

## **Attachment B: October 16, 2023 staff report**

First Reading of an Ordinance of the City of San Leandro City Council to Amend San Leandro Municipal Code Sections 1-3-100 to Modify the Community Police Review Board's Membership Structure

### **SUMMARY AND RECOMMENDATIONS**

Consistent with the recommendations of the City Council Rules Committee, staff presents for the City Council's consideration the attached draft ordinance that would amend the membership structure of the existing Community Police Review Board such that the two dedicated student positions would instead serve as at-large appointments, for the reasons outlined below.

To effectuate these changes, attached to this staff report are corresponding proposed amendments to San Leandro Municipal Code Sections 1-3-100 and 1-3-1720.

### **BACKGROUND**

Following robust public outreach and dialogue, in April 2022, the City Council adopted an Ordinance to Amend San Leandro Municipal Code sections 1-3-100, 1-3-110 and subsection (a) of section 1-3-115, and further added Article 17 Chapter 1-3, to establish the Community Police Review Board (CPRB) and the Independent Police Auditor (IPA).

Per the adopted ordinance, the CPRB's functions include:

1. Receive community feedback and complaints, and refer them for further review, as appropriate, to the IPA or the internal affairs function of the police department.
2. Receive reports from the IPA regarding personnel discipline and complaints, critical incidents, police department policies, and other law enforcement matters.
3. Evaluate police department policies of compelling community-wide concern based on trends and data, as deemed necessary by a majority of the CPRB.
4. Make recommendations to the City Manager on the job requirements, application process, and evaluation criteria of candidates for the Chief of Police when the position becomes vacant.
5. Create and implement an annual work plan that consists of a community outreach plan to assure all members of the community have an opportunity to share concerns about policing.

Overview of the Independent Police Auditor's (IPA) structure and functions:

Per the City Council-adopted ordinance, the City Manager will appoint the IPA on a contract basis. The IPA will at a minimum have professional experience, certifications, and other qualifications specifically related to law enforcement agency personnel investigations, and California law related to the Public Safety Officers Procedural Bill of Rights Act.

IPA functions include:

1. Participate in internal affairs and administrative review processes conducted by the police department.
2. Serve as the law enforcement subject matter expert to the CPRB.
3. Make expert recommendations to the CPRB and the Police Chief on police department policies.
4. Assist the CPRB with the preparation of their annual report including workplan.
5. Recommend, with the Police Chief's and the specifically affected police department personnel's written consent, referrals for voluntary and confidential mediation of specific complaints to community-based mediation services provided by trained or certified mediators.

#### Current structure and status of the Board

The CPRB's structure as defined by the adopted ordinance consists of nine members. More specifically, the membership includes two student members, as well as one member from each of the six City Council Districts, along with one at-large member appointed by the Mayor.

The provisions related to the qualifications and appointment process are presently codified as follows:

*“Two residents who are either secondary students in their third or fourth year of secondary school or college students between the ages of 18 and 22 (“Student Member”) who are able to attend in person meetings of the Community Police Review Board shall be appointed to the Community Police Review Board. Once these members reach the age of 23, they are no longer eligible to serve or eligible for reappointment to these designated seats. Residents who are interested in appointment to the Student Member designated seats shall complete an application that will be submitted to the City Clerk, who shall schedule a City Council Rules Committee meeting for the Committee to review the applications and, at the Council Rules Committee’s discretion, interview the applicants for recommendation to the City Council for appointment. Any vacancy in these designated seats must be addressed by the Council in accordance with San Leandro Municipal Code section 1-3-115.”*

Following the City Council's adoption of the ordinance on April 4, 2022, a diverse pool of over 50 community members subsequently applied to serve on the CPRB. The consulting firm IntegrAssure, Inc. was hired by the City Manager as the Independent Police Auditor (IPA) in September 2022, and eight CPRB board member appointees were sworn in before the City Council on September 19, 2022. The CPRB subsequently held its first public meeting on October 19, 2022 and has been diligently exercising its functions and conducting its monthly publicly-noticed meetings since that time.

While nine appointments to the Board were initially authorized by the City Council, one student member withdrew before the September 19, 2022 swearing-in ceremony and that position has remained vacant ever since; another member from District 3 resigned in January 2023 (due to personal reasons), for which a new appointment was seated in

April 2023. In February 2023 the sole remaining student member also resigned because he moved out of San Leandro and therefore lost his eligibility to serve on the Board. That second of the two student positions continues to remain vacant.

Since the initial formation of the Board, the City has worked proactively to recruit student members. Related efforts have included paid advertisements in local newspapers including the San Leandro Times, notifications and related outreach to local school districts, colleges and universities, along with various other social media outreach campaigns to elicit student applicants. Nevertheless, recruitment for the student positions has been extraordinarily challenging and both seats on the CPRB remain vacant.

Because the CPRB is officially a nine-member board, the legal definitions of what constitutes both a quorum and a majority are based upon that nine-member structure, irrespective of the fact that two of the nine seats remain vacant. As a result, these sustained vacancies have generated substantive impacts to the Board's ability to conduct its business, and in particular when greater than two members of the Board are unable to attend a given meeting.

For example, the February 2023 Board meeting was cancelled for lack of quorum at the time due to excused absences by two members of the Board (coupled with the two student and the District 3 vacancy that existed at that time). Additionally, the board's ability to achieve a majority is similarly impacted even when all seven members are present since the definition of a quorum is based on the official nine-member composition of the Board.

As a result of these challenges, the CPRB identified the student vacancies as an ongoing issue area in its annual report that was submitted to the City Council in June 2023. Additionally, the CPRB formally discussed the matter at its July 19, 2023 meeting. As part of its deliberations on this issue, several potential solutions were identified, including the following three proposals that received considerable attention and discussion:

- A) Eliminate the 2 student seats, thereby making the CPRB a 7-member body.
- B) Convert the 2 student seats to "ex-officio" status and eliminate their attendance and training requirements that are otherwise applicable to the rest of the Board. As ex-officio members they also would be unable to vote, and their attendance or absence at meetings would have no bearing on the Board's ability to achieve a quorum or majority vote.
- C) Convert the 2 student seats to At-Large appointments. Such a structure would largely mirror how all of the City of San Leandro's other 9-member Boards and commissions operate. Additionally, the CPRB discussed incorporating some type of aspirational language that would indicate the Mayor should attempt to prioritize filling these seats with students, if feasible.

At the conclusion of the discussion, no clear consensus emerged among the three options above, though a plurality of the CPRB (4 members) favored option “C”.

The above-described issue and the discussions/outcome of the CPRB’s deliberations related thereto were subsequently presented to the City Council Rules Committee at its July, 2023 meeting, along with the application materials from one local student who submitted an application to serve on the Board. Following extensive discussion, the Rules Committee unanimously (among the two Committee members present) directed staff to proceed forward with developing proposed ordinance changes that would effectuate Option C and to include language affirming the City Council’s desire for the Mayor to prioritize nominating students or youth for those two seats. The Committee noted that by prioritizing both students *or* youth for these two seats on the Board, such an approach would be more inclusive than the current ordinance language that excludes local San Leandro youth who may be pursuing a profession in the skilled trades or other life opportunities aside from school.

Based upon the above direction from the City Council Rules Committee, City staff presents for the City Council’s consideration the attached proposed ordinance amendments that would effectuate the above direction.

#### **Fiscal Impacts**

None. Costs for staff time and non-salary resources provided for the CPRB, IPA, City Manager’s Office, and Police Department are already included in the City’s adopted FY 2023-23 budget.

#### **Attachment(s) to Staff Report**

- Attachment A – Proposed Ordinance Amendments to Modify CPRB Membership structure

**PREPARED BY:** Eric Engelbart, Deputy City Manager