



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

FINAL & ADOPTED

Meeting Minutes

Wednesday, April 12, 2018

6:30 PM

City Hall, 1 Frank H. Ogawa Plaza, Council Chamber
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, José Dorado, Ginale Harris, Mike Nisperos, Edwin Prather, and Thomas Smith. Quorum was met.

Commissioner R. Jackson arrived late (joined the commissioners during Public Forum).

Alternate Commissioner present: Andrea Dooley.

Alternate Commissioner absent: Maureen Benson.

City staff present: Stephanie Hom, Interim Deputy City Administrator

T. Smith announced that Attorney Meredith Brown is sitting in tonight as legal counsel for Allison Dibley, Deputy City Attorney. He thanked Attorney Brown for her services.

III. Welcome and Open Forum (2 minutes per speaker)
Thomas Lloyd Smith will welcome and call the public speakers.

Gene Hazzard suggested that the Commission ask for a legal opinion to resolve a potential conflict in the Charter Section 305(e) and Measure LL 604(b).

Deborah Avery regarding Commission leadership and involvement in police investigations.

Henry Gage, Coalition for Police Accountability, regarding two matters: (1) procedural concerns about the adoption of the Bylaws at the January 27 meeting and a recommended remedy and (2) the need to clarify the rules for standards of behavior by commissioners in the Commission's and proposed discipline if those standards are violated; a framework and structure of rules.

Elise Bernstein agrees with H. Gage's comments concerning the bylaws. She recommends engaging an agency that is experienced in team building to support in the development of structures and processes.

Jesse Smith comments relating to isolating effects suffered by victims of police crimes and communities targeted by police. The Commission needs to do promotion and

outreach to fill the room with people from targeted communities so that the process and the commission are familiar to people who need to be here. This issue was raised at the Barbershop Forum, which several of the commissioners attended.

Doug Blacksher, Executive Board Member NAACP applauds commissioners and urges members to be a body of one. We still have serious issues on the street. Your job is to find them, eradicate them and make an example of how a law-abiding city should run with commissioners who have been appointed.

Rashidah Grinage, Coalition for Police Accountability, Commission working relationship, problem solving and training.

Denmark gave comments regarding the March 11th police involved shooting, mayoral appointees on the Commission, and Commission leadership.

Bruce Schmiechen, Coalition for Police Accountability, Commission bylaws and public suggestions for the agenda .

Alternate Commissioner Dooley began giving a public comment. Attorney Brown advised the Commission that commissioners cannot make responses to public comments. A. Dooley responded, "I'm not a commissioner. I'm a member of the public." Attorney Brown asked, A. Dooley to fill out a public speaker card. Dooley filled out the speaker card. A. Dooley then made a public statement regarding the Commission, police accountability, policy review, and commission effectiveness.

Roxanna Perez, a youth leader and co-chair for the Oakland Youth Advisory Commission. She expressed concern of the U-Visa program and gave experiences about her family. They called the police many times and they were not there. She spoke about the police – not trustworthy. More families are afraid to go through this process.

IV. Approval of Draft Commission Meeting Minutes for February 28, 2018

a. Discussion

No discussion.

b. Public Comment

No public comment.

c. Action

MOTION to approve the minutes of February 28, 2018 (E. Prather) and seconded (J. Dorado). The motion passed unanimously.

Action – Approval of Draft Commission Meeting Minutes for March 22, 2018

a. Discussion

No discussion.

b. Public Comment

No public comment.

c. Action

MOTION to approve the minutes of March 22, 2018 (E. Prather) and seconded (R. Jackson). The motion passed unanimously.

V. Oakland Police Department Report

Chief of Police Anne Kirkpatrick reported that there will be a presentation on one topic (as requested by the Commission). Topic 1 is on Ceasefire Oakland, which is a partnership-based, intelligence led, and data-driven strategy designed to: reduce gang/group related shootings and homicides; reduce the recidivism rate amongst participants; and improve community police relationships. The leaders/presenters will be Captain Joiner; Director of Strategy, Ceasefire Unit (Reygan Cunningham); California Partnership (Vaughn Crandall).

Chief Kirkpatrick apologized and reported that the second topic (the Commission's participation in OPD's policy and procedure process taking Measure LL's mandates into consideration) will not be presented this evening.

a. Discussion

TOPIC 1

Captain Joiner reported that this is a three-part presentation as noted above by Chief Kirkpatrick.

Reygan Cunningham gave comments along with a PowerPoint presentation on Ceasefire. She spoke about the goal of explaining what it is, how we got here, and what it is that we do; information was also provided on human services because they are a key component of the work they do in Ceasefire. When they started in 2012, they were under Measure Y; they are now funded under Measure Z. They work in partnership with community members (many from OCO) as well as Oakland Unite.

Vaughn Crandall (California Partnership for Safe Communities) gave comments and continued with the PowerPoint presentation. We are a technical assistance provider and partner to the City. They have been working with the City and partners with Ceasefire since 2012. He spoke about the national research evidence behind the strategy. Oakland is using the strategy.

Captain Joiner spoke about a PowerPoint slide (Oakland Homicides 1985 – 2016). He reported that it depicts the lives lost in the last 30 years. The 90's was when a lot of lives were lost; OPD made many arrests. In closing with this slide, he is proud of the work, from 2012 on. We have documentation, data, professionalism with the community, partnerships, etc.

Vaughn Crandall reviewed the Summary Observation slide – Characteristics of those involved in homicide. These are adults (18 and 35). Victims and suspects are almost identical. They are in groups or gangs.

Reygan Cunningham spoke about the slide – Central and East Oakland Groups, Primarily Black. The snap shop is from 2012 East Oakland. You need to stay on top of this weekly. Now it is extremely complicated and needs to be constantly studied. We have a version with Human Services weekly.

Captain Joiner reported on the slide - Ceasefire Strategy (Progress in Oakland 2012-2017). The question he gets is how do you know that ceasefire works? An in-depth analysis is being done now before ceasefire and now that ceasefire is in existence. There is still much work to do. Shows that together we can do efforts and keep this going. He thanked everyone for being partners on this project.

Captain Joiner offered to respond to questions by commissioners.

R. Jackson thanked everyone for the presentation; she stated that she hosted a ceasefire in 2012. The sociogram; you said it looks a lot different now. She asked Ms. Cunningham to provide an update. Ms. Cunningham said they didn't have the information then in 2012; she would ask Chief Kirkpatrick. R. Jackson inquired if members could watch the shooting reviews held each week? Ms. Cunningham will defer this matter to Chief Kirkpatrick. R. Jackson mentioned that there are 4 teams of 16 people teams for a total of 64 – how many officers are trained in ceasefire? Captain Joiner said that 32 officers are spread throughout the city – officers go through vigorous training and how they interact with the community.

Questions were asked by Commissioners M. Ahmad (raised the issue of providing education and poverty), G. Harris (would like to meet and have several questions answered); J. Dorado (Sociogram – would like to see it in Latino info). Responses were provided by Reygan Cunningham.

T. Smith asked the Ceasefire team to remain for public comment.

TOPIC 2

Chief Kirkpatrick reported that the topic will not be discussed this evening.

b. Public Comment

Henry Gage stated the more he learns about the Ceasefire program, the more he likes. He recommended striking the police department report from the next several meeting agendas and leaving space open for the pressing commission work that needs to be done now.

Mariano Contreras gave comments relating to ceasefire and recommend prevention of hand guns getting in the hands of youth because this is what is killing our youth.

Bruce Schmiechen supporting the Ceasefire program and member of OCO. He suggested OPD Chief Kirkpatrick's reports need to respond to issues that are of an immediate and direct concern and are current. The Commission should frame questions for police response.

Rashidah Grinage regarding Richmond and the neighborhood safety council, which offered a successful stipend program. She asked about stipends and asked for

verification if they are offered. Reygan Cunningham stated that stipends are offered in Oakland.

Doug Blacksher, Chairman of Labor and Employment and Executive Board Member for the Oakland NAACP (the NAACP) commended R. Jackson and T. Smith for attending the Barbershop Forum between the community and the police in West Oakland earlier in the week. He commended on the problem of black and brown people being driven out of Oakland and the issue of racial profiling by the police.

VI. Recruitment Process for the Executive Director, Community Police Review Agency and Analyst II, Oakland Police Commission

The Personnel Ad Hoc Committee will give an update on the recruitment process for the executive director of the Community Police Review Agency and the selection process for the Analyst II position for the Oakland Police Commission.

a. Discussion

T. Smith reported that the Application for the Executive Director position for the Community Police Review Agency is now live. It is online on the City of Oakland's employment portion of the website; people can apply now. What we have done was to get an application rolling quickly and make sure that we can get a first look at qualified applicants, and if we find qualified applicants interested in interviewing, then we can move forward with the interview process. Before we identify a search firm, we are conducting a first sweep to find qualified applicants. It is possible that we may find our choice in the first sweep, if so that we have saved ourselves time. If we find a qualified applicant in the first sweep, then we have saved ourselves time by not having to engage a search firm.

T. Smith asked audience members to think about persons who may be interested and qualified for this position and get them to apply.

T. Smith explained that the selection process for the Analyst II position is on hold until we determine whether the Analyst II position will report to the Commission or the City Administrator based on the enabling ordinance. If the Analyst II position reports to the Commission, then the Commission will select the position. If the Analyst II position reports to the City Administrator, then the City Administrator will select the position.

M. Ahmad we are trying to get the Police Commission running more smoothly and he doesn't understand how replacing Mr. Finnell will help that process. That is another hurdle that we must jump when we already have people in place that are doing the job. Why are we adding something else on our plate?

T. Smith said Mr. Finnell is in an interim position now. He is welcome to apply and we expect that he will be a candidate for the permanent position. The Commission will look at the full range of people who apply and determine who is the best person for the job.

b. Public Comment

Henry Gage regarding the Police Policy Analyst and the Analyst II position.

VII. Oakland Police Commission Enabling Ordinance

The Policy and Procedures Ad Hoc Committee will discuss potential comments in response to the City Council's proposed enabling ordinance.

a. Discussion

T. Smith asked that E. Prather give a summary of the Committee's efforts.

E. Prather reported they received the draft of the Measure LL – Enabling Ordinance on March 27 and then met to consider the City Attorney's edits and any edits in that interim document. We also received a document from the Coalition for Police Accountability dated March 26 and that was a detailed/helpful document. We took that document and other comments office received and convened/met to go over potential edits to the enabling ordinance. We discussed what we felt should be the backdrop of edits that we might consider making. We decided to go on the edits that were important and to not engage in making smaller edits to the document. Important was the last edit (last paragraph of the document – non-city attorney legal advisor mentioned that we are recommending, etc. Also, important were the edits that were potentially made to remove the Office of the Inspector General (OIG) from the prevue of the Commission and we felt we wanted to make edits to bring that back to us and to make that unequivocal and we did that with these edits. We offer this Memorandum recommending the essential elements that are necessary.

A. Dooley reported that in addition to sticking to the items which we felt were most important to the Commission's effective ability to do its work, we were also cognizant of the need to get the Enabling Ordinance through the City Council sooner rather than later so we avoided any changes which we were concerned might retrigger meet and confer with any of the bargaining units of the police department and with respect to these recommendations, it was only with respect to a majority of the three of us there. In the interest of moving forward something for the Commission to review/adopt, we decided to go with a majority of 2 of the 3 of the commissioners in terms of a recommendation, knowing that individual commissioners and members of the public may have feedback that the Commission would like to see incorporated.

M. Nisperos suggested that the enabling ordinance contain provisions for the annual performance evaluation of the Inspector General as it currently provides for the Executive Director. It should most importantly contain provisions for an annual performance evaluation of the Chief of Police. We have the authority to fire the Chief of Police but if we do not have a performance evaluation process in place, we will only be reacting from newspaper articles, reports from the Coalition, etc. and we are not doing our job of providing oversight of the department unless we provide oversight of the head of the department through an annual performance evaluation in a structure as comparable to that outlined for the executive director.

R. Jackson agrees with M. Nisperos. She was not privy of what the Coalition provided, is there any acute recommendation that they made that you did not follow up on or table? T. Smith said that Rashidah Grinage can answer that question.

E. Prather agrees with M. Nisperos. His concern is that he can't see a way that if we edit that into the document that it doesn't trigger Meet and Confer and then must wait six months, etc. while it goes back to meet and confer.

T. Smith pointed out that the Chief of Police is an executive level position, so it does not trigger meet and confer obligations. E. Prather asked, are we saying that the union will not take that opportunity to see that edit and have meet and confer even if that position is for the Chief?

Attorney Brown said that you officially should include what is substantive and necessary and let someone else tell you if it will trigger meet and confer. T. Smith is correct that the executive level position is not the same as a bargaining position. If there is a problem, then you can be contacted and given that information if it triggers a meet and confer.

A. Dooley said that the Coalition gave recommendations on additional training for both the selection panel and the future commissioners, in terms of topics of training and timing the training would occur. While we agree with those, they do not have to be in the ordinance and could be in the bylaws or scope of the selection panel itself in how it convenes itself. The other area that is not addressed as fully in the recommendations here is the alternates and role/appointment of alternates on discipline committees.

M. Nisperos said that he believes the City of Attorney will find that OPOA does not have standing in us conducting a performance evaluation of the Chief.

b. Public Comment

Rashidah Grinage regarding the Matrix, alternates on discipline committees, and Section 2.45.070 - Functions and Duties of the Commission. A. Dooley said that was an oversight and we did not discuss that and the Commission consider discussing that issue and recommend it to the City Council.

Ms. Grinage referenced Section 2.46.030 (recommendation not accepted). E. Prather asked do we have another Commission meeting, edit document, and bring it to the City Council. Attorney M. Brown reported that the Commission has met its deadline once it submits its response to the enabling ordinance to the Clerk (only thing you are bound by). Attorney M. Brown will send an email to T. Smith and the City Attorney's Office confirming that all you must do is get it to the City Clerk's Office within the 45-day period so you can make sure we are unaware of any other timing issue.

Gene Hazzard regarding support for Mr. Nisperos's recommendation that the Commission's should evaluate the Chief of Police and potential conflicts in the City charter he raised earlier.

Larry White regarding City Council looking to hear from the Commission. He also gave comments on meet and confer and the Coalition's Matrix – Section 2.45.140 (you should not be called as a witness). T. Smith said the subcommittee will review this matter.

VIII. Recess (6 minutes)

IX. Oakland Police Commission Budget

G. Harris will lead a working session with the commissioners on the mid-cycle Commission budget proposal.

a. Discussion

G. Harris acknowledged Director Finnell and M. Benson who also worked on this budget. He had an outline that we reviewed - added and subtracted items. G. Harris

asked Director Finnell to explain the Agency Report that was submitted. Mr. Finnell gave an overview of the budget. Tomorrow afternoon he and M. Benson will meet with the budget manager (Mr. Benson) that oversees our area. What comes out of this meeting we will bring to him so the Commission can get in the queue for this upcoming mid-cycle budget.

M. Nisperos praised and endorsed the work that has been done by Director Finnell and the committee. At some point, we need to discuss the role of the transcription services. Given the availability of video tape, the Commission minutes do not need to be so detailed. T. Smith and Director Finnell discuss this matter.

M. Ahmad inquired about transcription costs. Mr. Finnell said that he does not have exact dollar amount from the company that contacted him. We would go through the City contract office and put it out for bid. Additional research will be done.

b. Public Comment

R. Grinage regarding budgeting for the legal counsel positions. G. Harris this is our carry over not the complete budget. A report will be given at the next meeting. Director Finnell stated that the funding for the legal counsel was already included in the CPRA/CPRA 2-year budget. It will be carried forward. We were looking for additional items that we did not know they would do.

Henry Gage regarding the organizational chart and the inspector general position. Director Finnell stated that with respect to the inspector general, the position has not been officially approved; I placed it alongside my position – this is where we are now and it is hard to fit it on one page. A. Dooley asked if the CPRA Policy Analyst position will move over to the Commission. Director Finnell stated that it is not a second position; it will move over.

c. Action

MOTION that we ask the Commission to add the funds (\$226,999.00) that are proposed in this budget (G. Harris) and seconded (M. Ahmad). The vote was unanimous.

MOTION that we accept and approve the Report as submitted and that we authorize the committee to carry forth and meet with the City budget people tomorrow (M. Nisperos) and seconded (J. Dorado). The vote was unanimous.

X. Community Police Review Agency Staffing

Interim Director Finnell will request additional staffing for the Community Police Review Agency. G. Harris will report her findings to the Commission concerning the Agency's current caseload and staffing.

a. Discussion

T. Smith asked Interim Director Finnell to explain his proposal. He reviewed Item 10a (Agency Report) in the Agenda Packet. The only vacant position that we can fill is the Investigator III position and asked approval from the Commission to proceed with the process. We need to maintain a minimal level of staffing to continue our work.

G. Harris requested Mr. Finnell provide information on the investigator's caseloads which he did in Item 10b. She has questions pertaining to cases that have been reassigned to other investigators because of the other investigator being out on an indefinite medical leave. She does not see the need to hire another investigator (she has reviewed the data, been on the Commission for about five months and the cases haven't increased).

T. Smith asked Mr. Finnell to provide information on the work that will not get completed, etc. since the one investigator will be out. Mr. Finnell reported that the investigator was carrying eight cases when she went out. Each investigator typically carries from 8-15 cases at any one time. The number is always fluctuating – cases are always coming in and some are closed. T. Smith said that this is a more senior position. Mr. Finnell stated that is important but it is not as important as what we are facing. The other point to consider is that we will lose a supervisor when the policy analyst moves over.

M. Ahmad said that we should follow Mr. Finnell's lead since he has been doing it and is trying to be proactive. M. Nisperos said that he is data driven. In the future, he would like to receive regular reports from the Executive Director. He is confused about hearing that complaints are going up. He aligns himself with G. Harris and that we should hold the Investigator III position open until the new Executive Director is hired. R. Jackson – for clarification – I thought we were down to two investigators. Mr. Finnell stated that he brought all case files tonight of one investigator's case work. That is 12 cases that someone worked on in one year. They still have other cases they are working on.

R. Jackson – what is the average case load? Mr. Finnell reported that two have nine cases assigned to them; one has 11 cases and one has 13 cases. Some investigators have cases that are tolled. The document that is in the Agenda Packet has changed and today 20 new cases came in today.

J. Dorado compared that to tax cases. He can fill up a cart with several cases. Can you in some way describe what the range of the complexity of these cases are one to the other; the complexity of the time spent on each case. Mr. Finnell provided examples.

T. Smith asked about the timeline if you commenced the hiring process (Human Resources). It might be the same timeline that the Commission is hiring. Mr. Finnell stated that from this point now, we could have the Announcement out in 10 days and keep it open for several weeks.

M. Nisperos said that we could make the Announcement, solicit the applications, those qualified put on a list, and the list could remain in abatement until we have an Executive Director. T. Smith agrees and that we could start the process and then make the final decision (Executive Director). A. Dooley said that candidates want to wait on a list. There is nothing than a vacant budgeted position. We are hamstringing the work of the agency to allow them to investigate cases in a timely manner. It is paramount. To not fill this position, when this is right for cutting by the City Council. We need to use the resources; we must get the Agency staffed up to a current level. G. Harris said that she does not see the need for the staff person due to the data. I have been asking for data which I have not been given. Policy Analyst Rus gave an example of what one Investigator did with one of the cases that were in the cart. He said that you must do the investigations to know what the investigators do.

E. Prather asked about the comments – Is it that you do not want Mr. Finnell to fill

the position or an overstaffed position. This discussion about cutting resources is taking us backwards. Mr. Finnell is our Interim Director and he deserves our respect and I can't believe that we are having the discussion about filling a position – he gets paid to manage his Agency. We do not need to micromanage.

M. Nisperos said that it is not because of Mr. Finnell filling the position. If you make a hire, the position is in the union and we should give the executive director the opportunity to fill the position. The urgency is not here now. We could amend our budget request and ask that you open that position because we have a person that is ill rather than keep the position frozen.

R. Jackson - We must deal with who is working now and we need to have personnel support so the CPRA can complete cases at the highest level.

b. Public Comment

Henry Gage regarding chronic underfunding of the agency when it comes to line investigators and support for providing more resources to the Agency.
Rashidah Grinage regarding the importance of the 3304 date and support for a full staffing of CPRA.

Elise Bernstein regarding support for the request because it is needed to get the work done.

c. Action, if any

MOTION that the CPRA proceed to hire Complaint Investigator III. (R. Jackson) and seconded (M. Ahmad). The motion passed. The vote was 4-3-0, with commissioners J. Dorado, M. Nisperos, and G Harris opposing.

XI. CPRA Electronic Complaint Reporting, Database and Case Management System
Interim Director Finnell will provide a demonstration and presentation of CPRA Electronic Complaint Reporting, Database and Case Management System.

a. Discussion

Interim Director Finnell had KTOP turn on desktop computer and screen. Interim Director Finnell gave a demonstration/report relating to the System. It will go live April 30 – there will be an electronic link (sent to commissioners and the Commission Electronic list) that you can put in dummy information and send CPRA complaints on or about April 17, 2018.

b. Public Comment

No public comment.

XII. Adjournment

MOTION to adjourn (E. Prather) and seconded (R. Jackson). The motion passed. The vote was unanimous.

The meeting was adjourned at 10:30 p.m.