

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

16 AUG 11 PM 3:24

## CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE

This Measure is a Charter amendment which will establish a Police Commission to oversee the Oakland Police Department. This new Police Commission and Community Police Review Agency will replace the current Citizens' Police Review Board (CPRB).

The CPRB's Director will become the Interim Director for the new Community Police Review Agency, and the CPRB's pending business and staff will be transferred to the new Community Police Review Agency.

### Financial Impact

The 7 regular Commissioners and 2 alternate Commissioners for the new Police Commission will serve their duties without pay. The City Attorney would assign to the Commission an attorney who would not be a City employee. We estimate the annual cost at \$227,800, which is equivalent to the cost of a full-time Deputy City Attorney III. Part of this outside counsel cost is already borne by the City for the CPRB.

This Measure increases the current CPRB staffing level from 11 full-time employees to a minimum of 14 full-time employees. An additional 3 employees are required if this Measure passes because the Measure requires at least one Investigator for every 100 sworn police officers. As of July 2016 there were approximately 770 sworn officers and 60 trainees.

The current Police Review Board has 5 Investigators in their budget, so that an additional 3 Investigators will be required to meet the required ratio. We estimated the additional Investigators to cost the City between \$403,400 to \$495,200 for salaries and benefits.

This Measure also requires specific, professional training for the 9 Commissioners. The exact cost of this training is unknown; we estimated a minimum of \$9,000 annually for Commissioner training.

Passing this Measure may cost the City an additional \$560,400 to \$652,200 annually, as detailed below; we also estimate an additional one-time equipment cost for new employees at \$6,000.

Cost Component	City's Current Costs (11 full-time employees)	Additional Costs per Year	Total Estimated Annual Cost (14 full-time employees)
Staffing	\$1,580,000	\$403,400 to \$495,200	\$1,983,400 to \$2,075,200
Outside Counsel	\$85,800	\$142,000	\$227,800
Operations	\$155,000	\$15,000	\$170,000
Total	\$1,820,800	\$560,400 to \$652,200	\$2,381,200 to \$2,473,000

There are three potential, financial impacts that cannot be quantified at this time, as noted below:

- Reconfiguration of workspaces for new and current employees, and the addition of private interview rooms may be necessary. The cost of any renovation cannot be determined because it is project-specific.
- Specialized, professional training for the Commissioners may be higher than the minimum amount estimated.
- Staff salaries and benefit rates may increase over time due to cost of living adjustments and future union negotiations, which will increase the cost to the City.

## QUESTION

Shall Oakland's City Charter be amended to establish: (1) a Police Commission of civilian commissioners to oversee the Police Department by reviewing and proposing changes to Department policies and procedures, requiring the Mayor to appoint any new Chief of Police from a list of candidates provided by the Commission, and having the authority to terminate the Chief of Police for cause; and (2) a Community Police Review Agency to investigate complaints of police misconduct and recommend discipline?

## TITLE AND SUMMARY

**Title:** A proposed amendment to Oakland's City Charter establishing a Police Commission to oversee the Police Department's policies and procedures, and a Community Police Review Agency to investigate complaints of police misconduct and recommend discipline.

### **Summary:**

#### Police Commission

This measure would establish a Police Commission ("Commission") consisting of seven regular and two alternate members.

Commission members would be Oakland residents. No member could be a current police officer, current City employee, former Oakland police officer, or current or former official, employee or representative of a union that represents police officers. The first group of Commissioners would serve two, three or four-year terms. Later members would serve three-year terms, with a two-term limit.

The Mayor would nominate three regular Commissioners and one alternate, subject to the City Council's approval. A nine-member Selection Panel would nominate four regular Commissioners and one alternate, subject to the City Council's approval. Each City Council member and the Mayor would make an appointment to the Selection Panel. No panel member could be a current OPD employee.

Many changes to the Oakland Police Department's ("OPD's") policies and procedures would be subject to the Commission's approval. The Commission could require the Chief to submit annual reports, and the Commission would disclose the information in the Chief's reports to the Mayor, the City Council and the public, if permitted by law. The Mayor would appoint any new Chief from a list of four candidates identified by the Commission. The Commission could remove a Chief from office for cause.

#### Community Police Review Agency

The Commission would establish a Community Police Review Agency ("Agency"), which would receive and review complaints of police misconduct. The Agency would be required to investigate complaints involving use of force, in-custody deaths, profiling and public assemblies. The Commission could also direct the Agency to investigate other possible police misconduct. After completing its investigation of a complaint, the Agency would submit its findings and proposed discipline to the Commission and the Chief.

If the Chief agrees with the Agency's findings and proposed discipline, the Chief would notify the officer who is the subject of the complaint. The officer would have an opportunity to appeal by filing a grievance.

If the Chief disagrees with the Agency's findings and proposed discipline, the Chief would be required to prepare separate findings and proposed discipline. A three-member committee of the Commission would consider the Agency's and the Chief's recommendations and make a final decision, and the officer would have an opportunity to appeal by filing a grievance.

#### Budget and Staffing

The City would have to allocate enough money to the Commission and the Agency so that they can perform their required functions and duties. At a minimum, staff would consist of an Agency Director and Agency investigators. There would be at least one Agency investigator for every 100 OPD officers. The City would also be required to allocate enough money for the City Attorney to assign outside counsel to provide legal advice to the Commission and Agency. No current or former Oakland police officer or current official, employee or representative of a union that represents police officers could serve as staff for the Commission or Agency.

### **IMPARTIAL ANALYSIS**

Currently, the City Administrator supervises the Oakland Police Department ("OPD"). The Chief of Police ("Chief") is responsible for the OPD's day-to-day operations. The Chief investigates possible police misconduct, but the City Administrator must approve all suspensions of five or more days, fines, demotions or discharges. The City's Citizens' Police Review Board ("CPRB") investigates citizen complaints of police misconduct.

This measure would establish a Police Commission ("Commission") to oversee the Police Department's policies and procedures, and a Community Police Review Agency ("Agency") to investigate complaints of police misconduct and recommend discipline.

#### Police Commission

The Commission would review the OPD's policies, procedures and General Orders. The Commission may also propose changes, and approve or reject the OPD's proposed changes, to those policies, procedures and General Orders that govern use of force, profiling, and general assemblies. The Commission's proposed changes, and any rejections of the OPD's proposed changes, would be subject to the City Council's review and approval. The Commission would also conduct at least one public hearing a year on OPD policies, procedures and General Orders.

The Commission would consist of seven regular and two alternate members. The Mayor would nominate three regular Commissioners and one alternate, subject to the City Council's approval. At least one of the three appointees must be a retired judge or lawyer with trial experience in criminal law or police misconduct.

A nine-member Selection Panel would nominate four regular Commissioners and one alternate. Each member of the City Council and the Mayor would appoint one member to the Selection Panel. The Selection Panel's nominees would become members of the Commission, unless the City Council rejects all of the panel's nominees.

### Community Police Review Agency

Currently, after investigating a complaint of police misconduct, the CPRB may recommend proposed discipline. The CPRB must submit any recommendations regarding discipline to the City Administrator, who must respond to the CPRB in writing and make the final decision.

Under the proposed measure, the Commission would establish the Agency, which would receive and review all complaints of police misconduct. The Agency would be required to investigate all complaints involving use of force, in-custody deaths, profiling and public assemblies. The Commission could also direct the Agency to investigate other possible police misconduct. After completing its investigation of a complaint, the Agency would submit its findings and proposed discipline to the Commission and the Chief.

If the Chief agrees with the Agency's findings and proposed discipline, the Chief would notify the officer who is the subject of the complaint. If the Chief disagrees with the Agency's findings and proposed discipline, the Chief would be required to prepare separate findings and proposed discipline. A three-member committee of the Commission would consider the Agency's and the Chief's recommendations and make a final decision, subject to the officer's ability to file a grievance.

### Budget and Staffing

The City must allocate enough money to the Commission and the Agency so that they can perform their required functions and duties.

After the City Council confirms the first group of Commissioners, the CPRB's pending business would be transferred to the Commission and the Agency. The CPRB's Executive Director would become the Agency's Interim Director, and all other CPRB staff would become Agency staff.