

Introduced by _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING VARIOUS PROVISIONS OF THE PASADENA MUNICIPAL CODE CREATING (A) A COMMUNITY POLICE OVERSIGHT COMMISSION; AND (B) AN INDEPENDENT POLICE AUDITOR

The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and corresponding cost of publication, will be published by title and summary as permitted by Section 508 of the Pasadena City Charter. The approved summary of this ordinance is as follows:

“Summary

This ordinance creates a Community Police Oversight Commission and provides for the services of an Independent Police Auditor.

Ordinance no. _____ shall take effect upon publication.”

SECTION 2. Pasadena Municipal Code, Title 2 (Organization and Administration), is amended to add a new Chapter 2.60 as follows:

“Chapter 2.60 Community Police Oversight Commission

Sections

- 2.60.010 - Short Title**
- 2.60.020 - Establishment**
- 2.60.030 - Membership – Appointment and terms**
- 2.60.040 - Qualifications, orientation, and training**
- 2.60.050 - Absences and vacancies**
- 2.60.060 - Election of officers**
- 2.60.070 - Meetings – Records**
- 2.60.080 - Rules and regulations**
- 2.60.090 - Annual report**
- 2.60.100 - Disclosure requirements**
- 2.60.110 - Purpose and functions**
- 2.60.120 - Subpoenas**

10/05/2020
Item 19

2.60.010 – Short Title.

This chapter shall be known as the City of Pasadena “community police oversight commission ordinance.”

2.60.020 – Establishment.

There is created and established a commission of the city to be known as the community police oversight commission and hereinafter called “commission.”

2.60.030 – Membership – Appointment and terms.

- A. The commission shall consist of 11 members appointed by the city council as follows:
 - 1. Each of the 7 councilmembers and the mayor shall nominate 1 member for a total of 8 members.
 - 2. Three members shall be nominated representing community-based organizations.
 - 3. Each member shall be a resident of the city.
 - 4. All nominations are subject to ratification by the city council.
 - 5. At least 50 percent of the filled positions on the commission shall be women, if feasible.
 - 6. The city council shall, by resolution, establish a policy for the appointment of members to the commission.
- B. Members shall be appointed for a term of 3 years, which shall be staggered. The initial members shall be appointed to terms of 1, 2, and 3 years, respectively. Four members shall be appointed to serve a three-year term; four members shall be appointed to a two-year term; and the remaining members shall be appointed to a one-year term. Thereafter, all members shall serve a term of three years. Members shall serve no more than 2 consecutive terms. A term of less than 1 year shall not be considered a full term. Terms expire on June 30th of the applicable years. A member shall continue in office for the term for which he/she was appointed or until his/her successor is appointed. No member who has served 2 consecutive terms shall be eligible for reappointment to the commission prior to the passage of a two-year interval.
- C. If a member ceases to reside in the city prior to the expiration of a term, the member may complete the term only upon approval by the city council pursuant to Section 2.45.020.
- D. Any member of the commission may be removed by the city council at its pleasure.

2.60.040 – Qualifications, orientation, and training.

- A. The council district and at-large commission members shall be residents of the city.
- B. Members should have an interest in strengthening community-police relations.
- C. Practicing attorneys who handle, or are members of members of firms or entities that currently handle, criminal or civil matters involving the police department are ineligible to serve on the commission.
- D. Prior to appointment, each member shall take an oath in writing that they will not divulge confidential information, including identities of witnesses and contents of confidential testimony and documents, either during their term of office or thereafter.
- E. No later than 90 days after appointment, each member shall:
 - 1. Participate in a ride-along with the police department in a four-hour minimum shift; and
 - 2. Receive at least 30 hours of training in relevant subject matters facilitated by the police department on topics including, at a minimum, constitutional rights and civil liberties, fundamentals of procedure, evidence, and due process, procedural rights and confidentiality afforded to police officers by California law (including, but not limited to, Government Code Section 3300 *et seq.* and Penal Code Sections 832.7 and 832.8), police department operations, policies, practices, and procedures, and duties, responsibilities, procedures, and requirements associated with all ranks and assignments.

2.60.050 - Absences and vacancies.

- A. In the event a member has 3 consecutive unexcused absences from meetings of the commission, the city council may declare the office vacant. The staff to the commission shall advise the secretary to the mayor of any member with 3 consecutive unexcused absences. The chair of the commission may excuse absences.
- B. Vacancies, whether scheduled or unscheduled, shall be filled consistent with the process as set forth in Section 2.65.030.

2.60.060 - Election of officers.

At the first meeting of the commission, and thereafter at its first meeting of each subsequent year, the members shall elect a chair and a vice chair. In the absence or disability of the chair and the vice chair, the commission may designate a temporary chair.

2.60.070 - Meetings – Records.

- A. The commission shall meet at least once a month and all its meetings shall be open to the public pursuant to the Ralph M. Brown Act. Special meetings may be called by the chair or a majority of the commission.
- B. A quorum shall be a majority of the commission seats filled by the city council. A seat is deemed to be filled after a nominee has been sworn in by the city clerk. No action of the commission shall be valid without the affirmative vote of at least six members.
- C. The commission shall keep a record, which shall be available for public inspection, of all its resolutions, proceedings and other actions.

2.60.080 - Rules and regulations.

The commission shall adopt and amend, by the affirmative vote of six members, rules and regulations for the conduct of the commission's business consistent with this chapter. Such rules and regulations shall be submitted to the city council and shall not become effective until approved and ordered filed by the council.

2.60.090 - Annual report.

The commission shall submit an annual report and workplan to the city council no later than September 1st of each year. Attendance records of members shall be included as part of the annual report.

2.60.100 - Disclosure requirements.

Members of the commission shall be required to file annual statements of economic interest pursuant to the city's conflict of interest code.

2.60.110 - Purpose and functions.

- A. The purpose of the commission is to enhance, develop, and strengthen community-police relations and review and make recommendations regarding the ongoing operations of the police department to the chief of police, city manager, and/or city council.
- B. The commission's function is to:
 - 1. Receive community feedback and complaints and refer them for further review, as appropriate;
 - 2. Monitor and receive reports from the police department on hiring, training, and promotions within the police department;
 - 3. Monitor and publish statistics on police uses of force, personnel complaints, and outcomes within the police department;
 - 4. Provide input on police department policy recommendations prior to adoption;

5. Receive reports from the independent police auditor regarding critical incidents, police department policies, and other matters;
6. Notwithstanding the right to play a role in reviewing and monitoring personnel matters, refrain from (a) directly or indirectly taking active participation in personnel matters; (b) taking personnel actions; (c) using records developed to take personnel actions; and/or (d) directing that action be taken on police department employees; and
7. Administer oaths and issue subpoenas for the production of records (in any form, other than personnel records) and attendance and testimony of witnesses (not employed by the City at all relevant times) to carry out the commission's functions, to the extent permitted by law; with the city clerk issuing such subpoenas under the seal of the city, and the chief of police causing such subpoenas to be served; and
8. Comply with all applicable laws, including, but not limited to, sections 411(B) and 604(J) of the City Charter, and preserve the privacy of police department employees, the confidentiality of their personnel files, the confidentiality of police department files, and the confidentiality of other confidential information to the maximum extent permitted by law, including, but not limited to the closing of meetings or portions thereof consistent with the applicable provisions of the Brown Act.

2.60.120 - Subpoenas.

- A. Subpoenas issued by the commission and/or the independent police auditor shall:
1. Identify the commission as the body, or the independent police auditor as the person, issuing the subpoena;
 2. Identify the name and address of the party subpoenaed;
 3. State the time, place and location for the production of the records and/or testimony, at least seven days after service of the subpoena;
 4. Be narrowly tailored, and specifically describe the information which is sought;
 5. Identify the relevance of the records and/or testimony to the matters at issue;
 6. Notify the served party that if the records are not produced or the testimony is not given, the subpoenaing party may apply to the city council for an appropriate order or other remedy;
- B. Within no more than five (5) calendar days of being served with a subpoena issued in accordance with this article, the recipient of the subpoena may file a motion to quash the subpoena with the commission.
- C. If the records are not produced or the testimony is not given, the subpoenaing party may apply to the city council for an appropriate order or other remedy."

SECTION 3. In its 2021 annual report, the community police oversight

commission is directed to address, in addition to what is presently required, the

effectiveness of this ordinance and whether any proposed legislation or other changes to police oversight are recommended.

SECTION 4. Pasadena Municipal Code, Title 2 (Organization and Administration), Chapter 2.30, Section 2.30.020 (City Attorney – Powers and duties.), subdivision (A), is amended as follows:

- “A. As the city's civil legal advisor, the city attorney shall:
1. Attend all meetings of the city council;
 2. Advise the city council and all city officers and employees in all matters of law pertaining to their offices or duties or shall select outside counsel to so advise such persons unless a different selection procedure has been adopted by the city council;
 3. Have charge and control of all outside counsel engaged to advise the city council and any officer or employee in all matters pertaining to their offices or duties, except as otherwise provided by law;
 4. Represent and appear for the city and all city officers and employees and all former city officers or employees in any or all civil actions or proceedings in which the city, or any officer or employee or former officer or employee thereof by reason of an act or omission in the scope of his/her employment is concerned or is a party, or shall select outside counsel to so represent and appear for such persons;
 5. Have charge and control of all civil actions and proceedings in which the city or any officer or employee, or former officer or employee, is concerned or is a party by reason of an act or omission in the scope of his/her employment. The city attorney may commence any action or settle any claim or action of a gross amount of \$50,000 or less, exclusive of court costs; provided, however, that any such commencement of action or settlement in excess of \$25,000 exclusive of court costs, shall be with the approval of the city manager. No action or claim of more than a gross amount of \$50,000, exclusive of court costs, shall be commenced or settled without the prior approval of the city council;
 6. Approve the form of all bonds given to the city and all specifications, requests for proposals and contracts made by the city;
 7. Draft any and all proposed ordinances and resolutions for the city when required by the city council or at the request of the city manager;
 8. Retain and administer the services of an independent police auditor who reports to the city council, with the following duties:
 - a. Serve as a best-practices advisor to the community police oversight commission;
 - b. Have unimpeded access to all police department personnel complaints and investigations thereon, for auditing and reporting purposes, and, upon request and where feasible, be permitted to

- observe briefings received, interviews conducted, and deliberations on personnel matters including, but not limited to, use of force reviews, administrative reviews, and internal affairs reviews;
- c. Review all categorical uses of force by police department personnel to assess whether the police department's investigation into a use of force was complete, thorough, objective, and fair;
 - d. Review investigations of personnel complaints of bias-based policing;
 - e. As directed by or in conjunction with the community police oversight commission, recommend changes and additions to police department policies, procedures, and officer training;
 - f. Issue public reports and give public presentations to the commission regarding police department operations, to the extent permissible under applicable law;
 - g. Perform related duties;
 - h. Notwithstanding the right to observe various stages of personnel matters and to play a role in reviewing and monitoring such matters, refrain from (1) directly or indirectly taking active participation in personnel matters; (2) taking personnel actions; (3) using records developed to take personnel actions; and/or (4) directing that action be taken on police department employees;
 - i. Administer oaths and issue subpoenas for the production of records (in any form, other than personnel records) and attendance and testimony of witnesses (not employed by the City at all relevant times) to carry out the commission's functions, to the extent permitted by law and following the process set forth in section 2.60.120 of this code, with the city clerk issuing such subpoenas under the seal of the city, and the chief of police causing such subpoenas to be served; and
 - j. Comply with all applicable laws, including, but not limited to, sections 411(B) and 604(J) of the City Charter, and preserve the privacy of police department employees, the confidentiality of their personnel files, the confidentiality of police department files, and the confidentiality of other confidential information to the maximum extent permitted by law; and
9. Perform such other duties relating to the office as shall be required of him/her by law, ordinance, or the city council.

SECTION 5. The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by title and summary.

SECTION 6. This ordinance shall take effect 30 days from its publication.

Signed and approved this _____ day of _____, 2020.

Terry Tornek
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting held this _____ day of _____ 2020, by the following vote:

AYES:

NOES:

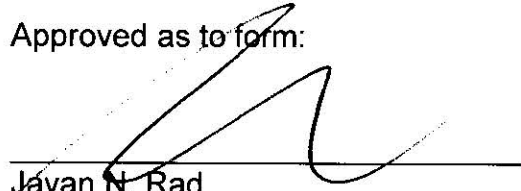
ABSENT:

ABSTAIN:

Date Published:

Mark Jomsky
City Clerk

Approved as to form:



Javan N. Rad
Chief Assistant City Attorney