



POLICE TERMINATION
ARBITRATION BOARD

Explainer

Police Termination Arbitration Board Evaluation

Following the police reform demands of 2020, the police employment contract between the City of Philadelphia (City) and the Fraternal Order of Police (FOP) was changed to introduce the Police Termination Arbitration Board (PTAB). This change marked a shift from the former labor arbitration system, where terminated officers' cases were heard by general labor arbitrators, to a specialized system in which a group of arbitrators are selected and trained by the City and FOP.

The current police employment contract ends on June 30, 2025.¹ CPOC is evaluating the impact of the PTAB as the City and the FOP start negotiating the new contract.²

This report finds that despite being implemented 3 years ago, the PTAB reform:

1. has not effectively improved the outcomes of grievance arbitration system for fired Philadelphia Police Department (PPD) officers; and
2. the current group of PTAB arbitrators do not meet the contract requirements.

¹The collective bargaining agreement between the City of Philadelphia and the Fraternal Order of Police, Lodge 5 (the contract) governs discipline of PPD officers. Police officers and firefighters are granted collective bargaining rights by Act 111 of 1968, 43 P.S. §§ 217.1 to 217.12.

²Grievance arbitration is the process through which an employee disputes discipline imposed on them individually through a hearing before one arbitrator. Interest arbitration is the process through which a panel of arbitrators establishes the contract or decides a contractual dispute affecting many employees.

Grievance Arbitration Explained

Arbitration is an alternative method parties can use to resolve their disputes out of court. Like in a court case, parties are given a chance to present their case, and decisions reached by arbitrators are binding on the parties. Unlike court cases, arbitrations often have fewer procedural requirements and appeals of arbitration decisions are far more limited, particularly for police officers in Pennsylvania.³

PPD contract and discipline arbitrations are handled through the American Arbitration Association (AAA). AAA arbitrators must be “impartial and independent” and the proceedings must be “fair in fact and perception.”⁴

In Philadelphia, the Police Commissioner can suspend, transfer, demote, or fire a PPD police officer. PPD officers can challenge that discipline

through grievance arbitration. The grievance arbitration process is controlled by the contract between the City and the FOP, which represents PPD officers. When an officer files a grievance to challenge a disciplinary decision, an arbitrator is appointed and decides the outcome of that officer’s discipline. The arbitrator provides their decision to both parties through an arbitration award, which the City then publishes online with redactions.⁵

Per the September 2021 contract, all grievances for firings filed after December 13, 2021, are assigned to PTAB arbitrators (“PTAB cases”).⁶ For all grievances for firings filed before December 13, 2021 (“Backlogged cases”), arbitrators were selected and assigned through the process that had been used prior to the creation of the PTAB.



³ Grievance arbitration awards under Act 111 can only be appealed on very narrow grounds in Pennsylvania. *Pa. State Police v. Pa. State Troopers' Ass'n*, 656 A.2d 83, 89 (1995).

⁴ American Arbitration Association, *Employment: Arbitration Rules and Mediation Procedures*, 8, 17.

⁵ Philadelphia Department of Labor, *Grievance arbitration decisions: Fraternal Order of Police, Lodge 5*, <https://www.phila.gov/departments/department-of-labor/grievance-arbitration-decisions/>.

⁶ 2021 Interest Arbitration Award, PTAB, Section A.2 (“Effective with demands for arbitration filed more than 90 days after the issuance of the interest arbitration award, unless the parties agree to a different date, all demands for arbitration involving disciplinary terminations of police officers will be heard by a member of the Police Termination Arbitration Board (PTAB)).

The Grievance Arbitration System for PPD Officer Discipline Hasn't Changed

The grievance arbitration system needs reform. Too frequently, PPD officers who were justifiably fired turn to grievance arbitration and are reinstated. This report focuses on cases in which a PPD officer challenges their termination.

At grievance arbitration, there are three potential outcomes of an arbitration for an officer's termination:

1. upholding the termination;
2. overturning the termination and reinstating the officer with discipline; or
3. overturning the termination and reinstating the officer with no discipline.



Arbitrators who reinstate an officer often award back pay for the time since the officer was fired, including estimated overtime for that time period, and can remove the misconduct and discipline from the officer's record.

Arbitrators reinstate fired officers for a variety of reasons, as they can conduct a new independent review of the underlying misconduct. They are not required to credit PPD's investigative findings and discipline decisions, even where the investigation found evidence of misconduct. Arbitrators sometimes find that the officer committed the misconduct, but that firing the officer was too severe a punishment. The arbitrator may also find that the officer committed some, but not all, of the misconduct they were charged with, so they may impose lesser discipline. Finally, if an arbitrator finds that there were procedural flaws in the disciplinary process, then the arbitrator may overturn the officer's discipline.

The arbitrators themselves are not judges, but their findings are binding and can overrule the Police Commissioner’s decisions about officer discipline. Unlike judges or city elected and appointed officials, arbitrators are not accountable through an election or political process like police leadership. Rather, they are selected—often times out of view of the public—by the City and the FOP.

Often, a fired officer engaged in serious misconduct, which may have been criminal. The misconduct has included: domestic violence, sexual assault, use of racial slurs and/or biased conduct, lying or deceptive conduct, and excessive force. If reinstated, an officer is restored to their former rank, receives their badge and gun back, can make arrests, and in most cases, receives backpay and estimated overtime from the City budget.

Between 2011 and 2019, the Inquirer calculated that about 70% of all PPD discipline decisions handled through grievance arbitration are overturned or reduced.⁷ CPOC analyzed termination data from the last three years (2022–2024) and found that **termination decisions have been overturned or reduced at an even higher rate: 85%.**



⁷William Bender and David Gambacorta, *Fired, then rehired, PHILADELPHIA INQUIRER*, Sept. 12, 2019, <https://www.inquirer.com/news/a/philadelphia-police-problem-union-misconduct-secret-20190912.html>. The *Inquirer* dataset included both adjudicated and settled cases, while CPOC’s data only includes adjudicated, published cases (not settlements). The *Inquirer* dataset included grievances filed against various discipline imposed by PPD, while CPOC’s data only includes a subset of discipline: terminations.

⁸The data CPOC reviewed included 20 final arbitration awards, published by the Philadelphia Department of Labor, Grievance arbitration decisions, <https://www.phila.gov/departments/department-of-labor/grievance-arbitration-decisions/#fraternal-order-of-police-lodge-5>. For a list of the awards reviewed, see page 8.

⁹Police Termination Arbitration Board, American Arbitration Association, Fraternal Order of Police and City of Philadelphia, AAA Case # 0-21-002-3120, p. 15-16 (Sept. 14, 2021) (“2021 Interest Arbitration Award, PTAB”), Section B.

¹⁰2021 Interest Arbitration Award, PTAB, Section B.4.

The Current PTAB Arbitrators Do Not Meet the Contract Requirements

The contract requires:

1. at least 10 arbitrators are selected for PTAB;
2. “the number of arbitrators submitted by each party will be determined by the number of arbitrators on the panel less the number of mutually-agreeable arbitrators, if any, divided by two;”⁹ and
3. at least 40% of PTAB arbitrators must identify as “diverse.” This is defined as “people who identify as women, people of color, members of the LGBTQ+ community, or other underrepresented groups.”¹⁰

There are currently 9 PTAB arbitrators. Five are FOP-appointed, three are City-appointed, and one is jointly appointed by both the FOP and City. This makeup does not satisfy the first two requirements outlined above, as there must be at least 10 arbitrators, and there must be an equal number of arbitrators appointed by each party.

Currently four of nine PTAB arbitrators (44%) identify as diverse. Three of the diverse arbitrators were City selections. The remaining diverse arbitrator was jointly appointed. The FOP has not appointed any arbitrators known to meet the diversity requirement. Thus, the total makeup of the PTAB meets the diversity requirements; however, this is entirely due to the City—and not the FOP—selecting diverse arbitrators.

With Limited Results, PTAB Has Not Been Effective in Improving Outcomes

Significant delays between the filing of a grievance and a PTAB hearing limited the availability of PTAB data. Since 2021, a total of 20 arbitration awards have been published.¹¹ Based on the available data, CPOC reached the following findings:

In 17 out of 20 published cases, arbitrators reinstated the fired officers.

This is an 85% reinstatement rate. Arbitrators included some lesser discipline in 13 out of 20 cases. But in four cases, a fired officer arbitrated their case and received no discipline at all.¹³

In 15 out of 17 backlogged cases,¹² arbitrators reinstated the fired officer.

Under the previous arbitrator selection process, cases were not evenly distributed among arbitrators and the outcomes were often unfavorable to the City. Most of these cases (11 of 17) were handled by a small group of FOP-appointed arbitrators.

3 PTAB cases:

There is insufficient data to draw meaningful conclusions about outcomes. Of the three PTAB cases, one officer was terminated and two officers were reinstated with lesser discipline. More data is needed to evaluate the impact of PTAB.

¹¹ Philadelphia Department of Labor, Grievance arbitration decisions, <https://www.phila.gov/departments/department-of-labor/grievance-arbitration-decisions/#fraternal-order-of-police-lodge-5>. The data does not include any grievance arbitration cases that were dismissed or settled prior to an award being issued. No arbitration awards issued in 2024 have been published, which significantly constrains our ability to evaluate the reform and raises concerns about transparency. For a list of the awards reviewed, see page 8.

¹² 2021 Interest Arbitration Award, PTAB, Section A.2. Grievances filed prior to December 13, 2021 remained with the arbitrators they had been assigned (pre-PTAB), although the hearing occurred and award was issued after December 13, 2021.

¹³ Refer to page 2 for an explanation of the potential outcomes of an arbitration for an officer's termination.

PTAB Arbitrators

PTAB					Arbitration Record	
Arbitrator	App't By	Diverse? ¹⁴	Removed?	Status	Total cases	Rate of reinstatement
Alan Symonette	Joint	Y	No	Current	1	100% (1 case)
Walt DeTreuX	FOP	N	No	Current	9	66% (6 cases)
David Reilly	FOP	N	Yes, by City in 2022	Current; Reappointed by FOP in 2024	19	68% (13 cases)
Ralph Colflesh	FOP	N	No – recently appointed	Current	1	100% (1 case)
Robert Gifford	FOP	N	No	Current	5	100% (5 cases)
Robert Grey	FOP	N	No	Current	5	60% (3 cases)
Shelley Smith	City	Y	No	Current	0	No record
Diana Cortes	City	Y	No	Current	0	No record
Henry Marcial	City	Y	No	Current	0	No record
Teresa Sarmina	City	Y	No, but resigned 12/2024	Vacant	0	No record
Helen Higginbotham	City	Y	Yes, by FOP on 10/14/22	Filled by Diana Cortes	0	No record
James Giles	City	Y	Yes, by FOP in 2023	Filled by Henry Marcial	1	0% (1 case)

The chart above identifies the PTAB arbitrators.¹⁵ Some arbitrators had previously heard grievance arbitration cases involving PPD officers who were fired, so their arbitration record is also included in the two columns on the right.¹⁶ The “total cases” refers to the number of awards the arbitrator issued since 2011 and the rate at which that arbitrator reversed the Police Commissioner’s decision and reinstated a fired officer during that time period.

¹⁴ 2021 Interest Arbitration Award, PTAB, Section B.4 (diversity is “people who identify as women, people of color, members of the LGBTQ+ community, or other underrepresented groups”). According to the City, all qualifying arbitrators listed above identify as a woman and/or a person of color. No arbitrators identified as part of the LGBTQ+ community or other underrepresented groups.

¹⁵ The majority of this information was provided by the City’s Department of Labor in response to questions posed by Councilmembers during and following the public hearing before the Committee of the Whole in Philadelphia City Council on November 21, 2024.

¹⁶ CPOC evaluated public awards for terminations from the *Inquirer* dataset and those published by the City online, spanning the years 2011–2024. The full dataset is on file with CPOC.

PPD Termination Arbitration Awards

(Sept. 2021–Dec. 2024)

■ Backlogged Cases

■ PTAB Cases

Decision Date	Arbitrator	PTAB Affiliation	Officer	Date of Grievance/Firing	Outcome	Days Suspended
2/23/2022	Timothy Brown	NA ¹⁷	Edward McCammitt	7/10/2019	Reinstated – With Discipline	30
7/22/2022	David Reilly	FOP	Marc Hayes	7/9/2020	Reinstated – With Discipline	50
9/15/2022	David Reilly	FOP	Mark Palma	8/5/2019	Reinstated – With Discipline	30
9/30/2022	Robert Gifford	FOP	Abdel Kanan	4/20/2021	Reinstated – With Discipline	5
12/30/2022	David Reilly	FOP	Thomas Young	8/15/2019	Reinstated – With Discipline	30
1/11/2023	David Reilly	FOP	Emanuel Folly	4/26/2017	Terminated	
1/20/2023	James Mastriani	NA	Angel Lopez	5/2/2019	Reinstated – No Discipline	
1/24/2023	Thomas Leonard	NA	James McGorry	9/21/2021	Reinstated – With Discipline	90
4/17/2023	Walt De Treux	FOP	David Chisholm	unknown	Reinstated – With Discipline	20
4/17/2023	Thomas Leonard	NA	Brion Milligan	7/18/2019	Reinstated – With Discipline	30
4/24/2023	Thomas Leonard	NA	Joseph Stevenson	1/21/2020	Reinstated – No Discipline	
5/10/2023	James Giles	City	Peter Berndlmaier	12/20/2021	Terminated	
5/22/2023	David Reilly	FOP	James Yeager	8/31/2017	Reinstated – No Discipline	
9/26/2023	Robert Gifford	FOP	Jesus Cruz	8/15/2019	Reinstated – With Discipline	30
10/11/2023	Robert Gifford	FOP	Michael Melvin	7/19/2019	Reinstated – With Discipline	30
11/13/2023	Robert Gifford	FOP	Eddie Garro-Garcia	9/8/2022	Reinstated – With Discipline	45
11/27/2023	Robert Gifford	FOP	Joseph Przepiorka	7/25/2019	Reinstated – With Discipline	30
12/1/2023	David Reilly	FOP	Carl Holmes	10/24/2019	Reinstated – No Discipline	
12/14/2023	Alan Symonette	Joint	Anthony McFadden	7/5/2022	Reinstated – With Discipline	30
12/18/2023	Thomas Leonard	NA	Novice Sloan	9/27/2019	Terminated	

¹⁷ NA means "Not appointed."

The chart on page 8 identifies the 20 arbitration awards published since the PTAB was implemented in December 2021, with the assigned arbitrators and outcomes.

Assignment of Arbitrators Prior to PTAB, applicable to backlogged cases

Prior to the September 2021 contract, the American Arbitration Association (AAA) maintained a pool of arbitrators that could be assigned to grievances. Once an officer requested arbitration, AAA sent a list of arbitrators from this pool to the City and the FOP. The City and the FOP would strike arbitrators from the AAA list, rank the remaining names in order of preference, and send their respective lists to AAA. AAA would then identify an arbitrator that both parties had ranked highest in their list and select that arbitrator. If the lists did not have any of the same arbitrators, AAA would send the parties a second list of arbitrators that the parties could only rank, not strike from. AAA then selected the arbitrator that had the highest rankings among both parties from their second lists.

Selection for the Police Termination Arbitration Board (PTAB)¹⁸

As described above, the September 2021 contract changed the arbitration process by creating the PTAB, a group of arbitrators that would only hear grievances filed by officers who had been fired. PTAB arbitrators must have professional experience: either a law degree or at least two years of experience in labor relations. At least 40% of PTAB arbitrators must be women, people of color, LGBTQ+ community members, or part of otherwise underrepresented groups.

PTAB arbitrators receive training on applicable law and processes. The PTAB is comprised of arbitrators:

1. selected only by the City;
2. selected only by the FOP; and
3. jointly selected.

The City and the FOP must each have an equal number of arbitrators on the panel.

¹⁸ 2021 Interest Arbitration Award, PTAB, Sections B.2-5.

Assignment of PTAB Arbitrators¹⁹

Once arbitrators have been selected for the PTAB, AAA assigns grievances to PTAB arbitrators on a rotating basis, as shown below. Cases will alternate between a “mutually-agreed” upon arbitrator, a City-named arbitrator, an FOP-named arbitrator, and repeat. A case may be reassigned to another PTAB arbitrator upon the agreement of both parties or if the PTAB arbitrator assigned declines the case. Grievances that are reassigned are given to the next PTAB arbitrator in the rotation.



Removal of PTAB Arbitrators²⁰

From October 1 through October 15 of each year, both parties can remove their own arbitrators, up to two arbitrators from the other party, or a mutually agreed arbitrator. Arbitrators removed by one party will keep the grievances they have been assigned, unless both parties agree to reassign that arbitrator's cases.

Parties can both agree to remove an arbitrator from PTAB at any time. Arbitrators removed by agreement will draft the award for any grievances they have already heard, but any grievances that they have been assigned, but not yet heard, will be assigned to the next arbitrator in the rotation. The party who named a removed arbitrator or an arbitrator that resigns will appoint a new arbitrator. Finally, any arbitrator removed from PTAB cannot be re-selected for the PTAB for two years.

¹⁹ 2021 Interest Arbitration Award, Police Termination Arbitration Board, Section B.6.

²⁰ 2021 Interest Arbitration Award, Police Termination Arbitration Board, Section B.8-B.12.



CPOC's mission is to oversee and investigate the conduct, policies, and practices of the Philadelphia Police Department (PPD). CPOC is always available to accept complaints of police misconduct or general feedback through our website, <http://www.phila.gov/CPOC> or at (215)685-0891.

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