



**CITY OF OAKLAND  
OAKLAND POLICE COMMISSION**

**Meeting Minutes**

**Thursday, May 9, 2019**

6:36 PM

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

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**I. Called to Order**  
Regina Jackson

The meeting started at 6:33 p.m.  
Chair Jackson announced that the former Interim Executive Director, Karen Tom, who resigned effective May 3, declined her invitation to attend this meeting. Mr. Rus is here tonight and will take Speaker Cards.

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

Commissioners Present: Tara Anderson, José Dorado, Ginale Harris, Regina Jackson, and Edwin Prather. Quorum was met.

Alternate Commissioner Present: Chris Brown

Absence (Planned) Commissioners: Mubarak Ahmad and Thomas Lloyd Smith.

Counsel for this meeting: Sergio Rudin

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

Chair Jackson welcomed and called public speakers. The purpose of the Oakland Police Commission is to oversee the Oakland Police Department's (OPD) policies, practices, and customs to meet or exceed national standards of constitutional policing and to oversee the Community Police Review Agency (CPRA) which investigates police misconduct and recommends discipline.

Comments were provided by the following public speakers:

Mary Vail  
Bruce Schmiechen  
Lorelei Bosserman  
John Bey  
Henry Gage, III  
Saleem Bey  
Oscar Fuentes

**IV. Pawlik Investigation Update**

The Commission discussed CPRA's recent findings on the Pawlik investigation. Karen Tom and Joan Saupe reviewed the process. ***This is a new item.***

Chair Jackson read a brief statement: "This commentary is on process not findings. Fellow Commissioners – She is extremely concerned about the recent course of events involving the investigation and report on the shooting of Joshua Pawlik. She prepared the statement for the public and this Commission to consider and adopt. As you all

know, the Commission has been very concerned about the completion of the investigation by CPRA and we time and time again asked the Interim Executive Director to report on the investigation process. The report is flawed in many respects. First, it is our understanding that perhaps only one interview was conducted of the officers involved or the other subject witnesses. This means that CPRA did not conduct its own separate videotaped interviews. This is wholly unacceptable and in fact, it violates Section 2.45.140(A) and 2.46.03(E) of the Enabling Ordinance which specifically mentions that CPRA's separate investigations should include probative videotape or audiotape. Separate videotaped and audiotaped interviews are called for a reason. This allows the public to have confidence in CPRA's work product to allow for a truly independent review and an analysis separate from that of the police department's own investigation. By failing to conduct its own videotaped and audiotaped interviews, CPRA doesn't do its job – it loses the support of the community at large and, frankly, it fails on the job. The investigation is inadequate and should be returned. Second, Ms. Tom failed to follow Section 604(f)(4) of Measure LL which provides that CPRA will consult with the Commission prior to forwarding reports to other enforcement agencies. Not only did Ms. Tom fail to follow Measure LL before she provided the report to the OPD, City Attorney, and whoever else she sent it to - that report was not provided to the Commission until I called her and demanded that she send it to us. It is clear from Ms. Tom's actions by disseminating the report outside of the process and procedures, that she sought to politicize this process, there is no place for politics in police oversight. The goal is transparency. What Ms. Tom did was not only politically motivated but also a clear attempt to continue to thwart this investigation. As she mentioned earlier, Ms. Tom refused an invitation by the Commission today to explain her actions or explain specifically the process not the findings. For these reasons, this current report is tainted – it has been politicized by CPRA, basic required investigative procedures were not followed, the public and the Commission's confidence were at least, she believes, that the public and the Commission's confidence in this report is shaken. We must return the report. I would ask all Commissioners to join her in this position.”

Comments were provided by the following public speakers:

Jim Chanin  
Bruce Schmiechen  
Rashidah Grinage  
Saleem Bey  
Mary Vail  
Michael Tigges  
Lorelei Bosserman  
Henry Gage, III

A motion was made by Commissioner Prather, seconded by Commissioner Dorado, to reject the report and return it to CPRA with direction to the to be hired Interim Executive Director that the investigation be done properly.

Commissioner Prather amended his first motion to reject this report and that we ask the Investigator that we previously hired as a vendor for this purpose, to give us an opinion on whether an investigation at this point can be done and whether it is worthwhile.

Counsel Rudin said that this Item is on the Agenda for discussion of CPRA's recent findings on the Pawlik investigation and not for hiring an outside investigator. His recommendation would be that if you want to do that, that you table the motion and take that up at another meeting and in the interim, perhaps it might be helpful for you to receive some advice either from his office or from the City Attorney about CPRA's ability to receive back a rejection of that report. Commissioner Dorado said that he rejects that advice. He supports the amendment to the motion.

The amended motion was seconded by Commissioner Dorado. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

A second motion was made by Commissioner Prather that we issue a subpoena for all documents including communications, emails and texts between Joan Saupe, Karen Tom, Emily Prescott, Veronica Harris, and any member of the OPD between March 11, 2018 to May 9, 2019, returnable at our first June meeting. It was seconded by Chair Jackson. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

**V. Personnel Committee Update and IG Position Update**

The Personnel Committee provided an update from its meeting on May 6, 2019. The Committee provided an update on the status of the Inspector General position. *This was discussed on 9.27.18, 10.11.18, 1.24.19, and 4.11.19.*

Vice Chair Harris provided the IG position update. She referenced the last paragraph under Distinguishing Characteristics and asked Rashidah Grinage to review the language to determine if this was the Commission's language. She always asks for a copy before it gets moved to the Civil Service Board and it has not been received.

A motion was made by Vice Chair Harris, seconded by Chair Jackson that the IG Job Description may not be the version that was submitted and to table this Agenda Item. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

Chair Jackson provided the Personnel Committee update (Investigators).

Vice Chair Harris provided the Personnel Committee update regarding interviews (Executive Director). The second round of interviews will be on June 4.

Comments were provided by the following public speakers:

Bruce Schmiechen  
Rashidah Grinage  
Michael Tigges  
Saleem Bey

The Commission returned to this Item at 8:59 p.m. Vice Chair Harris verified the IG Job Description and said to move forward with voting on this matter. The Job Description is the Commission's; it should move forward in the Civil Service Process.

Commissioner Brown asked how to incorporate possible edits to the IG Job Description. Chair Jackson said that at this point to include them, if this is determined the one we put forward, would delay it going to the Civil Service on May 16. Do you think that the changes are crucial/critical and he said "yes?" Commissioner Brown referenced the Minimum Qualifications section. The person needs to be experienced in supervising public employees. In terms of the ability to design, manage and troubleshoot databases is a misstatement about the nature of perfecting the existing and future databases. Troubleshooting databases is a technical skill and this person could not in any way be expected to have that kind of skill. Managing databases also refers to a whole specific area of database management which is not the same as managing the use of the database or overseeing someone who knows how to manage the database.

A motion was made by Vice Chair Harris to edit the IG Job Description with two changes: (1) add on supervisory experience and (2) remove the words design and troubleshoot but keep in manage databases. We adopt this version after the edits. She will move it forward to Mr. Luna (City Administrator's Office) so he can forward it

to Civil Service. It was seconded by Commissioner Dorado.

Commissioner Brown offered a friendly amendment to the motion: supervisor of public employees.

A motion was made by Vice Chair Harris to amend the friendly amendment to the motion to change it to supervisory instead of supervisor of public employees. It was seconded by Commissioner Dorado. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.

Comments were provided by Saleem Bey.

#### **VI. Bey Update and Discussion**

The Commission discussed the status of the issues such as hiring an outside investigator raised by the Bey brothers. ***This was discussed on 9.13.18, 10.11.18, 4.11.19, and 4.25.19.***

Saleem Bey provided an update.

A motion was made by Chair Jackson and seconded by Vice Chair Harris to instruct the Director to contract an outside investigator to give an opinion on the Bey case investigation.

Chair Jackson amended her motion to add that the Ad Hoc Committee, which currently exists of Alternate Commissioner Brown, Commissioner Harris and herself, will commit to designing an appellate process that will be on the Agenda for review and approval at the next meeting. It was seconded by Commissioner Anderson. The vote was Aye 4: (Anderson, Dorado, Harris, Jackson); Oppose: 1 (Prather). The motion passed.

Comments were provided by the following public speakers:  
Bruce Schmiechen  
Saleem Bey

#### **VII. Performance and Financial Audit of Police Commission and CPRA**

City Auditor staff discussed the Police Commission and CPRA audit required by City Charter section 605(a)(4). ***This is a new item.***

Courtney Ruby, City Auditor for the City of Oakland, introduced herself and the audit team: Mark Carnes (Senior Performance Auditor, assigned to this audit), Alessia Dempsey (Performance Audit Manager), Mike Edmonds (Assistant City Auditor). The Audit will be conducted and performed by October 20, 2019. Ms. Ruby presented the audit scope and objectives. Mr. Edmonds presented the audit process and the audit report process. Questions were asked by Commissioners and responses were provided by Mr. Edmonds.

Comments were provided by the following public speakers:  
Rashidah Grinage  
Henry Gage III  
Oscar Fuentes

**It is 9:07 p.m. Chair Jackson stated the Commission will take a break – Returned at 9:19 p.m. (This Item is not listed on the Agenda).**

#### **VIII. Meeting Minutes Approval**

The Commission voted to approve the revised meeting minutes from March 28 and

April 11, 2019. *This is a recurring item.*

Chair Jackson asked Mr. Rus if the meeting transcripts were received. Mr. Rus said your staff (Chrissie) posted them on the website. Chair Jackson said that she had asked Chrissie to send Commissioners links because the website is difficult to navigate.

Vice Chair Harris said her understanding is that we have transcription service but we still have Ms. Klasse typing the minutes. Mr. Rus said the minutes form the official record of the meeting and the transcript is a supplemental document that the Commission requested. Commissioner Prather said we are legally obligated to have minutes so we can't substitute a transcript for these minutes. He raised some questions about the minutes last time (grammatical errors, typos, etc.) and they are now very nice. Commissioner Prather and Chair Jackson thanked Ms. Klasse for doing the Minutes.

A motion was made by Commissioner Dorado, seconded by Commissioner Prather to approve the March 28, 2019 Minutes. The vote was Aye: 4 (Anderson, Dorado, Jackson, and Prather); Abstain: 1 (Harris). The motion passed.

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

A motion was made by Commissioner Prather, seconded by Commissioner Anderson to approve the April 11, 2019 Minutes with attention drawn to the reference noted below by Vice Chair Harris. The vote was Aye: 3 (Anderson, Jackson and Prather); Abstain: 2 (Dorado and Harris). The motion failed. The Minutes will be brought back at another time for approval.

Vice Chair Harris referenced Attachment 8b, Page 2, Paragraph 2, Lines 10 and 11 "It is of the highest importance that these meetings be conducted with class." She asked that Commissioners be mindful of their choice of words because it is discriminatory.

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

#### **IX. R-02: Searches of Individuals on Probation and Parole**

The Commission reviewed an amended version of R-02: Searches of Individuals on Probation or Parole, and discussed the status of collaboration with OPD. *This was discussed on 1.24.19, 3.14.19, 3.28.19, and 4.11.19.*

Commissioner Prather gave an update. The policy is coming back as a last check before it goes before the City Council tomorrow (May 10). Our subcommittee met with OPD. Version 9a is the current version put forward by the Ad Hoc Committee of the Police Commission, Attachment 9b is the current OPD version and is not final and they are working on it, Attachment 9c is the last version we voted on. This version was submitted to be in your packet as a redline and it is not redlined. The operative policy we are working off is Attachment 9a. He reviewed changes made from the last version. The section of issue was Section C-1, Page 3. OPD's request is that we allow them a week to come back with some suggested language and move this to the next meeting for a vote on this version of the policy. Joe Turner, Policy/Publication Unit, OPD, added that we are appreciative of the collaborative work and are close to a unified policy.

Commissioner Anderson offered two amendments to Attachment 9a for the Commission's consideration. The first amendment is adding under A - 2 Violent Offenses – In the examples of the Penal Code, the Vehicle Code that constitute violent offenses that we explicitly include PC § 667.5(c), 1-23 inclusive. The second

amendment was to B – 3, to revise to “is unjust”, removing viewed.

A motion was made by Commissioner Anderson, seconded by Vice Chair Harris to pass Attachment 9a, and to include the amendments offered by Commissioner Anderson. The vote was Aye: 4 (Anderson, Dorado, Harris, and Jackson); Oppose: 1 (Prather). The motion passed.

Comments were provided by the following public speakers:

Lorelei Bosserman  
Mary Vail  
Anne Janks  
Michael Tigges  
Bruce Schmiechen  
Rashidah Grinage

**X. Oakland Black Officers Association (OBOA) Letter**

The Commission discussed allegations in the OBOA letter in the Oakland Post suggesting disparate and/or racist implications for OPD hiring and discipline practices, and may hear from a representative on behalf of the OBOA. ***This was discussed on 4.11.19 and 4.25.19.***

Chair Jackson said this Item was called several times and asked the OBOA if they had an advocate to send. There is an ongoing investigation so there is resistance. We need to have action on this item. We asked Ms. Tom to open a similar CPRA investigation. Chair Jackson doesn't have that information. We do have subpoena power. We are aware that there are police officers who have filed cases against the City around harassment and discrimination and have won and still work in the OPD. Granted these cases may have happened prior to this current Police Chief but it does establish that there has been an unhealthy culture previously and clearly it is still alive. Chair Jackson said that we will have discussion among us and then determine how to move forward on this Item.

Comments were provided by the following public speakers:

Rashidah Grinage  
Henry Gage III  
Lorelei Bosserman  
Michael Tigges

**XI. Budgeting Process Overview and Review of CPRA and Commission Budgets**

Finance Department staff provided an overview of the City's budgeting process and guided the Commission through a review of CPRA and Commission budgets. ***This is a new item.***

Brad Johnson, Finance Department, Principal Budget Analyst, gave a brief overview of items related to the budget process/some specific details regarding the Commission and CPRA. He gave a Power Point Presentation (included in the packet).

**Chair Jackson stated that it is 10:50 p.m. and we vote to extend the meeting time.**

**MOTION to continue this meeting until 11:15 p.m. was made by Chair Jackson and seconded by Vice Chair Harris. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.**

Brad Johnson continued with his Power Point Presentation.

Comments were provided by the following public speakers:

Rashidah Grinage  
Mary Vail  
Henry Gage III

**XII. OPD Budget Review**

OPD staff presented the Department's budget for the Commission to review. *This is a new item.* ([https://www.oaklandca.gov/documents/fy-2019-21-proposed budget](https://www.oaklandca.gov/documents/fy-2019-21-proposed-budget))

Virginia Gleason, OPD, reported their Budget Director is the mother of a seven-month old and is at home and unable to present the budget. Ms. Gleason said that she will stay and Brad Johnson (worked with their Budget Director, Nell Wallington) volunteered to assist in the presentation. Send questions to her by Monday or Tuesday so OPD can provide a written document in the packet for the next meeting. Brad Johnson, Finance Department, Principal Budget Analyst, reported that he was not prepared to go over OPD's budget and gave a short general overview of key details.

Chair Jackson said this item will be tabled until the next meeting and OPD's Budget Director will present. Ms. Gleason requested that this item be heard early on the Agenda.

Comments were provided by the following public speaker:  
Oscar Fuentes

**XIII. Pro Bono Legal Services Agreement**

The Commission discussed and reviewed an agreement from Henry Gage, III for pro bono legal services that was approved by the Personnel Committee, and may vote to approve the agreement. *This is a new item.*

**Counsel Rudin stated that it is 11:15 p.m. and you vote to extend the meeting time.**

**MOTION to continue this meeting until 11:30 p.m. was made by Chair Jackson and seconded by Commissioner Dorado. The vote was Aye: 4 (Anderson, Dorado, Harris, and Jackson); Oppose: 1 (Prather). The motion passed.**

Chair Jackson gave an update regarding the Agreement with the idea that the Commission would provide special projects.

Commissioner Prather was concerned with what precedent does this create for the City Attorney denying the Commission legal services in the future because the Commission obtained pro bono counsel. The second point is the Agreement needs to be more specific. We need to have an agreement for each specific matter.

Henry Gage III spoke and said there are concerns raised by this type of proposal. The City Attorney has made it very clear that the Charter mandates her as the sole counsel for the Commission. With respect to litigation, the City Attorney is mandated to represent City departments so you are not in danger of losing representation from the City Attorney at this point. There are some interesting and interrelated issues with respect to the independence of this Commission. That is the threshold issue.

Chair Jackson asked Commissioner Prather to follow up with Henry Gage III as it relates to documentation that can back some issues that were raised earlier. This Item will be brought back to the next Commission meeting.

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

Chair Jackson recommended that Items XIV through XVII be tabled, go to Closed Session, come out, and then Adjourn.

**Counsel Rudin recommended that you vote to extend the meeting to cover the length of the Closed Session**

**A motion was made by Chair Jackson and seconded by Commission Dorado to table Items XIV through XVII and that we extend the meeting 20 minutes to facilitate Closed Session (Item XVIII), Oral Report (Item XIX), and Adjournment (Item XX). The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather). The motion passed unanimously.**

- XIV. Report from Ad Hoc Committee on CPRA Appellate Process**  
The Ad Hoc Committee on CPRA Appellate Process presented its on-going analysis on a potential appellate process for closed CPRA and/or CPRB cases, if any. *This was discussed on 9.13.18, 10.11.18, 4.11.19, and 4.25.19.*
- XV. Committee/Liaison/Other Commissioner Reports**  
This time was 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.*
- XVI. National Association for Civilian Oversight of Law Enforcement (NACOLE) Annual Conference**  
The Commission discussed and voted on participation at the National Conference in Detroit September 22-26, 2019. *This was discussed on 4.25.19.*
- XVII. 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.*

**THE OAKLAND POLICE COMMISSION ADJOURNED TO CLOSED SESSION IN CITY HALL BUILDING BRIDGES ROOM, 3RD FLOOR AND REPORTED ON ANY FINAL DECISIONS DURING THE POLICE COMMISSION'S OPEN SESSION.**

- XVIII. Closed Session**  
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE  
Title: Chief of Police  
  
Gov't Code § 54957(b)

- XIX. Oral Report of Disclosable Final Decisions Made During Close Session**

It is 11:43 p.m. There are no reportable items.

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

- XX. Adjournment**

A motion was made by Commissioner Prather, seconded by Commissioner Dorado, to adjourn. The vote was Aye: 5 (Anderson, Dorado, Harris, Jackson, and Prather).

The motion passed unanimously: