

Continuance of By laws
(DRAFT)

PREAMBLE

1
2 The Citizens' Police Review Board (hereinafter referred to as the "Board") shall seek to
3 fulfill the purpose and goals established by the City Council and the City of Oakland under
4 Ordinance No. 12454 C.M.S. (hereinafter referred to as "Ordinance"). Consistent with the express
5 understanding of the Mayor, the City Council, the Oakland Police Department (hereinafter referred
6 to as the "OPD") and the people of the City of Oakland, the Board shall serve as a body concerned
7 with the welfare of the general public with regard to the conduct of the OPD. In furtherance of the
8 mission given to the Board by the City Council, the Board shall promote and enhance a
9 relationship of mutual respect, understanding and trust between the general public and the
10 members of the OPD.
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13 The Board shall promote and implement, in concert with involved stakeholders, including
14 but not limited to the Mayor, the City Council, the OPD, and interested civic groups, programs and
15 practices to achieve positive interaction among the OPD, the City administration and all members
16 of the community, irrespective of age, race, ethnicity, religion, philosophical or political
17 persuasion, gender, sexual orientation or economic status.
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19 The Board and its members shall execute their duties and responsibilities and apply the
20 authority granted to them in accordance with the provisions of the Ordinance, and shall act in
21 compliance with all City, State and Federal laws applicable to the legal purview of the Board.
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23 The Board encourages all persons who experience, observe or have knowledge of
24 misconduct by an officer of the OPD, including, but not limited to, complaints of excessive use of
25 force or violation of civil rights (the definition of which shall include complaints pertaining to
26 sexual orientation or racial profiling), to submit such complaint in writing to the Board.
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28 **BY-LAWS OF THE CITIZENS' POLICE REVIEW BOARD**

1 CITY OF OAKLAND, CALIFORNIA

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3 ARTICLE I – NAME

4 **Section 1. Name of Board.** The Name of the Board shall be the **Citizens' Police Review**
5 **Board.**

6 ARTICLE II – LOCATION

7 **Section 1. Location of Board, official mailing address.** The location of the Board shall be
8 the City of Oakland, California. The official mailing address of the Board shall be:

9 **CITIZENS' POLICE REVIEW BOARD**
10 **250 Frank H. Ogawa Plaza**
11 **6TH Floor, Suite 6302**
12 **Oakland, CA 94612**

13 All persons and other entities wishing to correspond with the Board for any reason, including the
14 submittal to the Board of a civilian complaint against any officer of the Oakland Police Department,
15 shall direct correspondence to the Board at its official mailing address.

16 ARTICLE III – PURPOSE

17 It is the duty of the Board to investigate and review certain complaints regarding the conduct
18 of Oakland police officers and park rangers and thereafter deliver in timely manner advisory reports
19 to the City Administrator regarding the facts of and a recommended disposition of these complaints.

20 In addition, the Board may, consistent with the limitations set forth in section 6.C.4 of the Ordinance,
21 recommend policy changes to the Public Safety Committee with regards to matters within its
22 jurisdiction.
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24 ARTICLE IV – MEMBERSHIP

25 **Section 1. Membership of the Board.** The Board shall consist of twelve (12) members who
26 shall be Oakland residents who are at least eighteen (18) years of age, recommended by Council
27 members or appointed by the Mayor, and confirmed by the Council as provided by section 3(C)(1) of
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1 Ordinance No. 12454 C.M.S. One (1) of the nine (9) regular members of the Board and one (1) of the
2 three (3) alternates must be under twenty-five (25) years of age at the time of appointment. The
3 members of the Board shall serve without compensation.

4 **Section 2. Terms of members.** Members shall be appointed to staggered terms, said terms to
5 commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the
6 unexpired portion of the term only.

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- 8 a. All appointments shall be for a period of two (2) years.
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 - 10 b. No person shall be appointed to serve more than two (2) consecutive terms as a
11 member of the Board.
 - 12 c. In the event an appointment to fill a vacancy has not occurred by the conclusion of a
13 Board member's term, that member may continue to serve as a member of the Board
14 during the subsequent term in a holdover capacity for a period not to exceed one year,
15 to allow for the appointment of a Board member to serve the remainder of said
16 subsequent term.

17 **Section 3. Attendance at Board meetings.**

18 Members are expected to attend every Board meeting unless noticed in advance to the
19 Chairman and the Executive Director. In case of emergency notification should be made as soon as
20 possible to the Chairman and the Executive Director. Attendance shall be recorded at each regularly
21 scheduled Board meeting and for every special Board meeting. The attendance record shall be
22 provided semi-annually to the Office of the Mayor for review.

23 **Section 4. Removal Board Members.**

24 Absence of any Board member from three (3) consecutive regular Board meetings or from
25 five (5) regular meetings in a calendar year shall constitute cause for removal from the Board. A
26 member may also be removed pursuant to Section 601 of the City Charter for, among other things, a
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1 conviction of a felony or misdemeanor, misconduct, incompetence, or inattention to or inability to
2 perform duties.

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4 The Charter provides the procedure to remove a Board member. City Charter section 601
5 provides in pertinent part:

6 "Members of boards and commissions shall be appointed by the Mayor subject to
7 confirmation by the affirmative vote of five members of the Council and may be removed for cause,
8 after hearing, by the affirmative vote of at least six members of the Council."

9 The Board will discuss this matter should circumstances require the consideration of the
10 removal of a Board. The majority of the Board finds cause for removal the Board Chair or Vice-Chair
11 will request that the Executive Director prepare a resolution and a report identifying the requirement,
12 citing the language in the ordinance that states the requirement and providing background regarding
13 the date of appointment, the notice to the board member and the failure to comply with the
14 requirement. The procedure to remove a member for cause (e.g., failure to meet the qualifications to
15 serve on the CPRB) is to schedule a resolution at the next available Rules and Legislation Committee
16 meeting.

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18 **Section 5. Board Member Training.**

- 19 a. Within nine (9) months of appointment each Board member must complete the
20 following:
- 21 i. Oakland Police Department Citizens' Police Academy
 - 22 ii. Oakland Police Department "ride-along" program
- 23 b. Citizens' Police Review Board Policies and Procedures training
- 24 c. Police policy and procedure, law, and public policy training as determined by the
25 Executive Director.

26 **Section 6. Resignations from the Board.** Any member of the Board who wishes to resign
27 shall submit his or her resignation in writing to the Mayor and the Board Chair.

- 1 b. Establish such ad hoc committees of the Board, not otherwise created by these By-Laws and
2 Rules, as may be necessary or desirable for the Board to conduct its business.
- 3 c. Appoint the chair and members of all committees of the Board and specify the duties of such
4 committees except as such duties may be expressly set forth in these By-Laws and Rules or be
5 altered or modified by the Board. All such appointments shall continue at the Chairperson's
6 discretion, provided that a chair of a committee established by these By-Laws shall not be
7 removed by the Chairperson except upon a majority vote of the members of the Board. The
8 Board, by a majority vote of its members, may recommend to the Chairperson the name of a
9 member to be considered by the Chairperson for appointment as the chair or a member of a
10 committee.
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- 13 d. Serve as an ex-officio member of all committees of the Board.
- 14 e. Perform all duties incident to such office and such other duties as may be prescribed by these
15 By-Laws and Rules, or delegated to the Chairperson by the members from time to time.
- 16 f. Decide on all points of order and procedure during the meetings, in consultation with Board
17 Counsel, and the Chairperson's decision shall be final unless overruled by a majority vote of
18 the members.
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- 20 g. Appoint a Parliamentarian to assist the Chairperson.
- 21 h. Be the principal spokesperson on behalf of the Board and may designate another member of
22 the Board as a media liaison officer to assist the Chairperson with respect to media relations.
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24 **Section 3. Powers and duties of the Vice-Chairperson.** The vice-chairperson shall serve in
25 such capacity for a period of one (1) year, except in the event of a vacancy. In the absence of the
26 Chairperson, or the Chairperson's resignation, incapacity, disqualification, removal or inability to
27 perform the duties of the office of the Chairperson, the Vice-Chairperson shall perform the powers
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1 and duties of the Chairperson and, when as acting Chairperson, shall have all the powers and duties
2 and be subject to all the restrictions upon the Chairperson. The Board shall determine by a majority
3 vote if the Chairperson has demonstrated a continued refusal to fulfill the powers and duties of the
4 office. When the Vice-Chairperson succeeds to the office of Chairperson in the event of resignation,
5 death, disqualification, removal or by a vote of the Board as authorized in this section, he or she shall
6 complete the term of the Chairperson. In the event the Vice-Chairperson notifies the Board in writing
7 that he or she is unwilling to accept the responsibilities of the Chairperson for any reason, then both
8 the office of Chairperson and Vice-Chairperson shall be deemed vacated and the Board shall proceed
9 to nominate and elect a Chairperson and Vice-Chairperson at a special meeting to be called by the
10 Executive Director within three (3) days of the date when the Vice-Chairperson provided the Board
11 with such written notification. The Board shall nominate and elect a new Chairperson and Vice-
12 Chairperson to serve when the special meeting is conducted.

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15 **ARTICLE VI – OFFICIAL STATEMENTS OF THE BOARD**

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17 **Section 1. Official statements of the Board.** It is the intention of the Board to promote
18 full, active, and meaningful participation by the members of the Board in the undertaking of their
19 responsibilities as members. It is the further intention of the Board to encourage the exercise of
20 thoughtful discretion in order to curtail or minimize the potential for inconsistent public statements
21 made by members of the Board that may be construed by the public or the media in a manner
22 detrimental to the fulfillment of the Board's mission.

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24 Only the Chair or his or her designee shall make official statements for the Board. Except
25 when expressly authorized by the Chair to speak on behalf of the Board, each member shall refrain
26 from speaking for the Board and shall make diligent efforts to avoid the appearance of doing so.
27 When a member is invited to participate in an event or to make a presentation in his/her official
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1 capacity as a member of the Board, such member shall make diligent effort to notify the Chair as
2 far in advance as possible and, where not possible to notify the Chair in advance, to do so promptly
3 following such presentation. Whenever a member has participated in an event of general topic or
4 special interest, but not in his/her capacity as a member of the Board, and has, nevertheless, been
5 called upon to speak about issues concerning the Board, such member shall notify the Chair
6 promptly thereafter. Nothing herein shall be deemed, however, to prohibit a member from
7 expressing individual opinions or perspectives.
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10 **ARTICLE VII – MEETINGS**

11 **Section 1. Regular monthly meetings.** The Board shall hold regular meetings on the
12 second (2nd) and fourth (4th) Thursday in each month, with the exception of the month of August.
13 The regular meeting will be held in the City Council Chambers of the City of Oakland and begin at
14 6:15 p.m. The Chair or his or her designee shall send a copy of the proposed agenda for each other
15 regular monthly meeting to each member at least seven (7) days prior to such meeting. At the
16 completion of the roll call at a regular monthly meeting, a member may request an item to be added
17 to the agenda by motion and such item shall be so added upon a vote of a majority of members.
18 Except with respect to issues raised during the public discussion period or in response thereto, care
19 shall be taken by members to avoid discussions of non-agenda items. The Chair shall be diligent in
20 the enforcement of the provisions of this section so that meetings of the Board shall be conducted
21 in an orderly manner.
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24 **Section 2. Calling of special meetings.** The Chair may call special meetings in his or her
25 discretion for substantial reasons warranting the convening thereof and shall also call such meeting
26 upon the written request of at least three (3) members of the Board. A notice to the board members
27 stating the place, date, hour and agenda (as determined by the Chair in the furtherance of his or her
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1 exercise of discretion, or to cover subject matter specified in the request made by the herein above
2 specified individuals) shall be delivered either verbally or in writing, as practicable, to each
3 member at least twenty-four (24) hours prior to the special meeting. Where time permits and
4 practicable conditions allow, the Chair shall attempt to disseminate a brief written statement of the
5 matters to be discussed at any such meeting.
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7 **Section 3. Public Notice of Board Meetings.** The Board shall give public notice of
8 regular monthly meetings and special and/or emergency meetings. The meeting notification
9 requirements of the Open Meetings Law of the state of California shall apply to the regular
10 monthly meetings, special meetings and emergency meetings.
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12 **Section 4. Agenda form of the Board.** The regular order of business at regular,
13 special and/or emergency meetings shall be as follows in this standard format:
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15 **Regular Monthly Meetings**

- 16 a. Call to order
- 17 b. Roll call
- 18 c. Acceptance of minutes of last regular meeting of Board
- 19 d. Changes to agenda
- 20 e. Public Forum
- 21 f. Presentations
- 22 g. Board member announcements
- 23 h. Report from the Chair
- 24 i. Director's report
- 25 j. Committee reports
- 26 k. Old Business
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- 1 l. New Business
- 2 m. Closed Session
- 3 i. Review of complaints
- 4 ii. Pending Cases
- 5 iii. Old Business
- 6 iv. New Business
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- 8 n. Resume Open Session
- 9 o. Adjournment

10 Special and/or Emergency Meetings

- 11 a. Call to Order.
- 12 b. Reading of the notice of the meeting and roll call
- 13 c. Public comment
- 14 d. Transaction of the business for which the meeting was called and
- 15 recommendations.
- 16 e. Call of Closed Session if warranted.
- 17 f. Adjournment

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20 Such order may be varied at the discretion of the Board or the Chair.

21 **Section 5. Voting by proxy prohibited.** There shall be no vote by proxy at any meeting of

22 the Board.

23 **Section 6. Public comment allowed.** The public is welcomed to address the Board

24 regarding items that do not appear on the agenda but that are within the subject matter jurisdiction

25 of the Board. Time shall be made available for open public comment at all meetings of the Board,

26 exclusive of those portions of a meeting conducted in Closed Session. The Chair may establish a

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1 reasonable time limit for public comment based upon the scope of the agenda established for the
2 particular meeting, not to exceed three (3) minutes per person. The Chair, or the Board, upon
3 motion approved by a majority of its members, may provide for an extension of the time period for
4 a period as specified in the motion. Public comment related to an agenda item shall be limited to
5 the substance of the agenda item.
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7 **Section 7. Making of motions.** Motions may be made or seconded by any member of
8 the Board, including the Chair.

9 **Section 8. Confidentiality of privileged information.** Members of the Board shall
10 maintain the confidentiality of all confidential or privileged information received in the course
11 of their service on the Board, in accordance with the provisions of State and local law. Members
12 shall return all confidential investigative reports or packets to CPRB staff for proper destruction.
13 Members shall maintain a thorough knowledge of the legal protection accorded by State and
14 local law to the privacy of police records, including the penalties for the violations of laws
15 which guarantee the security of such records and the individual's rights of privacy and
16 confidentiality.
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19 Except as expressly authorized by the Chair or the Board in the furtherance of members
20 duties, members of the Board shall make diligent efforts to avoid ex parte discussion of any matter
21 that is or may come before the Board with any person interested in such matter. A member who
22 has had an unauthorized communication concerning an agenda item outside of a public meeting
23 with an interested party, including but not limited to a complainant, an officer or other employee of
24 the Department who is a subject of a complaint, a witness to the events giving rise to such
25 complaint, any person representing or purporting to represent the interests of any such person, or a
26 relative of any such complainant, officer or employee of the Department or witness, shall promptly
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1 notify the Chair of the contact, and furnish to the Chair the name of such interested party, the
2 nature of the interest and the specifics of the communication, including copies of any
3 correspondence with such party and a written synopsis of any portion of the communication that
4 was verbal.
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6 **Section 9. Recommendation for removal of a member for violation of provisions**
7 **relating to confidential and private information.** The Board, by a vote of at least six members,
8 may recommend to the City Council the removal of a member from the Board for cause, as
9 outlined in Article III, Section 4 of the Bylaws, based upon a violation of the provisions of Section
10 8 of this article, any provision of the local ordinance and state law that guarantees the security of
11 confidential records or the rights of privacy for individuals.
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13 **Section 10. Conflicts of interest; member recusal.** A Board member shall recuse him or
14 herself from hearing any case in which:

- 15 a. She/he feels that she/he cannot be fair and impartial;
16 b. It is likely that she/he will be perceived as not being fair and impartial;
17 c. A party (Complainant or the Subject Officer) or any witness whose credibility is in
18 issue, is
19 i. A relative, by blood or marriage through the third degree; or
20 ii. Someone, regarding who the Board member, through prior experience with the
21 witness or party in any capacity other than through service as a Board member,
22 has formed an opinion about whether or not that person is credible.
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24 d. In every case in which the Complainant, Subject Officer or any witness is known to a
25 Board member, the Board member shall disclose at the time of the hearing, prior to the
26 commencement of the hearing, the nature and extent of the Board member's
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relationship to the Complainant, Subject Officer or the witness.

- e. Similarly, at a point prior to the close of evidence, Board members shall disclose information which could influence their decision if such information is other than that which is adduced at the hearing (or is commonly known) and the parties shall be given an opportunity to review such information.
- f. After disclosure of a Board member's affiliation with the Complainant, Subject Officer or witness, either party or any member of the Board may proffer voir dire questions, limited to the bias and impartiality, to the Legal Advisor. If the questions are determined by the Legal Advisor to be relevant and material to a determination of bias or impartiality, the Legal Advisor will elicit response from the Board member in question.
- g. At the conclusion of the voir dire, either party or any Board member may object to the Board member in question hearing the case.
- h. The Board member shall be recused by an affirmative vote of a majority of the members of the Board if the record establishes a
 - i. Reasonable likelihood that an ordinarily prudent person in the same relationship to the party or witness would be biased for or against the Complainant or the Subject Officer, or;
 - ii. Reasonable likelihood that an ordinarily prudent person would, under the circumstances of familiarity with a party or witness, give greater or lesser weight to the testimony of any witness than they would if the witness were a stranger.

1 and Rules as such relate to advancing the efficient conduct of board business. The committee shall
2 make an annual report to the Board at its first December regular monthly meeting containing any
3 recommendations for amendments, which shall be considered for adoption by the Board at its first
4 January meeting.

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6 **Section 4. Standing Committee on Community Outreach.** The standing committee on
7 community outreach, working with the Executive Director, shall be charged with developing a
8 broad program of outreach to all sectors of the city populace for the purpose of informing the
9 diverse communities of the City of Oakland with respect to the mission of the Board and its duties,
10 functions, powers and responsibilities under the Ordinance. The committee shall endeavor to design
11 a program that will improve the relationship between the diverse communities of the City and the
12 OPD taking into account to the extent the committee deems necessary, desirable or appropriate, age,
13 race, ethnicity, religious, philosophical or political persuasion, gender, sexual orientation, and
14 economic status. The program shall maximize the dissemination of information to the public
15 through pamphlets, media press releases, public appearances or other methods reasonably calculated
16 to heighten public awareness of the role of the Board in achieving its goals of improving
17 communications between the Police Department and the Community; increasing police
18 accountability and credibility with the public; and creating a complaint review process that is free
19 from bias and informed of actual police practices. The committee shall issue monthly reports to the
20 Board with respect to its outreach program and its future plans.

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22 **Section 5. Standing Committee on Transparency and Legislation.** The standing
23 committee on transparency and Legislation shall be charged with identifying existing efforts to
24 increase transparency of the citizen oversight of police in legislation and policy at the local and state
25 level and working with those groups in a collaborative effort through legislation or policy, to increase
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1 the transparency of the citizen oversight of police. The committee shall also be charged with
2 planning, designing, publishing and distributing documentation and publications that educate the
3 public on the scope of the Board, issues of Board policy and practice, police policy and regulations
4 and applicable general and constitutional law.

5 The committee shall issue monthly reports to the Board with respect to its efforts and its
6 future plans.

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8 **Section 8. Limitation on service as chair or member of committees.** No member shall
9 serve as the chair of more than one standing committee at the same time. Each such committee
10 shall be comprised of not less than three (3) or more than five (5) members. No member shall be
11 required to serve on more than two committees of the Board, inclusive of the standing
12 committees established under this Article. A member may indicate to the Chair his or her
13 willingness to be appointed as a member of more than two committees.

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15 **ARTICLE IX – CONDUCT OF BUSINESS**

16 **Section 1. Committee Reports.** If Committees have information to report at the regular
17 meetings, the Chair shall recognize the chair of the committee and ask the chair to present the
18 written committee report.

19 **Section 2. Old Business.** Under the agenda item of old business, the Board shall consider
20 any unfinished business from previous meetings and members may seek such clarifications of
21 actions taken by the Board at a previous meeting as the member shall deem helpful.

22 **Section 3. New Business.** Under the agenda item of new business, the Board shall
23 consider any matters noticed by the Chair under this item as set forth in the mailed agenda as well
24 as any item of new business added to the agenda at that regular meeting by majority vote of the
25 members.

Comment [FA1]: I think this section needs to be reviewed; no mention is made of the City Attorney's Office, for example. The Copley issue remains unresolved because of the CAO, so some 'qualifying' language in terms of this committee and its limitations should be included, for the sake of 'transparency'.

1 **Section 4.** The board shall adopt such additional procedures as shall be necessary to
2 regulate the conduct of executive sessions.

3 **Section 5.** At the conclusion of its business in any closed session, the board shall recess
4 and return to the regular order of the agenda.

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6 **ARTICLE X – PUBLIC ACCESS TO BOARD RECORDS AND CONDUCT OF**
7 **OPEN MEETINGS**

8 **Section 1. Board compliance with Copley Press, Freedom of Information Law and**
9 **Open Meetings Law.**

10 The Board shall comply with Copley Press, Freedom of Information Law, and Open Meetings
11 Law of the state of California.

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13 **ARTICLE XI – MISCELLANEOUS PROVISIONS**

14 **Section 1. Annual report of the Board.** An annual report detailing the activities of
15 the Board shall be presented to the Board by the Executive Director, approved by the Board,
16 submitted to the City Administrator, City Attorney, and Public Safety Committee
17 (hereinafter referred to as “PSC”), and upon approval by the PSC, submitted to the City
18 Council. Such report shall be submitted to the Board at its first March meeting and shall be
19 acted upon at its first April meeting.

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21 **Section 2. Good Faith Complaints.** It is the policy of the Board to encourage persons with
22 good faith complaints of misconduct by an officer or other employee of the Department, including
23 but not limited to an alleged use of excessive force or a violation of any individual’s rights through
24 the action of a police officer, to submit such complaints in writing to the Board or to the
25 Department. Violation of a person’s civil rights shall include complaints pertaining to sexual
26 orientation. Complaints alleging excess use of force and violation of civil rights shall be given
27 highest priority of consideration by the Board. The Board will make every effort to ensure that no
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Comment [FA2]: Compliance with Copley Press is dubious. As you know, we’ve raised questions about the redactions, etc. which have not been responded to by the City Attorney. As far as we’re concerned this matter has not been resolved.

Comment [FA3]: Scheduling is done at Rules Committee. I’m not sure why you would be including this level of detail here. On the other hand, I think it might be good to establish what kind of data the Report must contain.

