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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Stephanie Hom  
Deputy City Administrator

**SUBJECT:** Police Commission Quarterly  
Report - Supplemental

**DATE:** March 28, 2019

City Administrator Approval

Date:

4/4/19

## RECOMMENDATION

**Staff Recommends That The City Council Receive A Quarterly Progress Report From The Oakland Police Commission.**

## REASON FOR SUPPLEMENTAL

At the Public Safety Committee on March 19, 2019, the Committee continued the subject of a Quarterly Progress Report from the Police Commission to its meeting of April 9, 2019 and requested that the City Administration provide a supplemental report addressing questions raised at the meeting.

## ANALYSIS AND POLICY ALTERNATIVES

The Police Commission was established by Oakland voters on November 8, 2016 in their approval of Measure LL that amended the City Charter.

The Oakland City Charter, adopted by the Oakland electorate, is the basic law of the government and represents the supreme law of the City of Oakland. Measure LL, the City Charter amendment, provides the Police Commission broad oversight over the Oakland Police Department's policies and decision-making authority of police misconduct findings and/or discipline when there is disagreement between the Police Chief and the Community Police Review Agency (CPRA).

Under the City Charter, the City Administrator is provided administrative authority over the departments and agencies created by City Council ordinance. Measure LL provided some exceptions to the City Administrator's administrative authority including the hiring and firing of the Police Chief and firing of the CPRA Executive Director. Measure LL also organizes the CPRA under the Police Commission.

The CPRA Executive Director is similarly situated to the Public Ethics Executive Director, also established through a City Charter amendment. Both Executive Directors are hired by the City Administrator from among two or three candidates submitted by the respective commission.

Item: \_\_\_\_\_  
Public Safety Committee  
April 9, 2019

Both Executive Directors serve at the pleasure of their respective commission and oversee a staff governed by the Civil Service.

**Status of Inspector General Position**

City Council Ordinance No. 13498 C.M.S. (i.e., Police Commission enabling ordinance) references a civilian Office of Inspector General (OIG) with a civil service Inspector General position reporting directly to the Police Commission. However, the City Attorney issued two opinions on this matter concluding that the City Charter does not grant personnel jurisdiction of the Inspector General to the Police Commission. The two opinions include the public opinion dated March 19, 2018 from Barbara J. Parker, City Attorney; and the public opinion dated June 14, 2018 from Karen Getman of Remcho Johansen & Purcell LLP. Both opinions are posted on the City Attorney's website at <https://www.oaklandcityattorney.org/Ops-Reps/Ops-Reps.html>.

The creation of a new Inspector General position requires two steps as follows:

1. Creation of the Inspector General class specification within the City of Oakland's Classification Plan. This step is under the jurisdiction of the Civil Service Board.

Status: Pending Police Commission request that the City Administration forward the draft Inspector General class specification compliant with the City Charter to the Civil Service Board for approval.

The Police Commission approved an Inspector General job description on October 11, 2018 (**Attachment A**). As written, the position reports to the Police Commission, consistent with Ordinance No. 13498 C.M.S., but in violation of the City Charter. To comply with the City Charter and working with the Human Resources Management Department (DHRM), the class specification was edited and scheduled for the Civil Service Board meeting of February 21, 2019 (**Attachment B**).

On February 20, 2019, Police Commission Chair Regina Jackson provided direction, at the request of Commissioner Ginale Harris, to delay the Civil Service Board consideration of the Inspector General class specification.

The City Administration recommends forwarding **Attachment B** to the Civil Service Board to create the Inspector General class specification. Once the Inspector General class specification is created, a recruitment process may be initiated. While the City Administrator would conduct the hire, the City Administrator would invite the Police Commission to participate in the interview panel; and ultimately, the Inspector General's work priorities would be established by the Police Commission.

2. Establishing the Inspector General position within the City of Oakland's Salary Schedule by City Council ordinance.

Status: Completed. The ordinance amendment to add the Inspector General position within the City of Oakland's Salary Schedule was heard at the Finance and Management Committee meeting on February 19, 2019, and introduced at the City Council meeting on February 26, 2019, with final passage of the ordinance on March 21, 2019.

**Status of CPRA Executive Director Position**

City Charter Section 604(e) states that the Executive Director of the CPRA shall be hired by the City Administrator from among two or three candidates submitted by the Police Commission. It also states that the Executive Director of the former Oakland Citizens' Police Review Board (CPRB) shall become the Interim Director of the CPRA, and all CPRB staff is transferred to the CPRA. This transition of the incumbent, Anthony Finnell, as the CPRB Executive Director to the Interim Director of the CPRA was effective December 16, 2017 (60 days after the City Council's confirmation of the first group of Commissioners). The first meeting of the Police Commission was held on December 13, 2017.

The following is a timeline of activities regarding the status of hiring a permanent Executive Director for the CPRA.

December 27, 2017	Police Commission established an Ad Hoc Committee to work with the City Administrator's Office to initiate a search for a permanent Executive Director.
January 24, 2018	Police Commission approved an updated CPRA Executive Director class specification and requested that the City Administrator's Office forward it to the Civil Service Board for approval.
February 15, 2018	Civil Service Board approved updated CPRA Executive Director class specification.
March 22, 2018	City Administrator's Office presented proposal to Police Commission to use Avery & Associates, a professional executive search firm with experience in hiring for civilian oversight organizations similar to the CPRA. The Police Commission declined using Avery & Associates and members requested that the City post the job announcement and that the Ad Hoc Committee of the Police Commission screen the candidates.
April 12, 2018	The City Administrator's Office/DHRM posted the CPRA Executive Director job announcement on the City's website.  The City Administrator's Office forwarded applications received on a regular basis to the Police Commission Ad Hoc Committee.
April 24, 2018 & August 23, 2018	Police Commission Ad Hoc Committee met with City Administrator's Office and DHRM to discuss hiring process and proposed evaluation criteria.
October 25, 2018	Police Commission voted to close the job posting on the City's website.  In total, 165 applications were received between April 12, 2018 and October 26, 2018.
November 9, 2018	Mr. Finnell's last day of employment as the Interim Executive Director of the CPRA.
December 6, 2018	City Administrator appoints Karen Tom to serve as Interim Executive Director of the CPRA.

March 27, 2019	Approximately 30 viable candidates identified by the Ad Hoc Committee were sent to the City Administrator's Office.
March/April 2019	City Administrator's Office will be contacting candidates to gauge continued interest, and will work with the Ad Hoc Committee to schedule interviews.

**Status of CPRA Complaint Investigators Positions**

City Charter Section 604(e)4 states that the CPRA staff shall consist of at least one line investigator (Complaint Investigator II) for every 100 sworn officers in the Police Department (rounded up or down to the nearest one hundred). In the Fiscal Year (FY) 2018-19 Adopted Budget, the number of sworn officers budgeted in the Police Department is 620 FTE. Thus, the number of Complaint Investigator II positions budgeted in the CPRA is 6.0 FTE.

The status of CPRA budgeted positions is as follows:

Position	FTE	Status as of March 25, 2019
Executive Director	1.0	Filled through interim appointment
Policy Analyst	1.0	Filled
Complaint Investigator III (Supervisor)	1.0	Hold. Former incumbent serving as Interim Executive Director
Complaint Investigator II	6.0	4.0 filled 2.0 vacant
Intake Technician	3.0	Filled
Office Assistant	1.0	Filled
Total:	13.0	

With respect to hiring for the vacant Complaint Investigator II positions, the following is a timeline of activities:

December 27, 2017	Police Commission placed a hiring freeze on all CPRA positions until a permanent Executive Director is selected.
April 12, 2018	Police Commission voted to direct the Interim Executive Director of the CPRA to hire a Complaint Investigator III.
February 28, 2019	Police Commission voted to lift hiring freeze on all vacant CPRA positions.
March 2019	CPRA working with City Administration and DHRM to post and advertise Complaint Investigator II job announcement.
June/July 2019	Target timeline for Complaint Investigator II interviews and/or hires.

**Additional Support for the Police Commission**

City Charter Section 604(e)5 states that, "The City Administrator shall assign a staff member to act as liaison to the Police Commission and to provide administrative support to the Commission." On March 27, 2018, the City Administrator communicated to the Police Commission her assignment of a City Administrator liaison to the Police Commission.

In addition, City Council Ordinance No. 13498 C.M.S. Section 2.45.180 states that, "At a minimum, the City Council shall allocate the equivalent of an additional one-half of a full-time administrative position (0.5 FTE) to the City budget for the purpose of providing adequate administrative support for the Commission." In the FY 2018-19 Adopted Budget, 1.0 FTE Administrative Analyst II was budgeted to provide administrative support for the Commission. The City Administrator's Office conducted a recruitment with the current incumbent starting in the position on November 19, 2018. The incumbent resides in the City Administrator's Office, reporting to the City Administrator liaison to the Police Commission, works closely with the Interim CPRA Executive Director and provides administrative support for the Commission.

**Training for the Police Commission**

The following is a list of trainings that has been provided to the Police Commission since its first meeting in December 2017:

Subject <sup>1</sup>	Date(s)	Provider
Measure LL Overview & Analysis	January 18, 2018 January 31, 2018	City Attorney's Office
CPRA Orientation	January 22, 27, and 30, 2018	CPRA Staff
OPD Organization Structure and Daily Operations	February 10, 2018	Police Department
OPD Internal Affairs Investigations and Police Officer Discipline	February 10, 2018	Police Department
Procedural Justice	February 10, 2018	Police Department
National Standards of Constitutional Policing (including Use of Force, Arrest, Search and Seizure, and Free Speech)	February 10, 2018	Police Department
Office of Inspector General Overview of Responsibilities	February 10, 2018	Police Department
Body Worn Camera Policy	February 28, 2018	Police Department
California Public Records Act	July 26, 2018	City Attorney's Office
Negotiated Settlement Agreement	April 26, 2018	Jim Chanin, Civil Rights Attorney
California Brown Act & Sunshine	May 10, 2018	City Attorney's Office

<sup>1</sup> Due to absences and/or turnover in Police Commissioners and Alternate Police Commissioners, some incumbent Commissioners may not have attended or received all of the listed trainings.

Ordinance		
Constitutional Civil Rights	June 14, 2018	John Burris, Civil Rights Attorney
Implicit Bias / Racial Profiling	June 28, 2018	Neighbors for Racial Justice
OPD Ride-Along	Various dates	Police Department
2018 Annual NACOLE Conference in St. Petersburg, Florida (attended by five Commissioners)	September 30 - October 4, 2018	NACOLE (National Association for Civilian Oversight of Law Enforcement)

In addition, three Commissioners have completed the training required to serve on a Discipline Committee. The City Attorney's Office organized this required training as follows:

Subject	Provider
Module A: Personal Digital Recording Device Policies Use of Force Policy	Police Department
Module B: IAD – Discipline Risk Management	Police Department
Module C: Confidentiality of Personnel & Other Records Enabling Ordinance Principles of Due Process Administrative Hearing Procedures	City Attorney's Office
Module D: California Political Reform Act & Oakland Conflict of Interest Code Briefing on NSA & Court Related Orders	City Attorney's Office

The following trainings are required under City Council Ordinance No. 13498 C.M.S. and have not yet been scheduled:

- California's Meyers Miliias Brown Act (MMBA)
- Public Employment Relations Board's administration of the MMBA
- Memoranda of Understanding with the Oakland Police Officers' Association and other represented City employees
- City's Civil Service Board and other relevant City personnel policies and procedures
- California's Public Safety Officers' Procedural Bill of Rights Act (POBAR)

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Receive A Quarterly Progress Report From The Oakland Police Commission.

For questions regarding this report, please contact Stephanie Hom, Deputy City Administrator, at (510) 238-7542.

Respectfully submitted,



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STEPHANIE HOM  
Deputy City Administrator

Attachments (2):

- A. Inspector General Job Description approved by the Police Commission
- B. Inspector General Class Specification compliant with the City Charter