



**CITY OF OAKLAND
OAKLAND POLICE COMMISSION**

Meeting Minutes

Thursday, April 25, 2019

6:30 PM

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

I. Called to Order
Vice Chair Harris

The meeting started at 6:30 p.m.

II. Roll Call and Determination of Quorum
Vice Chair Harris

Commissioners Present: Mubarak Ahmad, Alternate Commissioner Chris Brown (designated as a voting member until other members are present per Counsel Rudin), José Dorado, Ginale Harris, and Thomas Smith. Quorum was met.

Commissioners Absent (Excused): Tara Anderson, Regina Jackson, and Edwin Prather.

Counsel for this meeting: Sergio Rudin

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

Vice Chair Harris welcomed and called 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 which investigates police misconduct and recommends discipline.

Comments were provided by the following public speakers:

- Ryan Vanderpol
- Mary Vail
- Assata Olugbala
- Gene Hazzard
- Lorelei Bosserman
- Rashidah Grinage
- Saleem Bey

Chair Jackson arrived at 7:00 p.m. and apologized to the entire community for her tardiness.

IV. Oakland Black Officers Association (OBOA) Letter

The Commission will hear from a representative on behalf of OBOA regarding their letter in the Oakland Post suggesting disparate and/or racist implications for OPD hiring and discipline practices. ***This was discussed on 4.11.19.***

Chair Jackson asked “Is the representative for the OBOA present?” Virginia Gleason (Project Manager, OPD) reported that an hour and a half ago an officer was severely injured and people are with him at the hospital. Chair Jackson read aloud the letter into the record (Attachment 4).

Comments were provided by the following public speakers:

Gene Hazzard

Mary Vail

Melody Davis

Assata Olugbala

Rashidah Grinage

Noel Gallo, Councilmember, Oakland City Council. “For the public, since the Public Safety came up regarding the letter, this is to let you know publicly that we did have conversations with the police. We do the scheduling for the Public Safety Committee and that this item will be heard. We do have a standing item that deals with recruitment and hiring and other practices; this letter will be heard under that item at the following meeting as well as the NSA - Where are we with the NSA?”

Saleem Bey

Bruce Schmiechen

Chair Jackson asked Ms. Gleason for clarification that she heard that the Police Chief refused to meet with the OBOA. Ms. Gleason reported that the Police Chief sent a written invitation to meet with the OBOA and they declined.

Commissioner Prather (late arrival). He suggested an Ad Hoc Committee to meet with representatives of OBOA.

Ms. Olugbala – point of clarification – it is her understanding that there is an investigation into the charges in the letter, who is doing that investigation?

Chair Jackson reported that she understood that finally there was an investigation opened on the part of the OPD through IAD; we also requested at the last meeting that CPRA do a similar investigation. She asked Ms. Tom if she is familiar if that investigation has been opened? Ms. Tom said she is not familiar with that. Chair Jackson asked Ms. Tom to make sure that it is opened. Did the investigation get opened within 24 hours of October 15? She read that it didn’t get opened until January. That is one issue. When it was raised to us, we decided to have our own investigation. Commissioner Harris suggested hiring an outside investigator.

Chair Jackson created an Ad Hoc Committee on this subject. Commissioners Dorado and Smith volunteered and Chair Jackson will also participate. A meeting will be scheduled.

No action taken.

V. **Review of CPRA Pending Cases and Completed Investigations**

To the extent permitted by state and local law, Interim Executive Director Karen Tom reported on the Agency’s pending cases and completed investigations. ***This is a recurring item.***

Chair Jackson announced that she has accepted Ms. Tom’s resignation for the Interim Executive Director position effective May 3. This will be her last meeting with the Commission. She asked Ms. Tom to share. Ms. Tom thanked the Commission for the opportunity to serve.

Comments were provided by the following public speakers:

Gene Hazzard

Lorelei Bosserman

Rashidah Grinage

Assata Olugbala

Saleem Bey

VI. Report from Ad Hoc Committee on CPRA Appellate Process

The Ad Hoc Committee on CPRA Appellate Process presented its on-going analysis whether and how an appellate process for closed CPRA cases may be established. ***This was discussed on 9.13.18, 10.11.18, and 4.11.19.***

Vice Chair Harris reported that she and Alternate Commissioner Brown are on the Ad Hoc Committee. We need outside legal counsel to put this process together.

Commissioner Prather said that he did reach out to two firms and they were not interested in working for the Commission.

Commissioner Prather said during public comment Mr. Bey mentioned there was no final copy of his letter. The final letter to Mr. Warshaw was included in this Agenda Packet (Attachment 6). This Agenda Item doesn't contemplate such an inclusion but it is included, was disseminated to the public, and sent.

Mr. Bey said that a motion was made and passed to hire an outside investigator. That was specifically to be a separate agenda item. You have put the letter underneath it; that was all part of that same piece. Vice Chair Harris said we are trying to look for counsel and nobody wants to come work for us. Mr. Bey said we are looking for an independent investigator. Chair Jackson stated that we are in the process of trying to get a person hired as a vendor for the Pawlik case which happened prior to your case. She said if the Commission identifies that they want to hire an investigator to deal with your case, we would make that decision. We have not found one yet. Mr. Bey kept talking over Chair Jackson. She said that Commissioner Prather has excellent resources and for the subject matter. Mr. Bey kept interrupting and said "not for us".

Commissioner Prather called for a Point of Order. We are way off the Agenda Item. We are so far off topic – To Chair Jackson, he asked her to invoke Rule 3.3 regarding conduct. Chair Jackson said we are moving on and asked Mr. Bey to step away from the microphone.

Comments were provided by the following public speaker:
Gene Hazzard

No action taken.

VII. Retainer Agreement for Counsel Assisting with Oakland Police Chief Evaluation

The Commission presented the retainer agreement with the law firm chosen to assist with the Chief's evaluation and voted to approve the agreement. ***This is a new item.***

Commissioner Smith recused himself from this Item because this is a firm he formerly worked for.

Comments were provided by the following public speakers:
Gene Hazzard
Melody Davis
Saleem Bey

Chair Jackson reported that a meeting was held in Closed Session. A motion was made by Chair Jackson and seconded by Vice Chair Harris to accept the Retainer Agreement for Counsel assisting with the Oakland Police Chief Evaluation. The motion carried by the following vote:

Aye: (5) Ahmad, Dorado, Harris, Jackson, and Prather; Recused: (1) Smith.

VIII. Recess (8 minutes)

Chair Jackson recommended recess be postponed because of the upcoming Closed Session to handle as many Agenda Items as possible.

A motion was made by Chair Jackson and seconded by Vice Chair Harris to postpone Recess. The motion carried by the following vote:

Aye: (5) Ahmad, Dorado, Harris, Jackson, and Prather.

IX. National Association for Civilian Oversight of Law Enforcement (NACOLE) Conferences

The Commission discussed and voted on participation at NACOLE's Regional Training and Networking Series event on May 3, 2019 at the Kaiser Center in Oakland.

The Commission discussed and voted on participation at the National Conference in Detroit September 22-26, 2019. *This is a new item.*

Comments were provided by the following public speakers:

No public comment.

Chair Jackson asked for attendee information (May 3, 2019):

Brown (Yes), Dorado (Yes), Harris (Attend a.m. – 12:30 p.m.), Jackson (No), Smith (No).

Chair Jackson asked Ms. Tom for other required information in terms of registration. Ms. Tom stated Mr. Rus will handle the registration NACOLE matters for the Regional Conference. If he needs information, he will contact you.

Chair Jackson asked for attendee information (September 22-26, 2019):

Brown (Maybe), Dorado (Yes), Harris (Yes), Jackson (Maybe), Prather (Maybe), Smith (Maybe).

Mr. Rus agreed to handle the registration NACOLE matters for the National Conference.

Chair Jackson asked Commissioners to review calendars and firm up at the next meeting.

X. Creation of Ad Hoc Committee on OPD K-4 Use of Force Reporting Special Order

OPD has requested that the Commission establish an Ad Hoc Committee to work with members of OPD on K4 Use of Force Reporting Special Order. *This is a new item.*

Comments were provided by the following public speaker:

Bruce Schmiechen

Chair Jackson stated the final members on the Ad Hoc Committee are:

Commissioners Anderson, Harris and Prather.

Chair Jackson asked if someone from OPD wanted to address the approach of presenting a draft to the Commission. Sgt. Joe Turner, Training Division for Policy and Publication Unit, spoke on the topic. The draft is correcting a specific problem that was identified by the Independent Monitoring Team; it is a technical fix that needs to be done and it was done in this manner. Chair Jackson thanked him for the clarification and asked about the turn around. Sgt. Turner said this is something for Counsel, or the City Attorney, to speak on; he believes it is 120 days. Counsel Rudin said that he is not the City Attorney and according to Charter provisions, it is 120 days. She thanked Sgt. Turner and Ms. Gleason.

No action taken.

XI. Schedule a Public Hearing on Excessive Force

The Commission voted to schedule a public hearing on use of excessive force. ***This is a new item.***

Comments were provided by the following public speakers:

Assata Olugbala
Anne Jenks

Chair Jackson said this Item came on as an opportunity to create a process that includes community engagement in alignment with developing a policy.

Mr. Rus stated that the notice that you received from the OPD on this was not a notice of revision of K-04, it is only a notice of the revision of the Special Order regarding reporting of K-04 and so the 120 days do not pertain to K-04. They pertain only to the Special Order regarding the reporting of K-04. You don't need to worry about K-04, the 120 days.

Chair Jackson said that what she is hearing from Anne Janks (Coalition for Police Accountability) is to work with the Standing Committee on Outreach to ensure that the lion share of work around the excessive force is shared. Commissioners Ahmad and Dorado agreed to work on that issue; Chair Jackson will also work with them.

Commission Prather suggested utilizing in-house staff which the Commission has (Chrissie Love, Administrative Analyst) and money in the budget for an outside vendor.

No action taken.

Chair Jackson said it is 9:02 p.m. Roll Call and Determination of Quorum by Chair Jackson. Commissioners Present: Mubarak Ahmad, José Dorado, Ginale Harris, Regina Jackson, and Edwin Prather. Commissioner Absent: Thomas Smith. Quorum was met.

THE OAKLAND POLICE COMMISSION ADJOURNED 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.

Chair Jackson said it is 9:31 p.m. and called the meeting back to order (Open Session). There were no reportable items. We lost Commissioner Smith and are soon to lose Commissioner Dorado's presence. Alternate Commissioner Brown was designated a voting member for tonight.

Comments were provided by the following speaker:
Oscar Fuentes

XII. Executive Director Interview Process

The Commission reviewed the CPRA Executive Director interview process and may approve the process as is, or make edits so that the process can begin as soon as possible. ***This was discussed on 4.11.19.***

Chair Jackson asked Vice Chair Harris to provide an overview.

Commissioner Prather appreciated the fine work that went into creating this process. He gave his input on the essay questions. For the record, he said it is unfair to ask for an essay on socioeconomic poverty and how it affects Oakland in relation to the job description. It is not a fair essay question.

Mr. Rus said he is also on the Education, Training and Standards Committee of NACOLE. We are currently doing the hiring of investigators for our office and for any public sector hiring that we do, the first stage of that process is we get a panel of outside experts to do the initial review – somebody who does not work for the City but people who are recognized experts in their field who will know what those technical things are. This is an enormously technical, legal job. The Commission should at least consider the Bay area as one of the birth places of civilian oversight – there are within a 50-mile radius of where we sit many of the giants of civilian oversight in this country who could be asked to be on a panel and would probably agree. I have gotten them to agree to be on our panels for interviews for investigators. Chair Jackson asked Mr. Rus to send her the list of experts who have agreed to be on the panel for investigators.

Comments were provided by the following public speakers:

Bruce Schmiechen
Lorelei Bosserman
Rashidah Grinage
Oscar Fuentes

Chair Jackson thanked everyone for their comments. She thanked former Commissioner Benson and Vice Chair Harris for their diligence in creating a process and prioritizing within that process community voice. We will make every effort to also prioritize the technical responsibility and acumen that is required to lead this effort.

Vice Chair Harris announced that the Personnel Committee meets on May 6. Suggestions can be emailed to her.

Commissioner Prather suggested contacting former colleague Mike Nisperos (worked with CPRB) to provide expertise on this matter.

No action taken.

XIII. Committee/Liaison/Other Commissioner Reports

This time is set aside to allow Commissioners to present a brief report on their own activities, including service on committees or as liaisons to other public bodies. No action may be taken as a result of a report under this section other than to place a matter for consideration at a future meeting. *This is a recurring item.*

Chair Jackson mentioned that she has been contacted by the City Auditor's Office to begin an audit on both CPRA as well as the Police Commission as is called for in Measure LL. This topic will be on the next Agenda where there will be staff who can address the scope.

Commissioner Ahmad said he was absent in the March 28 meeting when he was going to give a report about community outreach. He spoke about events, etc. that he has been involved in relating to community outreach.

Commissioner Prather reported that the Ad Hoc Committee on the Parole and Probation Search met with OPD last week. We exchanged ideas, received a draft of their new edits today, and asked that this matter go on the next Agenda to comport with our new deadline. Chair Jackson asked if we are close? Do we need another meeting? Commissioner Prather said there is one section that needs work. Do you mean a

meeting with OPD? Chair Jackson said “yes”. Commissioner Prather could not answer that. He will work with Captain Bassett and Sgt. Turner who have been amenable, knowledgeable, and cooperative in this process. He is optimistic that this can be done.

Comments were provided by the following public speakers:
No public comment.

No action taken.

XIV. Police Commission Retreat

The Commission discussed potential dates, format, topics, presenters, location, and cost for a retreat. The Commission may vote on items to facilitate scheduling. ***This was discussed on 6.28.18, 7.12.18, 8.9.18, 8.23.18, and 9.13.18.***

Counsel Rudin stated that since you are considering planning a retreat that is planned by the Commission, that Retreat would be subject to the Brown Act. Chair Jackson said absolutely, that is the plan. It would be a formatted meeting. She can send out a Doodle Poll, etc. Plan for something in June which was the plan for last year. She suggested a follow up to the retreat, and have that happen soon after the retreat.

Commissioner Prather suggested the retreat wait until after the appointment of another Alternate Commissioner.

Commissioner Harris suggested that it be mandated for all to attend.

Comments were provided by the following public speakers:
No speakers were called.

No action taken.

XV. Meeting Minutes Approval

The Commission will vote to approve meeting minutes from March 28, 2019 and April 11, 2019. ***This is a recurring item.***

Commissioner Prather asked that both sets of Minutes be returned. There are errors in these Minutes.

The tense and format throughout these Minutes needs to be changed.

If the Commission takes no action on an Item, it should reflect that no action was taken. Sometimes the votes are referred to as passing unanimously without a roll call; sometimes there is a roll call.

If there is a quote, there should be quotation marks.

Names should be corrected to Chair Jackson, Commissioner, Vice Chair.

There should be a consistency to the Minutes – to look professional.

Chair Jackson asked Ms. Tom to handle the matter. Mr. Rus and she will let staff know about the revamp of the minutes.

Commissioner Brown referenced March 28, 2019 Minutes - Page 73, Item X, Paragraph 3 (is a vague description of the Motion that passed) – we should have detailed/verbatim motions shown so that we know exactly what was moved and passed. Chair Jackson inquired about getting transcripts? Mr. Rus said transcripts were made; Ms. Love posted those transcripts on the Commission website and they are not included in the mailing packet since they are very long.

Chair Jackson will ask Ms. Love to send Commissioners links to each of the transcribed meetings. Whoever is working on the mini minutes can reference the transcripts

because they would have more information rather than less.

Commissioner Prather referenced March 28, 2019 Minutes - Page 73, Item X, Paragraph 2, “specific process” – referring to the potential creation of an appellate process. There is no mention of an investigator in this motion. He doesn’t recall it. He suggested someone go back and recheck this motion – insert the verbatim wording of the motion. Go back and get the detail. Chair Jackson will send a message to Ms. Love to clarify the language.

Chair Jackson said the corrected minutes for March 28, 2019 and April 11, 2019 will be on the May 9 Agenda for approval.

Commissioner Harris wanted clarification - in regards to the outside counsel. We would have no reason to hire counsel for Mr. Bey, for what? The IG is the person who is supposed to be doing the investigation. However, since we didn’t have an IG, we were going to get him an investigator to investigate his case. She just watched the tape so she doesn’t know what this is here. She sent her notes to Chair Jackson prior to this meeting. That is why she remembers the conversation vividly.

Commissioner Prather – his recollection of the conversation was that there was an Ad Hoc Committee created for analyzing how we should have an appellate process if any to oversee CPRA decisions. Ms. Harris had asked that we need counsel to advise us (Ad Hoc Committee) on that process because it is an appellate process, it is a legal issue. That’s what he understood the motion to be. If his understanding is mistaken, he would want to go back and want to revisit this discussion and revote. He voted for something specific – an attorney to aid Vice Chair Harris and Commissioner Brown in terms of their work on the Appellate process. Let’s clear it up in the minutes on the next Agenda.

Comments were provided by the following public speakers:
No public comment.

No action taken.

XVI. Agenda Setting and Prioritization of Upcoming Agenda Items

The Commission engaged in a working session to discuss and determine agenda items for the upcoming Commission meeting and agreed on a list of agenda items to be discussed on future agendas. *This is a recurring item.*

Comments were provided by the following public speakers:
No public comment.

XVII. Adjournment

A motion was made by Commissioner Ahmad, seconded by Vice Chair Harris, to adjourn. The motion carried by the following vote:

Aye: (5) Ahmad, Brown, Harris, Jackson, and Prather.

The Commission adjourned the meeting at 10:28 p.m.