

MOTION

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

In the wake of Rodney King in 1991, then-Mayor Tom Bradley formed an independent Commission on the Los Angeles Police Department (LAPD), informally known as the Christopher Commission. The Commission was created to conduct a full and fair examination of the structure and operation of the LAPD, including its recruitment and training practices, internal disciplinary system, and citizen complain system. With the publication of the report, the City Council placed Charter Amendment F on the June 2, 1992 State of California Primary Election ballot to reform the Los Angeles Police Department.

Charter Amendment F passed with nearly 67 percent of the vote in 1992. Warren Christopher, the architect of the amendment, called the disciplinary changes "a critical aspect" of the measure that received little attention during the campaign because they are complicated and difficult to explain to voters, according to the Los Angeles Times. It has been over 20 years since the disciplinary changes have been thoroughly reviewed and evaluated, including most importantly the adjudication process known as the Board of Rights and the roles of command officers and civilian Hearing Examiners.

The current civilian Hearing Examiners meet high standards in order to serve on a Board of Rights panel. However after 25 years of this policy, the City should evaluate and determine whether the pool of civilians should be increased to include greater diversity more focused on residents of the City, retired police officers, and former command staff. Over those two decades, there have been several complaints by officers and residents related to the Board of Rights process that can be summarized into three categories: fairness, liability, and transparency.

According to a report written in 2000 by the former Chair of the Elected Charter Reform Commission and current Dean of the UC Irvine School of Law Erwin Chemerinsky, after reviewing these issues in the aftermath of the LAPD Rampart Division scandal, the Board of Rights needed to be reconstituted. According to Chemerinsky, "The current disciplinary system is widely distrusted by officers. Many believe that it often is controlled ... and is used in an arbitrary fashion, sparing command staff from punishment and imposing sanctions on the rank and file. This perception causes friction between leadership and the rank and file, undermines morale, and reinforces the code of silence as officers are unwilling to make complaints in a process they distrust." One of three options recommended by the Commission according to Chemerinsky's report, "... likely the most promising, would be a civilian review board ...", or an all-civilian Board of Rights. Since 1992, no changes have been made to the composition of the Board of Rights.

Furthermore, as the City Council is well aware, there has been a recent spike in the number of liability claims and liability payouts, some of which includes LAPD matters. Repairing the disciplinary system can be a significant factor in increasing the trust between the public and the City. That increased trust can and should lead to a reduced number of jury awards and settlement payouts. Programs like the recently implemented embRACE LA, as well as a reconstituted and reformed Board of Rights, are two of many strategies that are needed to increase the trust between our communities and the LAPD.

Lastly, as noted by the Chief Legislative Analyst (CLA) in a report dated January 6, 2017, as a result of a State of California Supreme Court decision in 2006, *Copley Press v. Superior Court*, "... the Court held that records of an administrative appeal of sustained misconduct charges against a police officer are confidential and may not be disclosed to the



public. This decision prevents the public disclosure of disciplinary hearings, and as a result LAPD does not make public the results of hearings.” This has led to frustration by the public and media with respect to how Board of Rights hearings have been conducted over the last decade, as well as how decisions are made regarding suspension, demotion, or termination. Increasing transparency will build confidence and trust between the community and the City.

WE THEREFORE MOVE to INSTRUCT the CLA, with the assistance of the CAO, City Attorney, and LAPD, to report back within 90 days to the AdHoc Committee on the LAPD Board of Rights with respect to the following issues:

1. An implementation plan to conduct hearings throughout the City and in the community with respect to the Board of Rights and the issues as described above and below.
2. A thorough and comprehensive review of civilian Hearing Examiners, including the application process, the criteria for selection, options to increase the pool of civilians from residents of the City, and the role of the Police Commission
3. A comprehensive report of liability claims, liability payouts, and pending actions related to the LAPD. This report should also contain recommendations to reform risk management and budgetary practices with respect to LAPD-related liability claims and made available to be considered during the FY 2017-18 Budget process.
4. A complete legal analysis of *Copley v. Superior Court* and other relevant cases related to increasing transparency with respect to the Board of Rights. This report should contain options, whether via state legislation, Charter Amendment, or municipal ordinance, to provide further access to the public with respect to Board of Rights hearings and decisions.

PRESENTED BY:


HERB J. WESSON, JR.
Councilmember, 10th District

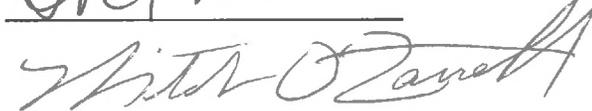

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