

In re: : **City of Philadelphia**
: **Nizah Morris** : **Police Advisory Commission**
: **Complaint No. 31279**

Before:

Commissioners

Robert S. Nix, Esquire,
Joseph T. Stapleton, Esquire
Adam Rodgers, Esquire
Joi C. Spraggins, Ph.D.
and Michael Weiss

Counsel

Michael Hayes, Esquire
Dennis G. Young, Jr., Esquire

OPINION

This matter is before the Police Advisory Commission (the “Commission”) based on a complaint filed by Roslyn Wilkins regarding police interaction with her adult daughter, Nizah Morris, both before and after Ms. Morris suffered a fatal head injury on December 22, 2002, as well as the subsequent police investigation of the death.¹ In response to the complaint, the Commission conducted a full investigation and heard the testimony of several witnesses over three nights at public hearings. The Commission also received various documents including police logs and incident reports, autopsy reports, and the 911 transcript, along with previously obtained statements from the officers on the scene at the time of the incident.

This Opinion constitutes the final disposition of the complaint filed by Roslyn Wilkins following the full Commission’s review of the report and recommendations of the Hearing Panel.

A. INTRODUCTION

In the early morning hours of December 22, 2002, Nizah Morris, a transgender individual, was at the Key West Bar and Grille, located at 207 South Juniper Street in Philadelphia. Ms. Morris apparently became intoxicated as a result of consuming several drinks and was escorted outside. According to several witnesses, Ms. Morris was unable to stand on her own and was twice found lying on the ground at the intersection of Juniper and Chancellor Streets. Someone called 911 and Officer Elizabeth Skala arrived shortly thereafter. Three bystanders — Maria Reilly, Kate McCusker, and Trisha Stryjewski, assisted Officer Skala in putting Ms. Morris into the rear of Officer Skala’s patrol vehicle. Officer Skala asked Ms.

¹ The investigation into the Nizah Morris matter was also adopted by the Police Advisory Commission as an issue of community concern, and along with the formal complaint filed by Roslyn Wilkins, as one involving the lack of information provided to the family by the Police Department in the wake of Ms. Morris’ death.

Morris where she lived and Ms. Morris responded that she lived at “15th and Walnut.” Officer Skala then resumed (a radio call to dispatch that assistance was no longer needed) the ambulance and another police officer who were en route based on her assessment of Ms. Morris’ condition and the fact that Ms. Morris repeatedly said that she just wanted to go home. Officer Skala also informed police radio that she was providing a “courtesy ride” for an intoxicated female and would drop her off at 15th and Walnut Streets.

Within minutes of being dropped off by Officer Skala, Ms. Morris was found lying unconscious in the street at 16th and Walnut Streets. It was later determined that Ms. Morris sustained serious physical injuries to her head as a result of blunt trauma just above the right eye. Emergency medical personnel transported Ms. Morris to Thomas Jefferson University Hospital where she died two days later.

B. SUMMARY OF RELEVANT FACTS

Officer Skala’s Version of Events

Officer Elizabeth Skala (Badge # 2409, PR # 23850) testified before the Commission that on the night in question she responded to a 911 call involving a “hospital case.” When she arrived on scene, Officer Skala exited her vehicle and walked to the sidewalk in front of Sister’s Bar. Officer Skala noticed a very tall black female (later identified as Ms. Morris) who was standing on the corner. Officer Skala did not recall any other persons in the immediate vicinity of Ms. Morris when she arrived.

Officer Skala approached Ms. Morris and asked her what was wrong. Ms. Morris responded by crying and stating that she did not want to get into any trouble and that she just wanted to go home. Officer Skala recalled that Ms. Morris was having a problem standing but attributed that to her heeled shoes which Officer Skala described as “extremely high.”

Ms. Morris asked Officer Skala to take Ms. Morris home and, for the third time, told Officer Skala that she did not want to get into any trouble and that she did not want to go to the hospital. Officer Skala agreed to give Ms. Morris a “courtesy ride” home and asked Ms. Morris where she lived to which she responded, “15th and Walnut.” At that point, Officer Skala resumed the ambulance that had been dispatched and the assisting officer who was en route.

Officer Skala assisted Ms. Morris into the cruiser by lowering her head and helping Ms. Morris into the back seat. Officer Skala did not recall Ms. Morris needing any assistance walking to the cruiser. Officer Skala also could not recall whether she had any conversations with anyone other than Ms. Morris or whether she had any assistance in helping Ms. Morris into her cruiser while at the scene. Officer Skala did not observe any physical injuries to Ms. Morris. Officer Skala transported Ms. Morris to 15th and Walnut Streets, where Ms. Morris exited the vehicle from the rear driver’s side. Officer Skala recalls opening the rear door but does not recall whether she assisted Ms. Morris in exiting the car. Officer Skala testified that she witnessed Ms. Morris walk around the back of her cruiser and onto the sidewalk, at which point Ms. Morris said “Merry Christmas.” Officer Skala returned to the driver’s seat and pulled off. During the course of Ms. Morris exiting the cruiser, Officer Skala recalled that Officer Thomas Berry’s cruiser

pulled alongside her cruiser and he asked if she needed any assistance. Officer Skala responded that she did not and Officer Berry left the area.

Later that morning, at or about 6:30 a.m., Officer Skala was told to go to Jefferson Hospital to possibly identify the woman that was her hospital case that was reported “hit by car.” Officer Skala arrived at the ICU at Jefferson and identified Ms. Morris as the woman that she transported to 15th and Walnut Streets earlier that morning. Ms. Morris was not presumed dead at the time but the doctors thought that the injuries were serious and the result of a possible fall or aggravated assault. Based on this information, Officer Skala called Central Detectives and informed them of the possible aggravated assault. Officer Skala had no other dealings with this incident.

Maria Reilly and Trisha Stryjewski

In addition to Officer Skala, two employees of Sister’s Night Club, Maria Reilly and Trisha Stryjewski, were identified by and testified before the Commission regarding the December 22, 2002 incident.

Maria Reilly testified that she left the club around 3:00 a.m. on December 22, 2002 and saw Ms. Morris lying in the street, hunched over, and unable to stand on her own. Ms. Reilly, along with Trisha Stryjewski and “Paul” (Paul Gisondi),² assisted Ms. Morris to her feet and stood her up against the wall of the night club. Ms. Reilly asked Ms. Morris if she was okay at which point she responded, “Yes, I just want to go home.” Ms. Reilly recalled that despite Ms. Morris lying in the road, she otherwise “looked okay, physically.” Ms. Reilly also recalled that, at the time that they were assisting Ms. Morris to her feet, an unknown man attempted to steal Ms. Morris’ purse, at which point Ms. Reilly notified Paul who was able to retrieve the purse.

Ms. Reilly was present when Officer Skala arrived on scene and, contrary to Officer Skala’s testimony, recalled that she and Paul assisted Officer Skala in placing Ms. Morris in the police cruiser. Ms. Reilly also testified that she overheard Ms. Morris tell Officer Skala that she lived at 15th and Walnut Streets and that she did not want to get into trouble. Based on her physical appearance and demeanor, Ms. Reilly did not believe Ms. Morris was under the influence of alcohol or any other drugs.

The relevant portions of Trisha Stryjewski’s testimony and her recollections are generally consistent with that of Maria Reilly but differ in one respect: she recalled twice assisting Ms. Morris from the ground. On the first occasion, she noticed Ms. Morris lying halfway in the street with her upper torso in the street and her lower body on the sidewalk facing the nightclub. Ms. Stryjewski and Ms. Reilly assisted Ms. Morris to her feet, walked her to the corner sidewalk of Juniper and Chancellor Streets, and left the area to retrieve their car from the adjacent parking lot.

² Although Paul Gisondi did not appear before the Panel and provide testimony, he was interviewed by Executive Director William Johnson and Chief Inspector Wellington Stubbs of the Police Advisory Commission and Ms. Gisondi’s statement is consistent with that of Maria Reilly and Trish Stryjewski. Also interviewed by the Police Advisory Commission were William Jackson and Oscar Padilla (the first person on scene), whose statements together were considered by the Commission in reaching its recommendations.

When she returned to the intersection of Juniper and Chancellor Streets in her car, Ms. Stryjewski noticed that, for the second time, Ms. Morris was lying completely in the middle of the street. With the help of Paul and Ms. Reilly, Ms. Stryjewski again assisted Ms. Morris to her feet and stayed with her until Officer Skala arrived. Ms. Reilly's testimony was similar to that of Ms. Stryjewski in all other respects including that Ms. Morris did not smell of alcohol, said that she lived at 15th and Walnut Streets, and that she wanted to go home.

Paul Brennan

Paul Brennan testified before the Commission concerning his recollection of events *after* Ms. Morris was dropped off by Officer Skala at 15th and Walnut Streets. Mr. Brennan recalled driving west on Walnut Street at approximately 3:00 a.m. Mr. Brennan's car was situated in the left-hand lane of the two-lane street behind a police cruiser. The police cruiser stopped adjacent to a car "parked" in the right-hand lane thereby not allowing Mr. Brennan to continue forward. At that time, Mr. Brennan noticed a woman (later identified as Nizah Morris) lying in the street in the right-hand lane directly in front of the "parked" car. Ms. Morris' body was facing west with her head turned north and her arms to her side. Mr. Brennan did not see Ms. Morris move and initially thought that she had been hit by a car.

In addition to the police cruiser, Mr. Brennan noticed an ambulance parked in the left-hand lane on the north side of 16th Street. Mr. Brennan recalled seeing the officer exit his police cruiser, walk past Ms. Morris, and directly to the parked ambulance. Mr. Brennan did not recall the police officer having any contact with Ms. Morris, including performing any life-saving procedures. A short time later, two paramedics exited the ambulance and wheeled the gurney over to Ms. Morris. The paramedics placed Ms. Morris on the gurney and a jacket was placed over her head by the officer. Mr. Brennan was unsure whether the jacket placed over Ms. Morris' head belonged to her. Mr. Brennan remembered seeing the officer entering his cruiser and pulling off.

Officer Thomas Berry

Officer Thomas Berry (Badge # 2507, PR # 238513) testified before the Commission. Officer Berry has been a patrol officer with the Philadelphia Police Department for over six years. Officer Berry testified that he encountered Officer Skala on the night in question when Officer Skala was dropping off Ms. Morris. Officer Berry recalled pulling alongside Officer Skala's cruiser, noticing someone in the back seat, and asking Officer Skala if she needed assistance. Officer Skala responded that she did not and was just dropping someone off. Officer Berry then pulled off. He was present for less than a minute.

Shortly thereafter, Officer Berry was driving northbound on 16th Street when he was flagged down by a civilian on a cell phone. Officer Berry approached the man who told him that a woman (Ms. Morris) was hit by a car. Officer Berry exited his cruiser and was escorted to a location where Ms. Morris was lying in the street. Officer Berry noticed a car parked behind Ms. Morris and assumed that she had been hit by the car. Officer Berry questioned the owner of the "parked" car and asked whether his car hit her, to which he responded, "No ... I drove down the street and I found her like this." Officer Berry did not notice any obvious damage to the vehicle

and presumed the man to be telling the truth. Officer Berry then radioed for Rescue which arrived a few minutes later.

In the meantime, Officer Berry observed Ms. Morris and noticed that she was breathing. Officer Berry did not recall seeing any physical injuries, did not see any blood, and did not specifically recall seeing injuries to Ms. Morris' forehead, although the incident report that he completed and the dispatch call referenced notes "cut on head" and "a person lying in the road bleeding." Officer Berry asked Ms. Morris numerous questions such as "are you okay?" but Ms. Morris was unresponsive. Once the paramedics arrived, Ms. Morris was placed on a gurney and wheeled to the ambulance. Officer Berry completed an incident report (75-48) and resumed his patrol.

Initially, Officer Berry believed the incident to be an automobile-pedestrian accident. After questioning the person who owned the car "parked" directly behind Ms. Morris who denied being involved in an accident with Ms. Morris and, after inspecting the vehicle and not seeing any obvious damage, Officer Berry's assessment of the incident changed from an automobile accident to a "D-K (drunken) female on the highway." Officer Berry recalls Ms. Morris smelled of alcohol and this information "probably" played a part in classifying the case as a "D-K."

Officer Berry recalled interviewing "a couple of people" but no one witnessed anything. Once the Rescue unit arrived, Officer Berry told them that he had found Ms. Morris on the highway and that there were no witnesses and no one knew what happened. Officer Berry did not recall what Ms. Morris was wearing, but does recall Ms. Morris having a purse. Officer Berry searched Ms. Morris' purse for identification but did not find any.

On the same night after he resumed, Officer Berry was asked to respond to Jefferson Hospital to be interviewed by another officer. When he arrived at Jefferson, he was asked what happened. About a week later, Officer Berry was contacted by his supervisor who also asked him about the Nizah Morris incident. Officer Berry was interviewed for the third time in mid-January 2003, the fourth time in April 2003, and the fifth time in December 2004 by various officers of the Homicide Unit and Internal Affairs.

Officer Berry also testified that, to his knowledge, there are no police directives, rules and/or policies regarding courtesy rides and therefore it is up to the discretion of the individual officer. Officer Berry testified that during his six-and-half years as an officer he has encountered numerous intoxicated individuals and frequently has assisted these persons with courtesy rides. Officer Berry did note, however, that if someone was not physically able to walk and required assistance, he would not offer them a ride but would instead call Rescue and let them handle it from there. He believes this has happened on at least twenty other occasions.

Chief Inspector James Tiano

Chief Inspector James Tiano testified before the Commission. Chief Inspector Tiano has been employed with the Philadelphia Police Department for over 41 years, with 15 of those years as a patrol officer. In addition to other areas of concern, Chief Inspector Tiano testified as to his understanding of the Police Department's procedures in responding to hospital cases.

Specifically, he testified that when responding to a hospital case, if a police officer finds a person in a semiconscious or unconscious state that person should immediately be transported to the nearest hospital, preferably by an emergency medical vehicle. Chief Inspector Tiano also testified that hospital cases should only be resumed by medically competent persons and that a police officer should never make the determination to resume a hospital case.

With respect to intoxicated persons, Chief Inspector Tiano testified that it is discretionary as to whether an intoxicated person should be transported to the hospital or taken home in a cab or by a friend. Chief Inspector Tiano reasoned that to transport every intoxicated person to the hospital in each and every instance would strain police and hospital resources and “we would be having everybody on Friday and Saturday nights sending somebody to the hospital.”

Chief Inspector Tiano did not believe that there was a policy against “courtesy rides” and, not to do so, would be perceived by the general public as “inhumane” and potentially dangerous if something were to happen to a resident of the City who was left stranded because a police officer refused to provide a reasonable courtesy ride.

Chief Inspector Tiano also noted that given his 41 years of experience, if he were in a similar situation to that of Officer Skala and asked to transport an intoxicated person to 15th and Walnut Streets late at night knowing it to be a business district (and not necessarily a residential district) that he would also give that person a courtesy ride.

Additionally, Chief Inspector Tiano testified that Officer Berry who first responded on scene should have had his lights on for safety reasons and should have immediately evaluated the condition of Ms. Morris for consciousness and, if not, start CPR. Chief Inspector Tiano also believes that the first responding officer should protect the integrity of the scene, including assessing whether a crime had been committed.

Finally, Chief Inspector Tiano testified that since the Medical Examiner ruled the incident to be a homicide the Homicide Unit and/or Accident Unit of the Police Department should have been contacted to oversee and investigate the matter.

Dr. Edwin Lieberman

Dr. Edwin Lieberman also testified before the Commission. Dr. Lieberman is the Assistant Medical Examiner for the Philadelphia Police Department and has served in this capacity for the past 16 years. This matter was reported to the Medical Examiner’s Office by the hospital and classified as a “trauma” case. Dr. Lieberman examined the body of Ms. Morris including an external examination of the body unclad looking for evidence of trauma, natural disease, and therapy. Dr. Lieberman noted trauma to the right temple region and as a result, ordered an autopsy.

Dr. Lieberman also examined Ms. Morris’ clothing and there was no trace evidence that she was involved in a car accident. Dr. Lieberman concluded, based on his autopsy and the surrounding circumstances, that Ms. Morris suffered a “cranio cerebral injury” (a swollen brain) which caused her death. The manner of death was ruled a homicide because the injuries to Ms. Morris’ head were not consistent with a simple fall. Instead, the injuries suggested a rotation of the skull from the extreme force of one blow to the skull. Based on the autopsy, Dr. Lieberman

was unable to determine the direction of the single blow other than that the assailant was “side-to-side” with Ms. Morris and would have struck her with an object in the left hand against Ms. Morris’ right temple area.

In addition to the laceration to the right temple, Ms. Morris suffered two abrasions on the right little finger; a horizontal abraded laceration of the right ring finger; and a contusion of the right middle finger. These were not life-threatening injuries. These injuries, quite possibly, could have resulted from a fall where Ms. Morris was conscious and attempted to use her hands to break the fall. These injuries also sometimes appear in assaults as defensive wounds. Dr. Lieberman could not definitively conclude whether the above injuries were the result of a fall or an assault.

Dr. Lieberman also could not conclude that the injuries suffered by Ms. Morris, both to her head and right hand, were not caused by a low-speed automobile accident in which Ms. Morris could have been hit to her head by a side-view mirror of an automobile going approximately 20 m.p.h. and then fell defensively to the ground.

Other than hospital-administered drugs, there were no traces of drugs found in Ms. Morris’ body, although Dr. Lieberman testified that ethanol (alcohol) and narcotics could have been metabolized during Ms. Morris’ time in the hospital and thus, not detected during the autopsy.

Dr. Lieberman’s final conclusion was that the injuries sustained by Ms. Morris were most likely due to an assault by another person, although he could not rule out the possibility that she was struck by the side-view mirror of a moving vehicle. Dr. Lieberman recalls speaking with the Homicide Unit and provided them with a complete report and full information to assist them in their investigation.

Internal Affairs Investigation

Following Ms. Morris’ death, the Internal Affairs Division of the Philadelphia Police Department (“Internal Affairs”) commenced an investigation. At the conclusion of its investigation, Internal Affairs sustained a charge against Officer Skala for violating Philadelphia Police Department Directive No. 63 (“Hospital Cases”) because “she should have considered the assignment of the hospital case as an emergency and allowed medical professionals to assess Ms. Morris’ condition.”³ Internal Affairs did not, however, recommend punishment beyond a verbal reprimand. And, while we believe the facts support a sustained charge against Officer Skala, we believe Internal Affairs’ verbal reprimand did not sufficiently emphasize the importance of following police directives and adhering to guidelines.

³ Internal Affairs also found that Ms. Morris was in a semi-conscious state, as defined in Philadelphia Police Directive Number 128, Intoxicated Persons in Police Custody which states, “Persons found in a semi-conscious or unconscious condition *will* be transported to the nearest hospital for medical evaluation.” We note that there was conflicting testimony as to whether Ms. Morris was semi-conscious and that Ms. Morris was not, in any event, in custody at any point during the sequence of events.

C. ISSUES PRESENTED

1. Whether Officer Skala violated Philadelphia Police Department Directive Number 63 when she resumed emergency medical personnel after receiving a 911 call for a “hospital” case?
2. Whether Officer Skala violated Philadelphia Police Department Directives, Policies and/or Rules when she provided Ms. Morris with a courtesy ride?
3. Whether the Philadelphia Police Department properly investigated the death of Nizah Morris?

D. DISCUSSION

Resuming of Hospital Case

Philadelphia Police Department Directive Number 63, Hospital Cases, states that:

Police personnel will consider the assignment of a hospital case as an emergency unless advised otherwise by a medically competent person.

Philadelphia Police Department Directive Number 63 is not discretionary, but mandatory. According to Chief Inspector Tiano, hospital cases should only be resumed by medically competent persons and that police officers should *never* make the determination to resume a hospital case. Given the nature of the call, Officer Skala’s resuming emergency medical personnel and an assisting officer was in violation of Directive 63. When responding to a call designated by 911 personnel as a “hospital” case, Officer Skala should have considered the assignment an emergency and allowed emergency medical personnel to assess Ms. Morris’ condition.

The record is clear that Officer Skala was responding to a “hospital” case and that there were individuals who witnessed Ms. Morris in a confused state of being unable to stand on her own or walk. Nevertheless, Ms. Morris gave a clear instruction that she just wanted to go home. Officer Skala nonetheless should have allowed, at the very least, a medically competent person to evaluate Ms. Morris concerning the necessity for medical assistance.

This notwithstanding, Officer Skala faced a serious dilemma and she made a decision to give Ms. Morris a ride based on her own assessment of Ms. Morris’ condition. That assessment may have been correct – that Ms. Morris was not so impaired that a trip to the hospital was unnecessary – and factually the testimony is inconclusive as to whether this was indeed the case. Others would say Ms. Morris should have been immediately transported to the hospital. We do not believe that the decision to give the courtesy ride leads inescapably to a conclusion of complicity, or that it was even a substantial factor in Ms. Morris’ death. We do not know how Ms. Morris died; we only know that she was tragically killed. In hindsight, it is reasonable to conclude that calling off the ambulance was a bad decision; whether Ms. Morris would have declined medical help at that time we will never know. But at least there would have been a medical professional involved to make a more fully informed assessment of Ms. Morris’ medical

condition. Officer Skala deferred to the request of Ms. Morris just to get her home and called off further intervention. We can speculate all we want and, with the benefit of hindsight, ask what if – but Officer Skala made a subjectively understandable judgment call.

It is the example of this case that underlines the purpose of Police Directives, in general, and the need for police officers to follow the guidelines in order to protect the citizens of the City of Philadelphia and to also protect themselves. Based on the evidence, we recommend that Officer Skala undergo additional training with regard to the Philadelphia Police Department Directive No. 63.

Propriety of Courtesy Ride

There is no written Police Department Directive, Rule, or Policy against so-called “courtesy rides.” The practice of giving courtesy rides has been discretionary. Officer Skala’s provision of a courtesy ride to Ms. Morris therefore was not a violation of the Philadelphia Police Department’s Directives.

Chief Inspector Tiano testified of the importance of courtesy rides and the need for officers to have discretion in providing them. Chief Inspector Tiano reasoned, and the Commission agrees, that to transport every intoxicated person to the hospital in each and every instance would strain police and hospital rescue resources, and “we would be having everybody on Friday and Saturday nights sending somebody to the hospital.” This Commission believes that providing courtesy rides is a useful and necessary tool that can in fact, if not provided, lend to more serious problems for police officers and healthcare personnel, and further enhances the perception that the Police Department is accommodating at a time when that perception may not be shared by all. The Commission believes however that the propriety of courtesy rides should be considered on a case-by-case basis and that officers must think carefully about the onus and responsibility of giving a courtesy ride before doing so. A courtesy ride may require the officer to assist the individual into their home or ensure that the individual is otherwise safe.

Based on this evidence and understanding of this incident, we recommend that the Police Department draft, issue, and implement specific *guidelines* and/or directives regarding courtesy rides, and appropriate training of officers that will assist and aid them in determining whether, and in what circumstances courtesy rides should be provided to citizens.

Propriety of the Police Investigation

There is no evidence that the Philadelphia Police Department failed to properly investigate the death of Nizah Morris. Nor is there any evidence to suggest that Ms. Morris’ status as a member of the transgender community adversely affected the police investigation into her death. The testimony as to what happened to Ms. Morris after Officer Skala gave her a courtesy ride is inconclusive. This notwithstanding, based on the record before us, the police investigation was timely and thorough. Officer Berry testified that he was interviewed at least five times by the Homicide Unit and Internal Affairs. Dr. Lieberman testified that he conducted a full examination and autopsy of the body, prepared a complete report, and provided this information to the Police Department to assist in their investigation of Ms. Morris’ death. Likewise, Internal Affairs conducted a full investigation, interviewing the individual officers and

a number of civilian witnesses. At the conclusion of its investigation, Internal Affairs concluded, among other things, that Officer Skala violated Police Directive No. 63.

Many circumstances surrounding the death of Nizah Morris remain unresolved. We, however, do not conclude, based on the evidence and information before us, that Ms. Morris' death is unresolved due to anything the Philadelphia Police Department has done or has failed to do. We do not conclude nor find, nor does the record support, that the Police Department, or any of its members, was in any way involved in the death of Ms. Morris or in a cover-up of the circumstances surrounding her death. Based on the evidence, we find no basis for any adverse recommendation as the Philadelphia Police Department's investigation and handling of this matter was fair and proper.

There has been ample speculation as to whether the Police Department released to the public and/or produced to the Commission all of the evidence and information it is required to produce pursuant to the Executive Order under which the Commission operates. The Commission has been assured by the Police Department that all evidence and information in its possession in connection with this incident and investigation has been produced to the Commission.

E. CONCLUSION

Officer Skala's decision to provide a courtesy ride to Ms. Morris instead of proceeding as a hospital case set in motion a chain of events, both resolved and unresolved. Nevertheless, the perception that Ms. Morris' tragic death was caused, in whole or in part, by the actions of the Philadelphia Police Department and/or Officer Skala is not supported by the weight of the evidence, including the testimony of independent eye witnesses. There is no evidence that points to any wrongdoing, with exception of Officer Skala resuming Rescue, by the Police Department in either their handling or investigation of the Nizah Morris incident.

In summary, the Commission concludes that: (1) Officer Skala violated Directive 63 and should receive additional training on that Directive, as well as Directive 128; (2) the Police Department should draft, issue, and implement specific *guidelines* and/or directives regarding courtesy rides, and should provide appropriate officer training to assist them in determining whether, and in what circumstances courtesy rides should be provided; and (3) based on the evidence before the Commission, we find that the Police investigation of the death of Ms. Morris, which remains open, has to this point been fair and proper.

We hope and trust that the Police Department will carefully consider the events that led to the filing of this complaint, including its lack of guidelines for courtesy rides, as it endeavors to ensure that a similar incident will never happen again.

This Opinion represents the final disposition of the Police Advisory Commission concerning the complaint of Roslyn Wilkins regarding the transporting and subsequent death of her adult daughter, Nizah Morris. The Commission endorsed the findings and recommendations as set forth in this Opinion during its regular monthly meeting held on October 30, 2007.

Pursuant to the Commission's Executive Order and established procedures, this Opinion will be hand-delivered to the Mayor, the Police Commissioner and the City's Managing Director. This Opinion also will be mailed to the Complainant on the date it is delivered to the City officials. The Police Commissioner, pursuant to the Executive Order, has thirty days from the date of delivery of the Opinion to respond to the Commission's findings and recommendations. The Opinion becomes a public document three working days after its delivery to the Mayor and the other City officials.

In re: : City of Philadelphia
: :
NIZAH MORRIS : Police Advisory Commission
: :
: Complaint No. 31279

Before:
Commissioners
James C. Crumlish III, Esq.
Ronda B. Goldfein, Esq.
Charles F. Volz Jr., Esq.

March 28, 2013

OPINION

A. PREFACE

More than ten years ago, Nizah Morris sustained a fatal head wound within minutes of riding in a Philadelphia police vehicle. Her homicide has not been solved, and the investigation into her death includes conflicting testimony between police officers, between police officers and independent witnesses, and redacted documents. Nizah Morris was a transwoman and the mysterious circumstances of her death have left Philadelphia's LGBT community fearful and marginalized.

To reassure all of Philadelphia's citizens of their right to police service, respect, and safety, we have attempted to thoughtfully and painstakingly review the matter before us. To that end, we have reviewed the extensive files of the Philadelphia Police Department ("Police"), the Philadelphia District Attorney ("D.A."), and the Philadelphia Police Advisory Commission that previously issued an advisory opinion.

We are cognizant that we are neither a law enforcement nor prosecutorial agency and that we cannot compel the D.A. or even the Police to reenergize their efforts to bring a resolution to this homicide. However, it is apparent from our review that the progress of investigations to date in this matter has been seriously impaired by both bureaucratic and defensive attitudes of many concerned. This has compelled us to forward this opinion to the Pennsylvania Attorney General and the federal Department of Justice and ask both agencies to look into the issues presented.

This Opinion is necessarily critical of the involvement by the Police, the D.A, as well as the Police Advisory Commission itself in the Nizah Morris investigation. It is important to note in the body of our Opinion, and not in a footnote, that all of these institutions have undergone significant electoral and management changes since Nizah Morris' death. Philadelphia has a new Police Commissioner, Charles H. Ramsey and District Attorney, Hon. Seth Williams. The Police Advisory Commission has undergone a complete change of all commissioners as well as a new executive director. Therefore, although our critical analysis and opinions apply on an institutional level, the change in leadership has been propitious.

B. PROCEDURAL HISTORY

This matter was previously before the Police Advisory Commission that rendered an opinion in November 2007 (“Opinion #1”). The original complaint was filed by Roslyn Wilkins regarding police interaction with her adult daughter, Nizah Morris, both before and after she suffered a fatal head injury on December 22, 2002. The Police Advisory Commission heard from witnesses over three nights of testimony and reviewed various documents including police logs and incident reports, autopsy reports, 911 transcripts, and statements received from police officers on the scene at the time of the incident. High-ranking police officers repeatedly assured the Police Advisory Commission that they had supplied the Commission with copies of “everything” concerning the Nizah Morris investigation.

In March of 2008, shortly after Opinion #1 was published, a private citizen notified the Police Advisory Commission that the Police had inexplicably misplaced/lost the entire investigative/homicide file after the D.A.’s completion of the Nizah Morris investigation.¹ Opinion #1 was almost immediately compromised by the lack of corroborative information the Commission had at its disposal. The Nizah Morris investigation had also been recognized by the Police Advisory Commission as an issue of community concern to Philadelphia’s LGBT (Lesbian, Gay, Bisexual and Transgender) community. The apparent evasion by the Police and the incomplete or “mislaidd” records caused that community to be even more justifiably skeptical. Based on the foregoing, the Police Advisory Commission decided to reopen the matter.

The Police Advisory Commission reopened its case and contacted the D.A. in March 2008 requesting records of the Nizah Morris investigation. In April 2008, the D.A.² provided copies of Police documents to the Police Advisory Commission, but refused to allow review of its internal documents, citing the Criminal History Record History Information Act (hereinafter “CHRIA”), 18 Pa.C.S. §9101 et seq. After an exchange of correspondence with the D.A., the Police Advisory Commission issued a subpoena for the D.A.’s file. As a result of negotiations between the parties, the D.A. agreed to give the Police Advisory Commission access to the D.A.’s file and the two parties entered into a “non-disclosure agreement.” The Police Advisory Commission’s counsel and executive director reviewed the files, but no further action was taken.

In the Spring and Fall of 2010, the Police Advisory Commission was reconstituted with new commissioners. The issue of the unresolved Nizah Morris investigation was brought to the new commissioners’ attentions, whereupon it was quickly determined that the Police Advisory Commission could not effectively report back to the community if bound by a nondisclosure agreement from referencing relevant documents. The Police Advisory Commission sought access to the entire D.A.’s file from the newly elected D.A., Hon. Seth Williams. Despite some initial reluctance, the D.A. relented and permitted the Commission to review its entire file.³

¹ The Police Advisory Commission was notified by special counsel to the Police Commissioner on January 24, 2011 that the Nizah Morris homicide file was located in the Archives Unit, after being missing for eight (8) years.

² Hon. Lynne Abraham was District Attorney in 2008.

³ Seth Williams had given assurances to the LGBT community during this District Attorney campaign that he would divulge the entire Morris investigative file. See, Letter to Editor, written by Seth Williams Esq., Phila. Gay News, 12/5/08-12/11/08: “Given the known details of this untimely loss, the interest of commission members is understandable, justifiable and appropriate. They deserve the fullest transparency and cooperation from the District Attorney’s office, if for no other reason than they are taxpayers and citizens. . .”

This Opinion is the result of the review of the relevant documents provided by the D.A. The timeline of the Nizah Morris investigation is attached as Exhibit “A.”

C. FACTUAL PREDICATES

In the early morning hours of December 22, 2002, P/O Elizabeth Skala responded to a 911 emergency call at the Key West Bar and Grille, 207 S. Juniper Street, Philadelphia. Along with several individuals, she placed an apparently inebriated Nizah Morris in the rear of her patrol vehicle and provided a ride to drop her off at 15th and Walnut Streets.⁴ Within minutes, Nizah Morris was found unconscious at 16th and Walnut Streets. It was later determined that Ms. Morris had sustained serious physical injuries to her head. Emergency medical personnel transported her to Thomas Jefferson University Hospital where she died as a result of those injuries two days later. We incorporate by reference the extensive “Summary of Relevant Facts” set forth in Opinion #1.⁵

Following its investigation into Nizah Morris’ death, the Internal Affairs Division of the Police sustained a charge against P/O Skala for violating Police Directive #63 (Hospital Cases), stating: “she (Skala) should have considered the assignment of the hospital case as an emergency and allowed medical professionals to assess Ms. Morris’ condition.” Internal Affairs also found that Ms. Morris was in a semi-conscious state as defined in Police Directive #128 (Intoxicated Persons in Police Custody) which states “Persons found in a semi-conscious or unconscious condition *will* be transported to the nearest hospital for medical evaluation.” Internal Affairs did not recommend punishment beyond a verbal reprimand.

D. AUTHORITY OF THE POLICE ADVISORY COMMISSION

The Police Advisory Commission is limited in its power to make recommendations by Executive Order 8-93. Section 4(a) states:

“The Commission shall advise the Managing Director and the Police Commissioner on policies and actions of the Police Department with the purpose of improving the ability of police personnel to carry out their duties, and to improve the relationship between the Police Department and the community.”

Section 4(f)(2) further states:

“The Commission shall have the power to recommend that the Managing Director and Police Commissioner take certain actions. The Commission may

⁴ Opinion #1 incorrectly stated that P/O Skala informed police radio that she was providing a “courtesy ride.” P/O Skala called the police dispatcher and said: “You can resume rescue. She’s just a DK. I’m gonna drop her off over at 15th and Walnut.” She never used the term ‘courtesy ride.’ It is important to note that P/O Skala did not obtain permission from a supervisor over police radio prior to canceling the medic and giving Morris the ride. Whether P/O Skala ever got permission for the ride itself is an entirely different matter, as is the occurrence of a disputed cell phone call. Both will be dealt with subsequently.

⁵ Opinion #1 made a factual error on page 3 when it reported that P/O Skala “called Central Detectives and informed them of the possible aggravated assault” after viewing Nizah Morris at Jefferson Hospital. P/O Skala admitted in her interview with the D.A. that P/O Kenneth Novak made the contact. This further underscores the concern that the Police attempted to hide any reference to a “courtesy ride.” There are several other problems with Opinion #1, and these will be addressed subsequently.

recommend general reforms (such as changes in training, changes in the preservation of records) . . . however, the Managing Director and the Police Commissioner shall retain full and ultimate authority, power, discretion, management prerogatives, and responsibility to set disciplinary policies or take other lawful actions they deem appropriate relative to the Police Department under the provisions of the Philadelphia Home Rule Charter. . . .”

We are cognizant of the focused nature of our authority and power, but the magnitude of the mismanagement of the Nizah Morris homicide is staggering. We can, and are, issuing a series of recommendations herein to the Police⁶ as it is clearly within our jurisdiction to do so. We are also critical of the Police Advisory Commission’s involvement in this matter and we will categorize the changes that have been put in place so that the errors are not repeated.

We will be making a recommendation as to renewed investigations of the Nizah Morris homicide. This is not an express function of the Police Advisory Commission, but it is well within the rights of an informed citizenry to seek redress from alternate criminal justice agencies if the need arises. We find such a need in the Nizah Morris investigation. We are reminded by the words often attributed to Abraham Lincoln that are actually from a temperance address of the Reverend James Smith, Abraham Lincoln’s friend and minister at the First Presbyterian Church in Springfield, Illinois: “To sin by silence when they should protest makes cowards of men.”

E. POLICE ADVISORY COMMISSION INVOLVEMENT

It would be an understatement to say that the Police Advisory Commission issued Opinion #1 relying on incomplete records. We believe that the presently constituted Police Advisory Commission has now been given access to a more complete record of the Nizah Morris investigation, but prudence dictates that we not deem it a review of the complete record as the Police file was “lost” for eight [8] years. Once the file was found in the archives, the Police Advisory Commission commenced a long and involved negotiation with the D.A. office before we were permitted to review its file. Citizen involvement has uncovered many troubling discrepancies in the records.⁷ We have no way of ascertaining exactly what records formed the basis of Opinion #1 because, as not only were the records not identified, the Police Advisory Commission entered into a nondisclosure agreement in 2008 with the Philadelphia District Attorney as to those records. We do not know which of the 2008 Commissioners actually reviewed those records even though many names were signatories to Opinion #1.

We can report that the records now before the Police Advisory Commission, and made a part of this Opinion, are attached as Exhibit “B.” We can also report, with frustration, that the Police Advisory Commission has yet to receive all requested information. For instance, the Police have not provided to

⁶ The Police did not respond to the Commission recommendations in Opinion #1, notwithstanding the fact that the opinion was hand delivered to the Police Commissioner Sylvester Johnson on November 2, 2007. Executive Order 8-93 requires the Police Commissioner to respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications. Executive Order 8-93, Section 4(f)(3). We will therefore reissue the recommendations from Opinion #1 we consider appropriate.

⁷ The Commission wishes to acknowledge Timothy Cwiek for his dogged pursuit of the facts in the Nizah Morris investigation. Eternal vigilance might not only be the price of liberty but may also be the price of justice.

the Police Advisory Commission the information in the lawsuit brought by Nizah Morris' mother, Roslyn Wilkins (Civil Action 03-5209, Roslyn Wilkins vs. City of Philadelphia, United States District Court for the Eastern District of Pennsylvania). Those items are attached as Exhibit "C." The missing evidence is of great concern to the Commission and should be to the citizens of Philadelphia.

We note that the Police Advisory Commission is not a "Criminal Justice Agency" within the meaning of CHRIA, and we are not legally permitted to divulge the contents of confidential police information; furthermore, we are limited by Executive Order 8-93 (5)(b) which states : "The Commission and its members shall not make public any confidential police document, or information derived from any such confidential police document." This does **not** mean that the Police Advisory Commission cannot report on the documents on which we base our recommendations.

The nondisclosure agreement the 2008 Police Advisory Commission entered into with the D.A. undermines our effectiveness and credibility as a civilian oversight board and compromises the openness and transparency that is our *raison d'être*. As the current Police Advisory Commission refused to enter into such an agreement prior to obtaining access to the D.A. records on the Nizah Morris investigation, we are not restricted in our ability to cite, quote or describe the documents.

F. FINDINGS

(1) P/O Skala's cell phone call

This issue has been placed before the Commission because of the conflicting testimony whether P/O Skala used her cell phone to call her direct supervisor, Sgt. Michael Dougherty. P/O Skala has been questioned five [5] times about the Nizah Morris "courtesy ride."⁸ She has consistently denied asking for permission for the ride because it was unnecessary for her to do so. P/O Skala never mentioned calling Sgt. Dougherty on her cell. Sgt. Dougherty was questioned on 9/5/2003 and plainly stated that P/O Skala called him on her cell phone and asked permission, which he granted. At this late date, the Commission cannot determine whose testimony to believe. We don't even know who to fault in not trying to determine if a cell phone call occurred.

The Commission did not have access to Sgt. Dougherty's statement or P/O Skala's statement of 8/6/2003 until the D.A. provided its Nizah Morris file in 2011. It was only then we discovered that a cell phone call might have been made to Sgt. Dougherty and it was entirely too late in the process to question P/O Skala a sixth time. Why the D.A.'s office did not pursue this matter is problematic. It may also be the failure of the Police Advisory Commission to note this inconsistency upon viewing the D.A.'s file pursuant to the nondisclosure agreement in 2008. Why the Commission failed to follow up this inconsistency is also problematic. This is a crucial piece of information which should have been properly vetted by the D.A., the Police, or the Commission. Suffice it to say that this investigation is not complete and that the homicide of a citizen of Philadelphia remains unsolved.

(2) Redacted 75-48

The original 75-48 prepared by P/O Berry was redacted by either the police or the D.A. before it was submitted to the Commission in order to give the impression that there was no confusion about Nizah Morris' gender the morning of the incident. The original 75-48 had an "F" as well as an "M" for the sex of the complainant. The original report gave the complainant's name as "Jane Doe (John

⁸ 1/3/2003, 4/16/2003, 8/6/2003, 11/12/04, 12/14/2004

Doe).” The original report had an Investigation Control No. All three items were removed from the 75-48 given to the Commission. Copies of the 75-48’s are attached as Exhibits “D” and “E” with the redacted information circled. It is certainly problematic that the Police and/or D.A. were not forthcoming about giving official police documents to the Commission. It certainly exemplifies the subterfuge concerning the Nizah Morris investigatory material and why we are compelled to forward our opinion to other criminal investigation agencies.

(3) Conflicting witness testimony

We would be remiss if we did not mention that P/O Skala’s testimony clearly contradicts all other testimony in this matter. We previously mentioned the disputed cell phone call putting her directly in conflict with her supervisor, Sgt. Dougherty. Her testimony regarding the condition of Nizah Morris when she responded to the 911 call directly contradicts the testimony of four civilian witnesses: Maria Reilly, Kate McCusker, Trisha Stryjewski and Paul Gisondi. This led the Police Advisory Commission’s investigator to conclude “P/O Skala blatantly and methodically provided a false statement in reference to how Ms. Morris entered her vehicle without assistance from any civilians. It is the opinion of this investigator that she also provided a false statement when she indicated that Ms. Morris was able to navigate on her own when she dropped her off at 16th and Walnut Sts.”⁹

Maria Reilly, Kate McCusker, Trisha Stryjewski and Paul Gisondi were independent witnesses. We agree with the conclusion of the Police Advisory Commission’s investigator that “they had nothing to gain by giving their accounts of the incident,” to wit, Nizah Morris was on the ground, that she had to be helped to her feet, that she kept falling, and that several of them assisted P/O Skala placing her into the police vehicle. P/O Skala vigorously denies all this testimony. Had P/O Skala indicated that civilians assisted her in getting Nizah Morris into the vehicle, it would further call into question not only why, but how she exited the vehicle once it arrived at 15th and Walnut.¹⁰

G. RECOMMENDATIONS TO THE POLICE ADVISORY COMMISSION

Recommendation 1: The Police Advisory Commission shall not enter into any non-disclosure agreement with a criminal justice agency which will prevent us from discussing or divulging items reviewed and relied upon to base our opinions. We have amended Article 3 of our Internal Operating Procedures to read: “THIRD PARTY AGREEMENTS: No panel, public hearing panel, committee, or individual Commissioner is authorized to enter into any third party agreement without prior disclosure and consent of ¾ of the Commission.”¹¹ There should never be a subsequent nondisclosure agreement save in the most critical of situations.

Recommendation 2: All Police Advisory Commission opinions are to be dated and include as a final footnote the date upon which the opinion was submitted and approved by the entire Commis-

⁹ Wellington Stubbs Memorandum, 3/22/2005, p.10.

¹⁰ Opinion #1, for reasons unknown, did not address these inconsistencies, notwithstanding the fact that the credibility of the witnesses was directly before the Commission.

¹¹ Police Advisory Commission Internal Operating Procedures, Article 3(G), adopted January 17, 2011.

sion.¹² It took this Commission a considerable time to determine the date of Opinion #1.

Recommendation 3: All Police Advisory Commission opinions are to include as an exhibit a compilation of relevant evidence relied on by the Commission.¹³ The public deserves to know upon which evidence the Commission is making its decision, or, regrettably as in the Nizah Morris opinion, what evidence was missing or withheld.

Recommendation 4: Pursuant to Executive Order 8-93, all opinions are to be personally hand delivered to the Mayor, the Managing Director and the Police Commissioner and by mailing a copy to the complainant. All opinions become public documents available for general release three days after said delivery.¹⁴ The Executive Order merely provides that the opinions are to be “provided.” Current practice is to hand deliver opinions to the Mayor, Managing Director, and Police Commissioner, and we think that practice should be institutionalized.

Recommendation 5: Once an opinion becomes a public document, it is to be posted on the Police Advisory Commission website as well as the answer thereto received from the Police. If no response is received from the Police within thirty (30) days, the Police Advisory Commission will remind the Police Commissioner, in writing, that a response has not been received. If a response is not received, the Police Advisory Commission will so note on its website.¹⁵ The fact that Opinion #1, as defective as it might have been, has not been answered by the Police is not acceptable.

Recommendation 6: If conflicting testimony is given before the Police Advisory Commission, a determination of credibility must be made. Opinion #1 recounts the testimony of P/O Skala as well as the conflicting testimony of Paul Brennan, Maria Reilly, and Trisha Stryjewski, yet makes no decision on credibility.

H. RECOMMENDATIONS TO THE POLICE DEPARTMENT

As noted in Footnote 6, the Police failed to respond to the Police Advisory Commission’s recommendations in Opinion #1. We reference recommendations in Part “D” of Opinion #1, labeled “Discussion,” which consisted of three parts: (1) Resuming¹⁶ of Hospital case, (2) Propriety of Courtesy Ride, and (3) Propriety of the Police Investigation as well as a “Conclusion.” This Opinion will restate the recommendations from Opinion #1 it considers pertinent.

Recommendation 7: Police officers should never make a determination to cancel a hospital case and Directive #63 needs to be rewritten to make that prohibition clear. Police Directive #63 is not discretionary, but mandatory. Directive #63 is attached hereto as Exhibit “F.” According to Chief

¹² Ibid, Article 6(R), adopted March 18, 2013

¹³ Ibid, Article 6 (Q), adopted March 18, 2013

¹⁴ Executive Order 8-93, Section 3(b).

¹⁵ Ibid, Article 6 (Q).

¹⁶ “Resuming” a hospital case means the cancelation of a call for emergency medical assistance; i.e., it can “resume” its ready status for other emergency calls. For the sake of clarity we refer to this practice as “cancelling.”

Inspector Tiano, who testified before the Police Advisory Commission, hospital cases should only be resumed by medically competent persons and police officers should **never** individually make the determination. Given the nature of the 911 call, P/O Skala's unilateral cancelling of the emergency medical personnel and an assisting officer was a direct violation of Directive #63. This case underscores the purpose of Police Directives in general. Police officers need to follow the guidelines in order to protect the citizens of Philadelphia and to protect themselves.

Recommendation 8: The Police need to adopt a specific written Directive regulating "courtesy rides." There is no written Police Directive, Rule or Policy against so-called "courtesy rides" as that practice has been discretionary with the individual police officer. Opinion #1 recommended that specific guidelines be instituted which would aid the individual officers to determine whether, or in what circumstances, and under what supervision, courtesy rides should be provided to citizens. A formally promulgated regulation of courtesy rides can only help the speed of police response and relieve some of the strain on the limited resources of the Police.¹⁷

Recommendation 9: The Police need to adopt a specific written Directive restricting or regulating the use of private cell phones for official business. There is no written Police Directive, Rule or Policy against the use of private cell phones by on-duty police officers for "official business," although it is mentioned peripherally in Directive 59 (Bomb Scares Explosive Devices).

We may never know if the cell phone call was made from P/O Skala to Sgt. Dougherty, but we can state that an open and transparent record for police activity is crucial and the Police Advisory Commission believes that is best accomplished by calls to, from, and through Police Radio or department issued equipment. An "off-the-record" cell phone call pertaining to official police business undermines the credibility and transparency of the police department and frustrates management oversight. The use of private cell phones must be regulated and an appropriate directive should be issued so that individual police officers understand clear and precise parameters on when they can use a cell phone for official business.

This is not an issue unique to the Nizah Morris investigation as the Police Advisory Commission has seen several issues of private cell phone use in other cases while working with Internal Affairs. We understand that the police radio system has many dead spots and frequent outages and that the Police have been trying to correct this for years. The result is that private cell phone use for police business is tolerated when Police Radio is down, but that was **not** the case in the Nizah Morris investigation. It should not happen again.

Recommendation 10: The Police need to implement a sexual orientation/diversity training course as part of police academy training. The core training for Philadelphia police academy cadets is set forth pursuant to "Act 120," Municipal Police Education and Training, 53 Pa.C.S. §2161 et seq., which established the Municipal Police Officers Education and Training Commission. Basic course re-

¹⁷ We also note the growing and indiscriminate use and amorphous understanding of the police and citizens of the use of 911 calls has evolved from the original "stop and save a life" standard to the present burdening of the emergency response system with a "catch all" request for municipal services. The strain of adding these more general requests compounds the difficult and critical assessment of true emergency response situations. We suggest a more thorough and coordinated reevaluation of the police department understanding and use of police resources for nonemergency services that may be efficiently diverted to a more structured civilian response such as a 24 hour based "311" system.

quirements are described at 37 Pa. Code §203.51. These basic course requirements cover 16 specific topics, one of which is human relations skills.¹⁸ The treatment of Nizah Morris and the appalling “investigation” into her homicide, as well as police interaction with other members of the LGBT community, clearly demonstrates that the police require more diversity training in their academy training. Area 10 of the Municipal Police Officer’s Education and Training Commission curriculum, “Human Relations,” currently consists of 24 hours in the following areas: perceptions of human behavior, communications, cultural diversity, and suicide/hostage situations. The Philadelphia Police Department has attempted to bolster this area with a 60 minute seminar with members of the LGBT community after the cadets have already completed their course requirements. The Police Advisory Commission finds this will not develop the human relations skills appropriate to dealing with a sizeable portion of Philadelphia citizenry.

One of the first community meetings of the reconstituted Police Advisory Commission in January, 2011, was at the William Way Community Center and we heard serious concerns voiced by the LGBT community. We heard from civic and community leaders that, although the upper echelons of the Police acted appropriately to members of the LGBT community, that did not permeate to the rank and file. The Nizah Morris matter was not handled appropriately, nor investigated appropriately, due, in part, we believe, because she was a transwoman. At least one investigative report in the Nizah Morris file mentions P/O Skala as acting inappropriately to, and saying demeaning things to, members of the transgender community.¹⁹

For purposes of the diversity training issue, the redacted 75-48 underscores that the Police don’t know how to handle a transgender, and they sought to cover up their mishandling. The Nizah Morris incident happened over 10 years ago and the Police Advisory Commission would like to believe some maturation has occurred in the police ranks; however, a recent police report referred to Kyra Cordova, a transwoman, as a “man in women’s clothing.”²⁰ Obviously, the problems continue.

Attached as Exhibit “G” is a pamphlet entitled “Sexual Orientation Training Course for Law Enforcement” prepared by the Commission on Peace Officer Standards and Training, State of California, October, 1992, which sets forth a 12 hour sexual diversity program for police officers. The Commission believes a similar 12 hours of education should be added to the current 24 hours of training in Area 10, “Human Relations.” This is necessary for police cadets to improve the human relation skills that a modern police force has to implement. It should also be used with existing police officers reporting for additional training. Furthermore, the Commission will refer this Opinion, its recommendations, and the Sexual Orientation Training Course material to the Municipal Police Education and Training Commission and urge that it be added to 37 Pa. Code §205.51 and implemented statewide.

Recommendation 11: The Police practice of progressive discipline prevents the Police Advisory Commission from recommending an adequate punishment for P/O Skala. The Police Advisory Commission will not add further injustice to the litany of Nizah Morris injustices by recommending more appropriate punishment to P/O Skala given the ten year lapse of time and her subsequent service to the department. It is particularly disconcerting that Internal Affairs sustained a charge against P/O

¹⁸ 37 Pa. Code §203.51(b)(7)

¹⁹Deja Alvarez, Investigative Interview Record, Philadelphia Police Department Homicide Division, Philadelphia District Attorney’s Office, 4/24/03

²⁰ Trans woman shot to death,” Phila. Gay News, 9/7/12-9/13/12; “Tragedy compounded by insensitivity,” Phila. Gay News, 9/14/12-9/20/12.

Skala for violating Police Directive #63 (Hospital Cases) as well as Directive 128, which led, directly or indirectly, to the death of Nizah Morris, but only recommended a verbal reprimand.²¹ It seems equally ludicrous that Opinion #1 found “Internal Affairs’ verbal reprimand did not sufficiently emphasize the importance of following police directives and adhering to guidelines”²² yet the Police Advisory Commission took no stronger action than to recommend P/O Skala “undergo additional training with regard to the Philadelphia Police Department Directive No. 63.”²³ To restate this in the vernacular: “Now we really mean it. Study what you should already know and don’t do it again.”

P/O Skala’s failure to follow the clear and unambiguous Police directives concerning hospital cases led to the death of a citizen who she has taken an oath to preserve, protect and defend; however, the progressive discipline approach employed by the Police cannot adequately or appropriately punish her for her transgressions. The Police Advisory Commission believes that justice can only be achieved by a further review of the Nizah Morris matter by an agency other than the Police.

I. REQUIREMENT OF FURTHER INVESTIGATION

The Police Advisory Commission believes it has addressed those items that can be corrected on the local level. We have taken appropriate steps to guarantee more efficient and transparent Police Advisory Commission involvement in the future. We have spoken of the obstacles placed in our way by the D.A.’s office and hope that the new administration will continue to deal with the Police Advisory Commission in a more open and, once again, transparent manner. We have made a series of recommendations to the Police with respect to Directive 63 (Hospital Cases), the regulation of “courtesy rides,” the regulation of private cell phones for official business, and the implementation of adequate diversity training. The Police Advisory Commission also hopes that it has seen the last of redacted records. The citizens of Philadelphia deserve an open and transparent resolution of Police issues and have every right to expect that the agencies they support with their taxes cooperate fully and efficiently. Although the Nizah Morris investigation is voluminous, it is neither efficient nor complete.

The Police Advisory Commission will also be forwarding a copy of this Opinion to the Municipal Police Officers Education and Training Commission to encourage a statewide implementation of adequate diversity training. Surely the notion that the LGBT community is confined to major metropolitan areas is outdated. We are certain that statewide law enforcement personnel can benefit from additional training in this area.

We started this opinion with a quotation from the Reverend James Smith and find it only fitting to end with one from the great Edmund Burke who said “All that is necessary for the triumph of evil is that good men do nothing.” The Police Advisory Commission cannot solve the tragic homicide of Nizah Morris; however, it can highlight the systematic flaws in the investigation by the Commission, the Police, and the D.A. Police records were “lost” for 8 years.²⁴ Records were redacted or altered. Police procedures with respect to hospital cases and intoxicated persons were not followed. Police proce-

²¹ “Verbal” applies to things that are put into words, whether written or spoken, while “oral” pertains to the mouth, to medications taken by mouth, and to things that are spoken. We assume that the Police issued an oral reprimand to P/O Skala.

²² Opinion #1, page 7.

²³ Opinion #1, page 8.

²⁴ We wish to commend Commissioner Charles Ramsey for his forthrightness in responding to our requests, diligently searching for and finding the records and reporting it to the public as well as the Commission.

dures regarding record keeping and the logging of information were not followed. Official police business may have been conducted on private cell phones and therefore “off-the-record.” Discrepancies in records were not followed up. Records are still missing. And the testimony is so inconsistent that we believe perjury might have been committed.

These are the problems that we **know**. What we **do not know** may be more problematic. The Police Advisory Commission cannot state with certitude if this was a purposeful course of activity to obfuscate the facts of the Nizah Morris homicide, or just simple human error. The Police Advisory Commission cannot state with certitude if there was a purposeful course of activity to erase the existence of the “courtesy ride.” We have reached our procedural and legal limitations. **We therefore intend to forward a copy of this advisory opinion to both the Pennsylvania Attorney General and the federal Department of Justice, and urge both agencies to review the facts and the Police Department’s investigation in the Nizah Morris homicide.** The passage of time may well prove fatal to any realistic investigation, but that does not mean it should not be attempted lest we fulfill the ominous prediction of Edmund Burke.

*This Opinion constitutes the final disposition of the complaint of Roslyn Wilkins following the full Police Advisory Commission’s review of the report and recommendation of the Panel.*²⁵

²⁵ The final draft of this Opinion was submitted to and approval by the Commission on April 1, 2013. Pursuant to Executive Order No. 8-93, this Opinion was personally delivered to the Mayor, the Managing Director and the Police Commissioner. The Opinion became a public document available for general release three business days after such delivery. A copy of this Opinion was mailed to Roselyn Wilkins the same day that it was delivered to the Mayor, Managing Director and the Police Commissioner.

NIZAH MORRIS INVESTIGATION TIMELINE

<u>DATE</u>	<u>EVENT</u>
December 22, 2002	Nizah Morris found on the street with a fatal head wound 20 minutes after riding in a Philadelphia police vehicle
April 10, 2003	Police Advisory Commission votes to investigate police actions connected with Nizah Morris' death
May 30, 2003	Roslyn Wilkins (Nizah Morris' mother) files formal complaint with Police Advisory Commission
September 16, 2003	Roslyn Wilkins files civil action in federal court
June 26, 2004	Civil action settled for \$250,000
December 5-7, 2006	Police Advisory Commission convenes hearing on Wilkins' complaint
November 2, 2007	Police Advisory Commission issues Opinion #1
November, 2007	Police Advisory Commission is notified shortly after publishing Opinion #1 that the opinion is based on incomplete files
March, 2008	Police Advisory Commission votes to reopen Nizah Morris' investigation
March 27, 2008	Police Advisory Commission subpoenas records of investigation from D.A. Lynn Abraham
November 2008	Police Advisory Commission agrees to a Non-Disclosure Agreement with the D.A. as a condition of reviewing the file
Spring & Fall, 2010	Police Advisory Commission reconstituted with new commissioners
January 2011	Reconstituted Police Advisory Commission votes to review records again
January 2011	Homicide file located in City Hall Archives
November 22, 2011	Police Advisory Commission reviews District Attorney's file
March 31, 2012	Police Advisory Commission issues Opinion

RECORDS REVIEWED

Original PAC materials

1. Completed Investigation Summary Form
2. Original Complaint
3. Citizen's Complaint/Report
4. Commission Interviews
 - David Brennan (date unknown)
 - Paul Gisondi (phone interview 12/13/04)
 - P/O Kenneth Novak, Badge#2168 (3/15/05)
5. Commission Documents
 - Drawing of accident as viewed by David Brennan
 - Photos of area where Nizah Morris was picked up and dropped off
 - Death Certificate of Nizah Morris
 - Medical File of Nizah Morris
 - Typed transcript of police recording of 12/22/02 (supplied by Phila. Gay News)
 - PPD Directive 63
 - PPD Directive 128
 - PPD C.A.D. Reports
 - PPD Assignment logs
 - PPD 75-48's (Complaint/Incident Report)
6. Interviews Relied on by I.A.D.
 - P/O Elizabeth Scala, badge #2409 (1/3/03, D.A.'s Office)
 - P/O Elizabeth Scala, (12/14/04)
 - P/O Kenneth Novak, badge #2168 (4/11/03, D.A.'s Office)
 - P/O Kenneth Novak (9/8/04)
 - P/O Kenneth Novak (1/13/05)
 - P/O Thomas Berry, badge #2507 (1/15/03, D.A.'s Office)
 - P/O Thomas Berry (4/15/03)
7. Lt. Michael Craighead's Investigative Report, Interview
 - Maria Reilly (1/22/03)
 - Trisha Stryjewski (1/22/03)
 - Kate McCusker (1/22/03)
 - P/O Elizabeth Skala (11/12/04)
8. Police Documents
 - 75-48 written by P/O Berry
 - P/O Berry's Patrol Activity Log of 12/22/02)
 - P/O Novak's Patrol Activity Log of 12/22/02
 - P/O Skala's Patrol Activity Log of 12/22/02
 - Incident History Printout for DC#02-06-076368
 - C.A.D. Report for DC#02-06-076368 (one entry appears redacted)
9. PPD Documents provided by District Attorney's Office 4/11/08
 - Homicide Division Special Assignment Memorandum

Activity Sheets (6 pages)
 William E. Jackson, statement (9 pages)
 James C. Tolbert III, statement (4 pages)
 Michael Goodnell, statement (5 pages)
 David Fattah Jr., statement (2 pages)
 Paul Gisondi, statement (2 pages)
 Oscar Padilla, statement (3 pages)
 Natalie Nuzzi, statement (3 pages)
 Trisha Stryjewski, statement (4 pages)
 Renee Denenberg, statement (3 pages)
 Maria Reilly, statement (4 pages)
 Kate McCusker, statement (4 pages)
 Melinda Garcia, statement (3 pages)
 Correspondence from Timothy Cwiek to Commissioner Sylvester Johnson (1/27/03)
 (1 page)
 Correspondence from Timothy Cwiek to Capt. Thomas Lippo (2/6/03) (1 page)
 Court History of Robert Morris (13 pages)
 Report of Autopsy and Toxicology Report, Office of Medical Examiner (5 pages)
 Report of Autopsy and Neuropathology Report, Office of the Medical Examiner (5 pages)
 Officer of the Medical examiner (1 page)
 P/O Elizabeth Skala, badge # 2409, statement (2 pages)
 P/O Kenneth Novak, badge #2168, statement (1 page)
 P/O Tom Berry, badge #2507 (3 pages)
 Complaint/Incident Report, Form 75-48 (1 page)
 Internal Investigation, IAD #02-1050 Memorandum (11 pages)
 Patrol Activity Log (2 pages)
 Dispatch/Police Radio Printout (1/9/03) (1 page)
 Incident History Detail Report (3 pages)
 Dispatch/Police Radio Printout (1 page)
 Incident transmittal Inquiry Report (1 page)
 75-48 Inquiry Screen (Printout (1 page)
 Dispatch Fire Radio Printout (4/15/03) (1 page)
 Dispatch Fire Radio Printout (1 page)

10. Documents received from the District Attorney's Office 11/22/11
 (Only those documents *in addition to* the above-listed documents are listed)
 - Investigation Interview Records (PPD Homicide Division)
 - Joy Adams (5/21/03), Deja Alvarez (4/24/03)
 - P/O Thomas Berry (1/15/03, 4/15/03, 8/8/03)
 - David Brennan (4/17/03), Meghann Carey (5/12/03)
 - Daniel Coll (10/16/03), Keith Collins (5/1/03)
 - Renee Denenbery (5/14/03), Sgt. Michael Dougherty (9/5/03)
 - David Fattah (4/29/03), Aneesa Ferreira (5/15/03)
 - Troy Fiall (4/28/03)
 - Melinda Garcia (5/2/03)

Kendric Gary, EMT (6/30/03)
Paul Gisondi (5/20/03)
Teresa Height, EMT (4/9/03)
Christopher Ingram (4/30/03)
William Jackson (4/16/03, 5/30/03)
David Kumpf (5/14/03)
Janice Marsh (5/20/03)
Steve McCarthy (4/9/02)
Kathleen Mc Cusker (5/12/03)
Alvin Melton (5/13/03)
P/O Kenneth Novak (4/11/03, 8/8/03)
Natalie Nozzi (5/8/03)
Oscar Padilla (4/15/03)
Diane Pellecchia, EMT (6/30/03)
Maria Reilly (5/8/03)
Mark Rombol (5/15/03)
P/O Elizabeth Skala (1/3/03, 4/16/03, 8/6/03)
Kenneth Smith (xx)
Trisha Stryjewski (5/8/03)
Cynthia Thompson (5/1/03)
Andria Thomas (6/30/03)
Tina Williams (4/21/03)
Activity Sheets (Detectives)
12/26/02 #3 Platoon
12/28/02 Det. Myles
12/29/02 Det. Myles
12/31/02 Det. Myles
1/22/03 Det. Bell
Unredacted 75-48 by P/O Berry

11. Materials received from Timothy Cwiek

One hundred plus (100+) transmissions from Philadelphia's 911 call center
Patrol-activity logs filled out by the three officers involved in the Morris incident
Phone messages left on Nizah Morris' answering machine by Jefferson Hospital
personnel
Officer Berry's original 75-48 (before redaction)
Municipal Defendants' Initial Disclosures Pursuant to Rule 26(a)
Roslyn Wilkins v. City of Philadelphia, Civil Action No, 03-5209,
United State District Court for the Eastern District of Pennsylvania
P/O Skala's Answer to Interrogatories (see above)
C.A.D. (Computer Aided Dispatch) re: Morris Investigation (redacted)
Search Warrants:
108806 PNC, 1511 Walnut Street
108807 Fleet, 1428 Walnut Street
108808 Hudson, 1607 Walnut Street

RECORDS NOT REVIEWED, MISSING, LOST

Interviews:

Avia Albaladejo
Finesse Ashford
Ed Burkhardt (Yellow Cab)
Daniel Caldwell
Janet Carrasquillo
Denise Cohen
James Cole
Dennis Flynn
Thomas Gorman
Valerie Grenader (Phila. Coach)
Kelly Harper
Anthony Hill
James LeRoux
William Lucas
Rodney Matthews
Charles Myers
Belinda Roberts
P/O Keith Rollins
Samuel Regalbuto
Bassan Salahelden (Millenium)
Jasani Sincere
Andrea Thomas (Victory Cab)
Cynthia Thompson (SEPTA)
Shelton West
Roselyn Wilkins
Reassan Zeno

PIC Taxi Information, Pa. Public Utility Commission

New Look

Monthly Dues
Photos of taxi drivers

Yellow Cab Utility Names and Addresses

Phila. Police Property Receipts

Radio Tapes

Cassette tapes of police-radio recordings, December 22, 2002
December 31, 2002 Radio Tapes and Transmittals

Search Warrants

108810 Phila. Police Radio Room 911 system
108809, 1632 Walnut Street
108816 AT&T Wireless Cell Phone Records

Taxi Information, copies of downloaded information on taxi cabs

1400 and 1500 block of Walnut Street business area
list of trash bins
list of businesses on 1400 block of Walnut Street
list of businesses on 1500 block of Walnut Street
Thomas Jefferson Hospital receipts for jewelry
Time Elapsed Videotapes
Fleet Bank #108807
PNC Bank #108806
Hudson Band, four videotapes

PHILADELPHIA POLICE DEPARTMENT
COMPLAINT OR INCIDENT REPORT

YEAR 02	DIST. OCC. 09	D.C. NO. 6157	SECT. D	DIST. 9	VEH. NO. 96	REPORT DATE 12-22-02
CRIME OR INCIDENT CLASSIFICATION H/C			CODE 3016	TIME OUT 335	TIME IN P	A P
LOCATION OF OCCURRENCE 16th Walnut					<input type="checkbox"/> IN <input checked="" type="checkbox"/> OUT TYPE OF PREM. 53	
DATE OF OCCUR. 12-22-02	DAY CODE 7	TIME OF OCCUR. 330	NATURE OF INJURY CUT on head			
COMPLAINANT JANE DOE (JOHN DOE)			AGE B	RACE E	SEX M	PHONE (HOME) N/A
ADDRESS UNKNOWN			PHONE (BUSINESS)			
FOUND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	REPORT TO FOLLOW <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Close Out		UNIT	CODE	INV. CONT. NO. 15365	
WITNESS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	TRACEABLE PROP. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	OTHER EVIDENCE <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable) Sight / Hapt. Case Above Compl. was found laying on the side of the Highway at above location by below witness. Female poss DK. Transp. to JEFF Hosp. by Med F. Compl. appeared to be a Transsexual Female & had no ID.						
WITNESS William Jackson	ADDRESS 7-21-67	PHONE NO. 610-583-8201		OFFENDER INFORMATION		
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP. CODE	INSURED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	STOLEN VALUE \$	
VEHICLE 1 - OWNER'S NAME			VEHICLE 2 - OWNER'S NAME			
VEHICLE 1 - OPERATOR'S NAME			VEHICLE 2 - OPERATOR'S NAME			
WANTED/STOLEN MESSAGE SENT Serial No. Date		DIST. UNIT TERMINAL	RECEIPT NO.	SENT BY		
REPORT PREPARED BY Nery 238513		NO. 2507	DIST. UNIT PAGES 9	TOTAL NO.	PAGE 1	
REVIEWED BY [Signature]		NO. 444	DIST. UNIT	REFERENCE DATE 09	GEN. NO.	
PURSUANT TO ACT 155 OF 1992, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION OF VICTIM SERVICES FORM.						

75-43 (Rev. 8/94)

PHILADELPHIA POLICE DEPARTMENT

COMPLAINT OR INCIDENT REPORT

YEAR 02	DIST./ACC. 09	D.C. NO. 61157	SECT. D	DIST. 9	VEH. NO. 96	REPORT DATE 12-22-02
CRIME OR INCIDENT CLASSIFICATION HIC			CODE 3016	TIME OUT 335	TIME IN P	A F
LOCATION OF OCCURRENCE 16+ Walnut				<input type="checkbox"/> IN <input checked="" type="checkbox"/> OUT TYPE OF PREM. 53		
DATE OF OCCUR. 12-22-02	DAY CODE 7	TIME OF OCCUR. 330	NATURE OF INJURY (A) P CUT ON HEAD			
COMPLAINANT JANE DOE			AGE	RACE B	SEX F	PHONE (HOME) N/A
ADDRESS UNKNOWN			PHONE (BUSINESS)			
FOUNDED <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		REPORT TO FOLLOW <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Close Out		UNIT	CODE	INV. CONT NO.
WITNESS <input type="checkbox"/> Yes <input type="checkbox"/> No		TRACEABLE PROP. <input type="checkbox"/> Yes <input type="checkbox"/> No		UNIQUE DESCRIPTION OF OFFENDER <input type="checkbox"/> Yes <input type="checkbox"/> No		OTHER EVIDENCE <input type="checkbox"/> Yes <input type="checkbox"/> No
DESCRIPTION OF INCIDENT (Include Description of Crime Scene if Applicable) Sight/Highway Case Above Compl. was found laying on the side of the Highway at above location by below witness. Female poss DK. Transp. to JEFF Hosp by M-I 7. Compl. appeared to be a Transsexual Female & had no ID						
WITNESS William Jackson		ADDRESS 7-21-67		PHONE NO. (610) 583-8211		
OFFENDER INFORMATION						
PROPERTY DESCRIPTION (Include Make, Model, Color and Serial No. Where Applicable)			PROP. CODE	INSURED <input type="checkbox"/> Yes <input type="checkbox"/> No	STOLEN VALUE \$	
VEHICLE 1 - OWNER'S NAME			VEHICLE 2 - OWNER'S NAME			
VEHICLE 1 - OPERATOR'S NAME			VEHICLE 2 - OPERATOR'S NAME			
WANTED/STOLEN MESSAGE SENT General No. Date		DIST./UNIT TERMINAL	RECEIPT NO.	SENT BY		
REPORT PREPARED BY PERRY 238513		NO. 2507	DIST./UNIT PAGES 9	TOTAL NO. 1	PAGE 1	
REVIEWED BY [Signature]		NO. 444	DIST./UNIT 09	REFERRAL DATE	CEN NO.	
PURSUANT TO ACT 155 OF 1982, THE BELOW PERSON ACKNOWLEDGES RECEIPT OF THE NOTIFICATION OF VICTIM SERVICES FORM:						

75-48 (Rev. 6/94)

Exhibit "E"



SUBJECT: HOSPITAL CASES

I. POLICY

A. Police personnel will consider the assignment of a hospital case an emergency unless advised otherwise by a medically competent person. First aid will be rendered and the person transported to the nearest hospital. However, any person with a serious penetrating wound or a blunt trauma to the body will be transported to the nearest accredited trauma center.

B. Police personnel assigned to radio patrol cars will, whenever possible, without detriment to the person, handle hospital cases to ensure availability of emergency patrol wagons for other assignments.

C. The Philadelphia Police Department will not dispatch police officers to the scene of hospital cases when Fire/Rescue responds except in the following circumstances:

1. When requested by Fire Communications.
2. Hospital cases arising from criminal acts, auto accidents or any other instances in which a police investigation / action is required.

II. PROCEDURE

A. Police personnel will transport:

1. Persons suffering from a serious penetrating wound, e.g., gunshot, stab wound, and similar injuries of the head, neck, chest, abdomen, and groin to the nearest accredited trauma center. Transportation of such cases will not be delayed to await the arrival of Fire Department paramedics.

NOTE: Persons suffering from blunt trauma or a violent injury to the body (e.g. closed trauma to the head or chest as may result from a motor vehicle accident or a fall) should be transported to the nearest accredited trauma center by Fire Department paramedics because of the level of treatment that can be provided by the Fire Medics.

2. Police/Fire Personnel as follows:

Directive 63 - 1

- a. On duty emergency - to appropriate treatment facility
- b. On duty non-emergency - to closest Compensation Clinic
- c. Off duty injury/illness - to appropriate treatment facility

B. Police personnel will:

1. Exercise safety precautions as per Directive 93, "Communicable Disease Patients."
2. Permit family members or friends to accompany the person to the hospital.
3. Use handcuffs when transporting prisoners (unless otherwise directed by a supervisor).
4. Ride in the rear of an Emergency Patrol Wagon with the person unless:
 - a. The person is a prisoner.
 - b. The injury/illness is not serious.
 - c. The person is accompanied by family or friend.
5. Notify Police Radio of type of injury and hospital destination.
6. After the arrival at a trauma center with the person having a serious penetrating wound or a blunt trauma to the body, notify Police Radio Operations Desk and Operations Room Supervisor of district of occurrence by phone with the pertinent facts of the assignment.
 - a. Notify Detective Division Supervisor if the injury is undetermined, suspicious or a crime has been committed.
7. Prepare a Complaint or Incident Report (75-48) on all hospital cases in compliance with Directive 54.

C. Patrol Supervisor will:

1. Make the final determination for hospital cases requiring specialized treatment at a hospital other than an accredited trauma center.

Directive 63 - 2

D. Police Radio will:

1. Notify Fire Department Paramedics to respond to serious injuries/illnesses.
2. Notify the receiving hospital of the person's condition and expected time of arrival.
3. Maintain a log on all trauma cases.

E. Fire Department Paramedics will:

1. Respond to serious injuries/illnesses such as seizures chest pains, strokes, overdoses, diabetic problems, unconsciousness, poisoning, broken bones, or back injuries.
2. Assume full responsibility for the medical welfare of the person.

III. MEDICAL TREATMENT OF PRISONER

A. When a prisoner is taken to an emergency facility, the transporting officers will:

1. Prepare a separate 75-48 indicating the prisoner's name, the name of the hospital, a brief description of the injury and the physician's name. If the prisoner refuses medical treatment, request the physician sign the 75-48.
 - a. Prior to removing a prisoner from the hospital, the transporting officers will contact the pertinent Detective Division/Unit Supervisor for instructions.
 - *2 b. The Operations Room Supervisor will ensure that a separate set of district control numbers will be requested for the hospital case. This set of district control numbers will be in addition to those issued for the original incident.
 - c. The 75-48 will be coded "3017" (Hospital Case in Police Custody). The district control number of the original incident will be placed in the description of incident section of the hospital case 75-48.
 - d. The ORS will ensure that the IAB Incident Notification Screen is filled in completely. The Incident Notification Screen will now require both the original DC# and the hospital case DC#. (Access to screen – SEND/IA1A/901).

B. Distribution of the 75-48 for a prisoner receiving medical treatment:

Original..... Reports Control and Review

Yellow Copy District File

Pink Copy..... To accompany the prisoner

Directive 63 - 3

*1 C. Notification of Internal Affairs:

1. When the cause for the medical treatment results in death or serious life threatening injury a supervisor will immediately notify his/her commanding officer or Command Inspections Bureau (CIB) commander. That commander will then immediately notify Internal Affairs by phone. Police Radio will be notified on the 12 – 8 tour or on weekends.
2. The Operations Room Supervisor (ORS) will also ensure that the IAB Incident Notification Screen is filled in completely and accurately. (Access the screen using computer code - SEND/IA1A/901).
3. When the cause for the medical treatment results in only minor injury or complaint of pain, only the IAB notification screen need be completed, no phone call to Internal Affairs from a commander is necessary.

IV. AEROMEDICAL TRANSPORT OF TRAUMA EMERGENCIES

A. Patients who should be considered for aeromedical transport include:

1. Critically ill patients needing immediate intensive care.
2. Victims of serious, life-threatening trauma.
3. Patients with life-threatening, neonatal, obstetrical or pediatric emergencies.
4. Patients in need of rapid diagnostic testing and highly specialized medical attention.

B. Fire Department Emergency Medical Technicians, when at the scene, will determine when to contact the aeromedical transport.

C. When Fire Department Emergency Medical Technicians are not at the scene, the highest-ranking supervisor at the scene will determine when to contact the aeromedical transport.

D. Patients will be taken to Hahnemann University Hospital's Trauma center in all cases when aeromedical transport is used.

BY COMMAND OF THE POLICE COMMISSIONER

Directive 63 -4

SUBJECT: ACCREDITED TRAUMA CENTERS AND TRAUMA RECEIVING HOSPITALS

APPENDIX "A"

1. The following hospitals have trauma treatment capabilities. When within 10 minutes transport time, transport to accredited trauma hospital (*asterisked hospitals). Transport to closest hospital on list.

POLICE

HOSPITAL	LOCATION	DIVISION
* Hahnemann	Broad & Vine Sts.	Central
* Jefferson	11th & Walnut Sts.	Central
** St. Christopher's	Erie Ave. at Front St.	East
* Temple	3400 N. Broad St.	East
* Einstein (Northern)	Old York & Tabor Rds.	North
* Frankford (Torresdale)	Knights & Red Lion Rds.	Northeast
* Medical College of Penna.	3300 Henry Ave.	Northwest
** Children's	34th & Civic Center Blvd.	Southwest
* University of Pennsylvania	3400 Spruce St.	Southwest

* Accredited trauma centers for adult and pediatric multi-system patients. (Note: Temple- adults only.)

** Accredited trauma center for pediatric (16 years and under) multi-system patients.

BY COMMAND OF THE POLICE COMMISSIONER

FOOTNOTE	GENERAL #	DATE SENT	REVISION
1	1915	6/19/01	Addition
2	6505	12/17/01	Addition

Directive 63 – 1
Appendix "A"

SEXUAL ORIENTATION TRAINING COURSE FOR LAW ENFORCEMENT



**THE COMMISSION
ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA**

INTRODUCTION

In 1990 the Commission was directed by SB 2680 (Boatwright) to develop cultural awareness training for law enforcement. During the development of the Guidelines for Law Enforcement's Design of Cultural Awareness Training Programs, the Commission received requests from private citizens, community groups, legislators, and law enforcement agencies requesting that specific training be developed about lesbian, gay, and bi-sexual issues. Sexual Orientation Training Course for Law Enforcement has been developed in response to those requests.

Two committees were established to assist in this project. The first made recommendations for the overall design of the course. This committee consisted of law enforcement executives and their designees. The second committee, a subject matter expert committee, was comprised of law enforcement executives, law enforcement trainers, and community members representing gay, lesbian, and bi-sexual citizens. This committee recommended content for the course.

The course is designed to be used as "stand alone" training, or within the framework of the Guidelines for Law Enforcement's Design of Cultural Awareness Training Programs for those agencies who have undergone that training program. The course is consistent with the framework of those cultural awareness guidelines.

The Sexual Orientation Training Course for Law Enforcement consists of seven learning goals for all personnel: Cultural Awareness Training Guidelines; Background of Sexual Orientation Issue; Legal Issues; Stereotypes; Demographics and Diversity; Police Points of Contact; and, Community Resources. Three additional learning goals are designed for supervisors and managers. These are: Cultural Awareness Training Guidelines for Supervisors; Terms for Supervisors; and, Managing Organizational Diversity.

Information regarding this project can be obtained by contacting Dave Spisak, Senior Consultant of the Training Program Services Bureau, at (916) 227-3902.

SEXUAL ORIENTATION TRAINING COURSE FOR LAW ENFORCEMENT

BACKGROUND

This course is directed to all local law enforcement personnel. The topic was selected for development following requests for the training from law enforcement agencies and community alike. The "Cultural Awareness Training guidelines" (see attachment) should be considered while making a decision to go forward with Sexual Orientation Training. In fact, the choice to provide this training to agency personnel should be based on the chief executive officer's assessment of the department's cultural awareness condition as well as an understanding of the composition of the community (see Guideline #1).

In addition to learning goals designed for all personnel, two additional learning goals have been provided for supervisory personnel.

CERTIFICATION INFORMATION

This course is certified as a Technical Course under POST Reimbursement Plan III (travel, per diem, and tuition). Presenters are encouraged to utilize concepts of adult experiential learning and role-play exercises. The use of members from the gay, lesbian, and bi-sexual community as participants in the training process is also encouraged. If the law enforcement agency has completed the POST Cultural Awareness Training Program, Guideline #4 should be followed in the selection and utilization of a Community Training Mentor (CTM) from the gay, lesbian, and bi-sexual community to assist in this training.

TOPICAL OUTLINE

All Personnel

Introduction and Registration

- 1.0 "Cultural Awareness Training Guidelines"
- 2.0 Background of Sexual Orientation Issues
- 3.0 Legal Issues
- 4.0 Stereotypes
- 5.0 Demographics and Diversity
- 6.0 Contacts with the Police
- 7.0 Community Resources

Examination

Hours 8

Supervisors and Managers

- 8.0 "Cultural Awareness Training Guidelines" for Supervisors
- 9.0 Terms for Supervisors
- 10.0 Managing Organizational Diversity

Examination

Hours	<u>4</u>
Total Hours	12

LEARNING GOALS AND EXPANDED OUTLINE

All Personnel

1.0 "CULTURAL AWARENESS TRAINING GUIDELINES"

Learning Goal: The student will understand the applicable "Cultural Awareness Training Guidelines" as they relate to sexual orientation training.

- A. Guideline #1, "The Law Enforcement Executive Should Assess The Department's Cultural Awareness Condition."
 - 1. The student should review their agency value statement/policy as it relates to diversity.
 - 2. The student should understand that this training is part of broader issues of human relations, race relations, and cross cultural communications.
 - 3. The student should understand their agency managements commitment to diversity training.
- B. Guideline #3, "The Law Enforcement Executive Should Appoint An Agency Cultural Awareness Facilitator (CAF)."
 - 1. The student should identify the agency CAF if the law enforcement agency has participated in POST Cultural Awareness Training Program.
 - 2. The student should identify the other elements of the agencies Cultural Awareness Training Program.
- C. Guideline #5, "The Law Enforcement Executive Should Evaluate The Need For Additional Cultural Awareness Training For The Law Enforcement Agency."
 - 1. This training is being provided as part of a response to an analyzed training need

2.0 BACKGROUND OF SEXUAL ORIENTATION ISSUES

Learning Goal: The student will understand the background issues relevant to gays, lesbians and bi-sexuals.

A. Key words and terms.

1. Stereotype
2. Gay
3. Homophobia
4. Transvestite
5. Transsexual
6. Sexual orientation
7. Homosexual
8. Bi-sexual
9. Lesbian

B. Three historical points of reference for the gay, lesbian, and bi-sexual community are:

1. Stonewall Riots, Greenwich Village, New York City, 1969
2. Pink triangles, WW II holocaust symbol
3. White Night Riots, San Francisco, 1979

3.0 LEGAL ISSUES

Learning Goal: The student will understand the legal background of "gay rights."

A. Legal background of gay rights.

1. First Amendment Rights
2. California Constitution - right to privacy
 - a. Background of changes in California
 - b. Status of similar rights in other states
3. California laws
 - a. Hate crimes
 - b. Domestic violence
 - c. Recent legislative efforts
4. Local policies/ordinances

Learning Goal: The student will understand the consequences of civil rights violations under both criminal and civil statutes.

A. The civil liability potential for civil rights violations will be explained.

1. Department may not provide representation for officers charged with civil rights violations.
 2. Punitive damages may be assessed out of personal funds.
- B. The criminal liability under "color of law" potential for violations under criminal statute will be explained.
- C. Local agency policy protecting the rights and explaining police procedures relating to gays, lesbians, and bi-sexuals will be discussed.

4.0 STEREOTYPES

Learning Goal: The student will understand common stereotypes relevant to the gay, lesbian and bi-sexual community.

- A. Stereotypes frequently held concerning:
1. Lesbians
 2. Gays
 3. Bi-sexuals

5.0 DEMOGRAPHICS AND DIVERSITY

Learning Goal: The student will understand the demographics and diversity of the gay, lesbian, and bi-sexual community.

- A. Data concerning the gay, lesbian, and bi-sexual community will be presented.
1. Kinsey Report¹
 2. California data
 3. Local data
- B. Comparison of the gay, lesbian, and bi-sexual community to the general population will include:
1. Income
 2. Education
 3. Racial and ethnic background
- C. Describe the family relationships of gays, lesbians, and bi-sexuals.
1. Relationships - significant others

¹ Kinsey, Alfred Charles, Sexual Behavior in the Human Male, 1948.

2. Alternative/extended families
3. Gay, lesbian, and bi-sexual youth issues
 - a. Runaways
 - b. Suicide risk
 - c. Throwaway youth
 - d. Gay parenting

6.0 CONTACTS WITH THE POLICE

Learning Goal: The student will understand common police contacts with the gay, lesbian, and bi-sexual community.

- A. Patrol Contacts
 1. Domestic violence
 2. Hate crimes
 3. Public sex
 4. Free speech and assembly activities
 5. Medical situations
 6. Gay bar situations
- B. Detective Procedures

7.0 COMMUNITY RESOURCES

Learning Goal: The student will understand referral procedures to appropriate community organizations.

- A. Organizations designed to work with the gays, lesbians, and bi-sexuals in the students community will be identified and discussed.
 1. AIDS/HIV resources
 2. Youth organizations
 3. Local centers
 4. State-wide referral organizations
 5. Federal clearinghouses

Supervisors and Managers

8.0 "CULTURAL AWARENESS TRAINING GUIDELINE" FOR SUPERVISORS

Learning Goal: The supervisor will understand the purpose of Guideline #2, "The law enforcement executive should consider the need for training supervisors in techniques of managing and supervising a diverse workforce."

- A. Supervisors will understand that managing and supervising diversity in the workplace includes employees with different sexual orientation.

- B. Supervisors will recognize that employees may chose to identify their sexual orientation to coworkers, thereby requiring sensitivity and understanding by their supervisor.

9.0 TERMS FOR SUPERVISORS

Learning Goal: The supervisor will understand the definition of key terms and the legal basis for sexual orientation training.

- A. Discussion of key sexual orientation terms as related to law enforcement shall include:
 - 1. Values
 - 2. Ethics
 - 3. Principles
 - 4. Culture
- B. Discussion of the need for law enforcement agency policies concerning the guarantee of civil rights of gay, lesbian, and bi-sexual individuals both in the agency and the community shall include:
 - 1. 1st Amendment rights
 - 2. California Constitution
 - 3. California laws
 - a. Hate crimes
 - b. Domestic violence

10.0 MANAGING ORGANIZATIONAL DIVERSITY

Learning Goal: The supervisor will understand the inclusion of gays, lesbians, and bi-sexuals within the cultural diversity policy of their agency.

- A. Monitoring subordinate's professional behavior as it relates to gay, lesbian, and bi-sexual issues relative to providing police services to the community is a responsibility of the supervisor.
 - 1. Ensuring appropriate police services are provided during common police contacts with the gay, lesbian, and bisexual community.
 - 2. Ensuring that hate crime statutes are correctly applied.
 - 3. Providing documentation for these activities for appropriate follow-up with employees.
- B. Monitoring subordinate's professional behavior as it relates to gay, lesbian, and bi-sexual agency employees is a responsibility of the supervisor.

GUIDELINES FOR REVIEWING AND USING
AUDIO-VISUAL TRAINING MATERIALS

GUIDELINE I

AUDIO-VISUAL TRAINING MATERIALS SHOULD BE RELEVANT TO THE SUBJECT MATTER BEING TAUGHT.

1. Instructors should only use audio-visual training materials related to the subject matter. Audio-visual materials involving other issues may be interesting but can tend to dilute the intended training and use up valuable class time.

Note: The use of brief audio-visuals unrelated to the subject matter which provide a needed break in instruction may be used, so long as they meet the criteria within these guidelines.

GUIDELINE II

THE CONTENT OF AUDIO-VISUAL TRAINING MATERIALS SHOULD BE AT THE APPROPRIATE LEVEL FOR THE INTENDED AUDIENCE.

1. Audio-visual training materials should be at an appropriate level for the intended audience. The presenter or instructor should consider if the training is for:
 - a. entry-level or advanced personnel
 - b. sworn or non-sworn
2. Presenters/instructors need to consider their audience when using audio-visual training materials that contain sensitive or confidential information.

GUIDELINE III

AUDIO-VISUAL MATERIALS SHOULD BE COMPATIBLE WITH EXISTING CALIFORNIA LAW, LAW ENFORCEMENT ETHICS, PROFESSIONAL TRAINING PHILOSOPHIES, AND/OR INDIVIDUAL AGENCY PROCEDURES.

1. Identifying sexually offensive language and behavior in the workplace.
2. Providing documentation of incidents contrary to agency policy for appropriate follow-up with employees.
3. Providing support/referrals to gay/lesbian/bi-sexual officers as needed.
4. Understanding the potential difficulties and concerns of gay, lesbian, and bi-sexual employees in revealing their personal sexual orientation.

GUIDELINE IV

AUDIO-VISUAL TRAINING MATERIALS SHOULD BE FREE OF BIAS OR STEREOTYPING ON THE BASIS OF RACE, GENDER, NATIONAL ORIGIN, RELIGIOUS BELIEF, OR POLITICAL AFFILIATION.

1. Audio-visuals should not promote or discredit any particular race, gender, national origin, religious belief, or political affiliation. However, it may be necessary to depict stereotypes in order to add realism, such as in courses dealing with:
 - a. sexual harassment
 - b. hate crimes
 - c. gangs, or
 - d. other "group-specific" training

GUIDELINE V

AUDIO-VISUAL TRAINING MATERIALS SHOULD BE FREE OF UNNECESSARY OFFENSIVE LANGUAGE OR INAPPROPRIATE HUMOR.

1. Offensive language may be necessary in some cases to illustrate a point or create a realistic training experience.
2. Humor that is demeaning to any group or individual should be avoided.

GUIDELINE VI

AUDIO-VISUAL MATERIALS SHOULD GUIDE THE STUDENT TO RESPOND APPROPRIATELY TO SITUATIONS ON THE JOB.

1. Audio-visual training materials should eliminate controversy and confusion on any subject so that students do not under or overreact. To this end the instructor should identify, clarify, and discuss any controversial part within the training materials and any appropriate civil liability issues.
2. The information in audio-visual training materials should not conflict with the POST Safety Guidelines.

GUIDELINE VII

THE INSTRUCTOR SHOULD PREVIEW THE AUDIO-VISUAL TRAINING MATERIALS PRIOR TO ANY PRESENTATION TO ENSURE COMPLIANCE WITH COPYRIGHT LAWS OR ANY LOCAL POLICY REQUIRING REVIEW PRIOR TO USING THE MATERIALS.