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(O-2023-57)

ORDINANCE NUMBER O- 21557 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 20 2022

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6, DIVISION 11 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING DIVISION 11; BY RETITLING AND AMENDING SECTIONS 26.1101, 26.1102, 26.1103, 26.1104, 26.1105, AND 26.1106; AND BY ADDING NEW SECTIONS 26.1107, 26.1108, 26.1109, 26.1110, 26.1111, 26.1112, 26.1113, 26.1114, AND 26.1115, RELATING TO THE IMPLEMENTATION OF THE COMMISSION ON POLICE PRACTICES.

WHEREAS, at the municipal election held on November 3, 2020, City of San Diego (City) voters approved Measure B to establish the Commission on Police Practices (Commission), which supersedes the City's Community Review Board on Police Practices (CRB); and

WHEREAS, Measure B amended the San Diego Charter (Charter) to, among other things, add section 41.2; and

WHEREAS, the Charter amendments set forth in Measure B took effect on December 18, 2020, when the California Secretary of State chaptered them; and

WHEREAS, under Charter section 41.2, the Commission is established as an investigatory body of the City, independent of the Mayor and the Police Department; and

WHEREAS, the Commission has certain mandatory duties and discretionary powers, as described in Charter section 41.2, and the City Council (Council) may, by ordinance, mandate additional duties and authorize additional powers for the Commission, consistent with the Charter and applicable federal and state law; and

WHEREAS, the Council wishes to adopt the ordinance to implement the Commission, as required by Charter section 41.2; NOW, THEREFORE

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 2, Article 6, Division 11 of the San Diego Municipal Code is amended by retitling Division 11, to read as follows:

**Article 6: Board and Commissions**

**Division 11: Commission on Police Practices**

Section 2. That Chapter 2, Article 6, Division 11 of the San Diego Municipal Code is amended by retitling and amending sections 26.1101, 26.1102, 26.1103, 26.1104, 26.1105, and 26.1106, to read as follows:

**§26.1101 Establishment and Purpose of the Commission on Police Practices**

Effective December 18, 2020, City Charter section 41.2 established the Commission on Police Practices, which supersedes and replaces the Community Review Board on Police Practices. The *Commission* is an investigatory body of the City, independent of the Mayor, Police Chief, and *Police Department*. The *Commission's* purpose is: (1) to provide independent community oversight of the *Police Department*, directed at increasing community trust in the *Police Department* and increasing safety for both members of the community and *police officers*; (2) to perform independent *investigations* of *police officer*-involved shootings, in-custody deaths, and other significant incidents involving the *Police Department*, and independent *evaluations* of *complaints* against the *Police Department* and its personnel, in a process that is transparent and accountable to the community; and (3) to *evaluate* and *review Police Department* policies, practices, training, and protocols, and represent the community in making

recommendations for changes. The *Commission* has *investigatory, review, and auditing* powers, including the power to make factual determinations about matters that are *investigated* and to make advisory recommendations regarding the actions of *police officers* and the procedures, policies, and practices of the *Police Department*.

**§26.1102 Definitions**

In the interpretation and implementation of City Charter section 41.2 and this Code, the following definitions apply to the terms set forth in italics:

*Audit* means to examine a matter in compliance with an established set of standards.

*Commission* means the Commission on Police Practices.

*Complaint* means any communication to the *Commission, Police Department, or City* that alleges *misconduct* by a *police officer*, including, but not limited to, complaints submitted under California Penal Code section 832.5.

*Complainant* means a person who files a *complaint*.

*Evaluate* means to determine the significance or condition of a matter.

*Executive Director* means the City employee appointed to serve as the director of the Office of the Commission on Police Practices, and having the duties set forth in City Charter section 41.2.

*Finding* means the determination of the *Commission* after it has *reviewed, investigated, or audited* a matter within its authority. *Findings* must be based on provable facts applying California evidentiary rules applicable to *administrative proceedings*, based on the preponderance of the evidence standard, which is

defined as more likely than not. *Findings* must be in accordance with California law, including California Penal Code sections 832.5 through 832.8, or any successor California law, binding on the City as a public agency employer of *police officers*. The possible *findings* are as follows:

- (a) *Sustained* means the *police officer* committed all or part of the alleged acts of *misconduct*;
- (b) *Not Sustained* means the *investigation* produced insufficient information to clearly prove or disprove the allegations;
- (c) *Exonerated* means the alleged act occurred, but was justified, legal, and proper, or was within policy;
- (d) *Unfounded* means the alleged act did not occur.

*Investigation* means a gathering of actionable information, including from *original sources*, regarding a *complaint* against a *police officer* or an incident involving a *police officer*, which is conducted in compliance with applicable laws. Any *investigation* of a *police officer* must comply with the California Public Safety Officers Procedural Bill of Rights Act, as set forth in the California Government Code, and other applicable laws. When conducting an *investigation*, the *Commission* must gather and consider factual information from *original sources*, including documents or copies originating from material gathered and generated by the *Police Department*, witness interviews obtained by the *Commission* or its staff, and documents or copies gathered or prepared by the *Commission* or its staff.

*Investigatory proceeding* means any process, formally set forth in the *Commission's* operating procedures and approved by the Council, to *investigate*, *review*, or *audit* a matter, including interviewing witnesses, *receiving* and *reviewing* documents, engaging a fact-finding panel, and conducting hearings.

*Member* means a person appointed to serve on the *Commission*.

*Misconduct* means conduct that causes risk or harm to the health and safety of the public, impairs the operation and efficiency of the *Police Department*, or brings the *Police Department* into disrepute. *Misconduct* may involve a violation of any law, including a federal or state statute or local ordinance, a regulation, including a City Administrative Regulation, or a *Police Department* policy or procedure.

*Misconduct* may also involve a willful act of moral turpitude or an ethical violation. On-duty or off-duty conduct may constitute *misconduct*.

*Original sources* mean firsthand testimony or direct evidence concerning a matter under *investigation*, *review*, or *audit*.

*Personnel records* mean records maintained by the City, including records within the City's Personnel Department, Risk Management Department, and *Police Department*, specific to each *police officer's* employment, including, but not limited to, performance evaluations, assignments, status changes, imposed discipline, and personal information.

*Police Department* means the City's *Police Department*, including *police officers* and other City employees.

*Police officer* means a peace officer, as defined by and with the authority set forth in the California Penal Code, who is employed by the *Police Department*.

*Police misconduct* means *misconduct* alleged in a *complaint* against a *police officer*. *Police officer misconduct*, as used in City Charter section 41.2, has the same meaning as *police misconduct*.

*Receive* means to gain knowledge of information from a written or verbal communication or to take physical possession of a document.

*Register* means to record in writing and maintain the record.

*Review* means to inspect, consider, and reexamine a matter and reach a conclusion regarding the matter. When *reviewing a complaint*, the *Commission* must consider information and documents or copies, originating from material gathered and generated by the *Police Department*, witness interviews by the *Commission* or its staff, and information and documents or copies, gathered or prepared by the *Commission* or its staff.

**§26.1103 Commission Composition and Member Qualifications**

- (a) The *Commission* will be composed of members of the Community Review Board on Police Practices serving on December 18, 2020, until the Council has formally appointed *members* to the *Commission*, in accordance with the provisions and process set forth in this Code.
- (b) The Council will not consider citizenship status in appointing *members* to the *Commission*.
- (c) All *members* must reside in the City at the time of their appointment or reappointment and throughout their service on the *Commission*. The Council cannot waive this requirement.

- (d) The Council must appoint *members* to the *Commission*, who reflect the diversity of the City, by including *members* who represent the City's diverse geographic areas and socio-economic, cultural, racial, ethnic, gender, gender identity, sexual orientation, and age differences, and who have differing personal backgrounds, education, occupations, and life experiences. The Council must make appointments to specific designated seats, as follows:
- (1) There must be at least one *member* who resides in each of the nine Council districts appointed to serve in a designated seat for each Council district. Any vacancy in these designated seats, created by a *member* moving out of the Council district or a change in Council district boundaries, must be addressed by the Council at the end of the *member's* term.
  - (2) There must be two *members* in the age range of 18 to 24 at the time of appointment, who are appointed to serve in two designated youth seats. Once these *members* reach the age of 25, they are no longer eligible for reappointment to these designated seats. Any vacancy in these designated seats must be addressed by the Council at the end of the *member's* term.
  - (3) The Council must appoint five *members* who reside in and represent those City residents living in low- and moderate-income United States Census tracts. Any vacancy in these designated seats,

created by a *member* moving out of a low- or moderate-income United States Census tract, must be addressed by the Council at the end of the *member's* term.

- (4) The Council must appoint nine at large *members*, prioritizing the appointment of individuals who have had prior contact or interactions with law enforcement; individuals with experience or expertise in substance abuse addiction treatment; individuals involved or with expertise in services for or directed towards the unhoused; individuals involved or with expertise in immigration or migrant services; individuals who were or are criminal justice system impacted; individuals involved or with expertise in mental health, restorative justice, social work, or law enforcement practices and oversight; and individuals with experience or expertise in civil rights advocacy.
- (e) To ensure the *Commission's* independence from the *Police Department* and other law enforcement agencies in San Diego County, no current or former employee of the *Police Department* or other law enforcement agency working within the geographic boundaries of the County of San Diego may serve on the *Commission*. In addition, no immediate family or household member, defined as the parent, spouse, domestic partner, sibling, child, or cohabitant, of a law enforcement officer, who works or worked for a law enforcement agency within the geographic boundaries of the County of San Diego, may serve on the *Commission*.



For purposes of this prohibition, law enforcement agencies include police departments in all cities in the County of San Diego, as well as local agency, county, state, and federal law enforcement officers and City, county, state, and federal prosecutors. This prohibition does not apply to former employees of law enforcement agencies outside of the County of San Diego, who have been separated from their law enforcement employment for at least five years.

- (f) No City employee, who is on active payroll, may serve on the *Commission*.
- (g) All prospective or nominated *members* of the *Commission* are subject to a criminal history background review prior to appointment, to be conducted in cooperation with the City's Personnel Department. The consideration of an applicant's or nominee's criminal history may only take place during the final stage of the appointment process. An applicant or nominee shall not be excluded from participation on the *Commission* based on their criminal history background, at time of appointment, except for any of the following reasons:
  - (1) they have been convicted of malfeasance in office, and their civil rights have not been restored;
  - (2) they have been convicted of a felony and are on parole, post-release community supervision, felony probation, or mandated supervision for the conviction of a felony;

- (3) they are required to register as a sex offender pursuant to California Penal Code section 290 based on a felony conviction;
  - (4) they are incarcerated in any prison or jail;
  - (5) they have been found in violation, by a state or local judicial or administrative body, of any of the following: (i) misuse of a public position for personal interests; (ii) misuse of City records; or (iii) violation of federal or state laws relating to confidentiality or City employee privacy; or
  - (6) they have been convicted of a violent crime against a government employee or official. For purposes of this subsection, government employee or official means a person who is employed by the United States government, the State of California, or any city, county, city and county, special district, or political subdivision of the State of California.
- (h) No person shall be excluded from eligibility or disqualified to serve on the *Commission* for any reason other than those reasons set forth in this section. If an applicant or nominee is disqualified from appointment for any reason under this section, the City must provide a written explanation of the reason or reasons to the disqualified applicant or nominee.

**§26.1104 Terms of Commission Members**

- (a) *Members* serve two-year terms and until a successor is appointed, except that 12 of the 25 *members* first appointed will initially serve a one-year term, so that the terms of no more than 13 *members* expire in any year.

Following the first Council appointments to the *Commission*, the City Clerk will administer a random drawing to determine which of the 25 *members* will initially serve a one-year term.

- (b) All terms begin upon appointment and end on June 30 of the applicable year.
- (c) The City Clerk must maintain a record of the *members* and their terms and regularly make this information available to the Council and the public.
- (d) The Council President, with the assistance of the *Executive Director*, will timely schedule Council consideration of new appointments to ensure that the *Commission* positions remain filled.
- (e) *Members* can serve no more than four two-year terms consecutively. However, *members* whose terms of service have expired must continue to serve until their successor is appointed, even if the total time served extends beyond the maximum permissible length of service. If for any reason a *member* serves a partial term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of the *member's* term limitation of four consecutive terms.

**§26.1105 Appointment of Commission Members**

- (a) *Members* are appointed by the Council in accordance with the approved Council rules and policies. In making appointments, the Council may consider written nominations made by the public and community-based organizations, as long as nominees accept their nomination in writing prior to Council consideration. The Council may also consider nominations

from the *Commission*. The *Commission* may prepare an operating procedure for its nomination process.

- (b) As part of their appointment process, prospective *members* are subject to a review of their qualifications to serve, which will be conducted by the Council President or designee, in accordance with applicable laws. This *review* includes an *investigation* into any record of criminal convictions, as set forth in Section 26.1103 of this Code.
- (c) The *Commission* will work with the Chair of the Council's Public Safety and Livable Neighborhoods Committee to have an annual special meeting of the Committee where community stakeholders may advocate and promote community members as potential nominees to the *Commission*.

**§26.1106 Removal of Commission Members**

- (a) A *member* may resign prior to the expiration of their term with written notice to the Council President. Upon this notification, the Council President must consider the position vacant and eligible for the Council to appoint a new *member* to serve for the remainder of the vacating *member's* term. If a *member* resigns from a designated seat, the Council must appoint a new *member* who meets the qualifications to serve in that designated seat.
- (b) A *member* must immediately notify the Council President and cease any further participation on the *Commission*, pending a vote by the Council to formally remove and replace the *member*, if any of the following circumstances occur during the *member's* term: (1) the member is

incarcerated in any jail or prison and unable to serve or (2) the member is convicted during the *member's* term of (i) malfeasance in office and their civil rights have not been restored; (ii) a felony; (iii) a felony or misdemeanor where they are required to register as a sex offender pursuant to California Penal Code section 290; (iv) criminal violation of state or local conflict of interest laws; or (v) a violent crime against a government employee or official. For purposes of this subsection, government employee or official means a person who is employed by the United States government, the State of California, or any city, county, city and county, special district, or political subdivision of the State of California. The Council's consideration of the removal and replacement of the *member* must occur within 60 days following the Council President's receipt of notice under this subsection. The *member* may waive a Council hearing on removal, but the Council must consider replacement of the *member* within the 60 days following the Council President's notice of the conviction.

- (c) The *Commission*, by a two-thirds vote of its *members*, may recommend to the Council, by written notice to the Council President, that a *member* be removed for good cause other than a criminal conviction, for the following reasons:
- (1) misuse of their position for personal interests;
  - (2) misuse of records, including *Police Department* or *Commission* records;

- (3) violation of federal or state laws relating to confidentiality or City employee privacy;
  - (4) conduct that impedes a *member's* ability to serve impartially and independently;
  - (5) unexcused absences from at least three consecutive meetings of the full *Commission*. Prior notification to the *Commission's* chairperson of a *member's* absence from a meeting of the full *Commission* is considered an excused absence;
  - (6) failure to complete case *review* as assigned by the *Executive Director*;
  - (7) violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE) or the *Commission's* adopted code of ethics; or
  - (8) any other cause that impacts the *Commission's* effective operations, standing, or independence.
- (d) Upon receipt of a written recommendation by the *Commission* to remove a *member* for good cause other than a criminal conviction, as specified in subsection (c) of this section, the Council President must schedule a public hearing of the Council to occur within 60 days following receipt of the recommendation.
- (e) If a *member* voluntarily resigns before a required public hearing of the Council on removal, the *member* waives their right to the hearing on removal. The Council President may suspend a *member's* participation on

the *Commission* by written notice to the *member*, pending a Council hearing on removal.

- (f) The Council President may notice a public hearing for Council determination on removal of a *member* for good cause other than a criminal conviction, as specified in subsection (c) of this section, regardless of whether a recommendation is made by the *Commission*.
- (g) The Council must act, by majority vote, to remove a *member* if the *member* does not voluntarily resign.

Section 3. That Chapter 2, Article 6, Division 11 of the San Diego Municipal Code is amended by adding new sections 26.1107, 26.1108, 26.1109, 26.1110, 26.1111, 26.1112, 26.1113, 26.1114, and 26.1115 to read as follows:

**§26.1107 Duties and Powers of the Commission**

- (a) The *Commission* has the following duties and powers, as mandated by the Charter and by the authority of the Council:
  - (1) Once *members* are formally appointed by the Council, the *Commission* must establish operating procedures for its governance and the *Commission's investigatory proceedings*. All operating procedures prepared by the *Commission* must be consistent with all applicable laws, including the Charter, the Ralph M. Brown Act, the California Public Records Act, and all laws, rules, regulations, and collective bargaining agreements between the City and its recognized employee organizations that provide rights to City employees. The *Commission's* initial

operating procedures and any amendments must be approved by the Council, by resolution, before the operating procedures take effect.

- (2) The *Commission* is an *investigatory* body of the City, independent of the Mayor and the *Police Department*. The *Commission* must independently *investigate* and *evaluate* all deaths occurring while a person is in the custody of the *Police Department*, all deaths resulting from interaction with a *police officer*, and all *police officer-involved* shootings, regardless of whether 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*. In accordance with the *Commission's* duties and powers, the *Commission* must prepare operating procedures for *Commission* investigators to have immediate access to the scene or area of a *police officer-involved* shooting, the scene or area where a death or deaths occurred resulting from interaction with a *police officer*, the scene or area where a death or deaths occurred while a person was in the custody of the *Police Department*, and *Police Department investigations* of *police officer-involved* shootings, deaths resulting from interaction with *police officers*, and deaths occurring while a person is in the custody of the *Police Department*. Upon completion of any *investigation*, the *Commission* must make



*findings*. The Chief of Police must provide a written substantive response to the *Commission's findings* within 30 days of receipt of the *findings*.

- (3) The *Commission* may, but is not required to, *investigate* and *evaluate* a *complaint* against a *police officer* that does not involve an in-custody death, a death resulting from an interaction with a *police officer*, or a *police officer*-related shooting. Upon completion of any *investigation*, the *Commission* must make *findings*. The *Commission* is prohibited from *investigating* and *evaluating* a *complaint* where the *complainant* has requested that the *complaint* be handled without an *investigation* by the *Commission* or where no specific allegation or *police officer* can be identified. The *Commission* may *investigate* any allegations of *misconduct* that become known to the *Commission* during an *investigation* of a *complaint*. In exercising its discretionary power to *investigate* and *evaluate* a *complaint*, the *Commission* must determine that the *complaint* involves any of the following:
- (A) an incident in which the use of force by a *police officer* against a person resulted in great bodily injury;
  - (B) dishonesty by a *police officer* directly relating to the reporting, *investigation*, or prosecution of a crime, or directly relating to the reporting or *investigation* of *misconduct* by another *police officer*, peace officer, or

- custodial officer, including an allegation of perjury, making a false statement, filing a false report, or destroying, falsifying, or concealing evidence;
- (C) an incident that has generated substantial public interest or concern;
  - (D) an incident where data shows a pattern of *misconduct* by a *police officer*; or
  - (E) an incident where data shows a pattern of inappropriate policies, procedures, or practices of the *Police Department* or its members.
- (4) The *Commission* must *receive, register, review, and evaluate* all *complaints* against *police officers*, except the *Commission* must not *review or evaluate a complaint* where the *complainant* has requested that the *complaint* be handled without *investigation* by the *Commission* or where no specific allegation or *police officer* can be identified. Upon completion of any *complaint review or evaluation*, the *Commission* must make *findings*. The Chief of Police must provide a written substantive response to the *Commission's findings* within 30 days of receipt of the *findings*.
- (5) The *Commission* may, but is not required to, *review, investigate, and evaluate* allegations of inappropriate sexual conduct, physical assault, or domestic violence by a *police officer*, whether or not a *complaint* has been submitted to the *Commission* or the *Police*

*Department*. Upon completion of any *review, investigation, or evaluation*, the *Commission* must make *findings*. The Chief of Police must provide a written substantive response to the *Commission's findings* within 30 days of receipt of the *findings*.

- (6) The *Commission* must *review and evaluate* all factual *findings* and evidentiary conclusions of the *Police Department* arising from *Police Department investigations* of alleged *misconduct* by *police officers*, including internal *investigations* not resulting from a *complaint*, and all disciplinary decisions proposed by the Chief of Police or designee following *sustained findings of police officer misconduct*. The *Commission* may provide advisory recommendations to the Chief of Police, but must act promptly, timely, and in accordance with applicable laws, including the California Public Safety Officers Procedural Bill of Rights Act. In providing advisory recommendations on the discipline of officers to the Chief of Police, the *Commission* may consider all information, agreements, and documents of prior discipline imposed, including agreements for reduced discipline or last chance agreements, and prior *sustained findings of misconduct* against the *police officer*, including prior *sustained findings of misconduct* made by the *Commission* or the *Police Department*, in a manner consistent with state law and the City's established disciplinary process. In order to execute its powers and duties

under this section, every 30 days after the *Police Department* has commenced an *investigation* of alleged *misconduct* by *police officers*, the *Police Department* must provide to the *Commission* a written status report on the progress of the *investigation*, until the *investigation* concludes. Upon the *Commission's* written request, the *Police Department* must provide all *records* pertaining to the *investigation*, subject to Section 26.1109 of this Code. The *Police Department* must either provide to the *Commission* its factual *findings* and evidentiary conclusions within six months after commencement of its *investigation*, or a written explanation as to why it cannot provide such information. If, after six months, the factual *findings* and evidentiary conclusions are not available, the *Police Department* must provide a written report to the *Commission* on the status of the *investigation* every two weeks thereafter, until the *investigation* concludes. Unless expressly permitted under the California Public Safety Officers Procedural Bill of Rights Act, there are no circumstances, express or implied, for the *Police Department* to delay or toll completion of its *investigation*.

- (7) The *Commission* may, but is not required to, *review* and *evaluate* the *Police Department's* administration of discipline of *police officers* arising from other matters not involving alleged *misconduct*. The *Commission* may provide advisory

recommendations to the Chief of Police, but must act promptly, timely, and in accordance with applicable laws, including the California Public Safety Officers Procedural Bill of Rights Act. In providing advisory recommendations on the discipline of officers to the Chief of Police, the *Commission* may consider all prior discipline imposed, including agreements for reduced discipline or last chance agreements, and *sustained findings of misconduct* against the *police officer*, including prior *sustained findings of misconduct* made by the *Commission* or the *Police Department*, in a manner consistent with state law and the City's established disciplinary process. The Chief of Police must provide a written substantive response to the *Commission's* advisory recommendations within 30 days of receipt of the recommendations.

- (8) The *Commission* must *review and evaluate* the *Police Department's* compliance with federal, state, and local reporting laws and requirements.
- (9) 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 advisory recommendations to the Chief of Police, the Mayor, and the Council on any policies, procedures, practices, and actions of the *Police Department*. The Chief of Police must provide a written

substantive response to the *Commission's* recommendations within 60 days of receipt of the recommendations.

- (10) The *Commission* may request that the Mayor review any *Commission findings* or advisory recommendations that the Chief of Police does not accept, implement, execute, or apply.
- (11) The *Commission* may develop and implement a mediation program that enables *complainants* to resolve their issues with a *police officer* who is a subject of a *complaint*, through face-to-face alternative dispute resolution involving a trained mediator. Participation in a mediation program must be voluntary and mutually agreed upon by both the *complainant* and the *police officer*. Mediation must be limited to eligible cases as determined by the *Commission*. A case successfully resolved through mediation, as determined by the *Commission*, is not considered a disciplinary proceeding or punitive action under the California Public Safety Officers Procedural Bill of Rights Act. However, the *complaint* may be subject to discovery in a criminal or civil action in accordance with applicable federal or state laws.
- (12) The *Commission* must interact with all City employees, including *police officers* and other employees of the *Police Department*, in accordance with all applicable federal, state, and local laws and regulations, including the City's Civil Service Rules, Personnel Regulations, Administrative Regulations, and collective bargaining

agreements between the City and its recognized employee organizations.

- (13) The *Commission* may establish an operating procedure to directly *receive and investigate complaints* by members of the public against *Police Department* employees who are not *police officers*, in accordance with the City Charter and this Code. Any procedure to *investigate the complaints* must be made available in writing and accessible to the public. A copy of any *complaint received* by the *Commission* that identifies an employee of the *Police Department* must be forwarded to the *Police Department* within five calendar days of the *Commission's* receipt of the *complaint*. The *Commission* is not authorized to *investigate a complaint* against an employee of the *Police Department* who is not a *police officer* unless the *complaint* also alleges *police officer misconduct*.
- (14) The *Commission* must maintain a training program for individuals interested in appointment to the *Commission*. *Members* must also complete training upon their appointment to ensure their working knowledge of applicable laws and rules. The training program must include instruction in civil or human rights and criminal justice as well as the impacts of racial and identity profiling.
- (15) Subject to any limitations set forth in governing federal or state laws, the *Commission* may refer any matter before the *Commission* to the grand jury, district attorney, or other governmental agency

authorized by law to *investigate* the activities of a law enforcement agency.

- (b) The Chief of Police must consider any *evaluation* or recommendation by the *Commission* of proposed *police officer* discipline, prior to *Police Department* imposition of the discipline, but only if the *evaluation* or recommendation is completed before the statutory timelines set forth in the California Public Safety Officers Procedural Bill of Rights Act or other applicable law. The Chief of Police retains authority and discretion to discipline subordinate employees in the *Police Department*. The exercise of the *Commission's* duties and powers, as set forth in the City Charter and this Code, including its *investigatory* duties and powers, is not intended to obstruct, abrogate, or supersede the duties of the Chief of Police, as set forth in the City Charter.

**§26.1108 Cooperation of City Employees in Commission Activities**

- (a) It is the policy of the City that all officers and employees of the City cooperate promptly and fully with the *Commission* to ensure the *Commission* can timely and properly perform its duties as required by the Charter, the Council by ordinance, and state and federal laws. A City employee who fails or refuses to comply with this section is subject to discipline, up to and including termination. This requirement to cooperate includes participation in any *investigatory proceeding* set forth in the *Commission's* operating procedures approved by the Council.



- (b) If the *Commission* seeks to interview any City employee, including an employee who is the subject of a *complaint*, as part of an *investigatory proceeding*, the *Commission* must provide timely advance written notice to the employee. The *Commission* must also provide timely advance written notice to the City employee's appointing authority. The written notice must specify the date and time of the interview and provide the employee with reasonably sufficient time to secure union or legal representation by the employee's personal attorney, as applicable, and to make any legal objections to the interview, either before or at the time of the interview.

**§26.1109      Records**

- (a) The *Police Department* must make available to the *Commission* its records, within ten calendar days after a written request from the *Commission*, relating to any matter under *investigation, review, or evaluation* by the *Commission*. The *Police Department* must provide to the *Commission* all *complaints received* by the *Police Department* within five calendar days of receipt regardless of whether there is a written request from the *Commission* for the *complaints*. The *Commission* and the *Police Department* may develop an operating procedure for the disclosure of *Police Department* records to the *Commission*. However, any disclosure of *personnel records* to the *Commission* by any City department must be in accordance with all applicable federal and state laws and regulations, including all laws and regulations pertaining to confidential medical

information and *personnel records*. The *Commission* is required to maintain the confidentiality of all *Police Department* records and City *personnel records*, in accordance with applicable laws, and to respond to requests by members of the public for records in the possession of the *Commission* in a manner consistent with the California Public Records Act and applicable constitutional, statutory, and case law that protects *personnel records*.

- (b) In accordance with City Charter section 57, the Chief of Police retains authority over the records of the *Police Department*. The Chief of Police must provide records to the *Commission* in whole and with all information unredacted unless, in the opinion of the Chief of Police, to do so will hinder a criminal investigation or will infringe upon the exercise of the Chief of Police's right to deliberative process and confidential communications with other law enforcement agencies, the Mayor, or with the subordinate employees of the *Police Department* regarding matters within the authority of the Chief of Police. Within ten calendar days after a written request from the *Commission*, the Chief of Police must provide the *Commission* with *Police Department* records as specified in this section or a written explanation, setting forth the specific records or reasonably segregable portions of the records being withheld, the reason for the withholding or redactions, and the legal justification supporting the withholding or redactions. If the *Commission* disagrees with the Chief of Police's decision to withhold records or redact information, the

*Commission* may seek disclosure through its subpoena power, as defined by the Charter and this Code.

- (c) *The Commission* must retain *complaints* and any reports or *findings* relating to *complaints* for at least five years or any longer period required by state law. These *Commission* records are considered *personnel records* and must be managed in accordance with the California Public Records Act, the California Penal Code, the California Public Safety Officers Procedural Bill of Rights Act, California Evidence Code section 1043, and other applicable laws and collective bargaining agreements. The *Commission* is responsible for compliance with discovery requests for *Commission* records in a manner consistent with controlling law.

**§26.1110 Subpoenas**

- (a) *The Commission* has the power to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other items whenever material to the performance of the *Commission's* duties or exercise of its powers.
- (b) A subpoena issued under this section must be issued and signed by the *Executive Director* or their designee.
- (c) If a witness fails to appear before the *Commission* at the time and date set by subpoena, or in the case of a subpoena duces tecum, if a record is not produced as required, the *Commission* may, by majority vote, authorize its chairperson or the *Executive Director* to certify the facts to the Superior

Court for an order to show cause why the subpoena recipient should not be ordered to comply with the subpoena.

**§26.1111 Conflict of Interest Code**

The Council must adopt a conflict of interest code for the *members, Executive Director, and City employees in the Office of the Commission*. All *members* must be required to complete and file statements of economic interests in accordance with the conflict of interest code.

**§26.1112 Reimbursement for Expenses**

The *Executive Director* is authorized to purchase goods and arrange services needed by *members* in the performance of their official duties and to reimburse *members* for reasonable expenses incurred in the performance of their official duties, in accordance with the City's approved procurement procedures, the approved budget and appropriations for the Office of the *Commission*, and the concurrence of the City's Chief Financial Officer. *Members* must use and return goods, in accordance with the City's approved policies and Administrative Regulations.

**§26.1113 Whistleblower Protection**

The City is prohibited from taking an adverse employment action against a City employee that is directly related to the filing of a *complaint* with the *Commission* or to the lawful participation in an *investigatory proceeding* conducted by the *Commission*. A City officer or employee who takes an adverse employment action against a City employee that is directly related to the filing of a *complaint* with the *Commission* or to the lawful participation in an *investigatory proceeding*

conducted by the *Commission* is subject to discipline up to and including termination. This protection is in addition to all whistleblower and other protections afforded to City employees under federal and state laws.

**§ 26.1114 Outreach and Communications**

- (a) The *Commission* must engage in outreach to address community groups and inform the public on the duties and responsibilities, policies, and ongoing operations of the *Commission*. This outreach must include a process for obtaining input from the community as to the functioning of the *Commission*. All public input regarding the *Commission's* functions, including *complaints* about the *Commission*, must be made publicly available on the *Commission's* website.
- (b) At least twice each year, the *Commission* must have a roundtable in a community location to solicit public testimony and other input regarding community policing, building trust between the community and the *Police Department*, and other similar and relevant subjects as determined by the *Commission* in accordance with the *Commission's* powers and duties.
- (c) The *Commission* must establish an operating procedure for the preparation and submission of a semi-annual report to the Mayor and Council regarding the exercise of the *Commission's* powers and duties. The *Commission* must publish its semi-annual report no later than 60 days after the end of the preceding reporting period. The public disclosure of the report and all information within the report must be in accordance with

controlling federal and state laws. The report must, at a minimum, describe:

- (1) the number and types of *complaints received* by the *Commission*, categorized by description as well as by City Council district, police division, and police beat;
- (2) the number of *complaint reviews* and *investigations* initiated by the *Commission* during the prior six months;
- (3) the number of *complaint reviews* and *investigations* completed by the *Commission* during the prior six months, and the number of *investigations* that took more than six months to complete and an explanation as to why those *investigations* took more than six months to complete;
- (4) the number of *complaint reviews* and *investigations* pending with the *Commission* as of the last day of the prior six months;
- (5) a tabulation of the results of *complaint reviews* and *investigations* by the *Commission* by category of *findings* and recommendations as well as by City Council district, police division, and police beat;
- (6) a description of any *complaints* that resulted in a referral by the *Commission* to other agencies and the names of those agencies;
- (7) a description and summary of all *evaluations*, *complaint reviews*, and *investigations* undertaken by the *Commission* regarding the practices, policies, procedures, and actions of the *Police*

- Department* as well as any recommendations made by the *Commission* and the responses to the recommendations;
- (8) the results of the *Commission's evaluations and audits* of the *Police Department's* compliance with reporting laws;
  - (9) a description of each instance where the *Police Department*, any other City department, or City employee refused to provide the *Commission* with records or information requested as well as all instances where the *Police Department* took longer than mandated when complying with records requests;
  - (10) a description of the *Commission's* community outreach efforts; and
  - (11) a description of any other significant activity undertaken by the *Commission*.
- (d) The *Commission* must establish an operating procedure for allowing the community to *evaluate* the *Commission's* processes and performance.
- (e) The *Commission* must establish an operating procedure for the development, data collection, tracking, and reporting of community policing standards. These standards may include de-escalation techniques, strategies, and practices; use of distraction blows; acts of intimidation; detentions; and other standards the *Commission* determines to develop, track, and report. The operating procedure must, at a minimum, include processes for community input and *Police Department* discussion facilitated by the *Commission* regarding the community policing standards.

- (f) The *Commission* must establish an operating procedure that describes the *Commission's* communications with *complainants* regarding the status of their *complaints*. At a minimum, the operating procedure must describe the *Commission's* process for *receiving* and acknowledging *complaints* and for providing *complainants* with the status and outcomes of the *Commission's* reviews and investigations. The *Commission* must provide a notice to *complainants* on the status of their *complaints* no less than every 45 days.
- (g) The *Commission* must establish an operating procedure covering public communications on the *Commission's* Internet website, including providing to the public, as soon as practicable, as much information as permitted by law, on the status of the *Commission's* investigation of each *complaint*, the list of all *complaints received*, the *Commission's* findings of the *complaints* it investigated, and all of the *Commission's* recommendations.

**§26.1115 Ballot Measures and Federal, State, and Local Legislation**

The Council recognizes the expertise of the *Commission* in matters related to law enforcement and public safety. The Council authorizes the *Commission* to make recommendations to the Mayor and Council on proposed City ballot measures, in accordance with the Council's policies, and on proposed federal, state, and local legislation, in accordance with the Council's process to establish the City's legislative platform. The Council also authorizes the *Commission* to provide information to the public about the possible effects of any proposed ballot




measure or legislation related to the activities, operations, or policies of the *Commission* or the City involving law enforcement or public safety. In exercising this authority, the *Commission* must ensure that the use of City resources for this purpose, including budgeted funds and staff time, is otherwise legally authorized, and the information provided to the public constitutes a fair and impartial presentation of relevant facts to aid the public in reaching an informed judgment regarding the proposed ballot measure or legislation. The *Commission* must ensure compliance with all laws related to the required separation between the use of City resources and campaign activities. The *Commission* may consult with its counsel or appropriate local or state regulatory agencies for guidance in complying with this section.

Section 4. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

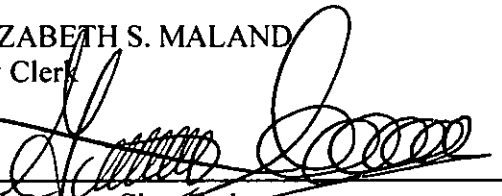
APPROVED AS TO FORM: MARA W. ELLIOTT, City Attorney

By   
Joan F. Dawson  
Senior Deputy City Attorney

JFD:jdf  
09/22/2022  
Or.Dept: Council District 4  
Doc. No. 2904514\_2

I certify that this Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 18 2022.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 10/20/22  
(date)

  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

(See attached memo and corrected strikeout)

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 236-6220**

**DATE:** December 1, 2022  
**TO:** Elizabeth Maland, City Clerk  
**FROM:** City Attorney  
**SUBJECT:** San Diego Ordinance O-21557 (Oct. 20, 2022)

---

Thank you for bringing to our attention a discrepancy between the clean version of San Diego Ordinance O-21557 (City Attorney Office number O-2023-57) (Ordinance) and the strikeout version, which was introduced by the San Diego City Council (Council) on October 3, 2022, adopted by the Council on October 18, 2022, and approved by the Mayor on October 20, 2022.

Specifically, you identified a discrepancy in section 126.1106(d) in the clean and strikeout versions of the Ordinance. The strikeout had the following sentence at the end of the subsection: "The Council must act, by a majority vote, to remove a member." This sentence was not in the clean version of the Ordinance. You also noted that the strikeout did not show the retitle of Division 11.

Our Office sent you a memo dated November 22, 2022, with attached documents, regarding this matter. We are rescinding that memo. The corrected copies of the clean version of the Ordinance and the strikeout were sent to you in error. We apologize for the confusion we have caused.

Please be advised that the clean version of the Ordinance that went to Council on October 3, 2022 and October 18, 2022 was correct. It did not need to be corrected. The noted discrepancy was the result of typographical errors in the strikeout version attached to the Council action.

Attached, for your records, please find the corrected strikeout, with the notation: COR. COPY 2. I have also re-signed the original clean version of the Ordinance, as you requested. Cindy McNary will hand-deliver the original signed copy of the Ordinance to you (along with a copy of this memo and the corrected strikeout).

Please note that we have identified additional provisions in the strikeout version of the Ordinance that need to be corrected to conform to the clean version of the Ordinance that went to the Council. Again, the clean version presented to the Council is correct and does not need to be corrected. We have corrected the typographical errors in the strikeout (COR. COPY 2), as follows:

<u>Page #</u>	<u>Section</u>	<u>Edit</u>
1	Title for Division 11	The retitling of Division 11 is now shown in the corrected copy of the strikeout.
6	Title of §26.1103	The spelling of the word "Appointment," which is stricken in the adopted ordinance, was corrected.
10	§26.1103(g)(5)	The word "law" was corrected to read: "laws."
13	§26.1105(c)(1)-(5)	The strikeout lines in the tabbed space between the numbers and the text were deleted.
14	§26.1106	The font type and size for the section number and title were changed to Times New Roman 12 pt. font type and size.
15	§26.1106(c)(1)	The subsection was corrected to be shown as new text.
17	§26.1106(f)	Italics were added to the word "member" to reflect that " <i>member</i> " is a defined term.
17	§26.1106(f)	The phrase " <i>received from</i> " was corrected to read: "made by."
17	§26.1106(g)	The phrase "member if the member" was corrected to reflect the defined term: " <i>member if the member.</i> "
22	§26.1107(a)(6)	A comma was added to "thereafter until" to read: "thereafter, until."
31-32	§26.1114(c)	The sentence -- "The semi-annual report must be published no later than 60 days after the end of the preceding reporting period." -- was corrected to read: "The <i>Commission</i> must publish its semi-annual report no later than 60 days after the end of the preceding reporting period."
32	§26.1114(c)(3)	Italics were added to "Commission" to reflect that " <i>Commission</i> " is a defined term.
33	§26.1114(e)	The word "dialogue" was corrected to read: "discussion."
34	§26.1114(f)	The word "prepare" was corrected to read: "establish."
34	§26.1114(f)	The phrase " <i>complaints, and for</i> " was corrected to remove a comma, to read: " <i>complaints and for.</i> "

Elizabeth Maland, City Clerk  
December 1, 2022  
Page 3

We apologize again for the typographical errors in the strikeout. Please let us know if you have further questions about this matter. Thank you for your assistance.

MARA W. ELLIOTT, CITY ATTORNEY

By /s/ Joan F. Dawson  
Joan F. Dawson  
Senior Deputy City Attorney

JFD:cm

Doc. No. 3154230

Attachments:

1. E-signed copy of San Diego Ordinance O-21557 (Oct. 20, 2022) (O-2023-57)
2. Strikeout ordinance COR. COPY 2 for San Diego Ordinance O-21557 (Oct. 20, 2022) (O-2023-57)
3. Hand-signed copy of San Diego Ordinance O-21557 (Oct. 20, 2022) (O-2023-57)

cc: Diana Fuentes, Assistant City Clerk

Gilbert Sanchez, Associate Management Analyst

Krystell Medina, Legislative Recorder

Sonia Pickens, Municipal Code Administrator

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 6, DIVISION 11 OF THE SAN DIEGO MUNICIPAL CODE BY RETITLING DIVISION 11; BY RETITLING AND AMENDING SECTIONS 26.1101, 26.1102, 26.1103, 26.1104, 26.1105, AND 26.1106; AND BY ADDING NEW SECTIONS 26.1107, 26.1108, 26.1109, 26.1110, 26.1111, 26.1112, 26.1113, 26.1114, AND 26.1115, RELATING TO THE IMPLEMENTATION OF THE COMMISSION ON POLICE PRACTICES.

**Article 6: Board and Commissions**

**Division 11: ~~Community Review Board on Police Practices~~ Commission on Police Practices**

**§26.1101 ~~Purpose and Intent~~ Establishment and Purpose of the Commission on Police Practices**

~~San Diego Charter section 43(d) gives the Mayor and City Council exclusive authority to establish a Community Review Board On Police Practices to review and evaluate citizens' complaints against members of the Police Department and the Police Department's administration of discipline arising from the complaints. It is the purpose and intent of the Mayor and City Council to establish the Community Review Board on Police Practices, as set forth in section 43(d) as amended, and to create such rules and regulations as are necessary for the Board to carry out its functions consistent with the laws of the State of California concerning citizens' complaints against peace officers.~~

~~These rules and regulations shall be known as the Standard Operating Procedures, which must be promulgated by the Mayor and approved by City Council with a resolution.~~ Effective December 18, 2020, City Charter section 41.2 established the Commission on Police Practices, which supersedes and replaces the Community Review Board on Police Practices. The *Commission* is an investigatory body of the City, independent of the Mayor, Police Chief, and *Police Department*. The *Commission's* purpose is: (1) to provide independent community oversight of the *Police Department*, directed at increasing community trust in the *Police Department* and increasing safety for both members of the community and *police officers*; (2) to perform independent *investigations of police officer-involved shootings, in-custody deaths, and other significant incidents involving the Police Department, and independent evaluations of complaints against the Police Department* and its personnel, in a process that is transparent and accountable to the community; and (3) to *evaluate and review Police Department policies, practices, training, and protocols, and represent the community in making recommendations for changes. The Commission has investigatory, review, and auditing powers, including the power to make factual determinations about matters that are investigated and to make advisory recommendations regarding the actions of police officers and the procedures, policies, and practices of the Police Department.*

§26.1102 **Community Review Board on Police Practices-Definitions**

~~The Community Review Board on Police Practices which shall consist of twenty-three members who shall serve without compensation. In the interpretation and~~

implementation of City Charter section 41.2 and this Code, the following definitions apply to the terms set forth in italics:

*Audit* means to examine a matter in compliance with an established set of standards.

*Commission* means the Commission on Police Practices.

*Complaint* means any communication to the *Commission, Police Department, or City* that alleges *misconduct* by a *police officer*, including, but not limited to, complaints submitted under California Penal Code section 832.5.

*Complainant* means a person who files a *complaint*.

*Evaluate* means to determine the significance or condition of a matter.

*Executive Director* means the City employee appointed to serve as the director of the Office of the Commission on Police Practices, and having the duties set forth in City Charter section 41.2.

*Finding* means the determination of the *Commission* after it has *reviewed, investigated, or audited* a matter within its authority. *Findings* must be based on provable facts applying California evidentiary rules applicable to *administrative proceedings*, based on the preponderance of the evidence standard, which is defined as more likely than not. *Findings* must be in accordance with California law, including California Penal Code sections 832.5 through 832.8, or any successor California law, binding on the City as a public agency employer of *police officers*. The possible *findings* are as follows:

- (a) *Sustained* means the *police officer* committed all or part of the alleged acts of *misconduct*:



- (b) Not Sustained means the *investigation* produced insufficient information to clearly prove or disprove the allegations;
- (c) Exonerated means the alleged act occurred, but was justified, legal, and proper, or was within policy;
- (d) Unfounded means the alleged act did not occur.

Investigation means a gathering of actionable information, including from original sources, regarding a *complaint* against a *police officer* or an incident involving a *police officer*, which is conducted in compliance with applicable laws. Any investigation of a police officer must comply with the California Public Safety Officers Procedural Bill of Rights Act, as set forth in the California Government Code, and other applicable laws. When conducting an investigation, the Commission must gather and consider factual information from original sources, including documents or copies originating from material gathered and generated by the Police Department, witness interviews obtained by the Commission or its staff, and documents or copies gathered or prepared by the Commission or its staff.

Investigatory proceeding means any process, formally set forth in the Commission's operating procedures and approved by the Council, to investigate, review, or audit a matter, including interviewing witnesses, receiving and reviewing documents, engaging a fact-finding panel, and conducting hearings.

Member means a person appointed to serve on the *Commission*.

Misconduct means conduct that causes risk or harm to the health and safety of the public, impairs the operation and efficiency of the *Police Department*, or brings

the *Police Department* into disrepute. *Misconduct* may involve a violation of any law, including a federal or state statute or local ordinance, a regulation, including a City Administrative Regulation, or a *Police Department* policy or procedure. *Misconduct* may also involve a willful act of moral turpitude or an ethical violation. On-duty or off-duty conduct may constitute *misconduct*. *Original sources* mean firsthand testimony or direct evidence concerning a matter under investigation, review, or audit.

*Personnel records* mean records maintained by the City, including records within the City's Personnel Department, Risk Management Department, and *Police Department*, specific to each *police officer's* employment, including, but not limited to, performance evaluations, assignments, status changes, imposed discipline, and personal information.

*Police Department* means the City's *Police Department*, including *police officers* and other City employees.

*Police officer* means a peace officer, as defined by and with the authority set forth in the California Penal Code, who is employed by the *Police Department*.

*Police misconduct* means *misconduct* alleged in a *complaint* against a *police officer*. *Police officer misconduct*, as used in City Charter section 41.2, has the same meaning as *police misconduct*.

*Receive* means to gain knowledge of information from a written or verbal communication or to take physical possession of a document.

*Register* means to record in writing and maintain the record.

Review means to inspect, consider, and reexamine a matter and reach a conclusion regarding the matter. When reviewing a complaint, the Commission must consider information and documents or copies, originating from material gathered and generated by the Police Department, witness interviews by the Commission or its staff, and information and documents or copies, gathered or prepared by the Commission or its staff.

**§26.1103 Appointment Commission Composition and Member Qualifications**

~~Members shall be appointed by the Mayor and confirmed by the City Council.~~

- (a) The Commission will be composed of members of the Community Review Board on Police Practices serving on December 18, 2020, until the Council has formally appointed members to the Commission, in accordance with the provisions and process set forth in this Code.
- (b) The Council will not consider citizenship status in appointing members to the Commission.
- (c) All members must reside in the City at the time of their appointment or reappointment and throughout their service on the Commission. The Council cannot waive this requirement.
- (d) The Council must appoint members to the Commission, who reflect the diversity of the City, by including members who represent the City's diverse geographic areas and socio-economic, cultural, racial, ethnic, gender, gender identity, sexual orientation, and age differences, and who

have differing personal backgrounds, education, occupations, and life experiences. The Council must make appointments to specific designated seats, as follows:

- (1) There must be at least one *member* who resides in each of the nine Council districts appointed to serve in a designated seat for each Council district. Any vacancy in these designated seats, created by a *member* moving out of the Council district or a change in Council district boundaries, must be addressed by the Council at the end of the *member's* term.
- (2) There must be two *members* in the age range of 18 to 24 at the time of appointment, who are appointed to serve in two designated youth seats. Once these *members* reach the age of 25, they are no longer eligible for reappointment to these designated seats. Any vacancy in these designated seats must be addressed by the Council at the end of the *member's* term.
- (3) The Council must appoint five *members* who reside in and represent those City residents living in low- and moderate-income United States Census tracts. Any vacancy in these designated seats, created by a *member* moving out of a low- or moderate-income United States Census tract, must be addressed by the Council at the end of the *member's* term.

- (4) The Council must appoint nine at large members, prioritizing the appointment of individuals who have had prior contact or interactions with law enforcement; individuals with experience or expertise in substance abuse addiction treatment; individuals involved or with expertise in services for or directed towards the unhoused; individuals involved or with expertise in immigration or migrant services; individuals who were or are criminal justice system impacted; individuals involved or with expertise in mental health, restorative justice, social work, or law enforcement practices and oversight; and individuals with experience or expertise in civil rights advocacy.
- (e) To ensure the Commission's independence from the Police Department and other law enforcement agencies in San Diego County, no current or former employee of the Police Department or other law enforcement agency working within the geographic boundaries of the County of San Diego may serve on the Commission. In addition, no immediate family or household member, defined as the parent, spouse, domestic partner, sibling, child, or cohabitant, of a law enforcement officer, who works or worked for a law enforcement agency within the geographic boundaries of the County of San Diego, may serve on the Commission. For purposes of this prohibition, law enforcement agencies include police departments in all cities in the County of San Diego, as well as local agency, county, state, and federal law enforcement officers and City,

county, state, and federal prosecutors. This prohibition does not apply to former employees of law enforcement agencies outside of the County of San Diego, who have been separated from their law enforcement employment for at least five years.

(f) No City employee, who is on active payroll, may serve on the Commission.

(g) All prospective or nominated members of the Commission are subject to a criminal history background review prior to appointment, to be conducted in cooperation with the City's Personnel Department. The consideration of an applicant's or nominee's criminal history may only take place during the final stage of the appointment process. An applicant or nominee shall not be excluded from participation on the Commission based on their criminal history background, at time of appointment, except for any of the following reasons:

- (1) they have been convicted of malfeasance in office, and their civil rights have not been restored;
- (2) they have been convicted of a felony and are on parole, post-release community supervision, felony probation, or mandated supervision for the conviction of a felony;
- (3) they are required to register as a sex offender pursuant to California Penal Code section 290 based on a felony conviction;
- (4) they are incarcerated in any prison or jail;

- (5) they have been found in violation, by a state or local judicial or administrative body, of any of the following: (i) misuse of a public position for personal interests; (ii) misuse of City records; or (iii) violation of federal or state laws relating to confidentiality or City employee privacy; or
- (6) they have been convicted of a violent crime against a government employee or official. For purposes of this subsection, government employee or official means a person who is employed by the United States government, the State of California, or any city, county, city and county, special district, or political subdivision of the State of California.
- (h) No person shall be excluded from eligibility or disqualified to serve on the Commission for any reason other than those reasons set forth in this section. If an applicant or nominee is disqualified from appointment for any reason under this section, the City must provide a written explanation of the reason or reasons to the disqualified applicant or nominee.

**§26.1104 Terms of Commission Members**

- (a) Members shall serve two-year terms and may serve up to four consecutive terms and until a successor is appointed, except that 12 of the 25 members first appointed will initially serve a one-year term, so that the terms of no more than 13 members expire in any year. Following the first Council

appointments to the Commission, the City Clerk will administer a random drawing to determine which of the 25 members will initially serve a one-year term.

- (b) ~~Members shall be limited to serving eight consecutive years in office, and an interval of two years must pass before a member is eligible to be reappointed.~~ All terms begin upon appointment and end on June 30 of the applicable year.
- (c) ~~Members shall serve until a successor is appointed and confirmed.~~ The City Clerk must maintain a record of the members and their terms and regularly make this information available to the Council and the public.
- (d) ~~Members shall be appointed to staggered terms so that the terms of not more than twelve members shall expire in any year.~~ The Council President, with the assistance of the Executive Director, will timely schedule Council consideration of new appointments to ensure that the Commission positions remain filled.
- (e) ~~Members seated as of the effective date of this ordinance shall be entitled to complete their existing terms in office.~~ Members can serve no more than four two-year terms consecutively. However, members whose terms of service have expired must continue to serve until their successor is appointed, even if the total time served extends beyond the maximum permissible length of service. If for any reason a member serves a partial



term in excess of one-half of a full term, that partial term will be considered a full term for the purpose of the member's term limitation of four consecutive terms.

§26.1105 **Resignation and Removal of Board Members Appointment of Commission Members**

- (a) ~~A member may resign prior to the expiration of their term with written notification to the Chair of the Board and the Mayor. Upon receipt of such notification, the position shall be considered vacant and eligible for the Mayor to appoint and the City Council to confirm a new member to fill the remainder of the term.~~ Members are appointed by the Council in accordance with the approved Council rules and policies. In making appointments, the Council may consider written nominations made by the public and community-based organizations, as long as nominees accept their nomination in writing prior to Council consideration. The Council may also consider nominations from the Commission. The Commission may prepare an operating procedure for its nomination process.
- (b) ~~If a member is convicted of a felony or a crime of moral turpitude, the member will automatically be suspended from participating in any capacity on the Board, pending a vote by the City Council upon recommendation of the Mayor to formally remove the member from the Board or to reinstate the member. The hearing by the City Council shall occur within 30 days of the suspension.~~ As part of their appointment process, prospective members are subject to a review of their

qualifications to serve, which will be conducted by the Council President or designee, in accordance with applicable laws. This review includes an investigation into any record of criminal convictions, as set forth in Section 26.1103 of this Code.

(c) ~~The Board may recommend to the Mayor that a member be removed for reasons including, but not limited to:~~

- ~~1. misuse of position as a Board member;~~
- ~~2. misuse of police-issued documents;~~
- ~~3. misconduct that impedes the member's ability to serve as an effective and impartial Board member; unexcused absences from at least two consecutive meetings or by failure to conduct case review as assigned by the Executive Director;~~
- ~~4. violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE); or~~
- ~~5. a conflict of interest.~~

~~Upon recommendation of the Mayor to remove a member, a hearing by the City Council shall occur within 60 days of receipt of the recommendation.~~

The Commission will work with the Chair of the Council's Public Safety and Livable Neighborhoods Committee to have an annual special meeting of the Committee where community stakeholders may advocate and promote community members as potential nominees to the Commission.

~~§26.1106~~ §26.1106 ~~Duties and Functions~~ Removal of Commission Members Removal of

Commission Members

The Board:

- (a) ~~shall review all deaths occurring while a person is in the custody of the San Diego Police Department and all officer related shootings;~~ A member may resign prior to the expiration of their term with written notice to the Council President. Upon this notification, the Council President must consider the position vacant and eligible for the Council to appoint a new member to serve for the remainder of the vacating member's term. If a member resigns from a designated seat, the Council must appoint a new member who meets the qualifications to serve in that designated seat.
- (b) ~~shall review and evaluate citizens' complaints against members of the Police Department and the Police Department's administration of discipline arising from such complaints;~~ A member must immediately notify the Council President and cease any further participation on the Commission, pending a vote by the Council to formally remove and replace the member, if any of the following circumstances occur during the member's term: (1) the member is incarcerated in any jail or prison and unable to serve or (2) the member is convicted during the member's term of (i) malfeasance in office and their civil rights have not been restored; (ii) a felony; (iii) a felony or misdemeanor where they are required to register as a sex offender pursuant to California Penal Code section 290; (iv) criminal violation of state or local conflict of interest laws; or (v) a violent crime against a government

employee or official. For purposes of this subsection, government employee or official means a person who is employed by the United States government, the State of California, or any city, county, city and county, special district, or political subdivision of the State of California. The Council's consideration of the removal and replacement of the member must occur within 60 days following the Council President's receipt of notice under this subsection. The member may waive a Council hearing on removal, but the Council must consider replacement of the member within the 60 days following the Council President's notice of the conviction.

(c) shall submit semiannual reports to the Mayor and City Council concerning the Board's evaluation of the Police Department's investigation of citizens' complaints; provided, however, that such reports shall not disclose any information required to be kept confidential by law; The Commission, by a two-thirds vote of its members, may recommend to the Council, by written notice to the Council President, that a member be removed for good cause other than a criminal conviction, for the following reasons:

- (1) misuse of their position for personal interests;
- (2) misuse of records, including Police Department or Commission records;
- (3) violation of federal or state laws relating to confidentiality or City employee privacy;

- (4) conduct that impedes a *member's* ability to serve impartially and independently;
  - (5) unexcused absences from at least three consecutive meetings of the full *Commission*. Prior notification to the *Commission's* chairperson of a *member's* absence from a meeting of the full *Commission* is considered an excused absence;
  - (6) failure to complete case *review* as assigned by the *Executive Director*;
  - (7) violation of the Code of Ethics of the National Association for Civilian Oversight of Law Enforcement (NACOLE) or the *Commission's* adopted code of ethics; or
  - (8) any other cause that impacts the *Commission's* effective operations, standing, or independence.
- (d) ~~may adopt bylaws consistent with the law for the governance of its business and procedures, provided they do not conflict with this Division or the Standard Operating Procedures;~~ Upon receipt of a written recommendation by the *Commission* to remove a *member* for good cause other than a criminal conviction, as specified in subsection (c) of this section, the Council President must schedule a public hearing of the Council to occur within 60 days following receipt of the recommendation.
- (e) ~~shall conduct all operations of the Board pursuant to bylaws approved by the Board and the Standard Operating Procedures;~~ If a *member* voluntarily resigns before a required public hearing of the Council on removal, the

- member waives their right to the hearing on removal. The Council President may suspend a member's participation on the Commission by written notice to the member, pending a Council hearing on removal.
- (f) may maintain a training program for individuals interested in being candidates for appointment to the Community Review Board on Police Practices; and The Council President may notice a public hearing for Council determination on removal of a member for good cause other than a criminal conviction, as specified in subsection (c) of this section, regardless of whether a recommendation is made by the Commission.
- (g) may refer, when it deems appropriate, 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 Council must act, by majority vote, to remove a member if the member does not voluntarily resign.

**§26.1107 Duties and Powers of the Commission**

- (a) The Commission has the following duties and powers, as mandated by the Charter and by the authority of the Council:
- (1) Once members are formally appointed by the Council, the Commission must establish operating procedures for its governance and the Commission's investigatory proceedings. All operating procedures prepared by the Commission must be consistent with all applicable laws, including the Charter, the Ralph M. Brown Act, the California Public Records Act, and all

laws, rules, regulations, and collective bargaining agreements between the City and its recognized employee organizations that provide rights to City employees. The *Commission's* initial operating procedures and any amendments must be approved by the Council, by resolution, before the operating procedures take effect.

- (2) The *Commission* is an *investigatory* body of the City, independent of the Mayor and the *Police Department*. The *Commission* must independently *investigate* and *evaluate* all deaths occurring while a person is in the custody of the *Police Department*, all deaths resulting from interaction with a *police officer*, and all *police officer-involved* shootings, regardless of whether 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*. In accordance with the *Commission's* duties and powers, the *Commission* must prepare operating procedures for *Commission* investigators to have immediate access to the scene or area of a *police officer-involved* shooting, the scene or area where a death or deaths occurred resulting from interaction with a *police officer*, the scene or area where a death or deaths occurred while a person was in the custody of the *Police Department*, and *Police Department* *investigations* of *police officer-involved* shootings, deaths resulting

from interaction with *police officers*, and deaths occurring while a person is in the custody of the *Police Department*. Upon completion of any *investigation*, the *Commission* must make *findings*. The Chief of Police must provide a written substantive response to the *Commission's findings* within 30 days of receipt of the *findings*.

- (3) The *Commission* may, but is not required to, *investigate* and *evaluate* a *complaint* against a *police officer* that does not involve an in-custody death, a death resulting from an interaction with a *police officer*, or a *police officer*-related shooting. Upon completion of any *investigation*, the *Commission* must make *findings*. The *Commission* is prohibited from *investigating* and *evaluating* a *complaint* where the *complainant* has requested that the *complaint* be handled without an *investigation* by the *Commission* or where no specific allegation or *police officer* can be identified. The *Commission* may *investigate* any allegations of *misconduct* that become known to the *Commission* during an *investigation* of a *complaint*. In exercising its discretionary power to *investigate* and *evaluate* a *complaint*, the *Commission* must determine that the *complaint* involves any of the following:
- (A) an incident in which the use of force by a *police officer* against a person resulted in great bodily injury;



- (B) dishonesty by a *police officer* directly relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting or investigation of misconduct by another *police officer*, peace officer, or custodial officer, including an allegation of perjury, making a false statement, filing a false report, or destroying, falsifying, or concealing evidence;
  - (C) an incident that has generated substantial public interest or concern;
  - (D) an incident where data shows a pattern of *misconduct* by a *police officer*; or
  - (E) an incident where data shows a pattern of inappropriate policies, procedures, or practices of the *Police Department* or its members.
- (4) The Commission must receive, register, review, and evaluate all complaints against *police officers*, except the Commission must not review or evaluate a complaint where the complainant has requested that the complaint be handled without investigation by the Commission or where no specific allegation or *police officer* can be identified. Upon completion of any complaint review or evaluation, the Commission must make findings. The Chief of Police must provide a written substantive response to the Commission's findings within 30 days of receipt of the findings.

- (5) The Commission may, but is not required to, review, investigate, and evaluate allegations of inappropriate sexual conduct, physical assault, or domestic violence by a police officer, whether or not a complaint has been submitted to the Commission or the Police Department. Upon completion of any review, investigation, or evaluation, the Commission must make findings. The Chief of Police must provide a written substantive response to the Commission's findings within 30 days of receipt of the findings.
- (6) The Commission must review and evaluate all factual findings and evidentiary conclusions of the Police Department arising from Police Department investigations of alleged misconduct by police officers, including internal investigations not resulting from a complaint, and all disciplinary decisions proposed by the Chief of Police or designee following sustained findings of police officer misconduct. The Commission may provide advisory recommendations to the Chief of Police, but must act promptly, timely, and in accordance with applicable laws, including the California Public Safety Officers Procedural Bill of Rights Act. In providing advisory recommendations on the discipline of officers to the Chief of Police, the Commission may consider all information, agreements, and documents of prior discipline imposed, including agreements for reduced discipline or last chance agreements, and prior sustained findings of misconduct

against the police officer, including prior sustained findings of misconduct made by the Commission or the Police Department, in a manner consistent with state law and the City's established disciplinary process. In order to execute its powers and duties under this section, every 30 days after the Police Department has commenced an investigation of alleged misconduct by police officers, the Police Department must provide to the Commission a written status report on the progress of the investigation, until the investigation concludes. Upon the Commission's written request, the Police Department must provide all records pertaining to the investigation, subject to Section 26.1109 of this Code. The Police Department must either provide to the Commission its factual findings and evidentiary conclusions within six months after commencement of its investigation, or a written explanation as to why it cannot provide such information. If, after six months, the factual findings and evidentiary conclusions are not available, the Police Department must provide a written report to the Commission on the status of the investigation every two weeks thereafter, until the investigation concludes. Unless expressly permitted under the California Public Safety Officers Procedural Bill of Rights Act, there are no circumstances, express or implied, for the Police Department to delay or toll completion of its investigation.

- (7) The Commission may, but is not required to, review and evaluate the Police Department's administration of discipline of police officers arising from other matters not involving alleged misconduct. The Commission may provide advisory recommendations to the Chief of Police, but must act promptly, timely, and in accordance with applicable law, including the California Public Safety Officers Procedural Bill of Rights Act. In providing advisory recommendations on the discipline of officers to the Chief of Police, the Commission may consider all prior discipline imposed, including agreements for reduced discipline or last chance agreements, and sustained findings of misconduct against the police officer, including prior sustained findings of misconduct made by the Commission or the Police Department, in a manner consistent with state law and the City's established disciplinary process. The Chief of Police must provide a written substantive response to the Commission's advisory recommendations within 30 days of receipt of the recommendations.
- (8) The Commission must review and evaluate the Police Department's compliance with federal, state, and local reporting laws and requirements.
- (9) 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 advisory recommendations to the Chief of Police, the Mayor, and the Council on any policies, procedures, practices, and actions of the Police Department. The Chief of Police must provide a written substantive response to the Commission's recommendations within 60 days of receipt of the recommendations.

- (10) The Commission may request that the Mayor review any Commission findings or advisory recommendations that the Chief of Police does not accept, implement, execute, or apply.
- (11) The Commission may develop and implement a mediation program that enables complainants to resolve their issues with a police officer who is a subject of a complaint, through face-to-face alternative dispute resolution involving a trained mediator. Participation in a mediation program must be voluntary and mutually agreed upon by both the complainant and the police officer. Mediation must be limited to eligible cases as determined by the Commission. A case successfully resolved through mediation, as determined by the Commission, is not considered a disciplinary proceeding or punitive action under the California Public Safety Officers Procedural Bill of Rights Act. However, the complaint may be subject to discovery in a criminal or civil action in accordance with applicable federal or state laws.

- (12) The Commission must interact with all City employees, including police officers and other employees of the Police Department, in accordance with all applicable federal, state, and local laws and regulations, including the City's Civil Service Rules, Personnel Regulations, Administrative Regulations, and collective bargaining agreements between the City and its recognized employee organizations.
- (13) The Commission may establish an operating procedure to directly receive and investigate complaints by members of the public against Police Department employees who are not police officers, in accordance with the City Charter and this Code. Any procedure to investigate the complaints must be made available in writing and accessible to the public. A copy of any complaint received by the Commission that identifies an employee of the Police Department must be forwarded to the Police Department within five calendar days of the Commission's receipt of the complaint. The Commission is not authorized to investigate a complaint against an employee of the Police Department who is not a police officer unless the complaint also alleges police officer misconduct.
- (14) The Commission must maintain a training program for individuals interested in appointment to the Commission. Members must also complete training upon their appointment to ensure their working knowledge of applicable laws and rules. The training program

must include instruction in civil or human rights and criminal justice as well as the impacts of racial and identity profiling.

(15) Subject to any limitations set forth in governing federal or state laws, the Commission may refer any matter before the Commission to the grand jury, district attorney, or other governmental agency authorized by law to investigate the activities of a law enforcement agency.

(b) The Chief of Police must consider any evaluation or recommendation by the Commission of proposed police officer discipline, prior to Police Department imposition of the discipline, but only if the evaluation or recommendation is completed before the statutory timelines set forth in the California Public Safety Officers Procedural Bill of Rights Act or other applicable law. The Chief of Police retains authority and discretion to discipline subordinate employees in the Police Department. The exercise of the Commission's duties and powers, as set forth in the City Charter and this Code, including its investigatory duties and powers, is not intended to obstruct, abrogate, or supersede the duties of the Chief of Police, as set forth in the City Charter.

**§26.1108 Cooperation of City Employees in Commission Activities**

(a) It is the policy of the City that all officers and employees of the City cooperate promptly and fully with the Commission to ensure the Commission can timely and properly perform its duties as required by the Charter, the Council by ordinance, and state and federal laws. A City

employee who fails or refuses to comply with this section is subject to discipline, up to and including termination. This requirement to cooperate includes participation in any *investigatory proceeding* set forth in the *Commission's* operating procedures approved by the Council.

- (b) If the *Commission* seeks to interview any City employee, including an employee who is the subject of a *complaint*, as part of an *investigatory proceeding*, the *Commission* must provide timely advance written notice to the employee. The *Commission* must also provide timely advance written notice to the City employee's appointing authority. The written notice must specify the date and time of the interview and provide the employee with reasonably sufficient time to secure union or legal representation by the employee's personal attorney, as applicable, and to make any legal objections to the interview, either before or at the time of the interview.

**§26.1109**      **Records**

- (a) The *Police Department* must make available to the *Commission* its records, within ten calendar days after a written request from the *Commission*, relating to any matter under *investigation, review, or evaluation* by the *Commission*. The *Police Department* must provide to the *Commission* all *complaints received* by the *Police Department* within five calendar days of receipt regardless of whether there is a written request from the *Commission* for the *complaints*. The *Commission* and the *Police Department* may develop an operating procedure for the disclosure



of Police Department records to the Commission. However, any disclosure of personnel records to the Commission by any City department must be in accordance with all applicable federal and state laws and regulations, including all laws and regulations pertaining to confidential medical information and personnel records. The Commission is required to maintain the confidentiality of all Police Department records and City personnel records, in accordance with applicable laws, and to respond to requests by members of the public for records in the possession of the Commission in a manner consistent with the California Public Records Act and applicable constitutional, statutory, and case law that protects personnel records.

- (b) In accordance with City Charter section 57, the Chief of Police retains authority over the records of the Police Department. The Chief of Police must provide records to the Commission in whole and with all information unredacted unless, in the opinion of the Chief of Police, to do so will hinder a criminal investigation or will infringe upon the exercise of the Chief of Police's right to deliberative process and confidential communications with other law enforcement agencies, the Mayor, or with the subordinate employees of the Police Department regarding matters within the authority of the Chief of Police. Within ten calendar days after a written request from the Commission, the Chief of Police must provide the Commission with Police Department records as specified in this section or a written explanation, setting forth the specific records or reasonably

segregable portions of the records being withheld, the reason for the withholding or redactions, and the legal justification supporting the withholding or redactions. If the Commission disagrees with the Chief of Police's decision to withhold records or redact information, the Commission may seek disclosure through its subpoena power, as defined by the Charter and this Code.

- (c) The Commission must retain complaints and any reports or findings relating to complaints for at least five years or any longer period required by state law. These Commission records are considered personnel records and must be managed in accordance with the California Public Records Act, the California Penal Code, the California Public Safety Officers Procedural Bill of Rights Act, California Evidence Code section 1043, and other applicable laws and collective bargaining agreements. The Commission is responsible for compliance with discovery requests for Commission records in a manner consistent with controlling law.

**§26.1110 Subpoenas**

- (a) The Commission has the power to subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other items whenever material to the performance of the Commission's duties or exercise of its powers.
- (b) A subpoena issued under this section must be issued and signed by the Executive Director or their designee.

(c) If a witness fails to appear before the *Commission* at the time and date set by subpoena, or in the case of a subpoena duces tecum, if a record is not produced as required, the *Commission* may, by majority vote, authorize its chairperson or the *Executive Director* to certify the facts to the Superior Court for an order to show cause why the subpoena recipient should not be ordered to comply with the subpoena.

**§26.1111**      **Conflict of Interest Code**

The Council must adopt a conflict of interest code for the *members, Executive Director, and City employees in the Office of the Commission. All members must be required to complete and file statements of economic interests in accordance with the conflict of interest code.*

**§26.1112**      **Reimbursement for Expenses**

The *Executive Director* is authorized to purchase goods and arrange services needed by *members* in the performance of their official duties and to reimburse *members* for reasonable expenses incurred in the performance of their official duties, in accordance with the City's approved procurement procedures, the approved budget and appropriations for the Office of the *Commission*, and the concurrence of the City's Chief Financial Officer. *Members* must use and return goods, in accordance with the City's approved policies and Administrative Regulations.

**§26.1113**      **Whistleblower Protection**

The City is prohibited from taking an adverse employment action against a City employee that is directly related to the filing of a *complaint* with the *Commission*

or to the lawful participation in an *investigatory proceeding* conducted by the *Commission*. A City officer or employee who takes an adverse employment action against a City employee that is directly related to the filing of a *complaint* with the *Commission* or to the lawful participation in an *investigatory proceeding* conducted by the *Commission* is subject to discipline up to and including termination. This protection is in addition to all whistleblower and other protections afforded to City employees under federal and state laws.

**§ 26.1114**      **Outreach and Communications**

- (a)      The *Commission* must engage in outreach to address community groups, and inform the public on the duties and responsibilities, policies, and ongoing operations of the *Commission*. This outreach must include a process for obtaining input from the community as to the functioning of the *Commission*. All public input regarding the *Commission's* functions, including *complaints* about the *Commission*, must be made publicly available on the *Commission's* website.
  
- (b)      At least twice each year, the *Commission* must have a roundtable in a community location to solicit public testimony and other input regarding community policing, building trust between the community and the *Police Department*, and other similar and relevant subjects as determined by the *Commission* in accordance with the *Commission's* powers and duties.
  
- (c)      The *Commission* must establish an operating procedure for the preparation and submission of a semi-annual report to the Mayor and Council regarding the exercise of the *Commission's* powers and duties. The

Commission must publish its semi-annual report no later than 60 days after the end of the preceding reporting period. The public disclosure of the report and all information within the report must be in accordance with controlling federal or state laws. The report must, at a minimum, describe:

- (1) the number and types of complaints received by the Commission, categorized by description as well as by City Council district, police division, and police beat;
- (2) the number of complaint reviews and investigations initiated by the Commission during the prior six months;
- (3) the number of complaint reviews and investigations completed by the Commission during the prior six months, and the number of investigations that took more than six months to complete and an explanation as to why those investigations took more than six months to complete;
- (4) the number of complaint reviews and investigations pending with the Commission as of the last day of the prior six months;
- (5) a tabulation of the results of complaint reviews and investigations by the Commission by category of findings and recommendations as well as by City Council district, police division, and police beat;
- (6) a description of any complaints that resulted in a referral by the Commission to other agencies and the names of those agencies;

- (7) a description and summary of all *evaluations, complaint reviews, and investigations* undertaken by the *Commission* regarding the *practices, policies, procedures, and actions of the Police Department* as well as any recommendations made by the *Commission* and the responses to the recommendations;
  - (8) the results of the *Commission's evaluations and audits of the Police Department's* compliance with reporting laws;
  - (9) a description of each instance where the *Police Department, any other City department, or City employee* refused to provide the *Commission* with records or information requested as well as all instances where the *Police Department* took longer than mandated when complying with records requests;
  - (10) a description of the *Commission's* community outreach efforts; and
  - (11) a description of any other significant activity undertaken by the *Commission*.
- (d) The *Commission* must establish an operating procedure for allowing the community to *evaluate* the *Commission's* processes and performance.
- (e) The *Commission* must prepare an operating procedure for the *development, data collection, tracking, and reporting of community policing standards*. These standards may include *de-escalation techniques, strategies, and practices; use of distraction blows; acts of intimidation; detentions; and other standards* the *Commission* determines to develop, track, and report. The operating procedure must, at a minimum, include

processes for community input and Police Department discussion facilitated by the Commission regarding the community policing standards.

(f) The Commission must prepare an operating procedure that describes the Commission's communications with complainants regarding the status of their complaints. At a minimum, the operating procedure must describe the Commission's process for receiving and acknowledging complaints, and for providing complainants with the status and outcomes of the Commission's reviews and investigations. The Commission must provide a notice to complainants on the status of their complaints no less than every 45 days.

(g) The Commission must establish an operating procedure covering public communications on the Commission's Internet website, including providing to the public, as soon as practicable, as much information as permitted by law, on the status of the Commission's investigation of each complaint, the list of all complaints received, the Commission's findings of the complaints it investigated, and all of the Commission's recommendations.

**§26.1115 Ballot Measures and Federal, State, and Local Legislation**

The Council recognizes the expertise of the Commission in matters related to law enforcement and public safety. The Council authorizes the Commission to make recommendations to the Mayor and Council on proposed City ballot measures, in accordance with the Council's policies, and on proposed federal, state, and local

legislation, in accordance with the Council's process to establish the City's legislative platform. The Council also authorizes the Commission to provide information to the public about the possible effects of any proposed ballot measure or legislation related to the activities, operations, or policies of the Commission or the City involving law enforcement or public safety. In exercising this authority, the Commission must ensure that the use of City resources for this purpose, including budgeted funds and staff time, is otherwise legally authorized, and the information provided to the public constitutes a fair and impartial presentation of relevant facts to aid the public in reaching an informed judgment regarding the proposed ballot measure or legislation. The Commission must ensure compliance with all laws related to the required separation between the use of City resources and campaign activities. The Commission may consult with its counsel or appropriate local or state regulatory agencies for guidance in complying with this section.

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Or.Dept: Council District 4  
Doc. No. 2854985\_3



Passed by the Council of The City of San Diego on OCT 18 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 20 2022.

AUTHENTICATED BY:

TODD GLORIA  
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Kristell Medina*, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 03 2022, and on OCT 20 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

By *Kristell Medina*, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Ordinance Number O- <u>21557</u></p>
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