



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

May 8, 2024 - 6:30 PM

City Hall Council Chambers (1 Frank H. Ogawa Plaza, Oakland)

The purpose of the Oakland Police Commission is to oversee the Oakland Police Department to ensure its policies, practices, and customs conform to national standards of constitutional policing, and to oversee the Office of the Inspector General, led by the civilian Office of the Inspector General for the Department, as well as the Community Police Review Agency (CPRA), led by the Executive Director of the Agency, which investigates police misconduct and recommends discipline.

**Please note that Zoom links will be for observation only.  
Public participation via Zoom is not possible currently.**



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### PUBLIC PARTICIPATION

The Oakland Police Commission welcomes public participation. During this time of transition back to in-person meetings, we are currently prohibited from implementing hybrid meetings. Please refer to how you can observe and / or participate below:

#### OBSERVE:

- To observe the meeting by video conference, please click on this link <https://us02web.zoom.us/j/82241477577> at the noticed meeting time. Instructions on how to join a meeting by video conference are available at: <https://support.zoom.us/hc/en-us/articles/201362193>, which is a web page entitled "Joining a Meeting"
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location): +1 669 900 9128 or +1 669 444 9171 or +1 719 359 4580 or +1 253 215 8782 or +1 346 248 7799 or +1 646 931 3860

**Webinar ID: 822 4147 7577**

After calling any of these phone numbers, if you are asked for a participant ID or code, press #. Instructions on how to join a meeting by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>, which is a web page entitled "Joining a Meeting by Phone."

**Use of Zoom is limited to observing, public comment will not be taken via Zoom**

#### PROVIDE PUBLIC COMMENT IN PERSON:

- Public comment on each agenda item will be taken. Members of the public wishing to comment must fill out a speaker card for each item they wish to comment on. Speaker cards will be accepted up until Public Comment for each item. Please submit your cards to the Chief of Staff before being recognized by the presiding officer.
- Comments must be made on a specific agenda item covered in the meeting that the comment was submitted for, and that item must be written on the speaker card, or they will be designated Open Forum comments.
- Comments designated for Open Forum, either intentionally or due to the comments being outside of the scope of the meeting's agenda, and submitted without including a written agenda item, will be limited to one comment per person.

#### E-COMMENT:

- Please email written comments to [opc@oaklandcommission.org](mailto:opc@oaklandcommission.org). E-comments must be submitted at least **24 hours** before the meeting with the agenda item to which it pertains. Open Forum comments are limited to one per person.

*Commissioner Jackson-Castain via Teleconference at LS12 2NX, Leeds, UK*



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May 8, 2024 - 6:30 PM

City Hall Council Chambers (1 Frank H. Ogawa Plaza, Oakland)

- I. **Call to Order, Welcome, Roll Call, Determination of Quorum, and (Read-Out from Prior Meeting, if any).**  
**Chair Marsha Peterson**  
Roll Call: Vice Chair Karely Ordaz; Commissioner Regina Jackson; Commissioner Wilson Riles; Commissioner Angela Jackson-Castain; Alternate Commissioner Ricardo Garcia-Acosta
- II. **Police Commission Elevation of Alternate Commissioner Per (604)(d)(8) - Select Alternate Commissioner Ricardo Garcia-Acosta to replace former Commissioner Jesse Hsieh for that regular member's remaining term of office.**
  - a. Discussion
  - b. Public Comment
  - c. Action, if any
- III. **Update from Oakland Police Department (OPD)**  
Representatives of the Oakland Police Department will provide an update. Topics discussed in the update may include NSA Updates, risk analysis, crime response, a preview of topics that may be placed on a future agenda, responses to community member questions, and specific topics requested by the Commission. ***This is a recurring item.*** (Attachment 1)
  - a. Discussion
  - b. Public Comment
  - c. Action, if any
- IV. **Reconstitute and Reconvene the Negotiated Settlement Agreement (NSA) Ad Hoc Committee (including Featured Community Members)** to make recommendations to the Commission as to what the Commission should consider in its court filing submission for the September 4, 2024, Case Management Conference. Specifically, to answer the Court's request "to provide a more knowledgeable perspective about the need for or future of federal court oversight (either continuing the monitorship, revising it, or dissolving it)." Furthermore, if and when court oversight transitions to civilian oversight by the Commission, is the Commission structurally and resource-wise able to provide effective constitutional police-reform oversight in light of the City's May 2024 proposed Charter amendments to the Commission's roles and responsibilities, the City's December 2023 proposed enabling Municipal Code Ordinance changes, and the Commission's current resources? (Attachment 2)
  - a. Discussion
  - b. Public Comment
  - c. Action, if any
- V. **Open Forum (2 minutes per speaker, 15 minutes total)**  
Members of the public wishing to address the Commission on matters that were not on tonight's agenda but are related to the Commission's work should submit a speaker card before the start of this item.  
***This is a recurring item.***
- VI. **Adjournment**

NOTICE: In compliance with the Americans with Disabilities Act and Equal Access Ordinance, for those requiring special [assistance to access the video](#) conference meeting, to access written documents being discussed at a Discipline Committee meeting, or to otherwise participate at Commission meetings, please contact the Police Commission's departmental email at [opc@oaklandcommission.org](mailto:opc@oaklandcommission.org) at least 72 hours before the meeting to help with enabling reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids, or services.

## OAKLAND POLICE DEPARTMENT REPORTING TEMPLATE FOR POLICE COMMISSION MEETING

*+There hereby is established the Oakland Police Commission (hereinafter, Commission), which shall oversee the Oakland Police Department (hereinafter, Department) in order to ensure that its policies, practices, and customs conform to national standards of constitutional policing. \** - Oakland City Charter Section 604(a)(1)

**Prepared: 5/01/2024**

### I. 52 NSA Task Force – Status of Compliance, Charter 604(f)(5)

Task	
Task 45: Disparity in Discipline	<p>6<sup>th</sup> IMT Sustainability Report (15 Dec 23): No compliance finding</p> <ul style="list-style-type: none"> <li>2023 IAD Discipline Outcome Study – in progress, internal draft expected by end of April</li> </ul> <p>Failure to Accept or Refer Complaint (FTARC) and Supervisory Notes File (SNF) inspection – complete</p> <ul style="list-style-type: none"> <li>Patterns definition – collaboration meeting w/ OIG, CPRA, IMT on 3/19/24.</li> <li>Revisions are underway based on the feedback provided by the CPRA and IMT.</li> <li>Draft definition of “Patterns” provided 25 Apr 24.</li> </ul>
Next CMC	Sept 24

### II. Policies Related to Constitutional Policing Matters – Status Update, Charter 604(b)(2) and 604(b)(4)-(5)

### III. Any Other Policy, Procedure, Custom, or General Order Regardless of Its Topic – Status Update, Charter 604(b)(2) and 604(b)(6)

Policy	
Sexual Misconduct Policy	Action plan agreed with OIG. OPD developed working group.
Racial Profiling / Bias Policy (DGO M-19)	In OPC Ad Hoc. A draft MOR violation with description was provided to the Ad Hoc on 3 Apr 24. By the next meeting, the policy will have minimally bookmarked the areas where the six OIG recommendations will be inserted.
K-4: Reporting and Investigating the Use of Force. (SO 9214)	OCA review
SO 9216: Excited Delirium	Special order presented to OPC twice. Pending OPD approval.

### IV. OPD Budget, Charter 604(b)(7) & MC 2.45.070(C)-(D)

Topic				
Staffing & resource management	<p><i>Sworn Staffing</i> Authorized: 712 Filled: 704</p> <p><i>Professional Staffing</i> Authorized: 332.50 Filled: 275.50</p> <p><i>Vacancies of note:</i> Police Records Specialist (9) Police Communications Dispatcher (2)</p>		<p><i>Long-term leave:</i> 76 sworn employees</p> <ul style="list-style-type: none"> <li>44 Medical Leave</li> <li>29 Admin Leave</li> <li>3 Military Leave</li> </ul> <p><i>Attrition Rate</i> – 4/mo. (45 separated over past year)</p> <p><i>Reemployments</i> – 6 pending approval</p>	
	As of Mar 31, 2024	Admin Leave	Medical Leave On-	<p><i>Retirement Projections for 2024:</i> 91 possible</p> <ul style="list-style-type: none"> <li>1 Interim Chief of Police</li> </ul>

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\* “Constitutional Policing Matters” include: Use of force; Use of force review boards; Profiling based on any of the protected characteristics identified by Federal, State, or local law; First Amendment assemblies; Use of militarized equipment; and Elements expressly listed in Federal court orders or Federal court settlements such as the Negotiated Settlement Agreement.

	<table><tr><th>(Sworn only)</th><th></th><th>Duty Illness/ Injury</th><th>Personal Illness/ Injury</th></tr><tr><td>2+ Years</td><td>1</td><td>5</td><td></td></tr><tr><td>1-2 Years</td><td>10</td><td>7</td><td></td></tr><tr><td>6 mo.– 1 Year</td><td>8</td><td>9</td><td>1</td></tr><tr><td>2-6 months</td><td>6</td><td>15</td><td>4</td></tr><tr><td>Less than 2 months</td><td>5</td><td>5</td><td>6</td></tr><tr><td>Total</td><td>30</td><td>41</td><td>11</td></tr></table>	(Sworn only)		Duty Illness/ Injury	Personal Illness/ Injury	2+ Years	1	5		1-2 Years	10	7		6 mo.– 1 Year	8	9	1	2-6 months	6	15	4	Less than 2 months	5	5	6	Total	30	41	11	<ul style="list-style-type: none"><li>• 1 Interim Asst. Chief of Police</li><li>• 3 Deputy Chiefs of Police</li><li>• 3 Captains of Police</li><li>• 9 Lieutenants of Police</li><li>• 27 Sergeants of Police</li><li>• 47 Police Officers</li></ul>
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Academy recruits	Academy 192 <sup>nd</sup> : 22, graduated Dec 2023 – currently in the 4 <sup>th</sup> Phase of FTO (4 weeks). 4 <sup>th</sup> Phase will be completed on 10 May 24. Academy 193 <sup>rd</sup> : 13, started 11 Nov 23 and graduate 10 May 24 – Start Transition Phase (approx. 2 weeks), then FTO 1 <sup>st</sup> phase (4 weeks) in beginning of Jun 2024. Academy 194 <sup>th</sup> : Start June 24. POST approval for schedule change Academy 195 <sup>th</sup> : Start 3 Aug 24 Academy 196 <sup>th</sup> : Start 7 Dec 24 Academy 197 <sup>th</sup> : Start 15 Feb 25																													
General Department functions	2023 2040 total cases 114 Sustained cases 348 sustained allegations	2024 619 Total cases Current open cases: 62 in IAD Investigations 144 in DLI																												
General Department functions (CID)	<b><u>SVS Juvenile Cases:</u></b> 2024 (Year-To-Date) <ul style="list-style-type: none"><li>• Juvenile Arrests: 83 total juvenile arrests</li><li>• Referrals to restorative justice programs (i.e. NOAB): 3<ul style="list-style-type: none"><li>○ YTD Restorative Justice Referrals:20</li></ul></li></ul> <b><u>Missing Persons:</u></b> 2024 (30 days) <ul style="list-style-type: none"><li>• YTD MPU Cases: 331</li><li>• YTD Closed MPU Cases: 246</li></ul> <b><u>DVU Cases:</u></b> 2024 (Year-To-Date) <ul style="list-style-type: none"><li>• Total cases: 1268</li><li>• Clearance rate on DV cases is near 100%. These are named suspect cases. All I/C and Out of Custody cases get reviewed by an investigator.</li><li>• Domestic Dispute - 425</li><li>• 243(e)(1) - 475</li><li>• 273.5 - 368</li></ul>	<b><u>Hate Crimes:</u></b> 2024 (Year-To-Date) <ul style="list-style-type: none"><li>• Total Cases: 11</li><li>• New cases: 2</li><li>• Hate Crime Investigators<ul style="list-style-type: none"><li>○ Ofc. Mae Phu</li><li>○ Ofc. W. Earl Seay</li></ul></li></ul>																												
Education and training regarding job-related stress, PTSD, wellness	<ul style="list-style-type: none"><li>• May 11<sup>th</sup> WIRE Workshop Working in Resilient Environments- Virtual- Hosted by Kaiser- Virtual</li><li>• July 23<sup>rd</sup> Blood Drive- Red Cross PAB</li></ul>																													

Budget <b>(QUARTERLY)</b>	Last: Next:
Citywide Risk Management <b>(QUARTERLY)</b>	Last: 3/14/24 Next:

**V. Collaboration with OIG**

Project	Status
OPD Staffing Study	Biweekly meetings with OIG and PFM. Ongoing data collection and sharing.
M-19 Audit Response	Completed and provided to the Ad Hoc on 3 Apr 24.
Review of IAD Cases 07-0538, 13- 1062, and 16-0146	In progress. Due 4/24/24.
Sexual Misconduct Policy	Policy: see policy section.
"Patterns" definition	Collaboration meeting w/ OIG, CPRA, IMT on 3/19/24
OIG Document on OPD Policy Types	Created by OIG and OPD completed review.
FTO Study	All data has been provided. Complete.

**VI. Collaboration with CPRA****VII. Rules and Procedures for Mediation and Resolution of Complaints of Police Misconduct, OMC 2.45.070(N)**

Project	Status
Daily Complaint Log, Weekly IAD Meetings	Ongoing
Complaints & Mediation	Pending
"Patterns" definition	Collaboration meeting w/ OIG, CPRA, IMT on 3/19/24

**VIII. Collaboration with Community**

Project	
Annual Tour	Preparing for Community Annual Tour Jun/Jul/Aug
Employee of the Month Feb & March	<p>Officer Jeff Cid is the Employee of the Month for February 2024. For almost a decade, Officer Cid has served as a Recruit Training Officer. His dedication to his role extends far beyond the classroom. Officer Cid has consistently demonstrated a deep commitment to upholding the highest law enforcement standards and fostering a culture of excellence within our organization. His ability to inspire and mold young recruits into capable, compassionate officers is commendable.</p> <p>Police Records Specialist Erica Bermudez is the Employee of the Month for March 2024. PRS Bermudez is assigned to BFO Administration and is responsible for BFO 1. "Since Erica has taken over in BFO Admin, the payroll tracking and approvals have significantly improved," Deputy Chief James Beere said. "Erica is a valued member of the team and an amazing multi-tasker."</p> <p>Nominations for the Employee of the Month award are made by the Deputy Chiefs and Deputy Director.</p>

**IX. Status of Submitting Records/Files Requested by Commission, Charter 604(f)(2)**

File	Status
None	

**X. New Laws Affecting OPD**

<b>Law</b>	
2024 New Laws Generally	Training plan to OPC 2/8/24. Training Bulletin being drafted. Training was published on 2 Apr 24.
2806.5 VC / Citation Update (AB 2773)	Update sent 3/19/2024. • tell detainees the reason for the stop, prior to any questioning related to a criminal investigation or traffic violation • document the reason for the stop on citations and reports associated with the stop
AB 360: "excited delirium"	See policy section.

**XI. Required Reporting to the California Department of Justice / Attorney General****XII. Policy/Practice on Publishing Department Data Sets, OMC 2.45.070(P)**

<b>Report</b>	<b>Status</b>
OIS or SBI (GC 12525.2)	Annual report: sent 1/26/24
DOJ Clearance Rates	In the process of gathering the information. Records enters crime data for UCR reporting.
Stop Data (GC 12525.5)	Annual report 2023 Stop data was transmitted to State – sent 3/11/24

**XIII. Any Commission Requests Made by Majority Vote of Commission – Status Update, Charter 604(b)(8)****XIV. Report from Department via City Administrator or designee, on Issues Identified by Commission through Commission's Chair, OMC 2.45.070(R)**

<b>Request</b>	
MACRO Data	As of 8 April 24 <ul style="list-style-type: none"> <li>• 2547 potential calls (were not able to refer due to criteria)</li> <li>• 160 calls referred</li> </ul>
MOU – CHP	<ul style="list-style-type: none"> <li>• 4 documents (City Council Meeting) provided – 25 Apr 24</li> </ul>

**XV. Police Chief's Annual Report, OMC 2.45.070(F) (ANNUALLY)**

OAKLAND POLICE DEPARTMENT REPORTING TEMPLATE  
FOR POLICE COMMISSION MEETING

+There hereby is established the Oakland Police Commission (hereinafter, Commission), which shall oversee the Oakland Police Department (hereinafter, Department) in order to ensure that its policies, practices, and customs conform to national standards of constitutional policing. \* - Oakland City Charter Section 604(a)(1)

Prepared: 4/18/2024

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Task	Status
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Topic	Status
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Education and training regarding job-related stress, PTSD, wellness	<p><b>April is National Stress Awareness Month</b>  <b>OPD Will Host Our Annual Stress Awareness Week April 15<sup>th</sup>-20<sup>th</sup></b></p> <ul style="list-style-type: none"> <li>April 15<sup>th</sup>- Live Grief Webinar- Kaiser- Virtual</li> <li>April 16<sup>th</sup> Gratitude Day- show a coworker gratitude by extending a nice gesture</li> <li>April 17<sup>th</sup> How to stay fit while you sit – 11:00 am; Chiropractic Office <b>PAB</b>- Mindful Meditation 2:30 pm Workout Temps <b>PAB</b></li> <li>April 18<sup>th</sup>- Zumba- <b>EMS</b> 2:30 p.m./ Workout Temps</li> <li>April 19<sup>th</sup> Framers Market- Get your steps by walking to the farmers market</li> <li>April 20<sup>th</sup> Cardio Kick HIIT <b>EMS</b> 2:30 pm (taught by our Police Evidence Tech Shola Ogunlana)</li> <li>May 11<sup>th</sup> WIRE Workshop Working in Resilient Environments- Virtual- Hosted by Kaiser- Virtual</li> <li>July 23<sup>rd</sup> Blood Drive- Red Cross <b>PAB</b></li> </ul> <p><b>Dispatcher Appreciation Week</b></p> <ul style="list-style-type: none"> <li>This week holds special significance for our dispatchers, as it is dedicated to recognizing and appreciating their commitment and hard work. The OPD dispatchers are remarkable and among the hardest working in the country. In 2023, they processed over 1.2 million calls for service, the largest number since the Department began tracking this information.</li> </ul>
Budget <b>(QUARTERLY)</b>	Last: Next:
Citywide Risk Management <b>(QUARTERLY)</b>	Last: 3/14/24 Next:

#### V. Collaboration with OIG

Project	Status
OPD Staffing Study	Biweekly meetings with OIG and PFM. Ongoing data collection and sharing.
M-19 Audit Response	Completed and provided to the Ad Hoc on 3 Apr 24.
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#### VI. Collaboration with CPRA

#### VII. Rules and Procedures for Mediation and Resolution of Complaints of Police Misconduct, OMC 2.45.070(N)

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#### VIII. Collaboration with Community

Project	Status
Annual Tour	Preparing for Community Annual Tour Jun/Jul/Aug

**IX. Status of Submitting Records/Files Requested by Commission, Charter 604(f)(2)**

File	Status
None	

**X. New Laws Affecting OPD**

Law	Status
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AB 360: "excited delirium"	See policy section.

**XI. Required Reporting to the California Department of Justice / Attorney General****XII. Policy/Practice on Publishing Department Data Sets, OMC 2.45.070(P)**

Report	Status
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**XV. Police Chief's Annual Report, OMC 2.45.070(F) (ANNUALLY)**



# AGENDA REPORT



**TO:** Honorable Mayor & City Council

**FROM:** Councilmember Kevin Jenkins  
District 6

**SUBJECT:** Charter Changes Police Commission

**DATE:** 5/1/2024

## RECOMMENDATION

Councilmembers Jenkins recommends that the City Council adopt a resolution

**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION  
SUBMITTING TO THE VOTERS FOR THE NOVEMBER 5, 2024  
GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD  
AMEND CITY CHARTER SECTION 604 TO, AMONG OTHER THINGS:**

- **SIMPLIFY THE PROCESS FOR APPOINTING POLICE  
COMMISSIONERS BY HAVING NINE REGULAR POLICE  
COMMISSIONERS THAT ARE APPOINTED ONE EACH BY THE  
COUNCILMEMBERS AND THE MAYOR;**
- **STRENGTHEN THE INDEPENDENCE OF THE OFFICE OF  
INSPECTOR GENERAL BY HAVING THE CITY AUDITOR,  
RATHER THAN THE POLICE COMMISSION, APPOINT THE  
INSPECTOR GENERAL;**
- **STREAMLINE THE PROCESS FOR RECRUITING AND HIRING  
POLICE CHIEFS BY RESTORING THE AUTHORITY THAT THE  
CITY ADMINISTRATOR PREVIOUSLY HAD FOR POLICE CHIEFS  
AND STILL HAS FOR VIOLENCE PREVENTION CHIEFS, FIRE  
CHIEFS, AND THE HEADS OF OTHER IMPORTANT  
DEPARTMENTS; AND**
- **CLARIFY THAT THE COMMUNITY POLICE REVIEW AGENCY  
CAN INVESTIGATE ANY ALLEGATION OF POLICE  
MISCONDUCT, NO MATTER THE SOURCE OF THE COMPLAINT;**

**AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR  
SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND  
PUBLICATION, AND TO TAKE ANY AND ALL OTHER ACTIONS**

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## **NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION**

### **EXECUTIVE SUMMARY**

**Background and Evolution of Oversight** Since its establishment in 1980, the Citizens' Police Review Board in Oakland has undergone several key transformations to strengthen civilian oversight of the Oakland Police Department (“OPD”). The initial mandate was expanded in 1996 to include oversight on issues like excessive use of force and bias based on legally protected characteristics. Further refinements in 2002 enhanced the Board's advisory capabilities, although it lacked the power to enforce policy changes or disciplinary actions directly.

**Significant Milestones** The turning point in civilian oversight was marked by the passage of Measure LL in 2016, following nearly thirteen years of the Negotiated Settlement Agreement (“NSA”) due to the Riders case in 2003, which saw severe police misconduct. Measure LL established the Police Commission and the Community Police Review Agency (“CPRA”), empowering them with broader oversight, including policy supervision and disciplinary recommendations. In 2020, the introduction of Measure S1 and the establishment of the Office of Inspector General (“OIG”) further defined and expanded the scope of oversight, aiming to enhance the thoroughness of misconduct investigations and systemic reviews of police practices.

**Current Challenges and Proposed Changes** Nearly eight years since the passage of Measure LL, and the nearly 4 years since the passage of Measure S1, it is clear that Oakland can continue to improve the efficacy and independence of police oversight. Namely, the structure of the Police Commission and the appointment process for the Inspector General have posed challenges. The current system requires a complex selection process involving a nine-person panel and has been criticized for its inefficiency and potential biases in appointments. Proposals suggest simplifying this process by allowing direct appointments by City Council members and the Mayor, enhancing transparency and reducing administrative burdens.

Moreover, to address potential conflicts of interest, it is proposed that the Inspector General, who is currently appointed by the Police Commission, should instead be appointed by the independent, elected City Auditor. This change aims to bolster the OIG's autonomy and the public's trust by ensuring a more impartial oversight mechanism.

Similarly, the process for appointing a Police Chief has proven to be unnecessarily complicated, fraught, and drawn out. The process results in longer periods without a permanent Police Chief, and likely makes high-caliber candidates reluctant to even apply. Proposals suggest simplifying

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the process, to allow the City Administrator to run the recruitment and make the appointment, but only after getting input from stakeholders, including Police Commission representatives.

### **Proposed Measure for the November 2024 Election**

- **Simplify the Police Commission Appointments:** Transitioning to direct appointments of Police Commissioners by the City Council members and the Mayor to streamline the process and enhance governance efficiency.
- **Strengthen OIG Independence:** Assigning the appointment of the Inspector General to the City Auditor to ensure greater impartiality and operational independence.
- **Streamline Police Chief Recruitment:** Restoring the City Administrator's authority over the hiring of the police chief, consistent with the appointments of other key department heads, to streamline hiring processes and enhance administrative continuity.
- **Clarify CPRA Authority:** Making it clear that the Community Police Review Agency has the authority to investigate all allegations of police misconduct regardless of the complaint source, enhancing the scope and effectiveness of investigations.

**Importance of Reforms** The proposed reforms are vital for maintaining public trust and ensuring effective civilian oversight of the Oakland Police Department. By streamlining appointment processes and enhancing the independence of oversight bodies, these changes aim to improve the responsiveness and accountability of the police force, thereby fostering safer community-police relations and upholding constitutional policing standards in Oakland.

### **REASON FOR SUPPLEMENTAL OR REPLACEMENT** *(If Applicable)*

### **BACKGROUND / LEGISLATIVE HISTORY**

On April 15, 1980, the City Council established the Citizens' Police Review Board (hereinafter, Board) with jurisdiction to review certain complaints alleging Oakland Police Department officer misconduct, to conduct fact-finding investigations, and to make advisory reports to the City Administrator.

On July 30, 1996, the City Council expanded the Board's jurisdiction to include complaints involving the excessive use of force, and bias based on an individual's legally protected status (race, gender, national origin, religion, sexual orientation or disability).

On November 12, 2002, the City Council passed Ordinance No. 12454 C.M.S., which further refined the Board's powers to include making recommendations to the City Administrator regarding litigated cases, and enlarged the amount of time for the Board to complete its

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investigations. The Board, however, was not empowered to oversee Department policy, impose discipline or adjudicate disciplinary appeals.

In 2003, *Delphine Allen, et al. v. City of Oakland* (the Riders case) multiple Police Department officers violated plaintiffs' civil rights and were found to have planted evidence and used excessive force, ultimately resulting in the NSA.

On November 8, 2016, Oakland voters approved Measure LL (83.19%), 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

#### **REQUIRED LEGISLATIVE FOLLOW-UP**

N/A

#### **ANALYSIS AND POLICY ALTERNATIVES**

#### **FISCAL IMPACT**

There is no fiscal impact identified

#### **PUBLIC OUTREACH / INTEREST**

This legislation is driven by widespread public concern around amending the charter to make the police commission more efficient.

#### **COORDINATION**

This legislation was crafted with the Office of the City Attorney, and City Council District 6 Office

#### **ACTION REQUESTED OF THE CITY COUNCIL**

**Councilmembers Jenkins recommends that the City Council:**

**ADOPT RESOLUTION ON THE CITY COUNCIL'S OWN MOTION  
 SUBMITTING TO THE VOTERS FOR THE NOVEMBER 5, 2024  
 GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD  
 AMEND CITY CHARTER SECTION 604 TO, AMONG OTHER THINGS:**

- **SIMPLIFY THE PROCESS FOR APPOINTING POLICE COMMISSIONERS BY HAVING NINE REGULAR POLICE COMMISSIONERS THAT ARE APPOINTED ONE EACH BY THE COUNCILMEMBERS AND THE MAYOR;**

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- **STRENGTHEN THE INDEPENDENCE OF THE OFFICE OF INSPECTOR GENERAL BY HAVING THE CITY AUDITOR, RATHER THAN THE POLICE COMMISSION, APPOINT THE INSPECTOR GENERAL;**
- **STREAMLINE THE PROCESS FOR RECRUITING AND HIRING POLICE CHIEFS BY RESTORING THE AUTHORITY THAT THE CITY ADMINISTRATOR PREVIOUSLY HAD FOR POLICE CHIEFS AND STILL HAS FOR VIOLENCE PREVENTION CHIEFS, FIRE CHIEFS, AND THE HEADS OF OTHER IMPORTANT DEPARTMENTS; AND**
- **CLARIFY THAT THE COMMUNITY POLICE REVIEW AGENCY CAN INVESTIGATE ANY ALLEGATION OF POLICE MISCONDUCT, NO MATTER THE SOURCE OF THE COMPLAINT;**

**AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TO TAKE ANY AND ALL OTHER ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 5, 2024 GENERAL MUNICIPAL ELECTION**

For questions regarding this report, please contact Dyana Delfin Polk, Policy Coordinator at [Dpolk@oaklandca.gov](mailto:Dpolk@oaklandca.gov)

Respectfully submitted,



Kevin Jenkins  
District 6

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Prepared by:  
Dyana Delfin Polk, Policy Coordinator

Attachments (#): *(If Applicable)*

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# City of Oakland

*Office of the City Clerk  
Oakland City Hall,  
1 Frank H. Ogawa Plaza, Room 201  
Oakland, California 94612*



## **Meeting Agenda - FINAL**

**Thursday, May 16, 2024**

**10:30 AM**

**City Council Chamber, 3rd Floor**

### **\*Rules & Legislation Committee**

*Oakland City Hall, 1 Frank H. Ogawa Plaza,  
Oakland, California, 94612*

*City of Oakland Website: <http://www.oaklandca.gov>*

## **The Public May Observe And/Or Participate In This Meeting Many Ways.**

### **OBSERVE:**

- To observe, the public may view the televised video conference by viewing KTOP channel 10 on Xfinity Comcast) or ATT Channel 99 and locating City of Oakland KTOP - Channel 10
- To observe the meeting online from the City's Agenda Meeting Calendar, at the noticed meeting time, please click on <https://oakland.legistar.com/calendar.aspx> and click on the "In Progress" link under "Video" for the corresponding meeting
- To observe the meeting by video conference, please click on this link: <https://us02web.zoom.us/j/85644242981> at the noticed meeting time.
- To listen to the meeting by phone, please call the numbers below at the noticed meeting time: Dial (for higher quality, dial a number based on your current location):US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799 or 833 548 0282 (Toll Free) or 877 853 5247 (Toll Free) or 888 788 0099 (Toll Free) or 833 548 0276 (Toll Free) Meeting ID: 856 4424 2981  
If asked for a participant ID or code, press #.

**PUBLIC COMMENT WILL BE TAKEN ON EACH ACTION ITEM . ALL MEMBERS OF THE PUBLIC WISHING TO SPEAK MUST FILL OUT A SPEAKER CARD FOR EACH ITEM. SPEAKERS' CARDS MUST BE RECEIVED BY THE CITY CLERK. COMMENTS ON ITEMS NOT ON THE AGENDA WILL BE TAKEN DURING OPEN FORUM AT THE END OF THE MEETING. ELECTRONIC SPEAKER CARDS/PUBLIC COMMENTS**

- eComment. To send your comment directly to Council members and staff BEFORE the meeting starts please click on <https://oakland.legistar.com/calendar.aspx> and click on the "eComment" link for the corresponding meeting. Please note that eComment submission closes twenty four (24) hours before posted meeting time.
- To Comment In Person, Members Of The Public Must Submit A Separate Speaker Card For Each Item On The Agenda To The City Clerk Before The Item Is Called.
- To Submit An Electronic Speaker Card, Members Of The Public Must (1) Visit The City Of Oakland Meeting Calendar Website At: <https://oakland.legistar.com/Calendar.aspx> (2) Click the hyperlink labeled 'eComment' in the far right column of the meeting you wish to participate in, (You Will Be Redirected To The Specific Meeting Webpage); And (3) Register To 'Sign In To Speak' For Each Agenda Item(s) You Wish To Speak to. \*To Be Recognized To

**Speak Via ZOOM, Electronic Speaker Cards Must Be Submitted and Received Before The City Clerk Reads the Item Into the Record.**

• **Once You Have Submitted Your Electronic Speaker Card - To Comment Via Zoom, Your Zoom Profile Name Will Be Acknowledged To Speak When Public Comment Is Being Taken On A Eligible Agenda Item At The Presiding Officers Discretion. You Will Be Permitted To Speak During Your Turn, Allowed To Comment, And After The Allotted Time, Re-Muted. Instructions On How To “Raise Your Hand” Is Available At: <https://support.zoom.us/hc/en-us/articles/205566129-Raise-Hand-In-Webinar>.**

• **To Comment By Phone, Upon Submitting An Electronic Speakers Card, Please Call On One Of The Above Listed Phone Numbers. You Will Be Prompted To “Raise Your Hand” By Pressing “\*9” To Speak When Public Comment Is Taken. You Will Be Permitted To Speak During Your Turn, Allowed To Comment, And After The Allotted Time, Re-Muted. Please Unmute Your Self By Pressing \*6.**

If you have any questions, please email the Agenda Management Unit at [cityclerk@oaklandca.gov](mailto:cityclerk@oaklandca.gov)

- Office of the City Clerk

#### **DEFINITION OF TERMS:**

• **Action Item: shall mean any resolution, ordinance, public hearing, motion or recommendation requiring official vote and approval of the City Council to be effective.**

• **Informational Item: shall mean an agenda item consisting only of an informational report that does not require or permit Council action.**

• **Consent Item: shall mean, for the purposes of the City Council agenda, any action or informational item that a Standing Committee has forwarded to the full Council with unanimous recommendation for approval, except: 1) any item having a high level of public interest or controversy as determined by the Rules and Legislation Committee; 2) any action item that the Rules and Legislation Committee has placed on the Consent Calendar in accordance with Rule 26; or 3), any item that requires a public hearing or that is otherwise ineligible by law as a Consent Item.**

• **Non-Consent Item: shall mean, for the purposes of the City Council agenda, any action or informational item that: 1) a Standing Committee has forwarded to the full Council without unanimous recommendation for approval; 2) has a high level of public interest or controversy as determined by the Rules and Legislation Committee or: 3) requires a public hearing or is otherwise ineligible by law as a Consent Item.**

**COMMITTEE MEMBERSHIP:**

*Councilmember Carroll Fife, District 3; President Pro Tempore Dan Kalb, District 1;  
Councilmember Janani Ramachandran, District 4; Chairperson: Council President Nikki  
Fortunato Bas, District 2*

**1 Roll Call / Call To Order****2 Approval Of The Draft Minutes From The Committee Meeting Of May 2, 2024**

[24-0383](#)

**3 New Scheduling Items****4 Review Of Draft Agendas, Pending Lists, City Council And Committee Meetings And Oral Report Out Of The Closed Session Agenda**

[24-0384](#)

- 5 Subject:** Resolution In Support Of SB 1060 (BECKER) The Fire Insurance Risk Evaluation Act  
**From:** President Pro Tempore Kalb And Councilmember Ramachandran  
**Recommendation:** Adopt A Resolution In Support Of SB 1060 (Becker), The Fire Insurance Risk Evaluation Act, Which Would Require Property Insurers Who Use Risk Models For Underwriting Purposes To Take Into Consideration Actions Taken To Reduce Wildfire Risk

[24-0388](#)

**Sponsors:** Kalb and Ramachandran

**Attachments:** [View Report](#)

[View Legislation](#)

**Legislative History**

5/2/24	*Rules & Legislation Committee	Scheduled to the *Rules & Legislation Committee
	<i>Councilmember Ramachandran Was Added As A Co-Sponsor</i>	

*A Spelling Error Was Corrected In The Short Title To Reflect, Resolution In Support Of SB 1060 (BECKER) The Fire Insurance Risk Evaluation Act*

- 6** Subject: Alameda County's Reimbursement For Election Management System To Allow For Youth Voting  
 From: Council President Fortunato Bas, And Councilmembers Kaplan And Reid  
 Recommendation: Adopt A Resolution Authorizing The City Administrator To Reimburse Alameda County In An Amount Not To Exceed \$84,000 For The Costs Required To Update The County's Election Management System To Allow For Youth Voting In School Director Elections And To Take All Actions Necessary For Such Reimbursement  
[24-0390](#)

**Sponsors:** Office Of The City Clerk, Fortunato Bas, Kaplan and Reid

**Attachments:** [View Report](#)  
[View Legislation](#)

**Legislative History**

5/2/24	*Rules & Legislation Committee	Scheduled to the *Rules & Legislation Committee
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- 7** Subject: Charter Changes Police Commission  
 From: Councilmember Jenkins  
 Recommendation: Adopt A Resolution On The City Council's Own Motion Submitting To The Voters For The November 5, 2024 General Municipal Election A Measure That Would Amend City Charter Section 604 To, Among Other Things: (1) Simplify The Process For Appointing Police Commissioners By Having Nine Regular Police Commissioners That Are Appointed One Each By The Councilmembers And The Mayor; (2) Strengthen The Independence Of The Office Of Inspector General By Having The City Auditor, Rather Than The Police Commission, Appoint The Inspector General; (3) Streamline The Process For Recruiting And Hiring Police Chiefs By Restoring The Authority That The City Administrator Previously Had For Police Chiefs And Still Has For Violence Prevention Chiefs, Fire Chiefs, And The Heads Of Other Important Departments; And (4) Clarify That The Community Police Review Agency Can Investigate Any Allegation Of Police Misconduct, No Matter The Source Of The Complaint; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication, And To Take Any And All Other Actions Necessary Under Law To Prepare For And Conduct The November 5, 2024 General Municipal Election  
[24-0336](#)

**Sponsors:** Jenkins

**Attachments:** [View Report](#)  
[View Legislation](#)

**Legislative History**

5/2/24	*Rules & Legislation Committee	Scheduled to the *Rules & Legislation Committee
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## Open Forum

**Adjournment****Americans With Disabilities Act**

If you need special assistance, including translation services to participate in Oakland City Council and Committee meetings please contact the Office of the City Clerk. When possible, please notify the City Clerk 5 days prior to the meeting so we can make reasonable arrangements to ensure accessibility. Also, in compliance with Oakland's policy for people with environmental illness or multiple chemical sensitivities, please refrain from wearing strongly scented products to meetings.

Office of the City Clerk - Agenda Management Unit

Phone: (510) 238-6406

Fax: (510) 238-6699

Recorded Agenda: (510) 238-2386

Telecommunications Relay Service:711

MATERIALS RELATED TO ITEMS ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKETS MAY BE VIEWED IN THE OFFICE OF THE CITY CLERK, 1 FRANK H. OGAWA PLAZA, 1ST AND 2ND FLOOR, OAKLAND, CA 94612 FROM 8:30AM TO 5:00PM

\* In the event a quorum of the City Council participates on this Committee, the meeting is noticed as a Special Meeting of the City Council; however, no final City Council action can be taken.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DELPHINE ALLEN, et al.,

Plaintiffs,

v.

CITY OF OAKLAND, et al.,

Defendants.

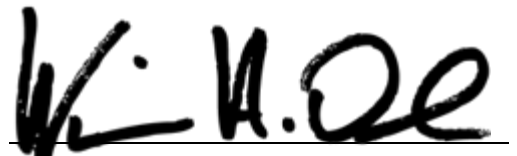
Case No. [00-cv-04599-WHO](#)

**ORDER CONTINUING FURTHER  
CASE MANAGEMENT CONFERENCE**

The Case Management Conference set for June 4, 2024, is continued to September 4, 2024 at 3:30 pm. The continuance will allow the newly appointed Chief of the Oakland Police Department time to gain an in-depth understanding of OPD's policies and practices, including ones that have been mandated as part of the NSA and AMOU, and for the parties to provide a more knowledgeable perspective about the need for or future of federal court oversight (either continuing the monitorship, revising it, or dissolving it). The parties' Joint Statement is due August 28, 2024.

**IT IS SO ORDERED.**

Dated: April 24, 2024

  
William H. Orrick  
United States District Judge



APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL ORDINANCE NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBERS KALB AND JENKINS

## 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.**

**WHEREAS**, 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; and

**WHEREAS**, 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; and

**WHEREAS**, Charter Section 604(h) authorizes the City Council to enact legislation to further the goals and purpose of Charter section 604; and

**WHEREAS**, the Oakland City Council added Chapters 2.45 and 2.46 to the Oakland Municipal Code on July 10, 2018, and amended them on July 16, 2019, to support the implementation of Charter Section 604; and

**WHEREAS**, pursuant to charter section 604(h), the City Council finds that additional amendments to Oakland Municipal Code are necessary to further the goals and purpose of Charter Section 604.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapters 2.45 (Oakland Police Commission) and 2.46 (Community Police Review Agency) of the Oakland Municipal Code are hereby amended as follows (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by ~~striking through~~).

## **Chapter 2.45 OAKLAND POLICE COMMISSION**

### **2.45.010 Definitions.**

The following words and phrases whenever used in this Chapter shall be construed as defined in this Section:

~~"Ad Hoc Committee" shall mean a temporary committee formed by the Commission comprised of less than a quorum of Commission members to address a specific issue.~~

"Agency" shall mean the Community Police Review Agency.

~~"Appointing Authority" shall mean the Selection Panel established by section 604(c)(3) of the City Charter or the Mayor. "Appointing Authorities" shall mean both the Selection Panel and the Mayor.~~

"Chief" shall mean the Chief of Police of the Oakland Police Department.

"Commission" shall mean the Oakland Police Commission.

"Department" shall mean the Oakland Police Department.

"Misconduct" shall mean both ~~a Department sworn employee's~~ an Officer's affirmative act that violates, and/or ~~his or her~~ a failure to act in violation of, the Department's policies, procedures or directives, including without limitation the Department's Manual of Rules.

"Officer" shall mean any sworn individual employed by the Department.

"OIG" shall mean the civilian Office of Inspector General ~~created by this Chapter 2.45.~~

"Serious Incident" shall mean ~~a Department sworn employee~~ an Officer involved shooting,

death or serious bodily harm caused by the action and/or inaction of ~~a Department sworn employee an Officer~~, in-custody death, ~~and/or the alleged~~ on-duty or off-duty criminal conduct of ~~a sworn Department employee an Officer~~ which rises to the level of a felony or ~~serious misdemeanor. Serious Misdemeanor, and/or the initiation of any administrative investigation of the Chief of Police or the Interim Chief of Police.~~

"Serious Misdemeanor" shall mean any misdemeanor crime that, if convicted, could preclude active law enforcement personnel, or ~~a sworn employee of the Department an Officer~~, from successfully fulfilling the responsibilities of their job classification. Examples include those crimes that involve violence, intimidation, threats, sexual offenses, theft, dishonesty, possession of drugs, purchase, ownership or possession of a firearm in violation of California Penal Code section 12021(c)(1), and those crimes where bias based on any legally protected characteristic is a motivating factor.

"Subject Officer" shall mean ~~the Department sworn employee an Officer~~ who is the subject of a complaint of alleged ~~misconduct~~ Misconduct.

#### **2.45.020 Creation of Police Commission and repeal of Citizens' Police Review Board.**

Oakland City Charter section 604 has established the Oakland Police Commission. ~~Effective the sixtieth day after the City Council's confirmation of the first group of Commissioners and alternates,~~ Ordinance No. 12454 C.M.S., which created the Citizens' Police Review Board, ~~shall be is~~ repealed.

#### **2.45.025 ~~Conflict of interest. Reserved.~~**

~~The following persons shall not be eligible to serve as a Commissioner or as a member of the Selection Panel:~~

- ~~A. Any attorney who represents a person or entity with a pending claim or lawsuit against the Department; or~~
- ~~B. Any attorney who represented a person or entity that filed a claim or lawsuit against the Department and that claim or lawsuit which was finally resolved during within the previous year 12 months.~~

~~This Section shall not apply to the Selection Panel members already appointed prior to June 10, 2018. on the effective date of this Chapter 2.45.~~

#### **2.45.030 Selection Panel.**

- A. To the extent practicable ~~and with the exception of the first Selection Panel previously formed under City Charter section 604(e)(3),~~ the Mayor and the City Council shall use best efforts to appoint individuals to the Selection Panel who are broadly representative of Oakland's diversity and who represent communities experiencing the most frequent contact with the Department.

- B. ~~With the exception of the first Selection Panel previously formed under City Charter section 604(e)(3),~~ Selection Panel members shall be residents of Oakland.
- C. The City Administrator shall post on the City's website the names of all Selection Panel members within four (4) business days of their appointment(s) being received by the City Clerk.
- D. The Selection Panel, with the assistance of the City Administrator, shall determine how to solicit candidates for the positions of Commissioner and alternate, and shall determine, consistent with City Charter section 604, what information candidates must submit as part of their applications.
- E. In accord with the City's record retention schedule, the Selection Panel shall maintain all electronic communications to, from and/or copied to any Selection Panel member regarding any matters within the Selection Panel's jurisdiction and provide such communications to the City upon request.
- F. The Selection Panel shall receive training and orientation regarding City Charter section 604 on an annual basis.
- G. Each Selection Panel member shall observe no fewer than two (2) Commission meetings per calendar year.

**2.45.040 Bylaws Commission's governing policies and rules of procedure.**

- A. The Commission ~~may~~ shall prepare and maintain its own rules of procedure bylaws to govern its operations, the management of its agendas, and the conduct of its meetings. Any such bylaws shall be approved, or amended, by a vote of not less than five (5) affirmative votes, and shall be consistent with the City Charter and all City ordinances.
- B. The Commission shall adopt policies for official communications and direction to Commission staff and City employees generally, as well as the Agency Director, Inspector General and Police Chief specifically. Neither the Commission Chair nor any other Commissioner shall give orders or directions to the Agency Director, Inspector General or Chief except to the extent the Commission has the authority to give such direction and has specifically delegated its authority in a Commission policy or by majority vote. Any such delegation of authority by the Commission to direct the Agency Director, Inspector General or Chief must be reasonably specific in nature and may not be a general or blanket delegation.
- C. The Commission's rules of procedure shall provide a clear process for the Commission, by a motion and a vote, to schedule items to, or remove items from, future Commission agendas in accordance with applicable law. Motions and votes to schedule or remove open-session items shall occur in open session, and motions and votes to schedule or remove closed-session items shall occur in closed session.
- D. All commissioners are public officials and are required to conduct themselves with the highest integrity and leadership in all inactions. This includes conducting themselves appropriately in interactions with the public, with fellow members of the Commission, and with all City employees. Commissioners shall act in accordance with all applicable

laws and policies, including the Commission's policies and all rules of procedure. Complaints that a Commissioner has failed to abide any of the same will be assessed and investigated as appropriate by an independent investigator such as the City's office of Employment Investigations and Civil Rights Compliance (EICRC) or the Public Ethics Commission. A finding that a Commissioner has violated an applicable law, rule, or policy may result in reprimand, suspension or removal by the City Council.

- E. To the extent required by law, the City will provide the employee unions with notice of such proposed bylaws amendments to the Commission's governing policies and rules of procedure prior to implementation.

#### **2.45.045 Confidentiality of personnel information.**

The Commission, the Agency, the OIG and their staff shall maintain the confidentiality of ~~Department sworn employee~~ Officer personnel records (as defined by California Penal Code section 832.7) as required by state and local law. Failure to maintain the confidentiality of ~~Department sworn employee~~ Officer personnel records, whether or not intentional, may subject Commission, Agency and OIG staff to discipline, up to and including termination of employment.

#### **2.45.050 Designation of alternates as voting members.**

Consistent with section 604(d)(3) of the Charter, the ~~The~~ Chair of the Commission may, in ~~his or her~~ their discretion, designate an alternate as a temporary voting member to establish a quorum if a Commissioner is absent from a meeting. ~~Consistent with section 604 of the City Charter, there shall not be more than seven (7) voting members of the Commission at any given time.~~

#### **2.45.60 Background checks.**

In accordance with federal and state law, a background check shall be performed on the Mayor's and the Selection Panel's final candidates for the position of Commissioner and alternate before their names are submitted to the City Council for confirmation. The City Administrator's Office shall retain an independent contractor to perform these background checks, which shall only include: verification of educational and employment background, and any other information that may be verified by a public records search.

~~A. Verification of educational and employment background, and any other information that may be verified by a public records search.~~

The results of the background check ~~identified in subsection A., above,~~ shall be treated as public records, and shall be considered by the ~~appropriate Appointing Authority, Mayor or Selection Panel, as appropriate,~~ prior to submitting the names of the final candidates to the City Council for confirmation.

#### **2.45.070 Functions and duties of the Commission.**

In addition to the powers and duties described in section 604 of the Oakland City Charter, the Commission shall:

- A. In accord with the City's record retention schedule, maintain all electronic communications to, from and/or copied to any Commissioner or alternate regarding any matters within the Commission's jurisdiction, and provide such communications to the City upon request.
- B. Maintain the confidentiality of its business in accordance with state and local law, including without limitation, California Penal Code 832.7 and the California Public Records Act (Cal. Gov't Code sec. 6250, et seq.). A Commissioner's failure to maintain such confidentiality, whether or not intentional, may be considered "gross misconduct in office" for purposes of City Charter section 604(c)(10).
- C. Review and comment on the education and training the Department provides its ~~sworn~~ employees Officers regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing consistent with section 604(b)(6) of the Oakland City Charter. The Commission shall consider whether such training is adequately funded when it reviews the Mayor's proposed budget pursuant to Charter section 604(b)(7).
- D. Prepare and deliver to the Mayor, the City Administrator and the Chief by the earlier of April 15 of each year or such other date as set by the Mayor, ~~a proposed budgets for providing the education and training identified in subsection C., above~~ the Commission, OIG and CPRA.
  1. The Inspector General and Agency Director shall submit proposed budgets for the OIG and CPRA, respectively, to the Commission for inclusion in the Commission's proposal.
  2. The Commission's proposal shall be adopted by majority vote in open session after receiving and discussing recommendations from members of the public.
  3. Once budgeted by the City Council, funds and positions shall be subject to the requirements of Charter section 604(e)(6) and Municipal Code sections 2.45.100(D) and 2.46.040(G). Consistent with the Inspector General's and Agency Director's authority under Charter section 604(e)(6) to organize and reorganize the OIG and the Agency, respectively, the Commission may not direct or require the transfer, deletion, or other alteration of funds or staff positions that City Council ultimately allocates to the OIG and the Agency.
- E. Notwithstanding section 2.29.020 of the Oakland Municipal Code and in accordance with section 604(b)(10) of the City Charter, have the authority to remove the Chief, without the approval of the Mayor, by a vote of not less than five (5) affirmative votes and only after finding cause. For purposes of removing the Chief, "cause" shall be defined as any of the following:
  1. Continuing, intentional, or willful failure or refusal to perform the duties and responsibilities of the Chief ~~of Police~~ as required by any employment agreement

with the City, the City Charter, the City's governing laws and regulations, or any laws, rules or regulations of any governmental entity applicable to the Chief's employment by the City or to City operations, including without limitation, the inability to perform the duties and responsibilities of the Chief ~~of Police~~ as aforementioned as a result of alcoholism or drug addiction; or

2. 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.

~~2.3.~~ Gross neglect of duties, material violation of any duty of loyalty to the City, or material violation of City or Department policy, including without limitation any policies or procedures pertaining to harassment and discrimination, after the Chief has received written warning of the neglect or violation and the Chief has failed to cure the neglect or violation within twenty (20) days; or

~~3.4.~~ Conviction by, or entry of a plea of guilty or nolo contendere, in a court of competent and final jurisdiction for (a) any crime involving moral turpitude, (b) any felony offense, (c) any crime which is likely to have a material adverse impact on the business operations or financial or other condition of the City, or (d) any crime which has resulted in imprisonment; or

~~4.5.~~ Failure or refusal to cooperate with any investigation involving employees of the Department; or

~~5.6.~~ Obstruction of any investigation of Department employee ~~misconduct~~ Misconduct or criminal activity; or

~~6.7.~~ Refusal, which shall include ongoing failure, to administer or enforce any Department policy or procedure; or

~~7.8.~~ A material act of dishonesty, fraud, embezzlement, self-dealing, or other act of moral turpitude; or

~~8.9.~~ A material breach of confidentiality; or

~~9.10.~~ Loss of any professional license or other certification required by state or local law to perform the duties of the position of Chief ~~of Police~~.

- F. ~~Within two hundred and forty (240) days of the City Council's confirmation of the first group of Commissioners and alternates and on the anniversary of that date thereafter, notify the Chief regarding what information will be required in~~ Receive and comment on the Chief's annual report to the Commission, as required by Charter section 604(b)(8), which shall include, at a minimum, the following:

1. The number of complaints submitted to the Department's Internal Affairs Division (hereinafter, "IAD") together with a brief description of the nature of the complaints;
2. The number of pending investigations in IAD, and the types of Misconduct that are being investigated;
3. The number of investigations completed, or otherwise closed, by IAD, and the



results of the investigations, including total data on types of alleged rule violations, employee types (professional staff, police officer trainee, officer and/or supervisors), and ultimate determinations (Sustained, Not Sustained, Unfounded, Exonerated, or Administratively Closed);

4. The number of training sessions provided to ~~Department sworn employees~~ Officers, and the subject matter of the training sessions;
5. Revisions made to Department policies;
6. The number and location of ~~Department sworn employee~~ Officer-involved shootings;
7. The number of Executive Force Review Board ~~or~~ and Force Review Board hearings, and the results;
8. A summary of the Department's monthly Use of Force Reports;
9. Number of ~~Department sworn employees~~ Officers disciplined and the level of discipline imposed; and
10. The number of closed investigations which did not result in discipline of the ~~subject officer~~ Subject Officer.

The Chief shall submit the annual report by the last day of April the following calendar year. By the last day of March-December of each year, the Commission shall notify the Chief regarding any additional information requested. The Chief's annual report shall be available to the public and thus shall not disclose any information in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.

- G. Conduct ~~an~~ annual performance ~~review~~ reviews of the Inspector General, Agency Director and ~~of~~ the Chief. The Commission shall determine, and may periodically amend, the criteria for evaluating the Inspector General's, Agency Director's and the Chief's job performances by a majority vote in open session, ~~and communicate those performance criteria, in addition to any other job performance expectations, to the Agency Director and the Chief one (1) full year before conducting any evaluation of their job performance. No performance criteria, or any other job expectation, may be used in a performance review unless it was adopted by the Commission eleven (11) months prior to the end of the applicable review period. The Commission shall provide any new evaluation criteria or substantive revisions or additions thereto to the City's Human Resources Department for review and input regarding consistency with both City and industry standards.~~ The Commission may, in its discretion decide to solicit and consider, as part of its evaluation, comments and observations from the City Administrator and other City staff who are familiar with the Inspector General's, Agency Director's or the Chief's job performance. Responses to the Commission's requests for comments and observations shall be strictly voluntary. Nothing herein shall be construed to prohibit evaluation of the Inspector General, the Agency Director or the Chief in closed session, pursuant to applicable law.
- H. Consistent with section 604(e)(6) of the Charter, have the authority to remove the Inspector General by an affirmative vote of no fewer than five members only after a



finding or findings of cause. For purposes of removing the Inspector General, "cause" shall be defined as any of the following:

1. Continuing, intentional, or willful failure or refusal to perform the duties and responsibilities of the Inspector General as required by any employment agreement with the City, the City Charter, the City's governing laws and regulations, or any laws, rules or regulations of any governmental entity applicable to the Inspector General's employment by the City or to City operations, including without limitation, the inability to perform the duties and responsibilities of the Inspector General as aforementioned as a result of alcoholism or drug addiction; or
2. Gross neglect of duties, material violation of any duty of loyalty to the City, or material violation of City policy, including without limitation any policies or procedures pertaining to harassment and discrimination, after the Inspector General has received written warning of the neglect or violation and has failed to cure the neglect or violation within twenty (20) days; or
3. Conviction by, or entry of a plea of guilty or nolo contendere, in a court of competent and final jurisdiction for (a) any crime involving moral turpitude, (b) any felony offense, (c) any crime which is likely to have a material adverse impact on the business operations or financial or other condition of the City, or (d) any crime which has resulted in imprisonment; or
4. A material act of dishonesty, fraud, embezzlement, self-dealing, or other act of moral turpitude; or
5. A material breach of confidentiality; or
6. Loss of any professional license or other certification required by state or local law to perform the duties of the position of Inspector General.
7. Two (2) consecutive annual performance evaluations with an overall rating of less than fully effective ratings.

H.I. Create a form for Commissioners to use in providing annual comments, observations and assessments to the City Administrator regarding the Inspector General's job performance. Each Commissioner shall complete the form individually and submit his or her completed form to the City Administrator confidentially. Regularly evaluate the sufficiency and performance of legal counsel.

1. The Commission shall develop and implement a performance evaluation process to assess the performance of its outside counsel. Metrics to be evaluated shall include, but are not limited to: analytical abilities, legal research/writing, public speaking, professionalism, time management, productivity, and subject matter expertise/knowledge of the law. Areas of subject matter expertise shall include, but are not limited to, if applicable: understanding of the Brown Act/Sunshine Act and parliamentary rules, public employment law, and/or policing

policies/practices and police accountability.

2. Performance evaluations of outside counsel shall occur regularly, but no less frequently than once each calendar year.
3. The Commission shall report to the City Council regarding the performance evaluation of outside counsel.
4. If the Commission creates a staff attorney position through the Civil Service Board, in accordance with Charter sections 604(b)(12) and 604(e)(7), the Commission shall conduct performance evaluations in accordance applicable personnel rules and labor agreements.

I.J. Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of:

1. To the extent permitted by applicable law, the discipline decisions that were appealed to arbitration;
2. Arbitration decisions or other related results;
3. The ways in which it has supported the police discipline process; and
4. Significant recent developments in police discipline.

The City Attorney's semi-annual reports shall not disclose any information in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.

J.K. Provide policy guidelines input to the Agency Director for assistance in determining case prioritization.

K.L. Make available on its website, to the extent permitted by law:

1. The Commission's annual report;
2. The Chief's annual report;
3. The Agency's reports;
4. The Agency Director's monthly reports; and
5. The Inspector General's annual report. OIG's reports, and
6. Access to the City's public records portal

No information shall be distributed in any form, including but not limiting to using any print media, or posted using any electronic media, in violation of state and local law regarding the confidentiality of personnel records or privilege, including but not limited to confidentiality of personnel records under California Penal Code section 832.7.

L.M. Direct the Agency to investigate a serious incident Serious Incident when requested by the Mayor, the City Administrator, and/or the City Council by an affirmative majority vote. This does not affect the Agency's ability to investigate any complaint of misconduct, whether public or not.

- ~~M.N.~~ Review the Agency's dismissal and/or administrative closure of all complaints of ~~misconduct~~ Misconduct involving Class I offenses, including any Agency investigative file regarding such complaints, and, in its discretion and by five (5) affirmative votes, direct the Agency to reopen the case and investigate the complaint. For purposes of this subsection, the definition of "Class I offenses" shall be the same as the definition of "Class I offenses" in the Department's Discipline Policy.
- ~~N.O.~~ Submit an annual, written report as required by Charter section 604(b)(9) to the Mayor, City Council and the public by May 30 of each year. In association with the Agency Director and in consultation with the Chief or the Chief's designee, establish rules and procedures for the mediation and resolution of complaints of misconduct. To the extent required by law, the City will provide the employee unions with notice of such proposed bylaws prior to implementation.
- ~~O.~~ Receive any and all reports prepared by the Community Policing Advisory Board (hereinafter referred to as "CPAB") and consider acting upon any of the CPAB's recommendations for promoting community policing efforts and developing solutions for promoting and sustaining a relationship of trust and cooperation between the Department and the community.
- P. Review and comment on the Department's policy and/or practice of publishing Department data sets and reports regarding various Department activities, submit its comments to the Chief, and request the Chief to consider its recommendations and respond to the comments in writing.
- Q. Solicit and consider input from members of the public regarding the quality of their interactions with the Agency, the OIG, and the Commission.
- ~~R.~~ Hold at least two public hearings each calendar year to discuss potential amendments to update the Commission's rules of procedure and to ensure compliance with section 2.45.040. The Department, through the City Administrator or his or her designee, shall report to the Commission on issues identified by the Commission through the Commission's Chair. The City Administrator, or his or her designee, shall attend in person unless impracticable, and shall be prepared to discuss and answer questions regarding the issues identified by the Commission.
- S. On behalf of the City of Oakland, have the authority to bind the City by written contract, as described in Oakland Municipal Code Chapter 2.04, for such professional, technical or scientific services as are necessary to fulfill its Charter duties. No Commission member may participate in a vote to approve a contract ~~until he or she completes prior to completing~~ the contract training described in section 2.45.190 N, ~~such training to be provided by City Administration within sixty (60) days of final passage of this section 2.45.070 S. and, thereafter, as prescribed by section 2.45.190 N.~~
- ~~Failure to complete contract training before participating~~ Participating in a vote to approve a contract ~~without completing contract training~~, and/or ~~failure failing~~ to adhere to the requirements, procedures and policies set forth in Chapter 2.04 of the Oakland Municipal Code, may be considered "gross misconduct in office" for purposes of Charter section 604(c)(10).

The Council recognizes and acknowledges that the City may need the cooperation and assistance of Commission members to address contract disputes that arise in connection with contracts that the Commission approves during the tenure of such Commissioners' service as a regular or alternate member on the Commission. Each Commissioner shall have the responsibility and duty to cooperate and provide assistance to the City to address contract disputes that arise in connection with contracts that the Commission approves during his/her tenure as a regular or alternate member of the Commission.

- T. No Commissioner shall interfere with an open Agency investigation or any other administrative investigation of an Officer, except in accordance with its functions and duties as explicitly set forth in section 604 of the Charter and this Chapter.

#### **2.45.075 Serious ~~incidents~~ Incidents.**

~~Within one hundred and eighty (180) days after the effective date of this Chapter 2.45, the~~ The City Administrator ~~or their designee~~ shall ensure ~~establish~~ the Department establishes and maintains a protocol for notifying the Commission, the Agency Director and the Inspector General of ~~serious incidents~~ Serious Incidents within forty-eight (48) hours of the Chief knowing ~~or having a reasonable suspicion~~ that a ~~serious incident~~ Serious Incident has occurred, ~~or knowing of an allegation that a Serious Incident has occurred.~~ For purposes of this subsection, "Reasonable Suspicion" shall mean that, from the totality of the circumstances, there is a specific, articulable, and objective basis for suspecting personnel of criminal activity. There must be specific facts beyond the mere allegation of criminal misconduct. The City Administrator or her or his designee shall also provide a confidential status report to the ~~Chair of the~~ Commission, the Agency Director and the Inspector General within ten (10) calendar days of the date on which the ~~serious incident~~ Serious Incident occurred, and a second confidential status report ~~to the Chair of the~~ Commission, the Agency Director and the Inspector General within forty-five (45) calendar days of the date on which the serious incident occurred. The City Administrator or her or his designee shall also brief the Commission Chair, the Agency Director and the Inspector General at least once a month regarding allegations of all ~~serious incidents~~ Serious Incidents under investigation.

#### **2.45.080 Access to documents**

- A. The Commission shall have access to Department files and records, including personnel files, in accordance with Charter Section 604(f)(2). Commission requests for Department records shall be submitted in writing to the Captain of Internal Affairs and/or the Chief. The Department shall be responsible for responding to Commission requests for Department records in accordance with Charter section 604(f)(2).
- ~~A-B.~~ Subject to applicable law, the Commission shall have access to all Agency and Department files and records, with the exception of personnel records, and to all files and records of other City offices, departments or agencies that are relevant and necessary to the performance of its duties, with the exception of personnel records. Requests for access to files and records under this subsection shall be made by a majority vote of the Commission, which shall articulate a reasonable nexus to one or more of the Commission's powers and duties enumerated in Charter Section 604(b).

- C. Subject to applicable law, the Commission shall have access to all Department files and records, with the exception of personnel records, and to all files and records of other City departments and agencies that are relevant to a ~~serious incident~~ Serious Incident. ~~Notwithstanding the foregoing, the Commission shall have access to the personnel records necessary to perform its duties described in City Charter section 604(g)(3) and in section 2.45.070 M. of this Chapter of the Oakland Municipal Code.~~
- D. ~~The Commission shall have access files and records, including personnel records, necessary to perform its duty to review the Agency's closure of certain use-of-force, sexual misconduct, and untruthfulness investigations pursuant to Charter section 604(g)(3).~~
- E. ~~The Commission shall have access files and records, including personnel records, necessary to perform its duty to review the Agency's dismissal and/or administrative closure of all complaints of Misconduct involving Class I offenses pursuant to section 2.45.070(M) of this Chapter.~~
- ~~C.F.~~ The Discipline Committees shall have access to all files, including personnel records, that are included in the Chief's and Agency's submissions, as described in City Charter section 604(g)(2) and in this Chapter 2.45.
- ~~D.~~ ~~The Inspector General shall have access to all files, including personnel records, that are necessary to perform his or her duties described in this Chapter 2.45.~~
- ~~E.~~ ~~The Commission and the OIG shall follow Department policies and procedures regarding the release of videotape and audio tape recordings of alleged Class 1 violations committed by police officers.~~
- ~~F.G.~~ To the extent possible, any confidential documents, files and records shall be made available to the Commissioners, the Inspector General and the Discipline Committees in electronic format on a secure server. Each individual who has access to this server shall have ~~his or her~~ their own password. Each page of any printed copies of confidential documents, records or files shall bear a watermark consisting of the name of the individual for whom the printed copies are made. All such copies must be stored in a secure place, and ~~must~~ be shredded when no longer needed. Upon expiration of ~~his or her~~ their term, a Commissioner must return to the City any and all copies of confidential materials that have not been shredded.

## **2.45.090 Meetings.**

In conducting its meetings, the Commission shall comply with all requirements of the Brown Act, California Government Code section 54950, et seq., and Article II of Chapter 2.20 of the Oakland Municipal Code.

- A. Consistent with City Charter section 604(d)(1), the Commission shall meet at least twice each month at an established time and place suitable to its purpose. Such meetings shall be designated regular meetings and shall be held at City Hall. If the Commission determines, by a majority vote of those present at a regular meeting, that a second regular meeting in that month is not necessary, it shall provide public notice of the meeting

cancellation as required by all applicable State and local laws. Video recordings of all open sessions of Commission meetings shall be aired on KTOP-TV10. The Commission shall work with City Administration to facilitate public participation via internet platforms such as Zoom. The Commission shall report out to the public regarding the progress made in this regard at least quarterly until such remote access is established.

- B. Consistent with City Charter section 604(d)(1), at least twice each calendar year, the Commission shall hold one (1) of its regularly scheduled meetings at a location outside of City Hall. These offsite meetings shall be designated special meetings subject to the ten-day agenda notice requirement for purposes of Article II of Chapter 2.20 of the Oakland Municipal Code and shall include an agenda item titled "community roundtable," or something similar. The purpose of the community roundtable agenda item shall be to solicit community testimony and other input in discussions regarding community policing, building trust between the community and the Department, and other similar and relevant subjects as determined by the Commission. The Commission shall consider inviting to each roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and, to the extent practicable, formerly incarcerated members of the community.
- C. "Final Actions," as defined by state and local open meeting laws, taken by the Commission in closed session shall be publicly reported with the vote or abstention on that action of every member present. Closed sessions that are scheduled in conjunction with regular Commission meetings shall be held at the end of Commission meetings, prior to open forum and adjournment, unless holding closed session earlier is necessary to accommodate attendance by a person other than a Commissioner, Commission staff, or the Commission's outside counsel.

#### **2.45.110 Civilian Inspector General.**

- ~~A. Within one (1) year of the City Council's confirmation of the first group of Commissioners and alternates, the Commission, with the assistance of the Human Resources Management Department and in accordance with the City's Civil Service Rules, shall prepare a job description and list of required qualifications for the position of civilian Inspector General. After all required approvals have been obtained for adding this position to the City's Classification Plan (as defined by the City's Civil Service Rules), the Commission, with the assistance of the City Administrator shall be responsible for hiring the first and all subsequent civilian Inspectors General. The Inspector General shall be subject to a background check as described in section 2.45.060, above, before hiring except that the results of the background check shall be submitted only to the Commission.~~
- ~~B. Within ninety (90) days of his or her appointment, the Inspector General shall, at a minimum, receive the training described in City Charter section 604(c)(9) and in section 2.45.190 A. through F. of this Chapter 2.45. The Commission may propose any additional training it deems necessary for the Inspector General to perform the functions and duties of the OIG.~~



- ~~C. The Inspector General shall report to the Commission, and may only be removed according to the City's Civil Service Rules and any applicable memorandum of understanding between the City and a union.~~
- ~~D. The Inspector General shall be responsible for the day-to-day operations of the OIG, including but not limited to the supervision and direction of all OIG staff.~~
- ~~E. The Inspector General shall be permitted to attend, as an observer, Executive Force Review Board, Force Review Board, and, to the extent permitted by law, Skelly hearings if he or she chooses to do so. The Inspector General shall not have any decision-making authority regarding the specific cases being heard, and shall maintain the confidentiality of the hearings as required by law. The Inspector General shall not be permitted to attend any Executive Force Review Board, Force Review Board, or Skelly hearing until he or she has completed the training identified in section 2.45.190 C.~~

#### **~~2.45.120 Functions and duties of the Office of Inspector General.~~**

~~The Commission shall advise the OIG of its priorities and the functions and duties the Commission establishes for the Office of Inspector General, which shall include, without limitation:~~

- ~~A. Preparing an annual report, summarizing the results of the annual reviews of:
 
  - ~~1. The Department's processes and procedures for investigating alleged Misconduct;~~
  - ~~2. The Department's processes and procedures for determining the appropriate level of discipline for sustained findings of misconduct;~~
  - ~~3. The Agency's processes and procedures for investigating alleged Misconduct;~~
  - ~~4. The Agency's processes and procedures for determining the appropriate level of discipline for sustained findings of misconduct;~~
  - ~~5. Trends and patterns regarding Department training and education, and the Department's use of any early warning system(s);~~
  - ~~6. Training and/or policy issues that arise during the investigations of complaints; and~~
  - ~~7. Trends and patterns regarding use of force and Department sworn employee-involved shootings.~~~~

~~This annual report shall be presented to the Commission, the Mayor, the City Council's Public Safety Committee, the City Council and to the Chief and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.~~

- ~~B. Monitoring and evaluating, on at least an annual basis, the number and percentage of sworn officers who have received in-service training on profiling and implicit bias, procedural justice, de-escalation, diplomacy, situational problem solving, and work-related stress management, and make recommendations, as appropriate, to the Commission regarding changes to the Department's training programs.~~

- ~~C. Developing and presenting a plan to the Commission to measure the performance of each element of the Department's discipline process for sworn Department employees.~~
- ~~D. Completing all audits or reviews requested by the Mayor, the City Administrator, and/or the City Council by an affirmative majority vote. The Inspector General shall report all findings to the office that requested the audit or review.~~
- ~~E. Monitoring, evaluating, and making recommendations regarding the Department's recruitment and hiring practices for sworn personnel.~~
- ~~F. Monitoring, evaluating, and making recommendations regarding the Department's policies and procedures as requested by the Commission in furtherance of its duties under City Charter section 604(b)(4), (5) and (6).~~
- ~~G. Monitoring, evaluating, and making recommendations regarding the Department's risk management practices.~~
- ~~H. Any reports, plans, audits, reviews and recommendations generated by the OIG shall not disclose information in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.~~

#### **2.45.130 Establishment of the Establishing Discipline Committees.**

A separate Discipline Committee will be established for each ~~Department sworn employee~~ Officer discipline or termination case. The ~~Chairperson of the~~ Commission Chair shall appoint three (3) Commission members to serve on a Discipline Committee and shall designate one (1) of these three (3) Commission members as the Committee's chair ~~Chairperson~~. The Discipline Committees shall decide any dispute between the Agency and the Chief regarding the proposed or final findings or proposed or final level of discipline to be imposed on a ~~subject officer~~ Subject Officer.

- A. No Discipline Committee established by the Commission shall decide any dispute between the Chief and the Agency, as directed by section 604(g) of the City Charter, until each member of the Discipline Committee has completed: (1) orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for Misconduct, and (2) the training described in section 2.45.190 A. through F.
- B. Membership in the Discipline Committees shall rotate for each ~~Department sworn employee~~ Officer discipline or termination case, as determined by the ~~Chairperson of the~~ Commission Chair.
- C. All Commissioners, including Alternate Commissioners, who have satisfied the training requirements, may serve as Discipline Committee members.
- D. Any Commissioner with a conflict of interest regarding a particular case, shall recuse themselves as appropriate from serving on a Discipline Committee. 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.



## 2.45.140 Discipline.

In accordance with section 604(g)(4) of the City Charter, all ~~Department sworn employees~~ Officers shall be afforded their due process and statutory rights, including Skelly rights, as follows:

- A. With respect to ~~misconduct~~ Misconduct that is given a Class I designation pursuant to the Department's Discipline Policy, the Chief and the Agency Director shall include probative ~~video and/or audio recordings videotape and/or audiotape~~ from their respective investigations in their submissions to the Discipline Committee pursuant to City Charter section 604(g)(2). The Discipline Committee shall have the authority to require the Chief and the Agency Director to provide any additional videotape, audiotape recordings, and/or documents (including without limitation any existing transcripts of ~~subject officer~~ Subject Officer or witness interviews) from the Agency's and the Department's investigation files that it deems relevant to its deliberations, and shall also have the authority to require the Chief and the Agency Director, or their non-attorney designees, to appear before the Discipline Committee to present their findings and recommendations and to answer questions.
- B. The record submitted to the Discipline Committee by the Chief regarding any ~~misconduct~~ Misconduct shall include the ~~subject officer's~~ Subject Officer's history of discipline for the previous five (5) years. All documents submitted to the Discipline Committee by either the Agency Director or the Chief shall not include any redactions unless such redactions are required by law.
- C. After the investigation of a complaint has been completed and a decision has been made regarding the proposed findings and the proposed level of discipline (hereinafter referred to as the "proposed discipline"), either by agreement between the Chief and the Agency or by decision of the Discipline Committee, the Chief shall send a notice of intent to impose discipline or a notice of intent to terminate to the ~~subject officer~~ Subject Officer. Consistent with City policy and applicable law, the Department shall offer the ~~subject officer~~ Subject Officer a Skelly hearing to be conducted by an assigned Skelly officer. After completion of the Skelly hearing, the Skelly officer shall issue ~~his or her~~ a report which shall include ~~his or her~~ a recommendation regarding whether the proposed discipline should be affirmed or modified in any way.
- D. The Skelly report shall be submitted to the Chief and to the Agency Director if the Chief and the Agency Director agreed on the Proposed Discipline. The Chief and the Agency Director shall consider the Skelly report and consult with each other regarding the final set of findings and level of discipline to be imposed (hereinafter referred to as "final discipline").
  1. If the Chief and the Agency Director agree on the final discipline, the Chief shall send a notice of discipline or notice of termination to the ~~subject officer~~ Subject Officer.
  2. If the Chief and the Agency Director do not agree on the final discipline, the Skelly report shall be submitted to the Discipline Committee which shall decide the final discipline based solely on the record reviewed and considered by the Skelly Officer (which shall include the notice of intent to discipline or terminate with all attachments). The Discipline Committee shall also have the authority to require the

Chief and the Agency Director, or their non-attorney designees, to appear before the Discipline Committee to present their recommendations and to answer questions. After determining the final discipline, the Discipline Committee shall direct the Chief to send a notice of discipline or notice of termination to the ~~subject officer~~ Subject Officer.

- E. The Skelly report shall be submitted to the Discipline Committee if the Discipline Committee decided the proposed discipline. The Skelly report shall also be submitted to the Chief and the Agency Director. The Discipline Committee shall consider the Skelly report in deciding the final discipline. After such determination, the Discipline Committee shall direct the Chief to send a notice of discipline or notice of termination to the ~~subject officer~~ Subject Officer.
- F. After the final discipline has been determined by either the agreement of the Agency Director and the Chief, or by the Discipline Committee, and to the greatest extent permitted by law, the complainant(s) shall be informed of the disposition of the complaint.
- G. The Discipline Committee shall maintain the confidentiality of all personnel and/or privileged information as required by State and local law. After the Discipline Committee has concluded its deliberations regarding the Proposed Discipline and/or the final discipline, it shall return all records and information it received (if not received electronically) to the party from which it received such records and information. Members of the Discipline Committee shall not retain copies of the records they receive from the Chief and the Agency, nor shall they publicly comment about, or discuss any personnel matter with anyone, including another member of the Discipline Committee, outside of Discipline Committee meetings, except as required by a valid subpoena. This subsection G. shall not preclude any member of a Discipline Committee from participating in any grievance procedure, including without limitation testifying in an appeal before the Civil Service Board or an arbitration or other type of administrative hearing.
- H. The ~~subject officer~~ Subject Officer may appeal the imposition of discipline or termination to the Civil Service Board. In addition, the ~~subject officer~~ Subject Officer may grieve the imposition of discipline or termination as prescribed in a collective bargaining agreement.

#### **2.45.150 ~~Establishment of other~~ Establishing additional committees.**

The Commission may establish either an ad hoc or standing committee by majority vote of the Commission. Membership on a Committee shall be proposed by the Chair and ratified by a majority vote of the Commission.

The Commission must obtain City Council approval prior to the creation of any standing committee only if the committee will require additional resources. A proposal to create a standing committee of the Commission must include information regarding the costs associated with staffing the standing committee, if any, and the costs of complying with noticing and reporting requirements resulting from its establishment. City Council approval shall not be required for creating temporary or ad hoc committees.

#### **2.45.160 Public statements of the Commission.**

The Commission may authorize one or more of its members to issue statements to the public regarding the Commission's official business, to the extent such business is not confidential or privileged under State or local law only after the statement has been approved by an affirmative vote of not less than four (4) votes in a public meeting. Commissioners may publicly discuss their roles as Commissioners and the Commission's public and official business for the purpose of educating the community provided they adhere to the notice requirements of the Brown Act and Oakland's Sunshine Ordinance.

#### **2.45.170 ~~Election of Chairperson~~ Electing a Commission Chair and Vice-Chair.**

~~At The Commission shall elect a Commission Chair and Vice-Chair at its first regular meeting, the members shall elect a Chairperson and a Vice-Chairperson. Beginning February 1, 2019, the members shall elect a Chairperson and a Vice-Chairperson at the first regular meeting of each calendar year, and as necessary to fill a vacancy.~~

#### **2.45.180 ~~Staff assistance.~~ Reserved**

- ~~A. Within two hundred and forty (240) days of the City Council's confirmation of the first group of Commissioners and alternates and on an ongoing basis as appropriate, the Commission shall provide the City Administrator with its proposal for the staff positions necessary to permit the Commission and the Agency to fulfill its functions and duties as set forth in this Chapter 2.45, Chapter 2.46, and as set forth in section 604 of the City Charter.~~
- ~~B. Pursuant to City Charter section 604(e)(5) and, to the extent practicable, within one (1) week of the City Council's confirmation of the first group of Commissioners and alternates, the City Administrator shall assign an administrative staff person under her/his jurisdiction to provide administrative support to the Commission and to act as liaison between the Commission and the City Administrator's office.~~
- ~~C. At a minimum, the City Council shall allocate the equivalent of an additional one-half (½) of a full-time administrative position (0.5 FTE) to the City budget for the purpose of providing adequate administrative support for the Commission.~~
- ~~D. The full-time equivalent non-City Attorney legal advisor position assigned by the City Attorney after consultation with the Chair shall be divided into two (2) part-time positions: a one-half (½) or two-thirds (⅔) time position with specific responsibilities for providing legal services to the Agency related to investigations and discipline, and a one-half (½) or one-third (⅓) time position as legal advisor to the Commission. The legal advisor to the Agency and the legal advisor to the Commission shall report to the Commission. Neither the legal advisor to the Agency nor the legal advisor to the Commission shall report to or be supervised by the City Attorney or any Deputy City Attorney. Pursuant to City Charter Section 401(6), the City Attorney shall act as counsel to the Agency and the Commission in any litigation brought against either in their official capacity and shall provide legal advice only upon request of the Commission.~~

#### **2.45.190 Commissioner training.**

- A. Immediately upon appointment, each Commissioner and alternate shall familiarize

themselves with City Charter section 604 and with Chapters 2.45 and 2.46 of the Oakland Municipal Code.

- B. Within the Commission's budget there shall be a line item for attendance at conferences offered by organizations such as the National Association for Civilian Oversight of Law Enforcement ("NACOLE").
- C. Ongoing or repeated failure to complete training within the timeframes proscribed by City Charter and/or this Section may constitute a substantial neglect of a Commissioner's duty.
- D. Each Commissioner and alternate shall complete the City's on-line training on workplace retaliation training at least once each calendar year. Commissioner and alternates shall complete the first such training within sixty days of appointment, or as soon thereafter as possible. The Public Ethics Commission shall request and receive an annual report in January of each year regarding the Commission's workplace retaliation training activity for the preceding calendar year.
- E. Within six (6) months of appointment, or as soon thereafter as possible ~~and with the exception of the first group of Commissioners and alternates,~~ each Commissioner and alternate shall receive training on:
  - ~~A. — Become familiar with City Charter section 604 and with Chapters 2.45 and 2.46 of the Oakland Municipal Code;~~
  - ~~B.1. Receive training in~~ basic principles of constitutional due process and administrative hearing procedures;
  - ~~C.2. Receive training in~~ the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
  - ~~D.3. Receive briefing on~~ the negotiated settlement agreement in the case of Delphine Allen, et al. v. City of Oakland, and all related court orders for so long as they remain in effect;
  - ~~E.4. Receive information regarding~~ constitutional civil rights guaranteed to all citizens as such rights are affected by law enforcement;
  - ~~F.5. Receive training in the legal requirements of the~~ California's Political Reform Act (Cal. Gov't Code section 81000, et seq.), Oakland's Conflict of Interest Code (Oakland Municipal Code Chapter 3.16), California's Brown Act (Cal. Gov't Code section 54950, et seq.), Oakland's Sunshine Ordinance (Oakland Municipal Code Chapter 2.20), and California's Public Records Act (Cal. Gov't Code section 6250, et seq.);
  - ~~G.6. Receive training in open session in the legal requirements of~~ California's Meyers Milius Brown Act (Cal. Gov't Code section 3500, et seq.) (MMBA), the Public Employment Relations Board's administration of the MMBA, the City's Memoranda of Understanding with the Oakland Police Officers' Association and other represented City employees, the City's Civil Service Board, and other relevant City personnel policies and procedures, which training shall be provided by the City Administrator or their designee(s) from Human Resources and/or Employee

Relations and shall occur in open session; and

~~H.7. Receive training in open session in the legal requirements of California's Public Safety Officers Procedural Bill of Rights Act (Cal. Gov't Code section 3300, et seq.), and other California Code sections pertaining to peace officers' rights, which training shall be provided by the Agency Director and/or their designees(s) and shall occur in open session; and~~

8. City policies and procedures regarding Officer misconduct and discipline, including Relevant Department and CPRA policy and procedure.

~~The first group of Commissioners and alternates shall comply with the requirements of subsections A. through H. within twelve (12) months of their appointment.~~

F. In addition, within twelve (12) months of appointment, or as soon thereafter as possible ~~and with the exception of the first group of Commissioners and alternates,~~ each Commissioner and alternate shall:

~~I.1.~~ 1. Receive the training and orientation specified by section 604(c)(9) of the City Charter;

~~I.2.~~ 2. Participate in a Department "ride-along" and attend a police academy curriculum designed for them by the Chief after consultation with the Commission. The curriculum shall be designed so that criminal background checks will not be required for attendance;

~~K.3.~~ 3. Complete the Department's implicit bias training, and crisis intervention training;

~~L.4.~~ 4. Complete Peace Officer Standards and Training (POST) Learning Domains 15 (Laws of Arrest) and 16 (Search and Seizure); and

~~M.5.~~ 5. Receive training regarding racial equity.

~~The first group of Commissioners and alternates shall comply with the requirements of subsections I. through M. within eighteen (18) months of their appointment.~~

~~The City Administrator shall assist the Commission in scheduling and facilitating all training and orientation required by this Section and by section 604 of the City Charter. Within the Commission's budget there shall be a line item for attendance at conferences offered by organizations such as the National Association for Civilian Oversight of Law Enforcement ("NACOLE").~~

~~N.6.~~ 6. Receive training on the City's public contracting requirements, policies and procedures for the purchase of professional, technical, and/or scientific services before the Commissioner casts a vote on any such contract, notwithstanding the six-month time frame provided for training in this Section 2.45.190 and in accord with Section 2.45.070, which provides that Commissioners must receive training on public contracting before the Commissioner votes on such contracts and that failure to do so constitutes gross misconduct in office and grounds for removal.

G. The City Administrator shall assist the Commission in scheduling and facilitating all training and orientation required by this Section and by Charter section 604. Within

the Commission's budget there shall be a line item for attendance at conferences offered by organizations such as the National Association for Civilian Oversight of Law Enforcement ("NACOLE").

## **2.45.200 Hearings.**

It shall be the sole and exclusive responsibility of the Commission to determine the order and conduct of any public hearing, consistent with applicable law.

## **2.45.210. Authority of Public Ethics Commission.**

If ~~either the Commissioner~~ Commission ~~or the Inspector General~~ does not receive the files and records requested pursuant to section 604 of the City Charter or pursuant to this Chapter 2.45 within fifteen (15) business days of its request, the Public Ethics Commission shall have the authority to investigate allegations that the head of the offending City department or agency failed to provide the requested files or records as required by section 604 of the City Charter or this Chapter 2.45. Such requirements shall be subject to enforcement by the City in the same manner as violations of Chapter 2.25 of the Oakland Municipal Code.

## **2.45.220 ~~Reporting to City Council.~~ Administrative hearing upon removal of Chief**

~~The Commission shall submit its first annual, written report to the Mayor, City Council and the public within eighteen (18) months of the City Council's confirmation of the first group of Commissioners and alternates. The Commission's subsequent reports shall be submitted annually on or near the anniversary of that date.~~

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). Removal for the purposes of this section shall include any action that constitutes removal under the Code, including but not limited to termination.

The Chief shall have ten calendar days from service of the notice of the action constituting removal to request an administrative appeal. The request for appeal must be in writing and must be directed to, at a minimum, the Commission, the Mayor, and the City Attorney.

The administrative appeal procedure shall be as follows:

The City will retain an independent hearing officer, the cost of which shall be borne by the City. The hearing officer's assessment of the removal and findings of fact related to the same shall serve as a non-binding recommendation to the City. The hearing officer shall receive evidence solely through records, sworn declarations and argument. The parties' arguments shall be oral, except that either party may also elect to submit a closing brief following the presentation of evidence. Any evidence introduced in a closing brief not previously introduced or submitted to the arbitrator will not be considered. Closing briefs shall be submitted within twenty (30) calendar days of the close of the hearing. The hearing officer will not consider briefs submitted after the deadline. The hearing officer will finalize the evidentiary record and submit a written report rendering a non-binding recommendation to the City and, as necessary to make such recommendation, make



underlying findings of fact, about the removal of the Chief. whether or not the removal decision was supported by just cause.

The hearing officer shall submit the report within thirty (30) calendar days of the close of the hearing; unless either party timely submits a closing brief, in which case the record shall be finalized and the complete report shall be delivered within sixty (60) calendar days after the close of the hearing.

The Hearing Officer shall provide the following materials to the Removing Authorities for their consideration, which shall constitute the official hearing record: (1) A summation page delineating the name of the Hearing; any and all issues set forth by the Parties during the administrative appeal hearing; a brief summary of the written report; (2) the complete written report rendering all findings and recommendations; (3) any documentary evidence, and any written briefs submitted; and (4) the cassette tape(s) of the hearing.

The hearing shall be audio-recorded by the City. Copies of the recording will be available to the appellant, upon written request, for no charge.

The hearing shall be closed to the public. The hearing officer's report and all other related or accompanying documents and materials shall remain confidential to the extent required by law.

## **Chapter 2.46 COMMUNITY POLICE REVIEW AGENCY**

### **2.46.010 Definitions.**

The following words and phrases whenever used in this Chapter shall be construed as defined in this Section:

"Agency" shall mean the Community Police Review Agency.

"Commission" shall mean the Oakland Police Commission. "Department" shall mean the Oakland Police Department.

"Misconduct" shall mean both ~~a Department sworn employee's~~ an Officer's affirmative act that violates, and/or ~~his or her~~ a failure to act in violation of, the Department's policies, procedures or directives, including without limitation the Department's Manual of Rules.

"Officer" shall mean any sworn individual employed by the Department.

"Subject Officer" shall mean the ~~Department sworn employee~~ Officer who is the subject of a complaint of alleged Misconduct.

### **2.46.020 Creation.**

Oakland City Charter section 604 has established the Community Police Review Agency. It is in the public interest to facilitate the Agency's receipt of public complaints regarding alleged ~~misconduct~~ Misconduct. Thus, some of the Agency staff should be located in a street-level or ground-floor, visible office that is accessible by public transportation. ~~The Commission, in~~

~~consultation with the Agency Director, shall determine the number of existing Agency staff who would work at such a location.~~ Hours of operation for this location shall be clearly posted on the office door and inside the office. The address of this office location, together with hours of operation and a telephone number shall be posted on the City's website and on the Agency's website.

## **2.46.030 Functions and duties.**

In addition to the powers and duties prescribed in section 604 of the Oakland City Charter, the Agency's functions and duties are as follows:

- A. Use the same complaint form as used by the Department in receiving all public complaints concerning alleged ~~misconduct~~ Misconduct, including complaints from Department non-sworn employees. All complaints, wherever filed, shall ~~be~~ indicate date-stamped of receipt and ~~numbered sequentially~~ be assigned an internally generated case number. A copy of the numbered and date-stamped complaint shall be provided to the complainant whenever possible and to the Department's Internal Affairs Division within one (1) business day of receipt.
- B. Make complaint forms available to the public by posting the forms and information about the complaint process on the Agency's website and by accepting the online filing of complaints and attachments via the Agency's website, and by making information about the complaint process available at other public locations to be determined by the Agency Director.
- C. Ensure that all investigators receive any necessary training in conducting fair and impartial investigations.
- D. Request the Commission to issue a subpoena, in accordance with City Charter section 604(b)(3), to compel a ~~subject officer~~ Subject Officer and any other ~~sworn employee of the Department~~ Officer to fully cooperate with an Agency investigation. The Chief shall order all ~~Department sworn employees~~ Officers subject to any subpoena issued by the Commission to comply with all requirements of the subpoena.
- E. ~~Videotape~~ record the interviews of all Subject Officers who are alleged to have committed a Class I offense. For purposes of this subsection, the definition of "Class I offense" shall be the same as the definition of "Class I offense" in the Department's Discipline Policy.
- F. Request, without requiring, that the complainant(s) and witnesses of Class I allegations agree to be audiotaped or videotaped if, in the Agency's discretion, its investigation would benefit from such taping.
- G. In consultation with and upon the approval of the Commission, establish rules and procedures for the operation of its business including, but not limited to, procedures for the intake of complaints.
- H. ~~No less than~~ At least twice ~~a~~ each calendar year and as permitted by applicable law, ~~issue~~ submit a report to the Public Safety Committee which shall include the following information:
  1. The number of complaints submitted to the Agency together with a brief description



- of the nature of the complaints and the identification of the Council District from which the complaint originated;
2. The demographic profiles of the complainants to the extent that information exists or is voluntarily provided by the complainants;
  3. The number of the Agency's pending investigations, and the types of Misconduct that is being investigated;
  4. The number of investigations completed by the Agency, the results of the investigations, and the ~~amount of time~~ number of days spent on the investigations;
  5. The number of ~~Department sworn employees for~~ Officers whom sustained findings of ~~misconduct~~ Misconduct were made and the level of discipline proposed;
  6. The number of closed investigations which did not result in sustained findings and/or discipline of the ~~subject officer~~ Subject Officer;
  7. The number of cases referred to mediation;
  8. The number of cases in which the Agency failed to meet (a) the one-hundred-and-eighty-day (180) goal specified by City Charter section 604(f)(3), and/or (b) the deadline specified by California Government Code section 3304; and
  9. The number of times a Department employee failed to comply with the Agency's request for an interview or for the production of documents, and the number of times ~~a Department sworn employee~~ an Officer failed to comply with a valid subpoena, and whether discipline was imposed for any such non-compliance.

#### **2.46.040 Agency Director.**

The Agency Director shall report to the Commission and shall be responsible for the day-to-day operations of the Agency. The Agency Director's job responsibilities shall include, but not be limited to, the following:

- A. Identifying the staff positions, in addition to the position of Investigator, necessary to perform the Agency's functions and duties;
- B. Assigning complaints to investigators, consulting with investigators regarding, and monitoring the progress of, their investigations;
- C. Monitoring the workload of all Agency staff;
- D. Reporting to the Commission once a month regarding the Agency's pending cases. The following information shall be included in the Agency Director's monthly written report:
  1. The case number;
  2. The name of the complainant;
  3. The initials of the investigator assigned to investigate the complaint;
  4. The date the complaint was filed with the Agency and the date the complaint was filed with the Department's Internal Affairs Division;
  5. The date by which the investigation must be completed if the Agency is to meet the

- one-hundred-and-eighty-day (180) goal specified by City Charter section 604(f)(3);
6. The deadline by which the investigation must be completed, as specified by California Government Code section 3304;
  7. The date of the incident that is the subject of the complaint; and
  8. If City Charter section 604(f)(1) requires the Agency to investigate the complaint, whether the complaint involves uses of force, in- custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, and First Amendment assemblies. If City Charter section 604(f)(1) does not require the Agency to investigate the complaint, a brief, general description of the type of complaint. This brief, general description must be similar in length and generality to the description of the types of complaints the Agency is required to investigate, as stated in City Charter section 604(f)(1); and
  9. The number of times the Department and/or a Department employee refused to comply with a written request for information, and the number of times ~~a Department sworn employee~~ an Officer refused to comply with a valid subpoena.
- E. Conducting annual job performance evaluations of all Agency staff;
- F. Responding to questions and issues raised by the public, as permitted by applicable law; and
- G. Preparing a proposed budget for the Agency. The proposed budget shall be delivered to the Commission by February 1 of each year. In addition to submitting the Agency's proposed budget to the Commission, the Agency Director may submit the proposed budget directly to the Mayor and the City Administrator by the earlier of April 1 of each year or such other date as set by the Mayor. Consistent with the Agency Director's authority to organize and reorganize the Agency and their designation as a department head under Charter section 604(e)(6), the Commission may not direct or require the transfer, deletion, or other alteration of funds and staff positions that the City Council ultimately budgets to the Agency.
- ~~G.H.~~ Any other duties assigned by the Commission, consistent with the Agency's powers and duties as described in section 604 of the City Charter and subject to any constraints imposed by the Agency's budget.

#### **2.46.050 Background checks.**

In accordance with federal and state law and consistent with section 604(e)(7) of the City Charter, background checks shall be performed on all new ~~Agency Complaint Investigators~~ Agency staff and on the Agency Director, before hiring. The City Administrator's Office shall retain an outside person or entity to perform these background checks, which shall include:

- A. Verification of educational and employment background, and any other information that may be verified by a public records search; and
- B. Results of a Criminal Records Search. The results of the background checks may be used solely for the purpose of evaluating the candidates ~~for the Agency Director and for~~

~~Agency Complaint Investigator~~. The results of any background checks of candidates for the position of Agency Director shall be submitted only to the Commission. The results of any background checks of candidates for ~~the position of Agency Complaint Investigator~~staff positions shall be submitted ~~only~~ to the Agency Director.

#### **2.46.060 Mediation Program.**

Upon the agreement of the Chief, the Agency Director, the complainant(s) and the ~~subject officer~~ Subject Officer(s), the Agency Director shall appoint a qualified mediator with at least five (5) years of experience in mediating employment or other relevant disputes, from a conflict resolution company or association that employs mediators, to mediate a final resolution of the complaint ~~in accordance with the Commission's established rules and procedures.~~ The Chief and Agency Director shall agree upon: (1) types of cases that can be referred to mediation; (2) guidelines regarding the process, including but not limited to, confidentiality and agreement of the parties to participate. Any Commissioner, City employee, or former ~~Department sworn officer~~ shall Officer not be appointed mediator. Both the Chief and the Agency Director must approve of any settlement offer before it is proposed to the ~~subject officer~~ Subject Officer and/or before any such offer is accepted.

#### **2.46.070 Authority of Public Ethics Commission.**

If the Agency does not receive the files and records requested pursuant to section 604 of the City Charter or pursuant to this Chapter 2.45 within fifteen (15) business days of its request, the Public Ethics Commission shall have the authority to investigate allegations that the head of the offending City department or agency failed to provide the requested files or records to the Agency as required by section 604 of the City Charter or this Chapter 2.46. Such requirements shall be subject to enforcement by the City in the same manner as violations of Chapter 2.25 of the Oakland Municipal Code.

**SECTION 2.** Chapter 2.47 (Office of Inspector General) of the Oakland Municipal Code is hereby added as follows (section numbers and titles are indicated in bold type; additions are indicated by underscoring).

### **Chapter 2.47 OFFICE OF INSPECTOR GENERAL**

#### **2.47.010 Definitions**

The following words and phrases whenever used in this chapter shall be construed as defined in this section:

"OIG" shall mean the Office of Inspector General.

"Commission" shall mean the Oakland Police Commission.

"Department" shall mean the Oakland Police Department.

"Inspector General" shall mean the Director of the OIG.

#### **2.47.020 Creation**

Oakland City Charter Section 604 has established the Office of Inspector General.

- A. The city shall allocate a sufficient budget for the OIG to perform its functions and duties.
- B. All OIG staff shall be civil service employees in accordance with section 604(e)(7) and article IX of the Charter.
- C. The Inspector General shall be subject to a background check as described in section 2.45.060, above, before hiring except that the results of the background check shall be submitted only to the Commission.
- D. Any reports, plans, audits, reviews and recommendations generated by the OIG shall not disclose information in violation of state and local law regarding confidentiality or privilege, including but not limited to California Penal Code section 832.7.

#### **2.47.030 Functions and duties.**

In addition to the powers and duties prescribed in section 604 of the Oakland City Charter, the OIG's functions and duties are as follows:

- A. Conducting any audit or review of the Department necessary to assess the Department's performance and adherence to constitutional policing practices, and any audit or review of the Department's policies and procedures, including any pattern of non-compliance with the foregoing, as necessary or helpful for the Commission to fulfill its duties under City Charter section 604(b)(4), (5) and (6).
- B. Preparing a biennial report, summarizing the results of the biennial reviews of:
  - 1. The Department's processes and procedures for investigating alleged Misconduct;
  - 2. The Department's processes and procedures for determining the appropriate level of discipline for sustained findings of Misconduct;
  - 3. The Agency's processes and procedures for investigating alleged Misconduct;
  - 4. The Agency's processes and procedures for determining the appropriate level of discipline for sustained findings of Misconduct;
  - 5. Trends and patterns regarding Department training and education, and the Department's use of any early warning system(s);
  - 6. Training and/or policy issues that arise during the review of completed investigations of complaints; and
  - 7. Trends and patterns regarding use of force and Officer-involved shootings.

This biennial report shall be presented to the Commission, the Mayor, the City Council's Public Safety Committee, the City Council and to the Chief and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

- C. Monitoring and evaluating, on at least an annual basis, the number and percentage of Officers who have received in-service training on profiling and implicit bias, procedural justice, de-escalation, diplomacy, situational problem-solving, and work-related stress management, and make recommendations, as appropriate, to the Commission regarding changes to the Department's training programs.
- D. Developing and presenting a plan to the Commission to measure the performance of each element of the Department's discipline process for Officers.
- F. Monitoring, evaluating, and making recommendations regarding the Department's recruitment and hiring practices for Officers.
- G. Monitoring, evaluating, and making recommendations regarding the Department's policies and procedures as requested by the Commission in furtherance of its duties under City Charter section 604(b)(4), (5) and (6).
- H. Monitoring, evaluating, and making recommendations regarding the Department's risk management practices.

#### **2.47.040 Civilian Inspector General.**

The Inspector General's job responsibilities shall include, but not be limited to, the following:

- A. Managing all OIG audits, evaluations, inspections and reviews. Subject to Charter Section 604(f)(5), the Inspector General shall have sole discretion in deciding whether and how to conduct any OIG audit, evaluation, inspection or review, including decisions regarding timing, methodology, findings, recommendations, and reporting. In considering requests for audits, evaluations, inspections or reviews, including requests from the Mayor, City Administrator, or City Council, the Inspector General shall take into consideration the OIG's priorities, resources, and available funding.
- B. Completing the training described in City Charter section 604(c)(9) and in section 2.45.190 A through F of this Chapter 2.45 within ninety (90) days of taking office.
- C. Overseeing the day-to-day operations of the OIG, including but not limited to the supervision and direction of all OIG staff. Subject to any duty to meet and confer with an affected union, the Inspector General shall have sole discretion in setting the operating procedures for the OIG.
- D. Reporting quarterly to the Police Commission at a public meeting on recently completed, pending, and upcoming audits, evaluations, inspections or reviews. The Inspector General may, upon mutual agreement between the Inspector General and the Police Commission, report more frequently.

- E. Observing, or having a designee observe, Executive Force Review Boards, Force Review Boards, and, to the extent permitted by law, Skelly hearings. Attendance at such events by the OIG shall be at the Inspector General's discretion. The Inspector General shall not have any decision-making authority regarding the specific cases being heard and shall maintain the confidentiality of the hearings as required by law. The Inspector General shall not be permitted to attend any Executive Force Review Board, Force Review Board, or Skelly hearing until they have completed the training identified in section 2.45.190 C.
- F. Preparing a proposed budget for the OIG. The proposed budget shall be delivered to the Commission by February 1 of each year. In addition to submitting the OIG's proposed budget to the Commission, the Inspector General may submit the proposed budget directly to the Mayor and the City Administrator by the earlier of April 1 of each year or such other date as set by the Mayor. Consistent with the Inspector General's authority to organize and reorganize the OIG and their designation as a department head under Charter section 604(e)(6), the Commission may not direct or require the transfer, deletion, or other alteration of funds and staff positions that the City Council ultimately budgets to OIG.

#### **2.47.050 Background checks.**

In accordance with federal and state law and consistent with section 604(e)(7) of the City Charter, background checks shall be performed on all new OIG staff before hiring. The City Administrator's Office shall retain an outside person or entity to perform these background checks, which shall include:

- A. Verification of educational and employment background, and any other information that may be verified by a public records search; and
- B. Results of a Criminal Records Search. The results of the background checks may be used solely for the purpose of evaluating the candidates and shall be submitted to the IG.

#### **2.47.060 Authority of Public Ethics Commission.**

If the OIG does not receive the files and records requested pursuant to section 604 of the City Charter or pursuant to this Chapter 2.47 within fifteen (15) business days of its request, the Public Ethics Commission shall have the authority to investigate allegations that the head of the offending City department or agency failed to provide the requested files or records to the OIG as required by section 604 of the City Charter or this Chapter 2.47. Such requirements shall be subject to enforcement by the City in the same manner as violations of Chapter 2.25 of the Oakland Municipal Code.

**SECTION 3. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each

section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –  
ABSENT –  
ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: \_\_\_\_\_

## **NOTICE AND DIGEST**

### **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; AND**

**(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.**

This ordinance will amend Oakland Municipal Code Chapters 2.45 and 2.46, which are the enabling ordinances for the Oakland Police Commission and Community Police Review Agency, respectively, and will add Chapter 2.47, which will be the enabling ordinance for the Office of Inspector General, to implement amendments to the City Charter adopted with the passage ballot measure S1 in 2020, as well as to further define the powers and duties of the Police Commission, Community Police Review Agency, and the Office of Inspector General.



APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

**OAKLAND CITY COUNCIL**

**RESOLUTION NO. \_\_\_\_\_ C.M.S.**

**INTRODUCED BY COUNCILMEMBER JENKINS**

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**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION  
SUBMITTING TO THE VOTERS FOR THE NOVEMBER 5, 2024  
GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD  
AMEND CITY CHARTER SECTION 604 TO, AMONG OTHER  
THINGS:**

- (1) SIMPLIFY THE PROCESS FOR APPOINTING POLICE  
COMMISSIONERS BY HAVING NINE REGULAR POLICE  
COMMISSIONERS THAT ARE APPOINTED ONE EACH BY  
THE COUNCILMEMBERS AND THE MAYOR;**
- (2) STRENGTHEN THE INDEPENDENCE OF THE OFFICE OF  
INSPECTOR GENERAL BY HAVING THE CITY AUDITOR,  
RATHER THAN THE POLICE COMMISSION, APPOINT THE  
INSPECTOR GENERAL;**
- (3) STREAMLINE THE PROCESS FOR RECRUITING AND  
HIRING POLICE CHIEFS BY RESTORING THE AUTHORITY  
THAT THE CITY ADMINISTRATOR PREVIOUSLY HAD FOR  
POLICE CHIEFS AND STILL HAS FOR VIOLENCE  
PREVENTION CHIEFS, FIRE CHIEFS, AND THE HEADS OF  
OTHER IMPORTANT DEPARTMENTS; AND**
- (4) CLARIFY THAT THE COMMUNITY POLICE REVIEW  
AGENCY CAN INVESTIGATE ANY ALLEGATION OF  
POLICE MISCONDUCT, NO MATTER THE SOURCE OF THE  
COMPLAINT;**

**AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR  
SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE  
AND PUBLICATION, AND TO TAKE ANY AND ALL OTHER  
ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND  
CONDUCT THE NOVEMBER 5, 2024 GENERAL  
MUNICIPAL ELECTION**

**WHEREAS**, on April 15, 1980, the City Council established the Citizens' Police Review Board (hereinafter, Board) with jurisdiction to review certain complaints alleging Oakland Police Department officer misconduct, to conduct fact-finding investigations, and to make advisory reports to the City Administrator; and

**WHEREAS**, on July 30, 1996, the City Council expanded the Board's jurisdiction to include complaints involving the excessive use of force, and bias based on an individual's legally protected status (race, gender, national origin, religion, sexual orientation or disability); and

**WHEREAS**, on November 12, 2002, the City Council passed Ordinance No. 12454 C.M.S., which further refined the Board's powers to include making recommendations to the City Administrator regarding litigated cases, and enlarged the amount of time for the Board to complete its investigations. The Board, however, was not empowered to oversee Department policy, impose discipline or adjudicate disciplinary appeals; and

**WHEREAS**, in 2003, *Delphine Allen, et al. v. City of Oakland* (the Riders case) where multiple Police Department officers violated plaintiffs' civil rights and were found to have planted evidence and used excessive force which resulted in the Negotiated Settlement Agreement (“NSA”); and

**WHEREAS**, on November 8, 2016, Oakland voters approved Measure LL (83.19%), 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; and

**WHEREAS**, 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; and

**WHEREAS**, nearly eight years after the passage of Measure LL and four years after the passage of Measure S1, Oakland voters have once again have an opportunity to continue to improve the Oakland Police Commission and to improve civilian oversight of the Oakland Police Department; and

**WHEREAS**, the Commission currently consist of nine member (and requires five Commissioners to establish a quorum), but only seven of the members are “Regular Members” with full rights to participate in and contribute to the work of the Commission, while the other two members are “Alternate Memebbers” with limited rights, even though some of the Alternate Commissioners have historically been some of the most dedicated and qualified to serve; and

**WHEREAS**, this system can become much simpler and more equitable by making all nine Commissioners full, equal members of the body; and

**WHEREAS**, the City's eight Councilmembers and the Mayor each currently appoint one member each to a nine-person Selection Panel, which in turn appoint seven of the Police Commissioners (while the Mayor Appoints the other two); and

**WHEREAS**, this system means: 1) the City has to find nine committed volunteers for the Selection Panel in order to ultimately have nine committed volunteers for the Police Commission (a total of eighteen volunteers) 2) the Mayor has three appointments (one member of the Selection Panel and two Commissioners) while the Councilmembers each only appoint a Selection Panel member; and 3) City staff, which is already stretched incredibly thin, must support and facilitate two entire sets of meetings; and

**WHEREAS**, this system can also be made much simpler and more equitable if the City's eight Councilmembers and the Mayor each directly appoint one of the nine members of the Police Commission; and

**WHEREAS**, in order "to ensure that all allegations of police officer misconduct are thoroughly investigated, and to identify any systemic issues regarding Department and Agency practices and policies," City Charter section 604(f)(5) empowers the Office of Inspector General ("OIG") to review Police Department practices and policies as well as Community Police Review Agency practices and policies; and

**WHEREAS**, to be most effective in improving constitutional policing in Oakland, the Inspector General needs to be free to offer recommendations for all of the City's policing practices and policies, but because the Inspector General currently reports directly to the Police Commission, the Inspector General may find it difficult to criticize practices and policies the Police Commission may have endorsed or may even have adopted; and

**WHEREAS**, having Oakland's independent and elected City Auditor, rather than the Police Commission, appoint the City's Inspector General will increase the OIG's independence and autonomy, which in turn will bolster the appearance of impartiality and the public's trust in the office; and

**WHEREAS**, the Oakland Police Department did not have a permanent Chief of Police from February 15, 2023 to May 11, 2024 – following: 1) an initial recruitment process by the Police Commission that lasted more than eight (8) months; 2) three Commissioners boycotting Police Commission meetings to stop a process they believed was being improperly led; 3) the initial submission of a list of candidates to the Mayor that included a candidate the Mayor had publicly said would be unacceptable; and 4) the eventual re-opening of the search; and

**WHEREAS**, this system has proven to be unwieldy and time-consuming, and risks making high-caliber Chief's of Police reluctant to apply to serve Oakland; and

**WHEREAS**, recruiting and managing the City executives is a full-time job that requires professional expertise, and the civilians that are best equipped to oversee those processes going forward are our professional City Administrators and our elected Mayors; and

**WHEREAS**, these changes will not only simplifying and improve our processes and make more efficient uses of City resources, they will also reduce the number of tasks that our volunteer Police Commissioners will be mandated to do, allowing them to focus more of valuable their time and expertise on the important work of reviewing and revising Police Department practices and policies, as well as overseeing the Community Police Review Agency; now therefore be it

**RESOLVED:** That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next general municipal election date, to file with the Alameda County Board of Supervisors and the Registrar of Voters certified copies of this resolution; and be it

**FURTHER RESOLVED:** That the City Council hereby proposes to amend Charter section 604 to add, delete, or modify sections as set forth below (section numbers and titles are indicated in capitalized **bold type**; additions are indicated by underscoring, deletions are indicated by ~~strike-through type~~; portions of the provisions not cited or not shown in underscoring or strike-through type are not changed).

The people of the City of Oakland do ordain as follows:

**Section 1.** Amendments to Section 604 of the Charter of the City of Oakland.

## **SECTION 604 – POLICE COMMISSION**

### **(a) Creation and Role.**

1. There hereby is established the Oakland Police Commission (hereinafter, Commission), which shall oversee the Oakland Police Department (hereinafter, Department) in order to ensure that its policies, practices, and customs conform to national standards of constitutional policing. The Commission shall have the functions and duties enumerated in this Charter Section 604, as well as those assigned to the Commission by Ordinance.
2. There hereby are established a Community Police Review Agency (hereinafter, Agency) and an Office of Inspector General (hereinafter, OIG), which shall have the functions and duties enumerated in this Charter Section 604, as well as those assigned to them by Ordinance.

3. Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a Department sworn employee under his or her command, nor shall anything herein prohibit the Chief of Police from taking disciplinary or corrective action with respect to complaints investigated solely by the Department.
4. No later than two (2) years after the City Council has confirmed the first set of Regular Commissioners and Alternate Commissioners (collectively, Commissioners), the City Auditor shall conduct a performance audit and a financial audit of the Commission and the Agency. Performance audits shall be conducted at least once every three (3) years thereafter. Nothing herein shall limit the City Auditor's authority to conduct future performance and financial audits of the Commission and the Agency which may be conducted by an independent contractor selected by the Inspector General, in consultation with the City Auditor, in compliance with the City's contracting processes and procedures.
5. The City Administration shall not exercise any managerial authority over Commissioners, the Agency Director or the Inspector General, and shall not initiate an investigation for the purpose of removing a Commissioner. City employees maintain the right to file, and appropriate City officials and/or staff maintain authority to investigate, complaints alleging violations of applicable Civil Service Rules, City policies, including Administrative Instructions, Memoranda of Understandings (MOUs), and employment laws and regulations.

(b) **Powers and Duties.** The powers and duties of the Commission are as follows:

1. Oversee the work of the Agency ~~and the OIG~~, and contract with professional service providers as authorized by Ordinance.
2. Conduct public hearings at least once a year on Department policies, rules, practices, customs, and General Orders. The Commission shall determine which Department policies, rules, practices, customs, or General Orders shall be the subject of the hearing.
3. Consistent with state law and in accordance with Section 1207 of the City Charter, entitled "Oaths and Subpoenas," issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before it except that the Commission shall not have any authority to issue subpoenas for the purpose of investigating any City employee, including an Agency employee, who is not a police officer. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, the majority of the members of the Commission may find him in contempt, and shall have power to take proceedings in that behalf provided by the general law of the State.
4. Propose changes at its discretion or upon direction, by adoption of a resolution, of the City Council, including modifications to the Department's proposed changes, to

- any policy, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect at the time this Charter Section 604 takes effect. All such proposed changes and modifications shall be submitted by the Commission Chair or her or his designee to the City Council for review. The City Council shall consider the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, and may approve, modify and approve, or reject the changes. If the Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications, the changes or modifications will become final.
5. Approve or reject the Department's proposed changes to all policies, procedures, customs, and General Orders of the Department which govern use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect at the time this Charter Section 604 takes effect. If the Commission does not approve or reject the Department's proposed changes within one hundred and twenty (120) days of the Department's submission of the proposed changes to the Commission, the Department's proposed changes will become final. If the Commission rejects the Department's proposed changes, notice of the Commission's rejection, together with the Department's proposed changes, shall be submitted by the Commission Chair or her or his designee to the City Council for review. The City Council shall consider the Commission's decision within one hundred and twenty (120) days of the Commission's vote on the Department's proposed changes, and may approve or reject the decision. If the Council does not approve or reject the Commission's decision, the Commission's decision will become final.
  6. Review and comment on, at its discretion, any other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police. The Chief of Police shall provide a written response to the Commission upon the Commission's request.
  7. Review the Mayor's proposed budget to determine whether budgetary allocations for the Department are aligned with the Department's policies, procedures, customs, and General Orders. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change.
  8. Require the Chief of Police or his or her designee to attend Commission meetings and require the Chief of Police to submit an annual report to the Commission regarding such matters as the Commission shall require, including but not limited

- to a description of Department expenditures on community priorities as identified by the Commission. The Chief of Police or her or his designee shall also respond to requests made by the Commission, through the Chairperson, by a majority vote of those present. The Chief of Police or her or his designee shall provide to the Commission Chair an estimate of the time required to respond to the Commission's requests.
9. Report at least once a year to the Mayor, the City Council, and to the public to the extent permissible by law, the information contained in the Chief's report in addition to such other matters as are relevant to the functions and duties of the Commission.
  10. The City Administrator shall appoint and remove the Chief of Police in accordance with Charter Section 503, subject to the direction of the Mayor in accordance with Charter Section 305. However, notwithstanding any other provision of this Charter, prior to appointing a Chief of Police, the City Administrator shall invite subject-matter experts and community stakeholders, including but not necessarily limited to, the Chief of Violence Prevention, the Chief of Fire, the Police Commission Chair, and the Police Commission Vice-Chair, to participate in panel interviews of three or more of the final candidates in order to provide feedback and recommendations to the City Administrator and Mayor prior to appointment. Notwithstanding any other provision of this Charter or any provision of the Oakland Municipal Code, and acting separately or jointly with the Mayor, remove the Chief of Police by a vote of no fewer than five (5) affirmative votes. If acting separately, the Commission may remove the Chief of Police only after adopting a finding or findings of cause, which shall be defined by City ordinance. The Commission must make its finding of just cause by no fewer than five (5) affirmative votes and must follow a process for notification, substantiation and documentation which shall be defined by ordinance. Upon removal, by the Commission, by the Mayor, or by the Mayor and the Commission acting jointly, or upon the notice of vacancy of the position of Chief of Police, the Mayor, in consultation with the Chair of the Commission, shall immediately appoint an Interim Chief of Police. No person appointed to the position of Interim Chief of Police shall simultaneously hold additional non-sworn employment with the City, or simultaneously serve as an elected official or officer of the City. Such appointment shall not exceed six (6) months in duration unless an extension to a date certain is approved by a majority vote of the Commission. The Commission, with the assistance of the City Administrator, shall prepare and distribute a job announcement, and prepare a list of at least three (3) candidates and transmit the names and relevant background materials to the Mayor. The Mayor shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission.
  11. Send the Chairperson of the Commission and/or, the Agency Director, and/or the Inspector General or their designees to serve as non-voting members of any Oakland Police Force Review Board, as permitted by law.

12. Hire and/or contract for, by an affirmative vote of at least five (5) members, one or more attorneys to provide legal advice to the Commission related to and within the scope of any of its powers or duties, in accordance with Section 604(i) of this Charter. When considering a candidate for an attorney position, the Commission shall consider the candidate's familiarity with laws applicable to public entities, public meetings, employee privacy, labor relations and law enforcement.
13. Perform such other functions and duties as may be prescribed by this Charter or by City ordinance.

**(c) Appointment, Terms, Vacancies, Removal.**

1. The Commission shall consist of nine (9) ~~seven (7)~~ regular members ~~and two (2) alternate members~~, all of whom shall be Oakland residents of at least eighteen (18) years of age. ~~Alternate Commissioners shall be eligible to serve on any Commission standing or ad hoc committee, including any Discipline Committee.~~ To the extent practicable, appointments shall be broadly representative of Oakland's diversity and shall include members with knowledge and/or experience in the fields of human resources practices, management, policy development, auditing, law, investigations, law enforcement, youth representation, civil rights and civil liberties, as well as representation from communities experiencing the most frequent contact with the Department. The City Council may require, by ordinance, that some or all of the Commissioners have expertise in a specified subject matter. Background checks shall be required for all Commissioners. Such background checks shall not be performed by the Department. Commissioners shall be issued identification cards, but shall not be issued and shall not display, wear, or carry badges that so resemble a peace officer's badge that an ordinary reasonable person would believe that Commissioners have the authority of a peace officer. The following shall not be eligible to serve as a Commissioner:
  - a. current sworn police officer;
  - b. current City employee;
  - c. former Department sworn employee; or
  - d. current or former employee, official or representative of an employee association representing sworn police officers.
2. Commissioners shall be appointed by either the Mayor or by a member of the City Council (hereinafter referred to as the Appointing Authority). Each City Council member shall appoint one (1) person, and the Mayor shall appoint one (1) person, to the Police Commission. Within two hundred and ten (210) days of the enactment of this Section, the Mayor shall appoint three (3) Oakland residents as Regular Commissioners, at least one of whom shall be a retired judge or lawyer with trial experience in criminal law or police misconduct, and one (1) Oakland resident as



- ~~an Alternate Commissioner, and Appointing Authorities shall submit the names of these their appointees to the Council for confirmation. The Council shall have sixty (60) days after the completion of the background checks and from the date of receipt of the Mayor's Appointing Authority's submission to accept or reject each of the Mayor's appointees as Commissioners. The Mayor shall appoint an Oakland resident to fill any Commission vacancies that were previously filled by a Mayor's appointee. If the City Council does not accept or reject an the Mayor's appointee within sixty (60) days after the completion of the background check and receipt of the Mayor's Appointing Authority's submission, the appointee shall be deemed appointed.~~
3. The transition from the Selection Panel model shall occur as follows ~~All other Commissioners shall be appointed as follows:~~
- a. Upon the enactment of this Section, Commissioners who were previously appointed as alternate Commissioners shall immediately become regular Commissioners, and all Commissioners shall continue to serve the remainder of their terms, subject to the eligibility requirements of this Charter section. There is hereby established a nine (9) member Selection Panel. Within ninety (90) days of the enactment of this Section, each City Council member shall appoint one (1) person, and the Mayor shall appoint one (1) person, to the Selection Panel. The City Council shall, by ordinance, specify qualifications and/or disqualifying characteristics for Selection Panel members. The Selection Panel, with the assistance of the City Administrator, will solicit applications from those willing to serve on the Commission. The Selection Panel will review the applications, and interview applicants to serve as members of the Commission.
  - b. Within one hundred and twenty days (120) of the enactment of this Section, the Selection Panel shall, by a vote of the majority of its members, assign each sitting Commissioner and each vacancy on the Police Commission to an Appointing Authority and shall determine how the terms will be staggered in accordance with this Charter section. Any vacancy that exists on the Police Commission upon the enactment of this Section shall be deemed to have a term that has already commenced, as determined by the Selection Panel, in order to allow each vacancy to be filled immediately. Within one hundred and twenty days (120) of its formation, the Selection Panel, by a two thirds (2/3) vote, shall submit a slate of four (4) regular members and one (1) alternate member to the City Council. The City Council may require the nominees to appear before the Council or a Committee of the Council. If the City Council does not accept or reject the slate in its entirety within sixty (60) days after the completion of the background checks and submission by the Selection Panel, the four (4) regular members and one (1) alternate member shall be deemed appointed.
  - c. Once the Selection Panel has fulfilled the requirements of this section, the Selection Panel shall be disbanded. Former members of the Selection Panel

shall be eligible to serve as Police Commissioners, subject to the requirements and restrictions of this Charter Section 604.~~Each year the Selection Panel shall re-convene, as needed, to designate replacements for the five (5) Commissioner (four (4) regular members and one (1) alternate) vacancies initially filled by the Selection Panel. The Selection Panel shall, by a two thirds (2/3) vote of the members present but by a vote of no fewer than five (5) members, submit a slate of names of such designated persons to the City Council for acceptance or rejection. If the City Council does not accept or reject the entire slate within sixty (60) days after the completion of the background checks and submission by the Selection Panel, all designated replacements shall be deemed appointed.~~

- d. ~~Each year the Mayor and each Councilmember may replace her or his assigned person on the Selection Panel. Selection Panel members may serve up to five (5) years. Upon a vacancy on the Selection Panel, the Councilmember who appointed the Selection Panel member (hereinafter referred to as the Appointing Authority) shall appoint a replacement. If the Appointing Authority does not appoint the replacement within one hundred and twenty (120) days of the date of resignation, removal or expiration of the Selection Panel member's term, the Selection Panel, by a two-thirds vote of those present but by a vote of no fewer than five (5) Selection Panel members, shall choose a replacement for the vacancy. All such replacements must be confirmed by the City Council.~~
4. With the exception of the first group of Commissioners which shall serve staggered terms, the The term for each Regular and Alternate Commissioner shall be three (3) years, commencing on October 16 of the appropriate year.
5. Commissioners are limited to no more than two (2) consecutive terms, subject to the following exceptions:
  - a. that a A Commissioner serving the remainder of a term of less than one (1) year shall be allowed to serve two (2) additional consecutive terms.
  - b. A Commissioner whose term has expired may serve in a holdover capacity, at the pleasure of their Appointing Authority, for no more than one year.
6. The terms of the Commissioners shall be staggered so that the terms of three (3) Commissions expire each year. To effect a staggering of terms among the Commissioners, the duration of the first group of Commissioners shall be determined by the Selection Panel as follows: Three (3) regular members, including one (1) of the mayoral appointees, shall have an initial term of three (3) years; two (2) regular members, including one (1) of the mayoral appointees, shall have an initial term of two (2) years; two (2) regular members, including one (1) of the mayoral appointees, shall have an initial term of four (4) years. The alternate member appointed by the Selection Panel shall have an initial term of two (2) years and the alternate member appointed by the Mayor shall have an initial term of three (3) years.

7. A vacancy on the Commission shall exist whenever a member dies, resigns, ceases to be a resident of the City, ceases to be eligible due to term limitations, is convicted of a felony, or is removed.
8. Upon a vacancy, if the Appointing Authority for the vacant seat does not submit the name of a replacement to the City Council for confirmation within one hundred and twenty (120) days of the date of vacancy, the Police Commission shall, by a two-thirds vote of those present but by a vote of no fewer than five (5) members, choose a replacement for the vacancy. All such replacements are subject to background checks and must be confirmed by the City Council. If the City Council does not accept or reject an appointee within sixty (60) days after the completion of the background check and receipt of the Police Commission's submission, the appointee shall be deemed appointed. If the City Council rejects the Police Commission's submission, The Police Commission shall choose another replacement for the vacancy. ~~For vacancies occurring for reasons other than the expiration of a regular member's term, the Commission shall select one of the Alternate Commissioners to replace the regular member for that regular member's remaining term of office. If the Alternate Commissioner chosen to replace the regular member was appointed by the Selection Panel, the Selection Panel shall appoint another Alternate Commissioner. If the alternate chosen to replace the regular member was appointed by the Mayor, the Mayor shall appoint another Alternate Commissioner.~~
9. All Commissioners shall receive orientation and training as required by ordinance, including but not limited to orientation and training in the areas of Department operations, policies and procedures, including discipline procedures for police officer misconduct and failure to act, Procedural Justice, conflict resolution, national standards of constitutional policing, best practices for conducting investigations, and labor rights and laws.
10. The City Council may remove any Commissioner for cause as provided in Section 601 of the Charter. After a hearing, the City Council may also suspend any Commissioner for cause by an affirmative vote of at least six (6) members of the Council, or rescind such a suspension by the affirmative vote of at least five (5) members of the Council. A Commissioner who is suspended shall be ineligible to conduct Commission business, and the Commission shall select one of the Alternate Commissioners to replace the suspended Commissioner for the duration of the suspension. Any Commissioner may also be removed by a majority vote of the Commission only for conviction of a felony, conviction of a misdemeanor involving moral turpitude, a material act of dishonesty, fraud, or other act of moral turpitude, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular Commission meetings or five regular meetings in a calendar year except on account of illness or when absent by permission. The Public Ethics Commission shall have the authority to investigate all allegations which, if true, could be cause for removal

of a Commissioner under Section 601 of the Charter and to refer the findings to the City Council.

**(d) Meetings, Rules and Procedures.**

1. The Commission shall meet at least twice each month unless it determines that one meeting is sufficient in a particular month. The Commission shall notify the public of the time and place of the meeting and provide time for public comment at each meeting. The Commission shall meet at least twice each year in locations other than City Hall.
2. The Commission shall establish rules and procedures for the conduct and operations of its business. Such rules shall be made available to the public.
3. Five (5) members shall constitute a quorum. If a quorum is not established by the regular members in attendance, the Chairperson of the Commission may designate one or more Alternate Commissioners to establish a quorum and cast votes. Motions on all matters may be approved by a majority of those Commissioners present unless otherwise specified in this Charter Section 604.

**(e) Budget and Staffing.**

1. The City shall allocate a sufficient budget for the Commission, including the Agency and the OIG, to perform its functions and duties as set forth in this Charter section 604, including budgeting for no fewer than two full-time legal advisors for the Agency (hereinafter Agency Attorneys). The budget set-aside for one of the Agency Attorneys may be suspended for a fiscal year or two-year budget cycle upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution. The Agency Director shall have authority to hire and/or contract with legal advisors subject to said budget. The Agency, including the Agency Staff Attorneys, may consult with the City Attorney on police-officer investigations and discipline, including related hearings, provided there is no conflict of interest.
2. The City Administrator may assign a staff member to act as liaison to the Commission. The City shall allocate a sufficient budget for one full-time civil service employee who shall report to the Agency Director and whose duties shall include providing administrative support to the Commission, and attending Commission meetings. Within sixty (60) days of the City Council's confirmation of the first group of Commissioners, the Oakland Citizens' Police Review Board (hereinafter Board) shall be disbanded and its pending business transferred to the Commission and to the Agency. The Executive Director of the Board shall become the Interim Director of the Agency, and all other staff will be transferred to the Agency.

3. After the effective date of this Charter section 604, the Agency Director and the Inspector General may identify special qualifications and experience that candidates for Agency and OIG staff positions, respectively, must have. Candidates for future vacancies may be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time; said selective certification shall be subject to discretionary approval by the appointing authority and the Personnel Director.
4. The staff of the Agency shall consist of no fewer than one line investigator for every one hundred (100) sworn officers in the Department, rounded up or down to the nearest one hundred (100). The number of investigators shall be determined at the beginning of each budget cycle based on the number of sworn officers employed by the Department the previous June 1. At least one investigator shall be a licensed attorney. The budget set-aside for such minimum staffing may be suspended for a fiscal year or two-year budget cycle upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution.
5. The Inspector General shall be hired by and may be removed by the City Auditor. The City Auditor shall periodically conduct a performance review of the Inspector General. The Inspector General shall be classified as a Department head, and shall have the authority to hire and fire OIG staff, subject to section 604(e)(7) of the City Charter and consistent with state law, City Civil Service Rules and any applicable collective bargaining agreement. The Inspector General, in consultation with the City Administrator, shall have the authority to organize and reorganize the OIG, subject to section 604(e)(7) of the City Charter. Upon the enactment of this Section, the incumbent Inspector General shall continue to serve. The City Administrator may assign a staff member to act as liaison to the Commission. The City shall allocate a sufficient budget for one full-time civil service employee who shall report to the Agency Director and whose duties shall include providing administrative support to the Commission, and attending Commission meetings.
6. Upon a vacancy, the Agency Director ~~and the Inspector General~~ shall be hired by the Commission. By an affirmative vote of at least five (5) members, the Commission may terminate the Agency Director ~~or the Inspector General~~. ~~The Commission may remove the Inspector General only after adopting a finding or findings of cause, which may be defined by City Ordinance.~~ The Commission shall periodically conduct a performance review of the Agency Director ~~and Inspector General~~. The Agency Director ~~and Inspector General~~ shall be classified as a Department heads, and shall have the authority to hire and fire Agency staff and ~~OIG staff, respectively~~, including Agency Attorneys, subject to section 604(e)(7) of the City Charter and consistent with state law, City Civil Service Rules and any applicable collective bargaining agreement. The Agency Director ~~and Inspector General~~, in consultation with the City Administrator, shall have the authority to organize and reorganize the Agency ~~and the OIG, respectively~~, subject to section 604(e)(7) of the City Charter.

7. The staff of the Agency, OIG and Commission, with the exception of the Agency Director and Inspector General themselves, as well as one Deputy Inspector General, shall be civil service employees in accordance with Article IX of the City Charter. Civil service staff of the Agency, OIG or Commission may not be separated from employment unless such separation is approved by the City Administrator. Background checks shall be required for all Agency investigator applicants before they are hired by the Agency. Such background checks shall not be performed by the Department. Staff of the Board who are transferred to the Agency as discussed in section (e)(2) above shall not be subject to background checks.
8. No current or former sworn employee of the Department, or current official, employee or representative of an employee association representing sworn police officers, is eligible for any staff position in the Agency, or the Commission.

**(f) Investigations.**

1. Beginning sixty (60) days after the City Council's confirmation of the first group of Commissioners, the Agency shall receive, review and prioritize all public complaints concerning the alleged misconduct or failure to act of all Department sworn employees, including complaints from Department non-sworn employees. The Agency is authorized to investigate any possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint, in the discretion of the Agency Director. The Agency shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but the Agency shall investigate public complaints involving uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, untruthfulness, and First Amendment assemblies. The Agency shall also investigate any other possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint, as directed by the Commission. The Agency shall forward a copy of each complaint it receives to the Department within one business day of receipt, and the Department shall forward a copy of each complaint it receives to the Agency within one business day of receipt. The Agency Director may report to the Commission on the status of written complaints filed with the Chief of Police asserting that Department employees have resisted attempts by the Agency to conduct reasonable investigative tasks. The Agency Director shall submit to the Commission each month a list of all investigations it is conducting and shall, as permitted by law, answer any questions raised by any Commissioner regarding such investigations at a Commission meeting.
2. Subject to applicable law and provisions of this Charter Section 604, the Commission, OIG, and Agency shall have the same access to all Department files and records, including the Department's Internal Affairs Division (hereinafter, IAD) files and records, related to sworn employees of the Department, in addition to all files and records of other City departments and agencies related to sworn

- employees of the Department, as IAD, including but not limited to the same access to electronic data bases as IAD as permitted by law. Requests for access to such files and records shall be made by a majority vote of the Commission, by the Agency Director, or by the Inspector General. By majority vote, the Commission shall have the authority to request information from the Department, and the Chief of Police or her or his designee shall respond to such requests, as permitted by law. Commission requests for personnel records shall have, and the Commission's vote shall articulate, a reasonable nexus to one or more of the Commission's powers and duties enumerated in subsection (b) of this Charter Section 604. All those who have access to confidential information shall maintain confidentiality as required by law. The Department and other City departments and agencies shall make every reasonable effort to respond to the Commission's, OIG's, or Agency's requests for files and records within ten (10) days, including but not limited to: (1) records relevant to Police Department policies or practices, and (2) personnel and disciplinary records of Police Department sworn employees, as permitted by law.
3. The Agency shall make every reasonable effort to complete its investigations within one hundred and eighty (180) days of the filing of the complaint with the Agency. The Agency shall complete its investigations within two hundred and fifty (250) days of the filing of the complaint with the Agency unless the Agency Director, in his or her discretion, makes a written finding that exceptional circumstances exist in a particular case that are beyond the Agency's control. Within thirty (30) days of completion of the investigation, the Agency Director shall issue written findings and proposed discipline regarding the allegations stated in the complaint to the Chair of the Commission and the Chief of Police. The Agency Director shall issue written findings and proposed discipline within forty-eight (48) hours of completion of any investigation of Level 1 use of force (as defined by Department policy), sexual misconduct or untruthfulness. The City Administrator shall not have the authority to reject or modify the Agency's findings and proposed discipline.
  4. To the extent allowed by law and after consultation with the Commission, the Agency shall forward information to other enforcement agencies, including but not limited to the Alameda County District Attorney, when such information establishes a reasonable basis for believing that a crime may have been committed by a sworn Department employee.
  5. The OIG shall audit the Department's compliance with the fifty-two (52) tasks described in the Settlement Agreement in United States District Court case number C00-4599, Delphine Allen, et al., v. City of Oakland, et al., and make recommendations to the Department, the Commission, and the City Council based on its audit(s), even after the Settlement Agreement expires. The OIG may review legal claims, lawsuits, settlements, complaints, and investigations, by, against, or involving the Department and the Agency, to ensure that all allegations of police officer misconduct are thoroughly investigated, and to identify any systemic issues regarding Department and Agency practices and policies. The OIG shall have access and authority to review Department data, investigative records, personnel

records, and staffing information, as permitted by law, for the purpose of conducting audits of the Department. The OIG shall have access and authority to review Agency data, investigative records, personnel records, and staffing information for the purpose of conducting audits of the Agency. The OIG's access to personnel records for non-sworn employees shall be limited to training records. OIG shall provide written reports of the results of its audits to the Commission and the City Council, and, upon request, shall publicly report on the results of any audits to the Commission and/or the City Council in a manner consistent with all applicable confidentiality requirements. The Inspector General shall receive orientation and training as required by Ordinance, including but not limited to orientation and training in the areas of Department operations, policies and procedures, including discipline procedures for police officer misconduct and failure to act, Procedural Justice, conflict resolution, national standards of constitutional policing, best practices for conducting investigations, and labor rights and laws.

6. Upon the occurrence of a Serious Incident, as defined by Ordinance, the Chief of Police or her or his designee shall immediately notify the Agency Director.

**(g) Adjudication.**

1. If the Chief of Police agrees with the Agency's findings and proposed discipline, he or she shall notify the Agency Director who shall notify the Chair of the Commission of the agreed-upon findings and proposed discipline. The Chief shall send to the subject officer notification of the agreed-upon findings and intent to impose discipline. The Chief of Police may send such notification to the subject officer before IAD has begun or completed its investigation.
2. If the Chief of Police disagrees with the Agency's findings and/or proposed discipline, the Chief of Police shall notify the Agency Director of his or her own findings and/or proposed discipline. The Agency Director shall submit the Chiefs findings and proposed discipline in addition to the Agency's findings and proposed discipline to the Chair of the Commission. The Chair of the Commission shall appoint a Discipline Committee comprised of three Commissioners. The City Administrator shall not have authority to reject or modify the Chief of Police's findings and proposed discipline. After reviewing the Agency's submission and after consulting with the Agency Director about the time available under applicable statutory deadlines, the Discipline Committee may require the Agency to further investigate the complaint by notifying the Agency Director, in writing, of the specific issues that need further investigation. After reviewing both submissions, the Discipline Committee shall resolve any dispute between the Agency and the Chief of Police. Based solely on the record presented by the Agency and the Chief of Police, the Discipline Committee shall submit its final decision regarding the appropriate findings and proposed discipline to the Chief of Police who shall notify the subject officer. The City Administrator shall not have the authority to reject or modify the Discipline Committee's final decision regarding the appropriate findings



and level of discipline. The Discipline Committee shall not have the authority to conduct its own investigation.

3. If the Chief of Police prepares his or her own findings and proposed discipline and provides it to the Agency before the Agency's investigation is initiated or completed, the Agency may close its investigation or may choose not to conduct its own investigation in order to allow final discipline to proceed as proposed by the Chief, except that in investigations of Level 1 uses of force, sexual misconduct or untruthfulness, the Commission must approve the Agency's decision by a majority vote. If the Agency chooses not to close its investigation, imposition of final discipline shall be delayed until the Agency's investigation is completed and the Agency makes its findings and recommendations for discipline. The Agency shall notify the Chief of its final decision regarding how and whether it will proceed within seven (7) days of the Chiefs notice of completion of his or her investigation.
  4. All employees are afforded their due process and statutory rights including Skelly rights. After the findings and imposition of discipline have become final, the subject officer shall have the right to grieve/appeal the findings and imposition of discipline if such rights are prescribed in a collective bargaining agreement. Whenever the discipline determination of a Discipline Committee is the subject of a hearing before the Civil Service Board or a labor arbitrator, the Agency Director, in consultation with the City Attorney, shall decide whether an Agency Attorney or the Office of the City Attorney shall represent the City. The Agency Director shall notify the subject officer of the Agency Director's decision no more than fourteen (14) calendar days after the date that the subject officer invokes the right to a hearing.
  5. On its own motion and by no fewer than five (5) affirmative votes, the Commission may convene a Discipline Committee for cases involving allegations of Level 1 use of force, sexual misconduct and untruthfulness when either the Agency or the Department have not completed an investigation within two hundred and fifty (250) days of the filing of a complaint or when the evidence upon which either the Department or the Agency bases its findings does not include available body-worn camera footage of the incident under investigation, or when body-worn camera footage of the incident was required under Department policy but such footage was not recorded or was otherwise unavailable. The Discipline Committee may require the Agency to further investigate the complaint by notifying the Agency Director, in writing, of the specific issues that need further investigation.
- (h) **Enabling Legislation.** The Commission may make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Charter section 604. The City Council may, on its own initiative, enact legislation or regulations that will further the goals and purposes of this Charter section 604. Once the Commission is seated, subsequent legislation or regulations shall be submitted to the Commission for review and comment. The Commission shall

have forty-five (45) days to submit its comments to the City Council, such time to be extended only by agreement of the City Council.

**(i) Legal Counsel to the Commission.**

1. The dollar amount for all employees hired and/or contracts approved according to section 604(b)(12) of this Charter (hereinafter, Commission Attorneys), in aggregate, in a single fiscal year shall not exceed the amount budgeted by the City Council for such fiscal year; and such contracts shall be in the form established by the City for professional legal services contracts. By an affirmative vote of at least five (5) members, the Commission may terminate such contracts or, subject to any applicable personnel rules or collective bargaining agreements, terminate such employment.
2. Commission Attorneys shall represent the City as an organization and shall not commence any claim or other legal proceeding against the City on behalf of the Commission. Commission Attorneys shall respond to any petition or application for a writ of mandate, restraining order or injunction brought against the Commission or against Commissioners in its or their official capacity unless the Commission votes to refer the matter to the City Attorney for response. The City Attorney shall act as legal counsel on behalf of the Commission and Commissioners in all other litigation involving it or them in their official capacity in accord with section 401(6) of this Charter.
3. In accord with their role, Commission Attorneys shall not disclose the confidences of the Commission on any legal matter to any other officer of the City unless:
  - a. The Commission, either as a body or through its Chair, or the Vice Chair if the Chair is unavailable and the matter is time sensitive, gives Commission Attorney informed consent in writing;
  - b. The Commission, either as a body or through its Chair, or Vice Chair if the Chair is unavailable and the matter is time sensitive, refers the same legal matter to the City Attorney pursuant to section 401(6) of this Charter;
  - c. Commission Attorney, in her/his professional discretion, determines it is in the best interests of the Commission to consult with the City Attorney;
  - d. Commission Attorney, in her/his professional discretion, determines that the Rules of Professional Conduct require referral of the matter to one of the following City officers: City Administrator, Mayor, City Attorney, Council president, Vice Mayor; or
  - e. The legal matter becomes, in whole or in part, the subject of litigation involving the City or any City officer, board, commission, including the Police Commission, or other agency in their official capacity.

**Section 2. Severability.** If any section, subsection, sentence, clause or phrase of this Measure is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Measure. The voters hereby declare that they would have passed this Measure and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

and be it

**FURTHER RESOLVED:** That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

**PROPOSED CHARTER AMENDMENT**

**MEASURE \_\_\_\_**

<p>Measure _____. Shall a measure to amend the Charter to, among other things, have nine Regular Police Commissioners rather than seven Regulars and two Alternates; have the Councilmembers and Mayor each appoint one of the nine Commissioners; have the City Auditor, not the Police Commission, appoint the Inspector General; have the City Administrator appoint the Police Chief; and clarify the Community Police Review Agency's authority to investigate any police misconduct allegation, regardless of the source, be adopted?</p> <p><b>[FINAL BALLOT QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]</b></p>	Yes	
	No	

;and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the Clerk of the City of Oakland ("City Clerk"), at least 88 days prior to the November 5, 2024 general municipal election, to file certified copies of this resolution with the Alameda County Board of Supervisors and the Registrar of Voters; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted by Office of the City Clerk; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice, publication and

printing of notices as to said proposed Charter amendment in the manner provided for by law;  
and be it

**FURTHER RESOLVED:** That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2024 state general election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 5, 2024 general municipal election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID,  
AND PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
Acting City Clerk and Clerk of  
the Council of the City of  
Oakland, California

3348289