



CITY OF OAKLAND

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

June 14, 2016

Dear Members of the Public Safety Committee,

At the June 14, 2016 Public Safety Committee, Members will consider a Resolution to create a Police Commission and Police Review Commission Agency. We, the undersigned, worked together over many months to develop a model for police accountability that was different in structure, but very similar in intent.

However, in light of recent developments regarding allegations of serious and depraved abuse and misconduct within the Oakland Police Department, we are withdrawing our proposed legislation. It is more important to us that the City Council is unified in its demand for a better accountability structure. Today, we come to the Public Safety Committee, unwavering in our support for building the strongest system we can on behalf of victims of police misconduct.

There are portions of our alternative legislation that provide critical clarity of roles, strengthened police accountability, increased transparency, and sustainable, holistic systems for reform that we suggest adding as amendments to the legislation presented as Item #3 on the June 14th Public Safety Committee agenda. This language has been lifted from the legislation shown in Item #4 on the same agenda, although the names of the Agency and position of Inspector General have been changed to reflect the terminology in Item #3.

We submit these today in a good faith effort to build consensus across the entire City Council for strengthened police accountability and sustainable, long-term reform in the Oakland Police Department.

Thank you for your consideration.

In Service to Oakland,

Annie Campbell Washington
Vice Mayor and District 4 Councilmember

Abel Guillén
District 2 Councilmember

Larry E. Reid
Oakland President Pro Tempore

O = Delay ready or accepted.

**Requested Amendments to Police Commission Resolution
Vice Mayor Annie Campbell Washington, City Councilmember Abel Guillén and
President Pro Tempore Larry E. Reid**

June 14, 2016

Requested Deletions:

- 1. **DELETE:** Passages removing the right to arbitration.
- 2. **DELETE:** All open deliberation about the Chief of Police selection process.

? Probs: confusing language

accepted

Instead, request amendment wherein to select a Chief of Police, Commission forms a Search Committee of three to four Commissioners. All sensitive and/or identifying documentation about candidates for the Chief position shall remain confidential to Search Committee members only.

Alternatively, all sensitive and/or identifying documentation about candidates for the Chief position shall remain confidential to Commissioners only.

High Priority Amendments:

1. **REPLACE:** Replace references to "Inspector General" with "Independent Police Monitor." [*In case authors do not accept this first amendment, all mentions of "Monitor" in this document have been replaced with IG, Commission or Commission Chair.*]

rejected

2. **ADD:** To select an IG, 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 (5th) panelist.

rejected

Each selection panel member shall be drawn from key stakeholder communities, 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 Commission shall submit no fewer than five (5) proposed candidates for the IG position to the selection panel. The panel then publicly recommends three (3) individuals as proposed candidates to the Commission. The Commission then makes a selection from the three (3) proposed candidates.

3. **ADD:** 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 an Oakland Police Department employee, whether on-duty or off-duty. Employee shall include sworn officers, as well as staff, technicians and all other civilian staff.

to add definition section

Police shall notify the Commission Chair, Agency Director and IG immediately. The Chief of Police shall brief the Commission Chair, Agency Director and IG at least once a month on allegations of all Serious Incidents.

The Chief shall provide two (2) status reports to the Commission Chair, the Police Commission's investigatory Agency Director and IG in the days and weeks following any Serious Incident. The first will take place within 10 calendar days of the incident date. The second status report will take place within 45 calendar days of the incident.

4. ADD: In compliance with Government Code Section 3304, the Commission and Agency shall complete their investigation of an allegation of misconduct 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. In accordance with State law, exceptions shall be limited to those identified in Section 3304.

5. ADD: The Commission shall communicate its decision to the complainant, if there is one, to the greatest extent permitted by law.

6. ADD: The IG shall complete all audits or reviews requested by any of the following: an affirmative vote of the majority of the Commission, a request by the Mayor, a request by the City Administrator, or by affirmative vote of the majority of the City Council. The IG shall report findings to the requestor.

If the Mayor, the City Administrator or the City Council by an affirmative vote of the majority, independently or jointly requests an investigation of a Serious Incident that is not already being investigated by the Agency, the Commission shall instruct the Agency to conduct such investigation.

7. ADD: Auditing Police Department investigations of any complaint or Serious Incident in the following ways, as the IG deems necessary:

- a. The IG may attend any Executive Force Review Board or Force Review Board hearing.
- b. The IG may request that a Police Commission's investigatory Agency Investigator attend Internal Affairs Division (IAD) investigatory interviews. The Agency Investigator may refer any concerns and/or questions not asked during that interview directly to the IG and City Administrator. If the IG, after reviewing the Agency Investigator's concerns and/or questions, determines that an investigatory interview is deficient, the IG will immediately inform the City Administrator, who maintains oversight of the Oakland Police Department.
- c. The IG may review IAD's final Report of Investigation and provide comments to IAD.
- d. If the IG determines that the City Administrator has not resolved any investigatory issues identified by the IG with the Chief of Police and the IAD Commander before the completion of IAD's investigation, the IG may remedy by requesting that the Agency investigate and the Commission review the case,

*already
state law*

accepted

*accepted
w/modified
language*

*Kub/ballo
reject, too much
to think through
on spot*

conducting additional investigatory interviews as needed.

8. ADD: The IG shall schedule monthly meetings and invite, to the extent permitted by law, all City of Oakland officials connected to police oversight and monitoring to attend.

Monthly meetings will include, but not be limited to, the Chair of the Commission, 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.

9. ADD: 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, and Peace Officer Standards and Training (POST) Domains 15 and 16 trainings on arrest and search and seizure procedures.

10. ADD AMENDED SECTION 5: 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 IG shall report to the Commission and to City Council, and include the following information in each report, as permitted by law:

1. Complaint and disciplinary data, summarizing the work of the Agency, the Commission and the Police Department's Internal Affairs Division, including but not limited to:

- 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 Oakland Police

*Kalb/Gallo:
language needs
adjusting to
accept later*

*Kalb:
Accepted
w/ concern
for how much
training post
1st year*

- 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 Commission shall report on whether the discipline was less than what is recommended using the Oakland Police Department's discipline matrix as well as previous sanctions, closely evaluating and comparing levels of discipline across cases.

2. The IG shall report to the Commission and to the City Council on all trends and/or patterns in OPD training, education and the Oakland Police Department's use of the IPAS early warning systems. Specifically, the IG shall inform the Commission and the City Council of the percentage of officers that have received training for:

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

Along with this data, the IG shall provide insight into any trends and/or patterns it sees about 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 Commission Chair, the Agency Director and the IG immediately. The Chief shall then provide two status reports to the Commission Chair, the Police Commission's investigatory Agency Director and the IG 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 Commission shall work closely with the Mayor and the City Administrator to evaluate the City of Oakland's capacity to waive certain exemptions to public records requests, to the extent allowable by law.

3. After the Commission has been briefed by the Chief of Police, and worked closely with the Mayor and the City Administrator to evaluate privilege waivers and records request exemptions, the Commission shall share as much information with the public as it 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 Commission webpage, accessible by Equal Access standards.

*Brooks wts off here
says prepare for
July 5.*

11. ADD AMENDED 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.

To satisfy the requirements outlined in Section 6, the Police Department shall work closely with the Commission and the IG 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 digitally searchable location, accessible to the Commission and its investigatory Agency.

As to training, the records shall identify the topics of each training and the trainer. The Oakland 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 IG shall evaluate the following information on 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 Oakland 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 IG shall publicly report all data on OPD training and education to the Commission and the City Council.

C. Increase Frequency of Post-Training Coaching

1. Within one year of the passage of this Charter Amendment, the Oakland Police Department shall notify the Commission of any budgetary increase needed to provide

sufficiently frequent training updates to Oakland Police Department officers, including post-training coaching and annual re-training (re-certification) in the subject areas listed herein 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 Commission shall prioritize trainings with a strong emphasis on situational problem-solving, diplomacy and de-escalation.

3. The Commission shall analyze the budgetary request received from the Chief of Police and using its discretion, include the necessary budgetary increase in the next published report to City Council for budgetary consideration.

D. Regular Reports to City Council

At least semi-annually, the IG will report publicly, published on the City of Oakland website, on Hiring, Training and Education to the Commission and the City Council.

E. Police Leadership Institute

The Commission, 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 develop the next generation of Oakland Police Department leadership. The Institute program must provide Oakland Police Department officers with a strong background in social sciences, criminology, law, research methods and other skills suitable for leadership of a 21st-century police department. Officers will earn a certificate upon completion of the program and, if practicable, college credits.

12. ADD AMENDED SECTION 7: Community Engagement

The Commission shall work closely with the Oakland Police Department and community members to coordinate and promote community-policing efforts, designing and developing solutions together aimed at restoring and sustaining community trust. The Commission shall report to the City Council, within one year of the enactment of this Charter Amendment, any budgetary increase needed to support existing City of Oakland community-engagement programs.

A. Establish Community Roundtable

1. The Commission shall hold Community Roundtable meetings open to the public on at least a quarterly basis. The Commission shall report to the City Council at least annually with policy recommendations from the Roundtables. The Commission shall at any given time have at least one designated Commission member to work as a

liaison with the Roundtables.

2. The Commission 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 and City Administrator shall each assign one of their existing staff members 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 Oakland Police Department officers and the community Department officers serve.
- b. Design a restorative, debrief and/or mediation component to the Oakland Police Department. Community Roundtable members shall design a program for the Commission and Oakland Police Department 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. These efforts shall be specifically, but not exclusively, directed toward populations that include individuals and groups such as Oakland Police Department arrestees, the families and neighbors of those arrestees, and other witnesses.
 - iii. This program will place a heavy emphasis on the Oakland Police Department's communication with communities impacted by recent police activity. The Oakland 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 Oakland 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.

Additional Amendments:

1. ADD: IG prepares regular reports for the Commission, for 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 IG's reports shall address each of the following:

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

2. ADD: The IG may attend any police discipline arbitration hearing and any Skelly hearing he or she would like to attend.

3. ADD: The IG audits the Oakland 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 IG shall consider whether he or she wishes to audit the investigation of that case by the Agency and/or IAD, or audit the Commission's process for reviewing that case. The IG's audit shall determine whether the Police Department, Commission, and Agency are receiving the support needed to implement fair and consistent discipline.

4. ADD: On an annual basis, the IG shall seek recommendations from the Commission, the IAD, Skelly officers, supervising officers, attorneys, and others closely involved in matters within the Commission's jurisdiction for improving the Oakland Police Department's policies and practices, General Orders, trainings and discipline process. The IG 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.

5. ADD: The Commission shall develop a Police Commission Manual, incorporating the responsibilities of the Commission, the IG and the Agency described in this section and the best practices associated with implementation of such responsibilities.

6. ADD: The Agency shall design and implement a mandatory orientation for Commissioners within one year of the enactment of the Charter Amendment.

When designing and implementing the mandatory orientation for Commission members, the Agency shall enlist the assistance of the local legal community, human resources experts, law enforcement, and Oakland community members to maximize Commissioner expertise regarding the following: 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 Agency shall deem necessary for the Commissioners to efficiently and effectively perform their responsibilities.

7. ADD: The Commission 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 about the effectiveness and impact of these investments of community funds;
- c. Incorporate 21st-century policing principles into the goals of the CPAB and recommending amendments to the CPAB's enabling ordinance to the City Council, as necessary; and
- d. Consider means of incorporating Neighborhood Services Coordinators and Community Resource Officers into the accomplishment of CPAB goals.

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

9. ADD: The Commission shall be provided an annual budget for ongoing training and education of Commission members, to be no less than \$3,600.00.