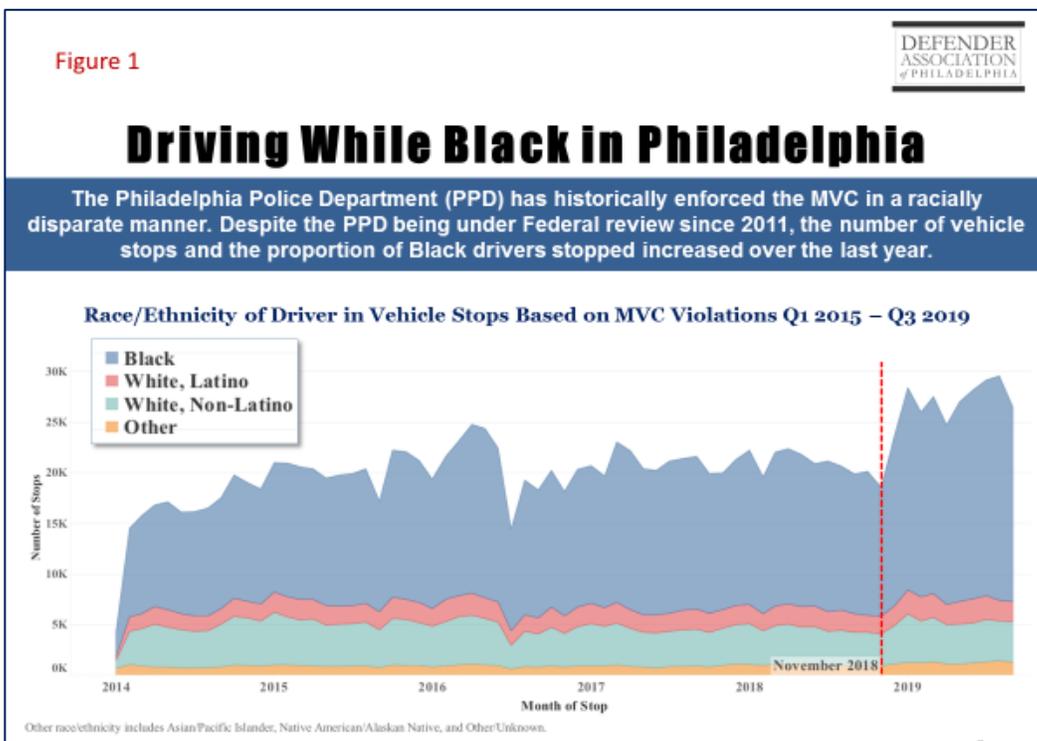


Testimony by Keir Bradford-Grey, Chief Defender
**PA House Majority Policy Committee Hearing on Law
 Enforcement & Public Safety**
 August 27, 2020

Good morning/afternoon, members of the House Majority Policy Committee. My name is Keir Bradford-Grey and I am the Chief of the Defender Association of Philadelphia. I thank you for inviting me here today to share my thoughts on the important topic of the role of law enforcement in protecting our communities.

All of us want the same things for our communities: that they be safe and that each and every person be treated equally under the law in accordance with the basic foundational principles of our society. But what we have seen this summer, in the wake of the killing of George Floyd and others at the hands of law enforcement, has forced a long-overdue reckoning about the role law enforcement plays in achieving public safety and equal justice. And it has laid bare the fact that for far too long, too many people have lived in communities deprived of either.

My office represents about 70% of all people charged with crimes in Philadelphia and so we work closely with those men, women, and children, their families, friends, and neighbors. And what we hear every day, what we know, is that in Philadelphia, and in cities and towns across the Commonwealth – particularly in communities of color, among the poor, and the young - trust in law enforcement has eroded to the point of near non-existence. And this condition is not new. We need to do better. And that is why examining the reality of law enforcement in these communities is such a vitally important step toward beginning to address and redress this significant harm.



By way of example of why trust in law enforcement is diminished or absent in our communities, let's talk about being pulled over while driving. This is an experience common to almost anyone who drives a car; but, in Philadelphia, Black drivers make up nearly *three-quarters* of all car stops despite making up *less than half* the population (Figure 1). Our analysis of vehicle stop data also shows that most of these stops – about 97% - are for minor traffic infractions like not

signaling, having tinted windows, or having a single light out. Yet the police are searching the cars of Black drivers *at least twice as often* as the cars of White, non-Latino drivers, even though Black drivers are *35% less likely* to be found with contraband than their White counterparts¹.

These numbers represent hundreds of thousands of citizen-police interactions each year in my city and, given the stark racial disparities in enforcement and invasive—and, too often, unconstitutional—detentions and searches, it's little wonder that our people are distrustful, suspicious, and afraid.

This fear and mistrust of the institution of policing and the officers who are sworn to protect and serve the people diminishes the safety of our communities. Across the country, less than half of all violent crimes—murders, shootings, rapes—even result in an arrest. In Philadelphia this year, the *arrest* rate for homicide is approximately 35%. And it's even lower for non-fatal shootings at approximately 20%². Fear and distrust make people reluctant to speak up and aid in investigations. You will notice I stressed the word “arrest.” That's because we know that not everyone who is arrested for a crime is guilty. In the last year and a half, three Philadelphia homicide detectives have been arrested³ and one has been pulled from the street due to allegations of coercing confessions⁴. Just last year in Philadelphia, *14 wrongful and unjust murder convictions were overturned*⁵ because of police and prosecutorial misconduct. And those 14 unjust convictions represent hundreds of years stolen from the wrongfully convicted, their families and loved ones. Not to mention millions of dollars in lawsuits⁶. And they also mean that the victims of those crimes and their families were deprived of any kind of justice as the actual killers were never held to account.

And that is what we need to heal the wounds in our communities and begin to mend public trust in the institution of law enforcement: *accountability*. This is what we hear our communities crying out for – real and fundamental fairness. A major part of believing that the system is in fact fair is when you can actually *see* the process, when you can see that people are treated the same, both in terms of human dignity and procedural

¹ Source: Philadelphia Police Department Stop and Frisk Data Q1 2014 – Q3 2019.

² Source: Editorial Board. What did police do in April during a crime low? It wasn't solving homicide cases. The Philadelphia Inquirer. Updated: June 12, 2020. <https://www.inquirer.com/opinion/editorials/philadelphia-police-gun-violence-shootings-homicide-clearance-defund-20200612.html>

³ Source: Palmer, Chris. Former Philly homicide detective charged with rape and intimidation in the course of his investigations. The Philadelphia Inquirer. Updated: February 19, 2019 <https://www.inquirer.com/news/philip-nordo-philadelphia-detective-arrested-rape-krasner-20190219.html>; Moran, Robert. 2 Philly cops charged in separate criminal cases. The Philadelphia Inquirer. Updated November 21, 2019 <https://www.inquirer.com/news/nathaniel-williams-charles-myers-philadelphia-police-misconduct-20191121.html>; Bender, William and Laker, Barbara. Philadelphia detective, under investigation for racial incident, busted for DUI and threatening an officer. Updated July 27, 2020 <https://www.inquirer.com/news/philadelphia/philadelphia-police-dui-komorowski-racial-slur-20200727.html>

⁴ Dean, Mensah M. Man who accused Philly cop of framing him is freed after serving 10 years of a life sentence for murder. The Philadelphia Inquirer. Updated: March 27, 2019. <https://www.inquirer.com/news/dwayne-thorpe-james-pitts-philadelphia-murder-district-attorney-todd-mosser-judge-sarmina-teresa-20190327.html>

⁵ Palmer, Chris. As a Philly judge agreed to overturn a murder conviction after 31 years, the DA's Office took aim at the justice system. The Philadelphia Inquirer. Updated: June 12, 2020 <https://www.inquirer.com/news/andrew-swainson-philadelphia-murder-conviction-overturned-da-larry-krasner-20200612.html>

⁶ Tompkins, Al. Cities cut budgets because of COVID-19 shutdowns but pay millions for police misconduct lawsuits. Poynter. June 2, 2020 <https://www.poynter.org/reporting-editing/2020/cities-cut-budgets-because-of-covid-19-shutdowns-but-pay-millions-for-police-misconduct-lawsuits/>

process. The need for transparency in the institutions of government, and transparency in law enforcement specifically, is paramount.

And yet, the request for transparency and accountability in law enforcement has historically been a fight. Take, for example, the data analyzed by my office that revealed those horrific racial disparities in car stops—we had to fight tooth and nail for that information by filing Right to Know requests and going to court. If it is that difficult for a team of lawyers to find out what’s going on, how can we expect citizens to feel they have access to truth, or have faith in a system that seems to go out of its way to keep them in the dark? A system that’s supposed to help, to serve, to protect too often treats them as if they are “less than.”

One of the ways that we move toward transparency and accountability is by addressing the ways in which Act 111 prevents the discipline and removal of bad cops who are harming our communities and endangering public safety. As you’re all aware, Act 111’s mandatory and binding arbitration and the secretive and opaque procedural process of police discipline make it nearly impossible for police commissioners and city officials to fire or discipline police who have broken the public trust and who are committing crimes themselves (Figure 2). And that’s notwithstanding the fact that it’s exceedingly rare that police face discipline in the first place.



For instance, in Philadelphia, the PPD rejected **85%** of more than 10,000 civilian complaints filed since April 2013, with most of the rest resulting in retraining or counseling. Only 219 complaints led to formal investigations and guilty findings. For the most serious charges leveled at officers, like physical or sexual abuse, only 1.7% were found guilty: 59 of 3,308. And while about two-thirds of complaints were filed by Black people, the Internal Affairs Bureau was 21% more likely to recommend disciplinary action when a white person

filed a complaint⁷. And of 170 such findings that were subject to arbitration between 2011 – 2019, about 70% of the time, discipline was overturned or reduced⁸. This includes overturning the firing of officers who the commissioner agreed could no longer be trusted to police our citizens. Between 2006 and 2017, 71 police officers were fired in Philly. 44 of them – or 62% - got their jobs back after arbitration⁹ And most of these reductions or overturning of discipline included significant back pay and sometimes promotions. Citizens are frustrated to see the same problem officers back on the streets, free to continue the behavior that was reported, seemingly with no consequence.

This situation also creates a morale problem *inside* the department. Internally, it frustrates the majority of officers, who want to do the right thing. But how can they report misconduct by another officer if it's likely that nothing will come of it? How can the good officer risk their career knowing that it's unlikely anything will happen to the bad officer? And then that same good officer must interact with a community that sees this failure as the fault of all police. The distrust compounds the problem.

We know that in Philadelphia and in most places, serious police misconduct is perpetrated by a small fraction of officers. In Philly, only 1% of the department averaged more than a single complaint per year since 2015, and about 260 out of 6,500 police made up nearly a quarter of all complaints department-wide¹⁰. But that does not diminish the harm to the public, to the citizens of our city, or to policing. We need to remember the rest of the old adage about “bad apples” which is that they spoil the whole barrel. And we cannot expect the people to blindly trust in a system that has historically wielded its immense powers of arrest, detention, and deprivation of liberty - powers that no other citizen possesses – in a discriminatory manner until that trust has been earned.

Act 111 was enacted into law in 1968 amidst the social and racial unrest of that era. That same year, President Johnson constituted the Kerner Commission¹¹ to attempt to understand the causes of rioting that caused so much death and destruction in our inner cities. The findings of that commission are the same we're hearing now – more than 50 years later – of inequities according to race, wealth, and education. Of casual police violence in urban areas and against communities of color. Its findings about police were much the same as a 2003 report by the Office of Integrity and Accountability, which was formed in the wake of a 1996 lawsuit brought against the Philadelphia Police Department by the NAACP and the ACLU, that the disciplinary system is “ineffective, inadequate and unpredictable¹².”

We must address the obstacle of Act 111 to public safety, either by repealing it and allowing existing labor law to address disputes and grievances within police organizations, or by excising serious disciplinary matters from the star chamber of arbitration. We need sunlight on these processes if we are ever truly to be safe and live up to our most idealized selves. We cannot wait any longer.

⁷ Briggs, Ryan and Marin, Max. Police misconduct in Philadelphia: Unsealed records name the city's most cited cops. WHYY. June 30, 2020 <https://whyy.org/articles/police-misconduct-in-philadelphia-unsealed-records-name-the-citys-most-cited-cops/>

⁸ Source: Bender, William. Fired, then rehired. The Philadelphia Inquirer. <https://www.inquirer.com/news/a/philadelphia-police-problem-union-misconduct-secret-20190912.html>

⁹ Source: Kelly, Kimbriell. Fired/Rehired. The Washington Post. October 7, 2017.

<https://www.washingtonpost.com/graphics/2017/investigations/fired-rehired-three-shootings-in-three-years/>

¹⁰ Briggs & Marin, Id.

¹¹ George, Alice. The 1968 Kerner Commission Got It Right, But Nobody Listened. Smithsonian Mag.com. March 1, 2018

<https://www.smithsonianmag.com/smithsonian-institution/1968-kerner-commission-got-it-right-nobody-listened-180968318/>

¹² Green-Ciesler, Ellen. Integrity and Accountability Office, Philadelphia Police Department, Disciplinary System, December 2003. <https://www.phila.gov/media/20180207151602/Disciplinary-system-report.pdf>