

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 2020-04]

Pennsylvania State Law Enforcement Citizen Advisory Commission

July 17, 2020

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

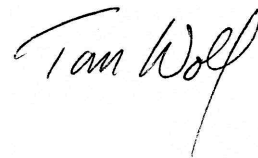
Whereas, improved law enforcement requires supporting the mental health and training needs of law enforcement personnel; and

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 is 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 as hereinafter set forth.



Governor

Fiscal Note: GOV-2020-04. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter BBB. PENNSYLVANIA STATE LAW ENFORCEMENT CITIZEN ADVISORY COMMISSION

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§ 7.861. Purpose.

The purpose of the Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) is to improve policing practices within law enforcement agencies under the Governor's jurisdiction. The Commission is comprised of citizens of this Commonwealth 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.

§ 7.862. Covered agencies.

All law enforcement agencies under the Governor's jurisdiction, including, but not limited to, the Pennsylvania State Police, the Department of General Services Capitol Police and the Department of Conservation and Natural Resources Park Rangers.

§ 7.863. Pennsylvania State Law Enforcement Advisory Commission.

(a) The Pennsylvania State Law Enforcement Citizen Advisory Commission (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 investigative findings:* The Commission is authorized to perform reviews of the covered agencies' internal investigative findings related to allegations and incidents related to use of force and bias-based policing in the following categories:

(i) All investigations of police-involved shootings resulting in injury or death of civilians conducted by covered agencies; and

(ii) 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

(iii) 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 investigative findings set forth in paragraph (b)(1) to determine:

(i) Whether the investigations were prompt, fair, impartial and complete, and performed in a manner consistent with applicable policies.

(ii) Whether the findings and discipline were reasonable under standard law enforcement protocol.

(iii) 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 entity.

(3) *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 responses and updates regarding implementation of recommendations, as appropriate.

(c) *Prerequisite training for members.* Prior to performing any functions as a member of the Commission, each voting member shall complete the following training, including, but not limited to: use of force; stop, search

and arrest; traffic enforcement; bias-based policing; internal affairs process; all covered agencies' discipline procedures (including the disciplinary provisions of collective bargaining agreements and administrative processes, administrative proceedings, and burdens of proof); covered agencies' rules and regulations for its law enforcement officers; Governor's Code of Conduct; and constitutional law.

§ 7.864. Composition.

The Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) shall consist of the following:

(a) *Voting members.* Fifteen members appointed by the Governor, which shall include one representative from each of the Pennsylvania State Police (PSP) current Troop geographic areas, and specifically from areas of the PSP's primary jurisdiction, and six additional citizen members chosen at large.

(b) *Ex-officio members.* Six non-voting members:

- (1) Appointee from the Office of the Governor;
- (2) The General Counsel or designee;
- (3) Commissioner of the PSP or designee;
- (4) Chief of Capitol Police or designee;
- (5) Secretary of the Department of Conservation and Natural Resources or designee; and
- (6) Chair of the Pennsylvania Commission on Crime and Delinquency or designee.

(c) *Chairperson.* The Deputy Inspector General or designee will chair the Commission.

§ 7.865. Terms of membership.

Voting members shall serve the terms of their appointment and until a successor is appointed. Members may serve no more than two terms. Initially, 11 voting members shall be appointed for a term of 1 year, and 10 voting members shall be appointed for an initial term of 2 years. Thereafter, all terms shall be 4 years.

§ 7.866. Removal.

A Pennsylvania State Law Enforcement Citizen Advisory Commission member may be removed by the Governor, including for cause.

§ 7.867. Vacancies.

Should a vacancy occur among the Governor's appointees on the Pennsylvania State Law Enforcement Citizen Advisory Commission, the Governor will appoint a successor to complete the term of the vacancy.

§ 7.868. Diversity.

Pennsylvania State Law Enforcement Citizen Advisory Commission membership shall reflect the diversity of this Commonwealth and include individuals who have experience and interest in building trust and legitimacy among law enforcement and the citizens they serve.

§ 7.869. Duties and responsibilities of the chairperson.

(a) The chairperson will be responsible for convening meetings, producing the annual report described in § 7.873 (relating to reports) and other administrative responsibilities of the Pennsylvania State Law Enforcement Citizen Advisory Commission.

(b) The chairperson will establish committees to conduct the review functions identified in § 7.863 (relating to Pennsylvania State Law Enforcement Advisory Commission).

§ 7.870. Procedures.

(a) The Pennsylvania State Law Enforcement Citizen Advisory Commission (Commission) may establish subcommittees, rules and procedures

necessary to effectively implement its authority and responsibilities included in this subchapter. Subcommittees may include advisory non-members, if approved by the Commission chairperson. 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 hold meetings quarterly.

(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.

§ 7.871. Compensation.

Members of the Pennsylvania State Law Enforcement Citizen Advisory Commission shall receive no compensation for their service, except that members may be reimbursed for travel and related expenses in accordance with Commonwealth policy. See Chapter 40 (relating to travel and subsistence).

§ 7.872. Responsibilities.

The Pennsylvania Commission on Crime and Delinquency may assist the Office of State Inspector General, as requested.

§ 7.873. Reports.

The Pennsylvania State Law Enforcement Citizen Advisory 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 web site of the Office of State Inspector General.

§ 7.874. Implementation.

All covered agencies shall cooperate and provide assistance to the Pennsylvania State Law Enforcement Citizen Advisory Commission as needed to perform its functions. All Commonwealth agencies under the Governor's jurisdiction are directed to take all steps necessary to implement this subchapter.

§ 7.875. General provisions.

Nothing in this subchapter shall be construed to impair or otherwise affect the authority granted by law to an executive department, agency or the head thereof. This subchapter 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, its departments, agencies or entities, its officers, employees or agents, or any other person.

§ 7.876. Effective date.

This subchapter shall take effect in 90 days and shall remain in effect until amended or rescinded by the Governor.

[Pa.B. Doc. No. 20-1064. Filed for public inspection August 7, 2020, 9:00 a.m.]