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Re: PPD Discipline Relating to George Floyd Demonstrations

On May 25, 2020 George Floyd was murdered on a public street and Minneapolis Police Officer Derrick Chauvin has been charged.

In response to this violent and senseless killing of an unarmed Black person by a law-enforcement officer, an event that unfortunately occurs too frequently, this nation cried out passionately. While Philadelphians express their grief by demonstrating and organizing, as you know, there have been clashes between PPD personnel and demonstrators. Dozens of complaints of police brutality, verbal abuse, and excessive use of force, among other violations, have already been received by the PAC, as well as by Internal Affairs.

Prior to these demonstrations, PPD and the PAC were working to develop a collaborative review and reform process for the PPD Charging Unit and PBI hearings. As part of the collaborative review, PAC intends to focus on accountability and transparency within the PPD disciplinary process. As Internal Affairs begins its investigations into complaints stemming from recent demonstrations, and the PAC monitors those investigations, the PAC makes these essential preliminary recommendations:

Recommendation 1: All investigations into police misconduct that originate from news reports, social media notifications, and independent journalists should be open for public review and not designated as internal investigations.

Executive Order 5-17, which governs how to process civilian complaints alleging police misconduct, cites the United States Department of Justice report *Collaborative Reform Initiative: An Assessment of Deadly Force Policy and Practice in the Philadelphia Police Department's* recommendations that law enforcement agencies establish and maintain a culture of transparency and accountability to build public trust and legitimacy. Now more than ever, those recommendations are vital. To secure public trust, the Philadelphia Police Department must make complaints that arise via news reports, social media notifications, and independent journalists open for public review. This is particularly important for investigations related to the

George Floyd protest incidents, as the actions of some PPD officers have gained national and international attention.

In August 2019, the PAC requested an internal investigation be open for public review, when PPD categorized an investigation into officers named in the “Plain View Project” as an “internal” and not available to the public, despite intense public interest in the matter. Even though civilians and journalists created the Facebook database and released it to the public, PPD decided that “no individual civilians came forward as complainants, rather, the Police Department, based upon the press coverage, initiated its own investigations.” As you are aware, the PAC takes issue with many other issues related to the transparency in the Plainview investigation and hopes to resolve those soon.

The lack of transparency that has characterized the “Plain View Project” investigations must not be repeated during the George Floyd demonstration investigations. As stated in our August 2019 recommendations, the PAC again recommends that investigations derived from the public or public domain, news reports, social media posts, and or notifications to the PPD, shall be not be designated as internal investigations and shall be made available for public review from their onset. Such openness is necessary to address the cries and demands of Philadelphia residents demonstrating for transparency and accountability.

Recommendation 2: PPD should initiate a conflict-of-interest review to determine the propriety of the personnel assigned to the charging of officers accused of misconduct related to these demonstrations.

The PAC is aware that Inspector D.F. Pace is responsible for all charging decisions within the PPD, and investigations into recent protest incidents are already underway. Although Inspector Pace had just one social media comment included in the Plainview Project database, and the internal PPD investigation found that it did not violate departmental procedures, the PAC believes the context and nature of his comment may call into question his neutrality regarding protest incidents. At the very least, there is potential for the appearance of bias, and the PPD should take steps to ensure total integrity in the charging process.

Inspector Pace commented on a post written by PPD officer Anthony Pfetscher on March 16, 2016, relates to individuals demonstrating and protesting. Officer Pfetscher’s post reads:

“I’m cracking up at that American college student that went to North Korea and tried to steal a poster. He is crying and pleading like a little baby girl because he was just sentenced to 15 years hard labor. Although my heart breaks for his family, its an eye opener to how spoiled and coddled our youth of today are here in this weak PC country. Yet they act like animals and burn and step on our flag that so many of our children died for defending our rights and our country. #SeeYouIn15Years #WakeUpAmerica #AskWhatYouCanDoForYOURcountry”

In response to this Facebook post, Inspector Pace commented, “Insightful point”.

Although this is a short response, it indicates that Inspector Pace agreed with or endorsed some or all of the statements made by Officer Pfetscher, such as that protestors act like animals. Not only does Officer Pfetscher’s comparison use coded racist language, it condemns protestors for

exercising their first amendment rights. Although Inspector Pace did not himself author the post, his praise of it calls into question his ability to be neutral in charging decisions related to protest incidents.

From the PAC's initial research into reforming the PBI process it was discovered that Inspector Pace wields a great deal of power and discretion as it relates to officer discipline. If Inspector Pace does not believe an officer's conduct is worthy of a sustained finding, he can ask Internal Affairs to review their overall determination. If Inspector Pace believes an officer violated a directive but does not warrant discipline, he may suggest training and counseling for the violation. Although his work is reviewed by the Deputy Commissioner above him, he alone decides which cases will be forwarded for discipline or diverted for training and counseling. His decisions are not approved by any higher authority before they are finalized.

Given Inspector Pace's comment on Officer Pfettscher's post and his broad discretionary power within the disciplinary process, the PAC believes that the PPD should select a qualified alternate to make charging decisions for protest incidents.

Recommendation 3: The PPD should grant the PAC access to digital evidence footage via Commander.

As you are aware, digital evidence, including body worn camera footage, can be crucial when reviewing complaints of police misconduct. Additionally, the PPD utilizes virtual digital evidence lockers via Axon's commander system. As you may be aware, the PAC has requested access to commander in November, 2019 but this request was not responded to. The PAC has only been offered access to BWC footage and digital evidence that we request at the PPD's discretion and under PPD supervision at internal affairs or at the PAB. This limits our ability to view footage and fully analyze it as a team and with additional context. It also limits our ability to review an extensive amount of footage. Our oversight colleagues around the country and at the district attorney's office are granted remote access via commander. The PAC is recommending that it be granted the same access for cases moving forward and for all incidents during this past week of protests. This access should be immediate and should not depend on the status of the investigation.

The PAC remains dedicated to monitoring all investigations regarding alleged misconduct at demonstrations and working to resolve these preliminary concerns. We look forward to your partnership on these efforts.

Sincerely,



Hans Menos
Executive Director
Police Advisory Commission

Cc: Brian Abernathy, Managing Director
Cc: Tumar Alexander, First Deputy Managing Director
Cc: Vanessa Garret-Harley, Deputy Managing Director
Cc: Police Advisory Commission Board of Commissioners