



PRELIMINARY
AGENDA REPORT



DATE: November 2, 2023

FROM: Councilmember Kalb

TO: Members of the City Council and
Members of the Public

SUBJECT: Oakland Police
Commission Ordinance

Recommendation:

ORDINANCE:

(1) AMENDING OAKLAND MUNICIPAL CODE CHAPTER 2.45, THE ENABLING ORDINANCE FOR THE OAKLAND POLICE COMMISSION, TO BE CONSISTENT WITH CHARTER AMENDMENTS UNDER BALLOT MEASURE S1 AND TO MODIFY THE POWERS AND DUTIES OF THE OAKLAND POLICE COMMISSION AND THE POLICE COMMISSION'S SELECTION PANEL;

(2) AMENDING OAKLAND MUNICIPAL CODE CHAPTER 2.46, THE ENABLING ORDINANCE FOR THE COMMUNITY POLICE REVIEW AGENCY, TO BE CONSISTENT WITH CHARTER AMENDMENTS UNDER BALLOT MEASURE S1 AND TO MODIFY THE POWERS AND DUTIES OF THE COMMUNITY POLICE REVIEW AGENCY; AND

(3) ADDING CHAPTER 2.47 TO THE OAKLAND MUNICIPAL CODE, AN ENABLING ORDINANCE FOR THE OFFICE OF THE INSPECTOR GENERAL, TO IMPLEMENT CHARTER AMENDMENTS UNDER BALLOT MEASURE S1 AND TO FURTHER DEFINE THE POWERS AND DUTIES OF THE OFFICE OF THE INSPECTOR GENERAL.

Dear Colleagues and Members of the Public,

On November 8, 2016, Oakland voters approved Measure LL, adding section 604 to the City Charter and establishing: (1) a Police Commission to oversee OPD policies and procedures, and (2) the Community Police Review Agency (CPRA) to investigate police misconduct and recommend discipline.

On November 3, 2020, Oakland voters approved Measure S1, creating a civilian Office of Inspector General, and further defining the authority of the Police Commission and the CPRA. On July 10, 2018, the Oakland City Council added Chapters 2.45 and 2.46 to the Oakland Municipal Code and amended them on July 16, 2019, to support the creation of the Police Commission.

Item 5b - Public Safety Committee Supplemental Report

Now, further amendments to the Oakland Municipal Code must be made in order to ensure the effectiveness of the Police Commission, the CPRA, and the Office of the Inspector General (OIG).

A summary of the major proposed changes are as follows:

Changes to the Police Commission

2.45.010 Definitions

- The definition of Serious Incident was amended to include the initiation of any administrative investigation of the Chief of Police or the Interim Chief of Police

2.45.025 Conflict of interest

- The previous definition precluded the very type of individuals who would have the most interest and relevant experience to be on the Commission or Selection Panel. This issue is very evident currently, as OPC is short on members and the Selection Panel has been looking for a new Chair for some time.

2.45.040 Commission's Governing Policies and Rules of Procedure

- This clarifies roles and responsibilities for Commission members, who may not give direction to the CPRA Director nor the Inspector General, maintaining independence of these three agencies.
- Also specifies that Commission members must conduct themselves appropriately and with integrity in all interactions with City staff, members of the public, and each other. Complaints that any commissioner has failed to do so will be investigated by an independent investigator and may constitute grounds for reprimand, suspension, or removal by City Council.

2.45.070 Functions and Duties of the Commission

- Adds a provision specifying that "cause" for removal of the Police Chief may include a final Sustained finding of Misconduct against the Chief arising from an administrative investigation where termination is within the recommended range of discipline in the Department's Discipline Matrix.
- Adds provisions specifying "cause" for removal of the Inspector General

2.45.080 Access to Documents

- This change allows the Commission access to Department files and records including personnel files

2.45.130 Establishing Discipline Committees

- Specifies that a conflict of interest regarding a particular case, shall recuse themselves. The following are examples of potential Commissioner conflicts: a personal relationship with an individual involved in the case, participation in a discipline meeting in which the case was discussed, participation in a formal review of a case, such as Force Review Board.

2.45.190 Commissioner Training

- Recently, allegations of retaliation have come to the attention of the City Council and the public. To address these concerns, retaliation training shall be mandatory once a year and failure to participate may constitute a substantial neglect of a commissioner's duty.

2.45.220 Administrative hearing upon removal of Chief

- Upon removal of the Chief from office, for any reason by any authority within the City, the Chief shall be entitled to an administrative appeal in accordance with California Government Code section 3304(c).

Changes to the CPRA: **Item 5b - Public Safety Committee Supplemental Report**

2.46.040 Agency Director

- This change specifies that the agency director shall be in charge of creating the agency's budget. It also ensures independence and non-interference from the Police Commission.

Changes to the OIG:

2.47 Office of the Inspector General

- This change creates more independence and autonomy for the OIG from the Police Commission.
- The OIG also has expanded authority to investigate allegations against city departments for failure to provide requested files or records to the OIG.

The Office of Councilmember Dan Kalb and Councilmember Kevin Jenkins worked jointly on this ordinance in conjunction with the Oakland City Attorney's Office with input from community organizations, including the Coalition for Police Accountability. Please join us in supporting this legislation.

For questions, please reach out to: Keara O'Doherty (D1) kodoherty@oaklandca.gov and Patricia Brooks (D6) pbrooks@oaklandca.gov.

Respectfully submitted,



Councilmember Dan Kalb