

2020 JAN 2 PM 2:56

FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

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Date: January 2, 2019
To: Members of City Council and Members of the Public
From: Council President Kaplan
Re: File No. 18-2538
**RESOLUTION CLARIFYING THE PROCESS FOR OVERSIGHT OF THE
POLICE COMMISSION**

Dear Colleagues on the City Council and Members of the Public,

In July 2018, when the City Council approved the enabling legislation (Ordinance 13498 C.M.S.) to create a Police Commission, which was the will of the voters through Measure LL, the legislation specifically quoted the National Association for Civilian Oversight of Law Enforcement as rationale for the need for a civilian police commission and listed as the top recommendation:

“independence from the executive branch of government.”

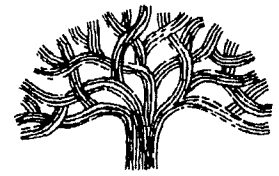
The City Council must ensure that our policies protect and support the independence of a police commission and that the body they are charged to oversee, the Oakland Police Department, does not engage in any actions that may be construed as harassment or intimidation of Police Commissioners nor overstep by assuming the powers granted to the legislative body of removing a Police Commissioner.

As Section 604.C.10 of our City Charter states:

“The City Council may remove members of the Commission for cause as provided in Section 601 of the Charter, or members of the Commission may be removed by a majority vote of the Commission only for conviction of a felony, conviction of a misdemeanor involving moral turpitude, a material act of dishonesty, fraud, or other act of moral turpitude, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular Commission meetings or five regular meetings in a calendar year except on account of illness or when absent by permission.”

As the attached article indicates (‘Attachment A’), the City Administrator has moved forward to carry on an outside investigation of a police commissioner, and there is no corresponding Council legislation, motion, or budgetary action to support this.

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

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In this Resolution, I am asking the City Council clarify that Resolution No. 87759 C.M.S. prohibits funds to be used for investigative actions against Police Commissioners by the City Administrator or Chief of Police.

Attached please also find a news article describing the events surrounding the investigation.

For questions regarding this report, please email Bobbi Lopez, Policy Director for the Council President, at blopez@oaklandca.gov or call at 510.238.7082.

Sincerely,

Rebecca Kaplan
Oakland City Council President

DRAFT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2020 JAN -2 PM 3:05 **OAKLAND CITY COUNCIL**

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT KAPLAN

RESOLUTION CLARIFYING THE PROCESS FOR OVERSIGHT OF THE POLICE COMMISSION

WHEREAS, the Charter of the City of Oakland, specifies that it is the Oakland City Council which holds the authority to remove members of Commissions for cause; and

WHEREAS, Oakland’s Charter and laws do not give the Administration, nor the police chief, the power to remove members of the Police Commission; and

WHEREAS, a communication from Oakland’s Police Chief notified the Chair of the Police Commission, of the Chief’s intent to turn over information and launch an investigation with the Mayor, City Administrator, and City Attorney in an investigation of a police commissioner; and

WHEREAS, the City Administrator has hired an outside investigator to investigate a member of the police commission, but there is no record of the Council authorizing such an expenditure, nor any record of the Council being notified of such an action nor of the Council approving it; and

WHEREAS, Section 604.C.10 of the Oakland City Charter created the Oakland Police Commission and outlined that “the City Council may remove members of the Commission for cause as provided in Section 601 of the Charter, or members of the Commission may be removed by a majority vote of the Commission only for conviction of a felony, conviction of a misdemeanor involving moral turpitude, a material act of dishonesty, fraud, or other act of moral turpitude, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office;” and

WHEREAS, nowhere in the formation of the Police Commission is the power to investigate a Police Commissioner vested with the Chief of Police or the City Administrator; and

WHEREAS, such an action by the Chief of Police or Administrator, to investigate a member of the Police Commission, which was formed “to investigate complaints of police misconduct and recommend discipline,” could be construed as a form of harassment, intimidation, and retaliation as the Police Commission has the power under Section 604.B.10 “to remove the Chief of Police;” and

WHEREAS, an effective and well-functioning independent police commission is a vital tool in strengthening trust and accountability to improve community-police relations and is a necessary tool to combat misconduct and abuse of power that led to federal oversight of the department; and

WHEREAS, the voters of the City of Oakland overwhelmingly approved the creation of an independent police commission, with the intention that it would not be controlled or overseen by the Chief of Police nor by the Administrator nor by any former chief of police; and

WHEREAS, on June 24, 2019, Resolution No. 87759 C.M.S. authorized the biennial budget for Fiscal Years 2019-2021 and appropriating certain funds to provide for the expenditures proposed by said budget and did not allocate funding to the Administrator nor Chief of Police to hire investigators to pursue the police commission; now, therefore, be it

RESOLVED: That the City Council reiterates the importance of an independent police commission and that neither the City Administrator nor the Chief of Police are authorized to engage in any actions against Commissioners, nor are they authorized to assume the powers granted to the Council, the ethics commission, or the police commission; and be it

FURTHER RESOLVED: That the City Council hereby amends Resolution No. 87759 C.M.S. to expressly prohibit funds to be used to fund investigative actions against Police Commissioners by the City Administrator or Chief of Police; and be it

FURTHER RESOLVED: That the City Administrator shall not conduct an outside investigation of any police commissioner without Council authorization.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND
PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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

<https://www.patreon.com/posts/31880629>

Nov 26 at 5:18pm

In Questionable Move, OPD Chief Anne Kirkpatrick Appears to Investigate Police Commissioner Harris

According to Kirkpatrick's Statements, OPD Internal Affairs is also involved. Phil Matier, reporter for the San Francisco Chronicle, was then contacted by an unknown party with information about Harris

OPD Chief Anne Kirkpatrick involved herself, OPD Internal Affairs and the Police Commission Chair in a San Francisco police matter that concerned Oakland Police Commission Vice-Chair Ginale Harris, a source with knowledge of the events says. The incident in San Francisco did not involve arrest or charge and was initiated by a 911 call from Harris, who was prevented from picking up her child at Mission Preparatory School by the school's Executive Director, Kristine MacDonald and other staff members. Harris alleged that MacDonald had become physical with her during the encounter but did not press charges. SFPD Sgt. Jeffrey Aloise at the scene at the November 14 incident allegedly told Harris that "this could get back to Oakland...you know we look out for each other," according to the source.

Kirkpatrick involved herself in the matter by receiving information purportedly about the incident from at least two sources, and then contacting Police Commission Chair Regina Jackson by both phone and email to relay it. In the November 19 email to Jackson, Kirkpatrick mentioned an "anonymous" call to Internal Affairs that had apparently been conveyed to her. Kirkpatrick also included the SFPD police report from the November 14 incident in the email. It's unclear where Kirkpatrick obtained the SFPD police report, but in the email Kirkpatrick states that it was made available to her separately from the "anonymous" call to IA. Internal Affairs has no role in investigating the Oakland Police Commission or its members, nor does Kirkpatrick.

Within a day of learning of Kirkpatrick's actions from Chair Jackson, Harris received an email from the San Francisco Chronicle reporter Phil Matier on November 20. Matier claimed he had been contacted by an anonymous party with a version of the November 14 incident and was looking for a response from Harris-- Matier later sent Harris a copy of his reporting draft, implying that Harris had missed the window to comment due to his deadline. Matier's draft is tilted against Harris and implies she attempted to use her status as an Oakland Police Commissioner to sway the outcome of the interaction.

The move by Kirkpatrick follows months of investigations against Harris, many of which appear spurious. The Public Ethics Commission recently dismissed a public ethics complaint about Harris concerning an interaction at the CPRA while it was headed by interim director, Karen Tom. The Commission found that all of the allegations in the complaint were unsustainable. At some point as well, the City Administrator in an unorthodox move, contracted an outside investigator to pursue allegations about Harris.