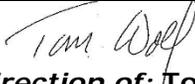


Executive Order

Commonwealth of Pennsylvania Governor's Office

Subject: Pennsylvania State Law Enforcement Citizen Advisory Commission	Number: 2020-04 As Amended
 By Direction of: Tom Wolf, Governor	Date: April 30, 2021

WHEREAS, the Commonwealth is committed to bipartisan criminal justice reforms that are fair and inclusive and support public safety; and

WHEREAS, in order to move forward successfully as a Commonwealth, systemic failings that have created inequities must be addressed; and

WHEREAS, the Commonwealth must take action to improve law enforcement relations with the community and to strengthen accountability of law enforcement personnel; and

WHEREAS, improved law enforcement requires supporting the mental health and training needs of law enforcement personnel; and

WHEREAS, the Commonwealth is committed to identifying necessary system-level reforms to promote transparency, fairness, and accountability among the Commonwealth's state law enforcement agencies; and

WHEREAS, citizen engagement and participation are essential to assist the Commonwealth in fulfilling these commitments; and

WHEREAS, with input from this Commission, the Commonwealth's law enforcement agencies can serve as a model of excellence for law enforcement throughout Pennsylvania and the country.

NOW, THEREFORE, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish, within the Office of the State Inspector General, the Pennsylvania State Law Enforcement Citizen Advisory Commission (hereafter referred to as the "Commission") as hereinafter set forth.

- 1. Purpose.** The purpose of the Commission is to improve policing practices within law enforcement agencies under the Governor's jurisdiction. The Commission is comprised of Pennsylvania citizens focused on promoting transparency, fairness, and accountability among the Commonwealth's state law enforcement agencies by examining events and conducting reviews of policies, practices, and procedures.

2. **Covered Agencies.** All law enforcement agencies under the Governor's jurisdiction, including, but not limited to, the Pennsylvania State Police (PSP), the Department of General Services Capitol Police, and the Department of Conservation & Natural Resources (DCNR) Park Rangers.
3. **Terms and Definitions.**
 - a. **Administrative Adjudication** is the completion of any internal investigation, with an administrative finding of "sustained", "not-sustained", or "unfounded" or the agency equivalent thereof, where all disciplinary penalties have been imposed and all contractual remedies, including grievance and arbitration proceedings, have been exhausted.
 - b. **Criminal Adjudication** is either a determination by the applicable prosecutor to decline prosecution or all judicial procedures up to and including sentencing and applicable appeals periods have occurred.
 - c. **Injury** as it relates to section 4.b of this Executive Order shall be those injuries which require advanced medical treatment beyond basic first aid.
 - d. **Completed Internal Investigative Findings** is the final administrative determination by the covered agency that the Commission is authorized to review after a case has been fully investigated and adjudicated (both criminally, when warranted, and administratively, through and including any arbitration proceedings), and where no civil litigation has commenced, and where all applicable statutes of limitation have elapsed or all civil/civil rights litigation has concluded. Where civil action commences during the pendency of a review, such review shall cease until the litigation has concluded.
 - e. **Primary Jurisdiction** is an area where the PSP provides full police services for a political subdivision that is without the protection of an organized police department and the PSP responds to all calls for police assistance.
 - f. **Random Sampling** is a sampling of completed internal investigative findings for lower level uses of force chosen by way of random selection of a predetermined number of cases without specific knowledge of the persons involved or incident details.
 - g. **Law Enforcement Sensitive (LES) Information** is information that if disclosed could harm, jeopardize, or threaten the investigations, operations, or other law enforcement/public safety activities of a law enforcement agency as determined by that agency.
 - h. **Personal Identifiable Information (PII)** is information that, when used alone or with other relevant data, can identify an individual. PII may contain direct identifiers (e.g., passport information) that can identify a person uniquely, or quasi-identifiers (e.g., race) that can be combined with other quasi-identifiers (e.g., date of birth) to successfully identify an individual.

- i. **Non-public information** is any information that is exempt from public disclosure pursuant to Section 708(b) of the Right-to-Know Law (65 P.S. §§ 67.101—67.3104), including, but not limited to, records that would threaten a public safety activity or related to a criminal or internal investigation.
 - j. **Criminal History Record Information Act (CHRIA) (18 Pa. C.S. Chapter 91) information** is all information that cannot be disclosed to non-criminal justice agencies pursuant to the CHRIA, including but not limited to criminal history information, intelligence information, investigative information as defined by the CHRIA.
 - k. **Criminal Justice Information Services (CJIS) information** is any information that is obtained or derived from a CJIS system, including, but not limited to, information from the Interstate Identification Index System (III System), the National Crime Information Center (NCIC), and the International Justice and Public Safety Information Sharing Network (Nlets).
4. **Pennsylvania State Law Enforcement Advisory Commission.**
- a. The Commission is established within the Office of State Inspector General, which shall provide administrative support and assistance to the Commission.
 - b. **Authority and Responsibilities.**
 - (1) **Reviews of Completed Investigative Findings:** The Commission is authorized to perform reviews of the covered agencies' completed internal investigative findings related to allegations and incidents related to use of force and bias-based policing in the following categories:
 - (a) All investigations of police-involved shootings resulting in injury or death of civilians conducted by covered agencies; and
 - (b) A representative, random sampling of investigations of lower level uses of force resulting in injury or death, including arrest and control techniques, baton strikes, and conducted energy weapon deployments; and
 - (c) All investigations related to allegations of racial or ethnic discrimination and other bias-based policing or external complaints of bias or discrimination during interactions with covered agencies' law enforcement officers. The term "bias-based policing" means the unreasonable use of race, ethnicity, national origin, gender, or religion by a law enforcement officer in deciding to initiate an enforcement action. It is not racial or other biased-based policing when race, ethnicity, national origin, gender, or religion is used in combination with other identifying factors as part of a specific individual description to

initiate an enforcement action.

- (2) **Scope of Review:** The Commission shall review the completed investigative findings set forth in Section 4.b.(1), above, to determine:
 - (a) Whether the investigations were prompt, fair, impartial, and complete, and performed in a manner consistent with applicable policies and/or regulations.
 - (b) Whether the findings and discipline were reasonable under applicable law enforcement protocol, including but not limited to the covered agency's just cause standard, rules and regulations, collective bargaining agreements, past disciplinary precedent and/or grievance and arbitration decisions.
 - (c) To the extent the review identifies a perceived policy or training deficiency, the Commission shall provide a recommendation to correct the perceived deficiency for consideration by the covered agency.
- (3) **Methodology of Review:**
 - (a) The covered agencies will provide the Commission with a comprehensive written summary and oral presentation of the completed internal investigative findings. The summary shall include a description of all investigative activities, relevant dates, a summary of the facts as determined by the investigation, and criminal and administrative adjudications, excluding all PII; CHRIA information; CJIS information or other information restricted by State or Federal law.
 - (b) The Commission's requests for additional supporting documents shall be limited to information directly related to the investigative findings under review by the Commission and shall be redacted of all PII, CHRIA, CJIS information or other information restricted by State or Federal law.
- (4) **Review Results and Recommendations:** The Commission shall prepare a report of each review and include recommendations based upon its review, if warranted. Recommendations must be approved by a majority of the voting members of the Commission. Covered agencies will review the recommendations and provide the Commission with a written response including what, if any, recommendations it may implement. If recommendations cannot or will not be implemented, the covered agency will provide an explanation.

8. **Vacancies and Membership.** Should a vacancy occur among the Governor's appointees on the Commission, the Governor will appoint a successor to complete the term of the vacancy.
 - a. Commission membership shall reflect the diversity of the Commonwealth and include individuals who have experience and interest in building trust and legitimacy among law enforcement and the citizens they serve.
 - b. Commission members shall not use any information (including any confidential or protected information as defined in in Section 3) obtained through the fulfillment of Commission responsibilities for any other purpose. No Commission member may be a party to or represent any party in litigation involving any of the covered agencies.
9. **Duties and Responsibilities of the Chairperson.**
 - a. The Chairperson will be responsible for convening meetings, producing the annual report described in Section 13, below, and other administrative responsibilities of the Commission.
 - b. The Chairperson will establish committees to conduct the review functions identified in Section 4.b, above.
10. **Procedures.**
 - a. The Commission may establish subcommittees, rules, and procedures necessary to effectively implement its authority and responsibilities included in this Executive Order. Subcommittees may only include voting and ex officio members of the Commission. All committees shall be chaired by a voting member of the Commission.
 - b. A majority of voting members of the Commission shall constitute a quorum.
 - c. The Commission shall meet four times a year, unless otherwise determined by the Chairperson.
 - d. Commission members may attend meetings in person or remotely by electronic or telephonic means. In-person and remote participation shall be considered attendance for purposes of constituting a quorum.
11. **Compensation.** Members of the Commission shall receive no compensation for their service, except that members may be reimbursed for travel and related expenses in accordance with Commonwealth policy.
12. **Responsibilities of Pennsylvania Commission on Crime and Delinquency.** The Pennsylvania Commission on Crime and Delinquency (PCCD) may assist the Office of State Inspector General, as requested.

- 13. Reports.** The Commission shall prepare and submit an annual report to the Governor or the Governor's designee, and other reports as may be requested by the Governor. The annual report shall be published on the website of the Office of State Inspector General. Publicly accessible reports may not include any information that is personal or sensitive in nature and/or confidential, privileged, protected, or otherwise prohibited or exempt from public disclosure by law, regulation or judicial order, including but not limited to any PII, any non-public information, CHRIA information, CJIS information or other information restricted by State or Federal laws or deemed by the affected covered agency to be law enforcement sensitive.
- 14. Public Statements.** Outside of statements required by the Sunshine Act, the Commission meetings, and required reports, no member of the Commission shall make any individual public statements regarding any deliberations, discussions, debate, or review of any of the completed internal investigative findings of the covered agencies or recommendations of the Commission.
- 15. Implementation.**

 - a.** All covered agencies shall cooperate and provide assistance to the Commission as needed to perform its functions. Notwithstanding any document retention periods, all covered agencies must take affirmative steps to preserve any and all records and information relating to covered agencies' completed internal investigations that fall within the Commission's purview for the time period necessary for the Commission to complete its review.
 - b.** All Commonwealth agencies under the Governor's jurisdiction are directed to take all steps necessary to implement this Executive Order.
- 16. General Provisions.** Nothing in this Executive Order shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency, or the head thereof. This Executive Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth of Pennsylvania, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
- 17. Effective Date.** This Executive Order shall take effect immediately and shall remain in effect until amended or rescinded by the Governor.