

May 2, 2017

Santa Ana Mayor and City Council
22 Civic Center Plaza
Santa Ana, CA 92701

Dear Members of the City Council:

The undersigned organizations strongly support efforts by the City Council to develop an independent civilian review board in Santa Ana. We write to stress that the overall goal of such a civilian oversight board must be to maintain accountability, promote transparency, and promote public safety. We believe that this is only possible if the board is developed in partnership with community members, including those who have been most affected by the Police Department, and if the board created reflects these eight principles:

1. Independent board membership.

- Board members and staff must be independent and impartial, and be removable only for cause.
- Board members and staff must exclude current and former City, Department, and Association employees and employees of other government entities.
- Board members and staff must include representatives from communities most affected by police practices.

2. Broad scope to review complaints and other incidents.

- Members must be able to investigate and make formal judgments on the most serious issues relating to civil rights and civil liberties, including but not limited to death in custody, deadly or excessive use of force, and abuse of authority.
- Members must have authority to review serious incidents, such as use of force whether or not someone has filed a complaint.

3. Independent investigatory authority.

- The board must have the ability to subpoena witnesses and documents, including police disciplinary documents, video and audio footage, and other relevant materials.
- The board must be guaranteed complete and prompt access to all Police Department documents, information, or testimony.

4. Ensuring accountability.

- Outcomes of board investigations must be public and in writing.
- Findings of fact must be binding on the Police Department. Only when a clear error has been made could the Chief depart from these findings.
- The Board must have a role in officer discipline, such as by making determinations under a pre-negotiated *matrix* developed by the Council and board. The *matrix* must also specify the circumstances in which a Police Department employee must be

removed from active duty, pending an investigation by the board and/or the Police Department. The board can also help ensure the availability of adequate support for officers in parallel and independent from discipline.

- Evidence of criminal activity must also be referred for potential prosecution.
- The board must possess the power to remove the Police Chief for cause (such as failure to cooperate with the board) and be involved in appointing the Police Chief.

5. Power to audit, issue recommendations, and set policy.

- The board must also have authority to audit practices, policies, and procedures of the Police Department.
- On the basis of such audits, the board must be empowered to set and change Police Department policies as well as consult in hiring, training, and collective bargaining.
- The board must have the power to review and make recommendations regarding the Police Department budget and budgeting process.

6. Secure funding.

- The board's funding must be protected to ensure its independence, for example, by setting the board's budget at a fixed percentage of the Police Department's budget or in proportion to the size of the force.
- The board budget must support appropriate board staffing and training on the requirements of constitutional policing and Police Department policies.

7. Due process protections for police officers.

- Officers who are accused of misconduct must have the full range of due process protections in the investigatory and disciplinary process, including *Skelly* rights and the rights to access to counsel, to a hearing, and to an appeal. Officers must be permitted to view the evidence presented against them, to testify, and to offer statements to defend against misconduct allegations.
- The board must employ a preponderance of the evidence standard.

8. Community engagement and public access and reporting.

- The board itself must publicize regular written reports and publicly produce data regarding police practices, such as crime data and data on use of force, stops, and arrests, as well as details regarding complaints and settlements.
- The board must also hold regular public meetings, which must be webcast and recorded, to summarize findings and engage with community members.
- The board itself should be accountable to the public.

These goals are drawn from good practices and oversight mechanisms in place in other cities – for example in Chicago, Newark, and Oakland.

Creating a civilian oversight board will enable this Council to demonstrate to the public its concern and commitment to a constitutional, accountable, effective, and transparent Police Department in Santa Ana.

Thank you.

American Civil Liberties Union of Southern California
Anaheim Community Coalition
Asian Americans Advancing Justice, Orange County
Chican@s Unidos de Orange County
Resilience Orange County