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June 14, 2016

STAFF REPORT ON A RESOLUTION SUBMITTING ON THE COUNCIL'S OWN MOTION A PROPOSED CHARTER AMENDMENT 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 CITIZEN'S 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.

Dear Fellow City Councilmembers,

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. It is the desire of the City of Oakland – its elected leadership, and the City Administrator and Chief of Police -- 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, to ensure that the Oakland Police Department is a national leader in unbiased policing, procedural justice and positive police-community relations

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 early warning signs of officers in need of intervention and additional training, enhanced and improved systems for the investigation of complaints related to officer conduct, and has established systems to strictly monitor officer performance and promptly and appropriately discipline officers who violate rules and policies or who fail to report rule-breaking by others.



As the City of Oakland edges closer and closer to compliance with the Negotiated Settlement Agreement, it is time that we develop a comprehensive and holistic strategy to maintain critical reforms in police oversight and to continue to build upon them. We believe that in order to effectuate true and sustained change in the Oakland Police Department (“Department”), we must look at all of the root causes and their component parts.

Sustained, transformative behavioral change in the Department is not easy. It requires a substantial commitment of political will and of public funds. It requires that we take a hard look at what causes police misconduct and what it takes to create authentic community trust.

Our strategy requires simultaneous investments of City resources into four critical pillars:

- (1) Accountability** – Ensure the City takes all reasonably practicable steps to impose and uphold effective, consistent and fair disciplinary actions.
- (2) Transparency** – Create structure requiring police accountability and oversight bodies to interact and communicate consistently and with greater transparency requiring timely notifications to the public.
- (3) Police Hiring, Training and Education** – Create a personnel management structure to sustain cultural and behavioral change in the Department focusing on hiring practices, training requirements and continuing education.
- (4) Community Engagement** – Police officers respect and are accountable to the community they protect; therefore we must prioritize community involvement in all aspects of police strategy, with an emphasis on healing and restorative justice.

The Federally-appointed Monitor and the Court-Appointed Investigator have made clear that this responsibility lies with the Chief of Police. However, it must be acknowledged that in the Court-Appointed Investigator’s second report, dated March 21, 2016, the City Council was urged to do more to proactively address issues of sustained police oversight.

### **Our Process**

To provide some background on this proposal, we had been working on the development of a proactive solution addressing our long-term concerns on police oversight before the Investigator’s March report. Our proposal, indicative of the seriousness with which we view the issue of police oversight, is comprehensive. It has been thoughtfully developed with a wide range of stakeholders and is absolutely an indication of the Council’s proactive approach to uncovering police misconduct or unsound policing practices when they exist, curing them and sustainably fixing any root causes of the behavior. Going beyond this approach of looking at problem behaviors however, this proposal attempts to create a holistic structure and intention around hiring, training, leadership development, community engagement and mediation for trust-building in the community to encourage, support and sustain police officers as guardians in the community.

Seeking to better understand how to address all of these issues, we have met with key stakeholders and incorporated the feedback we’ve received from community advocates, faith leaders, the City Administrator’s office, the City Attorney’s office, Department leadership, police oversight experts, leadership from local educational institutions, and others into the

proposal you see today. Throughout this process, our goal has remained to create a structure in which sustained cultural and behavioral change in the Department is not only likely but inevitable.

The following is a description of our proposal for four strategy areas: Accountability, Transparency, Police Education, Hiring and Training, and Community Outreach. Investment into each of these pillars is critical to the success of this Charter Amendment.

**1. ACCOUNTABILITY** – Ensure the City takes all reasonably practicable steps to impose and uphold effective, consistent and fair disciplinary actions.

To create a system in which police accountability is consistently evaluated each and every day by a professional, trained, and independent expert, we will take four legislative steps, taken in the following order:

**(1) Establish Office of Independent Police Oversight and Monitoring (“Office”)**

Creating an independent body whose sole task is to create positive behavioral change within the Department will provide us with a central nervous system for our efforts. This role has been, for the last 13 years, filled by the Negotiated Settlement Agreement and the Federally-appointed Monitor. Although this role may seem duplicative in the near-term, in order to demonstrate the City’s capacity to manage this critical responsibility in the long-term, we must establish this Office as soon as possible and offer it the support that it needs to succeed.

**(2) Hire Independent Police Monitor (“Monitor”)**

The Office will be led by the Monitor, who will be tasked with making disciplinary decisions, conducting audits of investigations on allegations of police misconduct, monitoring disciplinary processes, hiring, training and education norms, making policy recommendations to City leadership and coordinating all four elements of the City’s police oversight strategy.

To select a Monitor, the City Council Rules Committee will establish a selection panel comprised of five members, including panelists ranging from police accountability advocates, NCPC representatives, faith based leaders, and members of the Community Policing Advisory Board and Safety and Services Oversight Committee. Each of the City Council Rules Committee members will select one panelist and the Mayor will select the fifth panelist.

The Mayor will then submit no fewer than eight proposed candidates for the Monitor position to the selection panel and the panel will publicly recommend three of those proposed candidates to the Mayor. Of the three candidates, the Mayor will select the Monitor whose appointment must be confirmed by the City Council. The Monitor, who may be terminated by the Mayor, will be in a director-level position on par with the Police Chief and will have access to all Police Department data.

The Monitor is the individual Oakland residents can turn to in times of Department-mistrust and is accountable to the people through his or her removal by the Mayor. It is critical that in

addition to a civilian oversight body, the Police Commission, residents are able to identify one leader who maintains complete authority over the most serious disciplinary decisions within the City. This mechanism for direct leadership provides residents with one person to communicate with, who both is an expert in this field and has authority to bring about change.

The following duties and authorities are therefore given to the Monitor:

Monitor's Reporting Duties:

- Monitoring and oversight of City processes in order to support constitutional policing in six core component areas: *Uses of force, Supervisory ratios, Training, Stop data, Early Intervention Systems and Discipline.*
- Issuing reports and policy recommendations on an at least semi-annual basis to the City Council, Mayor and City Administrator, addressing 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 and updates to police policy, and police personnel trainings.
- Developing an Office of Independent Police Oversight and Monitoring Manual, incorporating best practices for implementing the responsibilities given to the Office, the Police Commission, and the Police Commission's Investigations Bureau.
- Evaluating Investigation Bureau staff capacity and making recommendations to the City Council regarding what level of resource allocation is needed.
- Designing and implementing a mandatory orientation for Commissioners within one year of the beginning of his or her service, enlisting the assistance of law enforcement, the local legal community, human resources experts and Oakland community members to maximize Commissioner expertise.<sup>1</sup>

Monitor's Duties of Receipt:

- Receive briefing from the Chief of Police on at least a monthly basis on all allegations of police officer misconduct and all serious incidents involving sworn OPD employees, on-duty or off-duty.
- Receive reports from the Police Commission upon Commission and Investigatory Bureau's completion of each case.
- Receive requests from the Mayor, City Administrator or by affirmative vote of the majority of City Council members for audits and investigations of the investigations that have been undertaken by either the Investigatory Bureau or by the Internal Affairs Division of the Police Department or both.<sup>2</sup>

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<sup>1</sup> Expertise regarding the following: OPD history, historic OPD 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.

<sup>2</sup> If it appears that any case may have potentially fallen through cracks in the City of Oakland's police oversight system, this is a function the City Council believes to be particularly important in ascertaining where exactly the investigatory and disciplinary processes are falling short.

- Collect input to improve the police policies and practices, trainings, and the discipline process at least annually, by seeking recommendations from the Police Commission, Police Department's Internal Affairs Division and Office of Inspector General, Skelly officers, Supervising officers, attorneys, and others closely involved in matters within the Office's jurisdiction.

Monitor's Powers/Authority:

- Power to audit any and all allegations of police misconduct and all Serious Incidents (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).
- Authority to manage all Office staff and supervise personnel.
- Power to attend all Police Commission meetings, examining witnesses as he or she deems necessary.
- Authority to make final disciplinary decisions on cases in which the Police Department has recommended an amount of discipline greater than five days' suspension and/or the Police Commission recommends discipline.
- Right to attend any discipline arbitration and any Skelly hearing he or she would like to attend.
- Right to audit the Police Department and the Commission to develop and sustain a fair, consistent and predictable process, measuring their performances at various points in the process of discipline, including but not limited to intake, investigation, Skelly hearings, and arbitration.

In order to effectively complete the tasks we are assigning to the Monitor, he or she will need sufficient staffing, including administrative staffing, policy analysis staffing, and auditing staffing. This individual will have access to all investigatory materials from both the Internal Affairs Division of OPD and OPD's Office of Inspector General.<sup>3</sup>

**(3) Establish A Police Commission**

The current body responsible for Oakland's civilian oversight of the Department is the Citizens' Police Review Board (CPRB). The current CPRB, a board of nine members, is tasked with "providing the community with a public forum to voice its concerns on policy matters and individual cases alleging police misconduct, through a mechanism of independent, impartial, fair, and transparent civilian oversight."<sup>4</sup>

We will replace the CPRB with a robust Police Commission ("Commission"), with a specific list of desired qualifications for membership including significant experience in the fields of management, policy development, law, investigations, law enforcement, youth representation, and human resources, as well as representation from communities that experience the most frequent contact with the Department. We also mandate an increased level of mandatory training for all Commissioners, which would include but not be limited to training in procedural justice,

<sup>3</sup> Note: the proposed Charter Amendment does not remove any IAD function.

<sup>4</sup> <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CPRB/index.htm>

implicit bias, crisis intervention, Peace Officer Standards and Training (“POST”) Domains 15 and 16 (arrest, and search and seizure procedures) as well as bi-annual ride-alongs with the Department.

Youth Commissioners would receive a stipend for his or her attendance of meetings and the Commission will be provided with an annual budget for on-going training and education of Commissioners. This emphasis on and investment in training, education and increased requirements for relevant experience will help to increase the capacity and skill-level of this citizen’s body. In turn, the Monitor will be provided with a stronger independent viewpoint as he or she deliberates over the disciplinary recommendations of both the Commission and of the Internal Affairs Division of the Department. This increase in quality will also translate into a greater evidentiary record, an increased quality of questioning and professional-level information gathering for the City to rely on in arbitration proceedings.

The Commission will have complete discretion over which cases it chooses to review, voting to hear or not hear cases as it sees fit, and as a result, will be better able to adjust its own workload as is necessary. This nine-member body will be appointed by City Councilmembers and nominated by the Mayor and will be entrusted with the duty of reviewing the most serious allegations of police misconduct, hearing testimony, questioning witnesses and recommending discipline on these cases directly to the Monitor and City Administrator.

With each Commission disciplinary recommendation, the Monitor brings the Commission’s recommendation to a meeting with the City Administrator and representatives of both the Police Department and the Police Commission in a joint conference.<sup>5</sup> After the conference takes place, the Monitor will consult with the City Administrator and the Monitor will have the authority to make a final disciplinary decision.

This same system of disciplinary decision-making will apply for cases in which the Police Department has recommended any amount of discipline greater than five days’ suspension. As mentioned above, this process is already underway, but the final decision-maker is the City Administrator. Although the City Administrator would continue to be present during this process, this legislation would shift the final decision-making power from the City Administrator to the Independent Police Monitor. The Commission’s role in making strengthened, reasoned recommendations to the Monitor will be critical to the Monitor in this process.

In light of the fact that the Monitor and City Administrator will be present and party to these deliberations, with the passage of this Charter Amendment, the City Council requires that the Monitor and City Administrator attend the same robust level of mandatory training that all new Commissioners attend.

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<sup>5</sup> Under the existing disciplinary decision-making system, these conferences take place with the same parties represented except that a representative of the CPRB attends this meeting instead of a representative of the Commission and with the exception of the Monitor.

#### **(4) Increased Emphasis on Investigatory Bureau**

The City will support police accountability through proper resource allocation to investigations of police misconduct. Throughout our conversations with experts in civilian oversight of law enforcement, it was clear that the heart of police oversight and monitoring lies in the quality of the investigations of police misconduct. If the City misses this window of opportunity to handle a case properly from the very beginning, that opportunity is lost, and the solutions needed in that situation, whether that be discipline, education, additional training or mediation, are more challenging to implement. As a result, we place a heavy emphasis on sufficient staffing of this investigatory body.

To understand what types of supports are needed, the Monitor's first task will be to evaluate current CPRB staff capacity and make a recommendation to the City Council regarding resource-needs for investigations. The Monitor will be asked to work closely with the current CPRB Executive Director to identify these levels of resource-allocation. With the Executive Director's help, the Monitor will inform the City Council of what is needed to reach a sufficient level of resources, investigators, policy analysts, legal staff, and administrative support staff, properly supporting the Office of Independent Police Oversight and Monitoring's investigations.

The Commission will then have the authority to review any case it chooses to review by a majority vote including but not limited to officer-involved shootings and cases of death and/or serious bodily harm in police custody, citizen complaints brought to the Commission which the Investigatory Bureau's Executive Director deems appropriate for Commission review, and any case referred to the Commission by the Independent Monitor. As is the case with the Citizen's Police Review Board, the Executive Director of this Investigatory Bureau will open an investigation on every case in which it is alleged that there has been an officer-involved shooting or death in police custody. We understand that the current Executive Director has tended to act in this way. However, through this Charter Amendment, the City Council will codify this mechanism for ensuring that investigations take place every time an allegation rises to this level of seriousness.

**2. TRANSPARENCY** – Create structure requiring police accountability and oversight bodies to interact and communicate consistently and with greater transparency to the public.

The second element of our strategy is a significant increase in transparency on all matters related to police behavior. We will restore community trust by increasing the level of information sharing between the City and community by placing a consistent and reliable communication structure into place. Three changes to the City's transparency policy will go into effect: (1) require regular reports to the community and (2) establish a "Right to Know" Policy for allegations of serious misconduct in which privileges of confidentiality are systematically evaluated.

##### **(1) Regular Reports to Community**

At least semi-annually, the Monitor will report to the City Council with two sets of data. First, the Monitor will report complaint and disciplinary data from the Office (summarizing the work

of the investigatory staff and the Commission) and IAD, including the following: number of total complaints, the date of each complaint, whether the Department recommended discipline, whether supervisory accountability was assessed, whether that discipline was sustained, and the final disciplinary action taken, if different from what the Department had recommended. For those complaints which are closed and discipline has been implemented, the Monitor will report on whether the discipline was in line with or less than what is recommended in the Department's discipline matrix and previous sanctions, closely evaluating and comparing levels of discipline across cases.

Second, the Monitor will report on all data and trends regarding Police Department training and education. Specifically, he or she will inform the Council of the percentage of officers that have received the following trainings: Procedural Justice, Implicit Bias and Crisis Intervention and De-escalation training and Job-related Stress Management. Along with this data, the Monitor will provide insight into any trends he or she sees regarding connections or the absence of connections between training and/or education and involvement in allegations of police misconduct and sustained findings of police misconduct.

## **(2) Establish "Right to Know" Policy**

Residents have a clear need for access to reliable sources of factual information when serious allegations of police misconduct occur. This provision helps to make clear to community members that this type of information will be shared on a consistent basis, as permitted by law, with the fewest number of questions left unanswered as possible.

Under the Right to Know Policy, when a Serious Incident is alleged, the Chief of Police will notify the Monitor immediately and provide two status reports to the Monitor in the coming days and weeks.

Before sharing information with the public, the Monitor will work with the Mayor and City Administrator to evaluate the City's capacity to waive privileges and exemptions to public records requests as may be appropriate.

After the Monitor has been briefed by the Chief and evaluated the possible waiver of privileges and exemptions, the Monitor will share as much information with the public he or she legally is able at the earliest possible date. The notification will be posted on the City website, and made accessible on the Office's homepage. If individuals experience any difficulty in gaining information from the Department or from any other Office, or prefer not to engage with the Department during a time of sensitivity, community members will be able to contact the Monitor with any questions and concerns with the confidence that the Monitor will have updated information.

## **3. POLICE HIRING, TRAINING AND EDUCATION – Create a personnel management structure which sustains cultural and behavioral change in the Department.**

In an effort to ensure that the Oakland Police Department maintains, upholds and strengthens its system of police discipline, it is vital that we incorporate the following sections when discussing



police accountability and transparency. According to many experts in the fields of procedural justice and implicit bias, in order to drive behavioral change throughout the Police Department you must begin by changing the culture from within by implementing an emphasis on procedural justice training programs as well as investing in the current employees by offering continuing education to our officers.

### **(1) Evaluation of Hiring Practices**

At least once each year, the Monitor will be tasked with evaluating hiring practices on several levels. He or she must evaluate specific standards currently in place, the timeline expected by hiring staff, whether or not those conducting hiring are adhering to those standards and whether the hiring timeline may be problematic for any reason.

The context for the assignment of this task to the Monitor lies in the fact that Oakland is currently aiming to increase its force to approximately 800 officers. Although there are many who wish to reach this goal quickly, it is critical that we maintain oversight over whether or not the interest in reaching a greater number results in problematic hiring decisions in any way. The Monitor's analysis here will be extremely valuable.

### **(2) Ensure All Officers Receive Critical Trainings**

The City will increase its emphasis on providing the following trainings to all officers (command staff, rank and file and new hires): Procedural Justice Training; Implicit Bias Training; Crisis Intervention and De-escalation Training; and Job-related Stress Management.

These trainings are placed in high regard. As such, the Department will be required to assess an individual officer's level of completion in these trainings as part of the promotional decision-making process. The Monitor will share as much data as possible, within the bounds of State and local personnel and privacy laws, regarding the status of Departmental training and education with the public in his or her reports.

### **(3) Increase Frequency of Post-Training Coaching**

Within one year of the passage of this Charter Amendment, the Department and Monitor will establish what level of budgetary increase is needed to provide more frequent training updates, also known as refresher courses, to all officers, including post-training coaching and annual re-training (re-certification). These refresher courses would apply to all of the aforementioned trainings in order to effectively sustain Departmental behavioral change. Specifically, trainings with a strong emphasis on in the field problem-solving, diplomacy and de-escalation will be prioritized.

In order to satisfy the requirements outlined in this pillar of the Oversight and Monitoring Strategy, the Department must work with the Office to ensure that its databases track all forms of officer training, whether as a result of academy, supervisor request, or discipline, in a centralized and easily searchable location, accessible to the Monitor. The records should identify the topics

of each training and the trainer. The Department should also make every effort to ensure materials for related trainings are easily identified and accessible.

#### **(4) Regular Reports to Community**

At least semi-annually, 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 Monitor.

#### **(5) Police Leadership Institute**

The Monitor shall be tasked with developing partnerships in order to create a Leadership Institute for Police Officers with a local higher education institution. The Police Leadership Institute is intended to identify and train officers early in their career, geared generally towards those with 3-10 years' experience, although not exclusively, to develop the next generation of OPD leadership. This program would provide a strong background in social sciences, criminology, law, research methods, and other skill sets suitable for leadership in a 21<sup>st</sup> Century Police Department. Officers would earn certificate upon completion of the program and, if practicable, college credits.

Local higher education institutions we have considered for this project include UC Berkeley's Goldman School of Public Policy, Stanford University and California State University, East Bay. Our ongoing conversations with these and other institutions will help inform the vision of this Institute.

**4. COMMUNITY ENGAGEMENT** – Community involvement in all aspects of police strategy with an emphasis on mediation, de-briefing, restorative justice, and overall healing.

One of the focus benchmarks of 21<sup>st</sup> Century Policing is building community trust. In order to improve relationships with communities who have experienced negative encounters with the Department, the Office must work with the Department to build and promote community trust. Together, the Department, the Office and community members will collaborate to design solutions aimed at building community trust. In addition, the Monitor will work to increase support for existing community engagement programs.

#### **(1) Establish Community Roundtable**

The first element of increased community engagement is the creation of consistent opportunities for the Department to interact directly with the community members who its efforts have an impact on. To provide this recurring opportunity, the Office will host Community Roundtable meetings. Participants will include representatives from the Department, community members from faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and formerly incarcerated members of the community.

This body will meet on at least quarterly basis, and will report to City Council at least annually with policy recommendations. The Office will have one designated staff person who is a liaison to this group, and both the City Administrator and the Mayor will have one designated staff person to work as liaisons to the Roundtable.

The Roundtables will be tasked with two objectives. First, the roundtable will be tasked with creating a space for ongoing dialogue. In order to strengthen communication between community members and officers, the Roundtable will provide consistent opportunities for conversation between officers and the community those officers serve.

Second, the community roundtable will design a restorative justice, debrief, and/or mediation component to the Department's work building and sustaining community trust. The Roundtables will be aimed at addressing the negative outcomes from most intensive and disruptive police actions such as the execution of home arrests, the execution of search warrants and SWAT Team actions, on the arrestees, their families, neighbors and other witnesses. It is of critical importance that the Department communicate to the community impacted by recent police activity as much information as possible about what occurred, why the Department acted as they did, and what community members can expect moving forward. Although there is agreement about the need for this type of follow-up among Department leadership, the City Council must take the next step and clearly define and codify engagement in this way.

It is important that the Community roundtable be connected to community policing and community safety efforts already in existence in the City of Oakland. Therefore, at least one representative from the Community Roundtable will attend Community Policing Advisory Board ("CPAB") meetings and one representative will be required to attend the Community Safety Partnership meetings. Maintaining connection between these distinct bodies will be highly valuable in meeting common interests.

## **(2) Enhancement of Community Policing Advisory Board**

The Monitor will work closely with the community-led CPAB to develop a robust mechanism for both informing the public of each of the three aforementioned efforts (See Strategies 1-4) and receiving feedback from community members re: impact/effectiveness of these simultaneous investments. The Monitor will also work with CPAB members to incorporate 21<sup>st</sup> Century Policing principals into the goals of the CPAB and help the body to amend their own enabling ordinance as necessary.

## **(3) Provide Departmental Incentives for Community Engagement**

In order to build community engagement into the Departmental culture, the Department will incorporate engagement with community-based and/or youth-focused organizations into both the Police Academy training curriculum and into promotional criteria for Department officers. This increased level of direct participation in local community groups' efforts is intended to help to bring greater awareness and appreciation to Oakland's officers and increase the frequency of positive community member-officer interactions in our City.

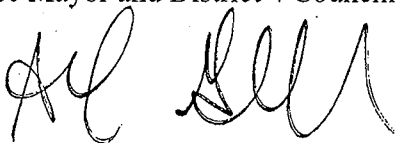
As we have stated, it is clear that sustained, transformative behavioral change in the Department will not be easy. It will require a substantial commitment from us as leaders and it will require that we rise to the call of our duties as legislators. This is one of the most important issues we will tackle in our time as Councilmembers, but we are confident that if we establish this Office and move forward with this plan, we will at last identify the root causes police misconduct, remedy those underlying issues and create authentic, long-term community trust.

Respectfully,



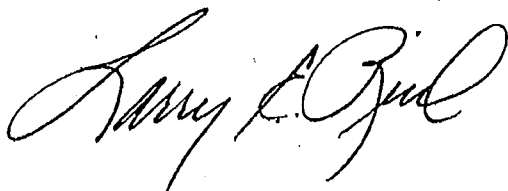
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Annie Campbell Washington  
Vice Mayor and District 4 Councilmember



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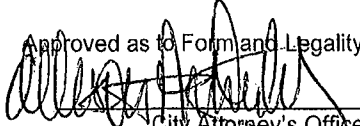
Abel Guillen  
District 2 Councilmember



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Larry E. Reid  
President Pro Tempore and District 7 Councilmember

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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

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**A Resolution Submitting on the Council's Own Motion a Proposed Charter Amendment 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 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: Repeal of Predecessor Ordinance**

Ordinance No. 12454 is repealed.

**SECTION 2: 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. 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, department management and leadership, and human resources.

**B. 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 Rules Committee members will select one (1) panelist. The Mayor will select the fifth (5<sup>th</sup>) panelist.

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. The Mayor shall submit no fewer than five (5) proposed candidates for the Monitor position to the selection panel. The panel then publicly recommends three (3) individuals as proposed candidates to the Mayor. The Mayor then makes his or her selection from the three (3) proposed candidates.

The Monitor shall then be nominated by the Mayor and 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.

**C. 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 shall then provide two status reports to the Monitor in the coming days and weeks. The first will take place within 10 days of the incident date. The second status report will take place within 45 days of the incident. 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 Chief of Police shall retain final authority to impose a five-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.

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. The Monitor's reports shall address each of the following: issues arising out of recent arbitration decisions, the City Attorney and the Police Department's efforts to support the police discipline process, strategies for improving the discipline and arbitration processes, recent developments in police discipline and 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.

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 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.

(d) 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.

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,. The Monitor shall maintain a record of these recommendations, which 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.

9. Developing an Office of Independent Police Oversight and Monitoring Manual, incorporating the responsibilities of the Monitor, the Commission and the Bureau described in this section and the best practices associated with implementation of such responsibilities.

10. 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.

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

12. Scheduling monthly meetings and inviting, to the extent permitted by law, all City of Oakland officials connected to police oversight and monitoring to attend, 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. Discussions will address:

- (a) Serious Incidents, as defined in this Charter Amendment;
- (b) Support for constitutional policing in core component areas: Uses of force, Supervisory ratios, Training, Stop data, Early Intervention Systems and Discipline; and
- (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.

13. The Monitor shall work closely with the Community Policing Advisory Board ("CPAB") to develop a robust mechanism to accomplish the following goals:

- (a) Inform the public of and keeping the public updated as to recent developments in each of the oversight and monitoring strategies identified in this Charter Amendment;
- (b) Receive feedback from community members regarding the effectiveness and impact of these investments of community funds; and
- (c) Incorporate 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. 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.

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

4. 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.

5. 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. Screening by the Rules Committee will specifically take into account the qualifications identified in Section 3(B)(3). A majority vote of the Rules Committee shall be needed to reject a nomination.

6. 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.

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

#### **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.

3. 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.

4. 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.

5. 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.

### **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

#### **D. 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.

#### **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 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 carried by six (6) votes overrule any decision under this provision made by the Special Counsel.

2. The hearing may follow an informal hearing procedure consistent with accepted practices of administrative procedure. 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 burden shall be placed upon the complainant to prove, by a preponderance of the evidence, the allegation(s) of the complaint.

4. 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.

5. 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.

6. 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.

7. 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.

## **F. 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. Both the City Administrator and the Monitor shall have the authority to hire and fire the Executive Director. . The Monitor shall have ultimate decision-making authority.

2. Staff for the Bureau will include but not be limited to a 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 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 participation at the National Association for Civilian Oversight of Law Enforcement annual conference.

##### **C. 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 24 hours a day, every day of the 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.

#### **D. Investigations**

1. The Chief of Police shall order all officers subject to subpoena to fully cooperate with the Bureau's investigation either (a) at the election of the officer; (b) by authorizing release of any and all statements the officer provided to the Police Department in its investigation of the below-mentioned complaint; or (c) 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, including police officer personnel records, that is being investigated by the Bureau shall be made available to the Bureau and the Commission, through the Bureau's 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 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 and as permitted by law, 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 that discipline was sustained;
- (f) The final disciplinary action taken, if different from what the Police Department had recommended; 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 is 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. Specifically, 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 of Serious Incidents.

## **B. Establish "Right to Know" Policy**

1. When a Serious Incident is alleged or appears to have occurred, the Chief of Police shall notify the Monitor immediately. The Chief shall then provide two status reports to the Monitor in the coming days and weeks. The first will take place within 10 days of the incident date. The second status report will take place within 45 days of the incident.

2. 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.

3. 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. The notification will be posted on the City of Oakland website, and made accessible on the Office's homepage.

### **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. In order to satisfy the requirements outlined in this Section 6, the Police Department shall work closely with the Office and the Monitor to ensure that its databases track all forms of officer training, police policy and education, whether as a result of voluntary education, academy, supervisor request, command staff determination and/or discipline, in a centralized and easily searchable location, accessible to the Monitor. As to training, the records shall identify the topics of each training and the trainer. The Police Department shall also ensure materials for related trainings are easily identified and accessible.

#### **A. Evaluation of Hiring Practices for Sworn Department Personnel**

At least once each year, the Monitor shall evaluate the following with regards to Oakland Police Department hiring practices:

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 Police Department shall provide the following trainings to all officers (command staff, rank and file and new hires):

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

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)(2) for additional detail.

### **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 subject areas listed in Section 6(B) in order to effectively sustain adequate police officer training. The goal of this ongoing professional training should be that each officer receives at least 40 hours of the trainings listed in Section 6(B) every twelve (12) to eighteen (18) months.

2. The Monitor shall prioritize trainings with a strong emphasis on situational problem-solving, diplomacy and de-escalation.

3. 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. The Institute program 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 will earn a certificate upon completion of the program and, if practicable, college credits.

## **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. 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. 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 distribution of Roundtable participation and who is invited to participate in Roundtable meetings. Participants 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.

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.

(i) These community trust-building activities shall be specifically, but not exclusively, aimed at addressing 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.

(ii) 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.

(iii) This program will place a heavy emphasis on 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.

(c) 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.

### **B. Provide Departmental Incentives for Community Engagement**

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

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

### **SECTION 8: Additional Items**

1. 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 Sections 2(D)(8) and Section 3(B)(5) for specific requirements.

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

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

4. 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 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 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?	Yes	
	No	

;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