



Pasadena Community Police Oversight Commission

IPA Report on Possible Charter Changes

December 7, 2023

CITY COUNCIL MOTION

- September 18, 2023:
- While discussing proposed topics for possible City Charter amendments, Council passed a motion requesting that the IPA-CPOC look at
- “The issue of police oversight” with
- “IPA to provide a report to CPOC and then to Public Safety Committee or City Council to discuss whether or not there should be a strengthening of oversight...”

QUESTION PRESENTED

Should Pasadena adopt a “Monitor-focused” model of professional oversight in lieu of the current “Auditor-focused” model?

If “yes,” such a change could only be made through an amendment to the City Charter.

CURRENT IPA STATUTORY AUTHORITY

- Pasadena has a true “Auditor-focused” form of oversight.
- The Independent Police Auditor’s duties can be found at Pasadena Municipal Code Section 2.30.020(A)(8).
 - *IPA has “unimpeded access to all police department personnel complaints and investigations thereon, for auditing and reporting purposes...*
 - *“Notwithstanding the right to observe various stages of personnel matters and to play a role in reviewing and monitoring such matters, [IPA must] **refrain from** (1) directly or indirectly taking active participation in personnel matters; (2) taking personnel actions; (3) using records developed to take personnel actions; and/or (4) directing that action be taken on police department employees...”*

CURRENT IPA STATUTORY AUTHORITY

- As such, the IPA reviews completed IA investigations and attends all Use of Force Review and Disciplinary Review Boards and can publicly comment on the quality of PPD police accountability efforts after-the-fact.
- IPA comments can be used by the police to improve future performance.
- However, the IPA cannot comment on investigations prior to their completion and cannot make recommendations to the Chief on the findings made or on the imposition of discipline.
- Therefore, the IPA is precluded from assisting the PPD in “real time” to ensure thorough investigations, and reasonable findings and imposition of discipline.

PASADENA CHARTER PROHIBITIONS

City Council cannot amend the IPA ordinance to give the IPA additional powers as the Charter sections that set up the Council-Manager form of government do not allow a City Council appointee to be involved in police discipline.

See,

- Charter Section 411(b) – prohibiting Council from “attempting to influence or direct” Chief of Police.
- Municipal Code Section 2.295.030 – Chief of Police has [sole] authority, subject to City Manager’s approval to “adopt rules and regulations for the administration of discipline of officers and employees of the Department.”

PROS & CONS OF AUDITOR V. MONITOR

- Auditor-Model (Strengths)
 - *The IPA is structurally independent of the PPD.*
 - *The Auditor has no “skin in the game.” There is no incentive for the Auditor to defend a PPD decision that is not reasonable or fair.*
 - *The Auditor has the benefit of hindsight and can use that hindsight to better evaluate the quality of PPD decision-making.*
 - *The PPD can learn from past mistakes and improve decision-making going into the future.*
- Auditor-Model (Weaknesses)
 - *The IPA has no ability to impact PPD decision-making in “real time.”*
 - *The IPA must sit back and remain silent, even if the IPA has identified an action that the PPD could take to ensure a thorough investigation or a reasonable finding.*
 - *IPA recommendations can have no impact on a case currently being considered by the PPD – no matter how important the issue or how significant the concern.*

PROS & CONS OF AUDITOR V. MONITOR

- Monitor-Model (Strengths)
 - *The IPM would be able to assist the PPD in ensuring investigations are thorough, fair and complete prior to their completion.*
 - *The IPM would be able to participate in Use of Force & Discipline Review Boards and provide an outside perspective to the Chief.*
 - *The PPD would not be obligated to follow the advice of the IPM but would have the opportunity to make their decisions with the full benefit of any input provided by the IPM.*
- Monitor-Model (Weaknesses)
 - *The IPM would continue to be structurally independent, but, if the PPD followed the IPM's advice, the IPM would have an incentive to justify and/or defend the PPD's decisions in cases where the PPD followed IPM advice and consult.*
 - *The IPM would no longer have the benefit of "hindsight" due to recommendations being made during the course of investigations and administrative review, instead of after.*

PROS & CONS OF AUDITOR V. MONITOR

“[...] it is a rule of inverse proportionality: the closer you are to an agency, the more access you have, the more you are able [to be] productive—the greater likelihood that you will be perceived as being too close and lacking independence.

The more distance you place between yourself and the agency through different devices, the more you will be perceived as independent, but the less you will actually be making a difference in impacting how the agency decides issues of accountability.”

Oversight Director quoted in: Rosenthal (2018) *Perspectives of Directors of civilian oversight of law enforcement agencies*, Policing, An International Journal, Vol. 41, No. 4, p. 440.

SAMPLE CHARTER LANGUAGE

Independent Police Monitor

There is hereby created the position of the independent monitor for the City of Pasadena.

The monitor, who shall report to City Council, shall have the authority to review and make recommendations on administrative investigations prior to their completion, make recommendations to the Chief of Police regarding administrative action, including possible discipline, for uniformed personnel; make recommendations regarding policy issues; and address any other issues of concern to the community, the members of the Community Police Oversight Board, the city council, the city manager, or the chief of police.

TIMELINE

- If the CPOC decides to recommend the consideration of a Charter change, the following steps must be taken to put an amendment to the city Charter on the ballot in November 2024:
 - CPOC makes a recommendation to the Public Safety Committee or City Council.
 - City staff would then need to meet and confer with affected unions before proposed Charter amendment is submitted to voters.
 - City Council could approve proposed Charter amendment for consideration by voters.
- Based on the above requirements, if the CPOC would like City Council to consider a Charter amendment, the CPOC would need to make a recommendation for consideration at the earliest reasonable opportunity.

