

**CALL AND NOTICE OF
SPECIAL MEETING
AT 6:00 PM
OF THE VALLEJO CITY COUNCIL
DECEMBER 12, 2022**

**COUNCIL CHAMBERS
555 Santa Clara Street, Vallejo, California**

NOTICE: Members of the Public will be able to participate in-person or remotely via Zoom.

City Hall and the Council Chambers will be open to members of the public 30 minutes prior to the start of the meeting.

PUBLIC COMMENT: Members of the Public may provide public comments during the City Council Meeting in person or via ZOOM (<https://ZoomRegular.Cityofvallejo.net>), or via phone, by dialing (669) 900-6833.

For additional instructions on how to speak remotely during public comment, please visit, www.cityofvallejo.net/publiccomment

VIEW THE MEETING:

There are four different ways you can view this public meeting:

- In Person
- Watch Vallejo local channel 28
- Stream from the City website: www.cityofvallejo.net/Streaming
- Join the Zoom webinar: <https://ZoomRegular.Cityofvallejo.net>

TO THE MEMBERS OF THE VALLEJO CITY COUNCIL:

You are hereby notified that I do hereby call the Vallejo City Council in special session to consider only the matters stated on the agenda listed below.

NOTICE: Members of the public shall have the opportunity to address the City Council concerning any item listed on the agenda *before or during* consideration of that item. *No other items may be discussed at this special meeting.*

1. CALL TO ORDER

2. ROLL CALL

Hybrid Options are available for members of the public to participate. To participate remotely:

<https://ZoomRegular.CityofVallejo.net>

Option to join by phone:

Dial (669) 900-6833

Enter Meeting ID: 914 0075 0676#

Press *9 to digitally raise your hand from the phone

For additional instructions on how to speak during public comment, please visit, www.cityofvallejo.net/publiccomment

3. PLEDGE OF ALLEGIANCE

4. ACTION CALENDAR

NOTICE: Members of the public wishing to address the Council on Action Calendar Items may do so in person by signing in to the Public Speaker's kiosk located in the back of the Council Chambers or via ZOOM (<https://ZoomRegular.Cityofvallejo.net>), or via phone, by dialing (669) 900-6833. Enter Meeting ID: 914 0075 0676#. Press *9 to digitally raise your hand from the phone. For additional instructions on how to speak remotely during public comment, please visit, www.cityofvallejo.net/publiccomment. Each speaker is limited to five minutes pursuant to Vallejo Municipal Code Section 2.02.420. In person speakers will be recognized first.

A. WORKSHOP ON DRAFT NEW TITLE 18 OF THE VALLEJO MUNICIPAL CODE - POLICE ACCOUNTABILITY

Recommendation: Conduct a workshop on the proposed Title 18 of the Vallejo Municipal Code - Police Accountability. If, after conducting the workshop, the City Council is satisfied with the ordinance as written, proceed to introduction of the ordinance.

Contact: Randy J. Risner, Chief Assistant City Attorney
randy.risner@cityofvallejo.net

B. INTRODUCTION OF AN ORDINANCE ENACTING TITLE 18 OF THE VALLEJO MUNICIPAL CODE -- POLICE OVERSIGHT AND ACCOUNTABILITY

Recommendation: Introduce an ordinance to enact Title 18 of the Vallejo Municipal Code to be titled Police Oversight and Accountability and consider adoption at the December 20, 2022 Council meeting.

Contact: Randy J. Risner, Chief Assistant City Attorney
randy.risner@cityofvallejo.net

5. ADJOURNMENT

Dated: Friday, December 9, 2022



Robert H. McConnell, Mayor

I, Dawn Abrahamson, City Clerk, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo City Council, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 4:00 p.m., Friday, December 9, 2022.

Hybrid Options are available for members of the public to participate. To participate remotely:

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Dated: Friday, December 9, 2022



Dawn G. Abrahamson, City Clerk

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DATE: December 12, 2022
TO: Mayor and Members of the City Council
FROM: Mike Malone, City Manager
Veronica A.F. Nebb, City Attorney
Randy J. Risner, Chief Assistant City Attorney
SUBJECT: WORKSHOP ON DRAFT NEW TITLE 18 OF THE VALLEJO MUNICIPAL CODE - POLICE ACCOUNTABILITY

RECOMMENDATION

Conduct a workshop on the proposed Title 18 of the Vallejo Municipal Code - Police Accountability. If, after conducting the workshop, the City Council is satisfied with the ordinance as written, proceed to introduction of the ordinance.

REASONS FOR RECOMMENDATION

The City Council, City Leadership Staff and the Vallejo Police Department have made a firm commitment to our ongoing police reform efforts. The City Manager and City Attorney's offices have worked with the community, community groups and the Police Department to receive input on a Police Oversight ordinance. The City Council held a workshop about the ordinance on December 6, 2022. This is a continuation of that workshop and provides another opportunity for input from the public on the specific details of the proposed ordinance.

BACKGROUND AND DISCUSSION

In 2019, the City of Vallejo commissioned the OIR Group to do an Independent Assessment of the Operations, Internal Review Systems and Agency Culture of the Vallejo Police Department. The OIR Group produced a report which was released to the public in June 2020. The report outlined 45 recommendations to modernize the Vallejo Police Department and to address reform issues (the Recommendations). In June 2020, the City entered into a cooperative agreement with the California Department of Justice (DOJ) to work with the Police Department and City Staff in implementing the recommendations as well as additional recommendations from the DOJ. Recommendation 45 provides that "VPD should work with City leadership to create a model of independent oversight that is specifically tailored to meet the needs of Vallejo" In March of 2022, the City Attorney and City Manager's offices were tasked with drafting a police oversight model in response to Recommendation 45. This task involved several steps to reach a model specific for the City of Vallejo. On March 22, 2022, Council approved a community engagement plan to receive input from all of the City Council Districts, the City's youth and other important stakeholders. The City Attorney and City Manager's offices thereafter conducted a series of Community Engagement meetings. In-person meetings were held in the community in each council district, with the Chief's Advisory Board (CAB), a specific Vallejo youth meeting and a meeting with the business community and the Police Department. Each community meeting was held in person in the various council districts and other areas of the City. Translation services were offered in Spanish, Tagalog and ASL. Each meeting included a presentation on the various police oversight models and their different characteristics. Participants then broke into smaller groups for group discussion and to rate the importance of the main characteristics of the different models. The meetings were facilitated by an overall facilitator who was not a City Employee and each table had City Volunteers present at the table to help encourage open discussion, take overall questions to be brought back and answered for the benefit of all participants at the end of the meeting, and to answer questions or to engage assistance from the City Attorney

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representatives and City Manager to speak with each group. Subsequent to the community engagement meetings, the information gleaned from those meetings was aggregated and with that information in mind, staff proceeded to research models from different jurisdictions, speak to individuals currently engaged in police oversight in other jurisdictions, and research materials from the National Association of Citizen Oversight of Law Enforcement. Attorneys from the City Attorney's office reached out to 17 different jurisdictions in 4 different states with different oversight models to gain information on their models and their characteristics, what is working well, the challenges, costs, and overall operation of their oversight models. Through this process, staff was able to glean important information on the pros and cons of different models and characteristics and obtain a sense of how that fits with the general community desires expressed in the community engagement meetings. On August 23, Council held a workshop on the results of the Community Engagement meetings and staff's research and provided general broad-brush direction to staff on the drafting of a model specific to Vallejo. Council provided direction to include Independent Investigations, a Citizen Review Body, and an Independent Police Auditor (IPA). The draft Title 18 presented in this workshop, includes each of these major components and provides detail relating to the roles and responsibilities of the Council-directed components as well as the responsibilities of the Police Department and City Staff. At the August 23rd meeting, Council also requested that staff meet again with Common Ground to discuss the components of a draft ordinance. Since the August 23 Council meeting, staff has performed additional research on police oversight, and has prepared a draft ordinance that has gone through multiple iterations. Staff has met with the California DOJ, our collaborative partner in police reform, multiple times and received input and guidance from their staff concerning the ordinance. Additionally, Staff has met with Common Ground three times relating to specifics of the draft ordinance, has reviewed draft language with their representatives and worked collaboratively on the components of the draft ordinance. Staff have preliminarily discussed the draft ordinance with the Vallejo Police Officer's Association (VPOA) and we are in ongoing discussions with them as is required by law. Please note that additional detailed discussion and input from the VPOA is planned prior to the next workshop. It is also the intent of this and the subsequent workshop on December 12, 2022, to receive additional input from the City Council and from community members in order to finalize the ordinance in such a way that it reflects the needs of the community as a whole as well as the various stakeholders involved in the process.

Discussion on Components of Draft Title 18

The ordinance presented in this workshop has been drafted with both community and City Council input in mind. The draft ordinance includes the direction of the City Council from the August 23 meeting as well as revisions requested by Council at the December 6, 2022 workshop, considers the input expressed by a majority of attendees at the workshops and the input (as well as some of the language) presented by Common Ground. The draft ordinance also considers the City's Charter and state law. The draft ordinance is presented as a new title of the Municipal Code, Title 18. The proposed Title 18 is composed of 3 parts: Independent Investigations, Community Police Review Commission, and the Independent Police Auditor.

INDEPENDENT INVESTIGATIONS

The draft ordinance provides for mandatory parallel investigations by an independent investigator with any internal affairs investigation of all "serious incidents." Serious incidents are defined as: incidents involving discharge of a firearm at a person, use of force involving death or great bodily injury, allegations of sexual assault by a sworn officer and allegations of dishonesty of a sworn officer. Other types of complaints or incidents may be referred to an independent investigator as well (as provided elsewhere in the ordinance).

Independent investigators are selected by consensus by a group composed of City Staff involved in investigations (City Manager, City Attorney, HR Director) after consultation with the newly created Community Police Oversight Accountability Commission. It is also anticipated that these staff members along with the Commission members may select a list of qualified Independent Investigators in order to have those investigators rapidly deploy in the event of a Serious Incident or other need. Selecting more than one

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Independent Investigator rather than maintaining one specific position is practical for several reasons. First, different types of incidents require very different types of investigators. For instance, it would not be typical to engage the services of the same individual to investigate an officer-involved shooting as would be retained for an incident involving a sexual assault. Second, involving different independent contractors as investigators means that costs are only incurred when an incident occurs rather than incurring the cost of a full-time person who may only have a few incidents per year to investigate.

Investigators will be required to have minimum qualifications, including being specifically trained in workplace investigations with at least five-years experience; have significant experience providing expert testimony at arbitrations or before courts and have an office and place of business within 100 miles from the City. The draft ordinance provides that the independent investigator may not be a current city employee, police department member of the Vallejo Police Department, a member of any other Police Department currently or in the past, an attorney who has represented a client in proceedings adverse to the City, or a party or immediate family member of such a party who has been involved in proceedings adverse to the City within the last seven years.

The independent investigator will prepare a report which will be provided to the Commission, the IPA, the Chief of Police, the City Manager, City Attorney, and the Human Resources Director. The report is required to include factual findings and a determination as to which Police Department and/or City Policies may have been violated.

COMMUNITY POLICE OVERSIGHT ACCOUNTABILITY COMMISSION

The Community Police Oversight Accountability Commission is the citizen review component of the proposed draft oversight ordinance. The Commission is proposed to consist of nine members. One member is to be selected by each of the mayor and council members. The mayor would select a member-at-large. Each Council member would select a member residing within the Council Member's district. In addition, the draft ordinance provides that the City Council collectively selects two alternate members one of which is a youth between the ages of 18-25 and the other who is an additional at-large member. The draft provides that the two alternate members participate in Commission activities but only vote in the absence of a regular member. As with all other commissions in the City, all members must be approved by a majority vote of the City Council. In terms of qualifications of the members, the draft provides that no member may be appointed who: 1. Is not a qualified elector in the City of Vallejo. 2. Is currently or previously employed as a law enforcement officer or is an immediate family member of any such person. 3. Is a current or former employee of the Vallejo Police Department or an immediate family member of such a person; 4. Has ever been an attorney representing a client in proceedings adverse to the City. 5. Who is a party to any proceeding or matter adverse to the City within the past seven years or an immediate family member of such a person; 6. Is currently a City employee; 7. Has been convicted within the past seven years of any of the crimes listed in the ordinance;

Members submitting applications would go through the Council's normal public interview process. Selected members would be subject to criminal background checks and, once seated, must undergo an extensive training process before they can actively participate in Commission activities.

The draft ordinance includes the following Commission authority 1. To review the reports of the Independent Investigator and the Internal Affairs reports of serious incidents as well as all supporting evidence and documentation related to such investigations. The Commission may advise the Chief of Police and the City Manager about any such investigation and may make recommendations concerning factual findings and whether discipline should be imposed. 2. To review and advise the Chief of Police concerning the issuance of a Notice of Intended Discipline to a sworn officer. 3. To review investigatory reports about any incident of bias or racism involving a police officer and make recommendations to the Chief of Police and the City Manager. 4. The Commission may also accept citizen complaints, review complaints received by the police department and other city departments and recommend independent investigation. 5. To review and advise the Chief of

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Police concerning police department policies and training. All new police department policies or revisions to existing policies must be submitted to the Commission by the Chief of Police for review. The Commission, on its own accord, may also recommend new policies and training. 6. To make recommendations to the City Council about legislation affecting the power and authority of the Commission or the IPA. 7. To request that the City Council issue a subpoena on its behalf for records relating to its functions and duties. 8. To refer any matter which it believes warrants additional investigation or action to the district attorney or to the attorney general. way.

INDEPENDENT POLICE AUDITOR (IPA)

The final prong of the proposed draft oversight ordinance is the creation of the office of Independent Police Auditor (IPA). This position may be either a full-time, part-time or contracted position. The person filling the position would be appointed by the City Manager after consultation with the Commission.

The draft ordinance provides that the IPA must possess education equal to a graduate degree in criminal justice, criminology, law, or a closely related field or the equivalent experience; must have experience in police practices, policies and training as well as human resources. The appointed individual cannot be an employee of a law enforcement agency, either currently or in the past, cannot have ever been an employee of the Vallejo Police Department or an immediate family member of such a person. Additionally, the appointed individual cannot have ever been an attorney representing clients in proceedings adverse to the City or a party to such proceedings within the past seven years.

The IPA has the following duties: 1. To be notified and to be present at the scene of all serious incidents for the purpose of observation. 2. To be present at all interviews of witnesses and subjects during the investigation of any serious incident. 3. To review the final investigatory reports, whether by an independent investigator or internal affairs, and to make recommendations to the Commission and/or the Chief of Police. 4. To review all investigations related to bias or racism and make recommendations to the Commission and/or the Chief of Police. 5. To prepare reports to the Commission on the investigation of serious incidents. 6. To stay up to date on police department policies and training and to make recommendations to the Commission and the Chief of Police. 7. To assist the Commission in the preparation of its annual report.

OTHER KEY COMPONENTS OF THE DRAFT ORDINANCE

- ☐ The Chief must receive and consider the recommendation of the Commission prior to imposition of any discipline resulting from an investigation into a serious matter or bias incident.
- ☐ The Chief is required to provide his justification to the Commission when Commission recommendations are not followed, including recommendations on discipline. ☐ The Chief or Deputy Chief are assigned as the Department Liaison to the Commission.
- ☐ The Chief must provide a report to the Commission at least annually as well as quarterly reports on police discipline and complaints.
- ☐ Commission members are required to be removed for violations of the ordinance or law but may also be removed by the appointing authority with a vote of 5 as set forth in the Charter.

Next Steps

After receiving input and direction from this workshop, if Council is satisfied with the ordinance or has only minor changes, Council may proceed to introduction which is listed separately on the Agenda. If Council has substantive changes, it may direct staff to return on December 15, 2022 with a revised ordinance for consideration of introduction. Thereafter, Staff will schedule additional meetings with the Vallejo Police Officer's Association for meet and confer purposes. Council may consider adoption on December 20, 2022 subject to meeting and conferring with VPOA.

FISCAL IMPACT

**Subject: WORKSHOP ON DRAFT NEW TITLE 18 OF THE VALLEJO MUNICIPAL CODE -
POLICE ACCOUNTABILITY**

The Fiscal Impact of adoption of the Police Accountability Title of the Municipal Code depends on the final version of the ordinance. In terms of Independent investigations, Council budgeted funds for that effort beginning in 2021. Costs associated with the IPA and the training and staffing costs of the Commission will depend largely on the tasks assigned and the composition of the commission. Staff will continue to refine budget numbers as we receive direction from the Council.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guidelines section 15378.

ATTACHMENTS

1.	Vallejo Police Review Commission Ordinance Council and CG Revisions Redline
2.	Vallejo Police Review Commission Ordinance Final 12-9-22

CONTACT

Randy J. Risner, Chief Assistant City Attorney
randy.risner@cityofvallejo.net

AN ORDINANCE OF THE CITY COUCNIL OF THE CITY OF VALLEJO ENACTING TITLE 18 ENTITLED
POLICE OVERSIGHT AND ACCOUNTABILITY

TITLE 18 POLICE OVERSIGHT AND ACCOUNTABILITY

Chapter 18.01 Title and Purpose

18.01.010 Title

This ordinance shall be known as the “Police Accountability Ordinance.”

18.01.020 Purpose

In adopting this ordinance, it is the intent of the City of Vallejo (“City”) to promote the health, safety and wellbeing of all residents by utilizing the best possible police practices and policies while ensuring effective, efficient, trustworthy and just law enforcement. It is also the purpose of this ordinance to improve relations between law enforcement and the community of Vallejo and to continuously foster good relations between those who enforce the laws and the diverse community whom they serve. It is the desire of the City that the public will take pride in local law enforcement and those who enforce the laws will take pride in their service to the public.

Chapter 18.02 Independent Investigations of Serious Incidents

18.02.010 Independent Investigations

A. Any Serious Incident, as that term is defined in section 18.02.010B, involving a sworn police officer(s) employed by the Vallejo Police Department, shall be investigated by an independent investigator (“Independent Investigator”). Bias Incidents, as that term is defined in section 18.03.050C, as well as other potential policy violations may be investigated by the Independent Investigator as set forth in section 18.03.050I.

B. The City Manager, City Attorney and Human Resources Director shall, by consensus, select the a contracted Independent Investigator after consulting seeking advice and input from the Community Police Oversight Accountability Commission (“Commission”) at a noticed, open regular or special meeting with the Chair of the Community Police Review Commission (“Commission”) and one other Member of the Commission designated by the Chair. Such consultation may involve the creation of In order to improve efficiency and timeliness, the City Manager may create a standing list of approved investigators. Thereafter, provided the selected investigator is on investigators may be selected from the list without seeking further advice and input from, consultation with the Commission is not required. The list shall be updated on an annual basis. The list shall be a public record that the Commission or the City Manager may make available to the public online.

C. The Any person or firm selected as an Independent Investigator shall have the following experience:

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1. Be specifically trained in workplace investigations with at least five years of experience investigating workplace matters or public employment issues involving law enforcement agencies;
 2. Have an office or place of business within 100 miles of the City and be able to timely respond to Serious Incidents or other matters being investigated;
 3. Have significant experience providing expert testimony before arbitrators or courts and able to cite to examples.

The Independent Investigator must not be a person who:

1. Is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020 CB(13);
2. has ever been a peace officer for any federal, state or local law enforcement agency during the past seven (7) year period;
3. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020 CB(13);
4. is an attorney or law firm who represents or represented any person or entity who is suing or who has in the past sued in any proceedings or matters adverse to the City;
5. is a party who is suing or has sued in any proceedings or matters adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020 CB(13) Immediate family member.
- 5.6. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving a disciplinary matter;

DB. A Serious Incident shall be defined as any incident involving sworn members of the Vallejo Police Department as set forth in Penal Code section 832.7(b) as that section now exists or as amended in the future, including, but not limited to:

1. an incident involving the discharge of a firearm at a person by a sworn officer(s);
 2. an incident in which the use of force by a sworn officer(s) against a person result in death or great bodily injury. Great bodily injury shall have the meaning set forth in Penal Code section 12022.7(f) and shall include, but shall not be limited to, any physical injury requiring medical treatment in a hospital. For purposes of this section hospitalization shall not include merely for routine medical clearance;
 3. an incident involving an allegation of sexual assault, by a sworn officer(s) against a person. "Sexual assault" shall have the meaning set forth in Penal Code Section 832.7(b)(1)(B)(ii) and "member of the public" shall have the meaning set forth in Penal Code section 832.7(b)(1)(B)(iii);
 4. An incident involving an allegation of dishonesty of a sworn officer(s) relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or
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investigation of misconduct by, another sworn officer(s), including, but not limited to, perjury, false statements, filing false reports, destruction of evidence, falsifying evidence, or concealing of evidence. All allegations of dishonesty, whether under oath or not, are included in this section.

C. The Independent Investigator shall conduct their investigation in parallel with any Internal Affairs investigation. All interviews conducted in any administrative investigation of Serious Incidents shall require the attendance of the Independent Investigator except that the initial interview conducted immediately after the occurrence of the Serious Incident may be conducted without the participation of the Independent Investigator if that person is unavailable.

1. All interviews of any subject or witness conducted by either the Independent Investigator or Internal Affairs shall be video and audio recorded. All such recordings shall be maintained by the City for a period of seven (7) years and may not be destroyed or disposed of before the expiration of that time period.;

2. All audio and video recordings of any interview of any subject or witness shall be made available to the Independent Investigator within five days from the date of any request for the recordings;

3. The Independent Investigator may conduct their own independent interviews of subjects and witnesses.

D. The Independent Investigator may conduct investigations of matters and incidents, other than Serious Incidents as set forth in sections 18.03.050I, 18.03.060F or as otherwise set forth in this Title.

E. Every City employee identified as a subject and every City employee identified as a witness in any investigation required by this chapter, shall cooperate to the fullest extent with the Independent Investigator. Failure to participate in interviews, provide documents, to be truthful and to otherwise cooperate shall be a violation of this section and shall subject any non-cooperating subject or witness to discipline, including potential termination, at the discretion of either the Chief of Police, if the employee works for the police department or City Manager, if the employee works for any other City department.

F. The Vallejo Police Department and every City department shall cooperate with the Independent Investigator in providing all evidence determined relevant by the Independent Investigator including, but not limited to, recorded interviews, body-worn camera footage, car camera footage, written statements, investigative reports and all other files, documents and records requested by the Independent Investigator. No member of the Vallejo Police Department, City employee, or elected or appointed official shall interfere with the Independent Investigator or the conclusions of the Independent Investigative Report. Notwithstanding anything herein to the contrary, the Independent Investigator is not entitled to any documents protected by the Attorney Client privilege or the Attorney Work Product privilege unless such privilege is waived. Further, the Independent Investigator has no authority to interview any City elected official or City employee concerning any matters

discussed in a closed session City Council meeting or a Closed session Commission meeting. The Independent Investigator may not access documents or other potential evidence produced solely for use in a closed session meeting. A closed session meeting is any meeting lawfully allowed to be held by a legislative body as set forth in Government Code section 54954.5.

G. In conducting any investigation, the Independent Investigator shall reasonably “follow the evidence” and shall not be bound by any scope of work in any contract with the City when it comes to reasonably identifying and investigating the misconduct of an officer as set forth in this Title.

H. The Independent Investigator shall have subpoena authority for records and other relevant material related to any independent investigation. No such subpoena shall issue, however, unless 30-days have elapsed since the Independent Investigator requested such records and they have not been provided. -Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

18.02.020 Investigative Report

A. The Independent Investigator shall prepare a written Investigative Report for each Serious Incident (“Independent Investigative Report”) or any complaint referred in accordance with the provisions of this Title. The Independent Investigative Report shall set forth findings of fact and a determination as to whether or not any ~~which~~ Vallejo Police Department policies or City policies (the “Policy” or “Policies”) were potentially violated including any potential violations committed during the investigation (e.g., dishonesty during any investigative interview). The Independent Investigator shall make their findings based upon a preponderance of the evidence. The term “preponderance of the evidence” shall have the same meaning as found in the most recent version of CALJIC 2.50.2 or any successor section defining “preponderance of the evidence.”

B. Upon conclusion of the investigation, the Independent Investigator shall submit a signed copy of the Investigative Report to the Commission, Independent Police Auditor (“IPA”), Chief of Police, the City Manager, the City Attorney and the Human Resources Director.

C. Nothing herein is intended to imply that any person employed by the City, including the Chief of Police, the City Manager, the City Attorney or the Human Resources Director directs or supervises the Independent Investigator.

D. The Independent Investigator shall conclude the investigation as promptly as possible. In no event shall the Independent Investigator conclude the investigation any later than 90 days prior to the running of the time limitation set forth in Government Code section 3304(d).

E. Nothing herein shall supersede or impede a sworn officer’s rights under the Peace Officer’s Bill of Rights or under any current Memorandum of Understanding with the Vallejo Peace Officers Association or any other rights set forth in law.

F. No City employee shall influence or attempt to influence the outcome of any independent investigation or the contents of any investigatory report prepared by the Independent Investigator. If, after investigation, it is discovered that a City employee engaged in such behavior, that employee shall be subject to discipline up to and including termination, at-in the discretion of the City Manager (if the employee is under the City Manager) or City Attorney (if the employee is under the City Attorney).

Chapter 18.03 ~~Community Police Review Commission~~Community Police Oversight Accountability Commission.

18.03.010 Creation of Community Police ~~Review-Oversight Accountability~~ Commission

Pursuant to the provisions of the Charter of the City of Vallejo, there is hereby created a Community Police ~~Review-Oversight Accountability~~ Commission. The ~~Community Police Review Commission~~Community Police Oversight Accountability Commission is an advisory board as described in section 403 of the Charter.

18.03.020 Membership and Terms of ~~Community Police Review Commission~~Community Police Oversight Accountability Commission.

A. The ~~Community Police Review Commission~~Community Police Oversight Accountability Commission shall consist of seven (7) Members and two (2) Alternate Members appointed by the Mayor and City Council. Each Council Member shall appoint a Member who is living within that Council Member's District. The Mayor shall appoint one Member from any District in the City. Council Member and Mayor appointments shall be subject to the ratification of a majority of the City Council. In the event majority approval is not obtained, the appointing Council Member or Mayor shall select a different individual to serve as a Member of the Commission, ~~which-and the~~ process shall continue until a majority vote is obtained. In addition to the aforementioned Members, the Mayor and City Council shall collectively appoint one youth member between the ages of 18-25 and one community member as Alternate Members. Alternate Members must meet all the qualifications and training requirements set forth herein and are subject to the same laws, rules and regulations as Members unless specifically modified by this Title. Alternate Members shall participate in Commission meetings but shall not vote unless there is an absence on the Commission as set forth in section 18.03.100 below.

B. The City Council may not appoint any Member who:

1. is not a qualified elector in the City;
2. is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020~~CB(13)~~;
3. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such ~~within the last seven (7) years prior to appointment~~ or who is an immediate family member of any such

person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;

4. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020CB(13);
5. is an attorney or law firm who represents or represented any person or entity ~~who is suing or who has in the past sued~~ in any proceedings or matters adverse to the City;
6. is a party ~~who is suing or has sued~~ to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020CB(13);

7. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving a disciplinary matter;

7. has been convicted, in the immediately preceding ~~fifteen~~ seven (~~15~~) years, of ~~any felony or of~~ any of the following crimes, whether a misdemeanor or a felony:

- i. Crimes involving dishonesty;
- ii. Crimes involving public corruption;
- iii. Crimes involving physical harm of any kind to another human being;
- iv. Threats of violence or physical harm to another human being;
- v. Illegal possession of a firearm;
- vi. Illegal disclosure of confidential information;
- vii. Crimes involving robbery;

8. has ever been convicted of any of the following crimes:

~~vii.~~ viii. Any crime requiring registration as a sex offender pursuant to any state or federal law;

ix. Any crime involving the abuse of a child;

~~viii.~~ x. Any felony involving physical harm to a law enforcement officer.;

C. The City Council shall use its best efforts to appoint Members reflecting the race, color, religious, sex/gender, gender identity, sexual orientation, marital status, medical condition, veteran/military status, national origin, ancestry, disability, genetic information and age diversity of the City of Vallejo. In soliciting applications from the public for Commission membership, the City shall target application solicitations to community groups specifically representing the diversity of the City.

D. Each Member shall serve as a volunteer without pay.

E. Applications for membership on the Commission shall be through the process defined in section 2.02.350 of this code and any applicable state law for publicizing openings for appointments to boards and commissions. All applications shall be submitted to the City Clerk who will distribute them to the Mayor and all members of the City Council. The Council District in which the applicant lives shall be shown clearly on the front of each application. The City Council shall conduct interviews of eligible applicants at a public meeting that has been noticed at least 72-hours in advance.

F. The term for each Member shall be as set forth in section 2.26.030 of this code including the staggering provisions in 2.26.030B. Alternate members shall not be subject to the staggering requirement set forth in section 2.26.030. Individual Council Members, the Mayor and the City Council as a whole may be referred to herein, either collectively or individually, as the "Appointing Authority."

G. A Member may hold office for no more than eight consecutive years. Former Members may be reappointed after a break in service of at least two years.

H. Alternate Members may serve only one, four-year term and shall not be reappointed as an Alternate Member. An Alternate Member may be appointed as a regular Member after any length of service as an Alternate Member. Service as an Alternate Member shall not count toward the eight concurrent year limitation for service as a Member.

I. Notwithstanding anything to the contrary herein, each Member and Alternate Member shall continue to serve until their replacement is appointed.

J. Unless modified by this ordinance, Members may be removed as set forth in Chapter 2.26. In addition, a Member shall be removed if any Member is convicted of any felony or any crime as set forth in section 18.03.020B(5).

K. A Member shall be removed by the City Council if that Member discloses confidential information regarding any police officer, any police investigation, any information received by Members in closed session, any information that is protected by the attorney/client privilege or any other City information provided to the Member in confidence and that is prohibited from disclosure by state or federal law or the disclosure of which would subject the City to liability. If a Member is suspected of disclosing any such confidential information, the City Manager at the request of the City Council or upon the City Manager's own recommendation, may initiate an investigation. If the investigator finds by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that the Member willfully disclosed such confidential information or fails to take affirmative action to protect such information from disclosure, then the City Council shall remove the Member and a new Member shall be appointed by the City Council using the process set forth herein.

L. In the event of a vacancy caused by resignation and/or disability or death, the Appointing Authority may appoint a replacement to fill out the remaining period of the term pursuant to Chapter 2.26 of this code.

M. At the City's sole cost and expense, All-all Members shall be subjected to a live scan fingerprint check, to include a check of FBI and California Department of Justice criminal

databases before beginning service on the Commission and at each appointment or reappointment thereafter or at the discretion of a majority of the City Council. A Member's appointment shall be revoked if the background check reveals that the Member has been convicted of a felony, within the past seven (7) years, or other of any of the crimes listed in section 18.03.020B(75). The Member shall also be removed if convicted of any of the crimes set forth in section 18.03.020B(8).

18.03.030 – Commission staff.

A. The City Manager shall appoint a member of City staff to support the Commission ("Commission Secretary") after seeking advice and input from the Commission at a noticed, regular or special meeting. Said meeting shall be held in either open or closed session as legally required when discussing personnel matters. The Commission Secretary shall, prepare the Commission's agendas, prepare staff reports and supporting materials, ~~to~~ serve as the secretary of the Commission, ~~to~~ keep the Commission's minutes and ~~to~~ be the Commission's custodian of records. In preparing agendas for the Commission, the Chair and vice-chair shall convene to set the Agenda and shall consult with the Commission Secretary as well as the ~~City Attorney or their designee~~ Assigned Attorney, as that term is defined below, for advice concerning the legality of the Agenda. The Commission Secretary may not be an employee, either civilian or sworn, of the Vallejo Police Department. The Commission Secretary shall provide administrative support only and shall not provide any direction to the Commission or attempt to influence matters of policy.

B. The City Attorney, ~~with input from the Commission chair or their designee~~, shall assign a qualified attorney to provide legal advice to the Commission on matters concerning the Commission ("Assigned Attorney") after seeking advice and input from the Commission at a noticed regular or special meeting. The Assigned Attorney may be either an employee of the City Attorney's Office or a contracted attorney or both. The Assigned Attorney shall review all agenda items for the Commission to ensure compliance with the Ralph M. Brown Act and any other applicable laws and regulations. The Assigned Attorney shall also ensure that the items on the agenda do not exceed the subject matter jurisdiction of the Commission as set forth in this Title. In addition, the Assigned Attorney shall attend and provide legal advice at all regular and special meetings of the Commission. The Assigned Attorney shall also attend all Commission closed session meetings. In the absence of the Assigned Attorney, the City Attorney, at their discretion, may appoint an alternate to temporarily perform the duties of the Assigned Attorney. The Assigned Attorney shall provide legal advice only and shall not provide any direction to the Commission or attempt to influence matters of policy. The Assigned Attorney shall not be an attorney directly involved in litigation matters involving the Vallejo Police Department. The Assigned Attorney shall have the following minimum qualifications:

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1. A municipal attorney with a minimum of five (5) years' experience representing California cities and/or other California public agencies as either a City Attorney, Assistant City Attorney, Deputy City Attorney or equivalent role;
 2. Possession of a Juris Doctor from an accredited law school;
 2. Experience in police personnel and disciplinary matters and the related California law;
 3. Experience in human resources;
 4. Experience in police oversight.

C. The Assigned Attorney may not be a person who:

1. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;
2. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
3. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
4. is a party to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1);
5. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving disciplinary matters;

C. The Chief shall assign themselves or a Deputy Chief to serve as a Police Liaison to the Commission. The Police Liaison shall be responsible for answering questions from Members, providing information to Members and ensuring that Members have access to records and information in possession of the Vallejo Police Department as needed by the Commission to perform its duties and functions. The Police Liaison shall attend all meetings of the Commission. The Police Liaison may attend closed session meetings at the discretion of the Commission.

D. The City Council shall appoint one of its members to serve as a City Council Liaison to the Commission.

18.03.040 Commission Training

A. Within nine (9) months of appointment, each Commissioner shall attend training provided/funded by the City as follows:

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1. regarding the provisions of the Vallejo City Charter and with the Vallejo Municipal Code applicable to Department members and/or operations;
 2. regarding the California Political Reform Act (Cal. Gov't Code section 81000, *et seq.*), Vallejo's Conflict of Interest Code, the California Brown Act (Cal. Gov't Code section 54950, *et seq.*), and the California Public Records Act (Cal. Gov't Code section 6250, *et seq.*), and all local rules relating thereto;
 3. regarding basic principles of constitutional due process and administrative hearings, as the same relate to peace officers;
 4. regarding the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
 5. regarding constitutional rights guaranteed to all residents as such rights are affected by law enforcement;
 6. regarding the 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 (VPOA), Confidential Administrative Management Personnel (CAMP), International Brotherhood of Electrical Workers (IBEW) and other relevant City personnel policies and procedures applicable to the Vallejo Police Department and City employees;
 7. regarding the California 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;
 8. regarding anti-discrimination, harassment, bias, diversity, inclusion and racial equity;
 9. regarding procedural justice.

B. In addition to the above, members shall:

1. Complete Peace Officer Standards and Training (POST) or equivalent training relating to Search and Seizure and Arrest;
2. Complete Crisis Intervention Training including review of the Department's training relating to same;

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3. Participate in a Department “ride along” and attend a police training program with curriculum designed by the Chief of Police after consultation with the Commission;
 4. Attend within 18 months of appointment, or as soon thereafter as possible, at least once per Commissioner term the annual conference offered by the National Association for Civilian Oversight of Law Enforcement (“NACOLE”) or a similar organization focused on police oversight, if and as budgeted by the City Council.

Nothing herein shall prevent Members from receiving training outside of Commission meetings and it is specifically authorized that Members may receive training from outside consultants, from the police department, from POST, and online if the Assigned Attorney concludes that such training meets the requirements set forth in this ordinance.

C. Members shall not participate on the Commission until the training identified in A.1-9 above is completed. Members may participate in Commission matters without the training in B 1 -4. Members shall complete the required training (excepting Item B. 4. above which is optional) within nine (9) months from the date of appointment unless said time is extended by the City Council. In the event a Member fails to complete the required training during the time allotted by this Chapter, that Member shall be removed and replaced with a new appointment. Notwithstanding anything to the contrary herein, Members may attend Commission meetings before completing the required training for the purpose of receiving such training.

D. The City Manager, Police Chief and City Attorney shall timely assist the Commission in scheduling and facilitating all training required by this section so that Commissioners have the opportunity to complete the training within the nine-month period without hindrance from the City.

E. To the extent possible, Commission training sessions shall be video recorded so that Commissioners who are unable to attend a training session may make up the missed training by watching the video.

18.03.050 Commission powers, duties and functions.

The powers, duties and functions of the ~~Community Police Review Commission~~Community Police Oversight Accountability Commission are as follows:

- A. To review all Independent Investigative Reports and all Internal Affairs reports and all supporting evidence used by the Independent Investigator or the Internal Affairs investigator concerning any Serious Incident and provide a recommendation concerning the findings thereof, to the Chief of Police and the City Manager. While the Commission shall not be limited in its recommendation, it shall specifically ~~The recommendation of the Commission shall be~~ either to agree or disagree with the factual findings and proposed policy violation conclusions and state the reasons

therefore. The Commission may also, upon review of the Independent Investigative Report and/or the Internal Affairs report, recommend further investigation. All reviews and recommendations shall be submitted by the Commission to the Chief of Police and the City Manager within 60 days of the submission of the Independent Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police and the City Manager less than 30 days prior to the running of the time limitation set forth in Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;

- B. To request the assistance and advice of the IPA on any matter within the subject matter jurisdiction of the Commission;
- C. To review the investigatory report provided by the Chief of Police as set forth in section 18.03.060 E. (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, military/ veteran status or immigration status, (Bias Incident) by a sworn officer whether in the performance of their duties or otherwise and provide a recommendation concerning the findings and/or policy violations thereof, to the Chief of Police and the City Manager. ~~The recommendation of the Commission shall be either to agree or disagree with the factual findings and proposed policy violation conclusions.~~ The Commission may also, upon review of the investigative report, recommend further investigation and/or changes in policy and training. All recommendations shall be submitted by the Commission to the IPA and the Chief of Police within 60 days of the submission of the Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police less than 30 days prior to the running of the time limitation set forth In Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;
- D. To advise the Mayor, City Council, City Manager and Chief of Police on all police community relations issues;
- E. To conduct public outreach to educate the community on the purpose of the Commission;
- F. To create and maintain, with the assistance of the City's Information Technology department, a Commission webpage with information about the Commission's powers, duties and functions as well as other information related to the subject matter jurisdiction of the Commission;
- G. To receive written complaints from the public alleging misconduct by sworn Vallejo Police Department Officers. The Commission Secretary shall immediately

forward (within 2 business days of receipt) all such complaints delivered to the Commission to the Chief of Police for investigation and the Chief of Police shall confirm to the Commission that the complaint has been received and logged by the Department. All complaints involving Serious Incidents, as defined in Sections 18.02.010B shall also be forwarded by the Commission to the City Manager, Human Resources Director and City Attorney for investigation by an Independent Investigator as set forth in Chapter 8.02;

- H. The Chief of Police, or any other City Department that receives public complaints shall immediately forward (within 2 business days) or cause to be forwarded to the Commission, any complaints from the public they have received concerning misconduct by Sworn Officers of the Police Department. For purposes of forwarding complaints to the Commission, the Chief of Police or other receiving Department may forward them to the Commission Secretary.
- I. The Commission may request that any complaint be investigated by an Independent Investigator, whether said complaint was initially received by the Commission, by the Police Department or by another City Department. Requests for referral to an Independent investigator shall be granted for any Serious Incident or Bias Incident. The Commission may also request that the Chief of Police refer complaints relating to other matters to an Independent Investigator and may appeal to the City Manager if the Chief declines the referral to an Independent Investigator;
- J. Recognizing that individuals may feel uncomfortable filing complaints with the Vallejo Police Department, to make complaint forms available to the public by posting complaint forms and information about the complaint process on the Commission webpage and at other public locations, as an alternative to filing complaints with the Vallejo Police Department and, accepting the online filing of complaints;
- K. To ensure that the City and the Vallejo Police Department makes information about the complaint process and appropriate forms available at other public locations and to provide recommendations to the City and the Vallejo Police Department about the complaint process;
- L. To review and make recommendations concerning the factual findings contained in any investigation of any filed complaint to the Chief of Police and/or City Manager;
- M. To review and/or make a recommendation to the Chief of Police or City Manager concerning whether disciplinary action should be imposed relating to any violation of policy found to exist in any investigatory report of a Serious Incident or Bias Incident or other incidents referred to the Independent Investigator;
- N. To review and provide a recommendation to the Chief of Police in closed session concerning any draft Notice of Intended Discipline (NOID) for any Serious

Incident or Bias Incident. The Chief shall consider any such recommendation before imposing any discipline within the time frame set forth in Government Code section 3304(d);

- O. To review, advise and provide recommendations regarding any new Police policy or concerning any modification or revision of any such policy and to independently propose new policies in their discretion. The Chief of Police shall submit all proposed new policies or revisions to existing policies to the Commission for review before implementation of said policies or revisions. The Commission shall provide its advice and recommendation to the Chief of Police within 45 days of the submission of any new or revised policy. If the Chief of Police receives no recommendation from the Commission concerning the proposed policy or revision within the 45-day time frame, the Chief may move forward with implementation. This requirement shall not apply to Special Orders of the Chief of Police which may be implemented without a recommendation from the Commission. Notwithstanding the foregoing sentence, the Chief of Police shall not use Special Orders to circumvent the policy-review provisions set forth herein. If a Special Order has been in existence for more than ~~nine~~-six (6) months, the Chief of Police shall seek a review and recommendation from the Commission concerning the Special Order;
- P. To request a report from the Chief of Police regarding existing police training. To review, advise and provide recommendations to the Chief of Police on any new or revised police training deemed advisable by the Commission. The Chief of Police shall provide a report to the Commission concerning the implementation or non-implementation of any recommendation by the Commission;
- Q. To review and comment upon the Vallejo Police Department's policy and/or practice of publishing data sets and reports regarding various Vallejo Police Department activities, submit comments concerning those data sets and reports to the Chief of Police and request that the Chief of Police consider said recommendations and provide a written response to the Commission;
- R. To prepare and submit an annual report (the "Commission's Report") to the Mayor and City Council, with copies to the City Manager and Chief of Police, on Commission activities. Said report shall be submitted for the previous year on or before April 15 of each calendar year. The Commission's Report shall be made available to the public. The Commission, in its discretion and after consultation with the Assigned Attorney, may also produce a confidential report addressing confidential matters and present the same to the Chief of Police. The City Council shall review and accept any such reports submitted to them by the Commission in either open session or closed session as legally appropriate;
- S. To make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Title. To the extent

legally permissible, the Commission shall discuss such recommendations in public meetings of the Commission;

- T. To review and advise upon any of the City Council's proposed legislation or regulations related to the subject matter jurisdiction of the Commission. Before consideration or introduction of any such proposed legislation, the City Attorney or designee, shall submit such proposed legislation to the Commission for review. Once submitted, the Commission shall have sixty (60) days to submit any recommendations to the City Attorney unless such time is extended by agreement with the City Attorney. If deemed necessary by the City Council, the City Council may direct that the Commission provide recommendations in a shorter time period. The City Attorney shall include the Commission's recommendations when the legislation is presented to the City Council;
- U. Solicit and consider input from the public concerning public interactions with the Vallejo Police Department;
- V. To refer any matter within the Commission's subject matter jurisdiction that the Commission in its discretion determines warrants additional investigation or action to the Solano County District Attorney, the California Attorney General or to any other state or federal agency responsible for investigating and/or prosecuting wrongdoing by sworn police officers;
- W. In accordance with the City's record retention policy, and the requirements of *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, to retain and maintain all electronic communications to, from and/or copied to any Commissioner on the Commissioner's personal email, text messages and social media concerning all matters of City business, whether or not within the subject matter jurisdiction of the Commission, and to provide such communications to the City upon request;
- X. — The Commission shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall issued, however, unless 30 days have elapsed since any such records were requested by the Commission and the have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.
To request that the City Council issue a subpoena for records and other relevant material related to the subject matter jurisdiction of the Commission in the event that records are not provided upon request of the Commission;
- Y. All amounts allocated to the Commission for expenditures are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days of

~~receipt. If the Commission does not submit its recommendation within the 45-day time period, the City Council may adopt the budget without considering a Commission recommendation. To review the Commission's annual budget prepared by the City and make recommendations to the City Council concerning subsequent budgets. All amounts allocated to the Commission for expenditure by the Commission are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget for the Commission to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days after submission to the Commission.~~

18.03.060 Obligations of the Chief of Police and Police Personnel

- A. The Chief of Police and Vallejo Police Department personnel shall cooperate fully with the Commission and the IPA on all matters within the subject matter jurisdiction of the Commission. The Chief of Police shall provide all records requested by the Commission and the IPA related to any matter currently before the Commission and being reviewed by the Commission and/or the IPA. The Chief of Police or their designee shall appear before the Commission upon request of the Commission and give reports and/or answer questions of the Commission relating to matters within the subject matter jurisdiction of the Commission.
- B. The Chief of Police may make a preliminary determination on any disciplinary matter involving a Serious Incident but, shall not impose any discipline until the Commission makes its recommendation on the Independent Investigation and the Chief considers the recommendation.
- C. The Chief of Police shall report to the Commission their final determination on policy violation and any resulting disciplinary matter concerning a Serious Incident. In the event the Chief of Police does not follow the recommendation of the Commission relating to a policy violation they shall provide a justification to the Commission in closed session.
- D. The Commission may report any failure of the Chief of Police, or any other City employee, to cooperate fully with the Commission to the City Manager. The City Manager, in their discretion, may impose discipline upon the Chief of Police, or other City employee reporting to the City Manager for any willful or unlawful failure to cooperate.
- E. To submit the investigatory report (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, or immigration status, by a sworn officer whether in the performance of their duties or otherwise to the Commission.
- F. The Chief of Police, in their discretion, may request that an Independent Investigator be assigned to investigate any other potential policy violation not referenced in this Title and provide the investigation to the Commission for a recommendation.

G. In the event the Chief of Police declines to follow any recommendation of the Commission on any matter within the subject matter jurisdiction of the Commission, the Chief of Police shall provide a written justification to the City Manager and to the City Council.

18.03.070 Reports by Chief of Police

A. The Chief of Police shall prepare and present an annual report to the Commission concerning matters of investigation of complaints, Serious Incidents, Bias Incidents, policy review and training. Said report shall be submitted to the Commission, with copies to the City Manager and IPA no later than January 30 of each year. The Commission may use the Chief's Report in preparing its own annual report as required by section 18.03.050 of this Title.

B. The Chief of Police shall provide a confidential quarterly report to the Commission and to the City Manager on all disciplinary matters. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

C. The Chief of Police shall prepare and submit a quarterly report to the Commission and the City Manager on the outcome of all complaints. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

18.03.080 Access to Confidential Information

- A. Subject to applicable law, the Commission shall have access to all Vallejo Police Department files and records and to all files and records of other City offices, departments or agencies that are within the subject matter jurisdiction of the Commission and which are relevant to the performance of the Commission's duties. Notwithstanding the foregoing, the Commission shall not have access to documents that are protected by the Attorney Client or Attorney Work Product privilege unless authorized by the City Attorney and City Council. Further, in connection with the review of investigatory reports and disciplinary matters the Commission may have limited electronic access as set forth in B below, to records considered to be police personnel records as defined in Penal Code sections 832.8(a)(4) and 832.8(a)(5). In addition, the Commission shall not have access to the entirety of any individual personnel files of sworn employees of the Vallejo Police Department. For purposes of this section, Attorney Client and Attorney Work Product privilege shall apply to information directly related to and prepared for the purposes of litigation including, but not limited to, expert reports, the City's litigation strategy or legal opinions prepared for the City Council.
- B. Confidential documents, files and records shall be made available to Members in electronic format on a secure server and shall be password protected. Each Member shall have a unique password that identifies the accessing Member.

Printing of such documents shall be disabled if technologically possible. Members shall be prohibited from printing, photographing or otherwise copying any such records. Printing, photographing or otherwise copying or dissemination of such records in any manner by any Member shall be a violation of section 18.03.090 below and shall subject the Member to the consequences and punishment set forth herein

18.03.090 Confidentiality.

A. All personnel records, investigative reports, confidential documents generated within the City of Vallejo Police Department or within the City, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential by Members of the Commission.

B. Any Member found to have willfully disclosed confidential records or information or to have failed to take affirmative steps to prevent the disclosure of confidential records or information shall be removed by the City Council as set forth in section 18.03.020J of this chapter. If, after investigation as set forth in 18.03.020J it is determined by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that a Member disclosed confidential records or information, in addition to being removed from the Commission, the Member shall be subject to an administrative fine of up to \$2,500 for violation of this section.

18.03.100 – Commission meetings and governance.

A. Initially, the Commission shall hold regular meetings on the of every month beginning with the first full month after appointment of the Members. The Commission may ~~have schedule and hold~~ any number of Special Meetings ~~as the Commission may schedule.~~ The Commission may modify its meeting schedule by adoption of bylaws as set forth in section 18.03.110 herein. Provided there is no business for the Commission to conduct at a regular meeting (i.e., there are no items requiring Commission action or discussion on the agenda), the Commission Secretary may cancel a regular meeting as long as such cancellation occurs at least seventy-two hours before the scheduled start of the meeting. The Commission Secretary may also cancel any meeting in the event of an emergency declared by the emergency authority of the city, state or federal government. If there is a need to cancel a meeting for any other reason, the Commission Secretary may only cancel such meeting with the written consent of the Commission chair and vice chair. Any meeting cancellation must be in writing and must clearly state the reason for the cancellation. The Commission may change this cancellation policy by adopting City Council approved bylaws as set forth in section 18.03.110 herein. All meetings of the Commission shall be subject to the Ralph M. Brown Act and, to the extent possible, be video recorded and public broadcast.

B. At the first meeting of the Commission, Members shall select from among themselves a Chair and Vice Chair.

C. The Commission may not continue with any meeting unless a quorum is present. Four Members shall constitute a quorum.

D. All actions of the Commission require a majority vote of Members present.

E. The Commission shall consider all personnel and otherwise confidential matters in closed session to the extent permitted by law.

F. In the event a Member is absent at a Commission Meeting for any reason, an Alternate Member shall be entitled to vote in the Member's absence. If more than one Member is absent from a Commission Meeting, both Alternate Members shall participate in voting at the meeting and ~~shall~~ each shall have one vote. If only one Member is absent, the Secretary shall draw lots to determine which Alternate Member will participate in voting.

G. Upon initial appointment of all Members after adoption of this ordinance, Members shall meet at least twice per month for the training prescribed herein until such training is complete. Thereafter, trainings shall be held as needed to update previous training or to train new Members. These initial training meetings may be either regular or special meetings.

18.03.110 – Bylaws

The Commission may recommend the adoption of bylaws governing its operations to the City Council. Any such bylaws shall recognize the subject matter jurisdiction of the Commission as set forth in this Chapter 18.03 and shall not modify or alter said subject matter jurisdiction. Commission bylaws shall be submitted to the City Council for adoption or amendment before implementation thereof by the Commission.

18.03.120 – General rules and regulations.

The Commission shall comply with the general rules and regulations for all boards, commissions and committees as set forth in Chapter 2.26 of this code unless otherwise modified by this Chapter 18.03 or as provided by ordinance or resolution of the City Council.

Chapter 18.04 Independent Police Auditor

18.04.010 Creation of Office of Independent Police Auditor

There is hereby created the office of Independent Police Auditor (IPA). The IPA may be a full-time, part-time or contracted position at the discretion of the City Manager. The City Manager shall appoint this position after ~~consultation seeking advice and input from~~ with the Commission, Chair or their designee. Notwithstanding anything in this code to the contrary and notwithstanding the amount of any such contract, all contracts for an Independent Police Auditor shall be approved by the City Council; however, the City Council will not deny any

~~contracts without good cause.~~ Recognizing the importance of the role of the IPA, the City Council shall, in good faith review any such contract submitted to it by the City Manager and shall not unreasonably withhold approval.

18.04.020 IPA Qualifications

The IPA shall have the following minimum experience and/or training:

- A. Possession of a graduate degree in Criminal Justice, Criminology, Law, a Juris Doctorate or a closely related field from an accredited college or university. Appropriate relevant experience may substitute for the education requirement;
- B. Experience in police practices, policy and training;
- C. Experience and understanding of the Police Officers Bill of Rights and other applicable laws related to sworn employees;
- D. Experience in human resources;
- E. Other experience in the discretion of the City Manager.

Prior to appointment, the IPA shall submit to a criminal background check as a condition of appointment. The IPA may not be:

1. an individual currently employed by the City or any immediate family member of such a person as defined in section 18.03.020 CB(13);
2. an individual who is a Consultant, for other purposes than the IPA, retained by the City within the preceding 12 months;
3. A current or former sworn officer with the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020 CB(13);
4. an individual currently employed as a Peace Officer by any other local, state or federal law enforcement agency or who has been employed as such within the immediately preceding seven (7) years prior to appointment or any immediate family member of such a person as defined in section 18.03.020 CB(13);
5. ~~an individual who is currently, or has ever been an attorney~~ or law firm who is suing representing or has represented a party in any proceedings or matters adverse to the City related to any matter involving the City,
6. an individual who is or was a party to any proceedings or matters adverse to the City or is an immediate family member to any party to such action such person within the last seven (7) years.

6-7. _____ Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving disciplinary matters;

18.04.030 Duties of the IPA

The IPA shall have the following minimum duties:

- A. The IPA shall receive timely notification of Serious Incidents to enable them to report to the scene of Serious Incidents for the purpose of first-hand observation. The IPA and the Chief of Police shall develop necessary protocols for notifying the IPA to the Serious Incident and scene access.
- B. The IPA may be present during the interviews of witnesses and subjects during any investigation of a Serious Incident or other incidents assigned to an Independent Investigator or Internal Affairs.
- C. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, associated with Serious Incidents and provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
- D. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, relating to a Bias Incident and may provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
- E. The IPA may review all investigatory reports resulting from any investigation by either an Independent Investigator or Internal Affairs as may be referred to the IPA by the Chief of Police or the Commission. The IPA may provide a report with findings and recommendations on any such investigatory report to the Commission, the City Manager, the City Council and the Chief of Police.
- F. The IPA shall stay up to date concerning Vallejo Police Department policies and training and shall advise the Commission, the City Manager and the Chief of Police in writing when, in the opinion of the IPA, a change or modification of policy or training is needed.- The IPA shall set forth in writing the policy or training that the IPA recommends be added, changed or modified and shall provide an analysis of the reasons they believe the change, modification or addition of policy or training is desirable. If a policy or training does not require a change or modification, the IPA shall so state.
- G. The IPA shall assist the Commission in the preparation of its annual report required in section 18.03.050N.
- H. The IPA shall may also prepare reports on the IPA's other activities for review by the Commission.
- I. H. The IPA shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall be issued, however, unless 30-days have elapsed since any such records were requested by the IPA and the have not

been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

H.J.

DRAFT

Approved as to form:

By:  for _____
Veronica Nebb, City Attorney

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALLEJO ENACTING TITLE 18 ENTITLED
POLICE OVERSIGHT AND ACCOUNTABILITY**

WHEREAS, in 2019, the City of Vallejo (“City”) hired the OIR Group to conduct an independent assessment of the operations and culture of the Vallejo Police Department (“VPD”); and

WHEREAS, in May 2020, the OIR Group completed its assessment of VPD and issued its report entitled Independent Assessment of Operations, Internal Review Systems, and Agency Culture (the “Report”); and

WHEREAS, the Report contains 45 recommendations to improve the VPD; and

WHEREAS, recommendation 45 in the Report recommends that “VPD should work with City leadership to create a model of independent oversight specifically tailored to meet the needs of Vallejo”; and

WHEREAS, in July 2020, the City entered into a Collaborative Agreement with the California Department of Justice to work on implementing the OIR recommendations, including recommendation 45; and

WHEREAS, in March 2022, the City Council directed staff to implement a community engagement plan to receive input from Vallejo residents about police oversight models; and

WHEREAS, City Staff conducted nine community engagement meetings including one in each of the six Council districts, one youth meeting, one business meeting and one meeting with the Chief’s Advisory Board; and

WHEREAS, City Staff also engaged with VPOA, CAMP and police staff; and

WHEREAS, City Staff complied the input they received and returned to City Council on August 23, 2022; and

WHEREAS, at the August 23 meeting, Staff presented its findings from community engagement as well as its research into police oversight in 17 different communities throughout the nation; and

WHEREAS, the City Council directed Staff to draft a police oversight ordinance specifically tailored for Vallejo and informed by the community engagement process, input from collaborative partners and input from the City Council; and

WHEREAS, the City Council also directed Staff to meet with and seek input from Common Ground, a non-profit, community-based organization that had drafted its own police oversight ordinance for consideration; and

WHEREAS, Staff met with Common Ground on three occasions to seek input and collaboration on the provisions of the City’s proposed ordinance; and

WHEREAS, Common Ground provided input which resulted in several significant changes to the proposed ordinance; and

WHEREAS, Staff also met with representatives of the Department of Justice to review the ordinance and seek input; and

WHEREAS, Staff also met with representatives of VPOA to seek input; and

WHEREAS, the City Council held a workshops about the ordinance on December 6, 2022 and again on December 12, 2022; and

WHEREAS, the City Council provided input at the workshops that resulted in revisions to the ordinance; and

WHEREAS, the ordinance is the result of significant community engagement and collaboration and has been informed by input from the public as well as from collaborative partners; and

WHEREAS, the ordinance is designed to meet the needs of the City, to comply with the City Charter and State Law and to be sustainable into the future.

NOW THEREFORE, the City Council of the City of Vallejo does hereby ordain as follows:

SECTION ONE

Title 18 of the Vallejo Municipal Code is hereby added and shall read as follows:

TITLE 18 POLICE OVERSIGHT AND ACCOUNTABILITY

Chapter 18.01 Title and Purpose

18.01.010 Title

This ordinance shall be known as the “Police Accountability Ordinance.”

18.01.020 Purpose

In adopting this ordinance, it is the intent of the City of Vallejo (“City”) to promote the health, safety and wellbeing of all residents by utilizing the best possible police practices and policies while ensuring effective, efficient, trustworthy and just law enforcement. It is also the purpose of this ordinance to improve relations between law enforcement and the community of Vallejo and to continuously foster good relations between those who enforce the laws and the diverse community whom they serve. It is the desire of the City that the public will take pride in local law enforcement and those who enforce the laws will take pride in their service to the public.

Chapter 18.02 Independent Investigations of Serious Incidents

18.02.010 Independent Investigations

A. Any Serious Incident, as that term is defined in section 18.02.010B, involving a sworn police officer(s) employed by the Vallejo Police Department, shall be investigated by an independent investigator ("Independent Investigator"). Bias Incidents, as that term is defined in section 18.03.050C, as well as other potential policy violations may be investigated by the Independent Investigator as set forth in section 18.03.050I.

B. The City Manager, City Attorney and Human Resources Director shall, by consensus, select a contracted Independent Investigator after seeking advice and input from the Community Police Oversight Accountability Commission ("Commission") at a noticed, open regular or special meeting. In order to improve efficiency and timeliness, the City Manager may create a standing list of approved investigators. Thereafter, investigators may be selected from the list without seeking further advice and input from the Commission. The list shall be updated on an annual basis. The list shall be a public record that the Commission or the City Manager may make available to the public online.

C. Any person or firm selected as an Independent Investigator shall have the following experience:

1. Be specifically trained in workplace investigations with at least five years of experience investigating workplace matters or public employment issues involving law enforcement agencies;
2. Have an office or place of business within 100 miles of the City and be able to timely respond to Serious Incidents or other matters being investigated;
3. Have significant experience providing expert testimony before arbitrators or courts and able to cite to examples.

The Independent Investigator must not be a person who:

1. Is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020C(1);
 2. has ever been a peace officer for any federal, state or local law enforcement agency;
 3. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
 4. is an attorney or law firm who represents or represented any person in any proceedings or matters adverse to the City;
 5. is a party in any proceedings or matters adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1).
 6. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving a disciplinary matter;
-

D. A Serious Incident shall be defined as any incident involving sworn members of the Vallejo Police Department as set forth in Penal Code section 832.7(b) as that section now exists or as amended in the future, including, but not limited to:

1. an incident involving the discharge of a firearm at a person by a sworn officer(s);
2. an incident in which the use of force by a sworn officer(s) against a person result in death or great bodily injury. Great bodily injury shall have the meaning set forth in Penal Code section 12022.7(f) and shall include, but shall not be limited to, any physical injury requiring medical treatment in a hospital. For purposes of this section hospitalization shall not include merely for routine medical clearance;
3. an incident involving an allegation of sexual assault, by a sworn officer(s) against a person. "Sexual assault" shall have the meaning set forth in Penal Code Section 832.7(b)(1)(B)(ii) and "member of the public" shall have the meaning set forth in Penal Code section 832.7(b)(1)(B)(iii);
4. An incident involving an allegation of dishonesty of a sworn officer(s) relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another sworn officer(s), including, but not limited to, perjury, false statements, filing false reports, destruction of evidence, falsifying evidence, or concealing of evidence. All allegations of dishonesty, whether under oath or not, are included in this section.

C. The Independent Investigator shall conduct their investigation in parallel with any Internal Affairs investigation. All interviews conducted in any administrative investigation of Serious Incidents shall require the attendance of the Independent Investigator except that the initial interview conducted immediately after the occurrence of the Serious Incident may be conducted without the participation of the Independent Investigator if that person is unavailable.

1. All interviews of any subject or witness conducted by either the Independent Investigator or Internal Affairs shall be video and audio recorded. All such recordings shall be maintained by the City for a period of seven (7) years and may not be destroyed or disposed of before the expiration of that time period.;

2. All audio and video recordings of any interview of any subject or witness shall be made available to the Independent Investigator within five days from the date of any request for the recordings;

3. The Independent Investigator may conduct their own independent interviews of subjects and witnesses.

D. The Independent Investigator may conduct investigations of matters and incidents, other than Serious Incidents as set forth in sections 18.03.050I, 18.03.060F or as otherwise set forth in this Title.

E. Every City employee identified as a subject and every City employee identified as a witness in any investigation required by this chapter, shall cooperate to the fullest extent with the

Independent Investigator. Failure to participate in interviews, provide documents, to be truthful and to otherwise cooperate shall be a violation of this section and shall subject any non-cooperating subject or witness to discipline, including potential termination, at the discretion of either the Chief of Police, if the employee works for the police department or City Manager, if the employee works for any other City department.

F. The Vallejo Police Department and every City department shall cooperate with the Independent Investigator in providing all evidence determined relevant by the Independent Investigator including, but not limited to, recorded interviews, body-worn camera footage, car camera footage, written statements, investigative reports and all other files, documents and records requested by the Independent Investigator. No member of the Vallejo Police Department, City employee, or elected or appointed official shall interfere with the Independent Investigator or the conclusions of the Independent Investigative Report. Notwithstanding anything herein to the contrary, the Independent Investigator is not entitled to any documents protected by the Attorney Client privilege or the Attorney Work Product privilege unless such privilege is waived. Further, the Independent Investigator has no authority to interview any City elected official or City employee concerning any matters discussed in a closed session City Council meeting or a Closed session Commission meeting. The Independent Investigator may not access documents or other potential evidence produced solely for use in a closed session meeting. A closed session meeting is any meeting lawfully allowed to be held by a legislative body as set forth in Government Code section 54954.5.

G. In conducting any investigation, the Independent Investigator shall reasonably “follow the evidence” and shall not be bound by any scope of work in any contract with the City when it comes to reasonably identifying and investigating the misconduct of an officer as set forth in this Title.

H. The Independent Investigator shall have subpoena authority for records and other relevant material related to any independent investigation. No such subpoena shall issue, however, unless 30-days have elapsed since the Independent Investigator requested such records and they have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

18.02.020 Investigative Report

A. The Independent Investigator shall prepare a written Investigative Report for each Serious Incident (“Independent Investigative Report”) or any complaint referred in accordance with the provisions of this Title. The Independent Investigative Report shall set forth findings of fact and a determination as to whether or not any Vallejo Police Department policies or City policies (the “Policy” or “Policies”) were potentially violated including any potential violations committed during the investigation (e.g., dishonesty during any investigative interview). The Independent Investigator shall make their findings based upon a preponderance of the evidence. The term

“preponderance of the evidence” shall have the same meaning as found in the most recent version of CALJIC 2.50.2 or any successor section defining “preponderance of the evidence.”

B. Upon conclusion of the investigation, the Independent Investigator shall submit a signed copy of the Investigative Report to the Commission, Independent Police Auditor (“IPA”), Chief of Police, the City Manager, the City Attorney and the Human Resources Director.

C. Nothing herein is intended to imply that any person employed by the City, including the Chief of Police, the City Manager, the City Attorney or the Human Resources Director directs or supervises the Independent Investigator.

D. The Independent Investigator shall conclude the investigation as promptly as possible. In no event shall the Independent Investigator conclude the investigation any later than 90 days prior to the running of the time limitation set forth in Government Code section 3304(d).

E. Nothing herein shall supersede or impede a sworn officer’s rights under the Peace Officer’s Bill of Rights or under any current Memorandum of Understanding with the Vallejo Peace Officers Association or any other rights set forth in law.

F. No City employee shall influence or attempt to influence the outcome of any independent investigation or the contents of any investigatory report prepared by the Independent Investigator. If, after investigation, it is discovered that a City employee engaged in such behavior, that employee shall be subject to discipline up to and including termination, at the discretion of the City Manager (if the employee is under the City Manager) or City Attorney (if the employee is under the City Attorney).

Chapter 18.03 Community Police Oversight Accountability Commission.

18.03.010 Creation of Community Police Oversight Accountability Commission

Pursuant to the provisions of the Charter of the City of Vallejo, there is hereby created a Community Police Oversight Accountability Commission. The Community Police Oversight Accountability Commission is an advisory board as described in section 403 of the Charter.

18.03.020 Membership and Terms of Community Police Oversight Accountability Commission.

A. The Community Police Oversight Accountability Commission shall consist of seven (7) Members and two (2) Alternate Members appointed by the Mayor and City Council. Each Council Member shall appoint a Member who is living within that Council Member’s District. The Mayor shall appoint one Member from any District in the City. Council Member and Mayor appointments shall be subject to the ratification of a majority of the City Council. In the event majority approval is not obtained, the appointing Council Member or Mayor shall select a different individual to serve as a Member of the Commission, and the process shall continue until a majority vote is obtained. In addition to the aforementioned Members, the Mayor and City Council shall collectively appoint one youth member between the ages of 18-25 and one

community member as Alternate Members. Alternate Members must meet all the qualifications and training requirements set forth herein and are subject to the same laws, rules and regulations as Members unless specifically modified by this Title. Alternate Members shall participate in Commission meetings but shall not vote unless there is an absence on the Commission as set forth in section 18.03.100 below.

B. The City Council may not appoint any Member who:

1. is not a qualified elector in the City;
2. is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020C(1);
3. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;
4. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
5. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
6. is a party to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1);
7. is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving a disciplinary matter;
7. has been convicted, in the immediately preceding seven (7) years, of any of the following crimes, whether a misdemeanor or a felony:
 - i. Crimes involving dishonesty;
 - ii. Crimes involving public corruption;
 - iii. Crimes involving physical harm of any kind to another human being;
 - iv. Threats of violence or physical harm to another human being;
 - v. Illegal possession of a firearm;
 - vi. Illegal disclosure of confidential information;
 - vii. Crimes involving robbery;
8. has ever been convicted of any of the following crimes:
 - viii. Any crime requiring registration as a sex offender pursuant to any state or federal law;
 - ix. Any crime involving the abuse of a child;

x. Any felony involving physical harm to a law enforcement officer.

C. The City Council shall use its best efforts to appoint Members reflecting the race, color, religious, sex/gender, gender identity, sexual orientation, marital status, medical condition, veteran/military status, national origin, ancestry, disability, genetic information and age diversity of the City of Vallejo. In soliciting applications from the public for Commission membership, the City shall target application solicitations to community groups specifically representing the diversity of the City.

D. Each Member shall serve as a volunteer without pay.

E. Applications for membership on the Commission shall be through the process defined in section 2.02.350 of this code and any applicable state law for publicizing openings for appointments to boards and commissions. All applications shall be submitted to the City Clerk who will distribute them to the Mayor and all members of the City Council. The Council District in which the applicant lives shall be shown clearly on the front of each application. The City Council shall conduct interviews of eligible applicants at a public meeting that has been noticed at least 72-hours in advance.

F. The term for each Member shall be as set forth in section 2.26.030 of this code including the staggering provisions in 2.26.030B. Alternate members shall not be subject to the staggering requirement set forth in section 2.26.030. Individual Council Members, the Mayor and the City Council as a whole may be referred to herein, either collectively or individually, as the "Appointing Authority."

G. A Member may hold office for no more than eight consecutive years. Former Members may be reappointed after a break in service of at least two years.

H. Alternate Members may serve only one, four-year term and shall not be reappointed as an Alternate Member. An Alternate Member may be appointed as a regular Member after any length of service as an Alternate Member. Service as an Alternate Member shall not count toward the eight concurrent year limitation for service as a Member.

I. Notwithstanding anything to the contrary herein, each Member and Alternate Member shall continue to serve until their replacement is appointed.

J. Unless modified by this ordinance, Members may be removed as set forth in Chapter 2.26. In addition, a Member shall be removed if any Member is convicted of any felony or any crime as set forth in section 18.03.020B(5).

K. A Member shall be removed by the City Council if that Member discloses confidential information regarding any police officer, any police investigation, any information received by Members in closed session, any information that is protected by the attorney/client privilege or any other City information provided to the Member in confidence and that is prohibited from disclosure by state or federal law or the disclosure of which would subject the City to liability. If a Member is suspected of disclosing any such confidential information, the City Manager at the request of the City Council or upon the City Manager's own recommendation, may initiate an investigation. If the investigator finds by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that the Member willfully disclosed such confidential information or

fails to take affirmative action to protect such information from disclosure, then the City Council shall remove the Member and a new Member shall be appointed by the City Council using the process set forth herein.

L. In the event of a vacancy caused by resignation and/or disability or death, the Appointing Authority may appoint a replacement to fill out the remaining period of the term pursuant to Chapter 2.26 of this code.

M. At the City's sole cost and expense, all Members shall be subjected to a live scan fingerprint check, to include a check of FBI and California Department of Justice criminal databases before beginning service on the Commission and at each appointment or reappointment thereafter or at the discretion of a majority of the City Council. A Member's appointment shall be revoked if the background check reveals that the Member has been convicted , within the past seven (7) years, of any of the crimes listed in section 18.03.020B(7). The Member shall also be removed if convicted of any of the crimes set forth in section 18.03.020B(8).

18.03.030 – Commission staff.

A. The City Manager shall appoint a member of City staff to support the Commission ("Commission Secretary") after seeking advice and input from the Commission at a noticed, regular or special meeting. Said meeting shall be held in either open or closed session as legally required when discussing personnel matters. The Commission Secretary shall prepare the Commission's agendas, prepare staff reports and supporting materials, serve as the secretary of the Commission, keep the Commission's minutes and be the Commission's custodian of records. In preparing agendas for the Commission, the Chair and vice-chair shall convene to set the Agenda and shall consult with the Commission Secretary as well as the Assigned Attorney, as that term is defined below, for advice concerning the legality of the Agenda. The Commission Secretary may not be an employee, either civilian or sworn, of the Vallejo Police Department. The Commission Secretary shall provide administrative support only and shall not provide any direction to the Commission or attempt to influence matters of policy.

B. The City Attorney , shall assign a qualified attorney to provide legal advice to the Commission on matters concerning the Commission ("Assigned Attorney") after seeking advice and input from the Commission at a noticed regular or special meeting. The Assigned Attorney may be either an employee of the City Attorney's Office or a contracted attorney or both. The Assigned Attorney shall review all agenda items for the Commission to ensure compliance with the Ralph M. Brown Act and any other applicable laws and regulations. The Assigned Attorney shall also ensure that the items on the agenda do not exceed the subject matter jurisdiction of the Commission as set forth in this Title. In addition, the Assigned Attorney shall attend and provide legal advice at all regular and special meetings of the Commission. The Assigned Attorney shall also attend all Commission closed session meetings.

In the absence of the Assigned Attorney, the City Attorney, at their discretion, may appoint an alternate to temporarily perform the duties of the Assigned Attorney. The Assigned Attorney shall provide legal advice only and shall not provide any direction to the Commission or attempt to influence matters of policy. The Assigned Attorney shall not be an attorney directly involved in litigation matters involving the Vallejo Police Department. The Assigned Attorney shall have the following minimum qualifications:

1. A municipal attorney with a minimum of five (5) years' experience representing California cities and/or other California public agencies as either a City Attorney, Assistant City Attorney, Deputy City Attorney or equivalent role;
2. Possession of a Juris Doctor from an accredited law school;
2. Experience in police personnel and disciplinary matters and the related California law;
3. Experience in human resources;
4. Experience in police oversight.

C. The Assigned Attorney may not be a person who:

1. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;
2. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
3. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
4. is a party to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1);
5. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving disciplinary matters;

C. The Chief shall assign themselves or a Deputy Chief to serve as a Police Liaison to the Commission. The Police Liaison shall be responsible for answering questions from Members, providing information to Members and ensuring that Members have access to records and information in possession of the Vallejo Police Department as needed by the Commission to perform its duties and functions. The Police Liaison shall attend all meetings of the Commission. The Police Liaison may attend closed session meetings at the discretion of the Commission.

D. The City Council shall appoint one of its members to serve as a City Council Liaison to the Commission.

18.03.040 Commission Training

A. Within nine (9) months of appointment, each Commissioner shall attend training provided/funded by the City as follows:

1. regarding the provisions of the Vallejo City Charter and with the Vallejo Municipal Code applicable to Department members and/or operations;
2. regarding the California Political Reform Act (Cal. Gov't Code section 81000, *et seq.*), Vallejo's Conflict of Interest Code, the California Brown Act (Cal. Gov't Code section 54950, *et seq.*), and the California Public Records Act (Cal. Gov't Code section 6250, *et seq.*), and all local rules relating thereto;
3. regarding basic principles of constitutional due process and administrative hearings, as the same relate to peace officers;
4. regarding the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
5. regarding constitutional rights guaranteed to all residents as such rights are affected by law enforcement;
6. regarding the 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 (VPOA), Confidential Administrative Management Personnel (CAMP), International Brotherhood of Electrical Workers (IBEW) and other relevant City personnel policies and procedures applicable to the Vallejo Police Department and City employees;
7. regarding the California 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;
8. regarding anti-discrimination, harassment, bias, diversity, inclusion and racial equity;
9. regarding procedural justice.

B. In addition to the above, members shall:

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1. Complete Peace Officer Standards and Training (POST) or equivalent training relating to Search and Seizure and Arrest;
 2. Complete Crisis Intervention Training including review of the Department's training relating to same;
 3. Participate in a Department "ride along" and attend a police training program with curriculum designed by the Chief of Police after consultation with the Commission;
 4. Attend within 18 months of appointment, or as soon thereafter as possible, the annual conference offered by the National Association for Civilian Oversight of Law Enforcement ("NACOLE") or a similar organization focused on police oversight, if and as budgeted by the City Council.

Nothing herein shall prevent Members from receiving training outside of Commission meetings and it is specifically authorized that Members may receive training from outside consultants, from the police department, from POST, and online if the Assigned Attorney concludes that such training meets the requirements set forth in this ordinance.

C. Members shall not participate on the Commission until the training identified in A.1-9 above is completed. Members may participate in Commission matters without the training in B 1 -4. Members shall complete the required training (excepting Item B. 4. above which is optional) within nine (9) months from the date of appointment unless said time is extended by the City Council. In the event a Member fails to complete the required training during the time allotted by this Chapter, that Member shall be removed and replaced with a new appointment. Notwithstanding anything to the contrary herein, Members may attend Commission meetings before completing the required training for the purpose of receiving such training.

D. The City Manager, Police Chief and City Attorney shall timely assist the Commission in scheduling and facilitating all training required by this section so that Commissioners have the opportunity to complete the training within the nine-month period without hindrance from the City.

E. To the extent possible, Commission training sessions shall be video recorded so that Commissioners who are unable to attend a training session may make up the missed training by watching the video.

18.03.050 Commission powers, duties and functions.

The powers, duties and functions of the Community Police Oversight Accountability Commission are as follows:

- A. To review all Independent Investigative Reports and all Internal Affairs reports and all supporting evidence used by the Independent Investigator or the Internal Affairs

investigator concerning any Serious Incident and provide a recommendation concerning the findings thereof, to the Chief of Police and the City Manager. While the Commission shall not be limited in its recommendation, it shall specifically either agree or disagree with the factual findings and proposed policy violation conclusions and state the reasons therefore. The Commission may also, upon review of the Independent Investigative Report and/or the Internal Affairs report, recommend further investigation. All reviews and recommendations shall be submitted by the Commission to the Chief of Police and the City Manager within 60 days of the submission of the Independent Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police and the City Manager less than 30 days prior to the running of the time limitation set forth in Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;

- B. To request the assistance and advice of the IPA on any matter within the subject matter jurisdiction of the Commission;
- C. To review the investigatory report provided by the Chief of Police as set forth in section 18.03.060 E. (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, military/ veteran status or immigration status, (Bias Incident) by a sworn officer whether in the performance of their duties or otherwise and provide a recommendation concerning the findings and/or policy violations thereof, to the Chief of Police and the City Manager. The Commission may also, upon review of the investigative report, recommend further investigation and/or changes in policy and training. All recommendations shall be submitted by the Commission to the IPA and the Chief of Police within 60 days of the submission of the Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police less than 30 days prior to the running of the time limitation set forth In Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;
- D. To advise the Mayor, City Council, City Manager and Chief of Police on all police community relations issues;
- E. To conduct public outreach to educate the community on the purpose of the Commission;
- F. To create and maintain, with the assistance of the City's Information Technology department, a Commission webpage with information about the Commission's powers, duties and functions as well as other information related to the subject matter jurisdiction of the Commission;

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- G. To receive written complaints from the public alleging misconduct by sworn Vallejo Police Department Officers. The Commission Secretary shall immediately forward (within 2 business days of receipt) all such complaints delivered to the Commission to the Chief of Police for investigation and the Chief of Police shall confirm to the Commission that the complaint has been received and logged by the Department. All complaints involving Serious Incidents, as defined in Sections 18.02.010B shall also be forwarded by the Commission to the City Manager, Human Resources Director and City Attorney for investigation by an Independent Investigator as set forth in Chapter 8.02;
 - H. The Chief of Police, or any other City Department that receives public complaints shall immediately forward (within 2 business days) or cause to be forwarded to the Commission, any complaints from the public they have received concerning misconduct by Sworn Officers of the Police Department. For purposes of forwarding complaints to the Commission, the Chief of Police or other receiving Department may forward them to the Commission Secretary.
 - I. The Commission may request that any complaint be investigated by an Independent Investigator, whether said complaint was initially received by the Commission, by the Police Department or by another City Department. Requests for referral to an Independent investigator shall be granted for any Serious Incident or Bias Incident. The Commission may also request that the Chief of Police refer complaints relating to other matters to an Independent Investigator and may appeal to the City Manager if the Chief declines the referral to an Independent Investigator;
 - J. Recognizing that individuals may feel uncomfortable filing complaints with the Vallejo Police Department, to make complaint forms available to the public by posting complaint forms and information about the complaint process on the Commission webpage and at other public locations, as an alternative to filing complaints with the Vallejo Police Department and accepting the online filing of complaints;
 - K. To ensure that the City and the Vallejo Police Department makes information about the complaint process and appropriate forms available at other public locations and to provide recommendations to the City and the Vallejo Police Department about the complaint process;
 - L. To review and make recommendations concerning the factual findings contained in any investigation of any filed complaint to the Chief of Police and/or City Manager;
 - M. To review and/or make a recommendation to the Chief of Police or City Manager concerning whether disciplinary action should be imposed relating to any violation of policy found to exist in any investigatory report of a Serious Incident or Bias Incident or other incidents referred to the Independent Investigator;
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- N. To review and provide a recommendation to the Chief of Police in closed session concerning any draft Notice of Intended Discipline (NOID) for any Serious Incident or Bias Incident. The Chief shall consider any such recommendation before imposing any discipline within the time frame set forth in Government Code section 3304(d);
- O. To review, advise and provide recommendations regarding any new Police policy or concerning any modification or revision of any such policy and to independently propose new policies in their discretion. The Chief of Police shall submit all proposed new policies or revisions to existing policies to the Commission for review before implementation of said policies or revisions. The Commission shall provide its advice and recommendation to the Chief of Police within 45 days of the submission of any new or revised policy. If the Chief of Police receives no recommendation from the Commission concerning the proposed policy or revision within the 45-day time frame, the Chief may move forward with implementation. This requirement shall not apply to Special Orders of the Chief of Police which may be implemented without a recommendation from the Commission. Notwithstanding the foregoing sentence, the Chief of Police shall not use Special Orders to circumvent the policy-review provisions set forth herein. If a Special Order has been in existence for more than six (6) months, the Chief of Police shall seek a review and recommendation from the Commission concerning the Special Order;
- P. To request a report from the Chief of Police regarding existing police training. To review, advise and provide recommendations to the Chief of Police on any new or revised police training deemed advisable by the Commission. The Chief of Police shall provide a report to the Commission concerning the implementation or non-implementation of any recommendation by the Commission;
- Q. To review and comment upon the Vallejo Police Department's policy and/or practice of publishing data sets and reports regarding various Vallejo Police Department activities, submit comments concerning those data sets and reports to the Chief of Police and request that the Chief of Police consider said recommendations and provide a written response to the Commission;
- R. To prepare and submit an annual report (the "Commission's Report") to the Mayor and City Council, with copies to the City Manager and Chief of Police, on Commission activities. Said report shall be submitted for the previous year on or before April 15 of each calendar year. The Commission's Report shall be made available to the public. The Commission, in its discretion and after consultation with the Assigned Attorney, may also produce a confidential report addressing confidential matters and present the same to the Chief of Police. The City Council shall review and accept any such reports submitted to them by the Commission in either open session or closed session as legally appropriate;
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- S. To make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Title. To the extent legally permissible, the Commission shall discuss such recommendations in public meetings of the Commission;
 - T. To review and advise upon any of the City Council's proposed legislation or regulations related to the subject matter jurisdiction of the Commission. Before consideration or introduction of any such proposed legislation, the City Attorney or designee, shall submit such proposed legislation to the Commission for review. Once submitted, the Commission shall have sixty (60) days to submit any recommendations to the City Attorney unless such time is extended by agreement with the City Attorney. If deemed necessary by the City Council, the City Council may direct that the Commission provide recommendations in a shorter time period. The City Attorney shall include the Commission's recommendations when the legislation is presented to the City Council;
 - U. Solicit and consider input from the public concerning public interactions with the Vallejo Police Department;
 - V. To refer any matter within the Commission's subject matter jurisdiction that the Commission in its discretion determines warrants additional investigation or action to the Solano County District Attorney, the California Attorney General or to any other state or federal agency responsible for investigating and/or prosecuting wrongdoing by sworn police officers;
 - W. In accordance with the City's record retention policy, and the requirements of *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, to retain and maintain all electronic communications to, from and/or copied to any Commissioner on the Commissioner's personal email, text messages and social media concerning all matters of City business, whether or not within the subject matter jurisdiction of the Commission, and to provide such communications to the City upon request.
 - X. The Commission shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall issued, however, unless 30 days have elapsed since any such records were requested by the Commission and the have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena;
 - Y. All amounts allocated to the Commission for expenditures are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days of receipt. If the Commission does not submit its recommendation within the 45-day time period,

the City Council may adopt the budget without considering a Commission recommendation.

18.03.060 Obligations of the Chief of Police and Police Personnel

A. The Chief of Police and Vallejo Police Department personnel shall cooperate fully with the Commission and the IPA on all matters within the subject matter jurisdiction of the Commission. The Chief of Police shall provide all records requested by the Commission and the IPA related to any matter currently before the Commission and being reviewed by the Commission and/or the IPA. The Chief of Police or their designee shall appear before the Commission upon request of the Commission and give reports and/or answer questions of the Commission relating to matters within the subject matter jurisdiction of the Commission.

B. The Chief of Police may make a preliminary determination on any disciplinary matter involving a Serious Incident but, shall not impose any discipline until the Commission makes its recommendation on the Independent Investigation and the Chief considers the recommendation.

C. The Chief of Police shall report to the Commission their final determination on policy violation and any resulting disciplinary matter concerning a Serious Incident. In the event the Chief of Police does not follow the recommendation of the Commission relating to a policy violation they shall provide a justification to the Commission in closed session.

D. The Commission may report any failure of the Chief of Police, or any other City employee, to cooperate fully with the Commission to the City Manager. The City Manager, in their discretion, may impose discipline upon the Chief of Police, or other City employee reporting to the City Manager for any willful or unlawful failure to cooperate.

E. To submit the investigatory report (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, or immigration status, by a sworn officer whether in the performance of their duties or otherwise to the Commission.

F. The Chief of Police, in their discretion, may request that an Independent Investigator be assigned to investigate any other potential policy violation not referenced in this Title and provide the investigation to the Commission for a recommendation.

G. In the event the Chief of Police declines to follow any recommendation of the Commission on any matter within the subject matter jurisdiction of the Commission, the Chief of Police shall provide a written justification to the City Manager and to the City Council.

18.03.070 Reports by Chief of Police

A. The Chief of Police shall prepare and present an annual report to the Commission concerning matters of investigation of complaints, Serious Incidents, Bias Incidents, policy review and training. Said report shall be submitted to the Commission, with copies to the City

Manager and IPA no later than January 30 of each year. The Commission may use the Chief's Report in preparing its own annual report as required by section 18.03.050 of this Title.

B. The Chief of Police shall provide a confidential quarterly report to the Commission and to the City Manager on all disciplinary matters. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

C. The Chief of Police shall prepare and submit a quarterly report to the Commission and the City Manager on the outcome of all complaints. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

18.03.080 Access to Confidential Information

- A. Subject to applicable law, the Commission shall have access to all Vallejo Police Department files and records and to all files and records of other City offices, departments or agencies that are within the subject matter jurisdiction of the Commission and which are relevant to the performance of the Commission's duties. Notwithstanding the foregoing, the Commission shall not have access to documents that are protected by the Attorney Client or Attorney Work Product privilege unless authorized by the City Attorney and City Council. Further, in connection with the review of investigatory reports and disciplinary matters the Commission may have limited electronic access as set forth in B below, to records considered to be police personnel records as defined in Penal Code sections 832.8(a)(4) and 832.8(a)(5). In addition, the Commission shall not have access to the entirety of any individual personnel files of sworn employees of the Vallejo Police Department. For purposes of this section, Attorney Client and Attorney Work Product privilege shall apply to information directly related to and prepared for the purposes of litigation including, but not limited to, expert reports, the City's litigation strategy or legal opinions prepared for the City Council.
- B. Confidential documents, files and records shall be made available to Members in electronic format on a secure server and shall be password protected. Each Member shall have a unique password that identifies the accessing Member. Printing of such documents shall be disabled if technologically possible. Members shall be prohibited from printing, photographing or otherwise copying any such records. Printing, photographing or otherwise copying or dissemination of such records in any manner by any Member shall be a violation of section 18.03.090 below and shall subject the Member to the consequences and punishment set forth herein

18.03.090 Confidentiality.

A. All personnel records, investigative reports, confidential documents generated within the City of Vallejo Police Department or within the City, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential by Members of the Commission.

B. Any Member found to have willfully disclosed confidential records or information or to have failed to take affirmative steps to prevent the disclosure of confidential records or information shall be removed by the City Council as set forth in section 18.03.020J of this chapter. If, after investigation as set forth in 18.03.020J it is determined by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that a Member disclosed confidential records or information, in addition to being removed from the Commission, the Member shall be subject to an administrative fine of up to \$2,500 for violation of this section.

18.03.100 – Commission meetings and governance.

A. Initially, the Commission shall hold regular meetings on the [REDACTED] of every month beginning with the first full month after appointment of the Members. The Commission may schedule and hold any number of Special Meetings. The Commission may modify its meeting schedule by adoption of bylaws as set forth in section 18.03.110 herein. Provided there is no business for the Commission to conduct at a regular meeting (i.e., there are no items requiring Commission action or discussion on the agenda), the Commission Secretary may cancel a regular meeting as long as such cancellation occurs at least seventy-two hours before the scheduled start of the meeting. The Commission Secretary may also cancel any meeting in the event of an emergency declared by the emergency authority of the city, state or federal government. If there is a need to cancel a meeting for any other reason, the Commission Secretary may only cancel such meeting with the written consent of the Commission chair and vice chair. Any meeting cancellation must be in writing and must clearly state the reason for the cancellation. The Commission may change this cancellation policy by adopting City Council approved bylaws as set forth in section 18.03.110 herein. All meetings of the Commission shall be subject to the Ralph M. Brown Act and, to the extent possible, be video recorded and public broadcast.

B. At the first meeting of the Commission, Members shall select from among themselves a Chair and Vice Chair.

C. The Commission may not continue with any meeting unless a quorum is present. Four Members shall constitute a quorum.

D. All actions of the Commission require a majority vote of Members present.

E. The Commission shall consider all personnel and otherwise confidential matters in closed session to the extent permitted by law.

F. In the event a Member is absent at a Commission Meeting for any reason, an Alternate Member shall be entitled to vote in the Member's absence. If more than one Member is absent from a Commission Meeting, both Alternate Members shall participate in voting at the meeting and each shall have one vote. If only one Member is absent, the Secretary shall draw lots to determine which Alternate Member will participate in voting.

G. Upon initial appointment of all Members after adoption of this ordinance, Members shall meet at least twice per month for the training prescribed herein until such training is complete. Thereafter, trainings shall be held as needed to update previous training or to train new Members. These initial training meetings may be either regular or special meetings.

18.03.110 – Bylaws

The Commission may recommend the adoption of bylaws governing its operations to the City Council. Any such bylaws shall recognize the subject matter jurisdiction of the Commission as set forth in this Chapter 18.03 and shall not modify or alter said subject matter jurisdiction. Commission bylaws shall be submitted to the City Council for adoption or amendment before implementation thereof by the Commission.

18.03.120 – General rules and regulations.

The Commission shall comply with the general rules and regulations for all boards, commissions and committees as set forth in Chapter 2.26 of this code unless otherwise modified by this Chapter 18.03 or as provided by ordinance or resolution of the City Council.

Chapter 18.04 Independent Police Auditor

18.04.010 Creation of Office of Independent Police Auditor

There is hereby created the office of Independent Police Auditor (IPA). The IPA may be a full-time, part-time or contracted position at the discretion of the City Manager. The City Manager shall appoint this position after seeking advice and input from the Commission. Notwithstanding anything in this code to the contrary and notwithstanding the amount of any such contract, all contracts for an Independent Police Auditor shall be approved by the City Council. Recognizing the importance of the role of the IPA, the City Council shall, in good faith review any such contract submitted to it by the City Manager and shall not unreasonably withhold approval.

18.04.020 IPA Qualifications

The IPA shall have the following minimum experience and/or training:

A. Possession of a graduate degree in Criminal Justice, Criminology, Law, a Juris Doctorate or a closely related field from an accredited college or university. Appropriate relevant experience may substitute for the education requirement;

B. Experience in police practices, policy and training;

C. Experience and understanding of the Police Officers Bill of Rights and other applicable laws related to sworn employees;

D. Experience in human resources;

E. Other experience in the discretion of the City Manager.

Prior to appointment, the IPA shall submit to a criminal background check as a condition of appointment. The IPA may not be:

1. an individual currently employed by the City or any immediate family member of such a person as defined in section 18.03.020C(1);
2. an individual who is a Consultant, for other purposes than the IPA, retained by the City within the preceding 12 months;
3. A current or former sworn officer with the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
4. an individual currently employed as a Peace Officer by any other local, state or federal law enforcement agency or who has been employed as such within the immediately preceding seven (7) years prior to appointment or any immediate family member of such a person as defined in section 18.03.020C(1);
5. an attorney or law firm who is representing or has represented a party in any proceedings or matters adverse to the City,
6. an individual who is or was a party to any proceedings or matters adverse to the City or is an immediate family member to any such person within the last seven (7) years.
7. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving disciplinary matters;

18.04.030 Duties of the IPA

The IPA shall have the following minimum duties:

- A. The IPA shall receive timely notification of Serious Incidents to enable them to report to the scene of Serious Incidents for the purpose of first-hand observation. The IPA and the Chief of Police shall develop necessary protocols for notifying the IPA to the Serious Incident and scene access.

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- B. The IPA may be present during the interviews of witnesses and subjects during any investigation of a Serious Incident or other incidents assigned to an Independent Investigator or Internal Affairs.
 - C. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, associated with Serious Incidents and provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
 - D. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, relating to a Bias Incident and may provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
 - E. The IPA may review all investigatory reports resulting from any investigation by either an Independent Investigator or Internal Affairs as may be referred to the IPA by the Chief of Police or the Commission. The IPA may provide a report with findings and recommendations on any such investigatory report to the Commission, the City Manager, the City Council and the Chief of Police.
 - F. The IPA shall stay up to date concerning Vallejo Police Department policies and training and shall advise the Commission, the City Manager and the Chief of Police in writing when, in the opinion of the IPA, a change or modification of policy or training is needed. The IPA shall set forth in writing the policy or training that the IPA recommends be added, changed or modified and shall provide an analysis of the reasons they believe the change, modification or addition of policy or training is desirable. If a policy or training does not require a change or modification, the IPA shall so state.
 - G. The IPA shall assist the Commission in the preparation of its annual report required in section 18.03.050N.
 - H. The IPA may also prepare reports on the IPA's other activities for review by the Commission.
 - I. The IPA shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall be issued, however, unless 30-days have elapsed since any such records were requested by the IPA and the have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

SECTION TWO

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the 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 the Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the

fact than any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION THREE

This Ordinance shall be effective 30 days after passage and adoption but shall be implemented until completion of any meet and confer process with any affected bargaining unit including, but not limited to the Vallejo Police Officers Association.

First read at a regular meeting of the City Council of the City of Vallejo on December 12, 2022 and finally passed and adopted at a regular meeting thereof held on December 20, 2022 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROBERT MCCONNELL, MAYOR

ATTEST:

DAWN G. ABRAHAMSON, CITY CLERK



DATE: December 12, 2022
TO: Mayor and Members of the City Council
FROM: Mike Malone, City Manager
Veronica A.F. Nebb, City Attorney
Randy J. Risner, Chief Assistant City Attorney
SUBJECT: INTRODUCTION OF AN ORDINANCE ENACTING TITLE 18 OF THE VALLEJO MUNICIPAL CODE -- POLICE OVERSIGHT AND ACCOUNTABILITY

RECOMMENDATION

Introduce an ordinance to enact Title 18 of the Vallejo Municipal Code to be titled Police Oversight and Accountability and consider adoption at the December 20, 2022 Council meeting.

REASONS FOR RECOMMENDATION

After review and discussion of the proposed Title 18, Council directed staff to bring the ordinance forward for introduction on December 12, 2022.

BACKGROUND AND DISCUSSION

The City Council has held two workshops to discuss, review and revise the proposed Police Oversight and Accountability ordinance. Staff has made significant revisions to the ordinance based upon City Council direction. In addition, staff reviewed and accepted the majority of proposed revisions from Common Ground that were received after the workshop on December 6. Council may proceed with introduction this evening or, if Council has additional significant revisions, may defer introduction to December 15, which is another date Council reserved to consider introduction.

If the ordinance is introduced at this meeting or on the December 15, 2022 meeting, Council has given staff direction to bring ordinance back for adoption on December 20, 2022.

FISCAL IMPACT

In terms of Independent investigations, Council budgeted funds for that effort beginning in 2021. Costs associated with the IPA and the training and staffing costs of the Commission will depend largely on the tasks assigned and the composition of the commission. Staff will continue to refine budget numbers as we receive direction from the Council.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guidelines section 15378

ATTACHMENTS

1.	Vallejo Police Review Commission Ordinance Final 12-9-22
2.	Vallejo Police Review Commission Ordinance Council and CG Revisions Redline

Date: December 12, 2022

**Subject: INTRODUCTION OF AN ORDINANCE ENACTING TITLE 18 OF THE VALLEJO
MUNICIPAL CODE -- POLICE OVERSIGHT AND ACCOUNTABILITY**

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CONTACT

Randy J. Risner, Chief Assistant City Attorney

randy.risner@cityofvallejo.net

Approved as to form:

By:  for _____
Veronica Nebb, City Attorney

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALLEJO ENACTING TITLE 18 ENTITLED
POLICE OVERSIGHT AND ACCOUNTABILITY**

WHEREAS, in 2019, the City of Vallejo (“City”) hired the OIR Group to conduct an independent assessment of the operations and culture of the Vallejo Police Department (“VPD”); and

WHEREAS, in May 2020, the OIR Group completed its assessment of VPD and issued its report entitled Independent Assessment of Operations, Internal Review Systems, and Agency Culture (the “Report”); and

WHEREAS, the Report contains 45 recommendations to improve the VPD; and

WHEREAS, recommendation 45 in the Report recommends that “VPD should work with City leadership to create a model of independent oversight specifically tailored to meet the needs of Vallejo”; and

WHEREAS, in July 2020, the City entered into a Collaborative Agreement with the California Department of Justice to work on implementing the OIR recommendations, including recommendation 45; and

WHEREAS, in March 2022, the City Council directed staff to implement a community engagement plan to receive input from Vallejo residents about police oversight models; and

WHEREAS, City Staff conducted nine community engagement meetings including one in each of the six Council districts, one youth meeting, one business meeting and one meeting with the Chief’s Advisory Board; and

WHEREAS, City Staff also engaged with VPOA, CAMP and police staff; and

WHEREAS, City Staff complied the input they received and returned to City Council on August 23, 2022; and

WHEREAS, at the August 23 meeting, Staff presented its findings from community engagement as well as its research into police oversight in 17 different communities throughout the nation; and

WHEREAS, the City Council directed Staff to draft a police oversight ordinance specifically tailored for Vallejo and informed by the community engagement process, input from collaborative partners and input from the City Council; and

WHEREAS, the City Council also directed Staff to meet with and seek input from Common Ground, a non-profit, community-based organization that had drafted its own police oversight ordinance for consideration; and

WHEREAS, Staff met with Common Ground on three occasions to seek input and collaboration on the provisions of the City’s proposed ordinance; and

WHEREAS, Common Ground provided input which resulted in several significant changes to the proposed ordinance; and

WHEREAS, Staff also met with representatives of the Department of Justice to review the ordinance and seek input; and

WHEREAS, Staff also met with representatives of VPOA to seek input; and

WHEREAS, the City Council held a workshops about the ordinance on December 6, 2022 and again on December 12, 2022; and

WHEREAS, the City Council provided input at the workshops that resulted in revisions to the ordinance; and

WHEREAS, the ordinance is the result of significant community engagement and collaboration and has been informed by input from the public as well as from collaborative partners; and

WHEREAS, the ordinance is designed to meet the needs of the City, to comply with the City Charter and State Law and to be sustainable into the future.

NOW THEREFORE, the City Council of the City of Vallejo does hereby ordain as follows:

SECTION ONE

Title 18 of the Vallejo Municipal Code is hereby added and shall read as follows:

TITLE 18 POLICE OVERSIGHT AND ACCOUNTABILITY

Chapter 18.01 Title and Purpose

18.01.010 Title

This ordinance shall be known as the “Police Accountability Ordinance.”

18.01.020 Purpose

In adopting this ordinance, it is the intent of the City of Vallejo (“City”) to promote the health, safety and wellbeing of all residents by utilizing the best possible police practices and policies while ensuring effective, efficient, trustworthy and just law enforcement. It is also the purpose of this ordinance to improve relations between law enforcement and the community of Vallejo and to continuously foster good relations between those who enforce the laws and the diverse community whom they serve. It is the desire of the City that the public will take pride in local law enforcement and those who enforce the laws will take pride in their service to the public.

Chapter 18.02 Independent Investigations of Serious Incidents

18.02.010 Independent Investigations

A. Any Serious Incident, as that term is defined in section 18.02.010B, involving a sworn police officer(s) employed by the Vallejo Police Department, shall be investigated by an independent investigator ("Independent Investigator"). Bias Incidents, as that term is defined in section 18.03.050C, as well as other potential policy violations may be investigated by the Independent Investigator as set forth in section 18.03.050I.

B. The City Manager, City Attorney and Human Resources Director shall, by consensus, select a contracted Independent Investigator after seeking advice and input from the Community Police Oversight Accountability Commission ("Commission") at a noticed, open regular or special meeting. In order to improve efficiency and timeliness, the City Manager may create a standing list of approved investigators. Thereafter, investigators may be selected from the list without seeking further advice and input from the Commission. The list shall be updated on an annual basis. The list shall be a public record that the Commission or the City Manager may make available to the public online.

C. Any person or firm selected as an Independent Investigator shall have the following experience:

1. Be specifically trained in workplace investigations with at least five years of experience investigating workplace matters or public employment issues involving law enforcement agencies;
2. Have an office or place of business within 100 miles of the City and be able to timely respond to Serious Incidents or other matters being investigated;
3. Have significant experience providing expert testimony before arbitrators or courts and able to cite to examples.

The Independent Investigator must not be a person who:

1. Is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020C(1);
 2. has ever been a peace officer for any federal, state or local law enforcement agency;
 3. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
 4. is an attorney or law firm who represents or represented any person in any proceedings or matters adverse to the City;
 5. is a party in any proceedings or matters adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1).
 6. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving a disciplinary matter;
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D. A Serious Incident shall be defined as any incident involving sworn members of the Vallejo Police Department as set forth in Penal Code section 832.7(b) as that section now exists or as amended in the future, including, but not limited to:

1. an incident involving the discharge of a firearm at a person by a sworn officer(s);
2. an incident in which the use of force by a sworn officer(s) against a person result in death or great bodily injury. Great bodily injury shall have the meaning set forth in Penal Code section 12022.7(f) and shall include, but shall not be limited to, any physical injury requiring medical treatment in a hospital. For purposes of this section hospitalization shall not include merely for routine medical clearance;
3. an incident involving an allegation of sexual assault, by a sworn officer(s) against a person. "Sexual assault" shall have the meaning set forth in Penal Code Section 832.7(b)(1)(B)(ii) and "member of the public" shall have the meaning set forth in Penal Code section 832.7(b)(1)(B)(iii);
4. An incident involving an allegation of dishonesty of a sworn officer(s) relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another sworn officer(s), including, but not limited to, perjury, false statements, filing false reports, destruction of evidence, falsifying evidence, or concealing of evidence. All allegations of dishonesty, whether under oath or not, are included in this section.

C. The Independent Investigator shall conduct their investigation in parallel with any Internal Affairs investigation. All interviews conducted in any administrative investigation of Serious Incidents shall require the attendance of the Independent Investigator except that the initial interview conducted immediately after the occurrence of the Serious Incident may be conducted without the participation of the Independent Investigator if that person is unavailable.

1. All interviews of any subject or witness conducted by either the Independent Investigator or Internal Affairs shall be video and audio recorded. All such recordings shall be maintained by the City for a period of seven (7) years and may not be destroyed or disposed of before the expiration of that time period.;

2. All audio and video recordings of any interview of any subject or witness shall be made available to the Independent Investigator within five days from the date of any request for the recordings;

3. The Independent Investigator may conduct their own independent interviews of subjects and witnesses.

D. The Independent Investigator may conduct investigations of matters and incidents, other than Serious Incidents as set forth in sections 18.03.050I, 18.03.060F or as otherwise set forth in this Title.

E. Every City employee identified as a subject and every City employee identified as a witness in any investigation required by this chapter, shall cooperate to the fullest extent with the

Independent Investigator. Failure to participate in interviews, provide documents, to be truthful and to otherwise cooperate shall be a violation of this section and shall subject any non-cooperating subject or witness to discipline, including potential termination, at the discretion of either the Chief of Police, if the employee works for the police department or City Manager, if the employee works for any other City department.

F. The Vallejo Police Department and every City department shall cooperate with the Independent Investigator in providing all evidence determined relevant by the Independent Investigator including, but not limited to, recorded interviews, body-worn camera footage, car camera footage, written statements, investigative reports and all other files, documents and records requested by the Independent Investigator. No member of the Vallejo Police Department, City employee, or elected or appointed official shall interfere with the Independent Investigator or the conclusions of the Independent Investigative Report. Notwithstanding anything herein to the contrary, the Independent Investigator is not entitled to any documents protected by the Attorney Client privilege or the Attorney Work Product privilege unless such privilege is waived. Further, the Independent Investigator has no authority to interview any City elected official or City employee concerning any matters discussed in a closed session City Council meeting or a Closed session Commission meeting. The Independent Investigator may not access documents or other potential evidence produced solely for use in a closed session meeting. A closed session meeting is any meeting lawfully allowed to be held by a legislative body as set forth in Government Code section 54954.5.

G. In conducting any investigation, the Independent Investigator shall reasonably “follow the evidence” and shall not be bound by any scope of work in any contract with the City when it comes to reasonably identifying and investigating the misconduct of an officer as set forth in this Title.

H. The Independent Investigator shall have subpoena authority for records and other relevant material related to any independent investigation. No such subpoena shall issue, however, unless 30-days have elapsed since the Independent Investigator requested such records and they have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

18.02.020 Investigative Report

A. The Independent Investigator shall prepare a written Investigative Report for each Serious Incident (“Independent Investigative Report”) or any complaint referred in accordance with the provisions of this Title. The Independent Investigative Report shall set forth findings of fact and a determination as to whether or not any Vallejo Police Department policies or City policies (the “Policy” or “Policies”) were potentially violated including any potential violations committed during the investigation (e.g., dishonesty during any investigative interview). The Independent Investigator shall make their findings based upon a preponderance of the evidence. The term

“preponderance of the evidence” shall have the same meaning as found in the most recent version of CALJIC 2.50.2 or any successor section defining “preponderance of the evidence.”

B. Upon conclusion of the investigation, the Independent Investigator shall submit a signed copy of the Investigative Report to the Commission, Independent Police Auditor (“IPA”), Chief of Police, the City Manager, the City Attorney and the Human Resources Director.

C. Nothing herein is intended to imply that any person employed by the City, including the Chief of Police, the City Manager, the City Attorney or the Human Resources Director directs or supervises the Independent Investigator.

D. The Independent Investigator shall conclude the investigation as promptly as possible. In no event shall the Independent Investigator conclude the investigation any later than 90 days prior to the running of the time limitation set forth in Government Code section 3304(d).

E. Nothing herein shall supersede or impede a sworn officer’s rights under the Peace Officer’s Bill of Rights or under any current Memorandum of Understanding with the Vallejo Peace Officers Association or any other rights set forth in law.

F. No City employee shall influence or attempt to influence the outcome of any independent investigation or the contents of any investigatory report prepared by the Independent Investigator. If, after investigation, it is discovered that a City employee engaged in such behavior, that employee shall be subject to discipline up to and including termination, at the discretion of the City Manager (if the employee is under the City Manager) or City Attorney (if the employee is under the City Attorney).

Chapter 18.03 Community Police Oversight Accountability Commission.

18.03.010 Creation of Community Police Oversight Accountability Commission

Pursuant to the provisions of the Charter of the City of Vallejo, there is hereby created a Community Police Oversight Accountability Commission. The Community Police Oversight Accountability Commission is an advisory board as described in section 403 of the Charter.

18.03.020 Membership and Terms of Community Police Oversight Accountability Commission.

A. The Community Police Oversight Accountability Commission shall consist of seven (7) Members and two (2) Alternate Members appointed by the Mayor and City Council. Each Council Member shall appoint a Member who is living within that Council Member’s District. The Mayor shall appoint one Member from any District in the City. Council Member and Mayor appointments shall be subject to the ratification of a majority of the City Council. In the event majority approval is not obtained, the appointing Council Member or Mayor shall select a different individual to serve as a Member of the Commission, and the process shall continue until a majority vote is obtained. In addition to the aforementioned Members, the Mayor and City Council shall collectively appoint one youth member between the ages of 18-25 and one

community member as Alternate Members. Alternate Members must meet all the qualifications and training requirements set forth herein and are subject to the same laws, rules and regulations as Members unless specifically modified by this Title. Alternate Members shall participate in Commission meetings but shall not vote unless there is an absence on the Commission as set forth in section 18.03.100 below.

B. The City Council may not appoint any Member who:

1. is not a qualified elector in the City;
2. is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020C(1);
3. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;
4. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
5. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
6. is a party to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1);
7. is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving a disciplinary matter;
7. has been convicted, in the immediately preceding seven (7) years, of any of the following crimes, whether a misdemeanor or a felony:
 - i. Crimes involving dishonesty;
 - ii. Crimes involving public corruption;
 - iii. Crimes involving physical harm of any kind to another human being;
 - iv. Threats of violence or physical harm to another human being;
 - v. Illegal possession of a firearm;
 - vi. Illegal disclosure of confidential information;
 - vii. Crimes involving robbery;
8. has ever been convicted of any of the following crimes:
 - viii. Any crime requiring registration as a sex offender pursuant to any state or federal law;
 - ix. Any crime involving the abuse of a child;

x. Any felony involving physical harm to a law enforcement officer.

C. The City Council shall use its best efforts to appoint Members reflecting the race, color, religious, sex/gender, gender identity, sexual orientation, marital status, medical condition, veteran/military status, national origin, ancestry, disability, genetic information and age diversity of the City of Vallejo. In soliciting applications from the public for Commission membership, the City shall target application solicitations to community groups specifically representing the diversity of the City.

D. Each Member shall serve as a volunteer without pay.

E. Applications for membership on the Commission shall be through the process defined in section 2.02.350 of this code and any applicable state law for publicizing openings for appointments to boards and commissions. All applications shall be submitted to the City Clerk who will distribute them to the Mayor and all members of the City Council. The Council District in which the applicant lives shall be shown clearly on the front of each application. The City Council shall conduct interviews of eligible applicants at a public meeting that has been noticed at least 72-hours in advance.

F. The term for each Member shall be as set forth in section 2.26.030 of this code including the staggering provisions in 2.26.030B. Alternate members shall not be subject to the staggering requirement set forth in section 2.26.030. Individual Council Members, the Mayor and the City Council as a whole may be referred to herein, either collectively or individually, as the "Appointing Authority."

G. A Member may hold office for no more than eight consecutive years. Former Members may be reappointed after a break in service of at least two years.

H. Alternate Members may serve only one, four-year term and shall not be reappointed as an Alternate Member. An Alternate Member may be appointed as a regular Member after any length of service as an Alternate Member. Service as an Alternate Member shall not count toward the eight concurrent year limitation for service as a Member.

I. Notwithstanding anything to the contrary herein, each Member and Alternate Member shall continue to serve until their replacement is appointed.

J. Unless modified by this ordinance, Members may be removed as set forth in Chapter 2.26. In addition, a Member shall be removed if any Member is convicted of any felony or any crime as set forth in section 18.03.020B(5).

K. A Member shall be removed by the City Council if that Member discloses confidential information regarding any police officer, any police investigation, any information received by Members in closed session, any information that is protected by the attorney/client privilege or any other City information provided to the Member in confidence and that is prohibited from disclosure by state or federal law or the disclosure of which would subject the City to liability. If a Member is suspected of disclosing any such confidential information, the City Manager at the request of the City Council or upon the City Manager's own recommendation, may initiate an investigation. If the investigator finds by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that the Member willfully disclosed such confidential information or

fails to take affirmative action to protect such information from disclosure, then the City Council shall remove the Member and a new Member shall be appointed by the City Council using the process set forth herein.

L. In the event of a vacancy caused by resignation and/or disability or death, the Appointing Authority may appoint a replacement to fill out the remaining period of the term pursuant to Chapter 2.26 of this code.

M. At the City's sole cost and expense, all Members shall be subjected to a live scan fingerprint check, to include a check of FBI and California Department of Justice criminal databases before beginning service on the Commission and at each appointment or reappointment thereafter or at the discretion of a majority of the City Council. A Member's appointment shall be revoked if the background check reveals that the Member has been convicted , within the past seven (7) years, of any of the crimes listed in section 18.03.020B(7). The Member shall also be removed if convicted of any of the crimes set forth in section 18.03.020B(8).

18.03.030 – Commission staff.

A. The City Manager shall appoint a member of City staff to support the Commission ("Commission Secretary") after seeking advice and input from the Commission at a noticed, regular or special meeting. Said meeting shall be held in either open or closed session as legally required when discussing personnel matters. The Commission Secretary shall prepare the Commission's agendas, prepare staff reports and supporting materials, serve as the secretary of the Commission, keep the Commission's minutes and be the Commission's custodian of records. In preparing agendas for the Commission, the Chair and vice-chair shall convene to set the Agenda and shall consult with the Commission Secretary as well as the Assigned Attorney, as that term is defined below, for advice concerning the legality of the Agenda. The Commission Secretary may not be an employee, either civilian or sworn, of the Vallejo Police Department. The Commission Secretary shall provide administrative support only and shall not provide any direction to the Commission or attempt to influence matters of policy.

B. The City Attorney , shall assign a qualified attorney to provide legal advice to the Commission on matters concerning the Commission ("Assigned Attorney") after seeking advice and input from the Commission at a noticed regular or special meeting. The Assigned Attorney may be either an employee of the City Attorney's Office or a contracted attorney or both. The Assigned Attorney shall review all agenda items for the Commission to ensure compliance with the Ralph M. Brown Act and any other applicable laws and regulations. The Assigned Attorney shall also ensure that the items on the agenda do not exceed the subject matter jurisdiction of the Commission as set forth in this Title. In addition, the Assigned Attorney shall attend and provide legal advice at all regular and special meetings of the Commission. The Assigned Attorney shall also attend all Commission closed session meetings.

In the absence of the Assigned Attorney, the City Attorney, at their discretion, may appoint an alternate to temporarily perform the duties of the Assigned Attorney. The Assigned Attorney shall provide legal advice only and shall not provide any direction to the Commission or attempt to influence matters of policy. The Assigned Attorney shall not be an attorney directly involved in litigation matters involving the Vallejo Police Department. The Assigned Attorney shall have the following minimum qualifications:

1. A municipal attorney with a minimum of five (5) years' experience representing California cities and/or other California public agencies as either a City Attorney, Assistant City Attorney, Deputy City Attorney or equivalent role;
2. Possession of a Juris Doctor from an accredited law school;
2. Experience in police personnel and disciplinary matters and the related California law;
3. Experience in human resources;
4. Experience in police oversight.

C. The Assigned Attorney may not be a person who:

1. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;
2. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
3. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
4. is a party to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1);
5. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving disciplinary matters;

C. The Chief shall assign themselves or a Deputy Chief to serve as a Police Liaison to the Commission. The Police Liaison shall be responsible for answering questions from Members, providing information to Members and ensuring that Members have access to records and information in possession of the Vallejo Police Department as needed by the Commission to perform its duties and functions. The Police Liaison shall attend all meetings of the Commission. The Police Liaison may attend closed session meetings at the discretion of the Commission.

D. The City Council shall appoint one of its members to serve as a City Council Liaison to the Commission.

18.03.040 Commission Training

A. Within nine (9) months of appointment, each Commissioner shall attend training provided/funded by the City as follows:

1. regarding the provisions of the Vallejo City Charter and with the Vallejo Municipal Code applicable to Department members and/or operations;
2. regarding the California Political Reform Act (Cal. Gov't Code section 81000, *et seq.*), Vallejo's Conflict of Interest Code, the California Brown Act (Cal. Gov't Code section 54950, *et seq.*), and the California Public Records Act (Cal. Gov't Code section 6250, *et seq.*), and all local rules relating thereto;
3. regarding basic principles of constitutional due process and administrative hearings, as the same relate to peace officers;
4. regarding the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
5. regarding constitutional rights guaranteed to all residents as such rights are affected by law enforcement;
6. regarding the 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 (VPOA), Confidential Administrative Management Personnel (CAMP), International Brotherhood of Electrical Workers (IBEW) and other relevant City personnel policies and procedures applicable to the Vallejo Police Department and City employees;
7. regarding the California 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;
8. regarding anti-discrimination, harassment, bias, diversity, inclusion and racial equity;
9. regarding procedural justice.

B. In addition to the above, members shall:

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1. Complete Peace Officer Standards and Training (POST) or equivalent training relating to Search and Seizure and Arrest;
 2. Complete Crisis Intervention Training including review of the Department's training relating to same;
 3. Participate in a Department "ride along" and attend a police training program with curriculum designed by the Chief of Police after consultation with the Commission;
 4. Attend within 18 months of appointment, or as soon thereafter as possible, the annual conference offered by the National Association for Civilian Oversight of Law Enforcement ("NACOLE") or a similar organization focused on police oversight, if and as budgeted by the City Council.

Nothing herein shall prevent Members from receiving training outside of Commission meetings and it is specifically authorized that Members may receive training from outside consultants, from the police department, from POST, and online if the Assigned Attorney concludes that such training meets the requirements set forth in this ordinance.

C. Members shall not participate on the Commission until the training identified in A.1-9 above is completed. Members may participate in Commission matters without the training in B 1 -4. Members shall complete the required training (excepting Item B. 4. above which is optional) within nine (9) months from the date of appointment unless said time is extended by the City Council. In the event a Member fails to complete the required training during the time allotted by this Chapter, that Member shall be removed and replaced with a new appointment. Notwithstanding anything to the contrary herein, Members may attend Commission meetings before completing the required training for the purpose of receiving such training.

D. The City Manager, Police Chief and City Attorney shall timely assist the Commission in scheduling and facilitating all training required by this section so that Commissioners have the opportunity to complete the training within the nine-month period without hindrance from the City.

E. To the extent possible, Commission training sessions shall be video recorded so that Commissioners who are unable to attend a training session may make up the missed training by watching the video.

18.03.050 Commission powers, duties and functions.

The powers, duties and functions of the Community Police Oversight Accountability Commission are as follows:

- A. To review all Independent Investigative Reports and all Internal Affairs reports and all supporting evidence used by the Independent Investigator or the Internal Affairs

investigator concerning any Serious Incident and provide a recommendation concerning the findings thereof, to the Chief of Police and the City Manager. While the Commission shall not be limited in its recommendation, it shall specifically either agree or disagree with the factual findings and proposed policy violation conclusions and state the reasons therefore. The Commission may also, upon review of the Independent Investigative Report and/or the Internal Affairs report, recommend further investigation. All reviews and recommendations shall be submitted by the Commission to the Chief of Police and the City Manager within 60 days of the submission of the Independent Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police and the City Manager less than 30 days prior to the running of the time limitation set forth in Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;

- B. To request the assistance and advice of the IPA on any matter within the subject matter jurisdiction of the Commission;
- C. To review the investigatory report provided by the Chief of Police as set forth in section 18.03.060 E. (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, military/ veteran status or immigration status, (Bias Incident) by a sworn officer whether in the performance of their duties or otherwise and provide a recommendation concerning the findings and/or policy violations thereof, to the Chief of Police and the City Manager. The Commission may also, upon review of the investigative report, recommend further investigation and/or changes in policy and training. All recommendations shall be submitted by the Commission to the IPA and the Chief of Police within 60 days of the submission of the Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police less than 30 days prior to the running of the time limitation set forth In Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;
- D. To advise the Mayor, City Council, City Manager and Chief of Police on all police community relations issues;
- E. To conduct public outreach to educate the community on the purpose of the Commission;
- F. To create and maintain, with the assistance of the City's Information Technology department, a Commission webpage with information about the Commission's powers, duties and functions as well as other information related to the subject matter jurisdiction of the Commission;

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- G. To receive written complaints from the public alleging misconduct by sworn Vallejo Police Department Officers. The Commission Secretary shall immediately forward (within 2 business days of receipt) all such complaints delivered to the Commission to the Chief of Police for investigation and the Chief of Police shall confirm to the Commission that the complaint has been received and logged by the Department. All complaints involving Serious Incidents, as defined in Sections 18.02.010B shall also be forwarded by the Commission to the City Manager, Human Resources Director and City Attorney for investigation by an Independent Investigator as set forth in Chapter 8.02;
 - H. The Chief of Police, or any other City Department that receives public complaints shall immediately forward (within 2 business days) or cause to be forwarded to the Commission, any complaints from the public they have received concerning misconduct by Sworn Officers of the Police Department. For purposes of forwarding complaints to the Commission, the Chief of Police or other receiving Department may forward them to the Commission Secretary.
 - I. The Commission may request that any complaint be investigated by an Independent Investigator, whether said complaint was initially received by the Commission, by the Police Department or by another City Department. Requests for referral to an Independent investigator shall be granted for any Serious Incident or Bias Incident. The Commission may also request that the Chief of Police refer complaints relating to other matters to an Independent Investigator and may appeal to the City Manager if the Chief declines the referral to an Independent Investigator;
 - J. Recognizing that individuals may feel uncomfortable filing complaints with the Vallejo Police Department, to make complaint forms available to the public by posting complaint forms and information about the complaint process on the Commission webpage and at other public locations, as an alternative to filing complaints with the Vallejo Police Department and accepting the online filing of complaints;
 - K. To ensure that the City and the Vallejo Police Department makes information about the complaint process and appropriate forms available at other public locations and to provide recommendations to the City and the Vallejo Police Department about the complaint process;
 - L. To review and make recommendations concerning the factual findings contained in any investigation of any filed complaint to the Chief of Police and/or City Manager;
 - M. To review and/or make a recommendation to the Chief of Police or City Manager concerning whether disciplinary action should be imposed relating to any violation of policy found to exist in any investigatory report of a Serious Incident or Bias Incident or other incidents referred to the Independent Investigator;
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- N. To review and provide a recommendation to the Chief of Police in closed session concerning any draft Notice of Intended Discipline (NOID) for any Serious Incident or Bias Incident. The Chief shall consider any such recommendation before imposing any discipline within the time frame set forth in Government Code section 3304(d);
- O. To review, advise and provide recommendations regarding any new Police policy or concerning any modification or revision of any such policy and to independently propose new policies in their discretion. The Chief of Police shall submit all proposed new policies or revisions to existing policies to the Commission for review before implementation of said policies or revisions. The Commission shall provide its advice and recommendation to the Chief of Police within 45 days of the submission of any new or revised policy. If the Chief of Police receives no recommendation from the Commission concerning the proposed policy or revision within the 45-day time frame, the Chief may move forward with implementation. This requirement shall not apply to Special Orders of the Chief of Police which may be implemented without a recommendation from the Commission. Notwithstanding the foregoing sentence, the Chief of Police shall not use Special Orders to circumvent the policy-review provisions set forth herein. If a Special Order has been in existence for more than six (6) months, the Chief of Police shall seek a review and recommendation from the Commission concerning the Special Order;
- P. To request a report from the Chief of Police regarding existing police training. To review, advise and provide recommendations to the Chief of Police on any new or revised police training deemed advisable by the Commission. The Chief of Police shall provide a report to the Commission concerning the implementation or non-implementation of any recommendation by the Commission;
- Q. To review and comment upon the Vallejo Police Department's policy and/or practice of publishing data sets and reports regarding various Vallejo Police Department activities, submit comments concerning those data sets and reports to the Chief of Police and request that the Chief of Police consider said recommendations and provide a written response to the Commission;
- R. To prepare and submit an annual report (the "Commission's Report") to the Mayor and City Council, with copies to the City Manager and Chief of Police, on Commission activities. Said report shall be submitted for the previous year on or before April 15 of each calendar year. The Commission's Report shall be made available to the public. The Commission, in its discretion and after consultation with the Assigned Attorney, may also produce a confidential report addressing confidential matters and present the same to the Chief of Police. The City Council shall review and accept any such reports submitted to them by the Commission in either open session or closed session as legally appropriate;
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- S. To make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Title. To the extent legally permissible, the Commission shall discuss such recommendations in public meetings of the Commission;
 - T. To review and advise upon any of the City Council's proposed legislation or regulations related to the subject matter jurisdiction of the Commission. Before consideration or introduction of any such proposed legislation, the City Attorney or designee, shall submit such proposed legislation to the Commission for review. Once submitted, the Commission shall have sixty (60) days to submit any recommendations to the City Attorney unless such time is extended by agreement with the City Attorney. If deemed necessary by the City Council, the City Council may direct that the Commission provide recommendations in a shorter time period. The City Attorney shall include the Commission's recommendations when the legislation is presented to the City Council;
 - U. Solicit and consider input from the public concerning public interactions with the Vallejo Police Department;
 - V. To refer any matter within the Commission's subject matter jurisdiction that the Commission in its discretion determines warrants additional investigation or action to the Solano County District Attorney, the California Attorney General or to any other state or federal agency responsible for investigating and/or prosecuting wrongdoing by sworn police officers;
 - W. In accordance with the City's record retention policy, and the requirements of *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, to retain and maintain all electronic communications to, from and/or copied to any Commissioner on the Commissioner's personal email, text messages and social media concerning all matters of City business, whether or not within the subject matter jurisdiction of the Commission, and to provide such communications to the City upon request.
 - X. The Commission shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall issued, however, unless 30 days have elapsed since any such records were requested by the Commission and the have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena;
 - Y. All amounts allocated to the Commission for expenditures are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days of receipt. If the Commission does not submit its recommendation within the 45-day time period,

the City Council may adopt the budget without considering a Commission recommendation.

18.03.060 Obligations of the Chief of Police and Police Personnel

A. The Chief of Police and Vallejo Police Department personnel shall cooperate fully with the Commission and the IPA on all matters within the subject matter jurisdiction of the Commission. The Chief of Police shall provide all records requested by the Commission and the IPA related to any matter currently before the Commission and being reviewed by the Commission and/or the IPA. The Chief of Police or their designee shall appear before the Commission upon request of the Commission and give reports and/or answer questions of the Commission relating to matters within the subject matter jurisdiction of the Commission.

B. The Chief of Police may make a preliminary determination on any disciplinary matter involving a Serious Incident but, shall not impose any discipline until the Commission makes its recommendation on the Independent Investigation and the Chief considers the recommendation.

C. The Chief of Police shall report to the Commission their final determination on policy violation and any resulting disciplinary matter concerning a Serious Incident. In the event the Chief of Police does not follow the recommendation of the Commission relating to a policy violation they shall provide a justification to the Commission in closed session.

D. The Commission may report any failure of the Chief of Police, or any other City employee, to cooperate fully with the Commission to the City Manager. The City Manager, in their discretion, may impose discipline upon the Chief of Police, or other City employee reporting to the City Manager for any willful or unlawful failure to cooperate.

E. To submit the investigatory report (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, or immigration status, by a sworn officer whether in the performance of their duties or otherwise to the Commission.

F. The Chief of Police, in their discretion, may request that an Independent Investigator be assigned to investigate any other potential policy violation not referenced in this Title and provide the investigation to the Commission for a recommendation.

G. In the event the Chief of Police declines to follow any recommendation of the Commission on any matter within the subject matter jurisdiction of the Commission, the Chief of Police shall provide a written justification to the City Manager and to the City Council.

18.03.070 Reports by Chief of Police

A. The Chief of Police shall prepare and present an annual report to the Commission concerning matters of investigation of complaints, Serious Incidents, Bias Incidents, policy review and training. Said report shall be submitted to the Commission, with copies to the City

Manager and IPA no later than January 30 of each year. The Commission may use the Chief's Report in preparing its own annual report as required by section 18.03.050 of this Title.

B. The Chief of Police shall provide a confidential quarterly report to the Commission and to the City Manager on all disciplinary matters. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

C. The Chief of Police shall prepare and submit a quarterly report to the Commission and the City Manager on the outcome of all complaints. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

18.03.080 Access to Confidential Information

- A. Subject to applicable law, the Commission shall have access to all Vallejo Police Department files and records and to all files and records of other City offices, departments or agencies that are within the subject matter jurisdiction of the Commission and which are relevant to the performance of the Commission's duties. Notwithstanding the foregoing, the Commission shall not have access to documents that are protected by the Attorney Client or Attorney Work Product privilege unless authorized by the City Attorney and City Council. Further, in connection with the review of investigatory reports and disciplinary matters the Commission may have limited electronic access as set forth in B below, to records considered to be police personnel records as defined in Penal Code sections 832.8(a)(4) and 832.8(a)(5). In addition, the Commission shall not have access to the entirety of any individual personnel files of sworn employees of the Vallejo Police Department. For purposes of this section, Attorney Client and Attorney Work Product privilege shall apply to information directly related to and prepared for the purposes of litigation including, but not limited to, expert reports, the City's litigation strategy or legal opinions prepared for the City Council.
- B. Confidential documents, files and records shall be made available to Members in electronic format on a secure server and shall be password protected. Each Member shall have a unique password that identifies the accessing Member. Printing of such documents shall be disabled if technologically possible. Members shall be prohibited from printing, photographing or otherwise copying any such records. Printing, photographing or otherwise copying or dissemination of such records in any manner by any Member shall be a violation of section 18.03.090 below and shall subject the Member to the consequences and punishment set forth herein

18.03.090 Confidentiality.

A. All personnel records, investigative reports, confidential documents generated within the City of Vallejo Police Department or within the City, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential by Members of the Commission.

B. Any Member found to have willfully disclosed confidential records or information or to have failed to take affirmative steps to prevent the disclosure of confidential records or information shall be removed by the City Council as set forth in section 18.03.020J of this chapter. If, after investigation as set forth in 18.03.020J it is determined by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that a Member disclosed confidential records or information, in addition to being removed from the Commission, the Member shall be subject to an administrative fine of up to \$2,500 for violation of this section.

18.03.100 – Commission meetings and governance.

A. Initially, the Commission shall hold regular meetings on the [REDACTED] of every month beginning with the first full month after appointment of the Members. The Commission may schedule and hold any number of Special Meetings. The Commission may modify its meeting schedule by adoption of bylaws as set forth in section 18.03.110 herein. Provided there is no business for the Commission to conduct at a regular meeting (i.e., there are no items requiring Commission action or discussion on the agenda), the Commission Secretary may cancel a regular meeting as long as such cancellation occurs at least seventy-two hours before the scheduled start of the meeting. The Commission Secretary may also cancel any meeting in the event of an emergency declared by the emergency authority of the city, state or federal government. If there is a need to cancel a meeting for any other reason, the Commission Secretary may only cancel such meeting with the written consent of the Commission chair and vice chair. Any meeting cancellation must be in writing and must clearly state the reason for the cancellation. The Commission may change this cancellation policy by adopting City Council approved bylaws as set forth in section 18.03.110 herein. All meetings of the Commission shall be subject to the Ralph M. Brown Act and, to the extent possible, be video recorded and public broadcast.

B. At the first meeting of the Commission, Members shall select from among themselves a Chair and Vice Chair.

C. The Commission may not continue with any meeting unless a quorum is present. Four Members shall constitute a quorum.

D. All actions of the Commission require a majority vote of Members present.

E. The Commission shall consider all personnel and otherwise confidential matters in closed session to the extent permitted by law.

F. In the event a Member is absent at a Commission Meeting for any reason, an Alternate Member shall be entitled to vote in the Member's absence. If more than one Member is absent from a Commission Meeting, both Alternate Members shall participate in voting at the meeting and each shall have one vote. If only one Member is absent, the Secretary shall draw lots to determine which Alternate Member will participate in voting.

G. Upon initial appointment of all Members after adoption of this ordinance, Members shall meet at least twice per month for the training prescribed herein until such training is complete. Thereafter, trainings shall be held as needed to update previous training or to train new Members. These initial training meetings may be either regular or special meetings.

18.03.110 – Bylaws

The Commission may recommend the adoption of bylaws governing its operations to the City Council. Any such bylaws shall recognize the subject matter jurisdiction of the Commission as set forth in this Chapter 18.03 and shall not modify or alter said subject matter jurisdiction. Commission bylaws shall be submitted to the City Council for adoption or amendment before implementation thereof by the Commission.

18.03.120 – General rules and regulations.

The Commission shall comply with the general rules and regulations for all boards, commissions and committees as set forth in Chapter 2.26 of this code unless otherwise modified by this Chapter 18.03 or as provided by ordinance or resolution of the City Council.

Chapter 18.04 Independent Police Auditor

18.04.010 Creation of Office of Independent Police Auditor

There is hereby created the office of Independent Police Auditor (IPA). The IPA may be a full-time, part-time or contracted position at the discretion of the City Manager. The City Manager shall appoint this position after seeking advice and input from the Commission. Notwithstanding anything in this code to the contrary and notwithstanding the amount of any such contract, all contracts for an Independent Police Auditor shall be approved by the City Council. Recognizing the importance of the role of the IPA, the City Council shall, in good faith review any such contract submitted to it by the City Manager and shall not unreasonably withhold approval.

18.04.020 IPA Qualifications

The IPA shall have the following minimum experience and/or training:

A. Possession of a graduate degree in Criminal Justice, Criminology, Law, a Juris Doctorate or a closely related field from an accredited college or university. Appropriate relevant experience may substitute for the education requirement;

B. Experience in police practices, policy and training;

C. Experience and understanding of the Police Officers Bill of Rights and other applicable laws related to sworn employees;

D. Experience in human resources;

E. Other experience in the discretion of the City Manager.

Prior to appointment, the IPA shall submit to a criminal background check as a condition of appointment. The IPA may not be:

1. an individual currently employed by the City or any immediate family member of such a person as defined in section 18.03.020C(1);
2. an individual who is a Consultant, for other purposes than the IPA, retained by the City within the preceding 12 months;
3. A current or former sworn officer with the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
4. an individual currently employed as a Peace Officer by any other local, state or federal law enforcement agency or who has been employed as such within the immediately preceding seven (7) years prior to appointment or any immediate family member of such a person as defined in section 18.03.020C(1);
5. an attorney or law firm who is representing or has represented a party in any proceedings or matters adverse to the City,
6. an individual who is or was a party to any proceedings or matters adverse to the City or is an immediate family member to any such person within the last seven (7) years.
7. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving disciplinary matters;

18.04.030 Duties of the IPA

The IPA shall have the following minimum duties:

- A. The IPA shall receive timely notification of Serious Incidents to enable them to report to the scene of Serious Incidents for the purpose of first-hand observation. The IPA and the Chief of Police shall develop necessary protocols for notifying the IPA to the Serious Incident and scene access.

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- B. The IPA may be present during the interviews of witnesses and subjects during any investigation of a Serious Incident or other incidents assigned to an Independent Investigator or Internal Affairs.
 - C. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, associated with Serious Incidents and provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
 - D. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, relating to a Bias Incident and may provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
 - E. The IPA may review all investigatory reports resulting from any investigation by either an Independent Investigator or Internal Affairs as may be referred to the IPA by the Chief of Police or the Commission. The IPA may provide a report with findings and recommendations on any such investigatory report to the Commission, the City Manager, the City Council and the Chief of Police.
 - F. The IPA shall stay up to date concerning Vallejo Police Department policies and training and shall advise the Commission, the City Manager and the Chief of Police in writing when, in the opinion of the IPA, a change or modification of policy or training is needed. The IPA shall set forth in writing the policy or training that the IPA recommends be added, changed or modified and shall provide an analysis of the reasons they believe the change, modification or addition of policy or training is desirable. If a policy or training does not require a change or modification, the IPA shall so state.
 - G. The IPA shall assist the Commission in the preparation of its annual report required in section 18.03.050N.
 - H. The IPA may also prepare reports on the IPA's other activities for review by the Commission.
 - I. The IPA shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall be issued, however, unless 30-days have elapsed since any such records were requested by the IPA and the have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

SECTION TWO

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the 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 the Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the

fact than any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION THREE

This Ordinance shall be effective 30 days after passage and adoption but shall be implemented until completion of any meet and confer process with any affected bargaining unit including, but not limited to the Vallejo Police Officers Association.

First read at a regular meeting of the City Council of the City of Vallejo on December 12, 2022 and finally passed and adopted at a regular meeting thereof held on December 20, 2022 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

ROBERT MCCONNELL, MAYOR

ATTEST:

DAWN G. ABRAHAMSON, CITY CLERK

AN ORDINANCE OF THE CITY COUCNIL OF THE CITY OF VALLEJO ENACTING TITLE 18 ENTITLED
POLICE OVERSIGHT AND ACCOUNTABILITY

TITLE 18 POLICE OVERSIGHT AND ACCOUNTABILITY

Chapter 18.01 Title and Purpose

18.01.010 Title

This ordinance shall be known as the “Police Accountability Ordinance.”

18.01.020 Purpose

In adopting this ordinance, it is the intent of the City of Vallejo (“City”) to promote the health, safety and wellbeing of all residents by utilizing the best possible police practices and policies while ensuring effective, efficient, trustworthy and just law enforcement. It is also the purpose of this ordinance to improve relations between law enforcement and the community of Vallejo and to continuously foster good relations between those who enforce the laws and the diverse community whom they serve. It is the desire of the City that the public will take pride in local law enforcement and those who enforce the laws will take pride in their service to the public.

Chapter 18.02 Independent Investigations of Serious Incidents

18.02.010 Independent Investigations

A. Any Serious Incident, as that term is defined in section 18.02.010B, involving a sworn police officer(s) employed by the Vallejo Police Department, shall be investigated by an independent investigator (“Independent Investigator”). Bias Incidents, as that term is defined in section 18.03.050C, as well as other potential policy violations may be investigated by the Independent Investigator as set forth in section 18.03.050I.

B. The City Manager, City Attorney and Human Resources Director shall, by consensus, select the a contracted Independent Investigator after consulting seeking advice and input from the Community Police Oversight Accountability Commission (“Commission”) at a noticed, open regular or special meeting with the Chair of the Community Police Review Commission (“Commission”) and one other Member of the Commission designated by the Chair. Such consultation may involve the creation of In order to improve efficiency and timeliness, the City Manager may create a standing list of approved investigators. Thereafter, provided the selected investigator is on investigators may be selected from the list without seeking further advice and input from, consultation with the Commission is not required. The list shall be updated on an annual basis. The list shall be a public record that the Commission or the City Manager may make available to the public online.

C. The Any person or firm selected as an Independent Investigator shall have the following experience:

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1. Be specifically trained in workplace investigations with at least five years of experience investigating workplace matters or public employment issues involving law enforcement agencies;
 2. Have an office or place of business within 100 miles of the City and be able to timely respond to Serious Incidents or other matters being investigated;
 3. Have significant experience providing expert testimony before arbitrators or courts and able to cite to examples.

The Independent Investigator must not be a person who:

1. Is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020 CB(13);
2. has ever been a peace officer for any federal, state or local law enforcement agency during the past seven (7) year period;
3. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020 CB(13);
4. is an attorney or law firm who represents or represented any person or entity who is suing or who has in the past sued in any proceedings or matters adverse to the City;
5. is a party who is suing or has sued in any proceedings or matters adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020 CB(13) Immediate family member.
- 5.6. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving a disciplinary matter;

DB. A Serious Incident shall be defined as any incident involving sworn members of the Vallejo Police Department as set forth in Penal Code section 832.7(b) as that section now exists or as amended in the future, including, but not limited to:

1. an incident involving the discharge of a firearm at a person by a sworn officer(s);
 2. an incident in which the use of force by a sworn officer(s) against a person result in death or great bodily injury. Great bodily injury shall have the meaning set forth in Penal Code section 12022.7(f) and shall include, but shall not be limited to, any physical injury requiring medical treatment in a hospital. For purposes of this section hospitalization shall not include merely for routine medical clearance;
 3. an incident involving an allegation of sexual assault, by a sworn officer(s) against a person. "Sexual assault" shall have the meaning set forth in Penal Code Section 832.7(b)(1)(B)(ii) and "member of the public" shall have the meaning set forth in Penal Code section 832.7(b)(1)(B)(iii);
 4. An incident involving an allegation of dishonesty of a sworn officer(s) relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or
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investigation of misconduct by, another sworn officer(s), including, but not limited to, perjury, false statements, filing false reports, destruction of evidence, falsifying evidence, or concealing of evidence. All allegations of dishonesty, whether under oath or not, are included in this section.

C. The Independent Investigator shall conduct their investigation in parallel with any Internal Affairs investigation. All interviews conducted in any administrative investigation of Serious Incidents shall require the attendance of the Independent Investigator except that the initial interview conducted immediately after the occurrence of the Serious Incident may be conducted without the participation of the Independent Investigator if that person is unavailable.

1. All interviews of any subject or witness conducted by either the Independent Investigator or Internal Affairs shall be video and audio recorded. All such recordings shall be maintained by the City for a period of seven (7) years and may not be destroyed or disposed of before the expiration of that time period.;

2. All audio and video recordings of any interview of any subject or witness shall be made available to the Independent Investigator within five days from the date of any request for the recordings;

3. The Independent Investigator may conduct their own independent interviews of subjects and witnesses.

D. The Independent Investigator may conduct investigations of matters and incidents, other than Serious Incidents as set forth in sections 18.03.050I, 18.03.060F or as otherwise set forth in this Title.

E. Every City employee identified as a subject and every City employee identified as a witness in any investigation required by this chapter, shall cooperate to the fullest extent with the Independent Investigator. Failure to participate in interviews, provide documents, to be truthful and to otherwise cooperate shall be a violation of this section and shall subject any non-cooperating subject or witness to discipline, including potential termination, at the discretion of either the Chief of Police, if the employee works for the police department or City Manager, if the employee works for any other City department.

F. The Vallejo Police Department and every City department shall cooperate with the Independent Investigator in providing all evidence determined relevant by the Independent Investigator including, but not limited to, recorded interviews, body-worn camera footage, car camera footage, written statements, investigative reports and all other files, documents and records requested by the Independent Investigator. No member of the Vallejo Police Department, City employee, or elected or appointed official shall interfere with the Independent Investigator or the conclusions of the Independent Investigative Report. Notwithstanding anything herein to the contrary, the Independent Investigator is not entitled to any documents protected by the Attorney Client privilege or the Attorney Work Product privilege unless such privilege is waived. Further, the Independent Investigator has no authority to interview any City elected official or City employee concerning any matters

discussed in a closed session City Council meeting or a Closed session Commission meeting. The Independent Investigator may not access documents or other potential evidence produced solely for use in a closed session meeting. A closed session meeting is any meeting lawfully allowed to be held by a legislative body as set forth in Government Code section 54954.5.

G. In conducting any investigation, the Independent Investigator shall reasonably “follow the evidence” and shall not be bound by any scope of work in any contract with the City when it comes to reasonably identifying and investigating the misconduct of an officer as set forth in this Title.

H. The Independent Investigator shall have subpoena authority for records and other relevant material related to any independent investigation. No such subpoena shall issue, however, unless 30-days have elapsed since the Independent Investigator requested such records and they have not been provided. -Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

18.02.020 Investigative Report

A. The Independent Investigator shall prepare a written Investigative Report for each Serious Incident (“Independent Investigative Report”) or any complaint referred in accordance with the provisions of this Title. The Independent Investigative Report shall set forth findings of fact and a determination as to whether or not any ~~which~~ Vallejo Police Department policies or City policies (the “Policy” or “Policies”) were potentially violated including any potential violations committed during the investigation (e.g., dishonesty during any investigative interview). The Independent Investigator shall make their findings based upon a preponderance of the evidence. The term “preponderance of the evidence” shall have the same meaning as found in the most recent version of CALJIC 2.50.2 or any successor section defining “preponderance of the evidence.”

B. Upon conclusion of the investigation, the Independent Investigator shall submit a signed copy of the Investigative Report to the Commission, Independent Police Auditor (“IPA”), Chief of Police, the City Manager, the City Attorney and the Human Resources Director.

C. Nothing herein is intended to imply that any person employed by the City, including the Chief of Police, the City Manager, the City Attorney or the Human Resources Director directs or supervises the Independent Investigator.

D. The Independent Investigator shall conclude the investigation as promptly as possible. In no event shall the Independent Investigator conclude the investigation any later than 90 days prior to the running of the time limitation set forth in Government Code section 3304(d).

E. Nothing herein shall supersede or impede a sworn officer’s rights under the Peace Officer’s Bill of Rights or under any current Memorandum of Understanding with the Vallejo Peace Officers Association or any other rights set forth in law.

F. No City employee shall influence or attempt to influence the outcome of any independent investigation or the contents of any investigatory report prepared by the Independent Investigator. If, after investigation, it is discovered that a City employee engaged in such behavior, that employee shall be subject to discipline up to and including termination, at-in the discretion of the City Manager (if the employee is under the City Manager) or City Attorney (if the employee is under the City Attorney).

Chapter 18.03 ~~Community Police Review Commission~~Community Police Oversight Accountability Commission.

18.03.010 Creation of Community Police ~~Review-Oversight Accountability~~ Commission

Pursuant to the provisions of the Charter of the City of Vallejo, there is hereby created a Community Police ~~Review-Oversight Accountability~~ Commission. The ~~Community Police Review Commission~~Community Police Oversight Accountability Commission is an advisory board as described in section 403 of the Charter.

18.03.020 Membership and Terms of ~~Community Police Review Commission~~Community Police Oversight Accountability Commission.

A. The ~~Community Police Review Commission~~Community Police Oversight Accountability Commission shall consist of seven (7) Members and two (2) Alternate Members appointed by the Mayor and City Council. Each Council Member shall appoint a Member who is living within that Council Member's District. The Mayor shall appoint one Member from any District in the City. Council Member and Mayor appointments shall be subject to the ratification of a majority of the City Council. In the event majority approval is not obtained, the appointing Council Member or Mayor shall select a different individual to serve as a Member of the Commission, ~~which-and the~~ process shall continue until a majority vote is obtained. In addition to the aforementioned Members, the Mayor and City Council shall collectively appoint one youth member between the ages of 18-25 and one community member as Alternate Members. Alternate Members must meet all the qualifications and training requirements set forth herein and are subject to the same laws, rules and regulations as Members unless specifically modified by this Title. Alternate Members shall participate in Commission meetings but shall not vote unless there is an absence on the Commission as set forth in section 18.03.100 below.

B. The City Council may not appoint any Member who:

1. is not a qualified elector in the City;
2. is a current employee of the City or any immediate family member of such a person as defined in section 18.03.020~~CB(13)~~;
3. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such ~~within the last seven (7) years prior to appointment~~ or who is an immediate family member of any such

person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;

4. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020CB(13);
5. is an attorney or law firm who represents or represented any person or entity ~~who is suing or who has in the past sued~~ in any proceedings or matters adverse to the City;
6. is a party ~~who is suing or has sued~~ to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020CB(13);

7. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving a disciplinary matter;

7. has been convicted, in the immediately preceding ~~fifteen~~ seven (~~15~~) years, of ~~any felony or of~~ any of the following crimes, whether a misdemeanor or a felony:

- i. Crimes involving dishonesty;
- ii. Crimes involving public corruption;
- iii. Crimes involving physical harm of any kind to another human being;
- iv. Threats of violence or physical harm to another human being;
- v. Illegal possession of a firearm;
- vi. Illegal disclosure of confidential information;
- vii. Crimes involving robbery;

8. has ever been convicted of any of the following crimes:

~~vii.~~ viii. Any crime requiring registration as a sex offender pursuant to any state or federal law;

ix. Any crime involving the abuse of a child;

~~viii.~~ x. Any felony involving physical harm to a law enforcement officer.;

C. The City Council shall use its best efforts to appoint Members reflecting the race, color, religious, sex/gender, gender identity, sexual orientation, marital status, medical condition, veteran/military status, national origin, ancestry, disability, genetic information and age diversity of the City of Vallejo. In soliciting applications from the public for Commission membership, the City shall target application solicitations to community groups specifically representing the diversity of the City.

D. Each Member shall serve as a volunteer without pay.

E. Applications for membership on the Commission shall be through the process defined in section 2.02.350 of this code and any applicable state law for publicizing openings for appointments to boards and commissions. All applications shall be submitted to the City Clerk who will distribute them to the Mayor and all members of the City Council. The Council District in which the applicant lives shall be shown clearly on the front of each application. The City Council shall conduct interviews of eligible applicants at a public meeting that has been noticed at least 72-hours in advance.

F. The term for each Member shall be as set forth in section 2.26.030 of this code including the staggering provisions in 2.26.030B. Alternate members shall not be subject to the staggering requirement set forth in section 2.26.030. Individual Council Members, the Mayor and the City Council as a whole may be referred to herein, either collectively or individually, as the "Appointing Authority."

G. A Member may hold office for no more than eight consecutive years. Former Members may be reappointed after a break in service of at least two years.

H. Alternate Members may serve only one, four-year term and shall not be reappointed as an Alternate Member. An Alternate Member may be appointed as a regular Member after any length of service as an Alternate Member. Service as an Alternate Member shall not count toward the eight concurrent year limitation for service as a Member.

I. Notwithstanding anything to the contrary herein, each Member and Alternate Member shall continue to serve until their replacement is appointed.

J. Unless modified by this ordinance, Members may be removed as set forth in Chapter 2.26. In addition, a Member shall be removed if any Member is convicted of any felony or any crime as set forth in section 18.03.020B(5).

K. A Member shall be removed by the City Council if that Member discloses confidential information regarding any police officer, any police investigation, any information received by Members in closed session, any information that is protected by the attorney/client privilege or any other City information provided to the Member in confidence and that is prohibited from disclosure by state or federal law or the disclosure of which would subject the City to liability. If a Member is suspected of disclosing any such confidential information, the City Manager at the request of the City Council or upon the City Manager's own recommendation, may initiate an investigation. If the investigator finds by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that the Member willfully disclosed such confidential information or fails to take affirmative action to protect such information from disclosure, then the City Council shall remove the Member and a new Member shall be appointed by the City Council using the process set forth herein.

L. In the event of a vacancy caused by resignation and/or disability or death, the Appointing Authority may appoint a replacement to fill out the remaining period of the term pursuant to Chapter 2.26 of this code.

M. At the City's sole cost and expense, All-all Members shall be subjected to a live scan fingerprint check, to include a check of FBI and California Department of Justice criminal

databases before beginning service on the Commission and at each appointment or reappointment thereafter or at the discretion of a majority of the City Council. A Member's appointment shall be revoked if the background check reveals that the Member has been convicted of a felony, within the past seven (7) years, or other of any of the crimes listed in section 18.03.020B(75). The Member shall also be removed if convicted of any of the crimes set forth in section 18.03.020B(8).

18.03.030 – Commission staff.

A. The City Manager shall appoint a member of City staff to support the Commission ("Commission Secretary") after seeking advice and input from the Commission at a noticed, regular or special meeting. Said meeting shall be held in either open or closed session as legally required when discussing personnel matters. The Commission Secretary shall, prepare the Commission's agendas, prepare staff reports and supporting materials, ~~to~~ serve as the secretary of the Commission, ~~to~~ keep the Commission's minutes and ~~to~~ be the Commission's custodian of records. In preparing agendas for the Commission, the Chair and vice-chair shall convene to set the Agenda and shall consult with the Commission Secretary as well as the ~~City Attorney or their designee~~ Assigned Attorney, as that term is defined below, for advice concerning the legality of the Agenda. The Commission Secretary may not be an employee, either civilian or sworn, of the Vallejo Police Department. The Commission Secretary shall provide administrative support only and shall not provide any direction to the Commission or attempt to influence matters of policy.

B. The City Attorney, ~~with input from the Commission chair or their designee~~, shall assign a qualified attorney to provide legal advice to the Commission on matters concerning the Commission ("Assigned Attorney") after seeking advice and input from the Commission at a noticed regular or special meeting. The Assigned Attorney may be either an employee of the City Attorney's Office or a contracted attorney or both. The Assigned Attorney shall review all agenda items for the Commission to ensure compliance with the Ralph M. Brown Act and any other applicable laws and regulations. The Assigned Attorney shall also ensure that the items on the agenda do not exceed the subject matter jurisdiction of the Commission as set forth in this Title. In addition, the Assigned Attorney shall attend and provide legal advice at all regular and special meetings of the Commission. The Assigned Attorney shall also attend all Commission closed session meetings. In the absence of the Assigned Attorney, the City Attorney, at their discretion, may appoint an alternate to temporarily perform the duties of the Assigned Attorney. The Assigned Attorney shall provide legal advice only and shall not provide any direction to the Commission or attempt to influence matters of policy. The Assigned Attorney shall not be an attorney directly involved in litigation matters involving the Vallejo Police Department. The Assigned Attorney shall have the following minimum qualifications:

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1. A municipal attorney with a minimum of five (5) years' experience representing California cities and/or other California public agencies as either a City Attorney, Assistant City Attorney, Deputy City Attorney or equivalent role;
 2. Possession of a Juris Doctor from an accredited law school;
 2. Experience in police personnel and disciplinary matters and the related California law;
 3. Experience in human resources;
 4. Experience in police oversight.

C. The Assigned Attorney may not be a person who:

1. is currently employed as a peace officer by any local, state or federal law enforcement agency or who has been employed as such or who is an immediate family member of any such person. For purposes of this Title, an immediate family member is a current spouse, a child, a parent or a sibling;
2. is a current or former employee of the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020C(1);
3. is an attorney or law firm who represents or represented any person or entity in any proceedings or matters adverse to the City;
4. is a party to any proceeding or matter adverse to the City within the last seven (7) years or any immediate family member of such a person as defined in section 18.03.020C(1);
5. Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commisison or equivalent body involving disciplinary matters;

C. The Chief shall assign themselves or a Deputy Chief to serve as a Police Liaison to the Commission. The Police Liaison shall be responsible for answering questions from Members, providing information to Members and ensuring that Members have access to records and information in possession of the Vallejo Police Department as needed by the Commission to perform its duties and functions. The Police Liaison shall attend all meetings of the Commission. The Police Liaison may attend closed session meetings at the discretion of the Commission.

D. The City Council shall appoint one of its members to serve as a City Council Liaison to the Commission.

18.03.040 Commission Training

A. Within nine (9) months of appointment, each Commissioner shall attend training provided/funded by the City as follows:

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1. regarding the provisions of the Vallejo City Charter and with the Vallejo Municipal Code applicable to Department members and/or operations;
 2. regarding the California Political Reform Act (Cal. Gov't Code section 81000, *et seq.*), Vallejo's Conflict of Interest Code, the California Brown Act (Cal. Gov't Code section 54950, *et seq.*), and the California Public Records Act (Cal. Gov't Code section 6250, *et seq.*), and all local rules relating thereto;
 3. regarding basic principles of constitutional due process and administrative hearings, as the same relate to peace officers;
 4. regarding the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information;
 5. regarding constitutional rights guaranteed to all residents as such rights are affected by law enforcement;
 6. regarding the 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 (VPOA), Confidential Administrative Management Personnel (CAMP), International Brotherhood of Electrical Workers (IBEW) and other relevant City personnel policies and procedures applicable to the Vallejo Police Department and City employees;
 7. regarding the California 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;
 8. regarding anti-discrimination, harassment, bias, diversity, inclusion and racial equity;
 9. regarding procedural justice.

B. In addition to the above, members shall:

1. Complete Peace Officer Standards and Training (POST) or equivalent training relating to Search and Seizure and Arrest;
2. Complete Crisis Intervention Training including review of the Department's training relating to same;

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3. Participate in a Department “ride along” and attend a police training program with curriculum designed by the Chief of Police after consultation with the Commission;
 4. Attend within 18 months of appointment, or as soon thereafter as possible, at least once per Commissioner term the annual conference offered by the National Association for Civilian Oversight of Law Enforcement (“NACOLE”) or a similar organization focused on police oversight, if and as budgeted by the City Council.

Nothing herein shall prevent Members from receiving training outside of Commission meetings and it is specifically authorized that Members may receive training from outside consultants, from the police department, from POST, and online if the Assigned Attorney concludes that such training meets the requirements set forth in this ordinance.

C. Members shall not participate on the Commission until the training identified in A.1-9 above is completed. Members may participate in Commission matters without the training in B 1 -4. Members shall complete the required training (excepting Item B. 4. above which is optional) within nine (9) months from the date of appointment unless said time is extended by the City Council. In the event a Member fails to complete the required training during the time allotted by this Chapter, that Member shall be removed and replaced with a new appointment. Notwithstanding anything to the contrary herein, Members may attend Commission meetings before completing the required training for the purpose of receiving such training.

D. The City Manager, Police Chief and City Attorney shall timely assist the Commission in scheduling and facilitating all training required by this section so that Commissioners have the opportunity to complete the training within the nine-month period without hindrance from the City.

E. To the extent possible, Commission training sessions shall be video recorded so that Commissioners who are unable to attend a training session may make up the missed training by watching the video.

18.03.050 Commission powers, duties and functions.

The powers, duties and functions of the ~~Community Police Review Commission~~Community Police Oversight Accountability Commission are as follows:

- A. To review all Independent Investigative Reports and all Internal Affairs reports and all supporting evidence used by the Independent Investigator or the Internal Affairs investigator concerning any Serious Incident and provide a recommendation concerning the findings thereof, to the Chief of Police and the City Manager. While the Commission shall not be limited in its recommendation, it shall specifically ~~The recommendation of the Commission shall be~~ either to agree or disagree with the factual findings and proposed policy violation conclusions and state the reasons

therefore. The Commission may also, upon review of the Independent Investigative Report and/or the Internal Affairs report, recommend further investigation. All reviews and recommendations shall be submitted by the Commission to the Chief of Police and the City Manager within 60 days of the submission of the Independent Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police and the City Manager less than 30 days prior to the running of the time limitation set forth in Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;

- B. To request the assistance and advice of the IPA on any matter within the subject matter jurisdiction of the Commission;
- C. To review the investigatory report provided by the Chief of Police as set forth in section 18.03.060 E. (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, military/ veteran status or immigration status, (Bias Incident) by a sworn officer whether in the performance of their duties or otherwise and provide a recommendation concerning the findings and/or policy violations thereof, to the Chief of Police and the City Manager. ~~The recommendation of the Commission shall be either to agree or disagree with the factual findings and proposed policy violation conclusions.~~ The Commission may also, upon review of the investigative report, recommend further investigation and/or changes in policy and training. All recommendations shall be submitted by the Commission to the IPA and the Chief of Police within 60 days of the submission of the Investigative Report to the Commission. In no event shall the recommendation be submitted to the Chief of Police less than 30 days prior to the running of the time limitation set forth In Government Code section 3304(d). In the event it is not received within the aforementioned time period, the Commission shall be deemed to have declined review;
- D. To advise the Mayor, City Council, City Manager and Chief of Police on all police community relations issues;
- E. To conduct public outreach to educate the community on the purpose of the Commission;
- F. To create and maintain, with the assistance of the City's Information Technology department, a Commission webpage with information about the Commission's powers, duties and functions as well as other information related to the subject matter jurisdiction of the Commission;
- G. To receive written complaints from the public alleging misconduct by sworn Vallejo Police Department Officers. The Commission Secretary shall immediately

forward (within 2 business days of receipt) all such complaints delivered to the Commission to the Chief of Police for investigation and the Chief of Police shall confirm to the Commission that the complaint has been received and logged by the Department. All complaints involving Serious Incidents, as defined in Sections 18.02.010B shall also be forwarded by the Commission to the City Manager, Human Resources Director and City Attorney for investigation by an Independent Investigator as set forth in Chapter 8.02;

- H. The Chief of Police, or any other City Department that receives public complaints shall immediately forward (within 2 business days) or cause to be forwarded to the Commission, any complaints from the public they have received concerning misconduct by Sworn Officers of the Police Department. For purposes of forwarding complaints to the Commission, the Chief of Police or other receiving Department may forward them to the Commission Secretary.
- I. The Commission may request that any complaint be investigated by an Independent Investigator, whether said complaint was initially received by the Commission, by the Police Department or by another City Department. Requests for referral to an Independent investigator shall be granted for any Serious Incident or Bias Incident. The Commission may also request that the Chief of Police refer complaints relating to other matters to an Independent Investigator and may appeal to the City Manager if the Chief declines the referral to an Independent Investigator;
- J. Recognizing that individuals may feel uncomfortable filing complaints with the Vallejo Police Department, to make complaint forms available to the public by posting complaint forms and information about the complaint process on the Commission webpage and at other public locations, as an alternative to filing complaints with the Vallejo Police Department and, accepting the online filing of complaints;
- K. To ensure that the City and the Vallejo Police Department makes information about the complaint process and appropriate forms available at other public locations and to provide recommendations to the City and the Vallejo Police Department about the complaint process;
- L. To review and make recommendations concerning the factual findings contained in any investigation of any filed complaint to the Chief of Police and/or City Manager;
- M. To review and/or make a recommendation to the Chief of Police or City Manager concerning whether disciplinary action should be imposed relating to any violation of policy found to exist in any investigatory report of a Serious Incident or Bias Incident or other incidents referred to the Independent Investigator;
- N. To review and provide a recommendation to the Chief of Police in closed session concerning any draft Notice of Intended Discipline (NOID) for any Serious

Incident or Bias Incident. The Chief shall consider any such recommendation before imposing any discipline within the time frame set forth in Government Code section 3304(d);

- O. To review, advise and provide recommendations regarding any new Police policy or concerning any modification or revision of any such policy and to independently propose new policies in their discretion. The Chief of Police shall submit all proposed new policies or revisions to existing policies to the Commission for review before implementation of said policies or revisions. The Commission shall provide its advice and recommendation to the Chief of Police within 45 days of the submission of any new or revised policy. If the Chief of Police receives no recommendation from the Commission concerning the proposed policy or revision within the 45-day time frame, the Chief may move forward with implementation. This requirement shall not apply to Special Orders of the Chief of Police which may be implemented without a recommendation from the Commission. Notwithstanding the foregoing sentence, the Chief of Police shall not use Special Orders to circumvent the policy-review provisions set forth herein. If a Special Order has been in existence for more than ~~nine~~-six (6) months, the Chief of Police shall seek a review and recommendation from the Commission concerning the Special Order;
- P. To request a report from the Chief of Police regarding existing police training. To review, advise and provide recommendations to the Chief of Police on any new or revised police training deemed advisable by the Commission. The Chief of Police shall provide a report to the Commission concerning the implementation or non-implementation of any recommendation by the Commission;
- Q. To review and comment upon the Vallejo Police Department's policy and/or practice of publishing data sets and reports regarding various Vallejo Police Department activities, submit comments concerning those data sets and reports to the Chief of Police and request that the Chief of Police consider said recommendations and provide a written response to the Commission;
- R. To prepare and submit an annual report (the "Commission's Report") to the Mayor and City Council, with copies to the City Manager and Chief of Police, on Commission activities. Said report shall be submitted for the previous year on or before April 15 of each calendar year. The Commission's Report shall be made available to the public. The Commission, in its discretion and after consultation with the Assigned Attorney, may also produce a confidential report addressing confidential matters and present the same to the Chief of Police. The City Council shall review and accept any such reports submitted to them by the Commission in either open session or closed session as legally appropriate;
- S. To make recommendations to the City Council for enacting legislation or regulations that will further the goals and purposes of this Title. To the extent

legally permissible, the Commission shall discuss such recommendations in public meetings of the Commission;

- T. To review and advise upon any of the City Council's proposed legislation or regulations related to the subject matter jurisdiction of the Commission. Before consideration or introduction of any such proposed legislation, the City Attorney or designee, shall submit such proposed legislation to the Commission for review. Once submitted, the Commission shall have sixty (60) days to submit any recommendations to the City Attorney unless such time is extended by agreement with the City Attorney. If deemed necessary by the City Council, the City Council may direct that the Commission provide recommendations in a shorter time period. The City Attorney shall include the Commission's recommendations when the legislation is presented to the City Council;
- U. Solicit and consider input from the public concerning public interactions with the Vallejo Police Department;
- V. To refer any matter within the Commission's subject matter jurisdiction that the Commission in its discretion determines warrants additional investigation or action to the Solano County District Attorney, the California Attorney General or to any other state or federal agency responsible for investigating and/or prosecuting wrongdoing by sworn police officers;
- W. In accordance with the City's record retention policy, and the requirements of *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, to retain and maintain all electronic communications to, from and/or copied to any Commissioner on the Commissioner's personal email, text messages and social media concerning all matters of City business, whether or not within the subject matter jurisdiction of the Commission, and to provide such communications to the City upon request;

X. — The Commission shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall issued, however, unless 30 days have elapsed since any such records were requested by the Commission and the have not been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

To request that the City Council issue a subpoena for records and other relevant material related to the subject matter jurisdiction of the Commission in the event that records are not provided upon request of the Commission;

Y. All amounts allocated to the Commission for expenditures are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days of

~~receipt. If the Commission does not submit its recommendation within the 45-day time period, the City Council may adopt the budget without considering a Commission recommendation. To review the Commission's annual budget prepared by the City and make recommendations to the City Council concerning subsequent budgets. All amounts allocated to the Commission for expenditure by the Commission are at the discretion of the City Council. Before any submission of the Commission's annual budget to the City Council, the City's Finance Director shall submit the proposed budget for the Commission to the Commission for review. The Commission shall submit any recommendations to the Finance Director and to the City Council within 45 days after submission to the Commission.~~

18.03.060 Obligations of the Chief of Police and Police Personnel

- A. The Chief of Police and Vallejo Police Department personnel shall cooperate fully with the Commission and the IPA on all matters within the subject matter jurisdiction of the Commission. The Chief of Police shall provide all records requested by the Commission and the IPA related to any matter currently before the Commission and being reviewed by the Commission and/or the IPA. The Chief of Police or their designee shall appear before the Commission upon request of the Commission and give reports and/or answer questions of the Commission relating to matters within the subject matter jurisdiction of the Commission.
- B. The Chief of Police may make a preliminary determination on any disciplinary matter involving a Serious Incident but, shall not impose any discipline until the Commission makes its recommendation on the Independent Investigation and the Chief considers the recommendation.
- C. The Chief of Police shall report to the Commission their final determination on policy violation and any resulting disciplinary matter concerning a Serious Incident. In the event the Chief of Police does not follow the recommendation of the Commission relating to a policy violation they shall provide a justification to the Commission in closed session.
- D. The Commission may report any failure of the Chief of Police, or any other City employee, to cooperate fully with the Commission to the City Manager. The City Manager, in their discretion, may impose discipline upon the Chief of Police, or other City employee reporting to the City Manager for any willful or unlawful failure to cooperate.
- E. To submit the investigatory report (whether prepared by the Independent Investigator or the Internal Affairs Division) relating to all complaints involving bias, discrimination, any threat or intimidation or coercion (or any attempt thereof), relating to sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, gender identity, citizenship, primary language, or immigration status, by a sworn officer whether in the performance of their duties or otherwise to the Commission.
- F. The Chief of Police, in their discretion, may request that an Independent Investigator be assigned to investigate any other potential policy violation not referenced in this Title and provide the investigation to the Commission for a recommendation.

G. In the event the Chief of Police declines to follow any recommendation of the Commission on any matter within the subject matter jurisdiction of the Commission, the Chief of Police shall provide a written justification to the City Manager and to the City Council.

18.03.070 Reports by Chief of Police

A. The Chief of Police shall prepare and present an annual report to the Commission concerning matters of investigation of complaints, Serious Incidents, Bias Incidents, policy review and training. Said report shall be submitted to the Commission, with copies to the City Manager and IPA no later than January 30 of each year. The Commission may use the Chief's Report in preparing its own annual report as required by section 18.03.050 of this Title.

B. The Chief of Police shall provide a confidential quarterly report to the Commission and to the City Manager on all disciplinary matters. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

C. The Chief of Police shall prepare and submit a quarterly report to the Commission and the City Manager on the outcome of all complaints. The Commission shall review and discuss all such reports in either open session or closed session as legally applicable, and, in their sole discretion, make recommendations to the Chief of Police and the City Manager concerning the matters set forth in such reports.

18.03.080 Access to Confidential Information

- A. Subject to applicable law, the Commission shall have access to all Vallejo Police Department files and records and to all files and records of other City offices, departments or agencies that are within the subject matter jurisdiction of the Commission and which are relevant to the performance of the Commission's duties. Notwithstanding the foregoing, the Commission shall not have access to documents that are protected by the Attorney Client or Attorney Work Product privilege unless authorized by the City Attorney and City Council. Further, in connection with the review of investigatory reports and disciplinary matters the Commission may have limited electronic access as set forth in B below, to records considered to be police personnel records as defined in Penal Code sections 832.8(a)(4) and 832.8(a)(5). In addition, the Commission shall not have access to the entirety of any individual personnel files of sworn employees of the Vallejo Police Department. For purposes of this section, Attorney Client and Attorney Work Product privilege shall apply to information directly related to and prepared for the purposes of litigation including, but not limited to, expert reports, the City's litigation strategy or legal opinions prepared for the City Council.
- B. Confidential documents, files and records shall be made available to Members in electronic format on a secure server and shall be password protected. Each Member shall have a unique password that identifies the accessing Member.

Printing of such documents shall be disabled if technologically possible. Members shall be prohibited from printing, photographing or otherwise copying any such records. Printing, photographing or otherwise copying or dissemination of such records in any manner by any Member shall be a violation of section 18.03.090 below and shall subject the Member to the consequences and punishment set forth herein

18.03.090 Confidentiality.

A. All personnel records, investigative reports, confidential documents generated within the City of Vallejo Police Department or within the City, information relating to closed session deliberations of the Commission, and any other privileged matters, shall be kept confidential by Members of the Commission.

B. Any Member found to have willfully disclosed confidential records or information or to have failed to take affirmative steps to prevent the disclosure of confidential records or information shall be removed by the City Council as set forth in section 18.03.020J of this chapter. If, after investigation as set forth in 18.03.020J it is determined by a preponderance of the evidence, as that term is defined in CALJIC 2.50.2, that a Member disclosed confidential records or information, in addition to being removed from the Commission, the Member shall be subject to an administrative fine of up to \$2,500 for violation of this section.

18.03.100 – Commission meetings and governance.

A. Initially, the Commission shall hold regular meetings on the of every month beginning with the first full month after appointment of the Members. The Commission may ~~have schedule and hold~~ any number of Special Meetings ~~as the Commission may schedule.~~ The Commission may modify its meeting schedule by adoption of bylaws as set forth in section 18.03.110 herein. Provided there is no business for the Commission to conduct at a regular meeting (i.e., there are no items requiring Commission action or discussion on the agenda), the Commission Secretary may cancel a regular meeting as long as such cancellation occurs at least seventy-two hours before the scheduled start of the meeting. The Commission Secretary may also cancel any meeting in the event of an emergency declared by the emergency authority of the city, state or federal government. If there is a need to cancel a meeting for any other reason, the Commission Secretary may only cancel such meeting with the written consent of the Commission chair and vice chair. Any meeting cancellation must be in writing and must clearly state the reason for the cancellation. The Commission may change this cancellation policy by adopting City Council approved bylaws as set forth in section 18.03.110 herein. All meetings of the Commission shall be subject to the Ralph M. Brown Act and, to the extent possible, be video recorded and public broadcast.

B. At the first meeting of the Commission, Members shall select from among themselves a Chair and Vice Chair.

C. The Commission may not continue with any meeting unless a quorum is present. Four Members shall constitute a quorum.

D. All actions of the Commission require a majority vote of Members present.

E. The Commission shall consider all personnel and otherwise confidential matters in closed session to the extent permitted by law.

F. In the event a Member is absent at a Commission Meeting for any reason, an Alternate Member shall be entitled to vote in the Member's absence. If more than one Member is absent from a Commission Meeting, both Alternate Members shall participate in voting at the meeting and ~~shall~~ each shall have one vote. If only one Member is absent, the Secretary shall draw lots to determine which Alternate Member will participate in voting.

G. Upon initial appointment of all Members after adoption of this ordinance, Members shall meet at least twice per month for the training prescribed herein until such training is complete. Thereafter, trainings shall be held as needed to update previous training or to train new Members. These initial training meetings may be either regular or special meetings.

18.03.110 – Bylaws

The Commission may recommend the adoption of bylaws governing its operations to the City Council. Any such bylaws shall recognize the subject matter jurisdiction of the Commission as set forth in this Chapter 18.03 and shall not modify or alter said subject matter jurisdiction. Commission bylaws shall be submitted to the City Council for adoption or amendment before implementation thereof by the Commission.

18.03.120 – General rules and regulations.

The Commission shall comply with the general rules and regulations for all boards, commissions and committees as set forth in Chapter 2.26 of this code unless otherwise modified by this Chapter 18.03 or as provided by ordinance or resolution of the City Council.

Chapter 18.04 Independent Police Auditor

18.04.010 Creation of Office of Independent Police Auditor

There is hereby created the office of Independent Police Auditor (IPA). The IPA may be a full-time, part-time or contracted position at the discretion of the City Manager. The City Manager shall appoint this position after ~~consultation seeking advice and input from~~ with the Commission, Chair or their designee. Notwithstanding anything in this code to the contrary and notwithstanding the amount of any such contract, all contracts for an Independent Police Auditor shall be approved by the City Council; however, the City Council will not deny any

~~contracts without good cause.~~ Recognizing the importance of the role of the IPA, the City Council shall, in good faith review any such contract submitted to it by the City Manager and shall not unreasonably withhold approval.

18.04.020 IPA Qualifications

The IPA shall have the following minimum experience and/or training:

- A. Possession of a graduate degree in Criminal Justice, Criminology, Law, a Juris Doctorate or a closely related field from an accredited college or university. Appropriate relevant experience may substitute for the education requirement;
- B. Experience in police practices, policy and training;
- C. Experience and understanding of the Police Officers Bill of Rights and other applicable laws related to sworn employees;
- D. Experience in human resources;
- E. Other experience in the discretion of the City Manager.

Prior to appointment, the IPA shall submit to a criminal background check as a condition of appointment. The IPA may not be:

1. an individual currently employed by the City or any immediate family member of such a person as defined in section 18.03.020 CB(13);
2. an individual who is a Consultant, for other purposes than the IPA, retained by the City within the preceding 12 months;
3. A current or former sworn officer with the Vallejo Police Department or any immediate family member of such a person as defined in section 18.03.020 CB(13);
4. an individual currently employed as a Peace Officer by any other local, state or federal law enforcement agency or who has been employed as such within the immediately preceding seven (7) years prior to appointment or any immediate family member of such a person as defined in section 18.03.020 CB(13);
5. ~~an individual who is currently, or has ever been an attorney~~ or law firm who is suing representing or has represented a party in any proceedings or matters adverse to the City related to any matter involving the City,
6. an individual who is or was a party to any proceedings or matters adverse to the City or is an immediate family member to any party to such action such person within the last seven (7) years.

6-7. _____ Is an attorney or law firm who represents or has represented peace officers at arbitration or before a Civil Service Commission or equivalent body involving disciplinary matters;

18.04.030 Duties of the IPA

The IPA shall have the following minimum duties:

- A. The IPA shall receive timely notification of Serious Incidents to enable them to report to the scene of Serious Incidents for the purpose of first-hand observation. The IPA and the Chief of Police shall develop necessary protocols for notifying the IPA to the Serious Incident and scene access.
- B. The IPA may be present during the interviews of witnesses and subjects during any investigation of a Serious Incident or other incidents assigned to an Independent Investigator or Internal Affairs.
- C. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, associated with Serious Incidents and provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
- D. The IPA shall review all final Investigatory Reports, whether by an Independent Investigator or Internal Affairs, relating to a Bias Incident and may provide a recommendation concerning the findings thereof to the Commission and/or the Chief of Police relating thereto.
- E. The IPA may review all investigatory reports resulting from any investigation by either an Independent Investigator or Internal Affairs as may be referred to the IPA by the Chief of Police or the Commission. The IPA may provide a report with findings and recommendations on any such investigatory report to the Commission, the City Manager, the City Council and the Chief of Police.
- F. The IPA shall stay up to date concerning Vallejo Police Department policies and training and shall advise the Commission, the City Manager and the Chief of Police in writing when, in the opinion of the IPA, a change or modification of policy or training is needed.- The IPA shall set forth in writing the policy or training that the IPA recommends be added, changed or modified and shall provide an analysis of the reasons they believe the change, modification or addition of policy or training is desirable. If a policy or training does not require a change or modification, the IPA shall so state.
- G. The IPA shall assist the Commission in the preparation of its annual report required in section 18.03.050N.
- H. The IPA shall may also prepare reports on the IPA's other activities for review by the Commission.
- I. H. The IPA shall have subpoena authority for records and other relevant material concerning any matter before them. No subpoena shall be issued, however, unless 30-days have elapsed since any such records were requested by the IPA and the have not

been provided. Any such subpoena may be enforced in the Solano County Superior Court and the City Attorney or their designee shall take the necessary steps to enforce such a subpoena.

H.J.

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