

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1220 Session of  
1995

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INTRODUCED BY RICHARDSON, ROBINSON, TRELLO AND MIHALICH,  
MARCH 16, 1995

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, MARCH 16, 1995

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AN ACT

1 Providing for the establishment of the Police Control Board in  
2 cities of the first class and defining its powers and duties;  
3 and providing for conduct of police personnel, for complaint  
4 procedure, for police hiring policies and for supervision and  
5 overseeing of the police department.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the First Class  
10 City Police Control Board Act.

11 Section 2. Legislative purpose and intent.

12 The general purposes of this act are to insure that:

13 (1) Popular democratic control over the functioning of  
14 the police department of the city rests with an independent,  
15 elected body of citizens who reflect the multiracial,  
16 multinational character of the community; needs, interests,  
17 opinions and values of the people shall have a commanding  
18 influence upon the policies, practices and procedures of  
19 police authorities.

1           (2) Racism, racial discrimination and brutality be  
2       abolished from the policies, practices, procedures, rules and  
3       regulations of the police department.

4           (3) Preservation of human life and respect for human  
5       integrity and dignity become paramount considerations in the  
6       development of police policies, practices and procedures, and  
7       that police policies, practices and procedures demonstrate a  
8       commitment to the preservation and extension of the  
9       constitutional, legal, civil and human rights of all people.

10          (4) No person be subjected to verbal or physical  
11       harassment or abuse by police authorities because of race,  
12       age, sex or political beliefs.

13          (5) Only democratic police authorities function in the  
14       city where racial and sexual composition reflect the  
15       community entrance requirements, training and practices that  
16       are in the best interest of the community and where  
17       individual members are accountable to the community.

18          (6) Lines of responsibility and accountability for an  
19       effectively and equitably functioning police authority are  
20       clearly established.

21          (7) Unconstitutional control of local police authorities  
22       by corporate and military institutions is prevented.

23       Section 3. Definitions.

24       The following words and phrases when used in this act shall  
25       have the meanings given to them in this section unless the  
26       context clearly indicates otherwise:

27       "Board." The Police Control Board created by this act.

28       "City." A city of the first class.

29       "Police department." The police department of a city of the  
30       first class.

1 Section 4. Police Control Board.

2 (a) Establishment of board.--There is hereby established an  
3 independent Police Control Board in each city. The board shall  
4 consist of elected representatives from each of the ten  
5 councilmanic districts plus five elected representatives at  
6 large. For purposes of this act, each councilmanic district  
7 shall be considered a police control district. It is the  
8 specific intent of this act to guarantee at least proportional  
9 representation to racial and national minorities living within  
10 the district.

11 (b) Size of board.--The board shall consist of 30 members:  
12 two people elected from each police control district, five  
13 elected at large and five youth members, between 16 and 18 years  
14 of age, appointed by the elected members.

15 (c) Composition.--Every effort shall be made to have the  
16 composition of the board proportionately represent the racial  
17 and economic structure of the city, at least to the degree  
18 described in the latest United States census report, in order to  
19 remedy the past effects of discrimination against racial and  
20 national minorities.

21 (d) Term of office.--The term of each member shall be two  
22 years commencing January 1 of each odd-numbered year and ending  
23 December 31 of each succeeding even-numbered year. Any vacancy,  
24 from whatever cause, occurring during the term of any member,  
25 shall be filled by election from that district no longer than 60  
26 days after the vacancy occurs.

27 (e) Officers.--The board shall elect one of its members as  
28 chairperson and one as vice chairperson as well as an executive  
29 secretary, who shall each hold office for one year and until  
30 their successors are elected. Officers shall be elected no later

1 than the second meeting of the board following its election.

2 (f) Budget.--The board shall be a working body and shall be  
3 funded by the city with an annual budget of \$225,000. In order  
4 to compensate board members for their time and work in  
5 overseeing and supervising the functioning of the public and  
6 private police authorities, board members shall receive \$58 per  
7 day. Procedures and regulations for accounting for hours worked  
8 and compensation shall be developed and adopted by the board and  
9 filed with the controller's office of the city.

10 (g) Staff.--Clerical and secretarial assistance as well as  
11 office facilities as needed by the board shall be provided by  
12 the appropriate office of the city. The board is further  
13 authorized to secure and define the duties of the staff. The  
14 board shall also appoint a chief investigator and an additional  
15 staff of at least two investigators for each of the police  
16 control districts who shall possess skills and experience  
17 necessary for investigative work. All members of the staff are  
18 under the direction of the board, and neither the chief of  
19 police nor any other police department official shall have any  
20 authority over any member of the staff.

21 (h) Meetings.--

22 (1) Board members shall establish a regular time and  
23 place of meeting and shall meet regularly, at least once a  
24 week, or more frequently, as the workload requires. The  
25 regular place of meeting shall be in an appropriate central  
26 location in the city capable of accommodating at least 75  
27 people at a time most convenient for public participation,  
28 provided that no meeting be held in a building where the  
29 police department is located. At least once every three  
30 months, or more frequently if the board desires, the board

1 may meet in other places and locations throughout the city  
2 for the purpose of encouraging interest and facilitating  
3 attendance by people of the various neighborhoods in the city  
4 at the meetings.

5 (2) Special meetings may be called by the chairperson or  
6 by three members of the board upon personal notice being  
7 given to all members or written notice mailed to each member  
8 and received at least 36 hours prior to such meetings unless  
9 such notice is waived in writing.

10 (3) All board meetings and agenda for the meetings shall  
11 be publicized in advance by written notice given to  
12 newspapers, radio and television stations serving the city at  
13 least three weeks prior to the meetings, except special  
14 meetings where advance notice may be dispensed with. In  
15 addition, notice of meetings shall be posted regularly on the  
16 bulletin boards and at locations throughout the city as are  
17 designated by the board.

18 (4) All meetings shall be open to the public. The board  
19 shall cause to be kept a proper record of its proceedings  
20 which shall be kept open for inspection by the public at  
21 reasonable times in the office of the executive secretary of  
22 the board.

23 (5) A majority of the elected board members shall  
24 constitute a quorum for the transaction of business, and the  
25 affirmative vote of a majority of those present is required  
26 to take action.

27 (6) On the petition of 50 or more citizens in the city  
28 filed in the office of the executive secretary of the board,  
29 the board shall hold a special meeting at an appropriate and  
30 convenient location and time for the individuals so

petitioning for the purpose of responding to the petition and hearing and inquiring into matters identified in the petition as the concern of the petitioners. Copies of the petition shall be filed by the board with the city clerk and the city council. Notice of the meeting shall be given in the same manner as notice is given for regular meetings of the board. In no case shall the board meet later than five working days following the date the petition is filed.

(i) Delegation of authority.--The board may delegate to subcommittees such authority as it deems necessary or desirable to carry out its investigations and functions, provided that membership on subcommittees shall not be limited to board members but may include members of the public who express an interest in the business of the subcommittees. The members from the public on the subcommittees shall serve without compensation. The board may delegate in writing to a subcommittee the powers to administer oaths and take testimony.

Section 5. Powers and duties of board.

The board shall have the following powers and duties:

(1) Investigate the extent to which present police employment, structure, budget and rules and regulations promote systematic discrimination on the basis of:

(i) Race.

(ii) Economic status.

(iii) Geographic location.

(2) Establish the office of general counsel to the board with the authority to receive, investigate and litigate, as provided in this act, any complaint concerning the operation and functioning of the police department.

(3) Act as final authority in reviewing and imposing

1 discipline of police in the police department.

2 (4) Review and approve the police department budget  
3 annually and provide for its publication before its  
4 submission to the authorizing body.

5 (5) Formulate and implement policies, rules and  
6 regulations to democratize the practices, procedures and  
7 operation of public and private police authorities in order  
8 to carry out the general purposes of this act.

9 (6) Formulate and implement policies, rules and  
10 regulations concerning the recruitment, hiring, training and  
11 promotion of police employees in order to insure that the  
12 past history and effects of racial discrimination are  
13 remedied and that the composition of police personnel reflect  
14 at all department levels, the racial and national minority  
15 composition of the city.

16 (7) Formulate and implement strict administrative  
17 standards and regulations for the exercise of police  
18 discretion in order to curb discriminatory selective  
19 enforcement by individual police officers on the basis of  
20 race, age, sex and economic status.

21 (8) Appoint the chief of police for the police  
22 department who shall then be responsible to the board for the  
23 day-to-day functioning of the police department.

24 (9) Oversee and regulate the appropriation of Federal  
25 and State funds to the police department.

26 (10) Investigate, make findings and publish the  
27 policies, practices and procedures of private security  
28 agencies, State and national police agencies and intelligence  
29 and military agencies operating with the city to insure that  
30 their operations conform to the standards established by the

1 board for the democratic functioning of the police.

2 (11) Compile and publish an annual report to the mayor  
3 and city council of the activities of the police department  
4 during the previous year and of future plans for the upcoming  
5 year.

6 (12) Adopt rules and regulations and develop procedures  
7 for its own activities and investigations in order to carry  
8 out the general purposes of this act and to publish and file  
9 them with the office of the city clerk and to do other things  
10 not forbidden by law which are consistent with a broad  
11 interpretation of the general purposes of this act.

12 (13) Subpoena witnesses, administer oaths, take  
13 testimony and require the production of evidence. To enforce  
14 a subpoena or order for the production of evidence or to  
15 impose any penalty prescribed for failure to obey a subpoena  
16 or order, the board shall apply to the appropriate court.

17 Section 6. Complaint procedure.

18 (a) Forms.--Complaint forms printed in clear, simple  
19 language shall be made available to the public at the city  
20 clerk's office, all public libraries and the police department.  
21 Complaint forms shall be bilingual (English-Spanish). A  
22 complainant shall set out the substance of the complaint against  
23 the police department on a complaint form and file the same at  
24 the city clerk's office, the police department or a public  
25 library. Once filed, complaints shall be forwarded immediately  
26 to the general counsel of the board. Copies of the complaint  
27 shall be made available to each member of the board, the general  
28 counsel, the chief investigator of the board and the chief of  
29 police.

30 (b) General counsel.--The general counsel, as chief



1 investigator, shall supervise all investigations conducted by  
2 the investigation staff of the board. The investigation staff  
3 shall conduct investigations of complaints by interviewing all  
4 persons involved in the alleged incident. The complainant shall  
5 have an opportunity to furnish evidence, including written  
6 statements and testimony, to the investigator.

7 (c) Access to records.--The investigators shall be given  
8 complete access to all department personnel and records and may  
9 in the course of investigation subpoena witnesses, administer  
10 oaths, compel testimony and require the production of evidence.  
11 To enforce a subpoena or order for the production of evidence or  
12 to impose any penalty prescribed for failure to obey a subpoena  
13 or order, the chief investigator shall apply to the appropriate  
14 court.

15 (d) Report of investigation.--A report shall be filed by the  
16 investigators within 30 days from receipt of the complaint  
17 detailing findings of fact. Upon receipt of the findings of  
18 fact, the board shall review the record and impose whatever  
19 disciplinary action is warranted by the facts.

20 (e) Request for review.--If a complaint is not resolved as a  
21 result of investigation to the satisfaction of the complainant,  
22 the respondent employee or a member of the board may request the  
23 board to hear or review the matter. The board, at its option,  
24 may hear or review the matter itself or refer the matter to a  
25 fact-finder.

26 (f) Fact-finding.--When a matter is referred to fact-  
27 finding, the complainant and employee shall request an  
28 arbitrator from the American Association of Arbitrators and  
29 shall select names, numbering them in order of preference. The  
30 selection will be made in accordance with the general provisions

1 of the American Association of Arbitrators concerning selection  
2 of arbitrators. The fact-finder, in the conduct of the hearing,  
3 shall have powers similar to the chief investigator listed  
4 above.

5 (g) Hearing.--After a hearing, the fact-finder shall, within  
6 30 days from the last day of the hearing, submit findings of  
7 fact to the board. The board, upon receipt of the report of the  
8 fact-finder, shall, within 30 days, determine any discipline to  
9 be imposed. It shall publish its decision and action. The  
10 decision of the board shall be final but shall be subject to  
11 judicial review pursuant to 2 Pa.C.S. Ch. 7 Subch. B (relating  
12 to judicial review of local agency action).

13 (h) Employee rights preserved.--Any employee against whom a  
14 complaint is filed is presumed innocent. An employee shall not  
15 forfeit any pay or seniority rights pending final action by the  
16 board, except with the concurrence of the majority of the board  
17 present and voting.

18 (i) Public hearings.--All pleadings filed and all hearings  
19 before the fact-finder and board shall be public. The parties to  
20 any hearing are the complainant and the respondent employee.  
21 Each has a right to counsel. The case may be presented by the  
22 complainant or counsel. Any probative evidence may be admitted.

23 (j) Docket.--A public docket of complaints and the  
24 disposition of each complaint after investigation shall be kept  
25 in the office of the executive secretary of the board and made  
26 available to the public. A report compiling statistics as to the  
27 number of complaints received and their disposition shall be  
28 made to the board by the chief investigator each year, and the  
29 report shall be made available to the public. All records shall  
30 be retained for public review for a period of at least five

1 years.

2 Section 7. Manual for conduct of police officers.

3 (a) Offenses and penalties.--The board, within one year  
4 after the effective date of this act, shall adopt a manual of  
5 rules and regulations to govern the conduct of individual police  
6 officers. The manual shall define categories of major and minor  
7 offenses and shall set forth the maximum and minimum  
8 administrative penalties for each offense.

9 (b) Hearings.--In order to properly define categories of  
10 offenses, the board shall hold a series of hearings in every  
11 police control district during the first six months after the  
12 effective date of this act at which time citizens will have an  
13 opportunity to testify and present other relevant evidence to  
14 aid the board in the adoption of the manual.

15 (c) Contents of manual.--The manual shall include provisions  
16 concerning the following:

- 17 (1) Use of deadly force.
- 18 (2) Use of nondeadly force.
- 19 (3) Use of abusive language.
- 20 (4) Selective enforcement of laws.
- 21 (5) Internal corruption.
- 22 (6) Activities of off-duty police officers.
- 23 (7) Standards for the exercise of police discretion.
- 24 (8) Prohibitions against racial and sexual  
25 discrimination.
- 26 (9) Restrictions on dragnet arrests.
- 27 (10) Treatment of arrestees during detention.
- 28 (11) Political surveillance, photographing,  
29 recordkeeping, use of informers and development of red  
30 squads.

1           (12) Use of decoys to entrap the young and economically  
2 desperate citizens.

3           (13) Interrogations of those accused of crime.

4           (14) Prohibiting all acts of racial discrimination  
5 within and among police officers.

6           (15) Strict guidelines for the collection of data to  
7 prevent its unauthorized use and dissemination and mandate  
8 public disclosure to an arrestee of any and all reports  
9 concerning the arrest.

10          (16) Ending corporate and military influence over the  
11 police.

12          (17) Establishing strict disciplinary regulations to  
13 require that police follow not only the spirit but also the  
14 letter of the constitution in the areas of arrest,  
15 interrogation, search and seizure and stop and frisk.

16          (18) Development of an overall policy within the police  
17 department that demonstrates the highest regard for human  
18 life, integrity and dignity.

19 Section 8. Hiring policies.

20          (a) Personnel director.--The division of police personnel  
21 shall be headed by a director of police personnel appointed by  
22 the board. The director of police personnel shall be a civilian  
23 who serves at the pleasure of the board.

24          (b) Applications.--Applicants for employment as police  
25 officers or civilian employees shall enter the department in  
26 accordance with the following procedure:

27               (1) The director of police personnel shall recruit  
28 applicants for service as police officers with the  
29 department, prepare and administer examinations for hiring  
30 police officers and prepare and conduct examinations for

1 promotion with the department.

2 (2) Lateral entry into employment with the department as  
3 a police officer shall be permitted in accordance with the  
4 rules, regulations and procedures established by the board.

5 (c) Minorities and women.--A program of affirmative action  
6 in the hiring of national minorities and women shall be  
7 instituted in order to insure that past history and practices of  
8 racial and sex discrimination be remedied so that recruitment  
9 reflects the minority and female population composition of the  
10 city. Promotions shall also be proportionate to population  
11 ratios wherever possible, and lateral entry of police officers  
12 will be permitted to meet this goal. In order to effectuate  
13 hiring based on a population ratio of minority members, hiring  
14 will be permitted where the applicant has a record of  
15 misdemeanor convictions or arrests which do not involve crimes  
16 of moral turpitude.

17 (d) Psychological testing.--Psychological testing of all  
18 officers, applicants and recruits shall be conducted. The tests  
19 shall be designed to detect racial bias and tendencies toward  
20 violent action. Appropriate reassignments, dismissals or refusal  
21 to hire shall be based on the test results.

22 (e) Promotions.--The chief of police shall make all  
23 promotions within the department subject to the approval of the  
24 board. Promotions shall be made on the basis of examinations  
25 administered by the director of police personnel. All  
26 examinations shall be prepared by the division of police  
27 personnel subject to the approval of the board.

28 (f) Equal pay.--Employees of the police department shall  
29 receive equal pay for the same or similar work.

30 Section 9. Chief of police.

1 (a) Appointment of chief of police.--The board shall appoint  
2 a chief of police, skilled and experienced in law enforcement.  
3 The chief of police shall serve at the pleasure of the board.  
4 The chief, with the consent of the board, may appoint necessary  
5 deputy chiefs, including a deputy chief for the women's division  
6 who shall be a woman.

7 (b) Duties of chief of police.--The chief of police is the  
8 chief executive officer of the police department and shall  
9 administer the department according to the policies, rules and  
10 regulations established by the board and shall:

11 (1) Recommend rules, regulations and procedures to the  
12 board for its approval.

13 (2) Prepare the annual budget for the police department.

14 (3) Hire, promote, commend, transfer and discipline  
15 employees of the department according to the policies and  
16 regulations set forth in this act and established by the  
17 board pursuant to its powers and duties.

18 (4) Except as otherwise provided by the board, maintain  
19 custody and control of all property and equipment belonging  
20 to the department or held by the department as evidence.

21 (5) Submit to the board trimonthly reports of the  
22 operations of the department for forwarding to the mayor,  
23 city council and the public. Included in the reports shall be  
24 the number of arrests, the character of arrests, the use of  
25 any physical force in accomplishing the arrest, the number of  
26 complaints received and the names of employees complained  
27 against.

28 (6) Exercise any other powers conferred by the board.

29 Section 10. Effective date.

30 This act shall take effect immediately.