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May 11, 2021



Darrell Clarke, Council President
Philadelphia City Council
City Hall
Philadelphia, PA 19107

RE: Fully Funding Proposed Bill 210074 (Citizens' Police Oversight Commission)

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Dear Council President Clarke:

On November 3, 2020, over 500,000 Philadelphians voted to support an independent civilian police oversight agency—one that brings about transformative change and will be sustained across different administrations. The ACLU of Pennsylvania urges members of City Council and Mayor Jim Kenney to support the Citizens' Police Oversight Commission (CPOC), as proposed in Bill 210074, as well as to properly fund what CPOC has been tasked to achieve.

After the killings of George Floyd, Breonna Taylor, Walter Wallace Jr., Daunte Wright, and Adam Toledo, cities throughout the country have examined the future of policing. Philadelphians joined this national movement and voted for stronger oversight and public accountability. Bill 210074 answers voters' demands and meets the moral call of this historic moment. As proposed, CPOC would have several tools at its disposal to deliver effective police oversight. First, the Bill grants CPOC with investigatory powers. This is a necessary function because reports show the current police-led investigatory process has rejected 85% of civilian complaints.¹

The Bill also grants CPOC the authority to participate in making appropriate charging decisions—a critical task since the penalty range for misconduct is dependent upon how the misconduct is charged within the Department's disciplinary code.²

CPOC would also have the authority to function as an administrative prosecutor during disciplinary hearings. This is a function that civilian oversight agencies have in numerous other jurisdictions.

Finally, under this Bill, CPOC would have the ability to recommend to the Police Commissioner what form of discipline should be imposed on an officer who commits a violation. Today, that decision is lacking civilian input. Overall, the legislation would drastically change how police officers are held accountable for misconduct, which is long overdue.

The ACLU of Pennsylvania believes the proposed CPOC offers a greater degree of police accountability, if it is adequately funded. However, the funding proposed by Mayor Kenney falls woefully short. Philadelphia has the fourth-largest police department in the nation; its oversight agency must be proportionally funded. Contrary to the mayor's proposal, other cities have earmarked an oversight budget that directly relates to the budget of their police departments: Chicago's oversight agency budget appropriation can be no less than 1% of the Chicago Police Department's budget—totaling a budget of over \$13 million; New York City's oversight agency must be at least 0.65% of the New York Police Department—totaling a budget of over \$20 million.

¹<https://whyy.org/articles/police-misconduct-in-philadelphia-unsealed-records-name-the-citys-most-cited-cops/>

²<https://web.phillypolice.com/assets/accountability/PPD-Disciplinary-Code-July-2014.pdf>

Since the mayor's CPOC budget proposal would amount to merely 0.2% of the PPD's \$727 million budget, the ACLU of Pennsylvania calls upon the mayor and City Council to adequately fund CPOC with at least 1% of the Department's budget in fiscal year 2022. Only an adequately funded CPOC will fulfill the voters' mandate.



Since the 1950s, the national ACLU, as well as many state and local affiliates, have advocated for independent community oversight. The ACLU of Greater Philadelphia spearheaded this effort in 1958 when then ACLU President Henry Sawyer III encouraged Philadelphia Mayor Dilworth to create the first police oversight agency in the nation—the original Police Advisory Board. Since that time, the city of Philadelphia and the Philadelphia Police Department (PPD) have promised to take a 'deeper look' to ascertain what contributes to systemic abuses and patterns of unconstitutional conduct made by members of the Department.

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These 'deeper looks' have proven to be superficial and have provided no meaningful change. From convening town halls with no actionable plans to follow; to empaneling powerless and disenfranchised boards to quell concerns about improper policing, to carving out space within city government for police accountability only to earmark scant resources for such a daunting task—these efforts have not brought about reform. Philadelphia needs an independent, empowered, and fully resourced civilian oversight agency. Even though the existing Police Advisory Commission (PAC) has successfully pursued several policy endeavors, its inadequately sanctioned executive order and limited budget appropriation preclude the PAC from delivering the degree of police accountability that Philadelphians deserve.

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Philadelphians voted for CPOC, and the city of Philadelphia is obligated to deliver. President Barack Obama's Task Force on 21st Century Policing recommended that "every community should define the appropriate form and structure of civilian oversight to meet the needs of that community".³ The ACLU of Pennsylvania calls upon City Council to pass Bill 210074 as proposed and to adequately fund CPOC. Amendments that curtail CPOC's powers, and any budgetary appropriation that underfunds CPOC's function, would contravene President Obama's Task Force recommendations, and, more importantly, it would violate the express will of the people who voted CPOC into existence.

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These next few weeks are critical as the legislation and budget make their way through city government. The ACLU of Pennsylvania asks for City Council and Mayor Kenney to secure a properly funded independent civilian oversight agency that Philadelphians deserve.

With urgency,

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cc: Mark Squilla, Kenyatta Johnson, Jamie Gauthier, Curtis Jones, Jr., Bobby Henon, Maria Quiñones-Sánchez, Cindy Bass, Cherelle Parker, Brian J. O'Neill, Kendra Brooks, Allan Domb, Derek Green, Katherine Gilmore Richardson, Helen Gym, David Oh, Isaiah Thomas, Mayor Jim Kenney (by email)

³https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf (Recommendation 2.8)