



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, October 11, 2018

6:30 PM

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

I. Call to Order

Vice-Chair Ginale Harris.

The meeting started at 6:30 p.m.

II. Roll Call and Determination of Quorum

Vice-Chair Ginale Harris

Commissioners Present: José Dorado, Ginale Harris, Mike Nisperos, Edwin Prather.
Quorum was met using Alternate Commissioners Maureen Benson and Andrea Dooley.

Commissioner(s) Excused: Thomas Smith.

Commissioners Absent: Mubarak Ahmad, Regina Jackson.

Counsel Meredith Brown.

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

Vice-Chair Ginale Harris 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.

Oscar Fuentes commented on who is on this Commission and what they do – it is important. Jose. Dorado started a PAC called Oaklanders against Desley Brooks, etc. Some people have said/implied that maybe this is something that people get together and they put some money together and it is concerned citizens and they are using their power that they have been given in the Civic context. He pointed out that Mr. Dorado in this PAC has raised \$50,000 so far to oust Desley Brooks. Who is the money being spent on and who is getting paid to do this? One organization that is getting paid is New Generation (they are getting money from Mr. Dorado). They are a political campaign consultant that does work for people who are professional politicians in big names. They ran a campaign for Libby Schaaf in 2010 and she won. They also ran a campaign for Robert Rayburn on the BART (an anti-union candidate who ran on banning strikes on BART). Mr. Dorado's Treasurer is James Sutton who has a law firm that defended Lynette Gibson McElhanney (Councilmember) against ethics charges. This is a person who has been involved in politics for a long time at a high level, organized a recall of Jean Quan, and is the Treasurer for several other PACS at the same time. Another consultant that Mr. Dorado is paying is Nathan Stahlmaker, CFO at Make Oakland Better Now. He does advocacy work for other campaigns – one of the

ones he is working on is this regional bridge toll. G. Harris thanked him. Mr. Fuentes said that he would like to finish. He said this is important and would like an extension of time to speak. G. Harris said that at this time she does not want to extend the time. Mr. Fuentes said he is going to keep talking. G. Harris thanked Mr. Fuentes for his comments. M. Fuentes said he is not done and will stand here then. G. Harris thanked him for his comments and said you are being rude and disrespectful. You can't come in here and bully your way. She asked him to step aside from the podium. Mr. Fuentes said he would like to finish his comments. G. Harris asked him to step aside; there is a two-minute limit on speaking. Mr. Fuentes said he is asserting his rights to speak at this podium. He is not done yet. G. Harris said that you are done and to step aside. She asked KTOP to turn off the microphone. Mr. Fuentes said he is not going to move until you let him speak. The two-minute time limit is something that you have invented and not necessarily a time limit, it is something that is optional and I am requesting that you give me the time to finish his comments because it is important and of value. You currently asked KTOP to stop recording this which is a Brown Act violation. G. Harris said that she did not ask KTOP to stop recording. I have asked you four times to step aside from the podium because you believe that you have something important to say. Thank you, Mr. Fuentes. She asked him again to leave. Mr. Fuentes left.

Assata Olugbala said that this is not going to work. This gentleman has been here (this is his third time coming here). He is making accusations that are serious. The fact that he's bringing up the possibility of conflict of interest and nobody is saying we need to consider this, we'll consider it, the gentleman who is being spoken about I don't know what his feelings are, but this is not anything that you can bypass. Are you going to just let this float out here – here's the implications – someone is attempting to remove another person based on whatever but it just so happens that this person is vehemently in support of holding the police department accountable and if a Commissioner wants to get rid of that person it looks like they are on the side of the police. It looks bad. Could you at least consider, you even have Counsel here. You must look at this. It is bad - We are going back and forth with the citizens about something for the third time and not paying any attention to it. This is what I get at City Council meetings. I am not saying this gentleman is wrong with what he is doing, I don't know. I want to know if one of the Police Commissioner's is involved in a conflict of interest? If you overlook it, it means what else are you going to be overlooking. G. Harris thanked Ms. Olugbala.

Rashidah Grinage agrees with Ms. Olugbala on this matter. This is a policy matter that you need as a Commission to examine. I don't know if the rules of procedure were adopted and then amended, etc. You should consider an amendment that speaks to this. I request that you undertake some research on this and determine whether in fact political activities such as these are in fact a conflict for a Police Commissioner? I think it is an important question because it goes to the question of your independence which is something all of us have fought for. I urge you to undertake an examination of this and to develop a rule that will govern so that when this kind of thing comes up in the future you have something to fall back on. She also requested that those of you who attended the NACOLE Conference produce a report about what you learned about what value added that experience has provided you. This was a considerable expense to the City of Oakland meaning to the tax payers of Oakland, so I think we should be entitled to a report that indicates what value was obtained by this considerable amount of resource expenditure. I look forward to that. If not put as an agenda item, perhaps post it on the Commission's website – post a report of what you learned at NACOLE and whether or not you feel that it is beneficial to continue. G. Harris thanked Ms. Grinage.

Saleem Bey, concerned citizen and person who has fought for this Commission to be in effect. What you have before you that he distributed to the Commission as well as the public thus meeting the guidelines that the City Attorney set for us giving information. If you look at this – it is about 11 or twelve lines and it specifically says in here - that it

is an admission of racial profiling – line 17 which is read aloud (It is racial profiling, but yea, I would. Just kidding. Just kidding. Etc.) As we speak about what is going on for Item V which states that if there is information, new information, - this document was covered up by the City for years that we just received it after we received 10,000 pages of information – this was missing. After we combed through the information, we found these pages missing and held them to account and a year later they produced this document in 2018. You have the ability to ask the Police Chief if in fact this is an accurate document or a valid document and then once establishing that this is an accurate/valid document; you must question the Chief. When did the Chief find out about this? Oh, no, OPD is not here tonight. What does that say? Right? Before you say that this is obvious that somebody would say that in a community like this, this is testimony by a police officer in a case where a Christian police officer was mistaken as a black Muslim and harassed at OPD, not around this area. It shows you that racial profiling has connotations that go beyond just an area. If the police department doesn't like somebody, they treat them differently. G. Harris thanked Mr. Bey.

IV. Approval of Draft Commission Meeting Minutes for September 27, 2018

Vice-Chair Ginale Harris will offer the draft minutes for approval by the Commission.

a. Discussion

None.

b. Public Comment

Saleem Bey, concerned citizen. So, following up on that information we would just consider that as the cat out of the bag, genie out of the bottle, you cannot see what you just saw and regardless of what you say, you see that there is racial profiling associated with the case that we have been saying. That is no longer an issue. I don't want to hear a cross examination of if this document is real or not and can you accept this document based on the fact that you can ask the Chief specifically if this is an OPD. G. Harris said that this is about the Minutes. Mr. Bey said this is an extension of what he said last week that should be in the Minutes but he has not seen the Minutes so I am commenting on what I said last week that is part of 13-1062 in the Minutes. Back to that, shows you how faith works and everything that if the OPD is admitting on themselves that there is racial profiling, then you are going to have to believe me, you have the power to ask the Chief specifically if racial profiling is one of the issues in this before we go forward because that is a policy issue and the policy issue associated with racial profiling which is Department General Order M-19 associated with racial and religious profiling which is prohibited which is also cross prohibited by the Negotiated Settlement Agreement as well as Federal, State and Local law against profiling and is one of the mandatory triggers for this body to actually investigate once they get a complaint. Because we have to prove our Complaint before we get it investigated a lot of times, this is why I am going to go ahead and put this out here and ask you to ask the Chief specifically what she has done about the policy of racial and religious profiling since she got this document and when she got this document and who else she met with about this document. G. Harris thanked Mr. Bey.

c. Action

MOTION to approve the September 27, 2018 Minutes (J. Dorado) and seconded (E. Prather). The vote was Aye: 5 (Dooley, Dorado, Harris, Nisperos, and Prather); Opposed: 0; Abstained: 1 (Benson). The motion passed. Commissioners Ahmad,

Jackson and Smith were excused.

V. Community Police Review Agency

The Commission will discuss whether to direct the CPRA Director or the Inspector General, once hired, to review new evidence, if any, regarding CPRA Investigations 13-1062 (3304 – 7/22/14) and 16-0146 (3304 – 2/21/17).

Government Code section 3304 (g) is applicable to CPRB or CPRA closed cases that may be brought to the Commission.

a. Discussion

Saleem Bey wanted to make sure if he can make comments here since this is his case and comments the Commission can consider regarding his case. In regards to the police department treating black men in Oakland based on the way they dress in a vial as well depraved way. Just blanketly profiling people affects people. As you travel around Oakland and you have a bow tie on and go by a police officer and the police officer hates all people who wear bow ties, you become more inclined to be pulled over, inclined to be more aggressive in terms of what the police are saying in your interactions. Everything thing that you do is seen through a lens of racism and it is very difficult to live through if you have never lived through the racism lens or you have never experienced the daily pressure of having to go around the City that you have called home for over 50 years and to be profiled just based on the way you look and your freedom of association which is a constitutional right that we shouldn't have to ask for Charter change to do this in Oakland. It is enshrined in the Constitution - freedom of religion, freedom of assembly with the people who you want to assemble with, without having somebody place this extra burden on top of you. If the police department can misconstrue one of their own blue as a black Muslim and then take him through so much stuff that he has to sue the City of Oakland for discrimination on the perception that he is a black Muslim, can you imagine if you are a black Muslim in Oakland that the police know that you are a leader in Oakland in the black Muslim community, that you are successful in that community, and yet the police don't like that. That is why I want to make sure that we understand why racial profiling is one of the key things that the City has been identified as failing in and that we need to hold them accountable for so if racial profiling is now been established in 13-1062, the next step is to question the Chief on what she is doing about it immediately. G. Harris thanked Mr. Bey.

E. Prather said that he was not present at the last meeting for this discussion but his review of the meeting in the Minutes indicates that there was a vote that did not pass and I thought that we were looking for some guidance from our Director and the Director was going to make some type of report to the Commission and he thought that was where we were at. Is that true? I don't understand what is different from the last time this came before us and why it is on the Agenda again if a vote happened and the vote did not pass. He asked that this be edified.

G. Harris said that Mr. Bey expressed his concern to the Commission in regards to Mr. Finnell doing any type of investigation in his case for a various amount of reasons. She spoke out and asked Counsel – are we able to get an outside person to do an investigation because there were two different findings. We weren't in place when this whole thing came about so she did ask and Counsel advised the Commission but it is confidential. The discussion she wants to have today, and speak to you directly Mr. Bey, is her suggestion would be because this Commission is not fully staffed as of right now to make a serious decision, and so the laws have changed since our last meeting, we don't have an Inspector General and I think it

would be appropriate for the IG to do the research. That is a discussion she wants to have with the Commissioners. It is urgent that we get our staff up and going because of situation that can arise like this, and this is one of them. She understands the perspective from Mr. Bey because he feels the City has failed him and there is some truth to what he is saying and that is her opinion. She asks this Commission to think about that and give ideas.

A. Dooley said that she has to think about this question whether the individual IG would conduct such an investigation. Her initial reaction is that the purpose of the IG role in this area would be to audit the Agency and its predecessor Board to determine whether there were administrative closures that should not have been closed as a practical matter. Did they follow their own policies and procedures in closing? That would be a valuable audit and report for us to get. As to any one specific individual case, I am concerned about creating a carve out where our IG role is doing the Agency's job since the purpose of the IG is to hold the police department and the Agency accountable, and report to us whether both of those groups are doing the job they have been tasked with doing. I stated at the last meeting that I thought the unfortunate part for Mr. Bey is that the Agency is the Agency that is supposed to be doing these investigations. He may have a personal concern about Mr. Finnell, there may be a way to deal with that but that the Agency is the area that should be doing that. For example, the senior investigators could perform the investigation with the report directly to the Commission. We could ask Mr. Finnell to recuse himself in that case under the circumstances. I want to respect the roles that each of our areas of oversight – that the Agency is for investigating police misconduct, the IG is for auditing the police department and the Agency to make sure they follow constitutional practices.

G. Harris said that it is unclear to her if the Agency is doing a good job in investigating. We don't know if cases are to be closed, we are still waiting for information that is due us. If Mr. Bey comes to her and says I have a concern in regards to the way the Agency conducted their investigation and her being new on this Commission from the information she has been given so far in regards to these cases, I am unclear on how these investigations work, if they are thorough, why they are closed or if they should be closed. We are still waiting for that. That is why I feel the IG would have a better handle if there was a question if there was done in the past. A. Dooley agrees that the IG is the appropriate position to be auditing that exact question. I am specifically asking whether there is some role, lack of clarity if the IG is responsible for investigating just one case as opposed to reviewing some larger sample of cases.

M. Nisperos sees the point of both of your comments. He respects what A. Dooley is saying. The distinction to be made is the review or audit as opposed to an independent investigation of initio from the beginning. That is what is being called for is a new investigation of the Director and the way he conducted this investigation. That is inappropriate for the IG and he likes the notion if perhaps that is the course the body wants to take that the Director be recused from that and that the senior investigator or someone else within the agency be assigned that task.

G. Harris asked if any of the investigators changed? Mr. Finnell is the head of the Agency who used to be the head of the CPRB. He still has the same staff. That is her concern. With the change in law and we having more ability to consider some of the cases that have been closed, I think we will get the answers to those questions. She has a concern in handing over an investigation to the very people who did the first one.

M. Benson said she is not an attorney. I am requesting a lot of additional support

with my colleagues here who are attorneys here to make sense of this. We have talked about several things. I am at the point, how do we be clear in giving the community transparency when they are struggling, like Mr. Bey's case (which is extreme). She had suggested several weeks ago a flow chart (check list). I feel uncomfortable grappling with getting legal advice, it's confidential but citizens are watching and they are waiting to see if we are going to be able to do something and if we say yes or no, and we are not able to provide clarity around that, then I think that is devastating to our creditability. We are hindered by State laws, Ordinance, etc. She doesn't know the answer what we need to do. She is overwhelmed with the legalese, conflict, etc.

E. Prather said he clerked for this federal judge many years ago and he told him that sometimes a law can be a hindrance. One way to approach a problem is to look at it and examine it and see what the law tells you should happen. Sometimes that works. Sometimes you balance equity yourself, you know where you need to go and then you go figure out how the law can help you. I think that is where we are getting bogged down here is that we don't have backup, staff, processes, conflict of interest policy, etc. Because of that, we keep looking at this problem – what are we supposed to do. We kind of know what we are supposed to do because Commission Benson you brought it up yourself. Be transparent, serve the public. We know what that balancing of equities tells us what should happen and where we should go and where we are struggling is that we do not have a process. This is brand new. Mr. Bey, you have been here every week for months brazing the same issues. He apologized to him because we don't have a readymade process solution for this because this is new and because we are new. I get all the concerns – A. Dooley's concern if we do it the wrong way, we are undermining our own authority, creating an appeals process, and maybe we don't want to. There are dangers in any way we handle it. I think everyone is talking about it the right way. In this case, instead of asking our Counsel what should happen, we should be deciding what do we want to happen and how can the law make it happen for us. We need to change our thought process on this. What I hear you saying G. Harris that maybe the IG will help us and give us a new range of options, maybe that is correct and maybe not. I do not know the answer or anyone in this room knows the answer to that. If we are going to do this, then let's decide – we have interest in this and follow through and create a process. Unless Mr. Bey that you have evidence that is going to evaporate in the next ten days, I think this is going to take a while for us. I think that is okay. We need to do it the right way. If we don't have the policy procedure to do it, let's write it. Let's do it thoughtfully so we know what the consequences are of it. I think we are all on the same page of this issue.

A. Dooley suggested make a Motion that would be an action oriented motion, that we can then debate the components of. Is that welcome at this time?

G. Harris asked that the discussion be completed first. She is okay with being the bad person, etc. - all she wants is truth – whether it comes out in favor of you Mr. Bey or not. She doesn't have a political agenda.

Mr. Bey said that the CPRB was the entity that closed the case not sustained. It was senior investigators for the CPRB that closed it not sustained when the Internal Affairs where OPD found itself guilty and the CPRB didn't sustain this case; therefore, you would not give this case back to the same people who didn't sustain the case. Your processes must have some other methodology if there is a conflict to f interest of that scope that is specific to this case. This is not the only case that the CPRB or Mr. Finnell or other entities have closed like this and they are going to come before you and you are going to have to have a conflict of interest way to deal with these cases. Once you deal with these cases and they are going to go down

because the old CPRB/CPRA will be going away and expose this needing replacement, and eventually everything will go through the untainted Director of the CPRA as well as the untainted investigators of the CPRA. You will get unique cases like this. G. Harris said that we understand the points that you have made and speaking for herself, she is in agreeance.

Further discussion by Commissioners. M. Benson (how to determine what is new evidence, etc.). J. Dorado (it is a whole new ball game – send this whole issue back to Mr. Finnell; then give it to the IG when hired to give a fair and just reading. It is an exceptional case.).

E. Prather for clarification - is that the same motion that was made last week that didn't pass. Which is fine. G. Harris said it did not pass. A. Dooley said that it was and we have received legal counsel about it and we have discussed it. She made the motion as I said before, with the intent to trigger conversation about the components of the motion. We have identified a lot of issues and I think I am trying to boil it down to what we currently have the authority to do. Right now, what we have the authority to do is direct the Agency Director to evaluate whether the criteria have been met to reopen the case and if they have been met, to reopen the case. That is the current authority we have under the Ordinances that created this Commission. She said she is a labor arbitrator and job is to conduct neutral hearings between most unions and employers who are parties to collective bargaining agreements. Her role is to determine whether contract violations have occurred. My remedies are limited to contract remedies which can be very hard for people who don't feel like they are getting justice in that process. It is unfortunate but true that the arbitration process is limited in the scope of what rights can be vindicated. I think that we have a similar problem here which is that the scope of this Commission as broad as it is for police accountability, it is still constrained in part as E. Prather said by the laws that created it and what governed it. If we think that this is not the process we want to use, we are going to need to create a new process and test whether that is legal. Right now, the process that we have in place is that we have the Agency and if we think the Agency is not going a good enough job, then we hold the Agency accountable. That is our job. That is why she made the motion the way she did. People are throwing this term conflict of interest around and it has concrete meaning. It is not accurately being used here. Just because you don't like how someone is doing something, doesn't mean that is a conflict of interest. G. Harris disagrees – we are talking about people and not contracts. A. Dooley said that when you have staff, you hold them accountable and that is how you do it.

b. Public Comment

Rashidah said she thinks that there is another option that no one has discussed yet and may be the answer. It's not unusual for agencies to send out to another agency a parallel agency when there is an issue about whether or not an agency can fairly perform its duties. Police departments do this all the time. If there is a reason why the police department cannot investigate one of its own officers fairly, they will contract out to another police department to do that investigation. The case with the BART recently, OPD is investigating the criminal aspect of what occurred with the Tindle family. It is not unusual when there arises some question about whether or not an agency can fairly and impartially adjudicate something that they will contract it out to a sister agency that has no dog in the race and have that agency review it and come back with a finding. I think that is possibly what will work in this case because it conforms to A. Dooley's concerns which she shares about the integrity of the process as it has been defined in the Ballot language and in the structure of the organization. It is also not clear that an IG would be the appropriate person in terms of the function of that office to undertake a review of an individual investigation in

the same agency. She suggested the Commission consider the option of contracting this out to another organization that does similar investigations and then you can trust that the review is objective.

Assata Olugbala said she keeps asking the Commission to become very familiar with the range of authority that you have so that you do not go into areas for which you don't have the capacity to affect change or make decisions. She is reading that the IG from Measure LL shall not have any decision-making authority regarding the specific cases being heard. The key thing about any correction or dealing with wrong doing on the part of misbehavior on the part of officers according to Measure LL falls under the Agency and the Chief. Those are the designated bodies that make the decisions about anything and you can't rearrange that structure. Sometimes you say things like we are going to do this and we are going to do that – you can't do this and you can't do that under your very limited when it comes to the most important thing of holding police officers accountable for their behavior. That is the Agency. You have no domain over the Agency. You have some domain over the Chief. How you effectively hold them accountable I would like to know how that is going to work because you have to evaluate the Chief. How are you going to do it? Listen – God bless you for your hard work but let's get real and not delusional about powers that you don't have. I read this thing diligently. The scope of what you have – you have been misled. I hope that in some form or fashion, some corrective action can be taken so that you can do your work and you want to do the work.

Saleem Bey said he does not know where to start on this one, etc. To suggest that you would give the cases to the people who closed them in the first place has nothing to do with justice. This is Oakland, California and you are the Oakland Police Commission. You can hold the Chief accountable. Ask the Chief if she has done an investigation of racial profiling associated with 13-1062. That is legal. Make a motion to ask her next week if she has done anything about the racial profiling in 13-1062. We can ask her that now while we are deciding on who we are going to give this to. The reason why you are not set up is the people who have sabotaged you are the same people who are covering up his case.

c. Action, if any

MOTION that the Commission direct the CPRA Interim Director or his designee to review whether the legal criteria to reopen Mr. Beys' cases have been met, and if so, to reopen the case (A. Dooley) and seconded (J. Dorado).

E. Prather said that if the motion does not pass He would be offering an alternative motion to create an Ad Hoc Subcommittee to examine this issue. I think that we haven't given it enough thought. Mr. Bey hits the nail on the head in a couple of respects, mainly giving it back to CPRA, you don't let someone have oversight over their own potential misconduct. To me, we need to have a different process.

M. Benson appreciates the suggestion. She understands that it is inappropriate and there is potential and propriety to send back for someone to investigate themselves which is what police do with IA. She hears what A. Dooley is saying in that it gives us an opportunity to review the quality of the work in a way that maybe we haven't had an access to in the window. She would be comfortable voting for that only if we also are having a concurrent outside agency investigating as Ms. Grinage said or we are doing that with the subcommittee.

J. Dorado asked is that a friendly amendment to the motion?

A. Dooley said to E. Prather that could be a motion regardless of the outcome of the first motion. We still could have an Ad Hoc Committee to create a process for responding to complaints from appeals. To Ms. Olugbala's point, I am not sure where our authority extends in that regard, and I am not opposed to looking at it. Other alternatives are that we ask instead of the CPRA Interim Director, we ask the Police Chief, or IA. I hear the volunteer Commissioner disagreeing. Those are the areas – the Chief of Police and the Interim Director are the two qualified personnel over whom we have oversight and authority and I have no objection to a second amendment concerning any kind of Ad Hoc Committee to look at this process. My motion stands with respect to the Interim Director – rise or fall.

M. Nisperos said that he is going to vote against A. Dooley's motion even though he believes in it. He is going to be in favor of what E. Prather is suggesting about creating a process if within the process the Subcommittee looks at what Ms. Grinage was talking about and that is identifying a potential sister agency that we could go to when situations of conflict develop. Much like in our situation here – if you have a complaint against a Commissioner, you should go to the Public Ethics Commission where conflicts of interest are investigated by separate staff; we do not do that.

G. Harris asked J. Dorado if he wants to comment. J. Dorado asked for clarification if in fact there is a friendly amendment that has been made and if so, what is it?

M. Benson said it is not a friendly amendment.

Board Counsel said that before we do the vote we need to make sure that Mr. Prather is still here – according to Measure LL, Section D (3), states that five members shall constitute a quorum, if a quorum is not established by the regular members in attendance, the Chair person or Commission may designate one or more alternate members to establish a quorum. G. Harris said that he is still here and will vote. Can alternates make a motion? Board Counsel said that it states that you establish one or more to make a quorum and that would be the participation in the process and you designate. A. Dooley stated that before you arrived that Chair Harris designated the alternates as voting Commissioners today. Counsel Brown - Measure LL says that if you don't have five, you designate an alternate to get to five. A. Dooley said that Chair Smith before added every time both alternates if a quorum was not established (he would say you are both in play). G. Harris said she never heard that. She did it under the impression that E. Prather was leaving.

E. Prather to Counsel – are you saying that one of the previously alternate commissioners should not vote? Counsel Brown said that if you get to five, if you are going to stay, then there will be one alternate; if you leave, then both alternates come into play. E. Prather - Is it your opinion that we cannot proceed as is with four sitting commissioners and two voting alternates with a group of six? Counsel Brown said according to Measure LL – if you have five sitting members, they all vote. If you drop below five, you add an alternate until you get to five. It doesn't say that you add both alternates when you have the sitting members and you expand beyond the quorum. The alternates are there to create the quorum.

A. Dooley said she will withdraw the motion and withdraw from the Commission for the time being and someone else can bring the motion so we can move on from this topic at this point.

G. Harris said there is no motion. Counsel Brown said that anyone can make the same motion

MOTION that the Commission create an Ad Hoc Committee to examine not just in this context but in broader scheme of what we do in an appellate process or we need to reexamine work by the CPRA is necessary, whether that encompasses our Interim Director, Police Chief, and outside agencies; I would direct that the Ad Hoc Committee examine all potentialities and make a report back to this body within the next two meetings (E. Prather) and seconded (G. Harris).

J. Dorado asked E. Prather to restate his motion again.

MOTION that we ask the Policies and Procedures Ad Hoc Committee of this body to examine other options for an appellate process as is before us now examining the use of the Interim Director, Police Chief, and potential outside agencies to reexamine issues on complaints that come before us (E. Prather) and seconded (J. Dorado). The vote was Aye: 5 (Benson, Dorado, Harris, Nisperos, and Prather); Opposed: 1 (Harris); Abstained: 0. The motion passed. Commissioners Ahmad, Jackson and Smith were excused.

G. Harris said this is a different motion and that the above is not the motion she seconded.

G. Harris asked who is on the Ad Hoc Committee? It was agreed that M. Benson, G. Harris and E. Prather are on the Committee.

E. Prather left the meeting. G. Harris asked if A. Dooley was in the building? She called recess (five minutes) to determine quorum.

VI. Inspector General Recruiting Process

The Personnel Ad Hoc Committee will provide an update on the Inspector General recruiting process and review a first draft of the Inspector General position description.

a. Discussion

A. Dooley asked G. Harris if she is back to being a sit-in Commissioner and she said yes. She referenced Item 6a and is reflective of it being the language of the Enabling Ordinance. Two areas the Commission has oversight and not sure is reflected in the Job Description (1) Assessing mental health and substance abuse programs (2) Staffing policies such as overtime usage and moonlighting. Maybe the Enabling Ordinance doesn't give the IG any broader oversight. Can this be broadened or does the Enabling Ordinance prohibit that?

G. Harris asked if anyone has seen the contract for the IG in regards to the hiring of the IG? A. Dooley asked what contract? They don't get a contract; they are a bargaining unit employee (member of Local 21; managerial employee of the City).

E. Harris said so not us? They are City employees. They report to Barbara Parker, correct? A. Dooley said no. Under Item 6a, Distinguishing Characteristics, she read aloud the last paragraph on Page 1. Counsel Brown clarified the Charter language, Enabling Ordinance, the business function, and read aloud the first sentence of 2.45.100 aloud (responding to questions from Commissioners).

M. Nisperos referenced Item 6b - Examples of Duties (include but not limited to) regarding A. Dooley's comments. He is willing to join in amending the Job Description. G. Harris stated that we be clear in what we put on the paper. Would anyone like to make a motion to amend the Job Description? A. Dooley said she wants to look at the Ordinance before she makes any recommendations. She asked that this Item be put off until later in the meeting so she can formulate some language.

G. Harris said that we just passed the Job Description but she thinks we need to possibly talk/think about moving this process legally against the City because the City Council voted and they don't get to just brush off what the City Council says. We all have to abide by laws, rules, and obey rules and we are following the rules. They have to follow them too and asks this Commission to prepare and let's discuss possibly taking them to Court. She asked for comments.

M. Nisperos said that the first route is to go through the City Council who is the boss of the City Administrator and inform the City Council that the Ordinance that you passed is not being enforced. This argument about conflict between the Charter and the Ordinance was presented at the Council meeting where the Ordinance was passed and so we just need to ask the City Council to stand behind their own action. Should they not, then we can consider other possible legal alternatives. M. Benson regarding also moving along the process of hiring the Executive Director - we should among us set a deadline when we expect an answer from the City Administrator's Office around this process so we can know exactly what City Council meeting we need to go to. G. Harris would like to appoint a Commissioner to follow up on this matter - any volunteers? J. Dorado volunteered. A. Dooley said she will later give the specific language and the Commission should figure out the time frame we are looking for. Everyone/departments are having difficulties in their hiring processes. We must figure out what specific thing we are bringing to the City Council, etc. and then move to the City Council and say we need your help.

M. Benson asked M. Nisperos for help in what Mr. Dorado should do. M. Nisperos said we want the Administrator to make a stand/position directly to us through our representative Mr. Dorado and following up on what Dooley said - it will take a while for them to publish this Job Announcement and to receive the Applications. What we are concerned about is once all the Applications that have come in, who is going to do the interviewing, hiring, etc. which is something we want to do. We need to make sure that issue is fully ripened by the efforts of Commissioner Dorado and then we can go and present that very specific question to the City Council. This is the authority that you gave us and we would like to exercise it and the City Administrator says they are not going to do it, and direct her to do it. M. Dorado said that is why he directed M. Nisperos to be his assistant. G. Harris thanked Commissioners.

b. Public Comment

Rashidah Grinage said the bad news is we believe what is in the Ordinance. The City doesn't. The City has not yielded on its belief that for both the positions of IG and Legal Counsel that what's in the Ordinance does not conform to the City Charter. The fact that the City Council passed it is not persuasive to the City

Government, the Administration which continues to hold the belief that all staff with the exception of the Executive Director because he is the Director of his own Department and his staff but your staff in their view reports to the City Administrator and/or the City Attorney in the case of the two Attorneys as you saw in their Employment Contract that they report to the City Attorney and not to the Commission and not to CPRA. What you do about this situation is up to you. What she is saying is that you have a Job Description in front of you that conforms to the Ordinance but when it comes to hiring and doing the employment contract, you can bet they will do the same thing with that contract that they did with the two attorneys, which means that they will have that person reporting to the City Administrator otherwise they won't put it out at all. You have a serious challenge in front of you as to whether or not you are going to demand that the Ordinance be adhered to or whether you are going to fold. You know where we stand.

Henry Gage, Coalition for Police Accountability, said he is a bit confused because it sounds like you are amending the job description in such a way as if it would change the powers and duties of the IG. He echoed some of the comments made by Ms. Grinage. City Administration is very clear that they still believe that there is still a Charter conflict no matter what City Council has done. How do you get the staff reporting to you – contracts of your attorneys (was slipped in). He asked that you have this Job Description in front of you and you have the Policy Analyst Job Description in front of you. Take a hard look tonight and approve it and take some concrete steps to move forward in the coming days and weeks because you are on the clock, time is running out. We have to get these people on board as soon as possible. Their duties are clearly spelled out in the Ordinance. The Job Description references the Ordinance directly. Asking that you push the City to make the hiring processes as fast and efficient as possible. We have lobbied the City Administration to do so and we ask that you do it yourselves as well.

Saleem Bey, concerned citizen, said the IG is an employee of the City, controlled by the City Administrator, doesn't sound independent. We are not going to accept that – the City Administrator, City Attorney all the people keeping their hand in this Commission – we are going to keep coming back every week. He said the Commission can do something immediately and make a motion to ask the Police Chief whether or not there is racial profiling in his case (rather than talk about something behind closed doors, Ad Hoc Committee).

Lorelei Bosserman, member of the Coalition for Police Accountability, to let you know what you are in for when you talk to the City Administration. What they say is that the Ordinance is inconsistent with the City Charter and therefore it is not legitimate. Just want to make sure that you know that opinions differ about whether or not there is a conflict. In some people's view, Measure LL indicates obviously, that is a separate case and in other views, it doesn't spell it out clearly enough so therefore they are in conflict. We have heard in the past, at City Council Meetings, from the City Attorney about this issue and she has her opinion. The City Attorney might have an interest in retaining power. You might want to get a more unbiased view.

c. Action, if any

A. Dooley came back after public comment and stated that she looked at Measure LL and the City Charter section 604 and found language in there that would be worth adopting in here to broaden the scope of the Inspector General's potential areas.

MOTION that at the direction of the Commission, the Inspector General can review

and report on department and agency compliance with all other policies, procedures, customs, and general orders of the department because it is within our discretion under 604(b)(6) to review all policies, procedures, and general orders. We should be able to delegate to the Inspector General that review and report on those items. That would include the policies, procedures, general orders, customs and then if issues arose, we would be able to direct the Inspector General to conduct a review and report. If we were to add that language, I would make a motion to adopt the Job Description so that it can move forward in the high rank process (A. Dooley) and seconded (M. Nisperos). The vote was Aye: 5 (Benson, Dooley, Dorado, Harris, and Nisperos); Opposed: 0; Abstained: 0. The motion passed. Commissioners Ahmad, Jackson and Smith were excused; E. Prather left the meeting early.

VII. Administrative Analyst Selection and Placement

The Commission will report on the placement of the Administrative Analyst for the Oakland Police Commission.

a. Discussion

G. Harris gave an update and said the Job Description is here. A. Dooley said that this is the position that I thought the City made offers on and run a list on. G. Harris stated that Ms. Hom is not here and there is no representative from the City Administrator's Office here to provide an update for the record.

b. Public Comment

Rashidah Grinage said that we took this matter up as well today in our meeting. The Mayor was very confused about what the position was. She thought that the vacant position was that of the Policy Analyst and we had to inform her that was not correct. Then she thought that the position was under CPRA and we informed her that was not correct. Then she thought that Mr. Luna was working with the Commission and he is not here. Her understanding is that the one candidate that they made an offer to declined it. Whether anyone else is in the pipeline is unclear. The Mayor did commit to us that she would pursue this vigorously. On the matter that you just discussed about going to the Council, Ms. Grinage suggested in terms of process is that you bring it to the Rules Committee so that it can be scheduled. They may want to schedule it first to Public Safety and then move it to the full Council but it needs to be scheduled and the way to do that is by going to the Rules Committee and probably the best idea would be to work with a City Councilmember who is on the Rules Committee to bring it. Then once you are scheduled, she urged that you make the discussion item broad enough to tackle all the outstanding issues which include having to redo the Contracts for both Attorneys as well as the Inspector General Contract to make sure that these contracts are conforming to the Ordinance which currently the Attorney contracts do not.

c. Action, if any

M. Nisperos said that as a matter of caution, I don't recall hearing a motion to approve Item 6b – the Policy Analyst Job Description; make sure that is in the minutes. MOTION that we adopt the Job Description of Item 6b as written (M. Nisperos) and seconded (A. Dooley). The vote was Aye: 5 (Benson, Dooley, Dorado, Harris, and Nisperos); Opposed: 0; Abstained: 0. The motion passed unanimously. Commissioners Ahmad, Jackson and Smith were excused; E. Prather left the meeting early.

VIII. Proposed Plan for Completing All Measure LL Required Trainings and Enabling Ordinance Requirements, and Civil Service Training

The Commission will discuss scheduling of the discipline committee trainings because the times offered for training conflicted with many Commissioners' work schedules. The Commission will also engage in planning for its second retreat including prioritization of items for a proposed agenda, scheduling, training sessions, facilitators, and location.

a. Discussion

A. Dooley gave a summary regarding Item 8a (email dated September 11, 2018) in the Agenda Packet. The other trainings are not required by Measure LL or the Enabling Ordinance and while they are still high valued trainings, they probably should be scheduled for after December 20.

Comments by Commissioners. G. Harris has not started her trainings because of the work schedule she has, it was said that if we do not complete the trainings completely then you cannot sit on the Discipline Committee. I need for them to train from 8:00 a.m. to Noon. Counsel Brown said that we are working on a 7:45 a.m. start.

For other trainings we would have as a group, have them before the regular meetings. Start time would be 4:00 p.m. or 5:00 p.m.; then begin the meeting at 6:30 p.m. It would be a scheduling issue. We don't have enough Commissioners here to discuss this matter. J. Dorado said the time is workable since he will be here for the meetings.

A. Dooley responded to Ms. Olugbala's comments in that we hear you on this and that is what we are aiming for, etc. This is not the last word on this; we have a lot of work to do. We want to hear from Dr. Eberhardt on this and we will do our own work to what we want to call that/what that means to us. Implicit and explicit biases are not mandatory trainings. M. Benson said that she will add that to the list so that we can revisit that. G. Harris said that she is not interested in Dr. Eberhardt's report; to make it mandatory – to have Commissioners go to this when it is not.

A. Dooley said she is happy to remove racial profiling and implicit bias from this list – the real purpose of this motion as I said, is to get us our mandatory trainings and not to limit what the scope of our learning is as a Commission. J. Dorado said that both those things are important – implicit and explicit bias.

G. Harris asked who is giving the trainings? A. Dooley responded. G. Harris asked Counsel Brown and she responded in that they have not been determined yet and we should clarify. G. Harris said she would be leary in putting a time line on training when we don't know who is training us. A. Dooley said the reason there is a timeline, is that they are mandatory. Counsel Brown said she will get the training from Mr. Burris and go over it with the Enabling legislation and will report back to the Commission. M. Nisperos said he will save her the time; he practiced criminal law for 30+ years, and some with John Burris, you have no notion of what arrest and search procedure is all about and you need to understand the Fourth Amendment and you need a professional come in and give you a presentation. You need a legal and factual presentation. A. Dooley said the Training Committee should find a third party who can present on it – Berkeley or Hastings Law School who can give an overview in what the law is. She spoke about the various trainings and some with the police department.

A. Dooley spoke on Item 8b in the Agenda Packet. She is unsure if it is appropriate

for the Commissioners and not sure if other Commissioners on various Commissions are obligated to go through this training.

b. Public Comment

Assata Olugbala said she just heard the term that you will be dealing with racial profiling and implicit bias. If you haven't learned this yet, there are two types of biases. This City chooses only to deal with one. If you are going to be in corrective mode all the time, you should want to know about both – Explicit and implicit bias. When you consciously aware of what you are doing, that is explicit bias and when you are unconsciously unaware of what you are doing, that is implicit bias. Dr. Eberhardt implies it; every police officer who engages in racial profiling doesn't know what they are doing and if you are going to go along with that craziness, then something is wrong with you. She suggested that you do something to correct that. You want to be trained on all forms of bias that lead to racial profiling, not just the one that this City chooses to recognize.

c. Action, if any

MOTION to adopt the Training Plan that we complete four modules of disciplinary training, complete our ride alongs by October 31, and we do the three other remaining trainings prior to December 20 and if possible in dialogue with the other Commissions in the hours before the regular scheduled Commission meetings. The Training Committee will identify the trainings, etc. (A. Dooley) and seconded (M. Nisperos). The vote was Aye: 5 (Benson, Dooley, Dorado, Harris, and Nisperos); Opposed: 0; Abstained: 0. The motion passed. Commissioners Ahmad, Jackson and Smith were excused; Commission E. Prather left the meeting early.

MOTION that Item 8b be tabled until we get a better understanding of why it has been presented (A. Dooley) and seconded (J. Dorado). The vote was Aye: 5 (Benson, Dooley, Dorado, Harris, and Nisperos); Opposed: 0; Abstained: 0. The motion passed. Commissioners Ahmad, Jackson and Smith were excused; Commissioner E. Prather left the meeting early.

IX. Review of Agency's Administrative Closures or Dismissals

Mr. Finnell will report on the CPRA's proposed dismissal or closure of complaints of misconduct involving Class 1 offenses. The Commission will consider whether to 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

Mr. Finnell provided an overview of Items 9a and 9b in the Agenda Packet. He took questions from Commissioners.

Discussion followed between Commissioners. A. Dooley referenced Item 9a, Page 2 in the Agenda Packet - Case No. 17-1122. In a prior report indicated the Complainant was Brian Hoffer who is a member of the Oakland Privacy Advisory Commission. Most of these cases are confidential; this is a complaint that was publicized in the East Bay Express last year. The complaint was filed about a year ago. In the past you said that description of the cases come from the language of the complaint. I suspect, based on the news reports, that the complaints did more than allege an officer made statements which were false. I imagine the complaint was more comprehensive than that. The complaint seems to have been three different statements at least which the truth of which could be ascertained relatively easily so

she wants to understand why it has taken a year for the case to come to completion. This doesn't seem like a shooting; either the officer who is complained of knew the information she was speaking on and it was false or she didn't know and it wasn't false. Why did it take a year to get here and why we are getting it on the eve of the 3304 date – when nothing can be done about it; it's a year old; and it's only about three statements? This concerns a complaint filed against the Police Chief for false statements in regards to complying with the ICE raids that occurred last fall. I don't know anything about the truths of the underlying statements but her concerns about the complaint are that this is not a full description and that these are being closed when they could have been done in 180 days. She wants to understand that. Mr. Finnell stated that the assumption has been made by several people that this could have been closed rather simply and it was not the case. We investigated it. This case interviewed several individuals and a large volume of documentation was reviewed. I can't speak to specifics on the case. I can say that I had no less than three investigators assigned to this case as well as our legal counsel and it was reviewed thoroughly. There was additional information that was raised about allegations but in the end the complainant was only interested in these three allegations that are before you. We were only focused on these three. A. Dooley said the complainants didn't want you to move forward on other allegations which were discovered during the investigation? Mr. Finnell said not necessarily discovered during the investigation but raised by the Complainant themselves which were then withdrawn.

G. Harris said her concern with this is that she doesn't know nothing about what Mr. Finnell said. She can't determine whether it should have been closed or not. She remembered in the past asking Board Counsel regarding some template to figure out how – did we ever get any feedback on that – now the laws have changed? Counsel Brown said that SB 1421 (Nancy Skinner) goes into effect on January 1; there will be a more information that could be in these templates. If we are going to consider things, this information is useless and unsatisfactory and has been and continue to request information in regards to why these cases have been closed and why does it take a year to close a close. When we have it on paper, we do not know what we are looking at – no detail. We must take the word of our Agency Interim Director that there were other things to this case.

A. Dooley said that she was told that we couldn't have access to any confidential information was because the Discipline Committee of the Commission has more power than the Board did because they can impose their discipline. Is it the case that if we do not accept the Case Closures that Discipline Committees can be formed for each case to review to determine whether action needs to be taken on the file? Counsel Brown inquired as to 3304 dates on the cases. Mr. Finnell stated that for Case No. 17-1122 the 3304 Date is October 4. Regarding the other two cases, he does not know what the 3304 dates were and would have to check. The current pending case list is in the Agenda Packet is the current list. Counsel Brown stated that tomorrow she will send the Commission an opinion by email.

G. Harris asked why we don't get the same information the CPRB did? Mr. Finnell said that the only thing different that you get now that the CPRB received was Complainant's name is not included and it is in a different format. G. Harris asked if he was instructed by the City Administrator's Office not to provide that information? Mr. Finnell said no. You can go back to the CPRB website and look at old reports. The original format that I used for this report was the same one that we used with the CPRB where it contained a description of the complaint, complainant's name, case number, and the findings. G. Harris said would it be fair to say that the CPRB was closing these cases without facts? Mr. Finnell said no. The Board got the report – discussed in Closed Session. They got the reports a

week before the meeting. The public got what you see here. Can we get those reports? Mr. Finnell said no, based on Measure LL – that’s the way it is set up. G. Harris said that we have more power than CPRB had. Mr. Finnell explained the process, Measure LL, etc. G. Harris asked where are you getting the interpretation that we cannot have the reports/information? Mr. Finnell said that the Reports are considered personnel records – I am the only one in the Agency that can have personnel records and you can’t. G. Harris said that it is becoming problematic. Counsel Brown said that CPRB met in Closed Session and did not have open discussions. A. Dooley said why can’t we have the Reports in Closed Session? We never received a clear reading of why that might be the case. What mechanism we would use to have that information whether it is Closed Session or what? Counsel Brown said the difference between Measure LL and the Enabling Ordinance and the CPRB is that the CPRB held hearings and the CPRB had a Closed Session and didn’t have a provision that said that you don’t convene a discipline committee which is the only time you see personnel records until there is a disagreement between the Chief and the Agency. If you want to change it, then that would be something you should do because you don’t get those reports. CPRB had hearings. CPRB recommended discipline. A. Dooley asked if we could change it legislatively? Counsel Brown said that if you want to propose a change to Measure LL and to the Enabling Ordinance, then you can do that.

b. Public Comment

Tracy Rosenberg, signatory and co-complainant in Mr. Hoffer’s case. She addressed things and having read the staff report – found it nonresponsive to the actual allegations that were made but kind of incomprehensible. She went over the actual allegations that were made and what came out about their truthfulness or lack thereof after the fact. You already summarized what the case is about so I won’t do that. There were three allegations. The first related to a City of Oakland Press Release that came out on September 6 in which the Chief of Police stated that a memorandum of understanding or written agreement with ICE regarding OPD cooperation with their activities in the City of Oakland was no longer current or in effect. The date of that press release was August 16. The request to ICE to terminate the contract with a 30-day notice was sent on August 25, 9 days later, and the contract remained active until September 25 due to the 30-day clause. Your response to that allegation was that the actions of the officer were just and honorable and the allegation was that the statement was not true. The other two items relate to statements that were made at a District 2 town meeting. They are in fact captured on videotape. The first statement stated that an individual had been arrested for a crime in the action; the second stated there was no deportation matter in this case. To be clear, there was no individual charged with a crime. Then in September, when the action happened in August or for the entire year up until the current day, and secondly not only was there a deportation matter, in fact the entire legal ramifications of the entire raid are nothing but a deportation matter. There was never any matter on the table except for a deportation matter which is still pending. Again, these were items that nonofficers of the department were very clear to us less than two months after the raid. They should have been clear to the Police Chief. Her final statement is the reason I signed onto this is as a person, it scares her for the Police Chief of this City in a public capacity to state that people were charged with crimes when they were not. It think that is a scary precedent and a serious matter. I didn’t sign this to be frivolous; I signed it because important things were at stake. When I read this report, I don’t get any sense that was recognized by the CPRA. It makes me sad about this Commission going forward. I don’t know if you can do anything, but if you can, then I think you should.

Rashidah Grinage seconded all the comments she heard so far from the

Commissioners and the audience. She is continuing to be as you are very frustrated at the lack of detail or rationale for the findings. As somebody who attended the CPRB for many years, the descriptions that were offered by the CPRB, were in more detail without SB1421, than what we are seeing now. We need to ask the question – Why? The laws have not regressed since the CPRB ceased to exist. I was not thrilled with that level of detail either but it was a lot better than what we have now. There is no issue of confidentiality – there never has been. The City was never sued because of what was in the CPRB reports. Why do we suddenly have the blinds closed? As many times as you have asked this question, you have not received an answer that is satisfactory. Maybe that’s because the attorneys, both report to Barbara Parker still despite the Ordinance and despite Measure LL. That is what needs to get fixed. You must continue to demand the answer to this question. You have a right to know what the basis for the findings is and you can do that without revealing anything that compromises the confidentiality of the officers in question.

Henry Gage, Coalition for Police Accountability. He is also concerned with the lack of use of information that you can find in this report. It is vague and useless. Drew attention to one of Case 18-0992. What concerns him about that case is the finding of a lack of jurisdiction because the actions that happened while that person was an employee and no matter what they do next with their career, I think it is important that some official record be made of their actions while they were a City of Oakland employee. I assume there is some investigative materials, etc. that was taken on IAD side but CPRA needs to do its own formal finding. When that person decides to apply for a job elsewhere, this kind of behavior should be considered in the context of how they perform their duties here. He encourages you to push back on the finding of no jurisdiction, as an attorney it always bothers him.

Assata Olugbala said that until you have the opportunity to view the full investigative report, you are engaging in assumptions, guessing, and you don’t have facts to substantiate anything that you make in terms of a conclusion or recommendation. That is unfair. That is not the way you should be operating. She would put off and discontinue what you are doing now because you have no legitimacy to the process. She said that she made a complaint with the Ethics Commission in January 2017 and she had her hearing about a month ago. She was looking at a violation of the Sunshine Ordinance and the Brown Act which was very clear and Barbara Parker wrote a letter that was fraudulent in terms of a case that had nothing to do with what she was pursuing. She will not go back to do that. The last thing, it gets on her nerves, when we have one incident with ICE and everybody flips out about how horrendous and long this was and we are going on 16 years of trying to get some resolve to racial profiling by this police department, excessive force, so you come in here with the police setting up a parking detail, etc. I haven’t heard anyone screaming about racial profiling, etc. I could care less about ICE until you fix my stuff.

c. Action, if any

MOTION to put together an Ad Hoc Committee to make legislative changes to clarify this - that the Agency has access in Closed Session if necessary to Reports so that we can make an informed basis for our decision to support Case Closure (A. Dooley) and seconded (J. Dorado). The vote was Aye: 5 (Benson, Dooley, Dorado, Harris, and Nisperos); Opposed: 0; Abstained: 0. The motion passed. Commissioners Ahmad, Jackson and Smith were excused; Commissioner E. Prather left the meeting early.

MOTION that we do not approve the closing of these Reports – I don’t want to

close them because I don't know enough about them and I don't want to put my name on it (G. Harris) and seconded (M. Benson). The vote was Aye: 3 (Benson, Dorado, and Harris); Opposed: 0; Abstained: 2 (Dooley and Nisperos). The motion failed. Commissioners Ahmad, Jackson and Smith were excused; Commissioner E. Prather left the meeting early.

M. Nisperos said that I don't know that you need to make a motion to not to do something. Just for the record – he will Abstain and A. Dooley abstained.

Mr. Finnell stated that the cases are closed. What you are saying is that you do not accept the Report because the cases are closed. He said that he followed Measure LL which was passed by the people and that is what it says, is the process for closing cases, and it is the law. G. Harris said that is your interpretation.

X. CPRA Interim Director Request for Approval of Conference Attendance and Associated Expenses for the 13th Annual Institute for the Prevention of In-Custody Deaths

Interim Director Finnell requests authorization to attend and to be reimbursed for conference expenses, travel, lodging, and meals for the 13th Annual Institute for the Prevention of In-Custody Deaths, which is an educational and training conference in Las Vegas, NV from October 21 – 25, 2018.

a. Discussion

M. Nisperos asked how many in custody deaths have CPRB or CPRA investigated? Mr. Finnell said he does not have the exact number of cases investigated. It is part of what we are mandated to investigate (serious incidents, critical incidents, in custody deaths, officer involved shootings). We had one this year, not counting the officer involved shootings, and one that we just discussed at the last meeting where the gentleman was tased and died, cause of death of excited delirium. We have had other taser incidents in the past where people have died and we don't know if it is the result of the tasing but we investigated those deaths. Other in custody deaths – there was one before he came in which the young man was running from the police and they lost track him, found him wedged between some buildings where he tried to hide – considered an in-custody death. M. Nisperos asked why did you select yourself instead of one of your senior investigators to go to this training?

Mr. Finnell said that he selected three of his investigators to attend (one had personal issues within family and could not be able to attend – we could receive our registration back which was paid by the City and no one else could not attend on short notice so he selected himself. M. Nisperos commended him for that and said he did the right thing.

M. Benson said the conference starts in ten days. Mr. Finnell said the staff was already prepared to go so we did take advantage of the early bird rate but we would still lose those funds spent for that registration for that individual. The funds have been spent on registration but not travel? Mr. Finnell said yes. It would be the expense of the registration. Mr. Finnell said the registration was \$1275 a person and \$1475 after October 5. G. Harris asked how many of your staff went to the NACOLE conference from September 29 – October 1? Mr. Finnell said five. G. Harris asked - Do you feel that they go to back to back trainings out of state when there are so many investigations that have to be done? Mr. Finnell said this is very specific training they are required to do and the ability to train others that come through. I wasn't aware of this or heard of this. It was at the same time we were working on the other in custody death investigation. It is valuable training and you receive certification. He spoke with several BART members who are also going.

G. Harris asked if this is the first training that your staff and yourself has ever had on in custody deaths as long as you have been doing investigations? Mr. Finnell said the investigators have not had training like this. Approximately 15 years ago he had general training as a police officer/homicide investigator.

M. Benson wondered about NACOLE and wanted to present it to the Commission. Has it been discussed to provide a report back to the Commission in any way? Mr. Finnell said that in the past when staff attended training outside the area or any training, we do bring those materials back that are available for everyone else within the office. In the past, we have not presented a report on the training or what we learned from the training – we presented that information to the City and we do have in the expense report process there is some documentation that you prepare for the City (small report, etc.). M. Benson said she would be in support of this but would also like to put forth it would be beneficial to ensure that not only just a report with agenda items but that there are actual critical training elements that are learned in this conference that are reported back to other investigators because the intention was that some other investigators would get to go and they are not. Moving forward, we should develop some protocols around expenditures of money for conferences and how we are ensuring that we are getting the bang for the buck. A. Dooley said that the Interim Director should be able to manage his own staff and training time accordingly and she doesn't know where we are going to get room on this agenda for more reports when we don't get through the reports that we have.

Mr. Finnell offered to prepare and post the available information to the website (referencing the friendly amendment as stated by M. Benson – to request key findings/reports that are critical for the training and development of the rest of the staff and Commission)

Further questions/comments were given by Commissioners. Mr. Finnell responded.

b. Public Comment

No public comment.

c. Action, if any

MOTION to approve the request for approval of conference attendance with an expectation that we get information as available from his staff and (Dooley) seconded (Nisperos). The vote was Aye: 4 (Benson, Dooley, Dorado, Nisperos); Opposed: 1 (Harris); Abstained: 0. The motion Passed. Commissioners Ahmad, Jackson and Smith were excused; Commissioner E. Prather left the meeting early.

XI. Agenda Setting and Prioritization of Upcoming Agenda Items

Vice-Chair Harris will engage the Commission 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 for future agenda.

a. Discussion

G. Harris said that we have a process in place and the above is not the process that we voted and agreed on.

Commissioners discussed setting agenda items. M. Benson referenced Item 11 in the Agenda Packet and briefly reviewed the information. She asked if we go through the list and assign some of the items to Committees to do some detailed

work and present. A suggestion to go through the list of 33 items is if you see any of the items that you would suggest go to an ad hoc committee (existing or new one) that we can discuss that and if you see any items on this list that are burning that you would like to see in the next agenda, two or three (particularly by the end of the year) to name them now. The last thing she would say is that she has put feelers out to Council as well as a list of the budget milestones – we must pass a budget by May from the Mayor’s office and get budget input from Mr. Finnell by February 13. At the next meeting, she will have an updated document that has agenda suggestions from the community as well as some legal milestones (evaluation of the Chief, budget, etc.).

G. Harris said that four commissioners are not here; she suggested that the load be shared. J. Dorado asked that the Item be agendaized at another meeting. M. Nisperos said that he does not understand the document/presentation/format and suggested that for our next meeting that we allow the Chair, Vice-Chair and legal counsel to put together the Agenda for the next meeting until we can begin to follow our agenda process. M. Benson asked for clarification, etc. M. Nisperos said the format does not agree with him.

Further discussion by Commissioners pertaining to setting next meeting’s agenda items.

b. Public Comment

No public comment

c. Action, if any

MOTION to accept the agenda items as listed by Commissioner Dooley as our agenda for the next meeting (Nisperos) and seconded (Dorado). The vote was aye (Dorado, Nisperos, Benson, Harris, Dooley). Passes.

XII. CPRA Administrative Closure Report Format – Information Item

Senate Bill 1421 was signed by Governor Brown on Sunday, September 30, 2018. The new law will take effect in January 2019. Commission, Counsel, and the CPRA attorney will review the standard and protocols for the CPRA Administrative Closure Reports under the new law and provide a confidential legal opinion to the Commission.

a. Discussion followed by Commission.

THE OAKLAND POLICE COMMISSION WILL ADJOURN TO CLOSED SESSION IN CITY HALL BUILDING BRIDGES ROOM, 3RD FLOOR AND WILL REPORT ON ANY FINAL DECISIONS IN THE CITY COUNCIL CHAMBER DURING THE POLICE COMMISSION’S OPEN SESSION MEETING AGENDA.

XIII. Closed Session

PUBLIC EMPLOYEE PERFORMANCE – Step Increase in Salary
Govt. Code § 54954.5 (e)
Title: (Interim Executive Director of the CPRA)

a. Action – Report out of closed session

Nothing to report.

b. Public Comment

No public comment.

XIV. Adjournment

The meeting was adjourned at 10:23 p.m.