

Measure LL Clean Up
CPA Suggested Change and Additions
For Police Commission Consideration

5. 28.20

Note: The base document for these suggested changes is the City Council Draft given to Chair Jackson by City Council members on May 23, 2020. All suggested changes here are to that document.

REPLACE DRAFT AND ADOPT as follows:

(a) 4. No later than two (2) years after the City Council has confirmed the first set of Regular Commissioners and Alternates 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 two 2) 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 Commission in compliance with the City's contracting processes and procedures.

AMEND LAST PHRASE AS FOLLOWS:

(a) 5 The City Administration shall not exercise any managerial authority over Commissioners, the Agency Director and the Inspector General, and shall not initiate an investigation unless required by law or collective bargaining agreement.

REPLACE DRAFT AND ADOPT AS FOLLOWS:

(b) 4 Propose changes, 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. The Commission may not propose changes in other subject areas except upon the recommendation of the Office of Inspector General

~~who may recommend changes regarding other matters pursuant to subsection (f) 5. 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 for so long as such federal court orders and settlements remain in effect.~~ All such proposed changes and modifications shall be submitted to the City Council for approval or rejection. If the City Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, the changes or modifications will become final.

REPLACE DRAFT AND ADOPT as follows:

(b) 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. The Commission may not propose changes in other subject areas except upon the recommendation of the Office of Inspector General who may recommend changes regarding other matters pursuant to subsection (f) 5.~~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 for so long as such federal court orders and settlement remain in 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 to the City Council for review. If the City Council does not approve or reject the Commission's decision within one hundred and twenty (120) days of the Commission's vote on the Department's proposed changes, the Commission's decision will become final.

(note: this version of (b)5 deletes proposed martial law provision in base draft, which states: ~~The Chief of Police may, on a temporary basis and without Commission approval, make changes to policies, procedures, customs, or General Orders of the Department that are necessary to respond to exigent circumstances related to public safety. If such unilateral changes otherwise require Commission approval under this section 604(b)(5), the Department shall provide notice to the~~

~~Chair of the Commission within forty eight (48) hours of making such changes and such changes shall expire sixty (60) days from when they take effect unless approved by the Commission or the City Council.)~~

Note: following is out of order but placed here because it relates directly to the subsections above

REPLACE DRAFT AND ADOPT as follows:

(f) 5 The OIG shall audit the Department's compliance with the tasks and sub-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 and the Commission based on its audit(s), even after the Settlement Agreement expires. Based on its audits, the OIG may recommend that the Commission propose changes to the Department's policies, procedures, customs, or General Orders regarding matters enumerated or not enumerated in subsection (b)4 or approve or reject Department proposed changes pursuant to subsection (b)5. The Office of the Inspector General may review legal claims, lawsuits, settlements, complaints and investigations by, against, or involving the Department to ensure that all allegations of police officer misconduct are thoroughly investigated and to identify any systemic issues regarding Department practices and policies.

b. The OIG shall review the Mayor's proposed budget to determine whether budgetary allocations are aligned with community priorities as defined by the Commission.

c. The OIG shall have access and authority to review Department data, investigative records, personnel records, and staffing information for the purpose of conducting audits of the Department. The OIG shall report the results of its audits to the Commission and the public, to the extent and in a manner consistent with applicable laws regarding confidentiality.

RESTORE (c) 1 a-d Qualifications of Commissioners

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.

RESTORE PHRASE IN (c) 2 from current Charter:

at least one of whom shall be a retired judge or lawyer with trial experience in criminal law or police misconduct.

Amend (e) 4 to require one investigator for every 70 sworn officers.

Amend (e) 6 to remove the requirement that the Inspector General can be dismissed by the Commission only “for cause.”

ADOPT (g) 5 as follows:

The Commission on its own motion may convene a Discipline Committee for cases when either or both the Agency Director 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 the findings of either the Department or CPRA do not include required body worn camera footage of the incident in question. The Commission may adopt additional qualifying criteria for convening a discipline committee within its own by laws. 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. The Commission may convene such a Discipline Committee by a vote of no fewer than five (5) affirmative votes.

DELETE (I) c, d, e