



How Cities Are Addressing Police Reform

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RENNE PUBLIC LAW GROUP

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Renne Public Law Group®

Introduction

In the wake of George Floyd’s killing by Minneapolis police officers last May, public entities across the nation – including many cities and counties – have started the process of re-examining policing and public safety models amidst demands for reform, restructuring and racial and economic justice.

In California, reform has taken many forms, with some jurisdictions embracing the process of reimagining public safety, with a specific eye towards shifting funding away from law enforcement agencies and into historically underserved or marginalized communities. Other jurisdictions have gone a different route, focusing instead on the improvement of officer training and/or the revision of policies that impact officer interactions with members of the community. And another set of jurisdictions have focused their reform efforts on accountability, either by establishing new oversight bodies to review and investigate police complaints, or by providing increased powers to oversight bodies that were already in existence but seemed ineffective. And all of this has occurred in the midst a changing political landscape at the state and national level as it relates to police reform, in addition to evolving public opinion on the topic.

That is all to say, police reform – or public safety reform, as this paper will refer to it – is nuanced and complicated, and varies greatly from one jurisdiction to the next. To that end, this paper does not seek to evaluate or judge the changes currently underway, as more time will likely be needed to assess the impact of recent reform efforts. Instead, this paper offers an overview of how some cities and/or counties have approached public safety reform, with the goal of informing and improving efforts currently underway, and those yet to be started.

George Floyd and Use-of-Force Policies

Few people need to be reminded of the excruciating video that depicted Minneapolis Police Department Officer Derek Chauvin kneeling on the neck of George Floyd for 9 minutes and 29 seconds. However, a straight line can be drawn from the brutality on display in that video – which was viewed by millions of people around the world – to the public safety reform efforts that have followed. Specifically, the video depicted Officer Chauvin using his knee to perform what is known as a “carotid restraint,” which applies pressure to vascular veins to temporarily cut off blood flow to the brain, rendering the person unconscious.¹

In the immediate aftermath of George Floyd’s killing, law enforcement agencies across the country considered anew the use of the carotid restraint and similar neck restraints, which have been the subject of controversy for many years. Perhaps the most prominent example in recent years involves the death of Eric Garner, who was placed in a chokehold by a New York Police Department officer while being arrested in 2014 and later died. Video footage of the arrest was widely shared and captured Garner repeatedly telling officers: “I can’t breathe.” Yet despite the fact that the chokehold used on Garner was, in fact, prohibited, the officer involved was not

¹ <https://law.stanford.edu/2020/06/04/police-use-of-force-training-and-a-way-forward-after-the-death-of-george-floyd/>

indicted by a grand jury and was only terminated by the New York Police Department in 2019, after years of disciplinary proceedings.²

The relationship between the killing of George Floyd and the death of Eric Garner is striking because the New York state legislature fast-tracked a set of police-reform measures following the nationwide protests decrying the killing of George Floyd. Among the measures passed and signed into law by Governor Andrew Cuomo on June 12, 2020 – less than three weeks after George Floyd was killed – was the Eric Garner Anti-Chokehold Act, which was first introduced in the 2013-2014 legislative session.³

The speed with which the New York legislature moved to pass long-stalled public safety reform measures in the aftermath of George Floyd’s killing was not unique as many legislative bodies, including some in California, sought to respond to calls for reform.

California and Use-of-Force Policies

In many ways, when George Floyd was killed, the state of California had been ahead of the curve as it relates to conversations about revising standards for the use of force – deadly and otherwise – by law enforcement officers.

In 2019, Governor Gavin Newsom signed into law AB 392, which modernized deadly force standards to provide that deadly force may only be used when necessary.⁴ Effective January 1, 2020, AB 392 also required that officers use other techniques to address threats instead of using deadly force when safe to do so, and encouraged law enforcement to train on and use de-escalation techniques like verbal persuasion and other crisis intervention methods.⁵ Passage of the bill, which was spearheaded by then-Assemblymember Shirley Weber (D-San Diego), marked the culmination of a years-long effort following the 2018 shooting of Stephon Clark by Sacramento Police Department officers.⁶

However, carotid restraint techniques, like the one used on George Floyd, were not expressly outlawed in California until October 2020, when Governor Newsom signed into law a series of police reform bills, including AB 1196. AB 1196, introduced by Assemblymember Mike Gipson (D-Carson) on June 4, 2020, prohibits law enforcement agencies from authorizing the use of the carotid restraint and chokeholds.⁷ While a number of cities across the state like San Francisco, Los Angeles and San Diego, had already taken steps to prohibit the use of these techniques, statewide policies regarding neck restraints varied until passage of AB 1196.⁸

SB 230, sponsored by Assemblymember Anna Caballero (D-Salinas), was also signed into law in 2019. A counterpart to AB 392, the measure establishes guidelines for use-of-force training by every California law enforcement agency to standardize training throughout the state, requires

² <https://www.nytimes.com/2019/08/19/nyregion/daniel-pantaleo-fired.html>

³ <https://www.nysenate.gov/legislation/bills/2019/s6670>

⁴ https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB392

⁵ *Id.*

⁶ <https://www.vox.com/2019/8/23/20826646/california-act-to-save-lives-ab-392-explained>

⁷ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1196

⁸ See California Senate Public Safety Committee AB 1196 Bill Analysis, Hearing Date August 7, 2020

every law enforcement agency to maintain an internal policy that includes specified guidelines on use of force, and requires each law enforcement agency to make its use-of-force policy accessible to the public.⁹

Local Reform - Use-of-Force Policies

In the aftermath of George Floyd’s killing on May 25, 2020, many cities across the state of California were quick to move forward with revisions to use-of-force policies. For example, on June 30, 2020, the Sacramento City Council voted to require an inspector general “to investigate officer-involved shootings and use-of-force incidents that result in serious bodily injury or death.”¹⁰ In the same ordinance, Council Members prohibited the use of carotid holds, prohibited the use of no-knock narcotics raid warrants, and required that officers receive ongoing, explicit and implicit bias training.¹¹

In San Francisco, Mayor London Breed announced a series of police reforms on June 11, 2020.¹² Included in the reforms announced was a plan to “demilitarize police” by establishing an explicit ban on the use of military-grade weapons against unarmed civilians, including chemical weapons such as tear gas. The plan also called for ending the use of police as a response to non-criminal activity, an effort adopted by other California jurisdictions, which will be discussed further below. Notably, in May 2020, San Francisco already had in place bans on chokeholds and strangleholds, along with requirements that officers warn before shooting and intervene in cases of excessive use of force.¹³

San Diego similarly took swift action and on June 1, 2020, Police Chief David Nisleit announced that police officers in the city were banned from using chokeholds.¹⁴ And on June 24, 2020, the Mayor of San Jose released a plan to change policing policy that included the expansion of authority for the city’s Independent Police Auditor to include “use of force” allegations, a ban on the use of rubber bullets, and a full review of the city’s use of force policy.¹⁵

While public safety reform efforts on the local level varied, as evidenced by the examples above, cities that swiftly adopted reforms – or announced plans for reform – shared several characteristics. First, local elected officials and/or police chiefs acted swiftly and decisively, and in most instances adopted policies or announced plans for policy changes that were more forward-leaning than those previously discussed on a statewide level. Second, in many instances, cities that had an established police reform or accountability infrastructure in place (e.g. San Francisco Police Commission, San Jose Independent Police Auditor, and San Diego Community Review Board on Police Practices), were better prepared to enact reforms because many issues involving the use-of-force and related issues had been discussed and evaluated for

⁹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB230

¹⁰ <https://www.capradio.org/articles/2020/07/02/sacramento-approves-two-police-reform-measures-but-activists-want-more/>

¹¹ https://sacramento.granicus.com/MetaViewer.php?view_id=21&event_id=3731&meta_id=587699

¹² <https://sfmayor.org/article/mayor-london-breed-announces-roadmap-new-police-reforms>

¹³ *Id.*

¹⁴ <https://timesofsandiego.com/crime/2020/06/01/sdpd-chief-tells-immediate-ban-on-chokeholds-move-called-historic/>

¹⁵ <https://www.sanjoseca.gov/Home/Components/News/News/1480/4699>

many years, even if a resolution was not reached. Finally, public advocacy for reform, which was widespread, was perhaps more acutely observed in larger cities like San Francisco, San Diego and San Jose, but many public protests took place in smaller cities like Berkeley, Stockton and Sacramento, each of which moved forward with reform efforts shortly after George Floyd's killing.

Public advocacy also impacted local reform efforts, specifically around the use of force, amongst some law enforcement agencies. [Campaign Zero](#), a police reform campaign launched in the aftermath of the death of Eric Garner and protests in Ferguson, Missouri, started the 8 Can't Wait project following the killing of George Floyd. The project encouraged law enforcement agencies to adopt eight policies to decrease or end police violence: (1) ban chokeholds and strangleholds; (2) require de-escalation; (3) require a warning before shooting; (4) require that all alternatives be exhausted before shooting; (5) require officers to intervene when excessive force is being used; (6) ban shooting at moving vehicles; (7) establish a force continuum; and (8) require comprehensive reporting.¹⁶

Though not without critique, the project garnered the attention of many cities and counties looking to take immediate action in response to the killing of George Floyd and the protests that followed. Consequently, several jurisdictions, including Carlsbad¹⁷ and Santa Clara County¹⁸, fully adopted the 8 Can't Wait reforms. Notably, however, many jurisdictions that did not fully adopt the reforms, provided information to the public about reform efforts underway or those that were newly initiated. Some jurisdictions that took this approach include San Mateo County¹⁹ and the City of Concord.²⁰ These efforts marked a new level of transparency for many agencies.

Public Safety Oversight

The nationwide protests that followed the killing of George Floyd, and the relative success of the 8 Can't Wait project, foreshadowed what has perhaps had the most significant impact on how and why many cities are addressing police reform: citizen participation and advocacy.

In the November 2020 election voters in jurisdictions across the state of California enacted several police reform measures, many of which focused on the creation or alteration of existing police oversight methods. The following is a survey of measures enacted by either voters or cities across the state:

San Diego: San Diego voters approved Measure B, a charter amendment, which replaced a civilian board that reviews complaints against police officers with a commission that can investigate, subpoena, and recommend policies and discipline. The new commission is also responsible for investigating all deaths in police custody and those resulting from interactions

¹⁶ <https://8cantwait.org/>

¹⁷ <https://www.carlsbadca.gov/news/displaynews.asp?NewsID=2156&TargetID=1>

¹⁸ https://www.sccgov.org/sites/d5/newsmedia/Pages/County_Steps_Up_On_Law_Enforcement_Reforms.aspx

¹⁹ https://www.smcsheriff.com/sites/default/files/resources_files/8CantwaitResp.pdf

²⁰ <http://cityofconcord.org/DocumentCenter/View/4714/8-Cant-Wait-CPD-Response>

with the police, as well as police shootings.²¹ The measure won the support of 75% of voters.²² The full ballot measure along with the City Attorney's Impartial analysis is attached (Attachment A).

San Jose: San Jose voters approved Measure G, which expanded the authority of San Jose's independent police auditor to review reports and records related to officer-involved shootings and uses of force that resulted in injury or death. Prior to passage, the auditor did not have access to these records.²³ Measure G won the support of 78% of voters.²⁴

Berkeley: Berkeley voters approved Measure II, which established an independent Director of Police Accountability (DPA) and a nine-member Police Accountability Board (PAB), to replace the existing Police Review Commission. Some of the responsibilities assigned to the new PAB include making recommendations regarding the policies and operations of the Berkeley Police Department, making recommendations regarding whether discipline is warranted when complaints of officer misconduct are filed with the PAB, and participating in the hiring of the Chief of Police. Measure II won the support of 84% of voters.²⁵ The full ballot measure is attached (Attachment B).

San Francisco: San Francisco voters approved Proposition D, which established a new oversight board and created an Inspector General's Office for the San Francisco County Sheriff's Department. San Francisco voters also approved Proposition E, which called for amending the city's charter to remove minimum staffing requirements for the San Francisco Police Department. Proposition D passed with the support of 66% of voters and Proposition E received the support of 71% of voters.²⁶

Fresno: On June 11, 2020, the Mayor of Fresno and the Fresno City Council announced the formation of the Fresno Commission for Police Reform, which was comprised of 40 community members. The Commission was asked to develop recommendations related to police reform and community safety within 90 days, and subsequently produced a 292-page report containing 73 recommendations in October 2020.

The recommendations include, among other things, policy changes involving the use of deadly force, hiring and recruiting, and responding to nonviolent calls for service. A full copy of the report can be found here: <https://www.fresno-cpr.com/fresno-cpr-full-final-report>. In early April, Fresno named eight community members to serve on a Police Reform Board which will be responsible for implementing the policy changes identified by the Commission.

Long Beach: On June 23, 2020, the Long Beach City Council adopted a Framework for Reconciliation, pursuant to its Racial Equity and Reconciliation Initiative.²⁷ Included in the

²¹ https://www.sdvote.com/content/dam/rov/en/election/4182-Nov-2020/Measures/Measure_B.pdf

²² <https://www.voiceofsandiego.org/topics/politics/voters-approved-a-much-tougher-police-oversight-board-now-what/>

²³ <https://www.sanjoseca.gov/your-government/appointees/city-clerk/elections/measure-g-charter-amendment>

²⁴ <https://sanjosespotlight.com/san-jose-voters-overwhelming-back-expanding-police-oversight-card-room-tax/#>

²⁵ <https://www.acgov.org/rovresults/241/indexA.htm>

²⁶ <https://www.sfchronicle.com/local-politics/article/S-F-Prop-D-and-E-S-F-s-law-enforcement-15699791.php>

²⁷ <http://longbeach.gov/globalassets/health/media-library/documents/healthy-living/office-of-equity/reconciliation/report-racial-equity-and-reconciliation-initiative>

framework were recommendations regarding the city’s approach to community safety, including the exploration of non-police alternatives to law enforcement emergency response and the redesign of police oversight and accountability through improved complaint and discipline practices.

For example, the report calls for the creation of non-police, civilian emergency response teams to respond to non-violent calls for service 24 hours a day, 7 days a week. The report also recommends the creation of an alternate phone number and dispatch system for non-violent emergency calls for service.

Long Beach also recently announced efforts to reform the City’s Citizen’s Police Complaint Commission, another goal identified in the Racial Equity and Reconciliation Initiative Initial Report.

Oakland: In November 2020, voters in Oakland approved MeasureS1, which strengthened oversight of the police department by increasing the powers of the civilian-led Oakland Police Commission, which was established by voters in 2016. The measure also created the Office of Inspector General, which is responsible for reviewing cases of police misconduct, and removed the commission from the city and police department’s chain of command. MeasureS1 received the support of 81% of voters.²⁸

Sonoma County: Voters in Sonoma County approved Proposition P, which expanded the powers of the Independent Office of Law Enforcement Review and Outreach (IOLERO) to investigate Sheriff related issues. Specifically, the measure added the ability of the Office to independently review evidence of misconduct and subpoena records and testimony. IOLERO was created by the County Board of Supervisors in 2015, following the 2013 killing of a 13-year-old by a Sheriff’s Deputy. Measure P passed with the support of 67% of voters.²⁹ The full text of Measure P, along with the County Counsel’s impartial analysis is attached (Attachment C).

Stockton: In July 2020, Stockton announced the creation of a City Manager’s Review Board (CMRB) to provide “insight, guidance, monitoring and recommendations to promote comprehensive public safety strategies through analysis of policies and practices.” The Board, which is led by the City Manager and Police Chief, consists of 25 community members. The Board does not have subpoena power and can not make hiring or firing decisions.³⁰

As indicated by the non-exhaustive list above, many of the local reform efforts involving public safety oversight share certain commonalities. First, several jurisdictions, with voter affirmation, opted to expand the authority of existing oversight bodies to include increased powers to conduct independent investigations. For example, the ability to subpoena witnesses or review certain documents, was often at issue. Second, most, if not all jurisdictions that moved forward with

²⁸ <https://www.kqed.org/news/11844487/bay-area-police-accountability-measures-draw-strong-support-across-the-board#S1>

²⁹ <https://www.pressdemocrat.com/article/news/measure-p-sonoma-county-law-enforcement-oversight-measure-sees-early-suppo/?sba=AAS>

³⁰ <http://stocktonca.gov/government/departments/manager/cmrb.html#:~:text=The%20City%20Manager's%20Review%20Board,partners%20in%20community%20problem%20solving>

reform, even by way of ballot measure, did so with the support of local officials, both elected and unelected. This broad coalition, in some ways, explains the robust voter support for many reform efforts. Third, even in jurisdictions where voters did not enact reforms, local officials, including city managers and police chiefs, took steps to enact measures that responded to citizen concerns. And while the outcome of these efforts is yet to be determined, public advocacy efforts have and will continue to play a significant role in reform efforts moving forward.

Reimagining Public Safety

While some cities have taken a more focused approach to reform efforts by zeroing in on specific issues like use-of-force policies or the creation of new oversight bodies, other cities have moved forward with broader efforts that seek to fully reimagine public safety and the overall role of law enforcement officers in communities. Notable examples of efforts currently underway include those in Berkeley, Oakland, and Richmond.

Berkeley Reimagining Public Safety Task Force: In July 2020 the Berkeley City Council passed a comprehensive public safety reform measure designed to reshape policing in the city. Included in the package of reforms was the establishment of a civilian-led Task Force with primary responsibilities being to define a new approach to community safety by reviewing and analyzing emerging community safety models and recommend a new, community-centered safety paradigm.³¹ The Task Force held its first meeting in February 2021 and the City Council has continued to explore other reform efforts, including recent action to ban officers from stopping drivers for low-level offenses to reduce racial disparities in policing.³²

Oakland Reimagining Public Safety Task Force: In July 2020, the Oakland City Council voted to authorize the civilian-led Reimagining Public Safety Task Force, which was charged with developing recommendations for the Council to consider to increase community safety through alternative response to calls for assistance, and investments in programs that address the root causes of violence.³³ The Task Force held its first meeting in September 2020 and produced a report with 147 recommendations in February 2021.

The recommendations, which are currently being considered by the Oakland City Council and other community stakeholders, are divided into specific categories: (1) recommendations related to alternatives to policing; (2) recommendations related to violence prevention and root causes; (3) recommendations related to improving policing; (4) recommendations related to budget allocation; and (5) recommendations related to data transparency.

Richmond Police Reimagining Public Safety Community Task Force: In June 2020, the Richmond City Council directed city staff to prepare a plan to transition away from the city’s “community policing” model and authorized the creation of a task force to oversee the transition.^{34 35} In October 2020, the City Council appointed 21 members to a Reimagining

³¹ <https://www.berkeleyside.com/2020/07/15/berkeley-council-approves-omnibus-motion-to-reform-policing>

³² <https://www.cityofberkeley.info/RIPST.aspx>

³³ <https://www.oaklandca.gov/topics/reimagining-public-safety#about-the-taskforce>

³⁴ <https://www.ci.richmond.ca.us/4011/Reimagining-Public-Safety>

³⁵ <https://www.berkeleyside.com/wp-content/uploads/2020/07/Mayor-Supp-3-Police-Items.pdf>

Public Safety Community Task Force. The Task Force continues to meet monthly to review alternatives to traditional models of public safety.

Alternatives to Police Response

As cities like Berkeley, Oakland and Richmond explore a range of alternative policing models, other jurisdictions have begun pilot programs to end police response to non-criminal calls. In January 2021, the San Mateo County Board of Supervisors approved the creation of a two-year pilot project that will pair mental health professionals with law enforcement officers as they respond to individuals in a mental or behavioral health crisis.³⁶

In November 2020, San Francisco announced the creation of a Street Crisis Response Team pilot program, a partnership between the city's Public Health and Fire Departments. The pilot program was created as part of the city's broader efforts to develop alternatives to police responses to non-violent calls.³⁷

Other cities that have moved forward with similar programs – permanent or otherwise – include Los Angeles, which launched an Alternative Dispatch program in February 2021, and Sacramento County, which approved a plan to have a mental health crisis team respond to certain 911 calls instead of law enforcement officers in March 2021.

Conclusion

It would be difficult to definitively capture the myriad public safety reform efforts currently underway in California given the size of the state and the complexity of the efforts. However, efforts have generally fallen into one of the broad categories described above. While some jurisdictions have focused on one or two areas in particular, others have tackled them all.

Though the ultimate success or failure of these efforts will not be known for some time, the speed with which many jurisdictions acted was unprecedented in many ways and truly speaks to the import of the efforts. Everyone has a vested interest in the success of efforts ostensibly designed to create more fair, equitable, and just communities, and it is unsurprising that cities and other local jurisdictions across the state are leading the way.

³⁶ <https://cmo.smcgov.org/press-release/jan-12-2021-new-partner-police-mental-health-professionals-respond-9-1-1-calls-people>

³⁷ <https://sfmayor.org/article/san-franciscos-new-street-crisis-response-team-launches-today>

ATTACHMENT A

CITY OF SAN DIEGO

(This Measure will appear on the ballot in the following form.)

MEASURE B.

CHARTER AMENDMENTS ESTABLISHING COMMISSION ON POLICE PRACTICES. Shall the City Charter be amended to dissolve the Community Review Board on Police Practices and replace it with a Commission on Police Practices, with members appointed by the City Council, its own staff, subpoena power, independent legal counsel, and authority to investigate police officer misconduct, review complaints against officers, and make recommendations on police officer discipline, police policies, and Police Department legal compliance?

This measure requires approval of a simple majority (50% plus 1) of those voting on the measure.
Full text of this measure follows the argument.

OFFICIAL TITLE AND SUMMARY

BALLOT TITLE

Amendments to the San Diego City Charter Relating to Dissolving the Community Review Board on Police Practices and Establishing a Commission on Police Practices.

BALLOT SUMMARY

This measure would amend the San Diego City Charter (Charter) to dissolve the Community Review Board on Police Practices and establish a Commission on Police Practices (Commission), including key elements of the Commission's structure and responsibilities.

The Charter presently authorizes the Mayor and the City Council (Council) to establish a Community Review Board on Police Practices (CRB) to review and evaluate citizens' complaints against members of the City's Police Department and the Police Department's administration of discipline arising from complaints. The CRB presently must review all deaths occurring while a person is in the Police Department's custody and all police officer-related shootings. CRB members are appointed by the Mayor with Council confirmation.

This measure would amend the Charter to dissolve the CRB and replace it with a Commission, established as an investigatory body of the City, with members appointed by the Council. The Commission would be staffed by an executive director, who is appointed by the Council; investigators and other City employees or contractors, who are independent of the Police Department and the Mayor; and legal counsel, independent of the City Attorney.

If approved by the voters, the new Commission would be required to independently investigate all deaths occurring while a person is in the Police Department's custody, all deaths resulting from interaction with a City police officer, and all City police officer-related shootings. The Commission may also investigate allegations against officers of inappropriate sexual conduct, physical assault, and domestic violence. The Charter amendments grant the Commission subpoena power to obtain witness testimony and documents, enforceable through contempt proceedings under state law.

The Commission would also be required to receive, register, review, and evaluate all complaints against City police officers. The Commission may investigate complaints, unless the complainant has requested that a complaint be handled without investigation or where no specific allegation or police officer can be identified. The Commission would be required to review the Police Department's compliance with reporting laws.

BALLOT SUMMARY (CONTINUED)

The Commission would have authority to review and advise on Police Department investigations, policies, and imposition of discipline, but the City's Police Chief retains authority to impose discipline of subordinate officers, as the Charter presently provides.

The Commission would be required to make public reports of its activities.

The Commission must act in accordance with applicable federal and state laws. Police officers may appeal a sustained finding of police misconduct by the Commission to the City's Civil Service Commission.

The Council authorized placement of this measure on the ballot after receiving the proposal from a community-based organization called "Women Occupy San Diego" and holding multiple public hearings.

This measure requires approval by a majority of the qualified voters of the City of San Diego voting on the measure. If approved, the Charter amendments would become effective after they are chaptered by the California Secretary of State.

CITY ATTORNEY IMPARTIAL ANALYSIS

This measure amends the San Diego City Charter (Charter) to change civilian oversight of the City Police Department (Department) and its officers.

Under existing law, the Mayor and City Council (Council) have established the Community Review Board on Police Practices (CRB), which reviews and evaluates citizens' complaints against City police officers and the Department's administration of discipline arising from complaints. The CRB may independently refer an investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. The CRB is also required to review all deaths occurring while a person is in City police custody and all police officer-related shootings, but the CRB does not independently investigate these incidents.

If approved by voters, this measure would dissolve the CRB and replace it with a Commission on Police Practices (Commission). The Commission would serve as an investigatory body of the City, operating independent of the Police Department and Mayor. Commission staff would include an executive director, appointed by the Council, to serve at the direction and will of the Commission. The Commission must retain its own legal counsel, independent of the City Attorney. Commission staff must be employed in accordance with the City's civil service rules and annual salary ordinance, and must follow City rules related to contracts and records retention, confidentiality, and disclosure.

The Commission would have the power to subpoena witnesses and documents, enforceable through contempt proceedings under state law, and would retain the authority to refer cases to outside law enforcement agencies.

The Commission would initially be composed of members of the CRB. The Council would formally appoint Commission members after establishing, by ordinance, the number, term length, qualifications, and method for appointments, and defining the circumstances and process under which Commission members may be removed for cause.

The Commission would be required to investigate all deaths occurring while a person is in Department custody, all deaths resulting from interaction with a City police officer, and all City officer-related shootings. Investigations must be conducted in accordance with rights afforded to police officers under federal and state law.

The Commission must also receive and review all complaints against City police officers except in specified circumstances.

CITY ATTORNEY IMPARTIAL ANALYSIS (CONTINUED)

The Commission would have authority to investigate complaints against officers but must first consider specified factors. Also, the Commission may, but would not be required to, review, evaluate, and investigate allegations of inappropriate sexual conduct, physical assault, or domestic violence by officers.

The Commission may make recommendations to the Police Chief on policies and discipline, but the Police Chief would retain existing authority under the Charter, including the authority to determine discipline of subordinate officers.

The Commission also must review and evaluate the Police Department's compliance with reporting laws and make public semi-annual reports regarding the Commission's exercise of its duties and powers.

The measure also authorizes the City's Civil Service Commission to determine appeals by City police officers, following any sustained findings of police officer misconduct by the Commission.

FISCAL IMPACT ANALYSIS

This measure would dissolve the Community Review Board on Police Practices (CRB) and, in its place, would establish an independent Commission on Police Practices (Commission). The Commission, constituting an investigatory body of the City, would be comprised of community members appointed by the City Council, with subpoena powers, independent legal counsel, and City staff outside of San Diego Police Department (SDPD) and Mayoral supervision.

If approved, the Commission will have certain duties that are required and others that are discretionary. The Commission will be required to independently investigate: (1) all deaths occurring while a person is in the custody of SDPD; (2) all deaths resulting from interaction with an SDPD officer; and (3) all police officer-involved shootings. Based on data provided by SDPD for the historical number of SDPD officer-related deaths and shooting events over the last ten years, this requirement could comprise of up to fifteen investigations per year.

Additionally, the Commission must receive, register, review and evaluate all citizen complaints, except those where the complainant does not request an investigation or where no specific allegation or SDPD officer is identified. At the Commission's discretion, it will have the authority to independently investigate any or all of the complaints that it is required to receive, register, review, and evaluate. According to data provided by SDPD, over the last ten years, on average 126 complaints have been received per year that would have been eligible for the Commission to investigate; it is unknown how many complaints the Commission may choose to investigate.

Other duties include the requirement to evaluate of SDPD compliance with federal, state, and local reporting laws and requirements and the submission of semi-annual reports to the Mayor and City Council regarding the exercise of the Commission's duties and powers. The Commission may also review, evaluate and make recommendations on any policies, procedures, practices, and actions of SDPD.

In addition to what is described above, the Commission has other duties and powers included in the ballot proposal, which may be further specified by City Council Ordinance, should this measure be approved by voters.

If approved, a sufficient and appropriate budget for the Commission is expected to be funded from the City's General Fund in an amount to be approved annually by the City Council. **It is estimated that the necessary staffing and budget for the Commission could reasonably range between at least seven (7) Full Time Equivalent (FTE) positions and \$1.2 million annually and up to sixteen (16) FTEs and \$2.6 million annually in order to allow it to effectively carry out its duties and powers proposed under the ballot measure.** The range is primarily due to the Commission's discretionary authority to

FISCAL IMPACT ANALYSIS (CONTINUED)

determine the level of citizen complaints it chooses to investigate. **Current annual funding from the General Fund for the CRB, budgeted at approximately \$247,000 for Fiscal Year 2021, would no longer be required. Potential fiscal impacts to the SDPD budget, if any, are unknown.**

ARGUMENT IN FAVOR OF MEASURE B

The City of San Diego does not have an independent process for investigating complaints regarding police misconduct (such as in-custody deaths, shootings, excessive force, and perjury). This has contributed to trust in local policing reaching an all-time low. Measure B will fix this issue by creating an independent, community-led **Commission on Police Practices**.

The Commission on Police Practices will create a **trustworthy process for holding officers accountable** that is **fair and balanced**. This Commission will:

- Be **independent from City politics**;
- Have an **independent attorney** who doesn't also represent the Mayor and the San Diego Police Department;
- Be run by **community members**, and;
- Have **independent professionals** who will **investigate** claims of **police misconduct**, including complaints of **domestic violence and sexual assault** by law enforcement.

As professionals, police officers should be subject to independent oversight and accountability, as doctors, lawyers, dentists, and other professionals are held to this standard. The independent oversight brought by the new Commission will strengthen community trust and has the potential to **reduce** the millions of dollars each year that The City of San Diego pays for **lawsuits from police misconduct**.

www.sandiegansforjustice.com

VOTE YES ON MEASURE B

MONICA MONTGOMERY
Councilmember
San Diego City Council, District 4

MARESA TALBERT
Co-Chair
San Diegans for Justice

ANDREA ST. JULIAN
Board President
Earl B. Gilliam Bar Association

KATE YAVENDITTI
Women Occupy San Diego

NO ARGUMENT AGAINST MEASURE B WAS FILED IN THE OFFICE OF THE CITY CLERK.

FULL TEXT OF MEASURE B
ARTICLE V
EXECUTIVE AND ADMINISTRATIVE SERVICE

Section 40: City Attorney

A City Attorney shall be elected for a term of four years in the manner prescribed by Section 10 of this Charter. The City Attorney shall hold office for the term prescribed from and after 10 a.m. on the tenth day of December next succeeding the election and until a successor is elected and qualified. If the tenth day of December falls on a weekend or holiday, the term shall begin at 10 a.m. on the next calendar day that is not a weekend or a holiday.

No person shall serve more than two consecutive four-year terms as City Attorney. If for any reason a person serves a partial term as City Attorney in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.

The City Attorney shall be the chief legal adviser of, and attorney for the City and all Departments and offices thereof in matters relating to their official powers and duties, except in the case of the Ethics Commission and the Commission on Police Practices, which each shall have its own legal counsel independent of the City Attorney. The attorney and his or her deputies shall devote their full time to the duties of the office and shall not engage in private legal practice during the term for which they are employed by the City, except to carry to a conclusion any matters for which they have been retained prior to taking office. The City Attorney must be licensed to practice law in the State of California and must have been so licensed for at least ten years at the time he or she submits nominating petitions.

The City Attorney shall appoint such deputies, assistants, and employees to serve him or her, as may be provided by ordinance of the Council, but all appointments of subordinates other than deputies and assistants shall be subject to the Civil Service provisions of this Charter. The City Attorney may appoint no more than six Assistant City Attorneys and four other assistants, who shall serve at the pleasure of the City Attorney and may be removed by the City Attorney at any time.

No Deputy City Attorney, who has served continuously as a Deputy City Attorney in the Office of the City Attorney for one year or more shall be terminated or suspended without good cause, except that any Deputy City Attorney may be subject to layoff due to lack of work or insufficient appropriation to meet the salary requirements necessary to maintain existing personnel in the Office of the City Attorney.

To ensure that Deputy City Attorneys conduct their legal work with the highest level of integrity, honesty, and professionalism, good cause for purposes of termination or suspension includes, but is not limited to, failure to comply with the California Rules of Professional Conduct.

It shall be the City Attorney's duty, either personally or by such assistants as he or she may designate, to perform all services incident to the legal department; to give advice in writing when so requested, to the Council, its Committees, the Manager, the Commissions, or Directors of any department, but all such advice shall be in writing with the citation of authorities in support of the conclusions expressed in said written opinions; to prosecute or defend, as the case may be, all suits or cases to which the City may be a party; to prosecute for all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required of the City Attorney by law; to prepare in writing all ordinances, resolutions, contracts, bonds, or other instruments in which the City is concerned, and to endorse on each approval of the form or correctness thereof; to preserve in the City Attorney's office a docket of all cases in which the City is interested in any of the courts and keep a record of all proceedings of said cases; to

FULL TEXT OF MEASURE B (CONTINUED)

preserve in the City Attorney's office copies of all written opinions he or she has furnished to the Council, Manager, Commission, or any officer. Such docket, copies and papers shall be the property of the City, and the City Attorney shall, on retiring from office, deliver the same, together with all books, accounts, vouchers, and necessary information, to his or her successor in office.

The City Attorney shall have charge and custody of all legal papers, books, and dockets belonging to the City pertaining to his office, and, upon a receipt therefor, may demand and receive from any officer of the City any book, paper, documents, or evidence necessary to be used in any suit, or required for the purpose of the office.

The City Attorney shall apply, upon order of the Council, in the name of the City, to a court of competent jurisdiction for an order or injunction to restrain the misapplication of funds of the City or the abuse of corporate powers, or the execution or performance of any contract made in behalf of the City which may be in contravention of the law or ordinances governing it, or which was procured by fraud or corruption.

The City Attorney shall apply, upon order of the Council, to a court of competent jurisdiction for a writ of mandamus to compel the performance of duties of any officer or commission which fails to perform any duty expressly enjoined by law or ordinance.

The City Attorney shall perform such other duties of a legal nature as the Council may by ordinance require or as are provided by the Constitution and general laws of the State.

The Council shall have authority to employ additional competent technical legal attorneys to investigate or prosecute matters connected with the departments of the City when such assistance or advice is necessary in connection therewith. The Council shall provide sufficient funds in the annual appropriation ordinance for such purposes and shall charge such additional legal service against the appropriation of the respective Departments.

Effective December 10, 2020, the salary paid to the City Attorney will be equal to the salary prescribed by law and as adjusted by law for judges of the Superior Court for the State of California, provided that the salary of the City Attorney may not be decreased during a term of office.

Whenever a vacancy exists in the office of the City Attorney, an Assistant City Attorney, previously designated by the City Attorney to fulfill duties in the event of a vacancy and whose name has been recorded with the City Clerk as the Interim City Attorney in the event of a vacancy, shall fulfill the duties of the City Attorney as the Interim City Attorney until a replacement can be appointed or elected as provided by this Charter. The Interim City Attorney shall have the full authority of the Office.

Section 41: Commissions

The Mayor shall appoint, subject to the confirmation of the Council, members of all commissions, established pursuant to this section-, except the members of the Commission on Police Practices, whose appointment and service are governed by Section 41.2 of this Charter. Whenever the Mayor does not appoint a member within forty-five (45) days after a vacancy occurs, the Council shall make such appointment. The commissioners shall be limited to two (2) full consecutive terms, with one (1) term intervening before they become eligible for reappointment; and this provision shall apply to anyone who has served two (2) full consecutive terms by January 1972. The terms of commissioners may extend beyond the elective term of the appointing Mayor. The Mayor shall fill, subject to the confirmation of the Council, any vacancy and such appointment shall be for the unexpired term of the office being filled. The City Council may remove a member of the Civil Service Commission for cause by vote of two-thirds (2/3) of the members of the Council. However, before the Council may remove a member of the Civil

FULL TEXT OF MEASURE B (CONTINUED)

Service Commission, written charges shall be made against the commission member and an opportunity afforded for public hearing before the Council upon such charges. The City Council may remove members of all other commissions established pursuant to this section for cause by vote of a majority of the members of the Council.

- (a) Funds Commission. [No change in text.]
- (b) Civil Service Commission. [No change in text.]
- (c) City Planning Commission. [No change in text.]
- (d) Ethics Commission. [No change in text.]

Section 41.2: Commission on Police Practices

A Commission on Police Practices is established, which supersedes the Community Review Board on Police Practices. The Commission on Police Practices is referred to in this section as the "Commission," the Police Department of the City of San Diego is referred to as the "Police Department," and an officer of the Police Department is referred to as an "officer" or "police officer."

The Commission is an investigatory body of the City of San Diego, independent of the Mayor and the Police Department.

The Commission has certain mandatory duties and discretionary powers, as described in this section. The City Council may, by ordinance, mandate additional duties and authorize additional powers for the Commission, consistent with this section and applicable federal and state law. The City Council may also establish rules and procedures to implement this section. Subject to any limitations set forth in governing federal or state law, the Commission is authorized to refer any matter before the Commission to the grand jury, district attorney, or other governmental agency that is authorized by law to investigate the activities of a law enforcement agency.

The City Council must appoint the members of the Commission. The City Council may remove members of the Commission for cause by a vote of a majority of the members of the City Council. The City Council must, by ordinance, establish the number, term length, qualifications, and method for appointing members of the Commission, and define the circumstances and process under which the City Council determines there is cause for removal of a member of the Commission.

The Commission will be composed of members of the Community Review Board on Police Practices serving at the time this section takes effect, until the City Council has formally appointed members to the Commission, in accordance with the ordinance described in this section.

The City Council must appoint and establish the initial annual compensation for the Commission's Executive Director, who serves at the direction and will of the Commission. The Commission must conduct the annual performance review of the Executive Director, and may modify the Executive Director's annual compensation, consistent with the compensation schedules established by the City Council in adopting the annual salary ordinance. The Executive Director serves as the appointing authority for additional employees assisting the Commission, who must be appointed and serve in accordance with this Charter. The Executive Director is authorized to employ outside experts or consultants to assist with the Commission's work on a contractual basis, consistent with the City's contracting rules. The Commission must retain its own legal counsel, who is independent of the City Attorney, for legal support and advice in carrying out the Commission's duties and actions.

FULL TEXT OF MEASURE B (CONTINUED)

The Executive Director serves as custodian of the Commission's records and must comply with all applicable laws related to records retention, protection, confidentiality, and disclosure. The Police Department must make available its records, relating to any matter under investigation, review, or evaluation by the Commission, subject to the restrictions of applicable federal and state law.

The Commission has the power to conduct investigatory proceedings, subpoena witnesses and compel their attendance and testimony, administer oaths and affirmations, and require by subpoena the production of any books, papers, records, or other items material to the performance of the Commission's duties or exercise of its powers, subject to the restrictions of and in accordance with this section and applicable federal and state law. The Commission may enforce its administrative subpoenas by initiating contempt procedures, upon a majority vote of the Commission and in the manner provided by applicable state law.

The Commission must independently investigate all deaths occurring while a person is in the custody of the Police Department; all deaths resulting from interaction with an officer of the Police Department; and all City police officer-related shootings. The Commission has this duty whether or not a complaint has been made against a police officer or the Police Department. These investigations must be conducted by Commission staff or contractors who are independent of the Police Department, and in accordance with the officer's federal and state law rights.

The Commission may, but is not required to, investigate complaints against officers of the Police Department, which do not involve in-custody deaths, deaths resulting from an interaction with a police officer, or police officer-related shootings. However, the Commission must not investigate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

In determining whether to investigate a complaint that the Commission has the discretionary power, but not the mandatory duty, to investigate, the Commission must consider whether the complaint arises from any of the following: (1) an incident in which the use of force by a City police officer against a person resulted in great bodily injury; (2) dishonesty by a City police officer directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by another peace officer or custodial officer, including an allegation of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence; (3) an incident that has generated substantial public interest or concern; (4) an incident in which data shows a pattern of misconduct by any Police Department officer; or (5) an incident in which data shows a pattern of inappropriate policies, procedures, or practices of the Police Department or its members.

The Commission must receive, register, review, and evaluate all complaints against officers of the Police Department, except the Commission must not review or evaluate a complaint where the complainant has requested that the complaint be handled without investigation or where no specific allegation or police officer can be identified.

The Commission may, but is not required to, review, evaluate, and investigate allegations of inappropriate sexual conduct, physical assault, or domestic violence by officers of the Police Department, whether or not a written complaint has been submitted to the Commission or the Police Department.

The Commission must review and evaluate all factual findings and evidentiary conclusions of the Police Department arising from investigations of police misconduct and all disciplinary decisions proposed by the Chief of Police or designee following

FULL TEXT OF MEASURE B (CONTINUED)

sustained findings of police misconduct, with the terms "police misconduct" and "police officer misconduct," to be defined by the City Council by ordinance. The Commission may, but is not required to, review and evaluate the Police Department's administration of discipline arising from sustained complaints, which do not involve allegations of police misconduct, and from matters investigated by the Commission. The Commission may, but is not required to, make recommendations to the Police Department on the discipline of individual officers against whom complaints have been made or about whom the Commission has conducted an investigation.

The Commission must review and evaluate the Police Department's compliance with federal, state, and local reporting laws and requirements. The Commission must also prepare and submit semi-annual reports to the Mayor and City Council regarding the exercise of the Commission's duties and powers. These reports must be public, but must not disclose any information required to be kept confidential by controlling federal or state law.

The Commission may, but is not required to, review and evaluate the policies, procedures, practices, and actions of the Police Department. The Commission may make specific recommendations to the Police Department, the Mayor, and the City Council on any policies, procedures, practices, and actions of the Police Department.

The Chief of Police must consider the Commission's evaluation of proposed police officer discipline, prior to imposition of the discipline, to the extent permitted within applicable federal and state law, and only if the evaluation is completed before the statutory timelines, set forth in the California Public Safety Officers Procedural Bill of Rights or subsequent, applicable state laws, for the Police Department to act on the evaluation. The Chief of Police retains authority and discretion to discipline subordinate employees in the Police Department, in accordance with Section 57 of this Charter.

Any sustained findings of police officer misconduct by the Commission are subject to appeal, as required by California law. These sustained findings may be appealed to the City's Civil Service Commission.

Section 43: Advisory Boards and Committees

(a) through (c) [No change in text.]

~~(d) Community Review Board on Police Practices. Notwithstanding any other provision of this Charter, the Mayor and City Council shall have the exclusive authority to create and establish a community review board on police practices to review and evaluate citizens' complaints against members of the San Diego Police Department and the San Diego Police Department's administration of discipline arising from such complaints. The Mayor and City Council shall establish such rules and regulations as may be necessary for this board to carry out its functions; provided, however, that such rules and regulations shall be consistent with the laws of the State of California concerning citizens' complaints against peace officers. Nothing in such rules and regulations shall interfere with the board's authority to independently refer a completed citizen complaint investigation to the grand jury, district attorney, or any other governmental agency authorized by law to investigate the activities of a law enforcement agency. The board shall review all deaths occurring while a person is in the custody of the San Diego Police Department and all police officer-related shootings. The board shall submit semiannual reports to the Mayor and City Council concerning its evaluation of the San Diego Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law.~~

FULL TEXT OF MEASURE B (CONTINUED)

ARTICLE VIII CIVIL SERVICE

Section 115: Civil Service Commission

This Commission shall have supervision over the selection, promotion, and removal of all employees of the City, subject to the Civil Service provisions of this Charter. This Commission shall also conduct and determine appeals of sustained findings of police officer misconduct by the Commission on Police Practices, established by this Charter, as required by California law.

END OF MEASURE

ATTACHMENT B

Shall the measure amending the Berkeley City Charter to create an independent Berkeley Police Accountability Board and Director of Police Accountability to provide oversight of the Berkeley Police Department (Department) policies, practices, and procedures; obtain access to records; investigate complaints filed by members of the public against sworn employees of the Department; and recommend discipline of sworn employees of the Department, based upon a preponderance of the evidence, be adopted?

CHARTER AMENDMENT TO ESTABLISH A POLICE ACCOUNTABILITY BOARD AND DIRECTOR OF POLICE ACCOUNTABILITY

The People of the City of Berkeley hereby amend the Charter of the City of Berkeley to read as follows:

Section 1. The Charter of the City of Berkeley is amended to add Article XVIII, to read as follows:

Article XVIII. POLICE ACCOUNTABILITY BOARD AND DIRECTOR OF POLICE ACCOUNTABILITY

Section 1. Establishment and purpose.

A Police Accountability Board is hereby established in the City of Berkeley. The purpose of the Police Accountability Board is to promote public trust through independent, objective, civilian oversight of the Berkeley Police Department, provide community participation in setting and reviewing Police Department policies, practices, and procedures, and to provide a means for prompt, impartial and fair investigation of complaints brought by members of the public against sworn employees of the Berkeley Police Department.

The Office of the Director of Police Accountability is hereby established. The purpose of the Director of Police Accountability is to investigate complaints filed against sworn employees of the Berkeley Police Department, to reach an independent finding as to the facts and recommend corrective action where warranted. The Director of Police Accountability may also serve as the Secretary to the Police Accountability Board and assist the Board in carrying out the duties prescribed herein.

Section 2. Definitions.

The following definitions apply to this Article:

(a) "Commissioners' Manual" refers to the most current manual adopted by the City Council that consists of the policies and procedures regarding the service of board members and commissioners, board and commission procedures, and conduct of meetings.

(b) "Complainant" shall refer to a member of the public that files a complaint with either the Director of Police Accountability, Police Accountability Board, or the Police Department.

(c) "Director of Police Accountability" or "DPA" refers to an individual fulfilling the police oversight role established pursuant to section 1 of this Article.

(d) "Effective Date" shall be the date that the Secretary of State accepts and files this Article.

(e) "Police Accountability Board" or "Board" refers to the Police Accountability Board established in Section 1 of this Article, which shall be the successor agency to the Berkeley Police Review Commission in accordance with Section 27.

(f) Except as otherwise specifically provided, all references in this Article to California code sections shall refer to such Code sections as they may be amended or re-codified from time to time.

Section 3. Police Accountability Board powers and duties.

(a) The Police Accountability Board has the following powers and duties:

(1) To advise and make recommendations to the public, City Council, and City Manager regarding the operation of the Berkeley Police Department, including all written policies, practices, and procedures in relation to the Berkeley Police Department;

(2) Review and recommend for City Council approval all agreements, letters, memoranda of understanding, or policies which express terms and conditions of mutual aid, information sharing, cooperation and assistance between the Berkeley Police Department and all other local, state and federal law enforcement, intelligence, and military agencies or private security organizations;

(3) To receive and consider the findings and recommendations of the Director of Police Accountability regarding complaints filed by members of the public against sworn employees of the Police Department and to recommend if discipline is warranted when misconduct is found and, pursuant to Section 18, the level of discipline for sustained findings of misconduct;

(4) To participate in the hiring of the Chief of Police as set forth in Section 22;

(5) To access records of City Departments, compel attendance of sworn employees of the Police Department, and exercise the power of subpoena as necessary to carry out its functions;

(6) To adopt rules and regulations necessary for the conduct of its business; and

(7) Any other powers and duties as the City Council may assign it by Ordinance. -

(b) Nothing in this chapter granting powers and duties to the Police Accountability Board shall limit the City Council's, Chief of Police's or City Manager's authority derived from other provisions of this Charter to act on policing matters, unless explicitly stated.

(c) The Police Accountability Board, Director of Police Accountability and their respective agents, assigns, employees and representatives shall have no authority to restrict, modify, supersede, negate, supplant or contravene the authority granted to the City Manager and/or Chief of Police by way of the City Charter or operation of state or federal law to engage in collective bargaining activities or enter into

agreements or understandings with the designated bargaining unit representative or representatives of the sworn employees of the Police Department unless such agreements or understandings contravene this Article.

(d) The Police Accountability Board, Director of Police Accountability and their respective agents, assigns, employees and representatives shall not undertake nor sanction any actions which would:

(1) Restrict, violate, or abridge the collective bargaining rights of the designated bargaining unit representative of the sworn employees of the Police Department or their individual members;

(2) Restrict, violate or abridge the terms and conditions of a collective bargaining agreement, understanding or practice with the designated bargaining unit representative of the sworn employees of the Police Department, except for those provisions provided for in this Article; and

(3) Restrict, violate or abridge any legal rights of individual sworn employees of the Police Department, including but not limited to those set forth in the Public Safety Officers' Procedural Bill of Rights Act ("POBRA"), Government Code section 3300 et seq., and sworn employees' right to maintain the confidentiality of their personnel file information (including, but not limited to Penal Code §§ 832.7, 832.8.), except as required under Section 20 of Article XVIII of the City Charter.

Section 4. Independent agency; budget authority and allocation.

(a) Notwithstanding Article VII of the Charter, and except as provided in section 14(b), 14(i) or 14(k), the Police Accountability Board, its staff and the Director of Police Accountability shall be independent of the City Manager.

(b) The Board is authorized to propose a budget to the City Council for its operations, and the City Council may allocate to the Police Accountability Board and Director of Police Accountability, as the City Council determines resources allow, a budget sufficient to provide for a process that protects the rights of complainants and sworn employees of the Police Department, for the Board and its staff to carry out the investigative and policy responsibilities stated herein, and to ensure the independence of the Board.

Section 5. Composition of Police Accountability Board; eligibility.

(a) The Police Accountability Board shall be composed of nine (9) Board members selected by the Mayor and City Council. Each member of the Board must:

(1) Be a resident of the City;

(2) Be at least 18 years old;

(3) Not be an employee, officer, or contractor with the City, a current sworn police officer from any agency, or a current employee, official, or representative of an employee association representing sworn police officers; and

(4) Be fair minded and objective with a demonstrated commitment to community service.

(b) Desirable qualities of a Board member are familiarity with human resources, law, police procedures, police oversight, or involvement in civil rights or community organizations.

(c) All appointees to the Board shall be subject to background checks before final appointment.

Section 6. Board member selection.

(a) Candidates for the Board must complete and file with the City Clerk an application form and an affidavit of residency required by Berkeley Municipal Code Section 2.04.145. Board vacancies shall be widely advertised and publicly posted. The Mayor and each City Councilmember shall nominate one candidate from an applicant pool at a meeting of the City Council. Each individual nominee must be approved by a majority vote of the City Council.

(b) The City Council shall endeavor to establish a Board that is broadly inclusive and reflective of race, ethnicity, age, gender identity, sexual orientation, economic status, neighborhoods, and various communities of interest in the City. Toward that end, in soliciting applications for the position of Board member, the Director of Police Accountability shall reach out to civic, community, and civil rights organizations, among others.

Section 7. Terms; term limits.

(a) Board member terms end four years after appointment, or upon the expiration of the nominating City Councilmember's term, whichever is earlier. Board members are limited to serving eight consecutive years and may be reappointed following a break in service of at least two years.

(b) To the extent not in conflict with subsection (a) above, the provisions of Berkeley Municipal Code Section 3.02.040, regarding Board member term limits and the effect of interruption in service, apply.

Section 8. Conflicts of interest and Avoiding Bias.

(a) Board members shall be subject to the requirements of the California Political Reform Act and other state and local conflict of interest codes.

(b) Board members shall maintain basic standards of fair play, impartiality, and avoid bias and the appearance of bias. In instances where the Board acts in a quasi-judicial capacity, as in a confidential personnel hearing, as described below, Board members have the responsibility to hear all viewpoints. To ensure that all parties are afforded an opportunity to be heard, Board members shall observe the following:

(1) Board members recused for a conflict of interest must do so immediately when an item is taken up.

(2) Board members shall verbally disclose all ex parte contacts concerning the subject of the hearing. Board members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Ex parte contacts include, but are not limited to, any contact between a Board member and any party involved in the complaint prior to the public hearing.

(3) Board members shall be recused from taking any action on or participating in a matter before the Police Accountability Board if they are related to a party to, advocate for, or represent a member of the public who has a pending or anticipated claim of any kind arising out of alleged misconduct of a sworn employee of the Police Department. For the purpose of this subsection, "related to" shall include a spouse, child, sibling, parent or other person related to the complainant or the complainant's spouse within the third degree of relationship.

Section 9. Expiration of term; termination; leaves of absence; removal.

(a) A Board member whose term has expired may continue to serve until a successor Board member is appointed, unless the sitting Board member's term expires due to term limits, as provided in Section 7.

(b) The term of a Board member who fails to remain eligible to serve on the Board (e.g., by moving out of the City of Berkeley, or becoming an employee of the City) expires automatically as of the date the reason for ineligibility arises.

(c) The provisions of Berkeley Municipal Code Section 3.02.020, establishing a termination procedure for absence from meetings, Section 3.02.030, leaves of absence, and Section 3.02.035, regarding alternate Board members, apply to the Police Accountability Board.

(d) A Board member may either be replaced by the City Council if their term has expired or may be removed during their term as provided in Section 12.

Section 10. Board Chairperson and Vice-Chairperson.

(a) The Board shall elect one of its members as chairperson and one as vice-chairperson, whose terms shall be one year each, or until their successor is elected. No chairperson is eligible to serve more than two consecutive terms, or portions thereof.

(b) Following election of the initial chairperson and vice-chairperson, the Board shall elect subsequent officers each January.

Section 11. Board member stipends.

(a) Each Board member is entitled to receive a stipend of \$100.00 for each regular and special Board meeting attended, and \$20.00 per hour for each hour of training attended as provided in Section 12 and each subcommittee meeting attended as a member of a subcommittee. Excluding participation in trainings, the total stipend paid may not exceed \$300.00 per month per Board member.

(b) Board member stipends and the total monthly stipend paid may be adjusted from time to time by the City Council. Adjustments to Board member stipends shall occur no more than once in a fiscal year and in no event shall an increase in Board member stipends exceed the change in the cost of living for the San Francisco Bay Area as measured by official United States economic reports.

Section 12. Board member training; At will Status; Oath of Maintaining Confidentiality.

(a) The Director of Police Accountability shall establish mandatory training requirements for Board members. Within the first six (6) months of appointment, at a minimum, each Board member shall receive forty (40) hours of training on the following:

- (1) Quasi-judicial duties and obligations of the Board;
 - (2) Constitutional rights and civil liberties;
 - (3) Fundamentals of procedure, evidence and due process;
 - (4) The Public Safety Officers Procedural Bill of Rights Act;
 - (5) Police Department operations, policies, practices, and procedures;
- and
- (6) Duties, responsibilities, procedures and requirements associated with all ranks and assignments.

The Director of Police Accountability shall develop training provided to Board members. The Chief of Police and a representative from the Berkeley Police Association shall have input on training provided to Board members and shall have the opportunity to attend all training provided.

(b) All Board members shall serve at the pleasure of the City Council and may be removed by a two-thirds vote of the City Council for any reason, including but not limited to misconduct or violations of state and federal confidentiality laws.

(c) Board members shall, upon appointment, take an oath to abide by and maintain the confidentiality of the personnel files of sworn employees of the Police Department and all other matters that are confidential pursuant to state and federal law.

Section 13. Board meetings; quorum; rules of procedure; subcommittees.

(a) At the beginning of each calendar year, the Board shall establish a regular meeting schedule consisting of at least eighteen (18) meetings. Special meetings may be called by the chairperson of the Board or by a majority of the Board.

(b) A majority of appointed Board members constitutes a quorum to conduct business and take any action.

(c) The Board shall establish rules of procedure governing the conduct of its

business, which shall be subject to ratification by the City Council.

(d) The Board may establish policy subcommittees that it deems necessary to carry out its functions. The Chairperson shall appoint policy subcommittee members at a Board meeting. Policy subcommittees may include non-voting members of the public who express an interest in the business of the subcommittee. Members of the public that are appointed to a policy subcommittee shall serve in an advisory capacity without compensation. The Board may establish further rules and procedures for the appointment and removal of members of the public to policy subcommittees. Policy subcommittee members shall not have access to confidential personnel file information or any other confidential information.

(e) Unless otherwise specified in this Article, rules of procedure governing the conduct of the Board, or Ordinance, the Board shall comply with the Commissioners' Manual.

Section 14. Office of the Director of Police Accountability.

(a) To the extent possible, the City Manager shall recommend three (3) candidates for consideration by the City Council. The City Council shall appoint the Director of Police Accountability at a noticed public meeting.

(b) The Director of Police Accountability shall carry out the work of the Board as described herein, which may include the day-to-day operations of the Board office and staff, and performance appraisals and discipline of all subordinate employees of the Board. All such individuals, to the extent that they are employees of the City of Berkeley, shall be subject to the personnel rules governing City of Berkeley employees.

(c) Within the first six (6) months of appointment, the Director of Police Accountability shall receive training on the following:

- (1) Quasi-judicial duties and obligations of the Board;
 - (2) Constitutional rights and civil liberties;
 - (3) Fundamentals of procedure, evidence and due process;
 - (4) The Public Safety Officers Procedural Bill of Rights;
 - (5) Police Department operations, policies, practices, and procedures;
- and
- (6) Duties, responsibilities, procedures and requirements associated with all ranks and assignments.

(d) By majority vote, the Police Accountability Board may recommend removal for cause of the Director of Police Accountability to the City Council.

(e) The City Council may remove the Director of Police Accountability by a two-thirds vote either on its own motion or based on the recommendation of the Police Accountability Board.

(f) In addition to the duties prescribed, upon receipt of a complaint by the

Police Accountability Board, the Director of Police Accountability shall ensure a timely, thorough, complete, objective and fair investigation into the complaint.

(g) The Director of Police Accountability shall assess the conduct of the sworn employee of the Police Department in light of the facts discovered through the investigation, state and federal law, and the policies, practices, procedures, and personnel rules of the City and Berkeley Police Department.

(h) The Director of Police Accountability shall present the results of their investigative findings and recommendations to the Police Accountability Board who shall make a recommendation to the Chief of Police regarding the specific complaint.

(i) The Director of Police Accountability may hire a Chief Investigator and, when there is a conflict of interest pursuant to Section 15, outside legal counsel, subject to receiving budgetary authority from the City Council.

(j) Subject to the budgetary authority of the City Council, the provisions of the City's charter related to personnel, the City's personnel rules, state and federal law, the Director of Police Accountability shall have the authority to hire and dismiss consultants and additional investigators. Subject to City Council approval, the Director of Police Accountability may also enter into contracts for investigative services, provided, however, that with respect to the procurement of supplies and services, the Director of Police Accountability shall comply with the Charter and City purchasing policies and procedures

(k) The powers in this Section 14 are conferred notwithstanding Article VII, Sections 28(b) and (c) and Article XVI, Section 119 of this Charter.

(l) The Board and Director of Police Accountability shall use the City's Human Resources Department for all human resource matters including, but not limited to hiring, performance evaluation, discipline, and removal of employees.

(m) The Director of Police Accountability shall meet periodically with stakeholders, including but not limited to employee organizations representing officers, organizations promoting civil rights and liberties, and organizations representing communities of color, and solicit from them input regarding the work of the Police Accountability Board and the Office of the Director of Police Accountability.

Section 15. Legal counsel.

(a) The Board and the Director of Police Accountability shall use the services of the City Attorney's Office for legal advice.

(b) In the event the City Attorney has a prohibited conflict of interest under the California Rules of Professional Conduct with regard to a specified matter, the City Attorney shall provide the Director of Police Accountability with separate legal counsel. Pursuant to Section 14, when the City Attorney has determined that a conflict of interest exists, the Director of Police Accountability may engage legal counsel other than the City Attorney for legal advice regarding a specific case or matter.

Section 16. Board reports.

(a) All Board reports shall maintain the confidentiality of personnel file information and other confidential information as required by state and federal law.

(b) The Director of Police Accountability shall prepare an annual report to the public, including but not limited to the following:

(1) A description of the Board's activities during the year, including:

- i. A summary of the number, type, and disposition of complaints filed with the Board;
- ii. A summary of the number, type, and disposition of complaints filed with the Police Department by members of the public;
- iii. Policy complaints undertaken; and
- iv. Other such information that the Board or City Council has requested.

(2) The Department's and the Board's processes and procedures for investigating alleged misconduct, and for determining whether or not discipline is warranted and / or the level of discipline, for sustained findings of misconduct.

(3) Training and education, and any early warning system utilized by the Department.

(4) Training and/or policy issues that arise during the investigations of complaints by the Department, Director of Police Accountability, or Police Accountability Board.

(5) Trends and patterns in vehicle and pedestrian stops, citations, arrests, searches and seizures or other patterns by the Berkeley Police Department. Statistical data shall include the demographics of the complainant, reason for the stop, purpose of the stop and disposition, and location of stop, in compliance with policies, practices, and procedures of the City and Police Department, and the Police Department General Order on Fair and Impartial Policing.

(6) Trends and patterns regarding use of force and officer-involved shootings.

(c) This annual report shall be presented to the Board for approval. Upon adoption by the Board, it shall be presented to the Mayor and City Council, City Manager, and the Chief of Police at a City Council meeting, and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

(d) Prior to being made available to any member of the public, all Board reports shall be subject to the review of the City Attorney to ensure compliance with all applicable state and federal confidentiality laws.

Section 17. Policy review and approval.

(a) The Chief of Police shall submit all newly adopted Departmental policies and revisions to the Board within thirty (30) days of implementation. The Board may review policies, practices, and procedures of the Police Department in its discretion or at the request of a member of the public, due to a policy complaint, or due to a complaint from a member of the public against an officer.

(b) If the Police Department and the Board are unable to reconcile their differences about a policy within sixty (60) days from the date that the Chief of Police submits a policy to the Director of Police Accountability, the policy shall be sent to the City Manager for a final decision which shall be reported to the City Council. Nothing in this section shall limit the authority of the City Council under this Charter to enact legislation within its Charter authority or direct the City Manager to implement adopted City Council policy.

Section 18. Complaints filed with the Director of Police Accountability.

(a) The Director of Police Accountability and Board shall adopt regulations for handling complaints filed with the Director of Police Accountability by any member of the public alleging misconduct by sworn employees of the Police Department and undertake investigations of complaints as they deem warranted. The regulations shall include the following:

(1) What constitutes a complaint; and

(2) A provision for voluntary mediation of complaints in lieu of an investigation.

(b) The Police Accountability Board shall hear and decide findings on allegations of misconduct, at which subject sworn employees of the Police Department must appear to testify and answer questions consistent with their rights pursuant to state and federal law.

(c) In determining whether a sworn employee of the Police Department has committed misconduct, the standard of proof for the Board shall be "preponderance of the evidence". The investigation and decision on findings shall be fair, unbiased, and evidence based.

(d) The time limit for investigations and notification of discipline shall be two hundred and forty (240) days from the date of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(e) Investigation of all complaints filed with the Director of Police Accountability shall begin immediately and proceed as expeditiously as possible. The time limit for completion of an investigation shall be one hundred and twenty (120) days of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(f) No City employee, officer, official or member of the Police Accountability

Board shall attempt to interfere or undermine the work of the Director of Police Accountability or any employee of the Office of the Director of Police Accountability in the performance of the duties and responsibilities set forth in this Charter or by Ordinance.

(g) Complaints accepted by the Director of Police Accountability shall be sent in hard copy or electronically to the Chief of Police and Police Department Internal Affairs, members of the Police Accountability Board, and to each identified sworn employee of the Police Department against whom the complaint has been filed.

(h) For complaints being investigated by the Police Department, the Director of Police Accountability shall not participate in the Police Department's Board of Review or any subsequent internal process established by the Police Department to review a complaint filed by any member of the public.

(i) Within sixty (60) days of completing the investigation into allegations of misconduct by sworn employees of the Police Department, the Director of Police Accountability shall submit and present investigative findings to the Police Accountability Board and, if warranted, the Board may agree to hold a personnel hearing which shall be confidential. The Director of Police Accountability shall provide the Board with all evidence and documentation obtained or produced during the course of the investigation to enable its review of the complaint. At said meeting, both the sworn employee of the Police Department who is the subject of the investigation and the complainant shall be present to answer questions from Board members, subject to applicable state and federal law. In addition to submitting and presenting investigative findings to the Police Accountability Board in a confidential personnel hearing, the Director of Police Accountability shall include a recommendation of whether disciplinary action is warranted. For only those cases where an allegation of misconduct, if sustained, would involve any of the classes of conduct described in Penal Code 832.7, as enacted pursuant to Senate Bill 1421 on January 1, 2019, and any other classes of police conduct added in any subsequent amendment to, or successor provision, the Director of Police Accountability shall recommend the level of discipline, if warranted.

(j) Within fifteen (15) days of the confidential personnel hearing, the Board may affirm, modify or reject the findings and recommendation of the Director of Police Accountability.

(1) Should the Police Accountability Board agree with the findings and recommendation of the Director of Police Accountability, the Director of Police Accountability's findings and recommendations shall be submitted to the Chief of Police.

(2) If the Board modifies or rejects the findings and recommendations of the Director of Police Accountability, it shall issue a written explanation for its decision and shall forward it to the Chief of Police.

(k) Within ten (10) days of receiving the findings and recommendation of the Director of Police Accountability or Police Accountability Board, if the Chief of

Police and Director of Police Accountability or Police Accountability Board are in accord, the Chief of Police shall issue a final decision. If the Chief of Police disagrees with the findings and/or recommendation of the Director of Police Accountability or the Police Accountability Board, the Chief of Police shall issue a tentative decision, which shall be forwarded to the Director of Police Accountability and Police Accountability Board. Within ten (10) days of receipt of that tentative determination, the Director of Police Accountability may request that the Chief of Police submit the decision to the City Manager or City Manager's Designee who shall make the final determination along with a written explanation to the Director of Police Accountability, Police Accountability Board, and Chief of Police within twenty-five (25) days.

(l) In any conflict between the provisions of this Article and the disciplinary appeal process in an applicable collective bargaining agreement, the collective bargaining agreement shall prevail; provided, however, that no City official is authorized to enter into a collective bargaining agreement or an extension of a collective bargaining agreement that contains provisions contrary to this Article after its Effective Date. Except as expressly provided herein, nothing shall limit the authority of the Chief of Police or City Manager to conduct investigations, make findings, and impose discipline or corrective action, or of an arbitrator charged with adjudicating disciplinary appeals, based upon such standards as each may apply consistent with and subject to the Charter, Ordinance, and personnel rules, the collective bargaining agreement, due process requirements, state labor laws, and Police Department policies and procedures.

(m) Except for the time limit set forth in Section 18(d), the timelines set forth in this section are advisory, and may be adjusted by the Director of Police Accountability after consulting with the City Manager and Chief of Police, to ensure that all investigations and notifications are completed in accordance with the limits of Section 18(d). In the event that the timeline set forth in Section 18(e) is extended, it shall not exceed 195 days.

Section 19. Review of complaints filed with the Berkeley Police Department.

(a) The Police Department shall ensure that any member of the public that files a complaint with the Police Department shall be provided written information and instructions on how to file a complaint with the Director of Police Accountability and Board.

(b) For all complaints filed with the Police Department by any member of the public, the time limit for investigations and notification of discipline shall be two hundred and forty (240) days from the date of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception applies.

(c) Investigation of all complaints filed with the Police Department shall begin immediately and proceed as expeditiously as possible. The time limit for completion of the initial investigation shall be one hundred and twenty (120) days of the City's discovery by a person authorized to initiate an investigation of an alleged act, omission, or other misconduct, unless a Government Code section 3304(d) exception

applies.

(d) Upon completion of the Chief of Police's investigation, the Chief of Police shall issue a letter of disposition to the sworn employee of the Police Department. On all complaints initiated by a member of the public, at the conclusion of the Department's internal affairs investigation, the Chief of Police shall also notify the Director of Police Accountability in writing of the disposition. In addition, the Chief of Police shall notify the complainant of the disposition of the complaint in accordance with the Penal Code.

(e) In cases where the finding is "not sustained", "unfounded" or "exonerated", within twenty (20) days after notification to the complainant is mailed or provided by other reasonable means as specified by complainant, the complainant shall have the option to contest the Chief of Police's determination to the Director of Police Accountability.

(1) If a complainant contests the Chief of Police's determination, the Director of Police Accountability, if appropriate, may request to review all files, transcripts and records related to the complaint. Within fifteen (15) days of either receiving an objection from a complainant or notice from the Chief of Police that a complainant has filed an objection, the Director of Police Accountability may, in the exercise of the Director of Police Accountability's discretion:

i. Notify the complainant that the objection has been accepted and that the Police Accountability Board will convene to conduct a review based upon the investigative record provided by the Department; or

ii. Notify the complainant that the objection has been dismissed. If the Director of Police Accountability dismisses an objection filed by a complainant, the Director of Police Accountability must provide written notice to the Board within thirty (30) days following the Director of Police Accountability's notification to complainant that the objection was dismissed.

(f) Within forty five (45) days of when the Director of Police Accountability notifies the complainant that the objection has been accepted, the Board may dismiss the complainant's objection, issue a report agreeing with the Chief of Police's determination or issue a report disagreeing with the Chief of Police's determination if (1) the Department failed to proceed in a manner required by state and federal law, or (2) the Chief of Police's decision is not supported by the evidence in the record.

(g) If the Police Accountability Board disagrees with the Chief of Police's determination, it shall submit its report to the Chief of Police and the City Manager. The Chief of Police may prepare a report for the City Manager within fifteen (15) days of receiving the Police Accountability Board's recommendation addressing any concerns or objections. Within twenty five (25) days of receiving the report from the Chief of Police, the City Manager or City Manager's Designee, considering the reports of both the Board and Chief of Police, shall make a final determination along with a written explanation to the Director of Police Accountability, Police Accountability Board, and Chief of Police.

(h) The Chief of Police's determination shall not become final, and no discipline shall be administered in any case in which the complainant has contested the Chief of Police's determination until the objection is dismissed or otherwise concluded; provided, however, that a final determination in all cases shall be rendered by the Chief of Police or City Manager not later than two hundred and forty days (240) days, unless a Government Code section 3304(d) exception applies.

(i) Except for the time limit set forth in Sections 19(b) and 19(c), the timelines set forth in this section are advisory, and may be adjusted to ensure that all investigations are completed in accordance with the limits of Section 19(b) and 19(c), and by mutual agreement between the City Manager, Director of Police Accountability, and the Chief of Police, as applicable.

Section 20. Access to records of City departments; compelling testimony and attendance.

(a) Notwithstanding Article VII, Section 28 of this Charter, all departments, officers, and employees of the City shall cooperate with and assist the Director of Police Accountability, Police Accountability Board and its staff and, unless prohibited by state or federal law, produce all records and written and unwritten information, documents, materials and evidence the Board or its staff requests for the purpose of carrying out its duties and functions. Unless otherwise required by state and federal law, the records and information include without redaction or limitation:

- (1) Records relevant to Police Department policies, practices, or procedures;
- (2) Personnel and disciplinary records of sworn employees of the Police Department; and
- (3) Police Department investigative records.

Responding departments or employees of the City shall maintain the confidentiality of any records and information provided consistent with state or federal law governing such records or information and comply promptly, but in no event later than ten (10) business days from the date of request, unless additional time is needed to locate or review records. If additional time is needed to comply, the responding departments, officers or employees shall specify how much time up to thirty (30) additional business days is needed and explain the reasons for delay in producing the necessary records and information.

(b) The Director of Police Accountability, Police Accountability Board and its staff, and their agents and representatives shall maintain the confidentiality of any records and information it receives consistent with state or federal law governing such records or information.

(c) The Director of Police Accountability and Police Accountability Board may issue subpoenas to compel the production of books, papers, and documents, and the attendance of persons to take testimony, as needed to carry out its duties and functions. The testimony of any sworn employee of the Police Department is subject to the due process and confidentiality provisions of applicable state and federal law.

Section 21. Advice regarding Police Department budget.

The Board is empowered to review and make recommendations to the City Council regarding the Police Department budget. The Chief of Police shall submit a final budget proposal to the Board for review and recommendations, but the Board's failure to complete that review and make recommendations in a timely manner shall not delay the budget process.

Section 22. Hiring of Chief of Police.

Notwithstanding Article VII, Section 28 of this Charter, upon the notice of vacancy of the position of Chief of Police, the City Manager shall consult with the Police Accountability Board (or subcommittee of the Board) on the job requirements, application process, and evaluation of candidates for the Chief of Police.

Section 23. Chief of Police or command staff to attend Board meetings.

To the maximum extent possible, the Chief of Police shall attend at least one regular Board meeting per month, for each month a regular meeting is held and attend a minimum of twelve (12) meetings per year. The Chief of Police shall send a member of the Police Department's command staff to any regular Board meeting that the Chief of Police does not attend.

Section 24. Berkeley Police Department written reports to the Board.

The Chief of Police shall submit reports to the Board on such subjects and at such intervals as the Board, in consultation with the Chief of Police, may prescribe. At least one report per year shall provide information on all use of force statistics, and the number of complaints filed with Internal Affairs, the allegations in each complaint, and the disposition of closed complaints, including any discipline imposed.

Section 25. Contract negotiations.

The City Manager shall inform the Police Accountability Board of any changes agreed in contract negotiations and adopted by City Council that may directly affect the work, duties, or responsibilities of the Board.

Section 26. Commendation program.

The Board shall establish a regular means of recognizing sworn employees of the Police Department for instances of outstanding service to members of the public, the community at large, or the Department.

Section 27. Transition from Police Review Commission to Police Accountability Board.

(a) The Police Review Commission established by Ordinance No. 4,644-N.S., as amended, shall continue in existence until its functions are transferred

to the Police Accountability Board, but no later than January 3, 2022.

(b) To assist in an orderly transition between the Police Review Commission and the Police Accountability Board established by this Article, Police Review Commission staff shall serve as interim Police Accountability Board staff until the City hires a Director of Police Accountability.

(c) The Police Review Commission staff shall transfer all Police Review Commission files, records, books, publications, and documents of whatever kind to, and for the use and benefit of, the newly created Police Accountability Board.

Section 28. Review of processes.

The Board shall conduct a review of its processes every two years after the Effective Date in order to ascertain the efficacy of its processes.

Section 29. Enabling Legislation.

The Board may make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of Article XVIII of this Charter. The City Council may, based on such recommendations or on its own initiative, enact ordinances that will further the goals and purpose of this Article.

The Board shall have forty-five (45) business days to submit its comments to the City Council, such time to be extended only by agreement of the City Council.

Section 30. Repeal of Ordinance No. 4,644-N.S., as amended.

Ordinance No. 4,644-N.S., all amendments thereto, and all rules and regulations promulgated pursuant thereto, shall cease to be operative and are repealed as of the date of the first meeting of the Police Accountability Board established by this Article.

Section 31. Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Article, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The People of the City of Berkeley declare that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Article, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

ATTACHMENT C



Local Ballot Measure: P

Measure P

County of Sonoma

Measure Question

In order to increase law enforcement transparency and accountability and to build the public trust in County government and the Sheriff's Office, shall Article XXVII of Title 2 of the Sonoma County Code be repealed and replaced by this measure to expand the oversight authority and independence of the Independent Office of Law Enforcement Review and Outreach (IOLERO) to investigate Sheriff-related issues, revise and expand the duties and powers of the Community Advisory Council, compel production of records and witnesses, and review IOLERO's performance of its duties?

What Your Vote Means

YES	NO
A "yes" vote on Measure P will replace the existing code provisions governing IOLERO.	A "no" vote on Measure P will keep the existing code provisions governing IOLERO.

For and Against Measure P

FOR	AGAINST
James Gore 4th District County Supervisor NAACP SANTA ROSA/SONOMA Rubin Scott, President Alicia Sanchez Community Leader Jerry Threet Former Director, IOLERO Herman G. Hernandez Board Member, County Board of Education	SONOMA COUNTY LAW ENFORCEMENT ASSN. Damien Evans, President SONOMA COUNTY DEPUTY SHERIFFS' ASSOCIATION Michael Vail, President



Local Ballot Measure: P

County Counsel's Impartial Analysis of Measure P	County Auditor's Fiscal Impact Statement — Measure P
<p>Measure P asks voters whether to repeal and replace Sonoma County Code, Title 2, Article XXVII to strengthen the Independent Office of Law Enforcement Review and Outreach (IOLERO). Measure P would enhance the oversight authority and independence of IOLERO to review and analyze complaints against the Sonoma County Sheriff's Office (Sheriff-Coroner), expand the role and independence of the Community Advisory Council (CAC), compel production of records and witnesses, and require a triennial review of IOLERO's performance of its duties. The Sonoma County Board of Supervisors (Board) unanimously placed Measure P on the ballot. The full text of Measure P is published in this County Voter Information Guide.</p> <p>In 2015, the Board enacted Article XXVII establishing IOLERO to: provide independent review and audit of law enforcement administrative investigations, including allegations of misconduct by Sheriff-Coroner personnel; provide an alternative avenue for members of the public to file complaints against law enforcement agencies' personnel, including the Sheriff-Coroner; increase transparency; conduct public outreach and community engagement; and propose policy recommendations to the Sheriff-Coroner.</p> <p>Measure P prescribes new qualifications and protections for the IOLERO Director. If adopted, Measure P would require the Director be qualified as a Certified Practitioner of Oversight by the National Association for Civilian Oversight of Law Enforcement (NACOLE) and prohibit removal of the Director during her appointed term except for cause.</p> <p>Measure P would add more specificity to the complaints that IOLERO reviews to include review of all complaints: filed with IOLERO regardless of the allegations; involving issues of excessive force; alleging violation of individual constitutional rights; alleging bias in policing or corrections; alleging sexual harassment or sexual assault by law enforcement personnel; involving issues of dishonesty; where a civil lawsuit is filed; and that become a matter of media interest. Additionally, Measure P would authorize IOLERO to receive whistleblower complaints and audit racial profiling data. Further, it would vest IOLERO with, among other things, the authority to: directly access and independently review any and all sources of investigative evidence; directly contact complainants and witnesses; contact custodians of evidence; and independently subpoena records or testimony.</p> <p>Measure P would also set the annual budget for IOLERO at 1% of the total annual budget for the Sheriff-Coroner.</p> <p>Measure P would transfer primary appointing authority for a CAC from the IOLERO Director to the Board and would expand the requirements for membership on the CAC. The proposed regulations require that the CAC continue to include 11 members. Members of the CAC would serve two-year terms and be required to adhere to the NACOLE Code of Ethics. The ordinance also mandates that the 11 members represent the diversity and demographics of Sonoma County and community stakeholders, including, but not limited to, racial, ethnic, cultural, gender, socio-economic, and geographic diversity. Mandatory qualifications would, among other requirements, require that CAC members have not been employed by a law enforcement agency for three years prior to appointment. The CAC would continue to participate in the review and establishment of Sheriff-Coroner policies, procedures, practices, trainings, and initiatives.</p> <p>The amendments proposed by Measure P will become effective only if approved by a majority of those voting on the measure.</p> <p>A "yes" vote on Measure P will replace the existing code provisions governing IOLERO.</p> <p>A "no" vote on Measure P will keep the existing code provisions governing IOLERO.</p> <p>BRUCE D. GOLDSTEIN County Counsel</p> <p>By: s/ Robert Pittman Assistant County Counsel</p>	<p>This measure would set the annual budget of the Sonoma County Independent Office of Law Enforcement Review and Outreach ("IOLERO") at a minimum of 1% of the total annual budget of the Sonoma County Sheriff-Coroner's Office ("Sheriff") to effectively perform all functions proposed in the ordinance.</p> <p>According to the 2019-20 adopted budget, the County's most recent adopted budget, the annual budgets for the Sheriff and IOLERO were \$184,091,167 and \$589,793, respectively, and IOLERO was 100% supported by a County General Fund contribution. Using the 2019-20 adopted budget as the basis of estimating, passage of this measure would set the IOLERO annual budget at a minimum of \$1,840,912 or a minimum increase of \$1,251,119.</p> <p>This measure would repeal and replace Article XXVII of Title 2 of the Sonoma County Code to expand the oversight authority and independence of IOLERO to investigate Sheriff-related issues, revise and expand the duties and powers of the Community Advisory Council, and compel production of records and witnesses. Additionally, IOLERO would be subject to a periodic performance audit at least every three years.</p> <p>In accordance with the Elections Code, the scope of this fiscal impact statement has been limited to the measure's effect on revenues and expenditures. It does not address larger countywide fiscal issues such as the measure's effect on the overall County economy.</p> <p>s/ Erick Roeser Auditor-Controller-Treasurer-Tax Collector</p>



Local Ballot Measure: P

Arguments and rebuttals are the opinions of the authors. They are printed exactly as submitted, including errors.

Argument in Favor of Measure P	Rebuttal to Argument in Favor of Measure P
<p>Both our communities and deputies deserve the most effective and responsive Sheriff's Office possible. Modern law enforcement best practices emphasize collaboration with communities and with independent, effective civilian oversight. Independent, effective civilian oversight supports the democratic principles of accountability and transparency, and thereby increases trust between law enforcement and all communities.</p> <p>Measure P will bring IOLERO into alignment with the Principles of Effective Oversight established by the National Association for Civilian Oversight of Law Enforcement (NACOLE). These principles emphasize independence from political interference; adequate funding; unfettered access to records and staff of the law enforcement agency; clear and ample authority of IOLERO; policy analysis; community engagement; mutual cooperation and collaboration, and public reporting and transparency.</p> <p>Our Sheriff campaigned for office promising the public collaboration with civilian oversight, transparency and accountability. Yet, IOLERO doesn't have the tools it needs to be a strong partner in that collaboration. Measure P will guarantee IOLERO the resources and authority necessary to eliminate a persistent backlog in audits of deputy misconduct investigations; provide community input to the Sheriff on best policies and practices; and help bridge gaps between the Sheriff's Office and multicultural county communities.</p> <p>Measure P is supported by the Sonoma County Democratic Party, NAACP, Sonoma County Black Coalition, Sonoma County Latino Democratic Club, National Organization for Women, North Bay Labor Council, Community Action Partnership of Sonoma County, NACOLE, Redwood Psychological Association, North Bay Organizing Project, Green Party and ACLU, and many other organizations and leaders of our diverse communities across the county.</p> <p>Measure P will ensure that IOLERO meets NACOLE's principles for effective oversight, providing independent, transparent, effective civilian oversight, which can better assist the Sheriff's Office in improving its operations. We all want the Sheriff's Office to be the best that it can be. This measure helps us reach this worthy goal.</p> <p>s/ James Gore 4th District County Supervisor</p> <p>s/ Alicia Sanchez Community Leader</p> <p>s/ Herman G. Hernandez Board Member, County Board of Education</p> <p>NAACP SANTA ROSA/SONOMA s/ Rubin Scott, President</p> <p>s/ Jerry Threet Former Director, IOLERO</p>	<p>We support independent oversight of the Sheriff's Office that is broad-based, community-wide and legally compliant. Measure P doesn't meet those objectives. Measure P won't accomplish what it claims.</p> <p>We urge you to vote No on Measure P.</p> <p>Measure P doesn't improve civilian oversight; it just creates unnecessary red tape. It takes deputies off the streets, away from helping residents and from helping us in disasters. It forces fewer deputies to do more with less training and lower funding.</p> <p>Measure P has twice failed to gather community support to be placed on the ballot. Even the County's Chief Legal Advisor publicly acknowledged that it's legally questionable as written. Measure P is only on the ballot because the Board of Supervisors failed to take the time to do it right – to build something that has the input, support and cooperation of communities throughout Sonoma County.</p> <p>Facing fires, natural disaster and increased crime, we need help from law enforcement. Now is not the time to rush something to the ballot that makes it harder for them when we need them most, with a poor proposal that will be immediately challenged in court.</p> <p>Let's take the time to do it right. Let's put in the effort to create a civilian oversight program that builds real cooperation between law enforcement and the entire community. Let's create oversight that is efficient, legal and focused on training. Not a flawed plan that takes deputies off the street and wastes your tax dollars. Vote No on Measure P.</p> <p>s/ Mark Essick Sonoma County Sheriff</p> <p>s/ Ron Collier Retired Windsor Fire Chief</p> <p>s/ Ken Lafranchi Architect/Grape Grower</p> <p>SONOMA COUNTY FARM BUREAU s/ Jeff Carlton, President</p> <p>s/ Marina Luna Concerned Sonoma County Resident</p>



Local Ballot Measure: P

Arguments and rebuttals are the opinions of the authors. They are printed exactly as submitted, including errors.

Argument Against Measure P	Rebuttal to Argument Against Measure P
<p>Vote No on Measure P</p> <p>Measure P cuts safety and emergency services. It shifts money from public safety programs and the general fund to an organization that is not accountable to voters.</p> <p>The Sonoma County Deputy Sheriffs' Association and Sonoma County Law Enforcement Association both oppose Measure P because it: Increases response times to emergency calls, fires and disasters; Cuts training and community policing programs; Allows for secret investigations robbing victims and police of their rights and privacy; Wastes limited resources and taxpayers' money.</p> <p>Law enforcement fully supports efforts to increase the public's confidence in public safety. Measure P isn't the way to do it. Instead of increasing oversight, Measure P generates more bureaucracy for citizens and law enforcement.</p> <p>Vote No on Measure P because it: Violates state law; Reduces protection of citizens from robberies, burglaries, assaults, sex crimes, and disasters; Diverts the Sheriff and police oversight commission (IOLERO) from its core functions; Permanently divests a portion of the County budget from the Board of Supervisors' authority in violation of the California Constitution.</p> <p>Measure P was placed on the ballot without input from law enforcement. Twice it failed to get enough signatures to be placed on the ballot. Instead of rejecting it, our Board of Supervisors failed Sonoma County citizens by rushing to place it on the ballot without proper vetting. Even Measure P's supporters have publicly questioned its legality!</p> <p>We urge you to vote No on Measure P. Let's work together to improve law enforcement oversight with citizen outreach where all parties participate to create a real plan that doesn't endanger residents, law enforcement personnel and waste money. This work is important and must be done right!</p> <p>SONOMA COUNTY LAW ENFORCEMENT ASSN. s/ Damien Evans, President</p> <p>SONOMA COUNTY DEPUTY SHERIFF'S ASSOCIATION s/ Michael Vail, President</p>	<p>Measure P does not cut programs. Period. It simply guarantees minimum funding for IOLERO to be effective. County Supervisors will decide where that money comes from. Measure P will not hurt public safety programs. It makes them better by recommending critical improvements. More importantly, it improves public safety by reducing unnecessary deadly force and related lawsuit payouts of millions in taxpayer money.</p> <p>The provisions of Measure P align with existing law. They are based on Principles of Effective Oversight developed from over two decades of experience with civilian oversight of law enforcement across the country. It is based on over four years of IOLERO experience working closely with law enforcement and the recommendations of two IOLERO Directors. It includes input from years of engagement with many minority and disadvantaged community members. COVID halted signature gathering for this measure.</p> <p>Law enforcement unions had years to suggest improvements to police oversight but did absolutely nothing. Now, they come out swinging against efforts to strengthen civilian oversight when they should be helping to find solutions. Measure P dramatically increases transparency and accountability of the Sheriff's Office; something police unions should embrace, not fear. Unfortunately, their alarmist opposition arguments are designed to scare voters and our residents.</p> <p>Our Supervisors listened to our community and overwhelming public demand at their public meetings to put this important measure on the ballot.</p> <p>Independent, effective civilian oversight has been a long time coming to our county. It's time to improve law enforcement by voting yes on Measure P.</p> <p>s/ Susan E. Jones Police Chief, Retired</p> <p>s/ Ernesto Oliveras Lieutenant SRPD, retired</p> <p>s/ Teresa E Barrett Mayor, City of Petaluma</p> <p>s/ Osvaldo Jimenez Small business owner</p> <p>s/ Joanne M Brown Superior Court Commissioner, retired</p>



Local Ballot Measure: P

Full Text of Measure P

The Evelyn Cheatham Effective IOLERO Ordinance an Ordinance of the County of Sonoma, State of California, Repealing and Replacing Article XXVII, Independent Office of Law Enforcement Review and Outreach (IOLERO), Community Advisory Council (CAC), of Chapter 2, Administration, of the Sonoma County Code

The People of the County of Sonoma do hereby ordain as follows:

Sec. 2-392. – Independent office of law enforcement review and outreach established.

- (a) County sheriffs lead agencies of law enforcement officers that are vested with extraordinary authority, and the powers to detain, search, arrest, and use deadly force. These officers are also responsible for the safety and welfare of the more than 75,000 incarcerated individuals in California's jail system. Misuse of these authorities can lead to grave constitutional violations, harms to liberty and the inherent sanctity of human life, and significant public unrest.
- (b) While sheriffs are independently elected officials, boards of supervisors have the authority to supervise these officials and investigate the performance of their duties and have an obligation to ensure sheriffs and their departments uphold and respect people's constitutional rights.
- (c) Meaningful independent oversight and monitoring of sheriffs' departments increases government accountability and transparency, enhances public safety, and builds community trust in law enforcement. Such oversight must have the authority and independence necessary to conduct credible and thorough investigations.
- (d) The board of supervisors ("board") established the Independent Office of Law Enforcement Review and Outreach (hereinafter "IOLERO"), by Resolution on August 18, 2015, pursuant to its authority under California law, including Government Code sections 31000.1 and 25303, with the following mission:
 - 1) To provide an objective, independent and appropriate review and audit of law enforcement administrative investigations of employees, which may include allegations of misconduct, by the Sonoma County Office of the Sheriff-Coroner (hereinafter, "sheriff-coroner"); to provide an alternate site for members of the public to file complaints against employees of law enforcement agencies, including the sheriff's office;
 - 2) To provide independent investigations of employees of the sheriff-coroner where an investigation by that office is found by IOLERO to be incomplete or deficient in some way;
 - 3) To propose thoughtful policy recommendations to the sheriff-coroner;
 - 4) To increase transparency of law enforcement operations, training, policies and procedures; and
 - 5) To conduct outreach to and engage the communities of Sonoma County so as to foster a culture of accountability and communication between the community and the sheriff-coroner while improving community relations and enhancing public confidence in policing and corrections services provided by the sheriff-coroner.
- (e) As part of the board of supervisor's duty to supervise the official conduct of the sheriff under state law, IOLERO was created by the board of supervisors. IOLERO is intended to promote the common interest of the board of supervisors and the sheriff in effective and lawful policing and corrections, and in complete, unbiased administrative investigations, and to facilitate the board of supervisors' supervisory responsibility without

interfering with the sheriff's criminal investigative functions.

Sec. 2-393. – Appointment and qualifications of director and staff.

- (a) The director of IOLERO shall be appointed by the board of supervisors. The director shall be appointed for a term of 3 years, and shall be removed prior to that time only for cause and upon a vote of at least 4 out of 5 supervisors in favor of removal.
- (b) The director shall be an employee of the county of Sonoma. The terms and conditions of employment of the director shall be set by the board, consistent with this ordinance, and shall be specified in a personal services agreement.
- (c) The director shall be an attorney licensed to practice law and shall be qualified as a certified practitioner of oversight by the National Association for Civilian Oversight of Law Enforcement at the time of their employment, or within a reasonable time after hiring.
- (d) The director may assign personnel, as allocated by the board, and utilize equipment and supplies as necessary to perform IOLERO's duties. All personnel shall be employed by the county of Sonoma. The director also may contract with outside specialists for the provision of discrete services related to fulfilling IOLERO's missions, as needed.

Sec. 2-394. – Powers and duties of independent office of law enforcement review and outreach, and corresponding duties of the sheriff-coroner.

- (a) IOLERO, through its director, shall perform its powers and duties subject to all applicable statutory and constitutional requirements of confidentiality and privilege.
- (b) IOLERO's powers and duties shall include, consistent with existing law, the following which shall be exercised at the discretion of the director, subject to adequate staffing and resources to support them:
 - 1) Receive and review citizen complaints, and forward them to the sheriff-coroner for review and investigation. IOLERO is an office specifically designated to receive complaints by members of the public against personnel of the sheriff-coroner pursuant to its procedures established under Penal Code § 832.5;
 - 2) Review, audit and analyze administrative and public complaint investigations in mutual coordination and cooperation with the sheriff-coroner; the complaint investigations subject to such automatic review, audit, and analysis, shall include:
 - i. All complaints filed with IOLERO, regardless of the nature of the allegations included in that complaint;
 - ii. All complaints or investigations or analyses of incidents that involve issues of whether uses of force violate law or policy;
 - iii. All complaints or investigations or analyses of incidents that involve a possible violation of the U.S. or state constitutional rights of individuals;
 - iv. All complaints or investigations or analyses of incidents that involve issues of bias by an employee in policing or corrections;
 - v. All complaints or investigations or analyses of incidents that involve issues of sexual harassment or sexual assault by an employee;
 - vi. All complaints or investigations or analyses of incidents that involve issues of dishonesty; and
 - vii. Every incident of force used by a sheriff's deputy regardless of whether a complaint is filed with IOLERO or the sheriff-coroner; and
 - viii. Every case where a civil lawsuit is filed against the sheriff's office related to the use of force regardless of whether a complaint is filed with



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- ix. IOLERO or the sheriff-coroner; and All racial profiling data collected by the sheriff's office in compliance with the Racial and Identity Profiling Act of 2015 or any successor legislation;
- x. Any other complaints or investigations or analyses of incidents that become a matter of media interest.
- 3) Act as a receiving and investigative agency for whistleblower complaints involving the sheriff-coroner. For the purposes of these complaints, all statewide legal protections pursuant to California Labor Code sections 1102.5, 1106 et. seq., including confidentiality of the whistleblower and prohibition against retaliation, shall apply. Further, any whistleblower complaints received or investigated by IOLERO shall not need to be reported by IOLERO to the sheriff-coroner, including the Internal Affairs Division.
- 4) Make discipline recommendations, as appropriate, for officers subject to IOLERO investigations.
- 5) As part of the process of review, audit and analysis, IOLERO may, among other things:
 - i. Directly access and independently review any and all sources of investigative evidence to ensure that the investigation is complete and all material evidence has been secured and analyzed by investigators in reaching their investigative findings;
 - ii. Directly receive all prior complaints for the involved deputy, previous investigation files (including *Brady* investigations) and the record of discipline for each complaint;
 - iii. Directly access and review all body worn camera videos and be authorized to post every body worn camera video where force was used on IOLERO's website. Public posting shall be determined on a case by case basis to the extent allowed by law, in consideration of victim privacy rights and active investigations;
 - iv. Where the director deems appropriate, directly contact complainants and witnesses to ensure the completeness and fairness of the investigation;
 - v. Where the director deems appropriate, directly contact custodians of evidence held by third parties to ensure adequate efforts to secure such evidence by investigators;
 - vi. Where the director deems appropriate, request supplemental investigation of matters relevant to the investigation that have not been adequately reviewed or analyzed, in the opinion of the director;
 - vii. Where, in the opinion of the director, the investigation of a complaint or incident by the sheriff-coroner is incomplete or otherwise deficient, conduct an independent investigation of the matter, to the extent deemed necessary by the director;
 - viii. Where an investigation involves an incident resulting in the death of a person in custody of the sheriff-coroner or results from the actions of an employee, conduct an independent investigation of the matter; and
 - ix. Independently subpoena records or testimony, as the director deems appropriate, to complete an adequate investigation. Among other sources of legal authority, such subpoena power is delegated from that held by the board of supervisors, to be used at the discretion of the director.
- 6) Assess and make periodic recommendations, as the director deems appropriate, regarding policies, procedures, strategies, training, and practices based on information gathered in the review process and/or data trends;
- 7) Advise if investigations appear incomplete, biased or otherwise deficient and recommend further review as deemed necessary; when warranted, propose independent recommendations or determinations regarding investigations, which recommendations may be made public on a summary level without personally identifying information;
- 8) Track, analyze and advise on legislative actions and law enforcement audit trends; make recommendations to the county for legislative platforms, as the director deems appropriate;
- 9) Prepare annual report to the board of supervisor which includes statistical information, analysis of trends, policy and procedure recommendations; prepare ad hoc reports as the director deems appropriate; and
- 10) Conduct comprehensive outreach to the community including schools, community based organizations, business and civic groups, which may include: promoting and facilitating communications between the community and law enforcement, educating the community on law enforcement practices, policies, strategies, incident trends and challenges using appropriate methods, such as public presentations and community forums, providing feedback from the community back to department leaders and elected officials, handling media relations concerning matters related to IOLERO and its scope of duties;
- 11) Staff and support at least monthly meetings of a community advisory council to serve as a bridge between law enforcement, IOLERO, and various communities of the County, as set forth more specifically elsewhere in this ordinance. While IOLERO shall provide staffing and support for the CAC, IOLERO and the CAC shall function as independent bodies, working in a cooperative and collaborative manner; and
- 12) Perform related services as the director deems appropriate.
- (c) IOLERO shall not be authorized to:
 - 1) Interfere with the performance of the powers and duties of the sheriff-coroner as prohibited by law;
 - 2) Disclose any confidential and/or privileged information to anyone not authorized to receive it, as prohibited by law;
 - 3) Decide policies, direct activities, or impose discipline on other county departments, officers and employees;
- (d) IOLERO and the sheriff-coroner shall create written protocols that further define and specify the scope and process providing for IOLERO's receipt, review, processing, and audit of complaints and investigations in a mutually coordinated and cooperative manner.
- (e) The sheriff-coroner shall cooperate fully with IOLERO by providing direct, unfettered access to information of the Sheriff's Office, in order to facilitate IOLERO's receipt, review and audit of complaints and investigations; IOLERO's independent investigation of incidents; as well as IOLERO's review of policies, practices, and training. Among the sources of information to which the sheriff-coroner shall provide such access to IOLERO are the following:
 - 1) Any database or other computer application, or physical files, containing incident reports, dispatch records, or records of responses to law enforcement calls for service;
 - 2) Any database or other computer application, or physical files, containing employee personnel records, investigations



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of complaints against employees, investigations of claims filed against the Sheriff's Office under the California Claims Act, including *Brady* investigations and the record of discipline with each complaint file or audit or investigations related to lawsuits filed against the County because of any action or inaction of an employee of the Sheriff's Office.

- 3) Any database or other computer application, or physical files, containing jail inmate grievances and their investigations;
 - 4) Any database or other computer application containing the footage from body worn cameras;
 - 5) Any database or other computer application, or physical files, containing racial profiling data collected by the sheriff's office pursuant to the Racial and Identity Profiling Act of 2015 or any successor legislation;
 - 6) Any database or other computer application, or physical files, containing video or audio recordings related to: incidents involving employees, investigations by employees, investigations of employees, investigations of claims filed against the Sheriff's Office under the California Claims Act, or lawsuits filed against the County because of any action or inaction of an employee of the Sheriff's Office;
- (f) The director shall be provided access by the sheriff-coroner to personally sit in and observe the investigative interviews of any complainant or witness in, or deputy who is a subject of, and administrative investigation, upon request by the director;
- (g) The sheriff-coroner shall cooperate with IOLERO by providing direct, unfettered access to staff of the Sheriff's Office, in order to facilitate IOLERO's ability to develop trusting relationships with such staff, and to informally obtain information related to the receipt, review and audit of complaints and investigations, as well as IOLERO's review of policies, practices, and training. Among the opportunities to access staff which the sheriff-coroner shall provide to IOLERO, are the following:
- 1) Any investigator for a complaint being audited by IOLERO;
 - 2) Any employee who is a witness or custodian of relevant records for a complaint or incident being investigated by IOLERO;
 - 3) Any supervisor of an employee subject to an investigation being audited or otherwise conducted by IOLERO; and
 - 4) Any staff gathered for training opportunities, in cooperation with the sheriff-coroner.
- (h) Nothing in this section shall be construed to interfere with the constitutionally and statutorily designated independent functions of the sheriff-coroner, as prohibited by Government Code section 25303; matters involving any of these functions are subject to the sheriff-coroner's collaboration.

Sec. 2-395. – Budget allotment.

The annual budget of IOLERO shall be set at a minimum of 1% of the total annual budget of the Office of the Sheriff-Coroner. While this amount is a minimum, IOLERO's budget allotment shall be sufficient to allow IOLERO to perform effectively all of the functions set out in this ordinance.

Sec. 2-396. – Periodic performance audit.

At least every 3 years, IOLERO shall be subject to a performance audit to determine whether the office is operating in an effective and efficient manner and whether it is meeting best practices for the operation of such a civilian oversight office, as established by comparison with other agencies with similar missions.

Sec. 2-397. – Establishment and appointment of IOLERO community advisory council ("CAC").

- (a) Purpose. An IOLERO community advisory council is hereby established to increase visibility for the public into the delivery by the sheriff-coroner of policing and corrections services, to provide community participation in the review and establishment of sheriff-coroner policies, procedures, practices, training, and initiatives, and to engage the public to better understand the role of IOLERO and of the sheriff-coroner. The members of the IOLERO CAC shall adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.
- (b) Composition and appointment. The board of supervisors and the IOLERO director shall appoint a community advisory council, which shall be composed of 11 members who broadly represent the diversity and demographics of the County by way of, including but not limited to, racial, ethnic, cultural, gender, socio-economic, and geographic diversity; and who are representative of the community and of community stakeholders of the law enforcement oversight process, and who reside within the County of Sonoma. The term of office of CAC members shall be two years, subject to reappointment at the end of the appointment term. Each supervisor shall appoint two members to the CAC, with the IOLERO director appointing one member.
- (c) Qualifications. In addition to the composition standards set forth above, the following are the minimum qualifications for members of the CAC:
 - 1) Have not been employed by any law enforcement agency for three years prior to appointment;
 - 2) A demonstrated history of involvement in and engagement with community organizations that work in one or more of the following areas:
 - i. Serving or empowering disadvantaged communities;
 - ii. Protecting and defending the constitutional rights of individuals;
 - iii. Issues concerning the effectiveness or fairness of the criminal justice system;
 - iv. Serving or empowering members of communities that experience behavioral or mental health challenges; and/or
 - v. Spiritual, faith or religious institutions.
 - 3) A demonstrated ability to engage in mature, objective decision making;
 - 4) A demonstrated commitment to transparency and objective decision making;
 - 5) A demonstrated commitment to and support for civilian oversight of law enforcement; and
 - 6) Residency within the County of Sonoma.