

AN ORDINANCE OF THE CITY OF RICHMOND ADDING CHAPTER 3.54 TO THE MUNICIPAL CODE OF THE CITY OF RICHMOND. SAID CHAPTER ESTABLISHES A POLICE COMMISSION

The Council of the City of Richmond do ordain as follows:

Section I. Addition of Chapter 3.54

Chapter 3.54 of the Municipal Code of the City of Richmond is hereby adopted to read as follows:

"CHAPTER 3.54

Police Commission

Sections:

- 3.54.010 Creation and Purpose
- 3.54.020 Appointment and Qualifications of Members
- 3.54.030 Compensation
- 3.54.040 Terms of Office
- 3.54.050 Absence from Meetings
- 3.54.060 Police Commission Investigative Officer
- 3.54.070 Police Consultant
- 3.54.080 Powers and Duties
- 3.54.090 Meetings
- 3.54.100 Rules and Records

3.54.010 Creation and Purpose. There is hereby created a Police Commission. The purpose of this Commission is to advise the City Council, City Manager and Chief of Police on all matters pertaining to the administration of the Richmond Police Department.

3.54.020 Appointment and Qualifications of Members. The Commission shall consist of nine (9) members who shall not be officers or employees of the City of Richmond and who shall be appointed by the Mayor. The Mayor shall endeavor to appoint individuals representing diverse social, economic and political interests and shall confer with the City Council concerning all appointments. All of the members of the Commission shall be residents of the City. All vacancies on the Commission shall be filled by appointment by the Mayor for the unexpired

term of the appointee's predecessor.

3.54.030 Compensation. Members of the Commission shall serve without compensation, provided that the City Council may authorize the reimbursement of reasonable expenses incurred by the members in the performance of their duties.

3.54.040 Terms of Office. The term of each member of the Commission shall be for three (3) years; provided, however, that of the members first appointed after the effective date of this section, three shall be appointed to serve for one year, three shall be appointed to serve for two years, and three shall be appointed to serve for three years as determined by lot by such members at the first regularly scheduled meeting following the adoption of this chapter. Each member shall continue to serve in such capacity until the member's successor has been duly appointed and is acting.

3.54.050 Absence from Meetings. The absence of any member of the Commission from more than three regularly schedule meetings of the Commission within any twelve-consecutive-months period shall constitute an automatic resignation from the Commission. Such a resignation shall not, however, disqualify an individual from subsequently being appointed to the same, or any other city committee, board or commission. In the event of any such resignation, the vacancy shall be filled by appointment for the unexpired portion of the term of the appointee's predecessor in the manner prescribed in Section 3.54.020.

3.54.060 Officers. The Commission shall elect from among its members a chairperson and a vice chairperson who shall serve in such capacities for one year, or until the successors are duly elected. In case of a vacancy in either of these positions, the Commission shall elect a successor

who shall serve the unexpired balance of the predecessor's term.

3.54.070 Police Commission Investigative Officer. The City Council shall appoint a Police Commission Investigative Officer who shall assist the Commission in performing its duties. The Investigative Officer shall, at the discretion of the Commission and in accordance with this ordinance, conduct investigations of citizen complaints alleging misconduct by Richmond Police officers. The Investigative Officer shall conduct such investigations in a fair, objective and ethical manner, and shall comply with the Public Safety Officers Procedural Bill of Rights Act (Section 3300 et.seq.) in interviewing police officers. In addition, the Investigative Officer shall serve as secretary to the Commission.

3.54.080 Powers and Duties. To effectuate its purpose, the Commission shall:

- (1) 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. Within twenty (20) days after receiving such recommendations the Chief of Police shall submit a response to the Commission. If the Commission is dissatisfied with the Chief of Police's response, the Commission may submit its recommendations to the City Manager. Within thirty (30) days after receiving such recommendations the City Manager shall forward a response to the Commission. If the Commission is dissatisfied with the City Manager's response, the Commission may submit its recommendations directly to the City Council for appropriate action.
- (2) Receive, investigate and hear complaints against Richmond Police officers alleging the use

of excessive or unnecessary force or racially abusive treatment and submit recommendations to the City Manager and Chief of Police in accordance with the following guidelines:

- (a) All complaints filed with the Commission must be in writing on forms supplied by the Commission and shall be signed by the complainant. A copy of each complaint filed with the Commission shall immediately be forwarded to the Chief of Police.
- (b) The Commission shall not accept, investigate or hear any complaint not filed with the Commission within forty-five (45) days of the alleged misconduct by the Richmond Police officer unless the complainant establishes to the Commission's satisfaction that the failure to file the complaint within the required time limit was due to mistake or excusable neglect.
- (c) Timely complaints shall be referred by the Commission to the Investigative Officer who shall investigate the complaint as soon as possible. At the conclusion of the investigation, the Investigative Officer shall submit findings and recommendations, either orally or in writing, to the Commission.
- (d) Upon receipt of the Investigative Officer's report, the Commission may (i) direct the Investigative Officer to investigate the complaint further, (ii) forward its findings and recommendations concerning the complaint to the Chief of Police

based upon the Investigative Officer's report, or

(iii) conduct a hearing on the complaint.

(e) All hearings conducted by the Commission shall be open to the public. At least ten (10) days' advance written notice of the date the hearing is to occur shall be given to the complainant and the police officer involved.

(f) To the extent permissible by the Richmond City Charter or any other laws, the Commission shall have the authority to subpoena witnesses concerning the complaint.

(g) The complainant, police officers and all other witnesses shall be questioned by the Commission only, without cross-examination by police officers, citizen witnesses, the complainant, or their respective counsel.

(h) Within thirty (30) days after the conclusion of the hearing, the Commission shall submit written findings and recommendations to the Police Chief.

(i) The Commission shall not sustain any complaint unless the complainant establishes by clear and convincing evidence the allegations of the complaint. "Clear and convincing" evidence is more than a preponderance of the evidence, but less than that beyond a reasonable doubt.

(j) If the Chief of Police agrees with the findings and recommendations by the Commission, he shall take appropriate action on the complaint

consistent with the Commission's report and so inform the Commission. If the Chief of Police disagrees with the Commission's findings and/or recommendations, the Chief of Police shall submit the Commission's determinations concerning the complaint and any other pertinent information to the City Manager. The City Manager's conclusions regarding the complaint shall be transmitted to the Commission, the Chief of Police, the complainant and involved police officer as soon as possible.

(k) All recommendations concerning proposed discipline of police officers made by the Commission or the Investigative Officer shall be kept confidential until after the City's disciplinary administrative process has been concluded.

(3) Review appeals from the disposition by the Richmond Police Department of complaints against Richmond Police Officers not involving allegations of the use of excessive or unnecessary force or racially abusive treatment and submit recommendations to the City Manager and Chief of Police in accordance with the following guidelines:

(a) All appeals filed with the Commission shall be in writing signed by the appellant, shall state the specific grounds of the appeal, and must be filed with the Commission within ten (10) days of the date contained on the letter from the Chief of Police notifying the complainant of the disposition of the complaint.

(b) The Commission shall direct the Investigative Officer to investigate the matter and transmit findings and recommendations, either orally or in writing, to the Commission.

- (c) Upon receipt of the Investigative Officer's report, the Commission may either direct the Investigative Officer to investigate further or forward its findings and recommendations to the Chief of Police based solely upon the Investigative Officer's report.
- (d) The Commission shall not sustain any appeal unless the appellant establishes by clear and convincing evidence the allegations of the appeal.
- (e) If the Chief of Police agrees with the findings and recommendations by the Commission, he shall take appropriate action on the appeal consistent with the Commission's report and so inform the Commission. If the Chief of Police disagrees with the Commission's findings and/or recommendations, the Chief of Police shall forward the Commission's determinations and any other pertinent information to the City Manager. The City Manager's conclusions concerning the appeal shall be transmitted to the Commission, the Chief of Police, the appellant and the involved police officer as soon as possible.
- (f) All recommendations concerning proposed discipline of police officers made by the Commission or the Investigative Officer shall be kept confidential until after the City's disciplinary administrative process has been concluded.
- (4) Perform such other duties as requested by the City Council.

3.52.090 Meetings. The Commission shall hold its first meeting within thirty days after all of its members have been appointed. At such meeting, the Commission shall fix the time and place of regularly scheduled meetings which shall not be less than once each month. All meetings of said Commission

shall be open to the public. The Police Chief or his representative nominated by him shall attend all regular and special meetings of the Commission and shall advise the Commission on any matter before it, but shall not vote on any such matter.

3.54.100 Rules and Records. The Commission shall, in consultation with the City Manager and with the approval of the City Council, adopt rules for the transaction of business of the Commission, which rules shall, among other things, include the manner of calling and giving notice of special meetings and hearings and the appointment and powers of standing subcommittees. Said standing subcommittees may be formed to work on various topics within the scope of police activities. The commission shall keep records of its resolutions, rules, transactions, motions, orders, findings, recommendations and determinations, which shall be open to the public.

Section 2. The Commission shall only accept, investigate, hear and review complaints and appeals regarding incidents which occur on or after the effective date of this ordinance.

Section II. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section III. Effective Date. This Ordinance becomes effective after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond, California, held April 16, 1984.

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and finally passed and adopted at a regular meeting thereof held April 23, 1984, by the following vote:

AYES: Councilmembers Washington, Greco, Livingston, Silva, McMillan, MacDiarmid, Zieshenne and Mayor Corcoran.

NOES: Councilmember Niccolls.

ABSENT: None.

HARLAN J. HEYDON
Clerk of the City of Richmond

(SEAL)

Approved:

THOMAS J. CORCORAN
Mayor

Approved as to form:

MALCOLM HUNTER
City Attorney

State of California)
County of Contra Costa : ss.
City of Richmond)

I certify that the foregoing is a true copy of Ordinance No. 15-84 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting held April 30, 1984, and published in accordance with law.

Harlan J. Heydon
Clerk of the City of Richmond