

WOMEN OCCUPY SAN DIEGO
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January 5, 2016

Elizabeth Maland, City Clerk
City of San Diego
202 "C" Street, 2nd Floor
San Diego CA 92101

Via Hand Delivery

Dear Ms. Maland:

In accordance with San Diego City Council Policy 000-21, please find attached a Ballot Proposal for consideration by the City Council Rules Committee for referral to the full City Council to be placed on the Ballot for the November 2016 General Election.

We are submitting this Ballot Proposal to make the City of San Diego's Citizens Review Board on Police Practices (CRB) truly independent and transparent. We do so on behalf of 20 civic organizations who have endorsed a Charter Amendment for this purpose.¹

This proposed Charter Amendment would give the CRB independent investigators and legal counsel as well as subpoena powers, like the City's own Ethics Commission and except for legal counsel, the San Diego County Law Enforcement Review Board since 1990. This Amendment also renames the CRB the COMMUNITY Review Board to reflect the fact that ALL San Diegans are impacted by the San Diego Police Department, and it will have 3 members appointed by each of the City Council Districts to ensure representation of our diverse City.

We presented much of this proposal to the Charter Review Committee last June, which referred it to the Public Safety & Liveable Neighborhoods Committee, to which we presented in late September. The PSLN Committee seemed to find that this proposal requires a Charter Amendment, which would be in the Charter Review Committee's purview. No further action has been forthcoming, despite our repeated follow-up, as well as an editorial by the San Diego Union-Tribune:

"As a San Diego City Council committee considers a wide range of possible City Charter changes for submission to voters next year, we hope it pushes forward ideas to strengthen the powers of the Citizens Review Board on Police Practices. The U-T editorial board is not yet prepared to endorse these added powers, but we think it is an important debate for voters to have and to decide."

<http://www.sandiegouniontribune.com/news/2015/oct/03/tp-should-powers-of-san-diego-police-review-board/>

1 ACLU of San Diego and Imperial Counties, Activist San Diego, Af3irm San Diego, Black and Brown Lives Matter, Black Student Justice Coalition, Citizens Oversight Projects, Coordinating Committee of the San Diego Socialist Campaign, Democratic Socialists of America – San Diego, National Lawyers Guild, National Action Network-San Diego, Ocean Beach Green Center, Older Women's League-San Diego County, Peace Resource Center of San Diego, San Diego Urban League, SD Coalition for Peace and Justice, San Diego Black Agenda Project, San Diego Veterans for Peace, United Against Police Terror San Diego, Women's International League for Peace and Freedom-SD Chapter, Women Occupy San Diego

In the interim, more reasons for why we need this simple Good Government Charter Amendment have surfaced in the press, including a recent NBC7/39 Investigates report on the failings of the current CRB. This report inspired us to revise our proposal to include independent legal counsel for the CRB, as provided for the City's Ethics Commission. <http://www.nbcsandiego.com/news/local/Citizens-Review-Board-Has-Conflicts-And-Lacks-Transparency-Former-Members-360530091.html>

The recent release of security camera video by court order in the case of Afghan refugee, Fridoon Rawshan Nehad, shot dead by San Diego Police Officer Neal Broward in a Midway alley last April, reinforces the need for INDEPENDENT investigation and legal counsel of officer-involved deaths. Any institution that investigates itself has a built-in conflict of interest. We believe this to be true of the San Diego Police Department, City Attorney and District Attorney representing San Diego City law enforcement powers, and it must change.

We understand from the Public Notice that your office has placed on the City Council's Agenda that the Rules Committee will consider Ballot Proposals submitted by this date on January 13, 2016; please confirm this date, as well as the time and location of the Rules Committee meeting.

Thank you for your assistance,


Kate Yavenditti, for
Women Occupy San Diego
619 531-9300

Attachment

cc: City Council Rules Committee
President Sherri Lightner, Chair*
President Pro Tem Marti Emerald, Vice Chair* #(Chair)
Councilmember Chris Cate* #(Vice Chair)
Councilmember Myrtle Cole#
Councilmember Mark Kersey*

* *City Council Charter Review Committee*
City Council Public Safety & Livable Neighborhoods Committee

City Council Public Safety & Livable Neighborhoods Committee
Councilmember Todd Gloria

City Council
Councilmember David Alvarez
Councilmember Scott Sherman
Councilmember Lori Zapf

Mayor Kevin Faulconer

City Attorney Jan Goldsmith

Sharmaine Moseley, Executive Director
Citizens Review Board on Police Practices

Shelly Zimmerman, Chief
San Diego Police Department

PROPOSED AMENDMENT TO THE SAN DIEGO CITY CHARTER BY AMENDING ARTICLE V SECTION 43 (d) IN ITS ENTIRETY AS FOLLOWS:

(d) COMMUNITY REVIEW BOARD ON POLICE PRACTICES.

- (1) The purpose of the Community Review Board on Police Practices (hereinafter CRB) is to provide effective public oversight of the San Diego Police Department. This representative community group is authorized to independently investigate, conduct hearings and make findings and recommendations concerning allegations of police misconduct or abuse by any member of the San Diego Police Department.
- (2) The CRB shall be supported by one Executive Director, sufficient independent investigators and other staff as determined by the CRB to complete all complaint reviews and recommendations of discipline within the statutory time limits outlined in California law. The Executive Director shall be appointed by the Mayor, with the approval of the City Council and a majority vote of the CRB and cannot be a former employee or contractor of the San Diego Police Department. The role of the Executive Director is to be administrative staff to supervise other staff. The Executive Director shall support the members of the CRB in their work, not supervise their work or provide opinions about investigations. The CRB shall have input into the position description/contract, hiring, and performance evaluation of the Executive Director.
- (3) The CRB shall consist of twenty-seven (27) volunteer members. At least three (3) CRB members must review each case. The members shall reflect the diversity of the City of San Diego in all respects and the diversity of the District from which said member is appointed. Three (3) members shall be appointed by each of the nine (9) Councilmembers. The members shall serve without compensation for terms of (4) years, renewable by the Councilmember and a majority of the CRB for an additional four (4) years, after which the member may not apply for membership for a period of four (4) years.
- (4) Upon the effective date of this legislation, the entire CRB will be reappointed as follows: the initial term of nine (9) members shall be for three (3) years, another nine (9) for two (2) years and another nine (9) for one (1) year so that no more than nine (9) terms will expire in any one year. Each Councilmember shall make one appointment for each term. Current CRB members shall be eligible for reappointment for any of these terms. The Councilmember shall fill any vacancy occurring for any reason for the remainder of that term only.
- (5) The CRB shall retain its own independent legal counsel, independent of the City Attorney, for legal support and guidance in carrying out its responsibilities and duties. Said legal counsel shall have no involvement in defending the City of San Diego from liability for misconduct of San Diego Police Department officers. The CRB shall not receive legal advice or counsel from the City Attorney and no representative from the office of the City Attorney shall be present or provide input at any CRB meetings in his/her representative capacity.
- (6) Throughout their terms, CRB members must fully disclose any conflicts of interest they have in doing the work of the CRB and may be challenged by any other CRB member regarding conflict of interest at any time. Failure to disclose conflicts of interest and violations of the CRB Code of Ethics shall be considered cause for removal. The CRB may remove a member of the CRB for cause by vote of two-thirds (2/3) of the members of the CRB. No member or investigator shall be currently or formerly employed by the San Diego Police Department or any other law enforcement agency or be employed by or hold any office in the City of San Diego.
- (7) The CRB shall establish such rules and regulations, including Bylaws and a Code of Ethics based upon national law enforcement oversight recommended standards, as may be necessary to carry out the purpose for which the CRB is created. All such rules and regulations shall be created within six (6) months of the effective date of this legislation and shall be made available for public comment through all methods available to the CRB for a period of at least sixty (60) days prior to presentation to the City Council for approval.

- (8) All meetings of the CRB except for those meetings in which specific police personnel records are discussed shall be noticed and open to the public, including all committee, cabinet, executive and ad hoc committee meetings. Officers and staff from the San Diego Police Department shall not attend any CRB meetings where case reviews are discussed.
- (9) Any complaint submitted for consideration by the CRB shall be in writing and the truth thereof shall be attested to under penalty of perjury. All complaints involving allegations of slur, criminal conduct, force, arrest or discrimination shall be considered by the CRB. Complaint subjects shall be determined by the complainant using published unclassified segments of San Diego Police Department Policies and Procedures from the CRB website or where otherwise available. Where a complainant does not indicate one of the above specific categories, the CRB shall determine the nature of the allegation and if it involves one of these categories shall review it. If a complaint does not involve one of these categories, the CRB may decide to investigate it or may refer it to the Chief of Police for internal review. The CRB shall review all officer-involved shootings, whether or not a complaint is filed with the CRB.
- (10) All complaints shall be delivered directly to the CRB without delay, regardless of whether the complainant has also filed a claim against the City of San Diego. The CRB will have adequate staff and technological support to ensure complaints are recorded, tracked, reviewed and investigated in a thorough, accurate, timely and unbiased manner. The status of all complaints presented to the CRB shall be available on the website and through all of the CRB's other public information channels. The CRB shall have the power to subpoena and require the attendance of witnesses and the production of books, papers, and all other data including electronic data pertinent to the investigation and to administer oath to witnesses.
- (11) The results, findings and recommendations of any CRB determination on a complaint shall not be confidential and shall be available to the public except as otherwise provided by law. Redactions may be used by the CRB when law prohibits personal identifying information of police officers, complainants or witnesses from disclosure. A determination shall be made by the CRB as to whether an allegation of police misconduct was sustained (evidence supports finding of officer misconduct), not sustained (insufficient evidence either way to reach a determination), or unfounded (evidence supports police officer exoneration) and such determination shall be forwarded to the Chief of Police and to the Mayor. The CRB may also make recommendations to the San Diego Police Department and to the Mayor concerning policy changes and/or specific discipline measures in connection with any investigation. The CRB shall receive regular reports from the San Diego Police Department and the Mayor concerning the status of all recommendations so made.
- (12) The CRB shall submit a budget request during budget planning each year. The CRB budget shall be wholly independent of the San Diego Police Department and City Attorney budgets.
- (13) The CRB shall prepare and submit annual reports to the City Council, the mayor and the public, subject to such confidentiality as required by law. Said reports shall be public and provided within 60 days of the end of each year and shall report CRB findings and recommendations on each allegation for all complaints reviewed during the year as well as information on complaints received but not reviewed. Interim or special subject reports may be directed by the CRB, City Council or the Mayor. Reports shall also contain follow-up reports on recommendations made by the CRB.