


Approved as to Form and Legality

City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

INTRODUCED BY VICE MAYOR ANNIE CAMPBELL WASHINGTON, COUNCIL-MEMBER ABEL GUILLEN AND PRESIDENT PRO TEMPORE LARRY E. REID

A Resolution Submitting on the Council's Own Motion a Proposed Charter Amendment and City Ordinance to Be Voted Upon At the Municipal Election To Be Held On November 8, 2016 That Would (1) Establish the Office of Independent Police Oversight and Monitoring ("Office"); (2) Establish a Police Commission ("Commission"); (3) Create the Position of Independent Police Monitor To Audit Allegations Of Police Misconduct, To Take Disciplinary Action And To Create Hiring, Training And Education Policies, and To Set Minimum Staffing Requirements For the Support of the Office and Commission; (4) Set Standards and/or Metrics for Transparency and Police/Community Relations; And (5) Repeal Ordinance No. 12454 C.M.S., Which Establishes and Prescribes The Powers And Duties of the Citizens' Police Review Board ("CPRB") And Directing the City Clerk to Fix the Date For Submission of Arguments And To Provide Notice And Publication In Accordance With The Law And Authorizing Certain Other Election Activities.

WHEREAS, residents of the United States, and residents of the City of Oakland, demand accountability, procedural justice and transparency in the management of police misconduct claims and other indicia of police/community relations; and

WHEREAS, since 2003, the Oakland Police Department has been under court supervision under the terms of a settlement agreement (the "Negotiated Settlement Agreement") in the matter of Delphine Allen, et al. v. City of Oakland, et al., USDC, ND, Master Case No. C00-4599 THE; and

WHEREAS, modern policing research has demonstrated that policing is most effective in those communities where the bonds of trust between police and community are the strongest, where police oversight is the most transparent, and where citizens and other residents understand that there is strong civilian oversight of police officers, and that police misconduct is promptly and fairly dealt with; and

WHEREAS, while under the terms of the Negotiated Settlement Agreement, Oakland has undertaken major changes in how the Police Department reports and investigates use of force, adopted a state-of-the-art system to identify officers in need of intervention and additional training, enhanced and improved systems for the investigation of complaints related to officer conduct, and the established systems to

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strictly monitor officer performance and promptly and appropriately discipline officers who violate rules and policies or who fail to report rule-breaking by others; and

WHEREAS, a significant part of the City of Oakland's efforts to comply with the Negotiated Settlement Agreement has involved shining a light on evidence of biased policing and reducing such biased policing; and

WHEREAS, it is critical to creating a safe and just community that police officers respect and in which they are held accountable to the community they protect, that the community is involved in all aspects of policing and strategy (thereby sharing responsibility for policing outcomes), that members of the community perceive that policing is making a positive impact on their day-to-day lives, that neighborhood residents see that their local priorities are being addressed, and that the City and Oakland Police Department receive, measure and act on feedback from individuals who are in direct contact with law enforcement; and

WHEREAS, it is the desire of the City of Oakland to not just sustain the reforms of the Negotiated Settlement Agreement after Court supervision ends, but to continue to improve on mechanisms for police discipline and oversight, ensuring that the Oakland Police Department is a national leader in unbiased policing, procedural justice and positive police-community relations; and

WHEREAS, the Citizens' Police Review Board (hereinafter CPRB) was established by Ordinance No. 11905 C.M.S., as amended by Ordinance No. 12102, and these were repealed and replaced by Ordinance No. 12454; and

WHEREAS, on May 19, 2015, the City Council enacted Resolution No. 85605 C.M.S., providing that responsibility for intake of citizen complaints concerning police misconduct be with the CPRB; now, therefore be it

RESOLVED: That the City Council desires to amend Oakland City Charter Article VI to add Section 604 "Office of Independent Police Oversight and Monitoring" and hereby authorizes and directs the City Clerk, at least 88 days prior to November 8, 2016 to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council intends for this proposed Amendment to Article VI of the Charter, Section 604, to comprehensively address independent oversight of the Oakland Police Department; and be it

FURTHER RESOLVED: That the City of Oakland does hereby submit to the voters at the November 8, 2016 general election, a proposed Amendment to Article VI of the Charter, Section 604, which reads as follows:

Section 604. Office of Independent Police Oversight and Monitoring

SECTION 1: Office of Independent Police Oversight and Monitoring

There is created as an Oakland City Department, independent in all ways of the Oakland Police Department, The Office of Independent Police Oversight and Monitoring, which shall consist of The Independent Police Monitor (the "Monitor"), the Monitor's staff, the Police Commission (the "Commission"), the Police Commission Investigations Bureau (the "Bureau"), and Special Counsel to the Commission.

A. Nomination, Confirmation and Removal of the Monitor

The Monitor shall be a department head. To select a Monitor, the City Council Rules Committee will establish a selection panel comprised of five (5) members. Each of the four (4) Rules Committee members will select one (1) panelist. The Mayor will select the fifth (5th) panelist. Selection panel members shall be key stakeholders as prescribed by City Ordinance.

The Mayor shall submit no fewer than five (5) proposed candidates with the qualifications prescribed by City Ordinance for the Monitor position to the selection panel. The panel shall then publicly recommend three (3) individuals as proposed candidates to the Mayor. The Mayor shall nominate his or her choice for the position of Monitor from the three (3) proposed candidates.

The Mayor's nominee for the position of Monitor shall be confirmed by the City Council, and may be terminated only by the Mayor. The City Administrator shall not have any authority to terminate the Monitor.

B. Responsibilities of the Monitor

To the extent permitted by law, the Monitor shall have the same level of access to all Police Department data as the Police Department's Internal Affairs Division ("IAD") and Office of the Inspector General ("OIG"). If the IAD's and OIG's levels of access differ, the Monitor will have the highest level of access to Police Department data. The Monitor shall keep all confidential information in a secured location.

The Monitor shall be responsible for the following:

1. Reviewing and reporting on the Police Department's adherence to National standards of Constitutional policing in all areas, including but not limited to the uses of force, supervisory ratios, training, unbiased policing, early intervention systems and discipline. Specifically, the Monitor shall have the power to direct the Bureau to investigate Serious Incidents and to audit investigations of Serious Incidents performed either by the Bureau or by IAD.

For the purposes of this Charter Amendment "Serious Incident" shall be defined as: an officer-involved shooting, death or serious bodily harm caused by the action and/or inaction of a police officer, and/or criminal activity by a Police Department employee, whether on-duty or off-duty.

When a Serious Incident is alleged or appears to have occurred, the Chief of Police shall notify the Monitor immediately. The Chief of Police shall brief the Monitor at least once a month on allegations of all Serious Incidents.

2. Managing all staff operations of the Office, and supervising all Office personnel, including but not limited to analysts, auditors and administrative staff, and the Bureau's Executive Director and investigators. The Monitor shall attend meetings of the Commission, but shall not vote, may examine witnesses at any Commission meeting, whether the focus be a specific police officer discipline case or a policy matter, issue semi-annual reports, and may make policy recommendations to the City Council, the Mayor and the City Administrator related to investigatory findings or matters of discipline.

3. Receiving summary reports from the Commission regarding each complaint investigated by the Bureau and reviewed by the Commission, and the Commission's recommended findings and discipline, if any. The Monitor shall immediately communicate the Commission's recommendation to the City Administrator and the Chief of Police. If the Chief of Police, after receiving and reviewing the IAD's Report of Investigation, disagrees with the Commission's recommendation, the Monitor and the City Administrator shall hold a joint conference with the Chief of Police and one representative of the Commission to discuss the case. After this joint conference, or if no joint conference is held because the Chief of Police agrees with the recommendation of the Commission, and except as otherwise noted, the Monitor, after consultation with the City Administrator, shall make the final decision regarding findings and level of discipline to impose, if any. In compliance with Government Code Section 3304, the Monitor shall make his or her final disciplinary decision within one year of the City of Oakland's discovery of any act, omission or other allegation of misconduct by a person authorized to initiate an investigation of such an allegation.

The Monitor shall communicate his or her decision to the Chief of Police, the Commission, the Director of the Bureau and the complainant, if there is one, to the greatest extent permitted by law.

The Monitor may make a final disciplinary decision based solely on the Commission's recommendation or solely on the Police Department's recommendation if, in the Monitor's discretion, waiting for both recommendations would not serve the public's interest.

4. Completing all audits or reviews requested by the Mayor, the City Administrator or by affirmative vote of the majority of the City Council, and reporting findings to the requestor. If the Mayor, the City Administrator, or the City Council by an

affirmative vote of the majority, asks the Monitor to investigate a Serious Incident that is not already being investigated by the Bureau, the Monitor shall instruct the Bureau to conduct such investigation.

5. Preparing regular reports for the City Council, the Mayor and the City Administrator and, to the extent permitted by law, posting these reports on the City of Oakland website.

6. Auditing the Police Department and the Commission to develop and sustain a fair, consistent and predictable process for police discipline by measuring their performances at various points in the process, including but not limited to complaint intake, investigation, Skelly hearings, and arbitration hearings. For every case in which a disciplinary recommendation of a five (5) day or greater suspension, demotion, or termination has been made by the Commission and/or by the Chief of Police, the Monitor shall consider whether he or she wishes to audit the investigation of that case by the Bureau and/or IAD, or audit the Commission's process for reviewing that case. The Monitor's audit shall determine whether the Police Department, Commission, and Bureau are receiving the support needed to implement fair and consistent discipline.

7. Auditing Police Department investigations of any complaint or Serious Incident.

8. On an annual basis, seeking recommendations from the Commission, the IAD and OIG, Skelly officers, supervising officers, attorneys, and others closely involved in matters within the Office's jurisdiction for improving the Department's policies and practices, General Orders, trainings, and discipline process.

9. Evaluating Bureau staff capacity and making recommendations to the City Council regarding what level of resource allocation is required for the Bureau to complete its investigations in a timely and efficient manner, specifically identifying the necessary number of investigators, policy analysts, legal staff, and administrative support staff. The Monitor shall work closely with the Bureau's Director to identify budgetary needs.

10. Designing and implementing a mandatory orientation for Commissioners within one year of the appointment of the Monitor.

11. Scheduling monthly meetings and inviting, to the extent permitted by law, all City of Oakland officials connected to police oversight and monitoring to attend.

12. Working closely with the Community Policing Advisory Board ("CPAB") to develop a robust mechanism to accomplish the following goals:

(a) Keeping the public updated and informed regarding recent developments in each of the oversight and monitoring strategies identified in this Charter Amendment;

(b) Maintaining open channels of communication for receiving feedback from community members regarding the effectiveness and impact of investments of community funds into the Office, the Commission and the Monitor's overall efforts to provide oversight of the Department; and

(c) Incorporating twenty-first century policing principles into the goals of the CPAB and recommending amendments to the CPAB's enabling ordinance to the City Council, as necessary.

SECTION 3: Establishment of the Police Commission

Pursuant to Section 601 of the Charter of the City of Oakland, there is hereby created a Police Commission, independent in all ways of the Oakland Police Department.

A. Composition and Appointment of the Police Commission

1. The Commission shall consist of nine (9) voting members; six (6) members shall constitute a quorum. The affirmative vote of five (5) members of the Commission shall be required for the adoption of any motion or resolution regarding recommendations for findings or discipline against a police officer. Motions on all other matters may be approved by a majority of those Commission members present.

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

3. The members of the CPRB holding those positions as of the date this Charter Amendment is enacted shall serve as members of the Commission until they are replaced by Commission members according to the terms of this Charter Amendment. Members of the CPRB whose terms expire may be re-appointed as Commission members subject to the provisions of this Charter Amendment.

4. Eight (8) prospective Commission members shall be nominated by City Councilmembers, one Commission member per Council District. The remaining member shall be nominated by the Mayor. Prospective members shall be appointed by the Mayor, with nominations screened by the City Council Rules Committee and confirmed by the City Council.

5. The Commission shall be provided an annual budget for on-going training and education of Commission members.

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. At least one (1) of the nine (9) voting members of the Commission must be between the ages of eighteen (18) and twenty-five (25) years of age at the time of appointment.

C. Term of Police Commission Members

1. Commission 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. All appointments shall be for a period of four (4) years.

2. No person shall be appointed to serve more than two (2) consecutive terms as a member of the Commission. Any CPRB member as of the date this Charter Amendment is effective who has served one (1) or two (2) consecutive terms shall be deemed to have served one (1) term for purposes of this provision.

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

D. Commission Responsibilities

1. By majority vote, the Commission may decide to review the following types of cases after the Bureau's investigation has been completed:

(a) Any Serious Incident (defined in Section 2 of this Charter Amendment as allegations of any of the following: an officer-involved shooting, death or serious bodily harm caused by the action and/or inaction of a Police officer, and/or criminal activity by a Police Department employee, whether on-duty or off-duty);

(b) Any citizen complaints brought to the Bureau, which the Bureau's Executive Director has deemed appropriate for Commission review;

(c) Any case the Commission deems by majority vote to be appropriate for review;

(d) Any case referred to the Commission by the Monitor; and

(e) Any case in which the Police Department has made a disciplinary recommendation of five (5) days of suspension or greater to the City Administrator.

2. Upon completion of investigation and review of each case, the Commission shall deliver a summary report to the Monitor regarding the facts of the case, a recommended disposition of the complaint, whether or not the Commission recommends discipline in that case, and if so, what that level of discipline shall be. In order to ensure compliance with Government Code Section 3304, the Commission shall take all reasonably practicable steps to deliver the Commission's finding to the Monitor within 180 days of the City of Oakland's discovery of any act, omission or other

allegation of misconduct by a person authorized to initiate an investigation of such an allegation.

3. The Commission may recommend policy changes to the Monitor with regards to matters within its jurisdiction. If the Monitor does not bring the Commission's policy recommendation to the City Administrator for adoption, the Commission may bring its policy recommendation directly to the City Administrator by a 2/3 vote.

E. Pre-Hearing Processing and Investigation of Complaints

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

F. Hearings

1. The hearing may follow an informal hearing procedure consistent with accepted practices of administrative procedure.

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

3. After the appropriate investigation, and upon the recommendation of the Bureau, the Commission may render a disposition on 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.

4. The Commission will provide policy direction to the Bureau 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, full board panels, and Bureau staff recommendation to the Monitor 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 Bureau staff may make recommendations on these cases directly to the Monitor while the litigation is pending.

(c) A three-fourths vote of the Commission is required to overrule a Bureau staff assignment of priority.

G. 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 4: Bureau Staffing, Staff Training, and Responsibilities

A. Staff for the Bureau

1. An Executive Director shall lead the Police Commission's Investigations Bureau and oversee staff operations. The Executive Director shall report to the Monitor. Although both the City Administrator and the Monitor shall have the authority to hire and fire the Executive Director, it is the Monitor who retains primary responsibility for supervising the Executive Director and evaluating his or her job performance.

2. Staff for the Bureau will include but not be limited to Investigators, Intake personnel, and administrative staff, as deemed necessary by the Monitor. All Bureau staff shall comply with standard City of Oakland background check requirements.

B. Bureau Responsibilities

1. The Bureau shall be responsible for the intake of citizen complaints. On behalf of the Commission and the Police Department, the Bureau and its Executive Director, shall establish a location, forms and processes for residents to complain of police action and/or inaction such that access, availability and processing of citizen complaints shall be readily accessible and transparent.

2. The Bureau is responsible for reviewing all citizen complaints. After review, the Executive Director may administratively close a complaint, or may choose to investigate the complaint. Consistent with Section 3, the Bureau must investigate allegations the Commission has voted to review.

3. Individuals may make complaints regarding sworn employees of the Oakland Police Department twenty-four (24) hours a day, seven (7) days a week either directly to the Bureau, to a Police Department Supervisor, or to the Police Department's Internal Affairs Division.

4. Wherever filed, copies of the complaints will be date-stamped and provided to the complainant at the time of filing. Copies of the complaints will be provided to IAD no later than the following business day.

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, on the City's web site (where the form shall be readily accessible) and recreation centers, and will include on the form information concerning how and where such complaints can be readily submitted. 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.

C. Investigations

1. The Chief of Police shall order all officers subject to subpoena to fully cooperate with the Bureau's investigation either (a) by authorizing release of any and all statements the officer provided to the Police Department in its investigation of the complaint; or (b) by responding directly to the Bureau's inquiries. The Chief of Police shall order all officers subject to request for interview or subpoena to fully cooperate with the Bureau's investigator to provide any supplemental statement requested by the Bureau's investigator.

2. All records of the Police Department relating to the incident which gave rise to the complaint that is being investigated by the Bureau, including police officer personnel records, shall be made available to the Bureau and the Commission through the Bureau's investigator, within restrictions of applicable federal, state, local law and applicable collective bargaining agreements. Relevant records which, under this section, are not public records shall be provided in confidence to the Bureau's investigators who shall release them only to the Monitor and 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 Monitor and City Administrator, when appropriate, by a letter from the Commission and said letter shall not be a public record.

SECTION 5: Public Reporting and Transparency

The following reporting and transparency mechanisms shall apply in the City of Oakland with the passage of this Charter Amendment.

A. Regular Reporting to Community

At least quarterly, the Monitor shall report to the City Council, and include the following information in each report, as permitted by law:

1. Complaint and disciplinary data from the Office (summarizing the work of the Bureau and the Commission) and the Police Department's Internal Affairs Division, including but not limited to the following:

- (a) The number of total complaints;
- (b) The date of each complaint or Serious Incident, whether or not there is a related complaint;
- (c) Whether or not the Police Department recommended discipline;
- (d) Whether or not supervisory accountability was assessed;

- (e) Whether or not the recommended discipline was imposed and/or sustained;
- (f) The final disciplinary action taken, if different from what the Police Department had recommended or imposed; and
- (g) The most recent discipline matrix for viewers' reference.

For those complaints or Serious Incidents which are closed and for which discipline has been implemented, the Monitor shall report on whether the discipline was less than what was recommended using the Police Department's discipline matrix as well as previous sanctions, closely evaluating and comparing levels of discipline across cases.

2. The Monitor shall report all trends and/or patterns regarding OPD training, education and the Department's use of the IPAS early warning systems.

B. Establish "Right to Know" Policy

1. The Monitor shall establish a policy that ensures the public's right to know as much information as legally permitted regarding the work of the Office, including but not limited to the investigation of complaints and allegations of Serious Incidents.

2. When a Serious Incident is alleged or appears to have occurred, the Chief of Police shall notify the Monitor immediately.

3. When sharing information with the public, the Monitor shall work closely with the Mayor and City Administrator to evaluate the City's capacity to waive certain exemptions to public records requests, to the extent allowable by law.

4. After the Monitor has been briefed by the Chief of Police, and worked closely with the Mayor and City Administrator to evaluate privilege waivers and records request exemptions, the Monitor shall share as much information with the public as he or she legally is able to at the earliest possible date.

SECTION 6: Police Hiring, Training and Education

The following police hiring, training, policy and education mechanisms shall apply in the City of Oakland with the passage of this Charter Amendment.

A. Evaluation of Hiring Practices for Sworn Department Personnel

At least once each year, the Monitor shall evaluate Oakland Police Department hiring practices.

B. Ensure All Officers Receive Critical Trainings

The Police Department shall provide critical training to all officers (command staff, rank and file and new hires).

C. Increase Frequency of Post-Training Coaching

1. Within one year of the passage of this Charter Amendment, the Police Department shall notify the Monitor of the budgetary increase that is needed to provide sufficiently frequent training updates to Police Department officers, including post-training coaching and annual re-training (re-certification) regarding the critical subject areas in order to effectively sustain adequate police officer training.

2. The Monitor shall analyze the budgetary request he or she receives from the Chief of Police and using his or her discretion, include the budgetary increase in his or her next published report to City Council for budgetary consideration.

D. Regular Reports to City Council

At least semi-annually, the Monitor will report on Hiring, Training and Education to the City Council. The Police Chief will help to revise and upgrade hiring requirements, training curriculum, promotion criteria, etc. to incorporate guidance from the Monitor.

E. Police Leadership Institute

The Monitor, on behalf of the City of Oakland, shall explore potential partnership opportunities with a local higher education institution and shall develop a Police Leadership Institute ("Institute"). The Institute is intended to identify and train officers as potential leaders early in their career and to develop the next generation of Police Department leadership.

SECTION 7: Community Engagement

The Monitor shall work closely with the Police Department and with community members to coordinate and promote community-policing efforts, designing and developing solutions together that are aimed at restoring community trust.

A. Establish Community Roundtable

1. The Office shall hold Community Roundtable meetings on at least a quarterly basis. The Monitor shall report to the City Council at least annually with policy recommendations from the Roundtables. The Office shall have one designated staff person to work as a liaison with the Roundtables.

2. The Monitor shall determine the most effective size and geographic distribution of Roundtable meetings and who is invited to participate in Roundtable meetings.

3. The Mayor's Office and City Administrator's Office shall each have one designated staff person to work as a liaison with the Roundtables.

4. The Roundtables will be assigned the following tasks:

(a) Create a space for ongoing dialogue. In order to strengthen communication between community members and officers, the Roundtables shall provide consistent (at least quarterly) opportunities for in-person conversation between Police Department officers and the community Department officers serve.

(b) Design a restorative, debrief and/or mediation component to the Police Department. Community Roundtable members shall design a Restorative Justice and/or Mediation component for the Office and Police Department in order to build and sustain community trust.

SECTION 8: Additional Items

1. Nothing herein shall infringe upon the City Auditor's power to conduct his or her own audits.

2. Nothing herein shall infringe upon the Police Department's power to conduct its own investigations and/or audits.

3. The City Council shall have the authority to establish ordinances which are consistent with the purposes of this Charter Amendment.

;and be it

FURTHER RESOLVED: That the proposed Ordinance text shall be as follows:

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

SECTION 1: Repeal of Predecessor Ordinance

Oakland City Charter Section 604 has established The Office of Independent Police Oversight and Monitoring (the "Office") which consists of The Independent Police Monitor (the "Monitor"), the Monitor's staff, the Police Commission (the "Commission"), and the Police Commission Investigations Bureau (the "Bureau"). Ordinance No. 12454 shall be repealed as soon as the Office has been established.

SECTION 2: The Independent Police Monitor

A. Qualifications of the Monitor

The Monitor must have background, education and experience in two or more of the following fields: law, police practices and management, civilian police oversight, community policing, management and leadership of large organizations, and human resources.

B. Qualifications of the Selection Panel

The Monitor will be selected by a five (5) member selection panel.

Selection panel members shall be key stakeholders, including, but not limited to police accountability advocates, members of the American Civil Liberties Union, one of the attorneys representing plaintiffs in the Negotiated Settlement Agreement, Neighborhood Crime Prevention Council representatives, faith based leaders, and members of the Community Policing Advisory Board and Safety and Services Oversight Committee.

C. Responsibilities of the Monitor

1. The Monitor's regular reports to the City Council, the Mayor and the City Administrator shall address each of the following:

- a. Issues arising out of recent arbitration decisions;
- b. The City Attorney and the Police Department's efforts to support the police discipline process;
- c. Strategies for improving the discipline and arbitration processes;
- d. Recent developments in police discipline; and
- e. Updates to police policy, and police personnel trainings.

The Monitor may attend any police discipline arbitration hearing and any Skelly hearing he or she would like to attend.

2. The Monitor has the authority to audit Police Department investigations of any complaint or Serious Incident in the following ways, as the Monitor deems necessary:

- a. The Monitor may attend any Executive Force Review Board or Force Review Board hearing.
- b. The Monitor may request that a Bureau Investigator attend IAD investigatory interviews. The Bureau Investigator may refer any concerns and/or questions not asked during that interview directly to the Monitor and City Administrator. If the Monitor, after reviewing the Bureau Investigator's concerns and/or questions, determines that an investigatory interview is deficient, the Monitor will immediately inform the City Administrator, who maintains oversight of the Police Department.
- c. The Monitor may review IAD's final Report of Investigation and provide comments to IAD.

If the Monitor determines that the City Administrator has not resolved any investigatory issues identified by the Monitor with the Chief of Police and the IAD Commander before the completion of IAD's investigation, the Monitor may remedy by requesting that the Bureau investigate and the Commission review the case, conducting additional investigatory interviews as needed.

3. The Monitor shall maintaining a record of recommendations received from the Commission, the IAD and OIG, Skelly officers, supervising officers, attorneys, and others closely involved in matters within the Office's jurisdiction for improving the Department's policies and practices, General Orders, trainings, and discipline process. This record shall include without limitation, whether:

- a. The recommendation has been routed to the appropriate personnel and, if appropriate, changes are being implemented;
- b. A response has been issued to the party making the recommendation; or
- c. The recommendation has been rejected and no further action will be taken.

4. The Monitor shall develop an Office of Independent Police Oversight and Monitoring Manual, incorporating the responsibilities of the Monitor, the Commission and the Bureau described in the Charter and in this ordinance section and the best practices associated with implementation of such responsibilities.

5. When designing and implementing the mandatory orientation for Commissioners, the Monitor shall enlist the assistance of law enforcement, the local legal community, human resources experts and Oakland community members to maximize Commissioner expertise regarding Department history, historic Department and Community relations, the meaning and impact of the Negotiated Settlement Agreement, public records and meetings laws, confidentiality requirements, State and local laws relating to peace officers' personnel actions, rights and privacy, State and Federal statutory, Constitutional and case law concerning stops, detentions, search, seizure and arrest, rights of arrested persons, steps in the criminal justice process, including arrest, booking, arraignment, bail, hearings and trial, and such other subject matters as the Monitor shall deem necessary for the Commissioners to efficiently and effectively perform their responsibilities.

6. The Monitor shall invite to his or her monthly meetings the following City of Oakland officials connected to police oversight and monitoring,, including but not limited to the City Administrator, the Chief of Police, the City Attorney, the Mayor, the Oakland Police Officer Association President and the Internal Affairs Division Commander. The Monitor's monthly meetings shall address:

- a. Serious Incidents, as defined in Charter Section 604;
- b. Support for constitutional policing in core component areas: Uses of force, Supervisory ratios, Training, Stop data, Early Intervention Systems and Discipline;
- c. Issues arising out of recent arbitration decisions, the City Attorney and Department's efforts to support the police discipline process, strategies for improving the discipline and arbitration processes, recent developments in police discipline, updates to police policy, and police personnel trainings; and

- d. Such other issues related to police oversight and monitoring as the Monitor deems appropriate.

D. Responsibilities of the Chief of Police

1. The Chief of Police shall provide two (2) status reports to the Monitor in the days and weeks following any Serious Incident, defined in Charter Section 604 as: an officer-involved shooting, death or serious bodily harm caused by the action and/or inaction of a police officer, and/or criminal activity by a Police Department employee, whether on-duty or off-duty. The first status report will be provided to the Monitor within ten (10) days of the incident date. The second status report will be provided to the Monitor within forty-five (45) days of the incident.

2. The Chief of Police shall retain final authority to impose a five (5)-day or shorter suspension unless the Commission recommends discipline greater than a five (5) day suspension. For the purposes of this subsection, a demotion shall be considered a level of discipline greater than a five (5) day suspension.

SECTION 3: The Police Commission

A. Commission Member Qualifications

1. Screening of prospective Commission members by the City Council Rules Committee will specifically take into account the qualifications identified in Charter Section 604 and listed in this section. A majority vote of the Rules Committee shall be needed to reject a nomination.

2. The City shall strive to appoint Commission members with backgrounds and/or knowledge in the fields of human resources practices, management, policy development, auditing, law, investigations, law enforcement, youth representation, as well as representation from communities experiencing the most frequent contact with the Police Department.

3. Prior to review by the City Council Rules Committee and confirmation by the City Council, prospective Commission members shall be subject to background investigations consistent with POST Background Investigations for police dispatchers, but only relating to the dimensions of Integrity, Conscientiousness, Interpersonal Skills, Decision-Making and Judgment, Learning Ability and Communication Skills. A finding during the background check process shall not necessarily be a ban on Commission membership. Investigations will be overseen by the Monitor and conducted by Bureau investigators. A report of each background investigation will be provided to the prospective Commission member, and to the Mayor confidentially as a personnel record to the extent permitted by law. Background checks shall not be required of CPRB members who continue to serve as Commission members.

B. Commission Member Training

1. Within eighteen (18) months of appointment each Commission member must complete the Citizens' Police Academy, Oakland Police Department's Procedural Justice Training Implicit Bias Training and Crisis Intervention Training, Peace Officer Standards and Training ("POST") Domains 15 and 16 trainings regarding arrest and search and seizure procedures, and must complete bi-annual "ride-alongs" with the Police Department's ride-along program. Commission members must also receive training in basic principles of due process and administrative hearing procedures.

2. The annual budget provided to the Commission for on-going training and education of Commission members, shall be no less than \$3,600.00.

C. Youth Commission Member Stipend

Each youth member of the Commission, defined as a member who is between the ages of eighteen (18) and twenty-five (25) at the time of appointment, shall receive a stipend of \$100.00 for each meeting he or she attends.

D. Special Counsel

Special Counsel, consisting of one 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. Special Counsel shall not in the regular course of his or her legal practice defend law enforcement officers. Special Counsel shall not participate in, nor serve as counsel to the City or any of its Councilmembers or employees in defense of any lawsuit arising from the incident that is before the Commission.

E. Hearings

1. It shall be the sole and exclusive responsibility of the Special Counsel to determine the order and conduct of any public hearing conducted pursuant to Charter Section 604 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 carried by six (6) votes, may overrule any decision under this provision made by the Special Counsel.

2. Commissioners, Special Counsel, Bureau staff and the Monitor may all 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. The complainant or the complainant's representative will also be allowed reasonable cross-examination of the officer and witnesses.

3. The Special Counsel 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.

4. Prior to the Commission's making any findings or recommendations, the Bureau's staff and the Special Counsel 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 General Orders in making its findings and recommendations.

SECTION 4: The Police Commission Investigations Bureau

A. Bureau Staff Training

Training for Bureau staff shall include but not be limited to mediation and conflict resolution certification, interview and interrogation training, POST-Internal Affairs Investigation Training, and attendance at the National Association for Civilian Oversight of Law Enforcement annual conference.

SECTION 5: Public Reporting and Transparency

The following reporting and transparency mechanisms shall apply in the City of Oakland.

A. Regular Reporting to Community

When reporting to the community on all trends and/or patterns regarding OPD training, education and the Department's use of the IPAS early warning systems, the Monitor shall inform the Council of the percentage of officers that have received the following trainings:

- (a) Procedural Justice;
- (b) Implicit Bias;
- (c) Crisis Intervention and De-escalation Training; and
- (d) Job-related Stress Management.

Along with this data, the Monitor shall provide insight into any trends and/or patterns he or she sees regarding connections or the absence of connections between (1) training and/or education; (2) involvement in allegations of Serious Incidents; and (3) sustained findings related to Serious Incidents.

To the extent permitted by law, the Monitor shall post information regarding the work performed by the Office, including but not limited to the processing and investigation of complaints, and the investigation of Serious Incidents, on the City of Oakland website, and on the Office's homepage.

SECTION 6: Police Hiring, Training and Education

In order to satisfy the requirements outlined in Section 6 of Charter Section 604, the Police Department shall work closely with the Office and the Monitor to ensure that its databases track all forms of officer training and education regarding police policies, procedures and General Orders, whether as a result of voluntary education, attendance at the Police Academy, a supervisor's request, discipline for misconduct or failure to act, in a centralized and easily searchable location, accessible to the Monitor. As to training, the records shall identify the topics of each training, the date the training was completed, and the trainer. The Police Department shall also ensure materials for all Department trainings are easily identified and accessible.

A Evaluation of Hiring Practices for Sworn Department Personnel

In evaluating Oakland Police Department hiring practices, the Monitor shall consider the following:

1. Specific standards in place for Oakland Police Department hiring, including new hires and lateral transfers;
2. Whether or not standards are adhered to by those conducting hiring;
3. The timeline to which those conducting hiring are expected to adhere; and
4. Whether or not the current hiring timeline is effective.

B. Ensure All Officers Receive Critical Trainings

1. The critical trainings that the Department must provide to all officers (command staff, rank and file, and new hires) include the following:

- (a) Procedural Justice Training;
- (b) Implicit Bias Training;
- (c) Crisis Intervention Training and De-escalation Training; and
- (d) Job-related Stress Management.

The Department and the Monitor shall evaluate, on a regular basis, whether any other types of training should be added to this list of critical training, or whether any of the above-listed types of critical training should be discontinued.

2. The Department shall consider an individual's level of completion of the trainings identified in Section 6(B)(1) in its promotional decision-making process.

3. The Monitor shall publicly report all data regarding OPD training and education. See Section 5(A) for additional detail.

C. Increase Frequency of Post-Training Coaching

1. Each officer (command staff, rank and file, and new hires) should receive at least 40 hours of the critical training listed in Section 6(B) every twelve (12) to eighteen (18) months.

2. The Monitor shall prioritize trainings to be offered to officers (command staff, rank and file, and new hires), with a strong emphasis on situational problem-solving, diplomacy and de-escalation.

D. Police Leadership Institute

Any Police Leadership Institute that is developed and implemented pursuant to section 604 of the City Charter must provide Police Department officers with a strong background in social sciences, criminology, law, research methods, and other skill sets suitable for leadership of a twenty-first century police department. Officers shall earn a certificate upon completion of the program and, if practicable, college credits.

SECTION 7: Community Engagement

The Monitor shall report to the City Council, within one year of his or her appointment, any budgetary increase needed to support existing City of Oakland community engagement programs.

A. Community Roundtable Meetings

1. Participants in Community Roundtable meetings shall include at least one representative from the Department who has the rank of Captain or higher, community members from faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Police Department, and, to the extent practicable, formerly incarcerated members of the community.

2. At least one representative from the Roundtable will be required to attend all Community Policing Advisory Board (CPAB) meetings and one representative member from the Roundtable (may be the same or a different individual) will be required to attend all Community Safety Partnership meetings.

3. The Community Roundtables shall work together with the Monitor and the Police Department in designing community trust-building activities which shall address the following issues:

(a) The negative outcomes from the most intensive and disruptive police actions such as the execution of home arrests, the execution of search warrants and SWAT Team actions.

(b) The Police Department's communication with communities impacted by recent police activity. The Police Department representative(s) who attend

these Roundtables shall share as much information as legally permissible about what occurred during and after specific Department activities, why the Department acted as it did, and what community members can expect moving forward, following that specific Department activity.

The population these efforts shall be specifically, but not exclusively, directed towards will include individuals and groups such as: Police Department arrestees, the families of those arrestees, neighbors of those arrestees and other witnesses.

B. Departmental Training and Incentives for Community Engagement

The Police Department shall incorporate engagement with community-based and/or youth-focused organizations benefiting individuals who live in the City of Oakland in:

1. Police Academy training curriculum; and
2. Promotional criteria for Police Department officers.

SECTION 8: Additional Items

The City Administrator shall attend the same level of training that all new Commissioners are required to attend including but not limited to procedural justice training, implicit bias training, and crisis intervention training. See Section 3 for specific requirements.

;and be it

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

PROPOSED CITY CHARTER AMENDMENT

MEASURE TO AMEND THE CITY CHARTER TO (1) ESTABLISH THE OFFICE OF INDEPENDENT POLICE OVERSIGHT AND MONITORING (“OFFICE”) (2) ESTABLISH A POLICE COMMISSION (“COMMISSION”); (3) CREATE THE POSITION OF INDEPENDENT POLICE MONITOR TO AUDIT ALLEGATIONS OF POLICE MISCONDUCT (4) SET STANDARDS AND/OR METRICS FOR TRANSPARENCY, PROCEDURAL JUSTICE AND POLICE/COMMUNITY RELATIONS; AND (5) REPEAL THE ORDINANCE WHICH ESTABLISHED THE CITIZEN’S POLICE REVIEW BOARD.

MEASURE _____

Measure _____. Shall the Charter of the City of Oakland be amended to (1) Establish the Office of Independent Police Oversight and Monitoring (“Office”); (2) Establish a Police Commission (“Commission”); (3) Create	Yes	
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the position of Independent Police Monitor to audit allegations of police misconduct; (4) Set standards and/or metrics for transparency, procedural justice and police/community relations; and (5) Repeal the ordinance which established the Citizen's Police Review Board?	No	
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;and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the November 8, 2016 election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 8, 2016 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES -
 ABSENT -
 ABSTENTION -

ATTEST:

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

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PUBLIC SAFETY COMMITTEE