

Proposed Amendments to Bill No. 251099

Matter to be added by amendment in **Bold**
Matter to be deleted by amendment in ~~Strikethrough~~

AN ORDINANCE

Amending Title 20 of The Philadelphia Code, entitled “Officers and Employees,” to provide for compensation of the Director of Office of Prison Oversight and members of the Philadelphia Prison Community Oversight Board, and amending Title 21 of The Philadelphia Code, entitled “Miscellaneous,” to add a new chapter, providing for the powers and duties of Office of Prison Oversight and Philadelphia Prison Community Oversight Board and the manner in which other officers, employees and agencies shall fulfill their respective responsibilities with respect to the Office and Board, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILALDEPHIA PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 20 of The Philadelphia Code is hereby amended to read as follows:

TITLE 20. OFFICERS AND EMPLOYEES

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CHAPTER 20-300. COMPENSATION AND BENEFITS

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§ 20-303. Salaries of Specified Officers

(1) Except as provided in subsection (2) below, the Mayor shall determine the annual salary of the following officers, not to exceed the maximum annual salary provided for by the Annual Specified Officers Compensation Plan established by the Personnel Director pursuant to subsection (3) below:

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(y) Director of Office of Prison Oversight.

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§ 20-305. Compensation for Members of Boards, Commissions, Committees and Councils

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(33) [Board of Trustees of Philadelphia Prisons.] *The Philadelphia Prison Community Oversight Board.* Each member of the [Board of Trustees of Philadelphia Prisons] *Philadelphia Prison Community Oversight Board* shall receive [seventy (\$75)] *one hundred twenty-five* dollars (\$125) compensation for each meeting of the Board *and the three mandatory tours of the county*

prison which [he] *they* attends; provided, that the total compensation paid to each member in any year shall not exceed [one thousand six hundred eighty] *two thousand five hundred* dollars [(\$1,680).] (2,500).

SECTION 2. Title 21 of The Philadelphia Code is hereby amended to read as follows:

TITLE 21. MISCELLANEOUS

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CHAPTER 21-XXXX. PRISON OVERSIGHT

§ 21-XXXX. *Title.*

(1) *This Chapter shall be known as the Philadelphia Prison Oversight Enabling Act.*

§ 21-XXXX. *Purpose.*

(1) Pursuant to **Sections** 4-2801 and 4-2802 of the **Philadelphia** Home Rule Charter, this Chapter provides for the composition and powers of the Office of Prison Oversight and Philadelphia Prison Community Oversight Board, as created pursuant to Section 3-100 of the Charter.

(2) *The Office is an oversight agency designed to promote and protect the safety, health and well-being of incarcerated people in Philadelphia by reviewing, auditing, investigating and making recommendations regarding the conduct, policies and practices of the Department of Prisons, its vendors, or programmatic partners. The Office shall have the powers and duties necessary to fulfill its primary purpose of addressing systemic challenges with, and improving conditions of confinement in, the county's ~~prisons, including but not limited to use of force, use of restrictive sanctions, the facilities and infrastructure, out of cell time, incarcerated person's access to: basic services, programming and recreation, family connection, education and skills training, food and nutrition, medical and behavioral healthcare, due process protections and the Department's role in reducing recidivism.~~ prisons. As a criminal justice agency under 18 Pa. C.S. § 9102, the Office's powers and duties shall be an integral aspect of the administration of criminal justice in the City, acting in support of all criminal justice agencies thereof. As a health oversight agency as defined by 45 C.F.R. § 164.501, the Office's powers and duties shall include overseeing compliance where health information is relevant.*

(3) *The Board is an advisory entity designed to serve as a liaison and voice between the community, Office of Prison Oversight and local prison system, to provide input into the operational decisions of the Office, and to increase public understanding of prison operations and accountability to the residents they serve. The Board ~~Office~~ shall have the powers and duties set forth in the Charter with the primary purpose of strengthening public trust in the City's correctional system by providing the public, advocacy groups, and elected officials with a reliable mechanism for communication, review and ~~accountability~~ **accountability**, and identifying areas of*

systemic concern that may warrant further action by the Office, as informed by regular engagement with the public and relationships with the community.

§ 21-XXXX. Definitions.

In this Chapter, the following definitions apply:

Board. Philadelphia Prison Community Oversight Board

Department. The Philadelphia Department of Prisons.

Office. Office of Prison Oversight

Systemic harm. A recurring, large-scale institutional problem affecting a large group of people.

§ 21-XXXX. Board Duties.

(1) Individual members of the Board shall tour the prison a minimum of three times per calendar year and report their activities at the first monthly Board meeting following their tour.

(2) Each member of the Board shall attend 80% of scheduled public meetings. More than three absences, without prior approval by the majority of the Board, not including the member in question, in any calendar year by an individual member of the Board shall be considered a self-terminating resignation of their role.

(3) Board vacancies shall be filled within thirty days by the original appointing authority of the member whose seat was vacated.

(4) The Board shall ensure the public meetings provide sufficient opportunities for the public to address Department and Office leadership directly.

(5) The Board shall create, maintain, and update bylaws to effectuate its purpose as necessary.

§ 21-XXXX. Investigation, Audits, Inspections and Reviews.

*(1) The Office shall have the authority to conduct investigations, audits, inspections and /or reviews as necessary to fulfill its purpose, without regard to whether or not a complaint has been ~~made~~. **made including, but not limited to, with respect to the following:***

(a) use of force;

(b) use of restrictive sanctions;

(c) prison facilities and infrastructure;

(d) incarcerated persons' access to:

- (.1) out of cell time;*
- (.2) basic services;*
- (.3) programming and recreation;*
- (.4) family connection;*
- (.5) education and skills training;*
- (.6) food and nutrition;*
- (.7) medical and behavioral healthcare*
- (.8) due process protections; and*

(e) the Department's role in reducing recidivism.

*(2) ~~Upon prompt notification by the Department of the occurrence of any event set forth below, the Office may open an investigation, audit, inspection or review into:~~ **To ensure the Office may initiate investigations, audits, inspections, or reviews in a timely manner, the Department shall promptly notify the Office of the occurrence of any of the following events, after which the Office may decide whether to initiate an investigation, audit, inspection, or review:***

(a) The death of any incarcerated individual, regardless of cause;

(b) Any injury or illness of an incarcerated person or staff member requiring hospital admission;

*(c) A riot, major disturbance, coordinated protest, or significant disruption to facility ~~operations~~ **operations**;*

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(d) Any escape or attempted escape from secure custody;

(e) A natural disaster or occurrence such as fire, flood, extreme heat, or cold, that affects safety, operations, or access to basic necessities;

*(f) Any facility-wide lockdown lasting longer than ~~24~~ **12** hours or any unit lockdown lasting longer than ~~8~~ **24** consecutive hours or involving significant restrictions on access to food, water, showers, communications, recreation, or medical ~~care~~; **care**.*

(3) The Office shall not investigate:

(a) *Complaints alleging harms that solely seek individual level redress. This section does not limit its power or duty to investigate single incident complaints that are symptomatic of systemic policy or practice implications.*

(b) *Complaints involving violations of the City's internal EEO policies, including claims of harassment, intimidation, retaliation or abuse of City employees or applicants for City employment because of race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information, domestic or sexual violence victim status, or other legally protected status. In all instances, such complaints shall be referred to the Employee Relations Unit of the Department of Labor.*

(c) *Complaints of Department employees involving purely internal employment matters, such as assignment of overtime, work duty assignments, and other similar matters that do not concern allegations of abuse, corruption, intimidation, harassment or allegations of threat to the integrity of the criminal justice process.*

(4) *The Office shall develop cooperative agreements with the Department, the District Attorney, the Department of Labor, the Inspector General, and any other appropriate agency for the management of dual investigations and overlapping investigations in which a matter may fall within the purview of one or more such agencies, in addition to that of the Office.*

(5) *Nothing in this Chapter shall preclude the Office from receiving a referral or information from any federal, state or local law enforcement, or other governmental, ~~agency~~ **agency**.*

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(6) *Nothing in this Chapter shall preclude the Office from investigating, auditing, reviewing, or conducting inspections into matters within its purview concurrently with an active criminal ~~investigation~~ **investigation**.*

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§ 21-XXXX. *Access to Information and Facilities.*

(1) *The Office shall inspect all facilities in the manner and to the full extent necessary to carry out its powers and duties. Such access shall include the ability to physically inspect and visit facilities, without prior notice to the Department, as the relevant investigation, audit or review demands.*

(2) *The Office shall have access to city agencies, including the Department and contracted ~~third party~~, **third parties**, and files and records related to matters within the Office's purview to the full extent necessary to carry out its powers and duties.*

(3) *The Office shall collect photographic and video documentation of conditions of confinement at correctional facilities in accordance with all applicable laws and regulations. Images that would personally identify any individual at the correctional facilities shall not be publicly published without such individual's consent.*

(4) *The Office may collect statements and other information from individuals at the county prisons during an inspection, audit, or review. Communication with the Office shall be confidential and used for the sole purposes of informing policy recommendations, reports or investigatory findings.*

(5) *The Office may request and shall be provided space to have confidential conversations with incarcerated people, staff, or vendors to fulfill their mandated purpose and duties.*

(6) *The Office may issue and enforce subpoenas and compel the attendance of witnesses or the production of documents of third parties and other evidence in support of any investigation as provided in Section 8-409 of the Home Rule Charter.*

§ 21-XXXX. Confidentiality of Information.

(1) *The Office shall promulgate rules and regulations, subject to applicable law, to govern the disclosure and dissemination of information related to investigations, recommendations, and other duties of the Office. The disclosure and dissemination of information, including public reporting, shall only take place as permitted by applicable law.*

(2) *Notwithstanding any other provision of this ordinance, the Office is prohibited from releasing to the public the names of, and personally identifying information about, incarcerated people, Department staff, or City contractors without their consent. Nothing in this section shall preclude the Office from publicly reporting the title or role of individuals involved in an investigation, audit or review.*

(3) *No member of the Board shall have direct access to files, records and other investigative materials of the Department or Office or other materials that they would not have legal access to in their private capacity.*

(4) *The Office, upon the approval of the Director, may hire and retain experts to assist in its investigations, audit, inspections, or reviews and may share information, or coordinate access to facilities, as necessary to receive expert assistance in the performance of its duties.*

§ 21-XXXX. Additional Duties of the Department and Other Agencies.

(1) *It shall be the duty of every officer, employee, department, and agency of the City to cooperate with the Office in an investigation undertaken pursuant to this chapter.*

(2) *A refusal to cooperate, and/or relating false or misleading information to the Office, upon a lawful request by the Office, shall be considered a violation of this Chapter. Any employee or appointed officer of the City or law enforcement agency who violates any provision of this chapter may be subject to discipline, in accordance with the standards of discipline of the department or agency.*

(3) *The Office may report refusals to cooperate and/or relating false or misleading information to the Office of the Prisons Commissioner for review pursuant to the Department's disciplinary code.*

§ 21-XXXX. *Required Reporting.*

(1) *The Office shall conduct an inventory of programs offered by the Department and through community partners providing direct reentry services and supports once every three years and share the results with the Board upon completion.*

(2) *The Office shall develop and maintain public online dashboards that provide information about the daily prison population, number of jail admissions and releases, aggregate information about lengths of stay, holding status, and prior admissions to Philadelphia Department of ~~Prisons~~. **Prisons.***

(3) *The Office shall issue a report at least annually summarizing inspection findings, audits, compliance issues, and trends observed across the facilities as well as recommendations to address systemic challenges and improve conditions of confinement.*

(4) *Final reports of the Office shall be open to public and Board inspection, except to the extent that information contained therein is exempted from disclosure by applicable law. Nothing in this ordinance is intended to prevent the Office from reporting information above and beyond what is required by the Pennsylvania Right to Know Law Act insofar as that information is not prohibited from publication by other applicable law. Reports open to public inspection shall be made available on the Office's website.*

(5) *The Board shall present the Office's final report(s) and findings to the community, present materials on community education and events, and gather community and stakeholder input for prison related matters to increase transparency and accountability.*

(6) *The Director shall provide the Board monthly updates on the work of the ~~Office~~ **Office**, which may include population trends, completed, pending and upcoming investigations, audits, and reviews.*

§ 21-XXXX. *Public Meetings*

(1) *Board meetings shall follow the requirements of § **Section 8-408 of the Philadelphia Home Rule Charter** governing meetings of ~~Boards boards~~ and ~~Commissions commissions~~ as it relates to notice, quorum and minutes.*

(2) *Except in matters of notice, quorum, and minutes, governed above, meetings of the Board shall be governed by the provisions of Title 65 Chapter 7 (Open Meetings) of the Pennsylvania Consolidated Statutes, commonly referred to as the Sunshine Act.*

§ 21-XXXX. *Compliance with Applicable Law.*

All activities of the Office and Board shall be pursued in accordance with applicable local, state and federal law, including applicable rules for implementation of policy when collective bargaining is required.

§ 21-XXXX. Severability.

If any provision of this Chapter 21-XXXX or application thereof to any persons or circumstances is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application, and, to this end, the provisions of the ordinance are declared severable.