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Title:	Repealing Chapter 21-1200 of The Philadelphia Code, entitled "Police Advisory Board," and replacing it with a new Chapter 21-1200 that reconstitutes and renames the board as the "Police Advisory Commission," and, as authorized by the Charter, provides for the Commission's appointment and the manner in which the Commission and other officers, employees, and agencies shall fulfill their respective responsibilities with respect to the Commission, all under certain terms and conditions.				
Sponsors:	Councilmember Jones, Councilmember Quiñones Sánchez, Councilmember Goode, Councilmember Bass, Councilmember Reynolds Brown, Councilmember Johnson, Councilmember Blackwell				
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Date	Ver.	Action By	Action	Result	Tally
9/11/2014	0	CITY COUNCIL	Introduced and Referred	Pass	

Repealing Chapter 21-1200 of The Philadelphia Code, entitled “Police Advisory Board,” and replacing it with a new Chapter 21-1200 that reconstitutes and renames the board as the “Police Advisory Commission,” and, as authorized by the Charter, provides for the Commission’s appointment and the manner in which the Commission and other officers, employees, and agencies shall fulfill their respective responsibilities with respect to the Commission, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 21-1200 of The Philadelphia Code, entitled “Police Advisory Board,” is hereby repealed in its entirety, and a new Chapter 21-1200 is added, to read as follows:

CHAPTER 21-1200. POLICE ADVISORY COMMISSION.

§21-1201. Statement of Intent.

(1) As authorized by Sections 3-810 and 4-1700 of the Charter, this Chapter provides for the appointment of the Police Advisory Commission by subsection 3-100(f) of the Charter, and also provides for the manner in which the Commission and other officers, employees, and agencies shall fulfill their respective responsibilities with respect to the Commission.

§21-1202. Establishment of Commission.

(a) Composition. The Police Advisory Commission shall be an independent Commission consisting of members who shall be selected in the following manner.

(1) The members of the Police Advisory Commission appointed by the Mayor in 2014

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pursuant to Executive Order No. 8-93 shall serve until the Commission is reconstituted and members are appointed under Subsection §21-1202(a) (2) below.

(2) The following appointments shall be made within sixty days after the Commission is created:

(i) The Police Commissioner;

(ii) Three appointees of the Mayor. The Mayor shall make the appointments from communities underrepresented by the other appointments, with the goal of ensuring that the Commission reflects the diversity of the City.

(iii) One member appointed by each individual District Council member from among recognized leaders in the community;

(iv) One member appointed by the District Attorney;

(v) One member appointed by the Public Defender;

(vi) One member appointed by the Youth Commission;

(vii) One member appointed by the Commissioner of the Department of Behavioral Health;

(viii) One member appointed by the Philadelphia Fraternal Order of Police; and

(ix) One member appointed by the Greater Philadelphia Chapter of the American Civil Liberties Union of Pennsylvania.

(b) Member Qualifications.

(1) Appointments to the Commission shall reflect the diversity in the population of the City.

(2) Commission members shall have skills and experience in areas relevant to the work of the Commission, including, but not limited to law enforcement, civil rights work and litigation, community and business leadership, relevant academic expertise, mental and behavioral health, social awareness and cultural competence.

(3) All members of the Commission shall either reside in the City or maintain full-time employment in the City.

(c) Member Terms.

(1) All members shall be appointed to terms of four years, provided that the following initial appointees shall serve a term of two years: the appointees of the Councilmembers representing the First through the Fifth Councilmanic Districts; the appointee of the Youth Commission; and two of the Mayor's three appointees, as determined by the Mayor.

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(2) No member of the Commission shall serve for more than three consecutive full terms.

(d) Election of Officers.

(1) After all members are appointed under §21-1202 (a) (2), a chair of the Commission shall be elected from among its members by a majority vote of all members.

(2) Election of Commission officers shall be held every two years after the election of the Commission's initial officers, and at such other times as the Commission may determine by its rules.

(3) No member of the Commission shall serve as chair of the Commission for more than three consecutive full officer terms.

(e) Removal of Members. A member of the Commission may be removed by the appointing authority prior to the expiration of a term only for cause. Before the Commission member is removed, he or she must be provided with a written statement of the reasons for removal, and shall be given the opportunity for a hearing before the appointing authority.

§21-1203. Vacancies and Expired Terms.

(a) Within seven days of the date of a vacancy on the Commission, and no later than thirty days prior to the expiration of a member's term, the Commission shall provide written notice to the appointing authority of the position for which a vacancy is forthcoming. A successor appointment shall be made in the same manner as the original appointment.

(b) All vacancies and expired terms shall be filled no later than thirty (30) days after the appointing authority first learns of the vacancy.

(c) Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed.

§21-1204. Compensation. Members of the Commission shall receive compensation in such amount as ordained by Council.

§21-1205. Organization of the Commission.

(a) A quorum required to conduct all business shall consist of ten members.

(b) At the first meeting of the Commission, and from time to time thereafter, it shall, by majority vote of all of its members, adopt rules governing the conduct of its meetings, proceedings, and other procedural matters.

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(c) The Commission shall adopt and publish rules that prescribe the manner in which investigations are to be conducted, the process by which Commission recommendations are made and the manner by which a member of the public is to be informed of the status of his or her complaint. Such rules may provide for the establishment of panels, which shall consist of not less than seven members of the Commission, which shall be empowered to supervise the investigation of complaints, and to hear, make findings and recommend action on such complaints among other duties as determined by the Commission.

(d) The Commission shall adopt an annual operation budget.

§21-1206. Staffing.

(a) The Commission shall appoint and fix the compensation of an executive director by a vote of two -thirds of all the members of the Commission.

(b) The executive director, or his or her designee, shall hire and supervise all other Commission employees or consultants.

§21-1207. Powers and Duties of Commission.

(a) The Police Advisory Commission shall serve as the citizen oversight agency for the Philadelphia Police Department to improve the manner in which police personnel carry out their duties and to improve the relationship between the Police Department and the community. It shall be the duty of the Police Department to provide such assistance as the Commission may reasonably request, to cooperate fully with studies undertaken by the Commission, and to provide to the Commission records and other materials which are necessary to the Commission's work.

(b) The Commission shall make recommendations regarding the implementation of general reforms by the Police Department (such as changes to training, reforms in the retention and preservation of records, changes in counseling available to police officers or revisions to work shifts) and may further advise specific actions directed at individual officers including, but not limited to, hiring, firing, promotion, demotion, punishment, or commendation; provided, however, that the Police Commissioner shall retain full authority, discretion, and responsibility for disciplinary policies and take other actions deemed appropriate under the provisions of The Philadelphia Home Rule Charter, any applicable law, regulation, or collective bargaining agreement.

(c) The Commission shall receive, investigate, hear, make findings, and recommend action upon complaints against the Police Department. The Commission shall have full discretion to select appropriate individual incidents to investigate and general policy issues to review which may be of concern to the community, the Police Department or the Police Commissioner. The Commission may initiate such studies or investigations at its own discretion or upon request or complaint against the Police Department or against any individual police officer or worker, whether such complaint is made to the Commission or to any other government agency or department, by any member of the public; provided, however, that the Commission shall

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not investigate the following:

(1) Incidents or complaints for which litigation is impending or currently underway.

(2) Incidents or complaints of verbal abuse, except those involving language related to race, ethnicity, religion, gender, sexual orientation, disability or threats of deadly force.

(d) To accomplish its goals, the Commission may compel the attendance or testimony of any witness, require the production of documents or other evidence relating to any matter properly before it, including the power pursuant to Section 8-409 of the Charter to issue subpoenas to compel such attendance of persons and the production of documents. Subject to the limitations of subsection 21-1207(c) and §§ 21-1212 and 21-1213 herein, the Commission shall have full power to compel the Police Department to produce appropriate personnel for interviews, and to produce relevant documents for review, including, but not limited to the following:

(1) Internal Affairs files, citizen complaints, all incident reports and determinations made pursuant thereto; Management Review Board files, Ethics and Accountability files, and the files of any other internal investigative agency charged with investigating police misconduct incidents;

(2) Internal Police rules, instructions and guidance documentation (including, for example, police 75-49s, police 75-48s) and other documents produced by the Police Department relating to crimes and suspects for the purpose of investigating suspects, to aid in their prosecution;

(3) Personnel files of officers and information related to past assignments and disciplinary action;

(4) Police Directives, training manuals, and other police documents that are distributed to Department personnel; and

(5) All general summaries, statistical compilations, and other internal reports on shootings, injuries, complaints of abuse, and any other issues related to the work of the Commission.

(e) The Commission shall respond to all complaints alleging police misconduct within ten (10) days of receiving any such complaint. Such response shall indicate whether, in the exercise of its discretion, the Commission will refer the complaint to another government agency or department; investigate the allegations made; not investigate them; or request additional information to enable it to make a decision on its options.

(f) The Commission shall make final resolution of each complaint alleging police misconduct within 120 days of receiving any such complaint, unless the complainant agrees in writing to extend the time period.

(g) The Commission shall establish a program(s) through which a complainant may voluntarily participate in efforts to resolve a complaint through alternative dispute resolution or restorative justice practices.

(h) The Commission shall inform the public about the Commission, its work and responsibilities, and shall develop and administer an ongoing public education program regarding the provisions of this Chapter.

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§21-1208. Hearings and Investigations.

(a) To aid its fact-gathering function, the Commission shall have the power to hold hearings and conduct investigations. As authorized by subsection 4-1700(c) of the Charter, the Commission shall have the power pursuant to Section 8-409 of the Charter to issue subpoenas to compel the attendance of persons and the production of documents.

(b) A stenographic record shall be retained by the Commission and shall be made available, upon payment of costs, to any person requesting it. The Commission may authorize the audio or video recording of testimony and hearings.

(c) Hearings shall be informal and strict rules of evidence shall not be applied. Testimony under oath shall be received from all persons who appear and purport to have information that is material to the complaint. All hearings shall be open to the public, except when, in the opinion of the Commission, executive sessions are required.

§21-1209. Duties of Police Commissioner, other Officers, and Employees.

(a) It shall be the duty of the Police Commissioner, Police Department, and all other officers and employees subject to the Charter to provide such assistance as the Commission may reasonably request, to cooperate fully with studies, hearings, and investigations undertaken by the Commission, and to promptly provide to the Commission upon request records and other materials which are necessary to the Commission's work. Except as provided in subsection (b) or as may otherwise be required by law, regulation, or collective bargaining agreement, any such officers and employees, on request by the Commission, must agree to meet with and be interviewed by, the Commission or its representatives, and to testify before the Commission.

(b) Any person who is designated the subject of a related criminal investigation by a local law enforcement agency may elect not to appear before the Commission until the conclusion of that investigation.

§21-1210. Form of Advice Provided by the Commission; Required Procedures.

(a) The Commission shall make findings and recommendations to the Police Commissioner; provided that no Commission finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the sole basis for any such finding or recommendation.

(b) The work product of the Commission related interviews, open investigations, research and review of documents, and related materials, shall remain confidential by the Commission and its members until the Commission makes its findings. Proposed findings, recommendations, and related reports of the Commission shall remain confidential and shall not be released publicly until the following steps have been completed:

(1) The Commission shall provide a written copy of its proposed findings, recommendations, and any related report, to the Police Commissioner, Mayor, and the President of Council.

(2) Pursuant to subsection 4-1701 (b) of the Charter, which requires that the Police Commissioner respond in writing to findings or recommendations by the Commission, the Police Commissioner shall respond within fifteen (15) days to each of the Commission's findings or recommendations as to whether the Police Commissioner accepts, rejects, or will implement with modifications such finding or

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recommendation and the proposed time period for implementing accepted and modified findings and recommendations. Should the Police Commissioner fail to respond within fifteen days, the Commission may publish its findings, recommendations and related reports at any time thereafter.

(3) The Commission shall allow at least three days to elapse following the receipt of the Police Commissioner's timely written response to its findings or recommendations before taking any action. After such time, the Commission may, in its discretion, revise its findings or recommendations to take into account the Police Commissioner's response. The Commission shall append the Police Commissioner's response to its final document.

(4) The Commission and its members shall not make public any non-redacted confidential document or other materials.

§21-1211. Public Reports.

(a) The Commission shall issue a public report not less than once a year to the Mayor and members of Council, and shall make copies of the report available to the public at all branches of the Free Library, on the City's official website, and at other locations at the Commission's discretion.

(b) The public report shall include the total number of complaints received during the report period; a breakdown of all complainants by race, gender, sexual orientation, and age, if known as well as whether or not such complainant had a pending charge; the disposition of each complaint received during the report period, including any unresolved complaints at the close of the previous reporting period. Complaints shall be further categorized by Council District and Police District.

§21-1212. Protection of Rights. Nothing in this Chapter shall be construed to limit the rights of officers or members of the Police Department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law, by any collective bargaining agreement, or otherwise.

§21-1213. Related Investigations. Nothing in this Chapter shall be construed or applied to prevent or hinder the investigation or prosecution of any individual or any member of the Police Department for violations of law by any court of competent jurisdiction, a federal or state grand jury, the United States Attorney for the Eastern District of Pennsylvania, the Philadelphia County District Attorney, or other authorized officer, agency, or body. The Commission shall develop procedures consistent with this requirement.

SECTION 2. Effective date. This Ordinance shall take effect upon approval by the voters of an amendment to The Philadelphia Home Rule Charter providing for the creation, appointment, powers and duties of a Police Advisory Commission.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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