



# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

February 8, 2025 – 10:00 AM  
150 Frank Ogawa Plaza Suites E & F – Ground Floor

### PUBLIC PARTICIPATION

The Oakland Police Commission welcomes public participation. We are currently unable to implement hybrid meetings. Please see below for information on how you can observe and/or participate:

#### OBSERVE:

- To observe the meeting by video conference, please click on this link at the noticed meeting time.  
<https://us02web.zoom.us/j/89779136737>
- 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 webpage 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): ++16699009128,,89779136737# US (San Jose)
- +16694449171,,89779136737# US

**Webinar ID:** 897 7913 6737

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 [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.
- A group representing similar views may designate a spokesperson to speak on their behalf and will be granted 3 minutes to speak.
- Comments are limited to one per person per item, and the 2-minute speaker time allotment is not transferrable at Commission meetings.

#### E-COMMENT:

- If you plan to attend virtually via ZOOM, please feel free to submit written e-comments to: [Meeting Question/Comment Submission Form](#)
- E-comments must be submitted at least 24 hours before the meeting with the agenda item to which it pertains.
- All participant comments are limited to 2 minutes. Please ensure your e-submission does not exceed this time limit.
- Open Forum comments are limited to one per person.

# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

February 8, 2025 – 10:00 AM  
150 Frank Ogawa Plaza Suites E & F – Ground Floor

### Police Commission Retreat Agenda

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<b>10:00 a.m. – 10:30 a.m.</b> <i>(30 minutes)</i>	<b>Opening Remarks and Objectives</b> <ul style="list-style-type: none"><li>• Welcome</li><li>• Roll Call</li><li>• Open Forum/Public Comment</li><li>• Meeting Objectives</li></ul>
<b>10:30 a.m. – 10:50 a.m.</b> <i>(20 minutes)</i>	<b>Team Building Activity</b>
<b>10:50 a.m. – 11:10 a.m.</b> <i>(20 minutes)</i>	<b>OPC Responsibilities &amp; Duties</b> <ul style="list-style-type: none"><li>• OPC Structure</li><li>• Legislative History</li><li>• Charter   Measure LL   Measure S1</li></ul>
<b>11:10 a.m. – 11:15 a.m.</b> <i>(5 minutes)</i>	<b>Break</b>
<b>11:15 a.m. – 12:00 p.m.</b> <i>(45 minutes)</i>	<b>Strategic Planning Session Pt. I</b> <ul style="list-style-type: none"><li>• Vision</li><li>• Mission</li><li>• Core Values</li><li>• Community Feedback Survey</li></ul>
<b>12:00 p.m. – 12:30 p.m.</b> <i>(30 minutes)</i>	<b>Lunch</b>
<b>12:30 p.m. – 1:45 p.m.</b> <i>(1 hour, 15 minutes)</i>	<b>Strategic Plan Review Pt. II</b> <ul style="list-style-type: none"><li>• Policy Development</li><li>• Community Engagement &amp; Strategic Communications</li><li>• Internal Operations</li></ul>
<b>1:45 p.m. – 1:50 p.m.</b> <i>(5 minutes)</i>	<b>Break</b>
<b>1:50 p.m. – 2:50 p.m.</b> <i>(1 hour)</i>	<b>Strategic Plan Review Pt. III</b> <ul style="list-style-type: none"><li>• Federal Oversight</li><li>• Mental Health Support</li></ul>

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# OAKLAND POLICE COMMISSION

## SPECIAL MEETING AGENDA

February 8, 2025 – 10:00 AM  
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### Police Commission Retreat Agenda (continued)

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**2:50 p.m. – 3:00 p.m.**  
*(1 hour)*

**Next Steps & Wrap Up**

- OPC Retreat, Phase III
  - Open Forum/Public Comment
  - Reflections
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### Adjournment

**NOTICE:** In compliance with the Americans with Disabilities Act, for those requiring special assistance to access the videoconference meeting, to access written documents being discussed at the Discipline Committee meeting, or to otherwise participate at Commission meetings, please contact the Police Commission’s Chief of Staff, Kelly Yun, at [kyun@oaklandca.gov](mailto:kyun@oaklandca.gov) for assistance. Notification at least 48 hours before the meeting will enable the Police Commission to make reasonable arrangements to ensure accessibility to the meeting and to provide any required accommodations, auxiliary aids, or services.

**OAKLAND POLICE COMMISSION  
OVERVIEW OF DRAFT STRATEGIC PLAN  
FEBRUARY 8, 2025**



**PROPOSED VISION STATEMENT**

The Oakland Police Commission (OPC) is an independent, community-centric, anchor for civilian oversight in Oakland and a national leader in police reform and constitutional policing.

**PROPOSED MISSION STATEMENT**

OPC fulfills its duties under Measures LL & S1 to provide police oversight by developing equitable OPD policies and practices for the citizens of Oakland.

To accomplish its mission, the OPC works to:

- Prevent police misconduct
- Ensure fair and equitable accountability in disciplinary processes
- Change the culture of the Oakland Police Department
- Build strong police-community relations
- Promote mental health and wellness in the Oakland Police Department

**PROPOSED FOCUS AREAS**

1. Policy Development: Ensuring policies align to constitutional policing practices and foster police accountability
2. Community Engagement & Strategic Communications: a more educated, engaged community space for public discourse
3. Internal Operations: a more informed, connected and collaborative OPC team with improved efficacy to meet commission goals
4. Federal Oversight: a new culture of policing, more police accountability and improved police/community relations
5. Mental Health Support: Create mechanisms of support for healthier outcomes. (need to restate)

## PROPOSED GOALS AND OBJECTIVES

### POLICY DEVELOPMENT

Goals	Objectives
A. Develop new or update existing policies to address current policing issues with high community impact	<ol style="list-style-type: none"> <li>1. Review/revise discipline matrix</li> <li>2. Identify, review, and catalogue outdated OPD policies</li> <li>3. Identify new policy areas</li> </ol>
B. Develop reporting mechanism to monitor the implementation of new or updated policies	<ol style="list-style-type: none"> <li>1. Identify OPD POCs and establish cadence for OPD new policy training, track attendees/participants</li> <li>2. Develop tracking of reporting requirements (e.g., impact reports, state mandates)</li> <li>3. Develop framework and execute regular policy audits</li> </ol>

### COMMUNITY ENGAGEMENT & STRATEGIC COMMUNICATION

Goals	Objectives
A. Develop/implement a communication education and engagement strategy	<ol style="list-style-type: none"> <li>1. Develop strategic partnerships               <ol style="list-style-type: none"> <li>a. Identify and collaborate with community-based organizations</li> <li>b. Identify and collaborate with City departments</li> <li>c. Identify and collaborate with impacted community members and associated organizations</li> </ol> </li> </ol>
	<ol style="list-style-type: none"> <li>2. Improve educational/awareness of the Commission               <ol style="list-style-type: none"> <li>a. Develop communications campaign (e.g., collateral, events calendar, social media, townhalls/collaboration with other Commissions)</li> </ol> </li> </ol>
B. Develop a response strategy for emerging community issues	<ol style="list-style-type: none"> <li>1. Work with community partners to identify emerging issues</li> <li>2. Develop an OPC, OIG and CPRA joint approach               <ol style="list-style-type: none"> <li>a. Establish collaborative meeting cadence</li> <li>b. Identify rapid response team members to respond to and proactively understand community needs</li> </ol> </li> <li>3. Develop response process – outcome-based information for the community</li> </ol>

### INTERNAL OPERATIONS

Goals	Objectives
A. Develop a commissioner onboarding process	<ol style="list-style-type: none"> <li>1. Develop an onboarding material packet</li> <li>2. Establish a new/old commissioner buddy-system</li> <li>3. Develop a mechanics to track and monitor commissioner trainings</li> </ol>
B. Improve people management system and practices	<ol style="list-style-type: none"> <li>1. Conduct staffing needs assessment                             <ol style="list-style-type: none"> <li>a. Collaborate budget allocate funds</li> </ol> </li> <li>2. Develop a framework and process staff evaluations (e.g., cadence, feedback, debriefs)</li> <li>3. Develop hiring processes for regular and urgent needs                             <ol style="list-style-type: none"> <li>a. Have clear job descriptions and job classifications</li> <li>b. Include team members to manage hiring processes</li> <li>c. Develop checklists with action plans/milestones and corresponding documentation</li> </ol> </li> </ol>
C. Improve operational efficiency	<ol style="list-style-type: none"> <li>1. Develop multi-year strategic plan</li> <li>2. Develop/review/revise Commission governing documents (e.g., SOPs, MOUs, Rules, Enabling Ordinance, Annual Reports)</li> <li>3. Improve business operations (e.g., contracts, audits, responding public records requests)</li> <li>4. Address technology upgrades and equipment requests</li> <li>5. Manage budget and finance</li> <li>6. Identify and prioritize ad hocs and agenda items</li> <li>7. Track and document successes/impacts (i.e., tracking/documenting progress against KPIs in strategic plan)                             <ol style="list-style-type: none"> <li>a. Develop implementation plan in alignment with the strategic plan</li> <li>b. Identify Commissioner lead for each area</li> </ol> </li> </ol>

### FEDERAL OVERSIGHT

Goals	Objectives
A. Get out of the NSA	<ol style="list-style-type: none"> <li>1. Track, monitor and document NSA task completion                             <ol style="list-style-type: none"> <li>a. Regular meetings with NSA-partners</li> </ol> </li> <li>2. Manage post-NSA scope transition                             <ol style="list-style-type: none"> <li>a. Federal monitor transition to OIG</li> <li>b. IAD transition to CPRA</li> </ol> </li> </ol>

**MENTAL HEALTH SUPPORT**

<b>Goals</b>	<b>Objectives</b>
A. Ensure mental health best practices are implemented at OPD	<ol style="list-style-type: none"><li>1. Review staffing and resources<ol style="list-style-type: none"><li>a. Recommend hiring a permanent wellness staff person</li><li>b. Tour wellness centers</li><li>c. Track initiatives</li><li>d. Review applicable training; emotional intelligence and related issues</li></ol></li></ol>

DRAFT



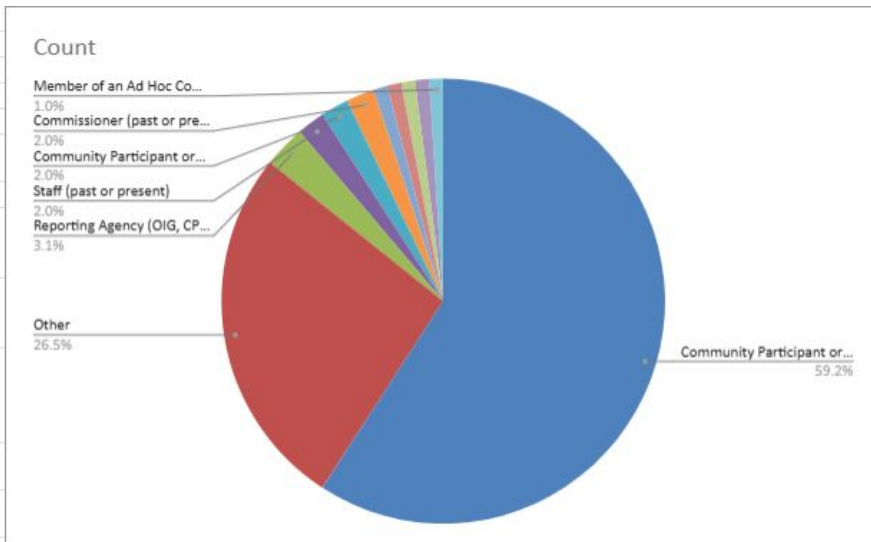
# Overview of Draft Strategic Plan Community Survey





# Overview of Draft Strategic Plan Outreach Plan & Results

Connection Type	Count
Community Participant or Stakeholder	58
Other	26
Reporting Agency (OIG, CPRA, OPD)	3
Staff (past or present)	2
Community Participant or Stakeholder, Other	2
Commissioner (past or present)	2
Staff (past or present), City Departments and Employees Partnership, Other	1
City Departments and Employees Partnership, Community Participant or Stakeholder	1
Commissioner (past or present), Officer (e.g., Chair, Vice-Chair) (past or present), Member of an Ad Hoc Committee (past or present)	1
City Departments and Employees Partnership	1
Member of an Ad Hoc Committee (past or present)	1



## Interviews (1x1) – 20

### OPC Commissioners

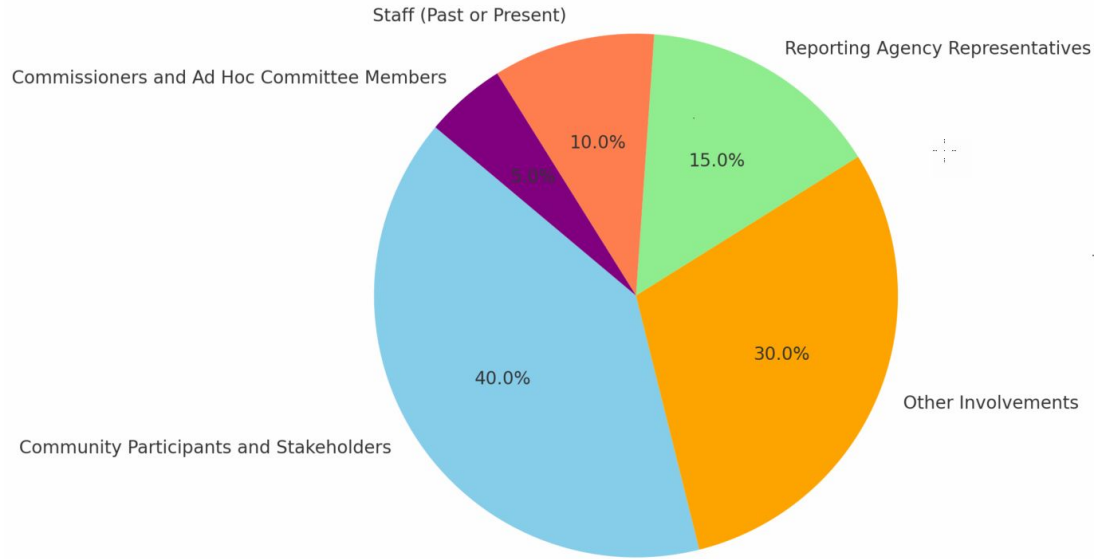
- Former OPC Commissioners
- OPC Staff
- OPC Agencies (CPRA, OIG)
- Chief of Police
- Community Partners

## Surveys (online) – 99

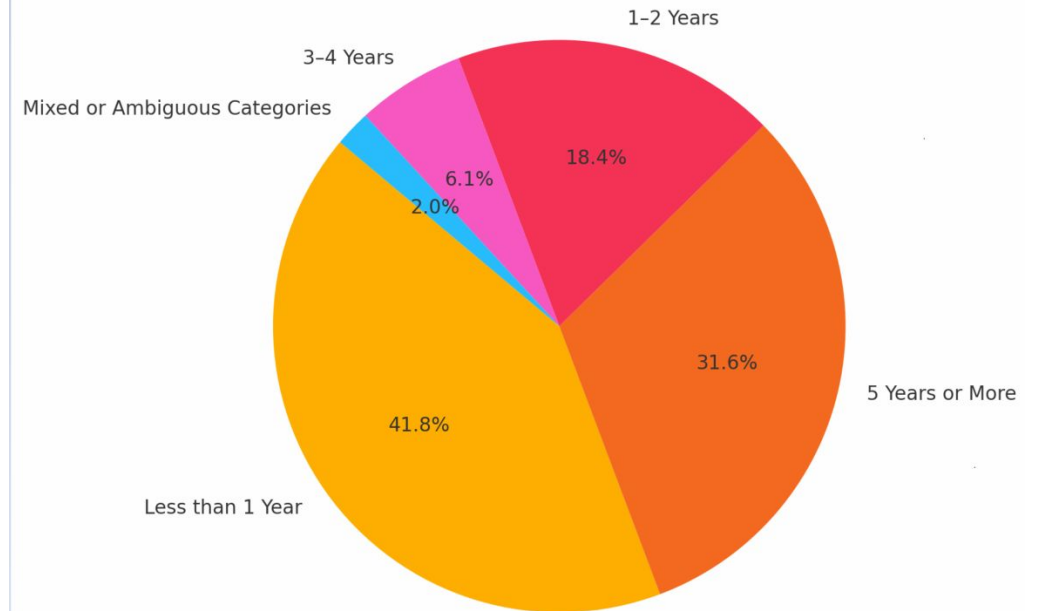
- Respondents representing a diverse group of community members

# Overview of Draft Strategic Plan Outreach Plan & Results: Demographics

Common Themes for Current Involvement with the Oakland Police Commission (OPC)



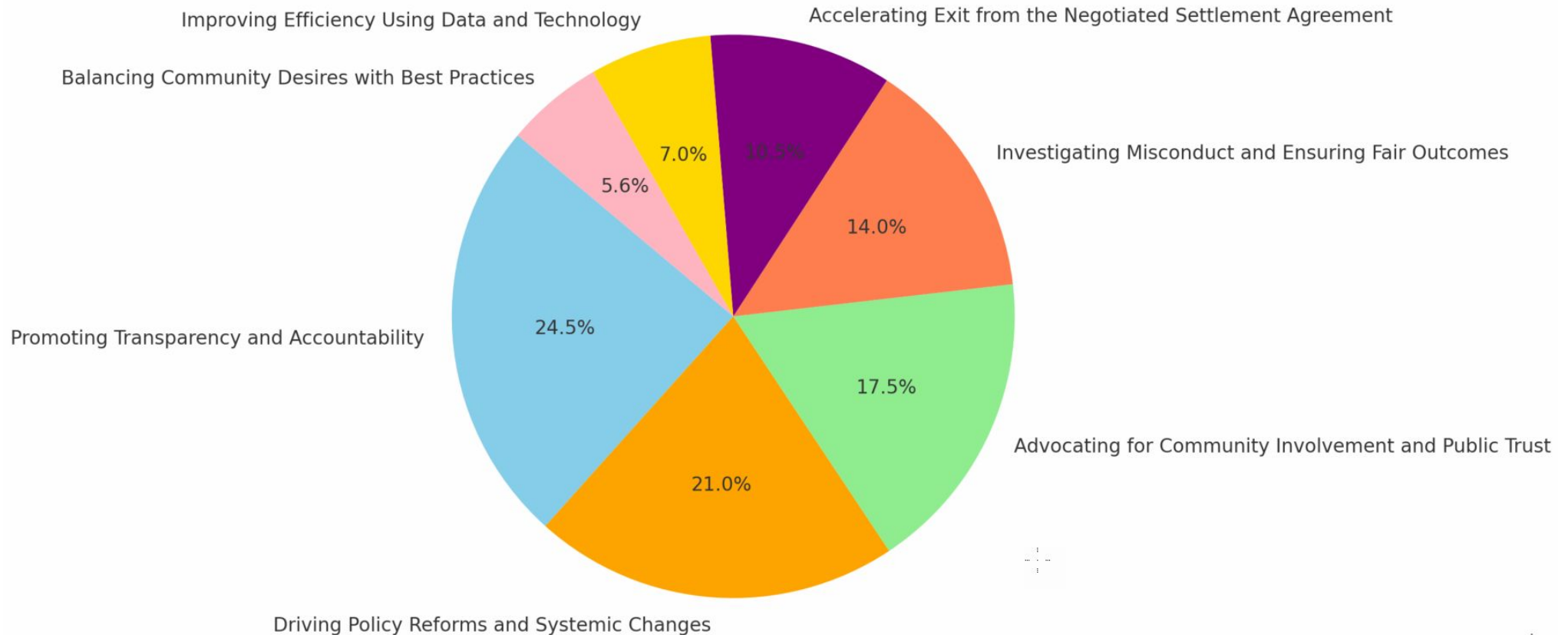
Common Themes for Length of Connection or Involvement with the OPC



# Overview of Draft Strategic Plan

## Summary of Community Feedback: Strengths

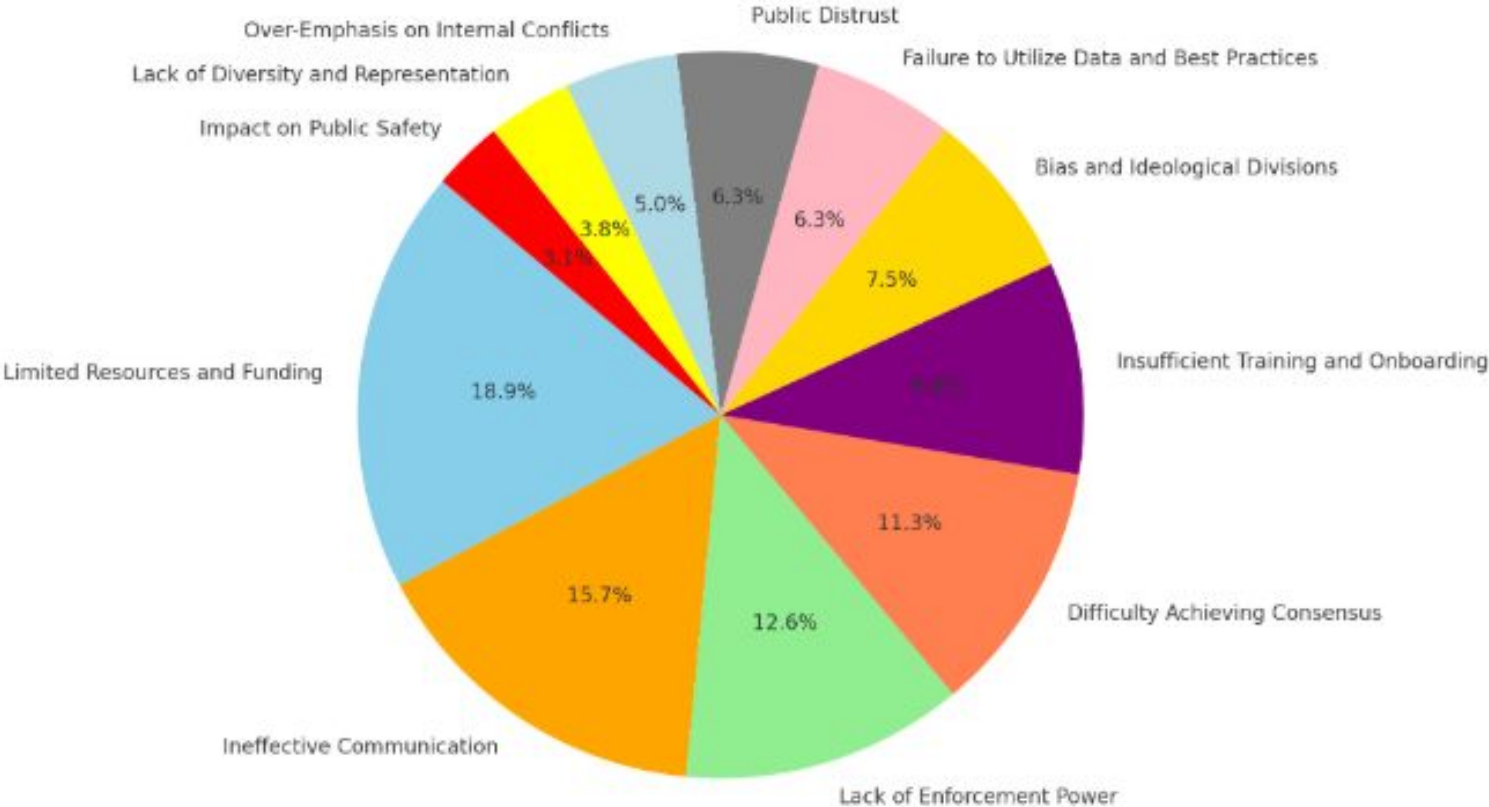
Key Themes and Feedback for Primary Strengths Across Respondents



# Overview of Draft Strategic Plan

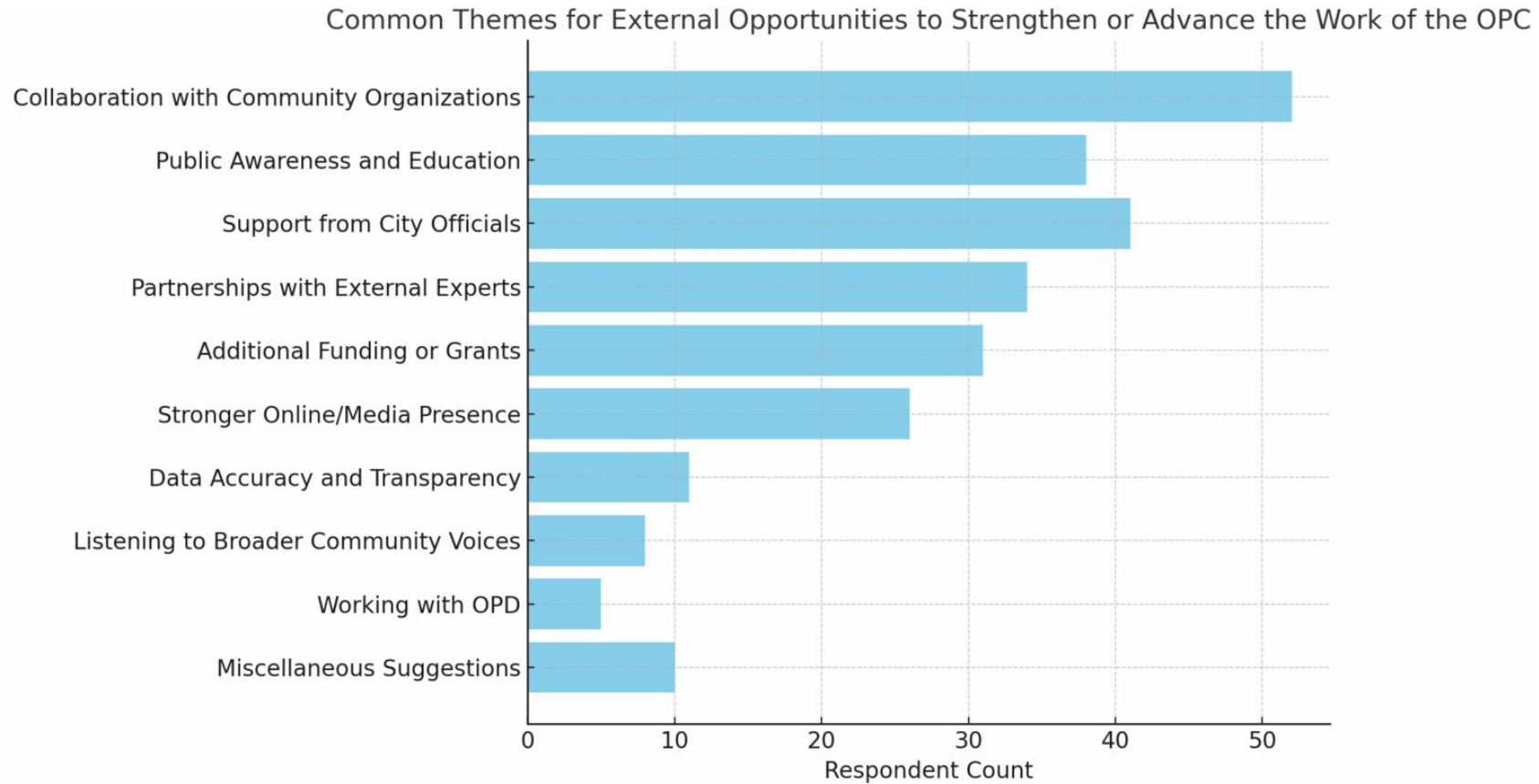
## Summary of Community Feedback: Challenges

Key Themes and Feedback for Main Challenges Across Respondents



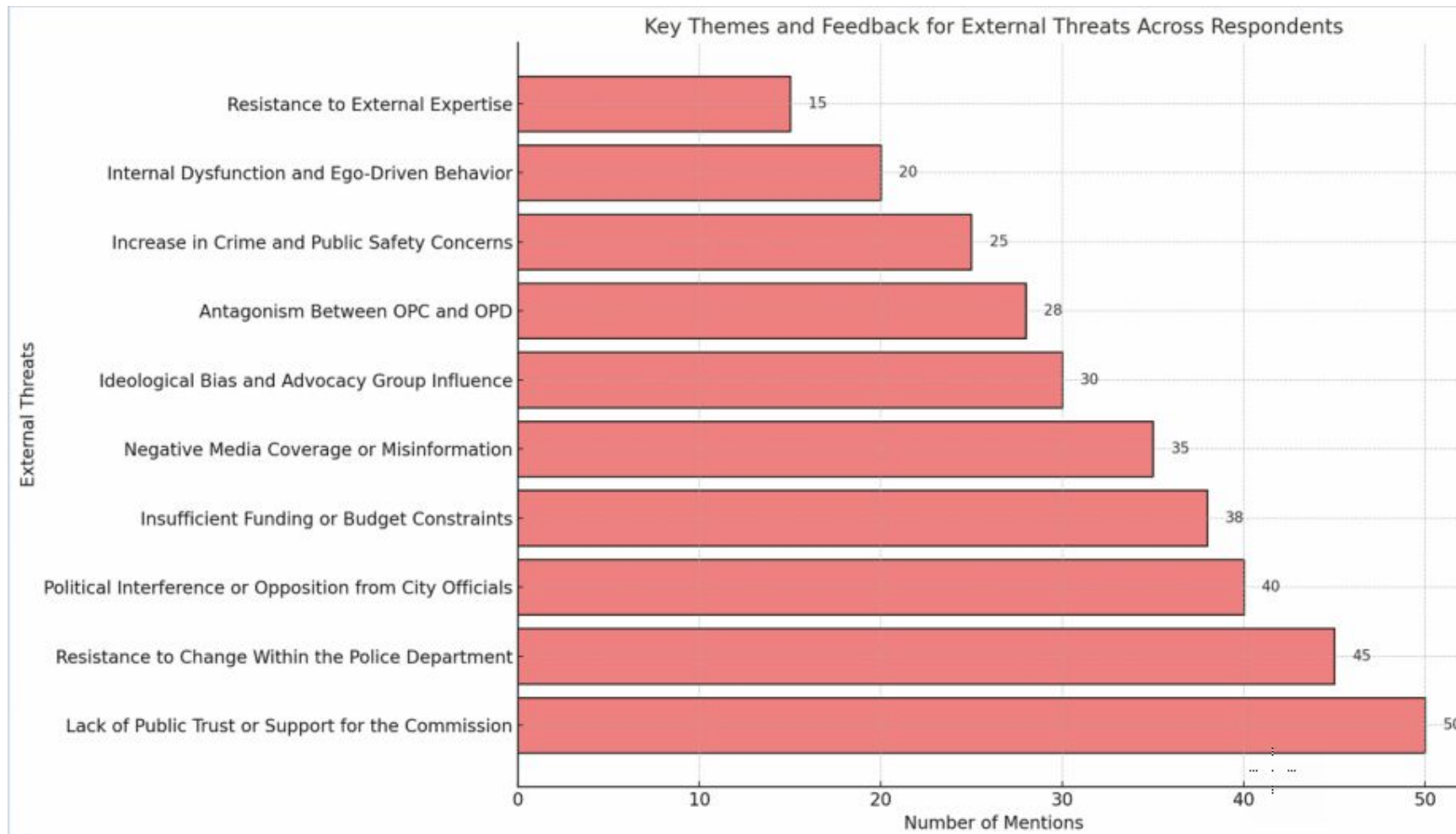
# Overview of Draft Strategic Plan

## Summary of Community Feedback: External Opportunities



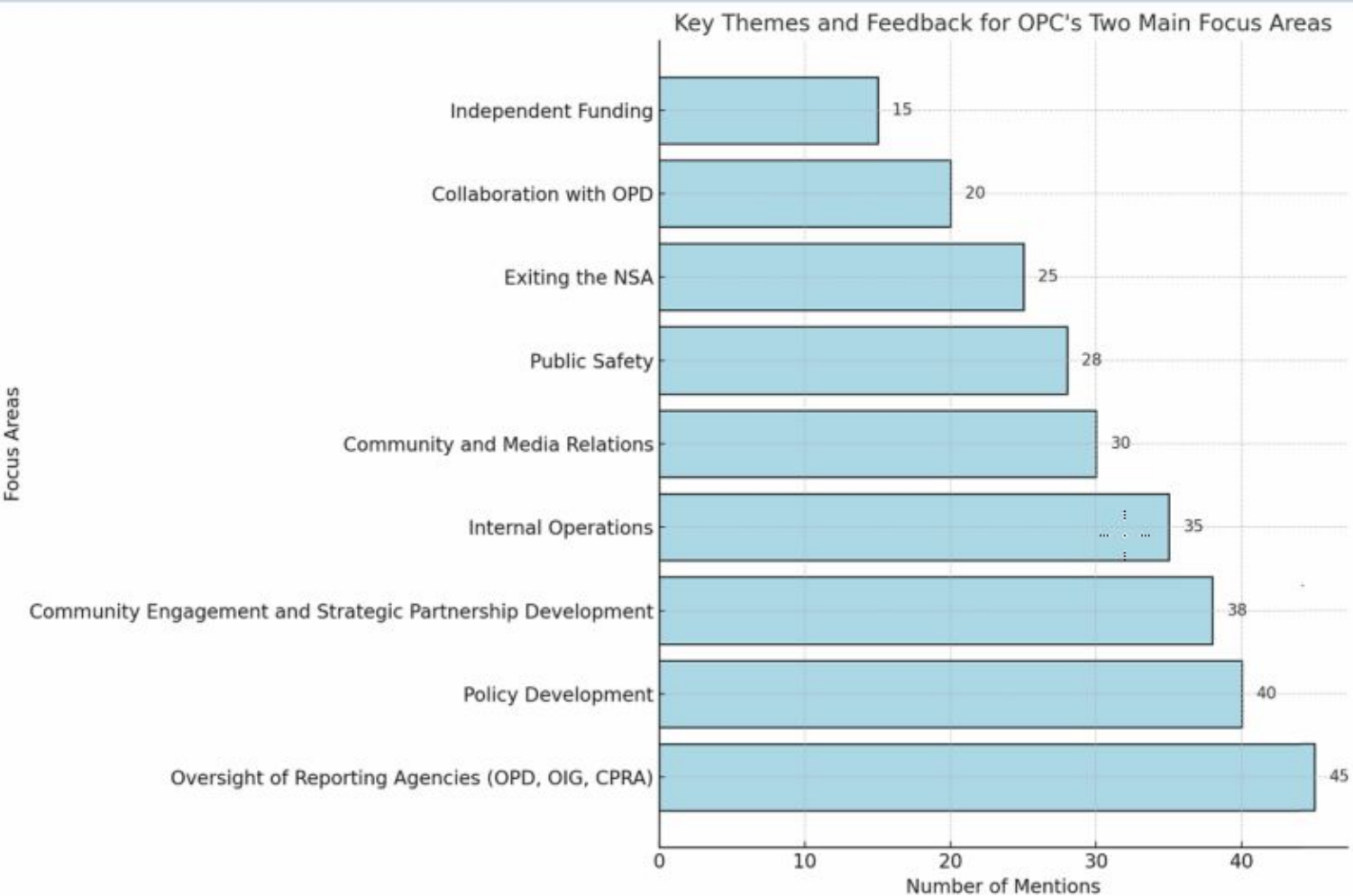
# Overview of Draft Strategic Plan

## Summary of Community Feedback: External Threats



# Overview of Draft Strategic Plan

## Summary of Community Feedback: 2 Key Focus Areas



Measure 86333

Measure \_\_. Shall Oakland's City Charter be amended to establish: (1) a Police Commission of civilian commissioners to oversee the Police Department by reviewing and proposing changes to Department policies and procedures, requiring the Mayor to appoint any new Chief of Police from a list of candidates provided by the Commission, and having the authority to terminate the Chief of Police for cause; and (2) a Community Police Review Agency to investigate complaints of police misconduct and recommend discipline?



## **CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE LL**

### **A PROPOSED AMENDMENT TO OAKLAND'S CITY CHARTER ESTABLISHING A POLICE COMMISSION TO OVERSEE THE POLICE DEPARTMENT'S POLICIES AND PROCEDURES, AND A COMMUNITY POLICE REVIEW AGENCY TO INVESTIGATE COMPLAINTS OF POLICE MISCONDUCT AND RECOMMEND DISCIPLINE**

#### **Summary:**

#### **Police Commission**

This measure would establish a Police Commission ("Commission") consisting of seven regular and two alternate members.

Commission members would be Oakland residents. No member could be a current police officer, current City employee, former Oakland police officer, or current or former official, employee or representative of a union that represents police officers. The first group of Commissioners would serve two, three or four-year terms. Later members would serve three-year terms, with a two-term limit.

The Mayor would nominate three regular Commissioners and one alternate, subject to the City Council's approval. A nine-member Selection Panel would nominate four regular Commissioners and one alternate, subject to the City Council's approval. Each City Council member and the Mayor would make an appointment to the Selection Panel. No panel member could be a current OPD employee.

Many changes to the Oakland Police Department's ("OPD's") policies and procedures would be subject to the Commission's approval. The Commission could require the Chief to submit annual reports, and the Commission would disclose the information in the Chief's reports to the Mayor, the City Council and the public, if permitted by law. The Mayor would appoint any new Chief from a list of four candidates identified by the Commission. The Commission could remove a Chief from office for cause.

#### **Community Police Review Agency**

The Commission would establish a Community Police Review Agency ("Agency"), which would receive and review complaints of police misconduct. The Agency would be required to investigate complaints involving use of force, in-custody deaths, profiling and public assemblies. The Commission could also direct the Agency to investigate other possible police misconduct. After completing its investigation of a complaint, the Agency would submit its findings and proposed discipline to the Commission and the Chief.

If the Chief agrees with the Agency's findings and proposed discipline, the Chief would notify the officer who is the subject of the complaint. The officer would have an opportunity to appeal by filing a grievance.

If the Chief disagrees with the Agency's findings and proposed discipline, the Chief would be required to prepare separate findings and proposed discipline. A three-member committee of the Commission would consider the Agency's and the Chief's recommendations and make a final decision, and the officer would have an opportunity to appeal by filing a grievance.

### **Budget and Staffing**

The City would have to allocate enough money to the Commission and the Agency so that they can perform their required functions and duties. At a minimum, staff would consist of an Agency Director and Agency investigators. There would be at least one Agency investigator for every 100 OPD officers. The City would also be required to allocate enough money for the City Attorney to assign outside counsel to provide legal advice to the Commission and Agency. No current or former Oakland police officer or current official, employee or representative of a union that represents police officers could serve as staff for the Commission or Agency.

**s/DENNIS J. HERRERA**  
San Francisco City Attorney

## **CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE LL**

Currently, the City Administrator supervises the Oakland Police Department (“OPD”). The Chief of Police (“Chief”) is responsible for the OPD’s day-to-day operations. The Chief investigates possible police misconduct, but the City Administrator must approve all suspensions of five or more days, fines, demotions or discharges. The City’s Citizens’ Police Review Board (“CPRB”) investigates citizen complaints of police misconduct.

This measure would establish a Police Commission (“Commission”) to oversee the Police Department’s policies and procedures, and a Community Police Review Agency (“Agency”) to investigate complaints of police misconduct and recommend discipline.

### **Police Commission**

The Commission would review the OPD’s policies, procedures and General Orders. The Commission may also propose changes, and approve or reject the OPD’s proposed changes, to those policies, procedures and General Orders that govern use of force, profiling, and general assemblies. The Commission’s proposed changes, and any rejections of the OPD’s proposed changes, would be subject to the City Council’s review and approval. The Commission would also conduct at least one public hearing a year on OPD policies, procedures and General Orders.

The Commission would consist of seven regular and two alternate members. The Mayor would nominate three regular Commissioners and one alternate, subject to the City Council’s approval. At least one of the three appointees must be a retired judge or lawyer with trial experience in criminal law or police misconduct.

A nine-member Selection Panel would nominate four regular Commissioners and one alternate. Each member of the City Council and the Mayor would appoint one member to the Selection Panel. The Selection Panel’s nominees would become members of the Commission, unless the City Council rejects all of the panel’s nominees.

### **Community Police Review Agency**

Currently, after investigating a complaint of police misconduct, the CPRB may recommend proposed discipline. The CPRB must submit any recommendations regarding discipline to the City Administrator, who must respond to the CPRB in writing and make the final decision.

Under the proposed measure, the Commission would establish the Agency, which would receive and review all complaints of police misconduct. The Agency would be required to investigate all complaints involving use of force, in-custody deaths, profiling and public assemblies. The Commission could also direct the Agency to investigate other possible police misconduct. After completing its investigation of a complaint, the Agency would submit its findings and proposed discipline to the Commission and the Chief.

If the Chief agrees with the Agency's findings and proposed discipline, the Chief would notify the officer who is the subject of the complaint. If the Chief disagrees with the Agency's findings and proposed discipline, the Chief would be required to prepare separate findings and proposed discipline. A three-member committee of the Commission would consider the Agency's and the Chief's recommendations and make a final decision, subject to the officer's ability to file a grievance.

### **Budget and Staffing**

The City must allocate enough money to the Commission and the Agency so that they can perform their required functions and duties.

After the City Council confirms the first group of Commissioners, the CPRB's pending business would be transferred to the Commission and the Agency. The CPRB's Executive Director would become the Agency's Interim Director, and all other CPRB staff would become Agency staff.

**s/DENNIS J. HERRERA**  
San Francisco City Attorney

## **CITY AUDITOR’S IMPARTIAL ANALYSIS OF MEASURE LL**

This Measure is a Charter amendment which will establish a Police Commission to oversee the Oakland Police Department. This new Police Commission and Community Police Review Agency will replace the current Citizens’ Police Review Board (CPRB).

The CPRB’s Director will become the Interim Director for the new Community Police Review Agency, and the CPRB’s pending business and staff will be transferred to the new Community Police Review Agency.

### Financial Impact

The 7 regular Commissioners and 2 alternate Commissioners for the new Police Commission will serve their duties without pay. The City Attorney would assign to the Commission an attorney who would not be a City employee. We estimate the annual cost at \$227,800, which is equivalent to the cost of a full-time Deputy City Attorney III. Part of this outside counsel cost is already borne by the City for the CPRB.

This Measure increases the current CPRB staffing level from 11 full-time employees to a minimum of 14 full-time employees. An additional 3 employees are required if this Measure passes because the Measure requires at least one Investigator for every 100 sworn police officers. As of July 2016 there were approximately 770 sworn officers and 60 trainees.

The current Police Review Board has 5 Investigators in their budget, so that an additional 3 Investigators will be required to meet the required ratio. We estimated the additional Investigators to cost the City between \$403,400 to \$495,200 for salaries and benefits.

This Measure also requires specific, professional training for the 9 Commissioners. The exact cost of this training is unknown; we estimated a minimum of \$9,000 annually for Commissioner training.

Passing this Measure may cost the City an additional \$560,400 to \$652,200 annually, as detailed below; we also estimate an additional one-time equipment cost for new employees at \$6,000.

<b>Cost Component</b>	<b>City’s Current Costs (11 full-time employees)</b>	<b>Additional Costs per Year</b>	<b>Total Estimated Annual Cost (14 full-time employees)</b>
Staffing	\$1,580,000	\$403,400 to \$495,200	\$1,983,400 to \$2,075,200
Outside Counsel	\$85,800	\$142,000	\$227,800
Operations	\$155,000	\$15,000	\$170,000
Total	\$1,820,800	\$560,400 to \$652,200	\$2,381,200 to \$2,473,000

There are three potential, financial impacts that cannot be quantified at this time, as noted below:

- Reconfiguration of workspaces for new and current employees, and the addition of private interview rooms may be necessary. The cost of any renovation cannot be determined because it is project-specific.
- Specialized, professional training for the Commissioners may be higher than the minimum amount estimated.
- Staff salaries and benefit rates may increase over time due to cost of living adjustments and future union negotiations, which will increase the cost to the City.

**s/BRENDA D. ROBERTS**  
City Auditor

## **Oakland Police Commission Ballot Measure LL-Pro Argument**

Oakland residents want effective community-oriented policing, less violent crime in our neighborhoods, and a police force that we trust. That is why we have come together to support the creation of a civilian Police Commission for Oakland.

Serious police misconduct impedes effective policing. We need improved oversight and effective discipline in order to better focus our police force on the things we want our officers doing: community policing in our neighborhoods, responding to 911 calls and investigating serious crimes.

OPD has been under federal oversight way too long our city needs to get its house in order. While we know that most of our officers are good people doing a very difficult job, that's not good enough. We've seen unacceptable scandals and inadequate consequences. It's time for Oakland to have effective civilian oversight!

Our city needs a strong police oversight commission to help build greater trust with the community, improve police response, and ensure constitutional policing. And we need this now.

Measure LL establishes a civilian Police Commission with authority to set policy, hold the police chief accountable for the effectiveness of OPD, and impose discipline when serious misconduct occurs. And it incorporates appropriate checks and balances to ensure we can hold our local elected leaders accountable as well.

Voting YES on Measure LL also will re-create a Community Police Review Agency, but this time with beefed up investigatory resources and real authority to not only investigate allegations of misconduct but also propose meaningful discipline.

For improvements and accountability and OPD, join us in voting YES on Measure LL.

Louise Rothman-Reimer  
President, League of Women Voters of Oakland

Reverend Dr. George Cummings  
Chair, Oakland Community Organizations (OCO)

Noel Galo  
Oakland City Councilmember

David Muhammad  
Criminal Justice & Youth Violence Prevention expert

Dan Kalb  
Oakland City Councilmember

No Argument Against was submitted



## FULLTEXT OF MEASURE LL

Section 1. Amendment to 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 Section, as well as those assigned to the Commission by Ordinance.
2. There hereby is established a Community Police Review Agency (hereinafter, Agency), which shall have the functions and duties enumerated in this Section, as well as those assigned to the Agency 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 Commissioners and alternates, the City Auditor shall conduct a performance audit and a financial audit of the Commission and the Agency. Nothing herein shall limit the City Auditor's authority to conduct future performance and financial audits of the Commission and the Agency.

#### **(b) Powers and Duties.**

The powers and duties of the Commission are as follows:

1. Organize, reorganize and oversee the Agency.

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. 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, 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 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.
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 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.

6. Review and comment, at its discretion, on all other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police who shall provide a written response to the Commission upon 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 to submit an annual report to the Commission regarding such matters as the Commission shall require.
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. Acting separately or jointly with the Mayor, remove the Chief of Police by a vote of not less than five 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 less than five affirmative votes. 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. Such appointment shall not exceed six (6) months in duration unless 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 four 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. This provision shall not apply to any recruitment for the position of Chief of Police that is pending at the time of the Commission's first meeting.

11. Send the Chairperson of the Commission or another Commissioner appointed by the Chairperson to serve as a non-voting member of any level one Oakland Police Force Review Board.

12. 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 seven (7) regular members and two (2) alternate members, all of whom shall be Oakland residents of at least eighteen (18) years of age. 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. Background checks shall be required for all Commission members and alternates. Such background checks shall not be performed by the Department. 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. Within two hundred and ten (210) days of the enactment of this Section, the Mayor shall appoint three (3) Oakland residents as 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, and submit the names of these 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 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 the Mayor's appointee within sixty (60) days after the completion of the background check and receipt of the Mayor's submission, the appointee shall be deemed appointed.

3. All other Commissioners and the other alternate shall be appointed as follows:
  - a. 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. No current Department employee is eligible to be a member of the Selection Panel. 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 its formation, the Selection Panel, by a two-thirds 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. 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 and shall 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.
4. With the exception of the first group of Commissioners which shall serve staggered terms, the term for each Commissioner shall be three (3) years.
5. Commission members are limited to no more than two (2) consecutive terms, except that a Commissioner serving a term of no more than one (1) year shall be allowed to serve two (2) additional consecutive terms.
6. 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, is convicted of a felony, or is removed.
8. For vacancies occurring for reasons other than the expiration of a regular member's term, the Commission shall select one of the alternates to replace the regular member for that regular member's remaining term of office. If the alternate chosen to replace the regular member was appointed by the Selection Panel, the Selection Panel shall appoint another alternate. If the alternate chosen to replace the regular member was appointed by the Mayor, the Mayor shall appoint another alternate.
9. All Commission members shall receive orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for police officer misconduct and failure to act. All Commission members shall receive training regarding Procedural Justice, conflict resolution, national standards of constitutional policing, best practices for conducting investigations, and other subject matter areas which are specified by City ordinance.

10. The City Council may remove members of the Commission for cause as provided in Section 601 of the Charter, or members of the Commission may 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.

**(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 members to establish a quorum and cast votes. Motions on all matters may be approved by a majority of those Commission members present.

**(e) Budget and Staffing**

1. The City shall allocate a sufficient budget for the Commission, including the Agency, to perform its functions and duties as set forth in this section, including budgeting at least one full-time-equivalent non-City Attorney legal advisor that is specifically charged with providing legal services to the Agency related to investigations and recommended discipline. The one full-time-equivalent non-City Attorney legal advisor shall be assigned by the City Attorney after consultation with the Chair of the Commission. The non-City Attorney legal advisor shall not in the regular course of his or her

2. legal practice defend law enforcement officers and shall not participate in, nor serve as counsel to the City or any of its Council members or employees in defense of any lawsuit arising from any incident involving an Oakland police officer.
3. Within sixty (60) days of the City Council's confirmation of the first group of Commissioners and alternates, 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.
4. After the effective date of this Charter section, the Commission may identify special qualifications and experience that candidates for Agency staff positions 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 City Administrator or his or her designee.
5. 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.
6. The City Administrator shall assign a staff member to act as liaison to the Commission and to provide administrative support to the Commission.
7. Upon a vacancy, the Director of the Agency shall be hired by the City Administrator from among two (2) or three (3) candidates submitted by the Commission. By an affirmative vote of at least five (5) members, or by an affirmative vote of four (4) members with the approval of the City



8. Administrator, the Commission may terminate the Director of the Agency. The Commission shall periodically conduct a performance review of the Agency Director. The Agency Director shall be classified as a Department head, and shall have the authority to hire and fire Agency staff, in consultation with the City Administrator.
9. Agency and Commission staff, with the exception of the Agency Director, shall be civil service employees in accordance with Article IX of the City Charter. 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.
10. 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 and alternates, 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 shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but 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, 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 received to the Internal Affairs Division of the Oakland Police Department within one business day of receipt.
2. Subject to applicable law, the Agency shall have the same access to all Department files and records, with the exception of personnel records, in addition to all files and records of other City departments and agencies, as

the Department's Internal Affairs Division (IAD). Access to personnel records shall be limited to the Agency Director who shall maintain confidentiality as required by law. The Department and other City departments and agencies shall make every reasonable effort to respond to the Agency's requests for files and records within ten (10) days.

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. Within thirty (30) days of completion of the investigation, the Director of the Agency shall issue written findings and proposed discipline regarding the allegations stated in the complaint to the Commission and the Chief of Police. 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.

#### **(g) Adjudication**

1. If the Chief of Police agrees with the Agency's findings and proposed discipline, he or she shall send to the subject officer notification of 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 prepare his or her own findings and/or proposed discipline which shall be submitted to 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. The Agency's findings and proposed discipline shall also be submitted to the Discipline Committee which shall review both submissions and 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.

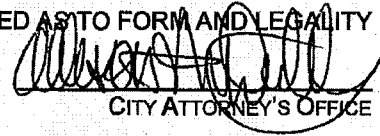
3. If the Chief of Police prepares his or her own findings and proposed discipline and provides it to the Agency before the Agency's investigation is initiated or completed, the Agency may close its investigation or may choose not to conduct its own investigation in order to allow final discipline to proceed as proposed by the Chief, except that if the Agency is required to conduct an investigation by subsection (f) above, 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 it will proceed within five (5) business days of the Chief's 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.

**(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 section 604. The City Council may, on its own initiative, enact legislation or regulations that will further the goals and purposes of this 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.

**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.

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL  
RESOLUTION NO. 88237 C.M.S.

INTRODUCED BY COUNCIL PRESIDENT KAPLAN, COUNCIL PRESIDENT  
PRO TEMPORE KALB, COUNCILMEMBER GALLO, AND COUNCILMEMBER  
TAYLOR

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**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION  
SUBMITTING TO THE VOTERS FOR THE NOVEMBER 3, 2020  
STATEWIDE GENERAL ELECTION PROPOSED AMENDMENTS  
TO CITY CHARTER SECTION 604 TO STRENGTHEN THE  
INDEPENDENCE OF THE OAKLAND POLICE COMMISSION  
BY MODIFYING THE POWERS, DUTIES, AND STAFFING OF  
THE OAKLAND POLICE COMMISSION AND THE COMMUNITY  
POLICE REVIEW AGENCY, AND CREATING AN OFFICE OF  
INSPECTOR GENERAL; 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 3, 2020  
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**, the voters of the City of Oakland overwhelmingly voted yes (83.19%) for Measure LL on November 8, 2016, that established an independent Police Commission; and

**WHEREAS**, on July 10, 2018, the City Council approved for final passage an enabling Ordinance No. 13498 C.M.S. to create the Oakland Police Commission and the Community Police Review Agency; and

**WHEREAS**, at the October 11, 2018 Police Commission meeting, a job description for Inspector General was adopted by a 5-0 vote but to date has not been implemented by the City Administrator; and

**WHEREAS**, on April 30, 2019, the City Council passed a Resolution No. 87635 C.M.S. requesting that the City Administrator expedite the process to obtain civil service board approval of and post the job description for the position of Inspector General to support the Police Commission of which the City Administration has refused to act upon; and

**WHEREAS**, on July 16, 2019, the Oakland City Council passed Ordinance No. 13555 C.M.S. to allow the Police Commission the authority to bind the City by written contract, for professional services, again reflecting the need for independence; and

**WHEREAS**, a report by the Oakland Police Department's Inspector General released in July 2019, found that officers failed to report using force against a suspect in over a third of cases from July to September 2018, disproportionately impacting Black Oakland residents; and

**WHEREAS**, on August 19, 2019, the 63<sup>rd</sup> Report of the Independent Monitor for the Oakland Police Department was released indicating that the City was slipping in its compliance with the Negotiated Settlement Agreement ("NSA") and stated that "the City and OPD leadership continue to struggle with using the specific stipulations of the NSA to increase the Department's capacity to identify problems-and, most importantly, to implement effective solutions;" and

**WHEREAS**, public perception persists that the Department and the City do not adequately hold its officers accountable for misconduct; and

**WHEREAS**, maintaining public trust and confidence in the Police Department is essential for the Department to be able to provide the highest level of service to the community; and

**WHEREAS**, ensuring the independence of the Police Commission from the affairs of the City Administration promotes the public trust, police accountability, and ensures that the Department complies with the requirements of the NSA; 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 ~~is~~ 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 ~~the Agency~~ 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 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 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. Organize, reorganize and 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 ~~for so long as such federal court orders and settlements remain in 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, approval or rejection. ~~If the City Council does not approve, modify and approve, or reject 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 ~~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 by the Commission Chair or her or his designee to the City Council for review. ~~If the City Council does not approve or reject 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, ~~on all any~~ other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police, ~~who~~ 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. Acting 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 not less 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 not less 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 ~~four~~ 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. ~~This provision shall not apply to any recruitment for the position of Chief of Police that is pending at the time of the Commission's first meeting.~~

11. ~~Send the Chairperson of the Commission or another Commissioner appointed by the Chairperson, the Agency Director, and/or the Inspector General or their designees to serve as a non-voting members of any level one 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.

1213. 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 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. ~~members and alternates.~~ 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. 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 submit the names of these 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 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 the Mayor's appointee within sixty (60) days after the completion of the background check and receipt of the Mayor's submission, the appointee shall be deemed appointed.

3. All other Commissioners ~~and the other alternates~~ shall be appointed as follows:

a. 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. ~~No current Department employee is eligible to be a member of 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 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. 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, ~~and shall~~ 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 term for each Regular and Alternate Commissioner shall be three (3) years.

5. ~~Commissioners members~~ are limited to no more than two (2) consecutive terms, except that a Commissioner serving a term of ~~no more~~ less than one (1) year shall be allowed to serve two (2) additional consecutive terms.

6. 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, is convicted of a felony, or is removed.

8. For vacancies occurring for reasons other than the expiration of a regular member's term, the Commission shall select one of the Alternates 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 members~~ shall receive orientation and training as required by ordinance, including but not limited to orientation and training in the areas of regarding Department operations, policies and procedures, including ~~but not limited to~~ discipline procedures for police officer misconduct and failure to act. ~~All Commission members shall receive training regarding~~ Procedural Justice, conflict resolution, national standards of constitutional policing, best practices for conducting investigations, and labor rights and laws. ~~and other subject matter areas which are specified by City ordinance.~~

10. The City Council may remove ~~members of the~~ 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 Alternates Commissioners to replace the suspended Commissioner for the duration of the suspension. ~~or members of the~~ 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 members-Commissioners~~ Commissioners to establish a quorum and cast votes. Motions on all matters may be approved by a majority of those Commissioners ~~members~~ 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 ~~at least one full-time equivalent non-City Attorney legal advisor that is specifically charged with providing legal services to the Agency related to investigations and recommended discipline. The one full-time equivalent non-City Attorney legal advisor shall be assigned by the City Attorney after consultation with the Chair of the Commission. The non-City Attorney legal advisor shall not in the regular course of his or her legal practice defend law enforcement officers and shall not participate in, nor serve as counsel to the City or any of its Council members or employees in defense of any lawsuit arising from any incident involving an Oakland police officer.~~ 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. Within sixty (60) days of the City Council's confirmation of the first group of Commissioners ~~and alternates~~, 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 ~~Commission~~ 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 ~~City Administrator or his or her designee~~.

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 City Administrator ~~shall~~ 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 and to provide administrative support to the Commission, and attending Commission meetings.

6. Upon a vacancy, the Agency Director of the Agency and the Inspector General shall be hired by the ~~City Administrator~~ from among two (2) or three (3) candidates submitted by the Commission. By an affirmative vote of at least five (5) members, ~~or by an affirmative vote of four (4) members with the approval of the City Administrator~~, the Commission may terminate the Agency Director of the Agency 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, in consultation with the City Administrator 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 staff, with the exception of the Agency Director and Inspector General themselves, 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 and alternates, 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 shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but 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 received it receives to the Internal Affairs Division of the Oakland Police 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 with the exception



of personnel records, in addition to all files and records of other City departments and agencies related to sworn employees of the Department, as the Department's Internal Affairs Division (IAD) 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. Access to personnel records shall be limited to the Agency Director who 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 of the Agency 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 ~~prepare-notify the Agency Director of his or her own findings and/or proposed discipline which shall be submitted to.~~ The Agency Director shall submit the Chief's 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. The Agency's findings and proposed discipline shall also be submitted to the Discipline Committee which shall 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 and 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 if the Agency is required to conduct an investigation by subsection (f) above 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 five (5) business seven (7) days of the Chief's 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 the City Council of the City of Oakland requests that the Board of Supervisors of Alameda County order the consolidation of the Oakland municipal elections with the statewide general election of November 3, 2020, consistent with the provisions of state law; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the November 3, 2020 general municipal election, 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 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 \_\_\_\_**

Measure _____. Shall Oakland's City Charter be amended to: (1) modify the powers, duties and staffing of the Police Commission and the Community Police Review Agency ("CPRA"), including empowering the Police Commission to hire and/or contract for one or more attorney advisors and empowering the CPRA's Director to hire staff attorneys; and (2) create an Office of Inspector General to review and report on the policies and practices of the Police Department and CPRA?	Yes	
	No	

[FINAL BALLOT QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]

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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 Council requests that the Board of Supervisors of Alameda County include in the ballots and sample ballot recitals and measure language to be voted on by the voters of the City of Oakland; and be it

**FURTHER RESOLVED:** That the City Council requests that the Registrar of Alameda County perform necessary services in connection with the November 3, 2020 general municipal elections; and be it

**FURTHER RESOLVED:** That in accordance with CEQA Guidelines Section 15061, subd. (b)(3), the City finds that there is no possibility that the activity authorized by this Ordinance may have a significant effect on the environment; 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 2020 state general election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 3, 2020 general municipal election, consistent with law; and be it .

**FURTHER RESOLVED:** That this resolution shall be effective immediately upon approval by five members of the City Council.

IN COUNCIL, OAKLAND, CALIFORNIA,

**JUL 23 2020**

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID,  
TAYLOR, THAO AND PRESIDENT KAPLAN — 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED  
Acting City Clerk and Clerk of  
the Council of the City of  
Oakland, California

## 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 the Police Chief's 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 such person 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 the Commission Chair's 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 the Commission Chair's 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 the Police Chief's 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 the Police Chief's 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 their 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 Chiefs report in addition to such other matters as are relevant to the functions and duties of the Commission.
10. 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, 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 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. 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 (Oakland resident as an Alternate Commissioner, and submit the names of these 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 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 the Mayor's appointee within sixty (60) days after the completion of the background check and receipt of the Mayor's submission, the appointee shall be deemed appointed.

3. All other Commissioners shall be appointed as follows:

- a. 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 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. 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 their 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 term for each Regular and Alternate Commissioner shall be three (3) years.

5. Commissioners are limited to no more than two (2) consecutive terms, except that a Commissioner serving a term of less than one (1) year shall be allowed to serve two (2) additional consecutive terms.

6. 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, is convicted of a felony, or is removed.

8. 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. 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 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, 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 shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but 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 the Police Chief's 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 the Agency Director's 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 the Police Chief's designee shall immediately notify the Agency Director.

**(g) Adjudication.**

1. If the Chief of Police agrees with the Agency's findings and proposed discipline, the Police Chief 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 the Police Chief's own findings and/or proposed discipline. The Agency Director shall submit the Chief's 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 their 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 Chief's notice of completion of the Chief's 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. The Commission Attorney, in their professional discretion, determines it is in the best interests of the Commission to consult with the City Attorney;

- d. The Commission Attorney, in their 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.

**(Added by: Stats. November 2016. Amended by: Stats. July 2020.)**