



# OAKLAND POLICE COMMISSION

## AGENDA

August 23, 2018

6:30 PM

Hearing Room 1, 1st Floor  
1 Frank H. Ogawa Plaza, Oakland California

- I. **Call to Order**  
Thomas Lloyd Smith
- II. **Roll Call and Determination of Quorum**  
Thomas Lloyd Smith
- III. **Welcome, Purpose and Open Forum** (2 minutes per speaker)  
Thomas Lloyd Smith will welcome and call public speakers.  
The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's policies, practices and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency that investigates police misconduct and recommends discipline.
- IV. **Approval of Draft Commission Meeting Minutes for July 26<sup>th</sup> and Aug. 9<sup>th</sup> 2018**  
Thomas Lloyd Smith will offer the draft minutes for approval by the Commission.
  - a. Discussion
  - b. Public Comment
  - c. Action
- V. **Oakland Police Department Report** (~30 minutes)  
Chief Anne Kirkpatrick will report on (1) the status of the investigation of the police involved shooting incident Joshua Pollack on March 11 and (2) the status of the investigation of the in custody death of Marcellus Toney on September 28, 2017. The Chief will also report any information that is publicly disclosable regarding the investigation of IAD 13-1062. The Chief will also discuss whether there is a liquidated damages or similar provision in Dr. Eberhardt's contract.
  - a. Discussion
  - b. Public Comment
- VI. **Commission Policy Review Process**  
The Commission will review, discuss and formulate a policy review process. Alternate Commissioner Maureen Benson has submitted a draft proposal.
  - a. Discussion
  - b. Public Comment
  - c. Action, if any

**VII. OPD Departmental General Order R-02: Searches of Individuals on Probation or Parole**

The Commission will review an OPD policy proposal concerning when to use probation and parole/PRCS searches for individuals on probation with certain court-imposed search clauses and individuals on parole/PRCS (Post-Release Community Supervision), who are subject to warrantless searches by law enforcement.

- a. Discussion
- b. Public Comment
- c. Action, if any

**VIII. Ad Hoc Committee to Update of Rules of Procedure**

The ad hoc committee tasked with updating the Commission's rules of order will report on its progress and make recommendations for adoption to the Commission.

- a. Discussion
- b. Public Comment
- c. Action, if any

**IX. Recess (~6 minutes)**

**X. Executive Director Recruiting Process for the Community Police Review Agency**

The Personnel Ad Hoc Committee will provide an update on the Executive Director recruiting process.

- a. Discussion
- b. Public Comment
- c. Action, if any

**XI. Oakland Police Commission Retreat II: Prioritization of Agenda Items**

The Commission engage in planning for its second retreat including prioritization of items for a proposed agenda, scheduling, training sessions, facilitators, and location.

- a. Discussion
- b. Public Comment
- c. Action, if any

**XII. Training: Discipline Committee and City of Oakland Employment Policy and Procedures Training**

The Commission will discuss scheduling discipline committee training and training on City of Oakland employment policies and procedures.

- a. Discussion
- b. Public Comment
- c. Action, if any

**XIII. Commission Review of Community Police Review Agency Cases Proposed for Dismissal or Closure**

Interim Director Finnell will report on the CPRA's proposed dismissal or closure of complaints of misconduct involving Class I offenses. The Commission will consider

whether to close the case(s) or direct CPRA to continue or reopen the case(s) and investigate the complaint in accordance with Oakland Police Commission Enabling Ordinance § 2.45.070(M).

- a. Discussion
- b. Public Comment
- c. Action, if any

#### **XIV. Agenda Setting and Prioritization of Upcoming Agenda Items**

The Commission will engage in a working session to discuss and determine agenda items for the upcoming Commission meeting and to agree on a list of agenda items to be discussed on future agendas.

- a. Discussion
- b. Public Comment
- c. Action, if any

#### **XV. Adjournment**



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**AGENCY REPORT****TO:** OAKLAND POLICE COMMISSION**DATE:** August 23, 2018**FROM:** Anthony Finnell**SUBJECT:** Item 4a – Police Commission Meeting Minutes – June 26, 2018 Revision

At the meeting on August 9, 2018 the Oakland Police Commission directed revisions to the Commission's minutes of June 26, 2018, to include all of Mr. Bey's comments in the draft presented. Mr. Bey made comments on six of eight items on the agenda on June 26, 2018, and he spoke for several minutes each time. Staff must watch the entire 4-hour video, locate when Mr. Bey speaks then transcribe his comments to complete this request. The original draft of the June 26th Commission minutes was prepared in accordance with instructions previously received from the Chair and Vice-Chair, within the time-frame as directed by the Chair. Staff does not have an issue completing minor revisions as requested. However, this request requires a considerable amount of time to complete, especially since the entire content and context of Mr. Bey's comments from the June 26<sup>th</sup> meeting are captured on the video recording of the same meeting. Staff is unable to keep up with the current minutes (which must be completed by close of business on the Wednesday following the Commission), CPRA office related assignments which are put on hold until the next draft of minutes is completed, and this request. It is because of these demands on staff's time that the revisions for the July 26th minutes was not completed in time for inclusion on the agenda for the August 23, 2018 meeting.

**RECOMMENDATION**

Staff recommends that the Oakland Police Commission rescind its original directive and either accept the original draft of the June 26, 2018 Commission minutes as presented or accept revisions to Mr. Bey's comments during the open forum section only of the June 26, 2018 Commission meeting.

Anthony W. Finnell  
Interim Executive Director  
Community Review Police Agency



**CITY OF OAKLAND  
OAKLAND POLICE COMMISSION**

**Meeting Minutes**

**Thursday, July 26, 2018**

6:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Council Chamber  
Oakland, CA 94612

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**I. Call to Order**

Thomas Lloyd Smith

The meeting started at 6:30 p.m.

**II. Roll Call and Determination of Quorum**

Thomas Lloyd Smith

Commissioners present: Mubarak Ahmad, José Dorado, Ginale Harris, R. Jackson, Mike Nisperos, Edwin Prather, and Thomas Smith. Quorum was met.

Alternate Commissioners present: Maureen Benson and Andrea Dooley.

Counsel Meredith Brown.

**III. Welcome and Open Forum (2 minutes per speaker)**

Thomas Lloyd Smith will welcome and call the public speakers.

Lorelei Bosserman regarding Cathy Leonard, is a member of the Community Policing Advisory Board, he was at the march for Nia Wilson on Monday night and two of the police officers present had shot black people in the past and that seemed like a bad choice to send them to that march. She suggested that the Chief of Police be contacted regarding this matter.

Saleem Bey said it was suggested that he come before this Commission and announce what was going on in his case(s). He gave a brief overview of the cases and those that were closed. When a case was closed, we had a meeting with the police department and the police department came to them and said that during the seven-month investigation, they couldn't find any files on any of the cases and still closed the case but sustained that there was systemic failure in the investigation of this case. This is something that we called the unicorn letter because it is something that you never see. You never see a police department admit that they did something wrong.

Mr. Bey also spoke about the CPRB closing a case. In 2005 my brother was ambushed by three teenagers in Montclair at 6:30 a.m. In 2005 the police closed that case in 63 days. They told them that for the next four years up until 2011 that they are working on the case. It wasn't until 2011 in a request for documentation associated with these cases, that we found that the case was closed in two months and three days. What we ended up doing was filing a complaint. What ended up happening in 2007 was that I made another complaint with the CPRB and 07-0538. In that 2007 complaint, he complained against failure to investigate my brother's 2005 case as well as my other brother's 2004 case in which he was murdered. It turns out that the police department

had a relationship with the youngsters that ultimately were identified and convicted of related crimes. What happened, we found out that these youngsters (19 and 20-years old) were on multiple concurrent bails all associated with violence and weapons. When the police closed this case on my brother, there was an AK, Tech 9, and shotgun used against him and my brother survived. That is why we call it the miracle of Montclair. When they went to reload, my brother jumped out of the car and ran and escaped them. After that, the police closed the case. By closing the case, it is not just a failure to investigate, this is compromising a criminal case because there is three weapons that were allowed to then stay on the street in our community because if you closed the case you are not looking for the illegal weapons that were used in the case you are actually giving the people who committed the crime a pass so finds out that the police department has a relationship with these people and that they are actually helping these people and the guns that they were using were continued to be watched by the police, known to be in their possession, and every time these youngsters got arrested, they were re-bailed out.

Chairperson Smith asked Mr. Bey to see Mr. Finnell with his contact information so that we can follow up with you. Mr. Bey said that Mr. Finnell was involved in closing his case.

Chairperson Smith said the Vice-Chair will walk over and collect your contact information and the Commission will follow up with you. Mr. Bey said thank you.

Cathy Leonard, Oakland Neighborhoods for Equity. There was a vigil for Nia Wilson, 18-year girl who was stabbed by a white person on BART and her sister was critically injured. She went to the vigil and sees Officer Patrick Gonzales who shot and killed four black men in the City of Oakland and Officer Nicole Rhodes who killed Maria Hodge in 2015 at the vigil on duty. What an insult. Two white police officers are at the scene where a black woman has been killed – at her vigil. This police department is out of control, they are disrespectful to the African-American community, and she is sick of it. This was the height of disrespect. She will send the Chief of Police a copy of the picture with the two officers and maybe she can explain why Officer Gonzales and Officer Rhodes who have killed black people are at the vigil of an 18-year old who was stabbed to death on BART.

John Jones, III, he mentioned that he is wearing his A's hat. As a result of the Racial Equity Evaluation report, the City of Oakland got a score other than an A. In fact, if there was a score lower than an F, the City would have received that. On a scale of 1-100, we received a 33.5. If doubled that score, it still would be an F. That means that there is something deeply imbedded within the City, within the systems of governments that allow racial equity to take place and to continue. He offered data helpful in moving forward – when we talk about displacement in Oakland, yes, the City of Oakland has 43,000 fewer black residents living today compared to 2000. Also, we have a surplus/additional 33,000 people living in Oakland. That tells him that it makes no sense that black people are still consistently being pulled over at the same rate. I don't care what metric is used to justify why black people are pulled over, if people want to think that black people are more prone to commit crime, even by that metric, the number of black people being stopped should decrease as a direct result of displacement. He said that there are two terms always here – implicit bias and white supremacy. He wants to be clear for the record – never wants to hear these terms ever used nor implied when it comes to law enforcement in communities of color. The young woman who was murdered, the guy who killed her got arrested without incident, at a time when people of color been murdered for walking, talking, etc.

Larry White spoke about the NSA. He is here to speak for the Coalition for Police Accountability. The Coalition opposed the renewal of Dr. Eberhardt's study on racial profiling. He gave remarks regarding the bigger picture – NSA has gone on for

15 years. He was at a NSA Status Conference several months ago in Judge Orrick's courtroom and was struck by several things. (1) There were people from the City Attorney's office, police chief, and several other high ranking police officers, at least one of the plaintiff's attorneys was there, City Administrator's Office, and several people from the Monitor's Office. Everybody was getting paid to attend except the people from the Coalition. Point he is making is the NSA has become an enterprise – it's become a kind of business that a lot of people are making a good income on. In the meantime, racial profiling is still a major problem with the OPD. The incentives of the NSA have become very bad because there are two incentives happening now (1) Just in terms of money, a lot of people are getting paid to keep this thing going, including the Monitor. Even worse, is that the politicians have an incentive to keep it going because they don't have to do anything about the problem as long as the studies are going on. Software needs updating, etc. It's time to bring this process to an end. Everybody in this City has an incentive to keep the NSA going except the people of Oakland and the Police Commission which was created to take the place of the NSA and to be the oversight for the police.

Mary Vail regarding the Eberhardt contract and the discussion she heard at Council about the Eberhardt contract. Her qualifications and expertise in assisting the City in gathering and analyzing the data are not issues. The reason for gathering the data is so that the department has the knowledge to change problematic practices that produce profiling and deal with officers who won't change and keep profiling. It was made clear in the written materials the administration put the brightest side on things including the police department, whether they are using private or public funds they have created it as a major component of the profiling related tasks having Eberhardt teach the department how to have community engagements, how to have community events, how to talk with the community about the police department. We don't need that. It's a distraction – the task of bringing the department into one that functions as a department that does know or a lot less racial profiling and they aren't doing enough of that and talk therapy for this problem, etc. is not a solution it is just another distraction. It is not just us out in the community; you have incredible work being done at Community Police Advisory Board ("CPAB") now on the beat officer role and how to step up on our community policing program which is a practice the department needs – stop profiling which will lead to better community relations, have valid community policing, etc. This whole thing with Eberhardt treads on your turf, treads on CPAB's turf, and we were unable to stop it last night.

Jesse Smith regarding Nazi activity over the last few years around the country; Nazi graffiti has been seen in Oakland. There was a recent attempted Nazi rally downtown which people responded to. The murder of Nia Wilson – this seems connected. Spoke about the incident at a Café in Oakland which denies service to police when they are in uniform. The police signaled the Nazi's to have a protest – Nazi's came out (members of groups). The police showed a lot of favoritism to these Nazi's who came out. These protests continued over the next week – blue lives matter. Police continued to show their support allowing the protestors to continue. Police were taunting this café by having their own coffee and parking outside showing alliance with the Nazi's. That is the state we are in.

Alternate Commissioner A. Dooley made an announcement to remind the public that in addition to the Oakland Police Commission there is also a BART Police Citizen Review Board (BPCRB) so individuals who have a complaint against the BART police can direct their concerns to that review board. The website is at [BART.gov](http://BART.gov). You can search for Citizen Review Board; they have an online complaint process and contact information.

**IV. Approval of Draft Commission Meeting Minutes for July 12, 2018**

Thomas Lloyd Smith will offer the draft minutes for approval by the Commission.

a. Discussion

J. Dorado referenced Page 10; (c); Lines 6, 7, and 8. Corrected to read: The vote was Aye 5 (Ahmad to be removed). The motion passed.

J. Dorado referenced Page 11; (b); Paragraph 4; Line 5. Corrected to read: mutually and not neutrally.

b. Public Comment

No public comment.

c. Action

MOTION (J. Dorado) to approve the Minutes subject to the corrections and seconded (M. Nisperos). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Nisperos, Prather, and Smith). The motion passed unanimously.

**V. Oakland Police Department Report (10 minutes)**

Chief Ann Kirkpatrick will report on the status of the renewal of Dr. Jennifer Eberhardt's contract with OPD to provide research and analysis of racial disparities in how OPD officers treat people of color, particularly African-Americans, during traffic and pedestrian stops.

a. Discussion

Chief Kirkpatrick reported on the topic of the status of the Dr. Eberhardt contract with OPD. Your next agenda item will also be a member of the staff who will be reporting out on that. With respect to the status of Dr. Eberhardt's contract, this was agendized prior to the City Hall decision the other night, and the decision was that by a vote of 3 to 5 the Contract did pass and it is a two-year extension of an existing contract.

Chairperson Smith asked for Commissioner questions for the Chief relating to the contract.

G. Harris asked why the Commission was not invited to have input on that other than being at the meeting? Chief Kirkpatrick said she will defer to legal counsel associated with that. The contract itself is under the purview of the Council for voting it up or down. She abides by her legal counsel.

R. Jackson – her understanding – aren't there a series of recommendations that have been previously made under Dr. Eberhardt's contract that have not yet been instituted? Chief Kirkpatrick said yes that is correct. She reported that under one of the original contracts with Dr. Eberhardt and Stanford, the Strategies for Changed report grew out of that contract. Under her Strategies for Change, she and her team had listed 50 recommendations. In the federal court, who has the oversight of the NSA, directed that the OPD would fulfill all 50 recommendations.

During this time, prior to a town hall that occurred last week, OPD had completed recommendations (36) and had 14 outstanding recommendations. Three of the recommendations that are not concluded are tied to the Prime Computer Early Warning Intervention System. Because Prime cannot be ready because it had to be re-engineered, Stanford could not complete three of the outstanding – now 13 recommendations. The Contract was coming to expiration. The need for the extension was because some of those recommendations could not be completed and three of them as I said are tied to PRIME.

R. Jackson – you said 36 recommendations have been completed; 14 were still outstanding and of the 14, three which would bring us down to 11 outstanding recommendations which are tied to PRIME. Chief Kirkpatrick – said since the other day we added another completed task and have a few more that should be ready for completion within two weeks. R. Jackson said that we are nearing the end rather quickly? Chief Kirkpatrick said yes and she will be reporting to the judge on the remaining recommendations and narrowing that quickly. R. Jackson asked what was the justification for a two-year extension as opposed to a one-year extension? Chief Kirkpatrick said the initial contract was a two-year period contract. This contract is also a renewing of those terms; it is one year with the option of an additional year. We think that there won't be a need for a second year according to Stanford's assessment. R. Jackson said that she is glad to hear that.

Dooley asked when is the next status report to Judge Orrick? Chief Kirkpatrick said it is scheduled for September however in the court, Judge Orrick has scheduled a Status Conference in September however he did say that we may not need to come into court in front of him in September and that will be between the attorneys in this case. A. Dooley said that two years will go quickly and what is the plan to operationalize this function of critically reviewing internal operations? Chief Kirkpatrick said that Captain Bolton had been your internal Inspector General (“IG”) and recently he was promoted – where does that lead the department in having an internal resource for review and improvement of these kinds of issues? Chief Kirkpatrick said that we do have a new IG in that place/function now (Lt. Angelica Mendoza). A. Dooley asked is that going to be where that work will be located? Chief Kirkpatrick said that Dr. Eberhardt's contract does ultimately expire and we have several people involved in making sure that we hit our targets but it primarily will sit within the Office of the Inspector General.

R. Jackson asked that Lt. Mendoza will be the one responsible ensuring that we can shave a year off that contract? Chief Kirkpatrick said that it is her responsibility.

R. Jackson asked, is there an early termination clause that has liquidated damages connected to the contract? Chief Kirkpatrick said she cannot speak to that since did not bring a copy of the contract. She said that under the old contract, for \$250,000, it is drawn down according to when work is done and under that contract. Dr. Eberhardt only pulled down approximately \$154,00. Just because the \$250,00 is allocated, does not mean it will all be spent.

Chairperson Smith asked the Chief to explain Where are we now? How will we move forward accelerate the reduction of profiling particularly against African-Americans, which is the group that suffers most intensely? What weight do we have to be able to increase penalties for people who are repeat violators of profiling? There are certain things that are so damaging that we want to make sure that the penalty for them is severe enough to deter people and make them to stop doing it.

Chief Kirkpatrick said that we share common perspective. You want to see the fruits of that and she does too. She learned the results of Dr. Eberhardt's work that

she could say here is the data. For many years, Oakland has been one of the premier cities of collecting data. What Stanford has done, when she got here, we can see the data, tell us how to analyze it, help us to learn how to ask questions of the data. An example, because we have learned through the analysis of data for example, when we as police officers stop cars for low level mechanical violations like your tail light is out and we use that as a stop then you were impacting lives but you are also disproportionately impacting people of color. Once that had been taught to us to look at that type of data and see that, then in turn she as your Chief turned around have stated certain missions have changed. We have made it very clear we being the executive staff and the leadership of this department have delivered the message stop that kind of stop. We do not value it and it also has a disparate impact. In the past six months, we have reduced our number of stops overall stops by fifty percent. That is a direct result of having data that tells her how to say these are areas that we can tell you that create disparity. So, we have changed that policy. We have also changed policies such as searching people for probation and parole. When our first question is when we stop people, particularly a person of color, our first question of you are you on probation or parole. Unacceptable. Now we have created policy that deals with giving clear guidance to the men and women of this police department to say now we are changing that practice. Ultimately, we have been able to say that because we have reduced the number of even contacts by fifty percent. Stanford pointed this out to us is that we have stopped over 3000 fewer African-Americans in our community just because we reduced the number of stops. That still does not address and at the town hall she showed a slide the disparities are still the same – even though we reduced the stops and the footprint and the contact, we still disproportionately have the same number of disparate impacts. We still stop more African-Americans than we do any other racial group. Knowing that, what we are looking at are the strategies – okay, how do we reduce that number? How do we bring the disparity down? The answer is not just stop policing. You can reduce disparity by not policing – called de-policing. Some agencies around this country who are facing the same issues, the officers say they can't fix that disparity and they don't police anymore. We cannot have this. OPD has not stopped policing. However, we must have strategy and she has a few of them that she is thinking through and try to implement which would reduce that disparate impact. She believes the disparity can come down. She agrees that there must be a target. You don't improve something that you don't have a goal to set. Just like they do in Ceasefire.

G. Harris asked why do we need data on things that are right in front of your face? What is the population that is in all our prisons and jails? Look at that. This is affecting the population it is. The training that we are given – these are people that we are dealing with. Just as long that it took them to become racist, not implicit bias, it is going to take that long for them to undue racism. Sending them to an 8-hour training is great but it does nothing for us. We are in this hamster wheel of going around and around. We keep talking and touching on data; why do we need a study when you see on the news everyday who is being killed? Who is going to jail, who lives in what area and how they are living or you see driving around Oakland. You see that – what does it look like to you? How do you start to treat people like people? She doesn't want to hear about data because she lives it. You as our Chief is a leader of a police department that we are hired to help Oakland and to help Oakland you must hold your people accountable.

Chairperson Smith said If the penalty is not severe enough for these acts of profiling, it is not a proper deterrent.

M. Ahmad asked that you stated that you have strategies – is one of your strategies to look at is what officers are doing the same stops? Chief Kirkpatrick said they do

this every month – we look at the squads and the individuals and analyze every single stop. M. Ahmad said that when you look at those stops, is the same officers doing the same stops (repetitive) or a lot of officers doing the same thing? Chief Kirkpatrick said that we present and in front of the federal monitor witness and observe our meetings that we have every month where we look at every stop, etc. We do address and talk about individuals and individual officers and whether they are repetitive or they are not, and then that is performed under the witness of a federal monitoring team.

M. Benson appreciates Chief Kilpatrick a technical solution of a reduction of stops does not change adaptive mind set of police officers. We see that as is evidence by the fact that even though we have reduced, it is dangerous particularly in election year, we are throwing around numbers that say we have reduced the stops of African-Americans by 3000 but we still have not changed the racial disparity. Secondly, the goal is to eliminate racial profiling and to that end we can have some milestones of reductions. How much control does this Commission have over the scope of work of this contract? Can have Dr. Eberhardt track the amount of fines affiliated with racial disparity and stops and how much can we track the outlier officers and track their levels of accountability? How much can we look at which tasks that are on hold and why? What is the timeline for the rest of these tasks? What is the plan for ongoing assessment and maintenance of ensuring once these tasks are checked off, I want to see something in place that says we are tracking that – we are not check it off one time but we are regularly measuring that as part of our accountability. What degree we can modify the scope of work? She clarified that these questions were presented by the audience and are not her questions. Chief Kirkpatrick said she is not able to answer that and said that will be a City question. She said she and her staff

(V. Gleason) are taking notes and the attorney present this evening is taking notes and they will go back and review those issues.

R. Jackson suggested that an informational report be given at the next Commission meeting. Chairperson Smith agreed.

H. Gage said that a motion be made. MOTION (R. Jackson) to request an informational report that follows the comments and requests of M. Benson in the weighing of Dr. Eberhardt's contract and what modifications might be possible and seconded (J. Dorado).

Counsel Brown stated that you have the authority to ask for the report and you do not have to make a motion. What H. Gage was requesting was a consensus. It can be an informal consensus (by nods).

R. Jackson withdrew her motion. There was a consensus requesting the informational report.

b. Public Comment

Lorelei Bosserman hearing that various things can't be worked on until PRIME is not just in place but updated and improved. Is that true – it doesn't seem that these tasks must be done in a high-tech way; they could be worked on while PRIME gets updated.

Rashidah Grinage said this is a nightmare. Training in implicit bias goes back to 2010. OPD started training at least by 2010 – she knows because she was there. Racial profiling has not diminished despite all the trainings, data collection, analysis, all the recommendations, strategic planning – the numbers haven't moved. She strongly urged everyone to make this a part of the Chief's Performance Evaluation and encourage you to determine what percentage of the reduction of racial disparities in the stop encounters – is a sufficient indicator. With all the data that has been accumulated and analysis that has been done, there has not been a decision made about what constitutes a sufficient reduction in disparity. What is a victory, what is a success, what is compliance and frankly the plaintiff's attorneys have not determined that either? I don't think Judge Orrick has determined that either. Maybe that is something the Commission can determine. What is a sufficient level of the reduction in racial disparities? There needs to be bench marks and no one is offering them. We asked Dr. Eberhardt that question and she could not answer that. Plaintiffs' attorneys are not answering it. Frankly, the OPOA is resisting putting a number and that's why everyone is basically caving. You need to understand the backroom side of all of this. It's a disaster.

Henry Gage said the Commission should have been consulted with respect to the Eberhardt contract. That is not the first thing this Commission should have been consulted with. This kind of behavior of going over your heads, City Administration and OPD cannot continue, unacceptable. It is too late now to visit the merits of the Eberhardt contract; it is debatable. Your role is police accountability and discipline. At the Council meeting, Councilmember Kalb made an interesting comment – he said that he might not have voted against approving the contract except this Commission hadn't been fully staffed yet – essentially you were not ready. It is time to get ready and staffed up.

Elise Bernstein, Coalition for Police Accountability, said that this is maddening. Dr. Eberhardt has done her work and the OPD has simply been dragging its feet. They must change their behaviors and cannot continue; they don't get it. Blaming PRIME – it's so easy to blame technology. They have already identified officers who were not following the policy, who are continuing to make these stops, they need to impose discipline and get rid of them. We cannot continue this way. She wondered about this excuse that the administration will most likely conjure up. We can prove how committed we are to improving OPD by how much money we have spent – it is ridiculous of the millions of dollars spent that have went to the NSA which has been going on far too long and Dr. Eberhardt. It is unconscionable that we allow this to happen. It is good that the Commission is here and we look to you to stop this foolishness, they must see that we are serious and they must begin to do something. It is not Dr. Eberhardt's job. It is up to OPD, they have the data, they need to do something with it.

Saleem Bey spoke about OPD and the NSA - racial profiling, discrimination against

people of color, etc. Now we are going to pay for two more years of a contract to tell us what? They still do it. It doesn't make sense that the Chief of Police would get up here and tell us that they need a Stanford professor to tell her what her officers are doing below her – they were doing that before she got here. Her very first mission should have been – we are in the NSA and how are we going to get out of the NSA. We have not heard anything from the Chief about how to rectify the things that are going on.

Mary Vail heard rumors that some of the auxiliary Eberhardt contract activities are being funded by private funds. Are private funds funding the study of how to engage with the community, planning for special events or is that out of our scarce public funds. She encouraged the Commission to reach out to the members of the CPAB. On the issue of the stops she sees the data, but she does not see the follow up changes. The City/departments have not produced deliverables.

John Jones, III, Coalition for Police Accountability, heard the Chief tonight mention that out of the 50 recommendations they have met 36. I recall Jim Chanin when he spoke that they were at 21, he will go back and check. Expressed concern that the Eberhardt contract was approved without consulting the Commission - professionally disrespectful. He encouraged the Commission to reach out to the councilmembers regarding this matter. Important to clarify regarding outliers. We met with the Chief and we asked what happens to these officers who are consistently behaving in such a way and we were told that nothing can be done to them that would be like a former discipline. He wants to connect law enforcement with displacement. There is a reason we have been under the NSA all these years. An observation – no one in the City wants to keep this department in compliance because they are doing the role that the City wants them to do and that is displace our community. I find it odd that two of her bosses are not here. I have not seen the City Administrator or the Mayor here one time. The Chief has a role but we need to hold her bosses accountable as well.

Chairperson Smith said that he will extend a formal invitation to the Mayor and a second invitation to the City Administrator and invite her to come as well.

Jesse Smith came up to speak and said a gentleman earlier referenced the NSA as an enterprise.

Stanford study is a product – this is part of the industry. It serves their interest and that is why they want it. The activists don't want this. That should tell you something. OPD cannot be trusted and that is why they are under federal receivership. When they say, they need this – being deceptive now as was argued when the Council mistakenly renewed the contract – it is not necessary for compliance through the PRIME system. Our current police chief can't keep our police from affiliating with Nazis openly.

**VI. Police Commission Review of OPD Policy 611 entitled, “Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel” and Training Bulletin V-T.1 on Internal Investigation Procedures**

The Commission will review and consider approval or rejection of OPD's proposed

policies, which have been revised in response to court investigator Edward Swanson's report on OPD's handling of allegations concerning sexual misconduct.

a. Discussion

Chairperson Smith stated that we had several questions/comments that are coming back.

Tim Birch was listening to our questions last time and is involved in the policy making. He thanked Tim Birch for presenting. T. Birch stated that he is the Research and Planning Manager for the OPD. One of his responsibilities is policy development. His understanding from the meeting two weeks ago that the Commission had an interest in making some potential changes to the 611 Policy which is about reporting of criminal misconduct by department staff. Is that correct? E. Prather said yes. T. Birch said that the primary change that the Commission was interested in was being notified when there is an incident and instance of an officer or department member in criminal misconduct. Is that correct? Chairperson Smith said yes. Chairperson Smith asked who made a motion on this item. M. Nisperos said he did. He asked M. Nisperos for input regarding the motion.

M. Nisperos said that the Commission be added to the list of those who would be informed and asked if that was possible. T. Birch said absolutely. This morning at the daily Executive Team meeting (Chief, DCs, etc.) we talked through how we could facilitate that recommendation. He directed everyone to Item 6 in the Agenda Packet (focus on those portions in the Policy where this change may be most appropriate). He referenced Policy 611, Page 2, Section 611.8 (BOI Deputy Chief Responsibilities), Sub Header 611.8.1 (Initial Responsibilities). In that paragraph that begins with "Within 24 hours ... there is a list of individuals who are required to be notified by the DC of the Bureau of Investigations when there is alleged criminal misconduct by a member of the OPD. He reviewed the list. He recommended adding Chair of the Police Commission to that list. If satisfactory to you, I would recommend a parallel addition further on in the Policy. Mr. Birch referenced Policy 611, Page 4, Section 611.9 (OPD Internal Investigative Procedures), Sub Sections (e) (f) and (g) – under Sub Section (g) the same list is repeated. It says "The CID Commander shall provide ...". It is the same list we saw prior and recommended adding Chair of the Police Commission to that list as well because they are parallel. M. Nisperos asked that the notification go to the Chair of the Police Commission as well as the Executive Director of the CPRA. Chairperson Smith agreed. T. Birch thanked him for that recommendation. He will take that recommendation back to the Executive Team to discuss. Whatever recommendations we do ultimately come up with that come from this body, as part of the policy development process, will more than likely require a discussion with the IMT as well because of their involvement with this issue – to make you aware of that.

G. Harris recommended that the Commission be a part in the writing process of the policy since we are now stakeholders. We need input on that since we oversee the OPD.

Chairperson Smith asked Mr. Birch if he had further comments and he said no. Chairperson Smith thanked Mr. Birch for coming back.

M. Nisperos asked a question of Counsel Brown – Is it necessary that we pass a motion to ask for this report to come back? Counsel Brown reported that you do not have to pass a motion to ask for information back but you do want to make sure that you have it timely because there is a 120-day review (mid-August). T. Birch said the date is August 21.

E. Prather following on M. Nisperos' point in going back to the motion in the last meeting and passed that the revision go to our Policy Committee for consideration which is why he voted in favor of the motion last time. He wants to make sure that the committee gets enough time to consider it to get input from the Policy Analyst (CPRA) to come back to this body to make its recommendations. Can we agree in timing but obviously, there are some time pressures, when we might get a revised version back so we can then have the Policy Committee consider/would be good to discuss.

T. Birch said that he believes that he can share this with the Commission tomorrow with the understanding that again there may be this IMT review setting out there. He can send tonight's updates tomorrow. Chairperson Smith said that would be great.

M. Benson wanted to follow up on Vice Chair Harris' recommendation – where does that live in this process? T. Birch said that in terms of the Policy Sub Committee, I believe that is up to the Commission. M. Benson - Point of clarification from Ms. Harris – Were you suggesting that be a Policy Sub Committee or in general before revisions of policy come before the whole Commission? E. Harris said she means policy when they are writing it, we should be a part of it – not Sub Committee – Policy Committee with whoever is writing the policy including us in the process.

R. Jackson was wondering what the official narrative around that is. Is that a demand? E. Harris said absolutely. R. Jackson that is a follow up to the Police Chief to ensure that when Mr. Birch is working on these things, we are alerted so that some of us can participate, etc. Chairperson Smith said that what we are talking about is being included in OPD's actual policy-making process. They must come back to us on a recommendation to do that. We want to make sure that we are woven into the OPD policy-making process. Chairperson Smith said we will figure out the mechanics on our side and discuss this matter at another meeting.

A. Dooley suggested the Policy Ad Hoc Committee set aside time in the next week or two to put together recommendations on how we will handle policy discussions moving forward. Then make a recommendation to the Commission about a policy review process and how we would be most effective to do that.

#### Public Comment

Saleem Bey spoke about criminal investigations of the police. The police should not be investigated by their friends and colleagues for criminal activity. If you are going to investigate the police thru IAD, it is for violations of the MOR which is usually minor and results most of the time with a slap on the wrist. If IAD is not finding people guilty and exonerating them and then there being promoted through IAD, then the police department will never reform and we are going in circles. One of the things about investigating criminal activity of the police is that the MOR says that police officers are supposed to report criminal activity of other police officers. That is why you as a Commission must supersede so that whenever there is a criminal investigation. Also, so on page 28 of the Swanson Report after the sex scandal, Mr. Swanson said that the MOR already requires that the police and the administration report to the proper authorities anytime there is criminal activity found in the police department. Therefore, it never gets out of OPD. The actual MOR which was then emphasized by Swanson after the Mayor came back and said we are going to have this new ordinance that says/requires us to report criminal activity. Swanson said that is already on the books. None of the officers got

punished (sex scandal) and they got caught by a federal investigation, but the people who covered it up were promoted by the current chief.

Rashidah Grinage asked whether untruthfulness is considered a level 1 offense? Chairperson Smith asked Mr. Finnell to speak on the matter. Mr. Finnell said that he is unsure if untruthfulness is a level 1. R. Grinage asked if we could here from the police department? She said the Chief and Mr. Birch are here. Chief Kirkpatrick said it is a Level 1. Ms. Grinage means that qualifies for termination. We need to have that on the record particularly the case we discussed several weeks ago we learned that a police officer was untruthful in his reporting but only received a suspension. We might want to look at the discipline matrix and see whether the penalties are commensurate with the offense. Secondly, she asked whether there is anything in the guidelines for IAD that requires them to respond to information requests from CPRA in a timely way. She believes that for a long time our investigators have had a very difficult time obtaining information from IAD in a reasonable period. What that does is delay the completion of the investigation and often means the 3304 date is in play. Which means the statute has run out and the officers can't be disciplined. It is important that CPRA not be handicapped in their ability to investigate expeditiously and with efficiency because IAD drags their feet in providing the necessary information to CPRA. In these guidelines for IAD, is there a requirement to respond to the request for information within a certain time? There may be mention of it in the Ordinance or Measure LL. This needs to be reviewed.

Chairperson Smith asked Mr. Finnell if he had comments. Mr. Finnell reported that we are working with IAD now to create different processes to get that information - direct access with the staff and others. As far as putting concrete time tables together, we met with the Commander of IA, Agency Counsel and staff members within IA and are preparing a document that will be presented to the Chief. The Chief is aware of the meetings. We are trying to figure out the best way to do that, as Ms. Grinage said in getting the information as we work concurrent investigations, to bring those investigations in line with one another more closely.

G. Harris asked what is the current timeline that you are receiving the information from IAD? Mr. Finnell stated that it depends - if we request information from the Communications Division such as CAD printouts or audio recordings, that takes time but the time that it takes is consistent throughout the department. If requesting regular report, that can be 3-5 days. We have a single point of contact currently within IAD that we will send an email to that person and they route it to the responsible division/individual to provide that report. What we are trying to get is (1) As the investigators on the IAD complete phases of their investigation or acquire documentation that they put that into an IAD server immediately or at the close of business, that way we can go directly and log in and get that information. G. Harris stated that I think we heard that information in December - What is the timeline? It's 3-4 days for reports; if you request information from PDRDs, what is the timeline? Mr. Finnell said that we have access to the PDRD server and can go and pick up the video ourselves.

Mary Vail reported that there was a public meeting of CPAB in July 2016 (few months after the sex scandal had broken) and the main topic of the meeting was profiling. Then Deputy Chief, who is still with the department, said that we could do something good with those numbers on the problem if OPD stopped being DMV errand boys (registration tags, taillights). Now we are hearing from the Chief, two years later, the department is finally making the change. Overall when I read this agenda item, what struck me was - where is the process? Not when an officer is caught DUI, etc. but when fellow officers within the department cover up the

misconduct (sex scandal case, etc.). This procedure does not address mishandling of an internal investigation when the original subject is a police officer. That needs to be added to the policy otherwise we are going to have more cover ups.

Anne Jenkin, resident, said she almost never gets pulled over. She mentioned a recent article involving a case in which five officers gave false statements. She gave comments. She believes if more time is spent looking at false statements and looking at situations where officers have clearly not stated the truth, that it is the way that you get to a lot of other things because she understands that some people believe that it will take many years to undo some of the culture. She thinks you can get rid of a lot of the culture in an afternoon. The moment that an officer believes that he is risking his job, lies on behalf of another officer, she believes that a lot of what happens will stop happening. Five officers gave false statements in that case. She asked if the Commission can look at those five officers and find out what IAD is doing about the fact that five officers gave false statements?

Henry Gage said that with respect in the creation of new standing committees, you will need counsel approval (Section 2.45.150 has specific language). Also, Lexipol 611.8.1, said that he agrees with the comments made with respect to adding the Commission in the reporting structure. As I also mentioned before, 2.45.075 of the Ordinance contains some of the specific language of the reporting structure and that language needs to be harmonized with Lexipol. It doesn't make sense to have two different paragraphs talking about the same thing in two different places. He recommends harmonizing that language. On a procedural note, it is important to distinguish between individual requests for information and Commission requests for information. As individuals, you can ask for anything and you may not get it. It is only when you take an official action as a body under your statutory authority that all the protections under both the Ordinance and LL apply. For example, 2.45.210, it provides some very specific timelines with respect to requests for documents (15 days) and if those requests aren't met, you are directed to go before the Public Ethics Commission and file an appropriate complaint at that time.

b. Action, if any

None.

## **VII. Executive Director Recruiting Process for the Community Police Review Agency**

The Personnel Ad Hoc Committee will work with the Commission to define the Executive Director recruiting process.

a. Discussion

Chairperson Smith said that M. Nisperos offered to share his updated thoughts on this process. G. Harris, M. Nisperos and myself have been on this Committee. We benefited from M. Nisperos' experience. He thanked M. Nisperos.

M. Nisperos suggested to the Commission that the Personnel Committee be designated to review the applications that have been submitted thus far, approximately 160 and from that group of 160, select those candidates which are qualified and that Committee interview those candidates and bring back to the Commission the top three to interview and make a selection. We would create a pool from which the Personnel Committee would interview maybe 10-15 of those candidates and then from that pool, select the top three candidates. Those top three candidates would be interviewed by the Commission in the Executive Session.

Chairperson Smith asked if any commissioners would like to ask questions of M. Nisperos?

R. Jackson asked if we have a timeline? M. Nisperos said yes. We have the applications in hand. As soon as we get permission of the Commission, he will start tomorrow. He wants it to be over by August 24 or before then. He will be away; leaving the states. R. Jackson asked is there also a system, a rubric, to view and can you get it down from 160 to ten candidates? M. Nisperos said there are ten very outstanding candidates, maybe twelve, but the Committee will work with the HR Department and our Counsel to make sure things are legal and the questions that we are going to ask are appropriate. That would be the function of the Committee and would not come back to the Commission until it is time for the Commission to do the interviews of the top three finalists.

J. Jackson asked if you have a rubric. M. Nisperos said no and without the permission to proceed, he has made an appointment tomorrow to meet with members of the City Administrator's staff who will bring in a chart to help develop the rubric.

Chairperson Smith said that we can have a step-by-step process. We can work it out now. We can bring the rubric back and have everyone look at the rubric and then sign off on the rubric. Another thing we are here to discuss is the size of the candidate pool; we can bring back a pool of three, bring back a pool of five, etc. depending on how big you want the pool to be. There are pluses and minuses as the pool gets larger.

M. Benson echoed not only engaging the Commission but also giving the community advanced opportunity to come and prepare and give some other examples of rubrics. A concern is having the City Administrator primarily perform this which means that we have the City deeply immersed in our hiring process, and so would also like to add in addition to the City Administrator, an opportunity to review a rubric (Agendas coming out on Mondays; giving notice) because there are some excellent organizations (R. Jackson's organization) that have excellent rubrics, hiring processes, etc. so we don't have to recreate the wheel. There are interview questions that OUD uses for teachers. We could pull from multiple places to see how you are assessing people's characteristics, integrity, engagement in crisis, etc.

Chairperson Smith requested if commissioners have good rubrics available, to please send them to the Committee and we will consider those as we putting the rubric together that we are going to propose.

J. Dorado said that three top candidates are fine. As we go through this process, especially in terms of community input and rubrics, we also have in the back of our minds how that might relate to the overall recruiting process and evaluation of potential academy attendees. Those same traits that we are looking for in an Executive Director may also apply directly to how we might see that in future OPD officers or potential officers, can be evaluated for the kind of traits that we want OPD officers to have.

R. Jackson understands that three is a great number, she has seen things go sideways. She suggested that the Commission consider perhaps five. When people are applying for these positions, they are applying for a multitude of positions.

G. Harris asked the Commission if we are the ones who will hire this person and not the City Administrator's Office now that we have an Ordinance? Counsel Brown

reported that the way you set up the process is to work with HR because the Employers - City of Oakland would be appropriate and you are doing the review and the evaluation, putting together the rubric, that is the correct process. Yes, in the sense that you are identifying the qualifications, but there is the actual administrative aspect of it that goes with bringing someone on into employment, you are going to be partnering with the existing structure because they have the infrastructure to do the paperwork and the administrative process. You are proceeding correctly with working with the HR Department to make sure that the hiring practices you use are fair and that they are in accordance with public employment laws.

G. Harris – clarified her question for herself – we chose the candidate, the person that is going to sit in that seat, correct? Counsel Brown stated that you chose the person that is going to sit in that seat in accordance with the public employment laws.

E. Prather said that in any of these hiring situations, selection committees, etc. that he has been involved in, he generally thinks it's a good idea to give some leeway to the selection committee – he hates to be tied to a number like three, five, etc. because sometimes the number is four, seven, etc. I would propose if we are doing a motion, etc., whether it be tonight or in the future, that it not be tied to a specific number but at least three but no more than "x" because again if it is four candidates – I would like to see four candidates, etc. This is an important hiring decision and would like the benefit of this final group that this learned committee has decided that it is worthy of our consideration whether that be 3, 7, etc. – whatever that number is, I would like to review it. I do not want to be tied to a number.

M. Benson said that deeply resonates with her. What if we developed a rubric and commit seeing everyone with a score of "x"? It could look like four, ten, etc. Then we have an opportunity to review and collaborate rubric scoring and we could have that in advance, offer some quick rubric scoring. With her teacher experience, it can be that if you have 2 or 3 folks in a room, scoring repeatedly and not having the perspective of other folks calibrating, it can steer it in a direction. Invite us to consider.

Chairperson Smith said that he likes the idea of some flexibility. We might see candidates that are very close and good. He likes the step-by-step process we have come up with in getting the rubric, getting it vetted, moving forward to the candidates, etc.

Counsel Brown stated that she will send some rubrics (one that is online; she wrote for another agency).

b. Public Comment

Rashidah Grinage shared that she was a part of the last two hiring processes for this position. As a stakeholder, process that was being used, to choose, judge; she was a CPRB director and then Mr. Finnell. It would be good to know what those were like. I can't speak to the process that was used prior to identifying the finalists but I can tell you that in each of those cases, there were at least ten that we interviewed. When I say we, she was aware as representative of community organization PUEBLO, the OPOA was there as well. The CPRB Chair was chair as well. I would strongly suggest that you look at what that process was like. You do not have to follow it exactly. Good to consider a process that include the various stakeholders involved in police accountability as well as yourselves. Strongly

advise that before you take any drastic steps, that you become informed with what the practice has been and then pick and choose, and how you would modify it. History should be a guide if not an absolute one to follow.

Nino Parker, said when officers look the same as those in their communities, there are less stops. It is important in the hiring process also. He mentioned an incident that occurred in Bel Air, Texas - a white community but 90% of their tickets are issued to black people (if you drive through town). Are all these tickets about revenue? He would be interested in statistics. How much money from African-American communities per year as opposed to the white communities (moving violations, stops, etc.) is going into City coffers?

Mary Vail amplified the comments of R. Grinage. The Oakland Animal Shelter both during the last year before they came out of OAS, they used community stakeholder volunteer panelists, other animal welfare organizations, etc. to sit on the oral boards and then after the 2014 reform legislation passed, they had recruitments for the shelter Director position – first civilian in a long time. That type of interview process is like the selection committee did in putting out the word to groups like NACOLE, other community groups – that these positions are open when they become open - so that you get a nice applicant pool.

Chairperson Smith asked M. Nisperos for the number of applicants. M. Nisperos said the last number that he saw was 167 applicants.

Saleem Bey asked the Commission what is a deal breaker with these candidates? One would be former associations with a police department, if being paid by a police department – in retirement, etc., your loyalty is possibly to the paycheck that pays your base salary which could be your connection to the police department. We are here to hold the police accountable and not put the police accountability in the hands of ex-police officers. Let's make sure that the community has respect and trust in the person that you put in this key position because they represent you.

c. Action, if any

MOTION (R. Jackson) that the Commissioners. community, or anyone that has a rubric can share it with the Chair of the Personnel Committee and seconded (J. Dorado). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Nisperos, Prather, and Smith). The motion passed unanimously.

**VIII. Recess (6 minutes)**

**IX. Training: Public Records Act (Government Code 6250 et seq.) (1 hour)**

The California Public Records Act (“PRA”) was enacted in 1968 to: (1) safeguard the accountability of government to the public; (2) promote maximum disclosure of the conduct of governmental operations; and (3) explicitly acknowledge the principle of a democratic system of “government of the people, by the people and for the people.” CPRA requires governmental records shall be disclosed to the public, upon request, unless there is a specific reason not to do so.

a. Discussion

Chairperson Smith welcomed Allison Dibley; will give a training on the Public Records Act.

Allison Dibley, Deputy City Attorney, gave a PowerPoint presentation (An Overview of the California Public Records Act). She reported that we did the first part already (Brown Act and Sunshine Ordinance as it relates to open meetings). Tonight, we will do the second part which is the California Public Records Act. There is an article/or section of Oakland's Sunshine Ordinance that addresses the disclosure of public records. As we did last time, if you have questions as we go along, feel free to ask them. She invited Counsel Brown to add comments as we go through the slides.

G. Harris asked when someone does a PRA Request, do we get to know who it is? Ms. Dibley said that is a good question. On the City's website, it specifically says that the requestor does not have to identify him/herself. If the City does know, if the person identifies him/herself than yes you would know. G. Harris asked how do we know that someone is requesting them? We are basing this on a trust factor. Ms. Dibley said that the City does not respond to public record requests unless they are in writing. G. Harris said then all the documents are put on a digital something and given to the person. How is it delivered to the person?

Ms. Dibley said that the way the City responds it collects all the records and puts electronic versions/pdf copies on the Record Trak website and notifies the person that requests the records, that they are there and are then available to the public if they want to review.

M. Benson said that we had a request a few months ago – Freedom of Information Act –so is that the same? When that request was fulfilled, then whoever anonymously received the link to the site – it is open to the public. How will we know or members of the public know that such a request came in and that they would have access to those records? Ms. Dibley stated that there is a set of frequently asked questions/information about Public Records Act requests on the City Attorney's website.

M. Nisperos asked that a copy of the PowerPoint Presentation be mailed to them and Ms. Dibley said yes.

b. Public Comment

Kathy Leonard asked if she could provide a copy of the Presentation to Commissioners since it is a great reference/tool? (Ms. Leonard said that M. Nisperos already asked this question).

Rashidah Grinage said that Ms. Dibley should offer this presentation to her boss since the City is not in compliance with the Public Records Request. Newspapers had to sue to get public documents, and several of us on Twitter have all been sharing that our requests have not been provided in a timely fashion. In the notification, when they close the case, certain documents are not disclosable but do not offer the exemption that they are claiming for, why they are not disclosable and we have to take their word for it. She has filed a complaint with the Public Ethics Commission, based on the Sunshine Ordinance, says that they lack the authority to enforce the Records Act but can offer mediation between the person who requested the record and the department that should have responded. She will keep you updated because this may go to court. What I asked about was the bargaining sessions with the OPOA concerning the topic of civilian oversight. What I got was a truckload of unresponsive documents that had to do with their health plan, pension, training, medical leave – everything but what I asked for. They may say they complied but they did not comply. Stay tuned.

Saleem Bey shared his personal experience with the request for information. One of the things we did was ask the police department for records for all the cases he had been speaking of. Ninety-five percent of the requests that he had, they could not find any records. He spoke about his cases and police department.

**X. Legal Counsel for the Oakland Police Commission and Community Police Review Agency**

The Commission will determine whether to retain the current non-city attorney legal counsel serving the Commission and the Community Police Review Agency. The Commission will also discuss formalization of the recruiting process, in alignment with the enabling ordinance, for non-city attorney legal counsel for the Commission and/or CPRA.

a. Discussion

Chairperson Smith said that M. Nisperos will speak on this topic.

M. Nisperos reported that at the last meeting he indicated that there were three applicants and we were fortunate that the top two were exceptionally outstanding. This was after a long period of advertising. Being content/happy with the legal advisor to the CPRA and the legal advisor to this body (currently holding the positions) I would move that the Commission ratify those appointments as their own.

E. Harris said that we are appointed as Commissioners now but would like to set a precedent in the future regarding hiring counsel so there is a process in place. Chairperson Smith said that we do have that as part of this Item.

M. Nisperos asked how do we transfer the contracts? That is not included in his motion. There is a lot of detail to work out. This is a predicate to make that happen. This was not our process; it was a process that was dictasted.to us and we participated in it. Chairperson Smith said that part of this after this motion is a discussion in which we talk about this in moving this forward.

Chairperson Smith congratulated Counsel Meredith Brown who is officially with the Commission and we are excited to have you on board.

Chairperson Smith said that the next part of this Item is talking about the actual process in moving forward.

G. Harris said that she wants the public to know that previous practices of ours did not come from us. Today is our second meeting together; we are working on things as we speak. We were not given information that was not helpful to us. These things should have been in place before we got here. Chairperson Smith said that we witnessed and had a chance to work with our Counsel. Counsel Brown has been with us for several meetings and has done an exceptional job in her role. In moving forward, now that we own the process, we will have a different process that we will be using.

M. Ahmad said that he abstained in the Motion that he did not know that we were voting for Ms. Brown as Counsel to the Commission. Since it is past, we would have to call for the vote again. She does not have her Robert's Rules of Order but Henry Gage is here. Mr. Gage said that you can do a motion to reconsider. Chairperson Smith said that he appreciates Mr. Ahmad's comments and we do have

that on record. The motion passed so we have you on the record as voting for Counsel M. Brown.

M. Nisperos said that somewhere in the Ordinance that we are to designate the time share (2/3, etc.); can that be part of our process? Chairperson Smith said we can talk about that if we want to talk about that today and if not, we can do it piece meal and revisit the matter.

A. Dooley with respect to the larger recruitment and hiring process, she agrees with G. Harris that we still do not have the infrastructure we need in place to facilitate any of these processes such as the staff liaison we are supposed to have from the City Administrator to coordinate basic items like dates and documents. Without having an Outreach Committee plan in place about how we communicate with the public via press releases/social media, etc. We should identify the components of a recruiting and hiring process that we want to have and identify what resources we need to achieve that and work on getting those resources in place. We are now eight months in and it is now on us; we need the infrastructure. Luckily the Commission appreciates Counsel Brown so we do not have any lack of confidence in that and we can move towards the question of how to build the Commission's infrastructure.

G. Harris said that she would like to state for the record that she has been diligently asking for assistance until we get our staff in place; in trying to get our staff in place she is getting resistance.

M. Nisperos said that perhaps the Personnel Committee should come to the Commission with a series of recommendations and then seek the input of the other Commissioners and the community after we at least provide a skeleton base. Chairperson Smith agreed.

b. Public Comment

Rashidah Grinage finding it peculiar that instead of 160 applicants that you had three. I would suggest that you review your procedure because that is to my way of thinking very unusual and should require some scrutiny. Agency Director – urge you to consider the previous practice with respect to hiring counsel which was adopted by the CPRB (Ms. Brown will attest to because that was how she was hired). Process of having the final candidates (3 or 4 finalists) come before the CPRB Board in public, gave a presentation and then took questions. The CPRB members voted and the selection was made. I think that is a good process; the public should have access to knowing who these people are; the final Counsel was done behind closed doors; no transparency. They received a resume in an Agenda Packet only. She suggested that you do another outreach; having only three responses is very unusual. You might speak with Mr. Finnell in how many responses he received when he eventually hired Ms. Brown.

Saleem Bey said the importance of independence cannot be overstated in regards to this body. Legal counsel is an important piece. Resources should be expended to get more people to this meeting to make the community aware of what is going on here. The citizens of Oakland voted for this Commission. The Commission must take every step it can to be transparent to make sure that the community is aware and involved in every step of the way.

c. Action, if any

MOTION (M. Nisperos) that being content/happy with the legal advisor to the CPRA and the legal advisor to this body (both currently holding the position), that

the Commission ratify those appointments as their own and seconded (R. Jackson). The vote was Aye: 6 (Dorado, Harris, Jackson, Nisperos, Prather, and Smith); Opposed: 0; Abstained: 1 (Ahmad). The motion passed.

**XI. Community Police Review Agency Complaint App**

Interim Director Anthony Finnell will provide follow-up information on the Community Police Review Agency App that increases officer accountability by enabling members of the public who observe police misconduct to quickly and easily file a complaint against OPD officers. Information will include but not be limited to the process and timeline for the app to incorporate Spanish language translation, an Oakland youth beta test of the app, and engagement of Oakland youth in marketing the app.

a. Discussion

Mr. Finnell gave a brief discussion on the status of the Spanish translation services. Commissioners had questions which Mr. Finnell addressed. Mr. Finnell stated he would follow up with the Equal Access office to see if he could get a timeline for completion.

A discussion followed regarding setting up a beta test of the complaint app for youth. Mr. Finnell stated he would work with A. Dooley to explore options.

b. Public Comment

No public comment.

**XII. Commission Review of Community Police Review Agency Cases Proposed for Dismissal or Closure**

The Commission will review the CPRA's proposed dismissal or closure of complaints of misconduct involving Class 1 offenses and consider whether to direct the Agency to reopen the case(s) and investigate the complaint in accordance with Oakland Police Commission Enabling Ordinance § 2.45.070(M).

a. Discussion

Mr. Finnell reported that the Agency did not close any cases during this time. Further discussion was held on the reporting template, which Chairperson Smith determined was not on the agenda and the discussion was halted. Mr. Finnell also stated he would present information on action the Commission needed to take with respect to complaints which are not generated by the public which the Agency is reviewing.

b. Public Comment

Elise Bernstein spoke regarding criteria for reaching findings on cases, how decisions are made, the details of complaints.

c. Action, if any

None.

### **XIII. Adjournment**

MOTION to adjourn R. Jackson and seconded E. Prather. The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Nisperos, Prather, and Smith). The motion passed unanimously.

The meeting was adjourned at 10:13 p.m.



## CITY OF OAKLAND OAKLAND POLICE COMMISSION

### Meeting Minutes

Thursday, August 9, 2018

6:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Hearing Room 1  
Oakland, CA 94612

**I. Call to Order**  
Thomas Lloyd Smith

The meeting started at 6:30 p.m.

**II. Roll Call and Determination of Quorum**  
Thomas Lloyd Smith

Commissioners present: Mubarak Ahmad (Left early), José Dorado, Ginale Harris, R. Jackson, Mike Nisperos, Edwin Prather, and Thomas Smith. Quorum was met.

Alternate Commissioners present: Maureen Benson and Andrea Dooley.

Counsel Meredith Brown.

**III. Welcome and Open Forum (2 minutes per speaker)**

Thomas Lloyd Smith will welcome and call the public speakers.

Saleem Bey said that the public appreciates the Commission being here and having an avenue to be able to bring things directly from the public. Last week he spoke on IAD 13-1062 and how IAD 13-1062 is not complete. He also sent emails to multiple Commission members after being asked to produce these documents. With these documents, it shows that the police department admits that they still haven't finished in IAD that was opened in 2013 and erroneously closed in 2014. I am requesting of the Commission is that they take this case up and provide independent oversight so that we can actually get to the bottom of this matter. Since Case 13-1062 was closed by the CPRB but sustained by IAD, I think that is even more reason for it to be investigated independently.

Assata Olugbala is concerned with the situation of Joshua Pawlik who was killed in March by the police department and nothing had been made available in terms of outreach to the community to make clarity regarding the incident and what happened. She requested that the Commission consider that situation. The other thing she is concerned about is the Equity Report. The Report is 160 pages. It does encompass law enforcement. Within the pages around law enforcement, is some data that should be of interest to you because the data reflects incarceration rates, it reflects prison incarceration rates, jail and prison, number of stops by police. What is not in this document that confused me is they don't deal with the title of racial profiling. They do deal with excessive force. That confused her because racial profiling is out there not being resolved; excessive force has somewhat been brought under control so they say. I am concerned that you have a document around equity with a serious issue of racial profiling and it is nowhere in this document.

Natalie Cupps regarding Joshua Pawlik. He was a friend of hers. He was an amazing person. She brought extra copies of the story about him if someone would like a copy. He had a hard life due to mental illness and struggled; always had a support network backing him up and always wanted to do better. Then got into a bad situation. Her main concern (she is a registered nurse) - had experience of unconscious people, potential drug overdoses, situations where patients come in with a weapon. combative, and she is trained to handle it. This was a 911 call about an unconscious person beside someone's house. She doesn't understand why it wasn't treated as a medical emergency. I don't understand why the police stepped in and surrounded him with guns before he was even conscious. There was a pistol they could see - but doesn't understand why somebody could not step forward and remove the pistol from an unconscious person. I would have done it for them if I was there. I have done this at work before and it seems like a police officer would be trained in a safe way to step in and remove the weapon. He didn't have to die. I have been to the place where he was shot; we had a memorial. There were bullet holes in all the trash cans where they had ricocheted on the sidewalk; in the trash cans, they were all shot down. There is never proof anywhere that he ever woke up. She is concerned. I am glad that his story is out and that we can bring our attention to him.

Gene Hazzard asked what is happening with Joshua Pawlik? In this article, it speaks that there was a gun but it didn't say that he shot at anybody. Why did it take this number of bullets going into an unconscious individual? If the Chief remains silent, so be it. You at least put forth the inquiry, and you don't do that. It talks about serious offenses; how serious can an offense be? Minimally, you should ask the question on any issue that the public brings to your attention. What the result is remains to be seen; minimally ask the questions.

Cathy Leonard, Oakland Neighborhoods for Equity and Coalition for Police Accountability. She is concerned with the OPD and hasn't seen any change in policy. This man that we heard about, Joshua Pawlik, was mentally ill, shot and killed by three police officers who had rifles. They unloaded a fuselage of bullets upon this man who was down and unresponsive when he was shot. She held up a picture of an officer, resident took a picture of him sleeping in his patrol car - is that what we are paying OPD officers to do? On July 24, she participated in the vigil of Nia Wilson, teenager who was stabbed along with her sister and murdered by a white guy. She went to the vigil and is curious to know why the OPD would assign two officers who had previously shot and killed black men be placed on duty at her vigil. These two officers, Officer Patrick Gonzales and Officer Nicole Rhodes. How callous, how indifferent to the community that the OPD is supposed to serve. Think about the message that you are sending to the African-American community. We know who these people are. Why would you have them on the front line at a vigil for a teenager? OPD constantly talks about how it wants to build community trust. We hear at these meetings; we hear it every month at the Community Policing Advisory Board meetings - is this the way to do it? I don't think so. On August 3, a respected member of our community, Najari Smith was arrested by the OPD. He was on a youth ride on first Friday. He was approached by a police officer, hand cuffed, sent to Santa Rita for two weeks, his crime was playing music while bicycling. When is the department going to stop terrorizing the community it is charged with protecting? She urged Chief Kirkpatrick to take advantage of the opportunity to change this department; be bold, be a different Chief, make real changes. Until then, we are going to keep returning to these meetings, informing this body about the latest wrongdoings of the OPD. Our tax dollars will continue to be wasted on court monitoring fees, on Dr. Eberhardt, and on lawsuits. Let's get it together.

Sarah Taylor, East Oakland Collective, expressed concern and is here to make the

Commission aware about the important evidence of the treatment of homeless residents. The number of car sleepers is rising in Oakland because of the housing crisis. It is harder to track. With the vehicle being their only shelter, we are concerned by the rising rates of stories of evidence of vehicles being towed by the OPD. Gathered from testimony, it appears that tows are primarily for expired registration – I would like to note that her registration as a white woman and owner of a Toyota Prius has been out of date for six months but I have yet to receive anything. Some data in East Oakland on the number of cars towed so far from our servers are five cars towed from 45<sup>th</sup> Avenue, one car towed from 62<sup>nd</sup> Avenue, questioning and harassment of residents along High Street and at Home Depot, five cars and RVs towed along San Leandro Boulevard. The impact of these tows includes one black woman who has had her car towed five times and is now forced to sleep in a tent; a black senior citizen who I know well has had her car towed twice and is now sleeping in a plastic chair outside with no shelter; one car towed belonging to a young black man on 62<sup>nd</sup> and 63<sup>rd</sup> Avenues, who is now forced to sleep on the street as all the shelters are full and now is unable to see his child. We would like to request that you explore with the OPD issuing verbal warnings and/or no fine fix it tickets before towing cars – that is unacceptable and allowing them some time to fix registrations. We are out in the encampments talking with them almost daily. If they have time, we are happy to support with that. We also request that the OPD release to the Commission the data on the number of towed vehicles that are belonging to an unhoused person and if they are not collecting that data, we suggest that they do.

**IV. Approval of Draft Commission Meeting Minutes for June 28, 2018 and July 26, 2018**

Thomas Lloyd Smith will offer the draft minutes for approval by the Commission.

a. Discussion

A. Dooley does not have any specific comments on the content of the meeting minutes – suggested a balance between not enough information and too much information; 17 pages of minutes were too voluminous to go through, particularly because we have video recordings of the meetings.

R. Jackson echoes A. Dooley's comment. M. Nisperos agrees. T. Smith said that he is happy to assist in downsizing the minutes.

G. Harris reminded the Commission that these minutes are because the public asked for them to be this way. In reading the minutes, I know it is hard to get through them, but there are a lot of things left out that she thinks are important so we shouldn't be picking and choosing what goes into these minutes because the public asked for it.

J. Dorado referenced Page 5 (Minutes), last paragraph, Line 10 – Corrected to read: Insert (**World Trust**) after Ginny Berson.

R. Jackson concerned that it seems as if there is a perception that we are not asking questions during Open Forum because we don't care. It is because we have been directed not to; we are to take in the information. T. Smith clarified that is correct.

Counsel Brown reported that the Brown Act requires that the Order/Commission not have a conversation back and forth because the purpose of the Brown Act is transparency and if there is going to be a conversation, it has to be agendized so people know that it is going to happen and can show up so that there can be clarification but there is not a conversation or discussion because that would leave people out who didn't know that there was going to be that conversation. That is

why I have asked the Commissioners not to have a conversation back and forth regarding Items that are not on the agenda. Open Forum can include any items that are within the subject matter jurisdiction of the legislative body so there is not a limit on what people can bring other than the subject matter jurisdiction of the Commission. The Commissioners themselves should show restraint and not get into conversations otherwise they violate that open meeting transparency principle of the Brown Act.

b. Public Comment

Saleem Bey regarding Chief of Police nothing is stopping her from writing down this case number IAD 13-1062 of going and finding out who is it that is responsible for finishing IAD 13-1062? What is the actual status of IAD 13-1062? Find out why the City is sealing this from the public. IAD 13-1062 was sustained against the department as a whole according to the police department. If it was sustained against the police department it should not be sealed from the public.

Gene Hazzard the intent of my comments for you after hearing what the public has said to then discuss immediately afterwards to agendaize this item. That is all we are asking.

T. Smith asked Counsel Brown what is the ability of the Commission to discuss something like this which is still ongoing in terms of the investigation? Counsel Brown asked is the question can the Counsel discuss something that is under investigation or can the Counsel request more information? T. Smith asked what is the scope of our ability to engage in discussion around this and ask questions of the Chief, etc.? Counsel Brown reported that the Counsel can ask for updates. If there is a matter that is an ongoing investigation, the police department has counsel that will caution the Chief not to about things she can't talk about. If the Commission wants updates or wants a report or wants information that is not otherwise privileged, then you can ask for things that don't violate any type of privacy rules or any type of the rules related to the confidentiality of investigations. What I would say is that formulating the question would be part of the task. Figuring out what you can do to keep apprised of the issues that are within the subject matter of this Commission and then also being responsive to what the public wants to hear, would have to do that on a case by case basis to make sure that you are staying within whatever parameters would be applicable so that you don't undermine the investigation.

T. Smith said the topic is still the Minutes.

A. Dooley would like to note that this is a discussion that we can have on Item 10 on today's agenda. Part of that conversation will be how to move things to the agenda.

T. Smith asked for further discussion on the Minutes.

G. Harris clarified for the record that Ms. Brown does not work as a City Attorney; she works for the Commission.

G. Harris said that there are two sets of Minutes. She has a concern in regards to the July 26 Minutes. Mr. Bey came for the first time to our Commission meeting and approached us with some very serious accusations that are not captured in the Minutes. She would like them to be captured.

T. Smith said that you must let us know what is missing. G. Harris said that there is

a section where Mr. Bey spoke about CPRB closing a case – he made several accusations about OPD and he made accusations about the CPRB. She would like that to reflect in the Minutes. Everything else reflects in there except for that; she went over the video and read the Minutes.

c. Action

MOTION (G. Harris) to approve the June 28, 2018 Minutes subject to the correction and seconded (R. Jackson). The vote was Aye: 6 (Ahmad, Dorado, Harris, Jackson, Nisperos, and Smith); Opposed: 0; Abstained: 1 (Prather). The motion passed.

MOTION (G. Harris) to amend the July 26, 2018 Minutes and put in Mr. Bey's comments/accusations to each Item he spoke and seconded (J. Dorado). The vote was Aye: 7 (Ahmad, Dorado, Harris, Jackson, Nisperos, Prather, and Smith). The motion passed unanimously.

**V. Oakland Police Department Report**

a. Discussion

Chief Kirkpatrick reported that she will be answering the questions in categories. She will be answering the first four questions that the Commission presented. Chief Cunningham will be addressing the Swanson questions that you presented to OPD.

(1) How much influence does this Commission have over the scope of work for the contract? Chief Kirkpatrick stated that with respect to that as you know the contract was already passed and in terms of the scope of work, that is then between the City Administrator's Office who has oversight of the contracts and negotiation then with Dr. Eberhardt. That would be how and where it is today.

R. Jackson said that I believe that then I asked a very specific question around penalties if the work is completed early. Chief Kirkpatrick said she does know that from last year's contract, she drew down \$150,000 (from \$250,000). It was about liquidated damages and she does not remember the specific wording she used. If you do not know the answer now, can you come back to the Commission with a response and the Chief said she could.

(2) To what degree can the Commission modify the scope of work for the contract? Chief Kirkpatrick stated the Commission should be able to weigh in and give comment and then the negotiations are between the City Administrator and Stanford. Would you be able to give comment – yes, you can give comment.

(3) Can the Commission or OPD have Dr. Eberhardt track the amount of fines affiliated with racial disparities in police stops? Chief Kirkpatrick reported that we had a similar question that was asked of us by Councilmember Kaplan. It was on September 15, 2017 that we gave a response back on an agenda report associated with the issues with fines. Councilmember Kaplan had asked us about racial inequities in traffic enforcement. At that time, we did try to get that information but it is within the Alameda Court that has control over that and at the time we were trying to determine the fines in response to Councilmember Kaplan, the Court would not give us the fines. We were able to report back how many tickets were given and we had that type of information but with respect to the fines themselves,

we do not have it aggregated out and as I understand the court or the county would not give us that information. The aggregate amount of fines that were paid for traffic was \$133,554 that OPD received in fines.

G. Harris thanked the Chief for trying to obtain the information. Being a former court clerk, I know that you can go to the COO and ask them to come up with that information for you. Chief Kirkpatrick said that she will follow up and give you a report back. The Commission has oversight on policies in regards to OPD but in regards to information gathering that the City of Oakland is paying for, where did you get the information that says we can comment. Was that given to you by the City Administrator, City Council, or where did that come from? Chief said that came from their legal counsel. G. Harris asked Counsel Brown if that is correct. Counsel Brown reported that the short answer is yes. We started with Measure LL which gives the Commission the authority to comment on policies and that is part of what the Eberhardt contract is doing is gathering data because to make informed decisions regarding policies. If you look, there is nothing in Measure LL that talks about contracting authority but the topic of racial disparity and enforcement that sort of thing is what is part of the purpose of the Commission. So, on those topics, you can make comment because it would be a natural progression that you would talk about those subjects and that you would give those recommendations to the Chief of the department. Those issues are the issues that are pertinent to this Commission. You don't have to have contracting authorities make a recommendation; you are making a recommendation on items that are within the purview of the Commission.

M. Nisperos said that the difficulty with this contract was that it was already done so it is hard to comment after the document has been executed. One of our responsibilities will be oversight of the OPD's budget. Once we become familiar with the budget, we will see these things coming down the pike and seeing them being budgeted for future expenditures. Then we will be able I think through our questioning and working on policy with the Chief to help fashion our concerns into those contractual relationships.

Chief Kirkpatrick said she wants to be careful in how she talks about contracts because it is not her area in which to engage. This is her understanding – The Council approved for the City to enter into this contract. They are presently working in the negotiations of those terms of the contract. She is not in that. That is between the City Administrator now and Stanford. What is completed is the fact that the City Council has approved that they can go into a contract and that is what is being worked on.

M. Benson said that if negotiation is still happening I am wondering if we can have the City Administrator flesh out what it is what we expect and the type of data we are looking for.

(4) How can we track the outlier officers who repeatedly profile and track their levels of accountability? Chief Kirkpatrick said the framing of the question is the call of the question would be racial profiling and how many officers get complaints or associated with racial profiling. That is tracked through Internal Affairs ("IA"). To be complained on is a complaint through Internal Affairs. Risk Management is a totally different system that is not associated with a discipline process. We do track if and when an officer receives a complaint for racial profiling via IA and we can also look to see if there are repeat officers named for racial profiling. It is a two-prong approach to that.

M. Nisperos asked the Chief if you are tracking officers who are issuing large numbers of tickets to minority members of the community whether or not

complaints are being filed. Chief Kirkpatrick said yes, that is the Risk Management side. The tracking system we look at and track every single stop by every single officer and then do an analysis on that and that is where we have benefited so much from our relationship with Dr. Eberhardt and the Stanford team behind her to look at that data and to learn what is that data indicating and how do we correct those disparities. We do track it in the Risk Management side and then the complaint side would be through Internal Affairs. M. Nisperos asked am I correct that Risk Management tracking is what is being merged into what you are calling PRIME and will be up next year? The Chief said yes, those systems are connected and inter-connected.

M. Benson mentioned that she was shown without officer's names how that tracking system worked and she was quite impressed. I am hoping that we can look at the processes that the Chief is using to be able to track these officers. She asked a clarifying question - These complaints that are coming in through IA -Firstly, is it every single time that the CPRA is notified about those complaints, so the numbers that CPRA has should match the same amount of numbers that IA has? Chief said yes. Mr. Finnell and the IA Commander make sure that those are tracked back and forth between the two agencies. Maybe we identify police officers and give them numbers and could be doing that on data analysis in house. Second clarifying question - It is still process and procedure that IA is a bit of a rotating cast of officers in house? The Chief said that it is a concern that she hears a lot from the community whenever we must rotate commanders. Just to give you again an understanding of her situation - when she rotates a commander, is typically because someone's getting promoted and once that promotion rolls up, then she has vacancies. Those vacancies end up where she needs to move and shuffle the commanders around because she has these roll ups or roll downs or maybe she has someone who is going to be out on a long term and needs to fill the spot. That is the situation.

A. Dooley asked does the police department have civilian human resources professionals that are nonsworn officers? Chief Kirkpatrick said that we do indeed have a whole professional staff that are personnel team, manager, nonsworn person and have been in that role for many years. They do not tend to rotate through. With respect to what you are talking about within IA, no that is not in our system. Dooley asked HR professionals that are overseeing personnel, what is their relationship to whoever is over in IA? Chief said the IA Commander is a direct report to her, which is a common structure - IA does not answer to another commanding rank officer. With respect to tracking timelines, they must complete an investigation within the one-year mark. We give the goal that they complete an investigation at the 180-day mark, but there is no discipline if they don't hit the 180-day mark. It is a goal. There are legal consequences for not finishing an investigation by the 180<sup>th</sup> day. Because we are still under federal oversight, we answer to the federal team on all the documentations and they follow it very closely.

(5) How can we more closely examine the tasks that are incomplete? DC Armstrong reported on tracking of the Stanford recommendations - we are required monthly to provide an update to the independent monitoring team regarding our progress on the Stanford recommendations. In each month, we are to give them an update. We also are required to report to the federal judge a date when we must go in front of the judge for a CMC meeting we also must provide the federal judge an update on the Stanford recommendations and expect the completion of the open recommendations. Our last court date in June, we had to give the judge an update on all 50 recommendations and what our timelines would be for the completion of those recommendations.

G. Harris asked in regards to the complaint about the racial profiling. He said the work that we are doing with Dr. Eberhardt is helping us to understand how to think and look at the data and use it in a way so that as an organization we can implement policies and practice that help better inform our officers to what you mentioned. Everybody has biases. Prior to Dr. Eberhardt coming, we did not have that training. The department has a better understanding of implicit bias and where it comes from is a help so that we can have those discussions internally. To the Chief's point, we are police officers by trade and when it comes to research and understanding how data should be reviewed, how data could help inform how we can create policy or practices that might change the way we do policing – that is where Sandford is very useful to us because they are showing us now that you have this data in front of you, here is how you need to look at it, examining your officers, look at certain ways in which you are policing and see if your strategies can change in order to reduce the disparity in who you stop, the number of stops you make, etc. From that standpoint is where we see the greatest benefit in terms of better understanding how to utilize data. DC Armstrong said that we often say that we as a police department are examined in our practices. I have been here a long time. We policed in a certain way. As we look at the data we are examining the way we policed before and seeing if there are better ways that we can police now. Looking at the data, it allows us to better understand how we can implement new practices to better impact our police officers, our policies and then have less of a negative impact on the community. That is what the data is showing.

Chief Kirkpatrick said what Dr. Eberhardt has helped us to see is that by resetting our thinking she has been able to say and say look at your policy on handcuffing, your policies on asking about probation and parole. That is pointing to that institutional impact. That is the benefit. Prior to having those outside eyes to come in and say have your thought about looking at that and as for your institutional racism gets rounded and routed, that is the benefit. Racism is not just a matter of reducing disparity – it's a matter of eliminating any kind of racial profiling, it is unconstitutional/unethical. We hear you. I embrace it. I understand that. That is what the academics have been able to come in and give us new life.

R. Jackson said what I recognize is that we can often get caught up in this tinman approach. All head no heart. When you are looking at data clarifying this kind of information, what we are not talking about is how we affirmatively shift the culture and you can't teach culture in the statistics, in the data. It is supposed to come from leadership, to be intentional, and be a way of thinking which then flows down to a way of doing. I am very interested in understanding, not necessarily Eberhardt inputs. How does this flow to shift the culture of how policing is done?

Chief Kirkpatrick said our goal is anybody who is in the top leadership of this department, must be on board with the understanding that transformation is the goal. Transformation is the heart and the mind.

R. Jackson said she still thinks that foundations and expectations are what directly inform culture shifts but what I would like to ask for is we are changing – I want to know how? Like every month I want to hear how you have recognized a shift, a change so that we recognize that it is no land of Oz but as we are moving toward, taking that journey, I would like to have you demonstratively explain how we are seeing change. Chief Kirkpatrick said she will leave you with one and we can go to any of the stats that you would like to – but stats measure change. I gave you an example of our use of force has dramatically dropped 75% over the last four years. That is an amazing amount of fruit on the tree of how officers are no longer gong to force as a first option and that the use of force and de-escalation is showing to percolate within our police department. That is just one example. There are

changes.

M. Ahmad asked when you say you are making transformation, when you recruit people, how many of the people are educated aside of just a high school diploma and possibly no felonies. How many of them have education (been to college)? Chief Kirkpatrick said that she has stats and did not bring them today. Most of them have college backgrounds. In the end, I think that education is important, but I am looking for men and women of good character, not power hungry, understand and want to be invested in this community. She holds a bachelor's, master's, a law degree, and is a licensed attorney. She has an appreciation for education but she will take a man/woman of great character over any degree any day.

R. Jackson mentioned that use of force is drastically down. How has this happened? Is this the 25% all in one? Chief Kirkpatrick said this is an open investigation and you know I can't speak to it. R. Jackson said when we talk about use of force being down and have unconscious people being killed, that is a problem. Chief Kirkpatrick said that you do not have all the facts nor do I until this investigation is complete. R. Jackson said that unfortunately we have a history of facts that aren't explainable around use of force.

J. Dorado shortly after you came on you were kind enough to come to his office and meet with the Latino Task Force. We appreciated that. If you recall, one of the things that you recounted was that you had been a member of nine different police departments and that you were known as the change agent. My response to that if you recall was that the culture in OPD needs to be reformed/destroyed/rebuilt from the bottom up. My point is that a big part of that building from the bottom up is what you cited in terms of the recruits that being people of good character. People of good character will not hesitate to say something if they see something. That means that if in fact there are people of good character, and there are in OPD, they will not hesitate to say that one of their officer's is doing something wrong. Sometimes criminally wrong. I would like to know, and the Commission would like to know, on a regular basis how many incidents there are of OPD officers of good character stepping forward and saying this is wrong and I am going to report it because I am going to honor the badge by doing that. Chief Kirkpatrick said I came here because I do believe in this police department. I think this department is one that I am very honored and very proud to be their Chief. I will stand for this police department each time, make no mistake of that. If there is a problem in this police department, I will call it out. I will deal with it. This is my eighth police department, not my ninth. I am a change agent but I will tell you that the Oakland Police Department has all the makings to be the super bowl champs of any police department in this country or I would not be here. I want to bring it to a place where you will be very proud of your department and supportive; I know I am.

(6) What is the plan for ongoing assessment and maintenance once these tasks are checked off? To remind you, it is the police department's Office of Inspector General. We do have a Lieutenant who serves over that role as the Inspector General. Under her leadership she has several employees, most of them are perpetual staff and they have the responsibility to audit as well as making sure that we accomplish and stay on task that once we hit compliance, we remain in compliance. We don't revert.

(7) The very last question that you asked that we come back to was to respond to the Swanson status on some policies that are in your purview right now to comment on. Chief Kirkpatrick said that the Commander over our Criminal Investigation Division, DC Oliver Cunningham, will address the nine outstanding points under these two policies that you are inquiring about.

DC Cunningham spoke about the nine Swanson recommendations. He reported that in April, Tim Birch, provided two copies of the Policies (611 and Training Bulletin V-T.1). Policy 611 deals with criminal misconduct by employees and Training Bulletin V-T.1 deals with internal investigations. Regarding the Swanson Recommendations, we promised the court that we would implement all nine Recommendations of which I have them listed – I will draw reference to them and try to cite some of the language changes if you have the documents in front of you. T. Smith said that we have the documents in our Agenda packet (Items 5a, 5b, 6, 6b). DC Cunningham gave a brief narrative of each recommendation.

Chief Kirkpatrick gave comments relating to the Policy.

E. Prather thanked the Chief and DC Cunningham. He said that this is the Policy you fully support, the Policy that you believe is transformative in your department, and this is the Policy you believe will fix the problem. Chief Kirkpatrick said yes.

G. Harris said that reading the Policy in depth brings up several questions. For her this Policy has the police policing the police. We have done that for as long as the police have existed. When an officer who we hold to a higher standard than a civilian has sexual relations with a minor, not only should he be fired on the spot, but he should go to jail and register as a sex offender.

R. Jackson said when police officers break laws, they should have double the responsibility because they know what the responsibility is. If they disregard it, then that is two-fold. There is no pass for our officers. When you all step forward to get trained to protect the citizens of the city, you cannot expect that you can be excused from certain kinds of behaviors especially the trauma enforced crisis of impacting a young person. This gets us half of the way but not all the way. She stated that more accountable language needs to be put into the Policy for it to put forth a believability factor in community people.

Chief Kirkpatrick said that these Policies are in the Commission's purview now; you have until August 21 to come back to the department. This is your role and your opportunity.

b. Public Comment

Lea Baken said she heard Chief Kirkpatrick talk about the kind of officers the department is looking for. She knows that in the Academy they have new black officers, don't like black and brown people. One I have personally heard say I know this place is f\*\*\*ed up but if I can wear a uniform, I can bash heads and not be held accountable. I asked, why do you want to be a police officer? He responded with that same response again. There are a couple of them that are not there to protect and serve. She witnessed out of her window a police officer pulling a homeless man up by his leg near the 13th Street Post Office. I know that not all police officers are bad; we have those rotten ones that need to be taken care of sooner rather than later and not wait until they are out of the Academy and on the street. T. Smith asked Ms. Baken to speak with Chief Kirkpatrick and to stop by and speak with Mr. Finnell regarding the homeless man incident.

Terry McClain, Coalition for Police Accountability – If there has been training in the police department and most of those that are stopped are black and brown people, I need to understand what exactly is the training that they are getting. Because of all this training, why are we still hear that black and brown people are still stopped more often than anybody else? Maybe if we can come back and get

that question answered.

Rashidah Grinage the Coalition had a meeting and we started thinking about solutions. We are going to start working on what we think are some viable courses of action to address racial profiling and racial disparities that continue daily. By the way, the training in implicit bias did not just start when Dr. Eberhardt came here. As I said last time, I attended along with Oakland and Berkeley police officers a training in 2010 on implicit bias. This is not something that we just learned about and it is going to take time. This is at least an eight-year exposure to the idea that we all have biases. I want to urge you to keep digging; not settle for rhetoric (transformation) – what does that mean to an organization? Commissioner Jackson because she has her own organization understands very well how meaningful change, substantive change happens. We need to start drilling down on that idea because data and analysis takes you only so far - at the end of the day, what are you going to do differently in your organization to get different outcomes? This is not rocket science and there are people who do understand organizational change. Let's start looking at best practices and how organizations change their culture. Let's start drilling down. No more rhetoric – it is not going to cut it.

Carolyn Burgess gave comments. She is confused. I think that you are very intelligent up here but what I see happening is that we're thrashing people rather than figuring out how to help. What needs to be done that isn't being done? Ms. Grinage was right on. You have the information, maybe that will help. Why are things not getting done? Let's work together.

Bruce Schmiechen, OCO and Coalition of Police Accountability, regarding the bottom line being accountability, consequences – something must happen to people who do not reform and then their thinking will change.

Cathy Leonard said she wants to see accountability. You can get people to change – hit their pocket book, affect their careers – fire them, refuse to promote them. That is how you are going to get change with the OPD. Stop hiring officers from other departments who have committed crimes. Why are we doing this?

Lorelei Bosserman, she wants to see transformation. In summary, we need accountability and not changing hearts and minds (we have been counseling and training people for years).

Sarah Taylor to get to the policy of the Swanson Report, someone must want to report. This is not a sex scandal; this is a sexual assault, a rape of a minor. The violation of young women/girls. This has been going on for too long; unacceptable. The Swanson Report is great on paper but how is anyone going to get to enacting the Swanson Recommendations if they aren't feeling safe to walk into a police department to make a report that a police officer has sexually assaulted them. She supports the Commission and asks that there is a culture change that dismantles the rape culture that exists in the OPD.

Assata Olugbala stated the purpose of the Swanson Report was to fix the fact that an investigation related to the sexual acts of police officers. That investigation was a cover up to protect officers and the Swanson Report attempts to eliminate in the future investigative procedures where fellow officers protect each other – the blue wall of silence. That culture must be eliminated. The Eberhardt contract came up in Public Safety and it was denied because it was felt that Dr. Eberhardt's performances, etc. needed to be brought forward before they approved a contract. It was based on the fact that the racial profiling that was going on in the police department hadn't changed that much so the data January 2014 to December 2014.

had 27% African Americans (19,000) stop data; 2016-2017 it was 62% (20,000) – an increase. It is not people of color; it's African-Americans. The next group was 18% Hispanics in 2014; 2016-2017 Hispanics was 20%. It is African-Americans. When you need to say people of color, say it. But when it is African-Americans, let's make it clear. So, the Eberhardt issue she has with her is that there has been no change. Another thing, the City Administrator has the capacity to approve contracts after \$250,000 without going to Council. Last year, beside the Eberhardt contract had, the City Administrator gave her a contract for \$150,000. It was never explained for what purpose. They are saying they must have this contract – she has already got \$150,000 for some unknown reason. We wanted to have that explained at the Public Safety Committee meeting but they had people there, etc. who wanted to rush this contract through with no accountability, no transparency on what's going on. I hope that you pursue having her come before you, having it being dealt with, and clearly the Swanson Report says the police do not have the capacity to police themselves. She mentioned Ms. Guape - They did not report to the City Attorney, District Attorney – this child, they undermined her, the investigative procedure was the worst of it, and attacked her.

Saleem Bey he would challenge the Chief's character by her very first action when she became the OPD Chief – she promoted the officers who were associated with covering up that report. They were involved in that report. It shows that OPD still has a failure of fail upward promotion system. If you are going to fail upward, then the people who you replace afterward are going to have to be failures also otherwise they will break that chain. I would like to say - please look at Page 28 in the Swanson Report. It says that the police department as well as officials have a fiduciary responsibility to report criminal acts or known criminal acts but acts that may have the potential to embarrass the City or OPD. All these things apply to 13-1062 as well as the Swanson Report with failure to notify.

Gene Hazzard regarding looking at the Swanson Report, it further concludes that the City failed to take necessary steps to examine these deficiencies. That is why these steps were not taken before the court got involved. First OPD's initial investigation was wholly inadequate – but the deficiency of the investigations were shielded from review. It took court intervention to cause OPD to investigate the allegations against its officers thoroughly and properly. We can no longer allow that to occur. Liquidated damages equal to consequences. You make them high enough so they don't repeat the same. You don't give promotions where the people are involved in covering up and they need to go to jail. In the civilian world, they will go to jail; they are crimes. This is misconduct of people who think they are above the law. He suggested that the Chair and Vice Chair should meet with the City Administrator to see if you can help craft the scope of work – nothing precludes you from doing that; if the City Administrator doesn't come in, then you go to her.

Jasmine said that she doesn't have faith in the Swanson Report. You know they are all going to cover for each other like they have been doing. They will continue to do that and get promoted. I don't see things changing. It's a real slap in the face. I have to walk around Oakland a lot and it seems like the same officers who have violated are smirking at you like they got away with it. I see this continuing unless real consequences are handed down and it needs to happen. She thanked everyone for asking the right questions and to continue.

- c. Action on formal recommendation regarding Eberhardt contract, if any

None.

**VI. Police Commission Review of OPD Policy 611 entitled, “Criminal Investigation of Department Members and Outside Sworn Law Enforcement Personnel” and Training Bulletin V-T.1 on Internal Investigation Procedures**

The Commission will review and consider approval or rejection of OPD’s proposed policies, which have been revised in response to court investigator Edward Swanson’s report on OPD’s handling of allegations concerning sexual misconduct. The due date for modification or approval of OPD Policy 611 is August 21, 2018.

a. Discussion

T. Smith said that E. Prather will take the lead on this Item. E. Prather said we are here to talk about Policy 611 which we discussed previously and had feedback from the police department as well as was identified – this is the third time this matter has come before us.

Counsel Brown reported that the Commission has 120 days and then if there is not a comment, then the Policy can go forward but I would like to do is give the exact citation – I have read it in here and I would have to look at LL and the Enabling Ordinance to make sure I am giving you the right citation.

Counsel Brown said it’s in Measure LL. Our Ordinance has how it is done. What can be done is in Measure LL. It is in the Charter. It is Number 5. Counsel reported that if the Commission does not approve or reject the department’s proposed changes within 120 days of department’s submission of the proposed changes to the Commission, the department’s proposed changes will become final. If the Commission rejects the department’s proposed changes, notice of the Commission’s rejection together with the department’s proposed changes shall be submitted to the City Council for review. If the City Council does not approve or reject the Commission’s decision within 120 days of the Commission’s vote on the department’s proposed changes, the Commission’s decision will become final.

T. Smith said that at this point we have given some feedback at prior meetings but the feedback is not encompassing what everyone feels about the Policy. The initial feedback that we gave was only on notice and they responded to that feedback and did not change the document much but included the notice. At this point, is there new feedback that we have based on the third time we are looking at this?

M. Ahmad suggested we make a motion to reject it.

G. Harris said the document (Item 6) is four pages – why can’t we do it now with the public’s input? T. Smith said it is the third time we have seen it and why not do it now.

E. Prather said even though it is not perfect, it is an improvement over status quo is to approve it with comment and to take it up at our larger Policy consideration. Further discussion ensued pertaining to the Policy.

b. Public Comment

Cathy Leonard said if there are substantive changes to be made, you need to do your due diligence. I thought you had a Policy Analyst (Juanito Rus). Is he working on this? You need to have your staff. You have full time jobs. We are here to support you.

Gene Hazzard said the Council has the final say. Consider Commissioner Ahmad’s

motion to reject the document. Stall for time.

Assata Olugbala said that when she read the Recommendations as mandated by the court with the Swanson Report giving them the details of what they needed to do, they have complied with that. It is not about the behaviors; it is about the investigative procedures that they know must go through to make sure that they don't cover up. They have done that with these Recommendations. I would not be protecting them if it wasn't so. You have a lot on your plate. You are spending a lot of time on something for which you don't have to go there because the courts are going to review this with Swanson and if it is not right, they are going to send them back. Swanson is good in identifying the wrongs in the police department; I have a lot of trust in him. Listen to this counsel person and my concern is with what Mr. Hazzard said – in the future, no matter what you say it goes to the Council and the Council makes the final decision to approve or reject policies. Don't kill yourself with this one.

c. Action, if any

MOTION (M. Ahmad) to reject the Policy document and there was no Second. The motion fails.

MOTION (E. Prather) that the Commission approve Policy 611 in its current form that has the notification edits – Chair of the Police Commission, Executive Director of the Community Police Review Agency (CPRA) – in Section 611.8.1 and Section 611.9(g) and seconded (M. Ahmad). The vote was Aye: 6 (Ahmad, Dorado, Harris, Nisperos, Prather, and Smith); Opposed: 1 (Jackson); Abstained: 0. The motion passed.

**VII. Recess (6 minutes)**

**VIII. Executive Director Recruiting Process for the Community Police Review Agency**

The Personnel Ad Hoc Committee will work with the Commission to define the Executive Director recruiting process including the candidate evaluation template.

a. Discussion

T. Smith asked M. Nisperos to give a report. M. Nisperos reported that an additional 12 new applications and out of that 12, there were 56 repeats to add to our prior total. We have all been reading them and sent his recommendations to the Personnel Committee. We have a meeting scheduled in the week of August 20 with the Director of HR and representative of the City Administrator's Office. The City Administrator will make the final selection. We all received an email from Commissioner Benson regarding excellent recommendations that she got from NACOLE.

The Commissioners discussed the hiring matrix (Item 8) and will be moving forward.

b. Public Comment

Assata Olugbala said she spoke to the attorney and Measure LL/Ordinance specifies that you must form standing committees with the approval of Council. She

explained that you are okay with what you are going through. She appreciates all that you are doing but the bottom line for her is that once these people get hired, once they say the act was justified, was lawful and proper, that there was sufficient evidence, I want to know how you came to that conclusion. That has been a historical piece around the CPRB when they were doing the work – how did these investigators conclude and the finality (Sustained, etc.). Go through this process but at some point, we must come up with a way to hold these investigators accountable for their final decisions.

G. Harris said that was something we have been working on as well. How did you come up with that process? Mr. Finnell has been working with them so they can learn about the process. Counsel Brown stated that Ms. Harris was speaking on an agenda item and not responding to public comment.

c. Action, if any

None.

**IX. Analyst II Selection Process and Placement for the Community Police Review Agency**

Stephanie Hom will report to the Commission on the Analyst II selection process and placement timeline.

a. Discussion

T. Smith stated that Stephanie Hom sent him an email that she was unable to attend tonight's meeting and he was hoping to get an update/report from her.

T. Smith asked Counsel Brown to outline the process that was current after the last Enabling Ordinance for us to get our Analyst position. M Brown reported that the process is in Measure LL that is what has the authority regarding hiring for the Agency staff and Director (Budget Staffing E4) and she read the item aloud.

G. Harris said that she wants to put Counsel Brown on notice that she has been requesting information in regards to the hiring process for the Commission's Analyst II on several occasions and have also sent a notice to our City Administrator that she is in violation of the ordinance and the charter in regards to hiring the staff of the Police Commission. I keep asking and we are not getting. She is not here tonight and she does not send a representative. Counsel Brown said that she will accept that as a request for help.

T. Smith said that he has the email/letter that he received from Stephanie Hom today which he read aloud – she is unable to attend the meeting but the City Administrator's Office is currently in the process of scheduling interviews with candidates for the Administrative Analyst II position that will help support the work of the Police Commission based on civil service personnel rules in the MOU with Local 21. The City Administrator will first consider candidates from a restricted internal eligibility list of HR Management Department before considering candidates for an unrestricted external eligibility list. Interviews will be taking place within the month pending on the outcome of place will occur shortly thereafter. Richard Luna, City Administration Analyst, will be serving as the City Administrator Liaison to the Police Commission as the Police Commission identifies specific work, tasks, and assignments that need to be completed through the City Administration. Please communicate tasks to Richard and he will work to coordinate the resources needed to complete tasks. Examples of administrative

work, the police commission may wish to include and she then gives some examples. T. Smith said that based on the letter he got this afternoon, we can expect probably another month or longer before we receive our Analyst.

G. Harris clarification – She is in violation. The Commission should be fully staffed by now. It is taking months and months. She thanks him for helping the Commission. She wants this on record.

M. Nisperos that the Chair notify Ms. Hom that it is our perception that our liaison will do more than just greet us at the door and leave and that he will stay for the entire meeting and hope that you convey that in a civil tongue.

Further comments were given by Commissioners.

b. Public Comment

Rashidah Grinage said that this is unacceptable. You need to give a deadline. We looked for the job listing on the City's website and it is not there. It was never listed to begin with or was listed and it closed. Either way, based on the letter the Chair just read, it seems they are in the final stages of selection. It is not telling how many interviews they will do. Our Coalition is going to raise the temperature on the City Administrator's Office because it is unacceptable and shouldn't be tolerated. It might be time to go to the Press and get some public awareness because it is not fair to you. The community stands with you and strongly recommend to the City that you demand a date certain by which you will have your Analyst.

c. Action, if any

MOTION (R. Jackson) that we demand that there be someone hired and in place by September 15 and seconded (T. Smith). The vote was Aye: 5 (Dorado, Jackson, Nisperos, Prather, and Smith); Opposed: 1 (Harris); Abstained: 0. Commissioner Ahmad is not present. The motion passed.

**X. Ad Hoc Committee to Update of Rules of Procedure**

The Ad Hoc Committee tasked with updating the Commission's Rules of Order will report on its progress and recommendations to the Commission.

a. Discussion

T. Smith asked E. Prather to speak and get the whole committee involved. E. Prather reported (Committee members Harris, Nisperos and myself) on several occasions discussed Item 10. We are not asking that this Item be approved and voted on this evening. We do have edits to this language. Counsel Brown has suggested some edits – not substantial in content but substantial in volume. We would like to resubmit the document. We also did create the form which the Rules do reference but that was not included in the Agenda Packet so we would like to have the language and the form to be voted on the same time and that this Item be included in the next meeting. In the interim, what the Ad Hoc Committee has put together is a new process for agenda items and what we would like to do is take the burden off the Chair to keep these items on a running basis and make it more accessible to the public. We would like to create a form that is for agenda suggestions. Unfortunately, you can't see the form because it was not included in the Agenda Packet. He reviewed the form, etc. with members.

Commissioners gave comments.

b. Public Comment

Assata Olugbala asked if anybody reviewed the Rules work for the City Council. They set the agenda for the City Council. There is a collective process of how the agenda is set and suggested looking at how that is done. She appreciates so much detail of how you are going about this but you have a lot of work. A part of setting the agenda that the Rules Committee does – mandated things that must be on the agenda and selective things that people come up with. You have a lot of mandated items. The list is eleven, some of the items that are mandated. She suggested that the Commission set the agenda items for the mandated ordinance required agenda items that you must be prepared to address and it is a lot.

c. Action, if any

None.

**XI. Training: Discipline Committee and City of Oakland Employment Policy and Procedures Training**

The Commission will discuss scheduling Discipline Committee training and training on City of Oakland employment policies and procedures.

a. Discussion

T. Smith said that he reached out to the City Attorney's Office (Ms. Dibley) for training dates and times. Counsel Brown spoke with them this week and reported that they should come back with those shortly. Ms. Dibley has identified the people that will be doing the training and you should be getting the dates soon. When the dates come out, her assistant will help coordinate dates and it doesn't cost anything.

T. Smith asked Counsel Brown if she wants to talk about the training for the City of Oakland Employment Policy and Procedure Training. Counsel Brown reported on the training and said that it is important to know those rules and it is a training that can be done in a general session.

b. Public Comment

No public comment.

c. Action, if any

None.

**XII. Oakland Police Commission Retreat II**

Thomas Lloyd Smith and Regina Jackson will lead a discussion on the Commission's second retreat including the proposed agenda, training sessions, facilitators, and location. The Commission will also discuss the possibility of holding a retreat in lieu of a regularly scheduled meeting.

a. Discussion

T. Smith, R. Jackson, M. Benson led a discussion regarding the Retreat II.

T. Smith went around the table and each commissioner gave comments on what they want to achieve from this Retreat.

Commissioners gave comments.

b. Public Comment

Assata Olugbala said that you become thoroughly invested in this Ordinance/document and understand what it means (to file a complaint, etc.). Get to know your authority of the Public Ethics Commission.

c. Action, if any

MOTION (N. Nisperos) that we continue this meeting until we complete this Item and Item XIII will be on the next agenda since we are going past the 10:30 p.m. mark and seconded (J. Dorado). The vote was Aye: 6 (Dorado, Harris, Jackson, Nisperos, Prather, and Smith). Commissioner Ahmad is not present. The motion passed.

**XIII. Commission Review of Community Police Review Agency Cases Proposed for Dismissal or Closure**

The Commission will review the CPRA's proposed dismissal or closure of complaints of misconduct involving Class 1 offenses and consider whether to direct the Agency to reopen the case(s) and investigate the complaint in accordance with Oakland Police Commission Enabling Ordinance § 2.45.070(M).

a. Discussion

T. Smith asked Mr. Finnell if he had anything to report. Mr. Finnell said no.

b. Public Comment

No public comment.

c. Action, if any

None.

**XIV. Adjournment**

MOTION to adjourn (R. Jackson) and seconded (M. Nisperos). The vote was Aye: 6 (Dorado, Harris, Jackson, Nisperos, Prather, and Smith). Commissioner Ahmad is not present. The motion passed.

The meeting was adjourned at 10:56 p.m.

# ITEM 6

## **Oakland Police Commission: Process for editing or drafting policy Proposal Submitted by Alternate Commissioner Maureen Benson**

1. Initial announcement of intent to review or draft with 4-6 weeks' notice: plans to generate ideas, key points, critical elements of policy initiative. Make sure impacted parties are well invited and included.
2. Hold commission meeting where we engage feedback, generate key points, etc. from the Community and Commission. Create list that we will review the draft against. *\*Need to do work on inclusive facilitation here, also using live tweets, polls from constituent groups, etc.*
3. Ad hoc creates policy or edits existing, drafts based on initial Commission mtg.
4. Announce with 3-4 weeks' notice: Plan for outreach, to review draft of policy or initiative and check it against the brainstorm (make sure Commissioners have the brainstorm and new draft to check against at least 1-2 weeks before the official meeting.) Make sure impacted parties are well invited and included.
  - a. Consider before the meeting use of social media, newsletters and outreach to generate feedback in multiple ways.
  - b. Have ad hoc committee take lead on soliciting community feedback in between meetings



DEPARTMENTAL GENERAL ORDER

R-02: SEARCHES OF INDIVIDUALS ON PROBATION OR PAROLE

Effective Date: XX Jul 18  
Coordinator: Training Division

Individuals on probation with certain court-imposed search clauses and individuals on parole/PRCS (Post-Release Community Supervision) may be subject to warrantless searches by law enforcement. One role of Law Enforcement is to act as an arm of the probation and parole/PRCS systems by ensuring that probationers and parolees are conforming to the conditions of their release.

COMMAND INTENT

The intent of this policy is to enhance the effectiveness of Oakland Police Officers while also reminding them to use their best judgment on when to use probation and parole/PRCS searches. The Department values the abilities of Oakland Police Officers to make sound judgments when using law enforcement tools available to them, such as probation and parole/PRCS searches. At the same time, the Department recognizes that those searched and other community members can view searches as intrusive. Accordingly, the Department seeks to build community trust through transparency of Department operations by requiring officers to document articulable facts supporting a decision to search.

Deleted: judgement

Deleted: judgements

A. PROBATION OR PAROLE SEARCHES AND THE COMMUNITY

A - 1. Purpose of Probation and Parole/PRCS Searches

Probation and parole/PRCS searches must further a legitimate law enforcement or rehabilitative interest. Such searches shall not be:

- 1. Arbitrary;
- 2. Capricious; or
- 3. Harassing

A - 2. Procedural Justice Considerations

Law enforcement contact with individuals on probation, parole, and PRCS provides an opportunity to practice the tenets of procedural justice: voice, neutrality, respect, and trustworthiness. Probation and parole/PRCS contacts can be used as a means of providing counseling, referral to rehabilitative resources, and a deterrent against recidivism.

A - 3. Inquiring About Probation or Parole/PRCS Status

Inquiring about an individual's probation or parole/PRCS status, especially at the beginning of an interaction, or without an apparent basis for the inquiry, can be viewed as unjustly assuming that the individual has a criminal history. Officers should refrain from immediately asking whether a person is on probation or parole/PRCS. Any subsequent inquiries about probation or parole/PRCS status should be framed in a respectful manner.

## **B. REQUIREMENTS FOR PROBATION OR PAROLE/PRCS SEARCHES**

### **B - 1. Knowledge of Searchable Probation or Parole/PRCS Status**

Officers must know that an individual is on searchable probation or parole/PRCS, with a clause which allows the search the officer seeks to conduct, before the search. This information may be obtained/confirmed via:

1. Prior knowledge of the individual's searchable probation or parole/PRCS status;
2. Check of law enforcement databases such as AWS, CRIMS, CLETS, and CORPUS; in case of discrepancies:
  - a. CRIMS should be used to confirm probation terms.
  - b. CLETS should be used to confirm parole or PRCS status.
3. The individual's confirmation of his or her searchable probation or parole/PRCS status.<sup>1</sup> In such cases, officers should confirm the status of the individual with a records check. In cases where the individual is mistaken concerning status, the officer should provide the correct information to the individual and document the results in the appropriate report.

### **B - 2. Rationale for Probation or Parole/PRCS Searches**

Probation and parole/PRCS searches should be conducted in consideration of the totality of the circumstances surrounding the encounter. In those instances where a cursory search is justified and the individual is on probation or parole/PRCS, a full search should be conducted.

Individuals contacted or detained who are found to be on searchable probation or parole/PRCS for **weapons-related** or **violent** crimes should be searched pursuant to the terms of their supervised release conditions to ensure officer, community, and subject safety.

For individuals on probation or parole/PRCS for **non-weapons-related** or **non-violent** crimes, officers should consider articulable fact(s) which tend to show that the individual is connected in some way to criminal activity, that the individual is a threat to officer or citizen safety, or that a probation or parole/PRCS search would further a rehabilitative interest. The mere fact that a person is on probation or parole/PRCS is not in itself a connection to criminal activity.

Some examples of facts that could support a search include, **but are not limited to**, the following:

- The individual is a known gang member or affiliate

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<sup>1</sup> See In re Jeremy G. (1998) 65 Cal.App.4th 553, 556 (officer reasonably relied on minor's statement that he was on probation or parole; "[t]he fact that the minor was in error is immaterial").

- The individual has been identified as a person of interest in a crime
- The individual is in the company of another who is a person of interest in a crime
- The individual is connected to a crime-reduction strategy (such as Ceasefire or a specific crime-reduction plan)
- The individual is a person of interest in, or uncooperative witness to, an ongoing criminal investigation

**C. MEMORIALIZING FACTS OF THE SEARCH**

**C - 1. Required Documentation**

Officers conducting a probation or parole/PRCS search shall at a minimum document the following in the appropriate report:

1. The circumstances of the encounter/detention;
2. How it was determined that the individual was on searchable probation or parole/PRCS;
3. How searchable probation or parole/PRCS status was verified including, if verified via the MDT, a paste of this information from the MDT to the body of the report (if feasible);
4. Any articulable fact(s) which informed the decision to search; and
5. The type(s) of search completed and disposition.

By order of

Anne E. Kirkpatrick  
Chief of Police

Date Signed: \_\_\_\_\_

**B. REQUIREMENTS FOR PROBATION OR PAROLE/PRCS SEARCHES****B - 1. Knowledge of Searchable Probation or Parole/PRCS Status**

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  - a. CRIMS should be used to confirm probation terms.
  - b. CLETS should be used to confirm parole or PRCS status.
3. The individual's confirmation of his or her searchable probation or parole/PRCS status.<sup>1</sup> In such cases, officers should confirm the status of the individual with a records check. In cases where the individual is mistaken concerning status, the officer should provide the correct information to the individual and document the results in the appropriate report.

Section B subsections 1., 2., and 3., supra, are confusing to me. They are three different sources of information upon which an officer can reasonably believe that an individual is on searchable probation or parole.

Subection 1. Allows for [the officer's] "Prior knowledge of the individual's searchable probation or parole/PRCS" but makes no mention of how recent or dated that knowledge is. Is it fresh or is it stale? Did the officer look it up on CRIMS or CLETS or was he told by another officer? If so what was the original source of that information? If it was a prior statement by the suspect then Subsection 3. Rules it out as being a reliable source under the terms of this proposed policy. In any case where is the guidance in determining whether the information may be stale? Is it one month, three months, a year?

Subsection 2. Requires checking law enforcement databases and thus appears to be the most reliable and professional. The subsection is unclear as to when to check the databases. It seems implicit to me that the officer would have to suspect that the individual is on searchable probation/parole and the database is used to verify. What is unclear is how much time will be necessary to run the database checks. The more extended the detention the greater the appearance of harassment. If checking the databases is relatively quick then they should be used on every occasion and thereby vitiate the need for Subsection 1. and Subsection 3. What is the officer to

<sup>1</sup> See *In re Jeremy G.* (1998) 65 Cal.App.4th 553, 556 (officer reasonably relied on minor's statement that he was on probation or parole; "[t]he fact that the minor was in error is immaterial").

do if the system is down or otherwise unavailable? Can multiple officers from different locations access the systems simultaneously?

Subsection 3. Provides that an officer should not rely on the suspect's confirmation of his/her searchable probation/parole in spite of caselaw allowing for such. This seems to ignore the most immediately reliable source of confirmation. But what if the individual falsely denies being on searchable probation/parole? Again the situation points to using the most reliable source, the law enforcement databases.

In conclusion I recommend always using the law enforcement databases for confirmation prior to a full search. The systems should be designed, or modified if necessary, to immediately flag all names that have searchable provision attached to them.



## AGENCY REPORT

**TO:** OAKLAND POLICE COMMISSION

**DATE:** August 23, 2018

**FROM:** Anthony Finnell

**SUBJECT:** Item 13a – Discussion – Community Police Review Agency Case Closure

**The following investigations were closed between July 23, 2018 and August 20, 2018:**

### **Case No. 14-0695, Complainant Taytiana Brown**

#### **DESCRIPTION OF COMPLAINT:**

This complaint initiated in the field with Oakland Police Department (OPD) officers. The complainant alleges officers failed to provide emergency first aid to a bleeding shooting victim and allowed the victim to bleed out. She also alleges the officers would not let her assist the victim by applying pressure to the victim's wound.

#### **ALLEGATIONS:**

##### **1. MOR Violation 314.39 – Performance of Duty**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

##### **2. MOR Violation 314.39 – Performance of Duty**

**Finding – Exonerated:** The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

## **Case No. 17-0802, Complainant John Doe<sup>1</sup>**

### **DESCRIPTION OF COMPLAINT:**

OPD received a 911 call on August 20, 2017, reporting that Complainant was in the marina threatening people with violence and boarding occupied, residential boats. The call was dispatched as a 5150B (mental health hold - violent), and several officers responded to the scene.

Officers located Complainant on one of the docks. This contact was initially cordial, but as the incident continued Complainant became moderately agitated, refused to comply with officer requests, and spoke as if he may be having delusions. When Complainant appeared to punch at officers and take a fighting stance, one of the officers tased Complainant. Officers then restrained Complainant, detained him under a 5150 hold, and had medical transport Complainant from the scene.

Before Complainant left the scene, he spoke to the Sergeant who had been dispatched to investigate the taser use of force. Complainant stated that he didn't want to make a complaint about the incident, but told the Sergeant that he thought the tasing was excessive and officers didn't need to tase him because he would have complied. IAD opened this case based on that allegation.

### **ALLEGATIONS:**

#### **1. MOR 370.27 – Use of Physical Force**

**Finding – Exonerated:** The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

## **Case No. 17-0803, Complainant Cedric Thomas**

### **DESCRIPTION OF COMPLAINT:**

Complainant Cedric Thomas alleged that he was illegally stopped and detained by Subject Officer #1. Complainant alleged that Subject Officer #1 illegally searched his person.

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<sup>1</sup> The CPRA does not identify complainants who have a medical matter related to the incident under review.

Complainant alleged that Subject Officer #1 directed Subject Officer #2 to illegally search his vehicle. Complainant alleged that Subject Officer #1 racially profiled him by stopping and detaining him because of his race.

**ALLEGATIONS:**

**1. MOR Violation 314.39-2 – Performance of Duty – Unintentional Search, Seizure, or Arrest**

**Finding – Exonerated:** The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

**2. MOR Violation 314.39-2 – Performance of Duty – Unintentional Search, Seizure, or Arrest**

**Finding – Not Sustained** to the allegation as the investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.

**3. MOR Violation 314.04 – Conduct Towards Others – Harassment and Discrimination**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

**Case No. 17-0811, Complainants Carlyn Gaylord and Elise Gaylord**

**DESCRIPTION OF COMPLAINT:**

Complainants alleged that Oakland Police officers stole approximately \$4,215 from their home during a search warrant service, and that OPD's actions of breaking their doors to gain entry to execute a search warrant caused their elderly dog to die.

**ALLEGATIONS:**

**1. MOR Violation 314.39 – Performance of Duty – Care of Property**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

**2. MOR Violation 314.39 – Performance of Duty**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

### **3. MOR Violation 314.39 – Performance of Duty**

**Finding – Exonerated:** The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

### **Case No. 17-0827, Complainant Jarryd Smith**

#### **DESCRIPTION OF COMPLAINT:**

This complaint originated in the field with Oakland Police Department (OPD) Officers. The complainant alleges that an officer failed to remove the complainant's property from the vehicle the complainant was inside after the complainant was removed from the vehicle and arrested. The OPD Internal Affairs Division (IAD) forwarded the complaint to the Community Police Review Agency (CPRA) and the case was assigned for investigation.

#### **ALLEGATIONS:**

### **1. MOR Violation 314.39 – Performance of Duty – Care of Property**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

### **Case No. 17-0859, Complainant Jane Doe<sup>2</sup>**

#### **DESCRIPTION OF COMPLAINT:**

While on duty on September 6, 2017, officers heard what they believed to be a traffic accident; then witnessed a car drive away at a high rate of speed, followed by an SUV with bumper damage; then witnessed the SUV cut the car off, which the officers interpreted as the SUV attempting to stop the car from fleeing the scene of the accident. After the vehicles stopped, the officers contacted the driver of the car (Complainant) and the occupants of the SUV, and conducted a preliminary investigation while they waited for a patrol unit to arrive to investigate the accident.

At various points during the incident, officers smelled alcohol coming from Complainant or her vehicle and observed other indications that Complainant was intoxicated. When the patrol unit arrived, they administered field sobriety tests to Complainant and then requested that California Highway Patrol respond to administer a breath test. CHP officers responded, and the patrol unit arrested Complainant for a DUI offense once the breath test was complete. The patrol unit then

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<sup>2</sup> The CPRA does not identify complainants alleging sexual assault and/or sexual contact or domestic violence involving sworn members of the Oakland Police Department.

transported Complainant from the scene to the CHP office, where CHP administered an additional breath test. After this, patrol officers also placed Complainant under arrest for a second DUI offense and a misdemeanor hit and run.

Complainant spoke to a Sergeant on scene, both before and after her initial arrest. She alleged that officers had racially profiled her; had wrongly arrested her; and had been rude to her. Complainant also told one of the officers on scene that she was raped by a police officer in a prior incident, and IAD included that allegation when it generated this case.

**ALLEGATION:**

**1. MOR Violation 314.04 – Conduct Toward Others – Harassment and Discrimination**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

**2. MOR Violation 314.39 – Performance of Duty**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

**3. MOR Violation 314.07 – Conduct Toward Others – Demeanor**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur.

**4. MOR Violation 314.42 – Obedience to Laws**

**Finding – No Finding.** Complainant's allegation is credible, but CPRA staff have not been able to get basic information about this incident that would allow them to investigate this allegation and come to a finding.

**Case No. 17-0888, Complainant Dwitt Jackson**

**DESCRIPTION OF COMPLAINT:**

On August 24, 2017, a man reported to OPD officers that he was the victim of an armed kidnapping for ransom after he was in a minor car accident with two black males driving a white Mazda van.

On September 6, 2017, an officer from OPD's Robbery division sent an email to officers alerting them to the incident and providing a description of the two suspects and their vehicle. The Daily Police Bulletin two days later contained a similar item alerting officers to the incident.

On September 13, 2017, officers saw a van matching the suspect vehicle - driven by a black male generally matching one of the suspect descriptions (Complainant) and occupied by two other

black males - fail to come to a complete stop at a stop sign. Officers initiated a stop, called the men out of the van, handcuffed and searched them for weapons, and detained them while officers cleared the van for additional occupants and searched the van for drugs. Officers then released the men, and Complainant made his complaint to a Sergeant who was called to the scene.

#### **ALLEGATIONS:**

**1. MOR Violation 000.000 No MOR Violation**

**Finding – No MOR Violation:** Officers are not required to initiate a stop within a specific amount of time after observing a traffic violation.

**2. MOR Violation 370.27 – Use of Physical Force**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**3. MOR Violation 314. 07 – Conduct Toward Others – Demeanor**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**4. MOR Violation 370.36 – Custody of Prisoners**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**5. MOR Violation 370.27 – Use of Physical Force**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**6. MOR Violation 370.27 – Use of Physical Force**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**7. MOR Violation 314.39 – Performance of Duty**

**Finding – Exonerated:** The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

**8. MOR Violation 314.39 – Performance of Duty**

**Finding – Exonerated:** The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

**9. MOR Violation 314.39 – Performance of Duty**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**Case No. 17-0891, Complainant Darold Williams and Anonymous**

**DESCRIPTION OF COMPLAINT:**

On September 15, 2017, Mr. Darold Williams (he will be referred to as Complainant in this report) alleged he was unlawfully detained. Complainant alleged that the officer used excessive force and intentionally tried to break his wrist and arm. Complainant alleged the handcuffs were too tight. Complainant alleged that the officers were rude.

On December 19, 2017, an anonymous Complainant alleged the officers did not leave the any identifying paperwork with the patient (Complainant).

**ALLEGATIONS:**

**1. MOR 314.07-2 Conduct Toward Others**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**2. MOR Violation 314.39 – Performance of Duty**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**3. MOR 314.07-2 Performance of Duty – Intentional**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**4. MOR 314.39-2 Performance of Duty – General**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**5. MOR 370.27-1 Use of Physical Force Comparable to Level 4**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**6. MOR 370.27-1 Use of Physical Force Comparable to Level 2**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**7. MOR 314.39-2 Performance of Duty – General**

**Finding – Unfounded:** The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

**RECOMMENDATION**

Staff recommends that the Oakland Police Commission accept this information report.

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Anthony W. Finnell  
Interim Executive Director  
Community Review Police Agency

## ***Community Police Review Agency Report***

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**TO:** OAKLAND POLICE COMMISSION

**DATE:** August 9, 2018

**FROM:** Interim Director Anthony Finnell

**RE:** Request to Continue Investigating the Following Complaints

Prior to December 15, 2017, the former Community Police Review Board (CPRB) investigated alleged police misconduct or failure to act, whether or not such alleged misconduct was the subject of a public complaint. In addition to the investigation of public complaints, CPRB initiated investigations of Officer-involved shooting (OIS) incidents, officers arrested for criminal acts, incidents with a policy implications and as directed by the CPRB Commissioners.

Beginning on December 15, 2017, the Agency is authorized to receive, review, and prioritize all public complaints concerning alleged police misconduct or failure to act. The Agency is mandated to "investigate public complaints involving uses of force, in-custody deaths, profiling based on any of the protected characteristics identified by federal, state, or local law, and First Amendment assemblies." Charter section 603(f)1. The Agency shall also investigate other possible police misconduct or failure to act, whether or not the subject of a public complaint, as directed by the Commission. *Id.*

Agency investigators are currently investigating three cases that were initiated by the CPRB prior to December 15, 2017:

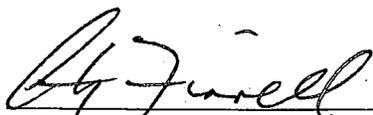
- 17-0963 CPRB generated investigation into in-custody death of a subject after being Tased.
- 17-1130 CPRB-generated investigation for review of proper procedure while engaging in a vehicle pursuit.
- 17-0598 Officer arrested for DUI (case tolled due to pending criminal case).

Since December 15, 2017, the Agency Interim Executive Director has identified the following cases for investigation, which have not been the subject of public complaints:

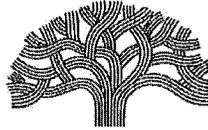
- 18-0165 Officer arrested for DUI. Additional issue of alleged untruthfulness.
- 18-0249 OIS.
- 18-0346 Officer arrested for DUI.
- 18-0056 Officer arrested for DUI. Additional allegations that officer was in possession of firearms and driving an OPD rental vehicle when arrested (case tolled due to pending criminal charges)

The Agency is requesting that the Commission direct it to continue and complete investigations on these matters which may involve police misconduct and/or policy recommendations and were not the subject of public complaints.

Respectfully submitted

A handwritten signature in cursive script, appearing to read "A. Finnell", written over a horizontal line.

Anthony Finnell  
Community Police Review Agency  
Interim Director



# CITY OF OAKLAND - POLICE COMMISSION

## AGENDA MATTER SUBMISSION FORM

<b>PLEASE COMPLETE THIS FORM IN ITS ENTIRETY AND SUBMIT TO THE COMMISSION CHAIR</b>	
SUBMITTING COMMISSIONER:	
DATE OF SUBMISSION:	
TITLE OF SUGGESTED AGENDA MATTER:	
SUMMARY OF SUGGESTED AGENDA MATTER:	
IS THE MATTER TIME SENSITIVE?:	YES NO
DOES THE MATTER REQUIRE REFERRAL TO A COMMITTEE?:	YES NO
DOES THE MATTER REQUIRE RESEARCH BY CPRA?	YES NO

# ITEM 14 *b*

Rule 2.15 Agenda Items. The agenda shall meet the requirements of Government Code Section 54954.2 and of Oakland Municipal Code section 2.20.030(A). For closed sessions, the agenda shall meet the requirements set forth in Government Code Section 54954.5 and of Oakland Municipal Code section 2.20.030(A). Any Sitting Commissioner, Alternate Commissioner, member of the public, the Executive Director of the Community Police Review Agency (CPRA), Inspector General, CPRA/Inspector General Policy Analyst or member of the Oakland Police Department, may submit suggested agenda topics for the Commission's consideration for discussion at regular or special meetings of the Commission. Items submitted by someone other than a Commissioner or Alternate Commissioner must be pre-approved by a Commissioner. Submissions must be made on the form provided by the Commission and submitted to the Commission Chair or the Executive Assistant of the Commission. Forms shall be available at each Commission meeting, on the Commission's website, or at the offices of the CPRA.

Each month, the Executive Assistant or other individual designated by the Commission Chair shall enumerate suggested agenda matters received on the Commission's forms on an "Agenda Matter Suggestions List." The Agenda Matter Suggestions List shall be submitted to Sitting Commissioners as a properly-noticed agenda item. At the first Commission meeting each month, Sitting Commissioners shall decide whether any matters suggested for future agendas shall become matters to be reviewed, researched, discussed and considered by the Commission as agenda items. The process of moving matters from the Agenda Matter Suggestions List to a "Pending Agenda Matters List," shall be by majority vote of the Commission.

The Pending Agenda Matters List shall also include the duties or deliverables which are required to be performed or provided by the Commission pursuant to Measure LL and/or the Police Commission Enabling Ordinance. Any duty or deliverable required to be performed or provided by the Commission listed shall include the due date, or estimated due date, for each task or deliverable.

A Sitting Commissioner may move that a matter on the Pending Agenda Matters List be treated with priority and put directly on an agenda of a future specific Commission meeting. The process of a matter on the Pending Agenda Matters List being made a "Priority Item" and put directly on an agenda of a specific future Commission meeting shall be by majority vote of the Commission.

At the first Commission meeting each month, the Sitting Commissioners, with input from the CPRA/Inspector General Policy Analyst, shall work cooperatively to create Commission meeting agendas from "Priority Items" ready for presentation and discussion, other matters from the Pending Agenda Matters List or from any other matters deemed appropriate. Additional matters may arise between the time that an agenda is created and when an agenda must be finalized and disseminated. As such, the Commission Chair shall be responsible for finalizing meeting agendas prior to their dissemination. The Chair must consider the potential timing and exigency of any agenda item. The Chair, in his or her discretion, shall finalize meeting agendas in the

interest of maintaining meetings of reasonable length and efficacy, meeting and complying with external time constraints and otherwise advancing the best interests of the Commission.

For added transparency, the Executive Assistant shall maintain a running list of Pending Agenda Matters and Priority Items. The lists shall be made publicly available on the Commission's website and distributed concurrently with any Agenda Matters Suggestions List prior to any Commission discussion. The Pending Agenda Matters and Priority Items Lists shall also state the dates upon which the matters were placed on the respective lists. The Executive Assistant shall also keep notes regarding agenda items and attachments to be included in the Commission agenda packet and assist in transcribing the agenda.

Except as provided by the Brown Act or the Oakland Sunshine Ordinance, the Commission shall not act upon or discuss any item at the meeting unless a description of the item appears on the posted agenda for that meeting. If an item arises after the agenda has been distributed, the Chair may add it to the agenda and consider the item in accordance with the procedures set forth under the Brown Act.