



# AGENDA REPORT

## City Attorney's Office

<b>DATE:</b>	August 19, 2025
<b>TO:</b>	Mayor Martinez and Members of the City Council
<b>FROM:</b>	Dave Aleshire, City Attorney Floy Andrews, Counsel for CPRC
<b>Subject:</b>	Community Police Review Commission's slate of recommendations to enhance transparency, strengthen accountability, and increase trust between RPD and community.
<b>FINANCIAL IMPACT:</b>	\$425,297 was already approved for the FY 25-26 budget.
<b>PREVIOUS COUNCIL ACTION:</b>	No previous Council action taken.
<b>STATEMENT OF THE ISSUE:</b>	<p>Richmond's Community Police Review Commission is an independent civilian oversight body focused on the Richmond Police Department. However, the Commission has been studying policies of other cities to find more effective policies to better carry out their duties and provide more effective civilian oversight and align with current statewide and nationwide best practices.</p> <p>Neighboring cities have implemented more accessible and transparent oversight systems, which the Commission feels would help strengthen accountability and public trust within the community and RPD.</p>
<b>RECOMMENDED ACTION:</b>	DISCUSS and APPROVE advancing seven policy recommendations of the Community Police Review Commission into a meet and confer process with the Richmond Police Officer's Association (RPOA) and the Richmond Police Management Association (RPMA) – City Attorney's Office (Dave Aleshire 510-620-6509).

## **DISCUSSION:**

### **I. Introduction**

The Community Police Review Commission (“CPRC”) recently undertook a substantial and systematic review of its current practices and procedures. It compared its processes to those of other police oversight entities in the Bay Area and throughout the state, as well as those recommended by experts in the field, like the National Association of Civilian Oversight of Law Enforcement (“NACOLE”). That effort revealed various opportunities to enhance Richmond’s civilian police oversight policies and practices to align with current best practices.

Through this effort, Commissioners identified thirteen (13) recommendations to the Commission’s practices and procedures that, if implemented, would (a) reduce systemic barriers in the complaint process making it more accessible to the local community, (b) provide greater transparency to the community regarding the Richmond Police Department and the operations of the CPRC, (c) enhance the Commission’s investigative capacity providing for greater accountability, and (d) ensure that all Commissioners are fully trained to do the important and sensitive work of the Commission. The CPRC voted to recommend that the City Council adopt the proposed changes.

### **II. Actions taken to date**

Today, the CPRC is requesting that the City Council consider supporting seven (7) of the thirteen (13) original recommendations. Two (2) of these recommendations have already been approved by the City, including the request to amend the enabling ordinance to require Commissioner training, and the request that a fulltime Confidential Investigator be hired to support the CPRC’s efforts. On June 24, 2025, the Council authorized the first reading an ordinance amendment (Richmond Municipal Code Chapter 3.54), mandating that all Commissioners participate in at least eight (8) hours of training, including Police Officer shadowing such as ride-alongs, participation in the Richmond citizen academy or other similar activity within six (6) months of appointment as well as actively participate in ongoing training. Second reading of the ordinance is currently on for the August 19, 2025 meeting.

Regarding the Confidential Investigator, the City has already initiated a formal recruitment process with assistance from The Byers Group, to support the work of the CPRC. The job posting went live on June 12, 2025. The City also hired short-term investigators in the interim.

Two (2) other original recommendations have been determined to be duplicative of current CPRC powers. For instance, the CPRC enabling ordinance already provides the CPRC with the power to “review and evaluate the policies, practices and procedures contained in the Richmond Police Department Manual and develop programs and strategies to promote positive police community relations and make appropriate recommendations to the Chief of Police.” (Richmond Municipal Code Section 3.54.080 – Power and Duties (a).) Any evaluation of RPD policies, practices and procedures would necessarily depend on a review of Police Department operational data. For instance, to understand how an RPD policy is interpreted and/or implemented by the RPD, would necessarily require a review of the RPD data pertaining to the policy and its execution or use in the field, regardless of whether an actual complaint has been filed. Adding an “automatic” review of RPD actions is unnecessary, as such review is already within the CPRC’s purview under its power to review and evaluate RPD policies, practices, and procedures.

Similarly, the current “purpose” language of the CPRC ordinance is already quite broad, which states that “[t]he purpose of [the] Commission is to promote positive relations between the community and the police department and *to advise the City Council, City Manager and Chief of Police on all matters pertaining to the administration of the Richmond Police Department.*” (Richmond Municipal Code Section 3.54.010 – Creation and Purpose.) This language already empowers the CPRC to advise City leadership on “*all matters*” pertaining to the administration of the RPD making the earlier suggested revisions to the CPRC statement of purpose unnecessary.

Finally, the fifth original recommendation that the Commission be granted a path to seek legal counsel independent of Richmond’s City Attorney is unworkable. While it was initially modeled after the Rent Board’s structure, it has caused some challenges for the City, including the potential for conflicting legal advice and substantial legal risk in a sensitive personnel area subject to litigation.

### **III. CPRC otherwise recommends seven (7) actions for consideration**

#### **1. Extend the period for filing a complaint from 120 days to one year.**

##### **Background:**

Under the current structure, community members have 120-days to file a complaint from when the incident occurs. This limitation creates significant barriers for certain individuals who would otherwise seek redress. Factors such as emotional distress, lack of awareness regarding the ability to file a complaint or associated deadline, and delays in gathering evidence can easily hinder a person’s ability to submit a timely complaint.

Additionally, certain incidents may involve complex circumstances, requiring more time to process or investigate, or to possibly engage legal counsel.

Extending the period to one-year provides a more equitable process, allowing individuals ample time to assess their options and perhaps file a complaint. The 1 year limitation aligns with the statute of limitation for investigations of police misconduct under Penal Code Section. Of course, this is likely to increase Commission workload.

NACOLE notes that “[o]ne year is commonly allowed for citizens to file complaints. However, oversight agencies may be granted discretion to extend the time frame for a complainant’s non-availability based on circumstances beyond his/her control.”<sup>1</sup>

### **Regional Comparisons:**

Richmond’s current 120-day deadline is among the shortest in the region. Most neighboring jurisdictions, such as Berkeley, Oakland, and San Francisco allow longer periods-recognizing that equitable public access to justice requires flexibility.

For example

- Oakland has no time limit
- San Francisco has no time limit
- Berkeley provides 180 days with exceptions
- Riverside provides 6 months
- San Diego has no time limit
- Santa Ana provides 1 year

By extending Richmond’s deadline to one year, we not only increase accessibility, but also bring the City into alignment with regional best practice standards.

## **2. Change the standard of review for misconduct from “clear and convincing evidence” to “preponderance of the evidence.”**

### **Background:**

The current standard of review used by the Richmond Community Police Review Commission (CPRC) is “clear and convincing evidence.” This threshold is significantly more stringent than the standard practice for civilian police oversight agencies, at both the state and national levels that employ the “preponderance of the evidence” standard when reviewing cases.

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<sup>1</sup> <https://www.nacole.org/complaints>

“Preponderance of the evidence” is a legal term for the standard of review applied to weighing evidence when reviewing a complaint. It permits a finding of misconduct when the evidence supports a conclusion that it is “*more likely than not*” the alleged misconduct has occurred.

The “preponderance of evidence” can be contrasted with the “clear and convincing evidence” standard of review, which permits a finding of misconduct only when the evidence supports a conclusion that it is “*highly probable*” the alleged misconduct has occurred. The “highly probable” standard is more difficult to prove.

The “preponderance of the evidence” is also internally used by the Richmond Police Department when conducting investigations, creating misalignment when the CPRC evaluates the evidence under a higher standard. Adopting the “preponderance of evidence” standard would ensure consistency across internal and external accountability measures and better uphold the public’s trust in a fair and accessible review process.

### **Comparisons:**

Neighboring jurisdictions and other agencies that employ the “preponderance of evidence” standard include:

- Berkeley’s Office of Director of Police Accountability and Police Accountability Board
- San Francisco’s Department of Police Accountability
- Oakland’s Community Police Review Agency
- Los Angeles’ Office of Inspector General and Citizen Review Board
- Long Beach’s Citizen Police Complaint Commission
- San Diego’s Commission on Police Practices and many more

### **3. Increase the Commission’s scope of review to include review and investigation of all complaints against Richmond Police Department Officers.**

#### **Background:**

Richmond currently employs an unusual hybrid system for receiving and reviewing complaints against police officers, which limits the authority of the CPRC to review of the majority of complaints filed.

The CPRC’s current scope only permits review of complaints alleging:

- Unreasonable and excessive use of force

- discrimination
- sexual misconduct and/or sexual harassment
- discharge of a firearm at a person and/or when death or serious bodily injury results from direct police action

All other categories, including improper search or arrest, negligence of duty, harassment, dishonesty, or interference with First Amendment rights, are reviewed only by the Police Department's Office of Professional Accountability ("OPA"), not a-civilian oversight entity. Only after the OPA completes its review, which can take years, may the complainant file an appeal with the CPRC-within ten (10) days of OPA's determination. This system significantly restricts the community's ability to access independent oversight, leading to reduced accountability and lack of transparency.

Independence as a key feature of a civilian oversight system.<sup>2</sup> In fact, according to NACOLE, a "key question is whether the oversight system is sufficiently independent—in terms of political, professional and financial independence and authority—to do what is needed and what is asked of it."<sup>3</sup> One of the CPRC's primary purposes is to provide independent review of complaints involving police misconduct. This function should not be limited by complaint categories. Expanding the scope of the CPRC to review all complaints is essential for accountability and transparency. It empowers the CPRC and thereby the community to identify patterns of possible misconduct, systematically track incidents, and recommend policy through-a proactive Commission. Operating under a broader scope of review allows the CPRC to more intentionally define and categorize the type of complaints it receives. The general categories such as "discrimination" is too broad and can mask important details, making it harder to identify trends. By specifying the nature of the complaint, whether it involves race, gender, housing status or another factor, the CPRC can more effectively monitor issues and recommend targeted reform efforts. With the addition of a full-time investigator, the CPRC will have the capacity to provide such oversight, but it also requires the authority to do so. The broader scope will also increase transparency, enhancing community trust.

### **Regional Comparisons:**

Other neighboring jurisdictions provide broad review:

**Berkeley:** Police Accountability Board reviews all complaints against sworn employees of the Berkeley Police Department. See Berkeley Charter Section 125(18) and Berkeley's Complaint Form.<sup>4</sup> Community members can choose whether to file a

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<sup>2</sup> <https://www.nacole.org/mission>

<sup>3</sup> [https://www.nacole.org/oversight\\_models](https://www.nacole.org/oversight_models), *Oversight Models: Is one model better than another?*

<sup>4</sup> <https://berkeleyca.gov/sites/default/files/2022-02/PoliceAccountabilityComplaintFormFillable.pdf>

complaint with the independent Office of Director of Police Accountability or the police department's Internal Affairs division.

**San Francisco:** Department of Police Accountability reviews “all complaints regarding police use of force, misconduct or allegations that a member of the Police Department has not properly performed a duty,” except for complaints filed by other members of the Police Department. See San Francisco Charter Section 4.136(d) and San Francisco's Complaint Form.<sup>5</sup> The police department's internal investigation unit is not involved in reviewing complaints from civilian members of the public.

**Oakland:** Community Police Review Agency is required to investigate complaints from the public alleging use of force, in-custody deaths, profiling based on a protected characteristic, untruthfulness, and violation of First Amendment rights. It may also investigate complaints alleging any other type of misconduct at the discretion of the Police Commission (Oakland's community volunteer board). All complaints filed with the agency are also forwarded to the police department's Internal Affairs Bureau, which may conduct its own investigation. See Oakland CPRA Home Page<sup>6</sup> and Oakland's Complaint Form.<sup>7</sup>

#### **4. Allow for anonymous complaints and-redact complainants' and witnesses' names on public documents.**

##### **Anonymous Complaints:**

Requiring complainants to identify themselves may deter individuals from coming forward with complaints due to the fear of retaliation, privacy concerns, or immigration status or are navigating vulnerable circumstances such as fleeing dangerous situations, risk of exploitation, discrimination or even deportation. Prohibiting anonymous complaints limits access to justice and to the process. Allowing anonymous complaints promotes a safer and more inclusive environment, encouraging broader community participation and protections.

Removing the signature requirement for filing a complaint furthers these goals. According to NACOLE, “[c]omplaint forms may require a signature under the penalty of perjury. This may have a chilling effect on a person's willingness to file a complaint. The reason for the language is to deter false allegations against the police. One way to minimize the chilling effect while still minimizing the number of false allegations is to not

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<sup>5</sup> <https://dpainsite.formtitan.com/ftproject/ft34ef920c01cf40bf918cf03e2b14be99>

<sup>6</sup> <https://www.oaklandca.gov/departments/community-police-review-agency>

<sup>7</sup> <https://apps.oaklandca.gov/CPRAPublic/uploadPDF.aspx> and <https://apps.oaklandca.gov/CPRAPublic/Complaint.aspx?Isanonymous=True&CCPComplaintId=0>

have the language on the initial complaint form, but an agency might choose to include it if/when the complainant provides a sworn statement to the oversight agency.”<sup>8</sup>

### **Regional examples:**

Other civilian oversight agencies that allow for anonymous complaints:

**San Francisco:** City Charter mandates investigation of that all complaints within its jurisdiction, including those filed anonymously. Anonymous complaints have the same level of legitimacy as those with identifying information and may lead to disciplinary action or prosecution when warranted. According to an investigator with over 25 years of experience, anonymous complaints have not posed any issues in terms of processing an investigation. As long as there is credible evidence of misconduct, the department proceeds with the investigation, regardless of whether the complainant participates. While the absence of a complainant may affect the weight of a case, investigators rely on alternative sources such as vehicle numbers, officer identification, incident location, arrest records, CAD data, and official reports to substantiate misconduct allegations and pursue accountability.

**Oakland:** Community Police Review Agency also allows for the community members to submit anonymous complaints.<sup>9</sup> The city’s oversight website explicitly affirms that anyone may file a complaint and outlines the type of critical information that can help strengthen their complaint.

### **Impact and Data:**

Anonymous complaints received by the San Francisco Department of Police Accountability:

- 2024: Q2 (Pg 10) report 34 out of the 204 complaints (17%)
- 2023: Annual report (Page 12): 29 out of 785 complaints (4%)
- 2022: Annual report (Pg 15): 4 out of 704 complaints (1)

### **Redact Complainants’ and Witnesses’ Names on Public Documents:**

Official documents of the CPRC, including those associated with the complaint process should be redacted to remove personal identifying information in order to protect individual privacy and prevent misuse. Currently, complainants' full names appear on the published public case summaries on the CPRC’s website, and a simple internet search can lead directly to those records. This level of exposure puts individuals at risk for potential fraud, discrimination, harassment and retaliation. Such a policy would bring CPRC in line with established personal data protection regulations, such as HIPPA and

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<sup>8</sup> <https://www.nacole.org/complaints>

<sup>9</sup> <https://apps.oaklandca.gov/CPRAPublic/>



encourage more broader participation in the complaint process by ensuring confidentiality.

## **5. Authorize the Commission to issue subpoenas for the production of books, papers, documents and other evidence.**

### **Background:**

The CPRC's enabling ordinance allows for the CPRC "to subpoena witnesses to testify at the hearing concerning the complaint" but does not authorize the CPRC to issue subpoenas for the production of documents, records, and other evidence. This authority significantly enhances the Commission's ability to fulfill its duties by expanding access to a broader range of evidence, enabling more comprehensive and thorough investigations into police misconduct and supporting its work in providing civilian oversight of the Richmond Police Department.

This expansion aligns with best practices for police oversight agencies across the state, where robust investigative tools are considered essential for maintaining accountability and transparency. In many effective civilian oversight models, subpoena power is a key component that ensures full access to the records necessary to conduct impartial and effective investigations.<sup>10</sup> Providing subpoena power, also reinforces public trust in the CPRC's ability to conduct independent, unbiased, and transparent investigations.

Most California cities with civilian oversight bodies have given those bodies the power to subpoena documentary evidence as well as witness testimony, which supports their essential independence from the police department. For example:

- **Berkeley:** "The Director of Police Accountability and the Police Accountability Board may issue subpoenas to compel the production of books, papers, and documents, and the attendance of persons to take testimony, as needed to carry out its duties and functions." (Berkeley Charter Section 125(20)(c).)
- **Oakland:** Police Commission powers include the power to "issue subpoenas to compel the production of books, papers, and documents and take testimony on any matter pending before it." (Oakland Charter Section 604(b)(3).)

## **6. Require the Confidential Investigative Officer to publish an annual report pertaining to the work of the CPRC.**

### **Background:**

The CPRC currently does not publish an annual report detailing its work, outcomes, or impact limiting the community's ability to understand the CPRC's role, effectiveness, credibility, and areas for improvement. To ensure transparency and accountability, the

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<sup>10</sup> [https://www.nacole.org/subpoena\\_power](https://www.nacole.org/subpoena_power)

CPRC recommend that the Confidential Investigator prepare and publish a comprehensive annual report every year. Public disclosure of such information will foster community trust and reinforce confidence and accountability, aid in identifying trends and patterns for areas of improvement, ensuring the oversight system remains responsive to community needs, and aligns with principles of effective civilian oversight.

Such report should include all of the following:

A. The CPRC's processes and procedures for investigating alleged police misconduct.

B. A summary of complaints filed that year including outcomes, timelines showing the time between complaint filing, investigation completion date, CPRC review date, recommendations made by the Commission, and the City's final disposition of the complaint.

C. A summary of CPRC evaluations conducted regarding the RPD policies, practices and procedures, as well as CPRC reports and recommendations pertaining to RPD policies, practices, procedures, and programs and any responses thereto.

D. CPRC reports and recommendations to the City Council, City Manager and Chief of Police, and responses thereto.

E. A summary of training and education of Police Officers and of Commissioners.

F. Trends and patterns pertaining to vehicles stops, citations and arrests, searches and seizures, use-of-force incidents, officer-involved shootings, use of less-than-lethal force such as use of batons, tasers, WRAP devices, canines, less-lethal projectiles, chemical agents, and firearms, as well as other data the Confidential Investigator finds to be relevant at the discretion of the Officer.

This practice will foster public trust and confidence in the CPRC's investigative process and encourage Commission accountability, and provide essential feedback as to areas of improvement.

**Examples:**

Most civilian oversight bodies throughout California and the U.S. produce regular public reports whether its quarterly, semiannual, or annual basis, demonstrating that regular reporting is both practical and essential to responsive oversight. Other cities and agencies that compile and publish annual reports include: Oakland Community Police

Review Agency,<sup>11</sup> Oakland Police Commission,<sup>12</sup> San Jose Independent Police Auditor,<sup>13</sup> Anaheim Police Review Board,<sup>14</sup> Riverside Community Police Review Commission,<sup>15</sup> San Diego Commission on Police Practices,<sup>16</sup> San Diego County Citizen's Law Enforcement Review Board,<sup>17</sup> Sonoma County Independent Office of Law Enforcement Review and Outreach.<sup>18</sup>

**7. Make all non-confidential records and reports available on the City website, except those prohibited from publication or production.**

**Background:**

Currently, Richmond does not make these materials readily accessible. California Penal Code Section 832.7(b)(1) permits the disclosure of records related to reports, investigations, and findings, including investigative reports, evidence, transcripts, and documents setting forth findings or recommended findings. Certain information must be redacted from the records before they are made publicly available, including the names of complainants and other civilian informants. Generally, police officers involved may also be disclosed, subject to certain important exceptions.

Other California cities, such as San Francisco and Riverside, publish non-confidential materials for public access and review. Adopting a similar practice in Richmond would enhance transparency and accountability by informing the community about the CPRC's investigations and determinations. This would foster greater public trust and encourage the public to engage more meaningfully with the Commission and streamline communications to reduce the burden on City staff by providing access via a centralized platform.

Other California cities have successfully implemented a similar program, in accordance with SB 1421 and SB 16, which mandate public access to certain Police Personnel Records including uses of force and misconduct investigations.

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<sup>11</sup> <https://www.oaklandca.gov/documents/cpra-annual-report-2023-2024>

<sup>12</sup> <https://cao-94612.s3.us-west-2.amazonaws.com/documents/FINAL-2023-OPC-Annual-Report-2.pdf>

<sup>13</sup> <https://www.sanjoseca.gov/home/showpublisheddocument/122884/638853150702570000>

<sup>14</sup> <https://www.anaheim.net/DocumentCenter/View/58935/Anaheim-PRB-Fourth-Annual-Report-2024>

<sup>15</sup> [https://www.riversideca.gov/cityclerk/sites/riversideca.gov.cityclerk/files/pdf/CPRC\\_AR\\_2023%20Final%20%281%29.pdf](https://www.riversideca.gov/cityclerk/sites/riversideca.gov.cityclerk/files/pdf/CPRC_AR_2023%20Final%20%281%29.pdf)

<sup>16</sup> <https://www.sandiego.gov/sites/default/files/crb-annual-rpt-fy2019.pdf>

<sup>17</sup> <https://www.sandiegocounty.gov/content/dam/sdc/clerb/annual-reports/2022%20Semi-Annual%20Report>

<sup>18</sup> [https://sonomacounty.ca.gov/Main%20County%20Site/Administrative%20Support%20%26%20Fiscal%20Service s/IOLERO/Documents/Annual%20Reports/2324\\_IOLERO\\_AR\\_ADA\\_ENG.pdf](https://sonomacounty.ca.gov/Main%20County%20Site/Administrative%20Support%20%26%20Fiscal%20Services/IOLERO/Documents/Annual%20Reports/2324_IOLERO_AR_ADA_ENG.pdf)

**Oakland**: Maintains a public-facing database with access to various categories of “non-confidential” records, pertaining to officer-involved shootings, use of force incidents resulting in death or great bodily injury, as well as dishonesty, sexual misconduct, excessive force, failure to intervene, prejudice and unlawful arrest or search. Records are not available until all investigations and appeals are exhausted.

**San Francisco**: Similarly, San Francisco hosts a webpage where community members can access nonconfidential records related to officer-involved shootings, great bodily injury, dishonesty, unlawful arrest or search, biased policing and excessive force.

#### **IV. Meet and confer process pursuant to the Meyer-Milias-Brown Act with the Richmond Police Officer’s Association and Richmond Police Management Association**

The City has been advised by legal counsel representing the City on employment matters that the updates referenced in Sections 1 through 7 above will likely require bargaining with the Richmond Police Officer’s Association (“RPOA”) and Richmond Police Management Association (“RPMA”) through a “meet and confer” process. Staff understands that the City is currently or will soon be entering into such bargaining with the RPOA and RPMA. CPRC staff has raised these updates with the City’s employment counsel, who recommends that these items be included in the current meet and confer process. The CPRC now requests that the City Council direct legal counsel representing the City in the meet and confer process to add each of the items approved hereby into the current meet and confer process. It further requests that CPRC staff be kept informed as to the status of that process and consulted as to any alterations of the requested updates prior to any agreement to make such alterations or concessions regarding any of the requested updates.

**Attachments – None.**