

INITIATIVE CHARTER AMENDMENT TO CREATE THE BERKELEY POLICE COMMISSION, A NEW CITY DEPARTMENT TO OVERSEE THE BERKELEY POLICE DEPARTMENT BUDGET, POLICIES, PRACTICES, AND DISCIPLINE OF OFFICERS; AND REMOVING OVERSIGHT OF THE POLICE DEPARTMENT AND POLICE CHIEF FROM THE CITY MANAGER; AND ELIMINATING THE CURRENT POLICE REVIEW COMMISSION

The Berkeley Police Department currently operates under the direction of the Chief of Police who is subject to the general direction of the City Manager. Berkeley also has a nine-member Police Review Commission (the "PRC") that makes recommendations to the City Council and City Manager concerning the policies and procedures of the Police Department and investigates complaints involving the Officers.

This Charter amendment aims to repeal the ordinance establishing the PRC and replace it with the Berkeley Police Commission, creating a new city department which would have its own staff, and a city-funded separate budget. The Police Commission would have subpoena powers, and the power to review, modify, and approve the Police Department's budget, policies, practices and procedures as well as directing the discipline of officers.

The measure would establish a Policy Section under the authority of the Police Commission, with a Policy Director and staff. The Policy Section would review and report on Department processes and procedures regarding recruitment and hiring, police training and education, investigation and discipline of alleged misconduct, and use of force and officer-involved shootings. These reviews would be summarized in an annual report presented to the Commission and other City officials. The Policy Director would be responsible for evaluating officer training on such topics as profiling, implicit bias, diplomacy and work-related stress management.

The measure moves budget authority from the City Manager to the Commission, giving it certain powers to modify the Police Department's budget request to the City Council, which would retain final authority over the Department budget, except that the City Council could not appropriate funds for any program that the Commission specifically rejected. The measure would also provide that the Chief of Police could be removed by the Mayor with the approval of a majority of the City Council and that the Commission would propose two candidates from which the Mayor would appoint a new Chief of Police with approval of the City Council.

The measure would establish new procedures for investigating and resolving complaints and allegations of police misconduct through a civilian Investigation Section and by disciplinary Boards of Inquiry conducted by Commission members. The Boards of Inquiry would hear evidence and resolve complaints based on a "preponderance of evidence" standard rather than the "clear and convincing evidence" standard that is currently used. The measure provides for determining the final level of discipline and for appeal by the disciplined officer to the Civil Service Board and/or through grievance procedures.

Seven regular Commission members and three alternates would be nominated by a Selection Panel appointed by the Mayor and City Council. The Selection Panel's nominees would become members of the Commission, unless the City Council rejects all of the panel's nominees, in which case the Selection Panel would submit a revised slate of candidates for Council approval. If the Council rejects three slates of nominees, the Selection Panel would pick the Commission members without Council approval.