



# ADOPTED DATE

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBERS \_\_\_\_\_

CITY ATTORNEY'S OFFICE

## VALLEJO CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_

### ADOPT AN ORDINANCE (1) CREATING THE VALLEJO POLICE COMMISSION AND THE COMMUNITY POLICE REVIEW AGENCY AND (2) ESTABLISHING A CIVILIAN INSPECTOR GENERAL

**WHEREAS**, Over the last decade the City has paid \$\_\_\_\_\_ in legal settlements and judgments arising from lawsuits based on claims of police misconduct. In addition the City has (has) paid \$\_\_\_\_\_ in legal fees to in-house and outside counsel for representation in legal settlements and judgments arising from lawsuits based on claims of police misconduct. The City has also paid \$\_\_\_\_\_ for other expenses related to the above; and  
[We can fill in the blanks when we receive responses from the City Attorney to questions presented by Common Ground through the Assistant City Manager.]

**WHEREAS**, Over the last decade the Vallejo Police Department has received \_\_\_\_\_ citizen complaints based on claims of police misconduct. The Vallejo Police Department has staffed their Internal Affairs Unit, to investigate those citizen complaints, at a cost of \$\_\_\_\_\_. In addition the Vallejo Police Department has sustained on \_\_\_\_\_ % of the citizen complaints; and  
[We can fill in the blanks when we receive responses from VPD to questions presented by Common Ground through the Assistant City Manager.]

**WHEREAS**, [ Local and national media have painted a picture of the department as a violent and oppressive agency that is killing citizens without consequence – insert newspaper, magazine, TV and social media articles] ; and

**WHEREAS,** [Local & national protests – include description and chronology of BLM and specific high profile cases] ; and

**WHEREAS,** [The City's Litigation Insurance premiums have risen from \_\_\_\_\_ to \_\_\_\_\_ as a result of the misconduct cases] – awaiting response from City Attorney to questions submitted thru Asst City Mgr.

**WHEREAS,** The public perception persists that the Department and the City do not adequately hold its officers accountable for misconduct, leading to an erosion of public trust in this process; and

**WHEREAS,** Maintaining public trust and confidence in the Police Department is essential for the Department to be able to provide the highest level of service to the community. In order to increase the public trust and confidence in the Department, improvements should be made to the processes for providing Department oversight and accountability. Appointing qualified members of the public to a Police Commission (hereinafter, Commission), entrusting the Commission with oversight of the Department and requiring the Commission to hold public hearings all would increase public transparency, which in turn would build a higher level of trust and confidence in the services provided by the Department; and

**WHEREAS,** Major cities across the country, including New York City, Los Angeles, and San Francisco, as well as medium-size cities such as Albuquerque and Honolulu have civilian police bodies with varying degrees of oversight authority over their police departments. In recent years, more and more municipal jurisdictions have involved citizens in their law enforcement review systems, and highly publicized incidents of alleged or actual police misconduct and the years-in-the-making widespread public outrage over police misconduct, especially communities of color, has brought the issue of civilian oversight to center stage in the United States; and

**WHEREAS,** The National Association for Civilian Oversight of Law Enforcement, a nonprofit organization dedicated to promoting greater police accountability through the establishment or improvement of citizen oversight agencies, provides various resources on its website, including recommended standards and practices, which include the Police Oversight Principles of European Partners Against Corruption, which provides numerous recommendations for police oversight bodies including that they: (1) have independence from the executive branch of government; (2) are sufficiently separate from the hierarchy of the police subject to their oversight; (3) are governed by persons who are not currently serving as police officers; (4) have adequate finances and resources to perform their functions; (5) have full investigative powers regarding police misconduct allegations; and (6) are representative of a diverse population; and

**WHEREAS**, This enabling ordinance is vital because it provides detailed information about the functions and duties of the Commission and Agency, and also because this enabling ordinance provides direction to the Commissioners and Agency staff regarding the operation of their respective entities; and

**WHEREAS**, One of the best models for on-going oversight of police discipline can be found in the City of Los Angeles' Office of Inspector General. The L.A. Inspector General is a civilian who is charged with conducting systematic reviews of the disciplinary process and reports directly to the City of Los Angeles' Police Commission to ensure a necessary level of independence. The creation of a civilian Inspector General to serve the Commission came from the Christopher Warren Commission reforms following the protests and riots stemming in part from the Rodney King jury verdict; and

**WHEREAS**, The Oakland Model of an Independent Commission and an Independent Investigating agency supplemented by an Independent Inspector General supported by a Policy Analyst is widely regarded as the current standard of excellence when modified and applied to the unique characteristics of each jurisdiction.

**WHEREAS**, The July 2016 Report of Blue Ribbon Panel on Transparency, Accountability, and Fairness in Law Enforcement, established in 2015 as an advisory body to the San Francisco District Attorney's office, recommended the establishment of an independent Office of the Inspector General for San Francisco's Police Department; and

**WHEREAS**, The City Council contracted with OIR to audit the VPD and provide recommendations for improvement. Included among the recommendations was the creation of a Civilian Oversight Body. **[Fill in details of when contracted and when completed and OIR qualifications.]**

**WHEREAS**, The City Council contracted with CA DOJ to audit the VPD and provide recommendations for improvement. . **[Fill in details of when contracted and when to be completed and DOJ qualifications.]**

**WHEREAS**, The establishment of the Commission creates an additional potential forum for the input of the Chief's Police Advisory Board to be received;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** That the City Council hereby adopts the addition of Chapters \_\_\_\_\_ to the Vallejo Municipal Code to establish the Vallejo Police Commission and the Community Police Review Agency, and to establish the Office of Inspector General and to appoint a civilian Inspector General who shall be responsible for its day-to-day operations.

**SECTION 2.** Title \_\_\_\_ of the Vallejo Municipal Code is amended to add Chapter \_\_\_\_\_, *Vallejo Police Commission*, which shall read as follows:

**Chapter \_\_\_\_\_ - VALLEJO POLICE COMMISSION**

**SECTION XXX – POLICE COMMISSION**

**(a) Creation and Role.**

1. There hereby is established the Vallejo Police Commission (hereinafter, Commission), which shall oversee the Vallejo Police Department (hereinafter, Department) in order to ensure that its policies, practices, and customs conform to national standards of constitutional policing. The Commission shall have the functions and duties enumerated in this Section.
2. There hereby is established a Community Police Review Agency (hereinafter, Agency), which shall have the functions and duties enumerated in this Section.
3. Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a Department sworn employee under his or her command, nor shall anything herein prohibit the Chief of Police from taking disciplinary or corrective action with respect to complaints investigated solely by the Department.
4. No later than three (3) years after the City Council has confirmed the first set of Commissioners and alternates, the City Council shall engage a qualified auditor to conduct a performance audit and a financial audit of the Commission and the Agency. Nothing herein shall limit the City Council's authority to direct future performance and financial audits of the Commission and the Agency.

**(b) Powers and Duties.**

The powers and duties of the Commission are as follows:

1. Oversee the Agency.
2. Conduct public hearings at least once a year on Department policies, rules, practices, customs, and General Orders. The Commission shall determine which Department policies, rules, practices, customs, or General Orders shall be the subject of the hearing.
3. Consistent with state law and in accordance with Section [insert] of the City Charter, entitled "Oaths and Subpoenas," issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before it. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, the majority of the members of the Commission may find them in contempt, and shall have power to take proceedings in that behalf provided by the general law of the State.
4. Propose changes, including modifications to the Department's proposed changes, to any policy, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect after the time this Ordinance takes effect for so long as such federal court orders and settlements remain in effect. All such proposed changes and modifications shall be submitted to the City Council for approval or rejection. If the City Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, the changes or modifications will become final.

5. Approve or reject the Department's proposed changes to all policies, procedures, customs, and General Orders of the Department which govern use of force, use of force review boards, profiling based on any of the protected characteristics identified by federal, state, or local law, or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are in effect after the time this Ordinance takes effect for so long as such federal court orders and settlement remain in effect. If the Commission does not approve or reject the Department's proposed changes within one hundred and twenty (120) days of the Department's submission of the proposed changes to the Commission, the Department's proposed changes will become final. If the Commission rejects the Department's proposed changes, notice of the Commission's rejection, together with the Department's proposed changes, shall be submitted to the City Council for review. If the City Council does not approve or reject the Commission's decision within one hundred and twenty (120) days of the Commission's vote on the Department's proposed changes, the Commission's decision will become final.
6. Review and comment, at its discretion, on all other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police who shall within 30 days provide a written response to the Commission upon request.
7. Review the City Manager's proposed budget to determine whether budgetary allocations for the Department are aligned with the Department's policies, procedures, customs, and General Orders. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change.
8. Require the Chief of Police to submit an annual report to the Commission regarding such matters as the Commission shall require.
9. Report at least once a year to the Mayor, the City Council, and to the public to the extent permissible by law the information contained in

the Chief's report in addition to such other matters as are relevant to the functions and duties of the Commission.

10. Acting separately or jointly with the City Manager, remove the Chief of Police by a vote of not less than five affirmative votes. If acting separately, the Commission may remove the Chief of Police only after adopting a finding or findings of cause, which shall be defined herein. The Commission must make its finding of just cause by no less than five affirmative votes. Upon removal, by the Commission, by the City Manager, or by the City Manager and the Commission acting jointly, or upon the notice of vacancy of the position of Chief of Police, the City Manager, in consultation with the Chair of the Commission, shall immediately appoint an Interim Chief of Police. Such appointment shall not exceed six (6) months in duration unless approved by a majority vote of the Commission. The Commission, with the assistance of the City Manager, shall prepare and distribute a job announcement, and prepare a list of at least four candidates and transmit the names and relevant background materials to the City Manager. The City Manager shall appoint one person from this list, or reject the list in its entirety and request a new list from the Commission. This provision shall not apply to any recruitment for the position of Chief of Police that is pending at the time of the Commission's first meeting.

11. Send the Chairperson of the Commission or another Commissioner appointed by the Chairperson to serve as a non-voting member of any level one Vallejo Police Force Review Board.

12. Perform such other functions and duties as may be prescribed by the City Charter or by City ordinance.

**(c) Appointment, Terms, Vacancies, Removal.**

1. The Commission shall consist of seven (7) regular members and two (2) alternate members, all of whom shall be Vallejo residents of at least eighteen (18) years of age. To the extent practicable,

appointments shall be broadly representative of Vallejo's diversity and shall include members with knowledge and/or experience in the fields of human resources practices, management, policy development, auditing, law, investigations, law enforcement, youth representation, civil rights and civil liberties, as well as representation from communities experiencing the most frequent contact with the Department. Background checks shall be required for all Commission members and alternates. Such background checks shall not be performed by the Department. The following shall not be eligible to serve as a Commissioner:

- a. current sworn police officer;
  - b. current City employee;
  - c. former Department sworn employee; or
  - d. current or former employee, official or representative of an employee association representing sworn police officers.
3. Within sixty (60) days of the enactment of this Section, the Mayor, the Vice-Mayor and each Councilmember shall appoint one (1) Vallejo resident as a Commissioner, at least one of whom shall be a retired judge or lawyer with trial experience in criminal law or police misconduct, and the City Council, as a whole, shall appoint two (2) Vallejo residents as alternates. The original appointing authority shall appoint a Vallejo resident to fill any Commission vacancy.
  4. With the exception of the first group of Commissioners which shall serve staggered terms, the term for each Commissioner shall be three (3) years.
  5. Commission members are limited to no more than two (2) consecutive terms, except that a Commissioner serving a term of no more than one (1) year shall be allowed to serve two (2) additional consecutive terms.
  6. To effect a staggering of terms among the Commissioners, the duration of the first group of Commissioners shall be determined by the City

Council as follows: Three (3) regular members shall have an initial term of three (3) years; two (2) regular members shall have an initial term of two (2) years; two (2) regular members shall have an initial term of four (4) years. The alternate members appointed by the City Council shall have an initial term of three (3) years.

7. A vacancy on the Commission shall exist whenever a member dies, resigns, ceases to be a resident of the City, is convicted of a felony, or is removed.
8. For vacancies occurring for reasons other than the expiration of a regular member's term, the replacement shall be selected by the original appointing authority within thirty (30) days of that vacancy occurring.
9. All Commission members shall receive orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for police officer misconduct and failure to act. All Commission members shall receive training regarding Procedural Justice, conflict resolution, national standards of constitutional policing, best practices for conducting investigations, and other subject matter areas which are specified by City ordinance.
10. The City Council may remove members of the Commission for cause as provided in Section [INSERT] of the Charter, or members of the Commission may be removed by a majority vote of the Commission only for conviction of a felony, conviction of a misdemeanor involving moral turpitude, a material act of dishonesty, fraud, or other act of moral turpitude, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular Commission meetings or five regular meetings in a calendar year except on account of illness or when absent by permission granted by the Chairperson of the Commission.

**(d) Meetings, Rules and Procedures**

1. The Commission shall meet at least twice each month unless it determines that one meeting is sufficient in a particular month. The Commission shall notify the public of the time and place of the meeting and provide time for public comment at each meeting. The Commission shall meet at least twice each year in locations other than City Hall.
2. The Commission shall establish rules and procedures for the conduct and operations of its business within 60 days of the first Commission meeting. Such rules shall be made available to the public.
3. Five (5) members shall constitute a quorum. If a quorum is not established by the regular members in attendance, the Chairperson of the Commission may designate one or more alternate members to establish a quorum and cast votes. Motions on all matters may be approved by a majority of those Commission members present.

**(e) Budget and Staffing**

1. The City shall allocate a sufficient budget for the Commission, including the Agency, to perform its functions and duties as set forth in this section, including budgeting at least one full-time-equivalent non-City Attorney legal advisor that is specifically charged with providing legal services to the Agency related to investigations and recommended discipline. The one full-time-equivalent non-City Attorney legal advisor shall be assigned by the City Attorney after consultation with the Chair of the Commission. The non-City Attorney legal advisor shall not in the regular course of his or her legal practice defend law enforcement officers and shall not participate nor serve as counsel to the City or any of its Council members or employees in defense of any lawsuit arising from any incident involving a Vallejo police officer.
3. After the effective date of this Ordinance, the Commission may identify special qualifications and experience that candidates for Agency staff

positions must have. Candidates for future vacancies may be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time; said selective certification shall be subject to discretionary approval by the City Manager or his or her designee.

5. The staff of the Agency shall consist of no fewer than One Executive Director, Two (2) Complaint Investigators and Two (2) Administrative Analysts.
6. The City Manager shall assign a staff member to act as liaison to the Commission and to provide administrative support to the Commission.
7. Upon a vacancy, the Director of the Agency shall be hired by the City Administrator from among two (2) or three (3) candidates submitted by the Commission. The Commission shall periodically conduct a performance review of the Agency Director. The Agency Director shall be classified as a Department head and shall have the authority to hire and fire Agency staff, in consultation with the City Manager.
8. Agency and Commission staff, except for the Agency Director, shall be civil service employees in accordance with Article [INSERT] of the City Charter. Background checks shall be required for all Agency investigator applicants before they are hired by the Agency. Such background checks shall not be performed by the Department.
9. No current or former sworn employee of the Department, or current official, employee or representative of an employee association representing sworn police officers, is eligible for any staff position in the Agency or the Commission.

**(f) Investigations**

1. Beginning sixty (60) days after the Agency is fully staffed, the Agency shall receive, review and prioritize all public complaints concerning the alleged misconduct or failure to act of all Department sworn

employees, including complaints from Department non-sworn employees. The Agency shall not be required to investigate each public complaint it receives, beyond the initial intake procedure, but **shall investigate public complaints involving uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, and First Amendment assemblies.** The Agency shall also investigate any other possible misconduct or failure to act of a Department sworn employee, whether or not the subject of a public complaint, as directed by the Commission. The Agency shall forward a copy of each complaint received to the Professional Standards Division of the Vallejo Police Department within three (3) business days of receipt. The Professional Standards Division of the Vallejo Police Department shall forward a copy of each citizen complaint received to the Agency within three (3) business days of receipt.

2. Subject to applicable law, the Agency shall have the same access to all Department files and records; in addition to all files and records of other City departments and agencies, and shall maintain confidentiality as required by law. The Department and other City departments and agencies shall make every reasonable effort to respond to the Agency's requests for files and records within ten (10) days.
3. The Agency shall make every reasonable effort to complete its investigations within one hundred eighty (180) days of the filing of the complaint with the Agency. Within ten (10) days of completion of the investigation, the Director of the Agency shall issue written findings and proposed discipline regarding the allegations stated in the complaint to the Commission and the Chief of Police. The City Manager shall not have the authority to reject or modify the Agency's findings and proposed discipline.
4. To the extent allowed by law and after consultation with the Commission, the Agency shall forward information to other enforcement agencies, including but not limited to the Solano

County District Attorney, when such information establishes a reasonable basis for believing that a crime may have been committed by a sworn Department employee.

**(g) Adjudication**

1. If the Chief of Police agrees with the Agency's findings and proposed discipline, he or she shall send to the subject officer notification of findings and intent to impose discipline. The Chief of Police may send such notification to the subject officer before IAD has begun or completed its investigation.
  
2. If the Chief of Police disagrees with the Agency's findings and/or proposed discipline, the Chief of Police shall prepare his or her own findings and/or proposed discipline which shall be submitted to a Discipline Committee comprised of three Commissioners. The City Manager shall not have authority to reject or modify the Chief of Police's findings and proposed discipline. The Agency's findings and proposed discipline shall also be submitted to the Discipline Committee which shall review both submissions and resolve any dispute between the Agency and the Chief of Police. Based solely on the record presented by the Agency and the Chief of Police, the Discipline Committee shall submit its final decision regarding the appropriate findings and proposed discipline to the Chief of Police who shall send to the subject officer notification of findings and intent to impose discipline.  
The Discipline Committee shall not have the authority to conduct its own investigation.
  
3. If the Chief of Police prepares his or her own findings and proposed discipline and provides it to the Agency before the Agency's investigation is initiated or completed, the Agency may close its investigation or may choose not to conduct its own investigation in order to allow final discipline to proceed as proposed by the Chief, except that if the Agency is required to conduct an investigation by subsection (INSERT) above, the Commission must approve the Agency's decision by a majority vote.

If the Agency chooses not to close its investigation, imposition of final discipline shall be delayed until the Agency's investigation is completed and the Agency makes its findings and recommendations for discipline. The Agency shall notify the Chief of its final decision regarding how it will proceed within five (5) business days of the Chief's notice of completion of his or her investigation.

4. All employees are afforded their due process and statutory rights including *Skelly* rights. After the findings and imposition of discipline have become final, the subject officer shall have the right to grieve/appeal the findings and imposition of discipline if such rights are prescribed in a collective bargaining agreement.

**(h) Enabling Legislation**

The Commission may make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Ordinance. The City Council may, on its own initiative, enact legislation or regulations that will further the goals and purposes of this Ordinance. Once the Commission is seated, subsequent legislation or regulations shall be submitted to the Commission for review and comment. The Commission shall have forty- five (45) days to submit its comments to the City Council, such time to be extended only by agreement of the City Council.

**X.XX.XXX - Definitions.**

The following words and phrases whenever used in this chapter shall be construed as defined in this section:

“Ad hoc committee” shall mean a temporary committee formed by the Commission comprised of less than a quorum of Commission members to address a specific issue.

“Agency” shall mean the Community Police Review Agency.

“Chief” shall mean the Chief of Police of the Vallejo Police Department.

“Commission” shall mean the Vallejo Police Commission.

“Department” shall mean the Vallejo Police Department.

“Misconduct” shall mean both a Department sworn employee’s affirmative act that violates, and/or his or her failure to act in violation of, the Department’s policies, procedures or directives, including without limitation the Department’s Manual of Rules.

“OIG” shall mean the civilian Office of Inspector General created by this Chapter

“Serious Incident” shall mean a Department sworn employee-involved shooting death or serious bodily harm caused by the action and/or inaction of a Department sworn employee, in-custody death, and/or on-duty or off-duty criminal conduct of a sworn Department employee which rises to the level of a felony or Serious Misdemeanor.

“Serious Misdemeanor” shall mean any misdemeanor crime that, if convicted, could preclude active law enforcement personnel, or a sworn employee of the Department, from successfully fulfilling the responsibilities of their job classification. Examples include those crimes that involve violence, intimidation, threats, sexual offenses, theft, dishonesty, possession of drugs, purchase, ownership or possession of a firearm in violation of California Penal Code section 12021(c)(1), and those crimes where bias based on any legally protected characteristic is a motivating factor.

“Subject Officer” shall mean the Department sworn employee who is the subject of a complaint of alleged Misconduct.

**X.XX.XXX - Conflict of Interest.**

The following persons shall not be eligible to serve as a Commissioner:

- A. Any attorney who represents a person or entity with a pending claim or lawsuit against the Department; or
- B. Any attorney who represented a person or entity that filed a claim or lawsuit against the Department and that claim or lawsuit was finally resolved during the previous year.

**X.XX.XXX - Bylaws and Rules.**

The Commission shall prepare its own Bylaws to govern its operations within 90 days of its first meeting. Any such Bylaws shall be approved by a vote of not less than five (5) affirmative votes. To the extent required by law, the City will provide the employee unions with notice of such proposed bylaws prior to implementation.

**2.45.045 - Confidentiality of Personnel Information.**

The Commission, the Agency, the OIG and their staff shall maintain the confidentiality of Department sworn employee personnel records (as defined by California Penal Code section 832.7) as required by state and local law. Failure to maintain the confidentiality of Department sworn employee personnel records, whether or not intentional, may subject Commission, Agency and OIG staff to discipline, up to and including termination of employment.

**2.45.050 - Designation of Alternates as Voting Members**

The Chair of the Commission may, in his or her discretion, designate an alternate as a temporary voting member if a Commissioner is absent from a meeting. There shall not be more than seven (7) voting members of the Commission at any given time.

**X.XX.XXX - Background Checks.**

In accordance with federal and state law, a background check shall be performed on the Mayor's, Vice-Mayor's and Councilmembers selection of candidates for the position of Commissioner and alternate before their names are submitted to the City Council for confirmation. The City Manager's Office shall retain an independent contractor to perform these background checks, which shall include:

- A. Verification of educational and employment background, and any other information that may be verified by a public records search.

The results of the background check identified in subsection (A) above shall be treated as public records, and shall be considered by the appropriate Appointing Authority prior to submitting the names of the final candidates to the City Council for confirmation.

**2.45.070 - Functions and Duties of the Commission.**

The Commission shall:

- A. In accord with the City's record retention schedule, maintain all electronic communications to, from and/or copied to any Commissioner or alternate regarding any matters within the Commission's jurisdiction, and provide such communications to the City upon request. The City shall provide each Commissioner, regular and alternate, with their own City e-mail and City phone number equipped with voicemail service. To facilitate community outreach the City shall provide each Commissioner with business cards and either a jacket or vest with lettering clearly identifying them as members of the Police Commission.
- B. Maintain the confidentiality of its business in accordance with state and local law, including without limitation, California Penal Code 832.7 and the California Public Records Act (Cal. Govt Code sec 6250 et seq.) A Commissioners failure to maintain such confidentiality, whether or not intentional, may be considered gross misconduct in office.
- C. Review and comment on the education and training the Department provides its sworn employees regarding the management of job-related stress, and regarding the signs and symptoms of post-traumatic stress disorder, drug and alcohol abuse, and other job-related mental and emotional health issues. The Commission shall provide any recommendations for more or different education and training to the Chief who shall respond in writing within 30 days.
- D. Prepare and deliver to the Mayor, the City Manager and the Chief by April 15 of each year, or such other date as set by the Mayor, a proposed budget for providing the education and training identified in subsection (C) above.
- E. Notwithstanding section [applicable section] of the Vallejo Municipal Code have the authority to remove the Chief, without the approval of the City Manager, by a vote of not less than five (5) affirmative votes and only after finding cause. For purposes of removing the Chief, "cause" shall be defined as any of the following:
  - 1. Continuing, intentional, or willful failure or refusal to perform the duties and responsibilities of the Chief of Police as required by any employment agreement with the City, the City Charter, the City's governing laws and

regulations, or any laws, rules or regulations of any governmental entity applicable to the Chief's employment by the City or to City operations, including without limitation, the inability to perform the duties and responsibilities of the Chief of Police as aforementioned as a result of alcoholism or drug addiction; or

2. Gross neglect of duties, material violation of any duty of loyalty to the City, or material violation of City or Department policy, including without limitation any policies or procedures pertaining to harassment and discrimination, after the Chief has received written warning of the neglect or violation and the Chief has failed to cure the neglect or violation within twenty (20) days; or
3. Conviction by, or entry of a plea of guilty or *nolo contendere*, in a court of competent and final jurisdiction for (a) any crime involving moral turpitude, (b) any felony offense, (c) any crime which is likely to have a material adverse impact on the business operations or financial or other condition of the City, or (d) any crime which has resulted in imprisonment; or
4. Failure or refusal to cooperate with any investigation involving employees of the Department; or
5. Obstruction of any investigation of Department employee misconduct or criminal activity; or
6. Refusal, which shall include ongoing failure, to administer or enforce any Department policy or procedure; or
7. A material act of dishonesty, fraud, embezzlement, self-dealing, or other act of moral turpitude; or
8. A material breach of confidentiality; or
9. Loss of any professional license or other certification required by state or local law to perform the duties of the position of Chief of Police.

- F. Within two hundred and forty (240) days of the City Council's confirmation of the first group of Commissioners and alternates and on the anniversary of that date thereafter, notify the Chief regarding what information will be required in the Chiefs annual report to the Commission which shall include, at a minimum, the following:
1. The number of complaints submitted to the Department's Internal Affairs Division (hereinafter, "IAD") together with a brief description of the nature of the complaints;
  2. The number of pending investigations in IAD, and the types of Misconduct that are being investigated;
  3. The number of investigations completed by IAD, and the results of the investigations;
  4. The number of training sessions provided to Department sworn employees, and the subject matter of the training sessions;
  5. Revisions made to Department policies;
  6. The number and location of Department sworn employee-involved shootings;
  7. The number of Executive Force Review Board or Force Review Board hearings, and the results;
  8. A summary of the Department's monthly Use of Force Reports;
  9. Number of Department sworn employees disciplined and the level of discipline imposed; and
  10. The number of closed investigations which did not result in discipline of the Subject Officer.

The Chiefs annual report shall not disclose any information in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.

G. Conduct an annual performance review of the Agency Director, the Inspector General and of the Chief. The Commission shall determine the criteria for evaluating the Agency Director's, Inspector general's and the Chiefs job performance, and communicate those performance criteria, in addition to any other job performance expectations, to the Agency Director, the Inspector General and the Chief one full year before conducting any evaluation of their job performance. The Commission may, in its discretion decide to solicit and consider, as part of its evaluation, comments and observations from the City Manager and other City staff who are familiar with the Agency Director's, Inspector General's or the Chief's job performance. Responses to the Commission's requests for comments and observations shall be strictly voluntary.

H. Request that the City Attorney submit semi-annual reports to the Commission and to City Council which shall include a listing and summary of:

1. To the extent permitted by applicable law, the discipline decisions that were appealed to arbitration;
2. Arbitration decisions or other related results;
3. The ways in which it has supported the police discipline process; and
4. Significant recent developments in police discipline.

The City Attorney's semi-annual reports shall not disclose any information in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.

J. Provide policy guidelines to the Agency Director for assistance in determining case prioritization.

K. Make available on its website, to the extent permitted by law:

1. The Chief's annual report;
2. The Agency's reports;
3. The Agency Director's monthly reports;

4. The Inspector General's annual report; and
5. The Commission's annual report.

No information shall be distributed using any print media, or posted using any electronic media, in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.

- L. Direct the Agency to investigate a Serious Incident when requested by the City Manager, and/or the City Council by an affirmative majority vote.
- M. In association with the Agency Director and in consultation with the Chief or the Chief's designee, establish rules and procedures for the mediation and resolution of complaints of Misconduct. To the extent required by law, the City will provide the employee unions with notice of such proposed bylaws prior to implementation.
- N. Receive any and all public reports prepared by the Chief of Police's Advisory Board (hereinafter referred to as "CPAB") and consider acting upon any of the CPAB's recommendations for promoting community policing efforts and developing solutions for promoting and sustaining a relationship of trust and cooperation between the Department and the community.
- O. Review and comment on the Department's policy and/or practice of publishing Department data sets and reports regarding various Department activities, submit its comments to the Chief, and request the Chief to consider its recommendations and respond to the Comments in writing.
- P. Solicit and consider input from members of the public regarding the quality of their interactions with the Department, the Agency and the Commission.
- R. The Department, through the City Manager or his or her designee, shall report to the Commission on issues identified by the Commission through the Commission's Chair. The City Manager, or his or her designee, shall attend in person, and shall be prepared to discuss and answer questions regarding the issues identified by the Commission.

### **X.XX.XXX - Serious Incidents.**

Within thirty (30) days after the effective date of this Ordinance, the City Manager shall establish a protocol for notifying the Commission Chair, the Agency Director and the Inspector General of Serious Incidents within twenty-four (24) hours of the Chief knowing or having a Reasonable Suspicion that a Serious Incident has occurred.. For purposes of this subsection, "Reasonable Suspicion" shall mean that, from the totality of the circumstances, there is a specific, articulable, and objective basis for suspecting personnel of criminal activity. There must be specific facts beyond the mere allegation of criminal misconduct. The City Manager or her or his designee shall also provide a confidential status report to the Chair of the Commission, the Agency Director and the Inspector General within ten (10) calendar days of the date on which the Serious Incident occurred, and a second confidential status report to the Chair of the Commission, the Agency Director and the Inspector General within forty-five (45) calendar days of the date on which the Serious Incident occurred. The City Manager or her or his designee shall also brief the Commission Chair, the Agency Director and the Inspector General at least once a month regarding allegations of all Serious Incidents under investigation.

### **2.45.080 - Access to Documents.**

- A. Subject to applicable law, the Commission shall have access to all Agency and Department files and records, with the exception of personnel records, and to all files and records of other City offices, departments or agencies that are relevant and necessary to the performance of its duties, with the exception of personnel records.
- B. Subject to applicable law, the Commission shall have access to all Department files and records, with the exception of personnel records, and to all files and records of other City departments and agencies that are relevant to a Serious Incident.
- C. The Discipline Committees shall have access to all files, including personnel records, that are included in the Chiefs and Agency's submissions, as described in this Chapter
- D. The Inspector General shall have access to all files, including personnel records, that are necessary to perform his or her duties as described in this Chapter.
- E. The Commission and the OIG shall follow Department policies and procedures regarding the release of videotape and audio

tape recordings of alleged Class 1 violations committed by police officers.

- F. To the extent possible, any confidential documents, files and records shall be made available to the Commissioners, the Inspector General and the Discipline Committees in electronic format on a secure server. Each individual who has access to this server shall have his or her own password. Each page of any printed copies of confidential documents, records or files shall bear a watermark consisting of the name of the individual for whom the printed copies are made. All such copies must be stored in a secure place, and must be shredded when no longer needed. Upon expiration of his or her term, a Commissioner must return to the City any and all copies of confidential materials that have not been shredded.

### **X.XX.XXX- Meetings**

In conducting its meetings, the Commission shall comply with all requirements of the Brown Act, California Government Code section 54950, *et seq.*, and Article \_\_\_\_ of Chapter \_\_\_\_ of the Vallejo Municipal Code.

- A. The Commission shall meet at least twice each month at an established time and place suitable to its purpose. Such meetings shall be designated regular meetings, and shall be held at City Hall. If the Commission determines, by a majority vote of those present at a regular meeting, that a second regular meeting in that month is not necessary, it shall provide public notice of the meeting cancellation as required by all applicable State and local laws. Video recordings of all open sessions of Commission meetings shall be aired on \_\_\_\_\_[Vallejo Public Channel].
- B. At least twice each year, the Commission shall hold one of its regularly scheduled meetings at a location outside of City Hall. These offsite meetings shall be designated special meetings subject to the ten-day agenda notice requirement for purposes of Article \_\_\_\_ of Chapter \_\_\_\_ of the Vallejo Municipal Code, and shall include an agenda item titled "Community Roundtable," or something similar. The purpose of the Community Roundtable agenda item shall be to solicit community testimony and other input in discussions regarding community policing, building trust between the community and the Department, and other similar and relevant subjects as determined by the Commission. The Commission shall consider inviting to each Roundtable individuals and groups familiar with the issues involved in building and maintaining trust between the Department and the community, including but not limited to representatives from the

Department, members of faith-based groups, youth groups, advocacy groups, residents of neighborhoods that experience the most frequent contact with the Department and, to the extent practicable, formerly incarcerated members of the community.

- C. "Final actions," as defined by state and local open meeting laws, taken by the Commission in closed session shall be publicly reported with the vote or abstention on that action of every member present.

#### **X.XX.XXX - Office of Inspector General.**

Within one hundred and eighty (180) days after the full staffing of the Agency, there shall be established, under the purview of the Commission, a civilian Office of Inspector General for the Commission (hereinafter referred to as "OIG"). The Inspector General shall serve and report to the Commission full time. The Inspector General shall be hired and supervised by the Commission.

- A. The powers, functions and duties of the OIG shall be those assigned or authorized by the Commission, and shall include conducting any audit or review of the Department necessary to assess the Department's performance and adherence to constitutional policing practices, and shall also include conducting any audit or review of the Department's policies and procedures, including any pattern of non-compliance with the foregoing, as necessary or helpful for the Commission to fulfill its duties.
- B. The Commission may request that the Chief assign a sworn Department employee to act as a liaison from the Department to the OIG.
- C. The City shall allocate a sufficient budget for the OIG to perform its functions and duties as set forth in section **X.XX.XXX** below, including budgeting one (1) full-time staff position comparable to the position of Police Program and Audit Supervisor. All OIG staff, including the Inspector General, shall be civil service employees in accordance with \_\_\_\_\_ of the City Charter.

#### **2.45.110 - Civilian Inspector General.**

- A. Within two (2) years of the City Council's confirmation of the first group of Commissioners and alternates, the Commission, with the assistance of the Human Resources Management Department and in accordance with the City's Civil Service Rules, shall

prepare a job description and list of required qualifications for the position of civilian Inspector General. After all required approvals have been obtained for adding this position to the City's Classification Plan (as defined by the City's Civil Service Rules), the Commission, with the assistance of the City Manager, shall be responsible for hiring the first and all subsequent civilian Inspectors General. The Inspector General shall be subject to a background check as described in section **X.XX.XXX** above before hiring except that the results of the background check shall be submitted only to the Commission.

- B. Within one hundred twenty (120) days of his or her appointment, the Inspector General shall, at a minimum, receive all the training herein prescribed for member of the Commission. The Commission may propose any additional training it deems necessary for the Inspector General to perform the functions and duties of the OIG.
- C. The Inspector General shall report to the Commission, and may only be removed according to the City's Civil Service Rules and any applicable memorandum of understanding between the City and a collective bargaining unit.
- D. The Inspector General shall be responsible for the day-to-day operations of the OIG, including but not limited to the supervision and direction of all OIG staff.
- E. The Inspector General shall be permitted to attend, as an observer, Executive Force Review Board, Force Review Board, and, to the extent permitted by law, *Skelly* hearings if he or she chooses to do so. The Inspector General shall not have any decision-making authority regarding the specific cases being heard, and shall maintain the confidentiality of the hearings as required by law. The Inspector General shall not be permitted to attend any Executive Force Review Board, Force Review Board, or *Skelly* hearing until he or she has completed the training identified herein.

#### **2.45.120 - Functions and Duties of the Office of Inspector General.**

The Commission shall advise the OIG of its priorities and the functions and duties the Commission establishes for the Office of Inspector General, which shall include, without limitation:

- A. Preparing an annual report, summarizing the results of the annual reviews of:
1. The Department's processes and procedures for investigating alleged Misconduct;
  2. The Department's processes and procedures for determining the appropriate level of discipline for sustained findings of Misconduct;
  3. The Agency's processes and procedures for investigating alleged Misconduct;
  4. The Agency's processes and procedures for determining the appropriate level of discipline for sustained findings of Misconduct;
  5. Trends and patterns regarding Department training and education, and the Department's use of any early warning system(s);
  6. Training and/or policy issues that arise during the investigations of complaints; and
  7. Trends and patterns regarding use of force and Department sworn employee-involved shootings.

This annual report shall be presented to the Commission, the City Council and to the Chief and shall include, where appropriate, recommendations for changes in the processes and procedures that were reviewed.

- B. Monitoring and evaluating, on at least an annual basis, the number and percentage of sworn officers who have received in-service training on profiling and implicit bias, procedural justice, de-escalation, diplomacy, situational problem-solving, and work-related stress management, and make recommendations, as appropriate, to the Commission regarding changes to the Department's training programs.
- C. Developing and presenting a plan to the Commission to measure the performance of each element of the Department's discipline process for sworn Department employees.

- D. Completing all audits or reviews requested by the Mayor, the City Manager, and/or the City Council by an affirmative majority vote. The Inspector General shall report all findings to the Commission and the office that requested the audit or review.
- E. Monitoring, evaluating, and making recommendations regarding the Department's recruitment and hiring practices for sworn personnel.
- F. Monitoring, evaluating, and making recommendations regarding the Department's policies and procedures as requested by the Commission in furtherance of its duties.
- G. Monitoring, evaluating, and making recommendations regarding the Department's risk management practices.
- H. Any reports, plans, audits, reviews and recommendations generated by the OIG shall not disclose information in violation of state and local law regarding the confidentiality of personnel records, including but not limited to California Penal Code section 832.7.

#### **2.45.130- Establishment of the Discipline Committee.**

A separate Discipline Committee will be established for each Department sworn employee discipline or termination case. The Chairperson of the Commission shall appoint three (3) Commission members to serve on a Discipline Committee, and shall designate one of these three (3) Commission members as the Chairperson. The Discipline Committees shall decide any dispute between the Agency and the Chief regarding the proposed or final findings or proposed or final level of discipline to be imposed on a Subject Officer.

- A. No Discipline Committee established by the Commission shall decide any dispute between the Chief and the Agency until each member of the Discipline Committee has completed: (1) orientation regarding Department operations, policies and procedures, including but not limited to discipline procedures for Misconduct, and (2) the training described herein.
- B. Membership in the Discipline Committees shall rotate for each Department sworn employee discipline or termination case, as determined by the Chairperson of the Commission.

## **2.45.140-Discipline.**

In accordance with section \_\_\_\_\_ of the City Charter, all Department sworn employees shall be afforded their due process and statutory rights, including *Skelly* rights, as follows:

- A. With respect to Misconduct that is given a Class I designation pursuant to the Department's Discipline Policy, the Chief and the Agency Director shall include probative videotape and/or audiotape from their respective investigations in their submissions to the Discipline Committee. The Discipline Committee shall have the authority to require the Chief and the Agency Director to provide any additional videotape, audiotape, and/or documents (including without limitation any existing transcripts of Subject Officer or witness interviews) from the Agency's and the Department's investigation files that it deems relevant to its deliberations, and shall also have the authority to require the Chief and the Agency Director, or their non-attorney designees, to appear before the Discipline Committee to present their findings and recommendations and to answer questions.
- B. The record submitted to the Discipline Committee by the Chief regarding any Misconduct shall include the Subject Officer's history of discipline for the previous five (5) years. All documents submitted to the Discipline Committee by either the Agency Director or the Chief shall not include any redactions unless such redactions are required by law.
- C. After the investigation of a complaint has been completed and a decision has been made regarding the proposed findings and the proposed level of discipline (hereinafter referred to as the "Proposed Discipline"), either by agreement between the Chief and the Agency or by decision of the Discipline Committee, the Chief shall send a Notice of Intent to Impose Discipline or a Notice of Intent to Terminate to the Subject Officer. Consistent with City policy and applicable law, the Department shall offer the Subject Officer a *Skelly* hearing to be conducted by an assigned *Skelly* officer. After completion of the *Skelly* hearing, the *Skelly* officer shall issue his or her report which shall include his or her recommendation regarding whether the Proposed Discipline should be affirmed or modified in any way.
- D. The *Skelly* report shall be submitted to the Chief and to the Agency Director if the Chief and the Agency Director agreed on the Proposed Discipline. The Chief and the Agency Director

shall consider the *Skelly* report and consult with each other regarding the final set of findings and level of discipline to be imposed (hereinafter referred to as “Final Discipline”).

1. If the Chief and the Agency Director agree on the Final Discipline, the Chief shall send a Notice of Discipline or Notice of Termination to the Subject Officer.
  2. If the Chief and the Agency Director do not agree on the Final Discipline, the *Skelly* report shall be submitted to the Discipline Committee which shall decide the Final Discipline based solely on the record reviewed and considered by the Skelly Officer (which shall include the Notice of Intent to Discipline or Terminate with all attachments). The Discipline Committee shall also have the authority to require the Chief and the Agency Director, or their non attorney designees, to appear before the Discipline Committee to present their recommendations and to answer questions. After determining the Final Discipline, the Discipline Committee shall direct the Chief to send a Notice of Discipline or Notice of Termination to the Subject Officer.
- E. The *Skelly* report shall be submitted to the Discipline Committee if the Discipline Committee decided the Proposed Discipline. The *Skelly* report shall also be submitted to the Chief and the Agency Director. The Discipline Committee shall consider the *Skelly* report in deciding the Final Discipline. After such determination, the Discipline Committee shall direct the Chief to send a Notice of Discipline or Notice of Termination to the Subject Officer.
- F. After the Final Discipline has been determined by either the agreement of the Agency Director and the Chief, or by the Discipline Committee, and to the greatest extent permitted by law, the complainant(s) shall be informed of the disposition of the complaint.
- G. The Discipline Committee shall maintain the confidentiality of all personnel and/or privileged information as required by State and local law. After the Discipline Committee has concluded its deliberations regarding the Proposed Discipline and/or the Final Discipline, it shall return all records and information it received (if not received electronically) to the party from which it received such records and information. Members of the Discipline Committee shall not retain copies of the records they receive from

the Chief and the Agency, nor shall they publicly comment about, or discuss any personnel matter with anyone, including another member of the Discipline Committee, outside of Discipline Committee meetings, except as required by a valid subpoena. This subsection (G) shall not preclude any member of a Discipline Committee from participating in any grievance procedure, including without limitation testifying in an appeal before the Civil Service Board or an arbitration or other type of administrative hearing.

- H. The Subject Officer may appeal the imposition of discipline or termination to the Civil Service Board. In addition, the Subject Officer may grieve the imposition of discipline or termination as prescribed in a collective bargaining agreement.

#### **2.45.150- Establishment of Other Committees**

The Commission must obtain City Council approval prior to the creation of any standing committee. A proposal to create a standing committee of the Commission must include information regarding the costs associated with staffing the standing committee, if any, and the costs of complying with noticing and reporting requirements resulting from its establishment. City Council approval shall not be required for creating temporary or *ad hoc* committees.

#### **2.45.160 - Public Statements of the Commission**

The Commission may authorize one of its members to issue statements to the public regarding the Commission's official business, to the extent such business is not confidential or privileged under State or local law, only after the statement has been approved by an affirmative vote of not less than four (4) votes in a public meeting. Commissioners may publicly discuss their roles as Commissioners and the Commission's public and official business for the purpose of educating the community provided they adhere to the notice requirements of the Brown Act and Vallejo's Sunshine Ordinance.

#### **2.45.170 - Election of Chairperson.**

At its first regular meeting, the members shall elect a chairperson and a vice chairperson. Beginning 2022, the members shall elect a chairperson and a vice-chairperson at the first meeting of the anniversary month of the first regular meeting.

#### **2.45.180 - Staff assistance.**

- A. Within two hundred and forty (240) days of the City Council's confirmation of the first group of Commissioners and alternates and on an ongoing basis as appropriate, the Commission shall provide the City Manager with its proposal for the staff positions necessary to permit the Commission and the Agency to fulfill its functions and duties as set forth in this Chapter \_\_\_\_.
- B. Within one (1) week of the City Council's confirmation of the first group of Commissioners and alternates, the City Manager shall assign an administrative staff person under her/his jurisdiction to provide administrative support to the Commission and to act as liaison between the Commission and the City Manager's office.
- C. At a minimum, the City Council shall allocate the equivalent of an additional one-half of a full-time administrative position (0.5 FTE) to the City budget for the purpose of providing adequate administrative support for the Commission.
- D. The full-time equivalent non-City Attorney legal advisor position assigned by the City Attorney after consultation with the Chair shall be divided into two (2) part time positions: a one-half (1/2) or two-thirds (2/3) time position with specific responsibilities for providing legal services to the Agency related to investigations and discipline, and a one-half (1/2) or one-third (1/3) time position as legal advisor to the Commission. The legal advisor to the Agency and the legal advisor to the Commission shall report to the Commission. Neither the legal advisor to the Agency nor the legal advisor to the Commission shall report to or be supervised by the City Attorney or any Deputy City Attorney. Pursuant to City Charter Section \_\_\_\_, the City Attorney shall act as counsel to the Agency and the Commission in any litigation brought against either in their official capacity and shall provide legal advice only upon request of the Commission.

**2.45.190 - Commissioner Training.**

Within six (6) months of appointment, or as soon thereafter as possible and with the exception of the first group of Commissioners and alternates, each Commissioner and alternate shall:

- A. Become familiar with City Charter section **[INSERT]** and with Chapters **[INSERT]** of the Vallejo Municipal Code.
- B. Receive training in basic principles of constitutional **(policing)** due process and administrative hearing procedures;

- C. Receive training in the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
- D. Receive information regarding constitutional civil rights guaranteed to all citizens as such rights are affected by law enforcement;
- E. Receive training in the legal requirements of California's Political Reform Act (Cal. Gov't Code section 81000, *et seq.*), Vallejo's Conflict of Interest Code (Vallejo Municipal Code Chapter \_\_\_\_), California's Brown Act (Cal. Gov't Code section 54950, *et seq.*), Vallejo's Sunshine Ordinance (Vallejo Municipal Code Chapter \_\_\_\_), and California's Public Records Act (Cal. Gov't Code section 6250, *et seq.*)]
- F. Receive training in open session in the legal requirements of California's Meyers Miliias Brown Act (Cal. Gov't Code section 3500, *et seq.*) (MMBA), the Public Employment Relations Board's administration of the MMBA, the City's Memoranda of Understanding with the Vallejo Police Officers' Association and other represented City employees, the City's Civil Service Board, and other relevant City personnel policies and procedures; and
- G. Receive training in open session in the legal requirements of California's Public Safety Officers Procedural Bill of Rights Act (Cal. Gov't Code section 3300, *et seq.*), and other California Code sections pertaining to peace officers' rights.

The first group of Commissioners and alternates shall comply with the requirements of subsections (A) through (G) within twelve (12) months of their appointment.

In addition, within twelve (12) months of appointment, or as soon thereafter as possible and with the exception of the first group of Commissioners and alternates, each Commissioner and alternate shall:

- I. Receive the training and orientation specified by section \_ of this Ordinance;
- J. Participate in a Department "ride-along" and attend a police academy curriculum designed for them by the Chief after consultation with the Commission. The curriculum shall be

designed so that criminal background checks will not be required for attendance;

- K. Complete the Department's Implicit Bias Training, and Crisis Intervention Training;
- L. Complete Peace Officer Standards and Training (POST) Learning Domains 15 (Laws of Arrest) and 16 (Search and Seizure); and
- M. Receive training regarding racial equity.

The first group of Commissioners and alternates shall comply with the requirements of subsections (I) through (M) within eighteen (18) months of their appointment.

The City Manager shall assist the Commission in scheduling and facilitating all training and orientation required by this section. Within the Commission's budget there shall be a line item for attendance at conferences offered by organizations such as the National Association for Civilian Oversight of Law Enforcement ("NACOLE").

#### **2.45.200 - Hearings**

It shall be the sole and exclusive responsibility of the Commission to determine the order and conduct of any public hearing, consistent with applicable law.

#### **2.45.220- Reporting to City Council.**

The Commission shall submit its first annual, written report to the City Council and the public within eighteen (18) months of the City Council's confirmation of the first group of Commissioners and alternates. The Commission's subsequent reports shall be submitted annually on or near the anniversary of that date.

**SECTION 3.** Title \_\_\_ of the Vallejo Municipal Code is amended to add Chapter **[insert]**

*Community Police Review Agency*, which shall read as follows:

**Chapter [insert]- COMMUNITY POLICE REVIEW AGENCY**

**[INSERT] - Definitions.**

The following words and phrases whenever used in this chapter shall be construed as defined in this section:

“Agency” shall mean the Community Police Review Agency.

“Commission” shall mean the Vallejo Police Commission.

“Department” shall mean the Vallejo Police Department.

“Misconduct” shall mean both a Department sworn employee’s affirmative act that violates, and/or his or her failure to act in violation of, the Department’s policies, procedures or directives, including without limitation the Department’s Manual of Rules.

“Subject Officer” shall mean the Department sworn employee who is the subject of a complaint of alleged Misconduct.

#### **2.46.020 - Creation**

This Ordinance establishes the Community Police Review Agency. It is in the public interest to facilitate the Agency’s receipt of public complaints regarding alleged Misconduct. Thus, some of the Agency staff should be located in a street-level or ground-floor, visible office that is accessible by public transportation. The Commission, in consultation with the Agency Director, shall determine the number of existing Agency staff who would work at such a location. Hours of operation for this location shall be clearly posted on the office door and inside the office. The address of this office location, together with hours of operation and a telephone number shall be posted on the City’s website and on the Agency’s website.

#### **2.46.030 - Functions and duties.**

The Agency’s functions and duties are as follows:

- A. Use the same complaint form as used by the Department in receiving all public complaints concerning alleged Misconduct, including complaints from Department non-sworn employees. All complaints, wherever filed, shall be date-stamped and numbered sequentially. A copy of the numbered and date-stamped complaint shall be provided to the complainant and to the Department’s Internal Affairs Division within two (2) business days of receipt.
- B. Make complaint forms available to the public by posting the forms and information about the complaint process on the Agency’s website and by accepting the online filing of complaints and attachments via

the Agency's website, and by making information about the complaint process available at other public locations to be determined by the Agency Director;

- C. Ensure that all investigators receive any necessary training in conducting fair and impartial investigations.
- D. Request the Commission to issue a subpoena, in accordance with City Charter \_\_\_\_\_, to compel a Subject Officer and any other sworn employee of the Department to fully cooperate with an Agency investigation. The Chief shall order all Department sworn employees subject to any subpoena issued by the Commission to comply with all requirements of the subpoena.
- E. Videotape the interviews of all Subject Officers who are alleged to have committed a Class I offense. For purposes of this subsection, the definition of "Class I offense" shall be the same as the definition of "Class I offense" in the Department's Discipline Policy.
- F. Request, without requiring, that the complainant(s) and witnesses of Class I allegations agree to be audiotaped or videotaped if, in the Agency's discretion, its investigation would benefit from such taping.
- G. In consultation with and upon the approval of the Commission, establish rules and procedures for the operation of its business including, but not limited to, procedures for the intake of complaints.
- H. No less than twice a year and as permitted by applicable law, issue a report to the City Council which shall include the following information:
  - 1. The number of complaints submitted to the Agency together with a brief description of the nature of the complaints and the identification of the Council District from which the complaint originated;
  - 2. The demographic profiles of the complainants to the extent that information exists or is voluntarily provided by the complainants;
  - 3. The number of the Agency's pending investigations, and the types of Misconduct that is being investigated;

4. The number of investigations completed by the Agency, the results of the investigations, and the amount of time spent on the investigations;
5. The number of Department sworn employees for whom sustained findings of Misconduct were made and the level of discipline proposed;
6. The number of closed investigations which did not result in sustained findings and/or discipline of the Subject Officer;
7. The number of cases referred to mediation;
8. The number of cases in which the Agency failed to meet (a) the two-hundred-and-fifty-day (250) goal specified herein, and/or (b) the deadline specified by California Government Code section 3304; and
9. The number of times a Department employee failed to comply with the Agency's request for an interview or for the production of documents, and the number of times a Department sworn employee failed to comply with a valid subpoena, and whether discipline was imposed for any such non-compliance.

**2.46.040 - Agency Director.**

The Agency Director shall report to, and be supervised by, the Commission, and shall be responsible for the day-to-day operations of the Agency. The Agency Director's job responsibilities shall include, but not be limited to, the following:

- A. Identifying the staff positions, in addition to the position of Investigator, necessary to perform the Agency's functions and duties;
- B. Assigning complaints to investigators, consulting with investigators regarding, and monitoring the progress of, their investigations;
- C. Monitoring the workload of all Agency staff;
- D. Preparation and maintenance of Agency Investigation Manual;

- E. Identification and provision of Agency training requirements;
  
- F. Reporting to the Commission once a month regarding the Agency's pending cases. The following information shall be included in the Agency Director's monthly written report:
  - 1. The case number;
  - 2. The name of the complainant;
  - 3. The initials of the investigator assigned to investigate the complaint;
  - 4. The date the complaint was filed with the Agency and the date the complaint was filed with the Department's Internal Affairs Division;
  - 5. The date by which the investigation must be completed if the Agency is to meet the two-hundred-and-fifty-day (250) goal specified herein;
  - 6. The deadline by which the investigation must be completed, as specified by California Government Code section 3304;
  - 7. The date of the incident that is the subject of the complaint; and
  - 8. If required herein that the Agency is to investigate the complaint, whether the complaint involves uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, and First Amendment assemblies. If not required herein that the Agency is to investigate the complaint, a brief, general description of the type of complaint. This brief, general description must be similar in length and generality to the description of the types of complaints the Agency is required to investigate); and
  - 9. The number of times the Department and/or a Department employee refused to comply with a written request for

information, and the number of times a Department sworn employee refused to comply with a valid subpoena.

- E. Conducting annual job performance evaluations of all Agency staff;
- F. Responding to questions and issues raised by the public, as permitted by applicable law; and
- G. Any other duties assigned by the Commission, consistent with the Agency's powers and duties as described in section [insert] of the City Charter and subject to any constraints imposed by the Agency's budget.

#### **2.46.050 - Background Checks.**

In accordance with federal and state law and consistent with section \_\_\_\_\_ of the City Charter, background checks shall be performed on all new Agency Complaint Investigators and on the Agency Director, before hiring. The City Manager's Office shall retain an outside person or entity to perform these background checks, which shall include:

- A. Verification of educational and employment background, and any other information that may be verified by a public records search; and
- B. Results of a criminal records search.

The results of the background checks may be used solely for the purpose of evaluating the candidates for the Agency Director and for Agency Complaint Investigator. The results of any background checks of candidates for the position of Agency Director shall be submitted only to the Commission. The results of any background checks of candidates for the position of Agency Complaint Investigator shall be submitted only to the Agency Director.

#### **2.46.060 - Mediation Program.**

Upon the agreement of the Chief, the Agency Director, the complainant(s) and the Subject Officer(s), the Agency Director shall appoint a qualified mediator to mediate a final resolution of the complaint in accordance with the Commission's established rules and procedures. Any Commissioner, City employee, or former Department sworn officer shall not be appointed mediator. Both the Chief and the Agency Director must approve of any settlement offer before it is proposed to the Subject Officer and/or before any such offer is accepted.

**SECTION 5. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 6. Effective Date.** This Ordinance shall become effective immediately on final adoption.

**IN COUNCIL, VALLEJO, CALIFORNIA,**

PASSED BY THE FOLLOWING VOTE:

AYES -

NOES-

ABSENT -

ABSTENTION -

ATTEST:

\_\_\_\_\_

City Clerk and Clerk of the Council  
of the City of VALLEJO, California

Date of Attestation: