratively. Therefore, the PPD will abstain from either accepting or declining this recommendation until the final PBI review is completed.

Recommendation 3b: The PPD should immediately begin to formally document internal investigative guidance, metrics related to charging decisions and how the metrics were devised, and any other internal processes surrounding large-scale or sensitive events.

PAC was provided with the charging matrix and its origins that informed the FB PVP charges. The matrix for charging is delineated in the PPD Disciplinary Code and changes to this code would be part of collective bargaining process with the FOP. The PPD and Law Department worked together to ensure a fair and consistent review to ensure appropriate discipline was issued utilizing the existing Disciplinary Code, but also to ensure that the discipline issued could be sustained throughout the appellate process. The PPD does not differentiate discipline between a single incident or surrounding a large scale incident for charging purposes. The PPD would be willing to explore and discuss changing the discipline matrix with the PAC.

Recommendation 4: The PAC recommends that the PPD utilize the formal reconciliation process created by the National Initiative for Building Community Trust and Justice at John Jay College to publicly acknowledge the harm caused by the PVP database content created by PPD officers.

The Philadelphia Police Department, along with other internal City agencies and external stakeholders from the City are actively involved in the Mayor Kenney's Pathways to Reform, Transformation and Reconciliation, where PPD is active on several committees to include the Steering Committee that focuses on public engagement, diversity and equity, police and public safety, education, and commerce.

Recommendation 4a: The PPD should create and publish on the "accountability" page of the PPD website a plan related to their participation in truth and reconciliation efforts. This plan should include a timeframe and instructions for public comment that will set expectations for the process, and updates related to progress on the plan should be made publicly available as the process unfolds.

While Mayor Kenney and the Reconciliation Steering Committee cited above report out to the general public, adding this information to the PPD's webpage is a good idea and the PPD will take the necessary actions as soon as possible.

Recommendation 5: The PAC recommends that the PPD use PVP database content for Department-wide and unit-level analysis and to focus training efforts related to cultural competency.

The PPD agrees that this information is invaluable as a source of training and will explore this idea once all formal discipline is determined to be final.

Recommendation 6: The PAC recommends that the PPD incorporate social media and lessons from the PVP database into new officer wellness initiatives.

The PPD agrees that this information is invaluable as a source of training and will explore this idea once all formal discipline is determined to be final.

Again, thank you for the hard work put into this report. I am happy to discuss any recommendations further.

Sincerely,

Francis T. Healy
Special Advisor to the Commissioner