

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 2020-04 AS AMENDED]

Pennsylvania State Law Enforcement Citizen Advisory Commission

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

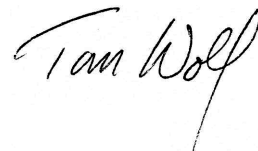
Whereas, improved law enforcement requires supporting the mental health and training needs of law enforcement personnel; and

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 as hereinafter set forth.



Governor

Fiscal Note: GOV-2020-04 (Amended). 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

§ 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 transpar-

ency, 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. Terms and definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Administrative adjudication—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.

Criminal History Record Information Act (CHRIA) information—All information that cannot be disclosed to non-criminal justice agencies pursuant to CHRIA, 18 Pa.C.S. Chapter 91 (relating to criminal history record information), including but not limited to criminal history information, intelligence information, investigative information as defined by CHRIA, 18 Pa.C.S. Chapter 91.

Criminal Justice Information Services (CJIS) information—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).

Completed internal investigative findings—The final administrative determination by the covered agency that the Pennsylvania State Law Enforcement Citizen Advisory 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 and civil rights litigation has concluded. Where civil action commences during the pendency of a review, this review shall cease until the litigation has concluded.

Criminal adjudication—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.

Injury—As it relates to § 7.864(b) (relating to Pennsylvania State Law Enforcement Advisory Commission), those injuries which require advanced medical treatment beyond basic first aid.

Law Enforcement Sensitive (LES) information — 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.

Non-public information—Any information that is exempt from public disclosure under section 708(b) of the Right-to-Know Law (65 P.S. § 67.708(b)), including, but not limited to, records that would threaten a public safety activity or related to a criminal or internal investigation.

Personal Identifiable Information (PII)—Information that, when used alone or with other relevant data, can identify an individual. PII may contain direct identifiers (such as, passport information) that can identify a person uniquely or quasi-identifiers (such as, race) that can be combined with other quasi-identifiers (such as, date of birth) to successfully identify an individual.

Primary jurisdiction—An area where the Pennsylvania State Police (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.

Random sampling—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.

§ 7.864. Pennsylvania State Law Enforcement Advisory Commission.

(a) The Pennsylvania State Law Enforcement 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 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:

(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 completed investigative findings set forth in subsection (b)(1) to determine:

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

(ii) 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 or grievance, or both, and arbitration decisions.

(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 agency.

(3) *Methodology of review:*

(i) 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.

(ii) 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.

(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. A Commission member who fails to complete the prerequisite training is prohibited from attending covered agencies presentations, as well as reviewing and voting on completed investigative findings.

§ 7.765. 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 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 appointed by the Inspector General will chair the Commission.

§ 7.866. 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 2 years, and 10 voting members shall be appointed for an initial term of 3 years, the initial terms to be served beginning from the effective date of this subchapter. Thereafter, all terms shall be 4 years.

§ 7.867. Removal.

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

§ 7.868. Vacancies and membership.

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

(a) 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.

(b) Commission members shall not use any information (including any confidential or protected information as defined in in § 7.863 (relating to terms and definitions) 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.

§ 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 Advisory Commission.

(b) The chairperson will establish committees to conduct the review functions identified in § 7.864(b) (relating to Pennsylvania State Law Enforcement Commission).

§ 7.870. Procedures.

(a) The Pennsylvania State Law Enforcement Commission (Commission) may establish subcommittees, rules and procedures necessary to effectively implement its authority and responsibilities included in this subchapter. 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.

§ 7.871. Compensation.

Members of the Pennsylvania State Law Enforcement 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 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. Publicly accessible reports may not include any information that is personal or sensitive in nature or confidential, or both, 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.

§ 7.874. Public statements.

Outside of statements required 65 Pa.C.S. Chapter 7 (relating to Sunshine Act), the Pennsylvania State Law Enforcement Advisory Commission (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.

§ 7.875. Implementation.

(a) All covered agencies shall cooperate and provide assistance to the Pennsylvania State Law Enforcement Advisory Commission (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 subchapter.

§ 7.876. 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.

§ 7.877. Effective date.

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

[Pa.B. Doc. No. 21-791. Filed for public inspection May 21, 2021, 9:00 a.m.]

GOVERNOR'S OFFICE

Amendment to Proclamation of Disaster Emergency

May 7, 2021

Whereas, on January 10, 2018, I declared a disaster emergency due to the opioid crisis that is ravaging the country, including the Commonwealth of Pennsylvania and its citizens;

Whereas, my Proclamation of Disaster Emergency dated January 10, 2018, was renewed by Amendment to Proclamation of Disaster Emergency (1st Amendment) on April 4, 2018, for an additional ninety days. The April 4, 2018, 1st Amendment would have automatically expired by operation of law on July 3, 2018, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on June 28, 2018. The June 28, 2018, Amendment to Proclamation of Disaster Emergency (2nd Amendment) was set to expire by operation of law on September 26, 2018, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on September 24, 2018. The September 24, 2018, Amendment to Proclamation of Disaster Emergency (3rd Amendment) was set to expire by operation of law on December 23, 2018, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on December 21, 2018. The December 21, 2018, Amendment to Proclamation of Disaster Emergency (4th Amendment) was set to expire by operation of law on March 21, 2019, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on March 20, 2019. The March 20, 2019, Amendment to Proclamation of Disaster Emergency (5th Amendment) was set to expire by operation of law on June 18, 2019, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on June 14, 2019. The June 14, 2019, Amendment to Proclamation of Disaster Emergency (6th Amendment) was set to expire by operation of law on September 12, 2019, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on September 5, 2019. The September 5, 2019, Amendment to Proclamation of Disaster Emergency (7th

Amendment) was set to expire by operation of law on December 4, 2019, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on December 3, 2019. The December 3, 2019, Amendment to Proclamation of Disaster Emergency (8th Amendment) was set to expire by operation of law on March 2, 2020, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on February 25, 2020. The February 25, 2020, Amendment to Proclamation of Disaster Emergency (9th Amendment) was set to expire by operation of law on May 25, 2020, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on May 22, 2020. The May 22, 2020, Amendment to Proclamation of Disaster Emergency (10th Amendment) was set to expire by operation of law on August 20, 2020, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on August 18, 2020. The August 18, 2020, Amendment to Proclamation of Disaster Emergency (11th Amendment) was set to expire by operation of law on November 16, 2020, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on November 12, 2020. The November 12, 2020, Amendment to Proclamation of Disaster Emergency (12th Amendment) was set to expire by operation of law on February 10, 2021, unless further extended by my official renewal;

Whereas, I renewed the Proclamation of Disaster Emergency for an additional ninety days by official action on February 9, 2021. The February 9, 2021, Amendment to Proclamation of Disaster Emergency (13th Amendment) is set to expire by operation of law on May 10, 2021, unless further extended by my official renewal;

Whereas, the opioid crisis continues to be of such magnitude or severity that emergency action is necessary to protect the health, safety and welfare of affected citizens in Pennsylvania;

Whereas, the opioid crisis continues to be a public health emergency in Pennsylvania contributing to addiction, overdose emergencies and deaths; and

Whereas, investigations by the Opioid Unified Coordination Group indicate that additional resources of the Commonwealth may be needed to mitigate and contend with the magnitude and severity of this continuing and expanding disaster emergency.

Now Therefore, pursuant to the provisions of section 7301(c) of the Emergency Management Services Code, 35 Pa.C.S. § 7301(c), I do hereby order and direct as follows:

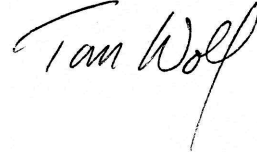
1. The Proclamation of Disaster Emergency of January 10, 2018, renewed by Amendments to Proclamation of Disaster Emergency dated April 4, 2018, June 28, 2018, September 24, 2018, December 21, 2018, March 20, 2019, June 14, 2019, September 5, 2019, December 3, 2019, February 25, 2020, May 22, 2020, August 18, 2020, November 12, 2020, and February 9, 2021, is renewed for an additional period of ninety days, and shall continue to apply to the Commonwealth of Pennsylvania.

2. All directives, authorized actions and provisions of the January 10, 2018, Proclamation of Disaster Emergency, and the April 4, 2018, June 28, 2018, September 24, 2018, December 21, 2018, March 20, 2019, June 14, 2019, September 5, 2019, December 3, 2019, February 25, 2020, May 22, 2020, August 18, 2020, November 12, 2020 and February 9, 2021, Amendments to Proclamation of Disaster Emergency shall remain in full force and effect until either rescinded by me or terminated by operation of law ninety days following the effective date of this Proclamation Amendment.

THE GOVERNOR

3. This Proclamation Amendment (14th Amendment) shall take effect immediately.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, on this seventh day of May two thousand twenty-one, the year of the commonwealth the two hundred and forty-fifth.



Governor

[Pa.B. Doc. No. 21-792. Filed for public inspection May 21, 2021, 9:00 a.m.]

GOVERNOR'S OFFICE
Proclamation Terminating the Disaster Emergency

May 11, 2021

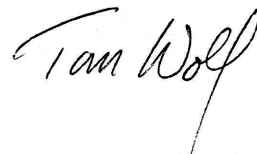
Whereas, on April 15, 2021, I proclaimed the existence of a disaster emergency in the Commonwealth to plan and pre-position assets to cope with any incidences of potential civil disturbance that may occur following the death of Daunte Wright and during and following the Derek Chauvin trial; and

Whereas, the potential for civil disturbance posed an imminent threat of danger to the safety and welfare of the people in the affected area; and

Whereas, ongoing monitoring of conditions made at my direction have disclosed that any adverse impacts of potential civil disturbance have been mitigated such that emergency conditions no longer exist.

Now Therefore, pursuant to the provisions of section 7301(c) of the Emergency Management Services Code, 35 Pa.C.S. § 7101 et seq., I do hereby proclaim the termination of the April 15, 2021 disaster emergency related to civil disturbance in the Commonwealth of Pennsylvania.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, on this eleventh day of May two thousand twenty-one, the year of the commonwealth the two hundred and forty-fifth.



Governor

[Pa.B. Doc. No. 21-793. Filed for public inspection May 21, 2021, 9:00 a.m.]