



CITY OF OAKLAND

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COUNCILMEMBER LOREN TAYLOR  
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**AGENDA MEMORANDUM**

Date: May 7, 2020  
To: Members of the City Council and Members of the Public  
From: Councilmember Loren Taylor  
Subject: Police Commission Charter Amendments

Colleagues on the City Council and Members of the Public:

Please find below my proposed revisions to the Measure LL Charter Amendment that was submitted to the Clerk on April 27, 2020, by the City Attorney. The purpose of these suggested enhancements is to reinforce the strength and independence of the commission while also acknowledging the professional training and experience of OPD's Leadership in managing the operations of a law enforcement organization. What I have captured below attempts to strike the critical balance between empowering the professional employees of OPD to nimbly and serve our residents while also ensuring the strong independent oversight required to guard against the abuse/ misuse of the power and authority that officers are granted to keep our communities safe.

The proposed improvements allow for potential expansion of the Commission's scope regarding proposing new policies/ changes (604(b)4) while maintaining the current scope when it comes to approving/denying policy changes initiated by the Police Department (604(b)5). It also acknowledges that for areas in which scope has been expanded, City Council inaction should default to the existing OPD policy. Lastly, I am also proposing that the police commission receive a performance audit every two years to ensure their effectiveness and continuous improvement.

I respectfully ask for your support in incorporating these changes into the final amendment language on May 12th.

Sincerely,

Loren Taylor  
Councilmember District 6

Item: 20-0140  
City Council Meeting  
May 7, 2020



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## Proposed Changes:

### 1. 604(a)5

- **Add:** “Thereafter, The City Auditor shall conduct a performance audit of the commission and the Agency every two years”

**Rationale:** *We need to formalize a regular cadence of performance reviews for the Commission to ensure they are operating as intended.*

### 2. 604(b)4

#### • Replace existing section with the following:

- a) Propose changes, including modifications to the Department's proposed changes, to any policy, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect at the time this Charter Section 604 takes effect ~~for so long as such federal court orders and settlements remain in effect. After the termination or expiration of such federal court orders and settlements and upon the Commission's recommendation made by no fewer than six (6) affirmative votes, the City Council may authorize or de-authorize the Commission, by ordinance passed by no fewer than six (6) votes.~~ All such proposed changes and modifications shall be submitted by the Commission Chair or his or her designee to the City Council for approval or rejection. If the City Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, the Commission's changes or modifications will become final.

- b) After the termination or expiration of such federal court orders and settlements and upon the Commission's recommendation made by no fewer than six (6) affirmative votes, the City Council may authorize or de-authorize the Commission, by ordinance passed by no fewer than six (6) votes, to propose changes, including modifications, to the Department's proposed changes to other categories of policies, procedures, customs, or General Orders of the Department which govern the subject matter recommended by the Commission. All such proposed changes and modifications shall be submitted by the Commission Chair or his or her designee to the City Council for approval or rejection. If the City Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications within one hundred and twenty



(120) days of the Commission's vote on the proposed changes, the Department's existing/ proposed policy will remain in effect.

***Rationale:*** *With these changes, the Council retains full authority over policy decision-making for the city, but takes advantage of the Commission to inform their decision, and does not relinquish any control to the Commission.*

*We don't want to remove any of the existing authorized scope/ control already granted to the commission through Measure LL. This is why Section 604(b)4(a) remains consistent with the current charter language, and the default in case of Council inaction is the Commission's proposed change.*

*The new proposed Section 604(b)4(b) acknowledges that there may be a need/ desire in the future to authorize the Commission to take a stronger lead in recommending policy for Council to approve. The proposed language allows for additional categories to be added to Commission's scope in the future based on a super-majority vote of the Council. The section recognizes that the default knowledge/ expertise on operational and tactical aspects of law enforcement lies with the department leadership by establishing that in the case of Council inaction for all additional scope beyond the original charter language, the default will be the Department's existing/ proposed policy.*

### **3. 604(b)5**

• **Delete:** "After the termination or expiration of such federal court orders and settlements and upon the Commission's recommendation made by no fewer than six (6) affirmative votes, the City Council may authorize the Commission, by ordinance passed by no fewer than six (6) votes, to approve or reject the Department's proposed changes to all other policies, procedures, customs, or General Orders of the Department which govern the subject matter recommended by the Commission."

***Rationale:*** *604(b)4 already includes the ability to make recommendations. It is inappropriate and inefficient to establish the Commission as a bottleneck for all department processes that are being proposed outside of the specific scope of the original Measure LL.*

• **Add:** Nothing herein shall prohibit the Chief of Police from implementing without authorization from the Commission changes to policy, procedure, custom, or General Order of the Department that, in the Chief's discretion, are



necessary to ensure public safety and operational imperatives, or in other exigent circumstances. If feasible, the Department shall provide notice to the Commission prior to making unilateral changes to policy, procedure, custom, or General Order governing subject matter that requires Commission approval. Otherwise, the Department shall notify the Commission as soon after implementation as practicable.

**Rationale:** *It is important to not hamstring the department from quickly responding to any events/ changes that occur with new and/or modified policies. The section at the end requiring notification to the Commission as soon after implementation as practicable ensures that the Commission is able to modify any policy that it doesn't agree with using 604(b)4*

#### 4. 604(b)8

- **Add:** "....made by the Commission through its Chairperson..."

**Rationale:** *Clarification requested by the Police Commission to confirm who would communicate formal requests on behalf of the Commission.*