

Ordinance No. 650-2021

By Initiative Petition

FOR PASSAGE
August 18, 2021

AN EMERGENCY ORDINANCE

Authorizing the submission to the electors of the City of Cleveland of an initiative petition proposing to amend the Charter of the City of Cleveland by amending existing Sections 115-1, 115-2, 115-3 and 115-4, and by enacting new Sections 115-5 and 119-1 of the Charter, relating to enabling policing reform by strengthening Civilian Police Review Board oversight, permanently establishing the Community Police Commission, and adopting other reforms.

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and safety in that it must be certified to the election authorities immediately in order for the question to appear at a general election to be held on November 2, 2021, and providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That this Council authorizes the submission to the electors of the City of Cleveland at a general election to be held at the usual places of voting in the City of Cleveland on Tuesday, November 2, 2021, of an initiated proposal to amend the Charter of the City of Cleveland by amending existing Sections 115-1, 115-2, 115-3 and 115-4, and by enacting new Sections 115-5 and 119-1, to read as follows:

§ 115-1 Office of Professional Standards

There will be within and report to the Civilian Police Review Board an Office of Professional Standards, consisting of investigators appointed by the Board. The Board may appoint the Office's Administrator, in conformity with the Charter's civil-service provisions. The Office's Administrator may not be a current or former Cleveland police officer or Division of Police employee.

The Office of Professional Standards will not be under the direction and control of the executive head of the police force and the Chief of Police, and will report to the Board. The Chief, police force, and executive head of the police force must provide all assistance that the Board and Office of Professional Standards request to enable the Board and Office to carry out their duties. This includes prompt production of all information and records requested, in no case in more than 30 days.

§ 115-2 Civilian Police Review Board

The Civilian Police Review Board shall consist of nine members who represent Cleveland's diverse communities. The Mayor will appoint five members. Council will appoint four members. The Mayor and Council must fill vacancies within 60 days of when they arise. No more than one Board member may be a resident of the same police district, unless the City establishes fewer than nine districts. At

Ordinance No. 650-2020

least two members should be attorneys with experience representing victims of police misconduct or criminally prosecuting police misconduct. At least one Board member should, where reasonably feasible, be between the ages of 18 and 30 at the time of appointment. No Board member may be employed currently as a law-enforcement officer and no member may be a current or former employee of the Cleveland Division of Police. Vacancies during a term will be filled in the same manner as original appointments for the unexpired term. Within 30 days of any Board vacancy, including vacancies caused by the end of a term, the City must post an announcement of any vacancy and a request for applications to fill any vacancy. Members must be chosen from among the applicants.

Board members holding the office as of this Section's effective date may continue in office for the remainder of their terms, and those and previous terms will count toward term limits established in this section. Board members' terms of office will be four years. No member may serve for more than two four-year terms when the second term begins less than four years after the end of the first term. But a person may be eligible for appointment four years after the end date of the second term. Time spent fulfilling an unexpired term of two years or less will not be considered part of the two consecutive terms.

The Mayor may remove any Board member, upon notice and hearing, for malfeasance, misfeasance, nonfeasance, or gross neglect of duty.

All Board members must participate in initial and annual training on topics relevant to Board duties.

Board members will receive compensation as Council must establish.

The Board and its Office of Professional Standards will have its own budget separate from the Department of Public Safety's budget. The Board and its Office of Professional Standards must receive a budget totaling at least 1.0% of the budget allocated to the police force. The Professional Standards Administrator will oversee the budget on behalf of, and with guidance from, the Board.

The Board will designate annually one of its members to serve as chair and one to serve as vice chair. No person will serve more than two consecutive one-year terms in each position, but, except as further provided, may be eligible for appointment two years after the end date of the second term. A person may be eligible to serve in one of the positions for up to two consecutive one-year terms consecutive to service in the other position, but then may not serve in either position for two years after the end date of the term for the second position even if service in the first or second position was less than two years.

The Board shall appoint personnel as its staff as it deems necessary.

Ordinance No. 650-2020

§ 115-3 Board's Powers and Duties

The Civilian Police Review Board will receive, cause investigation of, and recommend resolution of complaints filed with it, or on its own complaint based on information that comes to its attention, alleging misconduct by Cleveland police officers or Division of Police employees, when such misconduct is directed toward any person who is not a police officer or Division of Police employee. The misconduct alleged may include, but need not be limited to, the use of excessive or deadly force. The Board will perform such other duties not inconsistent with this Charter's other provisions, as the executive head of the police force may request.

It is not a proper consideration for the Board and its Office of Professional Standards to choose not to investigate particular allegations of police officer or Division of Police employee misconduct based on the fact or belief that another investigative agency, including the Division of Police's Office of Internal Affairs, or that some other non-federal law-enforcement agency, is investigating, or has already investigated and concluded that no misconduct or something less serious than the misconduct a complainant alleged took place. The Board and its Office of Professional Standards must never defer to the Division of Police or outside, non-federal law-enforcement authorities in investigating allegations of police misconduct and must act independently, consistent with their mission of exercising civilian control and accountability over the police force.

To carry out its functions, the Board or any person authorized by it may compel the attendance of witnesses and the production of books, papers, and other evidence, and for that purpose may issue subpoenas or attachments, to be signed by the Board's chair, which will be served and executed by any officer authorized to serve subpoenas and other processes. The Council will provide by ordinance the penalty or penalties for contempt in refusing to obey any such subpoenas or to produce such books, papers, and other evidence. If the Council does not do so, the Board may establish such penalties.

The Board will make rules providing for its procedure and review of complaints.

§ 115-4 Investigation and Disposition of Complaints

Without interference from the Chief of Police or executive head of the police force, and with the full cooperation of both, the Office of Professional Standards must cause, for the Board's benefit, a full and complete investigation to be made of each complaint. The investigation need not be confined to matters set forth in the complaint and may expand based upon facts and allegations uncovered in the investigation. Upon an investigation's completion, the administrator will prepare a report and submit the report to the Board for its review and disposition. Before recommending action on a complaint or determining that a complaint warrants no action, the Board may hold a hearing, under its rules. Any decision or deliberation about whether to act or not act on a complaint must take place in an open meeting.

Ordinance No. 650-2020

If the Board decides that the facts found in an investigation suggest that the executive head of the police force and Chief of Police should promulgate or amend policies, rules, and regulations, the Board should submit its recommendation and reasoning to the executive head of the police force and Chief, with a copy to the Community Police Commission, and must notify the complainant that it has done so.

If the Board decides that discipline should be imposed on the officers or employees under the Chief of Police's management and control, the Board will submit its fact findings and recommendation to the Chief. The Chief and executive head of the police force must presume to be correct and defer to the Board's fact findings and recommendations, absent affirmative proof by clear-and-convincing evidence that the findings and recommendations are clearly erroneous. Absent such proof, within ten days after receiving the Board's fact findings and recommendation-the Chief or executive head of the police must impose at least the minimum discipline that the Boardhas recommended.

If the Chief or executive head of the police force believes that clear-and-convincing evidence exists that would justify disregarding or modifying the Board's fact finding and disciplinary recommendations, within ten days after receiving the Board's fact findings and recommendation, the Chief or executive head of the police force must notify the Board in writing of any refusal or lesser, alternative discipline to be imposed, detailing the reasons and providing the Board with the clear-and-convincing evidence justifying the decision. Precedents, patterns or practices, and discipline predating this Section's effective date cannot constitute clear-and-convincing evidence justifying any decision bythe Chief or executive head of the police force to impose lesser discipline than what the Board recommends, or no discipline.

If the Board then does not agree with the Chief's or executive head of the police force's refusal or alternative discipline, the Board, notwithstanding any provisions of Section 119 of this Charter to the contrary, may, in its discretion, overrule the Chief or executive head of the police force, and order either of them to discipline the officer or employee, up to and including termination. The Chief or executive head of the police force must then comply. Regardless of whether the Board orders the officer or employee's suspension for ten working days or less, the Board shall forthwith certify in writing the fact, together with the cause of the discipline, to the executive head of the police force, who will proceed as may be required under Charter Section 119, but consistent with this Section.

The Board must promptly notify complainants of the status, progress, and disposition of their complaints. If the Board determines that the complaint warrants no action, the Board shall so notify the complainant. The Board will ensure, through the Department of Law as appropriate, that complainants' viewpoints are heard in any arbitration process following discipline.

Termination will be the presumed discipline for racist, sexist, anti-LGBTQ+, anti-immigrant, national-origin-based, or otherwise bigoted conduct, slurs, or

Ordinance No. 650-2020

language used in the course and scope of employment, or, if the officer or Division of Police employee's language is on a matter of public concern, where that officer or Division of Police employee's interest in commenting on matters of public concern does not outweigh the City's interests, as an employer, in promoting the efficiency of the public services it performs through its employees. The pertinent considerations for weighing these interests include whether the language (1) impairs discipline by superiors or harmony among co-workers, (2) has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, (3) impedes the performance of the officer or employee's duties or interferes with the regular operation of the enterprise, or (4) undermines the City or Division of Police's mission.

In assessing the first consideration, City officials must consider the possibility that inaction by the City could be seen as an endorsement of the speech and impair future discipline of similar derogatory statements. In assessing the second consideration, City officials must consider whether the language is reasonably likely to have a detrimental impact on close working relationships within the police force or undermine trust. In assessing the fourth consideration, City officials must consider the need for the City to preserve the appearance of impartiality, the role and responsibilities of the officer or employee, and, when the role is public facing, whether the danger to successful functioning of the Division of Police will increase. This includes making a reasonable prediction about whether the language, when known to the public, would harm the Division of Police's mission; or undermine the community's respect, trust, or perception that the police enforce the law fairly, even-handedly, and without bias.

Notwithstanding the above provisions, consistent with Charter Section 115-5, the Community Police Commission, at its discretion, has the authority to make the final decision for the City about whether to impose officer discipline where it was not imposed, or to increase discipline when the Commission deems it insufficient. The Chief, executive head of the police force, and the Board must notify complainants of their right to seek ultimate review by that Commission.

Nothing in this Section may be interpreted as depriving city employees of due process.

The Chief, the executive head of the police force, the Board, and Community Police Commission must timely and consistently notify complainants about, and afford complainants, the right to be heard in every step of the disciplinary process, without limitation, from investigation, and through hearings, reviews and internal appeals, arbitrations, and court proceedings. Complainants cannot be excluded from being informed about or from being heard during these processes, and have a right to intervene.

The Board, complainants, and any City taxpayer may take legal action to enforce all terms in all Charter sections related to the Board. The Board may opt, if it deems the Director of Law to have a conflict of interest, to engage outside counsel at the Department of Law's expense.

Ordinance No. 650-2020

§ 115-5 Community Police Commission

Voter findings. The voters of the City of Cleveland find, based on continuing, serial instances of police misconduct, that there is a need to significantly strengthen civilian oversight of the police force, and to hold the police force more accountable; strengthen the police reform initiated by, but grossly insufficient in, the Consent Decree in *United States of America v. City of Cleveland*, U.S. District Court for the Northern District of Ohio Case No. 1:15-cv-2046; institutionalize cultural change within the Division of Police; and reform the arbitration process by which unelected arbitrators who do not reflect the values, concerns, or diversity of the community-and who themselves often do not live in the community and therefore do not personally bear the burden of any problematic police practices-routinely undermine police accountability by reducing or reversing disciplinary decisions.

Commission. The Community Police Commission ("Commission") is permanently established as an independent municipal commission, with an executive director nominated by the Commission and appointed by the Mayor.

Commission membership, eligibility, and appointment categories. The Commission will consist of 13 persons broadly representative of the racial, social, economic, and cultural interests of the community, including those of the racial-minority, immigrant/refugee, LGBTQ+, youth, faith, business, and other communities, to reflect the overall demographics of Cleveland residents. At least two Commission members must represent community organizations focused on civil-rights issues. At least one Commission member must be, represent, or be knowledgeable of, as applicable, the issues of those who are limited-English speakers, homeless, or who have mental-illness and substance-abuse disorders; those who have been directly impacted by police violence, or be a family member of a person who has been killed by police; those who have been incarcerated and exonerated where police were involved in the wrongful conviction or incarceration; gun-violence survivors or be a family member of a person killed by gun violence; an attorney with experience representing victims of police misconduct or criminally prosecuting police misconduct. A single Commission member may fulfill more than one of the above categories. Where feasible, the Mayor will seek to appoint at least one member between the age of 18 to 30 at the time of appointment.

With the exception of no more than three police-association representatives, described below, no member may have served within the five years before appointment as a law-enforcement officer, have ever been an employee of the City's Division of Police or Department of Public Safety, or otherwise have been a City employee within the previous year. The Mayor may appoint no more than three representatives of police associations, including racial-or-ethnic-minority police-labor associations, or these associations' successors recognized by the City. These police-association representatives must have a background relevant to police-community relations and demonstrated connection to their respective associations' membership, and no representative may have a record of police

Ordinance No. 650-2020

misconduct (whether adjudicated or not), or career records or personal history meriting designation or disclosure under *Brady v. United States* or *Giglio v. United States* and their caselaw progeny.

Appointment process and vacancies. The Mayor will appoint 13 members, with the approval of Council by majority vote, for four-year terms, following an open and fair application process.

Three of the members the Mayor appoints will be nominated by Council and, when vacancies arise, the Mayor may designate categories from Subsection (c) above for nomination by Council.

The Mayor must fill Commission vacancies within 60 days of when they occur. At least 30 days before the process begins, the City must solicit recommendations for membership from community organizations who have interest in police oversight, and post applications prominently on the City's website, City Council website, and through local print, television, radio, and digital media. For appointment of the first Commission after this Section's effective date, the Mayor will divide the appointees into two classes. The first class of seven will have four-year terms and, for the first term only, the second class of six will have a two-year term. After that, all classes will have four-year terms so that approximately half of Commission members are appointed every two years. No Commission member may serve more than four, full, four-year terms.

Removal.

Non-police-association-representative members. The Mayor may remove any Commission member for malfeasance, misfeasance, nonfeasance, or gross neglect of duty, but must afford any non-police-association-representative Commission member an opportunity for a public hearing before the Mayor, within 30 days after the Mayor has given such member written charges, with a copy filed with the Clerk of Council. An accused non-police-association-representative member will be permitted to respond to the charges in person or through counsel, and have the right to subpoena and present evidence, including documents and witnesses. Removal by the Mayor will be final unless not later than the third meeting of Council after the removal, Council disapproves the removal by an affirmative, two-thirds (2/3) vote of the members elected to Council. There will be no requirement that there be three readings of a resolution to reject the Mayor's removal of the member.

Police-association-representative members. The Mayor may remove any police-association-representative member with or without cause. Likewise, by a simple majority vote of only non-police-association-representative members, the Commission may remove any police-association-representative member, with or without cause. Consistent opposition to police accountability and the Commission's mission and duties should cause such removal.

Vacancies. Vacancies during a term will be filled in the same manner as the original agreed selection process for the unexpired term. Within 30 days of any

Ordinance No. 650-2020

vacancy on the Commission, including vacancies caused by the end of a term, the City will post an announcement of any vacancy and a request for applications, widely disseminating the information. The Mayor must choose from among the applicants without delay.

Chair. The Commission will select its own chair from among its members by a majority vote, using, at its discretion, a run-off process or rank-order voting should there be more than two candidates for the position.

Duties and Authority of the Commission. The Commission will respond to community needs and concerns regarding regulation of the City's police force and community-police relations through duties including, but not limited to, the following:

Serving as the final City authority on whether the discipline of police officers imposed or not imposed by the Chief of Police, executive head of the police force, or Civilian Police Review Board is sufficient, with the discretionary authority, with due process afforded to a subject officer, to order that the Chief and executive head of the police force increase discipline; and to order that they impose discipline where none was imposed. The Commission may, at its discretion, and upon notice, hold evidentiary hearings to review individual officer discipline following any proceedings and decisions by the Chief of Police, executive head of the police force, and, as applicable, the Civilian Police Review Board. Any order by the Commission to increase or impose discipline will be final and the chief and executive head of the police force must follow it.

Ordering the Chief of Police to decrease discipline of police officers only in circumstances in which the Commission determines that the officer is facing retaliation for protected activity or for whistleblowing about misconduct within the Division of Police. With this exception, nothing in this Section will be construed as conferring a right by any officer to appeal that officer's discipline to the Commission.

Interviewing and recommending candidates for police commander and inspector general to the Mayor.

Compelling, through administrative subpoenas signed by the Commission's chair or Executive Director, the attendance of witnesses and the production of evidence, including, but not limited to, from within the City, that the Commission deems necessary for the performance of its duties. The Council may provide by rule the penalty or penalties for contempt in refusing to obey such subpoenas, and the Commission must do so if the Council has not.

Having final authority over establishing the policies, applications, and examinations by which new police recruits must be sought out and recruited and screened, including screening for bias.

Establishing bias-screening and training for existing police officers.

Ordinance No. 650-2020

Having final authority over police policies, procedures, and training regimens.

Auditing and verifying police-officer training.

Soliciting, gathering, compiling, organizing, maintaining, and generally updating information on individual police officers whose career records or personal history merit designation or disclosure even reasonably arguably advisable under *Brady v. United States* or *Giglio v. United States* and those cases' progeny; ensuring that the Division of Police and municipal, county, state, and federal prosecutors disclose such information at the beginning of the discovery process in all criminal and civil cases in which such officers could be witnesses or are parties; making such information readily publicly accessible on the City's website; and publicizing and devising means of public accountability for failures in the Division of Police, by the Chief of Police, by the Department of Law, by the Cuyahoga County Prosecuting Attorney, or others to track, identify, maintain, organize, and disclose such information. The Commission must undertake this duty as to all current police officers, including information predating this Section's effective date.

Directing the Civilian Police Review Board to independently investigate the conduct of every police officer against whom a lawsuit has been threatened or filed, or for whom the City has paid a settlement to obtain a liability release, or against whom there has been a court judgment for alleged misconduct.

Proposing and advocating for legislation or regulations to Council, the State of Ohio, and other legislative and regulatory authorities, and offering views on the City's, Mayor's, Chief of Police, and Department of Public Safety's legislative agendas consistent with the purposes of this section.

Engaging in community outreach to obtain the perspectives of community members, police organizations, and Division of Police employees on police-community relations, police policies and practices, the police-accountability system, and other matters consistent with the purposes of this section.

Maintaining connection and collaboration with representatives of disenfranchised communities and with other community groups throughout the City, the Community Relations Board, police-district committees, and similarly arranged councils consistent with the purposes of this section.

Providing Division of Police, Office of Professional Standards (OPS), Civilian Police Review Board (CPRB), Internal Affairs (IA), and other City law-enforcement and police-accountability entities with community feedback received through the Commission's public-outreach activities.

Providing technical assistance to the Division of Police, OPS, IA, CPRB, and other City law-enforcement and police-accountability entities, consistent with the purposes of this section.

Exercising independent judgment and offering critical analysis in the performance of their duties without interference or non-cooperation from any person, group, or organization including the Chief of Police, the Director of Public

Ordinance No. 650-2020

Safety, the Mayor, the executive head of the police force, other Division of Police employees, and other city officials. City employees who violate this provision may be subject discipline, or censure consistent with city and state laws. to dismissal,

Requesting and timely receiving, without the need for making a formal public-records request, from other City departments and offices including the Division of Police and Director of Public Safety, information relevant to the Commission's duties that must be disclosed if requested under the Ohio Public Records Act.

Reviewing policy, data, and records to advise the Mayor, the Director of Public Safety, the Chief, the Council, the Director of Law, OPS, the CPRB, and others on policing issues including, but not limited to, police-community relations, police accountability including OPS and CPRB operations, bias-free policing, search and seizure, officer training, police use-of-force policy, data collection and retention, and implementation of other initiatives, programs, and activities intended to support constitutional policing and continuous improvement of policing.

Periodically publishing and distributing factual material, reports, recommendations, and notices as the Commission deems important within its purview as established above.

Performing audits and broad investigations into investigative processes, including audits for quality assurance and adherence to policy and procedure of closed investigations and closed discipline cases of police officers and Division of Police employees.

Identifying and proposing opportunities for systemic improvements in all aspects of police accountability, including, but not limited to, officer-complaint intakes; handling; investigations; use of alternate resolutions like supervisory coaching; mediation; or ordered training; timely notifications to complainants about investigative progress and results; timelines for investigation; discipline; disciplinary appeals; and *Brady/Giglio-list* protocols.

Accessing un-redacted complaints against officers and unredacted files of all closed investigations, except for information required to be withheld from persons who are not members of criminal-justice agencies under the Ohio Public Records Act or the Ohio Personal Information Systems Act, as they may be amended.

Consistent with federal and state law, protecting from disclosure confidential, non-public records to which the Commission has been provided access.

Engaging outside legal services, at Department of Law expense, when the Commission determines, in its discretion, that there is a conflict of interest between the Commission's mission and representation from the city's Department of Law.

Eliciting public comment on police policy issues.

Ordinance No. 650-2020

Making grants to community-based violence-prevention, restorative-justice, and mediation programs to reduce the need for police activity.

Adopting and amending rules for the Commission's procedures, including selecting leadership and any additional articles sufficient for efficient and effective execution of its duties.

Exercising, without limitation, other duties consistent with the Commission's broad purposes of exercising stronger civilian control and accountability over the Division of Police, that are consistent with the Charter.

Full Cooperation by the Chief of Police, Division of Police, and Executive Head of the Police Force Required. The Chief of Police, all Division of Police employees, and the executive head of the police force must fully cooperate with the Commission in performing all of its duties. Failure to do so is a terminable offense and the Commission may seek injunctive relief for failures.

Compensation for Commissioners. The Council must establish annual compensation for Commissioners of no less than \$7,200, adjusted annually by the Consumer Price Index, and reimburse reasonable Commission-related business expenses.

Executive Director and Staff. The Commission will nominate its Executive Director to be appointed by the Mayor. The Executive Director will be exempt within the Unclassified Civil Service and may not have ever been a Division of Police employee. The Mayor may only recommend the Executive Director's removal for just cause, subject to confirmation by a vote of 2/3 majority of the Commission. The Commission may also directly initiate removal with or without cause, with a 2/3 majority required for removal. The Executive Director will have at least one assistant and an additional minimum support staff of three classified, non-competitive positions. With support from the Department of Human Resources, the Executive Director will determine appropriate classifications and job descriptions based on operational needs. All such appointments, except one assistant, will be made in conformity with civil-service rules. No Commission employee may have ever been a Division of Police employee.

Duties of the Executive Director. Under the Commission's direction, the Executive Director will have the authority and responsibility to:

Oversee and manage the functions of the Office of the Commission to advance the Commission's mission and perform other public duties as the Commission may prescribe.

Hire, supervise, and discharge employees of the Office of the Commission. Employees of the Office of the Commission will collectively have the requisite credentials, skills, and abilities to help fulfill the Commission's duties set forth in this section.

Ordinance No. 650-2020

Execute, administer, modify, and enforce such agreements and instruments as the Executive Director may deem necessary to implement programs and carry out the Commission's duties; apply for grants and donations for Commission programs; and solicit and use volunteer services.

Represent, together with Commissioners, the Commission in providing testimony and expertise to other city departments and offices, commissions, and other organizations regarding issues of constitutional policing.

Create an annual budget and advocate for operational resources. The City will provide additional staff and resources not outlined in this section that it deems sufficient to enable the Commission to perform its duties.

Manage the preparation of the Commission's proposed budget, and submit an annual budget request to the Mayor. The Mayor and Council will appropriate the Office of the Commission's budget in a budget-control level independent of any other City department. The Director of Finance may review the budget request for lawfulness and reasonableness and make recommendations for improvement to the draft budget. No person in the executive branch will exercise discretionary authority to make changes to the proposed budget to which the Commission does not agree. Commissioners and the Executive Director may advocate for resources directly to Council members or the Council during the budget process and throughout the year.

Authorize necessary expenditures, and enter into contracts for professional and other services in accordance with the adopted budget, develop and manage programs, and undertake authorized activities.

Serve as Secretary of the Commission and of any advisory committee or subcommittee the Commission may create.

Regarding regulation of the City's police force and community-police relations: maintain contacts with all community groups concerned with constitutional policing, social justice, and public safety, including police associations; report to the Commission regarding these groups' activities; and serve as a source of accurate and reliable data on issues in the field of community policing, law enforcement, social justice, and racial justice.

Implement the Commission's decisions and, on the Commission's direction, work in cooperation with other City departments, on improvement of law-enforcement services and police accountability; work to remove inequalities that may be related to minority-group or other status related to law enforcement and related matters; conduct educational activities, institutes, meetings, and prepare reading materials, that will lead to better community-police relations.

Exercise such other and further authority and duties as this Section prescribes.

Ordinance No. 650-2020

Budget. The Commission's annual budget may not be less than \$1,000,000, adjusted annually under the federally established Consumer Price Index (CPI), unless the Commission itself requests a lower budget. Council must increase the Commission's budget by the greater of the CPI or the percentage of increases in the Division of Police's budget. In addition to the amount above (as it may be adjusted), the Commission will receive a budget for its grantmaking to community-based violence-prevention, restorative-justice, and mediation programs that is at least 0.5% of the amount budgeted for the Division of Police.

Open Meetings and Public Comment. Commission meetings will be open to the public, consistent with the Open Meetings Act. The Commission will afford reasonable opportunity for public comment at its meetings.

This Section Controls. Where conflicts exist, this Charter Section supersedes and controls over any previously adopted provisions in the Charter, Cleveland Codified Ordinances, or collective-bargaining agreements.

Consent Decree modification. Upon the effective date of this Section and other police-reform-related Charter sections amended or adopted with it, the Director of Law will move the U.S. District Court to modify the federal Consent Decree in *United States v. City of Cleveland* to incorporate the amended and new sections and ensure that the voters' intentions are given full effect. If the Director of Law does not file such a motion within 30 days after this Section is adopted, then any City taxpayer is authorized and has standing to do so without making further demand upon the Director of Law as may otherwise be required by the Charter or Ohio law. Until the Decree is modified to incorporate the amended and new sections, the Commission will prioritize fulfilling duties required under the Decree over the additional duties this Section establishes.

§ 119-1 Discipline of Police.

The Chief of Police will have the exclusive right to discipline, including suspend, demote, or terminate any of the officers or employees who are in the classified service and are under their respective management and control, for incompetence, gross neglect of duty, gross immorality, habitual drunkenness, failure to obey orders given by the proper authority, malfeasance, misfeasance, nonfeasance, or for any other just and reasonable cause, subject to the higher authority of the Civilian Police Review Board and the Community Police Commission established in the Charter. Before disciplining any officer or employee of the police force, the Chief of Police must ascertain whether a complaint on file with the Civilian Police Review Board relates to the conduct of the officer or employee in question. If so, the Chief of Police must not discipline the officer or employee unless the Civilian Police Review Board concurs with the Chief's decision, in accordance with Section 115-4 of the Charter.

If the Chief of Police suspends an officer or employee under his control for no more than 10 working days, the Chief's decision shall be final, subject to the higher

Ordinance No. 650-2020

authority of the Civilian Police Review Board and Community Police Commission as specified in the Charter.

If the Chief of Police demotes, terminates, or suspends for more than 10 working days any officer or employee under his control, the Chief must forthwith in writing certify the fact, together with the cause for the suspension, to the director of the department to whom he may be responsible, or if there be no such director then to the Mayor, who within five days from the receipt of such certificate shall, either personally or through a hearing officer appointed by the Director or the Mayor, hold a hearing into the cause of the suspension in accordance with the requirements of due process of law and render judgment. This judgment, if the charge is sustained, may be suspension, reduction in rank, or termination, and such judgment will be final, except as otherwise provided in this Section and subject to the review and higher authority of the Civilian Police Review Board and Community Police Commission specified in the Charter. If a hearing officer is used, the Mayor or the Director of the department to whom the Chief may be responsible, upon receiving the hearing officer's report and recommendations, must promptly review the report and recommendations of the hearing officer and render a decision. The Director or the Mayor will cause to be filed with the Civil Service Commission a copy of the written certification of discipline by the Chief and the cause giving rise to such suspension, the hearing officer's report and recommendations, and the decision of the Mayor or the Director. The Director or a hearing officer in any such hearing shall have the same power to administer oaths and secure the attendance of witnesses and the production of books and papers, as this otherwise Charter confers upon the Mayor, the Council, or a Council committee.

The provisions of this section also apply to the Chief of Police's power to suspend employees and officers of the police force under Section 119 of this Charter.

Section 2. That the forgoing proposed amendment to the Charter, on receiving at least a majority of the votes cast at the November 2, 2021 general election, shall become effective immediately on its adoption.

Section 3. That the Clerk of this Council is authorized to promptly forward a certified copy of this ordinance to the Board of Elections of Cuyahoga County.

Section 4. That the Board of Elections of Cuyahoga County shall cause an appropriate notice to be given of the election to be held on November 2, 2021, on the foregoing amendment to the Charter of this City and otherwise to provide for the election in the manner provided by the general laws of the State of Ohio.

Ordinance No. 650-2020

Section 5. That the Clerk of Council is authorized to, not less than thirty days prior to the general election, either mail a copy of the proposed amendment to each elector whose name appears upon the registration books of the last regular or general election held in the City or, pursuant to laws passed by the general assembly notice of the proposed amendments may be given by newspaper advertising.

Section 6. That, for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance shall take effect and be in force immediately upon its passage by the affirmative vote of two-thirds of all the members elected to Council.

/rns
8-18-2021
BY: Initiative Petition

By Initiative Petition

AN EMERGENCY ORDINANCE

Authorizing the submission to the electors of the City of Cleveland of an initiative petition proposing to amend the Charter of the City of Cleveland by amending existing Sections 115-1, 115-2, 115-3 and 115-4, and by enacting new Sections 115-5 and 119-1 of the Charter, relating to enabling policing reform by strengthening Civilian Police Review Board oversight, permanently establishing the Community Police Commission, and adopting other reforms.

READ FIRST TIME

REPORTS

referred to

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME on AUGUST 18, 2021

PRESIDENT

CITY CLERK

APPROVED

MAYOR

READ FIRST, SECOND AND THIRD TIME