

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

14 JUN 12 PM 4:13

CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2<sup>ND</sup> FLOOR • OAKLAND, CALIFORNIA 94612

Noel Gallo (510) 238-7005  
City Council Member, District 5 FAX:(510) 238-6129  
TTY/TDD:(510) 839-6451

TO: Members of the Public Safety Committee  
FROM: Councilmember Noel Gallo  
DATE: June 12, 2014

RE: Public Safety Committee Item- June 24, 2014

Subject: Establishing The Public Safety Oversight Commission (13-0647)

Colleagues –

In reference to the discussion and possible action on a report and recommendations regarding a Charter Amendment to establish the Public Safety Oversight Commission to be submitted by the City Council to voters on the November 4, 2014 Ballot, to be heard by the Public Safety Committee, and forwarding to the full Council with possible alternative recommendations, in accordance with Rule 4 of the Council's Rules of Procedure, I am hereby submitting the following attachments for your review and consideration. Representatives from the community in support of this item will be present to present their proposals, and will be available to answer questions.

- Attachment A: Public Safety Oversight Commission Proposal (Measure "X")
- Attachment B: Measure "X" Ballot Proposal-Public Safety Oversight Commission Organizational Chart; San Francisco Model of Public Safety Oversight Commission/Oakland Model of Oversight Commission
- Attachment C: the city of San Francisco's Office of Citizen Complaints Brochure
- Attachment D: San Francisco County, CA - Proposition H
- Attachment E: San Francisco's Resolution No. 11-11
- Attachment F: Current list of supporters
- Attachment G: Citizens' Police Review Board (CPRB) Ordinance No. 12454
- Attachment H: Community Policing Advisory Board (CPAB) Ordinance No. 79235

Respectfully submitted,

Noel Gallo -Councilmember District 5  
Chair of Public Safety Committee

Item: \_\_\_\_\_  
PSC Comte.  
June 24, 2014

## PUBLIC SAFETY OVERSIGHT COMMISSION

### MEASURE X

In order to provide greater accountability, transparency and management efficiencies within the Oakland Police Department, shall, by amendment to Article II of the Oakland City Charter, a Public Safety Oversight Commission (PSOC) be established?

If adopted, the PSOC will assume the responsibilities, functions and staff of the Citizens' Police Review Board, as established pursuant to the Ordinance #12454 by the City Council of the City of Oakland as amended, and the duties and responsibilities of the Community Policing Advisory Board (CPAB) pursuant to the Ordinance #79235 by the City Council. The PSOC will have subpoena power to monitor, audit and supervise the Police Department to ensure efficient administration, to enhance risk-management, to set policy, to oversee and audit the use of general funds as well as dedicated taxpayer funding streams.

Specifically, the PSOC will:

- Receive and investigate all citizen complaints against police and conduct evidentiary hearings when staff believes that there is sufficient evidence to warrant such, in accordance with the State of California Penal Codes 832.5 and 832.7.
- Monitor and report on arrest trends and civil law suits, as well as initiate investigations of police-involved shootings and in-custody deaths and Join as a full member of the Use of Force Review Board;
- Provide alternative dispute resolution options to complainants and officers which are based on restorative, mediation process;
- Direct the police chief to impose discipline on police officers based on sustained allegations of violations as determined by staff's findings or the findings of the Commissioners at hearings; review Internal Affairs' investigations of internally generated complaints to ensure that they are conducted thoroughly, fairly and consistently and meet CLEA standards.
- Recommend the hire of a new Police Chief to the Mayor and the City Council when appropriate and, furthermore, recommend the discharge of the Police Chief and/or command staff to the Mayor and the City Council when appropriate;
- Assume the duties of the City Administrator with respect to the Police Department to execute and enforce all laws and ordinances and policies of the City Council and to administer the affairs of the City;

- Conduct public hearings on public safety policies and practices and make recommendations to the Police Chief and the Public Safety Committee for implementation;
- Maintain a ratio of no fewer than one civilian investigator for every 100 sworn officers;
- Provide quarterly reports to the Mayor and the Public Safety Committee of the City Council related to data emanating from the investigation of complaints, recommendations arising from public hearings on public safety policies, and information about programming activities, including community policing.
- Ensure that the Oakland Police Department provides to their officers adequate treatment services in the areas of stress management, post-traumatic stress disorder, and other related mental and emotional health impacts related to their jobs.
- Establish and oversee CLEA (California Law Enforcement Agency)-based recommendations for a fair, objective, unbiased Promotional Matrix that is not influenced by duty functions in the field, but is, rather, based on Time in Service, Time in Grade, Education, Advanced Training/Schooling, Physical fitness, Community Outreach/Involvement, etc.

The PSOC shall consist of twelve (12) members who shall serve without compensation and be appointed with coordination of the Mayor and the Public Safety Committee of the City Council. Three (3) of the twelve (12) members shall serve as alternates. The Chair will have either legal or public administration experience, as will at least three other Commissioners. Efforts will be made to ensure gender, geographic, socio-economic and ethnic diversity on the Commission, with terms that rotate one-third of the Commission at a time.

Implementation will occur within 180 days of passage, including the establishment of investigative and hearing procedures, alternative resolution guidelines and training for Staff and Commissioners, etc.

## Analysis

**THE WAY IT IS NOW:** The Police Department has an Internal Affairs Division within the Department. This Division, staffed by police officers, investigates public's complaints against police officers and makes recommendations for action to the Chief of Police.

The Citizens' Police Review Board was established by ordinance by the City Council of the City of Oakland for the purpose of investigating complaints of misconduct by police officers, conducting fact-finding investigations of these complaints, and thereafter making recommendations for discipline to the City Administrator when the allegations of wrongdoing have been sustained. The CPRB is also tasked with making recommendations on policy reforms and reporting to the City Council twice a year. The Community Policing Advisory Board monitors, reports and provides recommendations to the Mayor, City Council, and City staff on steps to improve community policing

The City Administrator executes and enforces all laws and ordinances and policies of the City Council and administers the affairs of the City with respect to the Police Department.

**THE PROPOSAL:** Measure X would create a Public Safety Oversight Commission in the City of Oakland. The Commissioners appointed by the Mayor and the City Council shall never have been former members of the Oakland Police Department. The Commission shall be established and empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Oakland Police Department, to recommend the budget of the Police Department, and may recommend the removal the Chief of Police acting jointly or separately of the Mayor, provided that the ethics provisions of this Charter shall control in the event of any conflict with rules adopted under this section.

This measure is revenue neutral but enforces the investigator-officer ratio in the current Citizens' Police Review Board Ordinance. Implementation protocols, such as eligibility standards for the Public Safety Oversight Commissioners, frequency of meetings, etc. will be developed within 180 days of passage of this measure.

The Citizens' Police Review Board established pursuant to Ordinance #12454 by the City Council of the City of Oakland as amended and the Community Policing Advisory Board pursuant to Ordinance #79235 shall hereby be consolidated as a Charter commission with the new name of Public Safety Oversight Commission with **additional duties and authority**.

**A YES VOTE MEANS:** If you vote yes, you want to create a Public Safety Oversight Commission in the City of Oakland.

**A NO VOTE MEANS:** If you vote no, you do not want a Public Safety Oversight Commission in the City of Oakland.

## ARGUMENT IN FAVOR OF MEASURE X

1. The PSOC investigating all the complaints would free up at least 10 sworn Internal Affairs officers to patrol and other crime fighting assignments.

2. The PSOC investigating all complaints is cost effective since civilian staff costs the City much less than sworn officers.

3. The PSOC will reduce the cost of police misconduct law suits. In the last ten years, Oakland has paid out \$58 million in law suits based on police misconduct. This is more than the combined payouts of San Francisco and San Jose combined in the same period of time. These funds could have been used to hire additional police officers, restore PSOs to all 57 beats and provide more employment options for those at most risk of criminal behavior. Oakland cannot afford to continue spending scarce resources that do not return benefit to the community.

4. The lack of independent, effective oversight is what allowed the police department to engage in the behaviors that gave rise to the multi-million dollar class action law suit known as the Riders, which, in turn, gave rise to the additional multi-millions of dollars spent on Federal oversight over an eleven year period. Without the ability to maintain effective monitoring and accountability, there is nothing to prevent the police department from regressing into those same unacceptable and unprofessional behaviors in the future which will inevitably lead to future class action law suits with ongoing expensive contracts being awarded to police 'experts.'

5. Providing a robust oversight of police expenditures will help to prevent law suits challenging the use of dedicated taxpayer funding streams. The PSOC will have subpoena power to compel the production of financial and other personnel records that will ensure accountability for the appropriate use of those funds.

6. Providing a venue for the community to weigh in on policy decisions such as the Domain Awareness Center, gang injunctions, youth curfews, cease fire, community policing, etc. in community forums will allow for greater in-depth analysis, testimony and public discussion. After a thorough examination of these issues and a determination of how the results will be evaluated, the PSOC will make recommendations to the Public Safety Committee which will have the benefit of considerable community input having already occurred prior to appearance on their agenda.

## ARGUMENT IN FAVOR OF MEASURE X

**A YES vote on Measure X will provide more police protection, increase the cost effectiveness of the Police Department, and improve relations between the community and the police.**

The City of Oakland currently spends over 60% of its General Fund on police services. Many additional millions have been spent enforcing a Settlement Agreement resulting from the "Riders" case that was supposed to be concluded in 5 years and is now in its 11<sup>th</sup> year. Oakland has spent

In 2013, the City of Oakland spent more than \$\_\_\_\_\_ to have 25 police officers behind desks investigating public's complaints in the Police Department. Measure .X requires the Public Safety Oversight Commission to hire trained civilian investigators to do this work, **putting those 16 police officers on the street where they are needed to prevent crime.**

Civilian investigators' salaries will cost the city less than those of police officers, whose benefits cost \_\_\_ times those of other city employees. Measure X will limit the budget for investigating public's complaints to \_\_\_% of what was spent in 2013 - **reducing the cost of these investigations by over \$\_\_\_\_\_.** That is money which will be spent for salaries of police officers who are back on the street. And the city will still have competent, fair investigations of complaints against the Police Department.

Being a police officer is challenging work - and the vast majority of our police officers do a good job. At the same time, Oakland residents are entitled to a thorough, fair investigation of complaints against the Police Department when they have complaints. It is difficult for police officers to investigate and recommend discipline against fellow police officers. Having trained civilians investigate complaints offers a more impartial, objective and transparent process that improves trust and confidence in the outcomes.

Measure X will transfer the duties of the City Administrator with respect to the Police Department to execute and enforce all laws and ordinances and policies of the City Council to the PSOC. Measure X is a fair, responsible and cost-effective plan that will benefit Oakland residents.

**A YES vote on Measure X is a vote for professional law enforcement.**

## ARGUMENT IN FAVOR OF MEASURE X

**A YES vote on Measure X will:**

- Put more police officers on the street fighting crime.
- Provide fair, efficient, professional investigators of public's complaints.
- Save taxpayers in investigative costs.
- Help reward professional conduct in our police force and improve its respect in the community.

**Join us in voting YES on Measure X.**

### ARGUMENT IN FAVOR OF MEASURE X

Measure X will allow a savings in salary costs that could be well over \$\_\_\_\_\_ when high priced police officers are replaced with less expensive civilian investigators.

Measure X will provide professional and unbiased investigations of complaints against police officers. Currently, police officers accused of misconduct are investigated by fellow officers. That's just not fair for the officer or for the person making the complaint.

Police officers investigating other police officers engenders an atmosphere of mistrust. Measure X creates a system that increases public confidence and provides a way for the community and police to work in partnership to protect and serve the community. Measure X makes fiscal sense and is just good government. Vote YES on Measure X.

### ARGUMENT IN FAVOR OF MEASURE X

Vote Yes on Measure X to ensure fair and impartial handling of public's complaints against the police department.

Currently, complaints of police misconduct are now investigated by police officers assigned to the Internal Affairs Division as well as civilian investigators in the CPRB. Measure X would create a Public Safety Oversight Commission Directed by a qualified professional and staffed by experienced civilian investigators, hired through civil service. Measure X will promote efficient, cost-effective investigation of public's complaints. The sworn police officers now staffing the Internal Affairs Division can be reassigned to law enforcement work.

Most important, Measure X will give the public and the police greater confidence that the complaint-resolution process is impartial. It is difficult for police officers to investigate complaints against co-workers. And complainants often feel intimidated or frustrated when one police officer investigates a complaint against another.

Police officers also will benefit, because the Public Safety Oversight Commission investigations, unlike those of the Internal Affairs Division, will not be subject to questions regarding favoritism, impartiality and fairness.

The Public Safety Oversight Commission will be composed of nine Oakland residents and three alternates appointed by the Mayor and the City Council who will manage the Police Department and serve as a disciplinary review board. The Chair must have either a legal, judicial or public administration background.

For professional law enforcement, a strong Public Safety Oversight Commission and more public confidence in the Oakland Police Department, vote Yes on X.

**TEXT OF PROPOSED CHARTER AMENDMENT  
MEASURE X**

**Section XX . PUBLIC SAFETY OVERSIGHT COMMISSION**

**SECTION 1. Creation of the Public Safety Oversight Commission**

There is hereby created a Public Safety Oversight Commission (hereinafter the "Commission"). The Commission shall be successor in office of the Citizens' Police Review Board established pursuant to the Ordinance #12454 by the City Council of the City of Oakland as amended as well as Ordinance #79235 which established by Ordinance the Community Policing Advisory Board., holding office in the City of Oakland at the time this Charter amendment shall go into effect. It shall be the duty of the Commission to investigate and review all public complaints regarding the conduct of Oakland police officers and park rangers and thereafter deliver in timely manner advisory reports to the Chief of Police and the Public Safety Committee of the City Council regarding the facts of and a recommended disposition of these complaints. In addition, the Commission may, consistent with the limitations set forth in section 5.C.4 of this Charter amendment, recommend policy changes to the Public Safety Committee and the Police Department with regards to matters within its jurisdiction.

The duties of the City Administrator which are relate to the Police Department are hereby transferred to the Commission..

**SECTION 2. Membership of the Commission**

**A. Composition of the Commission**

1. To the extent practicable, appointments to the Commission shall reflect the City's social and economic diversity.
2. To the extent practicable, appointments to the Commission shall reflect the geographical diversity of the City.

**B. Commission Member Qualifications**

1. The members of the Commission shall be Oakland residents who have attained a minimum of eighteen (18) years of age.
2. One (1) of the nine (9) regular members of the Commission and one (1) of the three (3) alternates must be under twenty-five (25) years of age at the time of appointment.
3. Within nine months of appointment each Commission member must complete the Citizens' Police Academy and the Police Department's "ride-along" program.

**C. Appointment of Commission Members**



The Public Safety Oversight Commission shall consist of nine members and three alternates appointed pursuant to this section. Following the adoption of this Charter amendment, the Mayor shall nominate five members to the commission, at least one of whom shall be a retired judge or an attorney with trial experience, and two alternates. The Public Safety Committee of the City Council, or any successor committee thereto, shall nominate four other members to the commission and one alternate. Each nomination shall be subject to confirmation by the City Council, and the Mayor's nominations shall be the subject of a public hearing and vote within 60 days. If the City Council rejects the Mayor's nomination to fill the seat designated for a retired judge or attorney with trial experience, the Mayor shall nominate a different person with such qualifications. If the City Council fails to act on a mayoral nomination within 60 days of the date the nomination is transmitted to the City Clerk, the nominee shall be deemed confirmed. Appointments to fill a vacancy on the commission shall become operative on the date the City Council adopts a motion confirming the nomination, or on the 61<sup>st</sup> day following the date a mayoral nomination is transmitted to the City Clerk if the City Council fails to vote on the nomination prior to such date. Confirmations on nominations to fill a vacancy that will be created upon the expiration of a sitting member's term shall become operative upon the expiration of the sitting member's term, or, if the City Council fails to act on a mayoral nomination to fill such anticipated vacancy, on the 61<sup>st</sup> day following the date the nomination was transmitted to the City Clerk or on the expiration of the sitting member's term, whichever occurs later.

**D. Term of Commission Members**

To stagger the terms of the nine members thereafter, of the first five members nominated by the Mayor, two members shall serve the terms of two years and two members shall serve terms of four years, and of the four members nominated by the Public Safety Committee of the City Council, or any successor committee thereto, one member shall serve a term of two years, and one member shall serve a term of three years. The Chair of the Public Safety Committee of the City Council, or any successor committee thereto, shall designate such initial terms by lot. All subsequent appointments to the commission shall be for four-year terms.

The tenure of each member shall terminate upon the expiration of the member's term. The Mayor shall transmit a nomination or denomination to the City Clerk no later than 60 days prior to the expiration of the terms of a member nominated by the Mayor.

**E. Elections of Officers and Meetings**

1. The Commission shall elect a chairperson and vice chairperson from its members at the first meeting of February of each year. These members shall serve in such capacity for a period of one (1) year, except that in the event of a vacancy, the duly elected member shall serve in that capacity for the remainder of the term. The Commission shall meet at least once each month at an established time suitable for its purpose. Such meetings shall be designated regular meetings. Meetings called by the chairperson and meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be given to the City Clerk, Commission members, the Council and the

press at least twenty-four (24) hours before the meeting is scheduled to convene.

2. The Commission shall maintain a ratio of no fewer than one investigator for every 100 sworn officers.

#### **F. Removal of Commission Members**

The Mayor, with the consent of the City Council, may remove a member the Mayor has nominated. The City Council may remove a member the Public Safety Committee has nominated.

A member may be removed pursuant to Section 601 of the City Charter, for, among other things, a conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties. To assure participation of Commission members, attendance by the members of the Commission at all regularly scheduled and special meetings of the Commission shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. Absence of a Commission member from three (3) consecutive regular meetings or from five (5) regular meetings in a calendar year shall constitute cause for removal.

#### **SECTION 3. Vacancies**

For vacancies occurring for reasons other than the expiration of a member's term, within 60 days following the creation of such vacancy, the Mayor shall nominate a member to fill such vacancy if the vacancy is for a seat filled by nomination of the Mayor.

A vacancy on the Commission will exist whenever a member dies, resigns, or is removed or whenever an appointee fails to be confirmed by the Council within thirty (30) days of recommendation.

#### **SECTION 4. Jurisdiction of the Commission and Intake of Complaints by Commission and Oakland Police Department**

##### **A. Jurisdiction**

1. The Commission shall execute and enforce all laws and ordinances and policies of the City Council and to administer the affairs of the City with respect to the Police Department;

2. The Commission may exercise jurisdiction over all citizen complaints concerning the conduct of Oakland Police Officers and Park Rangers that are filed with the Commission.

3. The Commission shall conduct public hearings on public safety policies and practices and make recommendations to the Police Chief and the Public Safety Committee for implementation.

4. The PSOC would have subpoena power to monitor, audit and supervise the Police Department to ensure efficient administration, to enhance risk-management, to recommend

policy, to oversee and audit the use of general funds as well as dedicated taxpayer funding streams related to the Police Department.

5. The Commission shall perform the functions and staff of the Community Policing Advisory Board established pursuant to the Resolution # 79235 C.M.S. by the City Council of the City of Oakland.

6/ Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the City Council or the Mayor, acting jointly or separately of each other upon the recommendation of the Public Safety Oversight Commission. In addition to any other powers set forth in this Charter, the Public Safety Oversight Commission is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department provided that the ethics provisions of this Charter shall control in the event of any conflict with rules adopted under this section.

**B. Intake of Complaints**

A complaint may be filed by an individual or by his/her representative so designated in writing by the complainant. Wherever filed, copies of the complaints will be date-stamped and provided to the complainant and to the Internal Affairs division of the Oakland Police Commission within 24 hours.

Complaint forms will be made available to the public at libraries, resource centers and recreation centers. *The filing of a complaint pursuant to this Charter amendment does not constitute the filing of a tort claim against the City of Oakland pursuant to California Government Code section 900 et seq.*

**SECTION 5. Rules and Procedures**

**A. Adoption of Rules**

The Commission shall, with the advice of the City Attorney, and with the approval of the City Council, establish rules and procedures, except as provided herein, for the conduct of its business.

**B. Voting Requirements**

The affirmative vote of five (5) members of the Commission shall be required for the adoption of any motion or resolution with regard to recommendations for findings or discipline against an officer, for findings of unfounded or exonerated, or for policy recommendations, or for any actions affecting the Police Department. Motions on all other matters, not otherwise established herein, may be approved by a majority of those Commission members present. Nine (9) members will be considered to constitute the full Commission.

**C. Reports by the Commission**

1. The Commission shall make its reports and recommendations in writing unless otherwise directed by the City Council.

2. All reports and recommendations regarding proposed discipline of a police officer or ranger shall contain findings and shall be sent in writing to the City Council. After careful consideration, the Chief of Police and the Public Safety Oversight Commission shall respond in writing to the Commission as to whether or not the recommendations were implemented as recommended, implemented with modifications, or not implemented and the reasons therefore.

3. No less than twice each year the Commission shall issue a detailed statistical report to the Public Safety Committee regarding complaints filed with the Commission, the processing of these complaints and their dispositions. The Commission shall provide semi-annually to the Mayor and the Public Safety Committee of the City Council reports concerning the operations of the Police Department, including data summaries, fiscal reports, program outcomes, summary trends, summary outcomes concerning complaints, policy recommendations and other relevant data.

#### **D. Commission Committees**

City Council approval must be obtained prior to the creation of any standing committee of the Commission. A proposal to create a standing committee of the Commission must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Commission.

#### **E. Staff to the Commission**

1. The Commission shall be assisted by a Director who will oversee the staff of civilian investigator(s) and other personnel, such as a policy analyst, outreach coordinator, and clerical support. The Director will be hired by the Mayor and will report directly to the Mayor and the City Council. (S). The Commission shall maintain a ratio of no fewer than one investigator for every 100 sworn officers;

2. The Commission shall incorporate the functions and staff of the current Citizens' Police Review Board and the of the current Community Policing Advisory Board.

3. A non-City Attorney legal advisor licensed to practice law in the State of California shall be assigned to serve the Commission when the Commission is receiving testimonial evidence or receiving evidence that could lead to an adverse factual finding or recommendation for discipline. The Commission's attorney shall not in the regular course of his or her legal practice defend law enforcement officers. The Commission's attorney 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 the incident that is before the Commission.

#### **F. Pre-Hearing Processing and Investigation of Complaints**

1. Individual complaints filed with the Commission shall be received and numbered

sequentially. Copies of all complaints filed with the Commission shall be forwarded within 24 hours to the Internal Affairs Division of the Oakland Police Department.

2. The Chief shall order all officers subject to subpoena (as set forth in Section G.2. below) to fully cooperate with the Commission's investigator either, at the election of the officer, by authorizing release of any and all statements the officer provided to the Police Department in its investigation of the below-mentioned complaint or by responding directly to the Commission investigator's inquiries. The Chief shall order all officers subject to request for interview or subpoena to fully cooperate with the Commission's investigator to provide any supplemental statement requested by the Commission's investigator.

3. All records of the Police Department relating to the incident which gave rise to the complaint that is being investigated by the Commission shall be made available to the Commission through its investigator within restrictions of applicable federal, state, local law and appropriate contractual agreements. Relevant records which, under this section, are not public records shall be provided in confidence to the Commission's investigators who shall release them only to the Commission in closed session and the Commission shall maintain the confidentiality of the information. No public finding of fact by the Commission based upon information in a nonpublic record shall reference the information in that record. Factual findings of the Commission inextricably intertwined with information in a nonpublic record shall be communicated to the City Council, when appropriate, by a letter from the Commission and said letter shall not be a public record.

#### **G. Hearings**

1. The Commission shall receive training in basic principles of due process and administrative hearing procedures.

2. The Commission shall have the power to subpoena civilian witnesses, and those police officers and park rangers who are identified in a complaint as having engaged in or witnessed conduct whose review is within the jurisdiction of the Commission.

3. It shall be the sole and exclusive responsibility of the Commission's attorney to determine the order and conduct of any public hearing conducted pursuant to this Charter amendment and to rule on the admissibility of any evidence in any hearing which may lead to an adverse finding of fact or recommendation for discipline against a police officer, provided that the Commission, by motion, may, by six (6) votes, overrule any ruling under this provision made by the Commission's attorney.

4. The hearing may follow an informal hearing procedure consistent with accepted practices of administrative procedure. Commission members, the Commission's attorney, and the Commission's investigator staff may reasonably question all witnesses. The officer who is the subject of the complaint or the officer's representative will be allowed reasonable cross examination of the complainant and witnesses and the complainant or the complainant's representative will be allowed reasonable cross-examination of the officer and witnesses.

5. The burden shall be placed upon the complainant to prove, by a preponderance of the evidence, the allegation(s) of the complaint.

6. The Commission's attorney and staff may, at the request of the Commission, assist it in formulating factual findings and legal conclusions but shall have no voting role in any Commission action.

7. Prior to the Commission's making any findings or recommendations, the Commission's staff and the Commission's attorney, with the assistance of the Police Department staff, as needed, shall instruct the Commission on the Police Department's applicable rules, orders, and regulations and law. The Commission shall take into account all pertinent City and Police Department rules and regulations and orders in making its findings and recommendations.

8. The Commission shall have a goal of completing its fact-finding and conclusions on an individual complaint within 180 days from the date of its filing with the Commission. In those instances where the goal cannot be achieved, the Commission shall assure that the complainant receives notification of the status of the disposition initially upon the expiration of 180 days following the registration of the complaint and every sixty (60) days thereafter until disposition. The written results of the Commission's findings and recommendation(s) shall be forwarded to the Public Safety Committee for its consideration.

9. After the appropriate investigation, and upon the recommendation of staff, the Commission may administratively close a complaint without hearing it if it concludes that a hearing would not facilitate the fact-finding process and that good cause has not been shown for further action.

10. The Commission will provide policy direction to staff for determining case priority. Using those policy guidelines, staff will refer cases for investigation, summary disposition, or to appropriate complaint resolution processes in accordance with their priority and the nature of the complaint.

a. The Commission may utilize different investigatory and complaint resolution processes, including but not limited to voluntary conciliation, voluntary mediation, three member panels, full Commission hearing, and staff recommendation to the Chief of Police for disposition without hearing.

b. Cases that are the subject of litigation will be investigated but not brought to hearing while the litigation or tort claim is pending. However, the Board's staff may make recommendations on these cases directly to the Chief of Police while the litigation or tort claim is pending.

11. In cases heard by three member panels, three members shall constitute a quorum. The findings and recommendations of the panel will be placed on the Commission's agenda as consent calendar items and shall be deemed adopted and approved by the Commission unless the case is pulled for discussion or hearing upon passing a motion by five or more

affirmative votes. A three-fourths vote of the Commission is required to overrule a staff assignment of priority.

**12. Discipline Arising from Sustained Allegations: (taken from S.F. Commission)**

The Chair of the Public Safety Oversight Commission, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges against members of the Police Department arising out of sustained complaints; provided, that the Chair may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the Chair issues a written determination that the limitations period within which the member or members may be disciplined, may expire within such 60-day period and either (i) the Chief of Police fails or refuses to file charges arising out of the sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and confer with the Chair on the matter, or (iii) other exigent circumstances necessitate that the Chair verify and file charges to preserve the ability of the Public Safety Oversight Commission to impose punishment. The Chair of the Public Safety Oversight Commission shall schedule hearings before hearing officers when such is requested by the complainant or a member of the department and such a hearing will facilitate in fact-finding process.

In the event the Chief of Police should exercise such power of suspension, the member involved shall not be subject to any further disciplinary action for the same offense; provided, that where the Commission has sustained a complaint and recommended discipline in excess of a 10-day suspension, the Chief of Police may not exercise his or her power of suspension under this section without first meeting and conferring with the Chair of the Commission and affording the Chair an opportunity to verify and file charges with the Commission. If the Chair of the Commission verifies and files charges, the Commission shall conduct a hearing thereon, and the Chief of Police may not suspend the member pending the outcome of the Commission proceedings on the charges.

Subject to the foregoing, members of the uniformed ranks of the Police Department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial hearing before the commissioners of the Public Safety Oversight Commission upon a verified complaint filed with the Commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as the Commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public hearing; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense.

Any such member suspended pursuant to this article shall have the right to appeal such suspension to the court. Written notice of this right to appeal and the procedure for effecting such appeal shall be included with the notice of suspension. Written notice of appeal must be filed within 10 days after signed receipt of notice of such suspension. The hearing of such appeal must be heard within 30 days after filing, unless waived in writing by the officer.

Nothing herein shall prohibit the Chief of Police or a commanding officer from

investigating the conduct of a member of the department under his or her command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of Police by other provisions of this Charter.

The City Council may provide by ordinance that the Public Safety Oversight Commission shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees. After the Chief of Police takes action on a Commission's recommendation, that action will be reported, to the greatest extent permitted by law, to the complainant.

**13. Standing Subcommittee**

The Chair may appoint a standing subcommittee of the Commission to work with staff to select complaints for hearing and schedule hearings.

**SECTION 6. Mediation**

Upon the consent of the complainant and the officer against whom a complaint is filed, a civilian investigator and/or outside mediators contracted for this purpose are authorized to mediate a final and binding resolution of any complaint in accordance with the Commission's established rules and procedures.

**SECTION 7. Effective Date**

This Charter amendment shall take effect upon the day after June 15, 2015. However, any provisions with conflict with current articles of the current MOU between the OPOA and the City of Oakland shall not go into effect until the expiration of the current contract and any other agreements between the OPOA and the City of Oakland such as side letters, etc.



Attachment B

ATTACHMENT B

MEASURE XX BALLOT PROPOSAL

CITY COUNCIL MAYOR

CITY COUNCIL

CITY ADMINISTRATOR

PUBLIC SAFETY COMMITTEE

PUBLIC SAFETY  
OVERSIGHT  
COMMISSION  
  
( CPRB and CPAB)  
  
( Community members and  
staff( including investigators)

OPD

# San Francisco Model of Oversight

MAYOR

BOARD OF SUPERVISORS

Police Commission  
(Community members)

Office of  
Citizens'  
Complaints  
(investigators)

S.F.P.D.

# Oakland Model of Oversight

MAYOR

CITY COUNCIL

CITY ADMINISTRATOR

OPD

CPRB  
(Community  
members and  
staff( including  
investigators)

CPAB  
Community  
members  
and staff

## Reasons Complainants Mediate

- ◆ To be fully heard and understood.
- ◆ To give officers feedback.
- ◆ To prevent similar incidents.
- ◆ To regain confidence in police services, and respect for officers.
- ◆ To hear the officer's perspective.

## Reasons Officers Mediate

- ◆ To be understood: Officers can't always explain their actions in the field.
- ◆ To hear the complainant's perspectives.
- ◆ To speak directly with the person rather than have the complaint decided by others.
- ◆ To improve relations with individuals and the community.
- ◆ To resolve the complaint outside the disciplinary process.

## The Mediators will:

- ◆ Explain ground rules and answer questions.
- ◆ Ensure that the parties behave in a respectful manner.
- ◆ Ask questions to clarify and identify issues.
- ◆ Listen to both sides of the story.
- ◆ Not take sides or pass judgment.
- ◆ Treat all information revealed in the course of the discussion as confidential.
- ◆ Keep the discussion focused, productive and non-threatening.
- ◆ Assist in resolving the dispute.

## Suggestions for a Constructive Mediation

Be willing to offer your perspective to explain how you were affected.

Listen – and show that you are listening.

Don't blame or shame. Most people become defensive, rather than open to new perspectives.

Be open to learning different perspectives.

Be calm and focused. Everyone benefits when people concentrate on the issues at hand.

Be prepared to work toward a solution.

Ask for clarification. Frequently, what you don't know or understand can be the key to a solution.

Speak for yourself, and let others do the same. Explain how you felt during the incident and the effect it had on you.

## The Office of Citizen Complaints

25 Van Ness Avenue, Suite 700  
San Francisco, CA 94102-6058

Phone: (415) 241-7711  
Fax: (415) 241-7733  
Email: [donna.salazar@sfgov.org](mailto:donna.salazar@sfgov.org)  
[www.sfgov.org/occ](http://www.sfgov.org/occ)

# The Office of Citizen Complaints

Citizen-Police Mediation Program

An agency reporting to the  
San Francisco Police Commission

ATTACHMENT C

## Thank you for Considering Mediation!

Mediation is an alternative way of resolving complaints about police conduct. The OCC identifies cases where the parties might benefit from a face to face discussion of their perspectives on the encounter that resulted in a complaint. If both the complainant and the officer agree, the case is taken out of the investigation process and scheduled for a mediation with our trained volunteer mediators.

The mediators are neutral third parties trained and experienced in helping people resolve their differences in a constructive manner. Everything said in the course of a mediation is confidential. Because mediation is voluntary, there is a greater chance that the parties genuinely want to resolve the problem in a mutually agreeable fashion. Mediation can be a powerful teaching tool and learning experience for both the complainant and the officer. It is often the only time a complainant will have an exchange with an officer outside of a law enforcement context. Likewise, an officer may have never had a complainant explain the effect of the officer's actions.

## The Benefits of Using Mediation

- ◆ Mediation allows the parties to resolve their differences themselves, rather than depend on the judgment of others.
- ◆ Mediation can be more satisfying than the normal complaint process because of the opportunity to resolve the complaint in a non-adversarial forum.
- ◆ Mediation can improve relations between communities and the police.
- ◆ Mediation can be more effective and efficient than the traditional investigation process.
- ◆ Mediation can impact the attitudes, understandings, and behavior of the officer and the citizen.
- ◆ Mediation is confidential. Nothing said in the course of the mediation can later be used in legal proceedings.
- ◆ Because mediation is voluntary, the parties are more likely to abide by any agreement they make.

## Frequently Asked Questions

*The incident was unpleasant the first time, won't mediation be the same?*

Mediation can work even with difficult people and emotional incidents. The mediators are trained to help people resolve issues in a safe and respectful way. The mediation will be held in a neutral location.

*Will I have to apologize?*

No. You may not have done anything wrong. When apologies are made they are voluntary.

*What if I am unhappy with how the mediation is progressing or the other party just wants to verbally attack me?*

The mediation is conducted by trained mediators who are present to maintain a respectful environment. Part of a mediator's job is to ensure that all parties are treated respectfully. Verbal abuse or threatening conduct is inappropriate in a mediation. No one is compelled to reach an agreement.

**ATTACHMENT D**

This is an archive of a past election.

See <http://www.smartvoter.org/ca/sf/> for current information.



League of Women Voters of California

San Francisco County, CA

November 4, 2003 Election

**Proposition H**

Police Commission/Office of Citizen Complaints  
City of San Francisco  
Charter Amendment



99,314 / **51.94%** Yes votes ..... 91,900 / **48.06%** No votes

See Also: [Index of all Measures](#)

Information shown below: [Summary](#) | [Yes/No Meaning](#) |

*Shall the City increase the size of the Police Commission and change how its members are appointed, and shall the Office of Citizen Complaints be authorized to file charges against police officers with the Police Commission?*

[Suggest a link related to Proposition H](#)

Links to sources outside of Smart Voter are provided for information only and do not imply endorsement.

**Summary:**

The Way it is Now:

The Police Commission oversees the Police Department and the Office of Citizen Complaints (OCC). The Mayor appoints all five members of the Police Commission. The Board of Supervisors can reject an appointee by a two-thirds vote. Police Commissioners serve a four-year term, and may continue to serve until reappointed or replaced. The Mayor can remove Commissioners at any time for any reason.

The OCC investigates complaints of police misconduct and neglect of duty. The OCC cannot file charges against police officers, but it can recommend that the Police Chief do so. The Chief is not required to act on OCC recommendations.

The Police Chief can reprimand an officer or suspend the officer for up to ten days. If the Chief files charges against the officer with the Police Commission, the Commission holds a trial and can fire, suspend up to three months, fine or reprimand the officer. If the Chief reprimands or suspends an officer, the Commission cannot also discipline the officer for the same conduct.

The Proposal:

Proposition H is a Charter amendment that would increase the number of Police Commissioners from five to seven. The Mayor would nominate four members and a committee of the Board of Supervisors would nominate three. Each member would have to be confirmed by a majority of the Board. The Mayor could remove his or her appointees only with the approval of a majority of the Board. The Board could remove its appointees at any time for any reason, by majority vote. After a Police Commissioner serves a term, the position would be vacant until the Commissioner is either reappointed or replaced.

The Office of Citizen Complaints (OCC) could file charges against police officers after conferring with the Police Chief. In general, the Chief would have to allow the OCC time to file those charges before the Chief could reprimand or suspend the officer; however, the Chief could temporarily suspend an officer without OCC approval.

#### Meaning of Voting Yes/No

**A YES vote of this measure means:**

you want to make these changes to the Police Commission and the Office of Citizen Complaints.

**A NO vote of this measure means:**

you do not want to make these changes.

---

[San Francisco Home Page](#) || [Statewide Links](#) || [About Smart Voter](#) || [Feedback](#)

---

Created: December 19, 2003 15:07 PST

Smart Voter <<http://www.smartvoter.org/>>

Copyright © League of Women Voters of California Education Fund <http://ca.lwv.org>

*The League of Women Voters neither supports nor opposes candidates for public office or political parties.*

## Resolution No. 11-11

January 31, 2011

At the meeting of the Police Commission on Wednesday, January 26, 2011, the following resolution was adopted:

### **RESOLUTION NO. 11-11**

#### **ADOPTION OF PROPOSED OBJECTIVES AND CRITERIA FOR SETTING PRIORITIES AND LIST OF COMMISSION PRIORITIES AND APPROVAL TO POST ON THE COMMISSION WEBPAGE**

RESOLVED, that the Commission hereby adopts the following Objectives and Criteria for Setting Priorities and list of Commission priorities:

#### OBJECTIVES (Not in order of any priority):

1. To schedule, hear and decide discipline cases with maximum efficiency and fairness.
2. To systematically review the primary areas of the Police Department, including Department General Orders, to make sure they are running well and in compliance with current law and best practices for training.
3. To address the particular needs of special populations that may have challenges impacting public safety due to culture or language differences, disability or age to insure accessibility to and protection of the police system.
4. To support the Chief of Police and the Director of Office of Citizen Complaints.
5. To foster confidence, trust and respect in the Police Department, peace officers, the Office of Citizen Complaints, and the Police Commission.

#### CRITERIA FOR SETTING PRIORITIES (Not in order of any priority):

1. Does the matter address one or more commission objectives, stated above?
2. How urgent is the matter?
3. How long is the commission meeting agenda proposed for discussion of the matter and how long would the matter require for

presentation, discussion, and/or action?

4. How long ago was the matter planned for presentation, discussion and/or action?
5. How high a priority is the matter for the San Francisco Public, Chief of Police, or Director of Office of Citizen Complaints?
6. To what degree does the matter impact public safety?

**SUMMARY OF PRIORITIES:**

**TOP TIER "RED":**

- Language Access
- Mental Health Issues
- Patrol Special Officers
- Nightclub Violence
- Undocumented Crime Victims

**SECOND TIER "BLUE":**

- Brady II
- DNA & Sexual Assault Cases
- Domestic Violence

**THIRD TIER:**

- Breach of Confidentiality
- Chief of Police & OCC Director Reviews
- Surveillance, Racial Profiling
- Commission Staffing
- Domestic Violence
- DGO on Shooting Moving Vehicles
- Cannabis

FURTHER RESOLVED, that the priorities will be discussed when the full Commission is present; and

FURTHER RESOLVED, that this resolution be posted on the Police Commission webpage.

PRESENT: Commissioners Mazzucco, Marshall, Chan, Kingsley, Hammer

ABSENT: Commissioners DeJesus, Slaughter

Very truly yours,



Lieutenant Timothy Falvey

Secretary

San Francisco Police Commission

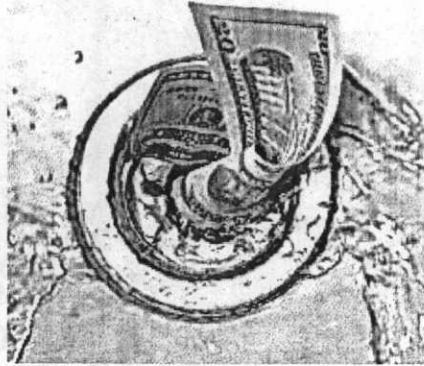
1071/rct

[Contact SFGov](#)

[Accessibility](#)

[Policies](#)

City and County of San Francisco ©2000-2014



**Law Suits Against Police + Federal Monitoring of Police =  
Hundreds of Millions Down the Drain**

**In the last 10 years, Oakland has paid out more in law suits against its police than San Francisco and San Jose combined!**

Oakland cannot afford to continue to waste millions of dollars resulting from inadequate oversight of the Oakland police department. Those dollars are desperately needed to address pressing problems in our community.

Join with us to demand that the Oakland City Council and the Mayor place a measure on the November ballot that will establish an effective, local, sustainable public safety oversight commission modeled largely on the San Francisco Police Commission and Office of Citizens' Complaints.

Call (510) 535-2525 and find out how you can help.

**Coalition for Police Accountability**

The Oakland-Berkeley Chapter of BWOPA (Black Women Organized for Political Action), The Ella Baker Center, The Mentoring Center, the Wellstone Democratic Renewal Club, the Oakland Greens, the Gray Panthers, , PAV (Providing Alternatives to Violence), OaklandWORKS (founding members: Leadership Excellence, PUEBLO, West Oakland Environmental Indicators Project, Oakland Black Caucus, John George Democratic Club, NAACP, Oakland Natives Give Back, Oakland Parents Together), Jose Dorado, Chair of the Measure Y Oversight Committee and Chair of Beat 28X NCPC, Len Raphael, Reverend Daniel Buford, Allen Temple Baptist Church, and Mayoral candidates Dan Siegel and Jason "Shake" Anderson.

**City Council Sponsor: Noel Gallo, Chair of the Public Safety Committee**

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY  
*[Signature]*  
CITY ATTORNEY

ORDINANCE NO. 12454 C.M.S.

**An Ordinance Repealing Ordinance Nos. 11905 and 12102 C.M.S., which Prescribe The Powers and Duties of the Citizens' Police Review Board ("CPRB"), and Re-enacting the Provisions of the Ordinance with Amendments that (1) Require Five Affirmative Votes of the Board for Findings Other than Not Sustained", (2) Require that Officers Provide Supplemental Statements to CPRB Investigators in Certain Circumstances, (3) Authorize Additional Complaint Resolution Processes, (4) Authorize CPRB Staff to Investigate Complaints that are the Subject of Litigation and Make Recommendations Directly to the City Manager, and (5) Provide that Three-Member Panels' Recommendations/ Findings will be Placed on the Full Board's Agenda as Consent Calendar Items and may be Pulled from the Consent Calendar Agenda for Discussion or Hearing only upon Passing a Motion by Five or more Affirmative Votes**

**WHEREAS**, the Citizens' Police Review Board was established by ordinance by the City Council of the City of Oakland for the purpose of reviewing certain complaints of conduct by police officers, conducting fact-finding investigations of these complaints, and thereafter making advisory reports to the City Manager of the facts of these complaints; and

**WHEREAS**, notions of the public accountability and procedural fairness invite expansion and refinement of the Board's jurisdiction and its processes for fact-finding and recommendations; and

**WHEREAS**, at a Special Meeting of the City Council convened on or about April 26, 1994, the City Council determined that existing boards and commissions should be amended to incorporate uniform requirements regarding the selection of members, and the general responsibilities of boards and commissions;

**WHEREAS**, at a meeting of the City Council in April 2001, the City Council accepted certain revisions to the existing ordinance implementing the Citizens' Police Review Board; now therefore

The Council of the City of Oakland does ordain as follows:

**SECTION 1.** Ordinance Nos. 11905 and 12102 C.M.S. hereby are repealed.

**SECTION 2. Creation of the Citizens' Police Review Board**

Pursuant to Section 601 of the Charter of the City of Oakland there is hereby created a Citizens' Police Review Board (hereinafter "Board"). It shall be the duty of the Board to investigate and review certain complaints regarding the conduct of Oakland police officers and park rangers and thereafter deliver in a timely manner advisory reports to the City Manager regarding the facts of and a recommended disposition of these complaints. In addition, the Board may, consistent with the limitations set forth in section 6.C.4 of this Ordinance, recommend policy changes to the Public Safety Committee with regards to matters within its jurisdiction.

**SECTION 3. Membership of the Board**

**A. Composition of the Board**

The Citizens' Police Review Board shall consist of twelve (12) members who shall serve without compensation. Three (3) of the twelve (12) members shall serve as alternates.

1. To the extent practicable, appointments to the Board shall reflect the City's social and economic diversity.

2. To the extent practicable, appointments to the Board shall reflect the geographical diversity of the City.

**B. Board Member Qualifications**

1. The members of the Board shall be Oakland residents who have attained a minimum of eighteen (18) years of age.

2. One (1) of the nine (9) regular members of the Board and one (1) of the three (3) alternates must be under twenty-five (25) years of age at the time of appointment.

3. Within nine months of appointment each Board member must complete the Citizens' Police Academy and the Police Department's "ride-along" program.

**C. Appointment of Board Members**

1. Members will be appointed as follows: recommendation by Council members, appointment by the Mayor, and confirmation by the Council.

2. Council members must submit recommendations to the Mayor for consideration at least 30 days prior to expiration of an existing board member's term.

**D. Term of Board Members**

1. Members shall be appointed to staggered terms, said terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the unexpired portion of the term only.

2. All appointments shall be for a period of two (2) years.

3. No person shall be appointed to serve more than two (2) consecutive terms as a member of the Board.

4. In the event an appointment to fill a vacancy has not occurred by the conclusion of a Board member's term, that member may continue to serve as a member of the Board during the subsequent term in a holdover capacity for a period not to exceed one year, to allow for the appointment of a Board member to serve the remainder of said subsequent term.

**E. Elections of Officers and Meetings**

The Board shall elect a chairperson and vice chairperson from its members at the first meeting of February of each year. These members shall serve in such capacity for a period of one (1) year, except that in the event of a vacancy, the duly elected member shall serve in that capacity for the remainder of the term. The Board shall meet at least once each month at an established time suitable for its purpose. Such meetings shall be designated regular meetings. Meetings called by the chairperson and meetings scheduled for a time or place other than for regular meetings shall be designated special meetings. Written notice of special meetings shall be given to the City Clerk, Board members, the Council and the press at least twenty-four (24) hours before the meeting is scheduled to convene.

**F. Removal of Board Members**

A member may be removed pursuant to Section 601 of the City Charter, for, among other things, a conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties. To assure participation of Board members, attendance by the members of the Board at all regularly scheduled and special meetings of the Board shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. Absence of a Board member from three (3) consecutive regular meetings or from five (5) regular meetings in a calendar year shall constitute cause for removal.

**SECTION 4. Vacancies**

A vacancy on the Board will exist whenever a member dies, resigns, or is removed or whenever an appointee fails to be confirmed by the Council within thirty (30) days of recommendation.

**SECTION 5. Jurisdiction of the Board and Intake of Complaints by Board and Oakland Police Department**

**A. Jurisdiction**

The Board may exercise jurisdiction over all citizen complaints concerning the conduct of Oakland Police Officers and Park Rangers that are filed with the Board or with the Oakland Police Department.

**B. Intake of Complaints**

A complaint may be filed by an individual or by his/her representative so designated in writing by the complainant. Wherever filed, copies of the complaints will be date-stamped and provided to the complainant, when leaving, and the other investigating agency, within 24 hours. This section also applies to complaints filed directly with the Oakland Police Department. The Oakland Police Department and the Board shall use the same complaint form and all complaints, wherever filed, shall be numbered sequentially. Complaint forms will be made available to the public at libraries, resource centers and recreation centers. *The filing of a complaint pursuant to this Ordinance does not constitute the filing of a tort claim against the City of Oakland pursuant to California Government Code section 900 et seq.*

**SECTION 6. Rules and Procedures**

**A. Adoption of Rules**

The Board shall, in consultation with the City Manager and the City Attorney, and with the approval of the City Council, establish rules and procedures, except as provided herein, for the conduct of its business.

**B. Voting Requirements**

The affirmative vote of five (5) members of the Board shall be required for the adoption of any motion or resolution with regard to recommendations for findings or discipline against an officer, for findings of unfounded or exonerated, or for policy recommendations, or for any actions affecting the Police Department. Motions on all other matters, not otherwise established herein, may be approved by a majority of those Board members present. Nine (9) members will be considered to constitute the full Board.

**C. Reports by the Board**

1. The Board shall make its reports and recommendations in writing unless otherwise directed by the City Council.

2. All reports and recommendations regarding proposed discipline of a police officer or ranger shall contain findings and shall be sent in writing to the City Manager. After careful consideration the City Manager shall respond in writing to the Board as to whether or

not the recommendations were implemented as recommended, implemented with modifications, or not implemented and the reasons therefore.

3. No less than twice each year the Board shall issue a detailed statistical report to the Public Safety Committee regarding complaints filed with the Board, the processing of these complaints and their dispositions.

4. The Board may on a quarterly basis recommend in writing policy changes with regards to matters within its jurisdiction.

#### **D. Board Committees**

City Council approval must be obtained prior to the creation of any standing committee of the Board. A proposal to create a standing committee of the Board must include information regarding the costs associated with staffing the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Board.

#### **E. Staff to the Board**

1. The Board shall be assisted by a staff of civilian investigator(s) and other personnel, including a Policy Analyst, who shall work in the Office of the City Manager. The number of investigators shall be increased to one investigator per 100 officers, to be added incrementally as permitted by the City Budget.

2. A non-City Attorney legal advisor licensed to practice law in the State of California shall be assigned to serve the Board when the Board is receiving testimonial evidence or receiving evidence that could lead to an adverse factual finding or recommendation for discipline. The Board's attorney shall not in the regular course of his or her legal practice defend law enforcement officers. The Board's attorney 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 the incident that is before the Board.

#### **F. Pre-Hearing Processing and Investigation of Complaints**

1. Individual complaints filed with the Board shall be received and numbered sequentially. Individuals shall be interviewed at a location other than the Police Administration Building or any satellite station thereof.

2. Copies of all complaints filed with the Board shall be forwarded within 24 hours to the Internal Affairs Division of the Oakland Police Department.

3. The Chief shall order all officers subject to subpoena (as set forth in Section G.2. below) to fully cooperate with the Board's investigator either, at the election of the officer, by authorizing release of any and all statements the officer provided to the Police Department in its investigation of the below-mentioned complaint or by responding directly to

the Board investigator's inquiries. The Chief shall order all officers subject to request for interview or subpoena to fully cooperate with the Board's investigator to provide any supplemental statement requested by the Board's investigator.

4. All records of the Police Department relating to the incident which gave rise to the complaint that is being investigated by the Board, with the exception of personnel records, shall be made available to the Board through its investigator within restrictions of applicable federal, state, local law and appropriate contractual agreements. Relevant records which, under this section, are not public records shall be provided in confidence to the Board's investigators who shall release them only to the Board in closed session and the Board shall maintain the confidentiality of the information. No public finding of fact by the Board based upon information in a nonpublic record shall reference the information in that record. Factual findings of the Board inextricably intertwined with information in a nonpublic record shall be communicated to the City Manager, when appropriate, by a letter from the Board and said letter shall not be a public record.

#### **G. Hearings**

1. The Board shall receive training in basic principles of due process and administrative hearing procedures.

2. The Board shall have the power to subpoena civilian witnesses, and those police officers and park rangers who are identified in a complaint as having engaged in or witnessed conduct whose review is within the jurisdiction of the Board.

3. It shall be the sole and exclusive responsibility of the Board's attorney to determine the order and conduct of any public hearing conducted pursuant to this Ordinance and to rule on the admissibility of any evidence in any hearing which may lead to an adverse finding of fact or recommendation for discipline against a police officer, provided that the Board, by motion, may, by six (6) votes, overrule any ruling under this provision made by the Board's attorney.

4. The hearing may follow an informal hearing procedure consistent with accepted practices of administrative procedure. Board members, the Board's attorney, and the Board's investigator staff may reasonably question all witnesses. The officer who is the subject of the complaint or the officer's representative will be allowed reasonable cross examination of the complainant and witnesses and the complainant or the complainant's representative will be allowed reasonable cross-examination of the officer and witnesses.

5. The burden shall be placed upon the complainant to prove, by a preponderance of the evidence, the allegation(s) of the complaint.

6. The Board's attorney and staff may, at the request of the Board, assist it in formulating factual findings and legal conclusions but shall have no voting role in any Board action.



7. Prior to the Board's making any findings or recommendations, the Board's staff and the Board's attorney, with the assistance of the Police Department staff, as needed, shall instruct the Board on the Police Department's applicable rules, orders, and regulations and law. The Board shall take into account all pertinent City and Police Department rules and regulations and orders in making its findings and recommendations.

8. The Board shall have a goal of completing its fact-finding and conclusions on an individual complaint within ~~sixty~~ 180 days from the date of its filing with the Board. In those instances where the goal cannot be achieved, the Board shall assure that the complainant receives notification of the status of the disposition initially upon the expiration of ~~sixty~~ 180 days following the registration of the complaint and every sixty (60) days thereafter until disposition. The written results of the Board's findings and recommendation(s) shall be forwarded to the City Manager for his or her consideration.

9. After the appropriate investigation, and upon the recommendation of staff, the Board may ~~dismiss~~ render a disposition on a complaint without hearing if it concludes that a hearing would not facilitate the fact-finding process and that good cause has not been shown for further action.

10. The Board will provide policy direction to staff for determining case priority. Using those policy guidelines, staff will refer cases for investigation, summary disposition, or to appropriate complaint resolution processes in accordance with their priority and the nature of the complaint.

a. The Board may utilize different investigatory and complaint resolution processes, including but not limited to voluntary conciliation, voluntary mediation, three member panels, full Board hearing, and staff recommendation to the City Manager for disposition without hearing.

b. Cases that are the subject of litigation will be investigated but not brought to hearing while the litigation is pending. However, the Board's staff may make recommendations on these cases directly to the City Manager while the litigation is pending.

11. In cases heard by three member panels, three members shall constitute a quorum. The findings and recommendations of the panel will be placed on the Board's agenda as consent calendar items and shall be deemed adopted and approved by the Board unless the case is pulled for discussion or hearing upon passing a motion by five or more affirmative votes.

c. A three-fourths vote of the Board is required to overrule a staff assignment of priority.

12. After the City Manager takes action on a Board recommendation, that action will be reported, to the greatest extent permitted by law, to the complainant.

**H. Standing Subcommittee**

The Chair may appoint a standing subcommittee of the Board to work with staff to select complaints for hearing and schedule hearings.

**SECTION 7. Mediation**

Upon the consent of the complainant and the officer against whom a complaint is filed, a civilian investigator and/or outside mediators contracted for this purpose are authorized to mediate a final and binding resolution of any complaint in accordance with the Board's established rules and procedures.

**SECTION 8. Effective Date**

This Ordinance shall take effect upon the date of passage.

**Introduction Date: OCT 29 2002**

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 12, 2002

**PASSED BY THE FOLLOWING VOTE:**

AYES-	BRUNNER, CHANG, MAYNE,
NOES-	NADEL, REID, SPEES, WAN
ABSENT-	AND PRESIDENT DE LA FUENTE - 5 Ayes
ABSTENTION-	De La Fuente, Reid, Chang - 3 Noes

ATTEST:



CEDA FLOYD

City Clerk and Clerk of the Council  
of the City of Oakland, California

OAKLAND CITY COUNCIL

RESOLUTION NO. 79235 C.M.S.

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2005 APR 13 PM 6:24  
*[Signature]*

RESOLUTION AMENDING RESOLUTION NO. 72727 C.M.S., WHICH IMPLEMENTED THE CITY OF OAKLAND'S COMMUNITY POLICING POLICY, TO PROVIDE A STRUCTURED APPROACH TO COMMUNITY INVOLVEMENT

WHEREAS, the people of Oakland require that their municipal government provide police services in the manner calculated to best insure public safety; and

WHEREAS, for the last two decades cities and police departments across the United States have adopted strategies to reduce reliance on 911-response policing and instead utilize approaches known as "Community Oriented Policing," "Problem Oriented Policing," or "Community Policing;" and

WHEREAS, the experience of the police departments which have adopted community policing strategy demonstrates the effectiveness of this approach in both reducing crime levels and increasing public sense of safety; and

WHEREAS, the Oakland Police Department has been a pioneer in the development and utilization of community policing strategies through such programs as Beat Health, Neighborhood Watch, and Home Alert; and assuming a leadership role in comparable efforts by the Oakland Housing Authority; and

WHEREAS, on June 11, 1996 the City Council of the City of Oakland passed Resolution No. 72727 to implement the community policing program in the City of Oakland and this Resolution was subsequently amended by Resolution No. 73185 C.M.S on December 17, 1996 and by Resolution No. 73916 C.M.S. on November 4, 1997; and

WHEREAS, community policing creates a working partnership between the community and the police to analyze neighborhood problems, set priorities, develop strategies, and work together to improve the quality of life in our neighborhoods; and

WHEREAS, community policing focuses on issues of ongoing public concern rather than specific incidents as reported; and

WHEREAS, community policing employs a comprehensive City inter-departmental approach to solving neighborhood problems; and

WHEREAS, community policing assists in the empowerment of neighborhoods by relying on the organization of people in our communities to identify problems, prioritize concerns, and develop solutions which are implemented through the cooperation and collaboration of neighborhood residents, public employees, and public officials;

NOW THEREFORE, the City Council of the City of Oakland hereby adopts the following policies for the implementation and institutionalization of community policing:

## **Section 1 - Title and Philosophy**

- 1.1 This program shall be known as the Community Policing Program of the City of Oakland.
- 1.2 Four principles govern the Community Policing Program of the City of Oakland:
  - 1.2.1 Its purpose is to reduce crime, enhance public safety, and to improve quality of life.
  - 1.2.2 It is a peer level partnership between the community, the Police Department, and other city agencies.
  - 1.2.3 In contrast to the 911 emergency response system, it addresses long term, chronic problems using proactive, collaborative problem solving methods.
  - 1.2.4 It fosters a geographically based crime prevention effort on three levels: at the block level, at the neighborhood level, and at the citywide level.
- 1.3 Community policing is hereby reaffirmed as the public safety policy and philosophy of the City of Oakland.

## **Section 2 - Police Beats**

- 2.1 Police beats shall conform as nearly as possible to the natural boundaries of neighborhoods and communities in the City of Oakland, taking into account historical neighborhood boundaries, natural boundaries such as streams, artificial boundaries such as major thoroughfares and highways, shopping and commercial districts, and public school attendance areas. The beat boundaries shall be reviewed from time to time to accommodate the natural evolution of population and neighborhood boundaries.
- 2.2 Each police beat should, to the extent feasible, contain between 5,000 and 7,000 residents.

## **Section 3: Block Level Organization**

- 3.1 Home Alert is the block-level component of the City's Community Policing Program.
- 3.2 Home Alert will recruit and engage residents in crime prevention and problem solving through block-level organizing.
- 3.3 Home Alert Groups shall, to the extent safe and reasonable, strive to include representatives from each address on the block.
- 3.4 City Staff will partner with Home Alert Groups regarding issues of block health and safety. Home Alert Groups shall cooperate actively with police officers and other city staff and interested individuals and organizations to improve the quality of life on their blocks.
- 3.5 Once a year there will be a citywide meeting of Home Alert captains.
- 3.6 The Home Alert Coordinator will oversee the Home Alert Program and shall be a non-

sworn employee of the police department working under the supervision of the Neighborhood Services Manager.

3.7 The Neighborhood Services Manager will determine the specific duties of the Home Alert Coordinator.

3.8 The city shall encourage Home Alert captains and members to participate in neighborhood-level and citywide-level components of the Community Policing Program.

#### **Section 4 - Neighborhood Level Organization**

4.1 Neighborhood Councils (also known as Neighborhood Crime Prevention Councils or NCPs) are the neighborhood-level component of the City's Community Policing Program.

4.2 A Neighborhood Council shall be established and maintained in each police beat.

4.3 Neighborhood Councils shall strive to include representatives of a variety of organizations sensitive to community needs and interests, such as, but not limited to, community organizations, service groups, Home Alert groups, church organizations, youth groups, labor unions, merchant associations, school parent-teacher organizations, as well as interested members of the community.

4.4 Neighborhood Councils shall meet regularly, as determined by their members, but at least quarterly.

4.5 Meetings of Neighborhood Councils shall be publicly announced.

4.6 All meetings of Neighborhood Councils shall be public. The Neighborhood Services Coordinators and Community Policing Officers shall be directed to attend meetings of the Neighborhood Council. Other city staff shall attend Neighborhood Council meetings when appropriate or as requested.

4.7 Meetings of Neighborhood Councils shall be democratically run, but need not conform strictly to Robert's Rules of Order.

4.8 The Neighborhood Council will, to the extent safe and reasonable, provide notice of meetings to all addresses in the police beat at least once each year.

4.9 Each Neighborhood Council shall adopt written bylaws to govern the conduct of its meetings. These bylaws must include a requirement for annual elections of any leadership positions, whether they are called officers, steering committee members, or other names. These bylaws shall be available to all residents of the police beat.

4.10 Neighborhood Service Coordinators, police officers assigned to the beat, and employees of other city departments shall meet with Neighborhood Councils to identify neighborhood concerns

regarding issues of public health and safety, establish priorities for law enforcement efforts, and develop strategies to resolve public health, safety, neighborhood improvement and revitalization, and other concerns.

4.11 Neighborhood Councils shall cooperate actively with police officers and other public employees and interested individuals and organizations to improve the quality of life in their neighborhoods, through such activities as involvement in litter and graffiti abatement, community patrols, providing supervision for youth recreation activities, monitoring problems at liquor stores, and other actions.

4.12 Neighborhood Councils shall be encouraged to establish a community center in each police beat in order to provide a regular place for their meetings and activities, a location for positive interaction between residents and police officers, and a center for the provision of activities and services to residents of that police beat. To the extent possible public facilities, which can accommodate a large range of activities, such as youth recreation and classes for adults, shall be utilized as community centers. The City Council shall solicit the cooperation of the Oakland Unified School District in making school facilities available for Neighborhood Council meetings without charge to the community.

4.13 An organized group may represent itself as a Neighborhood Council, and therefore representative of the citizens of that beat, only if that group is in compliance with Section 4 of this Resolution and has passed certification by the Community Policing Advisory Board (CPAB).

## **Section 5 – Citywide Organization**

5.1 The Community Policing Advisory Board (CPAB) and the Home Alert Steering Committee (HASC) are citywide advocates for community policing, and help bring the block and neighborhood groups together as a citywide voice for community policing.

5.2 The Community Policing Advisory Board (CPAB) shall be comprised of the following fifteen appointees:

5.2.1 Three members appointed by the Mayor.

5.2.2 One Member appointed by each Councilperson (total of eight appointees).

5.2.3 One Member appointed by the Board of Commissioners of the Oakland Housing Authority

5.2.4 One member appointed by the Board of Trustees of the Oakland Unified School District.

5.2.5 Two members appointed by the Oakland Home Alert Steering Committee.

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 provide recommendations to the Mayor, City Council, City Administrator, and Chief of Police on further steps necessary to carry out its objectives.

5.4 A member selected by the Board shall serve as the Community Policing Advisory Board Chairperson.

5.5 As part of its responsibilities for overseeing and monitoring the implementation of Resolution 72727 C.M.S., the Community Policing Advisory Board has the authority to establish a process to include documentation for certifying that Neighborhood Councils have been organized and continue to function in compliance with the requirements of this resolution. Should the Board discover that a Neighborhood Council is not in compliance, it has the authority to withdraw certification from that Neighborhood Council and require that it reorganize itself and reapply for certification.

5.6 The Board may hear and mediate disputes relating to a Neighborhood Council's compliance with Resolution 72727 C.M.S.

5.7 To facilitate the Community Policing Advisory Board in carrying out its duties, the Oakland Police Department will consult the Board before implementing policy, operational or organizational changes that will affect the functioning and operation of Community Policing as described in the provisions of Resolution 72727 C.M.S.

5.8 The City Administrator or his designated representative and Chief of Police shall attend advisory board meetings and provide the advisory board with all information it deems necessary to carry out its responsibilities.

5.9 The City Council shall provide the Community Policing Advisory Board with sufficient funding for its activities, including attendance at conferences, observation of community policing programs elsewhere in the country, and retaining consultants to assist it with its responsibilities.

5.10 The Home Alert Steering Committee (HASC) is an advisory group drawn from Home Alert participants and other interested residents to provide advice and feedback regarding the Home Alert Program. The HASC is sponsored by the Oakland Police Department.

5.11 The CPAB, HASC, Police Department and City Council will sponsor an annual citywide Community Policing Summit.

#### **Section 6 – Neighborhood Services Coordinator**

6.1 The City shall assign a Neighborhood Services Coordinator (NSC) to each community policing beat.

6.2 The Neighborhood Services Coordinator shall be a non-sworn employee of the police department working under the supervision of the Neighborhood Services Manager.

6.3 To the extent allowed by law Neighborhood Services Coordinators shall be residents of Oakland.

6.4 Neighborhood Services Coordinators shall receive sufficient training and supervision to adequately perform their duties.

6.5 The Neighborhood Services Coordinator shall have, but not be limited to, the following duties:

6.5.1 Organization of the Neighborhood Council for that community policing beat.

6.5.2 Assist the leaders of the neighborhood council to develop peer level partnerships with the police to solve problems.

6.5.3 Initiate contact with residents, block level organizations, merchant and community organizations of the beat for participation in crime prevention and community engagement efforts.

6.5.4 Working with the Neighborhood Council, other residents, police officers and employees of other city agencies and other institutions to establish priorities and develop and implement community policing strategies and other activities to improve the safety and health of the community.

6.6 The Neighborhood Services Manager shall determine the specific duties or job description of the Neighborhood Services Coordinators. The NSC job description shall be available to the public upon request.

## **Section 7 – Police Staffing**

7.1 All City of Oakland police officers shall be trained in the philosophy and practice of community policing and problem solving.

7.2 Police officers assigned to each community policing beat shall be known as Community Police Officers. Community Police Officers shall focus their efforts on problem solving and quality of life improvement on their community policing beat, and shall not be routinely reassigned to 911 patrol or other non-community policing duties.

7.3 The City shall staff each police beat with community police officers, a minimum of one officer per police beat.

7.4 Assignments of Community Police Officers to beats shall be made for terms in accordance with Police Department policy. As a specialized assignment, they can remain in this assignment for six years with extensions of up to two years as approved by the Chief of Police. The city will negotiate applicable agreements with employee organizations to allow such six-year assignments.

7.5 Community Police Officers assigned to each beat shall work with any assigned Neighborhood Council and Neighborhood Services Coordinator in that beat to carry out the objectives established by the Neighborhood Council.

7.6 Specialized police units shall be decentralized to the extent possible in order to establish



continuity of services and relationships between police department personnel assigned to such units and community residents, community police officers, Neighborhood Councils, and Neighborhood Services Coordinators.

**Section 8 – Implementation**

8.1 The City Administrator or his/her designated agency head(s) shall be primarily responsible for the implementation of this program.

8.2 The implementation of this program shall require the cooperation of all city departments. The City Administrator shall establish an inter-departmental coordinating committee to insure the prioritization of community policing programs and activities by all relevant city departments and employees.

8.3 City staff shall work with other public agencies, the non-profit sector, and the business community to insure the successful implementation of this program.

MAY 17 2005

In council, Oakland, California, \_\_\_\_\_, 2005

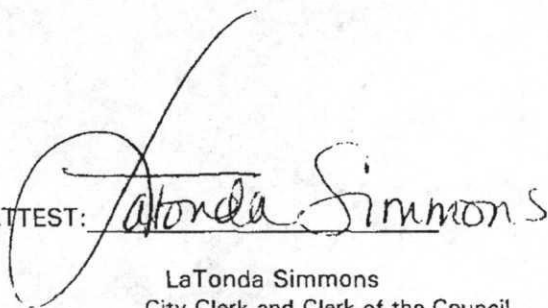
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID AND  
PRESIDENT DE LA FUENTE - 7

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California