



THE CITY OF SAN DIEGO

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## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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**Date Issued:** September 9, 2019

**IBA Report Number:** 19-20

**PS&LN Docket Date:** September 18, 2019

**Item Number:** TBD

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# Analysis of Potential Budgetary Needs for Proposed Commission on Police Practices

## OVERVIEW

On July 31, 2019, the Rules Committee conducted their initial review of a ballot measure proposal by Women Occupy San Diego regarding the establishment of an independent Commission on Police Practices (WOSD Proposal) to be considered for the November 2020 ballot. Under the WOSD Proposal, the City's current Community Review Board on Police Practices (CRB) would be dissolved and replaced by a professionally staffed Commission on Police Practices. It was requested at the Rules Committee meeting by Councilmember Cate that our Office estimate the potential funding need for the new Commission under the WOSD Proposal for further review by the Public Safety and Livable Neighborhoods Committee (PS&LN).

In preparing this report in response to Councilmember Cate's request, our Office met with several stakeholders, including Andrea St. Julian on behalf of WOSD, San Diego Police Department (SDPD) Chief David Nisleit, President of the San Diego Police Officers Association Jack Schaeffer, Director of the City's Office of Boards and Commissions Joel Day, and CRB Executive Director Sharmaine Mosely. In addition, we spoke with other civilian police oversight agencies in California, including those overseeing law enforcement in San Diego County, San Francisco, and Oakland, as well as staff from the National Association for Civilian Oversight of Law Enforcement (NACOLE), the leading recognized association in this field.

Separate from our analysis, Ms. Julian has prepared a preliminary estimated budget for the Commission on behalf of WOSD dated August 26, 2019, which we have attached to this report (Attachment 1).

## BACKGROUND

Civilian oversight programs vary significantly from one city to the next and it is difficult to make comparisons given the wide range of authority provided to these agencies. However, according to

NACOLE, civilian oversight agencies across the United States can generally be categorized under one or more of the following three models:

1. *Review-focused Model* – A civilian board or panel reviews and examines the quality of police internal affairs investigations.
2. *Investigative Model* – A civilian-led agency or commission actively investigates complaints of police misconduct.
3. *Auditor/Monitor Model* – A civilian auditor/monitor focuses on examining broad patterns in the quality of investigations, findings, and discipline rendered. This model often seeks to promote broad organizational change by conducting systematic reviews of police policies, practices or training, and making recommendations for improvement.

The City’s current CRB functions squarely within the Review-focused Model. Its purpose is to review and evaluate citizen complaints regarding police officer conduct. No investigations are conducted by CRB staff or volunteer board members. The CRB has historically only reviewed more significant (Category I) complaints investigated by Internal Affairs. Less serious allegations (Category II) are only reviewed if made in conjunction with a Category I allegation<sup>1</sup>. The CRB also reviews all officer-involved shooting cases, in-custody death cases, and the administration of discipline when it is found that officer committed the alleged act of misconduct. All reviews conducted by the CRB occur after SDPD Internal Affairs has concluded their investigation.<sup>2</sup>

<i>Category I</i>		<i>Category II</i>	
• Force	• Arrest	• Criminal Conduct	• Search and Seizure
• Discrimination	• Slur	• Procedure	• Courtesy
		• Conduct	• Service

Under the WOSD Proposal, the new Commission on Police Practices would be a hybrid consisting primarily of the Investigative and Review-focused Models, and to a lesser extent the Auditor Model.

## FISCAL/POLICY DISCUSSION

As outlined below, performance of certain duties by the Commission would be required, while for others discretionary authority would be granted. Where appropriate, we compare the proposed duties of the Commission with those currently being performed by the CRB.

### OVERVIEW OF WOSD PROPOSAL

#### Required Duties

Under the WOSD Proposal, the following duties must be conducted by the Commission:

1. Required Investigations – The Commission would be required to independently investigate the following limited types of cases whether or not a citizen complaint was submitted:

<sup>1</sup> As of May 2019, the CRB has begun auditing Category II complaints; this audit process is less intensive compared to the review process conducted for Category I complaints.

<sup>2</sup> For certain cases, such as officer-involved shooting and in-custody death cases, SDPD Homicide Unit and the District Attorney’s Office Investigations must also occur prior to CRB review.

- a. All deaths occurring while a person is in the custody of SDPD
- b. All deaths resulting from interaction with an SDPD officer
- c. All police officer-involved shootings

This *Investigative Model* function is not currently being conducted by the CRB.

2. Required Reviews – The Commission would be required to perform the following duties that generally fall under a review capacity:
  - a. Receive, register, review, and evaluate *all complaints* made against SDPD officers.
  - b. Review all SDPD findings and conclusions arising from investigations of police misconduct. This review must be conducted before any implementation of discipline.
  - c. Review discipline decisions proposed by the Chief of Police (or other entity) as a result of any allegations of police misconduct prior to implementation of discipline.

These *Review-focused Model* functions are generally being conducted by the CRB for Category I complaints only.

3. Other Required Duties

- a. Evaluation of SDPD compliance with federal, state, and local reporting laws and requirements.

This *Auditor Model* function is not currently being conducted by the CRB.

- b. Submission of Quarterly Reports to the Mayor and City Council regarding the exercise of the Commission’s duties and powers.

This reporting function is typically conducted by most, if not all, police oversight agencies across all models at different frequencies. The CRB currently issues annual reports.

### **Discretionary Authority**

Under the WOSD Proposal, the Commission may exercise the following powers at its discretion:

1. Investigative Authority – The Commission would have broad authority to investigate *all citizen complaints* against SDPD officers. In addition, the Commission may investigate any allegations of inappropriate sexual conduct, physical assault, or domestic violence by SDPD officers whether or not a written complaint is submitted.

This *Investigative Model* function is not currently being conducted by the CRB.

2. SDPD Policies and Procedures – The Commission would have the authority to review, evaluate, and make specific recommendations to the SDPD and the Mayor on department policies, procedures, practices, and actions.

This function is typically conducted by many police oversight agencies across all models. The CRB currently makes policy and procedural recommendations resulting from their case review to SDPD.

3. Discipline – The Commission would have the authority to make recommendations to SDPD on the discipline of officers and the ability to review and evaluate the administration of discipline.

This function is typically conducted by police oversight agencies across all models. The CRB reviews and evaluates the administration of discipline only.

### **Other Key Provisions**

1. Subpoena Power – The Commission would have the authority to subpoena witnesses and records.
2. Independent Legal Counsel – The Commission would be required to seek and receive outside legal counsel, independent from the City Attorney’s Office.
3. Budget Requirement – Within 120 days of the adoption of the WOSD Proposal, *“the Mayor and City Council must establish and fund a sufficient and appropriate budget for the Commission that will allow it to effectively carry out its duties and powers.”* We note that this provision is not typically included in the City Charter for the City’s other independent offices, such as the Ethics Commission. In discussing this requirement with the measures proponent and the City Attorney’s Office, the “sufficient and appropriate” judgment is intended to be determined by the City Council. ***Our Office recommends for this provision to be excluded should the PS&LN Committee move the measure forward.***

### **HISTORICAL DATA**

To estimate the potential staffing need for the new Commission under the WOSD Proposal, our Office reviewed relevant historical data provided by SDPD to determine the total possible caseload.

#### **Required Investigations**

As discussed above, certain occurrences, including in-custody deaths, deaths resulting from an interaction with a police officer, and officer related shootings, would require investigations under the WOSD Proposal. As shown in Table 1 below, over the past 10 years (2009-2018) at most there have been three death related cases and 12 officer related shootings, respectively, in any given year. Taken together, it is reasonable to assume that up to **15 investigations** may be required..

Table 1: Historical Occurrences Where Investigation Would be Required

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019 <sup>(2)</sup>	Max.	Avg.
Deaths <sup>(1)</sup>	2	2	0	0	0	3	2	1	0	3	3	3	1.3
Officer Related Shooting	10	10	4	8	9	9	12	6	8	6	3	12	8.2
<b>Total</b>	<b>12</b>	<b>12</b>	<b>4</b>	<b>8</b>	<b>9</b>	<b>12</b>	<b>14</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>6</b>	<b>15</b>	<b>9.5</b>

(1) Includes in-custody deaths and deaths resulting from the interaction with a police officer.

(2) As of August 22, 2019.

## Documented Complaints

The WOSD Proposal would require the Commission to review and evaluate *all complaints* made against SDPD officers. As stated previously, the CRB currently reviews Category I complaints only. Other complaints which are not currently reviewed by the CRB, include:

- Category II complaints, except those that are alleged in conjunction with a Category I complaint<sup>3</sup>;
- Informal complaints – defined as those where the complainant has agreed to have their complaint handled informally with an identified officer/SDPD member and the complainant is aware that no further investigation will be conducted;<sup>4</sup> and
- Miscellaneous complaints – defined as complaints where no allegation is specified, no member is specified, or the complaint is questioning police procedure(s).

Table 2 below reflects a historical accounting of all complaints documented by SDPD Internal Affairs dating back to 2009. Notwithstanding the incomplete information available for Informal and Miscellaneous complaints prior to 2016, documented complaints since that time show that Informal and Miscellaneous complaints significantly outnumber Category I and II complaints. Category I and II complaints generally represent a small subset of total complaints, equating to roughly 10%. After providing the complaint definitions to the measure’s proponent, they have stated that the investigatory/review process will not include informal or miscellaneous complaints. Given this intention, *our Office recommends modifying the WOSD Proposal to limit complaint reviews and discretionary investigative authority to Category I and II complaints.*

On average there have been **123 Category I and II complaints** received by SDPD Internal Affairs between 2009 and 2018. These complaints peaked at 181 in 2014 and have steadily decreased since that point. Though difficult to know for sure, this decrease may be attributed to SDPD’s implementation of body worn cameras, which were initially piloted in January 2014 and fully rolled out by August 2015.

Table 2: Historical Number of Complaints Received by SDPD Internal Affairs

	2009	2010	2011	2012	2013	2014	2015	2016 <sup>(1)</sup>	2017	2018	2019 <sup>(2)</sup>	Max.	Avg.
<b>Category I &amp; II</b>	73	84	119	131	177	181	150	136	96	80	53	181	123
<b>Informal</b>	-	-	-	-	-	-	70	197	308	365	234	365	235
<b>Miscellaneous</b>	-	-	-	-	-	-	156	775	536	360	176	775	457
<b>Total</b>	<b>73</b>	<b>84</b>	<b>119</b>	<b>131</b>	<b>177</b>	<b>181</b>	<b>376</b>	<b>1108</b>	<b>940</b>	<b>805</b>	<b>463</b>	<b>1321</b>	<b>814</b>

(1) In April 2016, Internal Affairs implemented an IA Pro system and migrated paper complaints to the new system. In September 2016, the Blue Team system was implemented and documentation of all complaints began. Prior to this time, many complaints that would currently be categorized as either Informal or Miscellaneous were handled by a supervisor in the field and closed without documentation being sent to Internal Affairs.

(2) As of August 21, 2019.

Source: San Diego Police Department

<sup>3</sup> See Footnote 1.

<sup>4</sup> The current SDPD/CRB Complaint Form states that for Informal complaints, the supervisor will review Body-Worn Camera video, address concerns directly with the officer, and document the incident with a memo, which will be retained in the Internal Affairs Unit for five years. No further investigation will take place, and the officer receives no formal discipline, unless the employee’s Commanding Officer determines additional investigation is warranted.

## **POLICE OVERSIGHT AGENCIES IN CALIFORNIA**

There are more than 20 police oversight agencies across the state of California and our Office reviewed many of these to determine which would be relevant for our analysis. Focusing on cities/counties with larger sworn officer counts, we identified two agencies, the County of San Diego's Citizens' Law Enforcement Review Board (CLERB) and the San Francisco Department of Police Accountability, given that they perform independent investigations on cases that are similar to those that would be required or discretionary under the WOSD Proposal. Although they oversee a smaller sworn officer count, the City of Oakland's Community Police Review Agency was also identified given that they recently moved from a *Review-focused Model* to an *Investigative Model* in 2017 following a citizen's ballot initiative. As noted earlier in this report, every oversight agency is unique and therefore it is difficult to make direct comparisons or inferences as they relate to the WOSD Proposal, even amongst these three which all operate under the Investigative oversight model. However, in speaking with these agencies, there were two valuable takeaways that factored into our analysis.

First, the investigative scope differs substantially for each agency. For example, San Francisco investigative process is the most intensive, involving their investigators being called on-scene immediately when certain events occur, such as officer related deaths or shootings. This contrasts with the process of CLERB and Oakland which are generally only made aware when these events occur, but do not begin their investigations until after Internal Affairs has substantially completed their investigation. The WOSD Proposal does not discuss investigative scope.

The second key takeaway was agency differentiation between *current* investigative caseloads and *ideal* caseloads given the time limitation under the Public Safety Officers Procedural Bill of Rights (POBR) which generally requires that investigations into officer misconduct be completed within one year. As such, significant pressure can be placed on oversight agencies and their investigators to close cases timely when caseloads are significant. Notably, CLERB was required to dismiss 22 death cases in 2017 primarily given the POBR limitation. Since then, CLERB increased investigative staff up to three investigators, not including the Executive Officer which also conducts investigations. According to the CLERB, there were 155 complaints submitted in 2018 of which all are required to be investigated under the County's Charter. This results in an average annual caseload of 39 cases per investigator/Executive Officer. In discussing this with the CLERB Executive Officer, this level is higher than ideal which in his view would be 25 cases annually per investigator; more complex cases involving officer related deaths or shootings would ideally be no more than 12 cases per year. Oakland provided similar numbers for their ideal investigative caseload capacity. San Francisco's ideal caseload is five officer related death or shooting cases per investigator given their increased investigative scope.

## **ESTIMATED COMMISSION STAFFING AND BUDGET**

With respect to staffing, the WOSD Proposal states that the Commission will be granted, "*the power to retain or employ (1) independent investigators to conduct investigations; (2) Policy Analysts to evaluate policies, procedures, practices, and actions of SDPD; (3) individuals to evaluate SDPD's compliance with federal, state, and local reporting laws and requirements; and, (4) such other staff as is appropriate.*"

Based on the discussion of the WOSD Proposal outlined above, our Office estimates the potential staffing and budgetary needs of the new Commission as follows:

**Estimated Personnel**

***Executive Director***

The WOSD Proposal calls for an Executive Director to be appointed by the Commission. Upon confirmation by the Council, the Executive Director would serve at the direction and pleasure of the Commission. No other specifics concerning the Executive Director are provided.

The County of San Diego released a recruitment notice in Fall 2018 for an Executive Officer to perform a similar role for their CLERB. The salary range for the position was \$96,000 to \$130,000 annually. Based on this, we believe it is appropriate to assume the potential salary for an Executive Director of the Commission to be \$130,000; including fringe, the total cost for this position would be \$166,000.

<b><i>Likely Required</i></b>	<b>Est. Salary</b>	<b>Est. Fringe</b>	<b>Total Est. Cost</b>
Executive Director (1.00 FTE)	\$130,000	\$36,000	\$166,000

***Investigators***

***Estimate for Required Investigations***

Based on information provided by the other California agencies, ideal caseloads for officer related death or shooting cases (i.e., Required Investigations under the WOSD Proposal) generally ranges between 5-12 cases per investigator, depending upon the investigative scope required by those programs. The WOSD Proposal does not provide specifics on the investigative process. We therefore assume a range in determining the number of investigators that may be necessary to conduct Required Investigations. As shown in Table 3 below, based on the City’s historical maximum number of officer related death and shooting events (15 events), we estimate that 1.25 to 3.00 FTE Investigators would be necessary for Required Investigations.

Table 3: Estimated Number of Investigators for Required Investigations

<b>Type of Investigation</b>	<b>City's 10-year Historical Max</b>	<b>Ideal Cases Per Investigator</b>		<b>Likely Required Investigators (FTEs)</b>	<b>Estimated Potential Investigators (FTEs)</b>
		<b>SD CLERB</b>	<b>SF OPA</b>		
Death	3	12	5	0.25	0.60
Officer Involved Shooting	12	12	5	1.00	2.40
<b>Total:</b>	<b>15</b>			<b>1.25</b>	<b>3.00</b>

***Estimate for Discretionary Authority***

With respect to the Commission’s discretionary authority under the WOSD Proposal to investigate complaints, there are two variables that impact projected investigative staffing: (1) the percent of complaints investigated; and (2) the potential for the overall number of complaints to increase above the current 10-year historical annual average (123 complaints). For the latter, this can potentially occur immediately, should the public perceive the Commission to be more proactive



compared to the current CRB, or over time should police incidents rise in the future. In discussing this with the City of Oakland’s Community Police Review Agency, which was recently reconstituted following a successful citizens ballot initiative, they realized only a modest increase in complaints. They cautioned however that their experience should be considered unique for their city and that different community circumstances are likely to garner different results. While it is difficult to make an assumption regarding the potential for increased complaints, we believe a 25% increase above the current 10-year historical average is conservatively reasonable. We note that a 25% increase in the 10-year historical average equates to nearly a 100% increase compared to the number of 2018 complaints (80 Category I and II complaints). As shown in Table 4 below, we estimate the potential number of complaints that may be investigated to range between 31 and 153 depending on the percent of complaints investigated and potential increase in overall complaints. Given that the explicit authority to investigate *all* complaints is provided under the WOSD Proposal, we assume this possibility within this range. However, WOSD has noted in our discussions that the capacity of Commission members to investigate all complaints is likely to be constrained by the amount of time they are able to commit to perform this service.

Table 4: Estimated Potential Number of Complaints Investigated

Assuming 123 Complaints	% of Complaints Investigated			
	25%	50%	75%	100%
No change	31	61	92	123
10% Increase	34	67	101	135
25% Increase	38	77	115	153

Assuming an ideal annual caseload of 25 general complaint cases per investigator, the potential number of investigators for discretionary investigations may range between 1.23 and 6.14 FTEs, as shown in Table 5 below.

Table 5: Estimated Potential Number of Investigators (FTEs) for Discretionary Complaint Investigations

Assumed Cases per Investigator: 25 Cases	% of Complaints Investigated			
	25%	50%	75%	100%
No change	1.23	2.45	3.68	4.91
10% Increase	1.35	2.70	4.05	5.40
25% Increase	1.53	3.07	4.60	6.14

Taking the *minimum* number of investigators from our analysis of Required Investigations and Discretionary Complaint Investigations, we estimate that at least 3.00 FTEs (1.25 + 1.23 rounded up to full FTEs) would likely be required.

Conversely, assuming the overall number of complaints increase 25% above the 10-year average and 100% of complaints are investigated, potentially up to 10.00 FTEs (3.00 + 6.14 rounded up to full FTEs) could be necessary. We assume the annual salary for investigators to be \$85,000 based on upper salary range for CLERB investigators<sup>5</sup>.

<sup>5</sup> The salary range for CLERB Special Investigators is \$72,000-85,000 based on a March 2019 recruitment notice.



<b><i>Likely Required</i></b>	Est. Salary	Est. Fringe	Total Est. Cost
Investigators (3 FTEs)	\$85,000	\$30,000	\$345,000
<b><i>Estimated Potential</i></b>	Est. Salary	Est. Fringe	Total Est. Cost
Investigators (10.00 FTEs)	\$85,000	\$30,000	\$1,150,000

***Performance Auditor***

A required duty of the Commission would be to evaluate SDPD compliance with federal, state, and local reporting laws and requirements. Our Office reviewed a listing of current reporting requirements provided by SDPD. In addition, we discussed the potential staffing need to perform this duty with the City Auditor’s Office, which is currently in early stages of a performance audit related to SDPD crime reporting.<sup>6</sup> It is estimated that 1.00 FTE would be sufficient assuming qualifications equivalent to a Senior Performance Auditor in the City Auditor’s Office. The average salary for this position is currently \$92,000; including fringe, the total cost for this position would be \$124,000.

<b><i>Likely Required</i></b>	Est. Salary	Est. Fringe	Total Est. Cost
Performance Auditor (1.00 FTE)	\$92,000	\$32,000	\$124,000

***Policy Analyst***

The Commission would have the authority to review, evaluate, and make specific recommendations to the SDPD and the Mayor on department policies, procedures, practices, and actions. For this role, the WOSD Proposal specifically identifies the employment of Policy Analyst(s). While it is not necessarily uncommon for police oversight agencies to employ specialized policy staff, many agencies typically have their investigators develop specific policy recommendations that are determined through the cases they are investigating. For this reason, we do not necessarily believe a specialized policy analyst would be required. However, the future Commission could potentially determine otherwise and request the City Council to increase this staffing in their budget. If so, we believe that at most 1.00 FTE would be sufficient based on discussions with other police oversight agencies and the Commissions potential case load.

<b><i>Estimated Potential</i></b>	Est. Salary	Est. Fringe	Total Est. Cost
Policy Analyst (1.00 FTE)	\$85,000	\$31,000	\$111,000

***Support Staff***

We believe required support staff would include 1.00 FTE Executive Assistant and 1.00 FTE Associate Management Analyst. Currently, the CRB Executive Director is supported by a partial 0.33 FTE Executive Assistant which is shared by other Boards and Commission directors. In assuming a full FTE for the new Commission Executive Director, we believe the remaining workload capacity of the position could be utilized to organize materials or other activities associated with the Commission’s Board meetings, as well as general office support. The Associate Management Analyst’s role would consist of the Commission’s annual budget development, assisting the Executive Director in the preparation of quarterly reports, and

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<sup>6</sup> The Audit Objective stated in the City Auditor’s Annual Citywide Risk Assessment and Audit Work Plan for Fiscal Year 2020 is to “determine the completeness and reliability of data collected by SDPD, and the methodologies used by SDPD to analyze and report this data.”

complaint intake, assuming the historically average number of Category I & II complaints continue. Should the number of complaints increase as discussed earlier in this report, an additional Administrative Aide II may potentially be necessary.

<b><i>Likely Required</i></b>	Est. Salary	Est. Fringe	Total Est. Cost
Executive Assistant (1.00 FTE)	\$54,000	\$27,000	\$81,000
Assoc. Mgmt. Analyst (1.00 FTE)	\$64,000	\$27,000	\$91,000
<b><i>Estimated Potential</i></b>	Est. Salary	Est. Fringe	Total Est. Cost
Administrative Aide II (1.00 FTE)	\$53,000	\$27,000	\$80,000

### **Non-Personnel Expenditures**

#### ***Outside Legal Counsel***

The WOSD Proposal would require that the Commission and its staff receive legal advice from outside legal counsel that is independent from the City Attorney’s Office. The measure’s proponent has estimated that necessary funding for independent legal counsel services would total \$75,000 based on information provided by the past chair of the CRB, Doug Case. This estimate assumed 25 hours of legal services per month billed under the pricing terms of the CRB’s current legal contract.<sup>7</sup> This includes legal counsel’s attendance at all open, closed, and committee meetings of the Commission, approximately 10 hours per month, though this is not specifically required under the proposal. Our Office spoke with Mr. Case concerning a greater potential initial use of legal services likely be required following the Commission formation. This would include a significant role in drafting the Commission’s necessary administrative documentation, including formal bylaws, operating procedures, and policies. In addition, it is reasonable to assume the Commission’s new investigative staff may require, at least initially, a greater reliance on legal counsel during their investigations which may not be required to the same degree as experience is gained over the course of the Commissions first few years. For these reasons, we estimate that an appropriate initial budget for outside legal counsel services to be at least \$100,000, and, depending on the number of investigations conducted by the Commission, up to \$150,000. The CRB’s current annual budget for outside legal counsel is \$25,000.

<b><i>Likely Required</i></b>	Total Est. Cost
Outside Legal Counsel	\$100,000
<b><i>Estimated Potential</i></b>	Total Est. Cost
Outside Legal Counsel	\$150,000

#### ***Other Non-Personnel Expenditures***

We estimate all other non-personnel expenditures (NPE) of the Commission to range between \$162,000 and \$322,000 depending on the staffing level, as discussed above. These estimates are primarily based on the Ethics Commission’s FY 2020 NPE budget, which totals approximately \$88,000 when excluding outside legal counsel services, and adjusting for staffing level. In

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<sup>7</sup> Per hour rates under the current CRB contract are \$275 for a partner, \$225 for an associate, and \$95 for a paralegal. A blended rate of \$250 per hour was assumed. The CRB’s current annual budget for outside legal counsel is \$25,000.

addition, we've assumed an additional \$50,000 or other as-needed professional/discretionary services.

<b><i>Likely Required</i></b>	Total Est. Cost
Other Non-Personnel Expenditures	\$162,000
<b><i>Estimated Potential</i></b>	Total Est. Cost
Other Non-Personnel Expenditures	\$322,000

The information above is summarized in Table 6 below.

Table 6: Total Estimated Commission Staffing and Budget

Budget Item	Salary	Fringe	Likely Required		Estimated Potential	
			FTEs	Budget	FTEs	Budget
<b>Executive Director</b>	\$ 130,000	\$ 36,000	1.00	\$ 166,000	1.00	\$ 166,000
<b>Investigators</b>	\$ 85,000	\$ 30,000	3.00	\$ 345,000	10.00	\$ 1,150,000
<b>Performance Auditor</b>	\$ 92,000	\$ 32,000	1.00	\$ 124,000	1.00	\$ 124,000
<b>Policy Analyst</b>	\$ 80,000	\$ 31,000	-	-	1.00	\$ 111,000
<b>Executive Secretary</b>	\$ 54,000	\$ 27,000	1.00	\$ 81,000	1.00	\$ 81,000
<b>Assoc. Management Analyst</b>	\$ 64,000	\$ 27,000	1.00	\$ 91,000	1.00	\$ 91,000
<b>Administrative Aide II</b>	\$ 53,000	\$ 27,000	-	-	1.00	\$ 80,000
<b>Outside Legal Counsel</b>	-	-	-	\$ 100,000	-	\$ 150,000
<b>Other NPE</b>	-	-	-	\$ 162,000	-	\$ 306,000
<b>Total</b>			<b>7.00</b>	<b>\$ 1,069,000</b>	<b>16.00</b>	<b>\$ 2,259,000</b>

## CONCLUSION

As outlined above, we estimate that the necessary staffing and budget for the Commission to potentially range between **7.00 FTEs and \$1.1 million** to **16.00 FTEs and \$2.3 million**.

In conducting our analysis, we found that certain aspects of the WOSD Proposal made providing a specific staffing and budget estimate difficult. This primarily relates to the Commission's broad investigative authority. While only a limited number of investigations would be required, the commission would have the explicit authority to potentially investigate any submitted complaints which, as the measure is currently written, could exceed 1,000 complaints. For this reason, *we recommend modifying the WOSD Proposal to limit complaint reviews and discretionary investigative authority to Category I and II complaints.* This modification is assumed in our analysis given that the proponent has stated that it is not intended for other complaints to be reviewed or investigated.

Another aspect of the WOSD Proposal where additional clarity would be required is investigative scope. As discussed above, police oversight agencies generally have different investigative processes which require different staffing levels. As such, investigative scope will need to be further defined at the determination of the City Council at a later date, assuming this measure moves forward.

Lastly, we note that WOSD Proposal includes a provision that required “*the Mayor and City Council must establish and fund a sufficient and appropriate budget for the Commission that will allow it to effectively carry out its duties and powers.*” This provision is not typically included in the City Charter for the City’s other independent offices, such as the Ethics Commission. In discussing this requirement with the measures proponent and the City Attorney’s Office, the “sufficient and appropriate” judgment is intended to be determined by the City Council. ***Our Office, recommends for this provision to be excluded should the PS&LN Committee move the measure forward.***



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Baku Patel  
Fiscal & Policy Analyst



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APPROVED: Andrea Tevlin  
Independent Budget Analyst

**Women Occupy San Diego's Proposed Charter Amendment  
PRELIMINARY ESTIMATED BUDGET FOR  
COMMISSION ON POLICE PRACTICE**

[revised]  
August 26, 2019

Below is the preliminary estimate of the budget for the Commission on Police Practices. This estimated budget was created by receiving input from a variety of sources.<sup>1</sup> The proponents of the amendment believe the estimate to be an accurate representation of what the Commission's budget should be.

**ESTIMATED BUDGET FOR  
COMMISSION ON POLICE PRACTICES**

CATEGORY	COST
<b>Personnel</b> – Salary of full-time executive director (\$118,000 <sup>2</sup> plus 34% <sup>3</sup> benefits)	\$158,120

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<sup>1</sup> The Director of San Diego's Office of Boards and Commissions, Joel Day, opined that the new Commission on Police practices would require each of the personnel listed. Additional information was provided by the immediate past chair of the Community Review Board (CRB), Doug Case.

With the exception of the cost for legal counsel and unless otherwise noted, the cost listed for each of the personnel is information provided by Mr. Day. The cost for legal counsel is an estimate provided by Mr. Case

<sup>2</sup>This salary is based on an estimate of the current CRB executive director using the information provided by Mr. Day.

<sup>3</sup>Mr. Day indicated that city work's fringe benefits usually run from 33% to 35%, and thus 34% was used in the calculation.

<b>Personnel</b> – Salary of full-time administrative aid/data processor <sup>4</sup> (\$60,000 salary plus 34% fringe benefits)	\$84,000
<b>Personnel</b> – Salary of full-time secretary (\$50,000 salary plus 34% benefits)	\$67,000
<b>Independent contractor</b> – Independent counsel	\$75,000 <sup>5</sup>

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<sup>4</sup>The administrative aid will be in charge of logging in complaints and related activities.

<sup>5</sup>As per Doug Case, immediate past chair of the CRB, and current CRB member, the CRB's current outside counsel is retained at the rates of \$275 for a partner, \$225 for an associate, and \$100 for a paralegal. Mr. Case recommended using a blended rate of \$ 250 per hour, and he estimates that the new Commission will use 25 hours of services a month. Per Mr. Case "Ten hours of that would be to attend board and committee meetings. The rest would be telephone consultation, review of documents, and research on law enforcement issues, etc. . . ."

<b>Personnel</b> – Two full-time investigators <sup>6</sup> (\$80,000 <sup>7</sup> salaries plus 34% benefits)	\$214,400
<b>Personnel</b> – One full-time policy analyst <sup>8</sup> (\$70,000 salary plus 34% benefits)	\$93,800

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<sup>6</sup>San Diego County's Citizens' Law Enforcement Review Board (CLERB) assigns its three investigators 20 to 25 cases each, five cases per investigator for death cases. The proposed charter amendment will require the new Commission to do a full investigation in **limited types of cases**, i.e. all in-custody deaths and police shootings. According to the City of San Diego Police Department and the CRB, there are on average nine to ten cases of in-custody deaths and police shootings a year. Those cases can easily be handled by one investigator. The new Commission will have the ability to investigate other types of cases, but it is not required to. Thus, in an abundance of caution the proposed budget includes a second investigator.

<sup>7</sup>As the attached information shows, San Diego's CLERB recently advertised for an investigator with a salary range of \$72,000 to \$85,000.

<sup>8</sup>It is estimated that one full-time policy analyst will be more than sufficient to advise the Commission. In all likelihood a full-time analyst will not be needed. Rather, the new Commission can have a part-time analyst or use independent contractors. In an abundance of caution, however, the new budget was calculated based on a full-time analyst. The estimate for this salary did not come from Mr. Day or Mr. Case but rather from Glassdoor and Indeed.com.



<b>Personnel – Part-time Budget Analyst<sup>9</sup></b> ((\$30,000 for part-time work plus 34% benefits)	\$40,200
<b>Non Personnel Expenses</b> (\$ 60,245 <sup>10</sup> plus a 100% increase)	\$120,490
Possible discretionary spending by new Commission <sup>11</sup>	0-\$ 50,000
<b>TOTAL</b>	<b>\$853,010-\$ 903,010<sup>12</sup></b>

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<sup>9</sup>The budget analyst will prepare the budget, do the purchasing, track all key performance, prepare quarterly reports, etc.

<sup>10</sup>The \$60,245 figure represents the CRB's NPE for the current year. The NPE includes all of the CRB expenses for training, equipment, office supplies, printing, etc. The staff of the new Commission will approximately double the CRB's current staff. Although the doubling of staff will not in fact double the NPE of the new Commission, in an abundance of caution, the NPE of the CRB was doubled to calculate the NPE of the new Commission.

<sup>11</sup>The new Commission does have some discretion in retaining independent contractors. For example, the Commission may choose to obtain the services of a mediator to mediate complaints from time to time.

<sup>12</sup>This figure is in keeping with the estimate of what the new Commission would cost as per Doug Case. He estimates that the new Commission would need a total budget of \$ 800,000 to \$1,000,000. The estimated budget for the new Commission is also in keeping with the budget

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for CLERB which has a budget of \$1,003,544. It must be noted however that CLERB's model is fundamentally different from that of the new Commission's in that CLERB is required to do a full independent investigation of every complaint filed whereas the new Commission is required to do a full investigation in only limited types of cases as explained in footnote 5.