



Ordinance Fact Sheet

TO: CITY COUNCIL **DATE:** September 21, 2020
FROM: CITY ATTORNEY
SUBJECT: CREATION OF COMMUNITY POLICE OVERSIGHT
COMMISSION AND INDEPENDENT POLICE AUDITOR

TITLE OF PROPOSED ORDINANCE

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

RECOMMENDATION

It is recommended that the City Council:

1. Find that this action is exempt from review under the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15061(b)(3), the "general rule" that CEQA only applies to projects which have the potential for causing a significant effect on the environment; and
2. Introduce an ordinance creating a Community Police Oversight Commission and Independent Police Auditor, and conduct first reading of the ordinance.

PURPOSES OF THE ORDINANCE

The purpose of this ordinance is to create a Community Police Oversight Commission and an Independent Police Auditor.

REASONS WHY LEGISLATION IS NEEDED

At its August 24, 2020 meeting, the City Council directed the City Attorney to prepare this ordinance.

10/05/2020
MEETING OF ~~09/21/2020~~
AGENDA ITEM NO. -15- 19

The City Council's August 24 direction was preceded by Council discussions on police oversight agenda items at its June 15, July 27, and August 3 meetings, as well as Public Safety Committee discussions at its June 10, June 24, July 8, and July 22 meetings. Two public memos prepared by the City Attorney's office on issues raised at those meetings are attached to this Ordinance Fact Sheet, for the Council's convenience.

First, this ordinance creates the 11-member Community Police Oversight Commission, whose purpose is to enhance, develop, and strengthen community-police relations. The Commission would have one member appointed from each Council district, one at-large member, and three members from the non-profit community, with a goal at least 50 percent of the appointments to be women. The ordinance provides for the City Council to establish the process for appointment to the Commission by resolution at a future date. Practicing attorneys would not be able to serve on the Commission if they or their firm/entity have pending criminal or civil cases involving Pasadena police officers. We also note, though not proposed in the ordinance, that some other cities' police review boards have commissioner requirements that include (a) requiring background checks of proposed commissioners; (b) prohibiting current or former law enforcement officers from serving; (c) conversely, encouraging current or former law enforcement officers to apply.

The Commission's duties would include reviewing and providing input on a variety of matters, including ongoing police operations, hiring, training, and promotions, uses of force, critical incidents, and personnel complaints and outcomes thereon. With that said, the Commission will not have a role in (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 – due to Charter limitations that establish Pasadena's Council-Manager form of government.

Second, the ordinance provides the services of Independent Police Auditor, retained and administered by the City Attorney, and reporting to the City Council. The Independent Police Auditor would serve as a best practices advisor to the Commission, and would have unimpeded access to police department personnel records to perform his or her duties. Also of note, the Independent Police Auditor would (a) review all categorical uses of force by Police Department personnel to assess whether the investigation into the use of force was complete, thorough, objective, and fair; (b) review investigations of personnel complaints of bias-based policing; and (c) issue public reports and give public presentations to the Commission regarding Police Department operations, to the extent allowed by law. Last, as with the Commission, the Independent Police Auditor may not play a role in personnel matters, as mentioned with the limitations on the Commission, above, due to Charter limitations that establish Pasadena's Council-Manager form of government.

Finally, the ordinance allows for the Commission and the Independent Police Auditor to have certain subpoena authority to carry out their functions, where necessary.

One item related to the ordinance is the “meet-and-confer” requirement under the Meyers-Millias-Brown Act (MMBA), which gives public sector employees the right to collective bargaining. In short, the City would be required to meet and confer with labor unions “prior to arriving at a determination of policy or course of action” on matters affecting the “terms and conditions of employment.” Staff has met with the Pasadena Police Officers Association, and has reached out to the other affected collective bargaining units, will meet if so requested by the unions before second reading of the ordinance. To the extent the City Council were to seek further revisions to the ordinance, we may need to revisit both our analysis of MMBA, and perhaps renew our meetings with collective bargaining units, depending on the changes requested by the Council.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED

The Police Department and the City Attorney/City Prosecutor’s Department will be affected by this ordinance.

FISCAL IMPACT

The fiscal impact of this ordinance could range from approximately \$500,000 to \$1 million annually. Costs include (a) staffing the Commission with a Management Analyst IV and Senior Office Assistant (fully burdened rate of both positions totaling \$237,928); (b) fees paid for the Auditor’s work (\$75,000 to \$250,000); (c) legal services for the Commission and Auditor, as well as actions to ensure legal services are delivered to address and/or respond to “ethical wall” issues that arise from also delivering services to the Commission and Auditor (\$250,000 to \$500,000); and (d) Police Department staff time addressing agenda items for the Commission and inquiries from the Auditor (unknown). There is the potential that the Commission and/or Auditor may require services that increase these costs, depending on the scope and nature of their work plan.

ENVIRONMENTAL DETERMINATION

The Council is asked to find this proposed action exempt from environmental review before taking on the ordinance. The proposed action is exempt from review under the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines

Section 15061(b)(3), the "general rule" that CEQA only applies to projects which have the potential for causing a significant effect on the environment.

Respectfully submitted,


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Concurred by:


Steve Mermell
City Manager

Attachments:

- A – Review of Relevant Laws Governing Pasadena Police Department Review Boards
- B – Responses to Questions Related to Proposal to Create a Community Police Oversight Commission and Independent Police Auditor Reporting to the City Prosecutor

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