

**PROPOSED BY THE COALITION FOR POLICE ACCOUNTABILITY**

CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

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

**-DRAFT ORDINANCE (1) ENABLING IMPLEMENTATION OF THE CITY CHARTER AMENDMENT CREATING THE OAKLAND POLICE COMMISSION AND THE COMMUNITY POLICE REVIEW AGENCY, (2) ESTABLISHING A CIVILIAN INSPECTOR GENERAL AND RENAMING THE CURRENT OFFICE OF THE INSPECTOR GENERAL AS THE OFFICE OF AUDITS AND COMPLIANCE, AND (3) REQUIRING AN ANNUAL REPORT AND PRESENTATION BY THE COMMUNITY POLICING ADVISORY BOARD TO THE COMMISSION**

**WHEREAS**, On November 8, 2016, the City of Oakland's voters passed Measure LL to add Section 604 to the Oakland City Charter, setting up the establishment of the Oakland Police Commission; and

**WHEREAS**, An enabling ordinance is vital companion for implementation of the Charter Amendment passed by the voters; and

**WHEREAS**, [PENDING]; and

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

**SECTION 1.** That the City Council hereby adopts the addition of Chapters 2.45 and 2.46 to the Oakland Municipal Code to enable the implementation of City Charter Section 604 which establishes the Oakland Police Commission and the Community Police Review Agency, and to establish the Office of Inspector General and to appoint a civilian Inspector General who shall be responsible for its day-to-day operations.

**SECTION 2.** Chapters 2.45 is hereby added to the Oakland Municipal Code to read as follows:

## **Chapter 2.45 - OAKLAND POLICE COMMISSION**

### **2.45.010 – Definitions.**

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

“Agency” shall mean the Community Review Police Agency.

“Appointing Authority” shall mean the Selection Panel established by Section 604(c)(3) of the City Charter or the Mayor. “Appointing Authorities” shall mean both the Selection Panel and the Mayor.

“Chief” shall mean the Chief of Police of the Oakland Police Department.

“Commission” shall mean the Oakland Police Commission.

“Department” shall mean the Oakland Police Department.

“Misconduct” shall mean both a police officer’s affirmative acts of misconduct and/or his or her failure to act.

“Serious Incident” shall mean a police officer-involved shooting, death or serious bodily harm caused by the action and/or inaction of a police officer, in-custody death, and/or on-duty or off-duty criminal conduct of a sworn Department employee which rises to the level of a felony or Serious Misdemeanor.

“Serious Misdemeanor” shall mean any misdemeanor crime that, if convicted, could interfere with a police officer’s ability to fulfill his or her job responsibilities. Examples include those crimes that involve violence, intimidation, threats, sexual offenses, theft, dishonesty, possession of drugs, violations of California Penal Code Section 12021(c)(1), and those crimes where bias based on any legally protected characteristic is a motivating factor.

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

### **2.45.020 – Creation.**

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

### **2.45.025 Selection Panel**

**The Police Commission Selection Panel established pursuant to City Charter Section 604 (c) shall represent the gender, ethnic, racial, sexual orientation,**

**religious, and geographic diversity of Oakland, and should include people who have been involved in the criminal justice system in Oakland. The Selection Panel shall consist of nine (9) members who shall be residents of Oakland. The City Administrator's Office shall create and widely circulate an application for nominations (by self or other) to the Selection Panel. Each member of the Oakland City Council and the Mayor will appoint one member to the Selection Panel. The This nine-member Selection Panel will review all applications for the Police Commission and from them select and choose the initial four (4) nominees to serve as Police Commissioners. The Mayor shall announce his/her 3 choices at least 3 weeks prior to the deadline by which time the Selection Panel must present their slate of 4 candidates so that the latter can take into consideration the profiles of the Mayor's choices and ensure that there is diversity among all 7 candidates in background, skill-sets, and experience.**

**2.45.030 – Bylaws and Rules.**

The Commission may prepare its own Bylaws to govern its operations. Any such Bylaws shall be approved by a vote of not less than five (5) affirmative votes.

**2.45.40 – Background Checks.**

In accordance with federal and state law, a background check shall be performed on candidates for the position of Commissioner and alternate before his or her name is submitted to the City Council for confirmation. The City Administrator’s Office shall retain an independent contractor to perform these background checks, which shall include:

- A. Verification of educational and employment background, and any other information that may be verified by a public records search; and
- B. Results of a criminal records investigation.

The results of each background check shall be disclosed only to the Appointing Authority that is considering the Commissioner or alternate. The Appointing Authority may use the results of the background check solely for the purpose of evaluating the candidates for Commissioner and alternate.

**2.45.50 – Functions and Duties of the Commission.**

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

- A. In cooperation with the Chief, ensure that all sworn employees of the Department receive adequate education and training regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues.
- B. Prepare and deliver to the Mayor, the City Administrator and the Chief by January 31 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection (A) above.
- C. Notwithstanding Section 2.29.020 of the Oakland Municipal Code and in accordance with Section 604(b)(10) of the City Charter, have the authority to remove the Chief, without the approval of the Mayor, by a vote of not less than five (5) affirmative votes and only after finding cause. For purposes of removing the Chief, “cause” shall be defined as:
  - 1. Gross neglect of duties or serious violations of City or Department policy after the Chief has received written warning of the neglect or violation and the Chief has failed to cure the neglect or violation within twenty (20) days; or
  - 2. Conviction of a felony; or
  - 3. Conviction of misdemeanor involving moral turpitude; or
  - 4. Failure or refusal to cooperate with any investigations involving employees of the Department; or

5. Obstruction of any investigation of Department employee misconduct or criminal activity; or
  6. Refusal, which shall include ongoing failure, to administer or enforce Department policies, procedures or General Orders; or
  7. A material act of dishonesty, fraud, self-dealing, or other act of moral turpitude.
- D. Within one hundred and eighty days (180) of the City Council's confirmation of the first group of Commissioners and alternates and on the anniversary of that date thereafter, notify the Chief regarding what information will be required in the Chief's annual report to the Commission.
- E. **Conduct annual performance reviews of the Inspector General and the Agency Director. These reviews shall be based on previously mutually agreed-upon performance measures that have been in place for the year being reviewed. The reviews shall be "360" reviews, in which feedback of staff and other personnel familiar with the work of Inspector General or the Agency Director is considered as a part of the evaluation.**
- F. Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of:
1. To the extent permitted by applicable law, the discipline decisions that were appealed to arbitration;
  2. Arbitration decisions or other related results;
  3. The ways in which it has supported the police discipline process; and
  4. Significant recent developments in police discipline.
- G. Provide policy guidelines to the Agency Director for assistance in determining case prioritization.
- H. Make available on its website, to the extent permitted by law:
1. The Commission's annual report;
  2. The Chief's annual and semi-annual reports; and
  3. The Inspector General's annual report.
- I. Direct the Agency to investigate a Serious Incident when requested by the Mayor, the City Administrator, and/or the City Council by an affirmative majority vote.
- J. Direct the Department to develop a proposed policy prohibiting, with appropriate exceptions, the Department's Internal Affairs Division from investigating the Department's non-sworn employees, subject to applicable state law.
- K. Direct the Chief to:
1. Submit semi-annual reports to the City Council's Public Safety Committee, to the extent permitted by applicable law, which shall include:
    - a. The number of complaints submitted to the Department's Internal Affairs Division (hereinafter, "IAD") together with a brief description of the nature of the complaints;
    - b. The number of pending investigations in IAD, and the types of Misconduct that are being investigated;
    - c. The number of investigations completed by IAD, and the results of the investigations;
    - d. The number of training sessions provided to Department sworn employees, and the subject matter of the training sessions;

- e. Revisions made to Department policies and general orders;
  - f. The number of, and circumstances surrounding, officer-involved shootings, the results of any Executive Force Review Board or Force Review Board hearings, and a summary of the Department's monthly Use of Force Reports;
  - g. Number of officers disciplined and the level of discipline imposed; and
  - h. The number of closed investigations which did not result in discipline of the subject officer.
2. Immediately notify the Chair of the Commission, the Agency Director and the Inspector General of any Serious Incident. The Commission shall also direct the Chief to provide a status report within ten (10) calendar days of the date on which the Serious Incident occurred, and a second status report within forty-five (45) calendar days of the date on which the Serious Incident occurred.
  3. Brief the Commission Chair, the Agency Director and the Inspector General at least once a month regarding allegations of all Serious Incidents under investigation.
  4. Order all officers subject to subpoena (pursuant to the Commission's subpoena powers as described in City Charter section 604(b)(3)) to comply with all requirements of the subpoena.
- L. In association with the Agency Director, establish rules and procedures for the mediation and resolution of complaints of Misconduct.
  - M. Receive any and all reports prepared by the Community Policing Advisory Board (hereinafter referred to as "CPAB") and consider acting upon any of the CPAB's recommendations for promoting community policing efforts and developing solutions for promoting and sustaining a relationship of trust and cooperation between the Department and the community.

#### **2.45.055 – No Automatic Rollover of Terms of Commissioners**

**Upon the expiration of a Commissioner's term pursuant to Section 604 (c)(4) of the City Charter the former Commissioner shall not be automatically re-appointed but shall be subject to the ordinary selection process for Commissioners specified in sections 604(c)(2) or (3) of the City Charter.**

#### **2.45.60 – Access to Documents.**

Subject to applicable law, the Commission and the Inspector General shall have 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 relevant and necessary to the performance of its duties. In addition and subject to applicable law, the Commission shall have 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 relevant to a Serious Incident. However, the Discipline Committees shall have access to all files, including personnel records, necessary to render a decision as described in City Charter section 604(g)(2).

## 2.45.70– Meetings

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

Consistent with City Charter section 604(d)(1), the Commission shall meet at least twice each month at an established time and place suitable to its purpose. Such meetings shall be designated regular meetings, and shall be held at City Hall. If the Commission determines, by a majority vote of those present at a regular meeting, that a second regular meeting in that month is not necessary, it shall provide public notice of the meeting cancellation as required by all applicable State and local laws. Video recordings of all open sessions of Commission meetings shall be aired on KTOP-TV10. **All votes of the Commissioners shall be made available to the public except when such votes are required to be confidential pursuant to state or local law.**

- A. Consistent with City Charter section 604(d)(1), at least twice each year, the Commission shall hold one of its regularly scheduled meetings at a location outside of City Hall. These meetings shall be designated special meetings for purposes of Article II of Chapter 2.20 of the Oakland Municipal Code, and shall include an agenda item titled “Community Roundtable,” or something similar. The purpose of the Community Roundtable agenda item shall be to engage the community in discussions regarding community policing, building trust between the community and the Department, and other similar and relevant subjects as determined by the Commission. The Commission shall consider inviting to each Roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and, to the extent practicable, formerly incarcerated members of the community.

### B. Duties of Alternates:

1. **Alternate members of the Commission shall be required to adhere to the responsibilities, expectations, and regulations mandated of regular members, including, but not limited to, rules governing orientation, training, attendance and ethical requirements for Commission membership.**

#### 2. Distinguishing alternates from voting members of the Commission:

**a. Alternate members of the Commission shall not be entitled to vote on specific matters before the Commission unless an alternate’s vote is necessary to achieve a quorum of voting Commissioners, or either the City Charter or Ordinance of the City Council has explicitly authorized the Chairperson of the Commission to designate an Alternate as a temporary voting member.**

**b. Designation of alternates during a regular member's authorized leave: in addition to the power to designate one or more alternate members as temporary voting members of the Commission in order to establish a quorum in accordance with Charter §604(d)(3), the Chairperson of the Commission may designate an alternate member as a temporary voting member of the Commission should a regular member be placed on authorized leave. In such cases, that regular member's position may be temporarily filled by an alternate member for the duration of the regular member's leave. Upon the return of the regular member to his or his position on the Commission following the leave period, the alternate member shall revert back his or her role as alternate.**

**2.45.80 - Office of Inspector General.**

Within sixty (60) days after the City Council's confirmation of the first group of Commissioners and alternates, there shall be established in the City government a civilian Office of Inspector General for the Department (hereinafter referred to as "OIG"). The Commission, with the assistance of the City Administrator, shall be responsible for oversight of the OIG.

- A. The powers, functions and duties of the OIG shall be those assigned, authorized and directed by the Commission, and shall include conducting any audit or review of the Department necessary to assess the Department's performance and adherence to constitutional policing practices, and shall also include conducting any audit or review of the Department's Training Bulletins, General Orders, and all other policies and procedures, including any pattern of non-compliance with the foregoing, as necessary or helpful for the Commission to fulfill its duties under Charter Section 604(b)(4), (5) and (6).
- B. The Chief shall assign a sworn officer to act as a liaison from the Department to the OIG.
- C. The City shall allocate a sufficient budget for the OIG to perform its functions and duties as set forth in section 2.45.090 below, including budgeting one (1) full-time staff position comparable to the position of Police Program and Audit Supervisor. All OIG staff, other than the Inspector General, shall be civil service employees in accordance with Article IX of the City Charter, and shall report to the Inspector General. Except for the Inspector General, the Commission shall not have any authority to hire, supervise, evaluate or fire OIG staff.
  1. Within thirty (30) days after the first Inspector General is hired The Policy Analyst then assigned to the Agency shall be transferred to the OIG; and
  2. One (1) Police Performance Auditor shall be transferred from the Department's Office of Inspector General or re-named Office of Audits and Compliance to the OIG.

**2.45.90 – Civilian Inspector General.**

- A. Within one hundred and eighty (180) days of the City Council's confirmation of the first group of Commissioners and alternates, the City Administrator shall hire



the first civilian Inspector General from among two (2) or three (3) candidates submitted by the Commission. The job announcement and the description of job responsibilities for the position of Inspector General shall be developed jointly by the Commission and the City Administrator. The City Administrator shall hire all subsequent civilian Inspectors General from among two (2) or three (3) candidates submitted by the Commission. The Inspector General shall be subject to a background check as described in section 2.45.030 above before hiring except that the results of the background check shall be submitted to the Commission and the City Administrator.

- B. The Inspector General shall serve at the pleasure of the Commission, and may only be removed by an affirmative vote of at least five (5) members of the Commission, or by an affirmative vote of four (4) members with the approval of the City Administrator. The City Administrator shall not have the authority to independently remove the Inspector General.
- C. The Inspector General shall be classified as a department head, and shall be responsible for the day-to-day operations of the OIG-, including but not limited to the supervision and direction of all staff. The Commission shall periodically conduct a performance evaluation of the Inspector General.
- D. The Inspector General shall be permitted to attend Executive Force Review Board, Force Review Board, and *Skelly* hearings if he or she chooses to do so.

#### **2.45.100 – Functions and Duties of the Office of Inspector General.**

The functions and duties of the Office of Inspector General shall include, without limitation:

- A. Preparing an annual report, summarizing the results of the annual reviews of:
  - 1. The Department's processes and procedures for investigating alleged Misconduct;
  - 2. The Department's processes and procedures for determining the appropriate level of discipline for sustained findings of Misconduct;
  - 3. The Agency's processes and procedures for investigating alleged Misconduct;
  - 4. The Agency's processes and procedures for determining the appropriate level of discipline for sustained findings of Misconduct;
  - 5. Trends and patterns regarding Department training and education, and the Department's use of any early warning system(s) and
  - 6. Trends and patterns regarding use of force and officer-involved shootings.
  - 7. **The Policy Analyst will contribute to the report prepared by the Inspector General and shall include the training and policy implications of complaints being investigated by the Agency.** This annual report shall be presented to the Commission, the Mayor, the City Council's Public Safety Committee, and to the Chief and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.
- B. Monitoring and evaluating, on at least an annual basis, the number and percentage of sworn officers who have received in-service training on profiling and implicit bias, procedural justice, de-escalation, diplomacy, situational problem-solving,

- and work-related stress management, and make recommendations, as appropriate, to the Commission regarding changes to the Department's training programs.
- C. Developing and presenting a plan to the Commission to measure the performance of each element of the Department's discipline process.
  - D. Completing all audits or reviews requested by the Mayor, the City Administrator, and/or the City Council by an affirmative majority vote. The Inspector General shall report all findings to the office that requested the audit or review.
  - E. Monitoring, evaluating, and making recommendations regarding the Department's recruitment and hiring practices for sworn personnel.
  - F. Monitoring, evaluating, and making recommendations regarding the Department's Training Bulletins, General Orders, and all other policies and procedures as requested by the Commission in furtherance of its duties under City Charter section 604(b)(4), (5) and (6).
  - G. Monitoring, evaluating, and making recommendations regarding the Department's risk management practices.

**2.45.110– Establishment of the Discipline Committee.**

The Chairperson of the Commission shall appoint three (3) Commission members to serve on a Discipline Committee, and shall designate one of these three (3) Commission members as the Chairperson. The Discipline Committee shall decide any dispute between the Agency and the Chief regarding the proposed or final findings or proposed or final level of discipline to be imposed on a Subject Officer.

- A. No Discipline Committee established by the Commission shall decide any dispute between the Chief and the Agency, as directed by Section 604(g) of the City Charter, until each member of the Discipline Committee has completed: (1) orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for Misconduct, and (2) the training described in section 2.45.160(D), (E) and (F).
- B. Membership in the Discipline Committee shall rotate for each police officer discipline case, as determined by the Chairperson of the Commission **and at no time shall there be more than one Discipline Committee member who was appointed by the Mayor.**

**2.45.120 – Discipline.**

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

- A. With respect to Misconduct that is given a Class I designation pursuant to the Department's Discipline Policy, the Chief and the Agency Director shall include probative videotape and/or audiotape from their respective investigations in their submissions to the Discipline Committee pursuant to City Charter section 604(g)(2). The Discipline Committee shall have the authority to ~~request~~ **order to be produced** any additional **records or documents including a video deposition of the officer who is the subject of discipline as well as other parties involved in the incident who were interviewed.** and videotape and/or audiotape from the Agency's and the Department's investigation files that it deems relevant to its deliberations. **Such records or documents shall include the disciplinary history of the officer and information about whether he or she was an Oakland Police Academy graduate or a hire from another police department. All records and documents shall be submitted to the Discipline Committee in their original un-redacted form. The Discipline Committee** shall also have the authority to require the Chief and the Agency Director, or their non-attorney designees, to appear before the Discipline Committee to present their findings and recommendations and to answer questions.
- B. After the investigation of a complaint has been completed and a decision has been made regarding the proposed findings and the proposed level of discipline (hereinafter referred to as the "Proposed Discipline"), either by agreement between the Chief and the Agency or by decision of the Discipline Committee, the Chief shall send a Notice of Intent to Impose Discipline or a Notice of Intent to Terminate to the Subject Officer. Consistent with City policy and applicable law, the Department shall offer the Subject Officer a *Skelly* hearing to be conducted by an assigned *Skelly* officer. After completion of the *Skelly* hearing, the *Skelly* officer shall issue his or her report which shall include his or her recommendation regarding whether the Proposed Discipline should be affirmed or modified in any way.
- C. The *Skelly* report shall be submitted to the Chief and to the Agency Director if the Chief and the Agency Director agreed on the Proposed Discipline. The Chief and the Agency Director shall consider the *Skelly* report and consult with each other regarding the final set of findings and level of discipline to be imposed (hereinafter referred to as "Final Discipline").
  1. If the Chief and the Agency Director agree on the Final Discipline, the Chief shall send a Notice of Discipline or Notice of Termination to the Subject Officer.
  2. If the Chief and the Agency Director do not agree on the Final Discipline, the *Skelly* report shall be submitted to the Discipline Committee which shall decide the Final Discipline. After such determination, the Discipline Committee shall direct the Chief to send a Notice of Discipline or Notice of Termination to the Subject Officer.
- D. The *Skelly* report shall be submitted to the Discipline Committee if the

Discipline Committee decided the Proposed Discipline. The Discipline Committee shall consider the *Skelly* report in deciding the Final Discipline. After such determination, the Discipline Committee shall direct the Chief to send a Notice of Discipline or Notice of Termination to the Subject Officer.

- E. The Discipline Committee shall maintain the confidentiality of all personnel and/or privileged information as required by State and local law. After the Discipline Committee has concluded its deliberations regarding the Proposed Discipline and/or the Final Discipline, it shall return all records and information it received to the party from which it received such records and information. No member of the Discipline Committee may publicly comment about, nor discuss any personnel matter with anyone, including another member of the Discipline Committee, outside of Discipline Committee meetings.
- F. **Pursuant to state law, the Commission must provide written notification to the complaining party of the disposition of his or her complaint and any discipline ordered against the subject officer within 30 days of disposition.**
- G The Subject Officer may appeal the imposition of discipline or termination to the Civil Service Board. In addition, the Subject Officer may grieve the imposition of discipline or termination as prescribed in a collective bargaining agreement.

#### **2.45.130– Establishment of Other Committees**

**The Commission must obtain City Council approval prior to the creation of any other standing committee if there are costs associated with staffing the standing committee and/or costs related to complying with noticing and reporting requirements resulting from its establishment.**

#### **2.45.140 - Public Statements of the Commission**

The Commission may issue statements to the public regarding the Commission’s official business, to the extent such business is not confidential or privileged under State or local law, only after the statement has been approved by an affirmative vote of not less than four (4) votes. Commissioners may publicly discuss their roles as Commissioners and the Commission’s public and official business for the purpose of educating the community.

#### **2.45.150 - Election of Chairperson.**

At the first regular meeting of each year, the members shall elect a chairperson and a vice-chairperson.

#### **2.45.160- Staffing.**

**Immediately upon the confirmation of the first group of Commissioners, the City Administrator shall provide staff to the Commission. Three months prior to the City Council's confirmation of the slate of Commissioners, Human Resources will create and post job descriptions for all staffing positions that are not already CPRB employees. Within 3 months of the Commissioners' confirmation, they shall identify 4 candidates for each unfilled position to present to the City Administrator and/or the City Attorney who will select from those lists**

**the persons who will be hired.**

**Such staff shall consist of, at a minimum, a .5 FTE administrative director, a .5 FTE counsel and appropriate clerical support personnel. Staff for the Agency shall include, at a minimum, one investigator per 100 sworn officers and clerical support staff. The CPRB contract counsel shall serve as interim counsel to the Agency until the Commission selects new counsel pursuant to Section 604(e)(1) of the City Charter**

. Commission shall provide the City Administrator with its proposal **for such additional** staff positions **as are** necessary to permit the Commission and the Agency to fulfill their functions and duties as set forth in this Chapter 2.45, Chapter 2.46, and as set forth in Section 604 of the City Charter.

**2.45.170 – Commissioner Training.**

Within three (3) months of appointment, or as soon thereafter as possible, each Commissioner shall:

- A. Become familiar with City Charter section 604 and with Chapters 2.45 and 2.46 of the Oakland Municipal Code.

- B. Receive training in basic principles of constitutional due process and administrative hearing procedures;
- C. Receive training in the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
- D. Receive briefing on the Negotiated Settlement Agreement in the case of Delphine Allen, et al. v. City of Oakland, and all related court orders for so long as they remain in effect; and
- E. Receive information regarding constitutional civil rights guaranteed to all citizens as such rights are affected by law enforcement.

In addition, within twelve (12) months of appointment, or as soon thereafter as possible, each Commissioner shall:

- F. Receive the training and orientation specified by Section 604(c)(9) of the City Charter;
- G. **Complete an abbreviated 10 hour Citizen' Police Academy curriculum offered in a two-day course which includes the following modules:**
  - **Verbal Judo & Patrol Function (De-escalation techniques and overview of the Patrol Division)**
  - **Special Ops & Special OPD Units**
  - **Laws of Arrest & Search and Seizure and Use of Force**
  - **Recently revised OPD policies in crowd control and the use of excessive force**
- H. Participate in a Department "ride- along;"
- I. Complete the Department's Procedural Justice Training, Implicit Bias Training, and Crisis Intervention Training;
- J. **Participate in NACOLE training in "Core Competencies" for practitioners of civilian police oversight.**
- K. **Participate in training related to the racial equity impacts related to police recruitment, training, policies and practices.**

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

#### **2.45.180 - Hearings**

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

#### **2.45.190 – Authority of Public Ethics Commission.**

If the Agency does not receive the files and records requested pursuant to Section 604(f)(2) of the City Charter within fifteen (15) business days of its request, the Public Ethics Commission shall have the authority to investigate allegations that the head of the offending City department or agency failed to provide the requested files or records to the Agency as required by Section 604(f)(2) of the City Charter. Such requirements shall be subject to enforcement by the City in the same manner as violations of Chapter 2.25 of the Oakland

Municipal Code.

**2.45.200– Reporting to City Council.**

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

**SECTION 3.** Chapter 2.46 is hereby added to the Oakland Municipal Code to read as follows:

**Chapter 2.46 - COMMUNITY POLICE REVIEW AGENCY**

**2.46.010 – Definitions.**

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

“Agency” shall mean the Community Review Police Agency.

“Commission” shall mean the Oakland Police Commission.

“Department” shall mean the Oakland Police Department.

“Police Officer Misconduct” shall mean both affirmative acts of misconduct and a police officer’s failure to act.

**2.46.020 – Creation**

Oakland City Charter Section 604 has established the Community Police Review Agency.

**2.26.030– Functions and duties.**

In addition to the powers and duties prescribed in Section 604 of the Oakland City Charter, the Agency’s functions and duties shall include:

- A. Use the same complaint form as used by the Department in receiving all public complaints concerning alleged Misconduct, including complaints from Department non-sworn employees. All complaints, wherever filed, shall be date-stamped and numbered sequentially. A copy of the numbered and date-stamped complaint shall be provided to the complainant and to the Department’s Internal Affairs Division within one (1) business day of receipt.
- B. Make complaint forms available to the public by posting the forms and information about the complaint process on the Agency’s website, and by making information about the complaint process available at other public locations to be

determined by the Agency Director **and provide the means for filing complaints on-line via the Commission/Agency's website. The complaint form will include the ability to upload attachments including additional written information or pictures.**



- C. Ensure that all investigators receive any necessary training in conducting fair and impartial investigations.
- D. In consultation with and upon the approval of the Commission, establish rules and procedures for the operation of its business including, but not limited to, procedures for the intake of complaints.
- E. No less than twice a year and as permitted by applicable law, issue a report to the Public Safety Committee which shall include the following information:
  - 1. The number of complaints submitted to the Agency together with a brief description of the nature of the complaints;
  - 2. The number of the Agency's pending investigations, and the types of Police Officer Misconduct that is being investigated;
  - 3. The number of investigations completed by the Agency, the results of the investigations, and the amount of time spent on the investigations;
  - 4. **The Council Districts from which the complaints originated, as well as the demographic profiles of the complainants;**
  - 5. The number of officers **who were found to have engaged in misconduct and the level of discipline that was forwarded to the Commission for consideration;** and
  - 6. The number of closed investigations **which did not result in allegations that were sustained by the Agency and forwarded to the Commission for administrative closure.**
- F. **The Agency shall be located in a street-level, visible venue that is accessible by public transportation with directional signage as visitors enter City Hall . Agency office hours and phone numbers will be clearly visible on the office door, within the office, and on related City of Oakland and Agency websites and after-hours telephone messages.**

**2.26.040– Agency Director.**

The Agency Director shall **report to the Commission. The City Administrator shall not have authority to supervise the Director or the Agency. The Agency Director shall** be responsible for the day-to-day operations of the Agency. The Agency Director's job responsibilities shall include, but not be limited to, the following:

- A. Identifying the staff positions, in addition to the position of Investigator, necessary to perform the Agency's functions and duties;
- B. Assigning complaints to investigators, consulting with investigators regarding, and monitoring the progress of, their investigations;
- C. Monitoring the workload of all Agency staff;
- D. Conducting annual job performance evaluations of all Agency staff;
- E. Responding to questions and issues raised by the public, as permitted by applicable law; and
- F. **Reporting to the Commission at least once each month on the workload of the Agency, including summaries of complaints and their disposition. Such reports shall be made at a public meeting of the Commission.**
- G. Any other duties assigned by the Commission, consistent with the Agency's

powers and duties as described in Section 604 of the City Charter and subject to any constraints imposed by the Agency's budget. **Such other duties may include attendance by the Director at meetings to answer questions from the public regarding the work of the Agency.**

**2.46.50 – Background Checks.**

In accordance with federal and state law and consistent with Section 604(e)(7) of the City

Charter, background checks shall be performed on all new Agency investigators and on the Agency Director, before hiring. The City Administrator's Office shall retain an outside person or entity to perform these background checks, which shall include:

- A. Verification of educational and employment background, and any other information that may be verified by a public records search; and
- B. Results of a criminal records investigation.

The results of the background checks may be used for the purpose of evaluating the candidates for the Agency Director and for Agency investigator.

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

Upon the agreement of the Chief, the Agency Director, the complainant(s) and the Subject Officer(s), the Agency Director shall appoint a qualified mediator with at least five (5) years of experience in mediating employment or other relevant disputes, from a conflict resolution company or association that employs mediators to mediate a final and binding resolution of the complaint in accordance with the Commission's established rules and procedures. No Commissioner, City employee, or former Department sworn officer may be appointed mediator.

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

If the Agency does not receive the files and records requested pursuant to Section 604(f)(2) of the City Charter within fifteen (15) business days of its request, the Public Ethics Commission shall have the authority to investigate allegations that the head of the offending City department or agency failed to provide the requested files or records to the Agency as required by Section 604(f)(2) of the City Charter. Such requirements shall be subject to enforcement by the City in the same manner as violations of Chapter 2.25 of the Oakland Municipal Code.

**SECTION 4.** Section 2.29.020 of the Oakland Municipal Code is hereby amended, to add, delete, or modify sections as set forth below (sections number and titles are indicated in capitalized **bold type**; additions are indicated by underscoring, deletions are indicated by strike-through type; portion of the provisions not cited or not shown in underscoring or strike-through type are not changed):

#### **Section 2.29.020 – Police Department.**

There is established in the City government a Police Department which shall be under the supervision and administrative control of the City Administrator. The powers, functions and duties of said Department shall be those assigned, authorized and directed by the City Administrator. The management and operation of the Police Department shall be the responsibility of the Chief of Police who shall serve as Director of said Department, subject to the direction of the City Administrator. In the Police Department there shall be an Office of the Chief of Police and the following Bureaus: Field Operations East, Field Operations West, and Services; and there shall be the following divisions: Support Operations, Internal Affairs, Office of Audits and Compliance, Criminalistics, Personnel & Training, Communications, Fiscal Services, Records, Research & Planning, Information Systems, CompStat/Ceasefire, Neighborhood Services, and Criminal Investigation.

**SECTION 5.** Section 5.3 of the provisions establishing the Community Policing Advisory Board, as passed by Resolution No. 72727 and amended by Resolutions Nos. 73185, 73916, and, most recently, 79235, is hereby amended, to add, delete, or modify sections as set forth below (sections number and titles are indicated in capitalized **bold type**; additions are indicated by underscoring, deletions are indicated by strike-through type; portion of the provisions not cited or not shown in underscoring or strike-through type are not changed):

5.3 The Community Policing Advisory Board shall oversee, monitor, and report at least annually on the implementation of Resolution 72727 C.M.S. and shall provide an annual report of its recommendations to the Mayor, City Council, City Administrator, Police Commission and Chief of Police on further steps necessary to carry out its objectives. In addition, the Community Policing Advisory Board shall provide an annual presentation on its report to the Police Commission.

**SECTION 6. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 7. Effective Date.** This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.