



**THE REGULAR MEETING OF THE OAKLAND POLICE COMMISSION  
SCHEDULED FOR JUNE 14<sup>th</sup> at 6:30 PM  
at OAKLAND CITY HALL CITY COUNCIL CHAMBER, 3<sup>RD</sup> FLOOR  
HAS BEEN CANCELLED.**

**THE COMMISSION WILL HOLD A SPECIAL MEETING ON  
JUNE 14<sup>th</sup> at 6:00 PM**

**at the EAST OAKLAND YOUTH DEVELOPMENT CENTER  
LOCATED at 8200 INTERNATIONAL BLVD, OAKLAND, CA 94621**

**THE NEXT REGULAR MEETING OF THE OAKLAND POLICE COMMISSION WILL  
OCCUR ON JUNE 28, 2018 at 6:30 PM  
at OAKLAND CITY HALL CITY COUNCIL CHAMBER, 3<sup>RD</sup> FLOOR  
AS SCHEDULED**

## **OAKLAND POLICE COMMISSION AGENDA**

**JUNE 14, 2018**

**6:00 PM**

**Special Meeting**

**East Oakland Youth Development Center  
8200 International Blvd. Oakland, CA 94621**

- I. Call to Order**  
Thomas Lloyd Smith
- II. Roll Call and Determination of Quorum**  
Thomas Lloyd Smith
- III. Welcome and Open Forum** (2 minutes per speaker; 30-minute time limit)  
Thomas Lloyd Smith will welcome and call public speakers.
- IV. Approval of [Draft Commission Meeting Minutes for May 24, 2018](#)**  
Thomas Lloyd Smith will offer the draft minutes for approval by the Commission.
  - a. Discussion
  - b. Public Comment
  - c. Action
- V. Training: Legal Rights of Civilians When Dealing with Police** (~45-60 minutes)  
**Presenter: John L. Burris, Attorney at Law**  
Recognizing widespread confusion about citizen rights, this presentation thoroughly details the legal rights of civilians when dealing with police. The presentation also addresses issues of racial profiling, rising incarceration rates, and civil rights litigation, particularly in the context of police misconduct, and racial and sexual discrimination. John Burris has practiced law for more than 40 years. He is known for his work Civil Rights with an emphasis on police misconduct excessive force cases raising federal questions under Federal Code Section 1983.
  - a. Discussion
  - b. Public Comment

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

Interim Director Anthony Finnell will provide a demonstration of the Community Police Review Agency App that increases officer accountability by enabling member of the public who observe police misconduct to quickly and easily file a complaint against OPD officers.

- a. Discussion
- b. Public Comment

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

The ad hoc committee tasked with updating the Commission's rules of order will report on its progress and recommendations to the Commission. ([Item 7a – 12.27.17 version](#) and [Item 7b – 5.24.18 version](#))

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

**VIII. National Association for Civilian Oversight of Law Enforcement Annual Conference, St. Petersburg, Florida**

The Commission will determine whether to approve the attendance of the certain commissioners ([Item 9a](#)) and Interim Director Finnell ([Item 9b](#)) at the National Association for Civilian Oversight of Law Enforcement (NACOLE) Annual Conference in St. Petersburg, Florida, from September 30 to October 4. Those approved to attend the conference shall be reimbursed for their travel and conference expenses in accordance with City of Oakland policy.

- a. Discussion
- b. Public Comment
- c. Action

**IX. National Association for Civilian Oversight of Law Enforcement Regional Training and Networking Event, Seattle, WA**

The Commission will determine whether to approve the attendance of the Commissioners and Interim Director Finnell at the National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference in Seattle, WA, on June 28, 2018. Those approved to attend the conference shall be reimbursed for their travel and conference expenses in accordance with City of Oakland policy.

- a. Discussion
- b. Public Comment
- c. Action

**X. Adjournment**



This meeting location is wheelchair accessible. To request disability-related accommodations or to request an ASL, Cantonese, Mandarin or Spanish interpreter, please email [afinnell@oaklandnet.com](mailto:afinnell@oaklandnet.com) or call (510) 238-7401 or TDD/TTY (510) 238-2007 at least five working days before the meeting. Please refrain from wearing scented products to this meeting as a courtesy to attendees with chemical sensitivities.

Esta reunión es accesible para sillas de ruedas. Si desea solicitar adaptaciones relacionadas

con discapacidades, o para pedir un intérprete de en español, Cantonés, Mandarín o de lenguaje de señas (ASL) por favor envíe un correo electrónico a [afinnell@oaklandnet.com](mailto:afinnell@oaklandnet.com) o llame al 510-238-7401 o 510-238-2007 por lo menos cinco días hábiles antes de la reunión. Se le pide de favor que no use perfumes a esta reunión como cortesía para los que tienen sensibilidad a los productos químicos. Gracias.

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**Because some persons are sensitive to certain chemicals, persons attending this meeting are requested to refrain from wearing scented products.**

# **OAKLAND POLICE COMMISSION QUESTIONS AND ANSWERS ABOUT THE COMMISSION, TRANSPARENCY AND OPEN MEETINGS**

In November 2016, Oakland voters overwhelmingly passed Measure LL, an amendment to the Oakland City Charter adding new section 604 to Article VI, which establishes a seven-member Oakland Police Commission (“Commission”) and the Community Police Review Agency (“Agency”). The Agency replaces the Citizens’ Police Review Board (the “CPRB”).

Measure LL grants the Commission certain powers and duties related to the oversight of the Oakland Police Department (the “OPD”). Measure LL does not authorize the Commission to hold evidentiary hearings in matters related to police discipline.

However, it does authorize the Agency to independently (and simultaneously with the OPD’s Internal Affairs Division) investigate certain complaints of police misconduct or failure to act, and to propose the Agency’s own findings and level of discipline. If the Agency and the Chief of Police (“Police Chief”) agree on the findings and level of discipline for a particular complaint, their findings and level of discipline will be final and the Commission will have no role in the disciplinary decision. If the Agency and the Chief of Police (“Police Chief”) disagree on the appropriate findings and level of discipline for a particular complaint, their findings and proposed discipline will be submitted to a Discipline Committee that will be composed of three Commissioners.

The Discipline Committee will decide the appropriate findings and level of discipline.<sup>1</sup>

The Commission has the authority to review and comment on all of the OPD’s policies and procedures, and has the authority to propose changes to certain categories of OPD’s policies and procedures.<sup>2</sup>

This memorandum answers frequently asked questions about the Police Commission. This memorandum is a general guide and resource, and does not constitute legal advice, legal conclusions or analysis.

## **What kind of oversight will the Commission have over the Police Department?**

**Answer:** Measure LL gives the Commission the power to review and comment on all OPD policies, procedures and customs, and to conduct public hearings, at least once a year, on OPD policies and procedures of its choosing. In addition, the Commission has the power to propose changes to OPD policies and procedures that address use of force, profiling, or First Amendment assemblies (such as citizen protests) and to approve or reject the OPD’s changes to these categories of policies.

The Commission has the power to review the Mayor’s proposed budget for the OPD, and is required to conduct one public hearing on the OPD’s budget per two-year budget cycle. The Commission has the authority to require that the Police Chief submit an annual report to the Commission addressing matters it specifies. The Commission is

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<sup>1</sup> The City Administrator no longer has the authority to review and/or approve the final findings and level of discipline.

<sup>2</sup> The Citizens’ Police Review Board did not have the authority to review or propose changes to OPD’s policies and procedures.

required to report annually to the City Council regarding matters addressed in the Police Chief's report, and any other matters relevant to the Commission's functions and duties.

### **Will the Commission, Agency or OPD decide matters involving police officer discipline?**

**Answer:** The Commission as a whole will not decide matters involving police officer discipline. Both the Agency and the OPD will investigate certain types of complaints of police officer misconduct, as described in more detail below. If the Police Chief agrees with the Agency's findings and proposed discipline, the Police Chief will send a notice of the findings and intent to impose the proposed discipline to the subject officer. If the Police Chief and Agency disagree on the findings and proposed discipline, they both must submit their findings and proposed discipline to the Commission's Discipline Committee.<sup>3</sup>

### **Is the Agency required to investigate all complaints it receives?**

**Answer:** No. Measure LL requires the Agency to investigate public complaints involving: (a) uses of force; (b) in-custody deaths; (c) profiling based on any of the protected characteristics identified by federal, state or local law; and (d) First Amendment assemblies such as citizen protests or marches. In addition, the Commission has the authority to direct the Agency to investigate any other possible misconduct of a police officer, even if the misconduct is not the subject of a public complaint.

### **What is the Discipline Committee?**

**Answer:** The Discipline Committee, consisting of three Commissioners, will be formed anytime the Chief and the Agency Director disagree on an investigation's findings and/or the proposed discipline to be imposed on the subject officer. The Discipline Committee will decide, based solely on the record presented by the Agency and the Chief, the appropriate findings and proposed level of discipline.

### **Will the Discipline Committee hold hearings regarding police discipline matters?**

**Answer:** No. Measure LL states that the Discipline Committee must base its decision "solely on the record presented by the Agency and the Chief of Police." Measure LL prohibits the Discipline Committee from considering any evidence other than what it receives from the Chief and the Agency. This means the Discipline Committee cannot conduct additional proceedings or investigations or otherwise gather additional evidence or consider new evidence from sources other than the Chief and Agency in its decisions on police discipline matters.

Once the Discipline Committee makes its decision, the Chief shall notify the subject officer of the findings and proposed discipline.

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<sup>3</sup> Measure LL makes significant changes to the process of disciplining police officers. The City Administrator no longer reviews and approves the findings and proposed discipline issued by the Department. The City Administrator does not have authority to review and approve the Agency's findings and proposed discipline.

## **Will the Discipline Committee's decision be final?**

**Answer:** No. Measure LL does not make any changes to the officer's due process rights, which include the right to appeal any final decision regarding discipline or termination to binding arbitration or the City's Civil Service Board, as stated in the Memorandum of Understanding between the City and the Oakland Police Officers' Association.

## **TRANSPARENCY AND OPEN MEETINGS**

### **Who can attend Commission meetings?**

**Answer:** The Commission is subject to the Brown Act (Cal. Gov't Code sections 54950 – 54963), California's open meeting law and Oakland's Sunshine Ordinance (Chapter 2.20 of the Oakland Municipal Code). Therefore, any member of the public can attend the Commission's open session meetings. As permitted by state law, some meetings of the Commission and/or its committees may be held in closed session. For example, the Discipline Committee will meet in closed session to resolve any disagreements between the Agency Director and the Police Chief regarding the appropriate findings and level of discipline for a subject officer. Such personnel matters are considered by law to be private and confidential, and the Brown Act permits discussion of such matters in closed session. Just as the public may not attend City Council meetings held in closed session (as permitted by law), the public will not be allowed to attend Commission meetings held in closed session.

### **What is the function of the Brown Act and Sunshine Ordinance?**

The Brown Act and Sunshine Ordinance require that the agenda for a meeting of a public board or commission be published days in advance of the meeting date to provide written notice of the topics to be discussed and action to be taken at the meeting. In enacting [the Brown Act], the California legislature stated that "... public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly." (Ralph M. Brown Act – Gov. Code § 54950)

"[The Sunshine Ordinance] is intended in part to clarify and supplement the . . . Brown Act . . . to assure that the people of the City of Oakland can be fully informed and thereby retain control over the instruments of local government in their city."

(Sunshine – Oakland Muni. Code § 2.20.010)

### **Can members of the public ask questions or make comments at a Police Commission meeting?**

**Answer:** Yes. Members of the public can talk about anything within the jurisdiction of the Police Commission at regular or special meeting of the Police Commission that has been properly noticed with a published agenda. However, the Brown Act requires that the Police Commission members generally cannot act on or discuss an item that is not on the agenda.

## **Can Police Commission members attend community meetings?**

**Answer:** Yes. The Commission members can attend a community gathering without creating the need to provide a public agenda and notice of the event as a meeting of the Commission, provided that the Commissioners do not discuss, deliberate on or take action on Commission business at the event. Commission members, including alternates, should avoid discussing and deliberating on Commission business when a majority or less than a majority of Commission members are in attendance at a community gathering to avoid a violation of the Brown Act and Oakland Sunshine Ordinance or the appearance that the members are speaking on behalf of the Commission as a body in violation of the open meeting guidelines.